

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
Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

WHATCOM COUNTY COUNCIL

COMBINED AGENDA PACKET FOR JUNE 18, 2019

INCLUDES INFORMATION FOR THE FOLLOWING MEETINGS:

NATURAL RESOURCES COMMITTEE (9:30 A.M.)

SPECIAL COMMITTEE OF THE WHOLE (10:15 A.M.)

FINANCE AND ADMINISTRATIVE SERVICE COMMITTEE (11 A.M.)

PUBLIC WORKS AND HEALTH COMMITTEE (1:30 P.M.)

CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE (1:45 P.M.)

PLANNING AND DEVELOPMENT COMMITTEE (2:30 P.M.)
(ESTIMATED TIME – MEETING MAY BEGIN EARLIER/LATER THAT 2:30 P.M.)

SPECIAL COMMITTEE OF THE WHOLE (3 P.M.)
(ESTIMATED TIME – MEETING MAY BEGIN EARLIER/LATER THAT 3 P.M.)

COUNCIL (7 P.M.)

UPCOMING MEETINGS AND EVENTS:

JUNE 25, 2019

10:30 A.M. – SURFACE WATER WORK SESSION
GARDEN LEVEL CONFERENCE ROOM, 322 N. COMMERCIAL STREET

JULY 4, 2019

HOLIDAY – OFFICE CLOSED

JULY 9, 2019

REGULAR COUNCIL AND COMMITTEE MEETINGS
COUNCIL CHAMBERS, 311 GRAND AVENUE

PLEASE VISIT THE COUNCIL'S NEW [LEGISLATIVE INFORMATION CENTER](#)
TO ACCESS ALL COUNCIL MEETING-RELATED INFORMATION

COMMITTEE AGENDAS

NATURAL RESOURCES COMMITTEE

Members: Barry Buchanan, Todd Donovan, Satpal Sidhu

9:30 a.m. Tuesday, June 18, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion

1. AB2019-360 Discussion regarding a possible amendment to Whatcom County Code Chapter 11.32 (Boating and Swimming, Special Restrictions) to prohibit two-stroke engine powered watercraft on Lake Samish

Pages 1 - 6

2. AB2019-361 Discussion regarding Whatcom County Code 2.27A, Aquatic Invasive Species

Page 7

Other Business

Adjournment

SPECIAL COMMITTEE OF THE WHOLE

10:15 a.m. Tuesday, June 18, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion

1. AB2019-293 Discussion of proposed rate structure for Lake Whatcom Stormwater Utility

Pages 8 - 51

Other Business

Adjournment

FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE

Members: Tyler Byrd, Carol Frazey, Satpal Sidhu

11 a.m. Tuesday, June 18, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

County Executive's Report

1. AB2019-204 Report from Whatcom County's Information Technology Department

Page 52

Committee Discussion and Recommendation to Council

1. AB2019-334 Request for authorization for the County Executive to enter into a commercial lease agreement between Whatcom County and Cornwall Center Inc for use of the parking lot at the Bellingham Senior Activity Center in the total amount of \$118,260 over five years with cost sharing from the City of Bellingham and Whatcom Council on Aging
Pages 53 - 60
2. AB2019-335 Request for authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham to allow for cost sharing of the parking lot lease at the Bellingham Senior Activity Center in the amount of \$78,879 over five years
Pages 61 - 67
3. AB2019-338 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascade Connections to provide services to individuals with developmental disabilities for an additional year in the estimated amount of \$1,145,600 for an estimated total amended contract amount of \$3,093,326
Pages 68 - 77
4. AB2019-343 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Work Opportunities to provide services to individuals with developmental disabilities for an additional year in an estimated amount of \$478,800 for an estimated total amended contract amount of \$1,564,161
Pages 78 - 87
5. AB2019-344 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Kulshan Supported Employment to provide services to individuals with developmental disabilities for an additional year in the estimated amount of \$923,125 for an estimated total amended contract amount of \$3,404,224
Pages 88 - 97
6. AB2019-345 Request authorization for the County Executive to enter into a contract between Whatcom County and Washington Vocational Services to provide employment or community inclusion services to individuals with developmental disabilities, in an estimated amount of \$191,225
Pages 98 - 122
7. AB2019-321 Ordinance amending the 2019 Whatcom County Budget, request no. 8, in the amount of \$508,163
Pages 123 - 133
8. AB2019-320 Resolution amending the 2019 Flood Control Zone District and Subzones Budget, request no. 3, in the amount of \$1,560,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 134 - 140

Council "Consent Agenda" Items

1. AB2019-336 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to add \$25,000 in funding for housing case management and \$3,325 in subsequent indirect costs to replace the recent loss of funding Catholic Community Services incurred at a comparable amount
Pages 141 - 150
2. AB2019-342 Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Center for Early Learning to provide Child Development Services, in an estimated amount of \$128,400
Pages 151 - 171
3. AB2019-350 Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council for Child Development Services, in the estimated amount of \$66,120
Pages 172 - 191
4. AB2019-352 Request authorization for the County Executive to enter into a contract between Whatcom County and the Opportunity Council to provide funding for the Single Entry Access to Services (SEAS) Program, in the amount of \$80,149
Pages 192 - 215
5. AB2019-353 Request authorization for the County Executive to enter into an agreement between Whatcom County and Pioneer Human Services to lease the Behavioral Health Triage Center, in the amount of \$10,056
Pages 216 - 226
6. AB2019-357 Request authorization for the County Executive to enter into a contract between Whatcom County and Communities In Schools to provide student support services in the Bellingham, Blaine and Ferndale School Districts, in the amount of \$136,000
Pages 227 - 246

Other Business

Adjournment

PUBLIC WORKS AND HEALTH COMMITTEE

Members: Barbara Brenner, Barry Buchanan, Carol Frazey

1:30 p.m. Tuesday, June 18, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion

1. AB2019-364 Discussion regarding request to place a measure on the November 2019 general election ballot to form a Solid Waste Disposal District in Point Roberts
Page 247

Other Business

Adjournment

CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
Members: Barry Buchanan, Tyler Byrd, Carol Frazey
1:45 p.m. Tuesday, June 18, 2019
Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Special Presentation

1. AB2019-337 Annual report from Whatcom County Emergency Medical Services (EMS)
Page 248
2. AB2019-325 Annual report from Whatcom County Sheriff Bill Elfo
Page 249

Other Business

Adjournment

PLANNING AND DEVELOPMENT COMMITTEE
Members: Barbara Brenner, Tyler Byrd, Todd Donovan
2:30 p.m. (estimated time- may begin earlier or later than 2:30)
Tuesday, June 18, 2019
Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion

1. AB2019-317 Discussion of proposed ordinance amending WCC Chapters 20.51 and 20.71 pertaining to tree removal permit procedures, and Chapter 23.10 updating the referenced Critical Areas Ordinance in the Shoreline Management Program
Pages 250 - 261

Other Business

Adjournment

SPECIAL COMMITTEE OF THE WHOLE
3:00 p.m. (estimated time- may begin earlier or later than 3:00)
Tuesday, June 18, 2019
Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion

1. AB2019-021 Ordinance granting Deer Creek Water Association a franchise and the right, privilege, and authority thereunder to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use facilities in, upon, over, under, along, across and through the franchise area to allow for the provision of water services
Pages 262 – 282

2. AB2019-167 Ordinance granting Glenhaven Lakes Club Inc. a franchise and the right, privilege, and authority thereunder to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use facilities in, upon, over, under, along, across and through the franchise area to allow for the provision of water services
Pages 283 – 328
3. AB2019-285 Ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects do double duty by also providing apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons
Pages 329 – 343

Committee Discussion and Recommendation to Council

1. AB2019-358 Resolution forwarding Cascadia Law Group's recommendations for Cherry Point UGA Comprehensive Plan and Zoning Code Amendments
Pages 344 – 392

Other Business

Adjournment

COUNCIL AGENDA

REGULAR COUNCIL MEETING
7 p.m. Tuesday, June 18, 2019
Council Chambers, 311 Grand Avenue

CALL TO ORDER

FLAG SALUTE

ROLL CALL

ANNOUNCEMENTS

If you will be handing out paperwork to councilmembers, please give one copy to the clerk for our office files. Thank you.

MINUTES CONSENT

1. MIN2019-042 Special Committee of the Whole AM for June 4, 2019
 Pages 393 - 396
2. MIN2019-043 Special Committee of the Whole PM for June 4, 2019
 Pages 397 - 399
3. MIN2019-044 Regular County Council for June 4, 2019
 Pages 400 - 409

SPECIAL PRESENTATION

1. AB2019-354 Annual Report on Behavioral Health Program Fund
 Pages 410 - 413

PUBLIC HEARINGS

Audience members who wish to address the council during a public hearing are asked to sign up at the back of the room before the meeting begins. The council chair will ask those who have signed up to form a line at the podium. Each speaker should state his or her name for the record and optionally include city of residence. Speakers will be given three minutes to address the council. Council staff will keep track of time limits and inform speakers when they have thirty seconds left to conclude their comments. 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.

1. AB2019-363 Council seeks public comment on Task 3 (Stakeholder Engagement) of the proposed contract with Transpo Group USA, Inc., related to the Whatcom County ADA plan for public rights-of-way (related proposed contract filed under AB2019-319)
 Pages 414 - 416
2. AB2019-322 Ordinance amending Whatcom County Charter Sections 4.20 (Qualifications) and 6.90 (Illegal Contracts)
 Pages 417 - 420
3. AB2019-308 Ordinance suspending Whatcom County Code 1.28 to update the correctional facilities operational standards
 Pages 421 - 423

OPEN SESSION (20 MINUTES)

During open session, audience members can speak to the council on any issue not scheduled for public hearing. Each speaker should state his or her name for the record and optionally include city of residence. Speakers will be given three minutes to address the council. Council staff will keep track of time limits and inform speakers when they have thirty seconds left to conclude their comments.

CONSENT AGENDA

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

(From Council Finance and Administrative Services Committee)

1. AB2019-336 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to add \$25,000 in funding for housing case management and \$3,325 in subsequent indirect costs to replace the recent loss of funding Catholic Community Services incurred at a comparable amount
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Pages 227 - 246

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2019-334 Request for authorization for the County Executive to enter into a commercial lease agreement between Whatcom County and Cornwall Center Inc for use of the parking lot at the Bellingham Senior Activity Center in the total amount of \$118,260 over five years with cost sharing from the City of Bellingham and Whatcom Council on Aging
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Pages 123 - 133
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Pages 134 - 140

(From Council Special Committee of the Whole)

9. AB2019-358 Resolution forwarding Cascadia Law Group's recommendations for Cherry Point UGA Comprehensive Plan and Zoning Code Amendments
Pages 344 - 392

(No Committee Assignment)

10. AB2019-319 Request authorization for the County Executive to enter into a contract between Whatcom County and Transpo Group USA, Inc., to develop the ADA Compliance for Public Rights of Way in the amount of \$145,251.99
Pages 424 - 481

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. AB2019-316 Ordinance amending WCC Chapters 20.51 and 20.71 pertaining to tree removal permit procedures, and Chapter 23.10 updating the referenced Critical Areas Ordinance in the Shoreline Management Program
Pages 482 - 493
2. AB2019-339 Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point UGA, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point
Pages 494 - 498
3. AB2019-340 Ordinance adopting interim zoning regulations for the siting, establishment, and operation of temporary homeless facilities
Pages 499 - 507
4. AB2019-347 Ordinance granting Northwest Water Association a franchise and the right, privilege, and authority thereunder to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use facilities in, upon, over, under, along, across and through the franchise area to allow for the provision of water services
Pages 508 - 535

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCIL MEMBER UPDATES

ADJOURN



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-360

File ID:	AB2019-360	Version:	1	Status:	Agenda Ready
File Created:	06/11/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		

First Assigned to: Council Natural Resources Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: TDonovan@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion regarding a possible amendment to Whatcom County Code Chapter 11.32 (Boating and Swimming, Special Restrictions) to prohibit two-stroke engine powered watercraft on Lake Samish

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion regarding a possible amendment to Whatcom County Code Chapter 11.32 (Boating and Swimming, Special Restrictions) to prohibit two-stroke engine powered watercraft on Lake Samish

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Lake Samish Proposal

Final Action:
Enactment Date:
Enactment #:

PROPOSED BY: DONOVAN
INTRODUCTION DATE:

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE CHAPTER 11.32 TO PROTECT LAKE SAMISH WATER
QUALITY**

WHEREAS, Lake Samish functions simultaneously as an important recreational resource, and as an important drinking water source for residents in the area, and

WHEREAS, the Whatcom County code currently recognizes that older, two-stroke boat motors are inappropriate for use on Lake Whatcom, a lake that also serves as a source for drinking water, but this provision has not been extended to Lake Samish, and

NOW BE IT FURTHER RESOLVED, that Chapter 11.20 of County Code shall be amended such that vessels will not operate within 300 feet from the shore of Lake Samish when waterskiing and wakesurfing as defined in the Attachment; and

NOW BE IT FURTHER RESOLVED, that Chapter 11.32.020 of County Code shall be amended to phase it a prohibition of two-stroke engine powered watercraft on Lake Samish as defined in the Attachment

**Chapter 11.32
SPECIAL RESTRICTIONS**

Sections:

[11.32.010 Lake Whatcom.](#)

[11.32.020 Lake Samish.](#)

[11.32.030 Silver Lake.](#)

[11.32.040 Birch Bay.](#)

[11.32.050 Cain Lake and Toad Lake.](#)

[11.32.060 Reed Lake.](#)

11.32.070 Wiser Lake.

11.32.080 Lake Terrell.

11.32.090 Exceptions.

11.32.095 Severability.

11.32.010 Lake Whatcom.

The following restrictions shall apply on Lake Whatcom:

- A. Water skiing is permitted only in a counterclockwise direction.
 - B. Maximum speed of vessels shall be 40 miles per hour, except for vessels taking part in a boating event authorized by sheriff's permit, and except for seaplanes using normal procedures during periods of takeoff or landing.
 - C. Waters adjacent to Morning Beach Park Sudden Valley shall be restricted to swimming only.
 - D. The water adjacent to Afternoon Beach Park is restricted to no public access on the west side of a line that extends northerly from Point A of a point on the easterly line of Parcel A to Point B as shown on Exhibit "A" attached to the ordinance codified in subsections C and D of this section, and swimming and nonpower boats on the east side of said line.
- Sudden Valley Community Association is authorized to cordon off the specific areas of Lake Whatcom to accomplish the purpose of subsections C and D of this section.
- E. The operation of all two-stroke engine-powered watercraft on Lake Whatcom is hereafter prohibited, effective January 1, 2009, except as follows:

- 1. Watercraft powered by a two-stroke-powered engine whose engine is certified and labeled as meeting the 2006 or later model year United States Environmental Protection Agency (EPA) emissions standards, as specified in Title [40](#), Code of Federal Regulations, Part 91; or
 - 2. Effective only until January 1, 2013, all carbureted two-stroke auxiliary sailboat engines; or
 - 3. Effective only until January 1, 2013, all carbureted two-stroke engines of 10 horsepower or less;
- or

4. Effective only until January 1, 2013, all electronic fuel-injected (EFI) two-stroke engines originally purchased before August 2004; or

5. Effective only until January 1, 2013, watercraft powered by a two-stroke-powered engine whose engine is certified and labeled as meeting the United States Environmental Protection Agency (EPA) 2001 emissions standards, including Rotax fuel-injected (RFI) two-stroke engines. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 90-83 (part)).

11.32.020 Lake Samish.

(Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 90-83 (part)).

The operation of all two-stroke engine-powered watercraft on Lake Samish is hereafter prohibited, effective (INSERT DATE), except as follows:

1. Watercraft powered by a two-stroke-powered engine whose engine is certified and labeled as meeting the 2006 or later model year United States Environmental Protection Agency (EPA) emissions standards, as specified in Title 40, Code of Federal Regulations, Part 91.

11.32.030 Silver Lake.

The following restrictions shall apply on Silver Lake:

A. Water skiing is permitted only in a counterclockwise direction.

B. An official buoyline may be established cooperatively between the Whatcom County sheriff's department, Whatcom County park department and representatives from the Silver Lake Property Owners' Association; speed limits between the buoyline and the shoreline shall be idling or no wake.

C. For the entire area of Silver Lake the idling speed or no-wake provision shall be in force at all hours from the official opening day of fishing season until May 20th of each year; thereafter, until June 30th, the no-wake restriction shall be in force in the mornings before 10:00 a.m. and in the evenings after 7:00 p.m. Use of motorized vessels with more than 10 horsepower is prohibited. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 90-83 (part)).

11.32.040 Birch Bay.

It is unlawful for any person to water ski within 600 feet of the shoreline of all Birch Bay waters. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 90-83 (part)).

11.32.050 Cain Lake and Toad Lake.

The following restrictions shall apply on Cain Lake and Toad Lake:

A. Operation of boats and other conveyances having nonelectric motors is prohibited on Cain Lake and Toad Lake.

B. Speed shall be restricted to idling and/or no wake at all times. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 94-019; Ord. 90-83 (part)).

11.32.060 Reed Lake.

Only all-electric motors and/or manually powered boats are permitted to operate on Reed Lake. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 90-83 (part)).

11.32.070 Wiser Lake.

The following restrictions shall apply on Wiser Lake:

A. Speed is restricted to idling and/or no wake at all times from 8:00 p.m. to 12:00 noon the following day.

B. Water skiing is permitted from 12:00 noon to 8:00 p.m.

C. Speed is restricted to idling and/or no wake at all times west of the Guide Meridian from March 1st to October 15th.

D. Use of motorized vessels is prohibited upon the waters of Wiser Lake from October 15th to March 1st.

E. No water skiing is permitted from the public access dock.

F. Water skiing is permitted up to a maximum of six ski boats at any one time traveling in a counterclockwise direction.

G. Water skiing is permitted only in a counterclockwise direction. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 90-83 (part)).

11.32.080 Lake Terrell.

Speed is restricted to idling and/or no wake at all times. (Ord. 2008-012 Exh. A).

11.32.090 Exceptions.

No restrictions contained in this chapter shall be deemed to apply to persons or vessels engaged in emergency operations necessary to save life or property or in the performance of wildlife management activities undertaken by either county or state governmental agencies or their designees. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 2002-008; Ord. 94-019).

11.32.095 Severability.

If any provision of this chapter is held to be invalid, all other provisions shall remain in effect. (Ord. 2008-012 Exh. A; Ord. 2007-038 Exh. A; Ord. 2004-042; Ord. 94-019).



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-361

File ID:	AB2019-361	Version:	1	Status:	Agenda Ready
File Created:	06/11/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		

First Assigned to: Council Natural Resources Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: TDonovan@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion regarding Whatcom County Code 2.27A, Aquatic Invasive Species

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion regarding Whatcom County Code 2.27A, Aquatic Invasive Species

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:

Final Action:
Enactment Date:
Enactment #:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-293

File ID:	AB2019-293	Version:	1	Status:	Discussed
File Created:	05/08/2019	Entered by:	SDraper@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		

First Assigned to: Council Special Committee of the Whole

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion of proposed rate structure for Lake Whatcom Stormwater Utility

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Public Works staff will continue discussions with Council on the advisory committee-recommended rate structure for the Lake Whatcom Stormwater Utility

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
05/21/2019	Council Finance and Administrative Services Committee	DISCUSSED	
06/04/2019	Council Special Committee of the Whole	DISCUSSED	

Attachments: May 14 Surface Water Work Session Packet, Presentation to Committee 6-4-2019

Final Action:
Enactment Date:
Enactment #:

**WHATCOM COUNTY COUNCIL
SURFACE WATER
WORK SESSION**

May 14, 2019

**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

MEMORANDUM

TO: The Honorable Jack Louws, Whatcom County Executive, and
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager

DATE: May 6, 2019

RE: May 14, 2019 Council Surface Water Work Session

Please refer to the proposed agenda below for the next Surface Water Work Session. Additional supporting documents may be distributed at or before the meeting.

AGENDA

Date:	Tuesday, May 14, 2019		
Time:	10:30 a.m. to 12:00 p.m.		
Place:	Civic Center Garden Level Conference Room		
Time	Topic	Council Action Requested	Background Information Attached
10:30 AM – 11:45 AM	Overview of Draft Resolution and Ordinance for Implementation of Fees for the Lake Whatcom Stormwater Utility Rate	Discussion	LWSU Fee Implementation Report, Draft Ordinance, Minority Report
11:45 AM – 12:00 PM	Watershed Planning Update	Discussion	None

If you have questions, please feel free to call me at (360) 778-6218.

cc: Mike McFarlane	Joe Rutan	Paula Harris	John Wolpers	Mike Donahue
Beth Bushaw	Jeff Hegedus	John Thompson	Kraig Olason	Erika Douglas
Tyler Schroeder	Josh Fleischmann	Karen Frakes	Jennifer Schneider	Jill Nixon
Sue Blake	Roland Middleton	Dana Brown-Davis	Atina Casas	Cathy Craver
George Boggs	Ryan Ericson	Lonni Cummings	Kristi Felbinger	Mark Personius

Whatcom County

Lake Whatcom Stormwater Utility



LWSU Fee Implementation Report

DRAFT

May 2019

Washington

7525 166th Avenue NE, Ste. D215
Redmond, WA 98052
425.867.1802

Oregon

4000 Kruse Way Pl., Bldg. 1, Ste 220
Lake Oswego, OR 97035
503.841.6543

Colorado

1320 Pearl St, Ste 120
Boulder, CO 80302
719.284.9168

www.fcsgroup.com

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which are made from post-consumer
recycled plastic bottles.



FCS GROUP
Solutions-Oriented Consulting

TABLE OF CONTENTS

Section I.	Introduction	1
Section II.	Fee Methodology	3
Section III.	Capital Facilities Charge	10

LIST OF EXHIBITS

Exhibit 1.	County's LWMP Cost and Funding Sources.....	2
Exhibit 2.	LWSU Fee Methodology	3
Exhibit 3.	Estimated Annual Financial Obligations.....	4
Exhibit 4.	ESUs by Customer Type.....	4
Exhibit 5.	Annual Fee per ESU	4
Exhibit 6.	Fee Schedule Forecast	5
Exhibit 7.	Single Family Parcels: Impervious Thresholds	6
Exhibit 8.	Single Family Sample Bills in 2021 (Year 2)	7
Exhibit 9.	Non-Single Family Sample Bills in 2021 (Year 2)	8
Exhibit 10.	General CFC Calculation Methodology.....	10
Exhibit 11.	CFC Calculation	10

Section I. INTRODUCTION

Lake Whatcom Management Program

The Lake Whatcom watershed is in Whatcom County in the northwest corner of Washington State. The Watershed is a major source of drinking water for residents and provides a place to live for a variety of animals, fish and humans alike.

Lake Whatcom's water quality has deteriorated as a result of excessive phosphorus entering the lake from residential development, logging, airborne deposition, and natural processes. This phosphorus loading has contributed to algae blooms and dissolved oxygen deficits, causing problems for the water supply system, aquatic biota, and recreational users of the lake.

The City of Bellingham, Whatcom County, and the Lake Whatcom Water and Sewer District came together in 1998 to formalize, by interlocal agreement, the Lake Whatcom Management Program (LWMP). The goal of this program is to improve lake water quality by jointly implementing programs affecting the Lake Whatcom watershed. These programs include land preservation, stormwater management, land use management, hazardous material response, education and engagement, and many more.

The City of Bellingham's stormwater utility and Lake Whatcom Watershed Land Acquisition and Preservation Program contributes resources towards this program. County funding for their portion of the LWMP comes from a variety of sources, including Flood Control Zone District Tax (FCZD or Flood Tax), Real Estate Excise Tax (REET), County Road Tax, and grants when available.

TMDL Requirements Create Additional Funding Need

In April of 2016, the U.S. Environmental Protection Agency (EPA) and Washington State Department of Ecology (DOE) approved a water quality improvement plan for the Lake Whatcom watershed, which intends to limit the total phosphorus and bacteria TMDL (total maximum daily load) entering the lake in compliance with the federal Clean Water Act.

To quote the adopted plan, "During development of this TMDL, Ecology (DOE) found that if runoff is reduced to match forested conditions in 87% of the current developed area, the remaining 13% of that developed area can continue to discharge stormwater as it does now. This does not mean that 87% of the developed area must be converted to forest. Rather, it means that the runoff from that land must be managed so that the effect on the lake is the same as if the runoff came from a forest."

In response to this new requirement, the City of Bellingham and Whatcom County submitted a letter to the DOE (dated October 20, 2016), proposing a 50-year implementation timeline with an associated \$100 million budget (2016 dollars; assumed to be \$50 million per jurisdiction).

The City's stormwater utility and Lake Whatcom Watershed Land Acquisition and Preservation Program is responsible for generating resources to implement the City's portion of this plan. However, the County's share of the implementation cost cannot be covered by the existing funding sources previously mentioned (FCZD / Flood Tax, REET, County Road Tax, and or grants).

Lake Whatcom Stormwater Utility Formation & Service Area

Formation & Purpose

In December 2017, the Whatcom County Council established the Lake Whatcom Stormwater Utility Service Area (LWSU), via Ordinance 2017-076, under the authority of RCW 36.89.

The purpose of the new stormwater utility is to provide additional funding for efforts to clean up and protect Lake Whatcom water quality. As previously stated, existing funding sources are not enough to meet current and future Lake Whatcom program needs, in order to comply with state-mandated reductions in phosphorus. **Exhibit 1** shows the County's total estimated LWMP cost per year, the amount already funded from existing sources, and the amount needed from the Lake Whatcom Stormwater Utility fee (\$817,600).

Exhibit 1. County's LWMP Cost and Funding Sources

Description	Total LWMP Program Cost	Funded by FZCD, REET, Road Tax, Grants	Needs to be Funded by Lake Whatcom Stormwater Fee
Capital Construction	\$ 1,000,000	\$ 750,000	\$ 250,000
Capital Maintenance	180,300	-	180,300
Stormwater Program	1,269,930	1,127,630	142,300
NPDES Program	273,750	273,750	-
NPDES O&M	187,076	187,076	-
Aquatic Invasive Species	132,000	132,000	-
Homeowners Incentive Program	300,000	100,000	200,000
Monitoring	45,000	-	45,000
Total	\$ 3,388,056	\$ 2,570,456	\$ 817,600

Funding Study

Whatcom County Public Works and FCS GROUP conducted a funding study to evaluate stormwater fee structure options for the new stormwater utility service area from June 2018 to March 2019. Stakeholder input and recommendations were provided through a citizen advisory committee. Interested members of the public attended advisory committee meetings and provided comments to the committee for consideration.

Advisory Committee

The aforementioned citizen advisory committee was selected by the Whatcom County Council on May 8, 2018. The purpose of the committee was to represent rate payers in the Lake Whatcom Stormwater Utility Service Area and advise Whatcom County Public Works staff and the Whatcom County Council on a recommended stormwater fee structure. The committee provided their final recommendations on March 20, 2019.

Service Area

The LWSU service area includes the entire unincorporated Lake Whatcom watershed (outside city limits), as shown in the map in the appendix to this report.

Section II. FEE METHODOLOGY

Rational Nexus Between Service Cost / Benefit and Fee

A fee may be found legally valid if the services that it funds generally benefit those who pay it – a property-specific link between fees paid and level of service received is generally not required. Case law in Washington, notably *Teter v. Clark County*, has supported the stance that an indirect linkage is adequate justification for a fee. Throughout the United States, impervious surface area is a widely accepted measure of runoff contribution, providing the basis for fees in most stormwater utilities. In support of this methodology, the 2016 TMDL report noted that, “The simplest way to meet the phosphorus reduction goal [for the Lake Whatcom Watershed] is through full infiltration of runoff.”

An impervious surface area-based fee structure was recommended by FCS GROUP and County staff, and ultimately was the committee recommended structure as well.

General Fee Methodology

The proposed LWSU stormwater fee would be assessed annually, therefore the fee itself will be expressed as an annual fee. Two key pieces of information are needed in order to calculate the annual fee, as shown in **Exhibit 2: Annual Operating & Capital Costs and Chargeable Equivalent Service Units (ESUs)**. ESUs are used to equitably scale up the fee for non-single family parcels and are based on impervious surface area.

Exhibit 2. LWSU Fee Methodology

$$\text{Annual Fee per ESU} = \frac{\text{Annual Operating \& Capital Costs}}{\text{Chargeable Equivalent Service Units (ESUs)}}$$

Annual Operating & Capital Costs

The annual operating and capital costs for the LWSU are initially estimated to be \$817,600. This number was provided by County staff, based on the program elements shown in **Exhibit 3**. Activities to be funded include capital construction and maintenance, outreach and education, the Homeowner’s Incentive Program (HIP), monitoring, and administrative costs.

In addition to these program elements, an additional \$79,000 per year is necessary in order to fund the County’s share of the LWMP’s operating reserve, over a ten-year period.

The combined operating, capital, and reserve components total \$896,600 per year. It is expected that these cost components will increase over time, due to anticipated operating and construction cost escalation.

Exhibit 3. Estimated Annual Financial Obligations

Program Element	Annual Cost to be Funded from LWSU Fee
Capital Construction (Supplemental funding)	\$ 250,000
Capital Maintenance	180,300
Enhanced Outreach & Education	68,000
Homeowners Incentive Program (HIP)	200,000
Monitoring	45,000
Administrative Costs	74,300
Total Operating and Capital Costs	\$ 817,600
Plus: Reserve Component	79,000
Total Annual Financial Obligations for the LWSU	\$ 896,600

Chargeable Equivalent Service Units (ESUs)

Based on an analysis of single family and all other developed (non-single family) parcels, it is estimated that there are 5,784 chargeable ESUs in the utility service area, as shown in the table in **Exhibit 4**.

Exhibit 4. ESUs by Customer Type

Customer Type	ESUs
Single Family Parcels	5,171
Non-Single Family Parcels	613
Total	5,784

Annual Fee per ESU

Based on the annual cost estimate of \$896,600 and a customer base of 5,784, the annual fee per ESU would be \$155.01. This result does not consider a phase-in period, nor does it consider anticipated annual cost escalation. These items are addressed in subsequent sections.

Exhibit 5. Annual Fee per ESU

$$\begin{array}{c}
 \text{\$151.01 per} \\
 \text{ESU per Year} \\
 = \\
 \frac{\text{\$896,600}}{5,784 \text{ ESUs}}
 \end{array}$$

Forecasting the Fee Schedule

The impact of the phase-in period would result in an annual ESU fee of \$77.51 in 2020 and \$155.01 in 2021 as shown in **Exhibit 6**.

Phase-in Period

While we would not generally recommend phasing up to fees at these projected levels, concerns expressed for (1) non-single family customers and (2) the ability of the County to meet proposed service levels in Year 1, lead us to recommend a 2-year phase-in of the proposed fees. The resulting fees would be 50% for 2020 and 100% 2021.

Annual Fee Escalation

We recommended incorporating an annual fee escalation clause, in order to allow the fee to increase at roughly the same pace as costs increase. The committee recommended that this escalation be based on the 'cost of living adjustment' each year. The national Cost of Living Adjustment (COLA) index generated by the Social Security Administration of the United States bases its index, in part, on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

There is not a readily accessible, regional COLA index that we are aware of, but there is a Seattle Tacoma Bellevue CPI-W index that we recommend for the annual escalation adjustment. Based on the recent regional CPI-W index, we estimate that an increase of 2% per year would be adequate for planning purposes. Actual adjustments should be based on the reported CPI-W each year.

We assume that both the reserve component and the operating and capital component would escalate each year. Since the reserve component is based on a portion of operating costs (~33%), it would follow that it should increase as operating costs increase.

Exhibit 6. Fee Schedule Forecast

Fee Schedule Five-Year Forecast		Year 1 2020	Year 2 2021	Year 3* 2022	Year 4* 2023	Year 5* 2024
<u>Fee per ESU with CPI-W</u>						
Annual CPI-W Estimate				2.0%	2.0%	2.0%
Reserve Funding		\$13.66	\$13.66	\$13.93	\$14.21	\$14.49
Operating & Capital		\$141.35	\$141.35	\$144.18	\$147.06	\$150.01
Fee per ESU		\$155.01	\$155.01	\$158.11	\$161.27	\$164.50
<u>Fee per ESU with Phase-in Strategy</u>						
Phase-in		50%	100%	100%	100%	100%
Reserve Funding		\$6.83	\$13.66	\$13.93	\$14.21	\$14.49
Operating & Capital		\$70.68	\$141.35	\$144.18	\$147.06	\$150.01
Fee per ESU		\$77.51	\$155.01	\$158.11	\$161.27	\$164.50
<u>Single Family Fee Schedule</u>						
	ESU					
Small Footprint	0.75	\$58.13	\$116.26	\$118.58	\$120.96	\$123.37
Medium Footprint	1.00	\$77.51	\$155.01	\$158.11	\$161.27	\$164.50
Large Footprint	2.00	\$155.01	\$310.02	\$316.22	\$322.55	\$329.00

*CPI-W adjustments should be based on actual results.

Single Family Parcels

Most regional stormwater utilities charge single family parcels uniformly. The LWSU advisory committee was interested in adding some additional resolution to the traditional approach in large parts due to the residential character of the watershed and the variety of the residential development patterns. The following single family fee tiers are recommended: Small impervious footprint, Medium impervious footprint, and Large impervious footprint.

Initial Parcel Grouping for Single Family

Because it was not feasible to measure impervious area on all single family parcels (tree canopy obstruction, too numerous and costly to field check), single family parcels are initially assigned one of two fees correlated with parcel size:

- Parcels less than or equal to two acres are initially charged the Medium impervious footprint fee;
- Parcels greater than two acres are initially charged the Large impervious footprint fee.

Based on impervious measurements from approximately 150 randomly selected single family parcels from each group (approximately 300 in total), the average Large lot had significantly more impervious area than the average Medium lot. This is the primary justification for assessing a higher fee for Large lots. The fee assigned to the Small tier is meant to recognize the assumed reduced impact these parcels have on the stormwater system, while further acknowledging that most program costs are fixed.

Annual Fees

Depending on the estimated impervious area for a given parcel, there are three potential annual fees:

- Small footprint parcels are assigned 0.75 ESU: \$58.13 in 2020 and \$116.26 in 2021;
- Medium footprint parcels are assigned 1.00 ESU: \$77.51 in 2020 and \$155.01 in 2021; or
- Large footprint parcels are assigned 2.00 ESUs: \$155.01 in 2020 and \$310.02 in 2021.

Single Family Parcel Placement When Impervious Data is Available

When actual impervious area is available, whether from additional measuring by the County or because of the appeals process, we recommend the following impervious thresholds for parcels.

Exhibit 7. Single Family Parcels: Impervious Thresholds

Impervious Tier Threshold	Notes
Small footprint: <2,500 impervious square feet	Any parcel owner that can demonstrate an impervious footprint of less than 2,500 square feet would warrant this reduced rate.
Medium footprint: 2,500 to 8,400 impervious square feet	Any developed single family parcels <=2 acres are initially charged the medium footprint rate. *
Large footprint: > 8,400 impervious square feet	Any developed single family parcels >2 acres are initially charged the large footprint rate. *

* If a parcel's footprint designation (small, medium, large) is in error, based on the actual measured impervious footprint, as demonstrated to the satisfaction of County staff, a parcel may be allowed to move to a different category. For example, if a parcel owner is initially placed in the large footprint category and can demonstrate that they actually have a medium footprint, they would be placed in the medium footprint category.

Non-Single Family Parcels

Annual Fees

Every 4,200 square feet of impervious area for non-single family parcels is equal to one 1.00 ESU and would be charged \$77.51 in 2020 and \$155.01 in 2021 (per ESU).

Defining the Equivalent Service Unit through Impervious Measurements

Given the diversity that exists among non-single family properties, all non-single family parcels in the service area are to be charged based on measured impervious surface area, initially based on a 2016 aerial photograph of each parcel.

Based on sampling data specific to the LWSU service area, the average single family parcel has approximately 4,200 impervious square feet. Therefore, every 4,200 square feet of impervious area for non-single family parcels is equal to one (1) equivalent service unit.

Calculating the ESU for Individual Customers

We recommend the following policies when calculating fees for individual non-single family parcels:

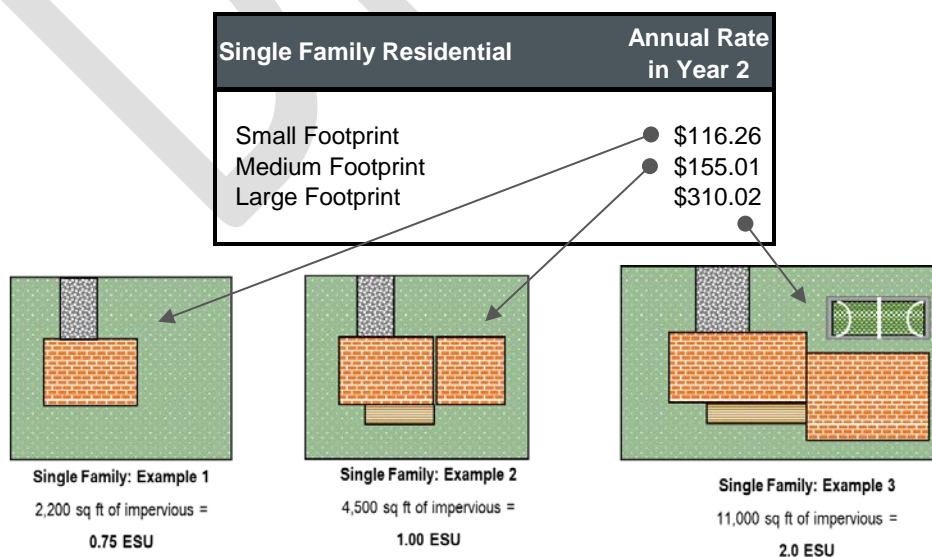
- **Minimum of 1.00 ESU:** We recommend charging each developed non-single family parcel 1.00 ESU, even if the resulting calculation is less than 1.00 ESU.
- **Round to the nearest whole ESU:** ESU calculations should be rounded to the nearest whole ESU. One reason to round to the nearest ESU is because impervious area is a fairly inexact measure of contribution of runoff, unlike a water meter for a water utility, for example.

Sample Bills

Single Family Residential

Depending on which tier a single family parcel would fall within, the parcel would be charged one of three fees, summarized in **Exhibit 8**. Some hypothetical visual examples are also provided below.

Exhibit 8. Single Family Sample Bills in 2021 (Year 2)



Non-Single Family

As described previously, bills for all other developed (non-single family) parcels would be variable, based on the measured impervious area per parcel.

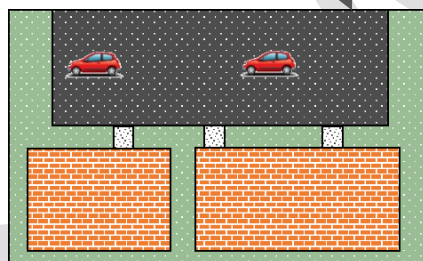
The minimum charge would be one ESU (non-SFR would not qualify for the Small footprint tier), and calculations would be rounded to the nearest whole ESU. Based on various amounts of impervious area, **Exhibit 9** shows the resulting fees for a number of hypothetical parcels.

Exhibit 9 also shows an example parcel with 25,000 impervious square feet. To calculate the fee, the impervious area is divided by the ESU value of 4,200 impervious square feet, resulting in 5.95 ESUs. That is then rounded to the nearest whole ESU — 6 ESUs. With an ESU rate of \$155.01 in 2021 (Year 2 of the program), that parcel's annual fee would be \$930.07.

Exhibit 9. Non-Single Family Sample Bills in 2021 (Year 2)

Impervious Square Feet	ESUs	Annual Rate	Impervious Square Feet	ESUs	Annual Rate
2,500	1.0	\$155.01	50,000	12.0	\$1,860.12
5,000	1.0	\$155.01	100,000	24.0	\$3,720.24
10,000	2.0	\$310.02	200,000	48.0	\$7,440.48
25,000	6.0	\$930.06	250,000	60.0	\$9,300.60

*Assumes \$155.01 per ESU



Non-Single Family
25,000 sq ft of impervious ÷ 4,200 per ESU
5.95 ESUs → 6.00 ESUs

Fee Exemptions & Reductions

Exemptions

There are several proposed fee exemptions, including the following:

- Forestland or timberland as defined by RCW 36.89.080: (3) – Required by State law.
 - » Rates and charges authorized under this section may not be imposed on lands taxed as forestland under chapter 84.33 RCW or as timberland under chapter 84.34 RCW.
- Senior or Disabled low-income parcel owners – Not required but allowed by State law.
 - » The senior/disabled exemption is recommended to be consistent with County policy and other impervious surface-based fees within the County (i.e., BBWARM).
- Private and public roads.
 - » The EPA defines stormwater systems to include public streets, which are used to convey runoff. Private streets are subject to similar development standards in the Watershed. In addition, the County Road Fund directly pays into the Stormwater Fund to address county road impacts on stormwater.

Parcels and / or impervious area related to any of these categories have been excluded from the chargeable ESU customer total in **Exhibit 4**.

Fee Reduction for Commercial Rainwater Harvesting Systems

Under RCW 35.67.020 (3), State law requires that stormwater fees be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

We do not recommend a reduction of greater than ten percent.

Fee Appeals Process

Many authorizing ordinances contain language providing for fee appeals. Most contain the following or similar terms. If the property owner or person responsible for paying for the stormwater fee believes that an assigned fee is incorrect, such a person may request in writing that the fee be recomputed. However, filing of such a request does not extend the period for payment of the charge. Such requests shall be made within a specified time period, such as thirty days of the mailing of the billing in question. The property owner would have the burden of proving that the service charge adjustment should be granted.

Decisions on requests for fee adjustment would be made by the Public Works Director or his/her designee on information submitted by the applicant and by the Public Works Department within a specified time period, such as sixty days of the adjustment request, except when additional information is needed. The applicant would be notified in writing of the manager's decision. If the applicant's request is denied by the director, the customer would be able to submit an appeal of the denial of the first appeal in writing to the Hearing Examiner. The Hearing Examiner would review appeals and base his/her decision on information provided by the customer and by Public Works staff or may review the property directly, in person. The Hearing Examiner's decision would be final.

If an adjustment is granted which reduces the service charge for the current year, the applicant would be refunded the amount overpaid in the current year. If the Public Works Director finds that a service charge bill has been undercharged, then either an amended bill would be issued which reflects the increase in service charge or the undercharged amount would be added to the next year's bill.

Section III. CAPITAL FACILITIES CHARGE

Introduction

Capital facilities charges (CFCs) are one-time fees, paid at the time of development, intended to recover a share of the cost of system capacity needed to serve growth. They serve two primary purposes: to provide equity between existing and new customers; and to provide a source of capital (equity) funding in support of system costs. The charge is an upfront charge imposed on system growth and is primarily a charge on new development, although also applicable to expansion or densification of development when such actions increase requirements for utility system capacity.

Methodology

The basic approach to the CFC computation is a simple division of costs by customer base, as shown in **Exhibit 10**.

Exhibit 10. General CFC Calculation Methodology

$$\text{Capital Facilities Charge} = \frac{\text{Applicable Capital Cost}}{\text{Applicable Customer Base}}$$

- The numerator in the charge includes planned system facilities, and the charge is intended to represent a fair share of the cost of those system facilities that will serve future users, or growth.
 - » The County has committed \$50 million in capital costs over 50 years to comply with the TMDL. At this time, approximately 75% of this capital cost is assumed to be funded through REET receipts, which results in 25% of the capital cost to be funded through LWSU fees.
- The denominator includes projected system capacity in the service area.
 - » The Lake Whatcom Watershed Annual Build-out Analysis Report for 2018 indicates that there are 5,445 existing dwelling units in the unincorporated Lake Whatcom Watershed, and capacity for 1,493 more dwelling units in that area, totaling 6,938 dwelling units. For the purposes of this analysis, a dwelling unit is assumed to be equivalent to an ESU (their 2018 values are nearly identical—5,445 vs. 5,784).

Exhibit 11. CFC Calculation

Description	Value	Notes
Capital Costs	\$ 48,000,000	48 Years at \$1 million per year
Adjustment: REET Funding	\$ (36,000,000)	Assumes 75% REET funded; 25% rate funded:
	\$ 12,000,000	based on \$750,000 REET / \$250,000 Rate funding plan.
Total Developed / Developable Dwelling Units	6,938	2018 Lake Whatcom Watershed Buildout Analysis
Capital Facilities Charge per ESU	\$1,730	

*\$48 million excludes \$2 million assumed to have been spent in 2017, 2018 to be conservative; instead of \$50 million.

Implementation

The calculated charge of \$1,730 is the maximum allowable charge. County Council can choose to adopt a CFC that is less than this amount.

- Single family parcels that are being developed would pay a flat fee of \$1,730.
- Non-single family parcels would pay \$1,730 for every 4,200 square feet of impervious area that the development would add to the system.

Lake Whatcom Stormwater Utility Service Area



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PROPOSED BY: _____
INTRODUCTION DATE: __6/4/19__

ORDINANCE NO. 2019-

AN ORDINANCE AUTHORIZING A CHARGE FOR THE FURNISHING OF SERVICE TO THOSE WHO ARE RECEIVING OR WILL RECEIVE BENEFITS FROM STORMWATER CONTROL FACILITIES OR PROGRAMS AND WHO ARE CONTRIBUTING TO AN INCREASE IN SURFACE WATER RUNOFF IN THE LAKE WHATCOM STORMWATER UTILITY SERVICE AREA

WHEREAS, RCW 36.89.080 authorizes a charge for the furnishing of service to those who are receiving or will receive benefits from stormwater control facilities and programs and who are contributing to an increase in surface water runoff; and,

WHEREAS, the Lake Whatcom Stormwater Utility Service Area was adopted with Ordinance 2017-076 to include the entire unincorporated Lake Whatcom Watershed; and,

WHEREAS, the Lake Whatcom Stormwater Utility’s purpose is to recover applicable costs of compliance with state-mandated reductions in phosphorus and meet federal Clean Water Act requirements; and,

WHEREAS, A citizen advisory committee was selected by Whatcom County Council on May 8, 2018. The purpose of the committee was to represent rate payers in the Lake Whatcom Stormwater Utility Service Area and advise Whatcom County Public Works staff and the Whatcom County Council on a recommended stormwater rate structure; and,

WHEREAS a citizen advisory committee was selected by Whatcom County Council on May 8, 2018 to represent rate payers in the Lake Whatcom Stormwater Utility Service Area and advise Whatcom County Public Works and the Whatcom County Council on a recommended stormwater rate structure; and,

1 **WHEREAS**, Whatcom County Public Works conducted a funding study to
2 evaluate stormwater rate structure options for the Lake Whatcom Stormwater Utility
3 Service Area beginning in June 2018, and,
4

5 **WHEREAS**, stakeholder input and recommendations during the funding
6 study were provided through the citizen advisory committee and interested public
7 attended advisory committee meetings and provided comments to the committee for
8 their consideration.
9

10
11 **NOW, THEREFORE, BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL THAT:**
12
13

14 Section 1. A new sub-chapter be added to Whatcom County Code entitled "Lake
15 Whatcom Stormwater Utility." Complete text is included in **Exhibit A** of this ordinance.
16

17 Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of
18 this ordinance shall not affect or impair the validity of the ordinance as a whole or any
19 part thereof other than the part so declared to be invalid.
20
21

22 Section 3. This ordinance shall become effective January 1, 2020.
23
24

25 **ADOPTED** this ____ day of _____, 20____.
26
27

28
29 ATTEST:
30
31

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

32 Dana Brown-Davis, Clerk of the Council
33
34

Rud Browne, Council Chair

35 WHATCOM COUNTY EXECUTIVE
36 APPROVED AS TO FORM:
37
38 _____
39

WHATCOM COUNTY, WASHINGTON

40 Christopher Quinn, Civil Deputy
41 Prosecutor
42
43
44
45

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____

EXHIBIT A

Section 1.0 Title

This ordinance shall be titled "Lake Whatcom Stormwater Utility Funding Mechanism".

Section 2.0 Purpose

The purpose of this chapter is to provide revenue for the Lake Whatcom Stormwater Utility (LWSU) to plan, manage, design, construct, establish, acquire, develop, maintain, use, finance, operate, control or improve storm and surface water control facilities, and to carry out activities related thereto. This chapter provides these revenues by fixing rates and charges pursuant to RCW 36.89 for the furnishing of service to those served or receiving benefits or to be served or to receive benefits from any stormwater control facility or contributing to an increase of surface water runoff in the LWSU Service Area. This authority is being invoked in order to minimize property damage; promote and protect public health, safety and welfare; minimize water quality degradation by preventing siltation, contamination and erosion of the waterways; protect aquifers, ensure the safety of County roads and rights-of-way; increase educational and recreational opportunities; encourage the retention of open space; and foster other beneficial public uses within the LWSU Service Area.

Section 3.0 Applicability

The requirements of this ordinance shall apply to all parcels of real property in the LWSU Service Area, including public and private property.

Section 4.0 Definitions

For the purposes of this Chapter, the words or phrases below shall have the following meanings:

- (1) "County" means Whatcom County, or as indicated by the context, may mean the Department of Public Works, Public Works Director, County Engineer, or other employee or agent representing the County in the discharge of his or her duties.
- (2) "County Council" means the Whatcom County Council, which is the legislative branch of Whatcom County government.
- (3) "County roads" means public rights-of-way, excluding State roads, in the unincorporated areas served by the LWSU.
- (4) "Developed parcel" means a parcel of real property which has been altered by impervious surface coverage.
- (5) "Enterprise fund" means a fund established to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges. As such, enterprise funds must report actual financial position and results of operations, such as actual assets, liabilities, fund equity balances, revenues, expenditures, and expenses.
- (6) "Equivalent service unit" (ESU) means a configuration of impervious surface estimated to contribute an amount of runoff to the County's stormwater management system which is

- approximately equal to that created by the average single-family residential developed parcel in the service area.
- (7) "Forestland or Timberland" means forestland or timberland parcels on lands taxed as forestland under chapter 84.33 RCW or as timberland under chapter 84.34 RCW.
- (8) "Impervious surface" means hard surfaced areas which prevent or retard the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to: rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of surface water or runoff patterns existent prior to development.
- (9) "Manager" means the County Engineer or his/her designee.
- (10) "Other Developed Parcel" means a parcel that contains impervious surface area and is not a single family residence, including but not limited to, commercial, industrial, multi-family apartment, and public property.
- (11) "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for real property purposes and a tax account number assigned by the Whatcom County Assessor-Treasurer.
- (12) "Private roads" means a road which is on private property and is maintained with private funds and requires a name per W.C.C. 12.60.050. .
- (13) "Service charge" means the fee in an amount to be determined by applying the appropriate rate to a particular parcel of real property based upon factors established by this Chapter.
- (14) "Single-family residence" means a residential structure designed exclusively for occupancy by one family, including but not limited to mobile homes, cabins and duplex units, as defined by the Whatcom County Land Use and Development Code.
- i. "Small single-family residential footprint" means a parcel containing a single family residence that has less than or equal to 2,500 impervious square feet.
- ii. "Medium single-family residential footprint" means a parcel containing a single family residence with 2,500 to 8,400 impervious square feet.
- iii. "Large single-family residential footprint" means a parcel containing a single family residence with more than 8,400 impervious square feet.
- (15) "Undeveloped parcel" means any parcel of real property which has not been altered by construction of any structure or other impervious surface area. Private roads providing access between or among undeveloped sites shall be defined as undeveloped property.
- (16) "Unit rate" means the dollar amount charged per ESU.

Section 5.0 Rate Structure

A. Service charges for the LWSU are hereby authorized and imposed, in amounts and on terms consistent with this Chapter.

1 B. The rates and service charges shall be based on the service provided and the relative
2 contribution of stormwater runoff from a given parcel. The estimated or measured impervious surface
3 area will be used to determine the relative contribution of stormwater runoff from the parcel.
4

5 C. The County Council shall establish from time to time, by resolution, the value of one ESU
6 in impervious surface area, as measured in square feet.
7

8 D. The County Council shall establish from time to time, by resolution, the unit rate per ESU.
9

10 Service charges shall be determined as follows:
11

- 12 1. Undeveloped Parcels – Undeveloped parcels shall not be charged.
- 13 2. County and Private Roads – County and Private roads shall not be charged.
- 14 3. Forestland and Timberland – Forestland or timberland parcels shall not be charged.
- 15 4. Small Single-Family Residential Footprint – The service charge for each small single
16 family parcel shall be the unit rate times 0.75 ESU.
- 17 5. Medium Single-Family Residential Footprint – The service charge for each medium single
18 family parcel shall be the unit rate times 1.00 ESU.
- 19 6. Large Single-Family Residential Footprint – The service charge for each large single
20 family parcel shall be the unit rate times 2.00 ESUs.
- 21 7. Other Developed Parcels – The service charge for all other developed parcels, including
22 publicly-owned properties, shall be computed by multiplying the unit rate times the
23 number of ESUs on the parcel minus any approved rate adjustment for the parcel as
24 determined under Section 7.0. There shall be a minimum service charge for all other
25 developed parcels equal to the unit rate.
26

27 For the purpose of computation of service charges for Other Developed Parcels, the
28 number of equivalent service units shall be rounded to the nearest whole number.
29
30
31
32

33 **Section 6.0 Billing**

34
35
36

37 A. Property Tax Statements. Rates and charges as authorized by this Chapter shall be
38 added to and included in Whatcom County's annual tax statements. Properties which do not receive a
39 property tax statement will receive a separate billing statement for these rates and charges.
40
41

42 B. Payment Date. The total amount of the stormwater charge shall be due and payable on
43 or before the 30th day of April and shall be delinquent after that date; however, if one-half of such rate
44 and charge is paid on or before the said 30th day of April, the remainder shall be due and payable on or
45 before the 31st day of October and shall be delinquent after that date.
46

47 C. Payment Application. If a payment is received in conjunction with a combined property
48 tax and LWSU service charge, and the payment is less than the amount due, the payment shall be
49 applied first to the annual property tax of the parcel and any remaining amount to the service charge.
50

1 **Section 7.0 Service Charge Adjustments and Appeals**

2
3 A. Any person billed for service charges may file a "Request for Service Charge Adjustment"
4 with the Public Works Department – Stormwater Division within thirty (30) days of the date of the bill.
5 However, submittal of such a request does not extend the period of payment for the charge.
6

7 B. A request for service charge adjustment may be granted or approved by the Manager
8 only when one or more of the following conditions exist:
9

- 10 1. The single family residential footprint designation (small, medium, large) is in
11 error, based on the measured impervious footprint, as demonstrated to the
12 satisfaction of County staff; or
13
14 2. The amount charged to Other Developed Parcels is in error; however, no
15 adjustment will be made unless the calculation of the impervious surface area on
16 the parcel is shown to be in error by at least ten percent (10%), as demonstrated
17 to the satisfaction of County staff; or
18
19 3. The parcel exists in its natural unimproved condition and will remain in its natural
20 unimproved condition with no allowable human activities or manmade
21 improvements that adversely affect water quantity or quality; or
22
23 4. The parcel contains a new or remodeled commercial building that utilizes a
24 permissive rainwater harvesting system that is properly sized to utilize the
25 available roof surface of the building; or
26
27 (i) For qualifying permissive rainwater harvesting systems as provided for
28 under RCW 36.89.080 and eligible under section 7.0(B)(3) of this chapter
29 the formula is expressed mathematically as follows:

30
31
$$A = F \times 10\%$$

32
33 Where:

34 A = The credit amount to be subtracted from the annual
35 fee; and

36 F = The total fee without credit.
37

- 38 5. The parcels are determined by the Manager to be contiguous. For contiguous
39 lots to qualify for a rate adjustment, the appellant must demonstrate that parcels:
40
41 (i) Are contiguous; and
42 (ii) Are owned by the same entity; and
43 (iii) Are single family residential.
44

1 Lots determined to be contiguous by the Manager will be considered as a single
2 lot for the purposes of fee calculations;
3 Fees will be recalculated to reflect any such change from the date of the change
4 and applied to the individual parcels pursuant to the rate schedule in effect at the
5 time of the change.
6

7 C. Service charge adjustments will only apply to the bill then due and payable, and bills
8 subsequently issued. The property owner shall have the burden of proving that the service charge
9 adjustment should be granted.
10

11 D. Decisions on service charge adjustment requests shall be made by the Manager based
12 on information submitted by the applicant and by the County within sixty (60) days of the adjustment
13 request, except when additional information is needed. The applicant shall be notified in writing of the
14 Manager's decision.
15

16 E. Decisions of the Manager on requests for service charge adjustments shall be final
17 unless appealed within thirty (30) days of the date the decision. The Whatcom County Hearing Examiner
18 shall establish an appeal review body to hear appeals of the Manager's decision.
19

20 **Section 8.0 Exemption**

21

22 Property that is owned by, and is the personal residence of, a person or persons approved by the
23 County Assessor for a senior citizen or disabled persons property tax exemption under RCW 84.36.381
24 shall be exempt from the service charge.
25

26 **Section 9.0 Use of Funds**

27

28 Service charges collected under this ordinance shall be deposited into a special fund or funds to
29 be used only for the purpose of paying all or any part of the cost and expense of maintaining and
30 operating stormwater control facilities, all or any part of the cost and expense of planning, designing,
31 establishing, acquiring, developing, constructing, maintaining and improving the program and facilities of
32 the Lake Whatcom Stormwater Utility.
33

34 **Section 10.0 Lien for Delinquent Charges**

35

36 A. Liens. Pursuant to RCW 36.94.150, Whatcom County shall have a lien for delinquent service
37 charges, including interest thereon, against any property against which they were levied, which lien shall
38 be superior to all other liens and encumbrances except general taxes and local and special assessments.
39 Such liens shall be effective and shall be enforced and foreclosed as provided in RCW 36.94.150.
40 Therefore, the County may commence to foreclose such liens sixty (60) days after the attachment of the
41 lien.
42

43 B. Interest. Delinquent service charges shall bear interest as provided in RCW 36.94.150 at the rate
44 of eight percent (8%) per annum, or such rate as may hereafter be authorized by law, computed on a
45 monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at
46 the time of payment of the charges regardless of when the charges were first delinquent.
47

C. Penalties. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution, as provided in RCW 36.94.150.

Section 11.0 Capital Facilities Charge

The County Council shall establish from time to time, by resolution, the unit rate per ESU for a one-time, capital facilities charge (CFC) applicable to new development, expansion, or densification of existing development.

Single-family Residential Parcels that are being developed would pay the CFC equal to one ESU.

Other Developed Parcels would pay the CFC rate times the number of ESUs on the parcel.

Section 12.0 Cost-of-Living Adjustment

Notwithstanding any fee increase provisions to the contrary or absence thereof, user fees for the LWSU shall be increased annually on January 1st of each year beginning January 1, 2022.

The cost-of-living increase noted herein shall be based on the U.S. Bureau of Labor and Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) publication. The adjustment factor will be based on the August value of the current year divided by the August value of the previous year. That factor is multiplied by the fee(s) in the current year to arrive at the updated fee(s) in the subsequent year.

The formula is expressed mathematically as follows:

$$F * A = U$$

Where

F = current year fee;

A = adjustment factor;

U = updated fee;

For example, if the adjustment were to be calculated for 2019, the August CPI-W value in 2018 (267.757) would be divided by the August value in 2017 (259.528), resulting in an adjustment factor of 1.0317. If the LWSU fee was \$100 in 2018, the cost adjusted fee for 2019 would be \$103.17.

If the cost-of-living adjustment results in a decrease, no cost-of-living adjustment shall be made that year. Other changes to the fee(s) may supersede this clause, such as changes to the fee(s) resulting from programmatic changes or regulatory requirements.

If the CPI-W index is unavailable at the time of the adjustment calculation, a similar index may be used, such as CPI-All Urban Consumers.

1 **Section 13.0 Severability.**

2
3 If any section, clause or provision of this Chapter be declared by the courts to be invalid, the
4 same shall not affect the validity of the Chapter as a whole or any part thereof, other than the part so
5 declared to be invalid.
6
7

DRAFT

Lake Whatcom Stormwater Utility Service Area

Advisory Committee Minority Report



*Hertz Trail 2013
Photo by F. Miller*

Nancy Alyanak

May 14, 2019

Page 1 of 3

Why Combination Gross Parcel Area and Impervious Surface Fee ?

Preferred Format for Rural Service Areas

- National Association of Flood and Stormwater Management Agencies (NAFSMA) recommends a combination fee especially if extensive rural areas are included. (*Guidance for Municipal Stormwater Funding, 2006*)
 - LWSUSA is extensively rural: 54% undeveloped 31% timber harvest 15% developed

Strong Nexus

- Between gross parcel area, stormwater runoff and phosphorus:
Biggest source of phosphorus is surface soil erosion and transport from steep, forested slopes like those in LWSUSA. Slope determines soil erosion rate and phosphorus load, not development or impervious surface. (see page 3)
- Between gross parcel area and TMDL phosphorus allocation:
By law timber harvest properties are not responsible for their own phosphorus. Ecology chose to allocate the entire timber harvest phosphorus load to developed property. A gross area fee allows undeveloped property to pay a portion of the timber harvest exemption rather than forcing developed, mostly residential property to pay the entire amount.

Strong Legal Basis

- County attorney support :
 - The parcels to be charged within the Service Area either 1) will receive a service benefit or 2) contribute to the surface water runoff in the Service Area, regardless of whether the parcel is developed.
 - Parcel area fee can be used for all Service Area expenses.

Easily Administered

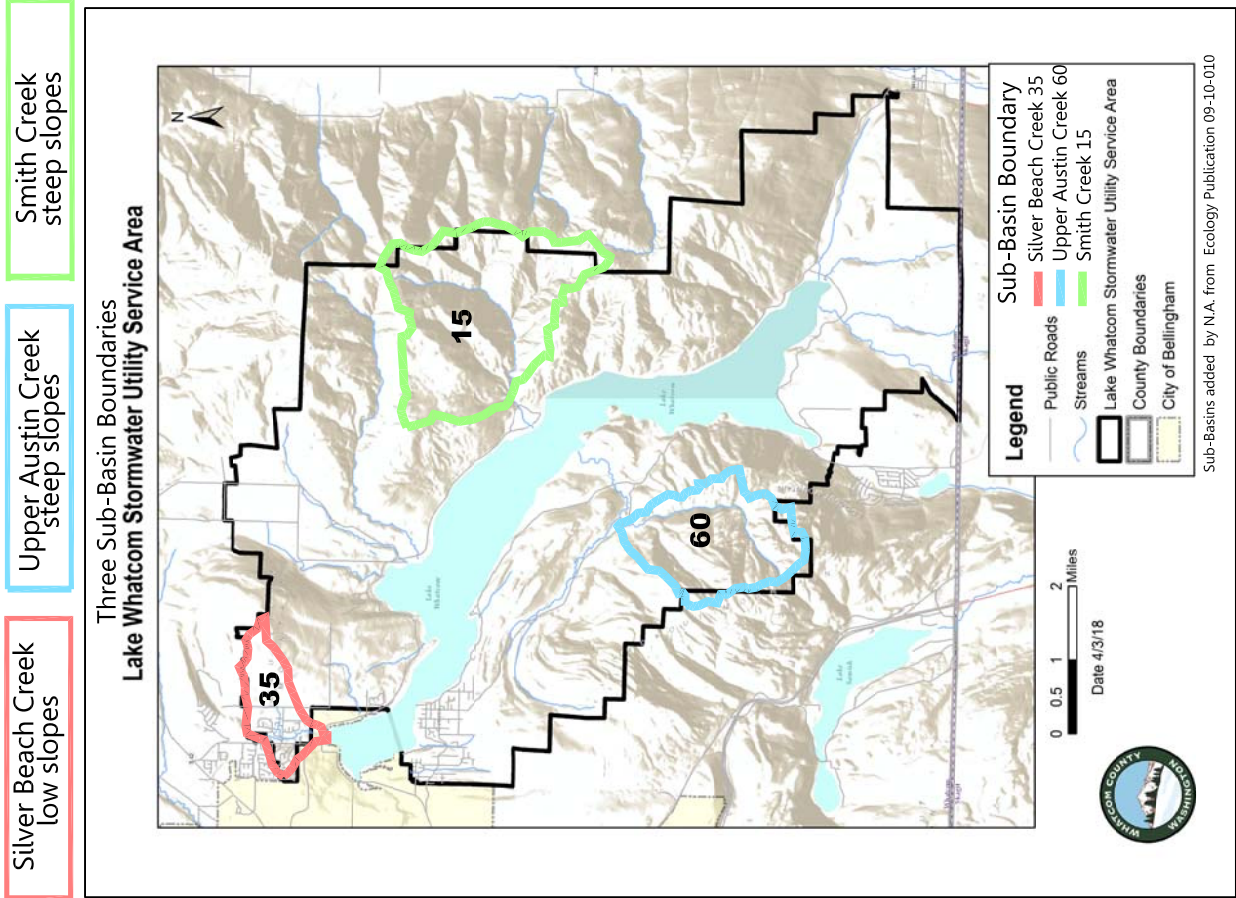
- Data is available: Gross parcel area is tracked in the county assessor database.

Practical consideration

- The fee base is larger in a combination fee. Because the Financial Reserve is funded entirely by Service Area fees, current cost sharing with the county may be temporary. If county funding ends, Service Area fees will triple.

The biggest source of phosphorus in the watershed is surface erosion and surface transport¹

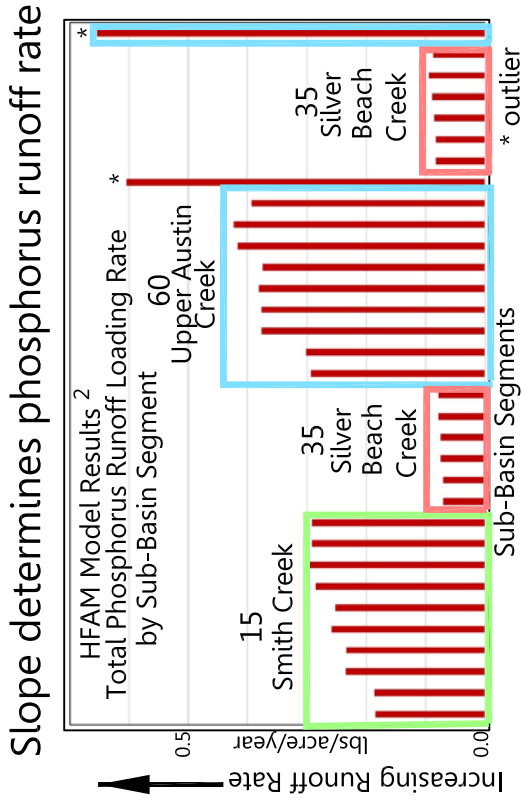
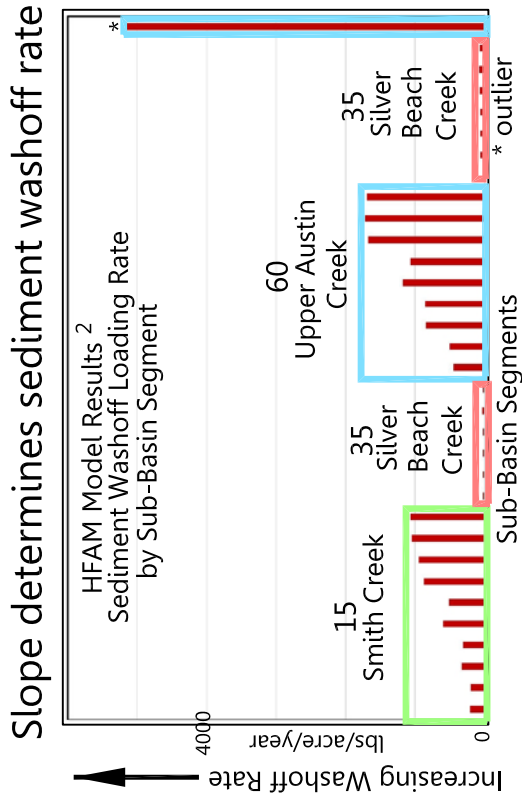
MORE Soil erosion is from steep, forested slopes like Upper Austin Creek or Smith Creek
 LESS soil erosion is from highly developed, impervious surface areas like Silver Beach Creek



Silver Beach Creek low slopes

Upper Austin Creek steep slopes

Smith Creek steep slopes



- ◆ Capital Facilities Charge
- ◆ Rate Credits
 - Sudden Valley
- ◆ Reserve Amounts
- ◆ Inflation Adjustment
- ◆ HIP



Reserve Amount Options

38

1. No Reserve – Not Recommended;
Consistent with BBWARM
2. Reserve for just new program -
\$272,000 – Staff Recommended
3. Reserve for entire Lake Whatcom
Program - \$790,000 – Advisory
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Homeowners Incentive Program

- ◆ HIP 1: Piloted by the City 2010-2016 – Grant Funded
- ◆ HIP 2: 2017-present, significant changes; transition to County-led
- ◆ Current Program is stipulated in Interlocal Agreement with City of Bellingham
- ◆ Looking at other programs, e.g., Neighborhood-scale Residential Retrofit
- ◆ Goals:
 - (1) to reduce phosphorus from areas that cannot be treated with capital program
 - (2) promote watershed stewardship
- ◆ No mechanism to make homeowners retrofit properties; therefore, an incentive program
- ◆ Public Benefit; NOT a Homeowner Benefit



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Advisory Committee Minority Report



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Nancy Alyanak

May 14, 2019
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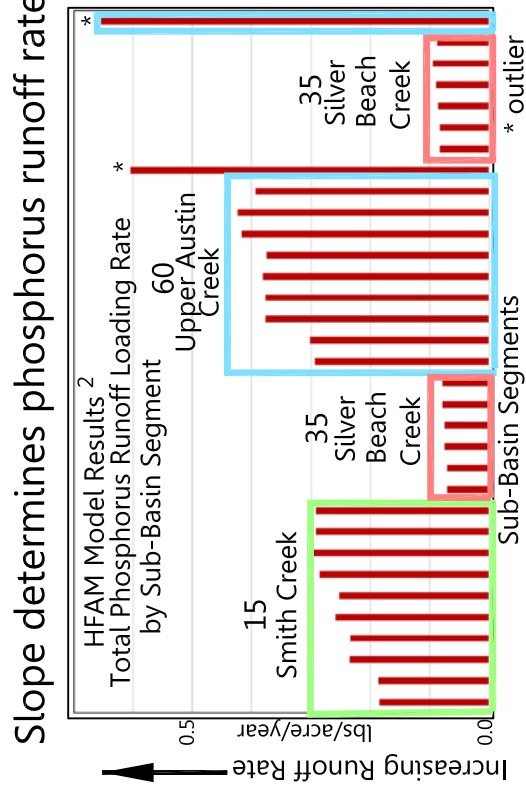
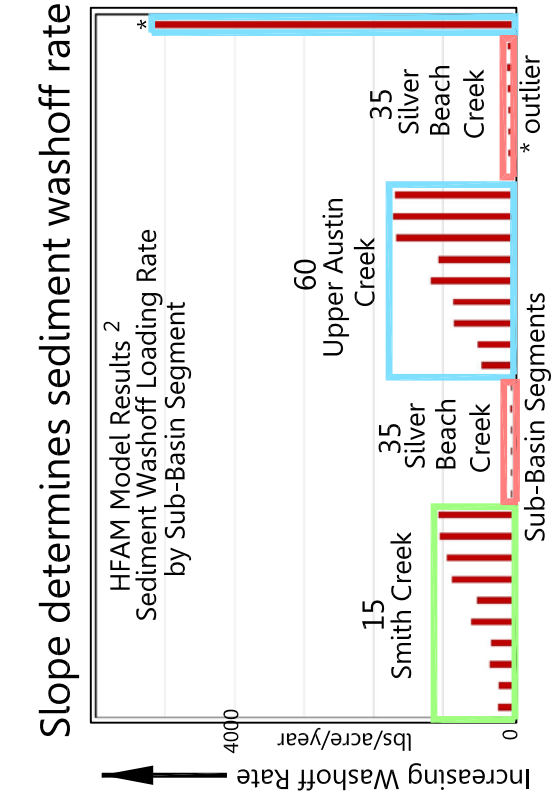
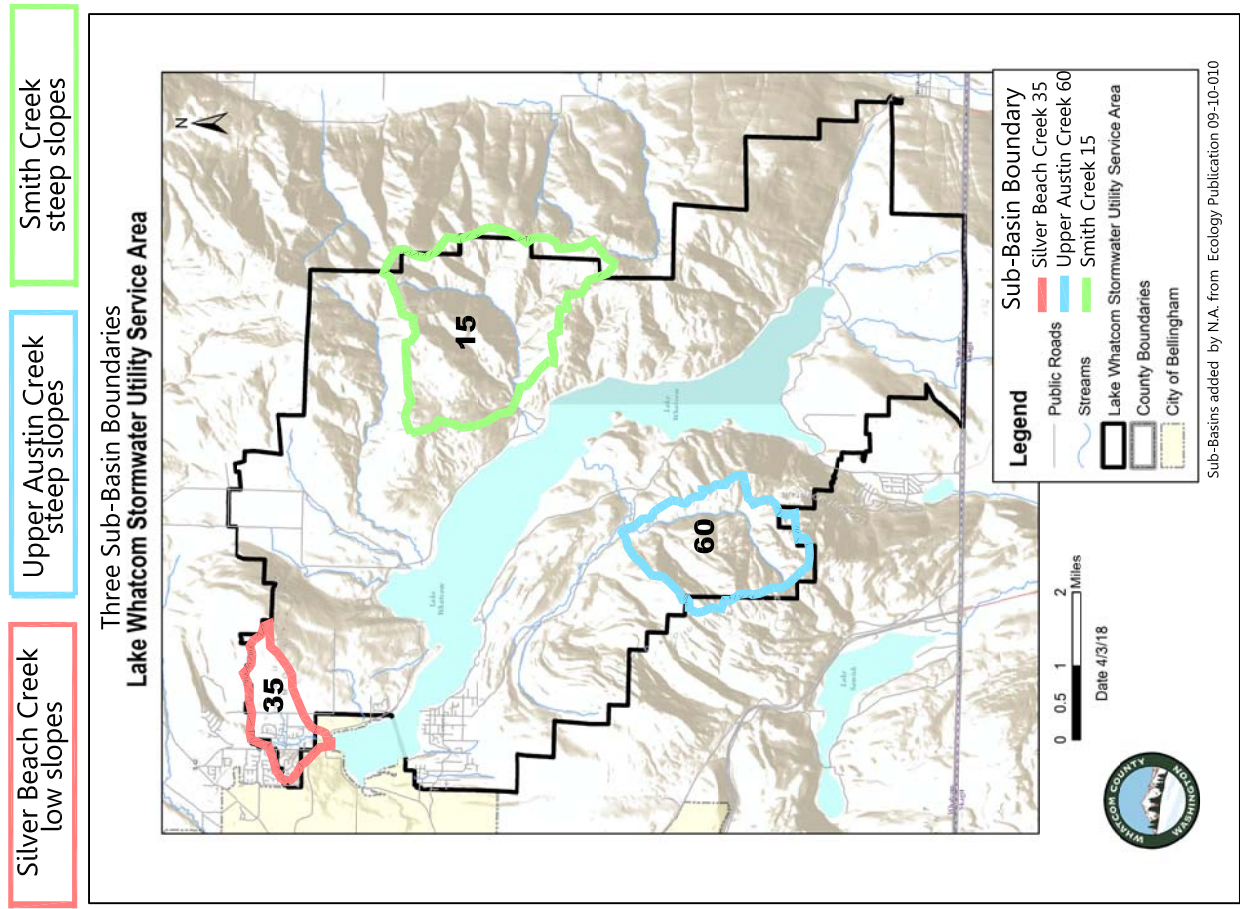
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Practical consideration

- The fee base is larger in a combination fee. Because the Financial Reserve is funded entirely by Service Area fees, current cost sharing with the county may be temporary. If county funding ends, Service Area fees will triple.

The biggest source of phosphorus in the watershed is surface erosion and surface transport¹

MORE Soil erosion is from steep, forested slopes like Upper Austin Creek or Smith Creek
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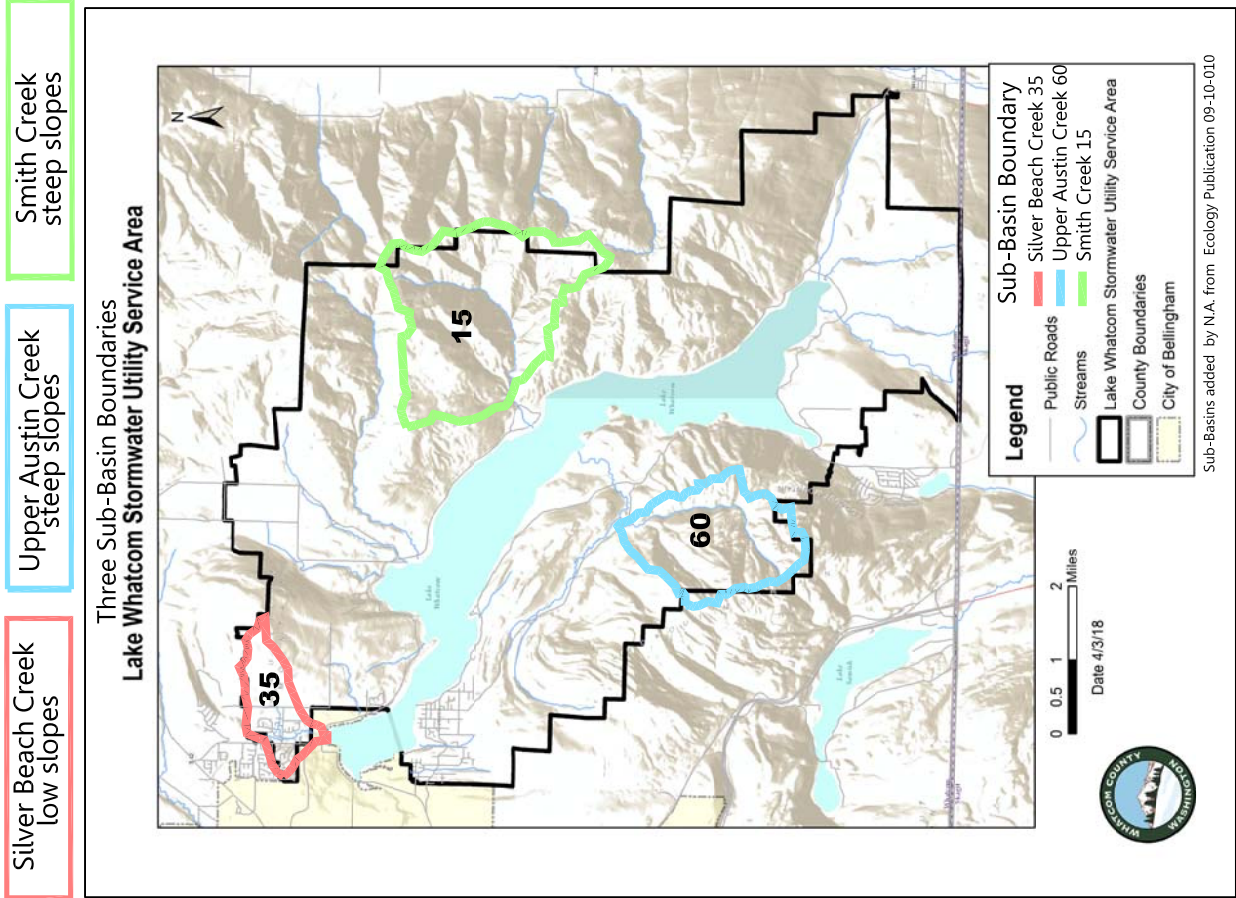
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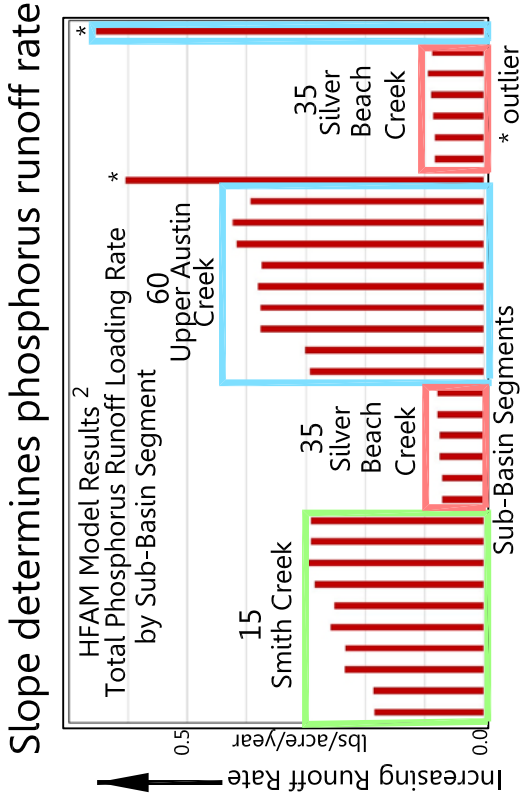
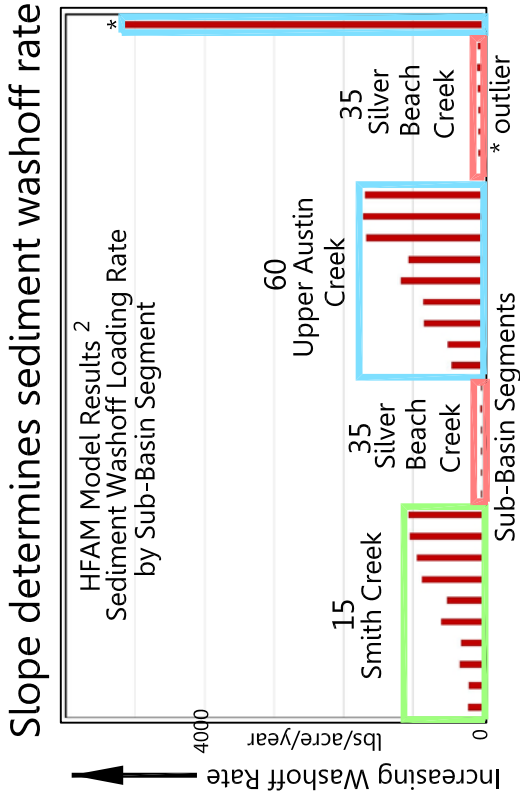
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Silver Beach Creek low slopes

Upper Austin Creek steep slopes

Smith Creek steep slopes



1) LWPG meeting 3/27/2019 2) Lake Whatcom Hydrologic Model Review, 7/2018

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Homeowners Incentive Program

	2018 Expenses	2019 Budget
WCPW	\$100,000	\$100,000
City of Bellingham	\$100,000	\$320,000
TOTAL	\$200,000	\$420,000

- ◆ **Two categories:**

1. Targeted: waterfront/creek-side and large lawns in Basins 1 and 2
 2. Do it Yourself (DIY): Native Landscaping supplies only in Basins 1 and 2
- ◆ **Easy to get people interested; But barriers still exist**
 - ◆ **Financial incentives not enough: People need help**



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-204

File ID:	AB2019-204	Version:	1	Status:	Agenda Ready
File Created:	03/28/2019	Entered by:	SKorthui@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: Price@WhatcomCounty.us

TITLE FOR AGENDA ITEM:

Report from Whatcom County's Information Technology Department

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Information Technology Manager Perry Rice will present his report to Council

HISTORY OF LEGISLATIVE FILE

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

Attachments:

Final Action:
Enactment Date:
Enactment #:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
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Agenda Bill Master Report

File Number: AB2019-334

File ID:	AB2019-334	Version:	1	Status:	Agenda Ready
File Created:	05/24/2019	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Agreement		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:	Hearing Date:
---------------------	------------	------------------------	----------------------

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

TITLE FOR AGENDA ITEM:

Request for authorization for the County Executive to enter into a commercial lease agreement between Whatcom County and Cornwall Center Inc for use of the parking lot at the Bellingham Senior Activity Center in the total amount of \$118,260 over five years with cost sharing from the City of Bellingham and Whatcom Council on Aging

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Whatcom County Parks cost shares with the City of Bellingham and Whatcom Council on Aging to lease 60 parking spaces from Cornwall Center Inc for the Bellingham Senior Activity Center. This lease agreement with Cornwall Center Inc. is in the amount of \$1855.00 per month, increasing 3% each year of the five year contract. In a separate Interlocal Agreement, the City of Bellingham reimburses Whatcom County monthly for 66% of the cost of the parking lot and Whatcom Council on Aging reimburses the county for 22% of the cost.

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo to Executive, Commercial Lease Agreement

Final Action:
Enactment Date:
Enactment #:

WHATCOM COUNTY

Parks & Recreation

3373 Mount Baker Highway
Bellingham, WA 98226-7500



Michael G. McFarlane, Director

Christ Thomsen, Parks Operations Manager

MEMORANDUM

TO: Jack Louws, County Executive

FROM: Michael McFarlane, Director

DATE: May 16, 2019

RE: Cornwall Center Inc. Commercial Lease Agreement

RECEIVED

MAY 22 2019

**JACK LOUWS
COUNTY EXECUTIVE**

Enclosed for your signature is a five year Commercial Lease Agreement between Whatcom County Parks & Recreation and Cornwall Center, Inc for use of a parking lot (60 spaces) for the Bellingham Senior Activity Center.

Whatcom County Parks cost shares with the City of Bellingham and Whatcom Council on Aging for the parking lot. The City reimburses Parks monthly for 66% of the cost and WCOA reimburses Parks monthly for 22% of the cost. The total cost of the parking lot is \$1855.00 per month, increasing 3% annually.

Please feel free to contact me at extension 5855 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

2019050.

Originating Department:	Parks & Recreation								
Division/Program: (i.e. Dept. Division and Program)	Senior Services								
Contract or Grant Administrator:	Michael McFarlane								
Contractor's / Agency Name:	Cornwall Center Inc.								
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____									
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)									
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____									
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____									
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: _____									
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.									
If YES, indicate exclusion(s) below: <table border="0"> <tr> <td><input type="checkbox"/> Professional services agreement for certified/licensed professional.</td> <td><input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than \$100,000.</td> <td><input type="checkbox"/> Work related subcontract less than \$25,000.</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than 120 days.</td> <td><input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</td> </tr> <tr> <td><input type="checkbox"/> Interlocal Agreement (between Governments).</td> <td></td> </tr> </table>		<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).	
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<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): \$ 118,260 over 5 years This Amendment Amount: \$ _____ Total Amended Amount: \$ 118,260 over 5 years	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: This is a five year Commercial Lease Agreement between Whatcom Co. Parks and Cornwall Center Inc. for use of a parking lot for the Bellingham Senior Activity Center. Parks agrees to pay Cornwall Center Inc. \$1,855 / mo. for the first year, increasing 3% each year after. The City of Bellingham and Whatcom Council on Aging cost share the parking lot by reimbursing Parks 66% (City) of the cost and 22% (WCOA) of the cost each month.									
Term of Contract: 7/1/2019	Expiration Date: 6/30/2024								

Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 5/16/2019
	2. Attorney signoff: _____	Date: 5/21/19
	3. AS Finance reviewed: _____	Date: 5/22/19
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: 5-22-19
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

COMMERCIAL LEASE AGREEMENT

THIS LEASE made the 1st day of July, 2019, by and between Cornwall Center Inc., 818 Racine Street, Bellingham, WA 98229, (hereinafter called the Lessor) and Whatcom County through the Parks & Recreation Department, 3373 Mt. Baker Highway, Bellingham, WA 98226 (hereinafter called the Lessee):

WITNESSETH:

1. PREMISES: Lessor does hereby lease to Lessee, those certain premises commonly know as north portion of parking lot (configured at 60 spaces) at 1800 Block Cornwall Avenue; (as marked on Exhibit A), excluding parking spaces directly next to Cornwall Center building.
2. TERM: The Term of the Lease shall be for 5 years commencing the first day of July 2019 with an option to renew for an additional five years at a relevant negotiated rate.
3. RENT: Lessee covenants and agrees to pay Lessor at 818 Racine Street, Bellingham, WA 98229, each month in advance of the first day of each month of the lease term. If not paid in ten days, a service charge of 18% shall also be due. The payment amount for the first twelve (12) month period of July 1, 2019 through June 30, 2020 shall be \$1,855.00 per month. This amount shall increase annually as follows:

Year two (July 1, 2020 – June 30, 2021):	\$1,910.00 / Month
Year three (July 1, 2021 – June 30, 2022):	\$1,970.00 / Month
Year four (July 1, 2022 – June 30, 2023):	\$2,030.00 / Month
Year five (July 1, 2023 – June 30, 2024):	\$2,090.00 / Month
4. REPAIRS AND MAINTENANCE: Premises have been inspected and are accepted by Lessee in their present condition. Lessee shall, at its own expense and at all times, keep premises neat, clean and in sanitary condition, and keep and use the premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities. Lessee shall permit no waste, damage or injury of the premises.
5. SIGNS AND ALTERATIONS: All signs or symbols placed by Lessee on or about the premises shall be subject to Lessor's prior written approval. After prior written consent of Lessor, Lessee may make alterations and improvements in said premises, at Lessee's sole cost and expense. Lessor may elect to require Lessee to remove any such alterations, additions or improvements upon termination of this Lease and at Lessee's sole cost and expense.
6. LIENS AND INSOLVENCY: Lessee shall keep the premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by Lessee, and shall indemnify and hold Lessor harmless against the same.
7. SUBLETTING OR ASSIGNMENT: Lessee shall not sublet the whole or any part of the premises, nor assign this Lease, without the written consent of Lessor, which will not be unreasonably withheld. This Lease shall not be assignable by operation of law. Any assignment shall not release the Lessee from liability under this Lease unless the assignment states such.

8. **DAMAGE OR DESTRUCTION:** In the event the premises are rendered untenantable in whole or in part by fire, the elements, or other casualty, Lessor shall notify Lessee, within thirty (30) days after such casualty, that Lessor will undertake to rebuild or restore the premises. During the period of untenantability, rent shall abate in the same ratio as the portion of the premises rendered untenantable bears to the whole of the premises.
9. **ACCIDENTS:** Lessor or its agent shall not be liable for any injury or damage to persons or property sustained by Lessee or other, in and about the premises. Lessee agrees to defend and hold Lessor and its agents harmless from any claim, action and/or judgment for damages to property or injury to persons suffered or alleged to be suffered on the premises by any person, firm or corporation, unless caused by Lessor's negligence.
10. **COSTS AND ATTORNEY'S FEES:** If by reason of any default or breach on the part of either party in the performance of any of provisions of this Lease, a legal action is instituted, the losing party agrees to pay all reasonable costs and attorney's fees in connection therewith, including costs and fees to collect any judgment. It is agreed that the venue of any legal action brought under the terms of the Lease may be in the county in which the premises are situated.
11. **SURRENDER OF PREMISES:** Lessee agrees, upon termination of the Lease, to peacefully quit and surrender the premises without notice and leave the premises neat and clean. If Lessor elects to require Lessee to remove alterations, additions or improvements made by Lessee, then Lessee shall restore the premises to their previous conditions, less reasonable wear and tear.
12. **BINDING ON HEIRS, SUCCESSORS AND ASSIGNS:** The covenants and agreements of the Lease shall be binding upon the heirs, executors, administrators, successors and assigns of both parties hereto, except as hereinabove provided.
13. **USE:** Lessee shall use the premises for the purposes of parking and for no other purposes, without written consent of Lessor.
14. **NOTICE:** Any notice required to be given by either party to the other shall be deposited in the US mail, postage prepaid, addressed to the lessor at 818 Racine Street, Bellingham, WA 98229 or to the Lessee at 3373 Mt. Baker Highway, Bellingham, WA 98226 or at such other address as either party may designate to the other in writing from time to time.
15. **RIDER:** Riders, if any, attached hereto, are made apart of this lease by reference and described as: See Attached.
16. **TIME IS OF THE ESSENCE OF THIS LEASE.**
17. If Lessee is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the By-Laws of said corporation, and that this Lease is binding upon said corporation in accordance with its term. If Lessee is a corporation, Lessee shall, within thirty (30) days after execution of this Lease, deliver to Lessor or certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of the Lease.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2019.

Lessor (Cornwall Center Inc.)

Date _____

Witness

Executed as of the dates first written above.

WHATCOM COUNTY

Jack Louws, County Executive

STATE OF WASHINGTON)) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2019, before me personally appeared JACK LOUWS, to me known to be the County Executive of WHATCOM COUNTY and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this _____ day of _____, 2019.

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

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

APPROVED AS TO FORM:

Elizabeth Gallery, Prosecuting Attorney

Exhibit A





Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-335

File ID:	AB2019-335	Version:	1	Status:	Agenda Ready
File Created:	05/24/2019	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: sbatdorf@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request for authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham to allow for cost sharing of the parking lot lease at the Bellingham Senior Activity Center in the amount of \$78,879 over five years

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement between Whatcom County and the City of Bellingham allows the City to reimburse Whatcom County for it's share of the cost of the parking lot lease at the Bellingham Senior Activity Center. The parking lot is leased in a separate agreement between Whatcom County and Cornwall Center Inc. and the City of Bellingham and Whatcom Council on aging share the cost of lease with the County.

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:

WHATCOM COUNTY

Parks & Recreation

3373 Mount Baker Highway
Bellingham, WA 98226-9097



Michael G. McFarlane, Director
Christ Thomsen, Operations Manager


RECEIVED

MAY 23 2019

**JACK LOUWS
COUNTY EXECUTIVE**

MEMORANDUM

TO: Honorable Members of the Council and Executive Louws

FROM: Michael McFarlane, Director 

DATE: May 17th, 2019

RE: Interlocal Agreement with the City of Bellingham for Cost Sharing of the Parking Lot at the Bellingham Senior Activity Center.

Attached is an interlocal agreement between Whatcom County and the City of Bellingham to allow for cost sharing of the parking lot lease at the Bellingham Senior Activity Center. This lot is leased from the Cornwall Center Inc. by the County under a separate agreement and costs are shared with the City of Bellingham and Whatcom Council on Aging. This interlocal agreement allows for the City to pay its share to the County

I am requesting approval and authorization for the Executive to enter into the interlocal agreement.

Thank you

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Parks
Division/Program: (i.e. Dept. Division and Program)	Senior Services
Contract or Grant Administrator:	Michael McFarlane
Contractor's / Agency Name:	City of Bellingham
Is this a New Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: 6210.4337.1001	
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"/> 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): \$ 78,879.00 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: Interlocal agreement for cost sharing of the parking lot lease at the Bellingham Senior Activity Center. This agreement allows for the payment by the City of Bellingham for it's portion of the lease costs to Whatcom County.	
Term of Contract: 5- Years Expiration Date: 7/1/24	

Contract Routing:	1. Prepared by: Michael McFarlane	Date: 5/20/19
	2. Attorney signoff: _____	Date: 5/21/19
	3. AS Finance reviewed: _____	Date: 5/23/19
	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: _____

**2019 INTERLOCAL AGREEMENT
WHATCOM COUNTY – CITY OF BELLINGHAM
BELLINGHAM SENIOR ACTIVITY CENTER PARKING**

WHEREAS, Whatcom County, 311 Grand Avenue, Bellingham, WA 98225 ("Whatcom County") and the City of Bellingham, 210 Lottie Street, Bellingham, WA 98225 ("Bellingham") desire to provide participant parking for the Bellingham Senior Activity Center ("Senior Center") located at 315 Halleck Street, Bellingham, WA 98225; and

WHEREAS, Whatcom County entered into a Commercial Lease Agreement with Cornwall Center Inc. to lease parking adjacent to the Bellingham Senior Activity Center (See EXHIBIT "A"); and

WHEREAS, RCW 39.34 allows municipalities to enter into interlocal agreements to set forth the conditions of providing services to one another; and

WHEREAS, it is in the best interest of such parties to enter into this Interlocal Agreement,

NOW THEREFORE, Whatcom County and the City of Bellingham agree as follows:

- I. Whatcom County Responsibilities:* Whatcom County hereby agrees:
- A. Whatcom County will enter into a Commercial Lease Agreement with Cornwall Center Inc. to secure participant parking adjacent to the Bellingham Senior Center. Whatcom County will provide a copy of the executed Lease Agreement to the City.
 - B. Make monthly lease payments per month to Cornwall Center Inc.:
 - YEAR 1 7/1/19-6/30/20 \$1,855/MONTH
 - YEAR 2 7/1/20-6/30/21 \$1,910/MONTH
 - YEAR 3 7/1/21-6/30/22 \$1,970/MONTH
 - YEAR 4 7/1/22-6/30/23 \$2,030/MONTH
 - YEAR 5 7/1/23-6/30/24 \$2,090/MONTHWhatcom County will provide documentation to Bellingham that monthly lease payments have been made to Cornwall Center Inc.
 - C. Secure additional funding from the Whatcom Council on Aging for their portion of the lease payments.
 - D. Keep the premises neat, clean and in sanitary condition, and keep and use the premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities.
 - E. Put up signs designating the parking lot for Bellingham Senior Activity Center participants and visitors only.
 - F. Whatcom County will assume the liability for the parking lot. The County agrees to defend, indemnify, and hold the City of Bellingham and its agents harmless from any claim, action and/or judgement for damages to property or injury to person, suffered or alleged to be suffered, on the premises by any person, firm or corporation, unless caused by the City of Bellingham's negligence.

II. City of Bellingham Responsibilities: Bellingham hereby agrees:

- A. Bellingham will provide the following to assist with the monthly lease payments for the Senior Activity Center parking lot during the term of this agreement:

YEAR 1 \$14,847

YEAR 2 \$15,228

YEAR 3 \$15,768

YEAR 4 \$16,248

YEAR 5 \$16,728

Payments will be made to the Whatcom County Parks & Recreation Department, 3373 Mount Baker Highway, Bellingham WA 98226-9522. Bellingham will make such payments monthly upon receiving documentation under Section 1 that the expenses for which the funding will be used have been validly incurred and services rendered.

- B. Term: This Agreement shall commence July 1, 2019 and shall continue until June 30, 2024.

- III. Responsible Persons:** The parties do not intend to create a separate legal entity to conduct this undertaking. The persons responsible for the administration of this Agreement shall be the Whatcom County Parks & Recreation Department Director and the Bellingham Public Works Department Director.

DATED this _____ day of _____ 2019.

CITY OF BELLINGHAM

Department Approval:

Approved as to Form:

Office of the City Attorney

Kelli Linville, Mayor

Finance Director

STATE OF WASHINGTON)

)SS

COUNTY OF WHATCOM)

I CERTIFY that I know that Kelli Linville is the person who appeared before me, and said person acknowledged that she signed this instrument on oath, stated that she was authorized to execute the instrument, and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED

SIGNATURE OF NOTARY PUBLIC

Name Printed

MY APPOINTMENT EXPIRES

Executed as of the date first written above.

WHATCOM COUNTY

Approved as to form:

J. Gellum 5/2/19
Prosecuting Attorney Date
[Signature] 5/20/19
Director Date
Parks & Recreation Department

Approved:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared **Jack Louws**, to me known as the County Executive of WHATCOM COUNTY and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this _____ day of _____, 2019.

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

My Commission expires

Exhibit A - Leased Parking Area

Bellingham
Senior Activity
Center

New Street

Leased
Area

Halleck Street



50

Feet

Parking for building tenants

Habitat
For
Humanity



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-338

File ID:	AB2019-338	Version:	1	Status:	Agenda Ready
File Created:	05/30/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLLee@co.whatcom.wa.us <<mailto:JLLee@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascade Connections to provide services to individuals with developmental disabilities for an additional year in the estimated amount of \$1,145,600 for an estimated total amended contract amount of \$3,093,326

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo to Executive, Contract Amendment #3

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM: 
Regina A. Delahunt, Director

RE: Cascade Connections – Services to Individuals with Developmental Disabilities Contract Amendment #3

DATE: May 22, 2019

Enclosed are two (2) originals of a contract amendment between Whatcom County and Cascade Connections for your review and signature.

▪ **Background and Purpose**

This contract provides "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. On average, 335 adults received services monthly through the five County qualified providers in 2018. The purpose of this amendment is to update the scope of work and renew the contract for an additional year.

▪ **Funding Amount and Source**

The source of funding for this contract is the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA). Funding includes State general fund and Medicaid. Total compensation for this contract will vary depending on the number of clients and the types of services authorized, however, the estimated authorized service level is \$1,145,600. These funds are included in the 2019 budget. Council approval is required as estimated funding is expected to exceed 10% of the amount approved by Council on 06/27/2017.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

201706028 – 3

Originating Department:	85 Health		
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855050 Developmental Disabilities		
Contract or Grant Administrator:	Jessica Lee		
Contractor's / Agency Name:	Cascade Connections		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?	
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a))		Original Contract #: 201706028
Does contract require Council Approval?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?		If yes, grantor agency contract number(s):	
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			CFDA#:
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			In process
Is this contract the result of a RFP or Bid process?		Contract Cost	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s):	13-25	Center: 673800
Is this agreement excluded from E-Verify?		No <input checked="" type="checkbox"/> Yes <input 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 type="checkbox"/> Interlocal Agreement (between Governments).			
Contract Amount:(sum of original contract amount and any prior amendments):		Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.	
Varies depending on number of clients and types of services authorized.			
Summary of Scope: This contract provides funding for services designed to assist eligible individuals with developmental disabilities to pursue and maintain paid employment in integrated community settings.			
Term of Contract:	1 Year	Expiration Date:	06/30/2020

Contract Routing:

1. Prepared by:	JT	Date:	03/28/19
2. Attorney signoff:	RB	Date:	05/10/2019
3. AS Finance reviewed:	<i>benne</i>	Date:	5/29/19
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 HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201706028

PARTIES:

**Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225**

AMENDMENT NUMBER: 3

CONTRACT PERIODS:

**Original: 07/01/2017 – 06/30/2018
Amendment #1: 10/01/2017 – 06/30/2018
Amendment #2: 07/01/2018 – 06/30/2019
Amendment #3: 07/01/2019 – 06/30/2020**

AND CONTRACTOR:

**Cascade Connections
1611 N State Street
Bellingham, WA 98226**

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

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work, as follows:
 - a. Replace "Community Access" with "Community Inclusion".
 - b. Remove the word "training" from *Section II. Service Types, Group Supported Employment (a) and Section IV. Service Requirements, C. Group Supported Employment (1)*.
3. All other terms and conditions remain unchanged.
4. The effective start date of the amendment is 07/01/2019.

EXHIBIT "A" – Amendment #3
(SCOPE OF WORK)

I. Background

The purpose of this contract is to provide "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. Pathways to Employment services assist working age adults to pursue and maintain paid employment in integrated community settings. Community Inclusion services support individuals who are retired or no longer seeking employment to increase their independence and inclusion in the community.

All services are individualized to reflect the individual's interests, strengths, gifts, talents, and service goals.

This contract reflects the community values and goals of the Whatcom County Developmental Disabilities Advisory Board, the Whatcom County Developmental Disabilities program, the Washington Department of Social and Health Services (DSHS) work order for the current biennium and the County Guidelines published by DSHS and available at https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/c_guidelines.pdf.

II. Service Types

The contractor has applied for and been accepted and monitored as a qualified provider for the services indicated, below.

- ☒ Individual Supported Employment
- ☒ Group Supported Employment
- ☒ Community Inclusion

These services are defined in the table below, based on the definitions found in the DSHS/DDA Program Agreement for the current DDA biennium.

Service Type	Service Description	Service Goals
Individual Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These are individualized services necessary to help persons with developmental disabilities obtain and maintain integrated employment at or above the state's minimum wage in the general workforce. 3. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, recordkeeping and on-going support to maintain a job. 	<ol style="list-style-type: none"> a. Establish employment opportunities for participants within local businesses on a one-person/one-job basis or self-employment in line with the <u>DSHS/DDA self-employment guidelines</u>. b. Develop work opportunities regardless of the level of disability c. Develop relationships with and support from co-workers without disabilities (i.e. natural supports) d. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses e. Develop skills necessary to increase independence on the job and decrease dependence on paid supports. f. Make measurable progress toward the individual's employment goals
Group Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These services are intended to be short term and offer ongoing supervised employment for groups of no more than eight (8) workers with disabilities in the same setting. 3. Examples include enclaves, mobile crew and other business models employing small groups of workers with disabilities in integrated employment in community settings. 	<ol style="list-style-type: none"> a. Establish supervised employment opportunities for small groups of participants within local business, industry and community settings b. Develop relationships with and support from co-workers without disabilities (i.e. Natural supports) c. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses d. Develop skills necessary to increase independence on the job, and decrease dependence on paid supports. e. Make measurable progress toward the individual's employment goals and toward integrated employment at minimum wage or better.
Community Inclusion	<ol style="list-style-type: none"> 1. These individualized services are provided in typical integrated community settings for individuals in retirement or no longer pursuing employment 2. Services will promote individualized skill building which supports the individual to actively and independently engage in their local community. 3. Activities will provide opportunity to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion. 4. These services may be authorized instead of employment support for working age individuals (21-62) who have received nine months of employment support and choose to no longer pursue employment. 	<ol style="list-style-type: none"> a. Participation in integrated community activities of clients' choice similar to individuals without disabilities of the same age. b. Membership/leadership in local community clubs and associations based on interest and culture c. Foster connections between persons with disabilities and persons without disabilities who are not paid developmental disabilities staff d. Enhance or maintain the persons' competence, integration, physical or mental skill.

III. Statement of Work

The Contractor will develop an individualized service plan for each client based on his or her interests, skills and abilities. Support will be provided as defined below to make measureable progress toward the client's service goals as outlined in the plan.

A. Client support

"Support" provided in the implementation of client services, as referenced herein, is defined as staff time spent on behalf of the program client to achieve community employment or inclusion goals. In addition to those activities specifically outlined within the billable activities, below, "support" when used within a definition typically refers to one of the three following activities:

1. **Monitoring** of client employment or community inclusion activities (e.g., ensuring safety, quality etc.);
2. Providing verbal or physical reminders or **prompts** for the client to successfully complete or engage in employment or community inclusion activities; or
3. Providing partial or total 1:1 **physical assistance** to allow the client to successfully complete or engage in employment or community inclusion activities.

B. Pathway to Employment Billable Support Activities

Pathway to Employment includes both Individual Employment (IE) and Group Supported Employment (GSE). Billable support activities for Pathway to Employment services are found on the Washington State Department of Social & Health Services Developmental Disabilities Administration (DSHS/DDA) website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.dshs.wa.gov/dda/county-best-practices>

C. Community Inclusion Billable Support Activities

Billable support activities for Community Inclusion services are found on the DSHS/DDA website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.dshs.wa.gov/dda/county-best-practices>

D. Individualized Plan for Services

The Contractor is required to have a written, individualized service plan for each client, completed within 60 days of County authorization. This individual plan is meant to be the "driver" or basis for support services delivered by the Contractor. The individual plan must be updated and reviewed at least annually by the planning team, as described below.

The individual plan requires the development of a planning team including the client, client's guardian when applicable, DSHS/DDA Case Resource Manager, and others identified by the client to provide input. At a minimum, the DSHS/DDA Case Resource Manager and the individual/guardian will receive a copy of the completed plan. Other members of the planning team may request a copy with the client's permission.

Required elements of both Pathways to Employment and Community Inclusion plans are outlined in the County Program Implementation Guide, referenced in Section 7.

E. Progress Updates

For all clients, the Contractor shall document measureable progress toward achieving the individual's service goals every 6 months in a format approved by the County. Six (6) month progress updates must be sent to the DSHS/DDA Case Resource Manager and the client/guardian.

If clients receiving Individual Employment or Group Supported Employment services have not obtained paid employment at minimum wage or better within six (6) months the contractor will:

1. Review the progress toward service goals
2. Provide evidence of consultation with the family/client
3. Develop additional strategies with the family/client, county staff, employment support staff and case manager as appropriate. Strategies may include technical assistance, changing to a new provider and/or additional resources as needed to support employment goals.
4. Document the additional/new strategies developed for each client with the client's file.

If after 12 months the client remains unemployed, an additional review will be conducted. The Contractor will address steps outlined in the previous six month progress report in the next 6 month progress report. The client may request to participate in Community Inclusion activities or the client can choose to remain in an employment program. Individuals requesting to participate in Community Inclusion activities will be referred to his/her DSHS/DDA Case Resource Manager.

IV. Service Requirements

A. All Services will:

1. Be individualized and unique to the client's Individualized Pathway to Employment or Community Inclusion Plan.
2. Ensure continued movement toward inclusive settings, integration and connection with others in the community without disabilities.
3. Provide supports in a variety of settings and in a broad range of activities that will contribute to his/her individual service goals.
4. Provide staff and training interventions at appropriate levels to safely and effectively meet the needs of the client.
5. Promote independence through skill development and training, including the effective use of public transportation.
6. Implement curriculum, work activities, routines, and other materials used to facilitate learning that are relevant to the age and individual needs of each client.
7. Emphasize the development of natural community supports, in conjunction with, but not an over-reliance on, public funds. Natural supports are those provided by individuals in the work or community environment who are not paid to support the client.
8. Demonstrate measurable progress toward achieving the client's individualized service goals.
9. Include at minimum monthly contact by the contractor.
10. Provide support to the client at a service level proposed by the Contractor, approved by the County and authorized by the DSHS/DDA Case Resource Manager. Service levels will be authorized in accordance with:
 - Washington Administrative Code (WAC) 388-828-9325 through 9360 for Employment Services
 - Washington Administrative Code (WAC) 388-828-9300 through 9310 for Community Inclusion Services
 - County Implementation Guide for Employment and Community Inclusion Services
11. Adhere to 42CFR 441 530(a) (1) related to Home and Community Based settings which requires:
 - a. The service setting is integrated in and supports full access to the greater community;

- b. Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS;
- c. Provides opportunities to seek employment and work in competitive integrated settings; and
- d. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

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- 1. Emphasize maximum integration with co-workers without disabilities. All efforts will be made to promote employer responsibility for workers with disabilities, including exploration of direct employment of clients by the business/industry in Group Supported Employment.
- 2. Ensure that pay for work performed is commensurate with pay to other employees doing the same type and amount of work.
- 3. Ensure compensation in accordance with applicable federal and state laws and regulation. This includes, but is not limited to section 14 (C) of the Federal Fair Labor Standards Act (FLSA), RCW 39.12.022, RCW 49.46.060, RCW 49.46.020 and WAC 296-128-050 and Washington State Labor and Industries requirements and procedures for payment of sub-minimum wage.
- 4. Ensure that all individuals, regardless of their disability, are provided the opportunity to pursue employment. Some participants may need more support than others and may spend time in activities that will prepare the participant for future community employment.

C. Group Supported Employment (GSE) will:

- 1. Ensure paid work is available for all clients authorized for these services. In the event that contracted work is no longer available or insufficient to maintain a GSE work site, the provider is expected to notify the County to determine appropriate next steps related to client authorization.
- 2. Work towards establishing permanent integrated employment at or above minimum wage.

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- 1. Focus on activities that are typically experienced by the general public. Support to participate in segregated activities and/or specialized activities will not be reimbursed. Segregated and specialized activities are those which are organized and designed for individuals based on their disability.
- 2. Not be provided simultaneously with employment services, unless approved by exception by DSHS/DDA.
- 3. Ensure the health and safety of participating clients.
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The Developmental Disabilities Program Implementation Guide, Employment and Community Inclusion Services is incorporated by reference into the Scope of Work as presently adopted or subsequently amended and can be located at <http://www.whatcomcounty.us/713/Contractors>. The purpose of the Program Implementation Guide is to detail implementation requirements including policy and procedure for Pathways to Employment and Community Inclusion services.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-343

File ID:	AB2019-343	Version:	1	Status:	Agenda Ready
File Created:	06/04/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLLee@co.whatcom.wa.us <<mailto:JLLee@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Work Opportunities to provide services to individuals with developmental disabilities for an additional year in an estimated amount of \$478,800 for an estimated total amended contract amount of \$1,564,161

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo to Executive, Contract Amendment #3

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM: ^{PAD} Regina A. Delahunt, Director

RE: Work Opportunities – Services to Individuals with Developmental Disabilities
Contract Amendment #3

DATE: May 21, 2019

Enclosed are two (2) originals of a contract amendment between Whatcom County and Work Opportunities for your review and signature.

▪ Background and Purpose

This contract provides "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. On average, 335 adults received services monthly through the five County qualified providers in 2018. The purpose of this amendment is to update the scope of work and renew the contract for an additional year.

▪ Funding Amount and Source

The source of funding for this contract is the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA). Funding includes State general fund and Medicaid. Total compensation for this contract will vary depending on the number of clients and the types of services authorized, however, the estimated authorized service level is \$478,800. These funds are included in the 2019 budget. Council approval is required as estimated funding is expected to exceed 10% of the amount approved by Council on 6/27/2017.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
201706014 - 3

Originating Department:	85 Health		
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855050 Developmental Disabilities		
Contract or Grant Administrator:	Jessica Lee		
Contractor's / Agency Name:	Work Opportunities		
Is this a New Contract? Yes <input type="checkbox"/> No <input checked="" 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"/> 201706014
Does contract require Council Approval? Already approved? Council Approved Date:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC: (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):		CFDA#:
Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s):		In process
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s):		Contract Cost Center: 673800
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input 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 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 :	
Varies depending on number of clients and types of services authorized.		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 services designed to assist eligible individuals with developmental disabilities to pursue and maintain paid employment in integrated community settings.			
Term of Contract:	1 Year	Expiration Date:	06/30/2020

Contract Routing:	1. Prepared by:	JT	Date:	03/28/19
	2. Attorney signoff:	RB	Date:	05/10/19
	3. AS Finance reviewed:	<i>bdenneP</i>	Date:	6/3/19
	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 HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201706014

PARTIES:

Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

AMENDMENT NUMBER: 3

CONTRACT PERIODS:

Original: 07/01/2017 – 06/30/2018
Amendment #1: 10/01/2017 – 06/30/2018
Amendment #2: 07/01/2018 – 06/30/2019
Amendment #3: 07/01/2019 – 06/30/2020

AND CONTRACTOR:

Work Opportunities
6515 202nd Street SW
Lynnwood, WA 98036

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

=====

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work, as follows:
 - a. Replace "Community Access" with "Community Inclusion".
 - b. Remove the word "training" from *Section II. Service Types, Group Supported Employment (a)* and *Section IV. Service Requirements, C. Group Supported Employment (1)*.
3. All other terms and conditions remain unchanged.
4. The effective start date of the amendment is 07/01/2019.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Signature is required below.

APPROVAL AS TO PROGRAM: Anne Deacon 5/20/19
Anne Deacon, Human Services Manager Date

DEPARTMENT HEAD APPROVAL: Regina A Delahunt 5/22/19
Regina A Delahunt, Health Department Director Date

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

FOR THE CONTRACTOR:

Carric Morehouse | Carric Morehouse, Exec. Director | 5.13.19
Contractor Signature Print Name and Title Date

STATE OF WASHINGTON)
COUNTY OF WHATCOM)

On this 13th day of May, 2019, before me personally appeared C Morehouse, to me known to be the Executive Director and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Erin C Jamieson
NOTARY PUBLIC in and for the State of Washington
Residing at Snohomish County



My Commission expires: 10-1-2021

FOR WHATCOM COUNTY:

Jack Louws, County Executive Date

STATE OF WASHINGTON)
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

My Commission expires: _____

EXHIBIT "A" – Amendment #3
(SCOPE OF WORK)

I. Background

The purpose of this contract is to provide "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. Pathways to Employment services assist working age adults to pursue and maintain paid employment in integrated community settings. Community Inclusion services support individuals who are retired or no longer seeking employment to increase their independence and inclusion in the community.

All services are individualized to reflect the individual's interests, strengths, gifts, talents, and service goals.

This contract reflects the community values and goals of the Whatcom County Developmental Disabilities Advisory Board, the Whatcom County Developmental Disabilities program, the Washington Department of Social and Health Services (DSHS) work order for the current biennium and the County Guidelines published by DSHS and available at https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/c_guidelines.pdf.

II. Service Types

The contractor has applied for and been accepted and monitored as a qualified provider for the services indicated, below.

☒ Individual Supported Employment

☐ Group Supported Employment

☒ Community Inclusion

These services are defined in the table below, based on the definitions found in the DSHS/DDA Program Agreement for the current DDA biennium.

Service Type	Service Description	Service Goals
Individual Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These are individualized services necessary to help persons with developmental disabilities obtain and maintain integrated employment at or above the state's minimum wage in the general workforce. 3. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, recordkeeping and on-going support to maintain a job. 	<ol style="list-style-type: none"> a. Establish employment opportunities for participants within local businesses on a one-person/one-job basis or self-employment in line with the <u>DSHS/DDA self-employment guidelines</u>. b. Develop work opportunities regardless of the level of disability c. Develop relationships with and support from co-workers without disabilities (i.e. natural supports) d. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses e. Develop skills necessary to increase independence on the job and decrease dependence on paid supports. f. Make measurable progress toward the individual's employment goals
Group Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These services are intended to be short term and offer ongoing supervised employment for groups of no more than eight (8) workers with disabilities in the same setting. 3. Examples include enclaves, mobile crew and other business models employing small groups of workers with disabilities in integrated employment in community settings. 	<ol style="list-style-type: none"> a. Establish supervised employment opportunities for small groups of participants within local business, industry and community settings b. Develop relationships with and support from co-workers without disabilities (i.e. Natural supports) c. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses d. Develop skills necessary to increase independence on the job, and decrease dependence on paid supports. e. Make measurable progress toward the individual's employment goals and toward integrated employment at minimum wage or better.
Community Inclusion	<ol style="list-style-type: none"> 1. These individualized services are provided in typical integrated community settings for individuals in retirement or no longer pursuing employment 2. Services will promote individualized skill building which supports the individual to actively and independently engage in their local community. 3. Activities will provide opportunity to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion. 4. These services may be authorized instead of employment support for working age individuals (21-62) who have received nine months of employment support and choose to no longer pursue employment. 	<ol style="list-style-type: none"> a. Participation in integrated community activities of clients' choice similar to individuals without disabilities of the same age. b. Membership/leadership in local community clubs and associations based on interest and culture c. Foster connections between persons with disabilities and persons without disabilities who are not paid developmental disabilities staff d. Enhance or maintain the persons' competence, integration, physical or mental skill.

III. Statement of Work

The Contractor will develop an individualized service plan for each client based on his or her interests, skills and abilities. Support will be provided as defined below to make measureable progress toward the client's service goals as outlined in the plan.

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"Support" provided in the implementation of client services, as referenced herein, is defined as staff time spent on behalf of the program client to achieve community employment or inclusion goals. In addition to those activities specifically outlined within the billable activities, below, "support" when used within a definition typically refers to one of the three following activities:

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3. Providing partial or total 1:1 **physical assistance** to allow the client to successfully complete or engage in employment or community inclusion activities.

B. Pathway to Employment Billable Support Activities

Pathway to Employment includes both Individual Employment (IE) and Group Supported Employment (GSE). Billable support activities for Pathway to Employment services are found on the Washington State Department of Social & Health Services Developmental Disabilities Administration (DSHS/DDA) website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.dshs.wa.gov/dda/county-best-practices>

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The Contractor is required to have a written, individualized service plan for each client, completed within 60 days of County authorization. This individual plan is meant to be the "driver" or basis for support services delivered by the Contractor. The individual plan must be updated and reviewed at least annually by the planning team, as described below.

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- 3. Ensure the health and safety of participating clients.
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Agenda Bill Master Report

File Number: AB2019-344

File ID:	AB2019-344	Version:	1	Status:	Agenda Ready
File Created:	06/04/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLee@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Kulshan Supported Employment to provide services to individuals with developmental disabilities for an additional year in the estimated amount of \$923,125 for an estimated total amended contract amount of \$3,404,224

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo to Executive, Contract Amendment #3

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM:  Regina A. Delahunt, Director

RE: Kulshan Supported Employment – Services to Individuals with Developmental Disabilities Contract Amendment #3

DATE: May 21, 2019

Enclosed are two (2) originals of a contract amendment between Whatcom County and Kulshan Supported Employment for your review and signature.

▪ **Background and Purpose**

This contract provides "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. On average, 335 adults received services monthly through the five County qualified providers in 2018. The purpose of this amendment is to update the scope of work and renew the contract for an additional year.

▪ **Funding Amount and Source**

The source of funding for this contract is the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA). Funding includes State general fund and Medicaid. Total compensation for this contract will vary depending on the number of clients and the types of services authorized, however, the estimated authorized service level is \$923,125. These funds are included in the 2019 budget. Council approval is required as estimated funding is expected to exceed 10% of the amount approved by Council on 6/27/2017.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
201706011 - 3

Originating Department:	85 Health		
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855050 Developmental Disabilities		
Contract or Grant Administrator:	Jessica Lee		
Contractor's / Agency Name:	Kulshan Supported Employment		
Is this a New Contract? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If not, is this an Amendment or Renewal to an Existing Contract? If Amendment or Renewal, (per WCC 3.08.100 (a))	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Original Contract #: <u>201706011</u>
Does contract require Council Approval? Already approved? Council Approved Date:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	<u>(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</u>
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):	CFDA#:	
Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s):	In process	
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s): <u>13-25-2016-18</u>	Contract Cost Center:	<u>673800</u>
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input 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 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 : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.		
Varies depending on number of clients and types of services authorized.			
Summary of Scope: This contract provides funding for services designed to assist eligible individuals with developmental disabilities to pursue and maintain paid employment in integrated community settings.			
Term of Contract:	1 Year	Expiration Date:	06/30/2020

Contract Routing:

1. Prepared by:	JT	Date:	03/28/19
2. Attorney signoff:	RB	Date:	05/10/19
3. AS Finance reviewed:	<i>Deanna</i>	Date:	6/3/19
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 HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201706011

PARTIES:

**Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225**

AMENDMENT NUMBER: 3

CONTRACT PERIODS:

**Original: 07/01/2017 – 06/30/2018
Amendment #1: 10/01/2017 – 06/30/2018
Amendment #2: 07/01/2018 – 06/30/2019
Amendment #3: 07/01/2019 – 06/30/2020**

AND CONTRACTOR:

**Kulshan Supported Employment
310 Iowa Street
Bellingham, WA 98225**

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

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work, as follows:
 - a. Replace "Community Access" with "Community Inclusion".
 - b. Remove the word "training" from *Section II. Service Types, Group Supported Employment (a) and Section IV. Service Requirements, C. Group Supported Employment (1)*.
3. All other terms and conditions remain unchanged.
4. The effective start date of the amendment is 07/01/2019.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Signature is required below.

APPROVAL AS TO PROGRAM: _____

Anne Deacon, Human Services Manager

Date

DEPARTMENT HEAD APPROVAL: _____

Regina A. Delahunt, Health Department Director

Date

APPROVAL AS TO FORM: _____

Royce Buckingham, Civil Deputy Prosecuting Attorney

Date

FOR THE CONTRACTOR:

Contractor Signature

Print Name and Title

Date

STATE OF WASHINGTON)

COUNTY OF WHATCOM)

On this 16th day of May, 2019, before me personally appeared Matthew C Carlson, to me known to be the signer and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Leah Horne

NOTARY PUBLIC in and for the State of Washington

Residing at 1000 E Holly St Bellingham WA 98225



My Commission expires: 10/13/2022

FOR WHATCOM COUNTY:

Jack Louws, County Executive

Date

STATE OF WASHINGTON)

COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

My Commission expires: _____

EXHIBIT "A" – Amendment #3
(SCOPE OF WORK)

I. Background

The purpose of this contract is to provide "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. Pathways to Employment services assist working age adults to pursue and maintain paid employment in integrated community settings. Community Inclusion services support individuals who are retired or no longer seeking employment to increase their independence and inclusion in the community.

All services are individualized to reflect the individual's interests, strengths, gifts, talents, and service goals.

This contract reflects the community values and goals of the Whatcom County Developmental Disabilities Advisory Board, the Whatcom County Developmental Disabilities program, the Washington Department of Social and Health Services (DSHS) work order for the current biennium and the County Guidelines published by DSHS and available at https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/c_guidelines.pdf.

II. Service Types

The contractor has applied for and been accepted and monitored as a qualified provider for the services indicated, below.

- ☒ Individual Supported Employment
- ☒ Group Supported Employment
- ☐ Community Inclusion

These services are defined in the table below, based on the definitions found in the DSHS/DDA Program Agreement for the current DDA biennium.

Service Type	Service Description	Service Goals
Individual Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These are individualized services necessary to help persons with developmental disabilities obtain and maintain integrated employment at or above the state's minimum wage in the general workforce. 3. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, recordkeeping and on-going support to maintain a job. 	<ol style="list-style-type: none"> a. Establish employment opportunities for participants within local businesses on a one-person/one-job basis or self-employment in line with the <u>DSHS/DDA self-employment guidelines</u>. b. Develop work opportunities regardless of the level of disability c. Develop relationships with and support from co-workers without disabilities (i.e. natural supports) d. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses e. Develop skills necessary to increase independence on the job and decrease dependence on paid supports. f. Make measurable progress toward the individual's employment goals
Group Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These services are intended to be short term and offer ongoing supervised employment for groups of no more than eight (8) workers with disabilities in the same setting. 3. Examples include enclaves, mobile crew and other business models employing small groups of workers with disabilities in integrated employment in community settings. 	<ol style="list-style-type: none"> a. Establish supervised employment opportunities for small groups of participants within local business, industry and community settings b. Develop relationships with and support from co-workers without disabilities (i.e. Natural supports) c. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses d. Develop skills necessary to increase independence on the job, and decrease dependence on paid supports. e. Make measurable progress toward the individual's employment goals and toward integrated employment at minimum wage or better.
Community Inclusion	<ol style="list-style-type: none"> 1. These individualized services are provided in typical integrated community settings for individuals in retirement or no longer pursuing employment 2. Services will promote individualized skill building which supports the individual to actively and independently engage in their local community. 3. Activities will provide opportunity to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion. 4. These services may be authorized instead of employment support for working age individuals (21-62) who have received nine months of employment support and choose to no longer pursue employment. 	<ol style="list-style-type: none"> a. Participation in integrated community activities of clients' choice similar to individuals without disabilities of the same age. b. Membership/leadership in local community clubs and associations based on interest and culture c. Foster connections between persons with disabilities and persons without disabilities who are not paid developmental disabilities staff d. Enhance or maintain the persons' competence, integration, physical or mental skill.

III. Statement of Work

The Contractor will develop an individualized service plan for each client based on his or her interests, skills and abilities. Support will be provided as defined below to make measureable progress toward the client's service goals as outlined in the plan.

A. Client support

"Support" provided in the implementation of client services, as referenced herein, is defined as staff time spent on behalf of the program client to achieve community employment or inclusion goals. In addition to those activities specifically outlined within the billable activities, below, "support" when used within a definition typically refers to one of the three following activities:

1. **Monitoring** of client employment or community inclusion activities (e.g., ensuring safety, quality etc.);
2. Providing verbal or physical reminders or **prompts** for the client to successfully complete or engage in employment or community inclusion activities; or
3. Providing partial or total 1:1 **physical assistance** to allow the client to successfully complete or engage in employment or community inclusion activities.

B. Pathway to Employment Billable Support Activities

Pathway to Employment includes both Individual Employment (IE) and Group Supported Employment (GSE). Billable support activities for Pathway to Employment services are found on the Washington State Department of Social & Health Services Developmental Disabilities Administration (DSHS/DDA) website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.dshs.wa.gov/dda/county-best-practices>

C. Community Inclusion Billable Support Activities

Billable support activities for Community Inclusion services are found on the DSHS/DDA website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.dshs.wa.gov/county-best-practices>

D. Individualized Plan for Services

The Contractor is required to have a written, individualized service plan for each client, completed within 60 days of County authorization. This individual plan is meant to be the "driver" or basis for support services delivered by the Contractor. The individual plan must be updated and reviewed at least annually by the planning team, as described below.

The individual plan requires the development of a planning team including the client, client's guardian when applicable, DSHS/DDA Case Resource Manager, and others identified by the client to provide input. At a minimum, the DSHS/DDA Case Resource Manager and the individual/guardian will receive a copy of the completed plan. Other members of the planning team may request a copy with the client's permission.

Required elements of both Pathways to Employment and Community Inclusion plans are outlined in the County Program Implementation Guide, referenced in Section 7.

E. Progress Updates

For all clients, the Contractor shall document measureable progress toward achieving the individual's service goals every 6 months in a format approved by the County. Six (6) month progress updates must be sent to the DSHS/DDA Case Resource Manager and the client/guardian.

If clients receiving Individual Employment or Group Supported Employment services have not obtained paid employment at minimum wage or better within six (6) months the contractor will:

1. Review the progress toward service goals
2. Provide evidence of consultation with the family/client
3. Develop additional strategies with the family/client, county staff, employment support staff and case manager as appropriate. Strategies may include technical assistance, changing to a new provider and/or additional resources as needed to support employment goals.
4. Document the additional/new strategies developed for each client with the client's file.

If after 12 months the client remains unemployed, an additional review will be conducted. The Contractor will address steps outlined in the previous six month progress report in the next 6 month progress report. The client may request to participate in Community Inclusion activities or the client can choose to remain in an employment program. Individuals requesting to participate in Community Inclusion activities will be referred to his/her DSHS/DDA Case Resource Manager.

IV. Service Requirements

A. All Services will:

1. Be individualized and unique to the client's Individualized Pathway to Employment or Community Inclusion Plan.
2. Ensure continued movement toward inclusive settings, integration and connection with others in the community without disabilities.
3. Provide supports in a variety of settings and in a broad range of activities that will contribute to his/her individual service goals.
4. Provide staff and training interventions at appropriate levels to safely and effectively meet the needs of the client.
5. Promote independence through skill development and training, including the effective use of public transportation.
6. Implement curriculum, work activities, routines, and other materials used to facilitate learning that are relevant to the age and individual needs of each client.
7. Emphasize the development of natural community supports, in conjunction with, but not an over-reliance on, public funds. Natural supports are those provided by individuals in the work or community environment who are not paid to support the client.
8. Demonstrate measurable progress toward achieving the client's individualized service goals.
9. Include at minimum monthly contact by the contractor.
10. Provide support to the client at a service level proposed by the Contractor, approved by the County and authorized by the DSHS/DDA Case Resource Manager. Service levels will be authorized in accordance with:
 - Washington Administrative Code (WAC) 388-828-9325 through 9360 for Employment Services
 - Washington Administrative Code (WAC) 388-828-9300 through 9310 for Community Inclusion Services
 - County Implementation Guide for Employment and Community Inclusion Services
11. Adhere to 42CFR 441 530(a) (1) related to Home and Community Based settings which requires:
 - a. The service setting is integrated in and supports full access to the greater community;

- b. Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS;
- c. Provides opportunities to seek employment and work in competitive integrated settings; and
- d. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

B. All Employment Services will:

- 1. Emphasize maximum integration with co-workers without disabilities. All efforts will be made to promote employer responsibility for workers with disabilities, including exploration of direct employment of clients by the business/industry in Group Supported Employment.
- 2. Ensure that pay for work performed is commensurate with pay to other employees doing the same type and amount of work.
- 3. Ensure compensation in accordance with applicable federal and state laws and regulation. This includes, but is not limited to section 14 (C) of the Federal Fair Labor Standards Act (FLSA), RCW 39.12.022, RCW 49.46.060, RCW 49.46.020 and WAC 296-128-050 and Washington State Labor and Industries requirements and procedures for payment of sub-minimum wage.
- 4. Ensure that all individuals, regardless of their disability, are provided the opportunity to pursue employment. Some participants may need more support than others and may spend time in activities that will prepare the participant for future community employment.

C. Group Supported Employment (GSE) will:

- 1. Ensure paid work is available for all clients authorized for these services. In the event that contracted work is no longer available or insufficient to maintain a GSE work site, the provider is expected to notify the County to determine appropriate next steps related to client authorization.
- 2. Work towards establishing permanent integrated employment at or above minimum wage.

D. Community Inclusion Services will:

- 1. Focus on activities that are typically experienced by the general public. Support to participate in segregated activities and/or specialized activities will not be reimbursed. Segregated and specialized activities are those which are organized and designed for individuals based on their disability.
- 2. Not be provided simultaneously with employment services, unless approved by exception by DSHS/DDA.
- 3. Ensure the health and safety of participating clients.
- 4. Ensure a positive image and development of relationships, increased competence, individualized skill-building, and other benefits identified in the client's plan. Services will occur individually or in a group of no more than 2 or 3 individuals. Group services may only occur when based on similar interests and needs.
- 5. Allow a client to discontinue services in order pursue work and to receive employment support at any time.

V. Program Implementation Requirements

The Developmental Disabilities Program Implementation Guide, Employment and Community Inclusion Services is incorporated by reference into the Scope of Work as presently adopted or subsequently amended and can be located at <http://www.whatcomcounty.us/713/Contractors>. The purpose of the Program Implementation Guide is to detail implementation requirements including policy and procedure for Pathways to Employment and Community Inclusion services.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-345

File ID:	AB2019-345	Version:	1	Status:	Agenda Ready
File Created:	06/04/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLLee@co.whatcom.wa.us <mailto:JLLee@co.whatcom.wa.us>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Washington Vocational Services to provide employment or community inclusion services to individuals with developmental disabilities, in an estimated amount of \$191,225

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM: ^{RAD} Regina A. Delahunt, Director

RE: Washington Vocational Services – Services to Individuals with Developmental Disabilities Contract

DATE: May 23, 2019

Enclosed are two (2) originals of a contract between Whatcom County and Washington Vocational Services for your review and signature.

▪ **Background and Purpose**

The purpose of this contract is to provide "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. Pathways to Employment services are designed to assist individuals with developmental disabilities to pursue and maintain paid employment in integrated community settings. On average, 335 adults receive services monthly through the five, County qualified providers in 2018.

▪ **Funding Amount and Source**

The source of funding for this contract is the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA); funding includes state general fund and Medicaid. Total compensation under this contract will vary depending on the number of clients and the types of services authorized, however, the estimated authorized service level is \$191,225. These funds are included in the 2019 budget. Council approval is required as funding is expected to exceed \$40,000.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET		Whatcom County Contract No. _____	
Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855050 Developmental Disabilities	
Contract or Grant Administrator:		Jessica Lee	
Contractor's / Agency Name:		Washington Vocational Services	
<div style="display: flex; justify-content: space-between;"> <div> <p>Is this a New Contract? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/></p> </div> <div> <p>If not, is this an Amendment or Renewal to an Existing Contract? If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>If No, include WCC: _____</p> <p>If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>If yes, Whatcom County grant contract number(s): <u>In process</u></p> <p>If yes, RFP and Bid number(s): <u>13-25 2016-18</u></p> <p>If no, include Attachment D Contractor Declaration form.</p> </div> <div> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> </div> </div> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p>			
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p>Varies depending on number of clients and types of services authorized.</p>		<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 	
<p>Summary of Scope: This contract provides funding for Pathways to Employment and Community Inclusion services to eligible individuals with developmental disabilities. Pathways to Employment services are designed to assist individuals to pursue and maintain paid employment in integrated community settings. Community Inclusion Services are designed to increase an individual's independence and inclusion in the community.</p>			
Term of Contract:		1 Year	
Expiration Date:		06/30/2020	
Contract Routing:			
1. Prepared by:		JT	
2. Attorney signoff:		RB	
3. AS Finance reviewed:			
4. IT reviewed (if IT related):			
5. Contractor signed:			
6. Submitted to Exec.:			
7. Council approved (if necessary):			
8. Executive signed:			
9. Original to Council:			

CONTRACT FOR SERVICES AGREEMENT
Employment Services

Whatcom County Contract No.

Washington Vocational Services, 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 8,
Exhibit A (Scope of Work), pp. 9 to 14,
Exhibit B (Compensation), pp. 15 to 18,
Exhibit C (Certificate of Insurance), p. 19,
Exhibit D (Assignment of Medicaid Billing Rights) pp. 20,
Exhibit E (E-Verify Declaration), p. 21.

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

The term of this Agreement shall commence on the 1st day of July, 2019, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June, 2020.

The general purpose or objective of this Agreement is to **provide employment or community inclusion services to individuals with developmental disabilities**, 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 will vary, depending upon the number of clients authorized for service by the Washington State Department of Social and Health Services, Developmental Disabilities Administration (DSHS/DDA). The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

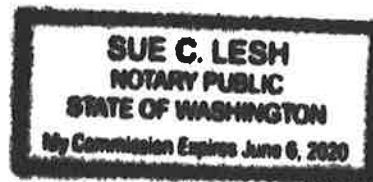
Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 21 day of May, 2019.

CONTRACTOR:

Washington Vocational Services

Janet Bruckshen
Janet Bruckshen, Executive Director



STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

On this 21 day of May, 2019, before me personally appeared Janet Bruckshen, to me known to be the Director of Washington Vocational Services, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Sue C Lesh
NOTARY PUBLIC in and for the State of Washington, residing at
Everett. My commission expires 6/6/2020

WHATCOM COUNTY:

Recommended for Approval:

Anne Deacon 5/23/19
Anne Deacon, Human Services Manager Date

Regina Delahunt 5/24/19
Regina Delahunt, Director Date

Approved as to form:

[Signature] 5-24-19
Royce Buckingham, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, 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 _____.

CONTRACTOR INFORMATION:

Washington Vocational Services
Janet Bruckshen, Executive Director
111 SE Everett Mall Way
Building C, Suite 100
Everett, WA 98208
(425) 774-3338
jbruckshen@wvs.org

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

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

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

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

11.3 Termination for Public Convenience:

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

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

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation,

compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

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

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

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

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

30.2 Assignment and Subcontracting:

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

- 30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.
- 31.1 Ownership of Items Produced:
When 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.
- 31.2 Patent/Copyright Infringement: Not Applicable
- 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 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - \$500,000.00 (this amount may vary with circumstances)
General Liability & Property Damage for bodily injury- \$1,000,000.00 (this amount may vary with circumstances)
- A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.
- a. Professional Liability - \$1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.
- 34.2 Industrial Insurance Waiver: Not Applicable
- 34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or

employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

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, 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, age, marital status, disability, 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, 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, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; 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; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

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:

Jessica Lee – Developmental Disabilities Program Specialist
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
(360) 778-6047
jlee@co.whatcom.wa.us

- 37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.
- 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)

I. Background

The purpose of this contract is to provide "Pathways to Employment" and "Community Inclusion" services to eligible individuals with developmental disabilities. Pathways to Employment services assist working age adults to pursue and maintain paid employment in integrated community settings. Community Inclusion services support individuals who are retired or no longer seeking employment to increase their independence and inclusion in the community.

All services are individualized to reflect the individual's interests, strengths, gifts, talents, and service goals.

This contract reflects the community values and goals of the Whatcom County Developmental Disabilities Advisory Board, the Whatcom County Developmental Disabilities program, the Washington Department of Social and Health Services (DSHS) work order for the current biennium and the County Guidelines published by DSHS and available at https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/c_guidelines.pdf.

II. Service Types

The contractor has applied for and been accepted and monitored as a qualified provider for the services indicated, below.

- ☒ Individual Supported Employment
- ☐ Group Supported Employment
- ☐ Community Inclusion

These services are defined in the table below, based on the definitions found in the DSHS/DDA Program Agreement for the current DDA biennium.

Service Type	Service Description	Service Goals
Individual Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These are individualized services necessary to help persons with developmental disabilities obtain and maintain integrated employment at or above the state's minimum wage in the general workforce. 3. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, recordkeeping and on-going support to maintain a job. 	<ol style="list-style-type: none"> a. Establish employment opportunities for participants within local businesses on a one-person/one-job basis or self-employment in line with the <u>DSHS/DDA self-employment guidelines</u>. b. Develop work opportunities regardless of the level of disability c. Develop relationships with and support from co-workers without disabilities (i.e. natural supports) d. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses e. Develop skills necessary to increase independence on the job and decrease dependence on paid supports. f. Make measurable progress toward the individual's employment goals
Group Supported Employment	<ol style="list-style-type: none"> 1. These services are part of an individual's pathway to integrated employment in typical community jobs. 2. These services are intended to be short term and offer ongoing supervised employment for groups of no more than eight (8) workers with disabilities in the same setting. 3. Examples include enclaves, mobile crew and other business models employing small groups of workers with disabilities in integrated employment in community settings. 	<ol style="list-style-type: none"> a. Establish supervised employment opportunities for small groups of participants within local business, industry and community settings b. Develop relationships with and support from co-workers without disabilities (i.e. Natural supports) c. Earn sufficient wages to increase self-sufficiency and meet or exceed living expenses d. Develop skills necessary to increase independence on the job, and decrease dependence on paid supports. e. Make measurable progress toward the individual's employment goals and toward integrated employment at minimum wage or better.
Community Inclusion	<ol style="list-style-type: none"> 1. These individualized services are provided in typical integrated community settings for individuals in retirement or no longer pursuing employment 2. Services will promote individualized skill building which supports the individual to actively and independently engage in their local community. 3. Activities will provide opportunity to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion. 4. These services may be authorized instead of employment support for working age individuals (21-62) who have received nine months of employment support and choose to no longer pursue employment. 	<ol style="list-style-type: none"> a. Participation in integrated community activities of clients' choice similar to individuals without disabilities of the same age. b. Membership/leadership in local community clubs and associations based on interest and culture c. Foster connections between persons with disabilities and persons without disabilities who are not paid developmental disabilities staff. d. Enhance or maintain the persons' competence, integration, physical or mental skill.

III. Statement of Work

The Contractor will develop an individualized service plan for each client based on his or her interests, skills and abilities. Support will be provided as defined below to make measureable progress toward the client's service goals as outlined in the plan.

A. Client support

"Support" provided in the implementation of client services, as referenced herein, is defined as staff time spent on behalf of the program client to achieve community employment or inclusion goals. In addition to those activities specifically outlined within the billable activities, below, "support" when used within a definition typically refers to one of the three following activities:

1. **Monitoring** of client employment or community inclusion activities (e.g., ensuring safety, quality etc.);
2. Providing verbal or physical reminders or **prompts** for the client to successfully complete or engage in employment or community inclusion activities; or
3. Providing partial or total 1:1 **physical assistance** to allow the client to successfully complete or engage in employment or community inclusion activities.

B. Pathway to Employment Billable Support Activities

Pathway to Employment includes both Individual Employment (IE) and Group Supported Employment (GSE). Billable support activities for Pathway to Employment services are found on the Washington State Department of Social & Health Services Developmental Disabilities Administration (DSHS/DDA) website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.dshs.wa.gov/dda/county-best-practices>

C. Community Inclusion Billable Support Activities

Billable support activities for Community Inclusion services are found on the DSHS/DDA website, and may be amended or updated with prior notification by the County without a contract amendment. <https://www.wa.gov/dda/county-best-practices>

D. Individualized Plan for Services

The Contractor is required to have a written, individualized service plan for each client, completed within 60 days of County authorization. This individual plan is meant to be the "driver" or basis for support services delivered by the Contractor. The individual plan must be updated and reviewed at least annually by the planning team, as described below.

The individual plan requires the development of a planning team including the client, client's guardian when applicable, DSHS/DDA Case Resource Manager, and others identified by the client to provide input. At a minimum, the DSHS/DDA Case Resource Manager and the individual/guardian will receive a copy of the completed plan. Other members of the planning team may request a copy with the client's permission.

Required elements of both Pathways to Employment and Community Inclusion plans are outlined in the County Program Implementation Guide, referenced in Section 7.

E. Progress Updates

For all clients, the Contractor shall document measureable progress toward achieving the individual's service goals every 6 months in a format approved by the County. Six (6) month progress updates must be sent to the DSHS/DDA Case Resource Manager and the client/guardian.

If clients receiving Individual Employment or Group Supported Employment services have not obtained paid employment at minimum wage or better within six (6) months the contractor will:

1. Review the progress toward service goals.
2. Provide evidence of consultation with the family/client.
3. Develop additional strategies with the family/client, county staff, employment support staff and case manager as appropriate. Strategies may include technical assistance, changing to a new provider and/or additional resources as needed to support employment goals.
4. Document the additional/new strategies developed for each client with the client's file.

If after 12 months the client remains unemployed, an additional review will be conducted. The Contractor will address steps outlined in the previous six month progress report in the next 6 month progress report. The client may request to participate in Community Inclusion activities or the client can choose to remain in an employment program. Individuals requesting to participate in Community Inclusion activities will be referred to his/her DSHS/DDA Case Resource Manager.

IV. Service Requirements

A. All Services will:

1. Be individualized and unique to the client's Individualized Pathway to Employment or Community Inclusion Plan.
2. Ensure continued movement toward inclusive settings, integration and connection with others in the community without disabilities.
3. Provide supports in a variety of settings and in a broad range of activities that will contribute to his/her individual service goals.
4. Provide staff and training interventions at appropriate levels to safely and effectively meet the needs of the client.
5. Promote independence through skill development and training, including the effective use of public transportation.
6. Implement curriculum, work activities, routines, and other materials used to facilitate learning that are relevant to the age and individual needs of each client.
7. Emphasize the development of natural community supports, in conjunction with, but not an over-reliance on, public funds. Natural supports are those provided by individuals in the work or community environment who are not paid to support the client.
8. Demonstrate measurable progress toward achieving the client's individualized service goals.
9. Include at minimum monthly contact by the contractor.

10. Provide support to the client at a service level proposed by the Contractor, approved by the County and authorized by the DSHS/DDA Case Resource Manager. Service levels will be authorized in accordance with:
 - Washington Administrative Code [\(WAC\) 388-828-9325](#) through 9360 for Employment Services
 - Washington Administrative Code [\(WAC\) WAC 388-828-9300](#) through 9310 for Community Inclusion Services
 - [County Implementation Guide for Employment and Community Inclusion Services](#)
11. Adhere to 42CFR 441 530(a) (1) related to Home and Community Based settings which require:
 - a. The service setting is integrated in and supports full access to the greater community;
 - b. Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS;
 - c. Provides opportunities to seek employment and work in competitive integrated settings; and
 - d. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

B. All Employment Services will:

1. Emphasize maximum integration with co-workers without disabilities. All efforts will be made to promote employer responsibility for workers with disabilities, including exploration of direct employment of clients by the business/industry in Group Supported Employment.
2. Ensure that pay for work performed is commensurate with pay to other employees doing the same type and amount of work.
3. Ensure compensation in accordance with applicable federal and state laws and regulation. This includes, but is not limited to section 14 (C) of the Federal Fair Labor Standards Act (FLSA), RCW 39.12.022, RCW 49.46.060, RCW 49.46.020 and WAC 296-128-050 and Washington State Labor and Industries requirements and procedures for payment of sub-minimum wage.
4. Ensure that all individuals, regardless of their disability, are provided the opportunity to pursue employment. Some participants may need more support than others and may spend time in activities that will prepare the participant for future community employment.

C. Group Supported Employment (GSE) will:

1. Ensure paid work is available for all clients authorized for these services. In the event that contracted work is no longer available or insufficient to maintain a GSE work site, the provider is expected to notify the County to determine appropriate next steps related to client authorization.
2. Work towards establishing permanent integrated employment at or above minimum wage.

D. Community Inclusion Services will:

1. Focus on activities that are typically experienced by the general public. Support to participate in segregated activities and/or specialized activities will not be reimbursed. Segregated and specialized activities are those which are organized and designed for individuals based on their disability.
2. Not be provided simultaneously with employment services, unless approved by exception by DSHS/DDA.

3. Ensure the health and safety of participating clients.
4. Ensure a positive image and development of relationships, increased competence, individualized skill-building, and other benefits identified in the client's plan. Services will occur individually or in a group of no more than 2 or 3 individuals. Group services may only occur when based on similar interests and needs.
5. Allow a client to discontinue services in order pursue work and to receive employment support at any time.

V. Program Implementation Requirements

The Developmental Disabilities Program Implementation Guide, Employment and Community Inclusion Services is incorporated by reference into the Scope of Work as presently adopted or subsequently amended and can be located at <http://www.whatcomcounty.us/713/Contractors>. The purpose of the Program Implementation Guide is to detail implementation requirements including policy and procedure for Pathways to Employment and Community Inclusion services.

EXHIBIT "B"
(COMPENSATION)

The source of funding for this contract is DSHS/DDA and includes state dollars and federal Medicaid match. Total compensation for the contract is variable, depending upon the number of clients and service levels authorized by DSHS/DDA and the County. This is a vendor agreement and not a sub recipient agreement.

The Whatcom County rate structure employs an hourly fee for services system.

The County will pay the contractor for services delivered to DSHS/DDA authorized clients.

- Service levels are individualized, based on assessed client need.
- The service hours authorized for each client is mutually agreed upon by DDA, the County and the contractor.
- Limits to client service authorizations are established in Washington Administrative Code (WAC) 388-828-7020.
- Funding is allocated for services delivered to an individual client. The client's service allocation and funding will follow the client in the event that they choose to receive services through another contractor.
- The billing unit for services is hourly.

I. Billing and Payment

1. Invoices and attached service documentation will be submitted monthly to the Whatcom County Health Department in the format provided by the County. A complete billing includes both an invoice coversheet and attached client service documentation. The Contractor shall send invoices and service documentation to the following address:

Jessica Lee, jlee@co.whatcom.wa.us
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

- The County must receive all invoices and supporting documentation within ten (10) calendar days following the last day of the month for which reimbursement is claimed. If an invoice or required documentation is incorrect, it will be returned to the Contractor. All invoice corrections or modifications must be submitted no later than forty five (45) days after the last day of the month in which the services were provided.
2. Payment by the County will be considered timely if it is made within thirty (30) days of the receipt and acceptance of billing information from the Contractor. The County may withhold payment of an invoice if the Contractor submits it more than thirty (30) days after the expiration of this contract. Invoices and invoice corrections or modifications related to work done prior to December 31 of the contract year will be accepted no later than January 15 following the end of the County fiscal year (i.e. December 31).
 3. The Contractor will not be paid for any billings or invoices for services occurring prior to the execution of the Contract or after its termination.
 4. The Contractor shall not bill the County for service performed or provided under this contract if the Contractor has been or will be paid for the same service by any other source. Such sources include, but are not limited to, the Division of Vocational Rehabilitation Social Security Work Incentives such as Plans for Achieving Self Support (PASS), or Impairment Related Work Expense (IRWE). The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

5. Invoices must include the following statement, with an authorized signature and date:

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

6. A total annual funding authorization for all clients will be communicated to the contractor at the start of the contract year. The funding authorization may be amended, based on use, over the course of the contract year without contract amendment. Expenditures may not exceed the total funding authorization approved by the County and in no case will exceed the total available funding restricted to these services

II. Reporting

- a. Reporting on client services will be made monthly with the invoice for services through the established DSHS/DDA County billing and reporting process in the format provided by the County. Data elements and definitions for each category of service are outlined by DSHS/DDA in the Case Management Information System (CMIS) billing instructions found at: <https://www.dshs.wa.gov/dda/county-best-practices>.
- b. The Contractor will provide other reports as developed and required by DSHS /DDA and the County during the term of the contract.

III. Additional Provisions

1. In determining the service level associated with each individual client, the primary service obligation is to meet the needs of the individual client related to his or her service goals, within the limits and requirements established in Washington Administrative Code (WAC).
2. Service levels proposed by the contractor must be approved by the County and authorized by the DDA Case Resource Manager. (CRM)
3. Payment will be made on an hourly basis for all staff support hours provided, up to, but not to exceed the monthly support hours authorized for each client.
4. Authorized service levels documented in the DSHS/Case Management Information System (CMIS) database will take precedence in the event of any inconsistency or conflict. The current maximum authorized service level will be downloaded from the DSHS/CMIS database and provided to the Contractor on the monthly billing report.
5. The Contractor may propose a change in service level through the process established in the County Program Implementation Guide.
6. Funds received from the County shall not be used to provide cash benefit to the supported individual, whether salary, bonuses, or benefits.
7. The Contractor agrees to assign to the County its Medicaid waiver billing rights for services to DDA clients eligible under Title XIX programs. If the Contractor chooses to contract directly with DSHS to provide covered services under Title XIX, those services will not be billed to the County. (Exhibit D)

IV: Reimbursement Rates for Pathways to Employment and Community Inclusion Services

Service Type	Description	Rate	Funding source
Individual Employment	Individualized staff support authorized <u>up to 30 hours</u> * a month per client.	\$70/hour	DSHS/DDA
Individual Employment Exceptional Service level	For every 10 hour increment above 30* , the hourly rate will be reduced as described below. Minimum hourly rate is \$35/ hour for IE services. a. 31-40 hour= \$60/ hour b. Additional reduction of \$5/ hour for every 10 hour increment above 40. Example: 41-50 hours \$55/ hour 51-60 hours=\$50/ hour Exceptional service hours may be limited by funding availability and DSHS/DDA approval.	Variable \$35-\$60/ hour	DSHS/DDA
Group Supported Employment	Shared staff support within the GSE setting and individualized staff support outside of the GSE setting as authorized	\$65/hour	DSHS/DDA
Community Inclusion	Individualized support in integrated community settings	\$34/hour	DSHS/DDA

**i.e. Both the rate and the service level are attached to the client's authorization approved by DSHS/DDA. This means that if the actual number of hours provided falls below 30 (or other 10 hour increment), the lower hourly rate will still apply.*

V. Reimbursement Rates for Projects and Other Services

Activity	Description	Reimbursement	Funding
Staff Training	Training for Contractor's staff for the purpose of improving, or enhancing job-related knowledge and skills. Travel and accommodation costs will be reimbursed according to Section 8.3 in the County Implementation Guide	Reimbursement for actual costs, pre-approved by the County.	DSHS/DDA And local funds
Partnership Projects	Time spent in collaboration with school districts, adult service providers, families, employers to provide employment services and facilitate the transition of young to young adults from school to work and adult services. Includes collaboration between adult service providers to improve marketing, outreach and awareness to business and industry within Whatcom County.	\$70/hour not to exceed funding authorized in writing by the County Billable activities include those listed in Exhibit A, Scope of Work, Section III B.	DSHS/DDA And local funds

EXHIBIT "C"
(INSURANCE)

Non Profit Insurance Program

CERTIFICATE OF COVERAGE

Issue Date: 05/21/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONVERTS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF COVERAGE 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 be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	COMPANIES AFFORDING COVERAGE
Clear Risk Solutions 451 Diamond Drive Ephrata, WA 98823	GENERAL LIABILITY American Alternative Insurance Corporation, et al.
INSURED	AUTOMOBILE LIABILITY American Alternative Insurance Corporation, et al.
WA Vocational Services 111 SE Everett Mall Way, Bldg C, Ste 100 Everett, WA 98208	PROPERTY American Alternative Insurance Corporation, et al.
	MISCELLANEOUS PROFESSIONAL LIABILITY Princeton Excess and Surplus Lines Insurance Company
COVERAGES	

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF 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.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	DESCRIPTION	LIMITS
GENERAL LIABILITY					
COMMERCIAL GENERAL LIABILITY OCCURRENCE FORM INCLUDES STOP GAP	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	PER OCCURRENCE PER MEMBER AGGREGATE PRODUCT-COMP/OP PERSONAL & ADV. INJURY ANNUAL POOL AGGREGATE	\$5,000,000 \$10,000,000 \$5,000,000 \$5,000,000 \$50,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
AUTOMOBILE LIABILITY					
ANY AUTO	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	COMBINED SINGLE LIMIT ANNUAL POOL AGGREGATE	\$5,000,000 NONE
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
PROPERTY					
	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	ALL RISK PER OCC EXCL EQ & FL EARTHQUAKE PER OCC FLOOD PER OCC ANNUAL POOL AGGREGATE	\$75,000,000 \$1,000,000 \$1,000,000 NONE
(PROPERTY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
MISCELLANEOUS PROFESSIONAL LIABILITY					
	N1-A3-RL-0000060-09	06/01/2018	06/01/2020	PER CLAIM ANNUAL POOL AGGREGATE	\$5,000,000 \$40,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS					
Evidence of coverage only.					

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.

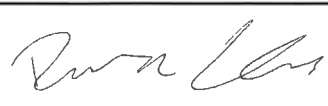
CERTIFICATE HOLDER	AUTHORIZED REPRESENTATIVE
Whatcom County 311 Grand Ave Bellingham, WA 98225	

EXHIBIT "D"
(ASSIGNMENT OF MEDICAID BILLING RIGHTS)

The County, through its agreement with the Department of Social and Health Services (DSHS), Division of Developmental Disabilities (DDD), must ensure that all County-contracted providers assign their Medicaid waiver billing rights to the County. DSHS, as the single state Medicaid agency, has administrative authority for Title XIX coverage of services for people with developmental disabilities per 42 CFR 431.10. The County only has responsibility for services covered under its contract with DSHS/DDD. The Contractor agrees, by signing below, to assign to the County its Medicaid waiver billing rights for services to DDD clients eligible under Title XIX programs. If the Contractor chooses to contract directly with DSHS to provide covered services under Title XIX, those services will not be billed to the County.

Janet Bruckner
Authorized Signature

5-21-19
Date

Washington Vocational Services
Agency Name (Please Print)

EXHIBIT "E"
(E-VERIFY DECLARATION)

Firm Name: Washington Vocational Services

The undersigned declares, under **penalty of perjury** under the laws of Washington that:

1. The above named firm is currently enrolled in and using the E-Verify system for all employees hired on or after the contract inception date and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named contractor.
3. I acknowledge that Whatcom County requires a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program. Failure to provide the required Memorandum of Understanding could lead to suspension of this contract.

DATE:

May 21, 2019

SIGNATURE:

Janet Bruckshen

PRINTED NAME:

Janet Bruckshen



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-321

File ID:	AB2019-321	Version:	1	Status:	Introduced
File Created:	05/21/2019	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending the 2019 Whatcom County Budget, request no. 8, in the amount of \$508,163

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #8 requests funding from the Conservation Futures Fund:

1. To appropriate \$236,200 to fund Seed Orchard forestry conservation easement PDR
2. To appropriate \$271,963 to fund Broad Leaf Farm agricultural conservation easement PDR

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/04/2019	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Ordinance

Final Action:
Enactment Date:
Enactment #:

ORDINANCE NO.
AMENDMENT NO. 8 OF THE 2019 BUDGET

WHEREAS, the 2019-2020 budget was adopted November 20, 2018; and,
WHEREAS, changing circumstances require modifications to the approved 2019-2020 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 2019-2020 Whatcom County Budget Ordinance #2018-064 is hereby amended by adding the following additional amounts to the 2019 budget included therein:

Fund	Expenditures	Revenues	Net Effect
Conservation Futures Fund	<u>508,163</u>	<u>(127,500)</u>	<u>380,663</u>
Total Supplemental	<u>508,163</u>	<u>(127,500)</u>	<u>380,663</u>

In addition, Exhibit C – Position Control Changes should be amended to add 1 FTE Engineer to Public Works – River & Flood.

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied



Civil Deputy Prosecutor

Jack Louws, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2019 Supplemental Budget Ordinance No. 8				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
Conservation Futures Fund				
Planning & Development	To fund Seed Orchard forestry conservation easement PDR.	236,200	-	236,200
Planning & Development	To fund Broad Leaf Farm agricultural conservation easement PDR.	271,963	(127,500)	144,463
Total Conservation Futures Fund		508,163	(127,500)	380,663
Total Supplemental		508,163	(127,500)	380,663

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 2737

Fund 175

Cost Center 17550

Originator: Chris Elder

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: Seed Orchard Forestry Conservation Easement PDR

X



5-14-2019

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$12,000
	7320	Land	\$224,200
	Request Total		\$236,200

1a. Description of request:

The proposed budget amendment is to cover all associated costs for completion of a forestry conservation easement on the Seed Orchard application. This includes easement cost, easement monitoring and enforcement fees, baseline documentation, and escrow and closing costs.

1b. Primary customers:

The community at large benefits from the PDR program due to the permanent protection of the land for forestry purposes. This area will never be developed with additional housing and will stay in low-service cost status in perpetuity. Multiple benefits to forestry, wildlife, water quality, and educational opportunities are among the benefits for the community.

2. Problem to be solved:

The focus of the Purchase of Development Rights Program is to permanently protect agricultural and forestry lands from conversion to non-working land uses. This property contains productive forestry soils, is adjacent to thousands of acres of working forestlands and has been recommended for protection by the Purchase of Development Rights Oversight Committee.

3a. Options / Advantages:

The Purchase of Development Rights Oversight Committee considers the PDR program to be an integral component of an overall working lands protection strategy. The Growth Management Act requires the protection of resource lands. This is one of several efforts the County is making to comply with the state requirement. Zoning and Open Space Taxation are other programs currently employed by Whatcom County to protect agricultural and forestry lands. PDR easements are valuable partly because they are the only action currently available for the County to achieve permanent protection on agricultural and forestry lands.

3b. Cost savings:

Savings are difficult to quantify. Studies indicate that resource lands are the lowest cost properties for community services. Other savings are based on the benefits of not converting the property to some more intensive use. Water quality degradation, excessive stormwater runoff and increased costs for roads and other service provisions are eliminated when conservation easements establish a permanent working land development pattern in a given area. Maintaining a critical mass of viable working lands helps support the forestry economy.

4a. Outcomes:

This easement will result in the permanent protection of 84 acres of working forestlands.

4b. Measures:

The easement on this property will be purchased with assistance from a title company through a typical

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 2737

Fund 175

Cost Center 17550

Originator: Chris Elder

closing process. The successful closing of the easement purchase marks the outcome of this specific request. Annual monitoring reports are supplied by the Whatcom Land Trust for each completed conservation easement.

5a. Other Departments/Agencies:

This is a joint project which involves the Whatcom Land Trust (on-going monitoring/enforcement responsibilities) and Whatcom County – PDR program administration/funding. The Department of Natural Resources will also provide ongoing stewardship and management of the site, ensuring adherence to the easement terms.

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

The Whatcom Land Trust will be responsible for the long-term monitoring under the terms of the conditions in the conservation easement and based on the contract that they have with Whatcom County. Gabe Epperson is the Conservation Director.

6. Funding Source:

Conservation Futures Fund (as requested)

The net expenditure after reimbursement will be \$236,200.00.

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: Honorable Whatcom County Councilmembers
Honorable Jack Louws, Whatcom County Executive

THROUGH: Mark Personius, Director, PDS *mp*

FROM: Chris Elder, PDR Program Administrator *CE*

DATE: May 10, 2019

SUBJECT: Supplemental Budget Request to complete a forestry conservation easement acquisition for PDR applicant Seed Orchard

Introduction

The Whatcom County Purchase of Development Rights (PDR) Program was initiated in September of 2001. The program has successfully purchased 139 development rights on 1,134 acres through 22 agricultural conservation easements.

The Purchase of Development Rights Oversight Committee has recommended purchase of a forestry conservation easement on the Seed Orchard forest property. The PDR Program Administrator is concurrently requesting approval from County Council to authorize the PDR Program Administrator and County Executive to proceed with the acquisition of a forestry conservation easement on the Seed Orchard forest property. This supplemental budget requests include all costs associated with closing of this forestry conservation easement including easement cost, baseline documentation fees, easement monitoring fees, and associated closing costs. This request will support completion of the PDR process on this property.

Background and Purpose

The Seed Orchard forestry conservation easement will represent the 24th purchase under the County's Purchase of Development Rights Program and will represent the first forestry conservation easement enacted through the program. Completion of this easement will add an additional 84 acres to the total protected acreage in Whatcom County. This will bring the total protected acreage up to 1,284 acres. Whatcom Land Trust has developed baseline condition reports for the easement area and will be the legally responsible party to monitor and enforce terms of the conservation easement.

Seed Orchard - PDR Supplemental Budget Request

Seed Orchard Forestry Conservation Easement	\$220,000.00
- Easement monitoring and enforcement	\$12,000.00
- Background Documents preparation	\$2000.00
- Escrow and closing costs	\$2,200.00
Subtotal	<u>\$236,200.00</u>

- Net cost to Whatcom County	\$236,200.00
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Request Summary

This request is complementary to the proposed Resolution being considered by Council on May 21, 2019 which authorizes the PDR Program Administrator and County Executive to enter into a purchase and sale agreement for the forestry conservation easement on this property. The conservation easement is estimated to be completed and recorded by August 2019.

Please contact Chris Elder, PDR Program Administrator at (360)778-5932 with any questions or concerns.

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 2738

Fund 175

Cost Center 17550

Originator: Chris Elder

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: Broad Leaf Farm Ag. Conservation Easement PDR

X



5-14-2019

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4331.1093	Ag Conservation Easement Prgm	(\$127,500)
	6610	Contractual Services	\$12,750
	7320	Land	\$259,213
	Request Total		\$144,463

1a. Description of request:

The proposed budget amendment is to cover all associated costs for completion of an agricultural conservation easement on the Broad Leaf Farm application. This includes easement cost, easement monitoring and enforcement fees, baseline documentation, and escrow and closing costs. RE: WCC Resolution 2017-042 approved the purchase.

1b. Primary customers:

The community at large benefits from the PDR program due to the permanent protection of the land for farming purposes. This area will never be developed with additional housing and will stay in low-service cost status in perpetuity. Multiple benefits to agriculture, wildlife, water quality and stormwater retention are among the benefits for the community.

2. Problem to be solved:

One of the focus areas of the Purchase of Development Rights Program is to permanently protect prime/productive agricultural land from conversion to non-agricultural uses. This property contains prime agricultural soils and has been recommended for protection by the Purchase of Development Rights Oversight Committee and been approved for purchase by Whatcom County Council via Resolution 2017-042.

3a. Options / Advantages:

The Agricultural Advisory Committee has considered the PDR program as an integral component of an overall agricultural protection strategy. The Growth Management Act requires the protection of resource lands. This is one of several efforts the County is making to comply with the state requirement. Zoning and Open Space Taxation are other programs currently employed by Whatcom County to protect agricultural land. PDR's are valuable partly because they are the only action currently available for the County to achieve permanent protection on agricultural lands.

3b. Cost savings:

Savings are difficult to quantify. Studies indicate that resource lands are the lowest cost properties for community services. Other savings are based on the benefits of not converting the property to some more intensive use. Water quality degradation, excessive stormwater runoff and increased costs for roads and other service provisions are eliminated when conservation easements establish a permanent agricultural development pattern in a given area. Maintaining a critical mass of viable agricultural land supports a vibrant agricultural economy. \$127,500 will be reimbursed with matching funds provided by the Natural Resource Conservation Service (NCRS) Agricultural Conservation Easement Program (ACEP).

4a. Outcomes:

The PDR program originally targeted 10,000 acres for purchase. Since that time the Council endorsed a

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 2738

Fund 175

Cost Center 17550

Originator: Chris Elder

Rural Land Study that has targeted some 25,000 acres of agricultural lands within rural zoned land that they would like to see with additional protection. This additional acreage will require significant increase in funding for the PDR program as well as the development of additional innovative techniques. The addition of this farm to the PDR land base will occur in 2019

4b. Measures:

The easement on this farm will be purchased with assistance from a title company through a typical closing process. The successful closing of the easement purchase marks the outcome of this specific request. Annual monitoring reports are supplied by the Whatcom Land Trust for each completed agricultural conservation easement.

5a. Other Departments/Agencies:

This is a joint project which involves the Whatcom Land Trust (on-going monitoring/enforcement responsibilities) and Whatcom County PDR program administration/funding. 50% reimbursement funding comes from the Natural Resource Conservation Service Agricultural Conservation Easement Program Agricultural Land Easement.

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

The Whatcom Land Trust will be responsible for the long-term monitoring under the terms of the conditions in the conservation easement and based on the contract that they have with Whatcom County. Gabe Epperson is the Conservation Director.

6. Funding Source:

Conservation Futures Fund (as requested)

Therefore the total coming out of will be \$271,963.13, though the NRCS will reimburse Whatcom County for a total of \$127,500 towards this transaction. The net expenditure after reimbursement will be \$144,463.13.

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: Honorable Whatcom County Councilmembers
Honorable Jack Louws, Whatcom County Executive

THROUGH: Mark Personius, Director, PDS *MP*

FROM: Chris Elder, PDR Program Administrator *CE*

DATE: May 10, 2019

SUBJECT: Supplemental Budget Request to complete agricultural conservation easement acquisition for PDR applicant Broad Leaf Farm

Introduction

The Whatcom County Purchase of Development Rights (PDR) Program was initiated in September of 2001. The program has successfully purchased 139 development rights on 1,134 acres through 22 agricultural conservation easements.

The Purchase of Development Rights Oversight Committee has recommended purchase of an agricultural conservation easement on the Broad Leaf Farm property. Whatcom County Council has approved the PDR Program Administrator and County Executive to proceed with the acquisition of these easements through Resolution 2017-042. This supplemental budget requests include all costs associated with closing of this agricultural conservation easement including easement cost, baseline documentation fees, easement monitoring fees, and associated closing costs. This request will support completion of the PDR process on this property. A previous supplemental budget request was approved for this purchase in 2018, but completion of an agricultural conservation easement was not completed by the end of 2018 and therefore a new supplemental budget request is being issued for project completion in 2019.

Background and Purpose

The Broad Leaf Farm conservation easement will represent the 23rd purchase under the County's Agricultural Purchase of Development Rights Program. Completion of this easements will add an additional 66.2 acres to the total protected acreage in Whatcom County. This will bring the total protected acreage up to 1,200 acres. Whatcom Land Trust has developed baseline condition reports for the easement area and will be the legally responsible party to monitor and enforce terms of the conservation easement.

The Broad Leaf Farm conservation easement was selected to receive matching funds through the Natural Resource Conservation Service (NRCS) Agricultural Conservation Easement Program (ACEP). These funds represent 50% of the actual easement cost.

Broad Leaf Farm - PDR Supplemental Budget Request

Broad Leaf Farm Agricultural Conservation Easement	\$255,000.00
- Easement monitoring and enforcement	\$12,750.00
- Background Documents preparation	\$2000.00
- Escrow and closing costs	\$2,213.13
Subtotal	<u>\$271,963.13</u>
- Reimbursement from NRCS ACEP	(\$127,500)
<hr/>	
- Net cost to Whatcom County after reimbursement	\$144,463.13

Request Summary

This request is consistent with Resolution 2017-042 which authorizes the PDR Program Administrator and County Executive to enter into a purchase and sale agreement for the agricultural conservation easement on this property. The conservation easement is estimated to be completed and recorded by July 2019.

Please contact Chris Elder, PDR Program Administrator at (360)778-5932 with any questions or concerns.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-320

File ID:	AB2019-320	Version:	1	Status:	Introduced
File Created:	05/21/2019	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution of the WCFCZDBS or Other Special District		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution amending the 2019 Flood Control Zone District and Subzones Budget, request no. 3, in the amount of \$1,560,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #3 requests funding from the Flood Control Zone District Fund:

1. To appropriate \$1,500,000 in River & Flood to fund floodplain land acquisition.
2. To appropriate \$60,000 in River & Flood to fund senior flood engineer position.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/04/2019	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Resolution

Final Action:
Enactment Date:
Enactment #:

RESOLUTION NO. _____

(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 3 OF THE 2019 BUDGET

WHEREAS, the 2019 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 20, 2018; and,

WHEREAS, changing circumstances require modifications to the approved 2019 budget; and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2019 budget as approved in Resolution 2018-044 is hereby amended by adding the following additional amounts to the budgets included therein:

	Expenditures	Revenues	Net Effect
Flood Control Zone District	<u>1,560,000</u>	<u>(1,248,000)</u>	<u>312,000</u>
Total Supplemental	<u>1,560,000</u>	<u>(1,248,000)</u>	<u>312,000</u>

ADOPTED this ____ day of _____, 2019

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of Board of Supervisors

APPROVED AS TO FORM:



Civil Deputy Prosecutor

2019 Flood Control Zone District and Subzones Budgets Amendment #3				
		<u>Expenditures</u>	<u>Revenues</u>	<u>Fund Balance</u>
Flood Control Zone District Fund				
River & Flood	To fund floodplain land acquisition.	1,500,000	(1,200,000)	300,000
River & Flood	To fund senior flood engineer.	<u>60,000</u>	<u>(48,000)</u>	<u>12,000</u>
Total Flood Control Zone District Supplemental		<u>1,560,000</u>	<u>(1,248,000)</u>	<u>312,000</u>

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 2740

Fund 169

Cost Center 169114

Originator: Paula Harris

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: Floodplain Land Acquisition

X



5/21/19

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4334.0311	CZM-FCCAP Grant	(\$1,200,000)
	7320	Land	\$1,500,000
	Request Total		\$300,000

1a. Description of request:

The FCZD is being awarded a Floodplains by Design grant that includes funding for land acquisition for flood hazard reduction projects along the Lower Nooksack River and Jones Creek. This budget request provides 2019 budget authority to cover the expenditures associated with land acquisition anticipated through the end of the year.

1b. Primary customers:

While the owners of the properties being acquired are the direct customers, the greater public will benefit from the flood hazard reduction projects that the acquisitions will enable to move forward.

2. Problem to be solved:

Both the projects on Jones Creek and the lower Nooksack River entail levee construction or reconfiguration to reduce flood hazards associated with debris flows on Jones Creek and overbank flooding on the Nooksack. Work on these projects was initiated years ago and land acquisition is the next step to keep the projects progressing.

3a. Options / Advantages:

Several alternatives for each project area have been identified and evaluated in earlier phases of the project. For Jones Creek, debris basins and debris barriers were evaluated along with the recommended alternative of a deflection berm.

For the lower Nooksack, several different levee configurations have been identified but the final alignment will depend on the results of negotiations for land acquisition.

3b. Cost savings:

The deflection berm for Jones Creek will reduce risk to public safety and the potential for future damages associated with debris flows.

The alternative levee configurations being evaluated for the lower Nooksack River are intended to reduce long-term repair costs while improving the reliability of flood protection and reducing the detrimental impacts to fish habitat.

4a. Outcomes:

Properties identified for acquisition will be owned by the FCZD. Depending on negotiations, one parcel is expected to be transferred this year, while transfer of other parcels will likely extend into next year.

4b. Measures:

The property transactions are carried through to closing and final transfer of titles

5a. Other Departments/Agencies:

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 2740

Fund 169

Cost Center 169114

Originator: Paula Harris

These projects have been developed and will continue to be implemented in cooperation with our project partners which include Diking District #2, Sumas/Nooksack/Everson Subzone and Acme/Van Zandt Subzone.

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

N/A

6. Funding Source:

20% Flood Control Zone District fund balance and 80% Floodplains by Design grant

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 2739

Fund 169

Cost Center 169100

Originator: Paula Harris

Year 1 2019

Add'l FTE ☒

Priority 1

Name of Request: Senior Flood Engineer

X

Department Head Signature (Required on Hard Copy Submission)

Date

5/21/19

Costs:	Object	Object Description	Amount Requested
	4334.0311	CZM-FCCAP Grant	(\$48,000)
	6110	Regular Salaries & Wages	\$34,500
	6290	Applied Benefits	\$25,500
	Request Total		\$12,000

1a. Description of request:

Addition of a senior engineer for the River and Flood Division to assist in capital project delivery. This position would provide oversight and coordination of the River and Flood capital program, from project development through detailed design and construction.

1b. Primary customers:

The citizens of Whatcom County will benefit from the capital projects supported by this position

2. Problem to be solved:

The Flood Control Zone District (FCZD) is receiving a grant through the Department of Ecology's Floodplains by Design program to advance several of the capital projects in the River and Flood work program. Currently the River and Flood Division has two flood engineers to manage capital projects but additional staff is needed to deliver the projects included in the grant scope of work. During the vetting process for the grant application, the need for a senior engineer to help in implementing the grant was disclosed and supported.

3a. Options / Advantages:

If we accept the grant funding, we need to ensure we have adequate resources to implement the work. The alternative is to not accept the grant funding.

3b. Cost savings:

The grant will provide 80% reimbursement for \$6,040,000 in project work which will accelerate the rate of capital project delivery and offset the use of local funding.

4a. Outcomes:

Specific projects in the current grant that will be advanced by this position include:

Ferndale Levee and Habitat Improvement

Benefits: critical infrastructure flood hazard reduction, riparian improvements, recreation

Lynden Levee and Habitat Improvement

Benefits: critical infrastructure flood hazard reduction, habitat improvements

South Fork Jones Creek Debris Flow Risk Reduction

Benefits: public life and safety, critical infrastructure protection

North Fork Glacier-Gallup Creek Alluvial Fan Restoration

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 2739

Fund 169

Cost Center 169100

Originator: Paula Harris

Benefits: public life and safety, critical infrastructure flood hazard reduction, restoration of habitat-forming processes

The increased capacity will enable the FCZD to continue pursuing grant funding for large-scale capital projects and increase our chance of securing funding in the future.

4b. Measures:

In the near-term, the grant scope of work will be fulfilled. In the long-term, the rate of capital project delivery will increase.

5a. Other Departments/Agencies:

This position will work closely with our project partners specific to each capital project. For the projects included in the current grant scope, these include the Cities of Ferndale and Lynden, and the communities of Acme and Glacier.

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

Paula Harris, River and Flood Manager, will manage the senior River and Flood Engineer

6. Funding Source:

Flood Control Zone District fund



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-336

File ID:	AB2019-336	Version:	1	Status:	Agenda Ready
File Created:	05/24/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: CDonofri@co.whatcom.wa.us <<mailto:CDonofri@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to add \$25,000 in funding for housing case management and \$3,325 in subsequent indirect costs to replace the recent loss of funding Catholic Community Services incurred at a comparable amount

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo to Executive, Contract amendment #4

Final Action:
Enactment Date:
Enactment #:



RECEIVED

MAY 23 2019

MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director
RE: Catholic Community Services – Housing Case Management Contract
Amendment #4
DATE: May 16, 2019

JACK LOUWS
COUNTY EXECUTIVE

Enclosed are two (2) originals of a contract amendment between Whatcom County and Catholic Community Services for your review and signature.

■ **Background and Purpose**

This contract provides funding for case management services for individuals and families that may be experiencing homelessness or residing in scattered site units as well as staffed housing programs. The majority of clients served by this contract have a history of behavioral health disorders and/or medical problems that require intensive case management services. Case management improves housing stability and ensures housing retention, thereby reducing homelessness in Whatcom County. The purpose of this amendment is to add \$28,325 for the remainder of 2019 for case management personnel (\$25,000) and indirect costs (\$3,325) to assume responsibility for the recent loss of funding Catholic Community Services incurred at a comparable amount. An additional \$25,000 will be requested through an amendment at a later date for the first six months of 2020. This increase will allow a continuation of service for the 18-20 individuals whose intensive case management was previously funded by another source.

■ **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$270,310 for this contract period (01/01/2019 – 12/31/2019) and \$754,280 for the entire contract period (01/01/2017 – 12/31/2019), is provided by local document recording fees and the Behavioral Health Program fund. These funds are included in the 2019 budget and Council approval is required as this amendment adds more than 10% to the approved budget.

Please contact Christopher D'Onofrio at extension #6049 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
201611029 - 4

Originating Department:	85 Health		
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855040 Housing Program		
Contract or Grant Administrator:	Christopher D'Onofrio		
Contractor's / Agency Name:	Catholic Community Services		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201611029	
Does contract require Council Approval?		If No, include WCC:	
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?		If yes, grantor agency contract number(s): CFDA#:	
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):	
Yes <input type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?		Contract Cost	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): 16-47		Center: 122200 / 124112	
Is this agreement excluded from E-Verify?		If no, include Attachment D Contractor Declaration form.	
No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>			
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input 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): \$ 725,955		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 :	
This Amendment Amount: \$ 28,325		1. Exercising an option contained in a contract previously approved by the council.	
Total Amended Amount: \$ 754,280		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 housing case management services in association with the Whatcom Homeless Service Center. Housing case management services are provided to individuals in scattered site units as well as staffed housing programs in order to improve housing stability and reduce homelessness in Whatcom County.			
Term of Contract: 1 Year		Expiration Date: 12/31/2019	

Contract Routing:

1. Prepared by: JT	Date: 03/21/19
2. Attorney signoff: RB	Date: 05/07/19
3. AS Finance reviewed: bbennett BB	Date: 05/07/19
4. IT reviewed (if IT related):	Date:
5. Contractor signed: ✓	Date: 5-14-19
6. Submitted to Exec.: ✓	Date: 5-23-19
7. Council approved (if necessary):	Date:
8. Executive signed:	Date:
9. Original to Council:	Date:

WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201611029

PARTIES:

**Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225**

AMENDMENT NUMBER: 4

CONTRACT PERIODS:

**Original: 01/01/2017 – 12/31/2017
Amendment #1: 01/01/2018 – 12/31/2018
Amendment #2: 01/01/2018 – 12/31/2018
Amendment #3: 01/01/2019 – 12/31/2019
Amendment #4: 07/01/2019 – 12/31/2019**

AND CONTRACTOR:

**Catholic Community Services
1918 Everett Avenue
Everett, WA 98201**

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

DESCRIPTION OF AMENDMENT:

1. Amend Exhibit A – Scope of Work, Section IV. Program Outcomes, to increase the program target for individuals in permanent supportive housing units who will receive case management services from 55 to 75; revised Exhibit A is attached.
2. Amend Exhibit B – Compensation, to add an additional \$25,000 for personnel costs and subsequently, indirect costs by \$3,325 for a total addition of \$28,325; revised Exhibit B is attached.
3. Funding for this contract period (01/01/2019 – 12/31/2019) is not to exceed \$270,310.
4. Funding for the total contract period (01/01/2017 – 12/31/2019) is not to exceed \$754,280.
5. All other terms and conditions remain unchanged.
6. The effective start date of the amendment is 07/01/19.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Signature is required below.

APPROVAL AS TO PROGRAM:

Anne Deacon

Anne Deacon, Human Services Manager

5/16/19

Date

DEPARTMENT HEAD APPROVAL:

Regina A. Delahunt

Regina A. Delahunt, Health Department Director

5/20/19

Date

APPROVAL AS TO FORM:

Royce Buckingham

Royce Buckingham, Civil Deputy Prosecuting Attorney

5-22-19

Date

FOR THE CONTRACTOR:

Will Rice

Contractor Signature

Will Rice, V.P.

Print Name and Title

5/14/19

Date

STATE OF WASHINGTON)

COUNTY OF WHATCOM)

On this 14th day of May, 2019, before me personally appeared Will Rice, to me known to be the VP and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Lona S. Dennis

NOTARY PUBLIC in and for the State of Washington

Residing at Whatcom County

My Commission expires: 11/05/22



FOR WHATCOM COUNTY:

Jack Louws, County Executive

Date

STATE OF WASHINGTON)

COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

My Commission expires: _____

EXHIBIT "A" – Amendment #4
(SCOPE OF WORK)

I. Background

According to the annual Point in Time Count of homeless persons conducted in January of 2016, at least 719 people in Whatcom County were homeless. Throughout the year, more may face the prospect of losing their homes. Whatcom County's Plan to End Homelessness provides a blueprint for how our community will work together to prevent and end homelessness. The provision of housing assistance and case management services are key strategies of the Plan.

Housing case management under WHSC partnership includes both rental subsidy and housing case management components. The WHSC staff determines client eligibility for services and authorizes and distributes rent subsidies to local landlords on behalf of participating clients, makes referrals for case management to partner agencies, and coordinates required data collection efforts. Through this contract, Catholic Community Services will serve as one of the Whatcom Homeless Service Center (WHSC) partner agencies providing housing case management. The majority of the population served by Catholic Community Services case management services have behavioral health challenges that require additional support to be successfully stable in housing.

The purpose of this contract is to provide case management for individuals and families experiencing homelessness in order to improve housing stability and reduce homelessness in Whatcom County.

II. Definitions

Housing Interest Pool (HIP)	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
HMIS	Washington's Homeless Management Information Services, a data base.
Permanent Supportive Housing Population	Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management.
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access (2) targeted prevention assistance to reduce the number of households that become homeless, (3) re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5) data management and tracking information for people receiving homeless housing services in Whatcom County and according to Washington State Department of Commerce HMIS data collection requirements.

III. Statement of Work

The contractor will provide housing case management services. Housing case management includes activities for the arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include: developing, securing, and coordinating services; monitoring and evaluating household progress; assuring that households' rights are protected; developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance. Housing case management also includes services or activities designed to assist households in locating, obtaining, and retaining suitable housing such as: tenant counseling, assisting individuals and households to understand leases, securing utilities, making moving arrangements, representative payee

services concerning rent and utilities, and mediation and outreach to property owners related to locating or retaining housing.

Housing case management services will be provided to individuals residing in scattered site apartment units and at staffed housing programs. Housing case management services will be provided to homeless individuals and households referred by the Whatcom Homeless Service Center.

Individuals and households served shall have incomes at or below 50% Area Median Income (AMI).

IV. Program Outcomes

During this contract period, the housing case management services provided by the Contractor will deliver the following annual outcomes:

1. Seventy-Five (75) individuals in Permanent Supportive Housing will receive case management services
2. Ten (10) unsheltered households will receive case management services
3. Ten (10) sheltered but unhoused households will receive case management services
4. The contractor will strive to rapidly rehouse clients with the goal of most moving into housing in 35 days or less from enrollment in case management and with an average (mean) enrollment period of 40 days or less
5. The contractor will strive to create housing stability with the target of moving 12 households from homelessness into housing stability while preventing all case managed households in housing from becoming homeless

V. Additional Requirements

The contractor will:

1. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services—including deposits, rental payments, and completed home visits.
2. Comply with the following HIP Referral procedure. When Contractor staff believes a referral from the HIP is not a good fit for their program – a situation that should be rare - the following procedure must be followed:
 - a. Contractor will submit a written description of the situation that justifies returning the client to the HIP, and
 - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HIP case management services coordinator (or designee).
 - c. The course of action mutually agreed to at the case conference will be recorded in writing, constituting a binding agreement.
 - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
3. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Informing clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system,
 - b. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons,

- c. Informing clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system,
 - d. Informing prospective tenants what they need to do to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing,
 - e. In scattered site, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide case managers free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated whenever requested.
 - f. Documenting in each client file that these expectations were communicated to the client/tenant.
- 4. Require professional development training for direct service staff and supervisors
 - 5. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.
 - 6. Attend meetings and events coordinated by WHSC.

VI. Reporting Requirements

The contractor shall submit quarterly reports* to the WCHD utilizing HMIS data by using the quarterly reporting template accessed on the County website as noted below. Reports will demonstrate the contractor's progress toward achieving the program outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, January 15.

*Contractors will be notified via email of updates to quarterly reporting templates. Current reporting templates will be posted on the Whatcom County Health Department Housing Program website which may be accessed at: <http://www.whatcomcounty.us/DocumentCenter/View/37569/WCHDquarterlyCMreport2019CCS> Reports will include data for only those clients served under this contract and include:

- 1. Number of unsheltered households that received case management during the quarter
- 2. Number of sheltered households that received case management during the quarter
- 3. Number of individuals in permanent supportive housing that received case management services during the quarter
- 4. Average length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation)
- 5. Median length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation)
- 6. Number of case managed households that have been stably housed for six (6) months or more
- 7. Number of case managed households that have been stably housed for twelve (12) months or more
- 8. Number of case managed households that lost stable housing or exited case management while homeless
- 9. Number of case managed households that achieved housing stability while receiving case management service

EXHIBIT "B" – Amendment #4
(COMPENSATION)

- I. **Source of Funding:** The source of funding for this contract, in the amount not to exceed \$270,310, is local document recording fees and the Behavioral Health Program Fund.
- II. **Allowable Cost Budget** - The 2019 budget for this cost reimbursement contract is as follows:

CONTRACT BUDGET		
Cost Description	Documents Required Each Invoice	Budget
Housing Case Managers	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period.	\$174,160
Homeless Housing Programs Manager	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period.	\$49,172
Supplies	GL detail	\$850
Cell Phone/Data Processing/IT Support	GL detail	\$1,871
Mileage	Mileage log to include: name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, the federal reimbursement rate (per www.gsa.gov), and a brief description of the purpose of travel.	\$3,700
Travel/Training	Ground transportation, coach airfare, and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, and a brief description of purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required.	\$3,000
Occupancy	GL detail	\$4176
Rental History/Background Checks	GL detail	\$900
Flex Funds	Flex Fund Spreadsheet plus copies of receipts	\$750
	SUBTOTAL	\$238,579
Indirect Costs	13.3%	\$31,731
	TOTAL	\$270,310

Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County. Indirect Costs shall not exceed the currently approved indirect cost allocation plan. .

III. Invoicing

- The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above.
- The Contractor shall submit invoices to:

Attention: Business Office – HL-BusinessOffice@co.whatcom.wa.us
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

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

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



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-342

File ID:	AB2019-342	Version:	1	Status:	Agenda Ready
File Created:	06/04/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLLee@co.whatcom.wa.us <mailto:JLLee@co.whatcom.wa.us>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Whatcom Center for Early Learning to provide Child Development Services, in an estimated amount of \$128,400

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM: ^{ADD} Regina A. Delahunt, Director

RE: Whatcom Center for Early Learning – Child Development Services Contract

DATE: May 21, 2019

Enclosed are two (2) originals of a contract between Whatcom County and Whatcom Center for Early Learning for your review and signature.

▪ **Background and Purpose**

This contract provides funding for Child Development Services to eligible children ages birth to three who have developmental disabilities and delays. These services are designed to meet the developmental needs of eligible infants and toddlers and assist the family in enhancing the child's development. On average, 295 children received services from two County-qualified providers each month in 2018.

▪ **Funding Amount and Source**

Funding for this contract is provided by the Washington State General Fund through the County's contract with the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA). Total compensation under this contract will vary depending on the number of clients authorized; however, the estimated service level is \$128,400. These funds are included in the 2019 budget. Council approval is required as funding is expected to exceed \$40,000.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	85 Health
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855050 Developmental Disabilities
Contract or Grant Administrator:	Jessica Lee
Contractor's / Agency Name:	Whatcom Center for Early Learning

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): _____ In process

Is this contract the result of a RFP or Bid process? Yes ☒ No ☐ If yes, RFP and Bid number(s): 12 - 27 Contract Cost Center: 673800

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):

Varies depending on County authorization

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 funds Child Development Services to eligible children ages birth to three with development disabilities.

Term of Contract:	1 Year	Expiration Date:	06/30/2020
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Contract Routing:	1. Prepared by: JT	Date: 04/03/2019
	2. Attorney signoff: RB	Date: 05/10/2019
	3. AS Finance reviewed: <i>bennett</i>	Date: 6/3/19
	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: _____

CONTRACT FOR SERVICES AGREEMENT
Child Development Services

Whatcom County Contract No. _____

Whatcom Center for Early Learning, 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 8,
Exhibit A (Scope of Work), pp. 9 to 12,
Exhibit B (Compensation), pp. 13 to 15,
Exhibit C (Certificate of Insurance), p. 16,
Exhibit D (E-Verify Declaration), p. 17.

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

The term of this Agreement shall commence on the 1st day of July, 2019, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June, 2020.

The general purpose or objective of this Agreement is to **provide Child Development Services (CDS) to eligible children ages birth to three with developmental disabilities and delays**, 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 will vary, depending upon the number of clients authorized for service by the Washington State Department of Social and Health Services. 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 _____, 2019.

CONTRACTOR:

Whatcom Center for Early Learning

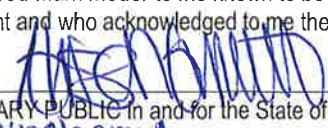


Mark Moder, Executive Director



STATE OF WASHINGTON)
COUNTY OF Whatcom) ss.

On this 15th day of May, 2019, before me personally appeared Mark Moder to me known to be the Executive Director of Whatcom Center for Early Learning and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.


NOTARY PUBLIC in and for the State of Washington, residing at Bellingham, My commission expires 02/06/2022

WHATCOM COUNTY:

Recommended for Approval:

Anne Deacon 5/21/19
Anne Deacon, Human Services Manager Date

Regina Delahunt 5/22/19
Regina Delahunt, Director Date

Approved as to form:

Royce Buckingham 5-24-19
Royce Buckingham, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, 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
Bellingham. My commission expires _____.

CONTRACTOR INFORMATION:

Whatcom Center for Early Learning
2001 H Street
Bellingham, WA 98225
(360) 671-3660

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

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

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

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

11.3 Termination for Public Convenience:

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

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

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

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

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

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced:

When 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.

31.2 Patent/Copyright Infringement: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$500,000.00 (this amount may vary with circumstances)

General Liability & Property Damage for bodily injury- \$1,000,000.00 (this amount may vary with circumstances)

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

a. Professional Liability - \$1,000,000 per occurrence:

If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver: Not Applicable

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

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, 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, age, marital status, disability, 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, 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, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; 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; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

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:

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

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

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)

I. Definitions

1. Early Intervention Services (EIS): EIS are those services designed to meet the developmental needs of eligible children birth to three and the needs of the family related to enhancing the child's development. Such services shall be planned, administered, and delivered in accordance with the Federal Individuals with Disabilities Education Act (IDEA) Part C and Washington State's approved plan for Early Intervention Services.
2. Early Services for Infants and Toddlers (ESIT): A program of the Washington State Department of Early Learning (DEL) responsible for the coordination of Early Intervention Services for infants and toddlers ages birth to three with developmental disabilities and delays in Washington State.
3. Local Lead Agency (LLA): The LLA is the agency designated by ESIT within each County to coordinate Early Intervention Services.
4. Child Development Services (CDS): CDS are those EIS provided to Developmental Disabilities Administration (DDA) eligible children ages birth to three and their families through a contract with the County. Services may include specialized instruction, speech-language pathology, occupational therapy, and physical therapy and to the maximum extent appropriate are provided in natural environments.
5. Family Resource Coordinator (FRC): An individual who has met ESIT training criteria and has been authorized by ESIT to coordinate early intervention services for eligible families.
6. Individuals with Disabilities Education Act (IDEA), Part C: The Federal law that governs services for children ages birth to three with developmental disabilities and delays.
7. Individual Family Service Plan (IFSP): A document that identifies needs, goals, and action steps and is developed with each family based on the assessed developmental need(s) of the child and family concerns and priorities.
8. Natural Environments: Those settings that are natural or typical of the child's age peers who have no disabilities. These include home, neighborhood, or community settings in which children without disabilities participate.
9. Occupational Therapy (OT): Services that address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development.
10. Physical Therapy (PT): Services that address the promotion of sensory-motor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation.
11. Speech/Language Pathology (SLP): Services to enhance communication skills.
12. Specialized Instruction (SI): Services that include the design of learning environments and activities that promote the acquisition of skills (e.g., cognitive, social), curriculum planning, the provision of information,

skill-building services, and supports to families in order to enhance the child development, and other work with the child that enhances the child's development.

II. Background

Washington State's Infant Toddler Early Intervention Program (ESIT) ensures the provision of Early Intervention Services to meet the developmental needs of all ESIT-eligible infants and toddlers and the needs of the family related to enhancing the child's development. Such services must be planned, administered, and delivered in accordance with IDEA Part C and Washington State's Federal Plan for Early Intervention Services. ESIT is responsible for the coordination of all ESI services within Whatcom County.

Through its contract with DSHS/DDA, the County, a partner in the EIS system, allocates funding for Child Development Services (CDS). CDS include those early intervention services provided for under the County contract to DSHS/DDA-eligible children. Referrals are made by the ESIT-designated Family Resources Coordinator (FRC) for CDS that are funded by the County to eligible and authorized children/families.

III. Statement of Work

The Contractor will provide a minimum level of CDS per month, per child (defined in Exhibit B), as authorized by the County.

The Contractor shall provide each child and family access to a multi-disciplinary team consisting of, at minimum, a Speech Language Pathologist, a Special Educator, and either an Occupational Therapist or Physical Therapist, with a preference for both. One member of the multi-disciplinary team will be designated as the child/family's primary contact, and will be responsible for addressing the child and family outcomes established within the Individual Family Service Plan (IFSP).

The frequency and type of services provided will be driven by the IFSP and priorities and needs of the family.

IV. Service Requirements

The Contractor must deliver CDS within state and local service guidelines, including Washington State's Federal Plan for Early Intervention Services. Service requirements include the following:

A. Referral Process:

1. The Contractor will provide CDS to children who have been referred by an ESIT-designated FRC, established as eligible by the DDA and authorized by the County.
2. The Contractor will refer all Whatcom County children who have not been referred by a FRC, but who are believed to be eligible, to ESIT.

B. Service Delivery Requirements:

The Contractor will:

1. Ensure that services are delivered by qualified personnel meeting the standards established in the state's Federal Plan and the highest entry-level academic degree needed for the state-approved or recognized certification, licensing, or registration that apply to the profession or discipline.
2. Deliver services to each child and family based on the child's IFSP. The IFSP will be developed collaboratively by the family, the ESIT-designated FRC, and a multidisciplinary team of service providers. The IFSP will be based on the individualized, functional needs of the child and the concerns and priorities of the family.
3. Identify a primary contact within the multidisciplinary team to work with the family to make progress toward and track the child and family outcomes. All children and their families will have access to consultation from all disciplines within the multidisciplinary team as needed to make progress toward identified goals.
4. Ensure, in collaboration with ESIT, that all children referred for services shall have a developmental and behavioral assessment completed within 45 days of referral, as defined by ESIT. Each child will be re-assessed at minimum annually and within 90 days prior to exit from the program. Assessment is designed to appraise the child's present level of development in relationship to same-aged peers and to document child and family need.
5. Not duplicate existing local services, including special education services for children birth to 36 months through public schools. Children are no longer eligible for services on or after their third birthday.
6. Provide services in natural environments, to the maximum extent appropriate. Natural environments are home and community locations in which children would naturally be if they did not have a disability/delay. Services may be offered in settings other than natural environments only when services cannot be achieved satisfactorily in a natural environment. Documentation of service in other than natural environments must meet County exception procedures outlined in the County Implementation Guide.
7. Develop instructional techniques and strategies that assist the family/caregivers to enhance the child's development within the daily routing of the child and family.
8. Provide services in culturally-competent ways, which encourage the cultural and ethnic diversity of families.
9. Provide eligible families with sign and language interpreter services when needed to effectively participate in CDS.

C. Service Coordination:

"Service Coordination" under this contract refers to time spent by specialized educational and therapeutic professionals responsible for implementing child and family outcomes with the IFSP. The role and services of the FRC, as defined by ESIT, is not included within the definition of service coordination or reimbursable under this contract.

1. The Contractor is responsible for consulting and coordinating with parents, caregivers, medical and other service providers to ensure effective coordination and provision of services.
2. The Contractor will ensure, in partnership with the Local Lead Agency, that timelines and requirements for service evaluation and assessment have been completed, as needed for eligible children.
3. The Contractor will participate as needed in the development of the IFSP, six-month review, and annual update, as needed.
4. The Contractor will participate as needed in a transition planning meeting and development of a written transition plan at least 90 days prior to the child's third birthday and at the discretion of the family, FRC, and multidisciplinary team, up to six months prior to the child's birthday.

D. Service Reporting and Documentation:

The Contractor will submit monthly service reports, including the hours and types of service provided to each child, in a format established by the County in line with DSHS/DDA requirements.

All service hours reported to the County must have corresponding documentation within a case note, home visit or other record which can be tied to a specific child.

V. Program Implementation Requirements

The Developmental Disabilities Program Implementation Guide, Child Development Services is incorporated by reference into the Scope of Work as presently adopted or subsequently amended and can be located at: <http://www.whatcomcounty.us/DocumentCenter/View/12488>.

The Contractor will comply with the administrative and programmatic criteria outlined in the Implementation Guide in providing all services. The Implementation Guide may be amended or updated with prior notification by the County without a contract amendment.

EXHIBIT "B"
(COMPENSATION)

The source of funding for this contract is Washington State General Fund through the County's contract with DSHS/DDA.

I. Assumptions Related to County Child Development Services Funding

The County fee-for-service rate for Child Development Services assumes reimbursement for only a portion of the child's total Early Intervention Services costs. The County rate assumes additional funding sources are available including Medicaid, private insurance, and school district funding.

The County also assumes that the Contractor has systems in place to document non-duplication of services and funding among multiple funding sources. The Contractor will make documentation of all Early Intervention Services funding allocated toward each child's services available to the County for monitoring purposes. Fundraising is not considered a funding source under this contract.

II. Rates

1. The billing unit for these services is one month. A unit of service may be billed when minimum service levels are met for each child. Billing may only occur for those children deemed eligible by DDA and authorized by the County through a County Service Authorization (CSA).
2. The following documented activities may contribute toward the child and family's Minimum Monthly Service Level:
 - a. Direct service to the child and family in natural environments related to the outcomes identified in the child's Individualized Family Service Plan (IFSP). Direct service in this setting may be provided by an OT, PT, SLP, Special Educator, or other qualified personnel when approved in writing by the County. Natural environments are those home and community settings in which the child and their family typically participate. The Contractor is responsible for defining with the family the typical routines and activity settings in which services will occur.
 - b. Minimum service level is met when at least one hour of direct services in home or community settings is provided, otherwise referred to as a "home visit." A typical home visit is comprised of 50 minutes of direct service to the child and family and 10 minutes of documentation related to services provided. Preparation, travel and data entry related to service provision are not included in direct service calculations.
 - c. Additional funding is available for home visits which require a paid interpreter in the family's native language spoken, or other means of communication used in the family's home including sign language. The add on rate for interpreter services may only be billed when reimbursement through other funding sources is unavailable and at least one home visit requiring interpreter services occurred during the month. Interpreters may not be family members of the child and family authorized for early intervention services.

III. Authorization

1. Individual Client Authorization: All children must be authorized for services through the established DSHS/DDA County Service Authorization (CSA) process. Billing may not occur for services which occur prior to the date authorized on the CSA.
2. Authorized Units of Service: The County will authorize the Contractor to provide a specified not-to-exceed number of service units for the contract period. The County will reimburse the Contractor for only the number of service units pre-authorized.

The County will monitor the Contractor's utilization of service units and performance of client services over the contract period. If the Contractor's use of service units is above or below service expectations at any point during the contract term, the County reserves the right to either increase or decrease authorized units of service based on utilization and performance.

3. Training Reimbursement: The Contractor may request reimbursement for staff training related to the provision of Child Development Services with prior written authorization from the County. Requests for reimbursement must be made and approved prior to the training date(s). Authorization for training reimbursement are dependent upon the availability of County funding and will require documentation of training costs for reimbursement.

IV. Billing and Payment

The Contractor will bill the Whatcom County Developmental Disabilities program on a fee-for-service basis (shown below) for each month in which the Minimum Monthly Service Level is reached for an authorized child, not to exceed the total number of authorized service units during the contract period.

Service	Unit/Rate	Authorized Units of Service	Minimum Monthly Service Level Per Child
Child Development Services	\$60 per child/month	Authorization of service units will vary depending on the number of clients authorized.	At least one home visit, as defined above.
Interpreter Services	\$60 per child/month	Authorization of service units will vary depending on the number of authorized clients requiring interpreter services.	At least one home visit, as defined above.

Service	Unit/Rate	Authorized Units of Service	Minimum Monthly Service Level Per Child
Training Reimbursement	Reimbursement of actual costs, at rates not to exceed those established by OFM http://www.ofm.wa.gov/resources/travel.asp	As pre-authorized in writing by the County	N/A

1. Invoices and attached service documentation will be submitted monthly to the Whatcom County Health Department in the format provided by the County and as required by the DDA County Billing and Reporting instructions. The most common format and documentation is through the Client Management Information System (CMIS). A complete CMIS billing includes both an invoice coversheet and attached client service information. The Contractor shall send invoices and service documentation to the following address:

Jessica Lee, Developmental Disabilities Program Specialist
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

2. The County must receive all invoices and supporting documentation within ten (10) calendar days following the last day of the month for which reimbursement is claimed. If an invoice or required documentation is incorrect, it will be returned to the Contractor. All invoice corrections or modifications must be submitted no later than **forty-five (45)** days after the last day of the month in which the services were provided.

3. Payment by the County will be considered timely if it is made within thirty (30) days of the receipt and acceptance of billing information from the Contractor. The County may withhold payment of an invoice if the Contractor submits it more than thirty (30) days after the expiration of this contract. Invoices and invoice corrections or modifications related to work done prior to December 31 of the contract year will be accepted no later than January 15 following the end of the County fiscal year (i.e. December 31).
4. The Contractor will not be paid for any billings or invoices for services occurring prior to the execution of the Contract or after its termination.

V. Reporting

1. Reporting on client services will be made monthly with the invoice for services through the established DSHS/DDA County Billing and Reporting process in the format provided by the County. Data elements and definitions for each category of service are outlined by DSHS/DDA in the CMIS billing instructions at <https://www.dshs.wa.gov/dda/county-best-practices>.
2. The Contractor will provide other reports as developed and required by DSHS/DDA and the County during the term of the contract.

EXHIBIT "C"
(INSURANCE)

Non Profit Insurance Program

CERTIFICATE OF COVERAGE

Issue Date: 05/29/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONVERTS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF COVERAGE 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 be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	COMPANIES AFFORDING COVERAGE
Clear Risk Solutions 451 Diamond Drive Ephrata, WA 98823	GENERAL LIABILITY American Alternative Insurance Corporation, et al. AUTOMOBILE LIABILITY American Alternative Insurance Corporation, et al.
INSURED	PROPERTY American Alternative Insurance Corporation, et al.
Whatcom Center for Early Learning 2001 H Street Bellingham, WA 98225	MISCELLANEOUS PROFESSIONAL LIABILITY Princeton Excess and Surplus Lines Insurance Company
COVERAGES	

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF 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.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	DESCRIPTION	LIMITS
GENERAL LIABILITY					
COMMERCIAL GENERAL LIABILITY OCCURRENCE FORM INCLUDES STOP GAP	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	PER OCCURRENCE PER MEMBER AGGREGATE PRODUCT-COMP/OP PERSONAL & ADV, INJURY ANNUAL POOL AGGREGATE	\$5,000,000 \$10,000,000 \$5,000,000 \$5,000,000 \$50,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
AUTOMOBILE LIABILITY					
ANY AUTO (LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	COMBINED SINGLE LIMIT ANNUAL POOL AGGREGATE	\$5,000,000 NONE
PROPERTY					
	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	ALL RISK PER OCC EXCL EQ & FL EARTHQUAKE PER OCC FLOOD PER OCC ANNUAL POOL AGGREGATE	\$75,000,000 EXCLUDED EXCLUDED NONE
(PROPERTY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
MISCELLANEOUS PROFESSIONAL LIABILITY					
	N1-A3-RL-0000060-09	06/01/2018	06/01/2020	PER CLAIM ANNUAL POOL AGGREGATE	\$1,000,000 \$40,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS

Regarding Contract #201506003-1 for providing Child Development Services to eligible children ages birth to three with developmental disabilities and delays. Whatcom County, its officers, agents, and employees are named as Additional Insureds regarding this contract only and are subject to policy terms, conditions, and exclusions. Additional Insured and Waiver of Transfer endorsements are attached. NPPI retained limit is primary and non-contributory.

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.


CERTIFICATE HOLDER	AUTHORIZED REPRESENTATIVE
Administration Office Whatcom County 509 Girard Street Bellingham, WA 98225	

Exhibit "D"
(E-Verify Declaration)

Firm Name: WHATCOM CENTER for EARLY LEARNING

The undersigned declares, under **penalty of perjury** under the laws of Washington that:

1. The above named firm is currently enrolled in and using the E-Verify system for all employees hired on or after the contract inception date and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named contractor.
3. I acknowledge that Whatcom County requires a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program. Failure to provide the required Memorandum of Understanding could lead to suspension of this contract.

DATE: 5/20/19

SIGNATURE: Mark Moder

PRINTED NAME: MARK MODER



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-350

File ID:	AB2019-350	Version:	1	Status:	Agenda Ready
File Created:	06/06/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLLee@co.whatcom.wa.us <mailto:JLLee@co.whatcom.wa.us>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council for Child Development Services, in the estimated amount of \$66,120

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo to Executive, Contract

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM: Regina A. Delahunt, Director *YAL*

RE: Opportunity Council – Child Development Services Contract

DATE: May 31, 2019

Enclosed are two (2) originals of a contract between Whatcom County and Opportunity Council for your review and signature.

▪ **Background and Purpose**

This contract provides funding for Child Development Services to eligible children ages birth to three who have developmental disabilities and delays. These services are designed to meet the developmental needs of eligible infants and toddlers and assist the family in enhancing the child's development. On average, 295 children received services from two County-qualified providers each month in 2018.

▪ **Funding Amount and Source**

Funding for this contract is provided by the Washington State General Fund through the County's contract with the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA). Total compensation under this contract will vary depending on the number of clients authorized; however, the estimated service level is \$66,120. These funds are included in the 2019 budget. Council approval is required as funding is expected to exceed \$40,000.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	85 Health
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855050 Developmental Disabilities
Contract or Grant Administrator:	Jessica Lee
Contractor's / Agency Name:	Opportunity Council

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): _____ In process

Is this contract the result of a RFP or Bid process? ☒ Yes ☐ No ☐ If yes, RFP and Bid number(s): _____ 12 - 27 Contract Cost Center: 673800

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 checked="" 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): Varies depending on County authorization	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
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Summary of Scope: This contract funds Child Development Services to eligible children ages birth to three with development disabilities.

Term of Contract: 1 Year	Expiration Date: 06/30/2020
--------------------------	-----------------------------

Contract Routing:	1. Prepared by: JT	Date: 04/03/2019
	2. Attorney signoff: RB	Date: 05/10/2019
	3. AS Finance reviewed: <i>bennett</i>	Date: 6/5/19
	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:

CONTRACT FOR SERVICES AGREEMENT
Child Development Services

Whatcom County Contract No. _____

Opportunity Council, 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 8,
Exhibit A (Scope of Work), pp. 9 to 12,
Exhibit B (Compensation), pp. 13 to 15,
Exhibit C (Certificate of Insurance).

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

The term of this Agreement shall commence on the 1st day of July, 2019, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June, 2020.

The general purpose or objective of this Agreement is to **provide Child Development Services (CDS) to eligible children ages birth to three with developmental disabilities and delays**, 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 will vary, depending upon the number of clients authorized for service by the Washington State Department of Social and Health Services. 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 31 day of May, 2019.

CONTRACTOR:

Opportunity Council




Greg Winter, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

On this 31 day of May, 2019, before me personally appeared Greg Winter to me known to be the Executive Director of the Opportunity Council and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.




NOTARY PUBLIC in and for the State of Washington, residing at
Bellingham. My commission expires 05/31/21.

WHATCOM COUNTY:
Recommended for Approval:

Anne Deacon 5/31/19
Anne Deacon, Human Services Manager Date

Regina Delahunt 5/31/19
Regina Delahunt, Director Date

Approved as to form:

Royce Buckingham 6-3-19
Royce Buckingham, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, 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
Bellingham. My commission expires _____.

CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
(360) 734-5121

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

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

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

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

11.3 Termination for Public Convenience:

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

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

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

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

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

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced:

When 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.

31.2 Patent/Copyright Infringement: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$500,000.00 (this amount may vary with circumstances)

General Liability & Property Damage for bodily injury- \$1,000,000.00 (this amount may vary with circumstances)

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

a. Professional Liability - \$1,000,000 per occurrence:

If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver: Not Applicable

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

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, 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, age, marital status, disability, 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, 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, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; 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; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

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:

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

- 37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.
- 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)

I. Definitions

1. Early Intervention Services (EIS): EIS are those services designed to meet the developmental needs of eligible children birth to three and the needs of the family related to enhancing the child's development. Such services shall be planned, administered, and delivered in accordance with the Federal Individuals with Disabilities Education Act (IDEA) Part C and Washington State's approved plan for Early Intervention Services.
2. Early Services for Infants and Toddlers (ESIT): A program of the Washington State Department of Early Learning (DEL) responsible for the coordination of Early Intervention Services for infants and toddlers ages birth to three with developmental disabilities and delays in Washington State.
3. Local Lead Agency (LLA): The LLA is the agency designated by ESIT within each County to coordinate Early Intervention Services.
4. Child Development Services (CDS): CDS are those EIS provided to Developmental Disabilities Administration (DDA) eligible children ages birth to three and their families through a contract with the County. Services may include specialized instruction, speech-language pathology, occupational therapy, and physical therapy and to the maximum extent appropriate are provided in natural environments.
5. Family Resource Coordinator (FRC): An individual who has met ESIT training criteria and has been authorized by ESIT to coordinate early intervention services for eligible families.
6. Individuals with Disabilities Education Act (IDEA), Part C: The Federal law that governs services for children ages birth to three with developmental disabilities and delays.
7. Individual Family Service Plan (IFSP): A document that identifies needs, goals, and action steps and is developed with each family based on the assessed developmental need(s) of the child and family concerns and priorities.
8. Natural Environments: Those settings that are natural or typical of the child's age peers who have no disabilities. These include home, neighborhood, or community settings in which children without disabilities participate.
9. Occupational Therapy (OT): Services that address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development.
10. Physical Therapy (PT): Services that address the promotion of sensory-motor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation.
11. Speech/Language Pathology (SLP): Services to enhance communication skills.
12. Specialized Instruction (SI): Services that include the design of learning environments and activities that promote the acquisition of skills (e.g., cognitive, social), curriculum planning, the provision of information,

skill-building services, and supports to families in order to enhance the child development, and other work with the child that enhances the child's development.

II. Background

Washington State's Infant Toddler Early Intervention Program (ESIT) ensures the provision of Early Intervention Services to meet the developmental needs of all ESIT-eligible infants and toddlers and the needs of the family related to enhancing the child's development. Such services must be planned, administered, and delivered in accordance with IDEA Part C and Washington State's Federal Plan for Early Intervention Services. ESIT is responsible for the coordination of all ESI services within Whatcom County.

Through its contract with DSHS/DDA, the County, a partner in the EIS system, allocates funding for Child Development Services (CDS). CDS include those early intervention services provided for under the County contract to DSHS/DDA-eligible children. Referrals are made by the ESIT-designated Family Resources Coordinator (FRC) for CDS that are funded by the County to eligible and authorized children/families.

III. Statement of Work

The Contractor will provide a minimum level of CDS per month, per child (defined in Exhibit B), as authorized by the County.

The Contractor shall provide each child and family access to a multi-disciplinary team consisting of, at minimum, a Speech Language Pathologist, a Special Educator, and either an Occupational Therapist or Physical Therapist, with a preference for both. One member of the multi-disciplinary team will be designated as the child/family's primary contact, and will be responsible for addressing the child and family outcomes established within the Individual Family Service Plan (IFSP).

The frequency and type of services provided will be driven by the IFSP and priorities and needs of the family.

IV. Service Requirements

The Contractor must deliver CDS within state and local service guidelines, including Washington State's Federal Plan for Early Intervention Services. Service requirements include the following:

A. Referral Process:

1. The Contractor will provide CDS to children who have been referred by an ESIT-designated FRC, established as eligible by the DDA and authorized by the County.
2. The Contractor will refer all Whatcom County children who have not been referred by a FRC, but who are believed to be eligible, to ESIT.

B. Service Delivery Requirements:

The Contractor will:

1. Ensure that services are delivered by qualified personnel meeting the standards established in the state's Federal Plan and the highest entry-level academic degree needed for the state-approved or recognized certification, licensing, or registration that apply to the profession or discipline.
2. Deliver services to each child and family based on the child's IFSP. The IFSP will be developed collaboratively by the family, the ESIT-designated FRC, and a multidisciplinary team of service providers. The IFSP will be based on the individualized, functional needs of the child and the concerns and priorities of the family.
3. Identify a primary contact within the multidisciplinary team to work with the family to make progress toward and track the child and family outcomes. All children and their families will have access to consultation from all disciplines within the multidisciplinary team as needed to make progress toward identified goals.
4. Ensure, in collaboration with ESIT, that all children referred for services shall have a developmental and behavioral assessment completed within 45 days of referral, as defined by ESIT. Each child will be re-assessed at minimum annually and within 90 days prior to exit from the program. Assessment is designed to appraise the child's present level of development in relationship to same-aged peers and to document child and family need.
5. Not duplicate existing local services, including special education services for children birth to 36 months through public schools. Children are no longer eligible for services on or after their third birthday.
6. Provide services in natural environments, to the maximum extent appropriate. Natural environments are home and community locations in which children would naturally be if they did not have a disability/delay. Services may be offered in settings other than natural environments only when services cannot be achieved satisfactorily in a natural environment. Documentation of service in other than natural environments must meet County exception procedures outlined in the County Implementation Guide.
7. Develop instructional techniques and strategies that assist the family/caregivers to enhance the child's development within the daily routing of the child and family.
8. Provide services in culturally-competent ways, which encourage the cultural and ethnic diversity of families.
9. Provide eligible families with sign and language interpreter services when needed to effectively participate in CDS.

C. Service Coordination:

"Service Coordination" under this contract refers to time spent by specialized educational and therapeutic professionals responsible for implementing child and family outcomes with the IFSP. The role and services of the FRC, as defined by ESIT, is not included within the definition of service coordination or reimbursable under this contract.

1. The Contractor is responsible for consulting and coordinating with parents, caregivers, medical and other service providers to ensure effective coordination and provision of services.
2. The Contractor will ensure, in partnership with the Local Lead Agency, that timelines and requirements for service evaluation and assessment have been completed, as needed for eligible children.
3. The Contractor will participate as needed in the development of the IFSP, six-month review, and annual update, as needed.
4. The Contractor will participate as needed in a transition planning meeting and development of a written transition plan at least 90 days prior to the child's third birthday and at the discretion of the family, FRC, and multidisciplinary team, up to six months prior to the child's birthday.

D. Service Reporting and Documentation:

The Contractor will submit monthly service reports, including the hours and types of service provided to each child, in a format established by the County in line with DSHS/DDA requirements.

All service hours reported to the County must have corresponding documentation within a case note, home visit or other record which can be tied to a specific child.

V. Program Implementation Requirements

The Developmental Disabilities Program Implementation Guide, Child Development Services is incorporated by reference into the Scope of Work as presently adopted or subsequently amended and can be located at: <http://www.whatcomcounty.us/DocumentCenter/View/12488>.

The Contractor will comply with the administrative and programmatic criteria outlined in the Implementation Guide in providing all services. The Implementation Guide may be amended or updated with prior notification by the County without a contract amendment.

EXHIBIT "B"
(COMPENSATION)

The source of funding for this contract is Washington State General Fund through the County's contract with DSHS/DDA.

I. Assumptions Related to County Child Development Services Funding

The County fee-for-service rate for Child Development Services assumes reimbursement for only a portion of the child's total Early Intervention Services costs. The County rate assumes additional funding sources are available including Medicaid, private insurance, and school district funding.

The County also assumes that the Contractor has systems in place to document non-duplication of services and funding among multiple funding sources. The Contractor will make documentation of all Early Intervention Services funding allocated toward each child's services available to the County for monitoring purposes. Fundraising is not considered a funding source under this contract.

II. Rates

1. The billing unit for these services is one month. A unit of service may be billed when minimum service levels are met for each child. Billing may only occur for those children deemed eligible by DDA and authorized by the County through a County Service Authorization (CSA).
2. The following documented activities may contribute toward the child and family's Minimum Monthly Service Level:
 - a. Direct service to the child and family in natural environments related to the outcomes identified in the child's Individualized Family Service Plan (IFSP). Direct service in this setting may be provided by an OT, PT, SLP, Special Educator, or other qualified personnel when approved in writing by the County. Natural environments are those home and community settings in which the child and their family typically participate. The Contractor is responsible for defining with the family the typical routines and activity settings in which services will occur.
 - b. Minimum service level is met when at least one hour of direct services in home or community settings is provided, otherwise referred to as a "home visit." A typical home visit is comprised of 50 minutes of direct service to the child and family and 10 minutes of documentation related to services provided. Preparation, travel and data entry related to service provision are not included in direct service calculations.
 - c. Additional funding is available for home visits which require a paid interpreter in the family's native language spoken, or other means of communication used in the family's home including sign language. The add on rate for interpreter services may only be billed when reimbursement through other funding sources is unavailable and at least one home visit requiring interpreter services occurred during the month. Interpreters may not be family members of the child and family authorized for early intervention services.

III. Authorization

1. Individual Client Authorization: All children must be authorized for services through the established DSHS/DDA County Service Authorization (CSA) process. Billing may not occur for services which occur prior to the date authorized on the CSA.
2. Authorized Units of Service: The County will authorize the Contractor to provide a specified not-to-exceed number of service units for the contract period. The County will reimburse the Contractor for only the number of service units pre-authorized.

The County will monitor the Contractor's utilization of service units and performance of client services over the contract period. If the Contractor's use of service units is above or below service expectations at any point during the contract term, the County reserves the right to either increase or decrease authorized units of service based on utilization and performance.

3. **Training Reimbursement:** The Contractor may request reimbursement for staff training related to the provision of Child Development Services with prior written authorization from the County. Requests for reimbursement must be made and approved prior to the training date(s). Authorization for training reimbursement are dependent upon the availability of County funding and will require documentation of training costs for reimbursement.

IV. Billing and Payment

The Contractor will bill the Whatcom County Developmental Disabilities program on a fee-for-service basis (shown below) for each month in which the Minimum Monthly Service Level is reached for an authorized child, not to exceed the total number of authorized service units during the contract period.

Service	Unit/Rate	Authorized Units of Service	Minimum Monthly Service Level Per Child
Child Development Services	\$60 per child/month	Authorization of service units will vary depending on the number of clients authorized.	At least one home visit, as defined above.
Interpreter Services	\$60 per child/month	Authorization of service units will vary depending on the number of authorized clients requiring interpreter services.	At least one home visit, as defined above.

Service	Unit/Rate	Authorized Units of Service	Minimum Monthly Service Level Per Child
Training Reimbursement	Reimbursement of actual costs, at rates not to exceed those established by OFM http://www.ofm.wa.gov/resources/travel.asp	As pre-authorized in writing by the County	N/A

1. Invoices and attached service documentation will be submitted monthly to the Whatcom County Health Department in the format provided by the County and as required by the DDA County Billing and Reporting instructions. The most common format and documentation is through the Client Management Information System (CMIS). A complete CMIS billing includes both an invoice coversheet and attached client service information. The Contractor shall send invoices and service documentation to the following address:

Jessica Lee, Developmental Disabilities Program Specialist
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

2. The County must receive all invoices and supporting documentation within ten (10) calendar days following the last day of the month for which reimbursement is claimed. If an invoice or required documentation is incorrect, it will be returned to the Contractor. All invoice corrections or modifications must be submitted no later than **forty-five (45)** days after the last day of the month in which the services were provided.

3. Payment by the County will be considered timely if it is made within thirty (30) days of the receipt and acceptance of billing information from the Contractor. The County may withhold payment of an invoice if the Contractor submits it more than thirty (30) days after the expiration of this contract. Invoices and invoice corrections or modifications related to work done prior to December 31 of the contract year will be accepted no later than January 15 following the end of the County fiscal year (i.e. December 31).
4. The Contractor will not be paid for any billings or invoices for services occurring prior to the execution of the Contract or after its termination.

V. Reporting

1. Reporting on client services will be made monthly with the invoice for services through the established DSHS/DDA County Billing and Reporting process in the format provided by the County. Data elements and definitions for each category of service are outlined by DSHS/DDA in the CMIS billing instructions at <https://www.dshs.wa.gov/dda/county-best-practices>.
2. The Contractor will provide other reports as developed and required by DSHS/DDA and the County during the term of the contract.

EXHIBIT "C"
(INSURANCE)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/3/2019

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 Hub International Northwest LLC 110 Unity St. Bellingham WA 98225	CONTACT NAME: PHONE (A/C, No, Ext): 360-647-9000 FAX (A/C, No): 360-734-8496 E-MAIL ADDRESS: now.bellinghaminfo@hubinternational.com														
INSURED The Opportunity Council 1111 Cornwall Ave Ste C Bellingham WA 98225-5039	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A : Philadelphia Indemnity Insurance Company</td> <td>18058</td> </tr> <tr> <td>INSURER B : Lloyd's of London</td> <td>15792</td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Philadelphia Indemnity Insurance Company	18058	INSURER B : Lloyd's of London	15792	INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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COVERAGES
CERTIFICATE NUMBER: 112017527

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	<div><div><div><div><input checked="" type="checkbox"/></div><div></div><div></div><div></div></div><div>CLAIMS-MADE</div><div><input checked="" type="checkbox"/></div><div>OCCUR</div></div></div> <div>GEN'L AGGREGATE LIMIT APPLIES PER:<div><div><div><div><input type="checkbox"/></div><div>POLICY</div><div><input type="checkbox"/></div><div>PRO-JECT</div><div><input type="checkbox"/></div><div>LOC</div></div></div><div>OTHER:</div></div></div>	Y	Y	PHPK1989847	6/1/2019	6/1/2020	EACH OCCURRENCE	\$ 1,000,000		
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000		
							MED EXP (Any one person)	\$ 5,000		
							PERSONAL & ADV INJURY	\$ 1,000,000		
							GENERAL AGGREGATE	\$ 3,000,000		
							PRODUCTS - COMP/OP AGG	\$ 3,000,000		
								\$		
A	<div><div><div><div><input checked="" type="checkbox"/></div><div></div><div></div><div></div></div><div>ANY AUTO</div><div><div><div><div><input type="checkbox"/></div><div>OWNED AUTOS ONLY</div><div><input type="checkbox"/></div><div>SCHEDULED AUTOS</div><div><input type="checkbox"/></div><div>HIRED AUTOS ONLY</div><div><input type="checkbox"/></div><div>NON-OWNED AUTOS ONLY</div></div></div></div></div></div>	Y	Y	PHPK1989847	6/1/2019	6/1/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000		
							BODILY INJURY (Per person)	\$		
							BODILY INJURY (Per accident)	\$		
							PROPERTY DAMAGE (Per accident)	\$		
								\$		
A	<div><div><div><div><input checked="" type="checkbox"/></div><div></div><div></div><div></div></div><div>UMBRELLA LIAB</div><div><input checked="" type="checkbox"/></div><div>OCCUR</div></div><div><div><div><div><input type="checkbox"/></div><div>EXCESS LIAB</div><div><input type="checkbox"/></div><div>CLAIMS-MADE</div></div></div><div>DED</div><div><input checked="" type="checkbox"/></div><div>RETENTION \$ 10,000</div></div></div>			PHUB678523	6/1/2019	6/1/2020	EACH OCCURRENCE	\$ 10,000,000		
							AGGREGATE	\$ 10,000,000		
								\$		
A	<div><div><div><div><div><div>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</div><div>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)</div><div>If yes, describe under DESCRIPTION OF OPERATIONS below</div></div><div>Y / N</div><div><input type="checkbox"/></div></div><div>N / A</div></div></div></div>			PHPK1989847	6/1/2019	6/1/2020	<div><div><div><div><input type="checkbox"/></div><div>PER STATUTE</div><div><input checked="" type="checkbox"/></div><div>OTH-ER</div></div><div>Stop Gap</div></div></div> <div>E.L. EACH ACCIDENT</div> <div>\$ 1,000,000</div>			
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000		
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000		
B	Professional Liability Claims Made			ENP0003443-01	6/1/2019	6/1/2020	Limit Retention Aggregate	1,000,000 5,000 2,000,000		

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

Per policy forms and conditions: General Liability Deluxe Endorsement Human Services form PI-GLD-HS (10/11); Commercial Automobile Elite Endorsement form PI-CA-001 (09/15).

Whatcom County is named as additional insured. This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

CERTIFICATE HOLDER
CANCELLATION

Whatcom County
 509 Girard St
 Bellingham WA 98225

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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Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-352

File ID:	AB2019-352	Version:	1	Status:	Agenda Ready
File Created:	06/06/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: JLLee@co.whatcom.wa.us <mailto:JLLee@co.whatcom.wa.us>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and the Opportunity Council to provide funding for the Single Entry Access to Services (SEAS) Program, in the amount of \$80,149

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE


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

Attachments: Memo to Executive, Contract

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director 
RE: Opportunity Council – Single Entry Access to Services Contract
DATE: May 31, 2019

Enclosed are two (2) originals of a contract between Whatcom County and Opportunity Council for your review and signature.

▪ **Background and Purpose**

Developmental disabilities are conditions which result in physical, learning, language, or behavioral impairment and occur before the age of 18. The Single Entry Access to Services (SEAS) line provides an effective single point of entry to connect families and professionals concerned about a child's development to resources and services. Care navigation ensures coordination and follow-through with families and referral sources to ensure that timely connection to services are made. SEAS assisted 1058 children and families in 2018. Whatcom County has provided funding for these services under a similar contract since 2013.

▪ **Funding Amount and Source**

This contract, in an amount not to exceed \$80,149, is funded by local DD millage. These funds are included in the 2019 budget. Council approval is required as funding exceeds \$40,000.

Please contact Jessica Lee at extension #6047 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	85 Health		
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855050 Developmental Disabilities		
Contract or Grant Administrator:	Jessica Lee		
Contractor's / Agency Name:	Opportunity Council		
Is this a New Contract? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If not, is this an Amendment or Renewal to an Existing Contract? If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		Yes <input type="checkbox"/> No <input type="checkbox"/>
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC: _____		
Already approved? Council Approved Date:	(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)		
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s): _____		CFDA#: _____
Is this contract grant funded? Yes <input 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 checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s): 19-23	Contract Cost Center:	673200
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>	If no, include Attachment D Contractor Declaration form.		
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional. <input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input 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): \$ 80,149	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:		
This Amendment Amount: \$ _____	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.		
Total Amended Amount: \$ _____			
Summary of Scope: This contract funds the Single Entry Access to Services (SEAS) line for families and professionals seeking resources for children and youth ages 0 – 18 with suspected developmental disabilities and delays.			
Term of Contract:	1 Year	Expiration Date:	06/30/2020

Contract Routing:	1. Prepared by: JT	Date: 04/05/2019
	2. Attorney signoff: _____	Date: 6-3-19
	3. AS Finance reviewed: _____	Date: 6/5/19
	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: _____

CONTRACT FOR SERVICES AGREEMENT
Single Entry Access to Services (SEAS)

Whatcom County Contract No. _____

Opportunity Council, 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 10,
Exhibit A (Scope of Work), pp. 11 to 13,
Exhibit B (Compensation), p. 14,
Exhibit C (Certificate of Insurance), p. 15,
Exhibit D (Data Security Requirements) pp. 16 to 23.

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

The term of this Agreement shall commence on the **1st day of July, 2019**, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the **30th day of June, 2020**.

The general purpose or objective of this Agreement is to **provide referral and care navigation for children and youth with suspected disabilities or delays**, 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 \$80,149. 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 31 day of May, 2019.

CONTRACTOR:

Opportunity Council

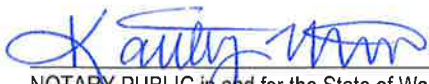


Greg Winter, Executive Director

STATE OF WASHINGTON)
COUNTY OF Whatcom) ss.

On this 31 day of May, 2019, before me personally appeared Greg Winter, to me known to be the Executive Director of the Opportunity Council and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.





NOTARY PUBLIC in and for the State of Washington, residing at
Bellingham My commission expires 05/31/21.

WHATCOM COUNTY:

Recommended for Approval:

Anne Deacon 5/31/19
Anne Deacon, Human Services Manager Date

Regina Delahunt 5/31/19
Regina Delahunt, Department Director Date

Approved as to form:

Royce Buckingham 6-3-19
Royce Buckingham, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally appeared Jack Louws, 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
Bellingham. My commission expires _____.

CONTRACTOR INFORMATION:

Opportunity Council
Greg Winter, Executive Director
1111 Cornwall Avenue
Bellingham, WA 98225

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 four years.

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

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

11.3 Termination for Public Convenience:

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided

in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

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

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

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

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced:

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.

31.2 Patent/Copyright Infringement: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$500,000.00 (this amount may vary with circumstances)

General Liability & Property Damage for bodily injury- \$1,000,000.00 (this amount may vary with circumstances)

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

a. Professional Liability - \$1,000,000 per occurrence:

If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver: Not Applicable

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

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, 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, age, marital status, disability, 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, 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, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; 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; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

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:

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

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

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:

Other than claims for injunctive relief 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 Agreement 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 Agreement 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, including expenses, costs and attorney fees to the prevailing party and pre-award interest, but shall not have the power to award punitive damages. 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.

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

I. Background

Developmental disabilities are conditions which result in physical, learning, language, or behavioral impairment and occur before the age of 18. According to the Centers for Disease Control (CDC) about one in six children in the U.S. have one or more developmental disabilities or other developmental delays.

The Single Entry Access to Services (SEAS) line provides an effective single point of entry in Whatcom County to connect families and professionals concerned about a child's development to resources and services. Care navigation ensures coordination and follow-through with families and referral sources to ensure that timely connection to services are made.

II. Statement of Work

1. **Provide a Single Entry Access to Services (SEAS) phone and fax line** to receive calls and referrals related to the needs of children with or suspected of having developmental disabilities and delays. The phone and fax line shall remain unchanged over the contract period and be publicly advertised in collaboration with community partners.
2. **Provide Care Navigation:** Care navigation ensures the effective and timely connection of families to health and social services. Care navigation is a service provided primarily by phone, with in-person accommodation available when requested. Care navigation activities include:
 - a. Providing brief screening and assessment of the family's needs to determine appropriate referral.
 - b. Assist families to connect with community services for which their child may be eligible.
 - c. Assist families to understand and access other community resources available, including resources for basic needs.
 - d. Assist families to complete referral paperwork, as needed.
 - e. Accept referrals from health and social service providers, with consent from the family.
 - f. Assist families to coordinate care for their child amongst multiple health and social providers.
 - g. Follow up with families and referral sources as appropriate to ensure necessary connections are made.
 - h. Provide written materials on child development and community resources, as appropriate.
3. **Develop and implement an annual outreach plan** in partnership with the County and community stakeholders to increase awareness of SEAS.
4. **Develop and update resource materials** in collaboration with the Whatcom County Health Department and community stakeholders.

III. Program Requirements

1. Ensure that qualified staff members are available to respond to referrals and provide care navigation. Desired qualifications include:

- a. A bachelor's degree in human services (or related discipline) or a minimum of 2 years of experience working with families of children with disabilities or special health care needs.
 - b. An understanding of the local, social and health services systems.
 - c. A background in child development.
 - d. The ability to communicate effectively.
2. Experience working with people from various cultural, socioeconomic and educational backgrounds. A training plan for staff providing care navigation is documented and approved by the County in order to ensure quality and consistency of referral services. Elements of the training plan should include at minimum:
 - a. Values and purpose of SEAS
 - b. Standards for referral and quality assurance
 - c. Policy and procedures for referrals and follow up
 - d. Policy and procedures for ensuring referral and resource information is kept up to date
 - e. Data definitions, data collection and data management procedures.
3. Notify the County in the event of a change in personnel or in the hours that the referral line is available to the public.
4. Program oversight and supervision will include at least one staff with expertise in child development, family-centered practices and working with individuals from diverse, cultural, socioeconomic, and educational backgrounds.
5. Policies and procedures are in place to ensure quality and consistency of services provided including
 - a. Referral procedures
 - b. Referral follow-up criteria and process
 - c. Accuracy of referral information
 - d. Data collection and management
6. Calls and faxes made to the referral line are responded to promptly, within two (2) business days.
7. The contractor protects and maintains all confidential information against unauthorized use, access, disclosure, modification or loss. The contractor must be aware of and compliant with the applicable legal or regulatory requirements for Category 4 Data, defined in Exhibit C-Data Security. Data meeting Category 4 criteria under this agreement will be handled in line with Exhibit C-Data Security Requirements.
8. Barrier-free access to assistance is offered including in-person assistance, language access for those speaking a language other than English, or access to another technology for those with speech and/or hearing impairments, if requested.
9. Maintain documentation of calls and faxed referrals received including referral source, age of child, primary concern, linkages, and follow-up identified.

10. Ensure that referral and resource information is reviewed regularly and updated for accuracy, at minimum annually.
11. As the primary entry point for early intervention services (EIS) for infants and toddlers 0-2, as well as a provider for those services, the contractor will develop written agreements with all other publically funded EIS providers in Whatcom County. Agreements must be in place by June 30, 2020 and include referral process and criteria as well as a process for dispute resolution.
12. Provide monthly reporting of referral information including referral source, age of child, primary concern, and referral outcome.
13. Meet with the County as requested to ensure continuity and quality of services.

IV. Role of the Health Department

The Whatcom County Health Department agrees to provide consultation upon request to the Contractor regarding children and youth with special health care needs and developmental disabilities and delays.

V. Reporting Requirements

1. Provide service data on a monthly basis in a format provided by the County; data report will be submitted monthly with invoice for services.
2. An outreach plan is developed with community partners and the health department. Outreach activities are documented and an annual summary provided within 30 days of the end of the contract period. Outreach activities may be conducted by community partners as well as staff assigned by the contractor. Outreach activities include:
 - a. In person meetings with health care providers and referral sources.
 - b. Stocking of referral materials at referral sources and other locations frequented by families around the county
 - c. Informational events such as presentations, fairs etc.

EXHIBIT "B"
(COMPENSATION)

I. Budget and Source of Funding: The source of funding for this contract, in an amount not to exceed \$80,149, is local DD Millage and DSHS/DDA funds.

II. Budget and Allowable Costs: The budget for this cost reimbursement contract is as follows:

Activity		Invoice Documentation	Budget
Care Navigator 1 (.25 FTE)		General Ledger Detail	\$11,260
Care Navigator 2 (1.0 FTE)			\$48,975
Supervisor (.15 FTE)			\$10,577
Translation/Interpreters			\$750
Subtotal			\$71,562
Indirect Administration	Federally approved rate for the current fiscal year (currently 12%)		\$8,587
TOTAL BUDGET			\$80,149

Funding may be distributed between line items, with written County authorization.

III. Invoicing

- Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include documentation listed in the budget table above.
- The Contractor shall submit invoices via email to HL-BusinessOffice@co.whatcom.wa.us (include contract #) or mail to:

Attention: Business Office
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
- Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from the Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
- Invoices must include the following statement, with an authorized signature and date:

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

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

EXHIBIT "C"
(INSURANCE)

Exhibit D
(DATA SECURITY REQUIREMENTS)

1. Definitions. The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
- a. "AES" means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (<http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf>).
 - b. "Authorized Users(s)" means an individual or individuals with a business need to access Confidential Information, and who has or have been authorized to do so.
 - c. "Business Associate Agreement" means an agreement between and a contractor who is receiving Data covered under the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996. The agreement establishes permitted and required uses and disclosures of protected health information (PHI) in accordance with HIPAA requirements and provides obligations for business associates to safeguard the information.
 - d. "Category 4 Data" is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of any compromise of such data. Data classified as Category 4 includes but is not limited to data protected by: the Health Insurance Portability and Accountability Act (HIPAA), Pub. L. 104-191 as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), 45 CFR Parts 160 and 164; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 CFR Part 99; Internal Revenue Service Publication 1075 (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>); Substance Abuse and Mental Health Services Administration regulations on Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and/or Criminal Justice Information Services, 28 CFR Part 20.
 - e. "Cloud" means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personal files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iTunes, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, and Rackspace.
 - f. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key"; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
 - g. "FedRAMP" means the Federal Risk and Authorization Management Program (see www.fedramp.gov), which is an assessment and authorization process that federal government agencies have been directed to use to ensure security is in place when accessing Cloud computing products and services.

- h. "Hardened Password" means a string of at least eight characters containing at least three of the following four character classes: Uppercase alphabetic, lowercase alphabetic, numeral, and special characters such as an asterisk, ampersand, or exclamation point.
- i. "Mobile Device" means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets, and other form factors.
- j. "Multi-factor Authentication" means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. "PIN" means a personal identification number, a series of numbers which act as a password for a device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.
- k. "Portable Device" means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with base computing resources in the form of a processor, memory, storage, and network access. Examples include, but are not limited to, mobile phones, tablets, and laptops. Mobile Device is a subset of Portable Device.
- l. "Portable Media" means any machine readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tapes, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.
- m. "Secure Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to the Confidential Information is not available to unauthorized personnel. In otherwise Secure Areas, such as an office with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure that non-authorized staff cannot access it.
- n. "Trusted Network" means a network operated and maintained by the Contractor, which includes security controls sufficient to protect Confidential Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.
- o. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.

2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141.10 (<https://ocio.wa.gov/policies>) of the Office of the Chief Information Officer for the state of Washington, and of the Information Security Policy and Standards Manual.

Reference material related to these requirements can be found here:

<https://www.dshs.wa.gov/fsa/central-contract-services/keeping-dshs-client-information-private-and-secure>, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.

3. **Administrative Controls.** The Contractor must have the following controls in place:
 - a. A documented security policy governing the secure use of its computer network and systems, and which defines sanctions that may be applied to Contractor staff for violating that policy.
 - b. If the Data shared under this agreement is classified as Category 4, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for that Category 4 Data.
 - c. If Confidential Information shared under this agreement is classified as Category 4, the Contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.
4. **Authorization, Authentication, and Access.** In order to ensure that access to the Data is limited to authorized staff, the Contractor must:
 - a. Have documented policies and procedures governing access to systems with the shared Data.
 - b. Restrict access through administrative, physical, and technical controls to authorized staff.
 - c. Ensure that user accounts are unique and that any given user account logon ID and password combination is known only to the one employee to whom that account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on a system housing the Data based solely on the logon ID used to perform the action.
 - d. Ensure that only authorized users are capable of accessing the Data.
 - e. Ensure that an employee's access to the Data is removed immediately:
 - (1) Upon suspected compromise of the user credentials.
 - (2) When their employment, or the contract under which the Data is made available to them, is terminated.
 - (3) When they no longer need access to the Data to fulfill the requirements of the contract.
 - f. Have a process to periodically review and verify that only authorized users have access to systems containing Confidential Information.
 - g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users within the Contractor's network, including:
 - (1) A minimum length of 8 characters, and containing at least three of the following character classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.

- (2) That a password does not contain a user's name, logon ID, or any form of their full name.
 - (3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase which consists of multiple dictionary words.
 - (4) That passwords are significantly different from the previous four passwords. Passwords that increment by simply adding a number are not considered significantly different.
- h. When accessing Confidential Information from an external location (the Data will traverse the Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirements for users by employing measures including:
- (1) Ensuring mitigations applied to the system don't allow end-user modification.
 - (2) Not allowing the use of dial-up connections.
 - (3) Using industry standard protocols and solutions for remote access. Examples would include RADIUS and Citrix.
 - (4) Encrypting all remote access traffic from the external workstation to Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the Internet, which is not a Trusted Network.
 - (5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.
 - (6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point.
- i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, face recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:
- (1) The PIN or password must be at least 5 letters or numbers when used in conjunction with at least one other authentication factor
 - (2) Must not be comprised of all the same letter or number (11111, 22222, aaaaa, would not be acceptable)
 - (3) Must not contain a "run" of three or more consecutive numbers (12398, 98743 would not be acceptable)
- j. If the contract specifically allows for the storage of Confidential Information on a Mobile Device, passcodes used on the device must:
- (1) Be a minimum of six alphanumeric characters.
 - (2) Contain at least three unique character classes (upper case, lower case, letter, number).
 - (3) Not contain more than a three consecutive character run. Passcodes consisting of 12345, or abcd12 would not be acceptable.

- k. Render the device unusable after a maximum of 10 failed logon attempts.

5. **Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:

- a. **Hard disk drives.** For Data stored on local workstation hard disks, access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
- b. **Network server disks.** For Data stored on hard disks mounted on network servers and made available through shared folders, access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secure Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data, as outlined below in Section 8 Data Disposition, may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secure Area. When not in use for the contracted purpose, such discs must be Stored in a Secure Area. Workstations which access Confidential Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided on optical discs which will be attached to network servers and which will not be transported out of a Secure Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secure Area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.
- f. **Data storage on portable devices or media.**
 - (1) Except where otherwise specified herein, Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:

- (a) Encrypt the Data.
 - (b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.
 - (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.
 - (d) Apply administrative and physical security controls to Portable Devices and Portable Media by:
 - i. Keeping them in a Secure Area when not in use,
 - ii. Using check-in/check-out procedures when they are shared, and
 - iii. Taking frequent inventories.
 - (2) When being transported outside of a Secure Area, Portable Devices and Portable Media with Confidential Information must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.
- h. **Data stored for backup purposes.**
- (1) Confidential Information may be stored on Portable Media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.
 - (2) Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.
- i. **Cloud storage.** Confidential Information requires protections equal to or greater than those specified elsewhere within this exhibit. Cloud storage of Data is problematic as the Contractor has no control of the environment in which the Data is stored. For this reason:
- (1) Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:
 - (a) Contractor has written procedures in place governing use of the Cloud storage and Contractor attests in writing that all such procedures will be uniformly followed.
 - (b) The Data will be Encrypted while within the Contractor network.
 - (c) The Data will remain Encrypted during transmission to the Cloud.

- (d) The Data will remain Encrypted at all times while residing within the Cloud storage solution.
 - (e) The Contractor will possess a decryption key for the Data, and the decryption key will be possessed only by the Contractor.
 - (f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on the Contractor networks.
 - (g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User and within either the Contractor's network.
- (2) Data will not be stored on an Enterprise Cloud storage solution unless either:
- (a) The Cloud storage provider is treated as any other Sub-Contractor, and agrees in writing to all of the requirements within this exhibit; or,
 - (b) The Cloud storage solution used is FedRAMP certified.
- (3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPAA), the Cloud provider must sign a Business Associate Agreement prior to Data being stored in their Cloud solution.
- 6. System Protection.** To prevent compromise of systems which contain Confidential Data or through which that Data passes:
- a. Systems containing Confidential Data must have all security patches or hotfixes applied within 3 months of being made available.
 - b. The Contractor will have a method of ensuring that the requisite patches and hotfixes have been applied within the required timeframes.
 - c. Systems containing Confidential Data shall have an Anti-Malware application, if available, installed.
 - d. Anti-Malware software shall be kept up to date. The product, its anti-virus engine, and any malware database the system uses, will be no more than one update behind current.

7. Data Segregation.

- a. Confidential Data must be segregated or otherwise distinguishable from non-confidential data. This is to ensure that when no longer needed by the Contractor, all Data can be identified for return or destruction. It also aids in determining whether Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.
 - (1) Confidential Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-confidential Data. And/or,
 - (2) Confidential Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to Confidential Data. And/or,

- (3) Confidential Data will be stored in a database which will contain no non-confidential data. And/or,
 - (4) Confidential Data will be stored within a database and will be distinguishable from non-confidential data by the value of a specific field or fields within database records.
 - (5) When stored as physical paper documents, Data will be physically segregated from non-confidential data in a drawer, folder, or other container.
- b. When it is not feasible or practical to segregate Confidential Data from non-Confidential data, then both the Confidential Data and the non-confidential data with which it is commingled must be protected as described in this exhibit.

8. **Data Disposition.** When the contracted work has been completed or when the Data is no longer needed, except as noted above in Section 5.b, Data shall be returned to the County or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

Data stored on:	Will be destroyed by:
Server or workstation hard disks, or Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or Degaussing sufficiently to ensure that the Data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm, provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

9. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of confidential Data must be reported to the County Contact designated in the Contract within one (1) business day of discovery.
10. **Data shared with Subcontractors.** If Confidential Data under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the sub-Contractor must be submitted to the County Contact specified for this contract for review and approval.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-353

File ID:	AB2019-353	Version:	1	Status:	Agenda Ready
File Created:	06/06/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Agreement		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: PMowery@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Pioneer Human Services to lease the Behavioral Health Triage Center, in the amount of \$10,056

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

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


Attachments: Memo to Executive, Lease agreement

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive

FROM: Regina A. Delahunt, Director 

RE: Pioneer Human Services – Behavioral Health Triage Center Lease Agreement

DATE: June 4, 2019

Enclosed are two (2) originals of a lease agreement between Whatcom County and Pioneer Human Services for your review and signature.

▪ **Background and Purpose**

This lease agreement is for the Behavioral Health Triage Center, operated by Pioneer Human Services. Pioneer Human Services leases the entire building and provides substance withdrawal management services. Pioneer Human Services also sublets a portion of the facility to Compass Health for the provision of mental health stabilization services. The location of the center is in the northwest corner of the Whatcom County Jail Work and Triage Center at 2030 Division Street in Bellingham.

▪ **Funding Amount and Source**

Pioneer Human Services will be contributing toward the utilities for this facility and paying a nominal rent of \$100/month for a total of \$10,056. These funds are included in the 2019 budget and as this is a lease agreement, Council approval is required.

Please contact Perry Mowery at extension #6059 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	85 Health
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services/ 855020 Mental Health
Contract or Grant Administrator:	Perry Mowery
Contractor's / Agency Name:	Pioneer Human 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): _____

Is this contract the result of a RFP or Bid process? Yes ☐ No ☒ If yes, RFP and Bid number(s): 11-15 Contract Cost Center: 675300

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 checked="" 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):

\$ 10,056

This Amendment Amount:

\$ _____

Total Amended Amount:

\$ _____

Council approval required for; all property leases, contracts or bid awards **exceeding \$40,000**, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, **except when:**

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance
5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: The purpose of this agreement is to lease the County-owned Behavioral health Triage Center to Pioneer Human Services. The location of the center is the northwest corner of the Whatcom County Jail Work and Triage Center at 2030 Division Street in Bellingham.

Term of Contract:	1 Year	Expiration Date:	06/30/2020
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Contract Routing:	1. Prepared by:	JT	Date:	04/01/2019
	2. Attorney signoff:	RB	Date:	05/14/2019
	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:	

LEASE AGREEMENT FOR TRIAGE CENTER Pioneer Human Services Behavioral Health

Pioneer Human Services, hereinafter called **Lessee**, and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 6,
Exhibit A (Certificate of Insurance), p. 7.

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

The term of this Lease shall commence on the 1st of July, 2019, and shall, unless terminated or renewed as elsewhere provided in this agreement, terminate on the 30th day of June, 2020.

The general purpose or objective of this Agreement is to lease property at the northwest corner of the Whatcom County Jail Work & Triage Center located at 2030 Division Street in Bellingham, Washington, as more fully and definitely described in General Conditions – Paragraph 0.2 for the operation of the Whatcom County Behavioral Health Triage Center.

In consideration for the lease of property specified above, Lessee agrees to pay a total of \$10,056 per year which is divided into payments for rent at \$100 per month (\$1,200 per year) and utilities at \$738 per month (\$8,856 per year).

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 the _____ day of _____, 2019.

LESSEE:

Pioneer Human Services



Anthony Wright, COO

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

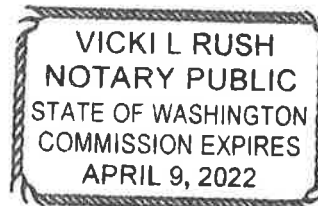
On this 30 day of may, 2019, before me personally appeared Anthony Wright to me known to be the COO of Pioneer Human Services and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



NOTARY PUBLIC in and for the State of Washington, residing at
SEATTLE, WA. My commission expires 04/09/2022

LESSEE INFORMATION:

Pioneer Human Services
7440 West Marginal Way S
Seattle, WA 98108

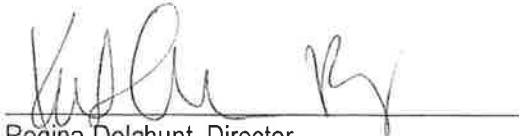


DEPARTMENT APPROVAL



Anne Deacon, Human Services Manager

6/4/19
Date



Regina Delahunt, Director

6/4/19
Date

WHATCOM COUNTY

JACK LOUWS
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2019, before me personally
appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above
instrument and who acknowledged to me the act of signing and sealing thereof.

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

My Commission expires: _____

APPROVED AS TO FORM

Royce Buckingham, Deputy Prosecuting Attorney

GENERAL CONDITIONS

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

0.1 Nature of Lease

The purpose of the lease is to establish Whatcom County Behavioral Health Crisis Triage Center (Center). The Center will provide co-located mental health and substance abuse crisis services to people experiencing behavioral health crises 24 hours per day, 365 days per year.

0.2 Property Description:

County, in consideration of the covenants and conditions herein set forth to be performed by Lessee, does hereby demise and let unto Lessee, all of the following-described property: Northwest corner of the Whatcom County Jail Work & Triage Center located at 2030 Division Street, Bellingham, Washington consisting of 5,907 square feet of the 40,000 square foot building.

0.3 Condition of Property:

Lessee has inspected the above-described property and accepts the premises in the condition prevailing on the date of the execution of this Lease.

0.4 Use of Premises:

Lessee, in consideration of the granting of this lease by County for the benefit of the citizens of Whatcom County, hereby understands and agrees that the only type of use or activity to be conducted upon the leased premises by Lessee shall be that of a community behavioral health triage center as specified in a separate contract for social detoxification, Substance Abuse Protective Custody and involuntary commitment services between Lessee and County. Failure of Lessee to perform this type of business within the facility, or cessation of such services, or carrying on other uses or activities without first obtaining a lease modification with County's written approval, shall constitute cause for default under the terms of this lease.

As further consideration for the granting of this lease, Lessee hereby agrees to properly and fairly serve the public, provide suitable services, and manage and operate the Center. Failure of Lessee to so serve the public shall be considered a breach of this clause and thereby constitute a cause for default. The Lessee agrees to maintain any required licenses in good standing and should the lessee lose any license required to provide facility services for any reason it shall be considered a basis for terminating this lease as called for in section 11.4 of this lease.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

This lease shall commence on the 1st day of July 2019 and end on the 30th day of June, 2020, unless sooner terminated according to this agreement.

11.1 Termination for Default:

If the Lessee defaults by failing to perform any of the obligations of this lease or any other contract for services with County, 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 Lessee in the U.S. mail, first class postage prepaid, terminate the lease. Termination shall be effective as provided in section 11.4 below. 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 Lessee. The Lessee shall bear any extra expenses incurred by the County in terminating the lease, including all costs for any damage sustained, or which may be sustained by the County by reason of such default.

11.4 Termination of Lease:

This lease shall terminate as follows:

- A. At the expiration of the term of this lease.
- B. Upon the failure of Lessee to correct violations of any condition of this lease after 90 days written notice from the County.
- C. In the event that the County completes the newly constructed Crisis Stabilization Facility within the dates of this lease, the County will provide notice of not less than 60 days to the Lessee of the termination of this lease.

Series 30-39: Provisions Related to Administration of Agreement

30.2 Sub-lease:

Lessee may sublet a portion of the leased facility to other organizations providing compatible services upon written approval of County.

33.1 Right to Review:

This lease 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 County shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after lease termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. County 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 County, then the County agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:

The Lessee shall carry for the duration of this Agreement, general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$500,000.00

General Liability & Property Damage for bodily injury- \$1,000,000.00

Professional Liability insurance - \$1,000,000 occurrence/\$1,000,000 aggregate

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

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 Lease:

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 County hereby appoints, and the Lessee 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:

Perry Mowery, Human Services Supervisor
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
360-778-6059
PMowery@co.whatcom.wa.us

37.2 Laws, Permits, and Regulations:

Lessee agrees to comply with all applicable federal, state, county, or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals. Lessee agrees to conform to and

abide by all lawful rules, codes, laws and regulations in connection with its use of said premises and the construction of improvements and operation of Lessee's business thereon and not to permit said premises to be used in violation of any lawful rule, code, law, regulation or other authority.

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.

40.3 Disposition of Improvements at End of Lease:

Lessee shall have the right to remove all equipment, personal property and improvements which may have been placed upon the premises during the period of this lease provided that the same are removed before the lease is terminated and while the lease is in good standing. Any improvements not removed from the premises at the conclusion of the lease shall revert to the County. Leased premises shall be restored by Lessee to conditions prevailing at the time of commencement of the lease, normal wear excepted.

40.4 Utilities:

The County acknowledges that Lessee is providing an improved public service with the relocation of their services to Leased premises. It is the intention of the County that the cost of the Lessee to provide services in the leased facility shall not increase over prior facility costs. Lessee shall annually contribute \$8,856.00 to be applied by County toward the cost of utility services for the facility. County shall review the contribution amount annually and may increase the contribution by an amount not to exceed 3%.

40.5 Janitorial Services:

Janitorial services will be provided by Lessee. Services shall comply with standards established by Whatcom County Facilities Management. Failure of Lessee to meet these standards will result in County performing services and billing the cost of such service to Lessee.

Lessee shall be responsible for routine daily cleaning and housekeeping in the Center and shall on a continuing basis maintain high standards for sanitation as specified by Whatcom County Facilities Management. Lessee shall be responsible for providing all cleaning supplies, light bulbs, paper products, and any other consumable supplies to be used inside the facility.

Inspections of the facility by County will occur as deemed necessary by County. Any deficiencies in housekeeping noted during such inspections or at any other time will be corrected by Lessee in a timely manner. Failure of Lessee to respond in a timely manner will result in County performing services and billing the cost of such service to Lessee. For the purposes of this lease "timely manner" means 5 days or less unless a different duration is mutually agreed to.

Lessee shall be responsible for depositing all trash and garbage in the area marked for such purpose and providing for its removal on a regular basis. County shall provide janitorial services outside the facility. Lessee shall be responsible for the proper disposal of any bio-hazardous wastes in the Center.

40.6 Maintenance of Facilities:

A. County shall maintain the Center in good repair and tenantable condition during the term of this Lease, except in the case of damage caused by the Lessee, its clients, agents, or employees. For the purposes of so maintaining the Center, the County reserves the right at reasonable times to enter and inspect the Center and to make any necessary repairs to the building. Lessee agrees to reimburse County for damages caused by its employees, contractors, licensees, invitees, clients and agents. This paragraph shall not be construed as making Lessee responsible for the repair of normal wear and tear.

B. County shall perform preventive maintenance on facility throughout the year. Examples include but are not limited to air filter changes; heating unit checks, electrical and plumbing system checks.

C. Corrective maintenance is performed by County upon request by Lessee to restore facility components to operational condition. Lessee shall submit a work order to request corrective maintenance.

40.7 Access:

County reserves the right of access to the premises for the purpose of securing compliance with the terms of this lease.

- 40.8 Commit No Waste:
Lessee agrees not to allow conditions of waste and refuse to exist on the above-described premises and to keep the premises in a neat, clean and orderly condition and to be responsible for all damages caused to the leased premises by Lessee, its agents or any third party on the premises at the instance of Lessee.
- 40.9 Alterations:
No alterations may be made to the Center without written County authorization. County will perform or contract for any alterations. All improvements shall be made at the sole cost and expense of the Lessee.
- 40.10 Signs:
Lessee agrees that all signs will be designed and placed in accordance with County policy.
- 40.11 Hazardous Substances:
Lessee shall not keep on or about the premises, for use, disposal, treatment, generation, storage or sale any substances which are hazardous, toxic, harmful, or dangerous, and/or which are subject to regulation as hazardous or toxic, dangerous, or as a pollutant by any federal, state, or local law, regulation, statute, or ordinance (collectively referred to herein as "hazardous substances"). Lessee shall be fully liable to County and shall indemnify, defend and save harmless the County and its officials and employees, with respect to any and all damages, costs, fees (including attorneys' fees and costs), civil and criminal penalties, or clean-up costs assessed against or imposed as a result of Lessee's use, disposal, generation, storage, or sale of hazardous substances or that of Lessee's employees, agents or invitees. Breach of this provision shall entitle County to terminate this Lease. This provision shall not apply to properly stored cleaning or office supplies.
- 41.1 Severability:
If any term or condition of this lease 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 lease are declared severable.
- 41.2 Waiver:
Waiver of any breach or condition of this lease shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this lease 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 Lessee 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.
- 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 if utilized, 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, 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"
(INSURANCE)



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)
10/30/2018

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
Willis of Oregon, Inc.
c/o 26 Century Blvd
P.O. Box 305191
Nashville, TN 372305191 USA

CONTACT
NAME:
PHONE
(A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378
E-MAIL
ADDRESS: certificates@willis.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Philadelphia Indemnity Insurance Company	18058
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Pioneer Human Services
7440 West Marginal Way South
Seattle, WA 98108

COVERAGES

CERTIFICATE NUMBER: WB688912

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 type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	PHPK1880265	09/15/2018	09/15/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK1880265	09/15/2018	09/15/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB647053	09/15/2018	09/15/2019	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			PHPK1880265	09/15/2018	09/15/2019	General Aggregate \$3,000,000 Each Occurrence \$1,000,000

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

Whatcom County is included as Additional Insured as respects to General Liability as required by a written contract. General Liability policy shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Additional Insured(s) as required by a written contract. Waiver of Subrogation applies in favor of Whatcom County with respects to General Liability as required by a written contract.

CERTIFICATE HOLDER**CANCELLATION**

Whatcom County
509 Girard Street
Bellingham, WA 98225

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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Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-357

File ID:	AB2019-357	Version:	1	Status:	Agenda Ready
File Created:	06/10/2019	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		

First Assigned to: Council Finance and Administrative Services Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
---------------------	------------	------------------------	--	----------------------	--

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Communities In Schools to provide student support services in the Bellingham, Blaine and Ferndale School Districts, in the amount of \$136,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo to County Executive, Communities In Schools Contract

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director ^{RAD}
RE: Communities In Schools – Student Support Services Contract
DATE: June 10, 2019

Enclosed are two (2) originals of a contract amendment between Whatcom County and Communities In Schools for your review and signature.

▪ Background and Purpose

Students that experience challenges with poor mental health, substance use, basic needs, academics, life skills, and similar issues attend school less regularly and drop out of school at higher rates. This, in turn, contributes to a number of other long-term and often life-long problems. The services provided under this contract will provide a support system for students who have obstacles for achieving at school and in life. The Communities In Schools (CIS) Program is an evidence-based and cost-beneficial program designed to support a range of behavioral health needs and to increase access to critical school and community services. The CIS model surrounds students with a community of support, empowering them to stay in school and achieve in life. This program is currently operating in the Bellingham, Blaine and Ferndale School Districts. Whatcom County has provided funding for these services under a similar contract since 2016. CIS continues to exceed expected services levels and to demonstrate positive outcomes that meet identified goals.

▪ Funding Amount and Source

This contract, in an amount not to exceed \$136,000, is funded by the Washington State Healthcare Authority – Division of Behavioral Health and Recovery and the local Behavioral Health Program fund. These funds are included in the 2019 budget. Council approval is required as funding exceeds \$40,000.

Please contact Joe Fuller at extension #6045 if you have any questions regarding this agreement.

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	85 Health		
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855060 Substance Abuse Programs		
Contract or Grant Administrator:	Joe Fuller		
Contractor's / Agency Name:	Communities In Schools		
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 type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____			
Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, Whatcom County grant contract number(s): <u>In process</u>			
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): <u>sole source</u> Contract Cost Center: <u>677260 / 124100</u>			
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input 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 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): \$ <u>136,000</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____		Council approval required for: all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.	
Summary of Scope: This contract provides funding for the Communities In Schools Program which assists students experiencing challenges with poor mental health, substance use, basic needs, academics, life skills, and similar issues. Services have been designed to support a range of needs and to increase access to critical school and community services.			
Term of Contract: 1 Year		Expiration Date: 06/30/2020	

Contract Routing:	1. Prepared by: JT	Date: 04/29/2019
	2. Attorney signoff: RB	Date: 05/03/2019
	3. AS Finance reviewed: M Caldwell	Date: 6/7/19
	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: _____

CONTRACT FOR SERVICES AGREEMENT
Student Support Services

Whatcom County Contract No.

Communities In Schools, 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 8,
Exhibit A (Scope of Work), pp. 9 to 10,
Exhibit B (Compensation), p. 11,
Exhibit C (Certificate of Insurance), p. 12,
Exhibit D (E-Verify Declaration), p. 13,
Exhibit E (Service Delivery Model), pp. 14 to 16.

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

The term of this Agreement shall commence on the **1st day of July, 2019**, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the **30th day of June, 2020**.

The general purpose or objective of this Agreement is to **operate the Communities In Schools Program at Bellingham, Blaine and Ferndale School Districts**, 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.

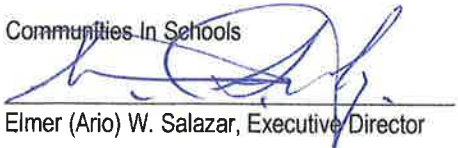
The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed **\$136,000**. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

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 4th day of June, 2019.

CONTRACTOR:

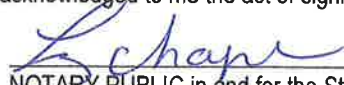
Communities In Schools


Elmer (Ario) W. Salazar, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

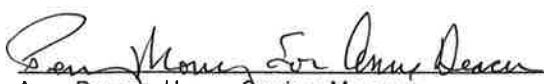
On this 4 day of June, 2019, before me personally appeared Ario Salazar to me known to be the Executive Director of Communities In Schools and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.




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

Notary. My commission expires 5/5/2022.

WHATCOM COUNTY:
Recommended for Approval:

 6/10/19
Anne Deacon, Human Services Manager Date

 6/10/19
Regina Delahunt, Director Date

Approved as to form:

Royce Buckingham, Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss

On this _____ day of _____, 2019, before me personally appeared Jack Louws, 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
Bellingham. My commission expires _____.

CONTRACTOR INFORMATION:

Communities In Schools
Ario Salazar, Executive Director
2717 Alderwood Avenue
Bellingham, WA 98225

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

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

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

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

11.3 Termination for Public Convenience:

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

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

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

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

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

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced:

When 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.

31.2 Patent/Copyright Infringement: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$500,000.00 (this amount may vary with circumstances)

General Liability & Property Damage for bodily injury- \$1,000,000.00 (this amount may vary with circumstances)

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

a. Professional Liability - \$1,000,000 per occurrence:

If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver: Not Applicable

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

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, 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, age, marital status, disability, 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, 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, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; 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; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

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:

Joe Fuller, Program Specialist
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
360-778-6045
JFuller@co.whatcom.wa.us

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

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:

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. 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: 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:

Other than claims for injunctive relief 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 Agreement 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 Agreement 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, including expenses, costs and attorney fees to the prevailing party and pre-award interest, but shall not have the

power to award punitive damages. 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.

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

I. Background

Students that experience challenges with poor mental health, substance use, academics, life skills, and similar issues attend school less regularly and drop out of school at higher rates. This, in turn, contributes to a number of other long-term, and often life-long, problems. The services provided under this contract will provide a support system for students who have obstacles for achieving at school, and in life. These services have been designed to support a range of needs and to increase access to critical school and community services. Research also demonstrates that youth who are connected and 'bonded' to their school demonstrate less risk for using drugs, committing crimes, joining gangs, and engaging in other unhealthy behaviors.

The use of evidence-based Communities In Schools (CIS) services will help achieve positive behavioral outcomes that increase the ability for academic success. The CIS model (see Exhibit E-Service Delivery Model) surrounds students with a community of support, empowering them to stay in school and achieve in life. CIS staff provides case management and one-on-one support through connections with students. Needs are used to develop a plan and progress is monitored through connections with the students, family, teachers, and service providers. This evidence-based approach is intentionally adapted to meet each community's unique needs.

The benefits of these services have been nationally documented. The CIS Program has demonstrated the following outcomes:

- 93% of CIS students graduate
- 88% of CIS students met academic improvement goals
- 94% of CIS students were promoted to the next grade
- 99% of CIS students stayed in school

Beyond the positive behavioral outcomes of the program, the CIS model also demonstrates financial benefits to the public, including:

- The average annual rate of return to society is 18.4%.
- The benefit/cost ratio is 11.6, which means that every dollar invested in Communities In Schools creates \$11.60 of economic benefit for the community.
- High school graduates will be net contributors to their communities for an average of 44 years of their working life, using their increased income to purchase homes and cars and paying taxes that will support police officers, firefighters and teachers.

A full report of the economic impact quantifying the costs and benefits of the CIS model can be found at <https://www.communitiesinschools.org/our-data/publications/publication/economic-impact-communities-schools>.

II. Statement of Work

The target locations for this contract are Bellingham, Blaine and Ferndale School Districts. Bellingham and Ferndale are identified as Community Prevention & Wellness Initiative (CPWI) sites through the Division of Behavioral Health & Recovery and the services outlined below are part of strategic prevention plans for both locations, and Blaine follows the same model.

The Contractor will:

1. Provide case management services at Shuksan Middle School to 30 – 40 students.
2. Provide case management services in the Ferndale School District to 20 – 30 students.
3. Provide case management services in the Blaine School District to 20 – 30 students.
4. Conduct school specific needs assessments, planning, program monitoring, and evaluation.

5. Provide additional Tier 1 'Universal' (i.e., school-wide, classroom, etc.) and Tier 2 'Targeted' (i.e., small group) supports in addition to individualized services for youth in Tier 3 'Intensive'.
6. Maintain full time CIS services at each site.
7. Provide supervision to ensure services are meeting the CIS model and standards.
8. Provide student case management services that may include, but are not limited to, the following activities:
 - a. One-on-one student support
 - b. Screenings to identify support needs
 - c. Individual student plan development
 - d. Progress monitoring through connections with students, family, teachers, and service providers
 - e. Referring youth and families to available local resources
 - f. Engaging with staff weekly and with each identified student at least every other week
 - g. Tutoring
 - h. Group activities
9. Based on individual need, student services may include support in academic success, behavioral interventions, basic needs, mentoring, family engagement, life skills, or other related areas.
10. Coordinate services with other school-based and community-based programs and services.
11. Promote services to teachers and school staff to facilitate referrals and strengthen supports.
12. Encourage youth to participate in school prevention clubs where youth can engage in healthy social opportunities through community service and leadership activities.

I. Reporting

1. Report service activity, including dates of service, participant demographics, and descriptions of service, into the Division of Behavioral Health & Recovery's (DBHR) Performance-Based Prevention System (PBPS) by the 15th of each month, following the month in which services were delivered. Outcome data required by DBHR will also be reported if collected within the same service month. If the reports required by DBHR change during the biennium, the County will communicate and coordinate with the Contractor to implement required changes in the reports and/or changes in format. In addition to any DBHR required outcome reporting, provide any additional outcome data that demonstrates program success. This could include any CIS specific instruments for measuring outcomes. DBHR-specific reporting is required for Bellingham and Ferndale. Blaine must report services and outcomes utilizing CIS instruments, or instruments agreed upon by the County, as reporting to DBHR is not required.
2. Keep documentation of services for at least three years. This can include files, tracking sheets, screenings, school assessments, referral forms, or other program records that demonstrate the work being performed.
3. In the event the Contractor fails to meet its reporting obligations, the County reserves the right to withhold reimbursements or order payment stopped in an amount proportional to the amount of data estimated to be outstanding, until such time that data entry is current.

EXHIBIT "B"
(COMPENSATION)

The source of funding for this contract, in an amount not to exceed \$136,000, is the Washington State Health Care Authority, Division of Behavioral Health & Recovery and the local Behavioral Health Program fund.

The contract budget for July 1, 2019 – June 30, 2020 is as follows:

ITEM	DOCUMENTATION REQUIRED W/ INVOICE	BUDGET
Contractor Services – Site Counselor & Executive Director (salary, benefits, taxes)	Approved hourly billing rate and timesheet showing total hours and hours charged to this contract.	\$134,600
Mileage	Mileage log to include name of traveler, dates, start and end point, and purpose. Reimbursement will be at the federal rate (www.gsa.gov)	\$200
Professional development, training and travel	Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts. Mileage log to include name of traveler, dates, start and end point, and purpose. Reimbursement will be at the federal rate (www.gsa.gov). Reimbursement requests for professional development, training, and allowable travel must include name of staff member, dates of travel, travel starting point and destination, and a brief description of purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required.	\$1,000
Supplies, Materials, Printing	Receipts	\$200
TOTAL		\$136,000

The Contractor may transfer funds between budget line items with prior County approval. Professional development must be pre-approved by the County.

Invoicing

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th day of the month following the month of service.
2. The Contractor shall submit invoices to (include contract #):

Business Office – HL-BusinessOffice@co.whatcom.wa.us
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from the Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this Contract.
4. Invoices must include the following statement, with an authorized signature and date:

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

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

EXHIBIT "C"
(INSURANCE)



Phone: (360)778-6000

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/05/2019

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	R.L. Evans Company, Inc. 3535 Factoria Blvd SE, Ste 120 Bellevue, WA 98006 License #: 12575	CONTACT NAME:	Rachel Earlywine	
		PHONE (A/C, No, Ext):	(425)455-0501	FAX (A/C, No):
		E-MAIL ADDRESS:	rachel@rievansco.com	
		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: Philadelphia Insurance Companies		1100
INSURED	Communities in Schools of Washington State Community in Schools of Whatcom/Skagit County 2717 Alderwood Avenue South, Suite D Bellingham, WA 98225	INSURER B:		
		INSURER C:		
		INSURER D:		
		INSURER E:		
		INSURER F:		

COVERAGES

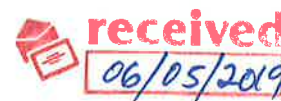
CERTIFICATE NUMBER: 00000000-1445271

REVISION NUMBER: 7

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		PHPK1944663	04/10/2019	04/10/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK1944663	04/10/2019	04/10/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> 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	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> 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)

Certificate Holder is **ADDITIONAL INSURED** per PI-GLD-HS (attached)

CERTIFICATE HOLDER

CANCELLATION

Whatcom County
Its Officers, Agents & Employees
509 Girard Street
Bellingham, WA 98225-4005

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

Rachel Earlywine (RFE)

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EXHIBIT "D"
E-Verify Declaration

Contractor Name: Communities In Schools of Whatcom-Skagit

The undersigned declares, under **penalty of perjury** under the laws of Washington that:

1. The above named firm is currently enrolled in and using the E-Verify system for all employees hired on or after the contract inception date and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named contractor.
3. I acknowledge that Whatcom County requires a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program. Failure to provide the required Memorandum of Understanding could lead to suspension of this contract.

DATE:

06/04/2019

SIGNATURE:



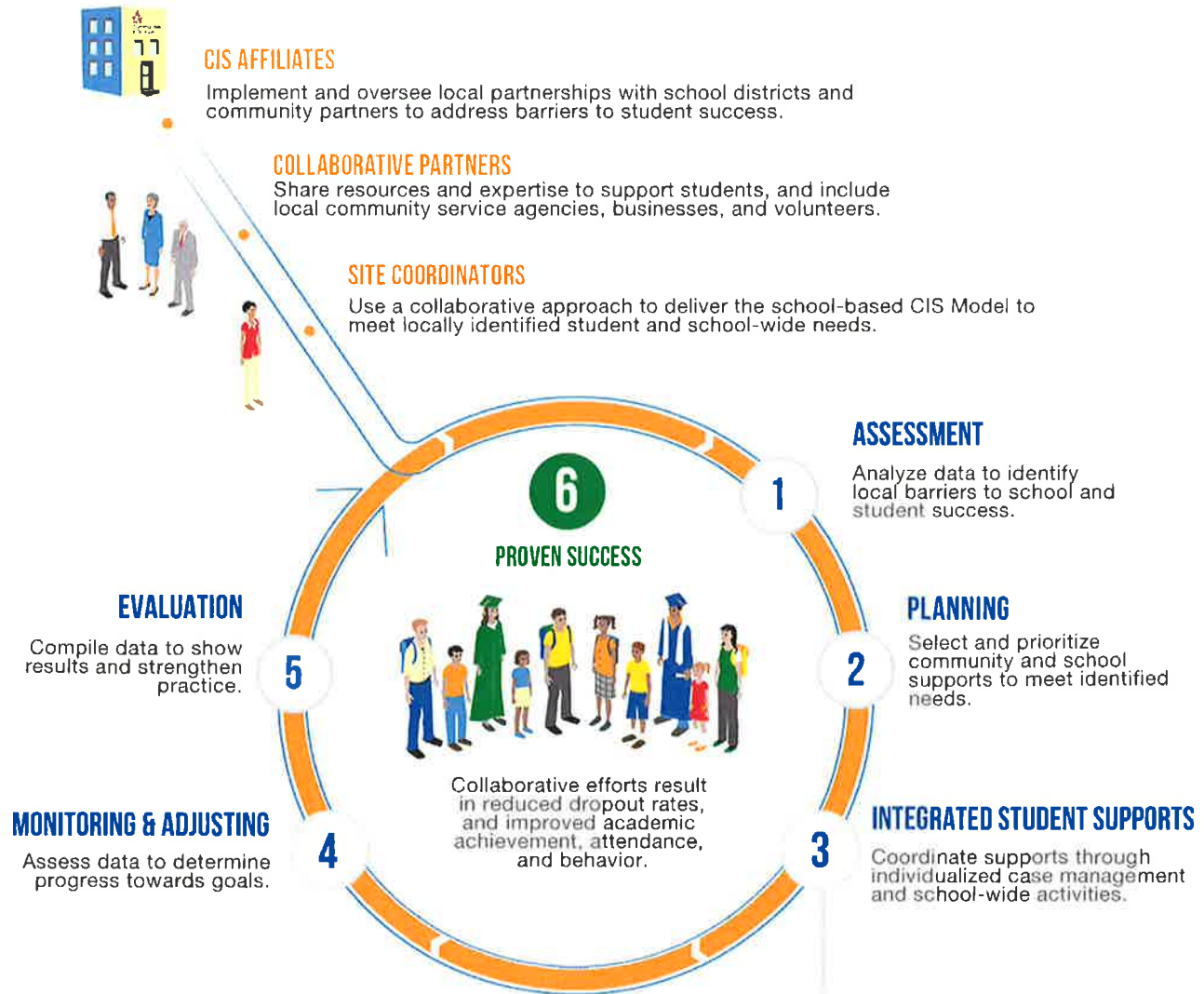
PRINTED NAME:

Ariv E. Salazar

EXHIBIT "E"
Service Delivery Model



CIS MODEL OF INTEGRATED STUDENT SUPPORTS



TYPES OF COMMUNITY SUPPORTS LEVERAGED TO MEET LOCAL NEEDS





Partnering to help youth succeed in school

Partnering with
**Blaine, Ferndale,
and Bellingham
School Districts
2018-19**

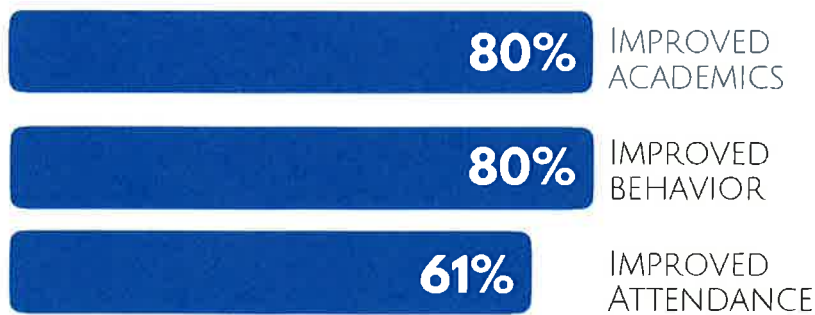
SERVING
3
DISTRICTS

4 SCHOOLS
1 PRIMARY
1 ELEMENTARY
2 MIDDLE

2,044 students currently being served through whole-school supports aimed to increase attendance.

106 students being provided intensive, individualized supports focused on increasing attendance, academics, and positive behavior.

OF THOSE INDIVIDUALLY SUPPORTED IN 2017-18



The **MISSION** of Communities in Schools is to surround students with a community of support, empowering them to stay in school and achieve in life.

CIS of Whatcom-Skagit **ENVISIONS** our schools as a community in which all students and families feel safe, supported, and inspired to reach their full potential.

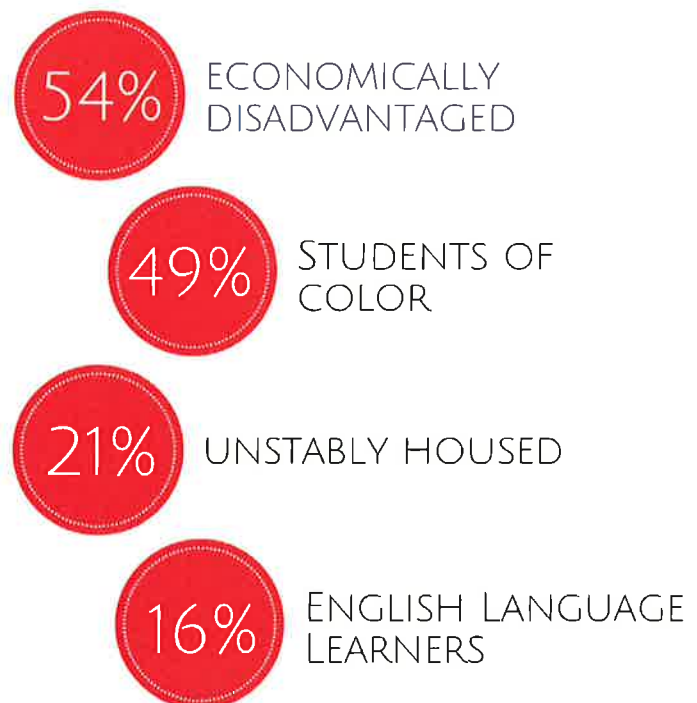
Supports we offer include:

- Consistent, goal-oriented check-ins with students
- Connection to community resources for students and families
- Relationship building with parents to help families feel connected to other families and to school staff
- Academic support, including in-class support
- Conflict resolution and restorative justice coaching and facilitation for students
- Small groups focused on skill-building and social/emotional development
- Student and family support at Community Truancy Board hearings
- Basic needs resources for students, including food, clothing, and hygiene items
- School-wide attendance competitions and assemblies
- Connection to Pre-K resources for district families with young children



Working with school leaders and community partners, CIS Site Coordinators provide at-risk students with supports needed for academic success, including food, school supplies, health care, counseling, academic assistance, mentorship, and guidance.

Of the students served in 2017-18:





Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-364

File ID:	AB2019-364	Version:	1	Status:	Agenda Ready
File Created:	06/12/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		

First Assigned to: Council Public Works & Health Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: BBrenner@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion regarding request to place a measure on the November 2019 general election ballot to form a Solid Waste Disposal District in Point Roberts

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion regarding request to place a measure on the November 2019 general election ballot to form a Solid Waste Disposal District in Point Roberts

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-337

File ID:	AB2019-337	Version:	1	Status:	Agenda Ready
File Created:	05/29/2019	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Presentation		

First Assigned to: Council Criminal Justice and Public Safety Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
---------------------	------------	------------------------	--	----------------------	--

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

TITLE FOR AGENDA ITEM:

Annual report from Whatcom County Emergency Medical Services (EMS)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

EMS Manager, Mike Hilley will present an annual report to County Council

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-325

File ID:	AB2019-325	Version:	1	Status:	Agenda Ready
File Created:	05/22/2019	Entered by:	skorthui@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		

First Assigned to: Council Criminal Justice and Public Safety Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: skorthui@whatcomcounty.us

TITLE FOR AGENDA ITEM:

Annual report from Whatcom County Sheriff Bill Elfo

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

n/a

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-317

File ID:	AB2019-317	Version:	1	Status:	Agenda Ready
File Created:	05/20/2019	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		

First Assigned to: Council Planning and Development Committee

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: CStrong@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion of proposed ordinance amending WCC Chapters 20.51 and 20.71 pertaining to tree removal permit procedures, and Chapter 23.10 updating the referenced Critical Areas Ordinance in the Shoreline Management Program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion of proposed ordinance amending WCC Chapters 20.51 and 20.71 pertaining to tree removal permit procedures, and Chapter 23.10 updating the referenced Critical Areas Ordinance in the Shoreline Management Program

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo, Staff Report, Ordinance, Exhibit A, Amendments

Final Action:
Enactment Date:
Enactment #:

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: County Council
Jack Louws, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director

DATE: May 20, 2019

SUBJECT: Tree Canopy Permit Procedure and SMP CAO Reference Update Amendments (PLN2019-00012)

Attached for your review and action are some proposed amendments to the Whatcom County Code.

The first set deals with clarifying what type of permit is needed to remove trees within the Lake Whatcom Watershed and the Water Resource Protection overlay districts¹. In 2012 Council adopted tree canopy retention regulations as part of its strategy to manage stormwater in these sensitive areas. The regulations require that a certain amount of canopy be retained on each lot, though allows for removal if mitigated (i.e., by planting new trees). Canopy retention is monitored through the requirement to apply for a tree removal permit. Through the proposed amendments, staff is attempting to clarify what permits are needed to avoid any misinterpretation or confusion. The proposed amendments do not change the intent or operation of any existing tree canopy retention regulations.

The second amendment is a follow up from the 2018 Code Scrub, in which Council adopted one definition of "hazard tree" to replace four different ones found in various sections of the code. One of those amended definitions was in the Critical Areas Ordinance (CAO). As you know, the CAO is adopted by reference into our Shoreline Master Program (SMP). Thus, amending the CAO requires an amendment to the SMP for it to take effect in the shoreline jurisdiction. This is what the second proposed amendment does: It amends the SMP to adopt the recently amended CAO and directs PDS to submit it to the Department of Ecology for their review and approval.

Please review the attached staff report, ordinance, and amendments for more detailed information.

¹ Such regulations only apply in the Lakes Padden, Samish, and Whatcom watersheds, not countywide.

Whatcom County Planning & Development Services Staff Report

Tree Canopy Permit Procedure and SMP CAO Reference Update Amendments

I. File Information

File # PLN2019-00012

File Name: Tree Canopy Permit Procedure and Shoreline Master Program Critical Areas Ordinance Reference Update Amendments

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: Proposed amendments to Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree removal permit procedures and 23 (Chapter 23.110) updating the referenced Critical Areas Ordinance (CAO)

Location: Countywide.

II. Recommendation

The Planning Commission recommends that the County Council adopt the proposed amendments, as does Planning and Development Services. The amendments are necessary to add clarity to existing regulations pertaining to tree canopy retention within Lake Whatcom, Lake Samish, and Lake Padden watersheds and implementing the hazard tree definition approved through ORD2019-013 within the shoreline jurisdiction.

III. Background

Tree Retention

On October 12, 2016, Council adopted ordinance 2016-045, which adopted the Department of Ecology stormwater manual (with modified applicability thresholds) to better manage stormwater, promote the use of Low Impact Development, and comply with our NPDES Phase II permit. The ordinance also amended the tree protection regulations for our sensitive watersheds (Lakes Whatcom, Padden, and Samish) in an effort to better manage stormwater runoff (retaining trees helps retain and infiltrate stormwater).

Staff has recently identified that those regulations for tree canopy management are not as clear as they could be on how an applicant applies for tree removal within the regulated watersheds. Specifically, subsection (1) of both WCC 20.51.430 and 20.71.354 read:

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining a tree removal permit as provided in

this section, unless the activity is exempted below; *provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer*: [emphasis added]

(a) Removal of any hazard trees considered an emergency within the definition of “hazard tree” in Chapter 20.97 WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

The clause, “provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer,” was intended to mean that trees located in these areas must apply for permits as specified in WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance).

However, we recognize that it could be read to mean that trees located in those areas are exempt from regulation. Staff would therefore like to correct and clarify this and proposes the amendments shown in Exhibit A, Items 1 & 2.

A Tale of Two CAOs

As you know, any amendments of the SMP regulations must be sent to and approved by the Department of Ecology (Ecology) before they can take effect. After the 2017 CAO update, staff forwarded Council’s adoption of it to Ecology for review and approval. During that time, from December 5, 2017 to May 2, 2019, Whatcom County has had two CAOs: the 2017 version for use outside of the shoreline jurisdiction and the 2005 version for use inside the shoreline jurisdiction.

On April 19, 2019, Whatcom County received notification from Ecology approving the date change for the referenced CAO from the 2005 CAO to the 2017 CAO, which will become effective on May 3, 2019. As of that date we will revert to having only one CAO to be applicable countywide. Recognize, however, that every time we amend the CAO we may again have two versions until the amendments are approved by Ecology and the reference date in the SMP is again updated.

This is the case with the hazard tree definition. In the recent 2018 Code Scrub (ORD 2019-013, adopted 2/12/2019), Council deleted the four different definitions of “hazard tree” from various chapters of the code and replaced it with one. In part, the duplicative definition that was found in both the CAO and the SMP was removed from the SMP, and the one in the CAO replaced with the new one. Ecology has confirmed that, given that the same definition is in the CAO, the deletion from the SMP of the duplicative definition is an administrative change and does not require Ecology approval. However, to have the new one apply (via the CAO) within the shoreline jurisdiction, Ecology must again approve an SMP amendment to reference the CAO amended on 2/12/2019. Until that time we will have one CAO, but within it two definitions of hazard tree: the newer one for use outside the shoreline jurisdiction and the older one for use within the shoreline jurisdiction. Thus, staff proposes the amendment shown in Exhibit A, Item 3, which would adopt the 2/12/2019 CAO into the SMP.

IV. Code Amendments

The proposed code amendments are shown in Exhibit A. Please refer to that attachment.

V. Comprehensive Plan Evaluation

The proposed amendments are consistent with the Comprehensive Plan’s following goal and policies regarding stormwater management:

Goal 10H: Protect water resources and natural drainage systems by controlling the quality and quantity of stormwater runoff.

- Policy 10H-1: Manage stormwater runoff to minimize surface water quality and quantity impacts and downstream impacts on channel morphology, property owners, and aquatic species and habitats.
- Policy 10H-2: Maintain or enhance, when appropriate, natural drainage systems and natural water storage sites in order to better protect water quality, moderate water quantity, minimize environmental degradation, and reduce public costs.
- Policy 10H-3: Limit the alteration of natural drainage systems and natural water storage sites without mitigating measures. Such measures should not degrade water quality or fish and wildlife habitat and should not increase hazards to the community.
- Policy 10H-5: Evaluate the role of watersheds in the maintenance of water quality and quantity and determine what cumulative impacts development activity may have on watershed hydrology.
- Policy 10H-6: Develop specific stormwater management programs for each drainage basin within the county's jurisdiction that may be impacted by urban levels of development. Recognize the Lake Whatcom Watershed, Lake Samish, and Drayton Harbor as high priorities in this effort. Coordinate efforts with the Lake Whatcom Policy Group, the various shellfish protection districts, and other watershed management entities.
- Policy 10H-8: Strongly incentivize the use of low impact development strategies. Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, grassed, street swales and rain gardens instead of curbs and gutters. Where feasible, encourage alternate surfacing options and other techniques associated with low impact development (see Glossary).
- Policy 10H-9: Develop and administer stormwater management standards as required by the NPDES Phase II Permit.
- Policy 10H-11: Place a high priority on integrating impervious surface reduction incentives into policies, regulations, and standards.
- Policy 10H-12: Develop and implement comprehensive stormwater management programs and strategies designed to address runoff from all private and public developments and facilities within regulated and sensitive watersheds.
1. Implement the Western Washington Phase II Municipal Stormwater Permit as part of the National Pollutant Discharge Elimination System (NPDES) Program. Incorporate watershed considerations into the development of a comprehensive stormwater management strategy for designated areas.
 2. Review Stormwater Special Districts Standards, Watershed Protection Districts, and other related codes that address runoff treatment from potentially polluting surfaces for their applicability to other sensitive watersheds with the Technical Advisory Committee and other appropriate agencies. Coordinate efforts for ongoing monitoring and evaluation within the sensitive watersheds and NPDES areas.
 3. Amend subdivision, zoning, and other land use regulations and design standards to encourage that land use activities minimize the amount of impervious surface.
 5. Focus on the Lake Whatcom watershed as a high priority in developing a stormwater management program. Develop a stormwater management plan that

achieves a uniform level of protection throughout the Lake Whatcom watershed. Ensure coordination and communication with the public and affected jurisdictions, such as the Lake Whatcom Water and Sewer District, the Sudden Valley Community Association, and the City of Bellingham.

6. Ensure existing stormwater standards are adequately enforced within Stormwater Special Districts, Watershed Protection Districts, and the NPDES areas.

VI. Proposed Findings of Fact and Reasons for Action

Staff recommends the following findings of fact and reasons for action be adopted:

1. Whatcom County Planning and Development Services has submitted an application to amend Whatcom County Code Titles 20 (Chapters 20.51 and 20.71), 16 (Chapter 16.16), and 23 (Chapter 23.110) pertaining to hazard trees.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 2, 2019, 2018.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 29, 2019.
4. The Planning Commission held a public hearing on the proposed amendments on May 9, 2019, notice of which was published in the Bellingham Herald.
5. The Planning Commission recommended approval of the amendments.
6. The County Council held a public hearing on the proposed amendments on June 18, 2019, notice of which was published in the Bellingham Herald.
7. The proposed amendments are consistent with the Comprehensive Plan's goal 10H and its policies regarding stormwater management.
8. The proposed amendments are necessary to implement the Council's intent to protect significant trees and tree canopy within our Watershed Resource Protection Overlay districts (Lakes Whatcom, Padden, and Samish) as part of the County's stormwater management strategy and comply with the County's NPDES Phase II permit.

VII. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VIII. Attachments

1. Draft Ordinance
2. Exhibit A – Proposed Code Amendments

PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**PROPOSED AMENDMENTS TO WHATCOM COUNTY CODE TITLES 20 (CHAPTERS 20.51 AND 20.71)
PERTAINING TO TREE REMOVAL PERMIT PROCEDURES AND 23 (CHAPTER 23.10) UPDATING THE
REFERENCED CRITICAL AREAS ORDINANCE**

WHEREAS, Whatcom County Planning and Development Services has proposed amendments to Whatcom County Code Titles 20 and 23; and,

WHEREAS, Whatcom County Council adopted ORD2019-013 on February 12, 2019 which amended various sections of the Whatcom County Code to improve implementation of the County Code. Included in these amendments were clarifications to tree canopy retention requirements in Lake Whatcom, Lake Samish, and Lake Padden watersheds and creating a single definition of hazard tree in Title 20, Chapter 16.16 (Critical Area Ordinance) and removing a duplicate definition in Title 23; and

WHEREAS, the Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, the County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has submitted an application to amend Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree removal permit procedures and 23 (Chapter 23.110) updating the referenced Critical Areas Ordinance.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 2, 2019, 2018.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 29, 2019.
4. The Planning Commission held a public hearing on the proposed amendments on May 9, 2019, notice of which was published in the Bellingham Herald.
5. The Planning Commission recommended approval of the amendments.
6. The County Council held a public hearing on the proposed amendments on June 18, 2019, notice of which was published in the Bellingham Herald.
7. The proposed amendments are consistent with the Comprehensive Plan's goal 10H and its policies regarding stormwater management.
8. The proposed amendments are necessary to implement the Council's intent to protect significant trees and tree canopy within our Watershed Resource Protection Overlay districts (Lakes Whatcom, Padden, and Samish) as part of the County's stormwater management strategy and comply with the County's NPDES Phase II permit.

CONCLUSIONS

1. The amendments to the development regulations are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. The Director of Planning and Development Services will forward the amendment to Chapters 23.10 to the Department of Ecology for review and approval pursuant WAC 173-26-100.

ADOPTED this _____ day of _____, 2019.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED as to form:

() Approved () Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: _____

Exhibit A: Tree Canopy Retention Permit Procedures and Shoreline Management Plan CAO Reference Date Change Amendments

Proposed amendments to Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree retention and 23 (Chapter 23.10) adopting the February 12, 2019 into the Shoreline Master Program by reference

1. Amend Title 20 (Zoning), Chapter 20.51 (Lake Whatcom Watershed Overlay District), as follows:

20.51.430 Tree removal not associated with development activity.

(1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Whatcom watershed, or any tree(s) in the public right-of-way, without first obtaining the appropriate tree removal permit as provided in this section, unless the activity is exempted below; ~~provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:~~

(a) Removal of any hazard trees considered an emergency within the definition of “hazard tree” in Chapter [20.97](#) WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

~~(2)~~ Removal of trees located within the shoreline jurisdiction or within a critical area or a critical area buffer may be subject to additional regulations pursuant to WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance). Where additional regulations conflict the more stringent regulation shall apply.

~~(2)(3)~~ Tree Removal Permit Application. The department of planning and development services shall establish and maintain a tree removal permit application, which shall at a minimum require the following to shall be submitted by the applicant:

(a) A complete permit application.

~~(a)(b)~~ A sketch for this purpose may be prepared by the homeowner or other lay person and shall depict:

(i) The approximate location of significant trees, indicating those to be removed;

(ii) The species and canopy area (as determined pursuant to WCC [20.51.440\(4\)](#));

(iii) The location of structures, driveways, access ways, and known easements.

~~(b)(c)~~ Canopy calculations (existing and proposed).

(d) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees in accordance to standards set forth in WCC [20.51.440\(4\)](#) for calculating 20-year canopy coverage.

~~(c)(e)~~ Other information as required by the applicable permit application.

- (4) Tree Removal Permit Application Procedure and Appeals. Applicants requesting to remove any significant trees must submit a completed permit application on a form provided by the county.
- (a) Applicable permit
- (i) The permit application to remove trees within the shoreline jurisdiction is a shoreline permit (WCC Title 23).
 - (ii) The permit application to remove trees within a critical area or a critical area buffer is a notification of activity (WCC 16.16.235).
 - (iii) The permit application to remove trees in areas outside of (a) or (b) is a tree removal permit.
- ~~(d)~~(b) The county shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application, or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.
- (c) The removal shall be completed within one year from the date of permit approval.
- ~~(e)~~ The decision of the director is appealable pursuant to WCC [22.05.160](#) (Appeals).
- ~~(f)~~(d) Time Limit. The removal shall be completed within one year from the date of permit approval.
- ~~(3)~~(5) Tree Removal Allowances. With a tree removal an appropriate permit, any property owner may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing canopy area of on-site significant trees on their property; provided, that:
- (a) There is no active application for development activity for the site; and
 - ~~(a)~~(b) No other Whatcom County regulation is more restrictive; and
 - ~~(b)~~(c) The tree(s) were not required to be retained or planted as a condition of previous development activity.
- ~~(4)~~(6) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) of this section must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter [16.16](#) WCC.
- ~~(5)~~(7) Penalties and Enforcement. Removal of significant trees without obtaining a tree removal the appropriate permit may be subject to replacement at a ratio of three trees for each tree removed without a valid permit. Failure to replace removed significant trees may be subject to a fine as determined under Chapter [20.94](#) WCC.

2. Amend Title 20 (Zoning), Chapter 20.71 (Water Resource Protection Overlay District), as follows:

20.71.354 Tree removal not associated with development activity.

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining the appropriate a tree removal permit as provided in this

section, unless the activity is exempted below; ~~provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:~~

(a) Removal of any hazard trees considered an emergency within the definition of "hazard tree" in Chapter [20.97](#) WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

(2) Removal of trees located within the shoreline jurisdiction or within a critical area or a critical area buffer may be subject to additional regulations pursuant to WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance). Where additional regulations conflict the more stringent regulation shall apply.

~~(2)(3)~~ Tree Removal Permit Application. The Department of Planning and Development Services shall establish and maintain a tree removal permit application, which shall a At a minimum require the following ~~to shall~~ be submitted by the applicant:

(a) A complete permit application.

~~(a)(b)~~ _____ A sketch for this purpose may be prepared by the homeowner or other lay person and shall depict:

(i) The approximate location of significant trees, indicating those to be removed;

(ii) The species and canopy area (as determined pursuant to WCC [20.51.440](#)(4));

(iii) The location of structures, driveways, access ways, and known easements.

~~(b)(c)~~ _____ Canopy calculations (existing and proposed).

(d) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees in accordance to standards set forth in WCC [20.71.356](#)(4) for calculating 20-year canopy coverage.

~~(e)~~ (e) _____ Other information as required by the applicable permit application.

(4) Tree Removal Permit Application Procedure and Appeals. Applicants requesting to remove any significant trees must submit a completed permit application on a form provided by the county.

(a) Applicable permit

(i) The permit application to remove trees within the shoreline jurisdiction is a shoreline permit (WCC Title 23).

(ii) The permit application to remove trees within a critical area or a critical area buffer is a notification of activity (WCC 16.16.235).

(iii) The permit application to remove trees in areas outside of (a) or (b) is a tree removal permit.

~~(d)(b)~~ _____ The county shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application, or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

(c) The removal shall be completed within one year from the date of permit approval.

~~(e)(d)~~ _____ The decision of the director is appealable pursuant to WCC [22.05.160](#).

~~(f)~~ Time Limit. The removal shall be completed within one year from the date of permit approval.

- (3)(5) ~~Tree Removal Allowances.~~ With a ~~tree removal~~ the appropriate permit, any property owner may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing canopy area of on-site significant trees on their property; provided, that:
- (a) There is no active application for development activity for the site; and
- (a)(b) No other Whatcom County regulation is more restrictive; and
- (b)(c) The tree(s) were not required to be retained or planted as a condition of previous development activity.
- (4)(6) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) of this section must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter [16.16](#) WCC.
- (5)(7) Penalties and Enforcement. Removal of significant trees without obtaining a ~~tree removal~~ the appropriate permit may be subject to replacement at a ratio of three trees for each tree removed without a valid permit. Failure to replace removed significant trees may be subject to a fine as determined under Chapter [20.94](#) WCC.

3. Amend the Shoreline Master Program (WCC Title 23) to adopt the February 12, 2019, CAO, as follows:

23.10.060 References to plans, regulations or information sources.

A. The Whatcom County Critical Areas Ordinance, WCC Chapter 16.16 (as most recently amended by Ordinance No. ~~2017-077~~2019-013, dated ~~December 5~~February 12, 2019), is hereby adopted in whole as a part of this program, except that the ~~permit, nonconforming use, appeal and enforcement provisions of the critical areas ordinance, WCC 16.16.270 (Reasonable Use Exceptions), 16.16.273 (Variances), 16.16.275 (Nonconforming Uses/Buildings), 16.16.280 (Appeals), and through 16.16.285 (Penalties and Enforcement) WCC 16.16.270 through 16.16.285~~ shall not apply within shoreline jurisdiction. All references to the critical areas ordinance (CAO), Chapter 16.16.WCC, are for this specific version.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-021

File ID:	AB2019-021	Version:	1	Status:	Held In Committee
File Created:	12/27/2018	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance		

First Assigned to: Council Special Committee of the Whole

Agenda Date: 06/18/2019 **Next Mtg. Date:** 03/26/2019 **Hearing Date:** 03/12/2019

TITLE FOR AGENDA ITEM:

Ordinance granting Deer Creek Water Association a franchise and the right, privilege, and authority thereunder to located, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use facilities in, upon, over, under, along, across and through the franchise area to allow for the provision of water services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 provides for the granting of franchises to public and private utility companies for use of County Rights-of-Way. This is a new franchise allowing for the use and presence in County Rights-of-Way to allow for the provision of water services.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
01/15/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council
03/12/2019	Council	HEARD PUBLIC TESTIMONY	
06/04/2019	Council Public Works & Health Committee	HELD IN COMMITTEE	Council Committee of the Whole-Executive Session

Attachments: PW Memo dated 12/27/18, Ordinance, Application for franchise, Maps-Deer Creek, Brenner Questions

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: The Honorable Jack Louws, County Executive,
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director *JH*

FROM: Andrew Hester, Public Works Real Estate Coordinator *AH*

RE: Franchise for Deer Creek Water Association

DATE: December 27, 2018

▪ **Requested Action**

Adopt an ordinance that grants a franchise to Deer Creek Water Association, allowing it to use and be present in County Rights of Way in order to provide water services per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

Deer Creek Water Association has an existing franchise for its water lines and facilities within County rights of way. This proposed franchise will terminate and replace that existing agreement.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

SPONSORED BY: _____
PROPOSED BY: Executive
INTRODUCTION DATE: _____

ORDINANCE NO. _____

GRANTING DEER CREEK WATER ASSOCIATION A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES.

WHEREAS, Deer Creek Water Association (hereinafter referred to as "Deer Creek Water"), has applied for a twenty-five (25) year franchise; and

WHEREAS, the Home Rule Charter for Whatcom County authorizes the County Council to grant non-exclusive franchises for a fixed term not to exceed 25 years for the use of any street, road, or public place;

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, Deer Creek Water has operated a system of water mains and water distribution lines and other facilities within a portion of Whatcom County under a previous fifty-year franchise ordinance, adopted by the County Council on May 31, 1978 and approved by the County Executive;

WHEREAS, Deer Creek Water seeks a non-exclusive twenty-five (25) year franchise to construct, erect, alter, lay, support, connect, improve, renew, replace, repair, operate and maintain water transmission and distribution facilities upon, under, over, across and along certain roads and other areas in Whatcom County, Washington; and

WHEREAS, the application of Deer Creek Water has come on regularly to be heard by the County Council on the ____ day of _____, 2019, and notice of this hearing having been duly published on the ____ day of _____, 2019, and the ____ day of _____, 2019, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, it appears to the Council that notice of said application and hearing thereon has been given as required by law in RCW 36.55.040; and

WHEREAS, this Council finds, after having considered said application and being otherwise fully advised in the premises, that it is in the public interest for this Council to grant the franchise for a period of twenty-five (25) years; and

WHEREAS, Whatcom County and Deer Creek Water intend that the previous franchises granted to Deer Creek Water that pertain to water lines for the provision of water services shall be terminated and be replaced by this Franchise;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the language set forth below, in Sections 1 through 20, shall constitute the franchise agreement between Whatcom County and Deer Creek Water, which shall be and become effective as set forth in Section 13 thereof:

Section 1. Definitions.

1.1 Where used in this franchise agreement ("Franchise"), the following terms shall mean:

1.1.1 "County" means the County of Whatcom, a political subdivision of the State of Washington, and its successors and assigns.

1.1.2 "Deer Creek Water" means Deer Creek Water Association, and its successors and assigns.

1.1.3 "Franchise Area" means all public county roads, county public ways, and county property now owned or hereafter dedicated to the County within the boundaries of Township 38 North, Range 2 East; Township 38 North, Range 3 East; Township 39 North, Range 2 East; and Township 39 North, Range 3 East in Whatcom County, Washington or as may hereafter be amended and attached hereto.

1.1.4 "Facilities" means, collectively, any and all water transmission and distribution systems, including but not limited to tanks, meters, pipes, mains, services, valves, manholes, pressure reducing valves ("PRVs"), pump stations, meter stations and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or under ground.

1.1.5 "Ordinance" means Ordinance No. _____, which sets forth the terms and conditions of this Franchise.

1.1.6 "Right-of-Way": As used herein shall refer to the surface of and space along, above, and below any public street, road, way, lane, drive, alley or easement within the Franchise Area;

1.1.7 "Relocation": As used herein shall mean to protect, support, temporarily disconnect, relocate and/or remove Deer Creek Water facilities within or from within the County right-of-way.

Section 2. Facilities Within Franchise Area.

2.1 The County does hereby grant to Deer Creek Water a Franchise, and the right, privilege, and authority thereunder, to construct, operate, maintain, replace, and use all necessary equipment and facilities for a public water system, in, under, on, across, over, through, along, or below the public rights-of-way located in the Franchise Area.

2.2 This Franchise is subject to the terms and conditions hereinafter set forth.

Section 3. County Authority.

3.1 The County, in granting this Franchise, does not waive any rights which it now has or may hereafter acquire with respect to the Franchise Area, and this Franchise shall not be construed to deprive the County of any powers, rights, or privileges which it now has, or may hereafter acquire, to regulate the use of and to control the Franchise Area.

Section 4. Noninterference of Facilities.

4.1 As to new Facilities, Deer Creek Water's Facilities shall be placed and maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Prior to the installation of new Facilities within the Franchise Area, Deer Creek Water may request that the County determine whether the proposed placement of the Facilities will unreasonably interfere with the free and safe passage of traffic, and the County shall make such determination in writing within a reasonable period of time. If the proposed location is not approved by the County Engineer, the County Engineer shall advise in writing what reasonable modifications to the proposed location of the Facilities are necessary for the County Engineer to issue a determination that the proposed location of the Facilities will not unreasonably interfere with the free and safe passage of traffic.

If Deer Creek Water proceeds to install new Facilities without first obtaining the County Engineer's determination that the proposed location of the Facilities will then unreasonably interfere with the free and safe passage of traffic then, upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Deer Creek Water which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Deer Creek Water shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Deer Creek Water by such County codes and ordinances.

4.2 Deer Creek Water's existing Facilities shall be maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Deer Creek Water which shall, at its own expense, act promptly to rectify the

problem in consultation with the County. Deer Creek Water shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Deer Creek Water by such County codes and ordinances.

4.3 All construction or installation of such Facilities, service, repair, or relocation of the same, performed over, above, along or under the Franchise Area shall be done in such a manner as not to interfere unreasonably with the construction and maintenance of other existing utilities, lines, public or private, drains, drainage ditches and structures, irrigation ditches and structures, located therein, nor with the grading or improvement of the Franchise Area. The owners of all utilities, public or private, installed in the Franchise Area prior in time to the Facilities of Deer Creek Water shall have preference as to the positioning and location of such utilities so installed with respect to Deer Creek Water. Such preference shall continue in the event of the necessity of relocating or changing the grade of the Franchise Area. Deer Creek Water shall have such preference as to owners of all utilities, public or private, initially installed in the Franchise Area subsequent in time to Deer Creek Water's Facilities.

4.4 The locating, laying, construction, operation and maintenance of Deer Creek Water's Facilities authorized by this Franchise shall not preclude the County, its agents or its contractors from blasting, grading, excavating, or doing other necessary road work contiguous to Deer Creek Water's Facilities, provided that Deer Creek Water and the County shall first check with the locator service to determine whether or not any of Deer Creek Water's lines are located in the proposed work area. Upon finding from the locator service that Deer Creek Water does have lines located within the proposed work area, the County shall provide Deer Creek Water with seventy-two (72) hours notice of proposed work, except if a lesser time for notice is warranted by emergency, in order that the Deer Creek Water may protect its Facilities. Failure of Deer Creek Water to properly notify the locator service of the location of its lines and Facilities shall relieve County of its duty to provide Deer Creek Water the otherwise-required advance notice of proposed work.

4.5 Deer Creek Water shall maintain all above-ground Facilities that it places in the Franchise Area. In order to avoid interference with the County's ability to maintain the Franchise Area, Deer Creek Water shall provide a clear zone of five (5) feet on all sides of such above-ground Facilities. If Deer Creek Water fails to comply with this provision, and by its failure, property is damaged, then Deer Creek Water shall be deemed responsible for all damages caused thereby and the County shall be released from any responsibility therefore. For these purposes, "clear zone" means an area that is mowed or otherwise maintained so that the Facilities are readily visible to County maintenance operations.

Section 5. Construction Within the Franchise Area.

5.1 All construction and installation work within the Franchise Area shall be subject to the approval and pass the inspection of the County Engineer, and shall conform to all applicable local, state and federal standards, codes or regulations, and the County expressly reserves the right to prescribe standards as to how and where Facilities shall be installed. The standards

shall be consistent with reasonable standards and standard engineering practices in the applicable industries.

5.2 Prior to commencement of construction of any new Facilities, Deer Creek Water shall first file with the County Engineer its application for permits to do such work, together with plans and specifications in duplicate showing the position and location of all such Facilities sought to be constructed, laid, installed or erected at that time showing their position relative to existing County roads, rights-of-way, or other County property within the Franchise Area upon plans drawn to scale. The Facilities shall be laid in conformity with said plans and specifications of definite location, except in instances in which deviation may be allowed thereafter in writing by the County Engineer. The plans and specifications shall specify the class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts and road obstructions, etc. No such construction shall be commenced without Deer Creek Water first securing a written permit from the County Engineer, including approval endorsed on one set of plans and specifications returned to Deer Creek Water. All such work shall be subject to the approval of and shall pass the inspection of the County Engineer. Deer Creek Water shall pay all costs of and expenses incurred in the examination, inspection and approval of such work on account of granting the said permits.

5.3 In any work which requires breaking of soil within the Franchise Area for the purpose of laying, relaying, connecting, disconnecting, constructing, maintaining and repairing Deer Creek Water's Facilities, and making connections between the same to structures and buildings of consumers or making connections to other Facilities now in existence or hereafter constructed, Deer Creek Water shall be governed by and conform to the general rules adopted by the County Engineer; and Deer Creek Water at its own expense and with due diligence shall complete the work for which the soil has been broken and forthwith replace the work and make good the Franchise Area and leave the same in as good condition as before the work was commenced; provided, however, that no such breaking of the soil within the Franchise Area shall be done prior to the obtaining of a permit issued by the County Engineer. Applications for such a permit shall be accompanied by specifications for the restoration of the Franchise Area to the same condition as it was in prior to such breaking, and such specifications must be approved by the County Engineer before such breaking of the soil is commenced; provided further, that the County Engineer may require a performance bond in a reasonable sum sufficient to guarantee that such Franchise Area shall be restored to the same condition as it was in prior to such breaking of the soil, the amount of said bond to be fixed by the County Engineer. Deer Creek Water shall pay all costs of and expenses incurred in the examination, inspection and approval of such restoration. The County Engineer may at any time do, order, or have done, any and all work that the County Engineer considers necessary to restore to a safe condition any Franchise Area left by Deer Creek Water or its agents in a condition dangerous to life or property, and Deer Creek Water upon demand shall pay to the County all costs of such work, the County having first provided notice of such condition to Deer Creek Water and a reasonable time to cure such unsafe condition, provided however, in the event of damage to the Franchise Area caused by Deer Creek Water that necessitates immediate repair by the County or its agents on an emergency basis where notice to Deer Creek Water or providing an opportunity to cure is not feasible considering nature of the emergency and necessary repair, as determined by the County Engineer using professional engineering standards, no such notice and reasonable time to cure shall be required as a condition of repayment by Deer Creek Water.

5.4 In preparing plans and specifications for the installation of Facilities within the Franchise Area, Deer Creek Water shall reasonably conform to the standards and specifications established by the County Engineer. Deer Creek Water shall consult with the County Engineer in case it plans to deviate from the established standards and specifications in the course of installing Facilities within the Franchise Area and must demonstrate to the satisfaction of the County Engineer that its plans will achieve a legal and functionally equivalent result.

5.5 All work done by and for Deer Creek Water under this Franchise shall be done in a thorough and workmanlike manner. In the construction of Facilities and the opening of trenches within and the tunneling under the Franchise Area, Deer Creek Water shall leave such trenches and tunnels in such a way as to interfere as little as possible with public travel, and shall take all due and necessary precautions to guard the same, so that damage or injury shall not occur or arise by reason of such work. Where any of such trenches, ditches, or tunnels are left open at night, Deer Creek Water shall place warning lights and barricades at such a position as to give adequate warning of such work, per the MUTCD (Manual on Uniform Traffic Control Devices). Deer Creek Water shall be liable for any injury to person or persons or damage to property to the extent proximately caused by its carelessness or neglect, or to the extent proximately caused by any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by Deer Creek Water.

5.6 Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, Deer Creek Water shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during Deer Creek Water's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed, or disturbed, and the expense of replacement by approved monuments shall be borne by Deer Creek Water. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 6. Relocation of Facilities.

6.1 Deer Creek Water shall, at its sole expense and with due diligence, relocate or adjust the elevation of any of its Facilities upon receipt of written request from the County Engineer when determined reasonably necessary based upon sound engineering principles by the County Engineer for improvement to the County facilities in the Franchise Area, provided that the elevations required by the County are not in violation of local, state or federal law and are reasonable necessary for safety purposes. Deer Creek Water shall coordinate such relocation or adjustment of its Facilities with the County and shall perform the same in a timely fashion so that, absent conditions beyond the control of Deer Creek Water, such relocation or adjustment of Deer Creek Water's Facilities will not impede or delay pending changes to the Franchise Area.

6.2 Deer Creek Water may propose to the County alternatives to reduce or eliminate the need for relocation of its Facilities pursuant to Section 6.1. Upon the County's receipt from Deer Creek Water of such alternatives in writing, the County shall evaluate such alternatives and shall advise Deer Creek Water in writing if one or more of such alternatives are suitable to accommodate the work that would otherwise necessitate relocation of Deer Creek Water's

Facilities. In evaluating such alternatives, the County shall give each alternative proposed by Deer Creek Water full and fair consideration with due regard to all the facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. In the event the County reasonably determines that such alternatives are not appropriate, Deer Creek Water shall relocate its Facilities as otherwise provided in Section 6.1. Any acceptance by the County of such alternatives shall not excuse (nor shall be construed to excuse) Deer Creek Water from future relocation or adjustment of Deer Creek Water's Facilities pursuant to this Section 6.

6.3 As qualified in Sections 6.1 and 6.2 above, and in Section 6.4 below, whenever any person or entity, other than the County, requires the relocation of Deer Creek Water's Facilities to accommodate the work of such person or entity within the Franchise Area, or whenever the County requires the relocation of Deer Creek Water's Facilities within the Franchise Area for the benefit of any person or entity other than the County, then Deer Creek Water shall have the right as a condition of such relocation to require such person or entity to:

6.3.1 Make payment to Deer Creek Water, at a time and upon terms acceptable to Deer Creek Water, which acceptance shall not be unreasonably withheld, for any and all costs and expenses incurred by Deer Creek Water in the relocation of Deer Creek Water's Facilities; and

6.3.2 Indemnify and save Deer Creek Water harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of Deer Creek Water's Facilities, to the extent such injury or damage is caused by the negligence of the person or entity requesting the relocation of Deer Creek Water's Facilities or the negligence of the agents, servants or employees of the person or entity requesting the relocation of Deer Creek Water's Facilities.

6.4 Any condition or requirement imposed by the County upon any person or entity, other than Deer Creek Water or the County (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) which requires the relocation of Deer Creek Water's Facilities shall be a required relocation for purposes of Section 6.3; provided, however:

6.4.1 If the County notifies Deer Creek Water in writing that the primary purpose of imposing such condition or requirement upon such person or entity is to cause the grading or widening of the Franchise Area on the County's behalf consistent with the County's Six-Year Road Construction Program, then Deer Creek Water shall relocate its Facilities within the Franchise Area in accordance with Section 6.1.

6.4.2 If the County notifies Deer Creek Water in writing that the County will bear a portion of the costs of, or will provide funding towards, a project that includes grading or widening of the Franchise Area resulting from the imposition of such condition or requirement upon such person or entity, then Deer Creek Water agrees to bear a portion of its costs and expenses to relocate its Facilities to accommodate such grading or widening, such portion borne by Deer Creek Water being a percentage equal to that percentage of such project's costs borne or funded by the County (the "County Contribution"); provided, however, in no event shall such portion borne by Deer Creek Water exceed the dollar amount of such County Contribution. "Project" shall mean that work directly bearing on the area that necessitates relocation by Deer Creek Water, and shall not include other off-site improvements that may be performed at the

same time. In all other respects such relocation shall be a required relocation for the purposes of Section 6.3 and without limiting the foregoing, Deer Creek Water shall have the right as a condition of such relocation to require such person or entity to pay to Deer Creek Water all relocation costs and expenses in excess of the portion borne by Deer Creek Water under this Section 6.4.2.

6.4.3 If the Facilities to be relocated pursuant to this subsection 6.4 have been located at or relocated within the preceding five (5) years to a location upon which the County had agreed at the time without reservation, then Deer Creek Water shall be entitled to recovery of all its costs and expenses incurred in the relocation of its Facilities from the party on whom the condition for road improvements was placed. Documentation of any such agreement between the County and Deer Creek Water shall be kept in conjunction with the encroachment permit issued by the County for the work of relocation.

6.5 Nothing in this Section 6 shall require Deer Creek Water to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from or addressed by this Franchise.

Section 7. Indemnification.

7.1 To the extent permitted by law, Deer Creek Water shall defend, indemnify and hold the County harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney's fees, made against it on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the actions or failure to act of Deer Creek Water, its agents, servants or employees in exercising the rights granted to Deer Creek Water in this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Deer Creek Water thereof, and Deer Creek Water shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Deer Creek Water thereof, and Deer Creek Water shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Deer Creek Water and the County, Deer Creek Water and the County shall each be responsible for, and this indemnification provision shall be operative so that each party bears, the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, Deer Creek Water shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined. Upon Deer Creek Water's failure to satisfy said judgment within ninety (90) days, the County may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

7.2 Acceptance by the County of any work performed by Deer Creek Water at the time of completion shall not be grounds for avoidance of the covenant in Section 7.1 above.

Section 8. Acquisition of Right-of-Way.

8.1 In the event that Deer Creek Water proposes to acquire easements for the location or relocation of its Facilities outside of, and adjacent to the Franchise Area, Deer Creek Water shall notify the County of the same and the County shall have the option, with the concurrence of Deer Creek Water, to acquire in place of such Deer Creek Water proposed easements, additional public rights-of-way or equivalent public utility easements for use by Deer Creek Water. Any such public rights-of-way acquired by the County shall become Franchise Area. Any such public utility easements so acquired by the County shall not be Franchise Area (and shall not be subject to the terms and conditions of this Franchise) and Deer Creek Water's use of such public utility easements shall be subject to the terms and conditions of such public utility easements. Provided the above section does not apply to Deer Creek Water's customer service lines and only to easements related to new transmission water pipelines.¹

Section 9. Vacation of the Franchise Area.

9.1 If at any time the County shall seek to vacate any portion of the Franchise Area and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area for the use of the County, in either its proprietary or governmental capacity, and there are no Facilities located in the Franchise Area, then the County Engineer may at his option and by giving thirty (30) days written notice to Deer Creek Water, terminate this franchise with reference to such portion of the Franchise Area so vacated, and the County shall not be liable for any damages or loss to Deer Creek Water allegedly incurred by reason of such termination. Nothing herein shall limit or prevent Deer Creek Water from exercising its powers of eminent domain. Should Deer Creek Water notify the County of its intent to consider exercising its power of eminent domain to obtain an easement for the Facilities located within the area of the Franchise to be terminated, the termination of the Franchise shall be tolled for a period of no less than one hundred and twenty (120) days from the date of notice.

9.2 If at any time the County shall vacate any portion of the Franchise Area in which Facilities are installed at the time of said vacation, and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area by other than the County, then the County shall, in its vacation procedure, unless otherwise waived in writing by Deer Creek Water, reserve an easement to Deer Creek Water for Deer Creek Water's Facilities as reasonably necessary for the continued use, operation, maintenance and repair of the Facilities as located in the portion of the Franchise Area to be vacated.

Section 10. Moving Buildings within the Franchise Area.

10.1 If any person or entity obtains permission from the County to use the Franchise Area for the moving or removal of any building or other object, the County shall, prior to granting such permission, direct such person or entity to arrange with Deer Creek Water for the temporary adjustment of Deer Creek Water's Facilities necessary to accommodate the moving or removal of such building or other object. Such person or entity shall make such

¹ A distinction is drawn here between public rights-of-way which are or shall become Franchise Area and thus governed by the terms of the franchise ordinance, and public utility easements which shall not become Franchise Area, the use of which shall be governed by the terms and conditions of the easements themselves and not by the franchise ordinance.

arrangements, upon terms and conditions acceptable to Deer Creek Water, not less than fourteen (14) days prior to the moving or removal of such building or other object. In such event, Deer Creek Water shall, at the sole cost and expense of the person or entity desiring to move or remove such building or other object, adjust any of its Facilities which may obstruct the moving or removal of such building or object.

Section 11. Locating Facilities.

11.1 Deer Creek Water and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities.

Section 12. Nonexclusive Franchise.

12.1 This Franchise is not and shall not be deemed to be an exclusive franchise. It shall not in any manner prohibit the County from granting other franchises of a like nature or franchises for other public or private utilities under, along, across, over, and upon any part of the Franchise Area, and shall in no way prevent or prohibit the County from constructing, altering, maintaining, using, or vacating any part thereof, or affect its jurisdiction over any part thereof with full power to make all necessary changes, relocations, repairs, maintenance, etc., the same as the County may deem fit.

Section 13. Franchise Term; Effect on Existing Franchises for Same Purpose.

13.1 This Franchise is and shall remain in full force and effect for a period of twenty-five (25) years from and after the effective date of the Ordinance; provided, however, Deer Creek Water shall have no rights under this Franchise nor shall Deer Creek Water be bound by the terms and conditions of this Franchise unless Deer Creek Water shall, within thirty (30) days after the effective date of the Ordinance, file with the County its written acceptance of the franchise agreement contained within the Ordinance.

13.1.1 No franchise hereunder shall become effective for any purpose unless and until written acceptance therefore shall have been filed with the Whatcom County Council and County Director of Public Works and such written acceptance shall be in the form and substance as shall be prescribed and approved by the County Prosecuting Attorney and operate as an acceptance of each and every term and condition and limitation contained in this ordinance, and in such franchise; and

13.1.2 Such written acceptance shall be filed by Deer Creek Water not later than the thirtieth (30th) day following the effective date of the Ordinance granting such franchise; and in default of the filing of such written acceptance as herein required, Deer Creek Water shall be deemed to have rejected the same. In case of Deer Creek Water's tardy acceptance of franchise, the County's recognition thereof shall be strictly at its discretion.

13.2 The existing franchise between the Parties pertaining to the same subject matter, i.e., Deer Creek Water's Facilities, which was granted by the County and accepted by Deer Creek Water on May 31, 1978, shall be superseded and replaced by this franchise upon the effective date of this franchise as provided above.

13.3 This Franchise agreement sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Franchise agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this agreement.

Section 14. Assignment.

14.1 Neither this Franchise nor any interest herein shall be sold, transferred, or assigned without the prior consent in writing of the County Council, which consent shall not be unreasonably withheld, except that the Deer Creek Water may mortgage this Franchise to the trustee for its bond holders. Any approved assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the County, together with its written acceptance of all terms and conditions of this Franchise.

14.2 All the provisions, conditions, and requirements herein contained shall be binding upon the successors and assigns of Deer Creek Water, and all privileges, as well as all obligations and liabilities of the grantee shall inure to its successors and assigns equally as if they were specifically mentioned wherever Deer Creek Water is mentioned.

Section 15. Amendment.

15.1 Except as addressed in and through Section 15.3 below, this Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 5 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the County in conjunction with the exercise (or failure to exercise) by Deer Creek Water any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

15.1.1 References this Franchise; and

15.1.2 States that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise. In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

15.2 If, during the term of this Franchise, there becomes effective any change in federal or state law (including changes approved by the Washington Utilities and Transportation Commission) which:

15.2.1 Affords either party the opportunity to negotiate in good faith a term or condition of this Franchise which term or condition would not have, prior to such change, been consistent with federal or state law; or

15.2.2 Pre-empt or otherwise renders null and void any term or condition of this Franchise which has there-to-fore been negotiated in good faith; then, in such event, either party may notify the other party in writing that such party desires to commence negotiations to amend this Franchise. Such negotiations shall encompass only the specific term or condition affected by such change in federal or state law and neither party shall be obligated to re-open negotiation on any other term or condition of this Franchise. Within thirty (30) days from and after the other party's receipt of such written notice, the parties shall, at a mutually agreeable time and place, commence such negotiations. Pending completion of such negotiations resulting in mutually agreeable amendment of this Franchise, adoption of such amendment by Ordinance by the County and acceptance of such Ordinance by Deer Creek Water, and except as to any portion thereof which has been pre-empted or otherwise rendered null and void by such change in federal or state law, this Franchise shall remain in full force and effect.

15.3 Notwithstanding any language to the contrary contained herein, this Franchise is subject to the provisions of the Whatcom County Charter, Section 9.30, and all rights belonging to the County and its people as set forth therein are hereby reserved thereto.

Section 16. Miscellaneous

16.1 If any term, provision, condition, or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

16.2 This Franchise is subject to the requirements of any and all applicable laws, rules, and regulations, including the Whatcom County Code, as currently enacted or hereafter modified. In the event of any actual conflict between the provisions of this Franchise and the requirements of the Whatcom County Code or County-enacted rules or regulations, the provisions of this Franchise shall control, to the extent authorized by law.

16.3 All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

For County: County Executive
Whatcom County Courthouse.
311 Grand Ave.
Bellingham, WA 98225

For Deer Creek Water: Business Manager
Deer Creek Water Association
PO Box 30230
Bellingham, WA 98228

or to such other address as the foregoing parties hereto may from time-to-time designate in

writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

16.4 No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Franchise or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Franchise, and each and every covenant, agreement, term and condition of this franchise shall continue in full force and effect with respect to other then existing or subsequent breach thereof.

Section 17. Incorporation and Annexation.

17.1 Whenever any part of the Franchise Area, by reason of the subsequent incorporation of any town or city, or extension of the limits of any town or city, shall fall within the city or town limits, this Franchise shall continue in force and effect as to all of the Franchise Area not so included in city or town limits.

Section 18. Insurance.

18.1 During the term of this Franchise Deer Creek Water shall keep in effect, a liability insurance policy covering all liability of Deer Creek Water to the County, including any assumed by contract between Deer Creek Water and any other party, with limits at least in the amount of \$1,000,000. In lieu of the insurance requirement of this Section, Deer Creek Water may self-insure against such risks. At the time of Deer Creek Water's acceptance of this Franchise and otherwise upon the County's request, Deer Creek Water shall provide the County with certificate(s) of insurance or evidence of self-insurance reflecting the requirements of this section.

Section 19. Forfeiture and Termination of Franchise.

19.1 If Deer Creek Water shall willfully violate or fail, through willful or unreasonable neglect, to comply with any of the provisions of this Franchise for sixty (60) days after receipt of written notice from the County, then the County shall have the right by ordinance to declare Deer Creek Water's forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter; provided, however, if any failure to comply with this Franchise by Deer Creek Water cannot be corrected with due diligence within said sixty (60) day period (Deer Creek Water's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Deer Creek Water may so comply shall be extended for such time as may be reasonably necessary and so long as Deer Creek Water commences promptly and diligently to effect such compliance.

Section 20. Effective Date.

20.1 This Ordinance shall be effective ten (10) days after being signed by the County Executive, with the Franchise granted hereunder finally effective pursuant to the terms of Sections 13.1, 13.1.1, and 13.1.2, having been: (i) introduced to the County Council not less than thirteen (13) days before its passage; (ii) brought to public notice by such notice having

been posted in three (3) public places in Bellingham at least fifteen (15) days before the day fixed for the public hearing; (iii) published at least twice in the official newspaper for the County and no later than five (5) days prior to the day fixed for the hearing and as otherwise required by law; and (iv) passed at a regular meeting of the legislative body of the County of Whatcom by a vote of at least _____ members of the County Council on _____, 2019.

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

() Approved () Denied



Civil Deputy Prosecutor

Jack Louws, County Executive

APPLICATION FOR FRANCHISE

TO THE WHATCOM COUNTY COUNCIL:

COMES NOW, Deer Creek Water Association

who respectfully petitions the Whatcom County Council for a twenty-five (25) year franchise to lay, construct, maintain, and repair

water mains

and all necessary appurtenances along, over, and across the following roads situated in Whatcom County, Washington:

all roads and rights-of-way within or adjacent to our DOH and Whatcom Co. approved Service Area, as now or in the future, configured.

The petitioner further requests that the Whatcom County Council fix a time and place for a public hearing on the granting of this continuation of franchise, and that public notice be given, at the expense of the petitioner, as provided by law; and that, at said hearing, petitioner be granted the franchise continuation herein requested.

DATED: 29 Dec 2016

Deer Creek Water Association

Company Name

PO Box 30230

Mailing Address

Bellingham WA 98226

City State Zip

360.820.4314

Phone Number

Douglas Wittinger

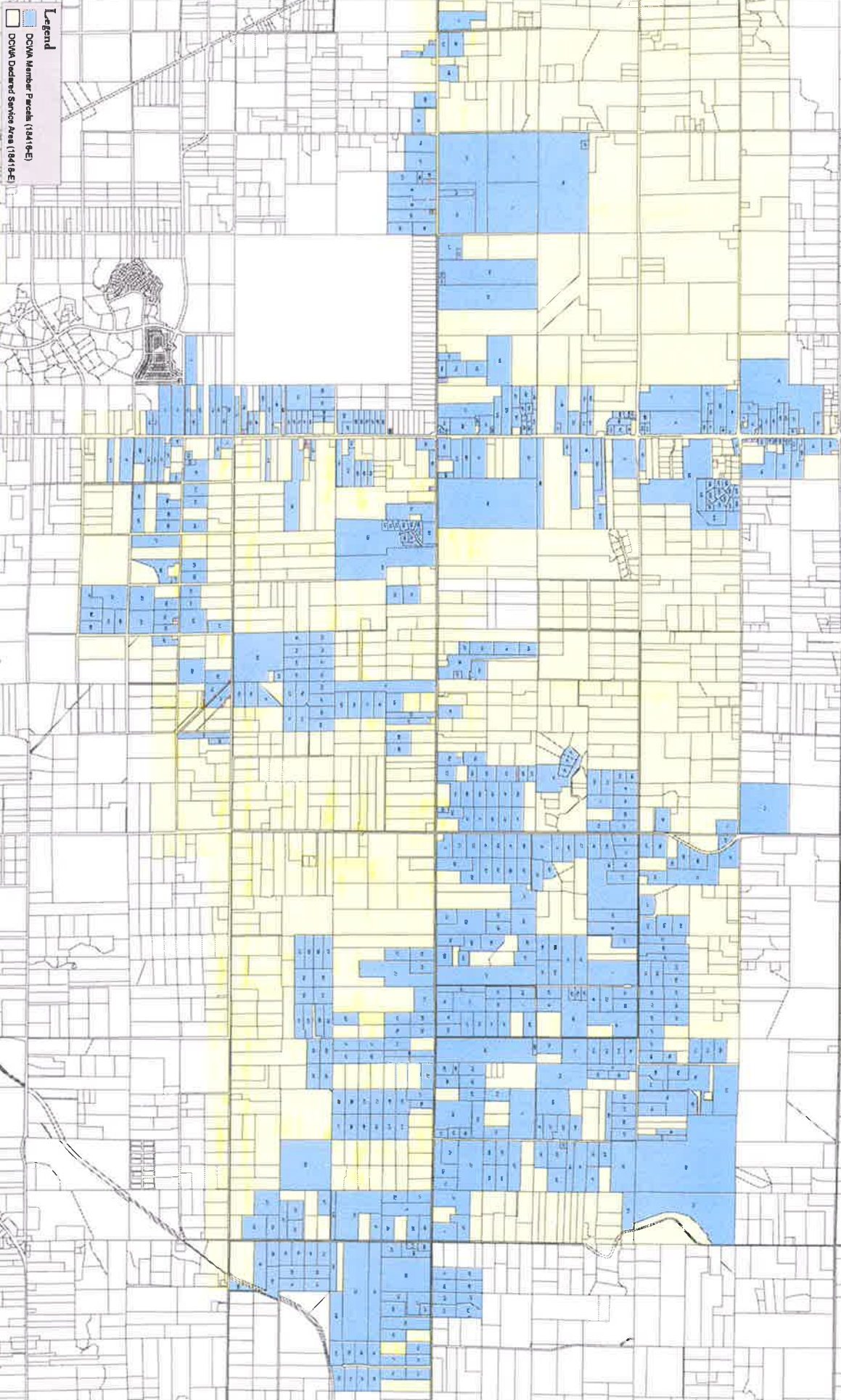
Signature of authorized agent/owner

Douglas Wittinger

Print or type name

its Business Manager

Deer Creek Water Association - (18418-E) Member Parcels and Service Area - February 2012



Legend

- DCWA Member Parcels (18418-E)
- DCWA Deducted Service Area (18418-E)

Disclaimer
This map was created to reflect subject mapping and updated assessment parcel data as of January 25, 2012. The publisher, Deer Creek Water Association, Inc. (DCWA) and its subsidiaries, do not warrant the accuracy or reliability of the data, nor do they warrant that the data is complete or that it is free of errors. The user of this map acknowledges its limitations and assumes all responsibility for its use. The publisher disclaims any liability for any damages that may result from the use of this map. The map is subject to change without notice.

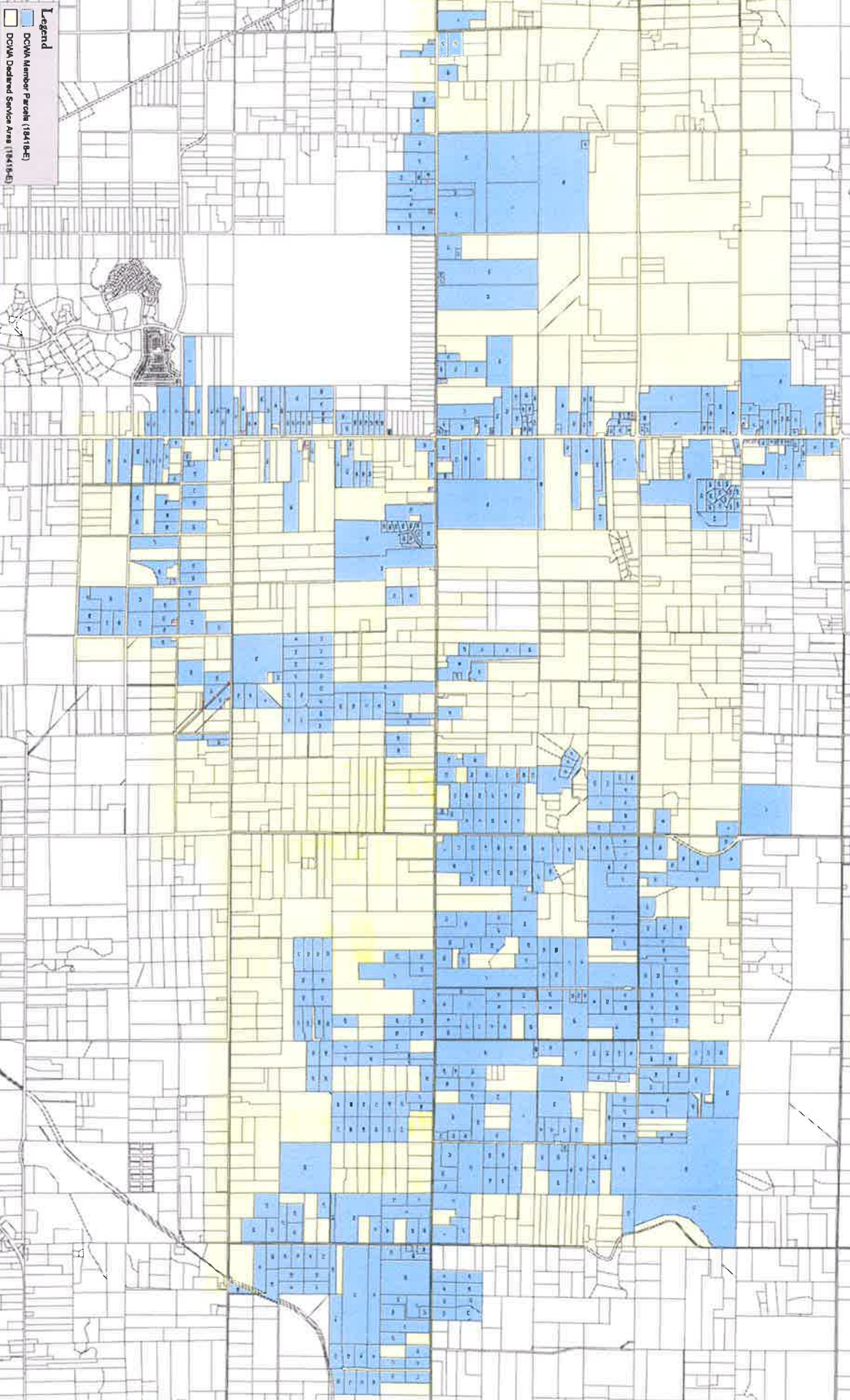
Copyright © Deer Creek Water Association, Inc. 2012

Map Scale
0 1,150 2,300 4,600 6,900 9,200 Feet
0 410 820 1,640 2,460 3,280 Meters

Coordinates
Datum: North American 1983
False Easting: 1,402,416.667
False Northing: 5,900,000.000
Central Meridian: -120.8333
Standard Parallel 1: 47.5000
Standard Parallel 2: 47.5000
Latitude Of Origin: 47.5000
Units: Feet US



Deer Creek Water Association - (18418-E) Member Parcels and Service Area - February 2012



Legend

- DCWA Member Parcel (18418-E)
- DCWA Declared Service Area (18418-E)

Disclaimer

This map was created by using aerial photography and updated tax parcel data as of January 26, 2012. The publisher, Deer Creek Water Association, Tim Dicken and Coordinator Services Inc. disclaim any warranty of fitness or accuracy of the data. The map is approximate in nature, based upon compilation of data from multiple sources and should not be relied upon or interpreted in legal documents without proper survey. The publisher makes no warranty or representation, nor shall it be held responsible for any damages that may result from the use of this map. The map is subject to change without notice.

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Map Scale



Coordinate System: NAD 83 StatePlane Washington North FIPS 4601
Datum: North American 1983
False Easting: 1,660,416.667
Central Meridian: -120.0333
Standard Parallel 1: 47.0000
Standard Parallel 2: 48.1233
Units: Feet US



Have a current water system plan that lists policies and must be updated every three years or as their policies change

Subject to release of information when requested in writing within the previous five years including agreements, denials, easements etc

Notification and public hearings for landowners if an association is expanding into an area

Appeal process through the county council

DISTRIBUTED TO

JUN 04 2019

**ALL COUNCIL MEMBERS
WHATCOM COUNTY COUNCIL**

Barbara Breun



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-167

File ID:	AB2019-167	Version:	1	Status:	Held In Committee
File Created:	03/07/2019	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance		

First Assigned to: Council Special Committee of the Whole

Agenda Date: 06/18/2019 **Next Mtg. Date:** 05/07/2019 **Hearing Date:** 05/07/2019

TITLE FOR AGENDA ITEM:

Ordinance granting Glenhaven Lakes Club Inc. a franchise and the right, privilege, and authority thereunder to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use facilities in, upon, over, under, along, across and through the franchise area to allow for the provision of water services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 provides for the granting of franchises to public and private utility companies for use of County Rights-of-Way. This is a new franchise allowing for the use and presence in County Rights-of-Way to allow for the provision of water services.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
03/26/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council
05/07/2019	Council	HELD IN COUNCIL	Council
06/04/2019	Council Public Works & Health Committee	HELD IN COMMITTEE	Council Committee of the Whole-Executive Session

Attachments: Memo from PW March.7.19, Ordinance, Notice of Hearing 5.7.19

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: The Honorable Jack Louws, County Executive,
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director *AH*

FROM: Andrew Hester, Public Works Real Estate Coordinator *AH*

RE: Franchise for Glenhaven Lakes Club Inc.

DATE: March 7, 2019

▪ **Requested Action**

Adopt an ordinance that grants a franchise to Glenhaven Lakes Club Inc., allowing it to use and be present in County Rights of Way in order to provide water services per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

Glenhaven Lakes Club Inc. has an existing franchise for its water lines and facilities within County rights of way. This proposed franchise will terminate and replace that existing agreement.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

SPONSORED BY: _____

PROPOSED BY: Executive

INTRODUCTION DATE: _____

ORDINANCE NO. _____

GRANTING GLENHAVEN LAKES CLUB INC. A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES.

WHEREAS, Glenhaven Lakes Club Inc. (hereinafter referred to as "Glenhaven Lakes"), has applied for a twenty-five (25) year franchise; and

WHEREAS, the Home Rule Charter for Whatcom County authorizes the County Council to grant non-exclusive franchises for a fixed term not to exceed 25 years for the use of any street, road, or public place;

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, Glenhaven Lakes has operated a system of water mains and water distribution lines and other facilities within a portion of Whatcom County under a previous twenty five-year franchise ordinance, adopted by the County Council on October 5, 1993 and approved by the County Executive;

WHEREAS, Glenhaven Lakes seeks a non-exclusive twenty-five (25) year franchise to construct, erect, alter, lay, support, connect, improve, renew, replace, repair, operate and maintain water transmission and distribution facilities upon, under, over, across and along certain roads and other areas in Whatcom County, Washington; and

WHEREAS, the application of Glenhaven Lakes has come on regularly to be heard by the County Council on the ____ day of _____, 2019, and notice of this hearing having been duly published on the ____ day of _____, 2019, and the ____ day of _____, 2019, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, it appears to the Council that notice of said application and hearing thereon has been given as required by law in RCW 36.55.040; and

WHEREAS, this Council finds, after having considered said application and being otherwise fully advised in the premises, that it is in the public interest for this Council to grant the franchise for a period of twenty-five (25) years; and

WHEREAS, Whatcom County and Glenhaven Lakes intend that the previous franchises granted to Glenhaven Lakes that pertain to water lines for the provision of water services shall be terminated and be replaced by this Franchise;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the language set forth below, in Sections 1 through 20, shall constitute the franchise agreement between Whatcom County and Glenhaven Lakes, which shall be and become effective as set forth in Section 13 thereof:

Section 1. Definitions.

1.1 Where used in this franchise agreement ("Franchise"), the following terms shall mean:

1.1.1 "County" means the County of Whatcom, a political subdivision of the State of Washington, and its successors and assigns.

1.1.2 "Glenhaven Lakes" means Glenhaven Lakes Club, Inc., and its successors and assigns.

1.1.3 "Franchise Area" means all public county roads, county public ways, county property, and platted right of way as dedicated within the following plats: Glenhaven Lakes, according to the plat thereof, recorded in Volume 9 of Plats, Pages 35 and 36; Glenhaven Lakes Division Number 2, according to the plat thereof, recorded in Volume 9, Pages 39 and 40; Glenhaven Lakes Division Number 3, according to the plat thereof, recorded in Volume 9 of Plats, Pages 47 and 48; Glenhaven Lakes Division Number 4, according to the plat thereof, recorded in Volume 9, Pages 51 and 52; Glenhaven Lakes Division Number 5, according to the plat thereof, recorded in Volume 9, Pages 55, 56, and 57; Glenhaven Lakes Division Number 6, according to the plat thereof, recorded in Volume 9, Pages 62 and 63; Glenhaven Lakes Division Number 7, according to the plat thereof, recorded in Volume 9, Pages 66 and 67; Glenhaven Lakes Division Number 8, according to the plat thereof, recorded in Volume 9, Pages 69 and 70; Glenhaven Lakes Division Number 9, according to the plat thereof, recorded in Volume 9, Pages 73 and 74; Glenhaven Lakes Division Number 10, according to the plat thereof, recorded in Volume 9, Pages 77 and 78; Glenhaven Lakes Division Number 11, according to the plat thereof, recorded in Volume 9, Pages 83 and 84; Glenhaven Lakes Division Number 12, according to the plat thereof, recorded in Volume 9, Pages 80 and 81; Situate in Whatcom County, Washington. Plat maps Exhibits A through M inclusive.

1.1.4 "Facilities" means, collectively, any and all water transmission and distribution systems, including but not limited to tanks, meters, pipes, mains, services, valves, manholes, pressure reducing valves ("PRVs"), pump stations, meter stations and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or under ground.

1.1.5 "Ordinance" means Ordinance No. _____, which sets forth the terms and conditions of this Franchise.

1.1.6 "Right-of-Way": As used herein shall refer to the surface of and space

along, above, and below any public street, road, way, lane, drive, alley or easement within the Franchise Area;

1.1.7 "Relocation": As used herein shall mean to protect, support, temporarily disconnect, relocate and/or remove Glenhaven Lakes facilities within or from within the County right-of-way.

Section 2. Facilities Within Franchise Area.

2.1 The County does hereby grant to Glenhaven Lakes a Franchise, and the right, privilege, and authority thereunder, to construct, operate, maintain, replace, and use all necessary equipment and facilities for a public water system, in, under, on, across, over, through, along, or below the public rights-of-way located in the Franchise Area.

2.2 This Franchise is subject to the terms and conditions hereinafter set forth.

Section 3. County Authority.

3.1 The County, in granting this Franchise, does not waive any rights which it now has or may hereafter acquire with respect to the Franchise Area, and this Franchise shall not be construed to deprive the County of any powers, rights, or privileges which it now has, or may hereafter acquire, to regulate the use of and to control the Franchise Area.

Section 4. Noninterference of Facilities.

4.1 As to new Facilities, Glenhaven Lakes' Facilities shall be placed and maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Prior to the installation of new Facilities within the Franchise Area, Glenhaven Lakes may request that the County determine whether the proposed placement of the Facilities will unreasonably interfere with the free and safe passage of traffic, and the County shall make such determination in writing within a reasonable period of time. If the proposed location is not approved by the County Engineer, the County Engineer shall advise in writing what reasonable modifications to the proposed location of the Facilities are necessary for the County Engineer to issue a determination that the proposed location of the Facilities will not unreasonably interfere with the free and safe passage of traffic.

If Glenhaven Lakes proceeds to install new Facilities without first obtaining the County Engineer's determination that the proposed location of the Facilities will then unreasonably interfere with the free and safe passage of traffic then, upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Glenhaven Lakes which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Glenhaven Lakes shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Glenhaven Lakes by such County codes and

ordinances.

4.2 Glenhaven Lakes' existing Facilities shall be maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Glenhaven Lakes which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Glenhaven Lakes shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Glenhaven Lakes by such County codes and ordinances.

4.3 All construction or installation of such Facilities, service, repair, or relocation of the same, performed over, above, along or under the Franchise Area shall be done in such a manner as not to interfere unreasonably with the construction and maintenance of other existing utilities, lines, public or private, drains, drainage ditches and structures, irrigation ditches and structures, located therein, nor with the grading or improvement of the Franchise Area. The owners of all utilities, public or private, installed in the Franchise Area prior in time to the Facilities of Glenhaven Lakes shall have preference as to the positioning and location of such utilities so installed with respect to Glenhaven Lakes. Such preference shall continue in the event of the necessity of relocating or changing the grade of the Franchise Area. Glenhaven Lakes shall have such preference as to owners of all utilities, public or private, initially installed in the Franchise Area subsequent in time to Glenhaven Lakes' Facilities.

4.4 The locating, laying, construction, operation and maintenance of Glenhaven Lakes' Facilities authorized by this Franchise shall not preclude the County, its agents or its contractors from blasting, grading, excavating, or doing other necessary road-work contiguous to Glenhaven Lakes' Facilities, provided that Glenhaven Lakes and the County shall first check with the locator service to determine whether or not any of Glenhaven Lakes' lines are located in the proposed work area. Upon finding from the locator service that Glenhaven Lakes does have lines located within the proposed work area, the County shall provide Glenhaven Lakes with seventy-two (72) hours notice of proposed work, except if a lesser time for notice is warranted by emergency, in order that the Glenhaven Lakes may protect its Facilities. Failure of Glenhaven Lakes to properly notify the locator service of the location of its lines and Facilities shall relieve County of its duty to provide Glenhaven Lakes the otherwise-required advance notice of proposed work.

4.5 Glenhaven Lakes shall maintain all above-ground Facilities that it places in the Franchise Area. In order to avoid interference with the County's ability to maintain the Franchise Area, Glenhaven Lakes shall provide a clear zone of five (5) feet on all sides of such above-ground Facilities. If Glenhaven Lakes fails to comply with this provision, and by its failure, property is damaged, then Glenhaven Lakes shall be deemed responsible for all damages caused thereby and the County shall be released from any responsibility therefore. For these purposes, "clear zone" means an area that is mowed or otherwise maintained so that the Facilities are readily visible to County maintenance operations.

Section 5. Construction Within the Franchise Area.

5.1 All construction and installation work within the Franchise Area shall be subject to the approval and pass the inspection of the County Engineer, and shall conform to all applicable local, state and federal standards, codes or regulations, and the County expressly reserves the right to prescribe standards as to how and where Facilities shall be installed. The standards shall be consistent with reasonable standards and standard engineering practices in the applicable industries.

5.2 Prior to commencement of construction of any new Facilities, Glenhaven Lakes shall first file with the County Engineer its application for permits to do such work, together with plans and specifications in duplicate showing the position and location of all such Facilities sought to be constructed, laid, installed or erected at that time showing their position relative to existing County roads, rights-of-way, or other County property within the Franchise Area upon plans drawn to scale. The Facilities shall be laid in conformity with said plans and specifications of definite location, except in instances in which deviation may be allowed thereafter in writing by the County Engineer. The plans and specifications shall specify the class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts and road obstructions, etc. No such construction shall be commenced without Glenhaven Lakes first securing a written permit from the County Engineer, including approval endorsed on one set of plans and specifications returned to Glenhaven Lakes. All such work shall be subject to the approval of and shall pass the inspection of the County Engineer. Glenhaven Lakes shall pay all costs of and expenses incurred in the examination, inspection and approval of such work on account of granting the said permits.

5.3 In any work which requires breaking of soil within the Franchise Area for the purpose of laying, relaying, connecting, disconnecting, constructing, maintaining and repairing Glenhaven Lakes' Facilities, and making connections between the same to structures and buildings of consumers or making connections to other Facilities now in existence or hereafter constructed, Glenhaven Lakes shall be governed by and conform to the general rules adopted by the County Engineer; and Glenhaven Lakes at its own expense and with due diligence shall complete the work for which the soil has been broken and forthwith replace the work and make good the Franchise Area and leave the same in as good condition as before the work was commenced; provided, however, that no such breaking of the soil within the Franchise Area shall be done prior to the obtaining of a permit issued by the County Engineer. Applications for such a permit shall be accompanied by specifications for the restoration of the Franchise Area to the same condition as it was in prior to such breaking, and such specifications must be approved by the County Engineer before such breaking of the soil is commenced; provided further, that the County Engineer may require a performance bond in a reasonable sum sufficient to guarantee that such Franchise Area shall be restored to the same condition as it was in prior to such breaking of the soil, the amount of said bond to be fixed by the County Engineer. Glenhaven Lakes shall pay all costs of and expenses incurred in the examination, inspection and approval of such restoration. The County Engineer may at any time do, order, or have done, any and all work that the County Engineer considers necessary to restore to a safe condition any Franchise Area left by Glenhaven Lakes or its agents in a condition dangerous to life or property, and Glenhaven Lakes upon demand shall pay to the County all costs of such work, the County having first provided notice of such condition to Glenhaven Lakes and a reasonable time to cure such unsafe condition, provided however, in the event of damage to the Franchise Area caused

by Glenhaven Lakes that necessitates immediate repair by the County or its agents on an emergency basis where notice to Glenhaven Lakes or providing an opportunity to cure is not feasible considering nature of the emergency and necessary repair, as determined by the County Engineer using professional engineering standards, no such notice and reasonable time to cure shall be required as a condition of repayment by Glenhaven Lakes.

5.4 In preparing plans and specifications for the installation of Facilities within the Franchise Area, Glenhaven Lakes shall reasonably conform to the standards and specifications established by the County Engineer. Glenhaven Lakes shall consult with the County Engineer in case it plans to deviate from the established standards and specifications in the course of installing Facilities within the Franchise Area and must demonstrate to the satisfaction of the County Engineer that its plans will achieve a legal and functionally equivalent result.

5.5 All work done by and for Glenhaven Lakes under this Franchise shall be done in a thorough and workmanlike manner. In the construction of Facilities and the opening of trenches within and the tunneling under the Franchise Area, Glenhaven Lakes shall leave such trenches and tunnels in such a way as to interfere as little as possible with public travel, and shall take all due and necessary precautions to guard the same, so that damage or injury shall not occur or arise by reason of such work. Where any of such trenches, ditches, or tunnels are left open at night, Glenhaven Lakes shall place warning lights and barricades at such a position as to give adequate warning of such work, per the MUTCD (Manual on Uniform Traffic Control Devices). Glenhaven Lakes shall be liable for any injury to person or persons or damage to property to the extent proximately caused by its carelessness or neglect, or to the extent proximately caused by any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by Glenhaven Lakes.

5.6 Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, Glenhaven Lakes shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during Glenhaven Lakes' operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed, or disturbed, and the expense of replacement by approved monuments shall be borne by Glenhaven Lakes. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 6. Relocation of Facilities.

6.1 Glenhaven Lakes shall, at its sole expense and with due diligence, relocate or adjust the elevation of any of its Facilities upon receipt of written request from the County Engineer when determined reasonably necessary based upon sound engineering principles by the County Engineer for improvement to the County facilities in the Franchise Area, provided that the elevations required by the County are not in violation of local, state or federal law and are reasonable necessary for safety purposes. Glenhaven Lakes shall coordinate such relocation or adjustment of its Facilities with the County and shall perform the same in a timely fashion so that, absent conditions beyond the control of Glenhaven Lakes, such relocation or adjustment of Glenhaven Lakes' Facilities will not impede or delay pending changes to the Franchise Area.

6.2 Glenhaven Lakes may propose to the County alternatives to reduce or eliminate the need for relocation of its Facilities pursuant to Section 6.1. Upon the County's receipt from Glenhaven Lakes of such alternatives in writing, the County shall evaluate such alternatives and shall advise Glenhaven Lakes in writing if one or more of such alternatives are suitable to accommodate the work that would otherwise necessitate relocation of Glenhaven Lakes' Facilities. In evaluating such alternatives, the County shall give each alternative proposed by Glenhaven Lakes full and fair consideration with due regard to all the facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. In the event the County reasonably determines that such alternatives are not appropriate, Glenhaven Lakes shall relocate its Facilities as otherwise provided in Section 6.1. Any acceptance by the County of such alternatives shall not excuse (nor shall be construed to excuse) Glenhaven Lakes from future relocation or adjustment of Glenhaven Lakes' Facilities pursuant to this Section 6.

6.3 As qualified in Sections 6.1 and 6.2 above, and in Section 6.4 below, whenever any person or entity, other than the County, requires the relocation of Glenhaven Lakes' Facilities to accommodate the work of such person or entity within the Franchise Area, or whenever the County requires the relocation of Glenhaven Lakes' Facilities within the Franchise Area for the benefit of any person or entity other than the County, then Glenhaven Lakes shall have the right as a condition of such relocation to require such person or entity to:

6.3.1 Make payment to Glenhaven Lakes, at a time and upon terms acceptable to Glenhaven Lakes, which acceptance shall not be unreasonably withheld, for any and all costs and expenses incurred by Glenhaven Lakes in the relocation of Glenhaven Lakes' Facilities; and

6.3.2 Indemnify and save Glenhaven Lakes harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of Glenhaven Lakes' Facilities, to the extent such injury or damage is caused by the negligence of the person or entity requesting the relocation of Glenhaven Lakes' Facilities or the negligence of the agents, servants or employees of the person or entity requesting the relocation of Glenhaven Lakes' Facilities.

6.4 Any condition or requirement imposed by the County upon any person or entity, other than Glenhaven Lakes or the County (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) which requires the relocation of Glenhaven Lakes' Facilities shall be a required relocation for purposes of Section 6.3; provided, however:

6.4.1 If the County notifies Glenhaven Lakes in writing that the primary purpose of imposing such condition or requirement upon such person or entity is to cause the grading or widening of the Franchise Area on the County's behalf consistent with the County's Six-Year Road Construction Program, then Glenhaven Lakes shall relocate its Facilities within the Franchise Area in accordance with Section 6.1.

6.4.2 If the County notifies Glenhaven Lakes in writing that the County will bear a portion of the costs of, or will provide funding towards, a project that includes grading or widening of the Franchise Area resulting from the imposition of such condition or requirement upon such person or entity, then Glenhaven Lakes agrees to bear a portion of its costs and expenses to relocate its Facilities to accommodate such grading or widening, such portion borne

by Glenhaven Lakes being a percentage equal to that percentage of such project's costs borne or funded by the County (the "County Contribution"); provided, however, in no event shall such portion borne by Glenhaven Lakes exceed the dollar amount of such County Contribution. "Project" shall mean that work directly bearing on the area that necessitates relocation by Glenhaven Lakes, and shall not include other off-site improvements that may be performed at the same time. In all other respects such relocation shall be a required relocation for the purposes of Section 6.3 and without limiting the foregoing, Glenhaven Lakes shall have the right as a condition of such relocation to require such person or entity to pay to Glenhaven Lakes all relocation costs and expenses in excess of the portion borne by Glenhaven Lakes under this Section 6.4.2.

6.4.3 If the Facilities to be relocated pursuant to this subsection 6.4 have been located at or relocated within the preceding five (5) years to a location upon which the County had agreed at the time without reservation, then Glenhaven Lakes shall be entitled to recovery of all its costs and expenses incurred in the relocation of its Facilities from the party on whom the condition for road improvements was placed. Documentation of any such agreement between the County and Glenhaven Lakes shall be kept in conjunction with the encroachment permit issued by the County for the work of relocation.

6.5 Nothing in this Section 6 shall require Glenhaven Lakes to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from or addressed by this Franchise.

Section 7. Indemnification.

7.1 To the extent permitted by law, Glenhaven Lakes shall defend, indemnify and hold the County harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney's fees, made against it on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the actions or failure to act of Glenhaven Lakes, its agents, servants or employees in exercising the rights granted to Glenhaven Lakes in this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Glenhaven Lakes thereof, and Glenhaven Lakes shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Glenhaven Lakes thereof, and Glenhaven Lakes shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Glenhaven Lakes and the County, Glenhaven Lakes and the County shall each be responsible for, and this indemnification provision shall be operative so that each party bears, the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, Glenhaven Lakes shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined. Upon Glenhaven Lakes' failure to satisfy said judgment within ninety (90) days, the County may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

7.2 Acceptance by the County of any work performed by Glenhaven Lakes at the time

of completion shall not be grounds for avoidance of the covenant in Section 7.1 above.

Section 8. Acquisition of Right-of-Way.

8.1 In the event that Glenhaven Lakes proposes to acquire easements for the location or relocation of its Facilities outside of, and adjacent to the Franchise Area, Glenhaven Lakes shall notify the County of the same and the County shall have the option, with the concurrence of Glenhaven Lakes, to acquire in place of such Glenhaven Lakes proposed easements, additional public rights-of-way or equivalent public utility easements for use by Glenhaven Lakes. Any such public rights-of-way acquired by the County shall become Franchise Area. Any such public utility easements so acquired by the County shall not be Franchise Area (and shall not be subject to the terms and conditions of this Franchise) and Glenhaven Lakes' use of such public utility easements shall be subject to the terms and conditions of such public utility easements. Provided the above section does not apply to Glenhaven Lakes' customer service lines and only to easements related to new transmission water pipelines.¹

Section 9. Vacation of the Franchise Area.

9.1 If at any time the County shall seek to vacate any portion of the Franchise Area and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area for the use of the County, in either its proprietary or governmental capacity, and there are no Facilities located in the Franchise Area, then the County Engineer may at his option and by giving thirty (30) days written notice to Glenhaven Lakes, terminate this franchise with reference to such portion of the Franchise Area so vacated, and the County shall not be liable for any damages or loss to Glenhaven Lakes allegedly incurred by reason of such termination. Nothing herein shall limit or prevent Glenhaven Lakes from exercising its powers of eminent domain. Should Glenhaven Lakes notify the County of its intent to consider exercising its power of eminent domain to obtain an easement for the Facilities located within the area of the Franchise to be terminated, the termination of the Franchise shall be tolled for a period of no less than one hundred and twenty (120) days from the date of notice.

9.2 If at any time the County shall vacate any portion of the Franchise Area in which Facilities are installed at the time of said vacation, and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area by other than the County, then the County shall, in its vacation procedure, unless otherwise waived in writing by Glenhaven Lakes, reserve an easement to Glenhaven Lakes for Glenhaven Lakes' Facilities as reasonably necessary for the continued use, operation, maintenance and repair of the Facilities as located in the portion of the Franchise Area to be vacated.

Section 10. Moving Buildings within the Franchise Area.

10.1 If any person or entity obtains permission from the County to use the Franchise Area for the moving or removal of any building or other object, the County shall, prior to granting such permission, direct such person or entity to arrange with Glenhaven Lakes for the temporary

¹ A distinction is drawn here between public rights-of-way which are or shall become Franchise Area and thus governed by the terms of the franchise ordinance, and public utility easements which shall not become Franchise Area, the use of which shall be governed by the terms and conditions of the easements themselves and not by the franchise ordinance.

adjustment of Glenhaven Lakes' Facilities necessary to accommodate the moving or removal of such building or other object. Such person or entity shall make such arrangements, upon terms and conditions acceptable to Glenhaven Lakes, not less than fourteen (14) days prior to the moving or removal of such building or other object. In such event, Glenhaven Lakes shall, at the sole cost and expense of the person or entity desiring to move or remove such building or other object, adjust any of its Facilities which may obstruct the moving or removal of such building or object.

Section 11. Locating Facilities.

11.1 Glenhaven Lakes and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities.

Section 12. Nonexclusive Franchise.

12.1 This Franchise is not and shall not be deemed to be an exclusive franchise. It shall not in any manner prohibit the County from granting other franchises of a like nature or franchises for other public or private utilities under, along, across, over, and upon any part of the Franchise Area, and shall in no way prevent or prohibit the County from constructing, altering, maintaining, using, or vacating any part thereof, or affect its jurisdiction over any part thereof with full power to make all necessary changes, relocations, repairs, maintenance, etc., the same as the County may deem fit.

Section 13. Franchise Term; Effect on Existing Franchises for Same Purpose.

13.1 This Franchise is and shall remain in full force and effect for a period of twenty-five (25) years from and after the effective date of the Ordinance; provided, however, Glenhaven Lakes shall have no rights under this Franchise nor shall Glenhaven Lakes be bound by the terms and conditions of this Franchise unless Glenhaven Lakes shall, within thirty (30) days after the effective date of the Ordinance, file with the County its written acceptance of the franchise agreement contained within the Ordinance.

13.1.1 No franchise hereunder shall become effective for any purpose unless and until written acceptance therefore shall have been filed with the Whatcom County Council and County Director of Public Works and such written acceptance shall be in the form and substance as shall be prescribed and approved by the County Prosecuting Attorney and operate as an acceptance of each and every term and condition and limitation contained in this ordinance, and in such franchise; and

13.1.2 Such written acceptance shall be filed by Glenhaven Lakes not later than the thirtieth (30th) day following the effective date of the Ordinance granting such franchise; and in default of the filing of such written acceptance as herein required, Glenhaven Lakes shall be deemed to have rejected the same. In case of Glenhaven Lakes' tardy acceptance of franchise, the County's recognition thereof shall be strictly at its discretion.

13.2 The existing franchise between the Parties pertaining to the same subject matter, i.e., Glenhaven Lakes' Facilities, which was granted by the County and accepted by Glenhaven

Lakes on May 31, 1978, shall be superseded and replaced by this franchise upon the effective date of this franchise as provided above.

13.3 This Franchise agreement sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Franchise agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this agreement.

Section 14. Assignment.

14.1 Neither this Franchise nor any interest herein shall be sold, transferred, or assigned without the prior consent in writing of the County Council, which consent shall not be unreasonably withheld, except that the Glenhaven Lakes may mortgage this Franchise to the trustee for its bond holders. Any approved assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the County, together with its written acceptance of all terms and conditions of this Franchise.

14.2 All the provisions, conditions, and requirements herein contained shall be binding upon the successors and assigns of Glenhaven Lakes, and all privileges, as well as all obligations and liabilities of the grantee shall inure to its successors and assigns equally as if they were specifically mentioned wherever Glenhaven Lakes is mentioned.

Section 15. Amendment.

15.1 Except as addressed in and through Section 15.3 below, this Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 5 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the County in conjunction with the exercise (or failure to exercise) by Glenhaven Lakes any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

15.1.1 References this Franchise; and

15.1.2 States that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise. In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

15.2 If, during the term of this Franchise, there becomes effective any change in federal or state law (including changes approved by the Washington Utilities and Transportation Commission) which:

15.2.1 Affords either party the opportunity to negotiate in good faith a term or

condition of this Franchise which term or condition would not have, prior to such change, been consistent with federal or state law; or

15.2.2 Pre-empt or otherwise renders null and void any term or condition of this Franchise which has there-to-fore been negotiated in good faith; then, in such event, either party may notify the other party in writing that such party desires to commence negotiations to amend this Franchise. Such negotiations shall encompass only the specific term or condition affected by such change in federal or state law and neither party shall be obligated to re-open negotiation on any other term or condition of this Franchise. Within thirty (30) days from and after the other party's receipt of such written notice, the parties shall, at a mutually agreeable time and place, commence such negotiations. Pending completion of such negotiations resulting in mutually agreeable amendment of this Franchise, adoption of such amendment by Ordinance by the County and acceptance of such Ordinance by Glenhaven Lakes, and except as to any portion thereof which has been pre-empted or otherwise rendered null and void by such change in federal or state law, this Franchise shall remain in full force and effect.

15.3 Notwithstanding any language to the contrary contained herein, this Franchise is subject to the provisions of the Whatcom County Charter, Section 9.30, and all rights belonging to the County and its people as set forth therein are hereby reserved thereto.

Section 16. Miscellaneous

16.1 If any term, provision, condition, or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

16.2 This Franchise is subject to the requirements of any and all applicable laws, rules, and regulations, including the Whatcom County Code, as currently enacted or hereafter modified. In the event of any actual conflict between the provisions of this Franchise and the requirements of the Whatcom County Code or County-enacted rules or regulations, the provisions of this Franchise shall control, to the extent authorized by law.

16.3 All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

For County: County Executive
Whatcom County Courthouse.
311 Grand Ave.
Bellingham, WA 98225

For Glenhaven Lakes: Office Manager
Glenhaven Lakes Club, Inc.
664 Rainbow Dr.
Sedro Woolley, WA 98284

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

16.4 No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Franchise or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Franchise, and each and every covenant, agreement, term and condition of this franchise shall continue in full force and effect with respect to other then existing or subsequent breach thereof.

Section 17. Incorporation and Annexation.

17.1 Whenever any part of the Franchise Area, by reason of the subsequent incorporation of any town or city, or extension of the limits of any town or city, shall fall within the city or town limits, this Franchise shall continue in force and effect as to all of the Franchise Area not so included in city or town limits.

Section 18. Insurance.

18.1 During the term of this Franchise Glenhaven Lakes shall keep in effect, a liability insurance policy covering all liability of Glenhaven Lakes to the County, including any assumed by contract between Glenhaven Lakes and any other party, with limits at least in the amount of \$1,000,000. In lieu of the insurance requirement of this Section, Glenhaven Lakes may self-insure against such risks. At the time of Glenhaven Lakes' acceptance of this Franchise and otherwise upon the County's request, Glenhaven Lakes shall provide the County with certificate(s) of insurance or evidence of self-insurance reflecting the requirements of this section.

Section 19. Forfeiture and Termination of Franchise.

19.1 If Glenhaven Lakes shall willfully violate or fail, through willful or unreasonable neglect, to comply with any of the provisions of this Franchise for sixty (60) days after receipt of written notice from the County, then the County shall have the right by ordinance to declare Glenhaven Lakes' forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter; provided, however, if any failure to comply with this Franchise by Glenhaven Lakes cannot be corrected with due diligence within said sixty (60) day period (Glenhaven Lakes' obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Glenhaven Lakes may so comply shall be extended for such time as may be reasonably necessary and so long as Glenhaven Lakes commences promptly and diligently to effect such compliance.

Section 20. Effective Date.

20.1 This Ordinance shall be effective ten (10) days after being signed by the County Executive, with the Franchise granted hereunder finally effective pursuant to the terms of Sections 13.1, 13.1.1, and 13.1.2, having been: (i) introduced to the County Council not less

than thirteen (13) days before its passage; (ii) brought to public notice by such notice having been posted in three (3) public places in Bellingham at least fifteen (15) days before the day fixed for the public hearing; (iii) published at least twice in the official newspaper for the County and no later than five (5) days prior to the day fixed for the hearing and as otherwise required by law; and (iv) passed at a regular meeting of the legislative body of the County of Whatcom by a vote of at least _____ members of the County Council on _____, 2019.

ADOPTED this ____ day of _____, 2019.

ATTEST:


WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

 3/14/19

Civil Deputy Prosecutor

Jack Louws, County Executive

EXHIBIT A

GLENHAVEN LAKES CLUB INC. FRANCHISE

Exhibits B through K are identified as follows:

Exhibit B	Plat Map of Glenhaven Lakes
Exhibit C	Plat Map of Glenhaven Lakes, Division Number 2
Exhibit D	Plat Map of Glenhaven Lakes, Division Number 3
Exhibit E	Plat Map of Glenhaven Lakes, Division Number 4
Exhibit F	Plat Map of Glenhaven Lakes, Division Number 5
Exhibit G	Plat Map of Glenhaven Lakes, Division Number 6
Exhibit H	Plat Map of Glenhaven Lakes, Division Number 7
Exhibit I	Plat Map of Glenhaven Lakes, Division Number 8
Exhibit J	Plat Map of Glenhaven Lakes, Division Number 9
Exhibit K	Plat Map of Glenhaven Lakes, Division Number 10
Exhibit L	Plat Map of Glenhaven Lakes, Division Number 11
Exhibit M	Plat Map of Glenhaven Lakes, Division Number 12

GLENHAVEN LAKES

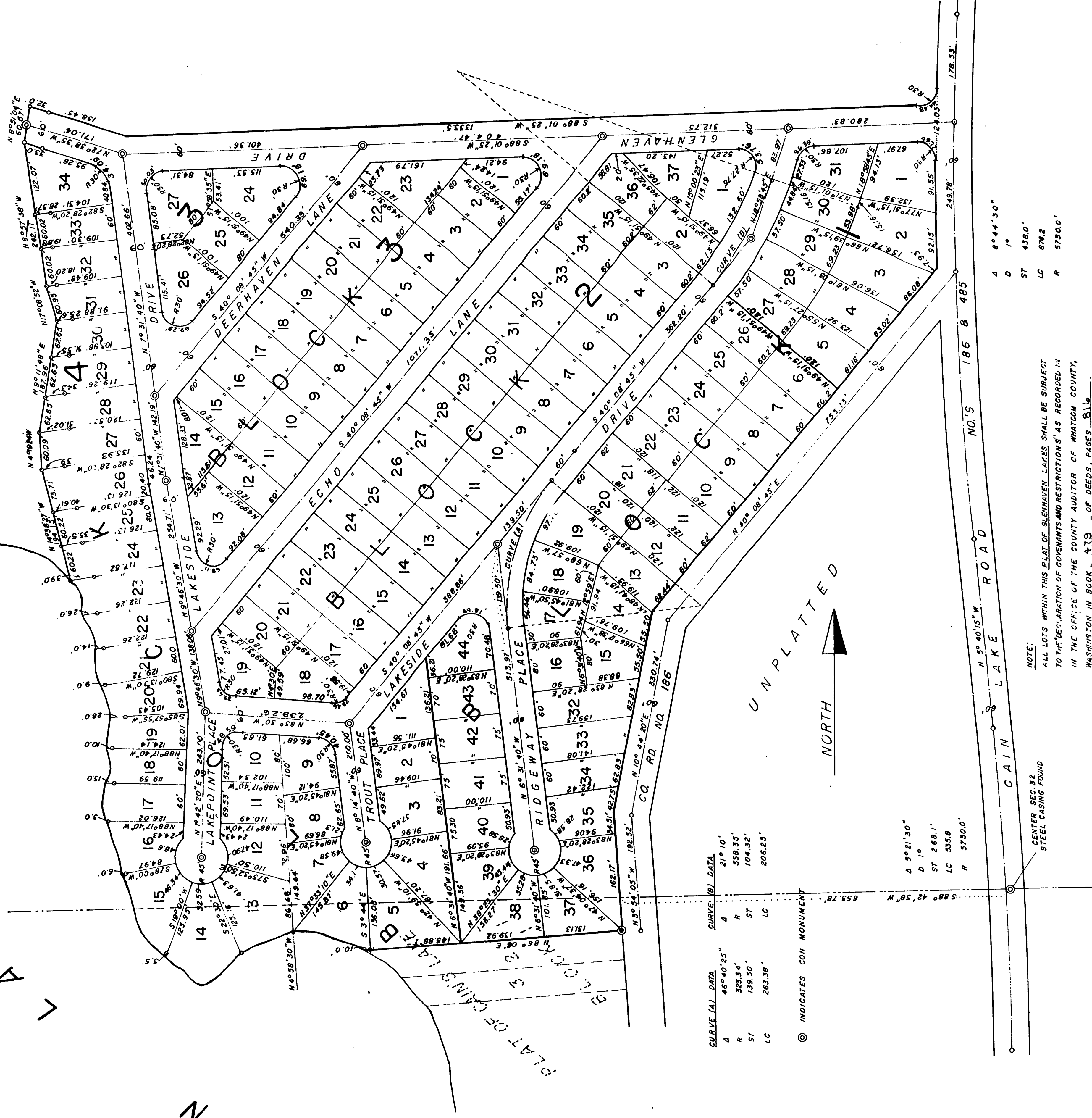
SECTION 32, T37N, R4E, W. M.

WHATCOM COUNTY, WASHINGTON

EXHIBIT B

SCALE 1" = 100'

UNPLATTED



CURVE (A) DATA	CURVE (B) DATA
A 46°40'25"	A 21°10'
R 323.34'	R 558.35'
ST 139.50'	ST 104.32'
LC 263.38'	LC 206.23'

© INDICATES CON MONUMENT

A 5°21'30"
D 1°
ST 268.1'
LC 535.8
R 5730.0'

CENTER SEC. 32
STEEL CASING FOUND

NOTE:
ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES SHALL BE SUBJECT
TO THE DETAIL OF COVENANTS AND RESTRICTIONS AS RECORDED IN
IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY,
WASHINGTON IN BOOK 419 - OF DEEDS, PAGES 816

A 8°44'30"
D 1°
ST 438.0'
LC 874.2
R 5730.0'

GLENHAVEN LAKES

SECTION 32 T37N R4E, W. M.

WHATCOM COUNTY, WASHINGTON

DESCRIPTION

I EDWARD M. PAULSEN DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW, THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON; THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND; AND THAT THE PLAT COVERS AND EMBRACES ALL OF LOT 1, BLOCK 1 OF THE PLAT OF CAIN LAKES AS RECORDED IN VOLUME 7 OF PLATS, PAGES 61 AND 62, WHATCOM COUNTY AUDITOR'S OFFICE AND ALSO OF THAT PORTION OF THE NW 1/4 OF SECTION 32, T37N, R4E, W.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF LOT 1, BLOCK 1, PLAT OF CAIN LAKES; THENCE S 86° 06' W - 426.93' TO THE PRESENT SHORE LINE OF CAIN LAKE; THENCE WESTERLY AND NORTHERLY ALONG SAID SHORELINE OF CAIN LAKE TO THE SW CORNER OF LOT 24, BLOCK 4 OF GLENHAVEN LAKES PLAT; THENCE N 14° 38' 27" W - 194.15 FT.; THENCE N 4° 19' 24" W - 60.09 FT.; THENCE N 9° 11' 48" E - 187.96' FT.; THENCE N 17° 08' 52" W - 60.95 FT.; THENCE N 8° 57' 38" W - 242.11 FT.; THENCE N 8° 51' 04" E - 60.67 FT.; THENCE S 72° 38' 35" E - 170.45 FT.; THENCE N 88° 01' 25" E - 1333.50 FT.; THENCE 44.48 FT. ALONG A CURVE TO THE LEFT, RADIUS OF 3000 FT. TO THE WESTERLY RIGHT-OF-WAY LINE OF THE CAIN LAKE ROAD (CO. RD. NO. 186 AND 485); THENCE SOUTHERLY 307.75 FT. ALONG SAID WESTERLY RIGHT-OF-WAY LINE ON A CURVE TO THE LEFT, RADIUS OF 5760.00 FT., CENTRAL ANGLE OF 8° 44' 30" TO AN INTERSECTION WITH THE WEST LINE OF THE OLD CAIN LAKE ROAD (CO. RD. NO. 186); THENCE S 40° 08' 45" W - 700.39 FT.; THENCE S 10° 44' 20" W - 342.24 FT.; THENCE S 3° 54' 05" E - 196.68 TO THE POINT OF BEGINNING.

(SEAL)

Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED, GLEN E. CORNING AND ELIZABETH CORNING HIS WIFE BEING OWNERS IN FEE SIMPLE OF THE LAND HEREIN PLATTED, (TOGETHER WITH ALLAN THOMSON AND MATTIE THOMSON HIS WIFE BEING MORTGAGEES OF RECORD OF SAID LAND); HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES SHOWN ON THE PLAT; ALSO, THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILL UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL CURVE AFTER THE GRADING. ALL LOTS, TRACTS OR PARCELS OF LAND EMBRACED WITHIN THIS PLAT SHALL BE SUBJECT TO THE FOLLOW RESTRICTIONS FOR A PERIOD OF 10 YEARS FROM THE DATE OF RECORDING OF THIS PLAT OR UNTIL SUCH TIME AS COUNTY ZONING COMES INTO FORCE AND APPLIES TO THIS PLAT; AND ALL SALES OR TRANSFERS OF OWNERSHIP OF THE LOTS, TRACTS OR PARCELS SHALL BE SUBJECT TO THESE RESTRICTIONS AS FOLLOWS:

1. NO LOT, TRACT, OR PORTION OF A LOT OR TRACT SHALL BE SUBDIVIDED.
2. NO STRUCTURE OR BUILDING SHALL BE CONSTRUCTED ON ANY LOT, TRACT OR PARCEL OF THIS PLAT CLOSER THAN 20 FEET TO THE FRONT PROPERTY LINE; AND IN THE CASE OF CORNER LOTS, NO STRUCTURE OR BUILDING SHALL BE CONSTRUCTED CLOSER 15 FEET TO THE SIDE PROPERTY LINE ABUTTING THE ROAD RIGHT-OF-WAY.
3. CONSTRUCTION ON ANY LOT SHALL REQUIRE A BUILDING PERMIT AND A SEWAGE DISPOSAL PERMIT FROM THE RESPECTIVE COUNTY AGENCIES.

IN WITNESS WHEREOF, WE HAVE SET HEREUNTO OUR HANDS AND SEALS THIS 14th DAY OF November, 1962.

(SEAL)

Allan H. Thomson Mattie Thomson
OWNER IN FEE SIMPLE MORTGAGEE OF RECORD

ACKNOWLEDGEMENT

STATE OF WASHINGTON) SS
COUNTY OF WHATCOM)

ON THIS 14th DAY OF November, 1962 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE SAID COUNTY AND STATE, PERSONALLY CAME Glen E. Corning AND Elizabeth Corning (HIS WIFE), TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED IN

AND WHO EXECUTED THE DEDICATION HEREIN, AND ACKNOWLEDGED THAT THEY SIGNED AND SEALED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

Neal H. Riffe
(NOTARY PUBLIC)

Bellingham Wash
(PLACE)

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 30th DAY OF November, 1962.

J. J. Jay
ENGINEER, WHATCOM COUNTY, WASHINGTON

(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 30 DAY OF November, 1962.

Patricia Davis
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 30th DAY OF November, 1962.

ATTEST: David
CLERK OF THE BOARD

La. Helen H. G. H. H.
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

(SEAL)

TREASURER'S CERTIFICATE

I, Hugh L. Cory, COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 30 DAY OF Nov., 1962.

Hugh L. Cory
TREASURER, WHATCOM COUNTY, WASHINGTON

(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF Hugh L. Cory ON THIS

30th DAY OF Nov., 1962 AT 10 MINUTES PAST 1 OF THE RECORDS OF SAID COUNTY.

William H. Anderson
AUDITOR, WHATCOM COUNTY, WASHINGTON

(SEAL)

GLENHAVEN LAKES

EXHIBIT C

DIVISION NUMBER 2
SECTION 32 T37N R4E, W. M.
WHATCOM COUNTY WASHINGTON

DESCRIPTION

I, Edward J. Paulsen, DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES, DIVISION 2, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW; THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON; THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY AND DULY PROVIDED FOR; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE SW 1/4 OF SEC. 32, T37N R4E, W. M. DESCRIBED AS FOLLOWS: BEGINNING AT THE N.E. CORNER OF THE PLAT OF GLENHAVEN LAKES AS FILED ON PAGES 35 & 36, VOL. 9 OF THE BOOK OF PLATS IN THE WHATCOM COUNTY AUDITORS OFFICE, AND THE WEST RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 186 & 485 (CAIN LAKE ROAD); THENCE NORTHERLY ALONG A CURVE TO THE RIGHT, RADIUS 5760.00 FT. CENTRAL ANGLE OF 8°-44'-30" A DISTANCE OF 119.24' FT.; THENCE N 3°-04'-15" E A DISTANCE OF 1068.90 FT.; THENCE S88° 01' 25" W - 1492.51' ; THENCE SOUTH 4°-54'-00" WEST A DISTANCE OF 1167.51' TO NORTH R/W OF GLENHAVEN DRIVE; THENCE S72°38'35"W-170.84'; THENCE N 88° 01' 25" E - 1333.50' ; THENCE EASTERLY ALONG A CURVE TO THE LEFT, RADIUS 34.33' CENTRAL ANGLE OF 86°08'20" , A DISTANCE OF 5161 FT. TO THE TRUE POINT OF BEGINNING.

Edward J. Paulsen
REGISTERED PROFESSIONAL ENGINEER



DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED GEORGE COBELENS, WALLACE WINTER, CARL MILLER AND HILDA MILLER, SUCCESSORS IN INTEREST TO GENERAL BUILDING, INC. AND FEE SIMPLE OWNERS OF A PORTION OF SAID LAND, BY RICHARD J. WATERS, OUR ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942475 IN VOL. 36, PG. 196, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY; AND ALLAN THOMSON AND MATTIE THOMSON, HIS WIFE, FEE SIMPLE OWNERS OF THE REMAINDER OF SAID LAND; AND GLEN CORNING, ABNER LUTKKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON, JR. AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP-AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES SHOWN ON THE PLAT; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, AND ALSO THE RIGHT TO DRAIN ALL ROADS, ALLEYS AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER THE GRADING.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 25th DAY OF February, 1963.

Allan Thomson
ALLAN THOMSON
FEE SIMPLE OWNER

Mattie Thomson
MATTIE THOMSON
FEE SIMPLE OWNER

GEORGE COBELENS, WALLACE WINTER
CARL MILLER, AND HILDA MILLER,
FEE SIMPLE OWNERS

BY Richard J. Waters
RICHARD J. WATERS
ATTORNEY-IN-FACT

GLEN CORNING, ABNER LUTKKE,
A.J. McMILLAN, MOKSHA W. SMITH,
A.J. HUTTON, JR. AND LAWRENCE
C. ANGELL, D. B. A. GLENHAVEN
LAKES

CONTRACT PURCHASERS
BY Glenn Corning
GLEN CORNING, PARTNER AND
ATTORNEY-IN-FACT

Declaration of Compliance & Petition for Sale
I, Edward J. Paulsen, being a duly licensed Professional Engineer in the State of Washington, do hereby certify that the above plat is a true and correct copy of the original survey made by me, and that the same has been filed for record in the office of the Auditor of Whatcom County, Washington, at the request of Glenn Corning on this 18th day of March, 1963.
C/P # 1580411 Q48 R 827 8-11-87
D/R 165223 R104 P1353 5/16/87
C/P # 163833 R104 P1353 5/16/87

STATE OF WASHINGTON)
COUNTY OF WHATCOM) SS

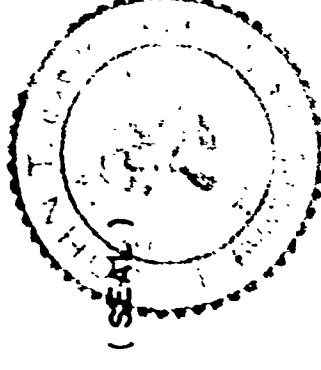
ON THIS 28th DAY OF February, 1963, BEFORE ME PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR GEORGE COBELENS, WALLACE WINTER, CARL MILLER AND HILDA MILLER, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPALS, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PRINCIPALS ARE NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel H. Kille
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT BELLINGHAM.

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 11th DAY OF MARCH, 1963.



[Signature]
ENGINEER, WHATCOM COUNTY WASHINGTON

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 18 DAY OF March, 1963.

Patricia Swin
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY THIS 18 DAY OF March, 1963.



[Signature]
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

ATTEST: [Signature]
CLERK OF THE BOARD

TREASURER'S CERTIFICATE

I, Glenn Corning, COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 18th DAY OF March, 1963.



[Signature]
TREASURER, WHATCOM COUNTY, WASHINGTON

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF Glenn Corning ON THIS 18th DAY OF MARCH, 1963.
AT 12 MINUTES PAST 11 A.M. AND RECORDED IN VOLUME 9 OF PLATS, PAGE 39440 OF THE RECORDS OF SAID COUNTY.



[Signature]
AUDITOR, WHATCOM COUNTY, WASHINGTON

STATE OF WASHINGTON)
COUNTY OF WHATCOM) SS

ON THIS 28th DAY OF February, 1963, BEFORE ME PERSONALLY APPEARED ALLAN THOMSON AND MATTIE THOMSON, HIS WIFE, TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED IN AND WHO EXECUTED THE WITHIN DEDICATION, AND ACKNOWLEDGED THAT THEY SIGNED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel H. Kille
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT BELLINGHAM.

STATE OF WASHINGTON)
COUNTY OF WHATCOM) SS

ON THIS 28th DAY OF February, 1963, BEFORE ME PERSONALLY APPEARED GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS A PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUTKKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON, JR. AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel H. Kille
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT BELLINGHAM.

DIVISION NUMBER 2

SCALE 1" = 100'

- U N P L A T T E D -



NOTE:

1. ALL CORNER RADII ARE 30'.
2. TO ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES SHALL BE SUBJECT TO THE "DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF CLATSOP COUNTY, WASHINGTON, IN BOOK 482 OF DEEDS, PAGES 208.
3. INDICATES CONCRETE MONUMENT ©

DESCRIPTION

I, Edward M. Paulsen DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES, DIVISION 3, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW; THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON; THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY AND DULY PROVIDED FOR; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE SW 1/4 & SE 1/4 OF SEC. 29 & THE NW 1/4 OF SEC. 32, T.37 N., R.4 E., W.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE N.E. CORNER OF GLENHAVEN LAKES, DIVISION 2, (AS FILED ON PAGES 39 & 40, VOL. 9 OF THE BOOK OF PLATS IN THE WHATCOM COUNTY AUDITORS' OFFICE) AND THE WEST R/W LINE OF COUNTY ROAD NO. 186 & 485; THENCE S.88° 01' 25" W. AND FOLLOWING THE NORTH BOUNDARY OF DIVISION 2, A DISTANCE OF 1492.49 FT. TO THE N.W. CORNER OF SAID PLAT; THENCE N.6° 57' 23" E., A DISTANCE OF 352.06 FT.; THENCE N.9° 27' 45" E., A DISTANCE OF 182.48 FT.; THENCE N.40° 01' 50" E., FOR 326.50 FT.; THENCE N.85° 45' 50" E., A DISTANCE OF 541.52 FT.; THENCE N.68° 37' 45" E., FOR 246.98 FT.; THENCE N.58° 34' 13" E., FOR 210.95 FT.; THENCE N.15° 08' 38" E., A DISTANCE OF 260.17 FT.; THENCE S.86° 55' 45" E., FOR 256.00 FT. TO AN INTERSECTION WITH THE WEST R/W LINE OF THE SAID GAIN LAKE RD; THENCE S.3° 04' 15" W. FOLLOWING THE SAID WEST R/W LINE A DISTANCE OF 1207.01 FT. TO THE TRUE POINT OF BEGINNING.



(SEAL)

Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED GEORGE COBELENS, WALLACE WINTER, CARL MILLER AND HILDA MILLER, SUCCESSORS IN INTEREST TO GENERAL BUILDING, INC. AND FEE SIMPLE OWNERS OF A PORTION OF SAID LAND, BY RICHARD J. WATERS, OUR ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITORS' FILE NO. 942475 IN VOL. 36, PG. 196 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY; AND GLEN CORNING, ABNER LUDTKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON, JR. AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITORS' FILE NO. 942089 IN VOL. 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM CO., HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES SHOWN ON THE PLAT; ALSO, THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, AND ALSO THE RIGHT TO DRAIN ALL ROADS, ALLEYS AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING; EXCEPT THAT TRACT "A" AS SHOWN HEREON SHALL BE RESERVED FOR THE MEMBERS OF GLENHAVEN LAKES CLUB, INC.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 22^d DAY OF July, 1963.

GEORGE COBELENS, WALLACE WINTER
CARL MILLER, AND HILDA MILLER,

GLEN CORNING, ABNER LUDTKE,
A.J. McMILLAN, MOKSHA W. SMITH,
A.J. HUTTON, JR. AND LAWRENCE C.
ANGELL, D.B.A. GLENHAVEN LAKES
CONTRACT PURCHASERS

FEE SIMPLE OWNERS

BY Richard J. Waters
RICHARD J. WATERS
ATTORNEY-IN-FACT

BY Glen Corning

GLEN CORNING, PARTNER AND
ATTORNEY-IN-FACT

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 23^d DAY OF July, 1963.

J. J. [Signature]
ENGINEER, WHATCOM COUNTY WASHINGTON

(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 23^d DAY OF July, 1963.

Patricia [Signature]
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY THIS 23^d DAY OF July, 1963.

ATTEST: [Signature]
CLERK OF THE BOARD

[Signature]
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

(SEAL)

TREASURER'S CERTIFICATE

I, Hugh [Signature], COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL, THIS 23^d DAY OF July, 1963.

[Signature]
TREASURER, WHATCOM COUNTY, WASHINGTON

(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF Glen Corning ON THIS 22^d DAY OF July, 1963. AT 2 MINUTES PAST 3 P.M. AND RECORDED IN VOLUME 4 OF PLATS, PAGE 47 OF THE RECORDS OF SAID COUNTY.

W. J. [Signature]
AUDITOR, WHATCOM COUNTY, WASHINGTON

(SEAL)

ACKNOWLEDGEMENTS

STATE OF WASHINGTON) SS
COUNTY OF WHATCOM)

ON THIS 22^d DAY OF July, 1963, BEFORE ME PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR GEORGE COBELENS, WALLACE WINTER, CARL MILLER AND HILDA MILLER, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPALS, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PRINCIPALS ARE NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Joel Th. [Signature]
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT
BELLINGHAM

STATE OF WASHINGTON) SS
COUNTY OF WHATCOM)

ON THIS 22^d DAY OF July, 1963, BEFORE ME PERSONALLY APPEARED GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS A PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUDTKE, A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON, JR. AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

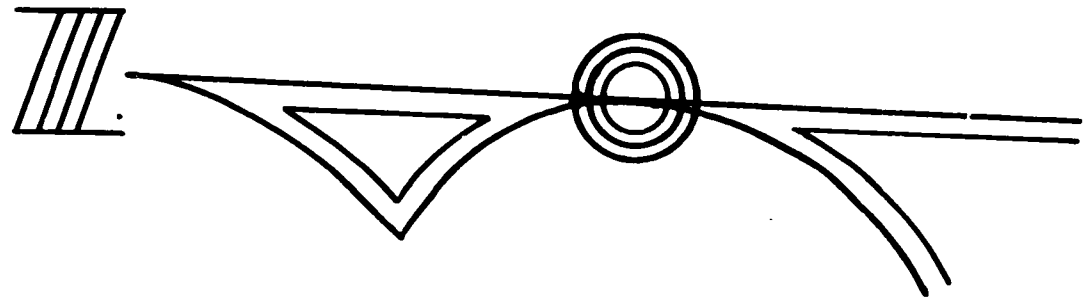
Joel Th. [Signature]
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT BELLINGHAM

GLENHAVEN LAKES

DIVISION NUMBER 3

SECTIONS 29 & 32, T.37N., R.4E., W. M.

WHATCOM COUNTY, WASHINGTON.

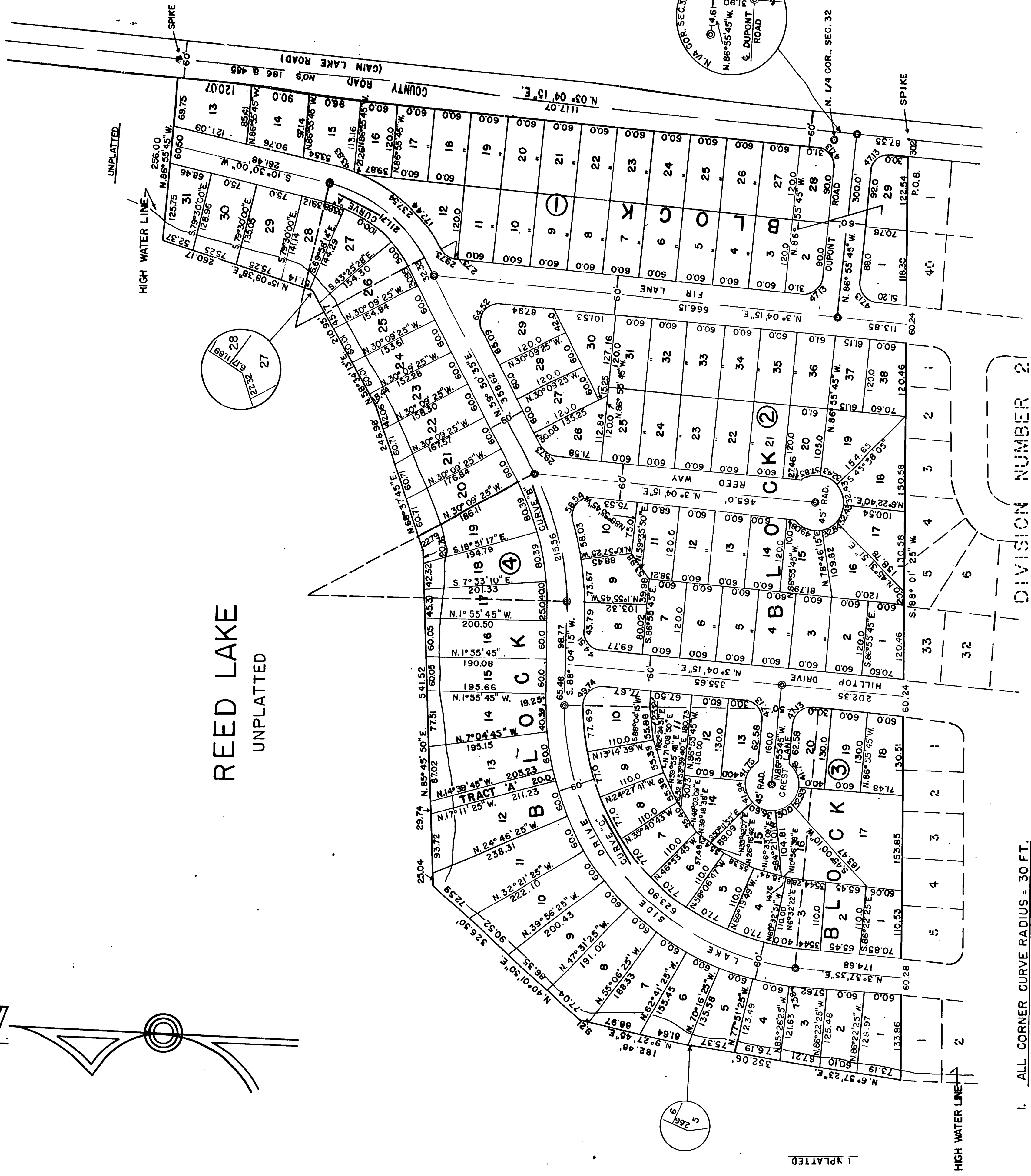


CURVE DATA

"A"
 $\Delta = 49^\circ 20' 35''$
ST = 112.93
R = 245.85
LC = 211.71

"B"
 $\Delta = 28^\circ 13' 40''$
ST = 110.02
R = 437.56
LC = 215.56

"C"
 $\Delta = 84^\circ 26' 40''$
ST = 384.17
R = 423.35
LC = 623.90



1. ALL CORNER CURVE RADIUS = 30 FT.

2. INDICATES CONCRETE MONUMENT--- ©

3. LOTS FRONTING ON WATER HAVE WOODEN POSTS

SET ON LOT BOUNDARIES.

DECLARATION OF COVENANTS AND RESTRICTIONS FOR THIS PLAT
IS RECORDED IN VOLUME (4) OF DEEDS, PAGES 489
UNDER AUDITORS FILE NO. 952650.

Scale: 1 inch = 100 feet

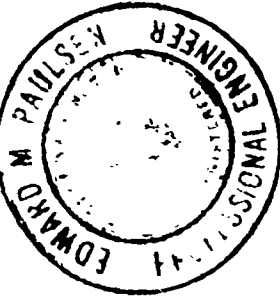
GLENHAVEN LAKES

EXHIBIT E

DIVISION NUMBER 4
SECTION 32 T37N R4E, W. M.
WHATCOM COUNTY WASHINGTON

DESCRIPTION

I, EDWARD M. PAULSEN, DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES, DIVISION 4, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW, THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY AND DULY PROVIDED FOR; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE NW 1/4 OF SEC. 32, T37N, R4E, W.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST 1/4 CORNER OF SAID SEC. 32; THENCE N88°48'02"E. 580.27 FT.; THENCE N19°45'28"W. 348.18 FT.; THENCE N3°46'17"E. 122.23 FT.; THENCE S81°43'E. 144.40 FT. TO THE PRESENT SHORE LINE OF CAIN LAKE; THENCE NORTHERLY AND EASTERLY ALONG SAID SHORELINE OF CAIN LAKE AS SHOWN ON THE PLAT OF GLENHAVEN LAKES DIVISION NO. 4 TO THE SW CORNER OF LOT 24, BLOCK 4 OF THE PLAT OF GLENHAVEN LAKES; THENCE N14°38'27"W. 194.15 FT.; THENCE N4°19'24"W. 60.09 FT.; THENCE N9°11'48"E. 187.96 FT.; THENCE N17°08'52"W. 60.95 FT.; THENCE N8°57'38"W. 242.11 FT.; THENCE N8°51'04"E. 60.67 FT.; THENCE N4°54'00"E. 30.72 FT.; THENCE N72°38'35"W. 186.56 FT.; THENCE S17°21'25"W. 30.00 FT.; THENCE N72°38'35"W. 507.63 FT.; THENCE N86°13'43"W. 576.39 FT.; THENCE S2°33'35"E. ALONG THE WEST LINE OF SAID NW 1/4 OF SEC. 32 1617.69 FT. TO THE POINT OF BEGINNING.



DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED TOM J. DAVES AND BLANCHE M. DAVES, HIS WIFE, TOGETHER WITH Elizabeth Corning and William H. Thompson BEING OWNERS IN FEE SIMPLE OF THE LAND HEREIN PLATTED, (TOGETHER HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS AND ALLEYS; THE COUNTY WILL MAINTAIN THE SURFACE OF THE ROADWAY OF GLENHAVEN DRIVE WHERE IT CROSSES THE DAM IN "TRACT A" AS SHOWN ON THE PLAT BUT WILL HAVE NO INTEREST, CONTROL OR LIABILITY OVER THE DAM, ITS APPURTENANCES AND THE WATER LEVEL OF REED LAKE, ALSO, ALL LOTS, TRACTS, OR PARCELS OF LAND EMBRACED WITHIN THIS PLAT SHALL BE SUBJECT TO THE FOLLOWING RESTRICTIONS FOR A PERIOD OF 10 YEARS FROM THE DATE OF RECORDING OF THIS PLAT OR UNTIL SUCH TIME AS COUNTY ZONING COMES INTO FORCE AND APPLIES TO THIS PLAT; AND ALL SALES OR TRANSFERS OF OWNERSHIP OF THE LOTS, TRACTS OR PARCELS SHALL BE SUBJECT TO THESE RESTRICTIONS AS FOLLOWS:

1. NO LOT, TRACT, OR PORTION OF A LOT OR TRACT SHALL BE SUBDIVIDED.
2. NO STRUCTURE OR BUILDING SHALL BE CONSTRUCTED ON ANY LOT, TRACT OR PARCEL OF THIS PLAT CLOSER THAN 20 FT. TO THE FRONT PROPERTY LINE; AND IN THE CASE OF WATER FRONT LOT, NO STRUCTURE OR BUILDING SHALL BE CONSTRUCTED CLOSER THAN 50 FT. TO THE FRONT PROPERTY LINE ABUTTING THE ROAD RIGHT-OF-WAY.
3. CONSTRUCTION ON ANY LOT SHALL REQUIRE A BUILDING PERMIT AND A SEWAGE DISPOSAL PERMIT FROM THE RESPECTIVE COUNTY AGENCIES.
4. TRACTS A & B ARE HEREBY DEDICATED TO THE GLENHAVEN LAKES COMMUNITY CLUB.

IN WITNESS WHEREOF, WE HAVE SET HEREUNTO OUR HANDS AND SEALS THIS 9TH DAY OF DEC. 1963.

Elizabeth Corning William H. Thompson
OWNER IN FEE SIMPLE MORTGAGEE OF RECORD
Tom J. Daves
OWNER IN FEE SIMPLE

STATE OF WASHINGTON)
COUNTY OF WHATCOM)

ON THIS 13TH DAY OF December, 1963, BEFORE ME PERSONALLY APPEARED TOM J. DAVES AND BLANCHE M. DAVES, HIS WIFE TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED IN AND WHO EXECUTED THE WITHIN DEDICATION AND ACKNOWLEDGED THAT THEY SIGNED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Paul H. Riffe
NOTARY PUBLIC IN AND FOR THE
STATE OF WASHINGTON, RESIDING
AT BELLINGHAM.

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
COUNTY OF WHATCOM)

ON THIS 9TH DAY OF December, 1963, BEFORE ME PERSONALLY APPEARED ALLAN THOMSON AND MATTIE THOMSON, HIS WIFE TO ME KNOWN TO BE THE INDIVIDUALS DESCRIBED IN AND WHO EXECUTED THE WITHIN DEDICATION AND ACKNOWLEDGED THAT THEY SIGNED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Paul H. Riffe
NOTARY PUBLIC IN AND FOR THE
STATE OF WASHINGTON, RESIDING
AT BELLINGHAM.

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 23 DAY OF DEC., 1963.
John J. [Signature]
ENGINEER, WHATCOM COUNTY WASHINGTON

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 23 DAY OF December, 1963
Patricia [Signature]
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY THIS 24TH DAY OF DEC., 1963.

ATTEST: Idella Hansen
CLERK OF THE BOARD

V. E. [Signature]
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

I, Bugsy [Signature], COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 23rd DAY OF December, 1963

(SEAL)

Bugsy [Signature]
TREASURER, WHATCOM COUNTY, WASHINGTON

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY WASHINGTON, AT THE REQUEST OF Glenhaven Lakes ON THIS 24th DAY OF Dec., 1963.
AT 5 MINUTES PAST 10 A.M. AND RECORDED IN VOLUME 9 OF PLATS, PAGE 51 & 52 OF THE RECORDS OF SAID COUNTY.

Idella Hansen
AUDITOR, WHATCOM COUNTY, WASHINGTON

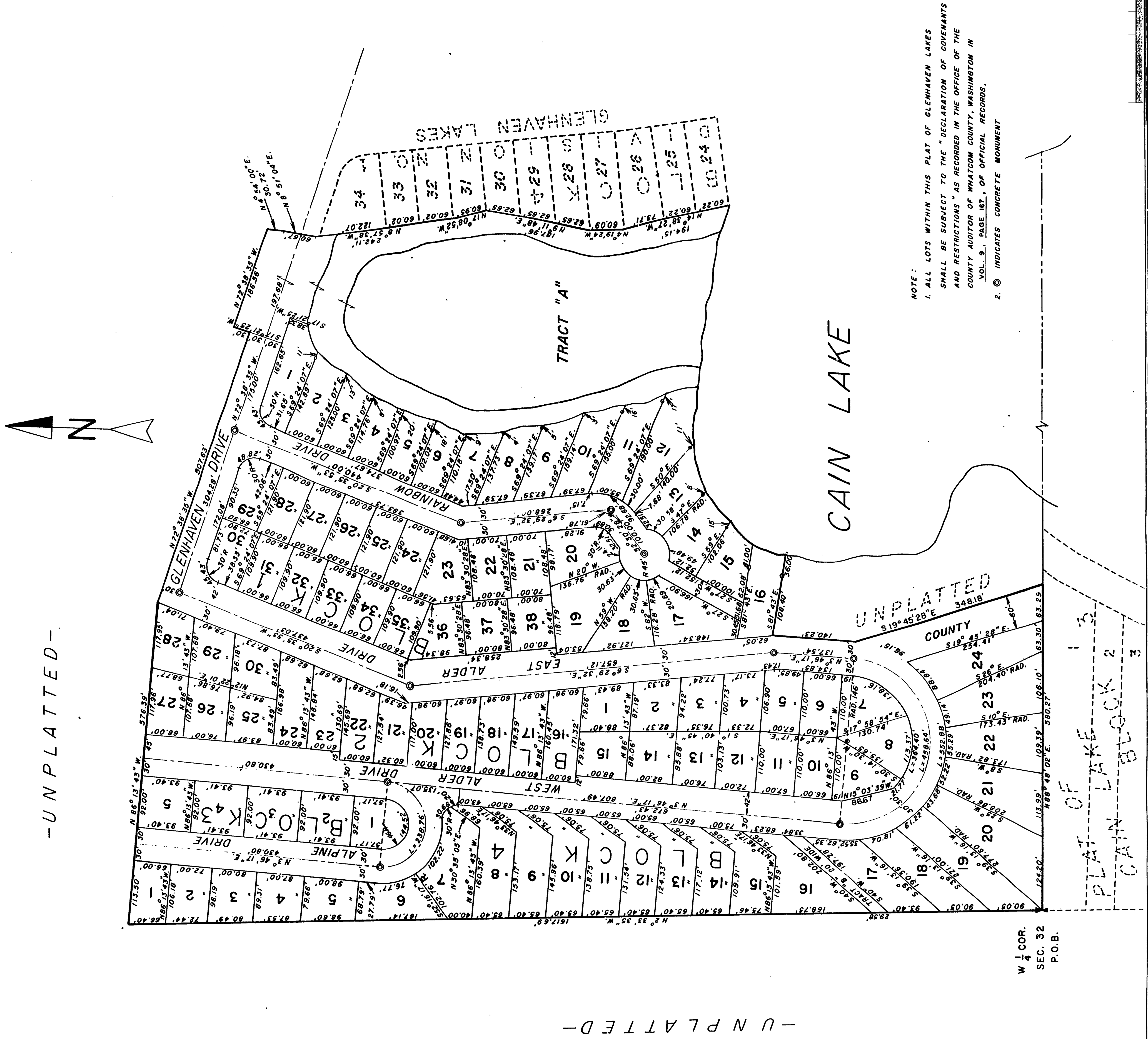
STATE OF WASHINGTON)
COUNTY OF WHATCOM)

ON THIS 9th DAY OF December, 1963, BEFORE ME PERSONALLY APPEARED GLEN CORNING TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS A PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUTKE A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON JR., AND LAWRENCE ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Paul H. Riffe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING
AT BELLINGHAM

GLENHAVEN LAKES

DIVISION NUMBER 4
SECTION 32 T37N R4E, W. M.
WHATCOM COUNTY WASHINGTON
SCALE: 1"=100'



GLENHAVEN LAKES

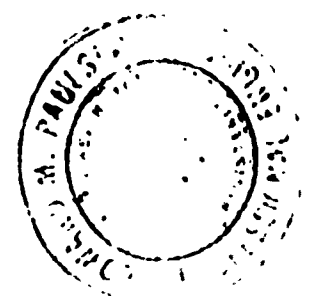
EXHIBIT F

DIVISION NUMBER 5
SECTION 29 & 32, T37N, R4E, W. M.

WHATCOM COUNTY, WASHINGTON

DESCRIPTION

EDWARD M. PAULSEN DOHEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES, DIV 5 IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW, THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON; THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE NW 1/4 SEC. 32, T37N, R4E, W. M. AND THAT PORTION OF THE SW 1/4 SEC. 29, T37N, R4E, W. M. DESCRIBED AS FOLLOWS; COMMENCING AT THE NW CORNER OF SEC. 32, T37N, R4E, W. M., THENCE NORTH AND FOLLOWING THE WEST BOUNDARY OF THE SW 1/4 SEC. 29, T37N, R4E, W. M. 1331.52'; THENCE EAST 148.76'; THENCE N 67° 10' 00" E - 260.00'; THENCE S 15° 00' 00" E - 50.00'; THENCE N 80° 26' 15" E, BEING RADIAL, 254.46'; THENCE SOUTH-EASTERLY ON A CURVE HAVING A RADIUS OF 153.58' AND A CENTRAL ANGLE OF 86° 16' 15", A DISTANCE OF 231.23'; THENCE N 84° 10' 00" E - 121.97'; THENCE ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 90.68' AND A CENTRAL ANGLE OF 117° 30' 00", A DISTANCE OF 185.95'; THENCE S 68° 20' 00" E - 168.72'; THENCE S 29° 48' 00" W - 78.86'; THENCE S 60° 12' 00" E - 595.16' M/L TO A POINT ON THE BOUNDARY OF THE PLAT OF GLENHAVEN LAKES, DIVISION 3; THENCE S 40° 01' 50" W AND FOLLOWING THE BOUNDARY OF SAID DIVISION 3, 326.50'; THENCE S 9° 27' 45" W - 182.48'; THENCE S 6° 57' 23" W - 352.06' TO THE SW CORNER OF SAID DIVISION AND THE NW CORNER OF THE PLAT OF GLENHAVEN LAKES, DIVISION 2; THENCE S 4° 54' 00" W AND FOLLOWING THE WESTERLY BOUNDARY OF SAID DIVISION 2, 1136.79' TO A POINT BEING THE NE CORNER OF THE PLAT OF GLENHAVEN LAKES, DIVISION 4; THENCE N 72° 38' 35" W AND FOLLOWING THE NORTHERLY BOUNDARY OF SAID DIVISION 4 - 186.52'; THENCE S 17° 21' 25" W - 30.00'; THENCE N 72° 38' 35" W - 507.63'; THENCE N 86° 13' 43" W - 576.41' M/L TO A POINT ON THE WESTERLY BOUNDARY OF THE NW 1/4 SEC. 32, T37N, R4E, W. M. BEING THE NW CORNER OF SAID DIVISION 4; THENCE N 2° 33' 35" W AND FOLLOWING THE WESTERLY BOUNDARY OF SAID NW 1/4 SEC. 32, 935.47' M/L TO THE TRUE POINT OF BEGINNING.



Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

(SEAL)

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED, ALLAN THOMSON AND MATTIE V. THOMSON, ARE THE PER SIMPLE OWNERS OF A PORTION OF SAID LAND AND A WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS A WHITTAKER FOX AS HER SEPARATE PROPERTY, FREE SIMPLE OWNER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 95416 IN VOLUME 8, PAGES 123 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON; AND GLEN CORNING, ABNER LUTKE, A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON, JR., AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS, AND PUBLIC SITES SHOWN ON THE PLAT; ALSO, THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, AND ALSO THE RIGHT TO DRAIN ALL ROADS, ALLEYS, AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING; EXCEPT THAT TRACTS "A" AND "C" AS SHOWN THEREON SHALL BE RESERVED FOR THE MEMBERS OF GLENHAVEN LAKES CLUB, INC. IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 21ST DAY OF March, 1964.

Allan Thomson
ALLAN THOMSON
FREE SIMPLE OWNER

Mattie V. Thomson
MATTIE V. THOMSON
FREE SIMPLE OWNER

Iva Whittaker Truett
IVA WHITTAKER TRUETT
FREE SIMPLE OWNER

Richard J. Waters
RICHARD J. WATERS, ATTORNEY-IN-FACT

BY *Glen Corning*
GLEN CORNING, PARTNER AND ATTORNEY-IN-FACT

BY *Abner Lutke*
ABNER LUTKE, PARTNER AND ATTORNEY-IN-FACT

BY *A. J. McMillan*
A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON, JR. AND LAWRENCE C. ANGELL, D.B.A. GLENHAVEN LAKES CONTRACT PURCHASERS

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 10 DAY OF April, 1964.

J. Fay
ENGINEER, WHATCOM COUNTY, WASHINGTON
(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 10 DAY OF April, 1964.

Patricia Drury
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 12TH DAY OF April, 1964.

ATTEST: *Clifford S. ...*
CLERK OF THE BOARD
W. B. ...
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

(SEAL)

TREASURER'S CERTIFICATE

I, *Hugh Cory*, COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 10TH DAY OF April, 1964.

Hugh Cory
TREASURER, WHATCOM COUNTY, WASHINGTON

(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF *Edward Paulsen* ON THIS 10TH DAY OF April, 1964, AT 30 MINUTES PAST 2 P.M. AND RECORDED IN VOLUME 9 OF PLATS, PAGES 55-56-57 OF THE RECORDS OF SAID COUNTY.

Yvonne Hansen
AUDITOR, WHATCOM COUNTY, WASHINGTON

(SEAL)

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

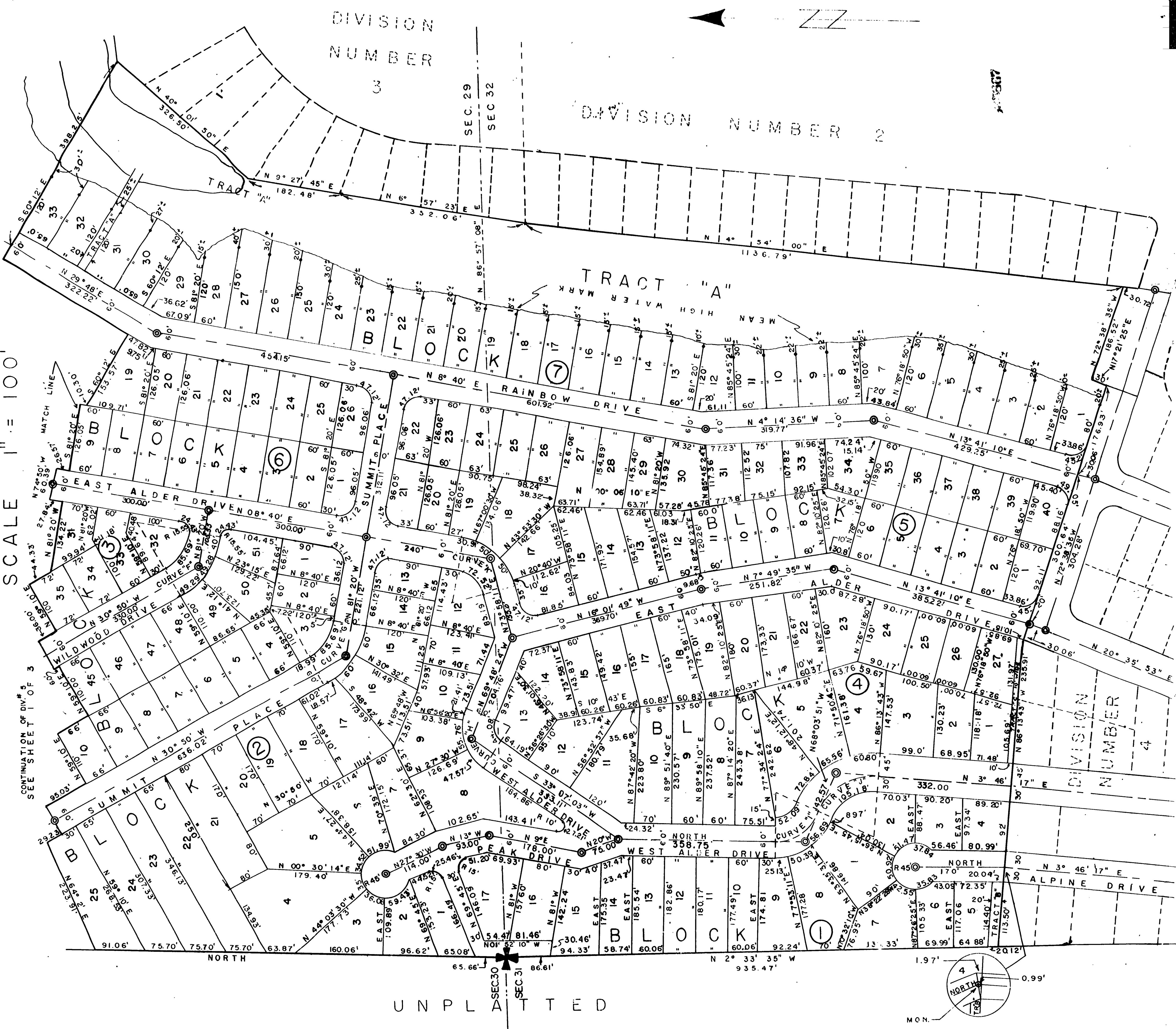
Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21ST DAY OF March, 1964, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED, THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Notary Public
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

GLENHAVEN LAKES DIVISION NUMBER 5



GLENHAVEN LAKES

DIVISION NUMBER 5

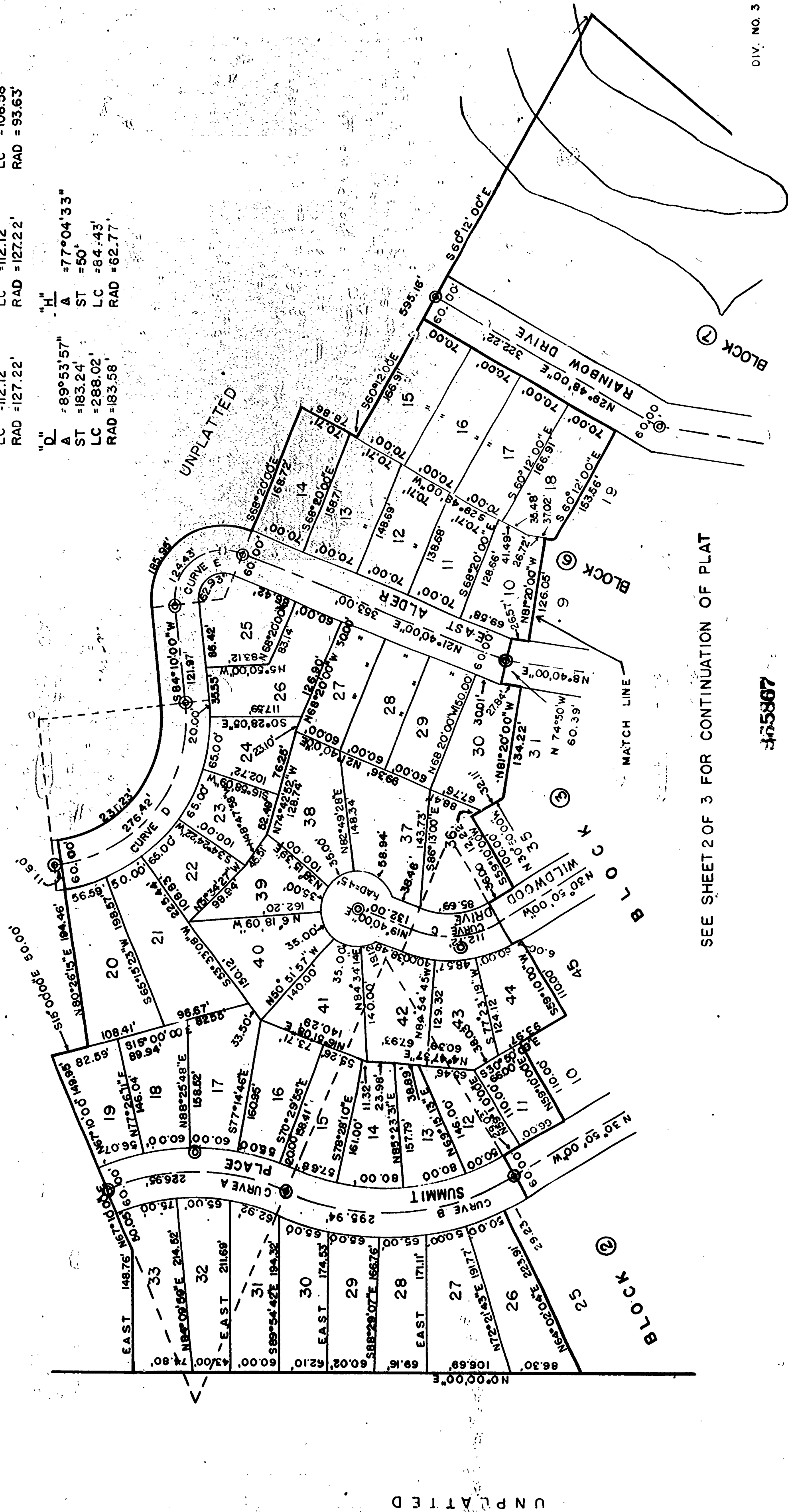
SECTION 29 & 32, T37N, R4E, W. M.

WHATCOM COUNTY, WASHINGTON

SCALE 1" = 100'

CURVE DATA

"A"	A = 46°	"E"	A = 117°30'	"L"	A = 68°03'51"
ST = 120'	ST = 100'	ST = 60'	ST = 105.54'		
LC = 226.95'	LC = 124.43'	LC = 141.65'	LC = 88.85'		
RAD = 282.70'	RAD = 60.68'	RAD = 127.22'	RAD = 113.90'		
"B"	A = 54°	"F"	A = 50°30'	"J"	A = 71°50'08"
ST = 160'	ST = 60'	ST = 60'	ST = 82.57'		
LC = 295.94'	LC = 112.12'	LC = 106.58'	LC = 106.58'		
RAD = 314.02'	RAD = 127.22'	RAD = 127.22'	RAD = 93.63'		
"C"	A = 50°30'	"G"	A = 50°30'	"K"	A = 65°18'11"
ST = 60'	ST = 60'	ST = 60'	ST = 60'		
LC = 112.12'	LC = 112.12'	LC = 106.58'	LC = 106.58'		
RAD = 127.22'	RAD = 127.22'	RAD = 127.22'	RAD = 93.63'		
"D"	A = 89°53'57"	"H"	A = 77°04'33"		
ST = 183.24'	ST = 50'	ST = 50'	ST = 50'		
LC = 288.02'	LC = 84.43'	LC = 84.43'	LC = 84.43'		
RAD = 183.58'	RAD = 62.77'	RAD = 62.77'	RAD = 62.77'		



SEE SHEET 2 OF 3 FOR CONTINUATION OF PLAT

335367

DIV. NO. 3

NOTE:

1. ALL CORNER RADII ARE 30' UNLESS SHOWN OTHERWISE
2. ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIVISION NO. 5 SHALL BE SUBJECT TO THE "DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON, UNDER AUDITORS FILE NUMBER 965861 - Vol 12 Page 984 of 988
3. © INDICATES CONCRETE MONUMENT

modified by letter Vol 329 Vol 46 4-7-77

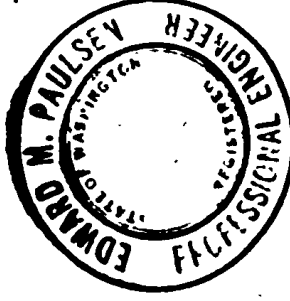
GLENHAVEN LAKES

REPLAT OF DIVISION "5, BLOCK 2
SECTION 29 8 32, T37N, R4E, W. M.

WHATCOM COUNTY, WASHINGTON

DESCRIPTION OF REPLAT OF GLENHAVEN LAKES DIV. 5

I, EDWARD M. PAULSEN, DO HEREBY CERTIFY THAT THIS REPLAT OF DIVISION NUMBER 5 OF GLENHAVEN LAKES, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW, THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON; THAT PROVISION FOR ALL MONUMENTS AND STAKES HAVE BEEN PROVIDED ON THE GROUND; AND THAT THE REPLAT COVERS PORTION OF THE SW $\frac{1}{4}$ SEC. 29, T 37N, R 5E, W.M., DESCRIBED AS FOLLOWS; COMMENCING AT A POINT N 3° 21' 23" E AND 68.47' FROM THE NW CORNER OF SEC. 32, T 37N, R 4E, W.M., THENCE N 3° 21' 23" E - 1265.34'; THENCE EAST - 70.67'; THENCE N 67° 10' 00" E 50.05'; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 252.70' AND A CENTRAL ANGLE OF 46° 00' 00" A DISTANCE OF 202.87', THIS BEING THE MOST WESTERLY RIGHT OF WAY LINE OF SUMMIT PLACE ROAD; THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT HAVING A RADIUS OF 344.02' TO THE MOST WESTERLY RIGHT OF WAY LINE AND HAVING A CENTRAL ANGLE OF 54° 00' 00" FOR A DISTANCE 324.21'; THENCE S 30° 50' 00" E - 225.00'; THENCE S 59° 10' 00" W - 250.00'; THENCE S 30° 49' 59" E - 80.00'; THENCE S 00° 30' 14" W - 179.40'; THENCE WESTERLY ON A CURVE TO THE LEFT HAVING A RADIUS OF 45.00' FOR A DISTANCE OF 130.51, WHICH IS THE WESTERLY RIGHT OF WAY LINE OF PEAK DRIVE ROAD; THENCE S 27° 30' 00" E - 44.92'; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 15.00' FOR A DISTANCE OF 25.46'; THENCE S 69° 45' 00" W - 162.30' TO THE TRUE POINT OF BEGINNING.



Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT I, THE UNDERSIGNED, IVA WHITTAKER TRUDELL WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX AS HER SEPARATE PROPERTY, FEE SIMPLE OWNER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER THE AUDITOR'S FILE NO. 958118 IN VOLUME 8, PAGES 133 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON; AND GLEN CORNING, ABNER LUTKE, A. J. MACMILLAN, MOKSHA W. SMITH, A. J. HUTTON JR., AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS, AND PUBLIC SITES SHOWN ON THE PLAT; ALSO, THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, AND ALSO THE RIGHT TO DRAIN ALL ROADS, ALLEYS, AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE FOR GRADING; EXCEPT THAT TRACTS "A,B,C" AS SHOWN THEREON SHALL BE RESERVED FOR THE MEMBERS OF GLENHAVEN LAKES, INC.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 21 DAY OF July, 1964.

IVA WHITTAKER TRUDELL
FEE SIMPLE OWNER

BY *Richard J. Waters*
RICHARD J. WATERS, ATTORNEY-IN-FACT

CONTRACT PURCHASERS

BY *Glen Corning*
GLEN CORNING, PARTNER AND
ATTORNEY-IN-FACT

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21 DAY OF July, 1964, BEFORE ME, PERSONALLY AP-
PEARED RICHARD J. WATERS, TO ME KNOWN AS INDIVIDUAL WHO EXECUTED THE
WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL,
THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE
SAME AS SUCH ATTORNEY-IN-FACT FOR SUCH PRINCIPAL, FREELY AND
VOLUNTARILY, FOR THE PURPOSES AND USES THEREIN MENTIONED AND
ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE
DEDICATION ~~WAS~~ NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW
LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND
YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Edward M. Paulsen
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY
ENGINEERING DEPARTMENT THIS 21 DAY OF
JULY, 1964.

ENGINEER, WHATCOM COUNTY, WASHINGTON

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY
PLANNING COMMISSION THIS 21 DAY OF July,
1964.

CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COM-
MISSIONERS OF WHATCOM COUNTY, THIS 21 DAY OF
July, 1964.

ATTEST: *Edna L. Paulsen*
CLERK OF THE BOARD

CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

I, *Edna L. Paulsen*, COUNTY TREASURER OF
WHATCOM COUNTY, WASHINGTON, DO HEREBY CERT-
IFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID
UPON THAT PORTION OF REAL ESTATE EMBRACED
WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRE-
SCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN
MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS
21 DAY OF July, 1964.

TREASURER, WHATCOM COUNTY, WASHINGTON

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR
RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM
COUNTY, WASHINGTON, AT THE REQUEST OF
COUNTY, ON THE 21 DAY OF July,
1964, AT MINUTES PAST AND
RECORDED IN VOLUME 9 OF PLATS, PAGES
60 OF THE RECORDS OF THE
RECORDS OF SAID COUNTY.

Debra Hansen
AUDITOR, WHATCOM COUNTY, WASHINGTON

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
ON THIS 21 DAY OF July, 1964, BEFORE ME, PERSONALLY APPEARED
GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO
EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS PARTNER OF AND
ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUTKE, A. J. MACMILLAN, MOKSHA W. SMITH,
A. J. HUTTON JR., AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN
LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME
AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE
SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH
STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS
DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRIN-
CIPALS ARE NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN
THIS CERTIFICATE FIRST ABOVE WRITTEN.

Edna L. Paulsen
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

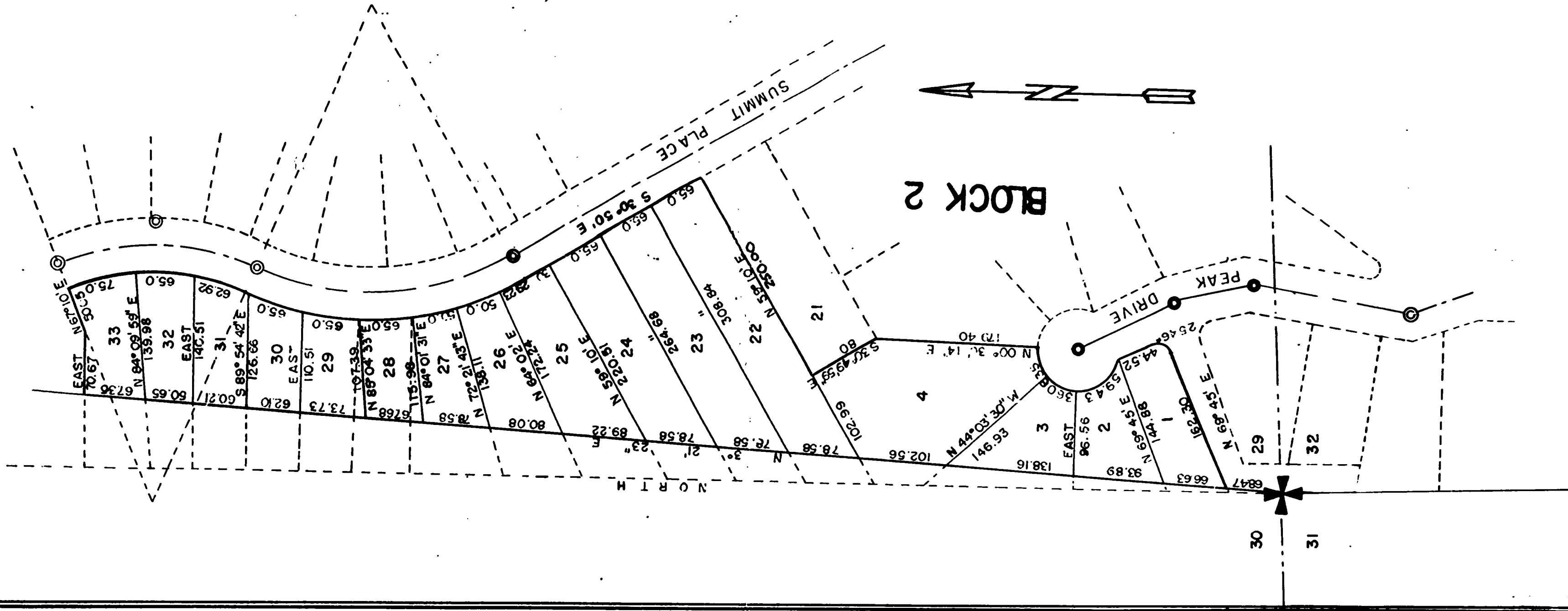
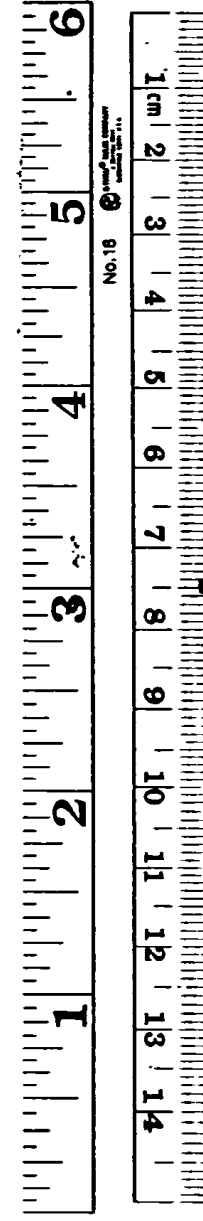


EXHIBIT G

GLENHAVEN LAKES

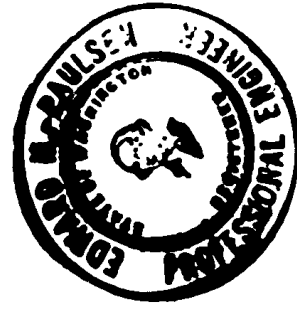
DIVISION NUMBER 6

SECTION 29 T37N, R4E, W. M.

WHATCOM COUNTY, WASHINGTON

DESCRIPTION

I EDWARD M. PAULSEN DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES DIV. 6 IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND, AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE SW 1/4 SEC. 29, T37N, R4E, W. M. DESCRIBED AS FOLLOWS: COMMENCING AT A POINT BEING THE INTERSECTION OF THE CENTER LINE OF RAINBOW DRIVE AND THE NORTH BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIV. 5; THENCE N 60° 12' 00" W AND FOLLOWING THE NORTH BOUNDARY OF SAID PLAT 196.91'; THENCE N 29° 48' 00" E, 78.86'; THENCE N 68° 20' 00" W BEING RADIAL, 168.72' TO THE INTERSECTION WITH THE EASTERLY BOUNDARY OF EAST ALDER DRIVE; THENCE NORTHWESTERLY ON A CURVE TO THE LEFT HAVING A RADIUS OF 90.68' AND A CENTRAL ANGLE OF 117° 30' 00", A DISTANCE OF 185.95'; THENCE S 84° 10' 00" W, 121.97'; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 153.58' AND A CENTRAL ANGLE OF 86° 16' 15", A DISTANCE OF 231.23'; THENCE S 80° 26' 15" W BEING RADIAL 60.00' TO A POINT BEING AN INTERSECTION OF THE WESTERLY BOUNDARY OF EAST ALDER DRIVE AND THE NORTHERLY BOUNDARY OF SAID PLAT; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 213.58' AND A CENTRAL ANGLE OF 3° 37' 15", A DISTANCE OF 13.50'; THENCE N 5° 56' 30" W, 49.91'; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS 152.02' AND A CENTRAL ANGLE OF 14° 21' 08", A DISTANCE OF 38.08'; THENCE N 69° 42' 22" E BEING RADIAL 60.00'; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 30.00' AND A CENTRAL ANGLE OF 75° 38' 52" A DISTANCE OF 39.61'; THENCE N 84° 03' 30" E, 242.75'; THENCE S 75° 20' 00" E, 606.29'; THENCE S 53° 18' 00" E, 273.88'; THENCE S 36° 42' 00" W, 251.91'; THENCE S 16° 20' 00" W, 465.54'; THENCE S 29° 48' 00" W, 75.32' MORE OR LESS TO AN INTERSECTION OF THE EASTERLY BOUNDARY OF RAINBOW DRIVE AND THE NORTHERLY BOUNDARY OF SAID PLAT; THENCE N 60° 12' 00" W, 30.00' TO THE TRUE POINT OF BEGINNING.



Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

DEDICATION

KNOW ALL MEN BY THESE PRESENT THAT I, THE UNDERSIGNED, IVA WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX AS HER SEPARATE PROPERTY, FEE SIMPLE HOLDER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY, RECORDED UNDER THE AUDITOR'S FILE NO. 98818 IN VOLUME 8, PAGES 133 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON; AND GLEN CORNING, ABNER LUTKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON JR., AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 942089 IN VOLUME 36, PAGES 189 - 191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, SHOWN ON THIS PLAT; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS, AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 12 DAY OF August, 1964.

IVA WHITTAKER TRUDELL
FEE SIMPLE OWNER

BY Richard J. Waters
RICHARD J. WATERS, ATTORNEY-IN-FACT

GLEN CORNING, ABNER LUTKE, A.J. McMILLAN,
MOKSHA W. SMITH, A.J. HUTTON JR. AND LAWRENCE
C. ANGELL, D.B.A. GLENHAVEN LAKES CONTRACT
PURCHASERS

BY Glen Corning
GLEN CORNING, PARTNER AND ATTORNEY-
IN-FACT

New Declaration Covenants & Restrictions See Vol 17 Page 814 Aug 14, 1964
Amended decl of coven & restrictions Vol 207 p 46 OR 4-7-77
C 13 P H 1578697 QW 46 P 3255 1/3/87

STATE OF WASHINGTON)

COUNTY OF WHATCOM)
ON THIS 12th DAY OF August, 1964, BEFORE ME PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel H. Riffe

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM



ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 14th DAY OF August, 1964.

J. J. Day
ENGINEER, WHATCOM COUNTY, WASHINGTON
(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 14th DAY OF August, 1964.

Patricia Davis
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 14th DAY OF August, 1964.

ATTEST: Abner Lutke
CLERK OF THE BOARD
R. Q. Hutton
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

I, Hugh Corning, COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 14th DAY OF August, 1964

Hugh Corning
TREASURER, WHATCOM COUNTY, WASHINGTON

(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF 14th DAY OF August, 1964 AT 14 MINUTES PAST 9 AND RECORDED IN VOLUME 9 OF PLATS, PAGES 62463 OF THE RECORDS OF SAID COUNTY.

Charles McMillan
AUDITOR, WHATCOM COUNTY, WASHINGTON

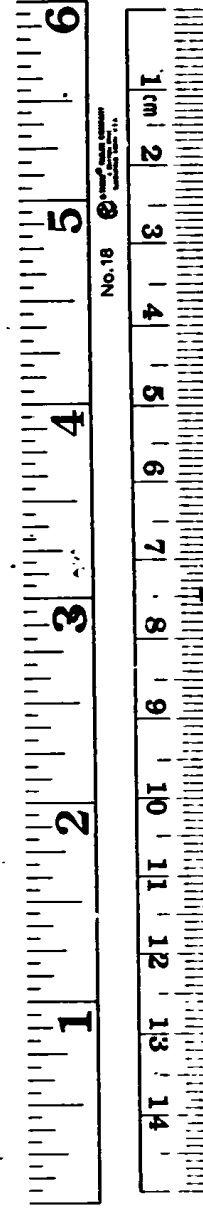
(SEAL)

ACKNOWLEDGEMENTS

ON THIS 12th DAY OF August, 1964, PERSONALLY APPEARED GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUTKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON JR., AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel H. Riffe

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM



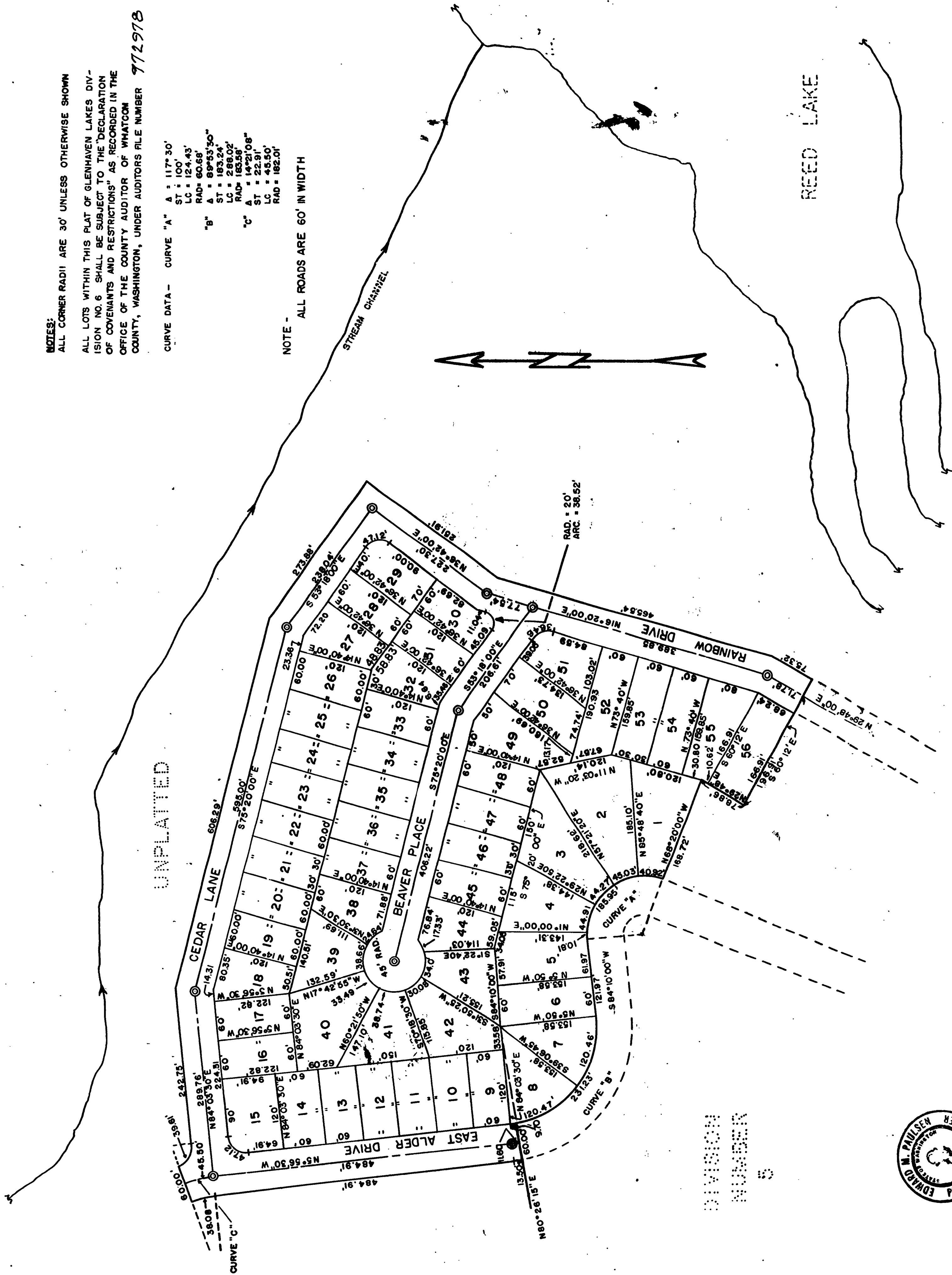
GLENHAVEN LAKES DIVISION NUMBER 6

SECTION 29, T37N, R4E, W.M. WHATCOM COUNTY, WASH.
SCALE 1" = 100'

NOTES:
ALL CORNER RADII ARE 30' UNLESS OTHERWISE SHOWN
ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIVISION NO. 6 SHALL BE SUBJECT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON, UNDER AUDITORS FILE NUMBER 972978 Vol. 17 Page 814 of O.R.

CURVE DATA - CURVE "A" A = 117°30'
ST = 100'
LC = 124.43'
RAD = 60.68'
"B" A = 89°53'30"
ST = 183.24'
LC = 288.02'
RAD = 183.58'
"C" A = 14°21'08"
ST = 42.51'
LC = 44.50'
RAD = 182.01'

NOTE - ALL ROADS ARE 60' IN WIDTH



Edward M. Paulsen
Aug 10, 1964

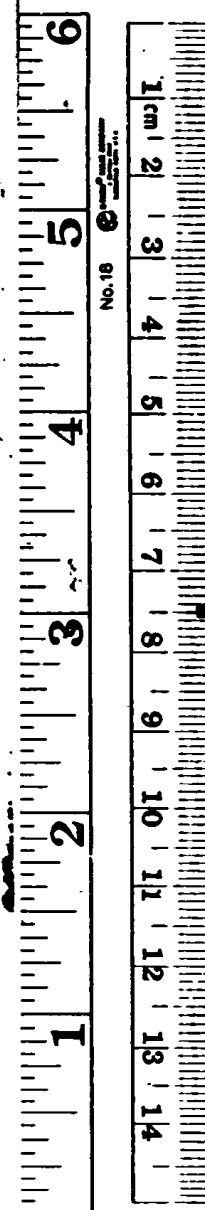


EXHIBIT H

GLENHAVEN LAKES
DIVISION NUMBER 7
SECTION 29 T37N, R4E, W. M.
WHATCOM COUNTY, WASHINGTON

DESCRIPTION

I, EDWARD M. PAULSEN DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES DIV. 7 IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE SW 1/4 SEC. 29, T37N, R4E, W. M. DESCRIBED AS FOLLOWS; COMMENCING AT A POINT ON THE WEST BOUNDARY OF THE SW 1/4 SEC. 29, T37N, R4E, W. M. BEING THE NW CORNER OF THE REPLAT OF GLENHAVEN LAKES DIV. 5 BLOCK 2; THENCE N 3° 21' 23" E AND FOLLOWING THE WEST BOUNDARY OF SAID SW 1/4 800.00'; THENCE N 47° 43' 20" E, 180.13'; THENCE EAST, 250.00'; THENCE S 49° 31' 00" E, 159.64'; THENCE S 29° 30' 00" W, 10.00'; THENCE S 60° 30' 00" E, 122.35'; THENCE S 87° 00' 00" E, 509.33'; THENCE S 64° 11' 10" E, 275.48'; THENCE S 55° 19' 00" E, 247.85'; THENCE S 36° 42' 00" W, 90.73'; THENCE ON A CURVE TO THE RIGHT HAVING A NORTH BOUNDARY OF 30.00' AND A CENTRAL ANGLE OF 90° A DISTANCE OF 47.12' TO A POINT ON THE FOLLOWING THE NORTH BOUNDARY OF SAID PLAT 183.88'; THENCE N 75° 20' 00" W, 606.29'; THENCE S 84° 03' 30" W, 242.75'; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 30.00' AND A CENTRAL ANGLE OF 75° 38' 52" FOR A DISTANCE OF 39.61'; THENCE S 69° 42' 22" W BEING RADIAL 60.00' TO A POINT ON THE WEST BOUNDARY OF SAID PLAT; THENCE SOUTHERLY AND FOLLOWING THE WEST BOUNDARY OF SAID PLAT ON A CURVE TO THE LEFT HAVING A RADIUS OF 152.02' AND A CENTRAL ANGLE OF 14° 21' 08" A DISTANCE OF 38.08'; THENCE S 5° 56' 30" E, 484.91'; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 213.58' AND A CENTRAL ANGLE OF 3° 37' 15" A DISTANCE OF 13.50' TO A POINT BEING THE SW CORNER OF THE SAID PLAT; THENCE S 80° 26' 15" W AND FOLLOWING THE NORTH BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIV. 5, 194.46'; THENCE N 15° 00' 00" W, 50.00'; THENCE S 67° 10' 00" W, 260.05'; THENCE EAST, 70.67' MORE OR LESS TO THE POINT OF BEGINNING



Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

DEDICATION

KNOW ALL MEN BY THESE PRESENT THAT I, THE UNDERSIGNED, IVA WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX AS HER SEPARATE PROPERTY, FEE SIMPLE HOLDER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY, RECORDED UNDER THE AUDITOR'S FILE NO. 95818 IN VOLUME 8, PAGES 133 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, AND GLEN CORNING, ABNER LUTKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON JR. AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, SHOWN ON THIS PLAT; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUT AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROAD, ALLEYS, AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING

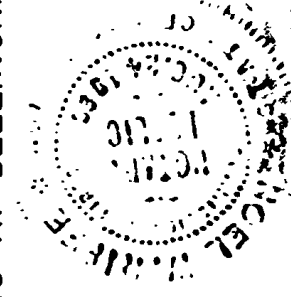
IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 28th DAY OF August, 1964.
IVA WHITTAKER TRUDELL
FEE SIMPLE OWNER
BY Richard J. Waters
RICHARD J. WATERS, ATTORNEY-IN-FACT
PURCHASERS

BY Glen Corning
GLEN CORNING, PARTNER AND ATTORNEY-IN-FACT

STATE OF WASHINGTON)
COUNTY OF WHATCOM
ON THIS 28th DAY OF August, 1964, BEFORE ME PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL WHO EXECUTED THE WITHIN DEDICATION AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel H. Riffe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM



ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 4th DAY OF September, 1964.

Geo. B. Bond 4906 584041 1151 P1230 L1241381

Geo. B. Bond
ENGINEER, WHATCOM COUNTY, WASHINGTON
(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 4 DAY OF September, 1964.

Patrick J. Irvine
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 4th DAY OF September, 1964.

ATTEST: Elmer J. Lewis
CLERK OF THE BOARD
Elmer J. Lewis
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

I, Hugh Corning, COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 4th DAY OF September, 1964.

Hugh Corning
TREASURER, WHATCOM COUNTY, WASHINGTON
(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF Richard J. Waters ON THIS 4th DAY OF September, 1964 AT 2:25 MINUTES PAST 2 P.M. AND RECORDED IN VOLUME 9 OF PLATS, PAGES 446-447 OF THE RECORDS OF SAID COUNTY.

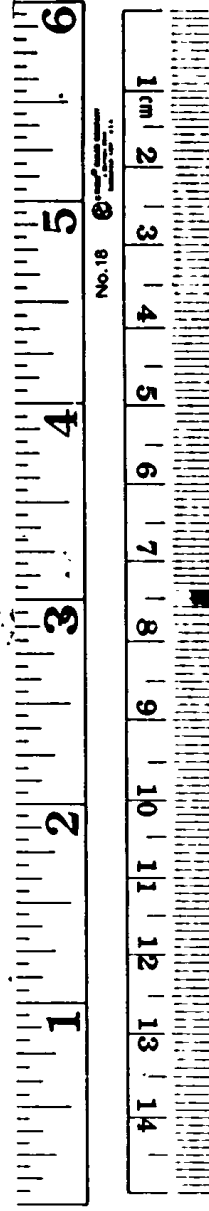
Thella Schaeffer
AUDITOR, WHATCOM COUNTY, WASHINGTON
(SEAL)

ACKNOWLEDGEMENTS

ON THIS 28th DAY OF August, 1964, PERSONALLY APPEARED GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUTKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON JR. AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING.

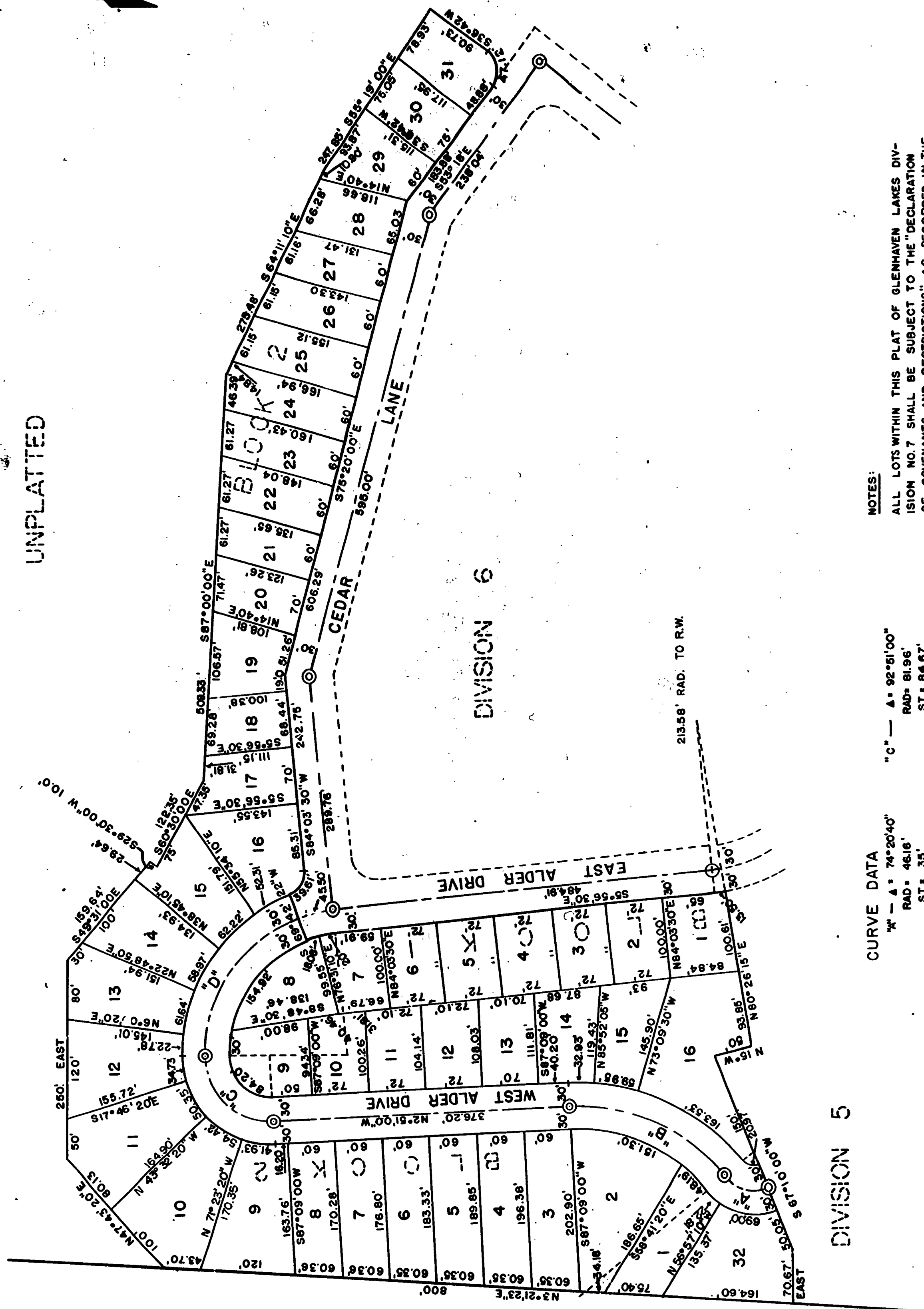
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN

Noel H. Riffe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM



974208

GLENHAVEN LAKES
DIVISION NUMBER 7
SECTION 29, T37N, R4E, W.M.
WHATCOM COUNTY, WASH.
SCALE 1" = 100'



NOTES:
ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIVISION NO. 7 SHALL BE SUBJECT TO THE "DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON, UNDER AUDITORS FILE NUMBER 574.239
ALL ROADS ARE 60' IN WIDTH

CURVE DATA
"C" - A = 92°51'00"
RAD = 81.96'
ST = 35'
LC = 59.89'
"D" - A = 69°42'22"
RAD = 182.01'
ST = 126.75'
LC = 221.42'
30' RAD. LOTS 16, 31 BLOCK 2

Vol 18 Page 664 of 9 D.B.
amended del of con. + Pths
rel 829 pg 55 PL. 4-7-77



EXHIBIT I

GLENHAVEN LAKES DIVISION NUMBER 8

SECTION 29 T37N, R4E, W. M.
WHATCOM COUNTY, WASHINGTON

DESCRIPTION

I EDWARD M. PAULSEN DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES DIV. 8 IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW THAT ALL DISTANCES, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE SW 1/4 SEC. 29, T37N, R4E, W.M. DESCRIBED AS FOLLOWS: COMMENCING AT THE SE. CORNER OF THE PLAT OF GLENHAVEN LAKES DIV. 6; THENCE N29°48'00"E AND FOLLOWING AT THE SE. BOUNDARY OF SAID PLAT 75.32'; THENCE N16°20'00"E 465.54'; THENCE N36°42'00"E 251.91' TO THE N.E. CORNER OF SAID PLAT; THENCE N53°18'00"W AND FOLLOWING THE NORTHERLY BOUNDARY OF SAID PLAT 90.00' TO A POINT BEING THE INTERSECTION OF THE NORTH BOUNDARY OF SAID PLAT AND EASTERLY BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIV. 7; THENCE NORTH EASTERLY AND FOLLOWING THE EASTERLY BOUNDARY OF SAID PLAT ON A CURVE TO THE LEFT HAVING A RADIUS OF 30.00' AND A CENTRAL ANGLE OF 90° A DISTANCE OF 47.12'; THENCE N36°42'00"E 90.73' TO THE N.E. CORNER OF SAID PLAT; THENCE N55°19'00"W AND FOLLOWING THE NORTHERLY BOUNDARY OF SAID PLAT 247.85'; THENCE N64°11'10"W 275.48'; THENCE N87°00'00"W 342.34'; THENCE N2°11'30"W 216.54'; THENCE N87°48'30E 333.82'; THENCE S89°26'30"E 764.99'; THENCE S45°42'00"W 136.93'; THENCE S36°42'00"W 471.2'; THENCE S64°00'00"E 750.00'; THENCE S22°39'30"E 322.34' MORE OR LESS TO A POINT BEING AN ANGLE IN THE NORTHERLY BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIV. 3; THENCE S15°08'38"W AND FOLLOWING THE NORTHERLY BOUNDARY OF SAID PLAT 260.17'; THENCE S58°34'13"W 210.95'; THENCE S68°37'45"W 246.98'; THENCE S89°45'50"W 541.52' TO AN INTERSECTION OF THE NORTHERLY BOUNDARIES OF THE PLATS OF GLENHAVEN LAKES DIV. 3 AND DIV. 5; THENCE N60°12'00"W AND FOLLOWING THE NORTHERLY BOUNDARY OF THE SAID PLAT OF DIV. 5 368.25' MORE OR LESS TO THE POINT OF BEGINNING.



Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED GEORGE COBELENS, WALLACE WINTER, AND MARIE E. WINTER, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, SUCCESSORS IN INTEREST TO GENERAL BUILDING INC. AND FEE SIMPLE OWNERS OF A PORTION OF SAID LAND, BY RICHARD J. WATERS, OUR ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942475 IN VOL. 36, PG. 196, OF POWERS OF ATTORNEY, RECORDS & COPIES, WHATCOM COUNTY; AND THAT I, THE UNDERSIGNED, IVA WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX AS HER SEPARATE PROPERTY, FEE SIMPLE HOLDER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY, RECORDED UNDER THE AUDITOR'S FILE NO. 95818 IN VOLUME 8, PAGE 135 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON; AND GLEN CORNING, ABNER LUTKE, A.J. McMILLAN, MOKSHA W. SMITH, A.J. HUTTON JR. AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, SHOWN ON THIS PLAT; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING. (SEE FOOTNOTE BELOW)

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 20th DAY OF October, 1964.

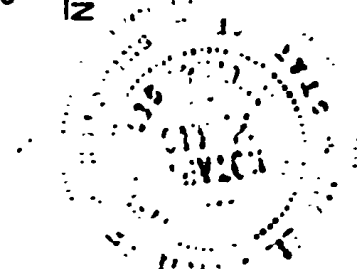
IVA WHITTAKER TRUDELL
FEE SIMPLE OWNER
BY *Richard J. Waters*
RICHARD J. WATERS, ATTORNEY-IN-FACT
BY *Glen Corning*
GLEN CORNING, PARTNER AND ATTORNEY-IN-FACT

FOOTNOTE: TRACTS "A, B & C" AS SHOWN THEREON SHALL BE RESERVED FOR THE MEMBERS OF GLENHAVEN LAKES CLUB, INC.

STATE OF WASHINGTON
COUNTY OF WHATCOM

ON THIS 20th DAY OF October, 1964, BEFORE ME
PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEED AS ATTORNEY-IN-FACT OF GEORGE COBELENS, WALLACE WINTER, AND MARIE E. WINTER, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, SUCCESSORS TO GENERAL BUILDING INCORPORATED AND FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN

Noel M. Riffe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM



ENGINEER'S APPROVAL
EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 20 DAY OF November, 1964.

J. T. Fay
ENGINEER, WHATCOM COUNTY, WASHINGTON
(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 19 DAY OF November, 1964.

Patricia J. Davis
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 20th DAY OF November, 1964.
ATTEST: *Walter H. Hansen*
CLERK OF THE BOARD

Walter H. Hansen
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

Hugh C. Cress
COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 20th DAY OF November, 1964

Paul J. Hutton
TREASURER, WHATCOM COUNTY, WASHINGTON

(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF _____ ON THIS 20th DAY OF Nov, 1964 AT _____ MINUTE PAST _____ AND RECORDED IN VOLUME 9 OF PLATS, PAGES 697 OF THE RECORDS OF SAID COUNTY.

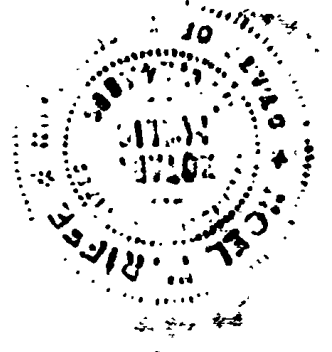
Walter H. Hansen
AUDITOR, WHATCOM COUNTY, WASHINGTON

(SEAL)

ACKNOWLEDGEMENTS

ON THIS 20th DAY OF October, 1964, PERSONALLY APPEARED GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUTKE, A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON JR. AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN

Noel M. Riffe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM



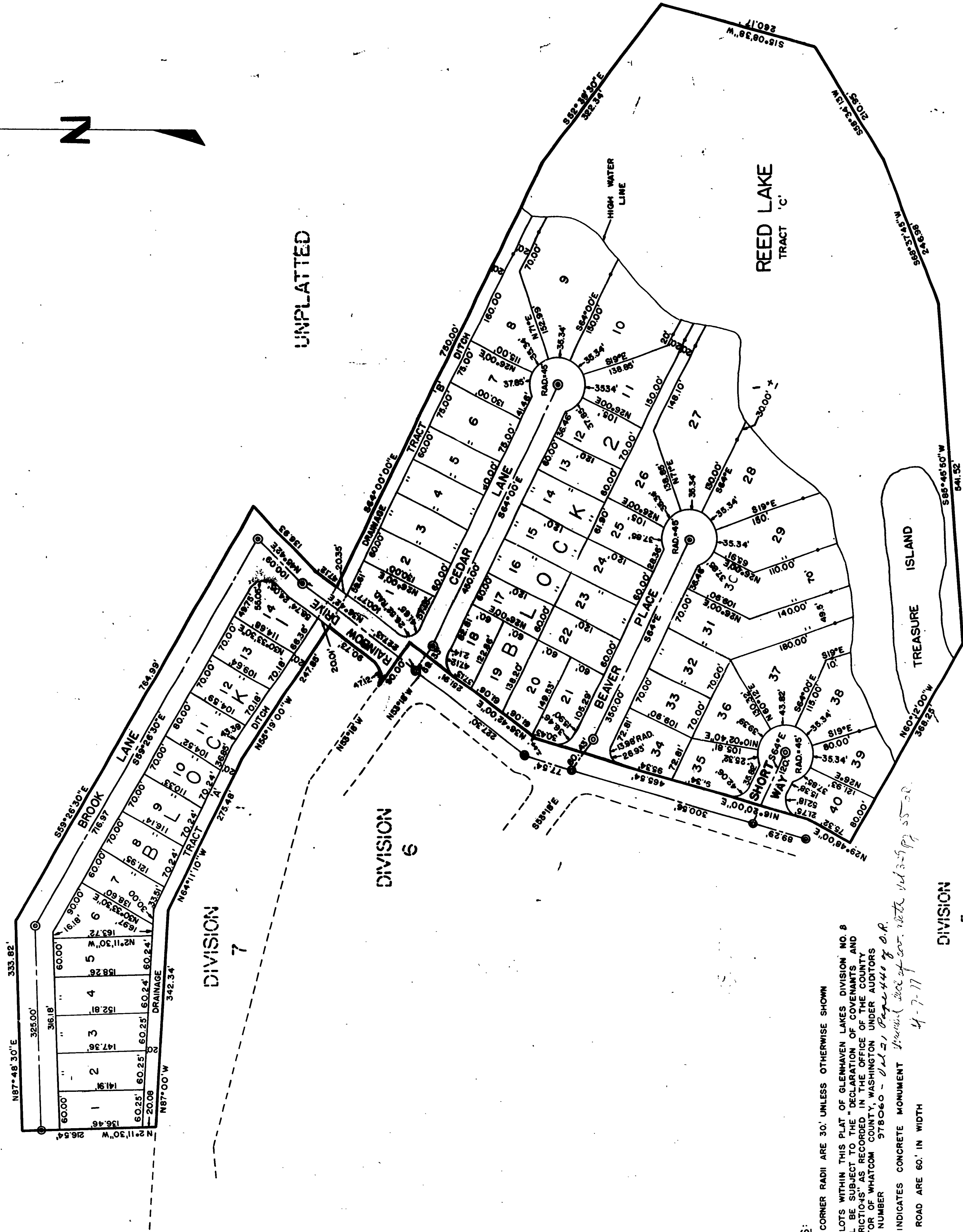
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978-225

GLENHAVEN LAKES
DIVISION NUMBER 8

SECTION 29 T37N, R4E, W. M.

SCALE : 1" = 100'



- NOTES:
1. ALL CORNER RADII ARE 30' UNLESS OTHERWISE SHOWN
 2. ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIVISION NO. 8 SHALL BE SUBJECT TO THE "DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON UNDER AUDITORS FILE NUMBER 978060 - 011-21 Page 441 of 441
 3. © INDICATES CONCRETE MONUMENT *Monument set of cor. with vol 3-5 pg 55-58*
 4. ALL ROAD ARE 60' IN WIDTH

EXHIBIT J

GLENHAVEN LAKES DIVISION NUMBER 9 SECTION 29 T37N, R4E, W. M. WHATCOM COUNTY, WASH.

DESCRIPTION

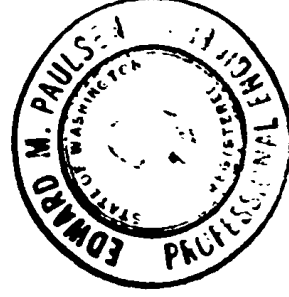
I EDWARD M. PAULSEN AND KNUD S. KNUSEN DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES DIV. 9 IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENT OF STATE LAW THAT ALL DISTANCE, COURSES AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT ALL MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND; AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE S/W 1/4 SEC. 29, T37N, R4E, W. M. DESCRIBED AS FOLLOWS; COMMENCING AT THE N/W CORNER OF THE PLAT OF GLENHAVEN LAKES DIVISION NO. 8; THENCE S 2°11'30"E AND FOLLOWING THE WESTERLY BOUNDARY OF SAID PLAT 216.52'; THENCE N 87°00'W 166.99'; THENCE N 60°30'W 122.35'; THENCE N 29°30'E 20.00'; THENCE NORTH 312.31'; THENCE N 50°48'30"E 445.94'; THENCE N 84°51'06"E 366.95'; THENCE S 14°11'W 40.90'; THENCE S 59°26'30"E 774.38'; THENCE N 27°43'45"E 370.38'; THENCE N 58°42'25"E 680.41'; THENCE EAST 212.85' MORE OR LESS TO AN INTERSECTION WITH THE WEST BOUNDARY OF THE CAIN LAKE ROAD; THENCE SOUTHERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 2895.00' AND A CENTRAL ANGLE OF 4°15'35" FOLLOWING THE WEST BOUNDARY OF THE CAIN LAKE ROAD 215.22'; THENCE NORTH WESTERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 30' AND A CENTRAL ANGLE OF 95°50'50" 50.18'; THENCE EAST 102.74'; THENCE S 59°42'25"W 580.12'; THENCE S 27°43'45"W 367.71'; THENCE S 37°12'00"W 215.43'; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 24.64' AND A CENTRAL ANGLE OF 101°12' 43.52'; THENCE S 64°E 470'; MORE OR LESS TO AN INTERSECTION WITH THE HIGH WATER LINE OF REED LAKE; THENCE SOUTHERLY AND FOLLOWING THE HIGH WATER LINE OF REED LAKE TO AN INTERSECTION WITH THE NORTH BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIVISION NO. 8; THENCE N 64°W AND FOLLOWING THE NORTH BOUNDARY OF SAID DIVISION NO. 8 670' MORE OR LESS TO AN INTERSECTION WITH THE EAST BOUNDARY OF RAINBOW DRIVE AS SHOWN ON THE PLAT OF SAID DIVISION NO. 8; THENCE N 36°42'00"E 4712'; THENCE N 45°42'E 136.93'; THENCE N 59°26'30"W 764.99'; THENCE S 87°48'30"W 333.82' MORE OR LESS TO THE POINT OF BEGINNING

Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER



Knud S. Knusen
REGISTERED PROFESSIONAL LAND SURVEYOR

(SEAL)



DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED GEORGE COBELENS, WALLACE WINTER, AND MARIE E. WINTER, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, SUCCESSORS IN INTEREST TO GENERAL BUILDING INC. AND FEE SIMPLE OWNERS OF A PORTION OF SAID LAND, BY RICHARD J. WATER, OUR ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942475 IN VOL. 36, PG. 196, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY; AND THAT I, THE UNDERSIGNED, IVA WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX AS HER SEPARATE PROPERTY, FEE SIMPLE HOLDER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY, RECORDED UNDER THE AUDITORS FILE NO. 95818 IN VOLUME 8, PAGES 133 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON; AND GLEN CORNING, ABNER LUDTKE, A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON JR. AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITOR'S FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES, SHOWN ON THIS PLAT; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROAD, ALLEYS AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING. TRACT A AS SHOWN THEREON SHALL BE RESERVED FOR THE MEMBERS OF GLENHAVEN LAKES CLUB INC.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 13 DAY OF APRIL, 1965.

GEORGE COBELENS, WALLACE WINTERS, AND MARIE E. WINTERS, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, AND IVA WHITTAKER TRUDELL, FEE SIMPLE OWNERS.

BY *Richard J. Waters*
RICHARD J. WATERS, ATTORNEY-IN-FACT

BY *Glen Corning*
GLEN CORNING, PARTNER AN ATTORNEY-IN-FACT

ACKNOWLEDGEMENTS

(STATE OF WASHINGTON, COUNTY OF WHATCOM)
ON THIS 13 DAY OF April, 1965, BEFORE ME PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEED AS ATTORNEY-IN-FACT OF GEORGE COBELENS, WALLACE WINTER, AND MARIE E. WINTER, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, SUCCESSORS TO GENERAL BUILDING INCORPORATED AND FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SAID PRINCIPALS, FREELY AND VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPALS ARE NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

George Tracy Jr.



ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 13 DAY OF APRIL, 1965.

J. Long
ENGINEER, WHATCOM COUNTY, WASHINGTON
(SEAL)

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 8 DAY OF April, 1965.

Patrick Davis
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 13 DAY OF April, 1965.

ATTEST: *Charles H. Hutton*
CLERK OF THE BOARD
Ed. Hutton
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

Hugh J. Smith
COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 13 DAY OF April, 1965.

Hugh J. Smith
TREASURER, WHATCOM COUNTY, WASHINGTON
(SEAL)

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF Ed. Hutton ON THIS 8 DAY OF APRIL, 1965, AT 52 MINUTES PAST 11:00 AND RECORDED IN VOLUME 9 OF PLATS, PAGES 133 OF THE RECORDS OF SAID COUNTY.

Ed. Hutton
AUDITOR, WHATCOM COUNTY, WASHINGTON

STATE OF WASHINGTON, COUNTY OF WHATCOM)
ON THIS 13 DAY OF April, 1965, PERSONALLY APPEARED GLEN CORNING, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN WHO EXECUTED THE WITHIN DEDICATION FOR HIMSELF AND AS PARTNER OF AND ATTORNEY-IN-FACT FOR GLEN CORNING, ABNER LUDTKE, A. J. McMILLAN, MOKSHA W. SMITH, A. J. HUTTON JR. AND LAWRENCE C. ANGELL, WHO ARE ALL THE PARTNERS IN GLENHAVEN LAKES, ALSO THEREIN DESCRIBED, AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED OF HIMSELF, AND SAID PARTNERSHIP AND THE SAID PRINCIPALS FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE EXECUTION OF THIS DEDICATION HAS NOT BEEN REVOKED AND THAT THE SAID PARTNERS AND PRINCIPALS ARE NOW LIVING.
WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

George Tracy Jr.



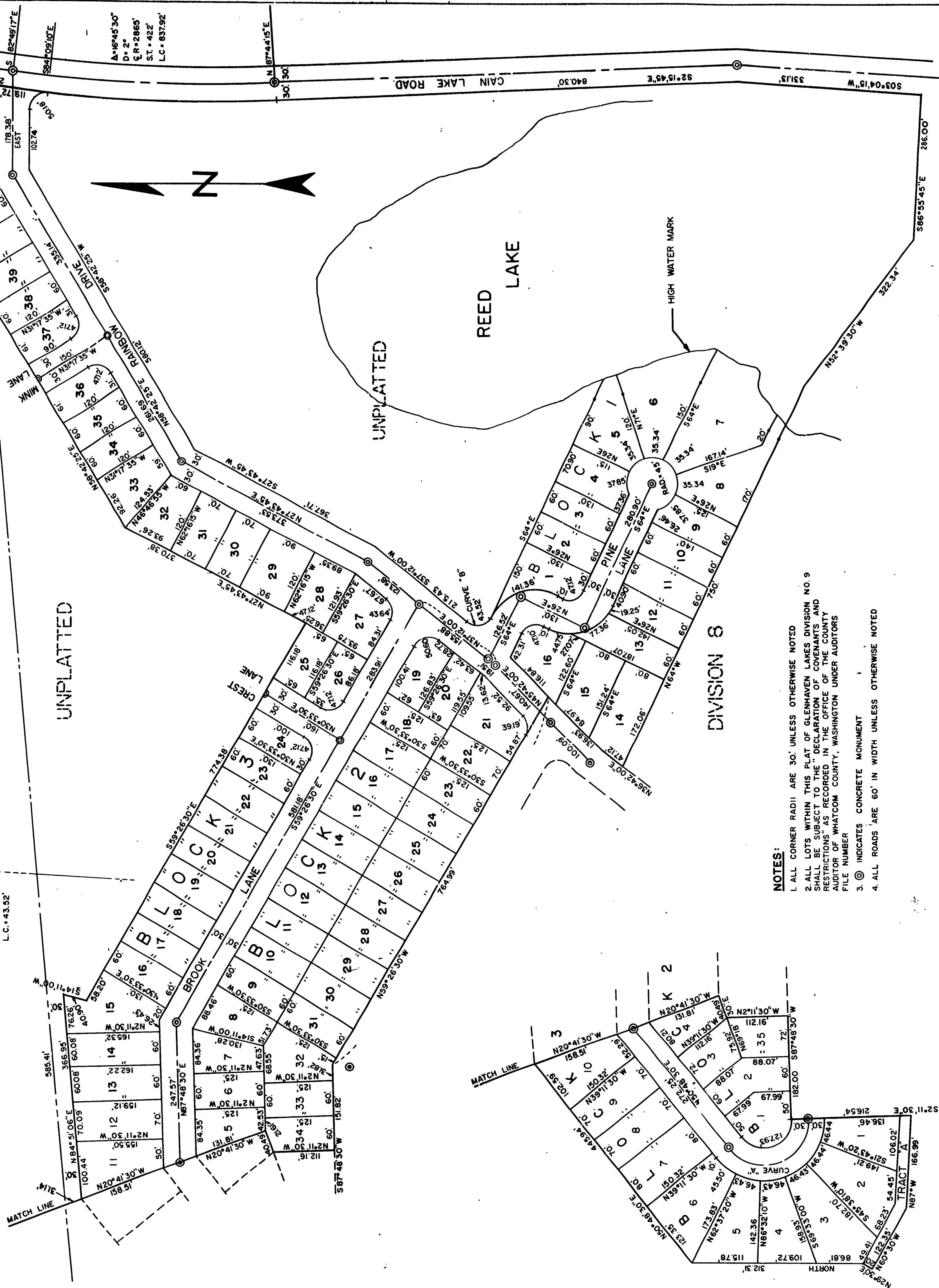
GLENHAVEN LAKES DIVISION NUMBER 9

SECTION 29 T37N, R4E, W. M.
WHATCOM COUNTY, WASHINGTON

SCALE: 1" = 100'

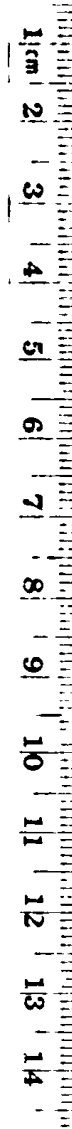
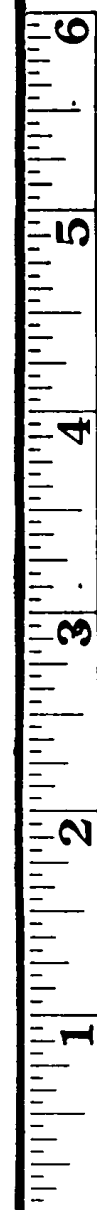
CURVE DATA

CURVE "A"
Δ = 143°
R = 81.26'
LC = 202.80'
CURVE "B"
Δ = 101°12'
R = 24.64'
LC = 43.52'



NOTES:

1. ALL CORNER RADII ARE 30' UNLESS OTHERWISE NOTED
2. ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIVISION NO. 9 SHALL BE SUBJECT TO THE "DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON UNDER AUDITORS FILE NUMBER
3. ⊙ INDICATES CONCRETE MONUMENT
4. ALL ROADS ARE 60' IN WIDTH UNLESS OTHERWISE NOTED



GLENHAVEN LAKES DIVISION NUMBER 10

SECTION 29 T37N, R4E, W. M.

WHATCOM COUNTY, WASHINGTON

EXHIBIT K

DESCRIPTION

WE, EDWARD M. PAULSEN AND KNUD S. KNUDSEN, DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES, DIVISION NUMBER 10, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW THAT ALL DISTANCES, COURSES, AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT ALL MONUMENTS AND STAKES HAVE BEEN ACTUALLY PLACED ON THE GROUND; AND THE PLAT COVERS AND EMBRACES THAT PORTION OF SEC. 29 T37N, R4E, W.M. DESCRIBED AS FOLLOWS: COMMENCING AT A POINT BEING THE INTERSECTION OF THE EAST BOUNDARY OF CREST LAKE AND THE NORTH BOUNDARY OF THE PLAT OF DIVISION NUMBER 9; THENCE N 58° 26' 30" W AND FOLLOWING THE NORTHERLY BOUNDARY OF SAID PLAT 176.65; THENCE N 30° 33' 30" E - 243.28; THENCE WESTERLY ON A CURVE HAVING A RADIUS 68.08 AND A Δ 60° 52' 35", A DISTANCE OF 104.20; THENCE N 25° 17' 50" E - 60.00; THENCE N 64° 42' 10" W - 48.14; THENCE N 29° 17' 50" E - 120.00; THENCE N 54° 25' 15" E - 114.47; THENCE N 44° 33' 15" E - 141.83; THENCE N 30° 57' 45" E - 136.67; THENCE N 35° 24' 15" E - 370.05; THENCE N 31° 36' 15" E - 106.64; THENCE S 58° 23' 45" E - 10.00; THENCE N 31° 36' 15" E - 64.70; THENCE N 29° 22' 00" E - 140.55; THENCE N 41° 45' 15" E - 489.28; THENCE N 38° 59' 15" W - 302.11 MORE OR LESS TO AN INTERSECTION WITH THE NORTH BOUNDARY OF THE SE ¼ OF THE NW ¼ SEC. 29 T37N, R4E, W.M.; THENCE N 83° 19' 30" E FOLLOWING THE ¼ LINE - 390.67 MORE OR LESS TO THE EAST ¼ CORNER OF THE NW ¼ OF SEC. 29 T37N, R4E, W.M.; THENCE S 87° 20' 20" E FOLLOWING THE ¼ LINE 323.87 MORE OR LESS TO AN INTERSECTION WITH THE WEST BOUNDARY OF CAIN LAKE ROAD; THENCE FOLLOWING THE WEST BOUNDARY OF CAIN LAKE ROAD ON A CURVE TO THE RIGHT WITH A RADIUS OF 285.00 AND Δ 10° 38' 30", FOR A DISTANCE OF 295.14 MORE OR LESS; THENCE S 14° 29' 45" W - 874.31 MORE OR LESS; THENCE ON A CURVE TO THE SOUTH WITH A RADIUS 2895.00 AND Δ 16° 45' 30" FOR A DISTANCE 0. 221.74 MORE OR LESS TO AN INTERSECTION WITH THE NORTH BOUNDARY OF DIVISION NUMBER 9; THENCE FOLLOWING THE NORTH BOUNDARY OF SAID PLAT ON A BEARING WEST - 212.85; THENCE S 58° 42' 25" W - 680.41; THENCE S 27° 43' 45" W - 370.38; THENCE N 58° 26' 30" W - 116.18 MORE OR LESS TO THE POINT OF BEGINNING.

(SEAL)



Edward M. Paulsen
REGISTERED PROFESSIONAL ENGINEER

Knud S. Knudsen
REGISTERED PROFESSIONAL SURVEYOR

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT IVA WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX, AS HER SEPARATE PROPERTY, FEE SIMPLE OWNER OF SAID LAND, BY RICHARD J. WATERS, HER ATTORNEY-IN-FACT, UNDER SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 95818, VOLUME 8, PAGES 133 AND 134 OF POWER OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, AND GLEN CORNING, ABNER LUTKE, A.J. Mc MILLAN, MOKSHA W. SMITH, A.J. HUTTON JR., AND LAWRENCE C. ANGELL, DOING BUSINESS IN PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, THEIR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942089 IN VOLUME 36, PAGES 189 TO 191 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT; AND IN LIEU OF DEDICATION OF ROADS SHOWN ON THIS PLAT HEREBY RESERVE FOREVER UNTO ALL PURCHASERS OF ALL LOTS AND TRACTS IN THIS PLAT AN EQUAL AND UNDIVIDED INTEREST IN ALL ROADS, WITH A PERMANENT EASEMENT FOR PUBLIC UTILITIES THEREON, WITH THE RIGHT TO DRAIN ALL ROADS, EASEMENTS AND PUBLIC SITES OVER AND ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER THE GRADING; AND THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS AND EASEMENTS.

IVA WHITTAKER TRUDELL
FEE SIMPLE OWNER

GLEN CORNING, ABNER LUTKE, A.J. McMILLAN,
MOKSHA W. SMITH, A.J. HUTTON JR. AND LAWRENCE
C. ANGELL, D.B.A. GLENHAVEN LAKE CONTRACT
PURCHASERS.

BY *Richard J. Waters*
RICHARD J. WATERS, ATTORNEY-IN-FACT

BY *Glen Corning*
GLEN CORNING, PARTNER AND ATTORNEY-IN-FACT

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 8TH DAY OF JULY, 1965.

(SEAL)

ENGINEER, WHATCOM COUNTY, WASHINGTON



PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 12 DAY OF JULY, 1965.

(SEAL)

VICE CHAIRMAN, WHATCOM COUNTY, PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 18TH DAY OF JULY, 1965.

ATTEST: *Richard J. Waters*

CLERK OF THE BOARD

Glen Corning
VICE CHAIRMAN, WHATCOM COUNTY, PLANNING COMMISSION

TREASURER'S CERTIFICATE

I, *Glen Corning*, COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW, AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 22ND DAY OF June, 1965.

(SEAL)

Glen Corning
TREASURER, WHATCOM COUNTY, WASHINGTON

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF ED PAULSEN ON THIS 12TH DAY OF JULY, 1965 AT 10 MINUTES PAST 10 A.M. AND RECORDED IN VOLUME 9 OF PLATS, PAGES 71-78 OF RECORDS OF SAID COUNTY.

(SEAL)

Glen Corning
AUDITOR, WHATCOM COUNTY, WASHINGTON

ACKNOWLEDGEMENTS

STATE OF WASHINGTON
COUNTY OF WHATCOM

ON THIS 28TH DAY OF June, 1965, BEFORE ME, PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEED AS ATTORNEY-IN-FACT FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS SUCH ATTORNEY-IN-FACT FOR SUCH PRINCIPAL, FREELY AND VOLUNTARILY, FOR THE PURPOSES AND USES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING. WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.



NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

Noel D. Riffe



NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

Noel D. Riffe

GLENHAVEN LAKES DIVISION NUMBER 10

SECTION 29 T37N, R4E, 11.1M.

SCALE 1" = 100'

EASEMENT PROVISIONS

An easement is hereby reserved for and granted to

Puget Sound Power & Light Company

and

Pacific Northwest Bell Telephone Company

and their respective successors and assigns under and upon the interior 5 feet of front and rear boundary lines and under and upon the interior 2.5 feet of side boundary lines of all lots, in which to install, lay, construct, renew, operate and maintain underground conduits, cables and wires with necessary facilities and other equipment for the purpose of serving the subdivision and other property with electric and telephone service, together with the right to enter upon the lots at all times for the purposes stated; also hereby granted is the right to use the streets for the same purpose.

All permanent utility services shall be provided by under-ground service exclusively.



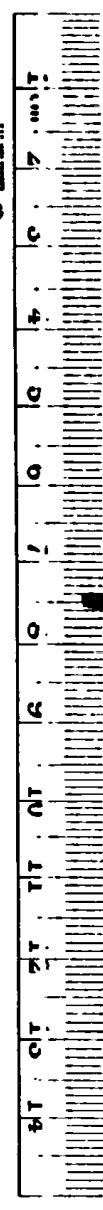
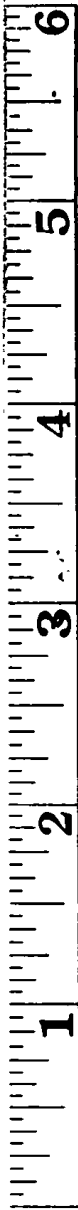
NOTES:

1. ALL ROADS ARE 60' IN WIDTH.

2. (C) INDICATES CONCRETE MONUMENT

3. ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIVISION NO. 10 SHALL BE SUBJECT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON UNDER AUDITORS FILE NO. 99014. *Vol 30 Page 501 of 608*
original filed for record 4-7-77

CURVE (A) Δ = 69° 28' ST = 90.00 RAD = 129.82 LC = 157.39	CURVE (E) Δ = 86° 46' 05" ST = 40.00 RAD = 42.32 LC = 64.08	CURVE (I) Δ = 74° 01' 50" ST = 50.00 RAD = 66.32 LC = 85.66
CURVE (B) Δ = 32° 54' 40" ST = 60.00 RAD = 203.14 LC = 116.68	CURVE (F) Δ = 69° 59' 30" ST = 194.33 RAD = 220.44 LC = 269.27	CURVE (J) Δ = 60° 52' 33" ST = 40.00 RAD = 68.08 LC = 72.33
CURVE (C) Δ = 77° 07' 20" ST = 74.92 RAD = 93.98 LC = 126.49	CURVE (G) Δ = 9° 00' 00" ST = 73.00 RAD = 173.70 LC = 117.05	CURVE (K) Δ = 16° 45' 30" ST = 422.00 RAD = 2865 LC = 837.92
CURVE (D) Δ = 47° 46' 20" ST = 50.00 RAD = 112.31 LC = 94.14	CURVE (H) Δ = 84° 30' 00" ST = 50.00 RAD = 55.53 LC = 81.41	CURVE (L) Δ = 10° 38' 30" ST = 266.90 RAD = 2865.00 LC = 552.10



GLENHAVEN LAKES DIVISION NUMBER 11 SECTION 29 T37N, R4E, WM. WHATCOM COUNTY, WASH.

SCALE — 1" = 100'

NOTE 1 ALL ROADS ARE 60' IN WIDTH EXCEPT AS SHOWN.

2 (C) INDICATES CONCRETE MONUMENT

3 ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIV.

NO. 11 SHALL BE SUBJECT TO THE

"DECLARATION OF

COVENANTS AND RESTRICTIONS" AS RECORDED IN THE AUDITORS

OFFICE UNDER AUDITORS FILE NO. 99351. *Vol. 33 Page 14 of 18*

ALL ROADS IN THIS PLAT CALLED "GLENROADS" ARE SUBJECT TO THE

"DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN

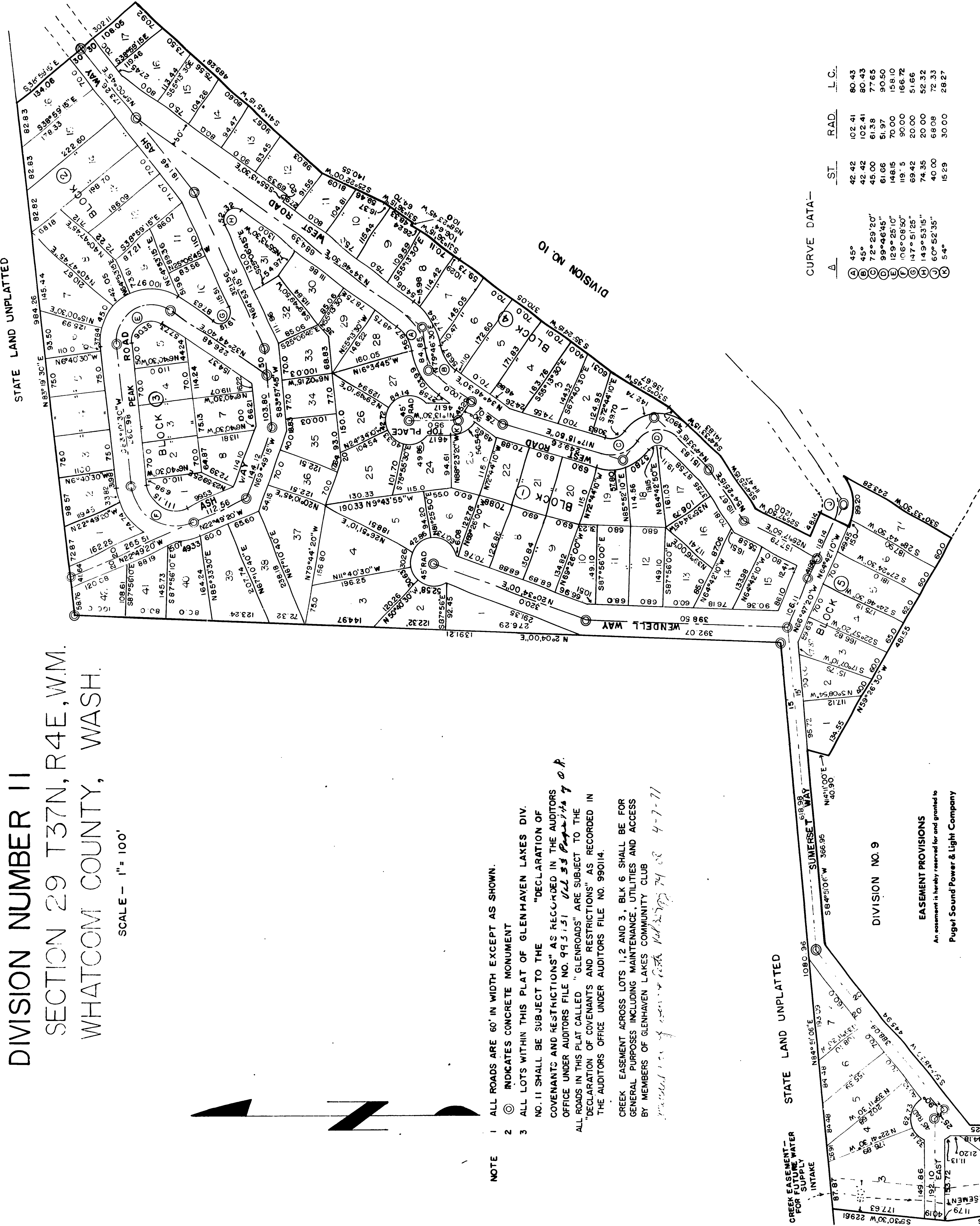
THE AUDITORS OFFICE UNDER AUDITORS FILE NO. 99014.

CREEK EASEMENT ACROSS LOTS 1, 2 AND 3, BLK 6 SHALL BE FOR

GENERAL PURPOSES INCLUDING MAINTENANCE, UTILITIES AND ACCESS

BY MEMBERS OF GLENHAVEN LAKES COMMUNITY CLUB

Warranted by owner with Vol. 33 Page 14 of 18 4-7-71



CURVE DATA—

A	ST	RAD.	L.C.
(A)	45°	102.41	80.43
(B)	45°	102.41	80.43
(C)	72°29'20"	45.00	77.65
(D)	99°46'45"	61.66	90.50
(E)	129°25'10"	148.15	158.10
(F)	106°08'50"	119.5	166.72
(G)	147°51'25"	69.42	51.66
(H)	149°53'15"	74.35	52.32
(I)	60°52'35"	40.00	72.33
(J)	54°	15.29	30.00

EASEMENT PROVISIONS

An easement is hereby reserved for and granted to

Puget Sound Power & Light Company

and their respective successors and assigns under and upon the exterior 5 feet of front and rear boundary line and under and upon the exterior 2.5 feet of side boundary lines of all lots, in which to install, lay, construct, renew, operate and maintain underground conduits, cables and wires with necessary facilities and other equipment for the purpose of serving the subdivision and other property with electric and telephone service, together with the right to enter upon the lots at all times for the purposes stated; also hereby granted is the right to use the stream for the same purposes.

All permanent utility services shall be provided by underground service exclusively.

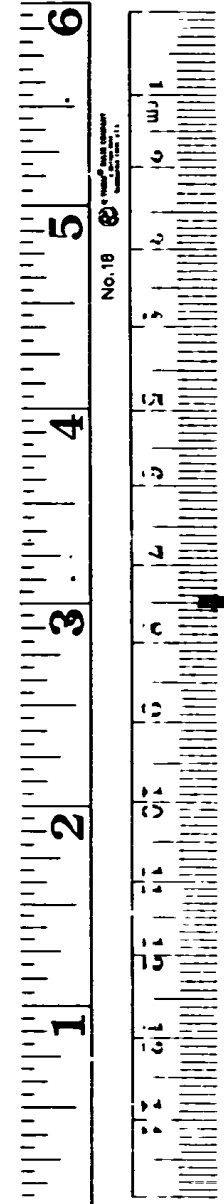


EXHIBIT M

GLENHAVEN LAKES DIVISION NUMBER 12

SECTION 29 T37N, R4E, W. M.
WHATCOM COUNTY, WASHINGTON

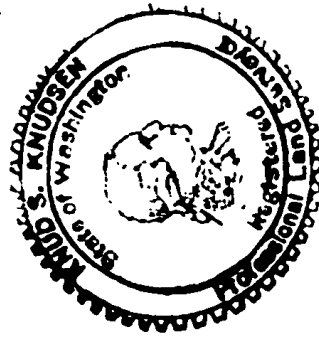
DESCRIPTION

WE, EDWARD M. PAULSEN AND KNUD S. KNUDSEN, DO HEREBY CERTIFY THAT THIS PLAT, TITLED GLENHAVEN LAKES DIV. 12, IS BASED UPON AN ACTUAL SURVEY MADE IN ACCORDANCE WITH THE REQUIREMENTS OF STATE LAW, THAT ALL DISTANCES, COURSES, AND ANGLES ARE CORRECTLY SHOWN HEREON, THAT MONUMENTS AND STAKES HAVE BEEN ACCURATELY PLACED ON THE GROUND, AND THAT THE PLAT COVERS AND EMBRACES THAT PORTION OF THE 5 1/2 SEC. 29, T37N, R4E, W. M. DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE PLAT OF GLENHAVEN LAKES DIV. NO. 3 BEING AN INTERSECTION OF THE WEST BOUNDARY OF THE CAIN LAKE ROAD AND THE NORTH BOUNDARY OF SAID PLAT, THENCE N 86° 55' 43" W AND FOLLOWING THE NORTH BOUNDARY OF SAID PLAT 256.00 FEET MORE OR LESS TO AN INTERSECTION WITH THE NORTHERLY BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIV. NO. 8, THENCE N 52° 39' 30" W AND FOLLOWING THE NORTHERLY BOUNDARY OF THE PLAT OF GLENHAVEN LAKES DIV. NO. 8 342.34', THENCE N 64° W 80' MORE OR LESS TO THE HIGH WATER LINE ON THE WEST SIDE OF REED LAKE, THENCE NORTHERLY AND FOLLOWING THE SAID HIGH WATER LINE TO AN INTERSECTION WITH THE NORTHERLY BOUNDARY OF BLOCK 1 OF THE PLAT OF GLENHAVEN LAKES DIV. NO. 9, THENCE N 64° W AND FOLLOWING SAID BOUNDARY OF SAID BLOCK 1 470.00' MORE OR LESS, THENCE ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 24.64' AND A CENTRAL ANGLE OF 101° 12', 43.52', THENCE N 37° 12' 00" E AND CONTINUING TO FOLLOW THE EASTERLY BOUNDARY OF THE SAID PLAT OF DIV. NO. 9, 215.43', THENCE N 27° 43' 45" E, 367.71', THENCE N 58° 42' 25" E, 580.12', THENCE EAST 02.74', THENCE SOUTH EASTERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 30' AND A CENTRAL ANGLE OF 99° 50' 50", 50.18' MORE OR LESS TO AN INTERSECTION WITH THE WESTERLY BOUNDARY OF THE CAIN LAKE ROAD, THENCE SOUTHERLY AND FOLLOWING THE WEST BOUNDARY OF CAIN LAKE ROAD ON A CURVE HAVING A RADIUS OF 2895.00' AND A CENTRAL ANGLE OF 8° 06' 35", 408.73', THENCE S 2° 15' 45" E, 574.80', THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 5700.00' AND A CENTRAL ANGLE OF 9° 20', 530.54', THENCE S 3° 04' 15" W, 65.63' TO THE POINT OF BEGINNING.



REGISTERED PROFESSIONAL ENGINEER
Edward M. Paulsen
REGISTERED PROFESSIONAL LAND SURVEYOR

(SEAL)



DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED, GEORGE COBELENS, WALLACE WINTER, AND MARIE E. WINTER, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, SUCCESSORS IN INTEREST TO GENERAL BUILDING, INC. AND FEE SIMPLE OWNERS OF A PORTION OF SAID LAND, BY RICHARD J. WATERS, OUR ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942475 IN VOL. 36, PG. 196, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY; AND THAT I, THE UNDERSIGNED, IVA WHITTAKER TRUDELL, WHO ACQUIRED THIS PROPERTY AS IVA WHITTAKER FOX AS HER SEPARATE PROPERTY, FEE SIMPLE HOLDER OF THE BALANCE OF SAID LAND, BY RICHARD J. WATERS, MY ATTORNEY-IN-FACT UNDER THAT SPECIAL POWER OF ATTORNEY, RECORDED UNDER THE AUDITOR'S FILE NO. 95818 IN VOLUME 8, PAGE 133 AND 134 OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON; AND GLEN CORNING, ABNER LUTKE, A.J. McMILLAN, MOKSHA K. SMITH, A.J. HUTTON JR. AND LAWRENCE C. ANGELL, DOING BUSINESS IN CO-PARTNERSHIP AS GLENHAVEN LAKES, CONTRACT PURCHASERS OF SAID LAND, BY GLEN CORNING, OUR PARTNER AND ATTORNEY-IN-FACT UNDER THE LIMITED POWER OF ATTORNEY RECORDED UNDER AUDITORS FILE NO. 942089 IN VOLUME 36, PAGES 189-191, OF POWERS OF ATTORNEY, RECORDS OF WHATCOM COUNTY, WASHINGTON, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL ROADS, ALLEYS, EASEMENTS AND PUBLIC SITES SHOWN ON THIS PLAT; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS, BLOCKS AND TRACTS IN ANY REASONABLE GRADING OF ROADS, ALLEYS AND PUBLIC SITES OVER OR ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL COURSE AFTER GRADING. (SEE FOOTNOTE BELOW)

IN WITNESS WHEREOF WE HAVE HEREONTO SET OUR HANDS THIS 28th DAY OF July, 1965.

IVA WHITTAKER TRUDELL & GENERAL BUILDING INC.
FEE SIMPLE OWNERS
BY *Richard J. Waters*
RICHARD J. WATERS, ATTORNEY-IN-FACT

BY *Glen Corning*
GLEN CORNING, PARTNER AND ATTORNEY-IN-FACT

FOOTNOTE: TRACTS 'A' AND 'B' AS SHOWN THEREON SHALL BE RESERVED FOR THE MEMBERS OF GLENHAVEN LAKES CLUB, INC.

ACKNOWLEDGEMENTS

STATE OF WASHINGTON
COUNTY OF WHATCOM
ON THIS 28th DAY OF July, 1965, BEFORE ME PERSONALLY APPEARED RICHARD J. WATERS, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEED AS ATTORNEY-IN-FACT OF GEORGE COBELENS, WALLACE WINTER, AND MARIE E. WINTER, HIS WIFE, CARL MILLER AND HELEN M. MILLER, HIS WIFE, AND HILDA MILLER, A WIDOW, SUCCESSORS TO GENERAL BUILDING INCORPORATED AND FOR IVA WHITTAKER TRUDELL, THEREIN DESCRIBED AND ACKNOWLEDGED TO ME THAT HE SIGNED VOLUNTARILY, FOR THE USES AND PURPOSES THEREIN MENTIONED AND ON OATH STATED THAT THE POWER OF ATTORNEY AUTHORIZING THE DEDICATION HAS NOT BEEN REVOKED AND THAT THE PRINCIPAL IS NOW LIVING. I, THE NOTARY PUBLIC, IN WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

Noel M. Riffe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT BELLINGHAM

ENGINEER'S APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY ENGINEERING DEPARTMENT THIS 29th DAY OF July, 1965.
(SEAL)
[Signature]
ENGINEER, WHATCOM COUNTY, WASHINGTON

PLANNING COMMISSION APPROVAL

EXAMINED AND APPROVED BY THE WHATCOM COUNTY PLANNING COMMISSION THIS 30th DAY OF July, 1965.
[Signature]
CHAIRMAN, WHATCOM COUNTY PLANNING COMMISSION

COMMISSIONER'S APPROVAL

APPROVED BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF WHATCOM COUNTY, THIS 30th DAY OF July, 1965.
ATTEST: *[Signature]*
CLERK OF THE BOARD
[Signature]
CHAIRMAN, WHATCOM COUNTY COMMISSIONERS

TREASURER'S CERTIFICATE

[Signature]
COUNTY TREASURER OF WHATCOM, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF REAL ESTATE EMBRACED WITHIN THIS PLAT HAVE BEEN FULLY PAID AS PRESCRIBED BY LAW AND AS SHOWN BY THE RECORDS IN MY OFFICE.

WITNESS MY OFFICIAL SIGNATURE AND SEAL THIS 30th DAY OF July, 1965.

(SEAL)
[Signature]
TREASURER, WHATCOM COUNTY, WASHINGTON

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF *[Signature]* ON THIS 28th DAY OF July, 1965 AT 10:00 AM MINUTES PAST 10:00 AM AND RECORDED IN VOLUME 44 OF PLATS, PAGES 80-81 OF SAID COUNTY.

(SEAL)
[Signature]
AUDITOR, WHATCOM COUNTY, WASHINGTON

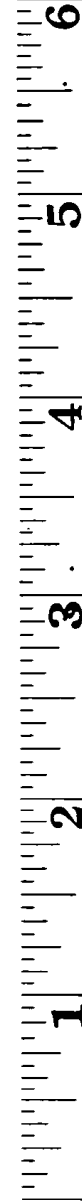
NOTE: ALL LOTS WITHIN THIS PLAT OF GLENHAVEN LAKES DIV. NO. 12 SHALL BE SUBJECT TO THE "DECLARATION OF COVENANTS AND RESTRICTIONS" AS RECORDED IN THE OFFICE OF THE COUNTY AUDITOR OF WHATCOM COUNTY, WASHINGTON UNDER AUDITOR'S FILE NUMBER _____

EASEMENT PROVISIONS

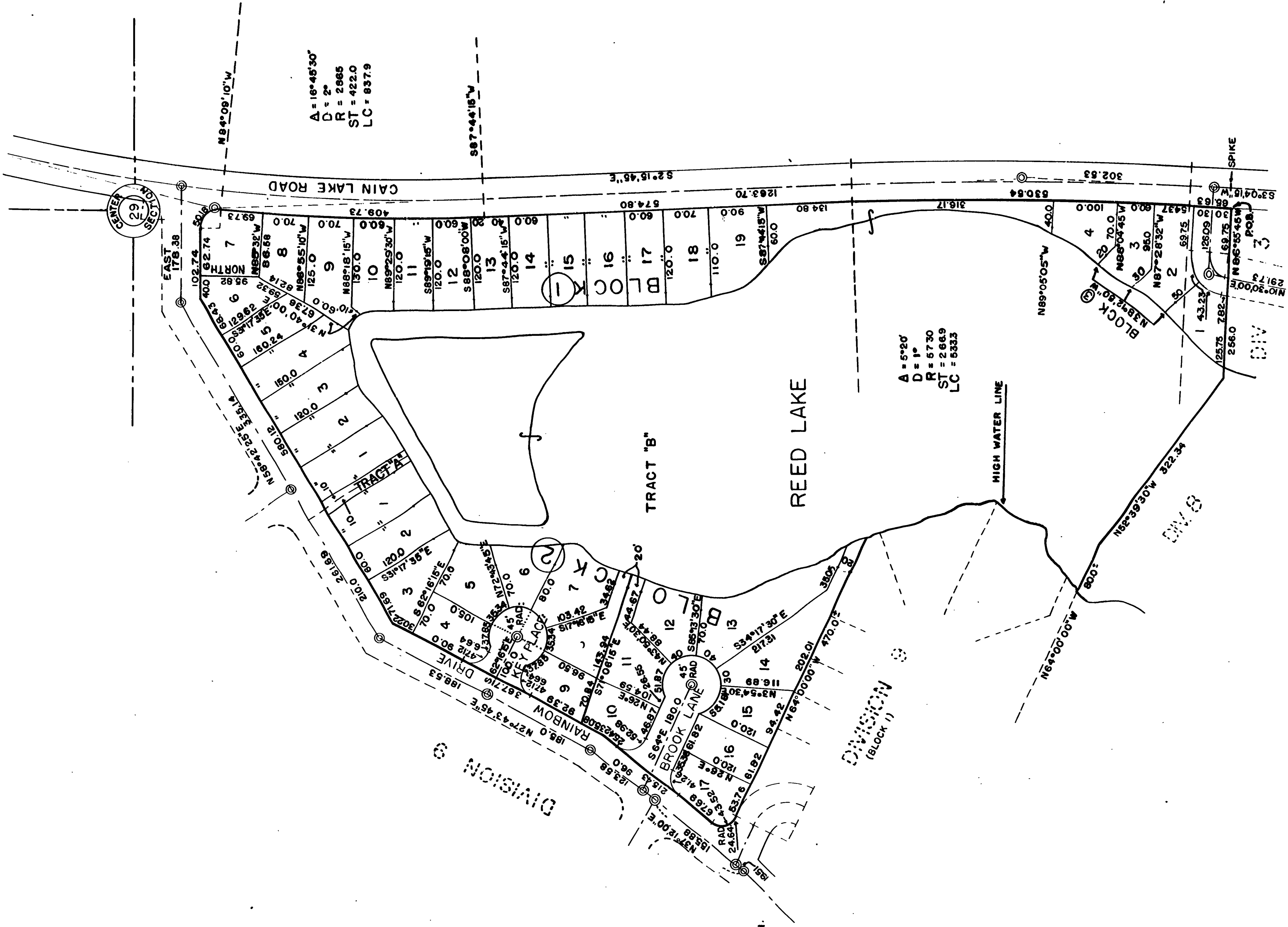
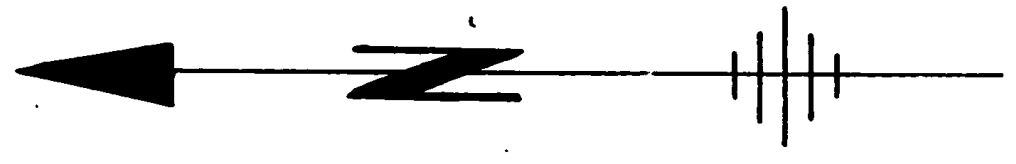
An easement is hereby reserved for and granted to:
Puget Sound Power & Light Company

and their respective successors and assigns under and upon the exterior 5 feet of front and rear boundary lines and under and upon the exterior 2.5 feet of side boundary lines of all lots, in which to install, lay, construct, renew, operate and maintain underground conduits, cables and wires with necessary facilities and other equipment for the purpose of serving the subdivision and other property with electric and telephone service together with the right to enter upon the lots at all times for the purposes stated; also hereby granted is the right to use the streets for the same purposes.

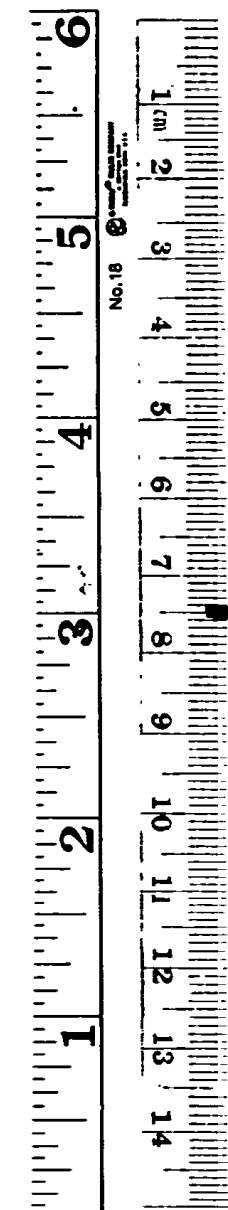
All permanent utility services shall be provided by underground service exclusively.



GLENHAVEN LAKES **DIVISION NUMBER 12** SECTION 29 T37N, R4E, W.M. WHATCOM COUNTY, WASHINGTON SCALE 1 INCH = 100 FEET



- NOTE
1. ALL CORNER RADII ARE 30' UNLESS OTHERWISE SHOWN.
 2. ② INDICATES CONCRETE MONUMENTS.
 3. ALL ROADS ARE 60' IN WIDTH.
 4. * INDICATES IRON PIPE SET ON LOT LINE.





THE BELLINGHAM HERALD

AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
450919	0004149668	PUBLIC HEARING NOTICE Whatcom County Co	86601 OP	\$342.24	1	10.22 In

Attention: Marina Engels

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

PUBLIC HEARING NOTICE

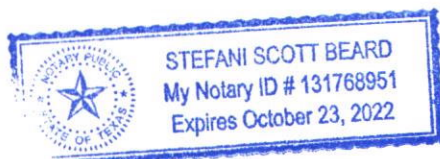
Whatcom County Council will have a public hearing, will consider adopting, and may amend the following at its May 7, 2019 meeting, or at a later date: **ORDINANCE GRANTING GLENHAVEN LAKES CLUB INC. A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES (AB2019-167):** This ordinance grants a 25 year non-exclusive franchise to construct, erect, alter, lay, extend, support, connect, improve, renew, replace, repair, operate and maintain water transmission and distribution facilities upon, under, over, and across and along certain roads and other areas in Whatcom County, Washington. The franchise area means all public county roads, county public ways, county property, and platted right of way as dedicated within the following plats: Glenhaven Lakes, according to the plat thereof, recorded in Volume 9 of Plats, Pages 35 and 36; Glenhaven Lakes Division Number 2, according to the plat thereof, recorded in Volume 9, Pages 39 and 40; Glenhaven Lakes Division Number 3, according to the plat thereof, recorded in Volume 9 of Plats, Pages 47 and 48; Glenhaven Lakes Division Number 4, according to the plat thereof, recorded in Volume 9, Pages 51 and 52; Glenhaven Lakes Division Number 5, according to the plat thereof, recorded in Volume 9, Pages 55, 56, and 57; Glenhaven Lakes Division Number 6, according to the plat thereof, recorded in Volume 9, Pages 62 and 63; Glenhaven Lakes Division Number 7, according to the plat thereof, recorded in Volume 9, Pages 66 and 67; Glenhaven Lakes Division Number 8, according to the plat thereof, recorded in Volume 9, Pages 69 and 70; Glenhaven Lakes Division Number 9, according to the plat thereof, recorded in Volume 9, Pages 73 and 74; Glenhaven Lakes Division Number 10, according to the plat thereof, recorded in Volume 9, Pages 77 and 78; Glenhaven Lakes

AB 2019-167

RECEIVED

MAY 10 2019

WHATCOM COUNTY
COUNCIL



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

2 Insertions

Published On:
April 27, 2019, May 04, 2019

Victoria Rodela
(Principal Clerk)

Subscribed and sworn on this 6th day of May in the year of 2019 before me, a Notary Public, personally appeared before me Victoria Rodela known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.

Stefani Scott Beard

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

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

Division Number 11, according to the plat thereof, recorded in Volume 9, Pages 83 and 84; Glenhaven Lakes Division Number 12, according to the plat thereof, recorded in Volume 9, Pages 80 and 81; Situate in Whatcom County, Washington. Council introduced the above at its March 26 meeting. Public documents are available for review in the Council Office, 311 Grand Avenue, Bellingham, and at www.co.whatcom.wa.us/council. Meetings are in the Council Chambers, same address, at 7:00 p.m., unless otherwise announced. The Council Chambers is handicapped accessible. People with special needs or disabilities who will be attending this meeting are asked to please contact our office (360-778-5010 or 800-676-6757) at least 96 hours in advance, so that we may make any needed accommodations. If interpretive services or transportation is needed, please call more than two days ahead of time.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-285

File ID:	AB2019-285	Version:	1	Status:	Held In Committee
File Created:	05/06/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		

First Assigned to: Council Special Committee of the Whole

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
---------------------	------------	------------------------	--	----------------------	--

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

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects do double duty by also providing 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:

Ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects do double duty by also providing apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
05/07/2019	Council	INTRODUCED	Council
06/04/2019	Council Special Committee of the Whole	HELD IN COMMITTEE	Council Special Committee of the Whole

Attachments: Ordinance (Clean Version), Ordinance (Redline/Strikeout)

Final Action:
Enactment Date:
Enactment #:

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE TITLE 3, REQUIRING THAT PUBLIC FUNDS
USED FOR CONSTRUCTION PROJECTS DO DOUBLE DUTY BY ALSO PROVIDING
APPRENTICES WITH JOB TRAINING HOURS TO MEET THE REQUIREMENTS
NECESSARY TO BECOME THE NEXT GENERATION OF SKILLED TRADES PERSONS**

WHEREAS, a highly skilled workforce is essential for enhancing economic growth and the continued prosperity of all our citizens; and

WHEREAS, shortages of skilled construction workers limit job growth and affect our economy. This "skills gap" problem will continue to grow, due to the large numbers of skilled worker retirements and increased construction activity; and

WHEREAS, the Aspen Institute and others have identified that the number one reason over 50% of apprentices fail to complete their training is they don't get enough on the job training hours to meet the certification requirements in a reasonable time and recommends that it is good public policy to use public works contracts to provide apprentices with the job training hours necessary to graduate; and

WHEREAS, the responsibility to train the next generation of skilled workers rests with both the public and private sectors and must be done before too much of the knowledge and experience of existing skilled workers is lost due to retirements; and

WHEREAS, apprenticeship is a proven, highly-effective training model allowing entry-level workers to gain experience in a highly skilled occupation through a combination of on-the-job training and classroom instruction; and

WHEREAS, growing participation in apprenticeship programs today will ensure a viable workforce in the construction trade industry tomorrow; and

WHEREAS, growing participation and establishing robust apprenticeship programs will provide a clear pathway for a large segment of high school graduates seeking family wage careers and will create a greater pool of skilled workers for all contractors, organized or independent; and

WHEREAS, Washington's traditional sources of high-wage, low-skilled work (forests and factories) are declining due to automation and global trade. For there to be an increase in wages, there needs to be both an increase in the use of technology and highly-skilled workers. If employers cannot find trained workers in Whatcom County, they will look to other places to locate their business facilities and create jobs; and

WHEREAS, apprenticeship programs can provide opportunity for disadvantaged youth and other individuals whose education has been disrupted to "learn and earn" their way to career path that offers the promise of a stable family wage future; and

1 **WHEREAS**, women and racial minorities have traditionally been under represented
2 within the skilled trades; and
3

4 **WHEREAS**, Whatcom County is committed to working in partnership with labor,
5 business and the Washington State Apprenticeship and Training Council to create a skilled
6 workforce that reflects the diversity of our population and promotes community
7 development; and
8

9 **WHEREAS**, Whatcom County aspires to have the percentages of Apprentices who
10 are women, disadvantaged youth, and those who are racial minorities be more reflective of
11 the makeup of the County's population; and
12

13 **WHEREAS**, the need to provide more family-wage jobs is reflected in the County's
14 Comprehensive Plan, and the County is seeking to encourage cooperative educational
15 opportunities responsive to the changing needs of the workplace, both locally while
16 increasing economic stability throughout Whatcom County; and
17

18 **WHEREAS**, since the 1990s, city, county, and port governments in Washington
19 State have proven that apprenticeship utilization programs increase the number of people
20 training as registered apprentices; and
21

22 **WHEREAS**, with RCW 39.04.320 the Washington State Legislature recognized in
23 2005 the importance of apprenticeship training programs and expanded requirements that
24 state agencies require 15% of total labor hour be performed by approved apprentices for
25 projects that cost \$1 million or more; and
26

27 **WHEREAS**, between 2006 and 2009, the number of registered apprentices actively
28 training in Washington doubled after the state legislature expanded apprentice utilization in
29 state public works contracting, with building and construction trades leading the way; and
30

31 **WHEREAS**, since 2012 all contractors operating in Whatcom County seeking to win
32 state funded public works contracts are already required by RCW 39.04.320 to ensure that
33 no less than fifteen percent of the labor hours will be performed by apprentices on projects
34 for school districts and four-year institutions of higher education estimated to cost one
35 million dollars or more; and
36

37 **WHEREAS**, a joint study from Washington General Administration and the
38 Washington Department of Labor and Industries concluded that the state's apprentice
39 utilization program is successful; and
40

41 **WHEREAS**, the County finds that it would be in the best interests of the public
42 health, safety and welfare for the County to implement an apprenticeship utilization goal
43 which encourages employment of apprentices by requiring minimum level of 15%
44 apprentice employment as a requirement in the awarding of qualifying public works
45 construction contracts greater than \$1,000,000.
46

47 **NOW, THEREFORE, BE IT RESOLVED**, that the County Code shall be amended to
48 include a new chapter "CONSTRUCTION PROJECTS – APPRENTICE REQUIREMENTS" as
49 detailed in the attached Exhibit A; and
50

NOW, THEREFORE, BE IT FURTHER RESOLVED, that should the City of Bellingham adopt a similar apprenticeship requirement language in the future that Whatcom County shall consult with the City of Bellingham for the purpose of harmonizing City and County code requirements.

ADOPTED this ____ day of _____, 2019.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council Rud Browne, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM: WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor Jack Louws, County Executive

() Approved () Denied

Date Signed: _____

1 **EXHIBIT A**

2
3
4 Whatcom County Code Chapter X.XX
5 CONSTRUCTION PROJECTS – APPRENTICE REQUIREMENTS
6

7 **Sections:**

- 8 X.XX.010 Definitions
9 X.XX.020 Use of apprentices required for public works
10 X.XX.030 Administration
11 X.XX.040 EAP utilization plan
12 X.XX.050 Exceptions and waivers
13 X.XX.060 Monitoring
14 X.XX.070 Reporting
15 X.XX.080 Remedies
16 X.XX.090 Emergencies
17

18 **X.XX.010 Definitions.**
19

20 Where used in this chapter, unless the context clearly requires otherwise, the following
21 terms shall have the meaning and construction set forth herein:
22

- 23 (1) "Apprentice" means an apprentice registered in an Approved Apprenticeship
24 Program.
25
26 (2) "Approved Apprenticeship Program" means an apprenticeship training program
27 which is approved or recognized by the Washington State Apprenticeship and
28 Training Council.
29
30 (3) "Contractor" means a person, corporation, partnership, limited liability company, or
31 joint venture entering into a contract with the County to construct a public work.
32
33 (4) "Labor hours" refers to the total number of hours worked by workers receiving an
34 hourly wage who are employed directly and by subcontractors upon the public works
35 project and who are subject to state or federal prevailing wage requirements, and
36 shall include additional hours worked as a result of a contract or project adjustment
37 or pursuant to an agreed-upon change order.
38
39 (5) "Minimum Apprentice Labor Hours" refers to labor hours actually worked on a public
40 works project by apprentices expressed as a percentage of total labor hours. The
41 minimum percentage of apprentice labor hours by project shall be:
42
43 a. For contracts less than \$1,000,000 there shall be no requirement;
44 b. For contracts advertised for bid before January 1, 2021 there shall be no
45 requirement;
46 c. For contracts advertised for bid on or after January 1, 2021 estimated to cost
47 three million dollars or more, no less than ten percent of the labor hours shall
48 be performed by Apprentices.
49 d. For contracts advertised for bid on or after January 1, 2022 estimated to cost
50 two million dollars or more, no less than twelve percent of the labor hours
51 shall be performed by Apprentices.

- 1 e. For contracts advertised for bid on or after January 1, 2023, estimated to cost
2 one million dollars or more, no less than fifteen percent of the labor hours
3 shall be performed by Apprentices.
4
- 5 (6) "Employee apprenticeship program (EAP)" refers to the requirements of this chapter
6 and any administrative regulations applicable thereto.
7
- 8 (7) "EAP coordinator" refers to the person designated by the County Executive to
9 administer and coordinate the employee apprenticeship program.
10
- 11 (8) "EAP utilization plan" refers to the plan for utilization of apprenticeship labor in a
12 public work project.
13
- 14 (9) "Estimated cost" shall mean the anticipated cost of a public work, as determined by
15 the County, based upon the expected costs of materials, supplies, equipment, and
16 labor, but excluding taxes and contingency funds.
17
- 18 (10) "Notice to proceed" refers to the written authorization to the contractor under
19 the public work contract to commence work.
20
- 21 (11) "Public work" refers to all County funded construction projects that constitute
22 a public work pursuant to RCW 39.04.010 as now or hereafter amended and
23 estimated to cost \$1,000,000 or more.
24
- 25 (12) "Subcontractor" means a person, corporation, partnership, limited liability
26 company, or joint venture that has contracted with the contractor to perform all or
27 part of the work to construct a public work by a contractor.
28
29

30 **X.XX.020 Use of apprentices required for public works.**
31

32 Apprentices shall be utilized on the construction of all public works in accordance with this
33 chapter.
34

35 **X.XX.030 Administration.**
36

- 37 (1) Apprenticeship Program Goal.
38 All contractors and subcontractors constructing or involved with the construction of
39 public works, and all service providers involved with the construction of a public work,
40 shall ensure that the combined Minimum Apprentice Labor Hours applicable for the size
41 and bid date of the contract are performed by Apprentices.
- 42 (2) Contract Requirements.
43 Contracts for such construction projects shall include provisions detailing the
44 apprentice labor requirements. The EAP coordinator shall develop the necessary bid
45 documents and contract specification language to implement the requirements of this
46 chapter.
47
- 48 (3) Submission of EAP Utilization Plan.
49 All contractors shall submit an EAP utilization plan and shall meet with the EAP
50 coordinator to review said EAP utilization plan prior to being issued a notice to
51 proceed. Failure to submit an EAP utilization plan may be grounds for the County to

1 withhold remittance of a progress payment until such plan is received from the
2 responsible contractor. A meeting with the EAP coordinator prior to issuance of a
3 notice to proceed shall be excused only when the EAP coordinator is unavailable to
4 meet prior to the scheduled date for issuance of the notice to proceed and the
5 contractor and the EAP coordinator have otherwise scheduled a meeting for the
6 coordinator to review the contractor's plan. The contractor shall be responsible for
7 meeting the EAP utilization goal requirements of the contract, including all
8 amendments and change orders thereto, and shall be responsible for overall
9 compliance for all hours worked by subcontractors. To the extent practical, the
10 contractor shall recruit apprentices from multiple trades or crafts.

11 12 **X.XX.040 EAP utilization plan.**

13
14 The EAP utilization plan shall meet the following requirements:

- 15 (1) Shall be submitted on forms prepared or approved by the EAP coordinator;
- 16 (2) Shall specify the planned labor hours for each trade or craft;
- 17 (3) Shall provide for quarterly reports, as well as a final report, indicating the total labor
18 hours and the apprenticeship hours utilized by the contractor and all subcontractors
19 on the project; and
- 20 (4) Shall include a description of how the contractor will satisfy the EAP utilization goal
21 on the particular public work project and include a summary of outreach and
22 recruitment procedures to hire apprentices to work on the project.

23 24 **X.XX.050 Exceptions and waivers.**

25
26 During the term of a construction contract subject to this chapter, the County may reduce
27 or waive the apprentice labor hour goals upon determination that:

- 28 (1) The contractor has demonstrated that it has utilized best efforts to meet the
29 established percentage requirement but remains unable to fulfill the goal;
- 30 (2) The contractor has demonstrated that insufficient apprentices are available to meet
31 the EAP utilization goals;
- 32 (3) The reasonable and necessary requirements of the contract render apprentice
33 utilization infeasible at the required levels;
- 34 (4) There exists a disproportionately high ratio of material costs to labor hours, which
35 does not make feasible the required minimum level of apprentice participation;
- 36 (5) There is no evening classes within 30 miles, or day classes within a 100 miles of the
37 job site that the Apprentice can attend to meet the school requirements of their
38 apprenticeship;
- 39 (6) To the extent that apprentice labor hour goals are in conflict with funding
40 agreements in place, including federal aid projects, in connection with the public
41 work; or
- 42 (7) For reasons deemed appropriate by the County Executive and not inconsistent with
43 the purpose and goals of this chapter.

44 45 **X.XX.060 Monitoring.**

46
47 The County shall implement a system for monitoring the actual use of apprentices in
48 construction projects subject to this chapter. Such monitoring shall include identifying
49 individual apprentices by name and Washington State apprenticeship registration number;
50 reviewing documents provided by the contractor showing total apprentice labor hours;
51 determining the apprentice hours worked by minorities, disadvantaged youth, and women,

1 and as available, persons with disabilities and economically disadvantaged youth; and
2 assessing whether the contractor has complied with the apprenticeship requirement
3 established in its contract.

4 5 **X.XX.070 Reporting.**

6
7 The County Executive shall report to the County Council annually upon the use of
8 apprentices for public work projects. The report shall include, to the extent it is available:

- 9 (1) The percentage of labor hours actually worked by apprentices on each project and
10 the total number of labor hours on each project;
11 (2) The number of apprentices by contractor broken down by trade and craft category;
12 (3) The number and percentage of minorities, women, persons with disabilities and
13 disadvantaged youth utilized as apprentices on each project;
14 (4) The number of new apprentices indentured during the reporting year as a result of
15 the County's apprenticeship requirements; and
16 (5) The percentage of apprentices in training on County projects who have graduated to
17 journey level during the reporting year.
18 (6) All exemptions and waivers granted under section X.XX.050

19 20 **X.XX.080 Remedies.**

21
22 Failure by a contractor to comply with established apprenticeship requirements, unless
23 otherwise waived or excused in writing by the County Executive pursuant to X.XX.050, shall
24 be deemed a breach of contract for which the County shall be entitled to all remedies
25 allowed by law and under the contract. Failure to comply with the apprenticeship
26 requirements may also be considered evidence bearing on a contractor's qualification for
27 award of future contracts with the County.

28 29 30 **X.XX.090 Emergencies.**

31
32 This chapter shall not apply in the event of an emergency. For the purposes of this section,
33 "emergency" means unforeseen circumstances beyond the control of the County that either:
34 (a) present an immediate threat to the proper performance of essential functions; or (b) will
35 likely result in material loss or damage to property, bodily injury, or loss of life if immediate
36 action is not taken.

ORDINANCE NO. _____
AMENDING WHATCOM COUNTY CODE TITLE 3, REQUIRING THAT PUBLIC FUNDS
USED FOR CONSTRUCTION PROJECTS DO DOUBLE DUTY BY ALSO PROVIDING
APPRENTICES WITH JOB TRAINING HOURS TO MEET THE REQUIREMENTS
NECESSARY TO BECOME THE NEXT GENERATION OF SKILLED TRADES PERSONS

WHEREAS, a highly skilled workforce is essential for enhancing economic growth and the continued prosperity of all our citizens; and

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46

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50

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2 Bellingham adopt a similar apprenticeship requirement language in the future that Whatcom
3 County shall consult with the City of Bellingham for the purpose of harmonizing City and
4 County code requirements.

5
6 **ADOPTED** this ____ day of _____, 2019.

7
8
9 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

10
11 _____
12 Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

13
14
15 WHATCOM COUNTY EXECUTIVE
16 APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

17
18 _____
19
20 Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

23
24 Date Signed: _____
25

1 **EXHIBIT A**

2
3
4 Whatcom County Code Chapter X.XX
5 CONSTRUCTION PROJECTS – APPRENTICE REQUIREMENTS
6

7 **Sections:**

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18 **X.XX.010 Definitions.**
19

20 Where used in this chapter, unless the context clearly requires otherwise, the following
21 terms shall have the meaning and construction set forth herein:
22

- 23 (1) "Apprentice" means an apprentice registered in an Approved Apprenticeship
24 Program.
25
26 (2) "Approved Apprenticeship Program" means an apprenticeship training program
27 which is approved or recognized by the Washington State Apprenticeship and
28 Training Council.
29
30 (3) "Contractor" means a person, corporation, partnership, limited liability company, or
31 joint venture entering into a contract with the County to construct a public work.
32
33 (4) "Labor hours" refers to the total number of hours worked by workers receiving an
34 hourly wage who are employed directly and by subcontractors upon the public works
35 project and who are subject to state or federal prevailing wage requirements, and
36 shall include additional hours worked as a result of a contract or project adjustment
37 or pursuant to an agreed-upon change order.
38
39 (5) "Minimum Apprentice Labor Hours" refers to labor hours actually worked on a public
40 works project by apprentices expressed as a percentage of total labor hours. The
41 minimum percentage of apprentice labor hours by project shall be:
42
43 a. For contracts less than \$1,000,000 there shall be no requirement;
44 b. For contracts advertised for bid before January 1, 2021 there shall be no
45 requirement;
46 c. For contracts advertised for bid on or after January 1, 2021 estimated to cost
47 three million dollars or more, no less than ten percent of the labor hours shall
48 be performed by Apprentices.
49 d. For contracts advertised for bid on or after January 1, 2022 estimated to cost
50 two million dollars or more, no less than twelve percent of the labor hours
51 shall be performed by Apprentices.

- 1 e. For contracts advertised for bid on or after January 1, 2023, estimated to cost
2 one million dollars or more, no less than fifteen percent of the labor hours
3 shall be performed by Apprentices.
4
- 5 (6) "Employee apprenticeship program (EAP)" refers to the requirements of this chapter
6 and any administrative regulations applicable thereto.
7
- 8 (7) "EAP coordinator" refers to the person designated by the County Executive to
9 administer and coordinate the employee apprenticeship program.
10
- 11 (8) "EAP utilization plan" refers to the plan for utilization of apprenticeship labor in a
12 public work project.
13
- 14 (9) "Estimated cost" shall mean the anticipated cost of a public work, as determined by
15 the County, based upon the expected costs of materials, supplies, equipment, and
16 labor, but excluding taxes and contingency funds.
17
- 18 (10) "Notice to proceed" refers to the written authorization to the contractor under
19 the public work contract to commence work.
20
- 21 (11) "Public work" refers to all County funded construction projects that constitute
22 a public work pursuant to RCW 39.04.010 as now or hereafter amended and
23 estimated to cost \$1,000,000 or more.
24
- 25 (12) "Subcontractor" means a person, corporation, partnership, limited liability
26 company, or joint venture that has contracted with the contractor to perform all or
27 part of the work to construct a public work by a contractor.
28
29

30 **X.XX.020 Use of apprentices required for public works.**
31

32 Apprentices shall be utilized on the construction of all public works in accordance with this
33 chapter.
34

35 **X.XX.030 Administration.**
36

- 37 (1) Apprenticeship Program Goal.
38 All contractors and subcontractors constructing or involved with the construction of
39 public works, and all service providers involved with the construction of a public work,
40 shall ensure that the combined Minimum Apprentice Labor Hours applicable for the size
41 and bid date of the contract are performed by Apprentices.
- 42 (2) Contract Requirements.
43 Contracts for such construction projects shall include provisions detailing the
44 apprentice labor requirements. The EAP coordinator shall develop the necessary bid
45 documents and contract specification language to implement the requirements of this
46 chapter.
47
- 48 (3) Submission of EAP Utilization Plan.
49 All contractors shall submit an EAP utilization plan and shall meet with the EAP
50 coordinator to review said EAP utilization plan prior to being issued a notice to
51 proceed. Failure to submit an EAP utilization plan may be grounds for the County to

1 withhold remittance of a progress payment until such plan is received from the
2 responsible contractor. A meeting with the EAP coordinator prior to issuance of a
3 notice to proceed shall be excused only when the EAP coordinator is unavailable to
4 meet prior to the scheduled date for issuance of the notice to proceed and the
5 contractor and the EAP coordinator have otherwise scheduled a meeting for the
6 coordinator to review the contractor's plan. The contractor shall be responsible for
7 meeting the EAP utilization goal requirements of the contract, including all
8 amendments and change orders thereto, and shall be responsible for overall
9 compliance for all hours worked by subcontractors. To the extent practical, the
10 contractor shall recruit apprentices from multiple trades or crafts.

11 12 **X.XX.040 EAP utilization plan.**

13
14 The EAP utilization plan shall meet the following requirements:

- 15 (1) Shall be submitted on forms prepared or approved by the EAP coordinator;
- 16 (2) Shall specify the planned labor hours for each trade or craft;
- 17 (3) Shall provide for quarterly reports, as well as a final report, indicating the total labor
18 hours and the apprenticeship hours utilized by the contractor and all subcontractors
19 on the project; and
- 20 (4) Shall include a description of how the contractor will satisfy the EAP utilization goal
21 on the particular public work project and include a summary of outreach and
22 recruitment procedures to hire apprentices to work on the project.

23 24 **X.XX.050 Exceptions and waivers.**

25
26 During the term of a construction contract subject to this chapter, the County may reduce
27 or waive the apprentice labor hour goals upon determination that:

- 28 (1) The contractor has demonstrated that it has utilized best efforts to meet the
29 established percentage requirement but remains unable to fulfill the goal;
- 30 (2) The contractor has demonstrated that insufficient apprentices are available to meet
31 the EAP utilization goals;
- 32 (3) The reasonable and necessary requirements of the contract render apprentice
33 utilization infeasible at the required levels;
- 34 (4) There exists a disproportionately high ratio of material costs to labor hours, which
35 does not make feasible the required minimum level of apprentice participation;
- 36 (5) There is no evening classes within 30 miles, or day classes within a 100 miles of the
37 job site that the Apprentice can attend to meet the school requirements of their
38 apprenticeship;
- 39 (6) To the extent that apprentice labor hour goals are in conflict with funding
40 agreements in place, including federal aid projects, in connection with the public
41 work; or
- 42 (7) For reasons deemed appropriate by the County Executive and not inconsistent with
43 the purpose and goals of this chapter.

44 45 **X.XX.060 Monitoring.**

46
47 The County shall implement a system for monitoring the actual use of apprentices in
48 construction projects subject to this chapter. Such monitoring shall include identifying
49 individual apprentices by name and Washington State apprenticeship registration number;
50 reviewing documents provided by the contractor showing total apprentice labor hours;
51 determining the apprentice hours worked by minorities, disadvantaged youth, and women,

1 and as available, persons with disabilities and economically disadvantaged youth; and
2 assessing whether the contractor has complied with the apprenticeship requirement
3 established in its contract.

4 5 **X.XX.070 Reporting.**

6
7 The County Executive shall report to the County Council annually upon the use of
8 apprentices for public work projects. The report shall include, to the extent it is available:

- 9 (1) The percentage of labor hours actually worked by apprentices on each project and
10 the total number of labor hours on each project;
11 (2) The number of apprentices by contractor broken down by trade and craft category;
12 (3) The number and percentage of minorities, women, persons with disabilities and
13 disadvantaged youth utilized as apprentices on each project;
14 (4) The number of new apprentices indentured during the reporting year as a result of
15 the County's apprenticeship requirements; and
16 (5) The percentage of apprentices in training on County projects who have graduated to
17 journey level during the reporting year.
18 (6) All exemptions and waivers granted under section X.XX.050

19 20 **X.XX.080 Remedies.**

21
22 Failure by a contractor to comply with established apprenticeship requirements, unless
23 otherwise waived or excused in writing by the County Executive pursuant to X.XX.050, shall
24 be deemed a breach of contract for which the County shall be entitled to all remedies
25 allowed by law and under the contract. Failure to comply with the apprenticeship
26 requirements may also be considered evidence bearing on a contractor's qualification for
27 award of future contracts with the County.

28 29 30 **X.XX.090 Emergencies.**

31
32 This chapter shall not apply in the event of an emergency. For the purposes of this section,
33 "emergency" means unforeseen circumstances beyond the control of the County that either:
34 (a) present an immediate threat to the proper performance of essential functions; or (b) will
35 likely result in material loss or damage to property, bodily injury, or loss of life if immediate
36 action is not taken.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-358

File ID:	AB2019-358	Version:	2	Status:	Agenda Ready
File Created:	06/11/2019	Entered by:	JSchneid@co.whatcom.wa.us		
Department:	Council Office	File Type:	Resolution		

First Assigned to: Council Special Committee of the Whole

Agenda Date:	06/18/2019	Next Mtg. Date:	Hearing Date:
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Primary Contact Email: [Click here to enter text.](#)

TITLE FOR AGENDA ITEM:

Resolution forwarding Cascadia Law Group's recommendations for Cherry Point UGA Comprehensive Plan and Zoning Code Amendments

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Forwarding Cascadia Law Group's recommendations for proposed Cherry Point Urban Growth Area (UGA) Comprehensive Plan and Zoning Code Amendments to the Planning Commission for review and recommendation and to Planning and Development Services for SEPA review and determination.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: 2019.06.11 Resolution, Policies and Potential Amendments, Draft Code - Highlighted

Final Action:
Enactment Date:
Enactment #:

PROPOSED BY: _____
INTRODUCTION DATE: JUNE 18, 2019

RESOLUTION NO. _____

**FORWARDING CASCADIA LAW GROUP'S RECOMMENDATIONS FOR PROPOSED
CHERRY POINT URBAN GROWTH AREA (UGA) COMPREHENSIVE PLAN AND ZONING
CODE AMENDMENTS TO THE PLANNING COMMISSION FOR REVIEW AND
RECOMMENDATION AND TO PLANNING AND DEVELOPMENT SERVICES FOR SEPA
REVIEW AND DETERMINATION**

WHEREAS, on January 29, 2019, the Whatcom County Council approved Resolution No. 2019-004, requesting the County Executive provide staff resources and funding to allow Cascadia Law Group to complete Contract No. 201708008 related to legal ways the County may choose to limit the negative impacts on public safety, transportation, the economy, and environment from crude oil, coal, liquefied petroleum gases, and natural gas transshipments from the Cherry Point UGA; and

WHEREAS, through Resolution No. 2019-004, the Council requested Planning and Development Services (PDS) work with Cascadia Law Group to provide the County Council with draft Comprehensive Plan and code language that addresses each of the following issues, and where possible identifies and uses established code language from other jurisdictions, to be forwarded to the Planning Commission, that:

- a. Prohibits additional new fossil fuel refineries in Cherry Point beyond the existing British Petroleum, Phillips 66 and Petrogras facilities as our community has already taken on "our fair share" of the public health, safety and environmental risks associated with fossil fuel facilities and does not deserve any additional increase in risk that new facilities would bring; and
- b. Prohibits any new crude oil transshipment facilities that have any other purpose other than supplying raw materials to the existing refineries; and
- c. Prohibits conversion of any existing refinery into a facility primarily serving as a crude oil transshipment facility; and
- d. Allows expansion of existing refining capacity in proportion to certain criteria, such as a to a rolling five year projection of the combined regional population growth of Washington State and British Columbia as determined by their respective published government forecasts; and
- e. Considers requiring an initial and updated greenhouse gas analysis each time a refinery and/or storage capacity of an existing facility is expanded by more than one (1) percent over the baseline ("Baseline") as of the date code changes are adopted; and
- f. Requires identification of "Facility Emissions" which are defined as the greenhouse gas emissions associated with local fossil fuel facilities, including but not limited to
 - I. the transportation within the borders of Whatcom County of refined and unrefined fossil fuels to and from a facility located within the Cherry Point Heavy industrial area, and
 - II. the refining and processing of fossil fuels located within the Cherry Point Heavy industrial area; and

- g. At a minimum require local mitigation of (such as carbon offset programs that are deployed within Whatcom County's borders) Facility Emissions, above the Baseline; and
- h. Considers credits for the Net Positive environmental impacts of modifications to facilities such as programs such as energy recovery from animal waste and when calculating carbon offset obligations. "Net Positive" shall mean the net impact after factoring in:
 - I. fossil fuel inputs for transportation, as well as reduced landfill use and methane emissions in the case of animal or plant waste; and
 - II. fossil fuel inputs, environmental degradation, habit loss ect. in the case of biofuels such as palm oil or corn grown for bio fuels; and
- i. Aims to reduce the opportunity for the significant transportation, health and safety risks to the community that would likely occur should the existing refineries be converted to crude oil transshipment facilities by prohibiting the construction of additional fossil fuel storage tanks above the current ratio of Storage Capacity to Refining Capacity in existence as the date code changes are adopted. For this section "Storage Capacity" is defined as total volume of all tanks at a facility and "Refining Capacity" is defined as the average monthly volume of refining, in the preceding calendar year; and
- j. Considers that any expansion in storage or refining capacity greater than one (1) percent above Baseline shall require ongoing identification of all responsible parties involved in the transportation of crude and refined fossil fuels, the storage and refining of such, and proof of insurance great enough to cover any "Reasonable Worst Case Scenario" that could occur within the borders of Whatcom County. The insurance shall be required for as long as the particular refinery is operating and shall be increased annually to reflect any increase in the Consumer Price Index; and
- k. Recognizes that the term "Reasonable Worst Case Scenario" shall mean the derailment and subsequent explosion, fire and extensive contamination of air, soil, marine environments, all local public and private infrastructure, including but limited to roads, buildings, parks and sewer systems. The scenario shall assume the event occurs in high wind conditions, during an earthquake, in the downtown core of Bellingham, involves a train of maximum possible operating length train, travelling three times faster than normal, fully loaded with the most volatile cargo transported to or from Cherry Point, transported in the least safe tankers in use anywhere in North America, that the cleanup shall take a minimum of ten years, require the relocation of all businesses and residents within a minimum of a five mile radius and include the cost of fully compensating all the individuals and businesses directly and indirectly affected. Please note this scenario is in direct proportion to what happened during the Lac-Mégantic rail disaster which involved a train of less than maximum size that occurred in Quebec, Canada on July 6, 2013 and which five years on the community has yet to recover from; and

WHEREAS, the Council also requested that the Planning and Development department ensure any changes to the county code NOT cause any of the following:

- 1. Unnecessarily delay the implementation of future safety upgrades that if not made could potentially place the workers or environment at any risk.

2. Unnecessarily delay improvements that would have a positive impact on climate change, such as increased efficiency, reduced pollution or greenhouse gas emissions; and
3. "Catch 22's" where the County withholds permits until other agencies have issued theirs, such as the Army Core of Engineers which will traditionally refuse to issue a permit until the local government has approved the project; and
4. Contradictory language such as providing exemptions from the Conditional Use Permit "CUP" for minor projects, but which later language then forbids being issued because they are located in Cherry Point or are related to fossil fuels; and

WHEREAS, on June 10, 2019, Cascadia Law Group submitted recommendations for proposed Comprehensive Plan and zoning code amendments to the County Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that Cascadia Law Group's recommendations for proposed Cherry Point UGA Comprehensive Plan and zoning code amendments, as outlined in Exhibit A to this resolution, are hereby forwarded to the Planning Commission for review and recommendation, and to Planning and Development Services for SEPA review and determination.

BE IT FINALLY RESOLVED that the Council respectfully requests review by the Planning Commission and Planning and Development Services commence as soon as possible upon receipt of this resolution.

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Whatcom County Fossil Fuel Policies and Potential Amendments

Policy Evaluation | Prepared by: Cascadia Law Group and BERK Consulting, Inc.

Countywide Planning Policies

E. NON-CITY URBAN GROWTH AREAS

3. Cherry Point shall be designated as an unincorporated industrial urban growth area in recognition of existing large scale industrial land uses. Additional large scale development shall be encouraged consistent with the ability to provide needed services and consistent with protecting critical areas along with other environmental protection considerations. The Cherry Point industrial area is an important and appropriate area for industry due to its access to deep water shipping, rail, all-weather roads, its location near the Canadian border, and its contribution to the County's goal of providing family wage jobs.

Evaluation Policy E.3: No specific change required. Even if fossil-fuel refinement and related fossil-fuel industries are limited with policy and code changes, a wide range of industrial uses are still allowed in upland industrially zoned areas in Cherry Point. In-water shipping is limited to existing facilities per the State of Washington Department of Natural Resources (DNR) Cherry Point Aquatic Reserve Management Plan.

I. ECONOMIC DEVELOPMENT AND EMPLOYMENT

2. New business development and expansion of existing businesses are key factors in providing “family wage” jobs and a strong tax base. Economic development that pays family wage rates should be encouraged. Industrial land designations must be sufficient to permit the concentration of industry in appropriate locations beyond 20 years. In order to attract new industry and provide for expansion of existing industries, the county and the cities will designate land supply of sufficient size and diversity to provide a range of suitable locations for industrial development. The designation of this land shall be established in a way that preserves natural resource based industries and critical areas.

3. To provide sufficient land supply for industrial growth and development, industrial designations must not only include lands suitable for development, but also lands suitably zoned to provide adequate buffers. It is also important that these lands and buffers be conserved with appropriate land use and zoning provisions to ensure that they will be available for future use.

4. Encourage business location, retention, and expansion according to city and county comprehensive plans in order to meet current and future demand for diverse business and industry. Work with funding agencies and the private sector to facilitate extension of adequate sewer, water, telecommunications and road access to existing commercial and industrial-zoned properties, creating shovel-ready sites. Cities and county may utilize the “Quick Sites” economic development program through OTED, which links

strategic elements of planning, zoning, environmental review, and permitting with the business-siting effort.

11. Whatcom County encourages siting of industrial uses in proximity to and to further utilization of our access to deep water and port facilities for shipping, rail, airports, roadways, utility corridors and the international border.

Evaluation, Policies 1.2, 1.3, 1.4 and 1.11: The proposed policy and code changes continue to allow development of non-fossil-fuel industries, and review criteria for expansion of existing uses relies on implementing existing critical area regulations and other state and federal requirements, e.g. Cherry Point Aquatic Reserve Management Plan, Magnuson Act.

10. The cities and county agree to set policies for approving proposals to authorize siting of Major Industrial Developments for large or resource-based industries outside of Urban Growth Areas (as per RCW 36.70A.365). The master planning process for specific manufacturing, industrial, or commercial businesses shall address infrastructure, buffers, environmental protection, sprawl, resource lands, critical areas, and land supply.

Evaluation 1.10: The code changes provide more explicit master plan process review criteria that implement this policy. The new code changes are designed to support environmental protection and critical areas.

Comprehensive Plan

LAND USE ELEMENT

Policy 2D-6: Review and update the Whatcom County Shoreline Management Program in accordance with the schedule in the Shoreline Management Act (RCW 90.58.080). Updates should improve the integration of the Shoreline Program with Growth Management and with the Cherry Point Aquatic Reserve Management Plan in order to provide predictability and consistency in regulation, and eliminate regulatory redundancy.

Evaluation, 2D-6: This policy supports proposed amendments to the SMP to address Cherry Point Aquatic Reserve Management Plan.

Policy 2J-4: Protect culturally and spiritually significant places from nonessential development that is viewed as incompatible by the affected community.

Evaluation, 2J-4: Per the Comprehensive Plan, the "Lummi Nation and Western Washington University have identified an ancestral village dating back over 3,000 years ago in this area. The Cherry Point UGA contains sites of primary archeological and cultural significance." Policy 2CC-3 calls for Archeological review in Cherry Point. There are no implementing review criteria in the master site plan regarding avoiding impacts to cultural resources.

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Urban Fringe, Birch Bay Community Plan, Foothills, and Point Roberts).

Evaluation, Policy 2L-2: This subarea plan is in the process of being repealed. Planning Commission staff report:
<http://www.co.whatcom.wa.us/DocumentCenter/View/35465/Cherry-Point-Packet>
Listed in March 2019 public participation plan for docket in 2019.
<https://www.whatcomcounty.us/DocumentCenter/View/40344/pln2019-00009-draft-ppp-March-2019>

Major Industrial Urban Growth Area / Port Industrial

Cherry Point – Text

The Cherry Point Urban Growth Area (UGA) contains approximately 7,000 acres of industrial land. The land has long been planned and designated by Whatcom County for industrial development and is currently the site of three major industrial facilities including two oil refineries and an aluminum smelter. Together, these three existing industries own about 4,400 acres of the total Cherry Point industrial lands. A fourth large tract of undeveloped land constituting approximately 1,500 acres is designated for industrial development.

Because of the special characteristics of Cherry Point, including deep water port access, rail access, and proximity to Canada, this area has regional significance for the siting of large industrial or related facilities. General Petroleum constructed the Ferndale Refinery in 1954, Alumax/Pechiney/Howmet constructed the Aluminum Smelter in 1966, and the Atlantic Richfield Company constructed the Cherry Point Refinery in 1971.

Cherry Point is also important historically and culturally to the Coast Salish people, and part of the usual and accustomed fishing area for five treaty tribes, reserved under the Treaty of Point Elliot of 1855. The Lummi Nation and Western Washington University have identified an ancestral village dating back over 3,000 years ago in this area. The Cherry Point UGA contains sites of primary archeological and cultural significance.

Since the designation of this area for industrial development years ago, newer scientific study of the shoreline ecology has identified Cherry Point's unique function as part of the Fraser River/Georgia Strait and greater Salish Sea ecosystem and the associated Cherry Point Aquatic Reserve has been designated by the state Department of Natural Resources to recognize the ecological importance of the aquatic lands in this area.

Since adoption of earlier versions of this Comprehensive Plan, governments have increased their recognition of the observed and projected effects that fossil fuel extraction, transportation and use have on human health and the environment.

Evaluation: The background conditions are generally the same today. The proposed policy/code changes do not require a consistency amendment. However, the Preliminary Draft Text Changes dated January 15, 2019 (to the second paragraph) are compatible.

- *Because of the special characteristics of Cherry Point, including deep water port access, rail access, and proximity to Canada, this area has regional significance for the siting of large industrial or related facilities. General Petroleum constructed the Ferndale Refinery in 1954, Alumax/Pechiney/Howmet constructed the Aluminum Smelter in 1966, and the Atlantic Richfield Company constructed the*

Cherry Point Refinery in 1971. The existing industries in the Cherry Point UGA, which provide significant employment, have produced and shipped refined fossil fuels and other products for decades.

Environmental – Text

The Cherry Point shoreline has great importance to the fisheries and ecology of Northern Puget Sound because it provides essential spawning habitat for what once was the largest herring stock in Washington State. This herring stock has supported important commercial fisheries in the past and provides forage for salmonids and other important marine species. In 2000, 2010, and 2017 the State Lands Commissioner ordered the Cherry Point tidelands and bedlands withdrawn from the state's general leasing program and designated them as the "Cherry Point Aquatic Reserve." The following DNR Use Authorizations are exempted from withdrawal: Lease application numbers 20-A09122 (British Petroleum), 20-A11714 (Phillips 66), 20-A08488 (Intalco Aluminum Corporation), and 20-010521 (Birch Bay Water and Sewer District). In December 2010, the DNR recognized the need to "protect the significant environmental resource of aquatic lands at Cherry Point" (CPAR Management Plan p. 1), and completed the Cherry Point Environmental Aquatic Reserve Management Plan to ensure long-term environmental protection of the Aquatic Reserve. The Reserve extends from the southern boundary of Birch Bay State Park to the northern border of the Lummi Indian Nation Reservation.

Evaluation: Allow for existing in-water facilities consistent with DNR Management Plan.

...Much of the Aquatic Reserve shoreline is in substantially natural riparian vegetation and bluff processes proceed without interference. Existing shoreline and upland stream and wetland functions and values are of continuing importance to the recovery and protection of species identified in the Aquatic Reserve Management Plan. The area includes undeveloped intertidal wetlands with importance to juvenile salmon and other species. Existing industries can serve the Aquatic Reserve's objectives so long as they are managed according to the Plan and so long as the lessees actively work to further goals for the Reserve (CPAR MP p. 2).

Evaluation: Allow for existing industrial facilities consistent with DNR Management Plan.

...Whatcom County does not enforce the Magnuson Amendment through the local permitting process. However, the County does encourage federal agencies to enforce the Magnuson Amendment. Therefore, the County will strive to make appropriate federal agencies aware of applications for development permits submitted to the County that may be subject to federal agency review under the Magnuson Amendment before issuing local permits when possible (see Policy 2CC-15).

Policy 2CC-15 addresses this text. Language like the Policy could be implemented in master site plan criteria:

- *Policy 2CC-15: Whatcom County will encourage federal agencies, including the U.S. Army Corps of Engineers, to enforce the provisions of the Magnuson Amendment (33 USC Sec. 476). To accomplish this the County will make appropriate federal agencies aware of applications for development permits submitted to the County that staff thinks may be subject to federal agency review under the Magnuson Amendment.*

Cherry Point UGA Features: Port Access – Text

The marine waters off Cherry Point provide deepwater access for shipping. Deepwater access for shipping was a major siting consideration for the three major industries currently located at Cherry Point.

Evaluation: Allow for existing in-water facilities consistent with DNR Management Plan.

Cherry Point UGA Features: Proximity to Canada, Alaska and Foreign Ports – Text

Cherry Point occupies a unique location for the siting of industry because of its close proximity to Canada and because of its shorter travel distance than other regional port facilities for shipping to and from Alaska and to other Pacific Rim locations. The large acreage, good rail access and proximity to Washington State and Canadian ports makes the remaining upland area at Cherry Point suitable for commercial or industrial production with emphasis on major sustainable clean energy manufacturing or production (see Policy 2CC-3). The Cherry Point industrial area benefits from proximity to Canada, as trade between the U.S. and Canada grows in response to the lifting of trade barriers under the Free Trade Agreement. Canadian exports to the U.S. are expected to increase and Canadian firms exporting to the U.S. are expected to seek locations in the U.S. as a way of improving access to U.S. markets. Compared to other port facilities in Washington and Canada, Cherry Point is not constrained by extensive upland development or vessel draft limitations.

Evaluation: Proposed policy and code amendments continue to allow for port uses. Existing fossil fuel industrial can continue; growth of existing facilities could occur based on growth in demand in the facility service area.

Cherry Point: Use Compatibility and Land Use Designation – Text

The industries currently located at Cherry Point are a substantial part of the economic base of Whatcom County and the region and the economic welfare of the county is strongly tied to the health of these industries and their ability to flourish and expand as opportunities present themselves. These industries need to be protected from the inappropriate encroachment of incompatible uses; particularly residential uses that could affect their ability to expand, at the same time, the expansion of these industries needs to be done in ways that do not significantly impact the ecology of the Salish Sea or encourage expanded transshipment of unrefined fossil fuels. The best means for protecting these industries from incompatible adjoining uses and to assure their continued regulatory conformity is to maintain the industrial land use designation of these lands and adjoining properties currently designated for industrial development. The Cherry Point industrial lands have been designated for industrial development and as a direct result of the industrial designation, incompatible and inappropriate residential development has been curtailed.

Evaluation: Proposed code changes are meant to avoid ecological impacts and without expanded transshipment of unrefined fossil fuels.

Goal 2CC: Maintain Cherry Point as an unincorporated urban growth area based on its unique location, characteristics and its significant contribution to the overall industrial land supply and Whatcom County's tax base.

Policy 2CC-1: Designate Cherry Point as a major industrial Urban Growth Area to accommodate major users that need to be located away from concentrated urban residential areas and that can manage

188 their activities in such a way that they do not conflict with the goals of the Aquatic Reserve Management
189 Plan.

190 Policy 2CC-2: Encourage developments in the Cherry Point UGA to maintain and operate under
191 management plans consistent with the Aquatic Reserve Management Plan.

192 *Evaluation Policy 2CC-1 and 2CC-2: Proposed policy and code amendments are*
193 *compatible with this policy. Proposed code amendments address the DNR Aquatic Reserve*
194 *Management Plan.*

195 Policy 2CC-3: Encourage that future developments or expansions within the Cherry Point UGA are
196 consistent with the following:

- 197 • Clean and reduced carbon emitting technology;
- 198 • Avoidance of estuaries and near shore wetlands;
- 199 • Archeological review;
- 200 • Water recycling technology to minimize water use; and
- 201 • Enhance existing and future industries.

202 *Evaluation: Existing industries may continue and supporting facilities may be enhanced.*
203 *Future industries that meet allowed uses and master site plan criteria are allowed.*
204 *Environmental and archaeological review is required; review criteria in these respects are*
205 *enhanced.*

206 Policy: 2CC-4: Assure that Cherry Point's unique features of large parcelization, port access, and
207 pipeline, vehicular and rail transportation availability are maintained and protected from incompatible
208 development.

209 *Evaluation: Proposed policy and code amendments are compatible with this policy. The*
210 *amendments do not affect parcelization. Port access is allowed to existing sites per the*
211 *DNR Cherry Point Aquatic Reserve Management Plan. Proposed amendments do not*
212 *change the range of supporting transportation and utility services or their plans.*

213 Policy: 2CC-5: Require the master planning of each large parcel in advance of any development or
214 subdivision at Cherry Point.

215 *Evaluation: The proposed code amendments update master site plan and major project*
216 *permit review criteria.*

217 Policy: 2CC-6: Require the designation and site plan for a major user (generally 40 acres or more)
218 before the development of accessory or supporting uses to assure that accessory or supporting uses are
219 compatible with and will not interfere with the major industrial user.

220 *Evaluation: The proposed code amendments address accessory/supporting uses for*
221 *existing facilities designed to ensure that existing fossil fuel terminal facilities can maintain*
222 *and enhance their current businesses.*

223 Policy: 2CC-7: Specify 160 acres as a minimum area for planning, prior to the commitment of a parcel
224 for a major user (40 acres or more, singularly or as a cluster or group).

225 *Evaluation: No change to the major user or planning area is proposed.*

226 Policy 2CC-8: Permit support activities, warehousing, shipping, machine repair and service, educational
227 services, food service and conveniences, to locate on a parcel only after the completion of a master plan,
228 and the identification and site plan approval for the major user.

229 *Evaluation: Policies or code amendments would not change the need for a master plan or*
230 *major user standards.*

231 Policy 2CC-9: Exclude Cherry Point as part of any future incorporation of Birch Bay.

232 • to protect interests of the property owner in terms of taxation and urban regulations;
233 • to preclude urbanism near "smokestack" industries;
234 • to preserve county government tax base.

235 *Evaluation: The proposed policy and code changes do not change the County's approach*
236 *to incorporation of Birch Bay or the exclusion of Cherry Point from incorporation.*

237 Policy 2CC-10: Continue to work with service providers that serve Cherry Point to ensure the delivery of
238 services and to allow it to develop to its fullest potential.

239 *Evaluation: The proposed policy and code changes do not change the delivery of*
240 *transportation or utility services.*

241 Policy 2CC-11: It is the policy of Whatcom County to limit the number of industrial piers at Cherry Point
242 to the existing three piers, taking into account the need to:

243 • Honor any existing vested rights or other legally enforceable agreements for an additional dock/pier;
244 • Update the Whatcom County Shoreline Master Program to conform with this policy;
245 • Encourage the continued agency use of best available science;
246 • Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry
247 Point tidelands and bedlands from the general leasing program and the species recovery goals of the
248 Cherry Point Aquatic Reserve designation and Management Plan;
249 • Recognize federal actions upholding treaty rights;
250 • Protect traditional commercial and tribal fishing; and
251 • Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil
252 or fuel spills.

253 *Evaluation: The proposed policy and code changes fulfill this policy.*

254 *The County had proposed a change to the first bullet in January 15, 2019 amendments as*
255 *follows:*

256 • ~~Honor any existing vested rights or other legally enforceable agreements for an~~
257 ~~additional dock/pier; Act conservatively in land use matters at Cherry Point to prevent~~
258 ~~further harm to habitat important to the Cherry Point Herring stock and Southern Resident~~
259 ~~Killer Whales;~~

260 This policy change is consistent with the purpose and intent of the fossil-fuel policy/code
261 changes and could be carried forward.

262 Since the SMP amendments are being crafted now, the second bullet can be changed. It
263 would support the County's duty to fulfill the State policy in RCW 90.58.020 for
264 shorelines of statewide significance. Suggest changing bullet 2 as follows:

265 • ~~Update the~~ Optimally implement the Whatcom County Shoreline Master Program to
266 ~~conform with this policy~~ fulfill the Shoreline Management Act's shorelines of statewide
267 significance policy to preserve natural character, result in long-term over short-term
268 benefit, and protect the resources and ecology of the shoreline;

269 Policy 2CC-12: RCW 36.70A.365 requires the implementation of Traffic Demand Management (TDM)
270 programs for the designating of a Major Industrial Urban Growth Area. Any employer in the Cherry
271 Point Urban Growth Area that employs one hundred or more fulltime employees at a single worksite who
272 begin their regular work day between 6:00 am and 9:00 am on weekdays for at least twelve continuous
273 months during the year are required to meet the TDM requirements of WCC 16.24.

274 Evaluation: The proposed policy and code changes do not change the County's approach
275 to Traffic Demand Management.

276 Policy 2CC-13: Work with the Cherry Point industries to maximize public access to the Cherry Point
277 beaches without compromising industrial security.

278 Evaluation: The proposed policy and code changes do not change the County's approach
279 to shoreline public access.

280 Policy 2CC-14: Cooperate with the DNR and existing industries to monitor the effects of industrial
281 activities on water quality and habitat functions in and adjacent to the Cherry Point Aquatic Reserve.

282 Evaluation: The proposed policy and code changes do not change the County's approach

283 Policy 2CC-15: Whatcom County will encourage federal agencies, including the U.S. Army Corps of
284 Engineers, to enforce the provisions of the Magnuson Amendment (33 USC Sec. 476). To accomplish this
285 the County will make appropriate federal agencies aware of applications for development permits
286 submitted to the County that staff thinks may be subject to federal agency review under the Magnuson
287 Amendment.

288 Evaluation: The proposed code changes implement this policy.

289 Policy 2CC-16: The County shall undertake a study to be completed if possible by December of 2017 to
290 examine existing County laws, including those related to public health, safety, development, building,
291 zoning, permitting, electrical, nuisance, and fire codes, and develop recommendations for legal ways the
292 County may choose to limit the negative impacts on public safety, transportation, the economy, and
293 environment from crude oil, coal, liquefied petroleum gases, and natural gas exports from the Cherry
294 Point UGA above levels in existence as of March 1, 2017.

295 To provide clear guidance to current and future county councils on the County's legal rights,
296 responsibilities and limitations regarding interpretation and application of project evaluation under
297 Section 20.88.130 (Major Projects Permits) of the Whatcom County Code.

The County should consider any legal advice freely submitted to the County by legal experts on behalf of a variety of stakeholder interests, and make that advice publicly available.

- Based on the above study, develop proposed Comprehensive Plan amendments and associated code and rule amendments for Council consideration as soon as possible.

- Until the above mentioned amendments are implemented, the Prosecuting Attorney and/or the County Administration should provide the County Council written notice of all known pre-application correspondence or permit application submittals and notices, federal, state, or local that involve activity with the potential to expand the export of fossil fuels from Cherry Point.

Evaluation: Once the policy and code amendments are adopted this policy could be eliminated. Alternatively, it could be amended to match the January 15, 2019 policy language below but would exclude “radioactive substance” since that is not a focus of the fossil fuel related policy/code changes. It could be its own policy topic.

~~2CC-16: The County will, through its adopted SEPA policies and applicable permitting processes, shall undertake a study to be completed if possible by December of 2017 to examine existing County laws, including those related to public health, safety, development, building, zoning, permitting, electrical, nuisance, and fire codes, and develop recommendations for legal ways the County may choose to seek to limit the negative impacts on public safety, transportation, the economy, and environment from new fossil fuel facilities, including new or expanded crude oil, coal, liquefied petroleum gases, natural gas, and radioactive substance exports from facilities within the Cherry Point UGA above levels in existence as of March 1, 2017.~~

~~To provide clear guidance to current and future county councils on the County's legal rights, responsibilities and limitations regarding interpretation and application of project evaluation under Section 20.88.130 (Major Projects Permits) of the Whatcom County Code. The County should consider any legal advice freely submitted to the County by legal experts on behalf of a variety of stakeholder interests, and make that advice publicly available.~~

~~• Based on the above study, develop proposed Comprehensive Plan amendments and associated code and rule amendments for Council consideration as soon as possible.~~

~~• Until the above mentioned amendments are implemented, †The Prosecuting Attorney and/or the County Administration should provide the County Council written notice of all known preapplication correspondence or permit application submittals and notices, federal, state, or local that involve activity with the potential to expand the export of fossil fuels from Cherry Point “Fossil Fuel Refinery or Fossil Fuel Transshipment Facilities,” as defined in the Whatcom County Code (Chapter 20.97).¹~~

Policy 2CC-17: Policy 2CC-16 shall not limit existing operations or maintenance of existing facilities as of March 1, 2017.

Evaluation: The policy and code amendments reinforce allowing existing uses and their maintenance. The shaded language was proposed in January 15, 2019, otherwise the other adjustments are based on the latest policy/code amendment direction:

Amend this policy: Policy 2CC-16 shall not limit Allow existing operations or maintenance of existing fossil-fuel related facilities operating at levels as of March 1, 2017 with

¹ The reference to a definition in the Whatcom County Code could be removed to avoid a policy with a code reference. A definition could be added to the Comprehensive Plan if thought necessary. Typically, the code is more detailed.

limited expansions subject to environmental review, greenhouse gas emission mitigation, and conformance with Policies 2CC-3 and -11.

Other

Add a new policy on renewable fuels: Support industries that create or use renewable fuels.

Essential Public Facilities

Goal 2WW: Utilize the established siting criteria for essential public facilities.

Policy 2WW-4 State and regional highways in unincorporated Whatcom County that have been designated as essential state or regional transportation facilities are I-5, State Route 539 (the Guide Meridian), State Route 546/9 (Badger from the Guide to Sumas), and State Route 20 to eastern Washington. Other transportation facilities in unincorporated Whatcom County that have been designated as essential public facilities are Amtrak Cascades passenger rail service, the Burlington Northern Santa Fe railroad tracks, and the Cherry Point marine port facilities. Such facilities in the City of Bellingham include Fairhaven Station (intercity passenger rail terminal), Bellingham Cruise Terminal (Alaska Ferry), and the Port of Bellingham (marine port). Additionally, State Route 543 (the truck route at the Blaine border) is an essential public facility located within the city limits of Blaine.

Widening of existing state highways or railroad tracks (including construction of sidings) and siting new state highways or railroad tracks should be planned in the Washington Highway System Plan, Amtrak Cascades Plan and the Freight Rail Plan. The state will invite the Regional Transportation Planning Organization and the County to participate in planning studies, review design plans, and provide comments when siting new or expanded state highways or railroad tracks.

Highways and railroad tracks that qualify as essential public facilities should be sited in accordance with all of the following principles. These facilities should be located:

- In a manner that minimizes or mitigates noise impacts to surrounding residential areas.
- Outside of the Lake Whatcom Watershed, unless there are no viable alternatives.
- In a manner that allows continued fish passage beyond the road or railroad tracks or restores blocked passage.
- In a manner that avoids or mitigates wetland impacts.
- In a manner that minimizes impacts of additional impervious surfaces by treating stormwater runoff.
- In a manner that encourages a vibrant economy by facilitating the efficient movement of people and freight.
- In a manner that accommodates pedestrians, bicycles, and transit.

Major passenger intermodal terminals should be located in General Commercial, Airport Operations, Urban Residential-Medium Density or industrial zones.

Freight railroad switching yards and terminals should be located in industrial zones.

Marine port facilities should be located within the Heavy Impact Industrial zone of the Cherry Point Major/Port Industrial Urban Growth Area.

374 Evaluation: Amend final sentence to address that the Port facilities are limited to existing
375 ones by the DNR Cherry Point Aquatic Reserve Management Plan. While fossil-fuel
376 terminals are restricted in the County's proposed policies and code, other uses are not.

377 Proposed Amendment language: Marine port facilities should be located within the Heavy
378 Impact Industrial zone of the Cherry Point Major/Port Industrial Urban Growth Area.
379 Allow existing facilities and limited expansions consistent with the State of Washington
380 Department of Natural Resource Cherry Point Aquatic Reserve Management Plan.

381 Policy 2YY-2: County regulations will not preclude the siting of essential public facilities in designated
382 zoning districts.

383 Evaluation: Per RCW 36.70A.200 and RCW 47.06.140, and policy 2WW-4, marine
384 port facilities and services that are related solely to marine activities affecting
385 international and interstate trade are essential public facilities. The port facilities at Cherry
386 Point can continue and limitations on expansion are based on DNR Cherry Point Aquatic
387 Reserve Management Plan. Proposed policy and code changes limit fossil fuel terminals
388 but allow for their continuation and limited expansion. A wide range of other allowed uses
389 is still possible, if consistent with environmental regulations.

Whatcom County

Fossil Fuel Industrial Uses

Potential Code Amendments | Prepared by: Cascadia Law Group and BERK Consulting, Inc.

Overview

This document excerpts sections of the Whatcom County Code and proposes potential code changes to address the Comprehensive Plan Cherry Point Policy 2CC-16 and to respond to Resolution 2019-004.

Policy 2CC-16: The County shall undertake a study to be completed if possible by December of 2017 to examine existing County laws, including those related to public health, safety, development, building, zoning, permitting, electrical, nuisance, and fire codes, and develop recommendations for legal ways the County may choose to limit the negative impacts on public safety, transportation, the economy, and environment from crude oil, coal, liquefied petroleum gases, and natural gas exports from the Cherry Point UGA above levels in existence as of March 1, 2017.

To provide clear guidance to current and future county councils on the County's legal rights, responsibilities and limitations regarding interpretation and application of project evaluation under Section 20.88.130 (Major Projects Permits) of the Whatcom County Code.

The County should consider any legal advice freely submitted to the County by legal experts on behalf of a variety of stakeholder interests, and make that advice publicly available.

- Based on the above study, develop proposed Comprehensive Plan amendments and associated code and rule amendments for Council consideration as soon as possible.

- Until the above mentioned amendments are implemented, the Prosecuting Attorney and/or the County Administration should provide the County Council written notice of all known pre-application correspondence or permit application submittals and notices, federal, state, or local that involve activity with the potential to expand the export of fossil fuels from Cherry Point.

26 The following table identifies major code amendment topics developed by the County Council in
 27 Resolution 2019-004. The following sections provide preliminary draft code language.

28 **Exhibit 1. Potential Fossil-Fuel Code Changes – Outline and Change Location**

Code Outline Topic	Location in Code Changes	
1. Prohibit New Fossil Fuel Refineries	20.66.200	Prohibited uses.
	20.68.200	Prohibited uses.
2. Retain Existing Refineries as an Outright Permitted Use with Limits	20.68.050	Permitted uses.
3. Conditional Use Permit Threshold for Expansions of Existing Refineries	20.68.150	Conditional uses.
	20.68.800. Expansion Thresholds for Existing Fossil Fuel Refineries or Fossil Fuel Transshipment	
4. Conditional Use Permit Criteria and Analysis of Greenhouse Gas Impacts of Expansions of Existing Refineries	20.68.800. Expansion Thresholds for Existing Fossil Fuel Refineries or Fossil Fuel Transshipment	
5. Prohibit Crude Oil and Coal Export Facilities	20.66.200	Prohibited uses.
	20.68.100	Accessory uses.
	20.68.200	Prohibited uses.
6. Renewable Fuel Production and Blending Facilities as an Outright Permitted Use	20.68.050	Permitted uses.
7. Prohibit New Docks and Piers	20.74.055	Prohibited uses.
	23.100.170	Cherry Point management area.
8. Prohibit Crude Oil Transshipment Facilities	20.66.200	Prohibited uses.
	20.68.200	Prohibited uses.
9. Prohibit Coal Transshipment Facilities	20.66.200	Prohibited uses.
	20.68.200	Prohibited uses.
10. Pipelines	Not addressed per White Paper.	
11. Small Oil Storage and Distribution Facilities	See definitions – not included in defined uses that are prohibited (fossil fuel refinery and fossil fuel transshipment facility). Chapter 20.97 DEFINITIONS	

Code Outline Topic	Location in Code Changes
12. Change of Use Provisions	20.74.110 Change of Use
13. SEPA Threshold Determination	16.08.160 Substantive authority.
14. Scrubbing the Existing Code	20.88.200 Procedure. 22.05.020 Project permit processing table.
15. Consistency with Countywide Planning Policies	See separate policy evaluation document.
16. Procedural Due Process, GMA and Shoreline WAC provisions	Co-timed policy and code amendments planned.
17. Severability Clause	Will go into the ordinance draft.
18. Insurance Provisions	Addressed in permit procedures, criteria, and conditions.

Changes by Code Chapter

CHAPTER 2.11 HEARING EXAMINER

2.11.205 Recommended decisions

Add new subsection F:

2.11.205 Recommended decisions.

In accordance with the provisions of Chapter 22.05 WCC, the hearing examiner shall conduct an open record hearing and prepare a record thereof, and make recommendations to the county council for approval or disapproval of:

A. Major project permits, including major project permit applications for mitigation banks proposed in accordance with the provisions of Chapter 16.16 WCC;

B. Planned unit developments;

C. Development agreements, as authorized in Chapter 36.70B RCW;

D. Such other permits as may be required from the county along with subsection A or B of this section for a given project. Where the hearing examiner would normally make a final decision to approve or deny an accompanying permit, the decision shall instead be in the form of a recommendation and accompany the hearing examiner's recommendation on the major project permit or planned unit development to the county council for final approval;

E. Proposed rates and charges or special assessments for lake management districts.

F. Fossil fuel refinery expansions or fossil fuel transshipment facilities expansions in the Cherry Point Industrial District that require a conditional use permit.

Discussion/Notes: Addresses desired permit process for fossil fuel refinery expansions above threshold to be reviewed by the Hearing Examiner for Conditional Use Permit recommendations and ultimately County Council for approval.

CHAPTER 16.08 STATE ENVIRONMENTAL POLICY ACT (SEPA)

16.08.160 Substantive authority.

A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of Whatcom County.

B. The county may attach conditions to a permit or approval for a proposal so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and

2. Such conditions are in writing; and

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

4. The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies in subsection D of this section and cited in the license or other decision document.

C. The county may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that

are identified in a FEIS or final SEIS prepared pursuant to this chapter; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in subsection D of this section and identified in writing in the decision document.

D. The county designates and adopts by reference the following policies as the basis for the county's exercise of SEPA authority pursuant to this section:

1. The county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

d. Preserve important historic, cultural, and natural aspects of our national heritage;

e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

2. The county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The county adopts by reference the policies in the following county documents:

Whatcom County Comprehensive Land Use Plan (inclusive of goal statements and all subarea components)

Whatcom County Shoreline Management Program

Whatcom County Subdivision Ordinance

Whatcom County Solid Waste Management Plan

Whatcom County Critical Areas Ordinance

All official land use controls adopted by Whatcom County.

E. Relationship to Federal, State and Regional Regulations. Many of the environmental impacts addressed by these SEPA policies are also the subject of federal, state and regional regulations. In deciding whether these regulations provide sufficient impact mitigation, the County shall consult orally or in writing with the responsible federal, state or other agency with jurisdiction and environmental expertise and may expressly defer to that agency. The County shall base or condition its project decision on compliance with these other existing regulations, rules, laws, or adopted enforceable plans. The County shall not so defer if such regulations did not anticipate or are otherwise inadequate to address a particular impact of a project.

F. Specific Environmental Policies

1. Air Quality and Climate:

a. Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life. Mitigation of criteria pollutant impacts will normally be the subject of air permits required by the

Northwest Clean Air Agency (NWCAA) and no further mitigation by the County shall be required. However, where a project being reviewed by the County generates nuisance impacts or odors or climate impacts not addressed through the regulations of NWCAA, the County may require mitigation under SEPA.

b. Climate change is resulting in increased temperatures, reduced summertime snowpack, reduced stream flows and increased stream temperatures, more intense storms with increased potential for flooding and damage to roads, dikes and critical infrastructure such as water and waste treatment facilities. While climate change is a global phenomenon, it is the policy of Whatcom County to do its fair share to reduce local emissions and to ensure that major projects authorized by the County address climate impacts. Mitigation may be achieved through the provisions contained in County land use and development regulations or through the State Environmental Policy Act where land use code provisions do not address mitigation of climate impacts. Mitigation may be required for the direct climate emissions of major projects (as defined under this code), the emissions from transportation within the boundaries of Whatcom County generated by major projects as well as the upstream emissions generated through production of raw materials processed in local facilities such as crude oil feedstocks or other fuels used in production or energy generation at facilities. Climate impacts shall be assessed using the most current version of the GREET Model developed by Argon National Laboratories or, where feedstocks are from Canada, using the latest version of the GH Genius model developed by Canadian agencies for quantification of upstream emissions from production of feedstocks produced in Canada. Climate impacts may be offset for major projects through either code requirements or, if not addressed through code requirements, through mitigation projects that provide real, additional and quantifiable greenhouse gas mitigation. Such mitigation must not be required by any other regulatory mechanism and there shall be no double counting of emission reductions where identified as mitigation of climate impacts for a major project.

c. It is the County's policy to minimize or prevent adverse air quality impacts. Federal, state, regional, and county regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts. If the decisionmaker makes a written finding that the applicable federal, state, regional, and/or County regulations did not anticipate or are inadequate to address the particular impact(s) of the project, the decisionmaker may condition the proposal to mitigate its adverse impacts or, if impacts cannot be mitigated, may deny a project under the provisions of the State Environmental Policy Act.

2. Plants and Animals:

a. Many species of birds, mammals, fish, and other classes of animals and plants living in both rural and urban environments and are of ecological, educational, and economic value. Fish and wildlife populations are threatened by habitat loss and by the reduction of habitat diversity.

b. It is the County's policy to minimize or prevent the loss of fish and wildlife habitat that have substantial ecological, educational, and economic value. A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals. Special consideration shall be given to anadromous fisheries and marine mammals.

c. It is the County's policy to ensure consistency with federal and state laws regarding treaty rights, clean water rights (both water quality and water quantity), and endangered species protection. The decisionmaker may condition or deny the project to mitigate its adverse impacts if the decisionmaker finds that a proposed project would reduce or damage rare, uncommon, unique or exceptional plant or wildlife habitat, designated wildlife corridors, or habitat diversity for plants or animals species of substantial educational, ecological, or economic value, or interfere with treaty rights, clean water rights, or endangered species protection.

Discussion/Notes: If amendments are made to the Comprehensive Plan policies then the County will in effect update policies under the County's SEPA substantive authority.

CHAPTER 20.66 LIGHT IMPACT INDUSTRIAL (LII) DISTRICT

20.66.200 Prohibited uses.

All uses not listed as permitted, accessory, administrative approval, or conditional uses are prohibited, including but not limited to the following, which are listed here for purposes of clarity:

.201 Reserved.

.202 Adult businesses except those allowed as an administrative approval use under WCC 20.66.131.

.203 In the Bellingham Urban Growth Area the following uses are prohibited: petroleum refinery and the primary manufacturing of products thereof, primary manufacturing and processing of rubber, plastics, chemicals, paper, asbestos and products derived thereof, and primary metal industries.

.204 In the Cherry Point District the following uses are prohibited: new fossil fuel refinery, new fossil fuel transshipment or facility unless permitted as a part of an existing refinery modification otherwise permitted under this code.

Discussion/Notes: Prohibit fossil fuel related industries in the LII District; already prohibited in the Bellingham UGA. It does not appear that such uses exist in the LII zone; thus, we have only addressed the prohibition of fossil fuel refinery and fossil fuel transshipment facility unless part of an existing refinery (e.g. transshipment).

CHAPTER 20.68 HEAVY IMPACT INDUSTRIAL (HII) DISTRICT

20.68.050 Permitted uses.

Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC, Supplementary Requirements, and Chapter 20.84 WCC, Variances, Conditional Uses, Administrative Uses and Appeals, the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program- and implementing regulations. The purpose of the SIC numbers listed within this chapter is to adopt by reference other activities similar in nature to the use identified herein. ~~(Policies, except that some of those SIC number uses and “other activities similar in nature” may be precluded by or do not otherwise meet the subarea requirements of the WCC or the county Comprehensive Plan may preclude certain. Uses that are not expressly permitted uses to occur in particular subareas. Please refer to the policies of the herein are not permitted if they are precluded elsewhere in the code or in the Comprehensive Plan and any applicable subarea plan to determine the appropriateness of a land use activity listed below.)~~

.051 The manufacture and processing of food including meat (including packinghouses and slaughterhouses), dairy, fruits, vegetables, seafood, grain mill, large scale bakery, sugar and beverage products, provided the following criteria are met:

(1) Holding pens associated with packinghouses and slaughterhouses shall be limited to that necessary to accommodate animals intended for processing within 24 hours.

(2) The facility shall comply with the solid waste handling standards as set forth in Chapter 173-350 WAC, as administered by the Whatcom County health department as adopted by reference in Chapter 24.06 WAC.

(3) If required by the Washington State Department of Ecology, the following permits shall be obtained:

(a) State waste discharge permit (Chapter 173-216 WAC);

(b) Industrial stormwater permit – general permit (Chapter 173-226 WAC);

(c) An NPDES permit (Chapter 90.48 RCW and Chapter 173-220 WAC).

.052 Manufacturing and processing of textiles including weaving cotton, synthetic, silk or wool fabrics; knitting yarn and thread mills; textile bleaching, dyeing and printing; and carpet manufacture.

.053 The manufacture and processing of lumber and wood including sawmills; planing mills; millwork; veneer, plywood and prefabricated wood products; wooden containers and cooperage.

.054 The following are permitted uses except as otherwise prohibited:

(1) The manufacture and process of paper including pulp, paper and paperboard mills; and building paper and board mill products.

(2) The manufacture and processing of chemicals and allied products including industrial inorganic and organic chemicals; synthetic resins, rubber, fibers and plastic materials; soap, detergents and cleaning preparations; paint, linseed oil, shellac, lacquer and allied products; chemicals from gum and wood; and agricultural chemicals.

196 (3) Refining and storage of petroleum and asphalt fossil fuels, limited as follows:
 197 (a) fossil fuel refineries, existing legally as of March 1, 2017, together with allowed expansions below the thresholds in WCC
 198 20.68.800.
 199 (b) fossil fuel transshipment facilities existing legally as of March 1, 2017, together with allowed expansions below the
 200 thresholds in WCC 20.68.800.

201 *Discussion/Notes: Allow existing legal fossil fuel uses with minor expansions. March 1,*
 202 *2017 date is in Comprehensive Plan policies.*

203 (4) The manufacture and processing of rubber and plastic products.
 204 (5) Leather tanning and finishing.
 205 (6) The manufacture and processing of cement and glass; and concrete, gypsum, plaster, abrasive, asbestos and nonmetallic
 206 mineral products.
 207 (7) Primary metal industries including blast furnaces and steel works; mills for primary smelting, secondary smelting,
 208 refining, reducing, finishing, rolling, drawing, extruding, and casting of ferrous and nonferrous metals; and the manufacture
 209 of miscellaneous metal products.

210 (8) Storage of asphalt in the Heavy Impact Industrial Zone excluding the Cherry Point Industrial District.

211 *Discussion/Notes: Retained from (3) above in case of construction related businesses.*

212 (9) The refining, storage, blending, and manufacture of renewable fuels.

213 *Discussion/Notes: Renewable Fuel Production and Blending Facilities Could be an Outright*
 214 *Permitted Use.*

215 .055 The fabrication of metal products including metal cans, hardware, hand tools, cutlery, heating apparatus, plumbing
 216 fixtures, structural metal and stamping.
 217 .056 The manufacture of machinery including engines; turbines; farm machinery and equipment; construction, mining and
 218 materials handling equipment; machine tools and dies; and special and general industrial equipment.
 219 .057 The manufacture of electrical machinery including transmission and distribution equipment, and industrial apparatus.
 220 .058 The manufacture of transportation equipment including automobiles, trucks, buses, airplanes, boat building and repair,
 221 railroad equipment, bicycles and motorcycles.
 222 .059 Bulk commodity storage facilities, and truck, rail, vessel and pipeline transshipment terminals and facilities in existence
 223 as of March 1, 2017. New fossil fuel storage and transshipment facilities other than those existing as of March 1, 2017 are
 224 expressly prohibited unless permitted under the provisions for expansions of existing facilities provided for in WCC
 225 20.68.800.
 226 .060 Stationary thermal power plants with generating capacity of less than 250,000 kilowatts, floating thermal power plants
 227 with generating capacity of less than 50,000 kilowatts, and other power plants utilizing renewable resources from solar, wind
 228 (Chapter 20.14 WCC) or water sources.
 229 .061 Heavy construction contractors.
 230 .062 Public uses and community facilities including police and fire stations, libraries, activity centers, community centers,
 231 park and recreation facilities identified in an adopted city or county Comprehensive Plan or Park Plan, and other similar
 232 noncommercial uses, excluding state education facilities and correction facilities.
 233 .063 One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed 200 square feet
 234 and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building
 235 shall contain no indoor plumbing but may be served with electrical power for lighting.

- 236 .064 Uses allowed in the Light Impact Industrial Zone as permitted uses, WCC 20.66.100, shall be permitted outright within
237 the Heavy Impact Industrial District in the Bellingham UGA.
- 238 .065 Trails, trailheads, restroom facilities and associated parking areas for no more than 30 vehicles.
- 239 .066 Marijuana production or processing facility.
- 240 .081 Freight railroad switching yards and terminals.
- 241 .082 Marine port facilities.
- 242 .085 Type I solid waste handling facilities.
- 243 .086 Type II solid waste handling facilities.
- 244 **20.68.100 Accessory uses.**
- 245 .101 Employee recreation facilities and play areas.
- 246 .102 Restaurants, cafes and cafeterias operated primarily for the convenience of employees, clients and customers of the
247 district.
- 248 .103 Temporary buildings for construction purposes for a period not to exceed the duration of such construction.
- 249 .104 When auxiliary to a principally permitted use: electric utility facilities; substations; generating plants, if less than 50
250 megawatt (MW) net plant capability; gas works; sewage disposal facilities; solid waste landfills and incinerators.
- 251 .105 Other accessory uses and buildings, including security services, customarily appurtenant to a principally permitted use.
- 252 .106 On-site treatment and storage facilities for hazardous wastes associated with outright permitted uses or approved
253 conditional uses subject to the most current siting criteria under Chapter 173-303 WAC.
- 254 .107 Mini-day care centers, and day care centers operated by, maintained by or funded by business in the district for the
255 purpose of serving the child care needs of employees whose place of employment lies within this zone district.
- 256 .108 Electric vehicle rapid charging stations and battery exchange facilities.

257 .109 Fossil Fuel transshipment facilities that are a necessary part of providing raw materials to, and serving, a permitted
258 expansion of an existing fossil fuel refinery. The volume of any storage associated with such permitted fossil fuels
259 transshipment facilities shall be limited to the current ratio of refining capacity to storage capacity at the existing fossil fuel
260 refinery.

261 *Discussion/Notes: Per code outline: Prohibit coal and crude oil transshipment, except*
262 *where necessary to supply raw materials to permitted refining operations. Using broader*
263 *category of fossil fuels.*

264 **20.68.130 Administrative approval uses.**

- 265 .131 Commercial mushroom substrate production limited to the Cherry Point Industrial Area and pursuant to the
266 requirements as contained in WCC 20.15.020(2) (commercial mushroom substrate production facilities). (Ord. 2006-031 § 1
267 (Exh. A), 2006).

268 **20.68.150 Conditional uses.**

269 The following uses require a conditional use permit in the HII Zoning District.

- 270 .152 Uses allowed in the Light Impact Industrial zone as permitted uses, WCC 20.66.100, subject to the following:

271 (1) Outside of the Bellingham Urban Growth Area, approval shall be supported by a finding by the hearing examiner that
272 allowing the use will not limit the supply of land available to meet the demand for future heavy industrial uses.

(2) Filing of a deed restriction acknowledging that heavy industrial uses are the preferred uses in the zone and agreeing not to protest proposed heavy industrial uses allowed in the zone in accordance with Chapter 20.68 WCC, and to refrain from legal action against any heavy industrial use in compliance with the regulations of WCC Title 20 and any conditions of approval which might have been proposed.

.153 Expansion of existing legal fossil fuel refinery operations and the primary manufacturing of products thereof or expansion of existing legal fossil fuels transshipment facilities when proposed in excess of expansion thresholds determined consistent with WCC 20.68.800 and subject to the conditional use permit criteria below in addition to WCC 20.84.220:

(1) The CUP approval criteria listed under WCC 20.84.220 are met;

(2) Within shorelines, County approval shall be contingent upon Department of Ecology approval of a shoreline CUP;

(3) The applicant has documented to the satisfaction of the County decision maker all of the anticipated sources, types, volumes and final disposition of substances transferred in bulk at the facility. The permit shall be limited exclusively to those types and volumes of materials or products as documented and approved.

(4) Proof of insurance for hazards created in the County. At the time of application for an expansion of refinery capacity, the applicant shall provide proof of insurance to cover loss or damages to the County and to County residents from any fire, explosion, spill or other incident from operations of the refinery or from transport of raw materials or finished products within the boundaries of Whatcom County. The County shall be named as an additional insured under insurance policies provided. The County may require proof that adequate and sufficient insurance policies remain in existence throughout the lifetime of operations or cleanup of the facility by current owners and operators or any successors to current owners or operators of the properties involved in the application.

(5) Mitigation of transportation impacts consistent with Chapter 20.78 WCC, Transportation Concurrency Management, and Chapter 16.24 WCC, Commute Trip Reduction.

(6) Mitigation of impacts to other services including fire and emergency response capabilities, water supply and fire flow, to address risks created by expansions.

(7) Prior to occupancy and/or operation of the expanded facility, the State Department of Ecology shall certify to the county that the facility has been constructed consistent with any applicable state requirements, including but not limited to water rights and use, and that plans for stormwater and wastewater releases have been approved.

(8) 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 satisfaction of the County building official that the project applicant has met any federal permitting needs, including properly addressing tribal treaty rights or the provisions of the Magnuson Amendment through state and federal permitting decisions;

(9) Minimization of greenhouse gas emissions and inclusion of local carbon offset mitigation projects; and

(10) Demonstration that the proposal will retain or add living-wage jobs or contribute to the Whatcom County economy.

Discussion/Notes: Addresses Conditional Use Permit for Expansions of Existing Refineries above Threshold in WCC 20.68.800.

.154 Treatment and storage facilities for hazardous wastes subject to the following:

(1) The ~~eight~~ criteria for a conditional use listed under WCC 20.84.200.

(2) The most current state siting criteria under Chapter 173-303 WAC.

(3) It shall be the responsibility of the applicant to document to the satisfaction of the approving body the anticipated sources, types, volumes and final disposition of hazardous wastes to be collected and the type of treatments associated with those wastes. The permit shall be limited exclusively to those types of wastes and treatments as documented and approved.

(4) Total off-site facility capacity shall be limited to that needed to treat and store wastes generated within Whatcom County by generators requiring off-site management of hazardous wastes; provided, however, waste streams may be sourced from other jurisdictions through interagency zone designation agreements as approved by the county council, not to exceed 10 percent of the total local hazardous waste stream.

317 (5) Prior to occupancy of the facility, the State Department of Ecology shall certify to the county that the facility has been
318 constructed consistent with state requirements.

319 (6) As a condition of approval, the applicant shall be required to keep and maintain accurate and current records of the types,
320 amounts, sources, and final disposition of hazardous wastes collected. The applicant shall provide such records annually to
321 the county, or sooner upon county request. If the facility is found to be exceeding the waste stream limitations or permit
322 restrictions, the county staff shall so report to the approving body who shall have the authority to revoke the permit,
323 following a public hearing, if the limitation has been exceeded absent an emergency situation. Any emergency must be
324 documented by county staff.

325 (7) Annual inspections of the facility shall be a minimum requirement. The applicant shall be required to forward copies of
326 all facility inspection reports to the county. If deficiencies are found, the operator shall, within 15 days, submit to the county
327 for approval an implementation schedule of corrective measures. Such schedule shall include specific completion dates and
328 inspection reporting procedures.

329 If the state does not inspect the facility within the year, the applicant shall be required to arrange and bear all costs for an
330 inspection by a qualified and independent inspection agency satisfactory to the county.

331 (8) Should the facility be found to consistently operate in a manner unsatisfactory to the county in regard to the public health
332 and safety, the permit may be revoked by the approving body following a public hearing.

333 .156 Public and private parks facilities not included in an adopted city or county Comprehensive Plan or Park Plan.

334 .157 Trailheads with parking areas for more than 30 vehicles.

335 .158 Athletic fields.

336 .180 Major passenger intermodal terminals.

337 .187 Type III solid waste handling facilities; provided, that:

338 (1) The facility or site will not be located within the 100-year floodplain or the Lake Whatcom watershed. The facility or site
339 will not be located within any area identified in an adopted critical areas ordinance unless outside of the floodplain and at
340 least three feet in elevation higher than the floodway elevation;

341 (2) Solid waste handling facilities shall be located at least 1,500 feet from the following:

342 (a) All zoning district boundaries, except Commercial Forestry and Industrial Zones;

343 (b) Public parks, public recreation areas, or publicly-owned wildlife areas;

344 (c) Archaeological and historical sites that are registered with the State Office of Archaeology and Historic Preservation;

345 (d) Shorelines that are within the jurisdiction of the Shoreline Management Program;

346 (e) Rivers, streams or creeks that contain documented threatened or endangered fish species;

347 (f) This 1,500-foot buffer does not apply to:

348 (i) Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be set back from
349 the property line 100 feet or the standard zoning district setback, whichever is greater;

350 (ii) Inert landfills;

351 (3) Inert landfills shall be located at least 500 feet from the following:

352 (a) All zoning district boundaries, except Commercial Forestry and Industrial Zones;

353 (b) Public parks, public recreation areas, or publicly-owned wildlife areas;

354 (c) Archaeological and historical sites that are registered with the State Office of Archaeology and Historic Preservation;

- 355 (d) Shorelines that are within the jurisdiction of the Shoreline Management Program;
- 356 (e) Rivers, streams or creeks that contain documented threatened or endangered fish species;
- 357 (f) This 500-foot buffer does not apply to:
- 358 (i) Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be set back from
- 359 the property line 100 feet or the standard zoning district setback, whichever is greater;
- 360 (4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use
- 361 except for vegetation maintenance within 100 feet of any property line and except for driveways within 150 feet of any
- 362 county or state road right-of-way;
- 363 (5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic,
- 364 will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use
- 365 is shown to be intermittent and easily delayed until emergency conditions have passed;
- 366 (6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid
- 367 waste facilities and sites, such as but not limited to WCC Title 24, the Whatcom County SEPA Ordinance, as well as state
- 368 and federal regulations concerning solid waste facilities and sites;
- 369 (7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter 173-350 WAC, and the
- 370 closure plan includes:
- 371 (a) Reclamation in two to 10 acre increments, as appropriately responsive to the size and intensity of the particular
- 372 activity, with seeding to be accomplished annually but no later than September 30th; and
- 373 (b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is
- 374 covered through the financial assurance for post-closure activities;
- 375 (8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements
- 376 of WCC 20.80.300 (Landscaping);
- 377 (9) Solid waste facilities or sites shall be located outside the 10-year time of travel boundary of a public water system's
- 378 delineated wellhead protection area;
- 379 (10) Solid waste facilities or sites that handle putrescible waste will be located at least 10,000 feet from airports serving
- 380 turbine-powered aircraft and at least 5,000 feet from airports serving piston-powered aircraft. These buffers shall be
- 381 measured from the boundary of the Airport Operations Zone or, if the airport is not within an Airport Operations Zone, from
- 382 the boundary of the airport property;
- 383 (11) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to
- 384 protect the value and enjoyment of existing adjacent uses.
- 385 .188 Mitigation banks as a form of compensatory mitigation for wetland and habitat conservation area impacts when
- 386 permitted in accordance with the provisions of Chapter 16.16 WCC; provided, applications for mitigation banks shall be
- 387 processed as a major development project pursuant to Chapter 20.88 WCC.

388 **20.68.200 Prohibited uses.**

389 All uses not listed as permitted, accessory, administrative approval, or conditional uses are prohibited, including but not

390 limited to the following, which are listed here for purposes of clarity:

391 .201 Reserved.

392 .202 Adult businesses.

393 .203 In the Bellingham Urban Growth Area the following uses are prohibited: petroleum refinery and the primary

394 manufacturing of products thereof, primary manufacturing and processing of rubber, plastics, chemicals, paper, asbestos and

395 products derived thereof; and primary metal industries.

396 | 204 Fossil fuel refineries and the primary manufacturing of products thereof, new, after March 1, 2017.

397 | 205. Fossil fuels transshipment facilities, including bulk storage or transfer facilities for fossil fuels, new, after March 1,
398 | 2017.

399 | *Discussion/Notes: Prohibit New Fossil Fuel Refineries. Prohibit Crude Oil and Coal Export*
400 | *Facilities – made broader to Fossil Fuel transshipment.*

401 | (Ord. 2018-006 § 3 (Exh. C), 2018; Ord. 2016-011 § 1 (Exh. L), 2016; Ord. 99-078, 1999; Ord. 99-070 § 2, 1999; Ord. 91-
402 | 075, 1991).

403 | **20.68.250 Minimum lot size.**

404 | The minimum lot size shall be consistent with the area required to meet the building setback, lot coverage, buffer and
405 | development standards of the district. (Ord. 97-057 § 1, 1997; Ord. 96-046 § 1, 1996).

406 | **20.68.255 Minimum lot frontage.**

407 | For the purpose of dividing property, minimum lot frontage shall be sufficient to provide adequate access and utility
408 | development, and meet applicable building setback, buffer, and development standards of the district. In no case shall the
409 | frontage be less than 30 feet. (Ord. 99-045 § 1, 1999).

410 | **20.68.350 Building setbacks.**

411 | Building setbacks shall be administered pursuant to WCC 20.80.200, 20.80.254 and 20.68.550. (Ord. 99-078, 1999).

412 | **20.68.400 Height limitations.**

413 | No maximum height is established; however, when a building exceeds 50 feet, the setback requirements of WCC 20.80.200
414 | shall be increased by one foot for each foot of building height in excess of 50 feet, as applicable to all setbacks.

415 | **20.68.450 Lot coverage.**

416 | The maximum building or structural coverage shall not exceed 60 percent of the lot size.

417 | **20.68.500 Open space.**

418 | *Repealed by Ord. 97-057. (Ord. 96-046, 1996).*

419 | **20.68.550 Buffer area.**

420 | .551 The industrial user shall establish a buffer for building sites adjoining the boundary of the Heavy Impact Industrial
421 | District (HII), which shall be located adjacent to the district boundary. The purpose of the buffer is to optimize the visual
422 | appearance of the site by obscuring industrial activity from view by passing motorists, to contribute to on-site and off-site
423 | impact abatement, and to move towards attaining compatibility with surrounding nonindustrial land uses and character.

424 | .552 To implement the buffer requirements of this district, minimum setbacks for heavy industrial buildings and accessory
425 | structures shall be established consistent with the following options:

426 | (1) If a planting screen is not provided by the industrial user and no natural vegetative screening exists, the minimum
427 | setback(s) shall be 660 feet, as measured from the edge of the district boundary. The setback area may be used for security
428 | roads, parking, or open space.

429 | (2) If natural sight-obscuring and dense vegetation exists, the minimum setback(s) shall be 250 feet, as measured from the
430 | district boundary; provided, that a minimum width of 50 feet of natural vegetation is retained. The remainder of the
431 | setback(s) may be used for security roads, parking, or open space.

432 | (3) If a 50-foot buffer planting screen is established, pursuant to WCC 20.80.345, the minimum setback(s) shall conform to
433 | the setback requirements of WCC 20.80.200, as measured from the district boundary. In addition, security roads may be
434 | situated within the minimum buffer setback; provided, that the 50-foot-wide buffer planting is established.

435 (4) When a parcel situated within this district is located within the Bellingham Urban Growth Area and adjoins an Urban
436 Residential District or residential district within the city limits, setbacks for heavy industrial buildings and/or uses shall be
437 increased to 100 feet and landscaped in accordance with the requirements of WCC 20.80.345.

438 (5) In no case shall the setback from the northern and western boundaries of the Cherry Point heavy industrial area not
439 contiguous to another industrial zone be less than 660 feet, nor the natural vegetation removed except for parking and
440 security or protective uses.

441 .553 Uses other than heavy industrial will conform to the normal setback requirements as set forth in WCC 20.80.200 and
442 20.80.254(3) and the buffering requirements for light impact industrial uses WCC 20.66.551.

443 .554 If any part of said buffer area is separated from, or sold to any contiguous or adjacent owner, lessee or user, the parcel so
444 separated or sold shall be used only as a buffer area in accordance with the above requirements. (Ord. 2019-013 § 1 (Exh. A),
445 2019; Ord. 2018-006 § 3 (Exh. C), 2018; Ord. 99-078, 1999; Ord. 97-057 § 1, 1997; Ord. 96-046 § 1, 1996; Ord. 89-117,
446 1989; Ord. 87-12, 1987; Ord. 87-11, 1987).

447 **20.68.600 Sign regulations.**

448 Sign regulations shall be administered pursuant to WCC 20.80.400.

449 **20.68.650 Development criteria.**

450 (Ord. 96-056 Att. A § A1, 1996).

451 **20.68.651 Landscaping.**

452 Refer to WCC 20.80.300 for landscaping requirements. (Ord. 89-117, 1989).

453 **20.68.652 Off-street parking and loading.**

454 Off-street parking and loading provisions shall be administered pursuant to WCC 20.80.500. In addition, loading areas must
455 be located in such a manner that no loading, unloading and/or maneuvering of trucks associated therewith takes place on
456 public rights-of-way.

457 **20.68.653 Drainage.**

458 All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No
459 project permit shall be issued prior to meeting those requirements. (Ord. 2019-013 § 1 (Exh. A), 2019; Ord. 96-056 Att. A §
460 A2, 1996; Ord. 94-022, 1994).

461 **20.68.654 Driveways.**

462 Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of
463 Transportation, as applicable. (Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 84-38, 1984).

464 **20.68.655 Access.**

465 Access shall conform to the provisions of WCC 20.80.565 and 20.80.660. (Ord. 89-117, 1989).

466 **20.68.656 Maintenance.**

467 The owner, lessee or user shall be responsible for maintaining an orderly appearance of all properties, and shall be
468 responsible for assuring the care and maintenance of any natural growth, where appropriate.

469 **20.68.657 Enclosure.**

470 All manufacturing or fabrication processes which have the potential to produce off-site impacts of a detrimental nature,
471 including light, glare, odors and noise impacts, shall be sufficiently enclosed to mitigate the impacts. (Ord. 99-078, 1999).

472 **20.68.700 Performance standards.**

473 **20.68.701 Pollution control and nuisance abatement.**

474 Each industry is required to continuously employ the best pollution control and nuisance abatement technology when
475 reasonably and practicably available for each particular industry; provided, that where federal, state, or regional laws or
476 regulations provide for the level of technology to be employed, the appropriate standards shall apply.

477 **20.68.702 Heat, light and glare.**

478 All operations and facilities producing heat, light or glare, including exterior lights, shall be so constructed, screened or used
479 as to not unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.

480 **20.68.703 Ground vibration.**

481 No ground vibration other than that caused by highway vehicles, trains or construction activity shall be permitted, which is
482 discernible without instruments, at or beyond the property line for the use concerned.

483 **20.68.704 Odors.**

484 No odors, dust, dirt, or smoke shall be emitted that are detectable, at or beyond the property line for the use concerned, in
485 such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe
486 upon the use and enjoyment of property beyond the boundaries of the district. (Ord. 91-075, 1991).

487 **20.68.705 Noise.**

488 No use in this district shall exceed the maximum environmental noise level established by Chapter 173-60 WAC. (Ord. 91-
489 075, 1991).

490 **20.68.706 Toxic gases and fumes.**

491 Any release of toxic gases or fumes must be in compliance with Washington State and Northwest Air Pollution Control
492 Authority standards. (Ord. 91-075, 1991).

493 **20.68.707 Liquid pollutants.**

494 There shall be no off-site release to soil or surface drainage ways of water borne or liquid pollutants. (Ord. 91-075, 1991).

495 **20.68.708 Appearance.**

496 New facilities developed in the Bellingham Urban Growth Area shall be designed, constructed, operated, and maintained so
497 as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and such
498 uses shall not change the essential character of the same area. (Ord. 2018-006 § 3 (Exh. C), 2018; Ord. 99-078, 1999).

499 **20.68.709 Marijuana odor.**

500 For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a
501 concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon
502 the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to
503 capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or
504 surrounding area. The system must be designed by a licensed Washington State professional engineer. (Ord. 2015-006 Exh.
505 A, 2015).

20.68.800. EXPANSION THRESHOLDS FOR EXISTING FOSSIL FUEL REFINERIES OR FOSSIL FUEL TRANSSHIPMENT

.801. Limits on Refinery Capacity Expansions:

(1) Expansions of existing refinery production shall be permitted up to a percentage limit defined as a rolling five-year average of the combined regional population growth of the states of Washington and Oregon and the Province of British Columbia as determined by their respective published government forecasts for the five years immediately preceding the date of a completed application for any necessary County permits.

(2) Storage tank capacity increases at existing refineries or transshipment facilities shall be limited to the ratio of storage to refining capacity currently existing at the facilities as of March 1, 2017. See WCC 20.97.160.5 for applicable definitions.

(3) The capacity of a refinery or process unit is a measure of its current actual throughput averaged over the latest 3-year reporting period prior to the date of a completed application for any necessary County permits. The data used to calculate the current actual throughput average shall be obtained from official government reports from the refinery to federal or state agencies regarding production of the refinery or a particular process unit to be expanded.

(4) Expansions of existing refineries above that threshold in subsections (1) through (3) above shall require a conditional use permit consistent with the criteria of 20.68.150, Conditional Uses, and major project permits subject to Chapter 20.88.

(5) Expansions below the threshold are permissible with approval of amendments to a master site plan approved consistent with WCC 20.74.060 and consistent with applicable project permits per Chapter 22.05.

(6) Incidental increases in refinery production or throughput related to normal safety or process improvements that do not exceed 1% of throughput for the prior 3-year period as calculated under subsection (3) shall not require new major projects permits or conditional use permit approval and shall not trigger greenhouse gas mitigation requirements until they cumulatively exceed 1% of refinery throughput.

.082. Environmental Review and Greenhouse Gas Mitigation

(1) State Environmental Policy Act (SEPA) review of all refinery capacity expansions shall be required.

(2) Greenhouse gas emission analysis required:

(a) For the first expansion requiring County land use permits after the date of this ordinance, a baseline calculation of existing facility emissions of greenhouse gases shall be provided for the 3-year period identified in WCC 20.68.801(3). See facility emissions definition in WCC 20.97.124.1 for the scope and geography of the analysis. Calculation of baseline greenhouse gas emissions shall follow the methodology used for greenhouse gas reporting to the State of Washington.

(b) Facility emissions, defined in WCC 20.97.124.1, shall be quantified for each expansion of refining and storage capacity in the application for land use or construction permits and in SEPA documents analyzing the impacts of an expanded facility.

(c) The emissions analysis shall identify how mitigation will offset greenhouse gas emissions generated.

(d) Calculations of the baseline facility emissions and the projected increases shall be consistent with rules and methods adopted by the State of Washington Department of Ecology.

(e) Emissions generated upstream of the refinery facility for production and transport of raw materials used for refinery expansions shall be quantified using the latest version of the GREET Model developed by Argon National Laboratories or, for raw materials produced in Canada, the latest version of the GH Genius model developed by Canadian national agencies may be used.

(f) The County may condition the permit to ensure appropriate mitigation and may require periodic monitoring of greenhouse gas reduction measure effectiveness. Greenhouse gas mitigation proposed by the permit applicant shall be additional, real and quantifiable and shall not be required under any other regulatory mechanism.

(3) Local mitigation of facility emissions above 1% over existing emissions shall be required for greenhouse gases.

(a) The applicant shall identify local carbon offset projects including the type and extent, duration, and expected greenhouse gas reductions, to the satisfaction of the County's SEPA Responsible Official. Greenhouse gas mitigation proposed by the applicant shall be additional, real and quantifiable and shall not be required under any other regulatory mechanism.

(b) The County may, upon request by the Applicant, approve a fee in-lieu of providing a local mitigation project. The County shall use collected fees in-lieu of mitigation for local greenhouse gas mitigation projects that are additional, real and quantifiable and not required under any other regulatory mechanism. The in-lieu fee shall be set at \$60 per ton of carbon, based on the following document: US Environmental Protection Agency, Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (May 2013, Revised August 2016).

(c) Should a national or state greenhouse gas mitigation requirement be adopted that pre-empts or would cause duplication through local greenhouse gas mitigation, the County may defer to the national or state program.

.083 Non-Capacity Improvements

(1) Expansions of existing fossil fuel refineries for non-capacity purposes is permitted. Examples of non-capacity improvements include, but are not limited to:

(a) accessory buildings,

(b) office space,

(c) parking lots,

(d) radio communications facilities,

(e) regular equipment maintenance and replacement,

(f) safety upgrades,

(g) security buildings,

(h) storage buildings, and

(i) other similar structures or activities.

(2) This allowance does not include improvements that would expand the capacity of the refinery or the transshipment facility above the conditional use permit thresholds in subsection .081 or non-capacity improvements that would cause a net increase in or greenhouse gas emissions above subsection .082.

CHAPTER 20.74 CHERRY POINT INDUSTRIAL (CP) DISTRICT

20.74.010 Purpose.

The purpose of the Cherry Point Industrial District is to implement the policies of the Cherry Point Major Industrial Urban Growth Area section of the Whatcom County Comprehensive Plan by establishing a range of land uses and types of development appropriate for the Cherry Point UGA and to encourage large scale master planning of industrial sites to preserve sites of sufficient size to accommodate major port and industrial development. (Ord. 98-083 Exh. A § 57, 1998).

20.74.020 Applicability.

This chapter is applicable to the entire Cherry Point Major Industrial Urban Growth Area. (Ord. 98-083 Exh. A § 57, 1998).

20.74.030 Permitted uses.

(1) Primary permitted uses:

(a) Area south of Grandview: Uses shall include the range of port and large scale industrial uses allowed in the Heavy Impact Industrial District, Chapter 20.68 WCC, as well as large scale high technology businesses.

(b) Area north of Grandview: Uses shall include the range of port and large scale industrial uses allowed in the Light Impact Industrial District, Chapter 20.66 WCC.

(2) Secondary permitted uses shall include smaller scale industrial uses, nonretail commercial uses, and industry-related professional services, provided the secondary use supports or is supported by primary permitted uses in the Cherry Point Industrial Urban Growth Area. (Ord. 98-083 Exh. A § 57, 1998).

20.74.040 Accessory uses.

Accessory uses shall be the same as those permitted in the Heavy Impact Industrial District, Chapter 20.68 WCC. (Ord. 98-083 Exh. A § 57, 1998).

20.74.050 Conditional uses.

Conditional uses shall be the same as those permitted in the Heavy Impact Industrial District, Chapter 20.68 WCC. (Ord. 98-083 Exh. A § 57, 1998).

20.74.055 Prohibited uses.

Prohibited uses shall be the same as those prohibited in the Heavy Impact Industrial District, Chapter 20.68 WCC and the following:

(1) New piers, docks, or wharves.

20.74.060 Master site plan requirements.

(1) Development in the Cherry Point Industrial District requires the review and approval of a master site plan, including SEPA review. Acceptable master site plans include site plans and supporting information submitted and approved for applications for a building permit, a short subdivision, a preliminary plat, a binding site plan, a major project permit or a planned unit development.

(2) The minimum area for a master site plan (planning block) shall be 160 acres, or the entire property under common ownership if the common ownership is less than 160 acres.

(3) Each planning block shall include one lot of not less than 40 acres in size to be designated as the site for a port or major industrial activity; provided, that if the planning block is 40 acres or smaller, the requirement for the major industrial site shall be waived.

(4) Within a planning block, one or more parcels smaller than 40 acres may be created for secondary uses.

(5) Review and approved of a master site plan for a planning block shall be included in the approval of any building permit, short subdivision, preliminary plat, binding site plan, major project permit or a planned unit development and shall be subject to the same review and approval standards, including SEPA review, as the plat, binding site plan or permit. Each master site plan shall identify, as appropriate, the proposed phasing of the development including the construction of public and private facilities and utilities. The master site plan or supporting documentation as appropriate shall also include any mitigation required under SEPA and the county critical areas ordinance. (Ord. 98-083 Exh. A § 57, 1998).

20.74.070 Minimum lot size and parcelization.

The minimum lot size in the Cherry Point Industrial District shall be 40 acres; provided, that lots less than 40 acres may be permitted as follows:

(1) When the lots are to be located within a development approved as a major project under Chapter 20.88 WCC consistent with the master site plan requirements in this chapter.

(2) When the lots are to be located within a development approved as a planned unit development under Chapter 20.85 WCC consistent with the master site plan requirements of this chapter.

- 627 (3) When the lots are part of a short subdivision, long subdivision or binding site plan approved as consistent with the master
628 site plan requirements of this chapter.
- 629 (4) When the administrator finds that the lot(s) will be developed with a use(s) that is consistent with the intent of the district
630 and will not interfere with the development of the primary large uses intended by the Comprehensive Plan.
- 631 (5) When an existing lot of record is less than 40 acres, provided further division is consistent with this section. (Ord. 98-083
632 Exh. A § 57, 1998).

633 20.74.080 Design standards.

634 Unless otherwise modified by this chapter, building height, setbacks, landscaping, open space and other building and site
635 design standards for areas south of Grandview Road shall be the same as those of the Heavy Impact Industrial District,
636 Chapter 20.68 WCC; and for the area north of Grandview Road, the same as those of the Light Impact Industrial District,
637 Chapter 20.66 WCC. (Ord. 98-083 Exh. A § 57, 1998).

638 20.74.090 Traffic demand management.

639 RCW 36.70A.365 requires the implementation of traffic demand management (TDM) programs for designating a Major
640 Industrial Urban Growth Area. Any employer in the Cherry Point Urban Growth Area that employs 100 or more full-time
641 employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least 12
642 continuous months during the year are required to meet the TDM requirements of Chapter 16.24 WCC.

643 (1) Employers located in Cherry Point who have not implemented a TDM program shall implement a TDM program by
644 December 1, 2011.

645 (2) Employers in Cherry Point meeting the criteria for having to complete a plan after December 1, 2011, shall meet the
646 requirements of this section within one year of having met the criteria. (Ord. 2009-071 § 2 (Exh. B), 2009).

647 20.74.100 Drainage.

648 All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No
649 project permit shall be issued prior to meeting those requirements. (Ord. 2019-013 § 1 (Exh. A), 2019).

650 20.74.110 Change of Use

651 A permit is required to document a change of use, even where no alterations are planned or required by the code. This shall
652 be processed as a Type I permit in Chapter 22.05 WCC. The new use shall ensure:

653 (1) Applicable building and construction codes are met per Title 15;

654 (2) Consistency with the requirements of the CP Industrial District, Chapter 20.74; and

655 (3) Transportation concurrency requirements are met per Chapter 20.78.

656 *Discussion/Notes: Change of Use Provisions. Focus is on consistency with the CP district*
657 *where this permit applies.*

658 CHAPTER 20.88 MAJOR PROJECT PERMITS

659 20.88.100 Major project permits.

660 .110 All major developments shall, prior to any construction, obtain a major project permit.

661 .120 A major project permit will be required for mitigation banks proposed in accordance with the provisions of Chapter
662 16.16 WCC and for any proposed development that meets any two of the following conditions:

Cost

(estimated construction cost exclusive \$5,000,000
of land value)

Size

retail 75,000 square feet

office or industrial (gross leasable
floor space) 200,000 square feet

residential 300 dwelling units

motel/hotel 200 units

Number of Employees 250

SEPA Review An EIS is required

663

664 In addition the zoning administrator may make an administrative determination after receiving a recommendation from the
665 technical review committee that any project be considered a major development, if in the opinion of the administration it is of
666 a nature that council review would be appropriate.

667 .130 Pursuant to WCC 22.05.120 the hearing examiner shall recommend to the county council project approval, approval
668 with conditions, or denial, based upon written findings and conclusions supported by the evidence of record. The hearing
669 examiner's recommendation and county council's decision shall determine the adequacy of a major project permit application
670 based on the following criteria:

671 (1) Will comply with the development standards and performance standards of the zone in which the proposed major
672 development will be located; provided where a proposed major development has obtained a variance from the development
673 and performance standards, standards as varied shall be applied to that project for the purposes of this act.

674 (2) Where the project is conditionally permitted in the zone in which it is located, the project must satisfy the standards for
675 the issuance of a conditional use permit for the zone in which the project is located.

676 ~~(3) Will be consistent with applicable laws and regulations.~~

677 (3) Will be consistent with applicable federal, state and local laws and regulations , including but not limited to state aquatics
678 land lease management programs, federal treaty rights review, endangered species protections, and the protection of
679 archeological and sensitive cultural resources. This shall be ensured by making County approvals contingent upon receipt of
680 all other necessary federal, state and local laws and regulations. Site preparation and construction permits shall not be issued
681 until certification by the County that all such federal, state and local approvals have been received.

682 (4) Will not substantially interfere with the operation of existing uses.

683 (5) Will be served by, or will be provided with essential utilities, facilities and services necessary to its operation, such as
684 roads, drainage facilities, electricity, water supply, sewage disposal facilities, and police and fire protection. Standards for
685 such utilities, facilities and services shall be those currently accepted by the state of Washington, Whatcom County, or the
686 appropriate agency or division thereof.

687 (6) Will not impose uncompensated requirements for public expenditures for additional utilities, facilities and services, and
688 will not impose uncompensated costs on other property owned.

689 (7) Will be appropriately responsive to any EIS prepared for the project.

690 (8) Will obtain, if required, a state aquatic lands lease, and all other necessary permits and authorizations, including federal
691 determinations that the project will not interfere with treaty fishing rights of tribal nations; the limits set forth in the
692 "Magnuson Amendment" under 33 U.S.C. § 476(b) (2004); Section 10 of the Rivers and Harbors Act (for structures in or
693 over navigable waters of the U.S.); the Coastal Zone Management Act (including any state Department of Ecology shoreline
694 conditional use or variance approval); the Clean Air Act; and/or under the Clean Water Act, including but not limited to a
695 federal Section 404 authorization (for fill into waters of the U.S.) and a state Section 401 water quality certification, prior to
696 issuance of any site preparation or construction permits necessary to construct a facility authorized under a major project
697 permit.

698 .140 In addition, the hearing examiner may recommend or county council may impose any reasonable conditions precedent
699 to the establishment of the major development as may be required to mitigate impacts of the proposal on the natural
700 environment of the county, and to protect the health, safety and general welfare of the people of the county consistent with
701 the policies for environmental protection set forth in the Comprehensive Plan.

702 .150 The hearing examiner may recommend or county council may also approve alternative mitigation plans for major
703 project permits in accordance with WCC 16.16.260(E) which may be used to satisfy the requirements of Chapter 16.16 WCC
704 and provide relief from the specific standards and requirements thereof.

705 20.88.200 Procedure.

706 .205 If a major project permit is determined to be required, an application shall be completed and filed along with the
707 appropriate fees, and the application shall be processed in accordance with Chapter 22.05 WCC. A master plan is required as
708 part of the application for a major project permit. The master plan document shall include all elements required per the
709 department's administrative manual.

710 .210 Development Standards. The master plan may propose standards that will control development of the possible future
711 uses that are in addition to, or substitute for, requirements of this chapter. These may be such things as height limits, setbacks,
712 frontage, landscaping requirements, parking requirements, signage, view corridors or facade treatments. Proposed standards
713 that do not meet the minimum county standards must obtain the appropriate variance prior to county approval of the proposed
714 standards. If the proposed design standards will apply to property located partially or totally within an urban growth area,
715 concurrence of the affected city will be required.

716 .215 Procedures. Master plan review shall be conducted under current review procedures. Other land use reviews may be
717 conducted concurrently with the master plan review.

718 (a) Any modifications, additions or changes to an approved master plan are subject to the following:

719 (i) Minor changes shall be reviewed for compliance and compatibility with the approved ~~master plan~~ major project
720 permit.

721 (1) A determination is made by the director. The director is authorized to consult a technical committee at
722 his/her discretion.

723 (2) Minor changes are those amendments which may affect the dimensions, location and type of
724 improvements of facilities; provided, the amendment maintains the basic character of the major project
725 permit application approved by the county council including general type and location of dwellings and
726 other land use activities, arrangement of buildings, density of the development, and provisions of the
727 project to meet density bonus and open space requirements, or capacity limits, and maintains required
728 conditions or mitigation.

729 (ii) Major changes shall be subject to the original procedural application type, subject to the fees as contained in
730 the unified fee schedule.

731 (iii) ~~Master plans~~ Major project permits may include, as a condition of their approval, a requirement for periodic
732 progress reports and mandatory updates on a predetermined interval.

733 .220 through .265 *Reserved*.

734 | .270 ~~Where~~Except in the CP zone, where a project requires a major project permit, that project shall be exempt from the
735 requirement of obtaining a conditional use permit.

736 | .275 Major project permits: ~~Where~~Except in the CP zone, where an applicant has applied for a planned unit development or a
737 development agreement, that project shall be exempt from the requirement to obtain a major project permit.

738 | .280 Major Project Permits in the CP zone: where a project in the CP zone requires a major project permit, the major project
739 permit shall be concurrently processed with other required land use permits including but not limited to: Cherry Point master
740 site plan, conditional use permit, planned unit development, or development agreement.

741 *Discussion/Notes: Scrubbing the Existing Code for consistency with new provisions and*
742 *desired review process.*

743 CHAPTER 20.97 DEFINITIONS

744 *Discussion/Notes: Definitions added are based on a review of federal (US Energy, US*
745 *Census, Code of the Federal Register), County Ordinance NO. 2018-007, Resolution*
746 *2019-004 and examples addressed in the White Paper.*

747 20.97.124.1 Facility Emissions.

748 "Facility Emissions" are greenhouse gas emissions associated with fossil fuel refineries or fossil fuels transshipment facilities
749 including but not limited to:

750 (1) the transportation within the borders of Whatcom County of refined and unrefined fossil fuels to and from a facility
751 located within the Cherry Point Heavy Industrial area, and

752 (2) the refining and processing of fossil fuels located within the Cherry Point Heavy Industrial area.

753 (3) the upstream emissions generated by the production and transport of raw products to the facility.

754 20.97.160.2 Fossil Fuels.

755 "Fossil fuels" include coal, petroleum, natural gas, oil shales, bitumens, tar sands, and heavy oils. All contain carbon and
756 were formed as a result of geologic processes acting on the remains of organic matter. Renewable fuels are not fossil fuels.

757 20.97.160.3 Fossil Fuels Transshipment Facilities.

758 "Fossil Fuel Transshipment Facility" is the process of off-loading a container of fossil fuel materials, refined or unrefined,
759 refinery feedstocks, products or by products, from one transportation facility and loading it onto another transportation
760 facility for the purposes of transporting such products into or out of Whatcom County.

761 20.97.160.4 Fossil Fuel Refinery.

762 A "Fossil Fuel Refinery" means a facility that converts crude oil and other liquids into petroleum products including but not
763 limited to gasoline, distillates such as diesel fuel and heating oil, jet fuel, petrochemical feedstocks, waxes, lubricating oils,
764 and asphalt. Activities that support refineries include but are not limited to: bulk storage, manufacturing, or processing of
765 fossil fuels or by products.

766 20.97.160.5 Fossil Fuel Refinery Capacity.

767 "Fossil Fuel Refinery Capacity" means the extent of refinery production capacity in relation to storage capacity. "Storage
768 Capacity" is defined as total volume of all tanks at a facility and "Refining Capacity" is defined as the current actual
769 throughput averaged over the latest 3-year reporting period prior to the date of a completed application for any necessary
770 County permits obtained from official government reports from the refinery to federal or state agencies regarding production
771 of the refinery or a particular process unit to be expanded.

20.97.160.6 Fossil Fuel, Unrefined.

"Unrefined fossil fuel" includes but is not limited to all forms of crude oil whether stabilized or not; raw bitumen, diluted bitumen, or syncrude; coal; methane, propane, butane, and other "natural gas" in liquid or gaseous formats excluding those that are the byproduct of refinery processes in the Cherry Point UGA; and condensate.

20.97.350.1 Renewable Biomass

"Renewable biomass" includes but is not limited to the following:

(1) Planted crops and crop residue harvested from existing agricultural land cleared or cultivated.

(2) Planted trees and tree residue from a tree plantation located on non-federal land.

(3) Animal waste material and animal byproducts.

(4) Slash and pre-commercial thinnings from non-federal forestland.

(5) Biomass (organic matter that is available on a renewable or recurring basis) obtained from within 200 feet of buildings and other areas regularly occupied by people, or of public infrastructure, in an area at risk of wildfire.

(6) Algae.

(7) Separated yard waste or food waste, including recycled cooking and trap grease.

(8) Items 1 through 7 including any incidental, de minimis contaminants that are impractical to remove and are related to customary feedstock production and transport.

20.97.350.2 Renewable Fuel

"Renewable Fuel" means liquid fuels produced from renewable biomass. Denatured ethanol and similar fuel additives with less than 5 percent fossil fuel content, or biodiesel/renewable diesel with less than 5 percent fossil fuel content are considered renewable fuels. Renewable fuels shall not include products produced from palm oil or other feedstocks that cannot be proven to reduce greenhouse gases utilizing accepted methods of the Washington State Department of Ecology or US EPA.

20.97.434.1 Technical committee.

"Technical committee" or "technical review committee" means the designated representatives of the Whatcom County Planning and Development Services Director, who shall act as chairperson, the Whatcom County Public Works Director, and the Whatcom County Health Department Director.

CHAPTER 22.05 PROJECT PERMIT PROCEDURES

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	21.03							Administrator	Hearing

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))
Adjustment									Examiner
Building Permit	15.04	(f)						Administrator	Hearing Examiner (i)
Natural Resource Assessment	Title 16							Administrator	Hearing Examiner
Change of Use, Cherry Point Industrial District	Chapter 20.74							Administrator	Hearing Examiner
Commercial Site Plan Review								Administrator	Hearing Examiner
Exempt Land Division	21.03							Administrator	Hearing Examiner
Floodplain Development Permit	Title 17							Administrator	Hearing Examiner
Land Disturbance Permit	15.04 and 20.80							Administrator	Hearing Examiner
Lot of Record/Lot Consolidation	20.83 and 20.97.220							Administrator	Hearing Examiner
Nonconforming Use	20.83							Administrator	Hearing Examiner
Removal of Development Moratorium	20.80.738(3)								
Shoreline Exemption	23.60	(a)						Administrator	Hearing Examiner
Zoning Interpretation	22.20							Administrator	Hearing Examiner
Type II Applications (Administrative Decision with Public Notice; No Public Hearing)									
Administrative Use	20.84.235							Administrator	Hearing Examiner
Lot Consolidation Relief	20.83.070							Administrator	Hearing Examiner
Reasonable Use (b)	16.16							Administrator	Hearing Examiner
Shoreline Substantial (c)	23.60	(a)						Administrator (d)	Shorelines Hearings Board (h)
Shoreline Conditional Use (c)	23.60	(a)						Administrator (d)	Hearing Examiner

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))
Short Subdivision	21.04							Administrator	Hearing Examiner
Type III Applications (Hearing Examiner Decision with Public Notice and Public Hearing)									
Conditional Use	20.84.200						Hearing Examiner	Hearing Examiner	Superior Court
Floodplain Development Variance	Title 17						Hearing Examiner	Hearing Examiner	Superior Court
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 Ordinance Variance	20.84.100 or 16.16.270						Hearing Examiner	Hearing Examiner	Superior Court
Type IV Applications (County Council Decision with Public Notice and Public Hearing)									
CP Industrial District Conditional Use Permit for Fossil Fuel Refinery Expansion	20.68.150, 20.84.200						Hearing Examiner	County Council	Superior Court
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

804 Check marks indicate a step is required; reference letters refer to the notes in subsection (2) of this section.

805 *Discussion/Notes: Scrubbing the Existing Code for consistency with new provisions and*
806 *desired review process.*

807 **22.05.110 Final decisions – Type I, II, and III applications.**

808 (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
809 permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to
810 comply with all applicable codes.

811 (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)
812 shall either grant or deny the application or appeal.

813 (a) The hearing examiner may grant Type III applications subject to conditions, modifications or restrictions that the
814 hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives
815 and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives
816 of Whatcom County.

817 **(b) Requirements:**

818 (i) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure
819 compliance with the conditions, modifications and restrictions.

820 (ii) Fossil Fuel Refinery or Fossil Fuels Transshipment Facilities: The applicant shall provide proof of insurance to
821 cover loss or damages to the County and to County residents from any fire, explosion, spill or other incident from
822 operations of the refinery or from transport of raw materials or finished products within the boundaries of Whatcom
823 County. The County shall be named as an additional insured under insurance policies provided. The County may
824 require proof that adequate and sufficient insurance policies remain in existence throughout the lifetime of
825 operations or cleanup of the facility by current owners and operators or any successors to current owners or
826 operators of the properties involved in the application.

827 (c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony
828 and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions
829 based on the record to support the decision.

830 (d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as
831 provided herein.

832 (e) The applicant, any person with standing, or any county department may appeal any final decision of the hearing
833 examiner to superior court, except as otherwise specified in WCC 22.05.020. (Ord. 2019-013 § 1 (Exh. A); Ord. 2018-
834 032 § 1 (Exh. A)).

835 **22.05.120 ~~Recommended~~ Recommendations and final decisions to county council. – Type**
836 **IV applications**

837 (1) For Type IV applications per WCC 22.05.020 the hearing examiner’s recommendations to the county council may be to
838 grant, grant with conditions or deny an application. The hearing examiner’s recommendation may include conditions,
839 modifications or restrictions as may be necessary to make the application compatible with its environment, carry out the
840 objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and
841 objectives of Whatcom County.

842 (2) Each recommended decision of the hearing examiner for an application identified as a Type IV application per WCC
843 22.05.020 shall be in writing to the clerk of the county council and shall include findings and conclusions based upon the
844 record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out
845 and conforms to the county’s comprehensive plan and complies with the applicable statutes, ordinances or regulations.

846 (3) The deliberation of the county council on quasi-judicial actions shall be in accordance with WCC 22.05.090(4) and
847 Chapter 42.36 RCW.

- 848 (4) For planned unit developments and major project permits the following shall apply:
- 849 (a) The recommendation of the hearing examiner regarding planned unit developments and major project permits shall
850 be based upon the criteria set forth in WCC 20.85.335 and 20.88.130, respectively.
- 851 (b) The hearing examiner shall file the recommendation with the clerk of the county council within 21 calendar days
852 following the conclusion of the open record hearing.
- 853 (c) The county council shall conduct the following within the specified time frames, except as provided in subsection
854 (4)(c)(iii) of this section:
- 855 (i) Hold a public meeting, not an open record public hearing, to deliberate on the project application within 28
856 calendar days after receiving the hearing examiner's recommendation.
- 857 (ii) Issue a final written decision within 21 calendar days of the public meeting.
- 858 (iii) The county council may exceed the time limits in subsection (4)(c)(i) or (ii) of this section if the county council
859 meeting schedule does not accommodate a meeting within the above time frames, or if the county council makes
860 written findings that a specified amount of additional time is needed to process a specific application or project
861 type, per RCW 36.70B.080(1).
- 862 (5) The county council's final written decision may include conditions when the project is approved and shall state the
863 findings of fact upon which the decision is based.

864 (a) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance
865 with the conditions, modifications and restrictions.

866 (b) Fossil Fuel Refinery or Fossil Fuels Transshipment Facilities: The applicant shall provide proof of insurance to cover
867 loss or damages to the County and to County residents from any fire, explosion, spill or other incident from operations
868 of the refinery or from transport of raw materials or finished products within the boundaries of Whatcom County. The
869 County shall be named as an additional insured under insurance policies provided. The County may require proof that
870 adequate and sufficient insurance policies remain in existence throughout the lifetime of operations or cleanup of the
871 facility by current owners and operators or any successors to current owners or operators of the properties involved in
872 the application.

873 (6) Any deliberation or decision of the county council shall be based solely upon consideration of the record established by
874 the hearing examiner, the recommendations of the hearing examiner and the criteria set forth in ~~county code~~, applicable state
875 laws and regulations, county code, the county comprehensive plan if applicable, and the county shoreline management master
876 program, including but not limited to compliance with SEPA, WAC 197-11 (SEPA Rules) as adopted and modified in the
877 county code, and the county's adopted SEPA policies. (Ord. 2018-032 § 1 (Exh. A)).

878 CHAPTER 23.100 SHORELINE USE POLICIES AND REGULATIONS

879 23.100.170 Cherry Point management area.

880 A. Policies.

881 1. Purpose and Intent.

882 a. The purpose of the Cherry Point management area is to provide a regulatory framework that recognizes and
883 balances the special port, industrial and natural resource needs associated with the development of this marine
884 resource. This section identifies policies and regulations for water-dependent industrial activities that apply in
885 addition to specific other elements of this program as referenced herein.

886 b. Washington State natural resource agencies and Whatcom County have identified certain portions of the Cherry
887 Point management area as providing herring spawning habitat and other key habitat characteristics that warrant
888 special consideration due to their importance to regional fisheries and other elements of the aquatic environment.

889 c. Development of the Cherry Point major port/industrial urban growth area will accommodate uses that require
890 marine access for marine cargo transfer, including oil and other materials. For this reason, water,

i. Water-dependent terminal facilities are encouraged as the preferred use in the Cherry Point management area. Due to the environmental sensitivity of the area, it is the policy of Whatcom County to limit the number of piers to one pier, in addition to those in operation or approved as of January 1, 1998.

d. Whatcom County should consider participation with local, state, and federal agencies, tribal governments and other stakeholders in the development of a plan to address integrated management of the uplands and public aquatic lands within the Cherry Point management area. The development of such a plan could provide a forum and process for addressing aquatic resources by all stakeholders. Elements of the plan could be adopted as future amendments to this program as appropriate.

ii. Existing legal fossil fuel refineries should be allowed to continue and maintain their operations with limited expansions subject to environmental review, greenhouse gas emission mitigation, and conformance with the Shoreline Master Program and other applicable land use designation.

iii. It is the policy of Whatcom County to limit the number of industrial piers at Cherry Point to the existing three piers in operation or approved as of January 1, 1998, taking into account the need to:

- Act conservatively in land use matters at Cherry Point to prevent further harm to habitat important to the Cherry Point Herring stock and Southern Resident Killer Whales;

- Optimally implement the Shoreline Master Program policy regarding shorelines of statewide significance per WCC 23.40;

- Encourage the continued agency use of best available science;

- Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry Point tidelands and bedlands from the general leasing program and the species recovery goals of the Cherry Point Aquatic Reserve designation and Management Plan;

- Recognize federal actions upholding treaty rights;

- Protect traditional commercial and tribal fishing; and

- Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil or fuel spills.

d. Whatcom County should ensure that shoreline developments demonstrate conformance with the State of Washington Department of Natural Resources Cherry Point Aquatic Reserve Management Plan.

e. All development that is to be located within the Cherry Point management area, as defined in Chapter 23.110 WCC, shall be subject to the policies and regulations found in this section, and shall not be subject to the policies and regulations found in WCC 23.100.010 through 23.100.160, nor Chapter 23.90 WCC, unless otherwise referenced in this section. The policies and regulations found in this section are applicable only within the geographic boundaries of the Cherry Point management area and do not apply elsewhere in the county. In the event that the provisions of this section conflict with other applicable referenced provisions of this program, the policies and regulations that are most protective of shoreline resources shall prevail.

Discussion/Notes: Above amendments are similar to those in the Comprehensive Plan policy changes.

2. Water-Dependent Industrial Development. Only water-dependent facilities that serve industrial facilities should be allowed in the Cherry Point management area. Industry within the major port/industrial urban growth area, as designated in the County Comprehensive Plan, which is not water-dependent should locate away from shoreline jurisdiction.

3. Multiple Use Facilities. Facilities that allow for multiple use of piers, cargo handling, storage, parking and other accessory facilities are encouraged.

4. Public Access.

a. Where appropriate, industrial and port development within the Cherry Point management area should provide public beach and shoreline access in a manner that does not cause interference with facility operations or present

935 hazards to life and property. This may be accomplished through individual action or by joint, coordinated action
936 with other developers and landowners, for example, by setting aside a common public access area.

937 b. Special emphasis should be given to providing public beach and shoreline access for recreational opportunities
938 including but not limited to crabbing, small craft launching, surf fishing, picnicking, clamming, and beach walking.

939 c. Public access within the Cherry Point management area should be consistent with the Whatcom County Parks
940 and Recreation Open Space Plan.

941 5. Shoreline Ecological Functions and Processes. In recognition of the diverse and vital ecological resources in the
942 Cherry Point management area, consideration of probable effects of all development proposals on shoreline ecological
943 functions and processes should be assessed with the other long-term statewide interests. New port development that
944 requires dredge and fill should not be permitted in the Cherry Point management area due to potential adverse effects on
945 ecological functions, including fish and shellfish habitat and geohydraulic processes.

946 6. Aesthetics. All development should be designed to avoid or minimize negative visual impacts on the scenic character
947 of the area and to ensure visual compatibility with adjacent nonindustrial zoned properties.

948 7. Site Development. All development should be constructed and operated in a manner that, while permitting water-
949 dependent uses, also protects shoreline resources, their ecological functions and processes, and that incorporates the
950 following:

951 a. Low impact development approaches to avoid or minimize adverse impact to topography, vegetation, water
952 quality, fish and wildlife habitat, and other natural site conditions;

953 b. Adequate temporary and permanent management measures to control erosion and sediment impacts during
954 construction and operation; and

955 c. Adequate stormwater management facilities.

956 *Discussion/Notes: Be consistent with Comprehensive Plan Policies. Prohibit New Docks and*
957 *Piers.*

958 B. Regulations.

959 1. Allowed Use.

960 a. Water-dependent industrial and port uses are allowed within the Cherry Point management area; provided, that
961 specific findings are made in a shoreline substantial development permit or conditional use permit that:

962 i. Policies for optimum implementation of the statewide interest have been achieved through protection of
963 shoreline ecological functions and processes;

964 ii. The long-term statewide benefits of the development have been considered with the potential adverse impacts
965 on ecological functions; and

966 iii. Proposed mitigation measures to achieve no net loss of ecological functions and processes are incorporated
967 in the proposal.

968 **b. Fuel Uses:**

969 **i. Fossil Fuel Refineries – Shoreline Permits and Requirements:** Fossil fuel refineries existing legal as of
970 March 1, 2017 are permitted shoreline uses. Expansions of existing legal fossil fuel refineries below
971 thresholds of the zoning code at WCC 20.68.800 are subject to review as shoreline substantial development
972 permits. Expansions of existing legal fossil fuel refineries above thresholds at WCC 20.68.800 require a
973 shoreline conditional use permit.

974 **ii. Fossil fuels transshipment facilities as a primary use are prohibited. Those that are a necessary part of**
975 **providing raw materials to, and serving, a permitted expansion of an existing fossil fuel refinery shall**
976 **require either shoreline substantial development permit or a shoreline conditional use permit dependent on**
977 **the level of expansion as identified in subsection b.i.**

iii. Refining, storage, blending, and manufacture of renewable fuels is allowed as a shoreline substantial development permit.

c. Water-related and water-enjoyment uses are allowed only as part of public access and public recreation development, subject to the findings in subsection (B)(1)(a) of this section.

ed. Accessory development, which does not require a shoreline location in order to carry out its support functions, shall be sited away from the land/water interface and landward of the principal use. Accessory development shall observe critical area buffers in Chapter 16.16 WCC. Accessory development includes, but is not limited to, parking, warehousing, open air storage, waste storage and treatment, stormwater control facilities, utility and land transport development.

de. Road, railway and utility facilities serving approved waterfront facilities related to water-dependent uses that are located and designed to minimize shoreline alteration are permitted.

ef. Waste water disposal/treatment facilities for storage or disposal of industrial or domestic waste water are prohibited, except that elements such as conveyances and outfalls shall be allowed if alternate inland sites have been demonstrated to be infeasible. Waste water conveyance systems for ships at berth shall be permitted.

Discussion/Notes: Consistency with Zoning Code changes.

2. Public Access.

a. Public access shall be provided in accordance with WCC 23.90.080 unless it is demonstrated that public access poses significant interference with facility operations or hazards to life or property.

b. If public access meeting the criteria above is demonstrated to be infeasible or inappropriate, alternative access may be provided in accordance with WCC 23.90.080 at a location not directly adjacent to the water such as a viewpoint, observation tower, or other areas serving as a means to view public waters. Such facilities may include interpretive centers and displays that explain maritime history and industry; provided, that visual access to the water is also provided.

c. As an alternative to on-site public access facilities, public access may be provided in accordance with a public access plan adopted as an element of the Whatcom County Parks and Recreation Open Space Plan.

3. Critical Areas. In addition to meeting the provisions of WCC 23.90.030, Ecological protection and critical areas, development and alteration shall not be located or expanded within critical areas designated pursuant to Chapter 16.16 WCC except where the site is approved for water-dependent use, and the following are met:

a. Mitigation to achieve no net loss of ecological functions and processes shall be conducted in accordance with WCC 23.90.030.

b. Development and alteration shall not be allowed in wetlands in the backshore area. Upland development shall demonstrate that changes in local hydrology will not decrease the viability of the wetland environment nor degrade the existing water quality within the wetland.

c. The minimum required setback from the OHWM for all industrial and port facilities, including development components, which do not require a water's edge or water surface location shall be 150 feet; provided, that bluffs and banks greater than 10 feet in height and sloping greater than 30 percent and wetland shorelines shall have such setbacks measured from the crest of the bank or the edge of the wetland in addition to the OHWM.

d. Development and alteration other than recreation development for public and quasi-public shoreline access is prohibited on the accretion shoreforms identified on the map in Appendix C of this title, subject to the regulations in this section and consistent with the conservancy and aquatic shoreline area designation policies and regulations of Chapters 23.90 and 23.100 WCC; provided, that lawfully established uses or developments may be maintained subject to the provisions of WCC 23.50.070.

4. Location and Design.

a. Piers.

- i. Piers shall be designed to accommodate only the necessary and intrinsic activities associated with the movement of material and cargo from land to water and water to land. The length of piers shall not extend beyond that which is necessary to accommodate the draft of the vessels intending to use the facility. Due to the environmental sensitivity of the area, Whatcom County shall limit the number of piers to ~~one pier, in addition to~~ those in operation as of January 1, 1998.
- ii. Piers shall be designed to minimize interference in the intertidal zone and adverse impacts to fish and wildlife habitats.
- iii. Piers shall be designed to minimize impacts on steep shoreline bluffs.
- iv. All pilings in contact with water shall be constructed of materials such as concrete, steel, or other materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited; provided, that replacement of existing wood pilings with chemically treated wood is allowed for maintenance purposes where use of a different material such as steel or concrete would result in unreasonable or unsafe structural complications; further provided, that where such replacement exceeds 20 percent of the existing pilings over a 10-year period, such pilings shall conform to the standard construction provisions of this section.
- v. All piers on piling structures shall have a minimum vertical clearance of one foot above extreme high water.
- vi. Bulk storage of gasoline, oil and other petroleum products for any use or purpose is not allowed on piers, except for temporary storage under emergency situations, including oil spill cleanup. Bulk storage means nonportable storage in fixed tanks. Secondary containment shall be provided for portable containers.
- vii. All piers shall be located and designed to avoid impediments to navigation and to avoid depriving other properties of reasonable access to navigable waters. All piers shall be marked with navigational aids and approved for compliance with U.S. Coast Guard regulations.
- b. Dredging.
- i. Dredging to accommodate water access to, or construction of, new development is prohibited. New development shall be located and designed to avoid the need for dredging. Dredging for existing development shall be the minimum necessary and shall minimize interference in the intertidal zone and impacts to fish and wildlife habitats.
- ii. Dredging operations, including spoil disposal, shall be conducted in accordance with policies and regulations in WCC 23.90.120(B)(4) and (5), Dredging.
- iii. Dredging is prohibited in the accretion shoreform and backshore wetland areas described in Appendix C of this title.
- c. Landfill is prohibited, except for the minimum necessary to access piers or other structures that provide access to the water. Pier design should accommodate the connection between the pier and uplands by employing a pile-supported structure to the point of intersection with stable upland soils. Limited landfill may be allowed for pier access that does not extend further toward the OHWM than existing topography.
- d. Excavation/Stabilization.
- i. Excavation/stabilization of bluffs is prohibited, except for the minimum necessary to access piers or other structures that provide access to the water; provided, that active feeder bluffs shall not be altered if alteration will adversely affect the existing littoral drift process. New development shall avoid, rather than modify, feeder bluffs.
- ii. Excavation/stabilization is prohibited on accretion shoreforms and in wetlands in the backshore area.
- e. Shore defense works shall be regulated in accordance with WCC 23.100.130, Shoreline stabilization, and be consistent with the conservancy and aquatic shoreline area regulations of that section.

5. Adjacent Use.

- a. New or expanded port or industrial development adjacent to properties which are zoned for nonindustrial purposes shall provide setbacks of adequate width, to attenuate proximity impacts such as noise, light and glare; and may address scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.
- b. Exterior lighting shall be designed and operated to avoid illuminating nearby properties zoned for nonport or nonindustrial purposes so as to not unreasonably infringe on the use and enjoyment of such property, and to prevent hazards for public traffic. Methods of controlling illumination of nearby properties include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields and screening.
- c. The minimum setback from side property lines which intersect the OHWM for industrial and port development shall be 60 feet; provided, that:
 - i. The side yard setback shall not apply to utility or security structures such as poles, meters, fences, guard houses, power vaults or transformers; and
 - ii. The side yard setbacks for parcels adjoining the NW and SE boundaries of the Cherry Point management area shall be administered in accordance with WCC 20.68.550 (Buffer Area).
- d. Required setbacks shall not be used for storage of industrial equipment or materials, or for waste disposal, but may be used for public access or outdoor recreation.

6. Oil and Hazardous Materials.

- a. Release of oil or hazardous materials on shorelines is prohibited.
- b. A management plan shall be developed for new permitted or conditionally permitted development for the safe handling of cargo, fuels, bilge water, and toxic or hazardous materials to prevent them from entering aquatic waters, surface or ground water. Specific provisions shall address prompt and effective clean-up of spills that may occur. Management plans shall be coordinated with state or federal spill response plans. Where a spill management/response plan has been approved by the state, said plan may be used to satisfy the requirements of this section.
- c. Necessary spill containment facilities associated with existing development may be permitted within shoreline jurisdiction where there are no feasible alternatives.

7. Recreational Development. All recreational development shall comply with the policies and regulations of WCC 23.100.100 and be consistent with the conservancy and aquatic shoreline area regulations of that section.

8. Archaeological, Historic and Cultural Resource Management. All development associated with archaeological, historic or cultural site activities shall comply with the policies and regulations of WCC 23.90.070. (Ord. 2014-051 §§ 5, 6; Ord. 2009-13 § 1 (Exh. 1)).

CHAPTER 23.110 DEFINITIONS

Discussion/Notes: Definitions added are based on a review of federal (US Energy, US Census, Code of the Federal Register), County Ordinance NO. 2018-007, and examples addressed in the White Paper.

23.110.060 F definitions.

27. "Fossil fuels" include coal, petroleum, natural gas, oil shales, bitumens, tar sands, and heavy oils. All contain carbon and were formed as a result of geologic processes acting on the remains of organic matter. Renewable fuels are not fossil fuels.

28. "Fossil Fuel Transshipment Facility" is the process of off-loading a container of fossil fuel materials, refined or unrefined, refinery feedstocks, products or by products from one transportation facility and loading it onto another transportation facility for the purposes of transporting such products into or out of Whatcom County.

29. "Fossil Fuel Refinery" means a facility that converts crude oil and other liquids into petroleum products including but not limited to gasoline, distillates such as diesel fuel and heating oil, jet fuel, petrochemical feedstocks, waxes, lubricating oils, and asphalt. Activities that support refineries include but are not limited to: bulk storage, manufacturing, or processing of fossil fuels or by products.

Discussion/Notes: Consistency with Zoning Code changes.

23.110.090 I definitions.

4. "Industrial development" means facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to ~~oil~~, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing, construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining, including on-site processing of raw materials, and off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use. This definition excludes fossil fuel refineries.

Discussion/Notes: Consistency with Zoning Code changes.

23.110.150 O definitions.

2. "Oil" means petroleum or any petroleum product in liquid, semi-liquid, or gaseous form including, but not limited to, crude oil, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredging spoil. See Fossil Fuels.

Discussion/Notes: Consistency with Zoning Code changes.

23.110.160 P definitions.

10. "Port development" means public or private facilities for transfer of cargo or passengers from water-borne craft to land and vice versa, including, but not limited to: piers, wharves, sea islands, commercial float plane moorages, offshore loading or unloading buoys, ferry terminals, and required dredged waterways, moorage basins, and equipment for transferring cargo or passengers between land and water modes. Excluded from this definition and addressed elsewhere are airports, marinas, boat ramps or docks used primarily for recreation, cargo storage and parking areas not essential for port operations, boat building or repair. The latter group is considered industrial or accessory to other uses. This definition excludes fossil fuels transshipment facilities.

Discussion/Notes: Consistency with Zoning Code changes.

23.110.180 R definitions.

6. "Renewable biomass" includes but is not limited to the following:

(1) Planted crops and crop residue harvested from existing agricultural land cleared or cultivated.

(2) Planted trees and tree residue from a tree plantation located on non-federal land.

(3) Animal waste material and animal byproducts.

(4) Slash and pre-commercial thinnings from non-federal forestland.

(5) Biomass (organic matter that is available on a renewable or recurring basis) obtained from within 200 feet of buildings and other areas regularly occupied by people, or of public infrastructure, in an area at risk of wildfire.

(6) Algae.

(7) Separated yard waste or food waste, including recycled cooking and trap grease.

(8) Items 1 through 7 including any incidental, de minimis contaminants that are impractical to remove and are related to customary feedstock production and transport.

1149 7. “Renewable Fuel” means liquid fuels produced from renewable biomass. Denatured ethanol and similar fuel additives
1150 with less than 5 percent fossil fuel content, or biodiesel/renewable diesel with less than 5 percent fossil fuel content are
1151 considered renewable fuels. Renewable fuels shall not include products produced from palm oil or other feedstocks that
1152 cannot be proven to reduce greenhouse gases utilizing accepted methods of the Washington State Department of Ecology or
1153 US EPA.

1154 Discussion/Notes: Consistency with Zoning Code changes.

Draft



Whatcom County

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

Agenda Bill Master Report

File Number: MIN2019-042

File ID:	MIN2019-042	Version:	1	Status:	Agenda Ready
File Created:	06/07/2019	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		

First Assigned to: Council

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: jnixon@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Special Committee of the Whole AM for June 4, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Special Committee of the Whole AM June 4 2019.pdf

Final Action:
Enactment Date:
Enactment #:

WHATCOM COUNTY COUNCIL
Special Committee of the Whole

June 4, 2019

CALL TO ORDER

Council Vice-Chair Todd Donovan called the meeting to order at 9:30 a.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Satpal Sidhu.

Absent: None.

COMMITTEE DISCUSSION

1. AB2019-293 DISCUSSION OF PROPOSED RATE STRUCTURE FOR LAKE WHATCOM STORMWATER UTILITY

Gary Stoyka, Public Works Department, submitted and read from a presentation (*on file*) and answered questions.

The following Public Works Department staff answered questions:

- Kraig Olason
- Ingrid Enschede

Donovan moved to recommend adoption as presented.

The motion was seconded.

Brenner moved to amend to use a formula where people who are creating any runoff pay a fee, and people who don't create runoff don't pay anything.

The motion to amend was seconded.

Councilmembers and staff discussed the appropriate fee structure, creating incentives to reduce impervious surfaces, alternate fee structures discussed by the advisory committee, comparison with City of Bellingham stormwater charges, expanding the number of fee categories, allowing people to self-report their amount of impervious surface, finding a correlation between the home footprint size and the amount of impervious surface, and the additional cost of administering more fee categories.

Byrd suggested a friendly amendment to amend the motion to expand the number of fee thresholds to 2,000 or less; 2,001 to 4,000; 4,001 to 6,000; and 6,001 to 8,000; and 8,000 or more square feet of impervious surface.

1 **Brenner accepted** the friendly amendment.

2
3 **Donovan moved** to call the question.

4
5 The motion was seconded.

6
7 The motion to call the question carried by the following vote:

8 **Ayes:** Buchanan, Donovan, Frazey, and Sidhu (4)

9 **Nays:** Brenner, Byrd, and Browne (3)

10
11 **Brenner restated the motion** to amend to expand the number of fee thresholds to
12 2,000 or less; 2,001 to 4,000; 4,001 to 6,000; and 6,001 to 8,000; and 8,000 or more
13 square feet of impervious surface; and is based on what is done on the property to offset
14 the fee.

15
16 The motion to amend failed by the following vote:

17 **Ayes:** Brenner and Byrd (2)

18 **Nays:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

19
20 Councilmembers and staff continued to discuss the timeline for adopting the
21 ordinance, the homeowner incentive program (HIP), affordable housing and the capital
22 facilities charge, the inflation adjustment, and the reserve amounts.

23
24 Byrd moved to remove the HIP program from the budget that they are raising money
25 for, and instead allow homeowners to make improvements via a zero interest loan that they
26 would repay. The motion was not seconded.

27
28 **Byrd moved** to remove the capital facilities charge.

29
30 The motion was seconded.

31
32 The motion failed by the following vote:

33 **Ayes:** Brenner, Byrd, and Donovan (3)

34 **Nays:** Browne, Buchanan, Frazey, and Sidhu (4)

35
36 **Sidhu moved** to amend to remove section 12 and add language that the Council
37 would review the inflation need at minimum every five years.

38
39 The motion was seconded.

40
41 The motion carried by the following vote:

42 **Ayes:** Buchanan, Byrd, Donovan, Frazey, and Sidhu (5)

43 **Nays:** Browne and Brenner (2)

44
45 **Sidhu moved** to select reserve amount option 2, a reserve amount only for new
46 fees being collected in the amount of \$272,000.

47
48 The motion was seconded.

49
50 The motion carried by the following vote:

1 **Ayes:** Buchanan, Browne, Byrd, Donovan, Frazey, and Sidhu (6)

2 **Nays:** Brenner (1)

3
4 Stoyka continued the presentation on the Homeowner's Incentive Program.

5
6 Councilmembers and staff discussed barriers to the HIP program in Sudden Valley
7 and the possibility of expanding the program, whether they could fold the program into the
8 stormwater utility program, and methods for developing rate credits.

9
10 Byrd moved to hold in committee.

11
12 The motion was seconded.

13
14 The motion to hold failed by the following vote:

15 **Ayes:** Brenner, Byrd, and Browne (3)

16 **Nays:** None Buchanan, Donovan, Frazey, and Sidhu (4)

17
18 ***Donovan restated his motion*** to ask staff to bring forward an ordinance as
19 amended for Introduction.

20
21 The motion carried by the following vote:

22 **Ayes:** Browne, Buchanan, Donovan, Frazey, and Sidhu (5)

23 **Nays:** Brenner and Byrd (2)

24
25
26 **OTHER BUSINESS**

27
28 There was no other business.

29
30
31 **ADJOURN**

32
33 The meeting adjourned at 11:13 p.m.

34
35 The Council approved these minutes on _____, 2019.

36
37 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

38
39
40
41
42 _____
43 Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

44
45
46
47 _____
48 Jill Nixon, Minutes Transcription



Whatcom County

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

Agenda Bill Master Report

File Number: MIN2019-043

File ID:	MIN2019-043	Version:	1	Status:	Agenda Ready
File Created:	06/07/2019	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		

First Assigned to: Council

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: jnixon@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Special Committee of the Whole PM for June 4, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Special Committee of the Whole PM June 4 2019.pdf

Final Action:
Enactment Date:
Enactment #:

WHATCOM COUNTY COUNCIL
Special Committee of the Whole

June 4, 2019

CALL TO ORDER

Council Vice-Chair Todd Donovan called the meeting to order at 3:15 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Satpal Sidhu.

Absent: None.

COMMITTEE DISCUSSION

1. AB2019-285 ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 3, REQUIRING THAT PUBLIC FUNDS USED FOR CONSTRUCTION PROJECTS DO DOUBLE DUTY BY ALSO PROVIDING APPRENTICES WITH JOB TRAINING HOURS TO MEET THE REQUIREMENTS NECESSARY TO BECOME THE NEXT GENERATION OF SKILLED TRADES PERSONS

Browne submitted a handout (*on file*).

Councilmembers discussed implementation in phases, State apprenticeship requirements under former Governor Gary Locke, whether it's necessary to specify training for the purposes of earning a certification for journeyman level, whether the ordinance will increase the County's costs, incentivizing schools to do training so young people will be interested in the industry, the importance of education, existing apprenticeship programs, and the difficulty of getting new apprenticeship programs approved.

Brenner moved to amend packet page 250, line 24, "Whereas, the Aspen Institute...contracts to provide apprentices with ~~necessary~~ **required** on-the-job training ~~hours necessary to graduate.~~"

The motion was seconded.

Councilmembers continued to discuss whether or not the requirement would benefit the community and the possibility of moving forward by forming a committee.

Brenner withdrew her motion.

The following people spoke and answered questions:

- Lance Calloway, Associated General Contractors (AGC) of Washington
- Trevor Smith, Laborer's Local 292
- Loren VanderYacht

- 1 • Adam Lamb

2
3 **Browne moved** to hold in Committee of the Whole until the next meeting in two
4 weeks and invite testimony.

5
6 The motion was seconded.

7
8 The motion carried by the following vote:

9 **Ayes:** Browne, Buchanan, Donovan, Byrd, Frazey, and Sidhu (6)

10 **Nays:** Brenner (1)

11
12
13 **OTHER BUSINESS**

14
15 There was no other business.

16
17
18 **ADJOURN**

19
20 The meeting adjourned at 4:50 p.m.

21
22 The Council approved these minutes on _____, 2019.

23
24 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

25
26
27
28
29 _____
30 Dana Brown-Davis, Council Clerk

Todd Donovan, Vice-Council Chair

31
32
33
34 _____
35 Jill Nixon, Minutes Transcription



Whatcom County

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

Agenda Bill Master Report

File Number: MIN2019-044

File ID:	MIN2019-044	Version:	1	Status:	Agenda Ready
File Created:	06/10/2019	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
First Assigned to:	Council				
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	

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

TITLE FOR AGENDA ITEM:

Regular County Council for June 4, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: County Council for June 4 2019.pdf

Final Action:
Enactment Date:
Enactment #:

1 WHATCOM COUNTY COUNCIL
2 **Regular County Council Meeting**
3

4 June 4, 2019
5

6 **CALL TO ORDER**
7

8 Council Chair Rud Browne called the meeting to order at 7:00 p.m. in the Council
9 Chambers, 311 Grand Avenue, Bellingham, Washington.
10

11
12 **ROLL CALL**
13

14
15 **Present:** Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd
16 Donovan, Carol Frazey, and Satpal Sidhu.

17 **Absent:** None.
18
19

20 **FLAG SALUTE**
21

22
23 **ANNOUNCEMENTS**
24

25
26 **MINUTES CONSENT**
27

28 ***Donovan moved*** to approve Minutes Consent items one and two.
29

30 The motion was seconded.
31

32 The motion carried by the following vote:

33 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

34 **Nays:** None (0)
35

36 **1. MIN2019-040 COMMITTEE OF THE WHOLE FOR MAY 21, 2019**
37

38 **2. MIN2019-041 REGULAR COUNTY COUNCIL FOR MAY 21, 2019**
39
40

41 **PUBLIC HEARINGS**
42

43 **1. AB2019-277 RESOLUTION AUTHORIZING THE SALE OF SURPLUS PERSONAL**
44 **PROPERTY PURSUANT TO WCC 1.10**

45
46 Browne opened the public hearing, and hearing no one, closed the public hearing.
47

48 ***Buchanan moved*** to approve the resolution.
49

50 The motion was seconded.

1
2 The following staff answered questions:

- 3 • Tyler Schroeder, Executive's Office
- 4 • Jon Hutchings, Public Works Department Director

5
6 Councilmembers and staff discussed the need for more information on the age and
7 condition of the property to determine whether or not they really need to be replaced.

8
9 The motion carried by the following vote:

10 **Ayes:** Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (6)

11 **Nays:** Brenner (1)

12
13 **2. AB2019-278 ORDINANCE ESTABLISHING A SPEED LIMIT FOR SEVERAL**
14 **ROADS IN THE BENNETT DRIVE AREA**

15
16 Jason Ardt, Public Works Department, gave a staff report on the speed limit
17 ordinances and answered questions on the average actual speed limit people are driving and
18 codifying the speed limit at 25 miles per hour.

19
20 Browne opened the public hearing, and the following person spoke:

21
22 Ken Domorod stated this area will be annexed into Bellingham soon.

23
24 Hearing no one else, Browne closed the public hearing.

25
26 ***Byrd moved*** to adopt the ordinance.

27
28 The motion was seconded.

29
30 The motion carried by the following vote:

31 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

32 **Nays:** None (0)

33
34 **3. AB2019-288 ORDINANCE ESTABLISHING A SPEED LIMIT FOR DELTA LINE**
35 **ROAD**

36
37 Browne opened the public hearing, and the following person spoke:

38
39 Max Perry stated he would like more information on the specific location.

40
41 Hearing no one else, Browne closed the public hearing.

42
43 Jason Ardt, Public Works Department, gave a staff report on the location for this
44 ordinance and the next ordinance regarding Northwest Road.

45
46 Joe Rutan, Public Works Department, answered questions on the location.

47
48 ***Donovan moved*** to adopt the ordinance.

49
50 The motion was seconded.

1
2 The motion carried by the following vote:

3 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

4 **Nays:** None (0)
5

6 **4. AB2019-289 ORDINANCE ESTABLISHING A SPEED LIMIT FOR SEVERAL**
7 **ROADS IN THE NORTHWEST DRIVE AREA**
8

9 Browne opened the public hearing, and hearing no one, closed the public hearing.

10 ***Brenner moved*** to adopt the ordinance.
11

12 The motion was seconded.
13

14 The motion carried by the following vote:

15 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

16 **Nays:** None (0)
17

18
19 **5. AB2019-306 ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTERS**
20 **11.16, 11.20, AND 11.32 TO PROTECT LAKE SAMISH WATER QUALITY AND**
21 **SHORELINE PROPERTIES**
22

23 Browne opened the public hearing, and the following people spoke:

24
25 James Willson described the purpose of the ordinance and stated he supports the
26 ordinance.
27

28 Mary Hess spoke about shoreline erosion, dock damage, and water quality problems
29 due to wake boats, and stated she supports the ordinance.
30

31 Jerry Johnson stated he supports the ordinance. He spoke about educating the
32 public and homeowners about the no-wake zone and increasing Sheriff presence.
33

34 Mike Hess spoke about concerns with wake boats on the lake and stated he supports
35 the ordinance.
36

37 Penny Jewett spoke about wake sizes, aquatic invasive species (AIS), and education
38 and stated she supports the ordinance.
39

40 Dave Manro spoke about the expense of maintaining his property due to damage
41 from wake boats and dangers to people from the power of the wakes, and stated he
42 supports the ordinance.
43

44 Art Baddorf stated he supports the ordinance and spoke about the impacts to his
45 property and about AIS.
46

47 Kathy Ploeger spoke about the impacts from wake boats on her property and stated
48 she supports the ordinance.
49

1 Mirida Scully spoke about damage to her property, AIS, and safety, and stated she
2 supports the ordinance.
3

4 Burt Newbry stated he supports the ordinance and spoke about significant shoreline
5 erosion at his property.
6

7 Becky O'Brine Willson stated she supports the ordinance and spoke about getting the
8 same protections as those who live on Lake Whatcom, water quality, AIS, safety, and
9 property damage.
10

11 Hearing no one else, Browne closed the public hearing.
12

13 ***Buchanan moved*** to adopt the ordinance.
14

15 The motion was seconded.
16

17 Donovan submitted a substitute Exhibit A, section 11.32.032 and stated this section
18 was mistakenly left out of the Council packet.
19

20 Karen Frakes, Prosecutor's Office, stated they will have to have a second public
21 hearing on the section left out of the Council packet for adequate public notice.
22

23 ***Donovan moved*** to amend to strike the last Ordained section and stated they can
24 move forward on the first two sections. He will bring forward another ordinance amending
25 Section 11.32.
26

27 The motion was seconded.
28

29 Jon Hutchings, Public Works Department Director, answered questions.
30

31 Councilmembers discussed the rights of people who live at Lake Samish, the
32 possibility of prohibiting wake boats completely and the status of aquatic invasive species
33 inspections.
34

35 Browne moved to hold in Council and include a prohibition for wake boats. The
36 motion was not seconded.
37

38 The motion to amend carried by the following vote:

39 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

40 **Nays:** None (0)
41

42 The motion to adopt as amended carried by the following vote:

43 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

44 **Nays:** None (0)
45

46 Councilmembers and staff discussed the possibility of also banning two-stroke engine
47 boats.
48

49
50 **OPEN SESSION**

1
2 The following people spoke:

- 3 • Daman Wandke, AbiliTrek spoke on a contract between Whatcom County and
- 4 Transpo Group USA, Inc., to develop the Whatcom County ADA Transition
- 5 Plan (AB2019-319)
- 6 • Bob Burr spoke about declaring a climate emergency
- 7 • Mary Hess spoke about water quality and boat use and restrictions on Lake
- 8 Whatcom
- 9 • Mike Hess spoke about the aquatic invasive species (AIS) program
- 10 • Ken Domorod spoke about the County Council's involvement in the
- 11 annexation proposal from the City of Bellingham
- 12 • Max Perry spoke about the ordinance amending Whatcom County Code Title
- 13 3, requiring that public funds used for construction projects also provide
- 14 apprentices with job training (AB2019-285)
- 15 • Carol Perry spoke about the ordinance amending Whatcom County Code Title
- 16 3, requiring that public funds used for construction projects also provide
- 17 apprentices with job training (AB2019-285) and drought contingency planning
- 18
- 19

20 **CONSENT AGENDA**

21
22 **Sidhu** reported for the Council Finance and Administrative Services Committee and
23 **moved** to approve Consent Agenda items one through six.

24
25 Browne withdrew item two.

26
27 The motion to approve Consent Agenda items one and three through six carried by
28 the following vote:

29 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

30 **Nays:** None (0)

- 31
- 32 1. **AB2019-300 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
 - 33 **ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND CATHOLIC**
 - 34 **COMMUNITY SERVICES TO PROVIDE FUNDING FOR RESIDENT SUPPORT**
 - 35 **SERVICES AT FRANCIS PLACE, IN THE AMOUNT OF \$288,916**
 - 36
 - 37 2. **AB2019-319 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
 - 38 **ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND TRANSP**
 - 39 **GROUP USA, INC., TO DEVELOP THE WHATCOM COUNTY ADA TRANSITION**
 - 40 **PLAN, IN THE AMOUNT OF \$145,251.99**
 - 41

42 **Sidhu** reported for the Council Finance and Administrative Services Committee and
43 **moved** to approve the request.

44
45 **Browne moved** to hold for two weeks for a public hearing to give the members of
46 the Americans with Disabilities Act (ADA) community time to testify to the Council and
47 satisfy that they're being well represented.

48
49 The motion was seconded.

1 Jon Hutchings, Public Works Department Director, gave a staff report and answered
2 questions.
3

4 Councilmembers and staff discussed running items like this through the County ADA
5 Committee; gathering more information from the community and individuals with expertise
6 in the issues; the County's requirements from federal regulations; and the scope of work for
7 Transpo Group.
8

9 ***Browne amended his motion and moved*** to hold in Council for two weeks for a
10 public hearing on the proposed scope of work related to the Whatcom County ADA transition
11 plan.
12

13 The motion was seconded.
14

15 Councilmembers continued to discuss the possibility of holding a public hearing on
16 the contract.
17

18 ***Browne amended and restated a motion*** to hold in Council for two weeks for a
19 public hearing on Task 3 in the proposed scope of work regarding stakeholder engagement
20 and scope of work related to the Whatcom County ADA public roads transition plan.
21

22 The amended motion was seconded.
23

24 The motion carried by the following vote:

25 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

26 **Nays:** None (0)
27

28 **3. AB2019-327 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
29 **ENTER INTO A RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM**
30 **COUNTY AND TENANT EMELIA WILSON FOR THE APARTMENT AT 5236**
31 **NIELSON AVENUE, LOCATED ABOVE THE TENNANT LAKE INTERPRETIVE**
32 **CENTER, IN THE AMOUNT OF \$945 PER MONTH**
33

34 **4. AB2019-328 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
35 **ENTER IN TO A CONTRACT BETWEEN WHATCOM COUNTY AND UNIQUE**
36 **PLACES LLC TO PERFORM GIS MAPPING, ANALYSIS AND OUTREACH**
37 **MATERIALS DEVELOPMENT FOR THE PURCHASE OF DEVELOPMENT RIGHTS**
38 **PROGRAM, IN THE AMOUNT OF \$43,000**
39

40 **5. AB2019-330 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
41 **ENTER INTO A 2 YEAR AGREEMENT BETWEEN WHATCOM COUNTY AND WEST**
42 **PUBLISHING FOR ONLINE DATABASE AND SOFTWARE SUBSCRIPTIONS**
43

44 **6. AB2019-311 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
45 **AWARD BID #19-37 AND ENTER INTO A SUBSEQUENT CONTRACT BETWEEN**
46 **WHATCOM COUNTY AND HERRON VALLEY, INC. DBA BAYSIDE SERVICES,**
47 **FOR THE ANNUAL STREET SWEEPING AND CLEANING SERVICES OF THE**
48 **LAKE WHATCOM AND LAKE SAMISH WATERSHED AREAS, IN THE AMOUNT**
49 **OF \$75,000**
50

1
2 **OTHER ITEMS**
3

- 4 1. **AB2019-310 REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO**
5 **ENTER INTO A 35 YEAR LEASE AGREEMENT BETWEEN WHATCOM COUNTY**
6 **AND WHATCOM COUNTY SEARCH AND RESCUE COUNCIL, TO PROVIDE FOR**
7 **THE WHATCOM COUNTY SEARCH AND RESCUE USAGE OF REAL PROPERTY**
8 **TO HOUSE THEIR OPERATION IN FURTHERANCE OF THEIR PUBLIC SERVICE,**
9 **FOR THE ANNUAL AMOUNT OF \$1.00**

10
11 *Sidhu* reported for the Council Finance and Administrative Services Committee and
12 *moved* to approve the request.

13
14 The motion carried by the following vote:

15 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

16 **Nays:** None (0)
17
18

19 **COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES**
20

21 **AB2019-331 DISCUSSION OF CRISIS STABILIZATION FACILITY OPERATIONAL**
22 **ISSUES**
23

24 *Buchanan moved* to concur with the administration to move forward with 32-bed
25 triage facility construction.

26
27 The motion carried by the following vote:

28 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

29 **Nays:** None (0)
30

31 *Buchanan moved* to order the furnishings for the crisis stabilization facility to utilize
32 the North Sound Behavioral Health Organization dedication of \$104,880 to commit and
33 expend the grant dollars related to the purchase of equipment.

34
35 The motion carried by the following vote:

36 **Ayes:** Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)

37 **Nays:** None (0)
38
39

40 **OTHER ITEMS**
41

- 42 2. **AB2019-307 RESOLUTION REGARDING REDUCING INCARCERATION OF**
43 **YOUNG ADULTS (COUNCIL ACTING AS THE HEALTH BOARD)**
44

45 *Buchanan* reported on the Intergovernmental Policy Group and *moved* to approve
46 the resolution.

47
48 The motion was seconded.

49
50 The motion carried by the following vote:

Ayes: Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)
Nays: None (0)

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2019-329 REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S APPOINTMENT OF SONJA MAX TO THE BICYCLE/PEDESTRIAN ADVISORY COMMITTEE

Frazey moved to confirm the request.

The motion was seconded.

The motion carried by the following vote:

Ayes: Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)
Nays: None (0)

2. AB2019-333 REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S APPOINTMENT OF ARRISSIA OWEN TURNER TO THE WHATCOM COUNTY DEVELOPMENTAL DISABILITIES BOARD

Donovan moved to confirm the request.

The motion was seconded.

The motion carried by the following vote:

Ayes: Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)
Nays: None (0)

INTRODUCTION ITEMS

Brenner moved to accept the Introduction Items.

The motion was seconded.

The motion carried by the following vote:

Ayes: Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu (7)
Nays: None (0)

- 1. AB2019-308 ORDINANCE SUSPENDING WHATCOM COUNTY CODE 1.28 TO UPDATE THE CORRECTIONAL FACILITIES OPERATIONAL STANDARDS**
- 2. AB2019-321 ORDINANCE AMENDING THE 2019 WHATCOM COUNTY BUDGET, REQUEST NO. 8, IN THE AMOUNT OF \$508,163**
- 3. AB2019-322 ORDINANCE AMENDING WHATCOM COUNTY CHARTER SECTIONS 4.20 (QUALIFICATIONS) AND 6.90 (ILLEGAL CONTRACTS)**

- 1 4. AB2019-320 RESOLUTION AMENDING THE 2019 FLOOD CONTROL ZONE
2 DISTRICT AND SUBZONES BUDGET, REQUEST NO. 3, IN THE AMOUNT OF
3 \$1,560,000 (COUNCIL ACTING AS THE WHATCOM COUNTY FLOOD CONTROL
4 ZONE DISTRICT BOARD OF SUPERVISORS)
5
6

7 **COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES**
8

9 Committee Chairs reported on committee discussions.
10

11 Councilmembers gave updates on recent activities and upcoming events.
12
13

14 **ADJOURN**
15

16 The meeting adjourned at 10:05 p.m.
17

18 The County Council approved these minutes on _____, 2019.
19
20

21 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
22
23
24
25

26 _____
27 Dana Brown-Davis, Council Clerk
28
29
30
31

Rud Browne, Council Chair
32

Jill Nixon, Minutes Transcription



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-354

File ID:	AB2019-354	Version:	1	Status:	Agenda Ready
File Created:	06/07/2019	Entered by:	SMurdoch@co.whatcom.wa.us		
Department:	Health Department	File Type:	Presentation		

First Assigned to: Council

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: cp1501@comcast.net

TITLE FOR AGENDA ITEM:

Annual Report on Behavioral Health Program Fund

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo (6/7/19), Exhibit A

Final Action:
Enactment Date:
Enactment #:



Memorandum

TO: JACK LOUWS

FROM: Chris Phillips, Behavioral Health Advisory Committee Chair

DATE: June 7, 2019

RE: Annual Report to County Council on the Behavioral Health Program Fund

County Code 2.44 requires the Behavioral Health Advisory Committee to provide an annual report to County Council that highlights programs funded by the Behavioral Health Program Fund supported by sales tax monies. Attached is the 2018 report that will be presented to County Council at their June 18, 2019 meeting.

With Health Department staff guidance and support, the committee uses the PITA (Prevention, Intervention, Treatment and Aftercare) continuum of care to discuss system successes, gaps and funding needs. The ordinance that established the Behavioral Health Program Fund and the Advisory Committee places priority on 1) emergency department and jail diversion; 2) access to behavioral health services; 3) supportive services where people live; and 4) early intervention and health promotion services for children and families.

Accordingly, the committee has allocated funding to support a program designed for high utilizing more difficult to serve clients (i.e. the GRACE program), development of the new Crisis Stabilization Facility, expansion of youth services in North County, and continued funding for supportive housing programming.

Whatcom County is privileged to have great community partners that provide an array of effective services to residents challenged with behavioral health concerns. The sales tax dollars support services in all seven school districts, and they have allowed the development of specialty court services, and 24/7 on-site support for housing programs that offer a home to residents who are living with serious mental illness or substance use disorders. The Behavioral Health Program Fund, made possible by the sales tax dollars, has been a catalyst for innovation in responding to the continued needs of the community.

As in years past, the county has been fortunate to receive grant funding to support some programs that were initially supported by the sales tax. The result of this short-term grant funding is the underspending of the budget and a reinvestment into the program fund. The county has also been fortunate to have some of the direct costs of administering the fund supported by other sources. This additional support will end in 2020, but allowed for a temporary reinvestment to the fund balance for the 2018 reporting year as well as 2019.





Whatcom County Behavioral Health

Annual Report 2018

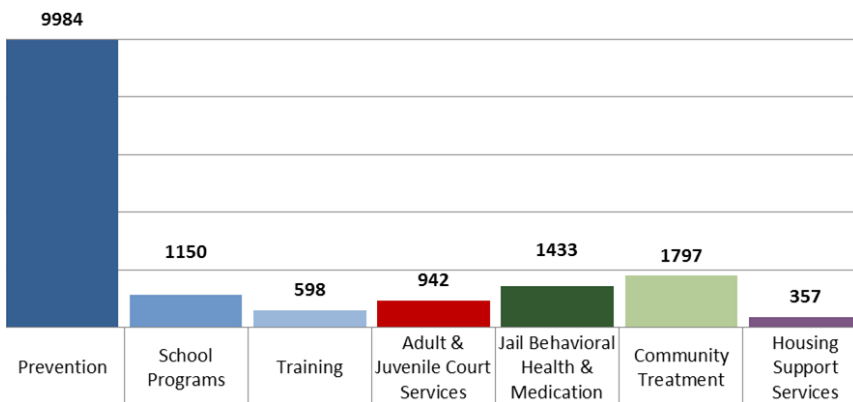
Manager's Comments:

The Behavioral Health Program Fund, supported by a local sales tax, contributes to the positive investment in the lives of our residents. This past year we have had the opportunity to add new programs. The GRACE program finally launched after extensive community planning. GRACE stands for "Ground-level Response and Coordinated Engagement". It consists of a group of trained professionals who deliver intensive case management services to residents who frequently use crisis services, but without long term benefit. GRACE Case Managers have teamed up with law enforcement and emergency medical personnel to engage these individuals in supportive services. These services have reduced 911 calls and improved mental wellness for GRACE members. Arrests and incarceration have also been reduced as a result of this program and its collaboration with a multitude of community partners in the delivery of effective treatment and support.

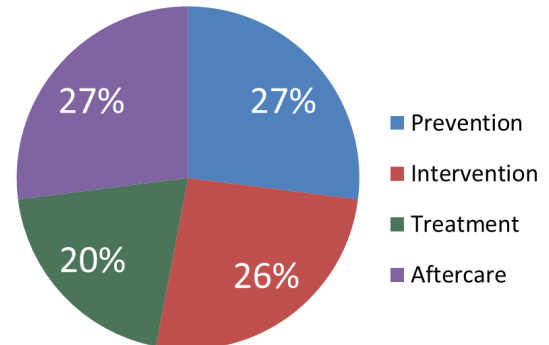
The fund also supported an expansion of behavioral health services to the Blaine/ Birch Bay area. Working closely with Blaine school district and community leaders, efforts have focused on reducing risk factors such as drug and alcohol use, truancy, and behavioral problems. Efforts have also focused on increasing "protective" factors for children through strengthening families and advancing positive and supportive school environments and communities. Research demonstrates that these investments in our future adults lay the foundation for healthy and productive lives.

Finally, community partners opened a new 40-unit housing program for previously homeless people, many of them challenged with mental illness or substance use disorders (SUDs). On-site 24/7 support is critical for the success of these new tenants and 1/10th funds provided this for the new housing program. It is heartwarming to know that these services will contribute to the health and stability of those who now have a home of their own.

Number of Individuals Served by Service Type



Expenditures by PITA Service Type



Total \$4,343,714

(see back for budget details)

VISION AND GOALS

Develop a comprehensive infrastructure of behavioral health care that will:

Provide effective recovery-oriented services that mitigate the need for individuals to default to utilization of the emergency room, hospital beds and the county jail.

Provide access and availability for intervention and treatment services to individuals who have limited access.

Promote the provision of services in natural environments in order to reduce the incidence and severity of substance use and mental health disorders.

Provide interventions that divert individuals with mental health and substance use disorders from the criminal justice system to more appropriate options of care.

Support young children and families with early interventions and behavioral health promotion.

2018 Accomplishments

- Launched the GRACE program (Ground-level Response and Coordinated Engagement)
- Leveraged and secured state funding to support the construction of a new Crisis Stabilization Facility
- Expanded services to youth and families in North County
- Provided supportive services to individuals who are homeless and suffering from mental illness and SUD
- Added on-site supportive services in a new housing program

Whatcom County Behavioral Health Program

Year Ending December 31, 2018

Revenue Collected

Expenditures

Revenue

Sales Tax Collected	\$4,755,570
Interest Earned	\$122,861
Other	\$223,842

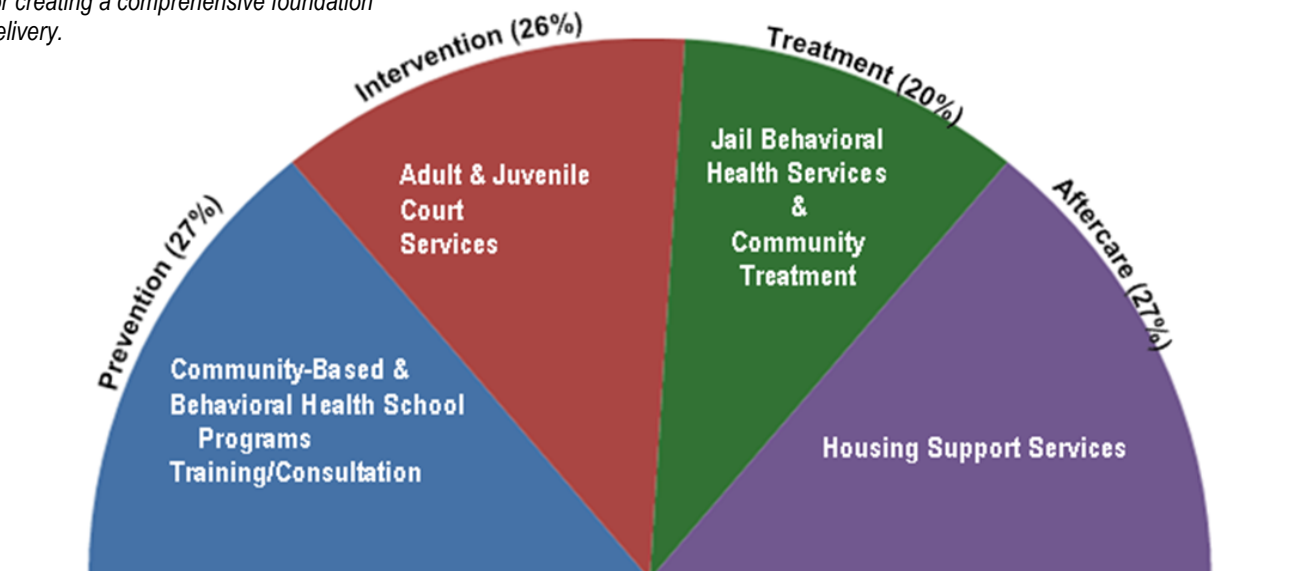
Total Revenue	\$5,102,273
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Expenditures

Prevention	\$368,899
Behavioral Health School Programs	\$684,437
Education, Training and Consultation	\$38,489
Court Services	\$937,193
Jail Behavioral Health Services and Re-Entry Services	\$704,873
Community Treatment and Supported Employment	\$207,895
Housing Support Services	\$1,061,411
Program Services Total	\$4,003,197
Direct Program Support	\$50,396
Administrative Costs	\$290,121
Total Expenditures	\$4,343,714

PITA Continuum

The PITA model continues to serve as the framework for creating a comprehensive foundation for service delivery.



Behavioral Health is Essential to Health!



Whatcom County
HEALTH
Department



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-363

File ID:	AB2019-363	Version:	1	Status:	Agenda Ready
File Created:	06/12/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Special Council Only Item		
First Assigned to:	Council				
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	

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

TITLE FOR AGENDA ITEM:

Council seeks public comment on Task 3 (Stakeholder Engagement) of the proposed contract with Transpo Group USA, Inc., related to the Whatcom County ADA plan for public rights-of-way (related proposed contract filed under AB2019-319)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Council seeks public comment on Task 3 (Stakeholder Engagement) of the proposed contract with Transpo Group USA, Inc., related to the Whatcom County ADA plan for public rights-of-way (related proposed contract filed under AB2019-319)

HISTORY OF LEGISLATIVE FILE

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

Final Action:
Enactment Date:
Enactment #:

PUBLIC HEARING NOTICE

Whatcom County Council will have a public hearing on the following at its June 18, 2019, meeting, or at a later date:

PROPOSED SCOPE OF TASK 3, STAKEHOLDER ENGAGEMENT, OF THE CONTRACT WITH TRANSPRO GROUP USA, INC., RELATED TO THE WHATCOM COUNTY ADA PLAN FOR PUBLIC RIGHTS-OF-WAY (AB2019-319): Council is seeking public comment specifically on Task 3 of the contract, which includes the following language:

Task 3 – Stakeholder Engagement Support: In order to support the development of the ADA transition plan and provide a robust and inclusive outreach process, the consultant will assist the County in the following areas:

3.1 Materials and Support for General Public Outreach: Transpro will support the County in developing a project landing page on the County website and materials/maps/postcards that can be posted to the website and used for outreach events. Transpro will coordinate with the County to schedule and staff up to two outreach events to present the project and provide an opportunity for public input. These events can occur on the same day or different days and can include general public outreach activities. Transpro will present to the County Council the Final ADA Transition Plan, including presentation to Council at the preceding hearing. Also support County staff at two County Council meetings (with option for third meeting if needed) to provide updates and present the draft and final plans.

3.2 Online Public Survey: Transpro will develop with support from the County's staff an online public survey that is ADA accessible that also provides opportunities for public comment. This will be done using third-party survey software accessed via an external link on the County's website; however, no live streaming of events or question responses will be provided. This on-line survey will be open to the public for one month with comment collected during that time. Graphics developed under task 3.1 above will also be provided in electronic format for inclusion in the online survey. The online survey and other County supported outreach can help us recruit participants for a targeted focus group.

3.3 Targeted Focus Group and Advisory Committee: Focus groups can provide a deeper understanding of the factors the disabled community finds important for updating pedestrian areas in the County, as well as a better understanding of the main barriers in pedestrian areas.

3.4 County will assist Transpro in holding two one-hour focus group meeting at an accessible location. Support from Transpro will include development of materials and on-site facilitation. Participants will be recruited through County contacts including ADA community groups, groups representing senior citizens, those expressing an interest in

participating from the online public meeting, and comment forms.

Council discussed the above at its June 4 meeting. Public documents are available for review in the Council Office, 311 Grand Avenue, Bellingham, and at www.co.whatcom.wa.us/council. Meetings are in the Council Chambers, same address, at 7:00 p.m., unless otherwise announced. The Council Chambers is handicapped accessible. People with special needs or disabilities who will be attending this meeting are asked to please contact our office (360-778-5010 or 800-676-6757) at least 96 hours in advance, so that we may make any needed accommodations. If interpretive services or transportation is needed, please call more than two days ahead of time.

Dated June 5

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Rud Browne	Dana Brown-Davis
Council Chair	Clerk of the Council

Publish June 8



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-322

File ID:	AB2019-322	Version:	1	Status:	Introduced for Public Hearing
File Created:	05/21/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
First Assigned to:	Council				
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	06/18/2019

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

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Charter Sections 4.20 (Qualifications) and 6.90 (Illegal Contracts)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending Whatcom County Charter Sections 4.20 (Qualifications) and 6.90 (Illegal Contracts) to remove language rendered moot or obsolete by the passage of time, as allowed by Charter Section 8.23 (Amendments by the County Council)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/04/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Ordinance

Final Action:
Enactment Date:
Enactment #:

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CHARTER SECTIONS
4.20 (QUALIFICATIONS) AND 6.90 (ILLEGAL CONTRACTS)**

WHEREAS, the Whatcom County Charter Section 4.20 currently reads "*Each County officer holding an elective office shall be, at the time of his appointment*" [Emphasis added]; and

WHEREAS, the Whatcom County Charter Section 6.90 currently reads "*Except as otherwise provided by ordinance, any contract in excess of an appropriation shall be null and void; and any officer, agent or employee of the County knowingly responsible shall be personally liable to anyone damaged by his action*" [Emphasis added]; and

WHEREAS, the citizens of Whatcom County overwhelming support equal rights and recognition for women; and

WHEREAS, Section 8.23 (Amendments by the County Council) of the County Charter states: "*The County Council by unanimous vote of the entire Council may effect amendments to the language of the Charter where the passage of time has rendered language moot or obsolete. Such changes shall be made by ordinance, and have a public hearing*".

NOW, THEREFORE, BE IT RESOLVED, that Section 4.20 and Section 6.90 of the County Charter shall be amended as detailed in the attached Exhibit A; and

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____

EXHIBIT A
(redline/strikeout version)

Section 4.20 Qualifications.

Each County officer holding an elective office shall be, at the time of her or his appointment or election and at all times while holding office, a citizen of the United States and a resident and registered voter of Whatcom County and councilmembers shall be residents of the districts which they represent. Any change in the boundaries of the councilmember's district which shall cause that member to be no longer a resident of the district which that councilmember represents shall not disqualify that councilmember from holding office during the remainder of the term for which that councilmember was elected or appointed. (Amended by referendum 1986; Amended by Ord. 2005-075 Exh. A).

Section 6.90 Illegal Contracts.

Except as otherwise provided by ordinance, any contract in excess of an appropriation shall be null and void; and any officer, agent or employee of the County knowingly responsible shall be personally liable to anyone damaged by her or his action. The County Council when requested to do so by the County Executive may adopt an ordinance permitting the County to enter into contracts requiring the payment of funds from appropriations of subsequent budget cycles, but real property shall not be leased to the County for more than one year, unless it is included in a capital budget appropriation ordinance. (Amended by ballot measure 1997 [refer to Ord. 97-042]; Amended by Ord. 2005-075 Exh. A).

EXHIBIT A
(clean version)

Section 4.20 Qualifications.

Each County officer holding an elective office shall be, at the time of her or his appointment or election and at all times while holding office, a citizen of the United States and a resident and registered voter of Whatcom County and councilmembers shall be residents of the districts which they represent. Any change in the boundaries of the councilmember's district which shall cause that member to be no longer a resident of the district which that councilmember represents shall not disqualify that councilmember from holding office during the remainder of the term for which that councilmember was elected or appointed. (Amended by referendum 1986; Amended by Ord. 2005-075 Exh. A).

Section 6.90 Illegal Contracts.

Except as otherwise provided by ordinance, any contract in excess of an appropriation shall be null and void; and any officer, agent or employee of the County knowingly responsible shall be personally liable to anyone damaged by her or his action. The County Council when requested to do so by the County Executive may adopt an ordinance permitting the County to enter into contracts requiring the payment of funds from appropriations of subsequent budget cycles, but real property shall not be leased to the County for more than one year, unless it is included in a capital budget appropriation ordinance. (Amended by ballot measure 1997 [refer to Ord. 97-042]; Amended by Ord. 2005-075 Exh. A).



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-308

File ID:	AB2019-308	Version:	1	Status:	Substitute Introduced for Public Hearing
File Created:	05/16/2019	Entered by:	LGallery@co.whatcom.wa.us		
Department:	Prosecuting Attorney's Office	File Type:	Ordinance		
First Assigned to: Council					
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	

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

TITLE FOR AGENDA ITEM:

Ordinance suspending Whatcom County Code 1.28 to update the correctional facilities operational standards

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Whatcom County Code Chapter 1.28 is temporarily suspended for up to twelve (12) months. The Whatcom County Sheriff's Office Correctional Facility Operational Standards, as described in Ordinance No. _____, are temporarily adopted in its place.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/04/2019	Council	SUBSTITUTE INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Ordinance

Final Action:
Enactment Date:
Enactment #:

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PROPOSED BY: SHERIFF'S OFFICE
INTRODUCTION DATE: JUNE 4, 2019

ORDINANCE NO. _____

**SUSPENDING WHATCOM COUNTY CODE 1.28 TO UPDATE THE CORRECTIONAL
FACILITIES OPERATIONAL STANDARDS**

WHEREAS, in 1977, chapter 70.48 RCW, the City and County Jails Act, was initially adopted; and

WHEREAS, in 1979, the Washington State Correctional Facilities Standards were developed by the Corrections Standards Board and codified in Title 289 of the Washington Administrative Code (WAC) as a guide to counties and cities to satisfy the mandates under the Act; and

WHEREAS, in 1987, a new section, RCW 70.48.071, was added to chapter 70.48 RCW that specifically mandated that "units of local government that own or operate adult correctional facilities shall, individually or collectively, adopt standards for the operation of those facilities no later than January 1, 1988..."; and

WHEREAS, to comply with RCW 70.48.071, the Whatcom County Council adopted the standards in Title 289 WAC by enacting Ordinance No. 87-85 in December 1987, later codified as Whatcom County Code (WCC) 1.28 - Standards for Correctional Facilities; and

WHEREAS, in 2006, Title 289 WAC was decodified without replacement as it was obsolete and the Corrections Standards Board ceased to exist; and

WHEREAS, the identical standards in Whatcom County Code (WCC) 1.28 are likewise obsolete; and

WHEREAS, RCW 70.48.071 authorizes the County to establish operational standards for its own correctional facilities in either its code, through the correctional facilities department policies and standards, or a combination thereof; and

WHEREAS, the Whatcom County Sheriff's Office correctional facility operational standards are collectively established through various documents, including, but not limited to, written general policies, corrections bureau operational policies and procedures, medical policies and procedures, the Sheriff's Office Rules and Regulations Manual, and the Uniform Building Code; and

WHEREAS, the Whatcom County Council deems it necessary to suspend WCC 1.28 for up to twelve (12) months to provide adequate time for the Law and Justice Committee and the County Council to review the correctional facilities operational standards and proposals.

1 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that WCC
2 1.28 is hereby suspended in its entirety for up to twelve (12) months, and that the
3 Whatcom County Sheriff's Office correctional facility operational standards, as described
4 above, are hereby temporarily adopted in place of WCC 1.28.

5
6 **BE IT FINALLY ORDAINED** that the following notation shall be included in the
7 County Code in place of WCC 1.28:

8
9 Whatcom County Code Chapter 1.28 is temporarily suspended for up to twelve (12)
10 months, beginning July 8, 2019. The Whatcom County Sheriff's Office correctional facility
11 operation standards, as collectively established through various documents, including, but
12 not limited to, written general policies, corrections bureau operational policies and
13 procedures, medical policies and procedures, the Sheriff's Office Rules and Regulations
14 Manual, and the Uniform Building Code, are temporarily adopted in its place.

15
16 **ADOPTED** this ____ day of _____, 2019.

17
18
19
20 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

21
22 _____
23 Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

24
25
26 APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

27
28 _____
29 Civil Deputy Prosecutor

Jack Louws, County Executive

30
31 () Approved () Denied

32
33
34
35 Date Signed: _____
36
37



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-319

File ID:	AB2019-319	Version:	1	Status:	Held in Council
File Created:	05/21/2019	Entered by:	RMcconne@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract		

First Assigned to: Council

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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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 Transpo Group USA, Inc., to develop the ADA Compliance for Public Rights of Way in the amount of \$145,251.99

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/04/2019	Council Finance and Administrative Services Committee	RECOMMENDED FOR AUTHORIZATION BY CONSENT	
06/04/2019	Council	HELD IN COUNCIL	Council

Attachments: Memo, Contract

Final Action:
Enactment Date:
Enactment #:

PUBLIC WORKS DEPARTMENT

JON HUTCHINGS
Director



ENGINEERING SERVICES
JOSEPH P. RUTAN, P.E.
County Engineer/Assistant Director
5280 Northwest Drive
Bellingham, WA 98226-9098
Phone: (360) 778-6220
Fax: (360) 778-6221

MEMORANDUM

TO: The Honorable Jack Louws, Whatcom County Executive, and
The Honorable Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director *th*

FROM: Joe Rutan, P.E., County Engineer/Assistant Director *JR*
Mike Donahue, P.E., Engineering Manager *MD 5/21/19*

RE: Request authorization for the County Executive to enter into a contract between
Whatcom County and Transpo Group USA, Inc., to develop the Whatcom County
ADA Transition Plan, in the amount of \$145,251.99

DATE: May 21, 2019

Enclosed for your review and signature are two (2) originals of a contract between Transpo Group USA, Inc. (Transpo), and Whatcom County.

▪ **Background and Purpose**

Public Works respectfully requests that the County Council authorize the County Executive to enter into an agreement with Transpo to develop the Whatcom County ADA Transition Plan. This project is listed as Project No. R31 in our 2019-2024 Six-Year Transportation Improvement Program (STIP).

This agreement allows for Transpo's development of an ADA Transition Plan as required in ADA Title II, Part 35, Subpart D—Program Accessibility § 35.150 (d)(3) for facilities within the public rights-of-way of Whatcom County. Consultant tasks will include project management and coordination, evaluation of existing barrier removal practices, stakeholder engagement and public outreach, self-assessment data collection, implementation schedule, and draft and final plan to be presented to Council for approval.

▪ **Funding Amount and Source**

This contract in the amount of \$145,251.99 will be funded by Engineering Services-Traffic 2019 base budget (cost center 10854, work order #20212)

Please contact Mike Donahue at extension 6250 if you have any questions regarding this agreement.

Enclosures

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:		Public Works																			
Division/Program: (i.e. Dept. Division and Program)		905040 - Traffic																			
Contract or Grant Administrator:		Mike Donahue, P.E.																			
Contractor's / Agency Name:		Transpo Group USA, Inc.																			
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____																					
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)																					
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____																					
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____																					
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): RFP 19-03 Contract Cost Center: 10854, WO# 20212																					
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 checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.																					
Contract Amount:(sum of original contract amount and any prior amendments): \$ 145,251.99 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: Consultant will develop an ADA Transition Plan as required in ADA Title II, Part 35, Subpart D—Program Accessibility § 35.150 (d)(3) for facilities within the public rights-of-way of Whatcom County.																					
Term of Contract:		Completion of Project																			
Expiration Date:		June 30, 2020																			
Contract Routing: <table style="width:100%; border: none;"> <tr> <td style="width: 50%;">1. Prepared by: R. McConnell</td> <td style="width: 50%;">Date: 5/14/19</td> </tr> <tr> <td>2. Attorney signoff: Christopher Quinn</td> <td>Date: 05/15/2019</td> </tr> <tr> <td>3. AS Finance reviewed: M Caldwell</td> <td>Date: 5/15/19</td> </tr> <tr> <td>4. IT reviewed (if IT related):</td> <td>Date:</td> </tr> <tr> <td>5. Contractor signed:</td> <td>Date:</td> </tr> <tr> <td>6. Submitted to Exec.:</td> <td>Date:</td> </tr> <tr> <td>7. Council approved (if necessary):</td> <td>Date:</td> </tr> <tr> <td>8. Executive signed:</td> <td>Date:</td> </tr> <tr> <td>9. Original to Council:</td> <td>Date:</td> </tr> </table>				1. Prepared by: R. McConnell	Date: 5/14/19	2. Attorney signoff: Christopher Quinn	Date: 05/15/2019	3. AS Finance reviewed: M Caldwell	Date: 5/15/19	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:
1. Prepared by: R. McConnell	Date: 5/14/19																				
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6. Submitted to Exec.:	Date:																				
7. Council approved (if necessary):	Date:																				
8. Executive signed:	Date:																				
9. Original to Council:	Date:																				

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Transpo Group USA, Inc.	
Address 12131 113th Ave NE, Suite 203, Kirkland, WA 98034	Federal Aid Number
UBI Number 603 258 009	Federal TIN or SSN Number 46-1523472
Execution Date	Completion Date June 30, 2020
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Project Title Whatcom County ADA Transition Plan	
Description of Work This ADA Transition Plan for Public Right-of-Way will address the requirements of ADA Title II, Part 35, Subpart D – Program Accessibility § 35.150 (d)(3) for facilities within the public right-of-way of Whatcom County. The consultant work program is organized into the following tasks: 1. Project Management and Coordination 2. Evaluation of Existing Barrier Removal Practices 3. Stakeholder Engagement 4. Self-Assessment Data Collection 5. Implementation Schedule 6. Draft and Final Plan	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No WBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No SBE Participation	Maximum Amount Payable: \$145,251.99

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the Whatcom County, hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absent of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Mike Donahue, PE
Agency: Whatcom County
Address: 5280 Northwest Drive, Suite C
City: Bellingham State: WA Zip: 98226
Email: mdonahue@co.whatcom.wa.us
Phone: 360-778-6250
Facsimile:

If to CONSULTANT:

Name: Ryan Peterson, PE, PTOE
Agency: Transpo Group USA, Inc.
Address: 12131 113th Ave NE, Suite 203
City: Kirkland State: WA Zip: 98034
Email: ryan.peterson@transpogroup.com
Phone: 425-821-3665
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- A. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. Maximum Amount Payable: The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tie , or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Mike Donahue, PE

Agency: Whatcom County

Address: 5280 Northwest Drive, Suite C

City: Bellingham State: WA Zip: 98226

Email: mdonahue@co.whatcom.wa.us

Phone: 360-778-6250

Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

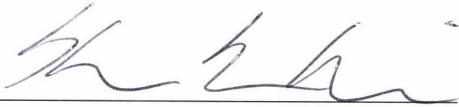
For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.



Signature

5/13/19

Date

Signature

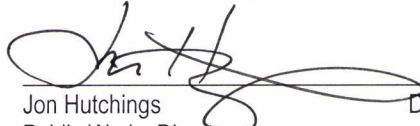
SEE ATTACHED WHATCOM COUNTY
SIGNATURE SHEET

Date


Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

WHATCOM COUNTY:

Recommended for Approval:

 5/22/19
Jon Hutchings Date
Public Works Director

Approved as to form:

 5/22/19
Christopher Quinn Date
Senior Civil Deputy Prosecuting Attorney

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20____, before me personally appeared Jack Louws, 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 _____.

CONSULTANT INFORMATION:

Transpo Group USA, Inc
Patrick Lynch, Principal

Address:
12131 – 113th Ave NE, Suite 203
Kirkland, WA 98034

Contact:
Ryan Peterson, PE, PTOE
Phone: (425) 821-3665
Email: ryan.peterson@transpogroup.com

Exhibit A
Scope of Work

Project No.

Exhibit A—Scope of Services, Fee & Schedule

Client Name:	Whatcom County		
Project Name:	ADA Transition Plan for Public Rights-of-Way		
Exhibit Dated:	May 10, 2019	TG:	1.19049.00

The Americans with Disabilities (ADA) act of 1990 provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications. There are five titles (or parts) to the ADA, of which Title II is most pertinent to travel in the public right-of-way. This title specifies equal access to all services, programs and activities that are provided or made available by public entities.

This ADA Transition Plan for Public Right-of-Way will address the requirements of ADA Title II, Part 35, Subpart D – Program Accessibility § 35.150 (d)(3) for facilities within the public right-of-way of Whatcom County.

The plan shall, at a minimum—

- (i) Identify physical obstacles in the public program areas of the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- (ii) Describe in detail the methods that will be used to make the facilities accessible;
- (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
- (iv) Indicate the official responsible for implementation of the plan.

The scope of work contained below meets all the requirements identified above.

The consultant work program is organized into the following tasks:

1. Project Management and Coordination
2. Evaluation of Existing Barrier Removal Practices
3. Stakeholder Engagement
4. Self-Assessment Data Collection
5. Implementation Schedule
6. Draft and Final Plan

Task 1 – Project Management and Coordination

1.1 Project Coordination

The consultant team project manager will coordinate with the County's project manager on a bi-weekly basis throughout the duration of the project. The coordination will address project scope/status, policy direction, budget, schedule and planned data collection efforts. Coordination will be via telephone calls, and email, as appropriate.

1.2 Progress Reports and Invoices

The consultant will prepare monthly progress reports and invoices.

1.3 Kick-off Meeting

Prior to initiating data collection efforts, the consultant will hold a kick-off meeting with Transpo and County staff to go over safety and communication protocols, data collection schedule, quality control processes, existing County standards and policies, and the overall project scope and schedule.

Agency Support

- The County's project manager will regularly keep in contact with consultant team and communicate internally to County staff on progress and schedule.
- The County will facilitate engagement from partners like FHWA and WSDOT, if needed.

Consultant Deliverables

- Notes, emails, or other summaries of communication.
- Monthly progress reports and invoices.

Task 2 – Evaluation of Existing Barrier Removal Practices

This task evaluates how barriers in the public right of way and County facilities are currently removed and identifies changes to standards, policies, and practices relative to accessibility laws and nationally recognized best practices. This would specifically include the County's Development Standards, and address all pertinent chapters, especially chapter 5, "Road Standards". Guidelines to be considered include, but are not limited to:

- The Access Board's ADA Accessibility Guidelines (ADAAG).
- The Access Board's most recent, Revised Draft Public Right-of-Way Accessibility Guidelines (PROWAG).
- National Cooperative Highway Research Program (NCHRP) Report 20-7 (232), ADA Transition Plans: A
- Guide to Best Management Practices.

The consultant will review the County's initial "ADA Transition Plan & Self Evaluation Plan", dated August 15, 1995; and the County's "ADA Transition Plan Update", dated November 1, 1999.

Agency Support

- Provide input on and documentation of existing standards, practices, and policies related to accessibility.

Consultant Deliverables

- Summary of existing barrier removal methods and recommended changes. Removal methods are anticipated to include recommended changes to the County's development standards and may include recommended changes to other County policies and practices as identified during Task 2.

Task 3 – Stakeholder Engagement Support

In order to support the development of the ADA transition plan and provide a robust and inclusive outreach process, the consultant will assist the County in the following areas:

3.1 Materials and Support for General Public Outreach

Transpo will support the County in developing a project landing page on the County website and materials/maps/postcards that can be posted to the website and used for outreach events. Transpo will coordinate with the County to schedule and staff up to two outreach events to present the project and provide an opportunity for public input. These events can occur on the same day or different days and can include general public outreach activities. Transpo will present to the County Council the Final ADA Transition Plan, including presentation to Council at the preceding hearing. Also support County staff at two County Council meetings (with option for third meeting if needed) to provide updates and present the draft and final plans.

3.2 Online Public Survey

Transpo will develop with support from the County's staff an online public survey that is ADA accessible that also provides opportunities for public comment. This will be done using third-party survey software accessed via an external link on the County's website; however, no live streaming of events or question responses will be provided. This on-line survey will be open to the public for one month with comment collected during that time. Graphics developed under task 3.1 above will also be provided in electronic format for inclusion in the online survey. The online survey and other County supported outreach can help us recruit participants for a targeted focus group.

3.3 Targeted Focus Group and Advisory Committee

Focus groups can provide a deeper understanding of the factors the disabled community finds important for updating pedestrian areas in the County, as well as a better understanding of the main barriers in pedestrian areas.

County will assist Transpo in holding two one-hour focus group meeting at an accessible location. Support from Transpo will include development of materials and on-site facilitation. Participants will be recruited through County contacts including ADA community groups, groups representing senior citizens, those expressing an interest in participating from the online public meeting, and comment forms.

3.4 Grievance Policy

Transpo will develop a draft grievance policy based on national best practices. This draft will be submitted to the County for review and upon receipt of comments, Transpo will finalize the grievance policy.

Agency Support

- *Schedule and provide venue for Public Outreach.*
- *Provide support staff as necessary (e.g. providing sign language interpreter, translator, etc. for outreach)*
- *Assist with reaching out to individuals with limited mobility, vision, and hearing, as well as groups that work with those individuals including schools and social service providers*
- *Support in the development of the online public meeting*
- *Staffing at events not included in this scope of work*
- *Designation of webpage on County's website for ADA transition plan.*
- *Review of Draft Grievance Policy*

Consultant Deliverables

- *Materials folios and flyers, for use in the Stakeholder Engagement activities*
- *Messaging and graphics for the public website*
- *Development of content for an online public survey including on-line and paper comment forms*
- *Assistance with identification of stakeholders for public engagement, including individuals/organizations representing those with limited mobility, vision, and hearing.*
- *Attendance and preparation of materials for a focus groups including scheduling of translations, sign language interpreters, facilitator guide, recruitment of participants.*
- *Draft and Final Grievance Policy.*
- *Summary of outreach including summary of all outreach efforts including the focus group as well as a summary of comments received.*

Task 4 – Self-Assessment Data Collection

Data collection is the foundation of this project and will provide a clear understanding of what accessibility barriers exist and what needs to be done to remove them.

4.1 Public Right-of Way Self-Assessment

Data will be collected by Transpo using mobile tablets (ie: iOS, Android, etc.) and stored on a real-time cloud-based GIS database and interactive web viewer, for immediate review. Data may be collected up to 50 feet beyond the County Limits for completeness. A draft data dictionary will be prepared and be used as a starting point for development of the final data dictionary. The consultant team will work with the County to review and finalize the data dictionary through coordination with County Public Works and Information Technology staff.

The facilities to be inventoried are assumed to include up to 70 miles of sidewalk, including individual barriers along the sidewalk, curb ramps, pedestrian push buttons, marked and unmarked crosswalks, accessible parking, 3 signals, and bus stops.

The information above is based on information provided by the County via the Request for Proposals. Once collected, data will be reviewed for quality by Transpo Group.

The consultant will also assist in identifying training needs for County staff. The consultant will assist in developing a training outline using existing materials from other local, state, and federal agencies. The

consultant will facilitate a one-day training event for County staff using the outline. The focus of the training will be on current ADA standards and data collection methods and how they relate to the recommended barrier removal strategies identified in Task 02. A general overview of the ADA will also be given including general requirements for ADA transition planning including buildings and parks facilities.

Agency Support

- Provide existing GIS data standards and any database requirements
- Coordination support and feedback on a best practice data collection design standard. This would include database functionality to reduce errors and optimize field collection efficiency.
- Review boundary of data collection and identify facilities within County not owned by County
- Provide:
 - Base Map and Area of Interest GIS Data
 - Most current Aerial Imagery of the County for data collection data accuracy and reference. (Preferred format in SID format)
 - Other GIS data, as needed
 - Copies of all current MEF forms and information
- Other support from County GIS Staff, as needed

Consultant Deliverables

- Inventory and Barrier database will be delivered in GIS map package or ZIP compressed format and transmitted through the consultant FTP site for the project. Database will be using an ESRI file geodatabase format with some attachments enabled, where applicable. Core metadata elements will be included such as creator, title, description, keywords, publisher, date, extents, coordination system, source, rights, and data fields with coded domain values described, where applicable. All deliverable spatial data shall be referenced to the following ArcGIS projection definition of NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet.
- Summary table of total number of existing ADA inventory assets collected by feature type.
- Interactive web map viewer of ADA Inventory Data Collection. During the duration of the project, a plan will be written on how to migrate the web map viewer and GIS database to the County's current GIS infrastructure.
- ADA training outline and facilitation of a one-day training event at a Whatcom County facility.

Task 5 – Implementation Schedule

Transpo will coordinate with the County to develop a transition schedule for barrier removal. Developing a transition schedule is a key requirement of all ADA transition plans requiring more than a year to implement. Effective plans prioritize removal of high impact barriers in a systematic manner through prioritization of barrier removal, a multiyear schedule, identification of funding streams, planning level cost estimates, and establishment of a monitoring system.

The consultant team will identify methods in which barriers within the public right-of-way will be removed. This will identify ways in which the County has already been working to remove barriers. It will also identify ways in which private development, pavement overlay projects, roadway widening, roadway reconstruction, maintenance, signal upgrades or other physical changes to the right-of-way will be required to address barriers. Suggestions for coordinating these improvements with other improvements and funding programs will also be outlined.

The development of the transition schedule will include the prioritization of barriers. Prioritization of barriers will include input from stakeholders, multi-criteria analysis of the severity of each individual barrier, and multi-criteria GIS spatial analysis of the location of each barrier. Data collected in the self-assessment task will be used to prioritize each barrier.

The implementation schedule will be informed by planning level cost estimates and dedicated funding resources, as well as leveraging related funding resources. ADA barriers are often removed by existing programs, and these activities will be highlighted.

Finally, Transpo will assist in the development of a comprehensive WebGIS based monitoring procedure. This procedure will build upon the GIS data collected in the self-assessment task and identify how that database will be efficiently maintained moving forward. It will help the County clearly communicate, track and report progress in the future.

Agency Support

- Identification of County (primarily based on input from disabled community) priorities around barrier removal.
- GIS data such as parks, schools, bus stops, functional class, public facilities, community destinations, etc.
- Provide current 6 Year TIP and Annual Construction Plan and information about other funding streams.

Consultant Deliverables

- Draft/Final criteria to guide prioritization of barrier removal, and will incorporate the priorities identified from the disabled community at the various public outreaches, online, forum, etc.
- Implementation schedule for barrier removal, including a list of the highest priority projects.
- Planning level cost estimates for barrier removal.
- Prioritization map data for public right-of-way will be delivered in GIS map package format and transmitted through the consultant FTP site for the project. Database will be using an ESRI file geodatabase format where at all possible or at minimum ESRI shapefile. Deliverables shall include a GIS map package with mxd files containing functioning sources pointing to all mapped layers and associated geodatabase.
- Interactive web map viewer of prioritization analysis of barriers in public right-of-way, during the duration of the project, with a plan about how to migrate the web map viewer and GIS database to the County's infrastructure. The web map viewer will be built as the project progresses and document data collection, and results of prioritization process including displaying of prioritization scores for each feature in terms of severity, proximity to high priority land uses, and combined scores. The interactive web map viewer shall be built in ArcGIS online and transferred to the County account prior to project closeout.
- Unit cost assumptions for planning level cost estimates.

Task 6 – Draft and Final Plan

This task includes development of a targeted, accessible and easy-to-understand document. Deliverables from other tasks including memos, maps, and tables will be adapted and consolidated into a single coherent document. The document will be clearly structured to meet the requirements of ADA Title II. Best practices will be integrated and highlighted throughout the plan and suggestions from partner agencies will be included.

In addition to the self-assessment and implementation schedule, there are various changes to County procedures, communication protocols and staffing that are required as part of an ADA transition plan. Although these changes will be completed internally by the County, they have been added to ensure all required elements of the transition plan are reflected within the scope of work. Per ADA Title II Part 35, Subpart D – Program Accessibility § 35.150 (d)(3) ADA Transition Plans must include:

- Identification of an “ADA Coordinator”
- Development of protocols to ensure information is accessible

The consultant team will provide guidance on best practices. This could include providing guidance on who should be the ADA Coordinator, how to provide barrier information in an accessible manner, and guidance on technical requirements/ sample protocols for information accessibility.

Agency Support

- Provide direction on draft plan including two rounds of comments/edits of draft plan.
- The County will identify an ADA coordinator
- Provide County specific GIS mapping template to be used for maps and figures, if desired.

Consultant Deliverables

- Draft transition plan including two rounds of edits. The draft and Final transition plan will be delivered in time for review and edit, along with presentation to the County Council in fall of 2019.
- Final transition plan in PDF, and Microsoft Word formats. Final transition plan will be stamped and signed by a licensed engineer in the State of Washington.
- Transition plan map data will be delivered in GIS map package format and transmitted through the consultant FTP site for the project. Database will be using an ESRI file geodatabase format where at all possible or at minimum ESRI shapefile. Deliverables shall include a GIS map package with mxd files containing functioning sources pointing to all mapped layers and associated geodatabase.

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

B. Roadway Design Files

C. Computer Aided Drafting Files

D. Specify the Agency's Right to Review Product with the Consultant

E. Specify the Electronic Deliverables to Be Provided to the Agency

See Scope of Work for a description of Consultant deliverables including format.

F. Specify What Agency Furnished Services and Information Is to Be Provided

See Scope of Work for a description of agency provided information.

II. Any Other Electronic Files to Be Provided

III. Methods to Electronically Exchange Data

A. Agency Software Suite

B. Electronic Messaging System

C. File Transfers Format

Exhibit D
Prime Consultant Cost Computations

Actuals Not To Exceed Table (ANTE)

June 2019 - June 2020

Whatcom County ADA Plan

Transpo Group USA, Inc.

12131 113th Ave NE, Suite 203

Kirkland, WA 98034

Job Classifications	Direct Labor Rate NTE*	Overhead NTE*	Fixed Fee NTE	All Inclusive Hourly Billing Rate NTE
		171.78%	24.00%	
Engineer/Planner/Analyst/Principal/Director - Level 7	\$110.00	\$188.96	\$26.40	\$325.36
Engineer/Planner/Analyst/Proj Adm - Level 6	\$80.00	\$137.42	\$19.20	\$236.62
Engineer/Planner/Analyst/Proj Adm - Level 5	\$70.00	\$120.25	\$16.80	\$207.05
Engineer/Planner/Analyst/Proj Adm - Level 4	\$60.00	\$103.07	\$14.40	\$177.47
Engineer/Planner/Analyst/Proj Adm - Level 3	\$50.00	\$85.89	\$12.00	\$147.89
Engineer/Planner/Analyst/Proj Adm - Level 2	\$45.00	\$77.30	\$10.80	\$133.10
Engineer/Planner/Analyst/Proj Adm - Level 1	\$35.00	\$60.12	\$8.40	\$103.52
Intern/Data Collector/Project Adm - Level 1	\$25.00	\$42.95	\$6.00	\$73.95
		\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00

Transpo Group USA, Inc.
Cost Estimate Worksheet



Number / Project Name
1.19049.00/Whatcom Co. ADA Transition Plan

Pay rates are effective from July 7, 2018 through July 5, 2019, within the ranges shown in the attachment.
Only key staff are shown and other staff may work on and charge to the project as needed by the project manager.

Overhead Rate	Fee %
171.78%	24.00%

	Project Manager	Quality Control	GIS Manager	Project Engineer	GIS Analyst	Graphics	Field Technician	Admin
initials	RP	PBL	BGS	MW	NEJ	CD	NA	AMC
job title	Engineer L6	Principal L7	Analyst L4	Engineer L2	Analyst L1	Proj Admin L2	Data Collector L1	Proj Admin L4
labor rate	\$58.65	\$80.77	\$43.27	\$38.22	\$24.04	\$32.93	\$18.00	\$44.23
overhead (% of labor)	\$100.75	\$138.75	\$74.33	\$65.65	\$41.30	\$56.57	\$30.92	\$75.98
fee (% of labor)	\$14.08	\$19.38	\$10.38	\$9.17	\$5.77	\$7.90	\$4.32	\$10.62
fully burdened rate	\$173.47	\$238.90	\$127.98	\$113.05	\$71.11	\$97.40	\$53.24	\$130.82

Labor:

	Work Task								Hours	Cost
1	Task 1 - Project Management / Coordination									
2	1.1 Project Coordination	12							12	\$2,081.70
3	1.2 Progress Reports and Invoices	6						6	12	\$1,825.79
4	1.3 Kick-off Meeting	6	6	6					18	\$3,242.16
5	Task 2 - Evaluation of Existing Barrier Removal Practices								0	\$0.00
	Evaluation of Exist Barrier Removal Practices	16	4		40				60	\$8,253.09
7	Task 3 - Stakeholder Engagement Support								0	\$0.00
	3.1 Material s and Support for Public Open House	24	2		4		12		42	\$6,262.20
	3.2 Online Public Survey	2							2	\$346.95
	3.3 Targeted Focus Group and Advisory Committee	18							18	\$3,122.55
	3.4 Grievance Policy	2			4				6	\$799.14
9	Task 4 - Public ROW Self-Assessment								0	\$0.00
	4.1 Public ROW Self-Assessment	20	8	48	48	120		284	528	\$40,603.14
6	Training	8			20				28	\$3,648.74
11	Task 5 - Implementation Schedule								0	\$0.00
12	Barrier Removal Strategy Development	8			60				68	\$8,170.63
13	Barrier Prioritization	4	2	140					146	\$19,089.46
14	Planning Level Cost Estimates	8			40				48	\$5,909.68
15	Monitoring Procedure			32					32	\$4,095.49
18	Task 6 - Draft and Final Plan								0	\$0.00
19	Draft Transition Plan	8	4	32	72	40			156	\$17,422.51
20	Final Transition Plan	4	4	8	8	8			32	\$4,146.60
Total Hours		146	30	266	296	168	12	284	6	1208
Labor Costs		\$25,327	\$7,167	\$34,044	\$33,462	\$11,946	\$1,169	\$15,120	\$785	\$129,019.83

Reimbursable Expenses:

Item	Reimbursable Cost
1 Federal Express / Courier	\$0
2 Phone	\$0
3 Fax	\$0
4 Postage	\$0
5 Graphic supplies	\$0
6 Photography	\$0
7 Travel expenses (mileage)	\$600
8 Reproduction	\$0
9 Traffic counts	\$0
10 Traffic accident data	\$0
11 Spec. MPS model run	\$0
12 Transportation Concurrency Application	\$0
Total Reimbursable Expenses	\$600

Subconsultants:

Firm	Subs Cost
1 Acutanza STS	\$15,632.16
2	\$0
3	\$0
4	\$0
5	\$0
Total Subconsultants	\$15,632.16

\$145,251.99

Exhibit E

Sub-consultant Cost Computations

~~There is not any sub consultant participation at this time. The CONSULTANT shall not sub contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.~~

ACUTANZA STS

Whatcome County
ADA Transition

Cost Estimate 11/20/2018

ANTE Table June 2019 - June 2020	Acutanza STS		TOTALS	
	Raw labor	\$ 73.00		
	Overhead	\$ 80.30		
	Fee	\$ 17.52		
	Hours	\$170.82	Hours	Budget
Task 1 - Project Management and Coordination				
1.1--Project Coordination	10	\$ 1,708.20	10	\$ 1,708.20
1.2--Progress Reports and Invoices	12	\$ 2,049.84	12	\$ 2,049.84
1.3--Kick-off Mee3ting	8	\$ 1,366.56	8	\$ 1,366.56
Task 3 - Stakeholder Engagement				
3.1--Materials and Support	8	\$ 1,366.56	8	\$ 1,366.56
3.2--Online Public Survey	4	\$ 683.28	4	\$ 683.28
3.3--Targeted Focus and Advisory Group	38	\$ 6,491.16	38	\$ 6,491.16
Task 4 - Barrier Removal		\$ -	0	\$ -
Task 5 - Implementation Schedule		\$ -	0	\$ -
Task 6 - Draft and Final Plan	8	\$ 1,366.56	8	\$ 1,366.56
Reimbursables				\$ 600.00
			88	\$15,632.16

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit G

Certification Document

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of _____
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Transpo Group USA, Inc.

whose address is

12131 113th Ave NE, Suite 203, Kirkland, WA 98034

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the _____

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Transpo Group USA, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

5/13/19

Date

Exhibit G-1(b) Certification of _____

I hereby certify that I am the:

☐

☐ Other

of the _____, and _____

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the _____
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

Transpo Group USA, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Transpo Group USA, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)




Date

Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of Whatcom County ADA Transition Plan * are accurate, complete, and current as of May 9, 2019 **.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Transpo Group USA, Inc.



Signature

Principal

Title

Date of Execution 5/13/19 ***.

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 Forward Documents to Local Programs

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/26/2019

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 Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 License #0020739		CONTACT NAME: PHONE (A/C, No, Ext): 510-465-3090 FAX (A/C, No): 510-452-2193 E-MAIL ADDRESS: Certificates@Dealeyrenton.com		
INSURED TRANSGRO Transpo Group USA, Inc. 12131 113th Ave NE, Suite 203 Kirkland, WA 98034 425 821-3665		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : Charter Oak Fire Insurance Company		25615
		INSURER B : Travelers Indemnity Company		25658
		INSURER C : Sentinel Insurance Co. LTD		11000
		INSURER D : Beazley Insurance Company, Inc.		37540
		INSURER E :		
INSURER F :				

COVERAGES

CERTIFICATE NUMBER: 629980022

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 SUBR INSD 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 <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	6805H922543	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BA4F625154	1/1/2019	1/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP4F625338	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A	57WECZS7222 6805H922543	1/1/2019 1/1/2019	1/1/2020 1/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER WA Stop Gap E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	<input type="checkbox"/> Professional Liability <input type="checkbox"/> Claims Made Form			V1D535190301	1/1/2019	1/1/2020	\$2,000,000 \$4,000,000 Per Claim Annual Aggregate

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

Umbrella Liability policy is a follow-form to underlying General Liability/Auto Liability/Employers Liability.

Re: Transpo Project #19049.00 / Whatcom County ADA Transition Plan.

Whatcom County, their officers, employees and agents are named as additional insured as respects general and hired/non-owned auto liability for claims arising from the operations of the named insured as required per written contract or agreement.

CERTIFICATE HOLDER

CANCELLATION 30 Day Notice of Cancellation

Whatcom County
5280 Northwest Dr.
Bellingham WA 98226

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

Stephanie J. Loh

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Names of Additional Insured Person(s) or Organization(s):

Any person or organization that you agree in a written contract, on this Coverage Part, provided that such written contract was signed and executed by you before, and is in effect when the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

Location of Covered Operations:

Any project to which an applicable written contract with the described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

- A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

- B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring, or "personal injury" or "advertising injury" arising out of an offense committed, after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the "products-completed operations hazard", provided that such contract was signed and executed by you before, and is in effect when, the bodily injury or property damage occurs.

Location And Description Of Completed Operations

Any project to which an applicable contract described in the Name of Additional Insured Person(s) or Organization(s) section of this Schedule applies.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the

location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**OTHER INSURANCE – ADDITIONAL INSURED –
PRIMARY AND NON-CONTRIBUTORY WITH RESPECT TO
CERTAIN OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to Paragraph **4. a., Primary Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

However, if you specifically agree in a written contract or agreement that the insurance afforded to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought is caused by an "occurrence" that takes place; and
- (2) The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense that is committed;

subsequent to the signing and execution of that contract or agreement by you.

POLICY NUMBER: 6805H922543

COMMERCIAL GENERAL LIABILITY

ISSUED DATE: 4/26/2019

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization that you agree in a written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV-COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or

damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazards." This waiver applies only to the person or organization shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE** in the **BUSINESS AUTO COVERAGE FORM** and Paragraph e. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE** in the **MOTOR CARRIER COVERAGE FORM**, whichever Coverage Form is part of your policy:

This includes any person or organization who you are required under a written contract or agreement

between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

The following replaces Paragraph **A.5., Transfer of Rights Of Recovery Against Others To Us**, of the **CONDITIONS** Section:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent

required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WORKERS' COMPENSATION BROAD FORM ENDORSEMENT EXTENDED OPTIONS

Policy Number: 57 WEC ZS7222

Effective Date: 01/01/19

Named Insured and Address: TRANSPO GROUP USA, INC.

12131 113TH AVE NE, STE 203
KIRKLAND WA 98034

Endorsement Number:

Effective hour is the same as stated on the Information Page of the policy.

Section I of this endorsement expands coverage provided under WC 00 00 00.

Section II of this endorsement provides additional coverage usually only provided by endorsement.

Section III of this endorsement is a Schedule of Covered States.

You may use the index to locate these coverage features quickly:

INDEX

<u>SUBJECT</u>	<u>PAGE</u>	<u>SUBJECT</u>	<u>PAGE</u>
SECTION I	2	B. Part One Does Not Apply	3
PARTS ONE and TWO	2	C. Application of Coverage	3
01 We Will Also Pay	2	D. Additional Exclusions	3
PART - THREE	2	E. West Virginia	3
02 How This Insurance Works	2	EXTENDED OPTIONS	4
PART - SIX	2	01 Employers' Liability Insurance	4
03 Transfer of Your Rights and Duties	2	02 Unintentional Failure to Disclose Hazards	4
04 Liberalization	2	03 Waiver of Our Right to Recover from Others	4
SECTION II	2	04 Foreign Voluntary Compensation	4
VOLUNTARY COMPENSATION	2	A. How This Reimbursement Applies	4
INSURANCE	2	B. We Will Reimburse	4
05 Voluntary Compensation Insurance	2	C. Exclusions	4
A. How This Insurance Applies	2	D. Before We Pay	5
B. We Will Pay	3	E. Recovery From Others	5
C. Exclusions	3	F. Reimbursement For Actual Loss Sustained	5
D. Before We Pay	3	G. Repatriation	5
E. Recovery From Others	3	H. Endemic Disease	5
F. Employers' Liability Insurance	3	05 Longshore and Harbor Workers' Compensation Act Coverage Endorsement	5
EMPLOYERS' LIABILITY STOP GAP	3	SECTION III	6
ENDORSEMENT	3	01 Schedule of Covered States	6
06 Employers' Liability Stop Gap Coverage	3		
A. Stop Gap Coverage Limited to Montana, North Dakota, Ohio, Washington, West Virginia and Wyoming	3		

SECTION I

PARTS ONE and TWO

1. WE WILL ALSO PAY

D. We Will Also Pay of Part One (WORKERS' COMPENSATION INSURANCE); and

E. We Will Also Pay of Part Two (EMPLOYERS' LIABILITY INSURANCE) is replaced by the following:

We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. reasonable expenses incurred at our request, **INCLUDING** loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this law; and
5. expenses we incur.

PART THREE

2. How This Insurance Applies

Paragraph 4. of A. How This Insurance Applies of Part 3 (Other States Insurance) is replaced by the following:

4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within **sixty** days.

PART SIX

3. Transfer Of Your Rights and Duties

C. Transfer Of Your Rights and Duties of Part 6 (Conditions) is replaced by the following:

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within **sixty** days after your death, we will cover your legal representative as insured.

4. Liberalization

If we adopt a change in this form that would broaden the coverage of this form without extra charge, the broader coverage will apply to this policy. It will apply when the change becomes effective in your state.

SECTION II

VOLUNTARY COMPENSATION AND EMPLOYERS' LIABILITY COVERAGE

5. Voluntary Compensation Insurance

A. How This Insurance Applies

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by any officer or employee not subject to the workers' compensation law of any state shown in Item 3.A. of the Information Page.
2. The bodily injury must arise out of and in the course of employment or incidental to work in a state shown in Item 3.A. of the Information Page.

3. The bodily injury must occur in the United States of America, its territories or possessions, or Canada, and may occur elsewhere if the employee is a United States or Canadian citizen, or otherwise legal resident, and legally employed, in the United States or Canada and temporarily away from those places.
4. Bodily injury by accident must occur during the policy period.
5. Bodily injury by disease must be caused or aggravated by the conditions of the

officer's or employee's employment. The officer's or employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

We will pay an amount equal to the benefits that would be required of you as if you and your employees were subject to the workers' compensation law of any state shown in Item 3.A. of the Information Page. We will pay those amounts to the persons who would be entitled to them under the law.

C. Exclusion

This insurance does not cover:

1. any obligation imposed by workers' compensation or occupational disease law or any similar law.
2. bodily injury intentionally caused or aggravated by you.
3. officers or employees who have elected not to be subject to the state workers' compensation law.
4. partners or sole proprietors not covered under the Standard Sole Proprietors, Partners, Officers and Others Coverage Endorsement.

D. Before We Pay

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for the injury or death.
2. Transfer to us their right to recover from others who may be responsible for the injury or death.
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits of this insurance fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it.

If the persons entitled to the benefits of this insurance make a recovery from others, they must reimburse us for the benefits we paid them.

F. Employers' Liability Insurance

Part Two (Employers' Liability Insurance) applies to bodily injury covered by this endorsement as though the State of Employment was shown in Item 3.A. of the Information Page.

This provision 5. does not apply in New Jersey or Wisconsin.

EMPLOYERS' LIABILITY STOP GAP COVERAGE

6. Employers' Liability Stop Gap Coverage

- A. This coverage only applies in Montana, North Dakota, Ohio, Washington, West Virginia and Wyoming.
- B. Part One (Workers' Compensation Insurance) does not apply to work in states shown in Paragraph A above.
- C. Part Two (Employers' Liability Insurance) applies in the states, shown in Paragraph A., as though they were shown in Item 3.A. of the Information Page.
- D. Part Two, Section C. **Exclusions** is changed by adding these exclusions.

This insurance does not cover;

5. bodily injury intentionally caused or aggravated by you or in Ohio bodily injury resulting from an act which is determined by an Ohio court of law to have been committed by you with the belief that an injury is substantially certain to occur. However, the cost of defending such claims or suits in Ohio is covered.
 13. bodily injury sustained by any member of the flying crew of any aircraft.
 14. any claim for bodily injury with respect to which you are deprived of any defense or defenses or are otherwise subject to penalty because of default in premium under the provisions of the workers' compensation law or laws of a state shown in Paragraph A.
- E. This insurance applies to damages for which you are liable under West Virginia Code Annot. S 23-4-2.

EXTENDED OPTIONS

1. Employers' Liability Insurance

Item 3.B. of the **Information Page** is replaced by the following:

B. Employers' Liability Insurance:

1. **Part Two** of the policy applies to work in each state listed in Item 3.A.

The Limits of Liability under Part Two are the higher of:

Bodily Injury by Accident	\$500,000	Each Accident
--------------------------------------	------------------	----------------------

Bodily Injury by Disease	\$500,000	Policy Limit
-------------------------------------	------------------	---------------------

Bodily Injury by Disease	\$500,000	Each Employee
-------------------------------------	------------------	----------------------

OR

2. The amount shown in the **Information Page**.

This provision 1 of **EXTENDED OPTIONS** does not apply in New York because the Limits Of Our Liability are unlimited.

In this provision the limits are changed from **\$500,000** to **\$1,000,000** in California.

2. Unintentional Failure to Disclose Hazards

If you unintentionally should fail to disclose all existing hazards at the inception date of your policy, we shall not deny coverage under this policy because of such failure.

3. Waiver of Our Right To Recover From Others

- A. We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization for whom you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the agreement.

- B. This provision 3. does not apply in the states of Pennsylvania and Utah.

4. Foreign Voluntary Compensation and Employers' Liability Reimbursement

A. How This Reimbursement Applies

This reimbursement provision applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by an officer or employee.
2. The bodily injury must occur in the course of employment necessary or incidental to work in a country not listed in Exclusion C.1. of this provision.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The officer or employee's last exposure to those conditions of your employment must occur during the policy period.

B. We Will Reimburse

We will reimburse you for all amounts paid by you whether such amounts are:

1. voluntary payments for the benefits that would be required of you if you and your officers or employees were subject to any workers' compensation law of the state of hire of the individual employee.
2. sums to which Part Two (Employers' Liability Insurance) would apply if the Country of Employment were shown in Item 3.A. of the **Information Page**.

C. Exclusions

This insurance does not cover:

1. any occurrences in the United States, Canada, and any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America in effect as of the inception date of this policy.
2. any obligation imposed by a workers' compensation or occupational disease law, or similar law.
3. bodily injury intentionally caused or aggravated by you.

4. liability for any consequence, whether direct or indirect, of war, invasion, act of Foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power. No endorsement now or subsequently attached to this policy shall be construed as overriding or waiving this limitation unless specific reference is made thereto.

D. Before We Pay

Before we reimburse you for the benefits to the persons entitled to them, you must have them:

1. release you and us, in writing, of all responsibility for the injury or death,
2. transfer to us their right to recover from others who may be responsible for their injury or death,
3. cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits paid fail to do these things, our duty to reimburse ends at once. If they claim damages from us for the injury or death, our duty to reimburse ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we reimbursed. We will pay the balance to the persons entitled to it. If persons entitled to the benefits make a recovery from others, they must repay us for the amounts that we have reimbursed you.

F. Reimbursement for Actual Loss Sustained

This endorsement provides only for reimbursement for the loss you actually sustain. In order for you to recover loss or expenses under this reimbursement you must:

1. actually sustain and pay the loss or expense in money after trial, or
2. secure our consent for the payment of the loss or expense.

G. Repatriation

Our reimbursement includes the additional expenses of repatriation to the United States

of America necessarily incurred as a direct result of bodily injury.

Our reimbursement shall be limited as follows:

1. to the amount by which such expenses exceed the normal cost of returning the officer or employee if in good health, or
2. in the event of death, to the amount by which such expenses exceed the normal cost of returning the officer or employee if alive and in good health.

In no event shall our reimbursement exceed the bodily injury by accident limit shown in Item 3.B. of the Information Page as respects any one such officer or employee whether dead or alive.

H. Endemic Disease

The word "disease" includes any endemic diseases.

The coverage applies as if endemic diseases were included in the provisions of the workers' compensation law.

5. Longshore and Harbor Workers' Compensation Act Coverage

General Section C. Workers' Compensation Law is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation Law means the workers or workers' compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workers' compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers' Liability Insurance), C. Exclusions, exclusion 8, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This coverage does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

SECTION III

1. SCHEDULE OF COVERED STATES


A. This endorsement only applies in the states listed in this Schedule of Covered States.

B. If a state, shown in Item 3.A. of the Information Page, approves this endorsement after the effective date of this policy, this endorsement will apply to this policy. The coverage will apply in the new state on the effective date of the state approval

C. Schedule of Covered States:

CA

Countersigned by



Authorized Representative



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-316

File ID:	AB2019-316	Version:	1	Status:	Agenda Ready
File Created:	05/20/2019	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance		
First Assigned to: Council					
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	07/09/2019

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

TITLE FOR AGENDA ITEM:

Ordinance amending WCC Chapters 20.51 and 20.71 pertaining to tree removal permit procedures, and Chapter 23.10 updating the referenced Critical Areas Ordinance in the Shoreline Management Program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed ordinance amending WCC Chapters 20.51 and 20.71 pertaining to tree removal permit procedures, and Chapter 23.10 updating the referenced Critical Areas Ordinance in the Shoreline Management Program

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo, Staff Report, Ordinance, Exhibit A, Amendments

Final Action:
Enactment Date:
Enactment #:

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: County Council
Jack Louws, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director

DATE: May 20, 2019

SUBJECT: Tree Canopy Permit Procedure and SMP CAO Reference Update Amendments (PLN2019-00012)

Attached for your review and action are some proposed amendments to the Whatcom County Code.

The first set deals with clarifying what type of permit is needed to remove trees within the Lake Whatcom Watershed and the Water Resource Protection overlay districts¹. In 2012 Council adopted tree canopy retention regulations as part of its strategy to manage stormwater in these sensitive areas. The regulations require that a certain amount of canopy be retained on each lot, though allows for removal if mitigated (i.e., by planting new trees). Canopy retention is monitored through the requirement to apply for a tree removal permit. Through the proposed amendments, staff is attempting to clarify what permits are needed to avoid any misinterpretation or confusion. The proposed amendments do not change the intent or operation of any existing tree canopy retention regulations.

The second amendment is a follow up from the 2018 Code Scrub, in which Council adopted one definition of "hazard tree" to replace four different ones found in various sections of the code. One of those amended definitions was in the Critical Areas Ordinance (CAO). As you know, the CAO is adopted by reference into our Shoreline Master Program (SMP). Thus, amending the CAO requires an amendment to the SMP for it to take effect in the shoreline jurisdiction. This is what the second proposed amendment does: It amends the SMP to adopt the recently amended CAO and directs PDS to submit it to the Department of Ecology for their review and approval.

Please review the attached staff report, ordinance, and amendments for more detailed information.

¹ Such regulations only apply in the Lakes Padden, Samish, and Whatcom watersheds, not countywide.

Whatcom County Planning & Development Services Staff Report

Tree Canopy Permit Procedure and SMP CAO Reference Update Amendments

I. File Information

File # PLN2019-00012

File Name: Tree Canopy Permit Procedure and Shoreline Master Program Critical Areas Ordinance Reference Update Amendments

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: Proposed amendments to Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree removal permit procedures and 23 (Chapter 23.110) updating the referenced Critical Areas Ordinance (CAO)

Location: Countywide.

II. Recommendation

The Planning Commission recommends that the County Council adopt the proposed amendments, as does Planning and Development Services. The amendments are necessary to add clarity to existing regulations pertaining to tree canopy retention within Lake Whatcom, Lake Samish, and Lake Padden watersheds and implementing the hazard tree definition approved through ORD2019-013 within the shoreline jurisdiction.

III. Background

Tree Retention

On October 12, 2016, Council adopted ordinance 2016-045, which adopted the Department of Ecology stormwater manual (with modified applicability thresholds) to better manage stormwater, promote the use of Low Impact Development, and comply with our NPDES Phase II permit. The ordinance also amended the tree protection regulations for our sensitive watersheds (Lakes Whatcom, Padden, and Samish) in an effort to better manage stormwater runoff (retaining trees helps retain and infiltrate stormwater).

Staff has recently identified that those regulations for tree canopy management are not as clear as they could be on how an applicant applies for tree removal within the regulated watersheds. Specifically, subsection (1) of both WCC 20.51.430 and 20.71.354 read:

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining a tree removal permit as provided in

this section, unless the activity is exempted below; *provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer*: [emphasis added]

(a) Removal of any hazard trees considered an emergency within the definition of “hazard tree” in Chapter 20.97 WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

The clause, “provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer,” was intended to mean that trees located in these areas must apply for permits as specified in WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance).

However, we recognize that it could be read to mean that trees located in those areas are exempt from regulation. Staff would therefore like to correct and clarify this and proposes the amendments shown in Exhibit A, Items 1 & 2.

A Tale of Two CAOs

As you know, any amendments of the SMP regulations must be sent to and approved by the Department of Ecology (Ecology) before they can take effect. After the 2017 CAO update, staff forwarded Council’s adoption of it to Ecology for review and approval. During that time, from December 5, 2017 to May 2, 2019, Whatcom County has had two CAOs: the 2017 version for use outside of the shoreline jurisdiction and the 2005 version for use inside the shoreline jurisdiction.

On April 19, 2019, Whatcom County received notification from Ecology approving the date change for the referenced CAO from the 2005 CAO to the 2017 CAO, which will become effective on May 3, 2019. As of that date we will revert to having only one CAO to be applicable countywide. Recognize, however, that every time we amend the CAO we may again have two versions until the amendments are approved by Ecology and the reference date in the SMP is again updated.

This is the case with the hazard tree definition. In the recent 2018 Code Scrub (ORD 2019-013, adopted 2/12/2019), Council deleted the four different definitions of “hazard tree” from various chapters of the code and replaced it with one. In part, the duplicative definition that was found in both the CAO and the SMP was removed from the SMP, and the one in the CAO replaced with the new one. Ecology has confirmed that, given that the same definition is in the CAO, the deletion from the SMP of the duplicative definition is an administrative change and does not require Ecology approval. However, to have the new one apply (via the CAO) within the shoreline jurisdiction, Ecology must again approve an SMP amendment to reference the CAO amended on 2/12/2019. Until that time we will have one CAO, but within it two definitions of hazard tree: the newer one for use outside the shoreline jurisdiction and the older one for use within the shoreline jurisdiction. Thus, staff proposes the amendment shown in Exhibit A, Item 3, which would adopt the 2/12/2019 CAO into the SMP.

IV. Code Amendments

The proposed code amendments are shown in Exhibit A. Please refer to that attachment.

V. Comprehensive Plan Evaluation

The proposed amendments are consistent with the Comprehensive Plan’s following goal and policies regarding stormwater management:

Goal 10H: Protect water resources and natural drainage systems by controlling the quality and quantity of stormwater runoff.

- Policy 10H-1: Manage stormwater runoff to minimize surface water quality and quantity impacts and downstream impacts on channel morphology, property owners, and aquatic species and habitats.
- Policy 10H-2: Maintain or enhance, when appropriate, natural drainage systems and natural water storage sites in order to better protect water quality, moderate water quantity, minimize environmental degradation, and reduce public costs.
- Policy 10H-3: Limit the alteration of natural drainage systems and natural water storage sites without mitigating measures. Such measures should not degrade water quality or fish and wildlife habitat and should not increase hazards to the community.
- Policy 10H-5: Evaluate the role of watersheds in the maintenance of water quality and quantity and determine what cumulative impacts development activity may have on watershed hydrology.
- Policy 10H-6: Develop specific stormwater management programs for each drainage basin within the county's jurisdiction that may be impacted by urban levels of development. Recognize the Lake Whatcom Watershed, Lake Samish, and Drayton Harbor as high priorities in this effort. Coordinate efforts with the Lake Whatcom Policy Group, the various shellfish protection districts, and other watershed management entities.
- Policy 10H-8: Strongly incentivize the use of low impact development strategies. Minimize the amount of impervious surface whenever practicable by using natural engineering design methods such as the use of open, grassed, street swales and rain gardens instead of curbs and gutters. Where feasible, encourage alternate surfacing options and other techniques associated with low impact development (see Glossary).
- Policy 10H-9: Develop and administer stormwater management standards as required by the NPDES Phase II Permit.
- Policy 10H-11: Place a high priority on integrating impervious surface reduction incentives into policies, regulations, and standards.
- Policy 10H-12: Develop and implement comprehensive stormwater management programs and strategies designed to address runoff from all private and public developments and facilities within regulated and sensitive watersheds.
1. Implement the Western Washington Phase II Municipal Stormwater Permit as part of the National Pollutant Discharge Elimination System (NPDES) Program. Incorporate watershed considerations into the development of a comprehensive stormwater management strategy for designated areas.
 2. Review Stormwater Special Districts Standards, Watershed Protection Districts, and other related codes that address runoff treatment from potentially polluting surfaces for their applicability to other sensitive watersheds with the Technical Advisory Committee and other appropriate agencies. Coordinate efforts for ongoing monitoring and evaluation within the sensitive watersheds and NPDES areas.
 3. Amend subdivision, zoning, and other land use regulations and design standards to encourage that land use activities minimize the amount of impervious surface.
 5. Focus on the Lake Whatcom watershed as a high priority in developing a stormwater management program. Develop a stormwater management plan that

achieves a uniform level of protection throughout the Lake Whatcom watershed. Ensure coordination and communication with the public and affected jurisdictions, such as the Lake Whatcom Water and Sewer District, the Sudden Valley Community Association, and the City of Bellingham.

6. Ensure existing stormwater standards are adequately enforced within Stormwater Special Districts, Watershed Protection Districts, and the NPDES areas.

VI. Proposed Findings of Fact and Reasons for Action

Staff recommends the following findings of fact and reasons for action be adopted:

1. Whatcom County Planning and Development Services has submitted an application to amend Whatcom County Code Titles 20 (Chapters 20.51 and 20.71), 16 (Chapter 16.16), and 23 (Chapter 23.110) pertaining to hazard trees.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 2, 2019, 2018.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 29, 2019.
4. The Planning Commission held a public hearing on the proposed amendments on May 9, 2019, notice of which was published in the Bellingham Herald.
5. The Planning Commission recommended approval of the amendments.
6. The County Council held a public hearing on the proposed amendments on June 18, 2019, notice of which was published in the Bellingham Herald.
7. The proposed amendments are consistent with the Comprehensive Plan's goal 10H and its policies regarding stormwater management.
8. The proposed amendments are necessary to implement the Council's intent to protect significant trees and tree canopy within our Watershed Resource Protection Overlay districts (Lakes Whatcom, Padden, and Samish) as part of the County's stormwater management strategy and comply with the County's NPDES Phase II permit.

VII. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VIII. Attachments

1. Draft Ordinance
2. Exhibit A – Proposed Code Amendments

PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**PROPOSED AMENDMENTS TO WHATCOM COUNTY CODE TITLES 20 (CHAPTERS 20.51 AND 20.71)
PERTAINING TO TREE REMOVAL PERMIT PROCEDURES AND 23 (CHAPTER 23.10) UPDATING THE
REFERENCED CRITICAL AREAS ORDINANCE**

WHEREAS, Whatcom County Planning and Development Services has proposed amendments to Whatcom County Code Titles 20 and 23; and,

WHEREAS, Whatcom County Council adopted ORD2019-013 on February 12, 2019 which amended various sections of the Whatcom County Code to improve implementation of the County Code. Included in these amendments were clarifications to tree canopy retention requirements in Lake Whatcom, Lake Samish, and Lake Padden watersheds and creating a single definition of hazard tree in Title 20, Chapter 16.16 (Critical Area Ordinance) and removing a duplicate definition in Title 23; and

WHEREAS, the Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, the County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has submitted an application to amend Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree removal permit procedures and 23 (Chapter 23.110) updating the referenced Critical Areas Ordinance.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 2, 2019, 2018.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 29, 2019.
4. The Planning Commission held a public hearing on the proposed amendments on May 9, 2019, notice of which was published in the Bellingham Herald.
5. The Planning Commission recommended approval of the amendments.
6. The County Council held a public hearing on the proposed amendments on June 18, 2019, notice of which was published in the Bellingham Herald.
7. The proposed amendments are consistent with the Comprehensive Plan's goal 10H and its policies regarding stormwater management.
8. The proposed amendments are necessary to implement the Council's intent to protect significant trees and tree canopy within our Watershed Resource Protection Overlay districts (Lakes Whatcom, Padden, and Samish) as part of the County's stormwater management strategy and comply with the County's NPDES Phase II permit.

CONCLUSIONS

1. The amendments to the development regulations are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. The Director of Planning and Development Services will forward the amendment to Chapters 23.10 to the Department of Ecology for review and approval pursuant WAC 173-26-100.

ADOPTED this _____ day of _____, 2019.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED as to form:

() Approved () Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: _____

Exhibit A: Tree Canopy Retention Permit Procedures and Shoreline Management Plan CAO Reference Date Change Amendments

Proposed amendments to Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree retention and 23 (Chapter 23.10) adopting the February 12, 2019 into the Shoreline Master Program by reference

1. Amend Title 20 (Zoning), Chapter 20.51 (Lake Whatcom Watershed Overlay District), as follows:

20.51.430 Tree removal not associated with development activity.

(1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Whatcom watershed, or any tree(s) in the public right-of-way, without first obtaining the appropriate tree removal permit as provided in this section, unless the activity is exempted below; ~~provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:~~

(a) Removal of any hazard trees considered an emergency within the definition of “hazard tree” in Chapter [20.97](#) WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

~~(2)~~ Removal of trees located within the shoreline jurisdiction or within a critical area or a critical area buffer may be subject to additional regulations pursuant to WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance). Where additional regulations conflict the more stringent regulation shall apply.

~~(2)(3)~~ Tree Removal Permit Application. The department of planning and development services shall establish and maintain a tree removal permit application, which shall at a minimum require the following to shall be submitted by the applicant:

(a) A complete permit application.

~~(a)(b)~~ A sketch for this purpose may be prepared by the homeowner or other lay person and shall depict:

(i) The approximate location of significant trees, indicating those to be removed;

(ii) The species and canopy area (as determined pursuant to WCC [20.51.440\(4\)](#));

(iii) The location of structures, driveways, access ways, and known easements.

~~(b)(c)~~ Canopy calculations (existing and proposed).

(d) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees in accordance to standards set forth in WCC [20.51.440\(4\)](#) for calculating 20-year canopy coverage.

~~(c)(e)~~ Other information as required by the applicable permit application.

- (4) Tree Removal Permit Application Procedure and Appeals. Applicants requesting to remove any significant trees must submit a completed permit application on a form provided by the county.
- (a) Applicable permit
- (i) The permit application to remove trees within the shoreline jurisdiction is a shoreline permit (WCC Title 23).
 - (ii) The permit application to remove trees within a critical area or a critical area buffer is a notification of activity (WCC 16.16.235).
 - (iii) The permit application to remove trees in areas outside of (a) or (b) is a tree removal permit.
- ~~(d)~~(b) The county shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application, or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.
- (c) The removal shall be completed within one year from the date of permit approval.
- ~~(e)~~ The decision of the director is appealable pursuant to WCC [22.05.160](#) (Appeals).
- ~~(f)~~(d) Time Limit. The removal shall be completed within one year from the date of permit approval.
- ~~(3)~~(5) Tree Removal Allowances. With a tree removal an appropriate permit, any property owner may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing canopy area of on-site significant trees on their property; provided, that:
- (a) There is no active application for development activity for the site; and
 - ~~(a)~~(b) No other Whatcom County regulation is more restrictive; and
 - ~~(b)~~(c) The tree(s) were not required to be retained or planted as a condition of previous development activity.
- ~~(4)~~(6) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) of this section must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter [16.16](#) WCC.
- ~~(5)~~(7) Penalties and Enforcement. Removal of significant trees without obtaining a tree removal the appropriate permit may be subject to replacement at a ratio of three trees for each tree removed without a valid permit. Failure to replace removed significant trees may be subject to a fine as determined under Chapter [20.94](#) WCC.

2. Amend Title 20 (Zoning), Chapter 20.71 (Water Resource Protection Overlay District), as follows:

20.71.354 Tree removal not associated with development activity.

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining the appropriate a tree removal permit as provided in this

section, unless the activity is exempted below; ~~provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:~~

(a) Removal of any hazard trees considered an emergency within the definition of "hazard tree" in Chapter [20.97](#) WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

(2) Removal of trees located within the shoreline jurisdiction or within a critical area or a critical area buffer may be subject to additional regulations pursuant to WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance). Where additional regulations conflict the more stringent regulation shall apply.

~~(2)(3)~~ Tree Removal Permit Application. The Department of Planning and Development Services shall establish and maintain a tree removal permit application, which shall a At a minimum require the following ~~to shall~~ be submitted by the applicant:

(a) A complete permit application.

~~(a)(b)~~ (b) A sketch for this purpose may be prepared by the homeowner or other lay person and shall depict:

(i) The approximate location of significant trees, indicating those to be removed;

(ii) The species and canopy area (as determined pursuant to WCC [20.51.440](#)(4));

(iii) The location of structures, driveways, access ways, and known easements.

~~(b)(c)~~ (c) Canopy calculations (existing and proposed).

(d) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees in accordance to standards set forth in WCC [20.71.356](#)(4) for calculating 20-year canopy coverage.

~~(e)~~ (e) Other information as required by the applicable permit application.

(4) Tree Removal Permit Application Procedure and Appeals. Applicants requesting to remove any significant trees must submit a completed permit application on a form provided by the county.

(a) Applicable permit

(i) The permit application to remove trees within the shoreline jurisdiction is a shoreline permit (WCC Title 23).

(ii) The permit application to remove trees within a critical area or a critical area buffer is a notification of activity (WCC 16.16.235).

(iii) The permit application to remove trees in areas outside of (a) or (b) is a tree removal permit.

~~(d)(b)~~ (b) The county shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application, or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

(c) The removal shall be completed within one year from the date of permit approval.

~~(e)(d)~~ (d) The decision of the director is appealable pursuant to WCC [22.05.160](#).

~~(f)~~ (f) Time Limit. The removal shall be completed within one year from the date of permit approval.

- (3)(5) ~~Tree Removal Allowances.~~ With a ~~tree removal~~ the appropriate permit, any property owner may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing canopy area of on-site significant trees on their property; provided, that:
- (a) There is no active application for development activity for the site; and
 - ~~(a)(b)~~ No other Whatcom County regulation is more restrictive; and
 - ~~(b)(c)~~ The tree(s) were not required to be retained or planted as a condition of previous development activity.
- (4)(6) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) of this section must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter [16.16](#) WCC.
- (5)(7) Penalties and Enforcement. Removal of significant trees without obtaining a ~~tree removal~~ the appropriate permit may be subject to replacement at a ratio of three trees for each tree removed without a valid permit. Failure to replace removed significant trees may be subject to a fine as determined under Chapter [20.94](#) WCC.

3. Amend the Shoreline Master Program (WCC Title 23) to adopt the February 12, 2019, CAO, as follows:

23.10.060 References to plans, regulations or information sources.

A. The Whatcom County Critical Areas Ordinance, WCC Chapter 16.16 (as most recently amended by Ordinance No. ~~2017-077~~2019-013, dated ~~December 5~~February 12, 2019), is hereby adopted in whole as a part of this program, except that the ~~permit, nonconforming use, appeal and enforcement provisions of the critical areas ordinance, WCC 16.16.270 (Reasonable Use Exceptions), 16.16.273 (Variances), 16.16.275 (Nonconforming Uses/Buildings), 16.16.280 (Appeals), and through 16.16.285 (Penalties and Enforcement) WCC 16.16.270 through 16.16.285~~ shall not apply within shoreline jurisdiction. All references to the critical areas ordinance (CAO), Chapter 16.16.WCC, are for this specific version.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-339

File ID:	AB2019-339	Version:	1	Status:	Agenda Ready
File Created:	06/03/2019	Entered by:			
Department:		File Type:	Ordinance		
First Assigned to:	Council				
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	

TITLE FOR AGENDA ITEM:

Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point UGA, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point UGA, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Ordinance

Final Action:
Enactment Date:
Enactment #:

PROPOSED BY: _____
INTRODUCTION DATE: JUNE 18, 2019

ORDINANCE NO. _____
(AN INTERIM ORDINANCE OF WHATCOM COUNTY, WASHINGTON)

**IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE AND PROCESSING
OF APPLICATIONS AND PERMITS FOR NEW OR EXPANDED FACILITIES IN THE
CHERRY POINT URBAN GROWTH AREA THE PRIMARY PURPOSE OF WHICH
WOULD BE THE SHIPMENT OF UNREFINED FOSSIL FUELS NOT TO BE
PROCESSED AT CHERRY POINT**

WHEREAS, on July 12, 2016, the county received a letter from Chairman Ballew of the Lummi Business Council which included the statement that they "hope that the amendments to the Comprehensive Plan not unfairly impact the current employers within Cherry Point."; and

WHEREAS, the County Council previously adopted Title 20-Zoning of Whatcom County Code which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, the County Council adopted the Whatcom County Comprehensive Plan on May 20, 1997, which contains goals, objectives and policies regarding land use compatibility and environmental considerations; and

WHEREAS, the Whatcom County Council recently updated the Whatcom County Comprehensive Plan as required by Revised Code of Washington 36.70A; and

WHEREAS, during the Comprehensive Plan review process the Whatcom County Council received many individual public comments on fossil fuel transshipment, transport, and transfer from Cherry Point related to the protection of the health of Whatcom County's environment, economy, and residents; and

WHEREAS, the County recognizes that the existing refineries have for decades been significant shippers of refined fossil fuels such as jet fuel and calcined coke used in manufacture of aluminum while providing substantial local employment; and

WHEREAS, the refining of fossil fuels at Cherry Point provides high wage jobs which could be lost if the existing refineries were converted to crude oil export facilities; and

WHEREAS, the Whatcom County Council has requested the Whatcom County Planning Commission review language that would discourage new development that would primarily facilitate the shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and

WHEREAS, multiple trains carrying crude oil from the Bakken formation moving through the United States and Canada have derailed and exploded causing damage to property and the environment, one derailment caused significant fatalities, which is the reason regulations must be improved; and

WHEREAS, a unit train carrying Bakken crude traveling through Mosier, Oregon, on June 3, 2016, derailed and exploded causing damage to property and the Columbia River, demonstrating that recently adopted state and federal policies and corporate investment intended to reduce the risks associated with oil by rail have proven insufficient to protect communities along the rail corridor; and

WHEREAS, the Washington State Department of Natural Resources has designated waters adjacent to the Cherry Point Urban Growth Area as an aquatic reserve to ensure long-term protection of this unique aquatic environment; and

WHEREAS, the United States recently lifted a ban on the export of crude oil from the country, increasing pressure on deep water ports such as Cherry Point to develop into crude export terminals; and

WHEREAS, existing refineries at Cherry Point have recently increased their ability to accept crude oil by rail by constructing new rail offloading facilities to serve the refineries; and

WHEREAS, existing and proposed pipeline facilities have increased, or proposed to increase, their capacity to move crude oil, diluted bitumen, and natural gas to Cherry Point; and

WHEREAS, Title 20 currently does not explicitly prohibit transshipment, transport, and transfer of unrefined fossil fuels and construction of infrastructure to facilitate expanded shipment of unrefined fossil fuels not to be processed at Cherry Point; and

WHEREAS, according to the June 27, 2016, Land Capacity Analysis report produced by Planning and Development Services, Cherry Point contains only 1,072.6 acres of developable land that is zoned Heavy Impact Industrial (HII) for the purposes of "supplying a reasonable amount of land, commensurate with demand, for the location and grouping of heavy impact industrial uses" and to "minimize the scope of impacts generated within the HII District and to provide protection for nonindustrial districts situated outside thereof..." (WCC 20.68.010); and

WHEREAS, expansion of existing facilities for purposes of shipping unrefined fossil fuels not to be processed or consumed at Cherry Point will increase the transport of dangerous fuels through our community and increase the risk of possible derailment, spills, explosions, and the fallout will pose a serious threat to the community; and

WHEREAS, pursuant to the Washington State Constitution, the general police powers granted to counties empower and authorize Whatcom County to adopt land use controls to provide for the regulation of land uses within the County and to provide that such uses shall be consistent with applicable law; and

WHEREAS, on August 9, 2016, the Whatcom County Council adopted Ordinance 2016-031, an emergency ordinance imposing a sixty day moratorium on the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and

WHEREAS, the Whatcom County Council adopted interim measures on September 27, 2016 (Ordinance 2016-039), March 21, 2017 (Ordinance 2017-011), September 26, 2017 (Ordinance 2017-049), February 27, 2018 (Ordinance 2018-007), August 8, 2018 (Ordinance 2018-044), and January 29, 2019 (Ordinance 2019-010), prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point, unless the applications:

1. Were filed and complete prior to the effective date of the ordinance and vested pursuant to Washington statutes;
2. Were for building permits for remodels, maintenance, or repairs of existing structures where no increased capacity for shipping unrefined fossil fuels not to be processed or consumed at Cherry Point would result; or
3. Were necessary to protect health and safety of the community.

WHEREAS, the County Council finds that extending the moratorium imposed by Ordinance 2018-007 is necessary for the protection of public health and safety; and

WHEREAS, RCW 36.70.790 and RCW 36.70.795 allow for adoption of interim official controls as long as a public hearing is held within sixty (60) days of adoption; and

WHEREAS, the Whatcom County Council is scheduled to hold a public hearing on this issue on July 9, 2019, or a later date; and

WHEREAS, the County Council fully recognizes the limits to its authority over transportation of certain goods imposed by federal statutes and the US Constitution, and finds that this action is within its authority;

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390

BE IT FURTHER ORDAINED by the Whatcom County Council that an interim moratorium is hereby imposed prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point, unless the applications:

1. Were filed and complete prior to the effective date of this ordinance and vested pursuant to Washington statutes;
2. Are for building permits for remodels, maintenance, or repairs of existing structures where no increased capacity for shipping unrefined fossil fuels not to be processed or consumed at Cherry Point will result; or
3. Are necessary to protect health and safety of the community.

BE IT FURTHER ORDAINED by the Whatcom County Council that this interim ordinance shall be effective for not longer than six months following its effective date, but may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

BE IT FURTHER ORDAINED that if a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance, and if the provisions of this ordinance are found to be inconsistent with other provisions of the Whatcom County Code, this ordinance shall control.

BE IT FURTHER ORDAINED that for the purpose of this ordinance the definition of "unrefined fossil fuel" includes but is not limited to all forms of crude oil whether stabilized or not; raw bitumen, diluted bitumen, or syncrude; coal; methane propane, butane, and other "natural gas" in liquid or gaseous formats excluding those that are the byproduct of refinery processes in the Cherry Point UGA; and condensate.

BE IT FINALLY ORDAINED that for the purpose of this ordinance, the definition of "facility" includes but is not limited to piers, wharfs, buildings, tank farms, pipelines, rail loading and offloading facilities, road spurs, or any other such physical infrastructure intended to receive, transfer, or store unrefined fossil fuels;

APPROVED this _____ day of _____, 2019.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

**WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON**

Civil Deputy Prosecutor

Jack Louws, 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: AB2019-340

File ID:	AB2019-340	Version:	1	Status:	Agenda Ready
File Created:	06/03/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
First Assigned to:	Council				
Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	

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

TITLE FOR AGENDA ITEM:

Ordinance adopting interim zoning regulations for the siting, establishment, and operation of temporary homeless facilities

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance adopting interim zoning regulations for the siting, establishment, and operation of temporary homeless facilities.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Ordinance

Final Action:
Enactment Date:
Enactment #:

ORDINANCE NO. _____
(AN INTERIM ORDINANCE OF WHATCOM COUNTY, WASHINGTON)

**ADOPTING INTERIM ZONING REGULATIONS FOR THE SITING, ESTABLISHMENT, AND
OPERATION OF TEMPORARY HOMELESS FACILITIES**

WHEREAS, homelessness continues to be a local, regional and national challenge due to many social and economic factors; and

WHEREAS, tent and tiny house encampments have become a temporary mechanism for providing shelter for homeless individuals and families; and

WHEREAS, under RCW 36.01.290 the Washington State Legislature has authorized religious organizations to host temporary encampments to provide shelter for homeless individuals on property that these religious organizations own or control; and

WHEREAS, on July 24, 2018, the Whatcom County Council adopted Ordinance 2018-041, adopting interim regulations for the establishment and operation of temporary homeless facilities for one year; and

WHEREAS, Ordinance 2018-041 is set to expire on July 24, 2019; and

WHEREAS the County Council finds that extending the interim regulations imposed by Ordinance 2018-041 is necessary for the protection of public health and safety; and

WHEREAS, the Whatcom County Code does not currently have permanent provisions addressing the establishment and operation of temporary homeless facilities; and

WHEREAS, interim homeless facility regulations and processing requirements are necessary to preserve and protect public health and safety and prevent danger to public or private property; and

WHEREAS, interim zoning controls enacted under RCW 36.70A.390 and/or RCW 36.70.790 are methods by which the County may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70A.390 and RCW 36.70.790 both authorize the enactment of an interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing as long as a public hearing is held within at least sixty days of enactment; and

WHEREAS, RCW 36.70A.390 provides that, "*A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal*"; and

1 **WHEREAS**, in conformity with the responsibilities of Whatcom County to meet public
2 health, safety and welfare requirements and provide zoning and land use regulations pursuant to
3 state law, and the County's authority to regulate land use activity within its corporate limits, the
4 County intends to develop appropriate public health, safety and welfare requirements and zoning
5 and land use regulations for the establishment and operation of temporary homeless facilities;
6 and
7

8 **WHEREAS**, the County Council has determined it needs additional time to conduct
9 appropriate research to analyze the effects of the establishment and operation of temporary
10 homeless facilities; and
11

12 **WHEREAS**, interim zoning will provide the County with additional time to review and
13 amend its public health, safety and welfare requirements and zoning and land use regulations
14 related to the establishment and operation of temporary homeless facilities; and
15

16 **WHEREAS**, interim zoning will also allow qualifying religious organizations and registered
17 not-for-profit, tax exempt 501(c)(3) organizations the opportunity to establish and operate
18 temporary homeless facilities; and
19

20 **WHEREAS**, a determination of non-significance (DNS) was issued under the State
21 Environmental Policy Act (SEPA) on July 3, 2018; and
22

23 **WHEREAS**, the County Council concludes that the County does have the authority to
24 establish an interim zoning ordinance and that the County must adopt interim zoning concerning
25 the establishment and operation of temporary homeless facilities to act as a stop- gap measure:
26 (a) to provide the County with an opportunity to study the issues concerning the establishment
27 and operation of temporary homeless facilities and prepare appropriate revisions to the
28 County's codes and regulations; (b) to protect the health, safety, and welfare of the citizens of
29 Whatcom County by avoiding and ameliorating negative impacts and unintended
30 consequences of establishing and operating temporary homeless facilities and (c) to avoid
31 applicants possibly establishing vested rights contrary to and inconsistent with any revisions the
32 County may make to its rules and regulations as a result of the County's study of this matter; and
33

34 **WHEREAS**, the County Council adopts the foregoing as its findings of facts justifying the
35 adoption of this Ordinance; and
36

37 **NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:**
38

39 **Section 1. Findings of Fact.** The County Council adopts the above "WHEREAS" recitals as
40 findings of fact in support of its action as required by RCW 36. 70A.390 and RCW 36.70.790.
41

42 **Section 2. Regulations established.** Regulations concerning the establishment and processing
43 of applications for temporary homeless facilities in unincorporated Whatcom County are
44 hereby established. Establishing such facilities contrary to the provisions of this ordinance is
45 prohibited. Administrative Use approvals shall be required for temporary homeless facilities in
46 the County. Applications for administrative use approvals, land use approvals, or any other
47 permit or approval, in any way associated with temporary homeless facilities, shall not be
48 processed, issued, granted, or approved unless in compliance with this ordinance. If a
49 temporary homeless facility is established in violation of this ordinance or if, after an
50 administrative use permit is issued for the same, the director of the planning and
51 development services department determines that the permit holder has violated this
52 ordinance or any condition of the permit, the temporary homeless facility, its sponsor and
53 managing agency shall be subject to code enforcement and all activities associated with the
54 temporary homeless facility shall cease, and the site shall be vacated and restored to its pre-
55 encampment conditions.
56
57
58
59

Section 3. Definitions. The following definitions apply to temporary homeless facilities:

- A. "Temporary homeless facility" means a facility providing temporary housing accommodations that includes a sponsor and managing agency, the primary purpose of which is to provide temporary shelter for people experiencing homelessness in general or for specific populations of the homeless. Temporary homeless facilities include temporary tent encampments and temporary tiny house encampments.
- B. "Temporary tent encampment" means a short-term living facility for a group of homeless people that is composed of tents or other temporary structures, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency.
- C. "Temporary tiny house encampment" means a temporary homeless facility for a group of people living in purpose-built tiny houses for people experiencing homelessness, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency. Temporary tiny houses for the homeless are typically less than 200 square feet and easily constructed and moved to various locations. For the purposes of this ordinance, temporary tiny homes are not dwelling units and, as such, are not required to meet building codes.
- D. "Managing agency" means an organization identified as the manager of a temporary homeless facility that has the capacity to organize and manage a temporary homeless facility. Managing agencies are limited to religious organizations and non-profit agencies. A "managing agency" may be the same entity as the sponsor.
- E. "Sponsor " means an organization that :
 - 1. invites a temporary homeless facility to reside on land they own or lease; and
 - 2. is a State of Washington registered not-for-profit corporation and federally recognized tax exempt 501(c)(3) organization; or
 - 3. is recognized by the Internal Revenue Service as exempt from federal income taxes as a religious organization, which expresses its religious mission, in part, by organizing living accommodations for the homeless.
- F. "Director" means the Planning and Development Services Department Director.

Section 4. Requirements. The following requirements shall apply to all temporary homeless facilities approved under this ordinance, unless modified by the director through approval of an administrative use permit.

- A. The encampment shall be located a minimum of 20 feet from the property line of abutting properties containing commercial, industrial, and multifamily residential uses. The encampment shall be located a minimum of 40 feet from the property line of abutting properties containing single-family residential or public recreational uses, unless the director finds that a reduced buffer width will provide adequate separation between the encampment and adjoining uses, due to changes in elevation, intervening buildings or other physical characteristics of the site of the encampment.
- B. No temporary homeless facility shall be located within a critical area or its buffer as defined by Whatcom County Code (WCC) 16.16 or 23.
- C. A temporary homeless facility shall comply with the applicable development standards of Whatcom County Code Title 20 Zoning, except that temporary homeless facilities shall not be considered structures for the purposes of calculating parcel's total lot coverage, as defined by WCC 20.97.217.
- D. A six-foot-tall fence is required around the perimeter of the encampment to limit access to the site for safety and security reasons; provided, that the fencing does not create a sight obstruction at the street or street intersections or curbs as determined

1 by the county engineer, unless the director determines that there is sufficient
2 vegetation, topographic variation, or other site conditions such that fencing would not
3 be needed.
4

- 5 E. Exterior lighting must be directed downward and glare contained within the temporary
6 encampment.
7
- 8 F. The maximum number of residents at a temporary encampment site shall be
9 determined by the director taking into consideration site conditions, but in no case
10 shall the number be greater than fifty (50) people.
11
- 12 G. On-site parking of the sponsor shall not be displaced unless sufficient required off-
13 street parking remains available for the host's use to compensate for the loss of on-
14 site parking or unless a shared parking agreement is executed with adjacent
15 properties.
16
- 17 H. A transportation plan, including provisions for transit, and pedestrian and bicycle
18 ingress and egress to the encampment, shall be submitted for review and approval.
19
- 20 I. No children under the age of 18 are allowed to stay overnight in the temporary
21 encampment, unless accompanied by a parent or guardian. If a child under the age of
22 18 without a parent or guardian present attempts to stay at the encampment, the
23 sponsor and the managing agency shall immediately contact Child Protective Services
24 and shall actively endeavor to find alternative shelter for the child.
25
- 26 J. The sponsor or managing agency shall provide and enforce a written code of conduct,
27 which not only provides for the health, safety and welfare of the temporary
28 encampment residents, but also mitigates impacts to neighbors and the community. A
29 copy of the code of conduct shall be submitted to the County at the time of application
30 for the administrative use permit. Said code shall be incorporated into the conditions of
31 approval. The managing agency shall post the County approved written code of
32 conduct on site.
33
- 34 K. An operations plan must be provided that addresses site management, site
35 maintenance, and provision of human and social services. Individuals or organizations
36 shall have either a demonstrated experience providing similar services to homeless
37 residents; and/or certification or academic credentials in an applicable human service
38 field; and/or applicable experience in a related program with a homeless population.
39 Should an individual or organization not have any of the preceding qualifications,
40 additional prescriptive measures may be required to minimize risk to both residents of
41 the temporary homeless facility and the community in general.
42
- 43 L. The sponsor and the managing agency shall ensure compliance with Washington State
44 laws and regulations and the Whatcom County Health Department's regulations
45 concerning, but not limited to, drinking water connections, solid waste disposal, and
46 human waste. The sponsor and the managing agency shall permit inspections by local
47 agencies and/or departments to ensure such compliance and shall implement all
48 directives resulting therefrom within the specified time period.
49
- 50 M. The sponsor and managing agency shall assure all applicable public health regulations,
51 including but not limited to the following, will be met for:
52
- 53 1. Potable water, which shall be available at all times at the site;
 - 54 2. Sanitary portable toilets, which shall be set back from all property lines as
55 determined by the director;
 - 56 3. Hand-washing stations by the toilets and food preparation areas;
 - 57 4. Food preparation or service tents; and
 - 58 5. Refuse receptacles.
59

- 1 N. Public health regulations (WAC 246.215 and WCC 24.03) on food donations and food
2 handling and storage, including proper temperature control, shall be followed and
3 homeless encampment residents involved in food donations and storages shall be
4 made aware of these Whatcom County Health Department requirements.
5
6 O. The sponsor and the managing agency shall designate points of contact and provide
7 contact information (24 hour accessible phone contact) to the chief criminal deputy of
8 the Whatcom County Sheriff or his/her designee. At least one designated point of
9 contact shall be on duty at all times. The names of the on-duty points of contact shall
10 be posted on-site daily and their contact information shall be provided to the Whatcom
11 County Sheriff's Office as described above.
12
13 P. Facilities for dealing with trash shall be provided on-site throughout the encampment.
14 A regular trash patrol in the immediate vicinity of the temporary encampment site shall
15 be provided.
16
17 Q. The sponsor and the managing agency shall take all reasonable and legal steps to
18 obtain verifiable identification information, to include full name and date of birth,
19 from current and prospective encampment residents and use the identification to
20 obtain sex offender and warrant checks from appropriate agencies. The sponsor and
21 the managing agency shall keep a current log of names and dates of all people who
22 stay overnight in the encampment. This log shall be available upon request to law
23 enforcement agencies and prospective encampment residents shall be so advised by
24 the sponsor and managing agency. Persons who have active warrants, or who are
25 required to register as sex offenders, are prohibited from the encampment's location.
26
27 R. The sponsor and the managing agency shall immediately contact the Whatcom County
28 Sheriff's Office if someone is rejected or ejected from the encampment when the
29 reason for rejection or ejection is an active warrant or a match on a sex offender
30 check, or if, in the opinion of the on-duty point of contact or on-duty security staff, the
31 rejected/ejected person is a potential threat to the community.
32
33 S. Tents over 300 square feet in size and canopies in excess of 400 square feet shall
34 utilize flame retardant materials.
35
36 T. The sponsor, the managing agency and temporary encampment residents shall
37 cooperate with other providers of shelters and services for homeless persons within the
38 County and shall make inquiry with these providers regarding the availability of
39 existing resources.
40
41 U. The sponsor and/or managing agency shall provide before-encampment photos of the
42 host site with the application. Upon vacation of the temporary encampment, all
43 temporary structures and debris shall be removed from the host site within one
44 calendar week.
45
46 V. Upon cessation of the temporary encampment, the site shall be restored, as near as
47 possible, to its original condition. Where deemed necessary by the director, the
48 sponsor and/or managing agency shall re-plant areas in which vegetation had been
49 removed or destroyed.
50

51 **Section 5. Frequency and duration of temporary homeless facilities.**
52

- 53 A. No more than a maximum of 100 people may be housed in temporary homeless
54 facilities (encampments) located in the unincorporated County at any time. Multiple
55 encampment locations may be permitted provided that the aggregate total of people in
56 all temporary tent and/or tiny house encampments shall not exceed 100.
57
58 B. The director shall not grant a permit for the same site more than once in any calendar
59 year; provided that director is not authorized to issue a permit for the same site sooner

1 than 180 days from the date the site is vacated as provided for in Section 4 of this
2 ordinance.
3

- 4 C. Temporary tent encampments may be approved for a period not to exceed 180 days.
5 The director may grant one 180-day extension, provided all conditions have been
6 complied with and circumstances associated with the use have not changed. This
7 extension shall be subject to a Type II review process and may be appealed to the
8 hearing examiner as provided in WCC 22.05.020(1). The permit shall specify a date by
9 which the use shall be terminated and the site vacated and restored to its pre-
10 encampment condition.
11
- 12 D. Temporary tiny house encampments may be approved for a period of between six
13 months and up to one year, provided the sponsor and managing agency comply with
14 all permit conditions. The director may grant one or more extension(s) not to exceed
15 one additional year, provided enabling legislation allows so. Extensions are subject to a
16 Type II review process and may be appealed to the hearing examiner as provided in
17 WCC 22.05.020(1). The permit shall specify a date by which the use shall be
18 terminated and the site vacated and restored to its pre-encampment condition.
19

20 **Section 6. Permit required.** Establishment of a temporary homeless facility shall require
21 approval of an administrative use permit, as described in this ordinance, and compliance with
22 all other applicable County regulations. The director shall have authority to grant, grant
23 with conditions or deny an application for an administrative use permit under this ordinance.
24

25 **Section 7. Application.** Application for an administrative use permit shall be made on forms
26 provided by the County, and shall be accompanied by the following information; provided,
27 that the director may waive any of these items, upon request by the applicant and finding that
28 the item is not necessary to analyze the application. An application to establish a temporary
29 homeless facility shall be signed by both the sponsor and the managing agency ("applicant")
30 and contain the following:
31

- 32 A. A site plan of the property, drawn to scale, showing existing natural features, existing
33 and proposed grades, existing and proposed utility improvements, existing rights-of-
34 way and improvements, and existing and proposed structures, tents and other
35 improvements (including landscaping and fencing at the perimeter of the proposed
36 encampment and the property and off-street parking);
37 B. A vicinity map, showing the location of the site in relation to nearby streets and
38 properties;
39 C. A written summary of the proposal, responding to the standards and requirements of
40 this ordinance;
41 D. The written code of conduct, operations plan and a transportation plan as required by
42 this ordinance;
43 E. Statement of actions that the applicant will take to obtain verifiable identification from
44 all encampment residents and to use the identification to obtain sex offender and
45 warrant checks from appropriate agencies;
46 F. Project statistics, including site area, building coverage, number and location of tents
47 and temporary structures, expected and maximum number of residents, and duration
48 of the encampment;
49 G. Address and parcel number of the subject property;
50 H. Photographs of the site;
51 I. A list of other permits that are or may be required for development of the property
52 (issued by the County or by other government agencies), insofar as they are known to
53 the applicant;
54 J. Permit fees for temporary homeless facilities shall be in accordance with WCC 22.25;
55 K. A list of any requirement under this ordinance for which the applicant is asking to
56 modify.
57
58
59

1 **Section 8. Permit Procedures.**

- 2
- 3 A. Notice. All temporary homeless facility applications shall be reviewed under a Type II
- 4 process under WCC 22.05, except that the final decision must be rendered within 60
- 5 days of a determination of completeness. Additionally, the notice of application shall
- 6 contain proposed duration and operation of the temporary homeless facility, number of
- 7 residents for the encampment, and contain a County website link to the proposed
- 8 written code of conduct, operations plan and transportation plan for the facility.
- 9 B. Decision and Notice of Decision. Final action on permit applications made under this
- 10 section shall be in accordance with WCC 22.05. Before any such permit may be
- 11 granted, the applicant shall demonstrate and the director shall find consistency WCC
- 12 20.84.220 and the following:
- 13
- 14 1. The proposed use meets the requirements of this ordinance; and
- 15 2. Measures, including the requirements herein and as identified by the director,
- 16 have been taken to minimize the possible adverse impacts which the proposed
- 17 encampment may have on the area in which it is located. It is acknowledged
- 18 that not all impacts can be eliminated, however the risk of significant impacts
- 19 can be reduced to a temporary and acceptable level as the duration of the
- 20 encampment will be limited.
- 21
- 22 A notice of the decision shall be provided in accordance with WCC 22.05.
- 23
- 24 C. Conditions. Because each temporary encampment has unique characteristics,
- 25 including, but not limited to, size, duration, uses, number of occupants and
- 26 composition, the director shall have the authority to impose conditions on the approval
- 27 of an administrative use permit to ensure that the proposal meets the criteria for
- 28 approval listed above. Conditions, if imposed, must be intended to protect public
- 29 health, life and safety and minimize nuisance-generating features such as noise, waste,
- 30 air quality, unsightliness, traffic, physical hazards and other similar impacts that the
- 31 temporary encampment may have on the area in which it is located. In cases where
- 32 the application for an administrative use permit does not meet the provisions of this
- 33 ordinance (except when allowed under subsection (D) of this section) or adequate
- 34 mitigation may not be feasible or possible, the director shall deny the application.
- 35
- 36 D. Modification of Requirements. The director may approve an administrative use permit
- 37 for a temporary encampment that relaxes one or more of the standards in this
- 38 ordinance only when, in addition to satisfying the decision criteria stated above, the
- 39 applicant submits a description of the standard to be modified and demonstrates how
- 40 the modification would result in a safe encampment with minimal negative impacts to
- 41 the host community under the specific circumstances of the application. In considering
- 42 whether the modification should be granted, the director shall first consider the effects
- 43 on the health and safety of encampment residents and the neighboring communities.
- 44 Modifications shall not be granted if their adverse impacts on encampment residents
- 45 and/or neighboring communities will be greater than those without modification. The
- 46 burden of proof shall be on the applicant.
- 47
- 48 E. Appeal. The director's decision may be appealed to the hearing examiner as provided
- 49 in WCC 22.05.020(1) and 22.05.160.
- 50
- 51 F. Revocation. The director shall also have the authority to revoke an approved
- 52 administrative use permit, pursuant to WCC 22.05.150 at any time a sponsor or
- 53 managing agency has failed to comply with the applicable provisions of this ordinance
- 54 or permit.
- 55

56 **Section 9. Purpose.** The purpose of this interim ordinance is to allow and establish a review

57 process for the location, siting, and operation of temporary homeless facilities within the

58 unincorporated County. While the interim ordinance is in effect, the County will study the land

59 use and other impacts associated with temporary homeless facilities, draft final zoning and

regulations to address such uses, hold public hearings on such draft regulations, and adopt such regulations.

Section 10. Duration of Interim Ordinance. This interim ordinance will replace Ordinance 2018-041 and shall be in effect for one year beginning on July 9, 2019, and ending on July 9, 2020, unless another ordinance is adopted amending the Whatcom County Code and rescinding this interim ordinance before July 9, 2020.

Section 11. Work Plan. During the interim ordinance period, County staff will study the issues concerning the establishment and operation of temporary homeless facilities. Staff will prepare a draft ordinance with appropriate revisions to the County's land use regulations; perform SEPA review of the draft ordinance, and conduct the public review process, including public hearings before the County's Planning Commission and County Council, as required for amendments to the County's development regulations.

Section 14. Conflict with other Whatcom County Code Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Whatcom County Code, this Ordinance shall control.

Section 15. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

ADOPTED this _____ day of _____, 2019.

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Chairperson

APPROVED as to form:

() Approved () Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-347

File ID:	AB2019-347	Version:	1	Status:	Agenda Ready
File Created:	06/04/2019	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance		

First Assigned to: Council

Agenda Date:	06/18/2019	Next Mtg. Date:		Hearing Date:	
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Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance granting Northwest Water Association a franchise and the right, privilege, and authority thereunder to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use facilities in, upon, over, under, along, across and through the franchise area to allow for the provision of water services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 provides for the granting of franchises to public and private utility companies for use of County Rights-of-Way. This is a new franchise allowing for the use of and presence in County Rights-of-Way to allow for the provision of water services

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo-June 5, 2019, Ordinance

Final Action:
Enactment Date:
Enactment #:



MEMORANDUM

TO: The Honorable Jack Louws, County Executive,
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director / *JH*

FROM: Andrew Hester, Public Works Real Estate Coordinator *AH*

RE: Franchise for Northwest Water Association

DATE: June 5, 2019

▪ **Requested Action**

Adopt an ordinance that grants a franchise to Northwest Water Association, allowing it to use and be present in County Rights of Way in order to provide water services per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

Northwest Water Association has an existing franchise for its water lines and facilities within County rights of way. This proposed franchise will terminate and replace that existing agreement.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

SPONSORED BY: _____
PROPOSED BY: Executive
INTRODUCTION DATE: _____

ORDINANCE NO. _____

GRANTING NORTHWEST WATER ASSOCIATION A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES.

WHEREAS, Northwest Water Association (hereinafter referred to as "Northwest Water"), has applied for a twenty-five (25) year franchise; and

WHEREAS, the Home Rule Charter for Whatcom County authorizes the County Council to grant non-exclusive franchises for a fixed term not to exceed 25 years for the use of any street, road, or public place;

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, Northwest Water has operated a system of water mains and water distribution lines and other facilities within a portion of Whatcom County under a previous twenty five-year franchise ordinance, adopted by the County Council on October 5, 1993 and approved by the County Executive;

WHEREAS, Northwest Water seeks a non-exclusive twenty-five (25) year franchise to construct, erect, alter, lay, support, connect, improve, renew, replace, repair, operate and maintain water transmission and distribution facilities upon, under, over, across and along certain roads and other areas in Whatcom County, Washington; and

WHEREAS, the application of Northwest Water has come on regularly to be heard by the County Council on the ____ day of _____, 2019, and notice of this hearing having been duly published on the ____ day of _____, 2019, and the ____ day of _____, 2019, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, it appears to the Council that notice of said application and hearing thereon has been given as required by law in RCW 36.55.040; and

WHEREAS, this Council finds, after having considered said application and being otherwise fully advised in the premises, that it is in the public interest for this Council to grant the franchise for a period of twenty-five (25) years; and

WHEREAS, Whatcom County and Northwest Water intend that the previous franchises granted to Northwest Water that pertain to water lines for the provision of water services shall be terminated and be replaced by this Franchise;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the language set forth below, in Sections 1 through 20, shall constitute the franchise agreement between Whatcom County and Northwest Water, which shall be and become effective as set forth in Section 13 thereof:

Section 1. Definitions.

1.1 Where used in this franchise agreement ("Franchise"), the following terms shall mean:

1.1.1 "County" means the County of Whatcom, a political subdivision of the State of Washington, and its successors and assigns.

1.1.2 "Northwest Water" means Northwest Water Association, and its successors and assigns.

1.1.3 "Franchise Area" means all public county roads, county public ways, and county property now owned or hereafter dedicated to the County within Sections 33, 34, and 35, Township 39 North, Range 2 East of W.M., and Sections 2 and 3, Township 38 North, Range 2 East of W.M. in Whatcom County, Washington as may hereafter be amended and attached hereto.. In addition any portion of Smith Road, Northwest Drive, Waschke Road, Aldrich Road, Slater Road, and Pacific Highway outside of the previous described area.

1.1.4 "Facilities" means, collectively, any and all water transmission and distribution systems, including but not limited to tanks, meters, pipes, mains, services, valves, manholes, pressure reducing valves ("PRVs"), pump stations, meter stations and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or under ground.

1.1.5 "Ordinance" means Ordinance No. _____, which sets forth the terms and conditions of this Franchise.

1.1.6 "Right-of-Way": As used herein shall refer to the surface of and space along, above, and below any public street, road, way, lane, drive, alley or easement within the Franchise Area;

1.1.7 "Relocation": As used herein shall mean to protect, support, temporarily disconnect, relocate and/or remove Northwest Water facilities within or from within the County right-of-way.

Section 2. Facilities Within Franchise Area.

2.1 The County does hereby grant to Northwest Water a Franchise, and the right, privilege, and authority thereunder, to construct, operate, maintain, replace, and use all

necessary equipment and facilities for a public water system, in, under, on, across, over, through, along, or below the public rights-of-way located in the Franchise Area.

2.2 This Franchise is subject to the terms and conditions hereinafter set forth.

Section 3. County Authority.

3.1 The County, in granting this Franchise, does not waive any rights which it now has or may hereafter acquire with respect to the Franchise Area, and this Franchise shall not be construed to deprive the County of any powers, rights, or privileges which it now has, or may hereafter acquire, to regulate the use of and to control the Franchise Area.

Section 4. Noninterference of Facilities.

4.1 As to new Facilities, Northwest Water's Facilities shall be placed and maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Prior to the installation of new Facilities within the Franchise Area, Northwest Water may request that the County determine whether the proposed placement of the Facilities will unreasonably interfere with the free and safe passage of traffic, and the County shall make such determination in writing within a reasonable period of time. If the proposed location is not approved by the County Engineer, the County Engineer shall advise in writing what reasonable modifications to the proposed location of the Facilities are necessary for the County Engineer to issue a determination that the proposed location of the Facilities will not unreasonably interfere with the free and safe passage of traffic.

If Northwest Water proceeds to install new Facilities without first obtaining the County Engineer's determination that the proposed location of the Facilities will then unreasonably interfere with the free and safe passage of traffic then, upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Northwest Water which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Northwest Water shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Northwest Water by such County codes and ordinances.

4.2 Northwest Water's existing Facilities shall be maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Northwest Water which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Northwest Water shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this

Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Northwest Water by such County codes and ordinances.

4.3 All construction or installation of such Facilities, service, repair, or relocation of the same, performed over, above, along or under the Franchise Area shall be done in such a manner as not to interfere unreasonably with the construction and maintenance of other existing utilities, lines, public or private, drains, drainage ditches and structures, irrigation ditches and structures, located therein, nor with the grading or improvement of the Franchise Area. The owners of all utilities, public or private, installed in the Franchise Area prior in time to the Facilities of Northwest Water shall have preference as to the positioning and location of such utilities so installed with respect to Northwest Water. Such preference shall continue in the event of the necessity of relocating or changing the grade of the Franchise Area. Northwest Water shall have such preference as to owners of all utilities, public or private, initially installed in the Franchise Area subsequent in time to Northwest Water's Facilities.

4.4 The locating, laying, construction, operation and maintenance of Northwest Water's Facilities authorized by this Franchise shall not preclude the County, its agents or its contractors from blasting, grading, excavating, or doing other necessary road work contiguous to Northwest Water's Facilities, provided that Northwest Water and the County shall first check with the locator service to determine whether or not any of Northwest Water's lines are located in the proposed work area. Upon finding from the locator service that Northwest Water does have lines located within the proposed work area, the County shall provide Northwest Water with seventy-two (72) hours notice of proposed work, except if a lesser time for notice is warranted by emergency, in order that the Northwest Water may protect its Facilities. Failure of Northwest Water to properly notify the locator service of the location of its lines and Facilities shall relieve County of its duty to provide Northwest Water the otherwise-required advance notice of proposed work.

4.5 Northwest Water shall maintain all above-ground Facilities that it places in the Franchise Area. In order to avoid interference with the County's ability to maintain the Franchise Area, Northwest Water shall provide a clear zone of five (5) feet on all sides of such above-ground Facilities. If Northwest Water fails to comply with this provision, and by its failure, property is damaged, then Northwest Water shall be deemed responsible for all damages caused thereby and the County shall be released from any responsibility therefore. For these purposes, "clear zone" means an area that is mowed or otherwise maintained so that the Facilities are readily visible to County maintenance operations.

Section 5. Construction Within the Franchise Area.

5.1 All construction and installation work within the Franchise Area shall be subject to the approval and pass the inspection of the County Engineer, and shall conform to all applicable local, state and federal standards, codes or regulations, and the County expressly reserves the right to prescribe standards as to how and where Facilities shall be installed. The standards shall be consistent with reasonable standards and standard engineering practices in the applicable industries.

5.2 Prior to commencement of construction of any new Facilities, Northwest Water shall

first file with the County Engineer its application for permits to do such work, together with plans and specifications in duplicate showing the position and location of all such Facilities sought to be constructed, laid, installed or erected at that time showing their position relative to existing County roads, rights-of-way, or other County property within the Franchise Area upon plans drawn to scale. The Facilities shall be laid in conformity with said plans and specifications of definite location, except in instances in which deviation may be allowed thereafter in writing by the County Engineer. The plans and specifications shall specify the class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts and road obstructions, etc. No such construction shall be commenced without Northwest Water first securing a written permit from the County Engineer, including approval endorsed on one set of plans and specifications returned to Northwest Water. All such work shall be subject to the approval of and shall pass the inspection of the County Engineer. Northwest Water shall pay all costs of and expenses incurred in the examination, inspection and approval of such work on account of granting the said permits.

5.3 In any work which requires breaking of soil within the Franchise Area for the purpose of laying, relaying, connecting, disconnecting, constructing, maintaining and repairing Northwest Water's Facilities, and making connections between the same to structures and buildings of consumers or making connections to other Facilities now in existence or hereafter constructed, Northwest Water shall be governed by and conform to the general rules adopted by the County Engineer; and Northwest Water at its own expense and with due diligence shall complete the work for which the soil has been broken and forthwith replace the work and make good the Franchise Area and leave the same in as good condition as before the work was commenced; provided, however, that no such breaking of the soil within the Franchise Area shall be done prior to the obtaining of a permit issued by the County Engineer. Applications for such a permit shall be accompanied by specifications for the restoration of the Franchise Area to the same condition as it was in prior to such breaking, and such specifications must be approved by the County Engineer before such breaking of the soil is commenced; provided further, that the County Engineer may require a performance bond in a reasonable sum sufficient to guarantee that such Franchise Area shall be restored to the same condition as it was in prior to such breaking of the soil, the amount of said bond to be fixed by the County Engineer. Northwest Water shall pay all costs of and expenses incurred in the examination, inspection and approval of such restoration. The County Engineer may at any time do, order, or have done, any and all work that the County Engineer considers necessary to restore to a safe condition any Franchise Area left by Northwest Water or its agents in a condition dangerous to life or property, and Northwest Water upon demand shall pay to the County all costs of such work, the County having first provided notice of such condition to Northwest Water and a reasonable time to cure such unsafe condition, provided however, in the event of damage to the Franchise Area caused by Northwest Water that necessitates immediate repair by the County or its agents on an emergency basis where notice to Northwest Water or providing an opportunity to cure is not feasible considering nature of the emergency and necessary repair, as determined by the County Engineer using professional engineering standards, no such notice and reasonable time to cure shall be required as a condition of repayment by Northwest Water.

5.4 In preparing plans and specifications for the installation of Facilities within the Franchise Area, Northwest Water shall reasonably conform to the standards and specifications established by the County Engineer. Northwest Water shall consult with the County Engineer in case it plans to deviate from the established standards and specifications in the course of

installing Facilities within the Franchise Area and must demonstrate to the satisfaction of the County Engineer that its plans will achieve a legal and functionally equivalent result.

5.5 All work done by and for Northwest Water under this Franchise shall be done in a thorough and workmanlike manner. In the construction of Facilities and the opening of trenches within and the tunneling under the Franchise Area, Northwest Water shall leave such trenches and tunnels in such a way as to interfere as little as possible with public travel, and shall take all due and necessary precautions to guard the same, so that damage or injury shall not occur or arise by reason of such work. Where any of such trenches, ditches, or tunnels are left open at night, Northwest Water shall place warning lights and barricades at such a position as to give adequate warning of such work, per the MUTCD (Manual on Uniform Traffic Control Devices). Northwest Water shall be liable for any injury to person or persons or damage to property to the extent proximately caused by its carelessness or neglect, or to the extent proximately caused by any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by Northwest Water.

5.6 Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, Northwest Water shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during Northwest Water's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed, or disturbed, and the expense of replacement by approved monuments shall be borne by Northwest Water. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 6. Relocation of Facilities.

6.1 Northwest Water shall, at its sole expense and with due diligence, relocate or adjust the elevation of any of its Facilities upon receipt of written request from the County Engineer when determined reasonably necessary based upon sound engineering principles by the County Engineer for improvement to the County facilities in the Franchise Area, provided that the elevations required by the County are not in violation of local, state or federal law and are reasonable necessary for safety purposes. Northwest Water shall coordinate such relocation or adjustment of its Facilities with the County and shall perform the same in a timely fashion so that, absent conditions beyond the control of Northwest Water, such relocation or adjustment of Northwest Water's Facilities will not impede or delay pending changes to the Franchise Area.

6.2 Northwest Water may propose to the County alternatives to reduce or eliminate the need for relocation of its Facilities pursuant to Section 6.1. Upon the County's receipt from Northwest Water of such alternatives in writing, the County shall evaluate such alternatives and shall advise Northwest Water in writing if one or more of such alternatives are suitable to accommodate the work that would otherwise necessitate relocation of Northwest Water's Facilities. In evaluating such alternatives, the County shall give each alternative proposed by Northwest Water full and fair consideration with due regard to all the facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. In the event the County reasonably determines that such alternatives are not appropriate, Northwest Water shall

relocate its Facilities as otherwise provided in Section 6.1. Any acceptance by the County of such alternatives shall not excuse (nor shall be construed to excuse) Northwest Water from future relocation or adjustment of Northwest Water's Facilities pursuant to this Section 6.

6.3 As qualified in Sections 6.1 and 6.2 above, and in Section 6.4 below, whenever any person or entity, other than the County, requires the relocation of Northwest Water's Facilities to accommodate the work of such person or entity within the Franchise Area, or whenever the County requires the relocation of Northwest Water's Facilities within the Franchise Area for the benefit of any person or entity other than the County, then Northwest Water shall have the right as a condition of such relocation to require such person or entity to:

6.3.1 Make payment to Northwest Water, at a time and upon terms acceptable to Northwest Water, which acceptance shall not be unreasonably withheld, for any and all costs and expenses incurred by Northwest Water in the relocation of Northwest Water's Facilities; and

6.3.2 Indemnify and save Northwest Water harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of Northwest Water's Facilities, to the extent such injury or damage is caused by the negligence of the person or entity requesting the relocation of Northwest Water's Facilities or the negligence of the agents, servants or employees of the person or entity requesting the relocation of Northwest Water's Facilities.

6.4 Any condition or requirement imposed by the County upon any person or entity, other than Northwest Water or the County (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) which requires the relocation of Northwest Water's Facilities shall be a required relocation for purposes of Section 6.3; provided, however:

6.4.1 If the County notifies Northwest Water in writing that the primary purpose of imposing such condition or requirement upon such person or entity is to cause the grading or widening of the Franchise Area on the County's behalf consistent with the County's Six-Year Road Construction Program, then Northwest Water shall relocate its Facilities within the Franchise Area in accordance with Section 6.1.

6.4.2 If the County notifies Northwest Water in writing that the County will bear a portion of the costs of, or will provide funding towards, a project that includes grading or widening of the Franchise Area resulting from the imposition of such condition or requirement upon such person or entity, then Northwest Water agrees to bear a portion of its costs and expenses to relocate its Facilities to accommodate such grading or widening, such portion borne by Northwest Water being a percentage equal to that percentage of such project's costs borne or funded by the County (the "County Contribution"); provided, however, in no event shall such portion borne by Northwest Water exceed the dollar amount of such County Contribution. "Project" shall mean that work directly bearing on the area that necessitates relocation by Northwest Water, and shall not include other off-site improvements that may be performed at the same time. In all other respects such relocation shall be a required relocation for the purposes of Section 6.3 and without limiting the foregoing, Northwest Water shall have the right as a condition of such relocation to require such person or entity to pay to Northwest Water all relocation costs and expenses in excess of the portion borne by Northwest Water under this Section 6.4.2.

6.4.3 If the Facilities to be relocated pursuant to this subsection 6.4 have been located at or relocated within the preceding five (5) years to a location upon which the County had agreed at the time without reservation, then Northwest Water shall be entitled to recovery of all its costs and expenses incurred in the relocation of its Facilities from the party on whom the condition for road improvements was placed. Documentation of any such agreement between the County and Northwest Water shall be kept in conjunction with the encroachment permit issued by the County for the work of relocation.

6.5 Nothing in this Section 6 shall require Northwest Water to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from or addressed by this Franchise.

Section 7. Indemnification.

7.1 To the extent permitted by law, Northwest Water shall defend, indemnify and hold the County harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney's fees, made against it on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the actions or failure to act of Northwest Water, its agents, servants or employees in exercising the rights granted to Northwest Water in this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Northwest Water thereof, and Northwest Water shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Northwest Water thereof, and Northwest Water shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Northwest Water and the County, Northwest Water and the County shall each be responsible for, and this indemnification provision shall be operative so that each party bears, the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, Northwest Water shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined. Upon Northwest Water's failure to satisfy said judgment within ninety (90) days, the County may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

7.2 Acceptance by the County of any work performed by Northwest Water at the time of completion shall not be grounds for avoidance of the covenant in Section 7.1 above.

Section 8. Acquisition of Right-of-Way.

8.1 In the event that Northwest Water proposes to acquire easements for the location or relocation of its Facilities outside of, and adjacent to the Franchise Area, Northwest Water shall notify the County of the same and the County shall have the option, with the concurrence of Northwest Water, to acquire in place of such Northwest Water proposed easements, additional public rights-of-way or equivalent public utility easements for use by Northwest Water. Any such

public rights-of-way acquired by the County shall become Franchise Area. Any such public utility easements so acquired by the County shall not be Franchise Area (and shall not be subject to the terms and conditions of this Franchise) and Northwest Water's use of such public utility easements shall be subject to the terms and conditions of such public utility easements. Provided the above section does not apply to Northwest Water's customer service lines and only to easements related to new transmission water pipelines.¹

Section 9. Vacation of the Franchise Area.

9.1 If at any time the County shall seek to vacate any portion of the Franchise Area and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area for the use of the County, in either its proprietary or governmental capacity, and there are no Facilities located in the Franchise Area, then the County Engineer may at his option and by giving thirty (30) days written notice to Northwest Water, terminate this franchise with reference to such portion of the Franchise Area so vacated, and the County shall not be liable for any damages or loss to Northwest Water allegedly incurred by reason of such termination. Nothing herein shall limit or prevent Northwest Water from exercising its powers of eminent domain. Should Northwest Water notify the County of its intent to consider exercising its power of eminent domain to obtain an easement for the Facilities located within the area of the Franchise to be terminated, the termination of the Franchise shall be tolled for a period of no less than one hundred and twenty (120) days from the date of notice.

9.2 If at any time the County shall vacate any portion of the Franchise Area in which Facilities are installed at the time of said vacation, and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area by other than the County, then the County shall, in its vacation procedure, unless otherwise waived in writing by Northwest Water, reserve an easement to Northwest Water for Northwest Water's Facilities as reasonably necessary for the continued use, operation, maintenance and repair of the Facilities as located in the portion of the Franchise Area to be vacated.

Section 10. Moving Buildings within the Franchise Area.

10.1 If any person or entity obtains permission from the County to use the Franchise Area for the moving or removal of any building or other object, the County shall, prior to granting such permission, direct such person or entity to arrange with Northwest Water for the temporary adjustment of Northwest Water's Facilities necessary to accommodate the moving or removal of such building or other object. Such person or entity shall make such arrangements, upon terms and conditions acceptable to Northwest Water, not less than fourteen (14) days prior to the moving or removal of such building or other object. In such event, Northwest Water shall, at the sole cost and expense of the person or entity desiring to move or remove such building or other object, adjust any of its Facilities which may obstruct the moving or removal of such building or object.

Section 11. Locating Facilities.

¹ A distinction is drawn here between public rights-of-way which are or shall become Franchise Area and thus governed by the terms of the franchise ordinance, and public utility easements which shall not become Franchise Area, the use of which shall be governed by the terms and conditions of the easements themselves and not by the franchise ordinance.

11.1 Northwest Water and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities.

Section 12. Nonexclusive Franchise.

12.1 This Franchise is not and shall not be deemed to be an exclusive franchise. It shall not in any manner prohibit the County from granting other franchises of a like nature or franchises for other public or private utilities under, along, across, over, and upon any part of the Franchise Area, and shall in no way prevent or prohibit the County from constructing, altering, maintaining, using, or vacating any part thereof, or affect its jurisdiction over any part thereof with full power to make all necessary changes, relocations, repairs, maintenance, etc., the same as the County may deem fit.

Section 13. Franchise Term; Effect on Existing Franchises for Same Purpose.

13.1 This Franchise is and shall remain in full force and effect for a period of twenty-five (25) years from and after the effective date of the Ordinance; provided, however, Northwest Water shall have no rights under this Franchise nor shall Northwest Water be bound by the terms and conditions of this Franchise unless Northwest Water shall, within thirty (30) days after the effective date of the Ordinance, file with the County its written acceptance of the franchise agreement contained within the Ordinance.

13.1.1 No franchise hereunder shall become effective for any purpose unless and until written acceptance therefore shall have been filed with the Whatcom County Council and County Director of Public Works and such written acceptance shall be in the form and substance as shall be prescribed and approved by the County Prosecuting Attorney and operate as an acceptance of each and every term and condition and limitation contained in this ordinance, and in such franchise; and

13.1.2 Such written acceptance shall be filed by Northwest Water not later than the thirtieth (30th) day following the effective date of the Ordinance granting such franchise; and in default of the filing of such written acceptance as herein required, Northwest Water shall be deemed to have rejected the same. In case of Northwest Water's tardy acceptance of franchise, the County's recognition thereof shall be strictly at its discretion.

13.2 The existing franchise between the Parties pertaining to the same subject matter, i.e., Northwest Water's Facilities, which was granted by the County and accepted by Northwest Water on May 31, 1978, shall be superseded and replaced by this franchise upon the effective date of this franchise as provided above.

13.3 This Franchise agreement sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Franchise agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this agreement.

Section 14. Assignment.

14.1 Neither this Franchise nor any interest herein shall be sold, transferred, or assigned without the prior consent in writing of the County Council, which consent shall not be unreasonably withheld, except that the Northwest Water may mortgage this Franchise to the trustee for its bond holders. Any approved assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the County, together with its written acceptance of all terms and conditions of this Franchise.

14.2 All the provisions, conditions, and requirements herein contained shall be binding upon the successors and assigns of Northwest Water, and all privileges, as well as all obligations and liabilities of the grantee shall inure to its successors and assigns equally as if they were specifically mentioned wherever Northwest Water is mentioned.

Section 15. Amendment.

15.1 Except as addressed in and through Section 15.3 below, this Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 5 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the County in conjunction with the exercise (or failure to exercise) by Northwest Water any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

15.1.1 References this Franchise; and

15.1.2 States that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise. In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

15.2 If, during the term of this Franchise, there becomes effective any change in federal or state law (including changes approved by the Washington Utilities and Transportation Commission) which:

15.2.1 Affords either party the opportunity to negotiate in good faith a term or condition of this Franchise which term or condition would not have, prior to such change, been consistent with federal or state law; or

15.2.2 Pre-empts or otherwise renders null and void any term or condition of this Franchise which has there-to-fore been negotiated in good faith; then, in such event, either party may notify the other party in writing that such party desires to commence negotiations to amend

this Franchise. Such negotiations shall encompass only the specific term or condition affected by such change in federal or state law and neither party shall be obligated to re-open negotiation on any other term or condition of this Franchise. Within thirty (30) days from and after the other party's receipt of such written notice, the parties shall, at a mutually agreeable time and place, commence such negotiations. Pending completion of such negotiations resulting in mutually agreeable amendment of this Franchise, adoption of such amendment by Ordinance by the County and acceptance of such Ordinance by Northwest Water, and except as to any portion thereof which has been pre-empted or otherwise rendered null and void by such change in federal or state law, this Franchise shall remain in full force and effect.

15.3 Notwithstanding any language to the contrary contained herein, this Franchise is subject to the provisions of the Whatcom County Charter, Section 9.30, and all rights belonging to the County and its people as set forth therein are hereby reserved thereto.

Section 16. Miscellaneous

16.1 If any term, provision, condition, or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

16.2 This Franchise is subject to the requirements of any and all applicable laws, rules, and regulations, including the Whatcom County Code, as currently enacted or hereafter modified. In the event of any actual conflict between the provisions of this Franchise and the requirements of the Whatcom County Code or County-enacted rules or regulations, the provisions of this Franchise shall control, to the extent authorized by law.

16.3 All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

For County: County Executive
Whatcom County Courthouse.
311 Grand Ave.
Bellingham, WA 98225

For Northwest Water: President
Northwest Water Association
5168 Graveline Road
Bellingham, WA 98226

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

16.4 No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Franchise or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Franchise, and each and every covenant, agreement, term and condition of this franchise shall continue in full force and effect with respect to other then existing or subsequent breach thereof.

Section 17. Incorporation and Annexation.

17.1 Whenever any part of the Franchise Area, by reason of the subsequent incorporation of any town or city, or extension of the limits of any town or city, shall fall within the city or town limits, this Franchise shall continue in force and effect as to all of the Franchise Area not so included in city or town limits.

Section 18. Insurance.

18.1 During the term of this Franchise Northwest Water shall keep in effect, a liability insurance policy covering all liability of Northwest Water to the County, including any assumed by contract between Northwest Water and any other party, with limits at least in the amount of \$1,000,000. In lieu of the insurance requirement of this Section, Northwest Water may self-insure against such risks. At the time of Northwest Water's acceptance of this Franchise and otherwise upon the County's request, Northwest Water shall provide the County with certificate(s) of insurance or evidence of self-insurance reflecting the requirements of this section.

Section 19. Forfeiture and Termination of Franchise.

19.1 If Northwest Water shall willfully violate or fail, through willful or unreasonable neglect, to comply with any of the provisions of this Franchise for sixty (60) days after receipt of written notice from the County, then the County shall have the right by ordinance to declare Northwest Water's forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter; provided, however, if any failure to comply with this Franchise by Northwest Water cannot be corrected with due diligence within said sixty (60) day period (Northwest Water's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Northwest Water may so comply shall be extended for such time as may be reasonably necessary and so long as Northwest Water commences promptly and diligently to effect such compliance.

Section 20. Effective Date.

20.1 This Ordinance shall be effective ten (10) days after being signed by the County Executive, with the Franchise granted hereunder finally effective pursuant to the terms of Sections 13.1, 13.1.1, and 13.1.2, having been: (i) introduced to the County Council not less than thirteen (13) days before its passage; (ii) brought to public notice by such notice having been posted in three (3) public places in Bellingham at least fifteen (15) days before the day fixed for the public hearing; (iii) published at least twice in the official newspaper for the County and no later than five (5) days prior to the day fixed for the hearing and as otherwise required by law; and (iv) passed at a regular meeting of the legislative body of the County of Whatcom by a

vote of at least _____ members of the County Council on _____, 2019.

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Jack Louws, County Executive

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

Timothy Ballew II
Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Satpal Sidhu

WHATCOM COUNTY COUNCIL

July 17, 2018

Northwest Water Association
Attn: Tim Brinkley, Pres.
5168 Graveline Road
Bellingham, WA 98226

RE: Receipt of Franchise Application

Dear Mr. Brinkley:

We have received the Application for Franchise you submitted on behalf of Northwest Water Association. The fee of \$500 has been deposited and the paperwork has been forwarded to our Public Works Department. They will review the submission and prepare the necessary documents for Council consideration at a later date. The person in Public Works who will likely be contacting you soon is Andrew Hester.

I have enclosed a receipt for your payment of the application fee. I look forward to working with you in the future as this franchise process continues.

Sincerely,

Marina Engels, CMC
Deputy Clerk of the Council

C: Andrew Hester, Public Works
AB2018-215

RECEIVED

JUL 16 2018

WHATCOM COUNTY
COUNCIL

APPLICATION FOR FRANCHISE

TO THE WHATCOM COUNTY COUNCIL:

COPY

COMES NOW, Northwest Water Association

who respectfully petitions the Whatcom County Council for a twenty-five (25) year franchise to lay, construct, maintain, and repair

water mains and water distribution lines in and along
certain roads in Whatcom County Washington.

and all necessary appurtenances along, over, and across the following roads situated
in Whatcom County, Washington: T 39N R2E S33, 34, 35, 2, 3
T 38N R2E S34

Smith Road, Graveline Rd, Sunset Avenue, Northwest Drive,
Waschke Rd, W Larson Rd, Aldrich Rd, Lange Rd
Slater Rd, Pacific Hwy, Byers Rd, Bristol Place
Fat Dog Lane.

The petitioner further requests that the Whatcom County Council fix a time and place
for a public hearing on the granting of this continuation of franchise, and that public
notice be given, at the expense of the petitioner, as provided by law; and that, at
said hearing, petitioner be granted the franchise continuation herein requested.

DATED: 7-10-18

Northwest Water Association
Company Name

5168 Graveline Rd
Mailing Address

Bellingham WA 98226
City State Zip

360 384 6489
Phone Number

[Signature]
Signature of authorized agent/owner

Tim L Brinkley Pres
Print or type name

Chapter 12.24 FRANCHISE REQUIREMENTS

Sections:

- 12.24.011 Authority.
- 12.24.021 Application requirements.
- 12.24.025 Transfer of ownership or control.
- 12.24.031 Forward to public works.
- 12.24.041 Ordinance.
- 12.24.051 Application – Notice of hearing.
- 12.24.061 Recording of franchise.
- 12.24.070 Submittal of plans and specifications.
- 12.24.080 Time limit.
- 12.24.090 Surety bonds.
- 12.24.100 Inspection.
- 12.24.110 Approval of alteration or revision.
- 12.24.120 Liability for construction or maintenance.

12.24.011 Authority.

This chapter is enacted pursuant to authority contained in Chapter 36.55 RCW and Whatcom County Charter Section 9.30. (Ord. 2008-005 Exh. A; Ord. 2004-022).

12.24.021 Application requirements.

- A. Application for franchises on county roads and bridges shall be submitted to the Whatcom County council pursuant to RCW 36.55.040.
- B. Every franchise application submitted to the county council shall be accompanied by a franchise application fee as set forth in the current Whatcom County unified fee schedule.
- C. Every franchise application submitted to the county council must also be accompanied by a sketch of the proposed installation. (Ord. 2008-005 Exh. A; Ord. 2004-022).

12.24.025 Transfer of ownership or control.

- A. A franchise shall not be sold, transferred, leased, assigned or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, unless approval is granted by the county council to ensure a review of circumstances not present at the time of the adoption of the original franchise. The council's approval shall not be unreasonably withheld.

C:\DOCUME~1\jnxon\LOCALS~1\Temp\XPgrpwise\2. APPLICATION FOR FRANCHISE.doc

12.24.061 Recording of franchise.

The Whatcom County council clerk shall cause the franchise to be recorded by the county auditor pursuant to RCW 36.55.080. (Ord. 2008-005 Exh. A; Ord. 2004-022).

12.24.070 Submittal of plans and specifications.

There shall be submitted to the director of Whatcom County public works or the county engineer three copies of the final plans, specifications or special provisions of the proposed installation, at the time of the granting of a franchise. (Ord. 2008-005 Exh. A; Ord. 2004-022; Ord. 93-066 Exh. A; prior code § 4.44.020. Formerly 12.24.020).

12.24.080 Time limit.

There shall be a time limit imposed upon the construction of any facility granted by franchise on any county road or bridge, subject to the approval of the county engineer. (Ord. 2008-005 Exh. A; Ord. 2004-022; prior code § 4.44.030. Formerly 12.24.030).

12.24.090 Surety bonds.

There shall be a surety bond posted at the time of granting a franchise for any facility upon a county road or bridge to ensure replacement of any county road or bridge to its original condition and shall be in an amount not less than 10 percent of the total estimate of the proposed installation and releasable only by the county engineer. (Ord. 2008-005 Exh. A; Ord. 2004-022; Ord. 93-066 Exh. A; prior code § 4.44.040. Formerly 12.24.040).

12.24.100 Inspection.

There shall be adequate inspection by an inspector approved by the county engineer who shall be responsible to the county engineer for all construction of any facility upon any county road or bridge. (Ord. 2008-005 Exh. A; Ord. 2004-022; prior code § 4.44.050. Formerly 12.24.050).

12.24.110 Approval of alteration or revision.

No alteration or revisions of plans as submitted at the time of granting a franchise shall be permitted by a person or persons, or any franchise-holder, unless prior approval is requested and submitted to the county engineer. (Ord. 2008-005 Exh. A; Ord. 2004-022; Ord. 93-066 Exh. A; prior code § 4.44.060. Formerly 12.24.060).

12.24.120 Liability for construction or maintenance.

The foregoing regulations are not to be construed as relieving the franchise holder of any responsibility or liability for the construction, reconstruction, or maintenance of such facilities as the franchise may grant. (Ord. 2008-005 Exh. A; Ord. 2004-022; prior code § 4.44.070. Formerly 12.24.070).

parties. The word "control" as use herein is not limited to majority stock ownership only, but includes actual working control in whatever manner exercised.

C. A franchisee shall promptly notify the county council prior to any proposed change in, or transfer of or acquisition by any other party of control of a franchisee's company. Every change, transfer, or acquisition by any other party of control of a franchisee's company shall cause a review of the proposed transfer. In the event that the county council adopts a resolution denying its consent and such change transfer or acquisition of control has been effected, the county may cancel the franchise. Approval shall not be required for mortgaging purposes or if said transfer is from a franchisee to another person or entity controlling, controlled by, or under common control with a franchisee.

D. Application for transfer of ownership or control shall be submitted to the county council.

E. Every franchise application for transfer of ownership submitted to the county council shall be accompanied by a franchise transfer of ownership fee as set forth in the current Whatcom County Unified Fee Schedule.

F. Regardless of the circumstances, a franchisee shall promptly notify the county prior to any proposed name change of the franchisee's company. In the event that the county approves a resolution withholding its consent to the name change within 60 days of receipt of notice thereof, the county may cancel the franchise unless the parties to such change reverse its effects within 60 days after the county notifies the franchisee of its intent to cancel the franchise hereunder. (Ord. 2008-005 Exh. A).

12.24.031 Forward to public works.

Upon receipt of franchise application, application fee, and sketch of proposed installation, or application for transfer of ownership and transfer of ownership fee, the clerk of the council shall forward a complete copy to the director of Whatcom County public works or the county engineer. (Ord. 2008-005 Exh. A; Ord. 2004-022; Ord. 93-066 Exh. A; prior code § 4.44.010. Formerly 12.24.010).

12.24.041 Ordinance.

Whatcom County public works director or the county engineer shall prepare an ordinance granting the franchise for consideration by the county council. (Ord. 2008-005 Exh. A; Ord. 2004-022).

12.24.051 Application – Notice of hearing.

The clerk of the council shall schedule a public hearing on the ordinance granting the franchise pursuant to RCW 36.55.050. (Ord. 2008-005 Exh. A; Ord. 2004-022).

Whatcom County public works director or the county engineer shall prepare an ordinance granting the franchise for consideration by the county council. (Ord. 2008-005 Exh. A; Ord. 2004-022).

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12.24.100 Inspection.

Such costs associated with this review process shall be reimbursed to the county council by a new prospective franchisee.

B. An assignment of a franchise shall be deemed to occur if there is an actual change in control or where ownership of 50 percent or more of the beneficial interests, singly or collectively, are obtained by other parties. The word "control" as use herein is not limited to majority stock ownership only, but includes actual working control in whatever manner exercised.

C. A franchisee shall promptly notify the county council prior to any proposed change in, or transfer of or acquisition by any other party of control of a franchisee's company. Every change, transfer, or acquisition by any other party of control of a franchisee's company shall cause a review of the proposed transfer. In the event that the county council adopts a resolution denying its consent and such change transfer or acquisition of control has been effected, the county may cancel the franchise. Approval shall not be required for mortgaging purposes or if said transfer is from a franchisee to another person or entity controlling, controlled by, or under common control with a franchisee.

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12.24.120 Liability for construction or maintenance.

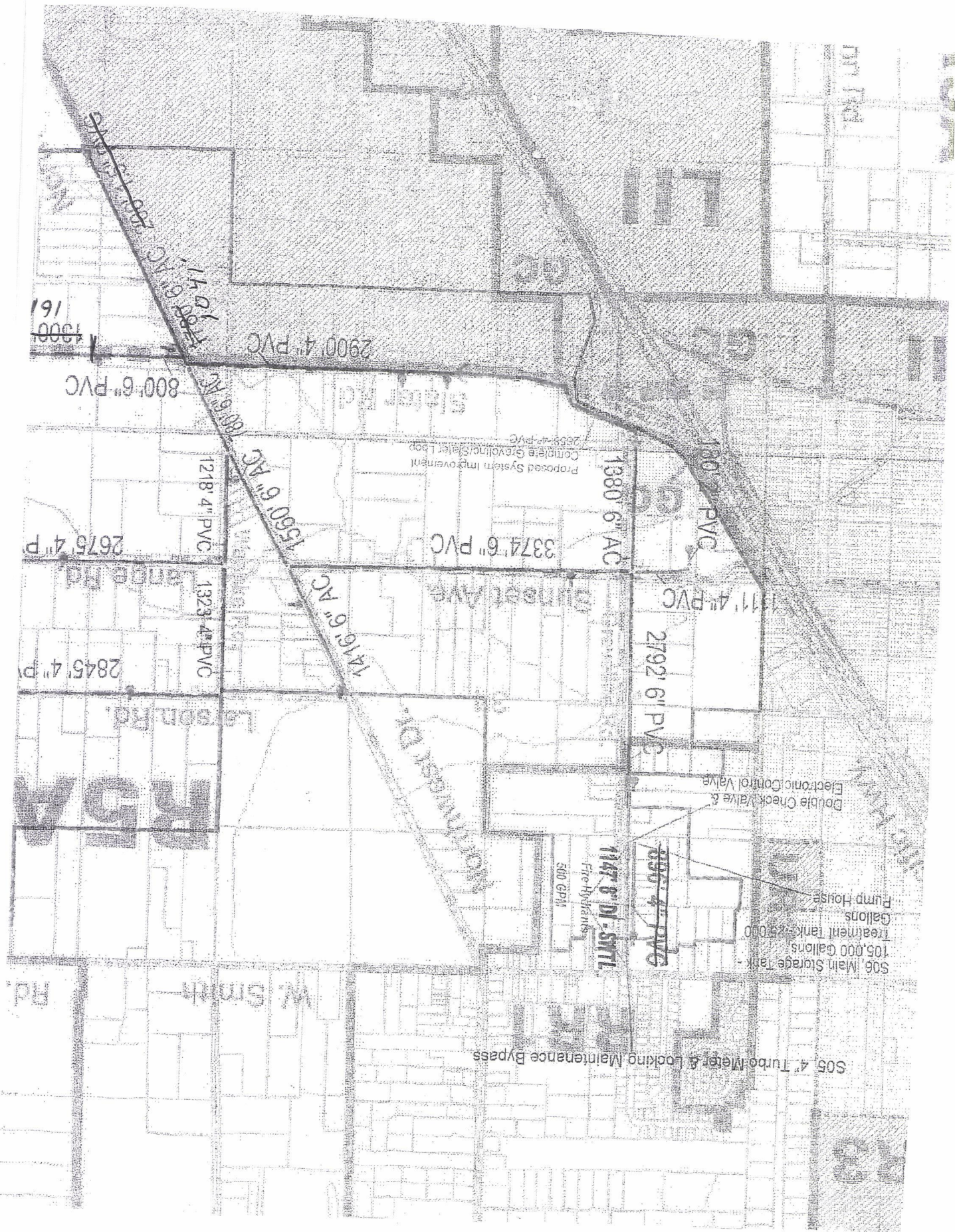
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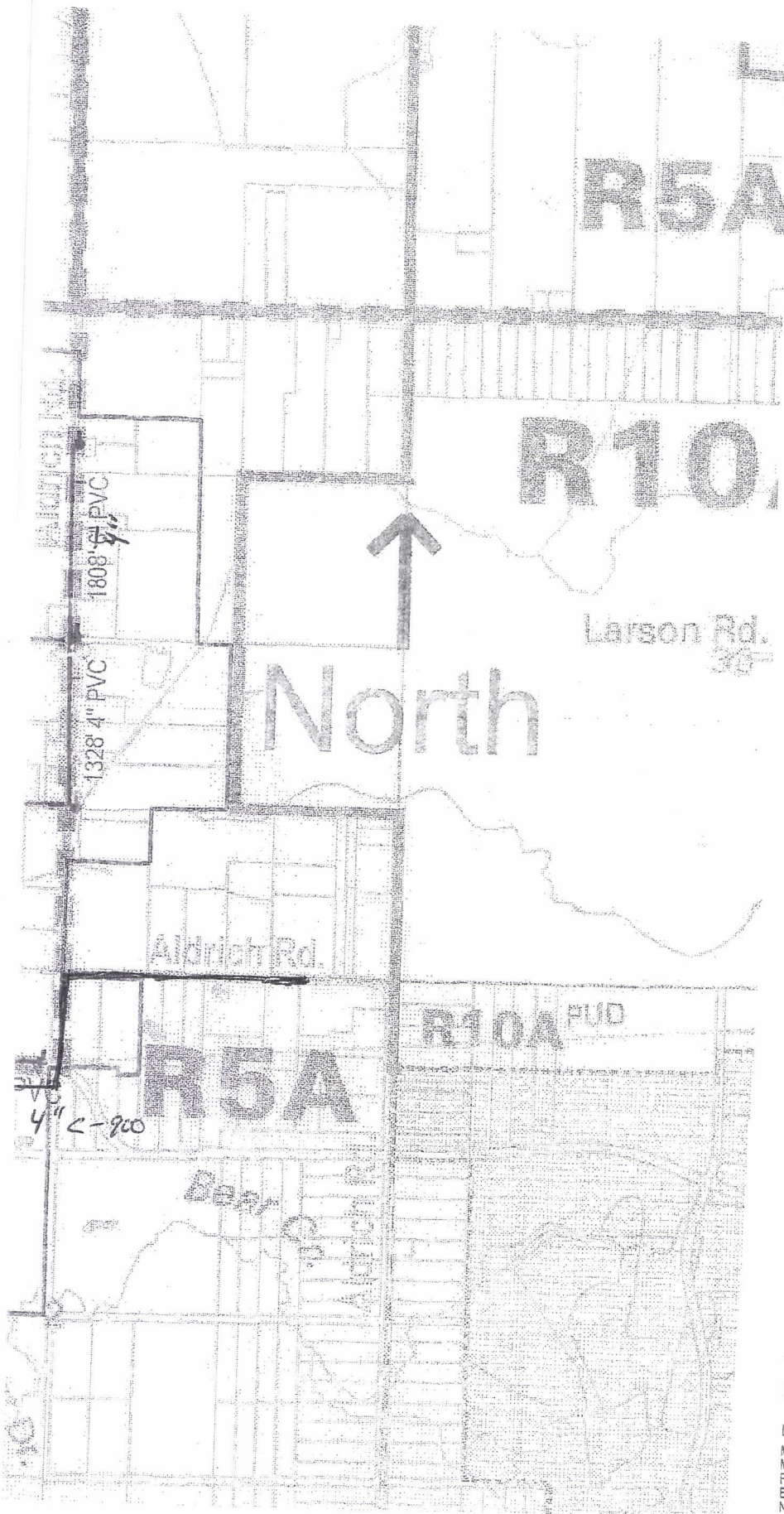


Northwest Water Association

USE OF WHATCOM COUNTY'S
AGREEMENT WITH THE FOLLO
Whatcom County disclaims any
of this map and the use of it

Northwest Water Association





Notes:

The 896' PVC & 1147' 8" DI on Graveline will be installed in summer 2004.
The NWWAI Utility Service Area shown here will be in effect summer 2004.

All PVC joints are assumed to be glued except for:
896' PVC on Graveline Road,
1808' PVC on Aldrich Road,
which have slip joints.

The Utility Service Area of the NWWAI covers approximately 1,200 acres.

The total length of distribution piping is almost exactly 6 miles.

Northwest Water Association, Inc. Facilities & Service Area

- Distribution Pipes —————
- Utility Service Area —————
- Manual Flow Control Valves •
- 2" Blowoff ↓
- System Booster Pumps Limited Fire Hydrant •
- Planned Improvements —————

Lines and Symbols Overlaid on Whatcom County Title 20 Zoning Map

Map made by:
Michael Robbins
Project Coordinator
Board of Directors
NWWAI, January 2004

5168 Graveline Road
Bellingham, WA. 98226

NORTHWEST WATER ASSOC.
C/O CHERYL A BRINKLEY
5168 GRAVELINE RD.
BELLINGHAM, WA 98226-9055

19-10/1250

4326

DATE 7-10-18

PAY TO THE ORDER OF Whatcom County Council \$ 500.⁰⁰
Five Hundred and no/100 DOLLARS

usbank.

MEMO Franchise

⑆ 125000 105⑆ 15350 1908476⑈ 4326

RECEIPT
Whatcom County

200420

DEPARTMENT Council DATE 7/16/18

RECEIVED FROM NW Water Association
ADDRESS _____

IN PAYMENT OF Franchise Application

FUND _____ AMOUNT PAID \$500.00

REVENUE CODE _____

OLD BAL.		
PAID		
BAL. DUE		

CASH			
CHECK	500	00	#4326
MONEY ORD.			

SIGNATURE *[Signature]*

NOTE - All three copies of all voided receipts must be retained
in department's numerical file.