

## MONROE CITY COUNCIL

Regular Business Meeting  
April 26, 2016, 7:00 P.M.

Council Chambers, City Hall  
806 W Main Street, Monroe, WA 98272

### AGENDA

Call To Order

Roll Call

Pledge Of Allegiance

1. Councilmember Davis

Announcements And Presentations

1. Proclamation: Public Works Week 2016

Documents: [2016042616 AP1 Proclamation PW Week 2016.pdf](#)

2. Proclamation: National Day of Prayer

Documents: [2016042616 AP2 Proclamation NatDayPryr.pdf](#)

Comments From Citizens

[This time is set aside for members of the audience to speak to the City Council on any issue related to the City of Monroe; except any quasi-judicial matter subject to a public hearing. **Please sign in prior to the meeting; testimony is limited to 5 minutes per speaker.**]

Consent Agenda

1. Approval of the Minutes; April 12, 2016, Regular Business Meeting

Documents: [20160426 CA1 MCC Minutes 20160412.pdf](#)

2. AB16-050: Authorize Mayor to Sign 2016 Concessionaire Agreement with Sharinabeau's

Documents: [AB16-050\\_2016 Concessionaire Agmt.pdf](#)

Unfinished Business

1. AB16-051: Discussion: Monroe Community Coalition - Action Recommendations

Documents: [AB16-051\\_MonroeCmtyCoalitionRec.pdf](#)

New Business

1. AB16-052: Setting a date for Consideration of the Hearing Examiner's Recommendation regarding Skyview Ridge Preliminary Plat and Preliminary Planned Residential Development (PRD)

Documents: [AB16-052\\_SkyviewPPLPRD.pdf](#)

2. AB16-053: Discussion: Downtown Fee Waiver Report

Documents: [AB16-053\\_DTFeeWaiverRpt.pdf](#)

3. AB16-054: Authorize the Mayor Pro Tem to Sign the Snohomish County CDBG Grant Agreement for the Railroad Crossing Sidewalk Extension Project

Documents: [AB16-054\\_CDBGAgmtRRCrossingSW.pdf](#)

#### Councilmember Reports

1. City Council Transportation/Planning, Public Works, Parks & Recreation, and Public Safety Committee

#### Staff/ Department Reports

1. Tract 999
2. Staff Report on Land Sales Update

#### Mayor/ Administrative Reports

1. Monroe This Week (April 22, 2016, Edition No. 16)

Documents: [20160426 MR1 Monroe This Week Edition 16.pdf](#)

2. Draft Agenda for May 3, 2016, Regular Business Meeting

#### Executive Session

*If needed.*

#### Adjournment

Majority vote to extend past 10:00 p.m.

THE CITY COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS  
AGENDA

Accommodations for people with disabilities will be provided upon request. Please call City Hall at 360-794-7400. Please allow 48 hours advance notice.



# Proclamation

## PUBLIC WORKS WEEK

**MAY 15-21, 2016**

WHEREAS, public works services provided in our community are an integral part of our citizen's everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, and solid waste collection; and

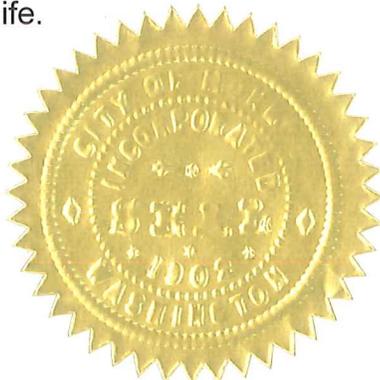
WHEREAS, the health, safety, and comfort of this community greatly depends on these facilities and services; and

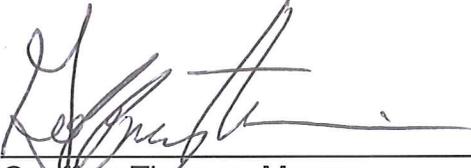
WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works officials.

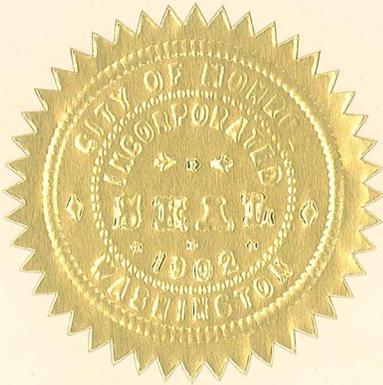
NOW THEREFORE, I, Geoffrey Thomas, Mayor of the City of Monroe, do hereby proclaim the week of May 15-21, 2016, as

## PUBLIC WORKS WEEK

in the City of Monroe, and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works professionals make every day to our health, safety, comfort, and quality of life.



  
Geoffrey Thomas, Mayor



# Proclamation

## NATIONAL DAY OF PRAYER

MAY 5, 2016

WHEREAS, one of our Nation's great strengths is the freedom we hold dear, including the freedom to exercise our faiths freely. For many Americans, prayer is an essential act of worship and a daily discipline; and

WHEREAS, today and every day, prayers will be said for comfort for those who mourn, healing for those who are sick, protection for those who are in harm's way, and strength for those who lead. Today and every day, forgiveness and reconciliation will be sought through prayer. Across our country, Americans give thanks for our many blessings, including the freedom to pray as our consciences dictate; and

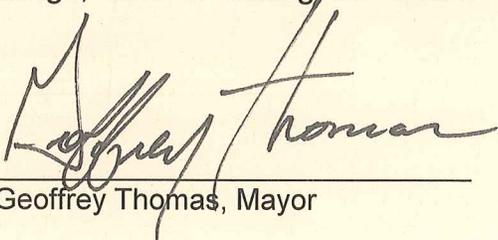
WHEREAS, as we give thanks for our liberties, we must never forget those around the world, including Americans, who are being held or persecuted because of their convictions. Let us remember all prisoners of conscience today, whatever their faiths or beliefs and wherever they are held. Let us continue to take every action within our power to secure their release. And let us carry forward our Nation's tradition of religious liberty, which protects Americans' rights to pray and to practice our faiths as we see fit; and

WHEREAS, annually the President of the United States of America issues a proclamation designating the first Thursday in May as a "National Day of Prayer."

NOW THEREFORE, I, Geoffrey Thomas, Mayor of the City of Monroe, Washington, do hereby support and encourage the residents of Monroe to join me, May 5, 2016, in observing the

## NATIONAL DAY OF PRAYER

and join the citizens of our Nation in giving thanks, in accordance with our own faiths and consciences, for our many freedoms and blessings, and in asking for God's continued guidance, mercy, and protection.



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Geoffrey Thomas, Mayor

**CALL TO ORDER, ROLL CALL AND PLEDGE**

The April 12, 2016, Regular Business Meeting of the Monroe City Council was called to order by Mayor Thomas at 7:04 p.m.; Council Chambers, City Hall.

Councilmembers present: Davis, Gamble, Hanford, Kamp, Rasmussen, and Scarboro.

Staff members present: Brazel, Farrell, Feilberg, Osaki, Quenzer, Roberts, Smoot, and Warthan; and City Attorney Eick.

The Pledge of Allegiance was led by Councilmember Kamp.

Mayor Thomas noted, without objection, the excused absence of Councilmember Cudaback. No objections were noted.

Mayor Thomas noted the need to add an item to the agenda, under the New Business section (No. 4).

Councilmember Gamble moved to add an item to the agenda - AB16-049 – Authorize Mayor to sign Master Agreement with Department of Corrections for Offender Work Crew Projects; the motion was seconded by Councilmember Hanford. On vote,

Motion carried (6-0).

**ANNOUNCEMENTS/PRESENTATIONS**

1. Presentation: Monroe Boys & Girls Club – Request for HVAC Replacement Assistance

Mr. Bill Tsoukalas, Executive Director – Boys & Girls Club of Snohomish County, presented information regarding a request for HVAC Replacement Assistance, including: organizational map, background information on current location and lease, and quote for replacement of HVAC system.

Councilmembers Hanford and Gamble requested this item come back to a future Council Meeting for further discussion.

Councilmember Rasmussen noted a conflict of interest and exited the Chambers for further discussion on Announcements/Presentations Item No. 1.

General discussion ensued regarding scope of project (air conditioning/heating), quote, funding request, Boys & Girls Club budgeting, grant possibilities, and a similar situation/request in Snohomish.

Mayor Thomas noted this item would be scheduled for further discussion at a future Council Meeting, as requested.

**COMMENTS FROM CITIZENS**

The following persons spoke regarding a contract with the City of Monroe: Mr. Greg MacPherson.

The following persons spoke regarding the East Monroe Rezone/Reclassification: Ms. Duana T. Kolouskova, Mr. Shane Bradley, Ms. Erin Angus-Snapka, Ms. Ashley Sellers, Ms. Misty Blair, Mr. Douglas Hamar, and Ms. Colleen Magelsen.

The following person spoke regarding an upcoming Downtown Monroe Association Event: Ms. Erin Angus-Snapka.

The following person spoke regarding the Chain Lake Road Roundabout, and Main Street and Lewis Street projects: Mr. Dave Demarest.

**EXECUTIVE SESSION**

1. Pricing of Property [RCW 42.30.110(1)(c)] *(10 minutes)*
2. Agency Litigation [RCW 42.30.110(1)(i)] *(10 minutes) -- added at the time of the meeting*

Mayor Thomas stated the Council would recess into an executive session for approximately 20 minutes total to discuss one item of Pricing of Property [RCW 42.30.110(1)(c)] and one item of Agency Litigation [RCW 42.30.110(1)(i)]; and read the appropriate citation into the record.

*The meeting recessed into executive session at 7:57 p.m., was extended for an additional 25 minutes, and reconvened at 8:44 p.m.*

**CONSENT AGENDA**

1. Approval of the Minutes; April 5, 2016, Regular Business Meeting
2. Approval of Payroll Warrants and ACH Payments *(Check Nos. 34649 through 34695, Direct Deposits, and HSA Funding, in a total amount of \$1,122,729.62)*
3. AB16-045: Authorize Mayor to Sign Amendment No. 1 to Advanced Metering Infrastructure System Contract with Ferguson Enterprises Inc.

Councilmember Rasmussen moved to approve the Consent Agenda; the motion was seconded by Councilmember Gamble. On vote,  
Motion carried (6-0).

**FINAL ACTION**

1. AB16-046: Resolution No. 004/2016, Disavowing the City's Intent to Proceed with the East Monroe Reclassification/Rezone

Councilmember Kamp moved to defer consideration of Resolution No. 004/2016 to a later date; the motion was seconded by Councilmember Gamble.

City Attorney Eick read a statement into the record, at the request of City Council, regarding Councilmember Scarboro's voting rights on this matter; there are no prohibitions/conflicts.

On vote,

Motion carried (6-0).

2. AB16-047: Approval of Installation of Downtown Monroe Area Decorative Lighting

Mr. Brad Feilberg, Public Works Director, provided background information on AB16-047, and the proposed installation and layout of decorative lighting in the Downtown Monroe Area.

General discussion ensued regarding costs and funding, project timing, and referring the item to the City Council Finance and Human Resources Committee for further discussion.

3. AB16-048: Rescission of AB16-028, Accepting Grant Funds and Authorizing Signature of Associated Documents

Mr. Feilberg provided background information on AB16-048, and the proposed rescission of AB16-028.

Councilmember Hanford moved to rescind the approval of AB16-028, accepting grant funds and authorizing signature of associated documents; and expressly authorizing further minor revisions as deemed necessary or appropriate; the motion was seconded by Councilmember Gamble.

General discussion ensued regarding time restrictions on accepting the grant funding, nature of grant monies to be awarded – first come, first served, and appropriateness of action.

On vote,

Motion carried (6-0).

4. AB16-049: Authorize Mayor to sign Master Agreement with Department of Corrections for Offender Work Crew Projects (*added at the top of the meeting*)

Mr. Mike Farrell, Parks and Recreation Director, provided background information on AB16-049, the proposed agreement and updates thereto from previous years, and timeliness of proposed DOC work crew projects.

Councilmember Gamble moved to authorize the Mayor to sign the Master Agreement with the Department of Corrections for Offender Work Crew Projects, and expressly authorize any further minor revisions as deemed necessary or appropriate; the motion was seconded by Councilmember Kamp. On vote,

Motion carried (6-0).

5. Letter of Intent/Offer to Purchase Parcel 7, North Kelsey Village Monroe (*added at the time of the meeting*)

Councilmember Gamble moved to add an item to the agenda – Letter of Intent/Offer to Purchase Parcel 7, North Kelsey Village Monroe; the motion was seconded by Councilmember Hanford. On vote,

Motion carried (6-0).

Councilmember Gamble moved to authorize the Mayor to sign the Letter of Intent/Offer to Purchase Parcel 7, North Kelsey Village Monroe with Barber Development Company, LLC, and expressly authorize any further minor revisions as deemed necessary or appropriate; the motion was seconded by Councilmember Davis On vote,

Motion carried (6-0).

## **COUNCILMEMBER REPORTS**

1. City Council Legislative Affairs Committee (Councilmember Kamp)

Councilmember Kamp reported on the items discussed at the April 12, 2016, City Council Finance and Human Resources Meeting, including: a report by Green Light Strategies, and proposed amendments to the City Council Rules of Procedure.

2. ~~Community Transit Board of Directors Meeting (Councilmember Gudaback)~~

No report was given.

3. Snohomish Health District Board of Directors (Councilmember Rasmussen)

Councilmember Rasmussen reported on the items discussed at the April 12, 2016, Snohomish Health District Board of Directors Meeting, including: special recognitions, public health policy, youth marijuana prevention/education grant, and transition plan for WIC and First Steps.

4. Individual Reports

Councilmember Gamble commented on the Lake Tye Skate Park Groundbreaking Event.

Councilmember Kamp commented on the Lake Tye Skate Park Groundbreaking Event.

Councilmember Rasmussen commented on the Lake Tye Skate Park Groundbreaking Event, and the Monroe Chamber Luncheon State of the City Address by Mayor Thomas.

Councilmember Hanford commented on the Lake Tye Skate Park Groundbreaking Event.

**STAFF/DEPARTMENT REPORTS**

1. Finance Report

No verbal report was given.

2. Public Works Report

Mr. Brad Feilberg noted the Public Works Department report included in the Meeting Agenda Packet, and on the request for public input on safe walking routes for a grant application.

Mr. Farrell reported on the following Parks and Recreation Department items: ball return installation, drainage improvements to Lake Tye Park playground, and the summer Parks brochure.

Councilmember Kamp congratulated Police Chief Tim Quenzer on the Police Department's involvement in the closing of a drug house on Corbridge Road.

**MAYOR/ADMINISTRATIVE REPORTS**

City Administrator Gene Brazel reported on land inquiries received by Ms. Jane Lanford, the City's Land Broker.

1. Monroe This Week (*April 8, 2016, Edition No. 14*)

Mayor Thomas reported on meetings held and events attended the previous week and forthcoming items; including: meeting with members of the Monroe Community Coalition, the State of the City Address provided at the Monroe Chamber Luncheon, PSRC Economic Development meeting, and the upcoming Snohomish County Cities Meeting.

2. Draft Agenda for April 19, 2016, Regular Business Meeting

Mr. Brazel reviewed the draft agenda for the April 19, 2016, Monroe City Council Regular Business Meeting, the extended agenda, and additions/edits thereto. Mr. Brazel noted the very sparse agenda on April 19<sup>th</sup> and possible cancellation.

Councilmember Gamble moved to cancel the April 19, 2016, Monroe City Council Regular Business Meeting; the motion was seconded by Councilmember Rasmussen. On vote,

Motion carried (6-0).

Councilmember Davis proposed moving the Transportation/Planning, Public Works, Parks & Recreation, and Public Safety Committee Meeting from April 19<sup>th</sup> to April 26<sup>th</sup>. No objections were noted.

**ADJOURNMENT**

There being no further business, the motion was made by Councilmember Gamble and seconded by Councilmember Hanford to adjourn the meeting. On vote,  
Motion carried (6-0).

**MEETING ADJOURNED: 9:27 p.m.**

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Geoffrey Thomas, Mayor

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Elizabeth M. Smoot, MMC, City Clerk

*Minutes approved at the Regular Business Meeting of April 26, 2016.*



# MONROE CITY COUNCIL

## Agenda Bill No. 16-050

<b>SUBJECT:</b>	<i>Authorize Mayor to Sign 2016 Concessionaire Agreement with Sharinabeau's</i>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
04/26/2016	Parks & Recreation	Mike Farrell	Mike Farrell	<b>Consent Agenda #2</b>

**Discussion:** 04/26/2016

**Attachments:** 1. Proposed 2016 Concessionaire Agreement

**REQUESTED ACTION:** Move to authorize the Mayor to sign the 2016 Concessionaire Agreement with Sharinabeau's to provide concession services at Sky River and Lake Tye Parks; and expressly authorize any further minor revisions to as deemed necessary or appropriate.

### DESCRIPTION/BACKGROUND

The City had requested proposals for food and beverage concession services at Lake Tye and Sky River Parks for 2016. A request for proposals was advertised in local newspapers, the City website, and on Craigslist, Inc. during the months of December 2015 through April 2016. The City received a proposal to provide concession services for both park locations from Sharinabeau's, an established local mobile food and drink provider.

Sharinabeau's proposes to provide food and drink concessions at Lake Tye and Sky River Parks; including menu items such as hot dogs, soft drinks, coffee, candy, ice cream, and other food and drink items for scheduled athletic and community events.

### IMPACT – BUDGET

Agreement states that Concessionaire shall pay 10 percent (10%) of gross sales each month to the City.

### TIME CONSTRAINTS

It is the desire of the Department to have concession services ready to start in May 2016.

**CITY OF MONROE  
CONCESSIONAIRE AGREEMENT  
SKY RIVER PARK/LAKE TYE PARK**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **City of Monroe**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the "City," and **Sharinabean's**, hereinafter referred to as "Concessionaire."

WHEREAS, the City of Monroe desires to have concession services provided for the general public at certain City parks from May 1, through September 30, 2016; and

WHEREAS, Concessionaire is in the business of providing concession services and is agreeable to providing such services in accordance with the provisions of this Agreement;

NOW, THEREFORE, in consideration of the agreements contained herein, the City and Concessionaire agree as follows:

1. Services. Concessionaire agrees to provide concession service to the City of Monroe at Skykomish River Park and Lake Tye Park from May 1, through September 30, 2016. Concessionaire further agrees to install all necessary equipment such as signage, refrigerator/freezer/cooking/warming equipment, food preparation and display equipment. Concessionaire equipment shall be listed by the National Sanitation Foundation (NSF) or equivalent for its intended use. Concessionaire understands that this is not an exclusive contract excluding other concession services from any City park.
2. Duration. This Agreement shall become effective as of the date first shown above written through October 31, 2016, provided, however, that either party may terminate said Agreement at any time with or without cause by giving seven (7) days written notice of said termination and specifying the effective date. This Agreement may be renewed for additional one (1) year periods upon the mutual agreement of the parties under such terms and conditions as the parties may determine.
3. Compensation. Concessionaire agrees to pay the City of Monroe ten percent (10%) of the Reportable Revenue generated from the sale of goods at the concessions by Concessionaire and its subcontractors and agents as authorized by this Agreement. "Reportable Revenues" shall mean the total revenues received from selling goods before any deductions are made for returns, allowances, or discounts, less Sales Tax collected (9.2%). Concessionaire shall be responsible for collection and reporting of all Reportable Revenues generated by itself and its subcontractors or agents. Monthly payments to the City shall be due and payable by the tenth (10<sup>th</sup>) of the following month. Concessionaire shall provide the City with any and all financial records documenting its gross revenue

on a monthly basis for audit. Forms and procedures will be provided by the City of Monroe Finance Department for daily and monthly reporting. All transactions shall be completed utilizing City of Monroe cash registers at Skykomish River Park and Lake Tye Park or other point of sale system approved by the City of Monroe Finance Department.

4. Regulations. Concessionaire agrees that Concessionaire and its subcontractors and agents shall comply with applicable federal, state and City laws, rules, and/or regulations. The aforementioned include, but are not limited to the following:
  - a. Federal, state and local health, safety and licensing laws and/or regulations related to sale(s) of concession goods; and
  - b. Monroe Municipal Code
5. Products. Concessionaire agrees that items and services sold by Concessionaire and its subcontractors and agents shall be sold on a competitive level. Concessionaire shall submit all proposed prices to the Monroe Parks & Recreation Department for prior written approval. Certain products are occasionally deemed desirable to be available and certain others cause maintenance problems. Concessionaire agrees that Concessionaire and its subcontractors and agents shall comply with prior written requests by the City to supply certain products, or not to supply certain products, provided that any such request shall not be unreasonable.
6. Operating Hours. Concessionaire and its subcontractors and agents shall keep the concession units open and use it to transact business with the public daily during days and hours mutually agreed upon and approved in writing by the Director from the Monroe Parks & Recreation Department. From **approximately** May 1, through September 30, 2016, the concession units will be open, with days and hours of operation varying according to scheduled field and event activities, weather conditions and park attendance as agreed by both parties. Concessionaire acknowledges that Special Events and Tournaments may extend past ten (10) hours per day. The City of Monroe shall provide Concessionaire updated weekly facility use schedules.
7. Indemnification Clause. The Concessionaire shall defend, indemnify and hold the City, its officers, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with Concessionaire's operations, Concessionaire's use of the City's premises, or otherwise arising out of the performance of this Agreement, including those arising out of the negligence or malfeasance of its subcontractors and agents, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily

injury to persons or damages to property caused by or resulting from the concurrent negligence of the Concessionaire and the City, its officers, officials, employees, and volunteers, the liability hereunder shall be only to the extent of the Concessionaire's negligence and that of Concessionaire's subcontractors and agents. It is further specifically and expressly understood that the indemnification provided herein constitutes the Concessionaire's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

8. Insurance. The Concessionaire shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Concessionaire, its agents, representatives, employees, or subcontractors.

The Concessionaire shall provide a Certificate of Insurance evidencing Commercial General Liability insurance written on an occurrence basis with limits of no less than \$1,000,000 combined single limit per occurrence for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: premises; blanket contractual; products/completed operations; broad form property damage; and employer's liability.

The insurance policy required hereunder shall contain, or be endorsed to contain, that the Concessionaire's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Concessionaire's insurance and shall not contribute with it.

Any payment of deductible or self-insured retention shall be the sole responsibility of the Concessionaire.

The City shall be named as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Concessionaire and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to receive a certified copy of all required insurance policies.

The Concessionaire's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

The insurance policy required hereunder is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

The Concessionaire's maintenance of insurance as required hereunder shall not be construed to limit the liability of the Concessionaire to the coverage provided by such insurance, or to otherwise limit the City's recourse to any remedy available at law or in equity.

9. Concession Facilities. As except as expressly provided under this Agreement, the City of Monroe shall be responsible for all utilities, repairs and maintenance of City-owned facility units. Concessionaire shall be solely responsible for protecting the concession equipment against loss or destruction due to all perils, including but not limited to, theft, vandalism, and fire. All maintenance and service performed thereon shall be performed by employees of Concessionaire or authorized independent contractors only. All employees used by Concessionaire, its subcontractors and agents hereunder, shall comply with applicable rules and regulations of the City relating to the management of said premises. It will be the responsibility of the Concessionaire to clean the immediate surrounding exterior of the service areas (a radius of 100 feet). Furthermore, Concessionaire shall not make any alterations, additions or improvements to the facility units or concession equipment without the City's prior written consent, which consent may not be unreasonably withheld. All of the activity described in this section must take place during normal operating hours as specified in proposed agreement.
10. Customer Service. The Concessionaire understands the City's concern with providing high quality and effective customer service. The Concessionaire and its subcontractors and agents shall honor all requests for refunds from customers who have lost money in a vending machine if such machines are installed. Concessionaire, its employees, subcontractors and agents shall treat customers with courtesy.
11. Employee Performance. The Concessionaire shall provide an active training program for the development of the necessary skills and techniques for all of Concessionaire's employees, subcontractors and agents. These sessions shall stress work performance and also include product and service presentation, cleanliness, and employee attitude.
12. Background Check. The Concessionaire, its employees, and its subcontractors and agents and their employees, shall complete, sign and return the *Authorization for Release of Information* and *Child/Adult Disclosure Statement* forms (**Exhibit "A"** 3 pages) to the City prior to any and all operations (see item #6 Operating Hours).
13. Employee Attitude. Each employee, subcontractor and agent is to project a hospitable, friendly, helpful, positive attitude and be capable and willing to answer visitor's questions about both concessionaire and general park information.

14. Employee Appearance. The Concessionaire and its subcontractors and agents will be required to have employees who come in direct contact with the public wear identification, by which they may be known and distinguished as the employees of the Concessionaire. The Concessionaire shall require all such employees to exercise courtesy and consideration in their relations with the public and present a neat, clean, and otherwise attractive personal appearance.
15. Staffing. All facilities and services must be properly staffed so as to prevent undue delay to customers. In determining what constitutes undue delay, consideration shall be given to the kinds and types of service being rendered and situations or conditions beyond the control of the concessionaire, such as unanticipated influxes of visitors, facility or equipment breakdowns, or sudden weather changes. The reasonableness of the delay, based on the above, should be the determining factor.
16. Assignability. Concessionaire shall not assign any interest in this Agreement and shall not transfer any interest in the same; provided, however, that Concessionaire may employ subcontractors upon prior written approval by City to provide certain portions of its concessions services provided that Concessionaire shall remain responsibility for its subcontractors' and agents' compliance with this Agreement.
17. Relationship. Nothing contained in this Agreement shall establish an employee-employer relationship between the City and Concessionaire or its employees, agents, subcontractors, or independent contractors. Concessionaire shall be solely responsible and shall assume exclusive liability for the payment, actions, conduct, supervision, and instruction of its employees, subcontractors or independent contractors. Nothing contained in this Agreement shall create any partnership, joint venture, or other arrangement between the City and Concessionaire.
18. Content and Understanding. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein; provided, however, that any charge(s) hereto duly executed by both parties shall be incorporated in written amendments to this Agreement.
19. Severability. If any provision of this Agreement or its application to any person or circumstances is held invalid, the remainder of the Agreement, or the application of the provision to other persons or circumstances shall not be affected.
20. Receipt Statement. Concessionaire shall sign a statement permitting representatives of the City of Monroe to contact the Tax Division of the State of Washington to release to the City a statement of receipts from sales and services made at the concessions as filed during or for the period of any awarded contract.

21. Business License. Concessionaire shall sign a statement acknowledging that in the event a contract is awarded, the Concessionaire, its subcontractors and agents shall have obtained a valid City of Monroe business license prior to commencement of work, as well as all other Snohomish County Health District and other licenses or permits required of Concessionaires.

22. Contract Compliance Management. Concessionaire shall sign a formal written Contract Compliance Report, which shall be done monthly to assure Concessionaire is complying with this Agreement. Items to be covered shall include, but not be limited to:

- a. Fees due to the City, if required
- b. Accounting Report
- c. Insurance
- d. Facility Interior and Surrounding Area
- e. Operating Hours
- f. Rates
- g. Staffing/Performance

23. Leasehold Excise Tax. The parties acknowledge that this Agreement is subject to leasehold excise taxes pursuant to Chapter 82.29A RCW and Chapter 3.16 MMC in the total amount of 12.84 percent of the compensation amount set forth in Section 3.

IN WITNESS WHEREOF, the City and Concessionaire have executed this Agreement as of the date first above written.

CITY OF MONROE

CONCESSIONAIRE

\_\_\_\_\_  
Geoffrey Thomas, Mayor

\_\_\_\_\_  
Concessionaire

**Exhibit "A" (1 of 3 pages)**

**APPLICANT AUTHORIZATION FOR RELEASE OF INFORMATION**

(To be completed by applicants seeking employment with the City of Monroe)

As an applicant for the position of \_\_\_\_\_ I hereby grant permission to the City of Monroe to gather information about my employability, including but not limited to, information about my education, credit history, employment history, military history, job performance, and any/all information about any incidents of my being investigated for misconduct, or found to have violated the employer's policies and procedures or found to have participated in illegal or wrongful acts.

I authorize my former employer \_\_\_\_\_ to release any and all information that has been deemed as confidential or has been sealed according to a litigation related settlement.

The City of Monroe may gather the requested information solely for the purpose of conducting city business and solely for the purpose of determining my employability.

I agree to hold harmless \_\_\_\_\_ for releasing information and the City of Monroe receiving the information for any damages of any kind made as a result of my former employer's compliance with the authorization and request to release information about me, and I agree not to sue or make any other claim against either party with respect to the release of information.

In addition, I waive my right to see the information gathered as part of the background investigation/reference check.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Exhibit "A" (2 of 3 pages)

**CHILD/ADULT ABUSE RECORD SEARCH GUIDELINES**

Refer to Revised Code of Washington (RCW) 43.43.830-43.43.845 for complete information.

Child/Adult Abuse Background checks may be conducted only by Washington State business, organizations or individuals, all other states must conduct searches under the Criminal Records Privacy Act.

**1. Searches can be conducted only on prospective employees, volunteers or adoptive parents.** (For current employees or volunteers, see note below.)

Background checks can be requested on prospective employees, volunteers or adoptive parents who will or may have unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults. The background check is for initial employment or engagement decisions only.

**2. Applicants must be notified an inquiry may be made.**

A business or organization shall not make an inquiry to the Washington State Patrol unless the business or organization has notified the applicant, who has been offered a position as an employee or volunteer, an inquiry may be made.

**3. A signed disclosure statement is required from applicant before a search is conducted.**

A business or organization shall require each applicant to disclose to the business or organization whether the applicant has been:

- Yes  No (a) convicted of any crime against children or other persons;
- Yes  No (b) convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;
- Yes  No (c) convicted of crimes related to drugs as defined in RCW 43.43.830;
- Yes  No (d) found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;
- Yes  No (e) found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;
- Yes  No (f) found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult;
- Yes  No (g) found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

**Exhibit "A" (3 of 3 pages)**

**If yes to any of the above, please explain:**

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**The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury.** The disclosure sheet shall specify all crimes against children or other persons, all crimes relating to drugs, and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

\_\_\_\_\_  
Signature of applicant

\_\_\_\_\_  
Date

**4. *Applicants must be notified of the response.***

**The requesting agency shall notify the applicant of the state patrol's response within ten days after receipt.** The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

**Notes**

- The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this subsection is subject to a civil action for damages.
- Background checks pursuant to the Child and Adult Abuse Information Act do not expire and therefore should not be conducted routinely.
- Background checks on current employees or volunteers should be done through the Criminal Records Privacy Act, RCW 10.97.

**Responses are limited to Washington State records only.**



# MONROE CITY COUNCIL

## Agenda Bill No. 16-051

<b>SUBJECT:</b>	<i>Discussion: Monroe Community Coalition –Action Recommendations</i>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
04/26/2016	Administration	Gene Brazel	Geoffrey Thomas	<b>Unfinished Business #1</b>

**Discussion:** 04/26/2016

- Attachments:**
1. Monroe Community Coalition Info for Discussion
  2. Sample Ordinances provided by Monroe Community Coalition regarding 'Underage Gathering' Regulations
  3. RCW 66.44.270, Furnishing liquor to minors – Possession; use – Penalties – Exhibition of effects – Exceptions

**REQUESTED ACTION:** Council discussion and direction

### DESCRIPTION/BACKGROUND

On April 7, 2016, representatives from the Monroe Community Coalition met with Mayor Thomas, Chief Quenzer, Administrator Brazel, and Executive Assistant Pam Baker as a follow up to the Coalition's presentation to Council on March 8, 2016. The Coalition provided material similar to that presented to Council (see Attachment 1) and requested the following actions:

1. Prohibiting alcohol on public property including at events. This would include events in City parks (e.g. Music in the Park, wakeboard events, etc.) and in City rights-of-way (e.g. on Main Street following the Fair Days Parade). An ordinance and changes to the Special Events Code and Park Code would be required to implement this.
2. Making it unlawful for a person under the age of 18 to possess a vaping device. An ordinance would be required to implement this.
3. Establishing a City prohibition to smoking and vaping in City parks. An ordinance and change to the Parks Code would be required to implement this.
4. Adopting a civil penalty that would apply to the renter or property owner of a property where underage drinking of more than ten (10) people is occurring. This is similar to regulations regarding 'Underage Gatherings' adopted by the Cities of Othello and Mercer Island (see Attachment 2).
5. Coordinating with the City on the drug takeback program. The City has a program to do this. Mayor, staff, and members of the Coalition will work together to provide additional outreach and education about this program. No Council action is required to implement this.

Staff has reviewed these requests and has concerns over the enforcement of item nos. 1 through 4. In regards to item no. 4, the underlying activity targeted (underage drinking, supplying alcohol to minors and allowing minors to consume alcohol on the landowner's premises) is currently criminalized by state law and enforceable; see RCW 66.44.270, Furnishing liquor to minors – Possession; use – Penalties – Exhibition of effects – Exceptions (Attachment 3).

In addition, Staff shares concerns over the impact this could have on community events with the elimination of such items as the beer and wine gardens. In many cases, non-profits hosting such events rely on this as fund raisers and the events are regulated by the Washington State Liquor Control Board.

**IMPACT – BUDGET**

Potential for additional staffing to enforce proposed regulation(s) and an increase in legal costs. Loss or reduction of attendance at some community events.

**TIME CONSTRAINTS**

None provided.

## Monroe Community Coalition Discussion for Action

### The Coalition’s Goal

The Coalition’s goal is to reduce the long-term negative impacts our community experiences when young people don’t leave school career or college ready, engage in behaviors leading to arrest, or develop severe, life interfering, mental health issues.

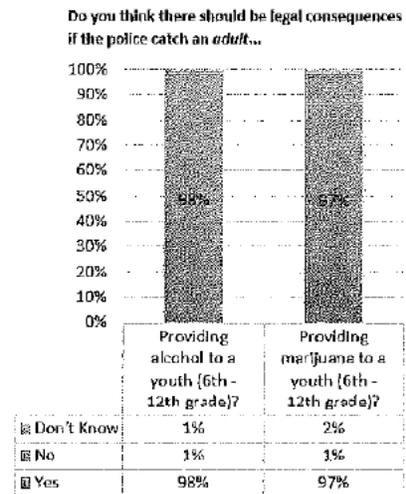
We believe we can help to accomplish this by reducing the risk factors that predict substance abuse, since those issues have many overlapping predictors. Research confirms that the earlier a young person begins to use a substance, the more likely they are to develop lifelong addiction and dependence issues that impact their families, communities and scarce municipal resources.

### Alcohol & Marijuana - Background

Underage alcohol and marijuana use, as well as depression, have been cited as the top problems facing youth in Monroe for three years in a row on the Coalition’s Annual Community Survey of Adults.

There is overwhelming support among survey respondents to hold adults accountable for providing alcohol and marijuana to youth.

Although Washington State has general hosting laws on the books, we have no laws specific to underage parties. While RCW 66.44.270 makes it a gross misdemeanor for adults to knowingly permit a person under 21 to consume or possess alcohol, the law goes largely unenforced due to the time and burden of proof required for prosecution.



### Civil Social Host Liability

One solution gaining momentum across the nation is adoption of social host civil liability laws, which provide cities with additional tools to promote responsible drinking behaviors. With social host civil liability, the focus of enforcement is on *where* the underage drinking takes place, rather than *who* provided the alcohol. Under this model:

- An underage gathering on private property where youth are consuming alcohol is considered a civil public nuisance and a threat to public welfare;
- Whoever controls the property where the party was held is held civilly responsible for associated costs of:
  - Police, fire or other emergency response services dispatched to party
  - Police officer and court time necessary to settle the complaint

Prohibitions Against Hosting Underage Drinking Parties as of January 1, 2015

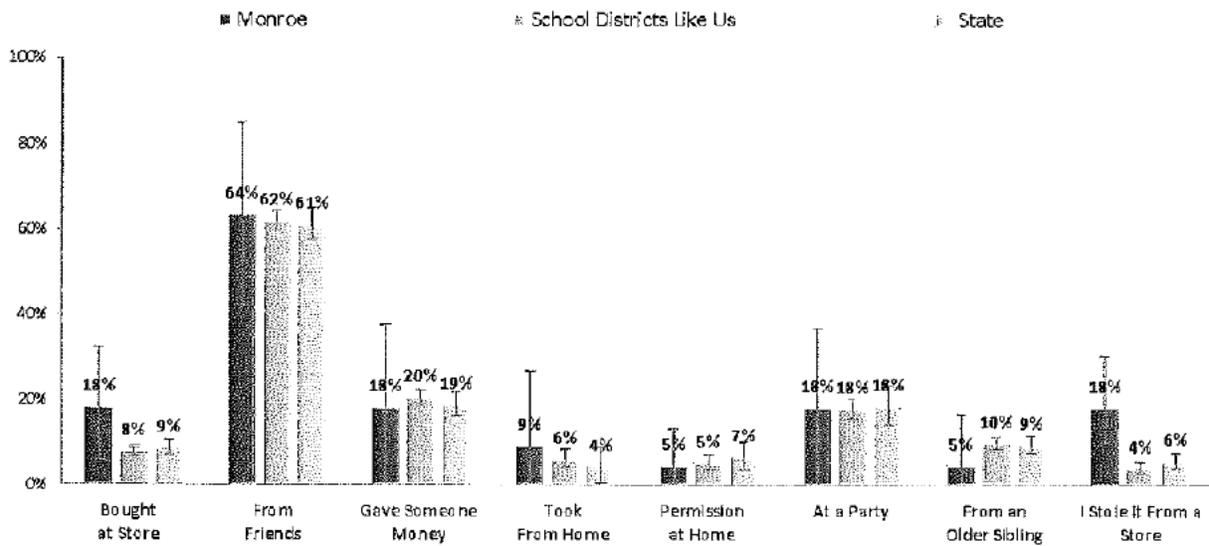


The Cities of Mercer Island, Othello, and Rainier have each adopted social host civil liability laws. Mercer Island’s ordinance is attached.

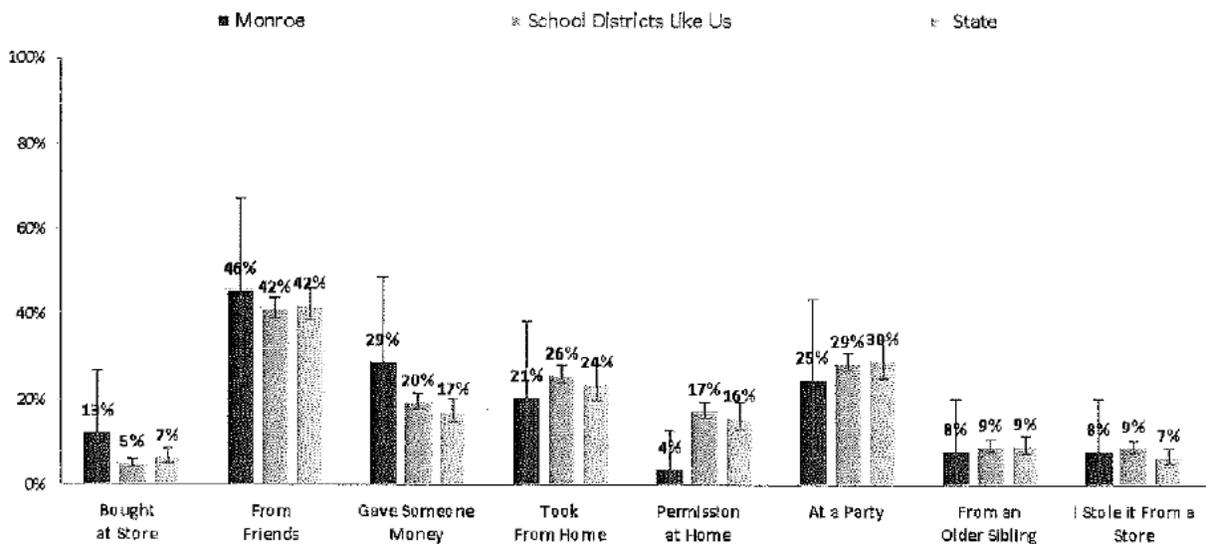
**Additional considerations**

- Most people understand how important it is not to furnish alcohol to minors or to model irresponsible drinking behavior.
- Social host civil liability laws are not about punishing adults who regularly monitor their children and take responsible precautions to prevention their children from hosting underage parties. They do help us to establish a community standard that disapproves of underage drinking.
- Civil liability helps Cities to address people who insist on serving minors, hosting parties, and who look the other way when others host on their property.

**HYS Measures of Marijuana Availability, Grade 10 (2014, Percent)**

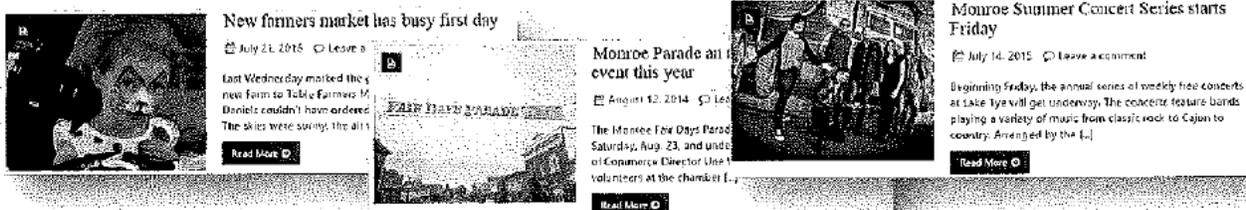


**HYS Measures of Alcohol Availability, Grade 10 (2014, Percent)**



## Reducing Youth Exposure to Beer Gardens at Family or Youth Centered Events on Public Property

- Personal decisions about behavior—about what behavior is appropriate and acceptable—are often based on our understanding of what a community considers to be *normal* behavior. Given that alcohol is so widely consumed and marijuana is now legalized for adult use, young people may become more likely to use substances because they are confused about community permissiveness.
- Research demonstrates that increased access to a substance leads to increased use of that substance, and there is significantly higher risk of illegal alcohol sales to minors at community festivals because of a lack of targeted interventions aimed at festival alcohol sellers.



## Prescription Medicine Takeback Events

Keeping unused, unwanted and expired prescription drugs at home poses a risk to residents, their families and our community. Improper disposal may lead to illegal use and may also contaminate our waters.

The Coalition would like to partner with the City to increase the number of prescription takeback events to two and become active partners in promoting them.

## Reduce Youth Access to Vape Devices and Products

Electronic Cigarette use – vaping – is the fastest growing substance use trend among Monroe School District students.

Misperceptions about safety, widespread availability, an unregulated market and the allure of technology have contributed to an exponential growth in local use since 2012.

### By the Numbers

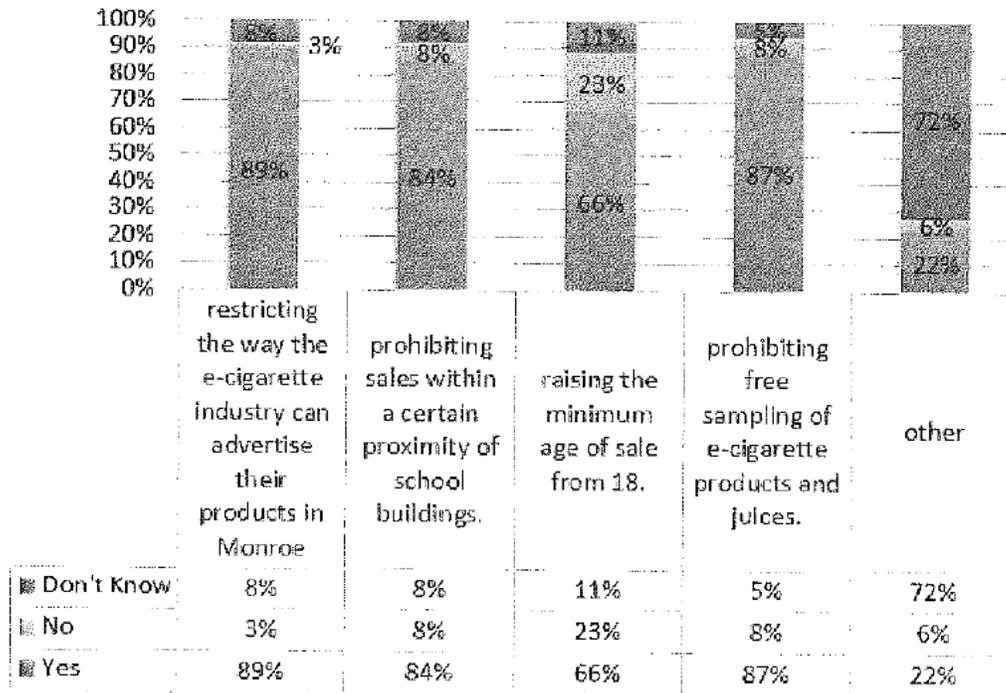
Current E-Cigarette Use by Monroe School District Students	HYS 2012	HYS 2014	Percent Increase
8 <sup>th</sup> Grade	0.6%	4.17%	583% ↑
10 <sup>th</sup> Grade	3.0%	17.4%	480% ↑
12 <sup>th</sup> Grade	3.3%	25.6%	676% ↑

### What Some of Our Parents are Saying (Parent Hub – September, 2015)

- “My son tells me its just vapor... that it’s safe.”
- “I don’t even know what these [vape devices] are.”
- “We need a training.”
- “I heard these help you to stop smoking.”

Adults from Monroe expressed strong support for policies reducing youth access to vape devices and products on the Coalition’s 2015 Annual Community Survey. Two policy strategies identified by the Coalition have now been addressed County-wide by the Board of Health (sampling and proximity) when they applied Smoking In Public Places Regulations to vape devices in November, 2015.

**Public support for local policies affecting E-cigarette access and advertising** | “Do you think our city should have rules that place limits on e-cigarette use and e-cigarette devices, such as by...”



- Youth are particularly vulnerable to “optimism bias.” Because young people may perceive e-cigarettes as less harmful than conventional cigarettes, those with little previous experience with tobacco are at-risk for nicotine addiction through experimentation with e-cigarettes. *Source: Arnett J.J.: Addictive Behaviors - Journal. 2000; 25(4):625–632.*
- Scientists have established a clear link between nicotine use and vulnerability to other substance use. **An analysis of Snohomish County’s data from the 2014 Healthy Youth Survey confirms that youth engagement in vaping is associated with increased rates of engagement in other at-risk behaviors.** *Source: Science Translational Medicine, 2011 & Monroe Community Coalition HYS analysis, 2015*

**Healthy Youth Survey 2014 – 12<sup>th</sup> Grade, Snohomish County**

12 <sup>th</sup> Grade Current Use of...	Total Use Rates %	Use Rates among Non-Vape Users %	Use Rates among Vape Users %	Elevated likelihood of poly use
Alcohol	32.3	21.1	70.5	3.3x
Cigarettes	14.6	4.6	43.6	9.3x
Marijuana	26.7	13.7	68.1	5.0x
Rx Pain Killers	5.9	1.6	15.9	9.9x
Other Illicit Drugs	7.3	1.7	22.0	12.9x

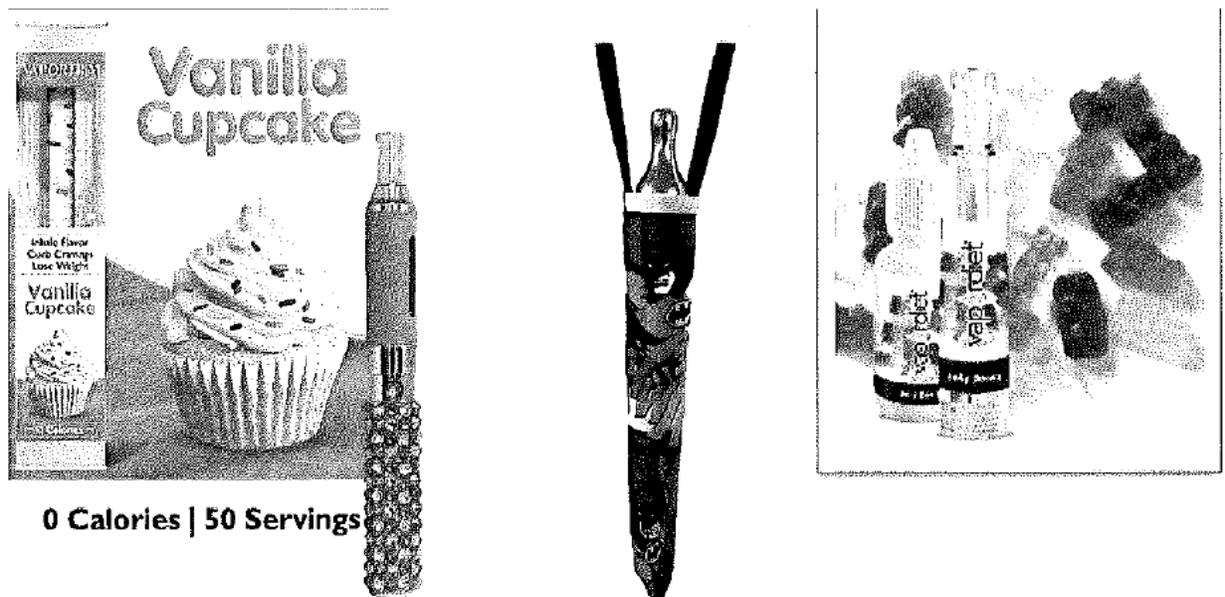
The University of Washington conducted a meta-analysis of effective tobacco use reduction policies that can influence vape device use by young people. Scientists have shown these strategies can be used to make our community healthier.

<b>"A" Rated Strategies</b>	<b>Policy options with at least 10 well-designed studies that support the association of a named strategy with a reduction in youth tobacco use.</b>
<b>Taxation</b>	Numerous large, well-designed studies support the efficacy of taxation in reducing smoking prevalence and improving health outcomes.
<b>Age of Purchase</b> (RCW 70.155.100)	Significant evidence demonstrates that preventing youth initiation will result in a reduced smoking prevalence and improved health outcomes.
<b>Prohibiting Flavoring</b>	A number of well-designed studies show that flavored products appeal to youth, who are vulnerable to nicotine addiction
<b>Marketing Restrictions</b>	There is abundant evidence of a dose-response relationship between exposure to tobacco marketing and use, including in convenience store settings
<b>Retail Licensure</b> ("B" Rated = 5+ Studies)	Retail licensure allows for tracking and regulation of industry growth and density. There is much evidence linking substance availability to increased use.

**Easy Win – Parks Ordinance - Municipal Code 9.28.210**

**9.28.210 Alcoholic beverages.**

It is unlawful for any person to consume or possess any alcoholic beverage in a city park, including unopened alcoholic beverage containers, except in those areas and/or at those events for which the appropriate license(s)/permit(s) has been obtained from the state of Washington and an approved special event permit has been issued by the director or designee in accordance with Chapter 5.28 MMC. (Ord. 008/2012 § 1; Ord. 942, 1990)



**0 Calories | 50 Servings**

ORDINANCE NO. 2013-4

## AN ORDINANCE AMENDING OTHELLO MUNICIPAL CODE TITLE 8 TO INCLUDE A NEW CHAPTER 8.68 TITLED "UNDERAGE GATHERINGS"

THE CITY COUNCIL OF THE CITY OF OTHELLO, WASHINGTON DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Othello Municipal Code Title 8 is amended to include a new chapter 8.68 titled "Underage Gatherings" to provide as follows:

**8.68.010 Definitions.**

For the purpose of this ordinance, the following definitions shall apply:

- A. "Alcoholic beverage" shall mean alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer that contains one-half of one percent or more of alcohol by volume; and is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
- B. "Property" shall mean private property, rented residential premises, or private rented commercial spaces; including but not limited to a home, yard, garage, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.
- C. "Responsible person" includes:
  - 1. The person(s) who owns, rents, leases, or otherwise has a right to control property at which an underage gathering takes place,
  - 2. The person(s) in immediate control of property at which an underage gathering takes place, or,
  - 3. The person(s) who organizes, supervises sponsors, conducts, allows, or controls access to the underage gathering.

If the property is rented or lease, the landlord or lessor is not covered by this chapter unless they fall within the category of persons described under subsections (C)(2) or (3) of this definition.

- D. "Underage gathering" means a party or gathering of two or more persons at a property at which alcoholic beverages or controlled substances are being consumed or possessed by one or more underage persons or one or more underage persons are exhibiting effects of consuming alcoholic beverages or the use of a controlled substance.
- E. "Underage persons" shall mean any person under age 21 of age.

**8.68.020 Underage gatherings prohibited.**

- A. An underage gathering constitutes a public nuisance, is an immediate threat to public health and safety, and is prohibited.

- B. As a public nuisance, the underage gathering may be summarily abated by law enforcement by all reasonable means, singularly or in combinations, including, but not limited to:
1. Issuance of notice of civil infraction as authorized by RCW 7.80;
  2. Public nuisance abated pursuant to OMC Chapter 8.26;
  3. Any other remedy provided by law.

**8.68.030 Exemptions.**

- A. This ordinance shall not apply to any location or place that is regulated by permit or license issued by the Washington State Liquor Control Board.
- B. This ordinance shall not apply to underage gatherings where the only underage persons consuming alcoholic beverages are being closely supervised in person by their parent or guardian while consuming the alcoholic beverages.
- C. The ordinance does not apply to alcoholic beverages given for medicinal purposes to an underage person by a parent, guardian, physician, or dentist, or to controlled substances that given for medicinal purposes to an underage person by a physician or dentist.
- D. This ordinance does not apply to alcoholic beverages given to an underage person when such alcoholic beverage is being in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

**8.68.040 Violations –Civil penalty.**

Upon identification of an underage gathering, law enforcement may issue a notice of infraction to any and all known responsible persons with a C-8 penalty to each responsible person.

**SECTION 2.** This ordinance shall be in full force and effect five (5) days after its passage and publication of its summary as required by law.

**PASSED** by the **CITY COUNCIL** of the city of Othello, Washington, this 28<sup>th</sup> day of July, 2014.

**MAYOR**

\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
CITY ATTORNEY

**CITY OF MERCER ISLAND  
ORDINANCE NO. 11C-14**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,  
ADOPTING MERCER ISLAND CITY CODE CHAPTER 9.21, UNDERAGE  
GATHERINGS, AND ESTABLISHING AN EFFECTIVE DATE.**

~~WHEREAS, the City of Mercer Island, pursuant to the police powers delegated to it by RCW~~  
35A.11.020, has the authority to enact laws that promote the public health, safety and general welfare of its residents;

WHEREAS, underage persons consuming alcoholic beverages at gatherings held at private residences, rented residential premises, or privately rented commercial premises is harmful to the underage persons themselves and a threat to the peace, health, safety, quiet enjoyment of neighboring residents and the general welfare of the public. Underage persons who have been consuming alcoholic beverages are at greater risk of automobile accidents, suicide, physical and sexual assault;

WHEREAS, persons with the means to prevent the occurrence of these types of gatherings include those that control the private property and have failed to ensure that alcoholic beverages are not served to or consumed by underage persons at these gatherings;

WHEREAS, RCW 66.44.270 makes it a gross misdemeanor for any person to knowingly permit any person under the age of twenty-one to consume alcoholic beverages on any premises under his or her control;

WHEREAS, problems associated with gatherings involving underage persons drinking alcohol can be difficult to prevent and deter. Law enforcement requires additional methods to deal with underage drinking and its attendant problems. If persons are held responsible by having to pay a fine for failing to prevent underage drinking at gatherings on property they own or otherwise control, they will be more likely to supervise gatherings and to stop underage drinking at gatherings on property they own or control;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1:**     **MICC Title 9 Criminal Code.** Title 9 of the Mercer Island City Code is hereby amended to adopt new Chapter 9.21 "Underage Gatherings," as follows:

**Chapter 9.21  
Underage Gatherings**

**Sections:**

- 9.21.010**    **Definitions**
- 9.21.020**    **Underage Gatherings Prohibited**
- 9.21.030**    **Exemptions**
- 9.21.040**    **Civil Penalty**

**9.21.010 Definitions**

For the purposes of this Chapter, the following definitions shall apply:

A. "Alcoholic Beverage" shall mean alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer that contain one half of one percent or more of alcohol by volume; and is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

B. "Property" shall mean private property, rented residential premises, or private rented commercial spaces; including but not limited to a home, yard, garage, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

C. "Responsible Person" includes:

1. The person(s) who owns, rents, leases, or otherwise has right to control Property at which an Underage Gathering takes place;

2. The person(s) in immediate control of Property at which an Underage Gathering takes place; or

3. The person(s) who organizes, supervises, sponsors, conducts, allows, controls, or controls access to the Underage Gathering.

If the Property is rented or leased, the landlord or lessor is not covered by this ordinance unless they fall within the category of persons described under (2) or (3) herein.

D. "Underage Gathering" means a party or gathering of four or more persons at a Property at which Alcoholic Beverages are being consumed or possessed by one or more Underage Persons or one or more Underage Persons are exhibiting effects of consuming Alcoholic Beverages.

E. "Underage Person" shall mean any person under nineteen years of age.

#### **9.21.020 Underage Gatherings Prohibited**

A. An Underage Gathering constitutes a public nuisance, is an immediate threat to public health and safety, and is prohibited.

B. As a public nuisance, the Underage Gathering may be summarily abated by law enforcement by all reasonable means, singularly or in combination, including, but not limited to:

1. Issuance of a Notice of Civil Infraction, as authorized by Chapter 7.80 RCW;

2. Public nuisance abatement procedures as set forth in Chapter 8.24 of the Mercer Island City Code; and

3. Any other remedy provided by law.

#### **9.21.030 Exemptions**

A. This Chapter shall not apply to any location or place that is regulated by a permit or license issued by the Washington State Liquor Control Board;

B. This Chapter shall not apply to Underage Gatherings where the only Underage Persons consuming Alcoholic Beverages are being closely supervised in person by their parent or guardian while consuming the Alcoholic Beverages and while exhibiting the effects of consuming Alcoholic Beverages.

C. This Chapter does not apply to Alcoholic Beverages given for medicinal purposes to an Underage Person by a parent, guardian, physician, or dentist.

D. This Chapter does not apply to Alcoholic Beverages given to an Underage Person when such Alcoholic Beverage is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

**9.21.040 Civil Penalty**

Upon identification of an Underage Gathering, law enforcement may issue a notice of civil infraction to any or all known Responsible Persons with a penalty of \$250 for each cited Responsible Person.

**Section 2:** **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

**Section 3:** **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 4:** **Effective Date.** This Ordinance shall take effect and be in force on 30 days after its passage and publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2011 and signed in authentication of its passage.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Jim Pearman, Mayor

ATTEST:

\_\_\_\_\_  
Allison Spietz, City Clerk

Approved as to Form:

\_\_\_\_\_  
Katie Knight, City Attorney

Date of Publication: \_\_\_\_\_

**RCW 66.44.270****Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions.**

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter **9A.20** RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter **9A.20** RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4), (5), or (7) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter **66.24** RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6) This section does not apply to liquor provided to students under twenty-one years of age in accordance with a special permit issued under RCW **66.20.010**(12).

(7)(a) A person under the age of twenty-one years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of twenty-one years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

(8) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years.

[ **2015 c 59 § 2**; **2013 c 112 § 2**; **1998 c 4 § 1**; **1993 c 513 § 1**; **1987 c 458 § 3**; **1955 c 70 § 2**.  
Prior: 1935 c 174 § 6(1); 1933 ex.s. c 62 § 37(1); RRS § 7306-37(1); prior: Code 1881 § 939; **1877 p 205 § 5**.]

#### NOTES:

**Intent—2013 c 112:** "The legislature intends to save lives by increasing timely medical attention to alcohol poisoning victims through the establishment of limited immunity from prosecution for people under the age of twenty-one years who seek medical assistance in alcohol poisoning situations. Dozens of alcohol poisonings occur each year in Washington state. Many of these incidents occur because people delay or forego seeking medical assistance for fear of arrest or police involvement, which researchers continually identify as a significant barrier to the ideal response of calling 911." [ **2013 c 112 § 1**.]

**Severability—1987 c 458:** See note following RCW **48.21.160**.

*Minors, access to tobacco, role of liquor and cannabis board: Chapter **70.155 RCW**.*



# MONROE CITY COUNCIL

## Agenda Bill No. 16-052

<b>SUBJECT:</b>	<b><i>Setting a date for Consideration of the Hearing Examiner's Recommendation regarding Skyview Ridge Preliminary Plat and Preliminary Planned Residential Development (PRD)</i></b>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
04/26/2016	Community Development Planning	Kristi Kyle	Dave Osaki	<b>New Business #1</b>

**Discussion:** 04/26/2016  
**Public Hearing:** 03/31/2016 (Hearing Examiner)

**Attachments:**

1. Hearing Examiner's Recommendation
2. Skyview Ridge Preliminary Plat and Preliminary PRD Site Plan

**REQUESTED ACTION:** Move to set the date of May 3, 2106, for the City Council's closed record consideration of the Hearing Examiner's Recommendation on Skyview Ridge, a Preliminary Plat and Preliminary Planned Residential Development (PRD) #15-PLPR-002.

### DESCRIPTION/BACKGROUND

On March 31, 2016, the Hearing Examiner held an open record public hearing on the proposed Skyview Ridge Preliminary Plat and Preliminary Planned Residential Development (PRD).

The Skyview Ridge proposal is generally located at 13207 and 13221 191st Avenue SE on approximately 11.45 acres (498,703 square feet) of property. The proposal is to be developed in two phases totaling 42 single family residential lots. Phase One will consist of 36 single family homes on approximately 8.96 acres and Phase Two will consist of six single family homes on approximately 2.49 acres.

The Hearing Examiner recommendation, submitted April 14, 2016, is that the Monroe City Council approve the Skyview Ridge Preliminary Plat and Preliminary PRD with conditions.

### IMPACT – BUDGET

N/A

### TIME CONSTRAINTS

In accordance with Monroe Municipal Code (MMC) Section 21.50.030(D), staff must forward the Hearing Examiner recommendation to the City Council within fourteen days of the recommendation – by April 28, 2016.

In accordance with MMC Section 21.50.050(A)(1), the City Council shall set the date for consideration of the hearing examiner's recommendation at the Council's next available public meeting following receipt of the recommendation -- May 3, 2016.

**BEFORE THE HEARING EXAMINER FOR THE CITY OF MONROE**

Phil Olbrechts, Hearing Examiner

RE: Skyview Ridge  Preliminary Plat & PRD 15-PLPR-0002	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.</b>
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**SUMMARY**

The applicant is requesting preliminary plat and planned residential development approval for the division of an 11.45 acre (498,703sf) property into a two phased development totaling 42 single-family residential lots. Phase 1 will consist of 36 single-family homes on approximately 8.96 acres. Phase 2 will consist of six (6) single-family homes on approximately 2.49 acres. The examiner recommends Council approval of the preliminary plat and planned residential development subject to conditions.

The PRD provides a design superior to that which would be required by the subdivision criteria. As testified by staff at the hearing, the benefits derived from the PRD application are additional park and recreational spaces, trail system and benches and perimeter landscaping. No park improvements or perimeter landscaping would be required if it were just a subdivision application. The proposal also includes a significant amount of open space that is centrally located in the subdivision. Although the open space is already required by the City’s critical areas ordinance, the applicant has done a good job in integrating this open space as a central focus of PRD design. The benefit to the developer is a bonus density, which allows 42 lots instead of 36 in this instance.

An adjacent property owner, Susan Davis, argued on behalf of herself and family members who own property adjoining her (Johnsons) that a stub road should connect to her property to facilitate future access and development. The adjacent properties are in the unincorporated Snohomish County and outside of the City of Monroe UGA. As outlined in the conclusions of law of this decision, the City cannot require the stub road because there is no indication that the stub road will be connected to a road system providing secondary access anytime in the foreseeable future. Case law requires that in order to justify an exaction of a road stub from a property developer, the administrative record must establish that the road stub will lead to secondary access to the developer’s project and thereby mitigate against the developer’s traffic impacts. No such evidence is in this administrative record.

**ORAL TESTIMONY**

1 Kristi Kyle, Monroe Senior Planner, summarized the staff report. In response to  
2 examiner questions, Ms. Kyle noted that a second access point will be constructed as  
3 part of adjoining Eaglemont subdivision development. If Eaglemont doesn't go  
4 through, then lots 1-6 won't be developed. Phase 1 could be developed without a  
5 second access point if Eaglemont isn't completed, but the conditions of approval  
6 require that the homes be sprinklered if that doesn't occur. The code allows up to 30  
7 homes with one access point. The fire department has reviewed and approved the  
8 proposed access. The benefits derived from the PRD application are additional park  
9 and recreational spaces, trail system and benches and perimeter landscaping. No park  
10 improvements or perimeter landscaping would be required if it were just a  
11 subdivision application.

12  
13 Ry McDuffy, applicant, addressed Ex. 11H and 11G. As to 11G, he noted that  
14 preliminary site work will start within the next month so any squatters on the property  
15 will have to leave at that time. As to 11H, both properties are in the county and have  
16 access to County roads. Under current zoning the property owners are entitled to  
17 cluster zoning which would give them two lots on one parcel and four on the other.  
18 The properties have access to 191<sup>st</sup> St. and Chain Link Road. The developer has done  
19 another high quality development in the city, Chain Link Estates.

20  
21 Susan Davis, neighboring property owner, testified that her family owns 21.5 acres  
22 adjoining the subject property to the north. She noted that according to her father a  
23 30-foot easement along the northern border of the subdivision was intended to be  
24 joined with an adjoining 30-foot easement immediately to the north to provide access  
25 to her property and the Davis property. The thirty-foot easement serving her property  
had been reserved for access when her family had transferred the intervening property  
to the City for its water tower. The two adjoining easements were intended to provide  
a through connection between 191<sup>st</sup> and 197<sup>th</sup> streets. The City decided not to pursue  
this access route because of pushback from the owners of utility easements located to  
the east of her family's property – Williams Gas and Bonneville Power. To her  
understanding that is why the applicant pushed his primary access further south to  
132<sup>nd</sup> Place. She noted that the City is not requiring the extension of roads and  
utilities to her property because her property, located in the unincorporated county, is  
not in the City's urban growth area. However, her property is located in the County  
Rural Urban Transition Area (RUTA) and County policies require that these areas be  
developed to accommodate future urban growth. The hearing examiner for the  
Eaglemont development required the developer to provide off-site improvements to  
197<sup>th</sup> Street for its subdivision. Ms. Davis retained the services of a professional  
planner, Reed Shockey, to address the access problem. He suggested the extension of  
proposed 194<sup>th</sup> street through Lot 16 to connect to her property in order to provide for  
a more coordinated street system.

26  
27 Sydney Fee, neighboring property owner, testified that property along the access  
route to the proposal has been taken over by squatters.

1 Roxanne Batter asked questions of staff and the applicant.

2 Kristi Kyle, in rebuttal, stated that she had discussed the 194<sup>th</sup> Street extension  
3 proposed by Ms. Davis with the City Engineer. The City Engineer had stated that the  
4 City has no road circulation plan extending beyond city limits. In response to  
5 questions from the examiner, Ms. Kyle noted that she is not aware of any adopted city  
6 circulation plan, but that the circulation plan for the proposed subdivision and  
7 adjoining Eaglemont was developed during project review.

8 Mr. McDuffy stated that he has reviewed the title reports regarding the 30-foot  
9 easement along the north edge of the proposed subdivision and the easement doesn't  
10 provide any access to the Johnson properties. The adjoining 30-foot easements were  
11 not intended to be combined. In response to examiner questions, Mr. McDuffy noted  
12 that if 194<sup>th</sup> were punched through to Lot 16, there would be no benefit to his project,  
13 it would not create any secondary access to his proposed subdivision. He noted that  
14 the Johnson property has access to 191<sup>st</sup> through its 30-foot easement and can get to  
15 197<sup>th</sup> through an adjoining property to the east. He acknowledged that if connections  
16 were made to 191<sup>st</sup> or 197<sup>th</sup> that the proposed 194<sup>th</sup> street extension would then give  
17 him secondary access.

18 Ms. Davis noted that the County's cluster and RUTA regulations should be entered  
19 into the record. The examiner said he could take judicial notice of these development  
20 standards. Ms. Davis noted that she has an ownership interest in the adjoining  
21 Johnson property to the east and that this property is 14 acres in size. Ms. Davis noted  
22 that the Davis and Johnson properties don't have access to 191<sup>st</sup>, 197<sup>th</sup> or Chain Link  
23 Road due to gas and power easements and proximity to the existing intersection of  
24 136<sup>th</sup> and 197<sup>th</sup> Street.

## 25 EXHIBITS

Exhibits 1-17 in the "List of Exhibits" attached as Exhibit A to this decision and the following were admitted into the record during the hearing:

Exhibit 11G: Letter from Reid Shockey dated March 22, 2016  
Exhibit 11H: Email from Tamara Krache dated March 28, 2016  
Exhibit 11I: Aerial photograph along with written comments from Susan Davis dated March 31, 2016  
Exhibit 11J: Eaglemont Plat decision  
Exhibit 11K: Assessor map of the site

## FINDINGS OF FACT

### Procedural:

1 1. Applicant. The applicant is Hansen Homes at Skyview Ridge. Ry McDuffy of  
Orca Land Surveying is the applicant's agent.

2 2. Hearing. The examiner held a hearing on March 31, 2016 at 10:00 am at the  
3 Monroe City Hall in the Council Chambers.

4 **Substantive:**

5 3. Site Proposal/Description. The applicant is requesting preliminary plat and  
6 planned residential development approval of an 11.45 acre (498,703sf) property into a  
7 two phased development totaling 42 single-family residential lots. Phase 1 will  
8 consist of 36 single-family homes on approximately 8.96 acres. Phase 2 will consist  
9 of six (6) single-family homes on approximately 2.49 acres. The property is located at  
13207 and 13221 191<sup>st</sup> Avenue SE in Monroe. The subject property has an existing  
single-family residence and a vacant parcel.

10 The site is located east of 191st Avenue SE, north of the Eaglemont Plat. The entire  
11 property consists of three parcels totaling 11.45 acres or 498,703. The existing site is  
12 irregular in shape and is approximately 1,320-foot long running east-west and 330 to  
660 feet running north-south. The grades on the site are moderate.

13 The property has street frontage on 191<sup>st</sup> Avenue SE. Frontage improvements will be  
14 required along 191<sup>st</sup> Avenue SE including pavement, widening, curb, gutter, planter  
and sidewalk. In addition, a road extension for 194<sup>th</sup> Drive SE will be required to  
15 connect these projects improvements to the future road improvements within the  
Eaglemont Plat at the intersection of 194<sup>th</sup> Drive SE and 133<sup>rd</sup> Street SE.

16 A Puget Sound Energy (PSE) transmission line easement crosses a portion of the  
17 properties and a Williams Gas pipeline easement runs through the tip of the northwest  
corner of the site.

18 Puget Sound Energy provides gas service. Electricity is provided by Snohomish  
19 County PUD No. 1. Comcast and Verizon provide cable/internet and telephone  
service, respectively. Republic Services provides garbage service. It is also within  
20 the Monroe Public Schools district.

21 Under strict application of MMC 18.10.050 and 18.10.140, the maximum number of  
22 dwelling units permissible on the site would be 36 single-family lots. Under the PRD  
provisions, the developer can achieve up to 47 units by dedicating additional open  
23 space (MMC 18.84.150 and MMC 18.84.080(D)). However, due to the presence of  
critical areas on site, the applicant is proposing a Planned Residential Development  
24 totaling 42 single-family lots. Monroe's code does not set a minimum density. The  
project is consistent with the zoning code in that the proposal is below the maximum  
25 density for the zone. As proposed, the project meets all other bulk and dimensional  
requirements.

1 4. Characteristics of the Area. Property to the north is in unincorporated Snohomish  
2 County and is zoned Rural Residential 5. Properties to the south and east of the site  
3 are zoned R4 and share the subject property's adopted Comprehensive Plan land use  
4 designation. The property to the west of the subject property is zoned Urban  
5 Residential (UR-9600). All of the surrounding properties are developed with single-  
6 family residences, though the parcels to the south and east of the site are part of the  
7 proposed Eaglemont Plat and together will be developed with eight single-family  
8 residences.

9 5. Adverse Impacts. There are no significant adverse impacts associated with the  
10 development. The primary focus in subdivision is adequacy of infrastructure and as  
11 determined in Finding of Fact No. 6 the proposed subdivision will be served by  
12 adequate infrastructure. The SEPA review staff concluded that the proposal will not  
13 create any significant adverse environmental impacts.

14 Beyond infrastructure impacts, the only other potentially significant impacts evident  
15 from the record are wetland impacts. As conditioned, no adverse impacts to wetlands  
16 are anticipated. Critical areas on the site are limited to one Category 3 wetland  
17 located near the center of the development in Tract 994. The subject site is not within  
18 a floodplain or the shoreline jurisdiction as defined in the City's Shoreline Master  
19 Plan. Per MMC 20.05.080(D), the wetland requires a 75-foot buffer and a buffer  
20 fence (MMC 20.05.070(D)). The applicant submitted a Critical Area Study (Ex. 14)  
21 which addressed the buffer averaging and mitigation plan requirements of the City's  
22 codes. As determined in the critical area study, there will be no direct wetland  
23 impacts. Buffer impacts are proposed but as conditioned will be mitigated. No  
24 significant functional loss is anticipated.

25 6. Adequacy of Infrastructure/Public Services. The project will be served by  
adequate and appropriate infrastructure and public services. All applicable level of  
service standards for services and facilities are met as identified at pages 10-12 of the  
staff report. Adequacy is more specifically addressed as outlined below:

A. Water and Sewer Service. The City of Monroe will provide water, sewer and  
stormwater service. As noted in the staff report, there is sufficient capacity  
available in the City's public water and sanitary sewer system to serve the  
proposed subdivision. All lots will connect to the City's water and sewer system.  
Sanitary sewer and water lines will be constructed in the proposed public rights-  
of-way in accordance with the City's Public Works Design and Construction  
Standards (Ex 15).

B. Fire and Police Protection. Fire protection would be provided by Monroe Fire  
District No. 3. Police protection will be provided by the City of Monroe Police  
Department. Neither the Fire District nor the police chief cited any concerns when  
they reviewed the proposal.

C. Drainage. Stormwater runoff from the new public road and future lots will be  
collected (catch basins) and conveyed to the detention/water quality system for

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the project. Roof runoff from each future single-family will directed to an individual perforated stub out connection before discharging into the conveyance system within the future road right-of-way (Ex. 16).

As part of the civil plan review process, the applicant will install improvements to the stormwater system. Stormwater management will be designed to meet the requirements of the Department of Ecology Storm Water Management Manual for Western Washington (2005) as administered by the City Engineer.

D. Parks/Open Space. The project proposes three neighborhood parks and one pedestrian access tract within the development. Tract 997 combined with Tract 988 (9,377 combined sq. ft.) will contain a tot lot and recreational open space that includes an access trail. Tract 996 (19,009 sq. ft.) is proposed to be passive recreation with no amenities. Tract 998 (17,552 sq. ft.) will contain a trail and benches as well as recreational open space (Ex. 13).

Impacts to the City park and recreation system from the anticipated additional public park users are mitigated through mitigation programs. In accordance with the City’s park impact mitigation fees established under MMC Chapter 20.12, impact fees require a standard fee amount per dwelling unit as a condition of residential development within the city. Park impact fees shall be paid in accordance with MMC 20.10. Park impact fees shall be based on the fee amount in effect at the time of payment.

E. Schools. Impacts to the Monroe Public Schools and the Snohomish School District in the form of additional students are mitigated through mitigation programs. The City of Monroe has adopted the Monroe School District 2012 - 2017 Capital Facilities Plan, and imposes impact fees for schools in accordance with the plan and MMC 20.07. School mitigation fees require a standard fee amount per dwelling unit as a condition of residential development within the city. School impact fees are be based on the amount in effect at the time of payment.

RCW 58.17.110(2) requires the City to make a finding that the proposed subdivision assures “safe walking conditions for students who only walk to and from school”. Students will be bussed from the development to the school by the Monroe School District. The public streets created within the subdivision include sidewalks on all sides of the street where residential lots front public roadways as well as sidewalk along the property frontage along the west side of 191<sup>st</sup> Avenue SE.

F. Streets and Traffic. Access to the development is proposed via 191<sup>st</sup> Avenue SE. Internal access to individual lots will be provided through public roads with a narrow right-of-way. The roads will accommodate two 15-foot wide drive aisles and five foot wide landscape strips and five foot wide sidewalks on each side. This public road section is not a City standard road section, but has been

1 administratively approved by the City Engineer as allowed by the City's Public  
Works and Design Construction Standards.

2 Frontage improvements along 191<sup>st</sup> Avenue SE include curb and gutter, a  
3 landscape strip with street trees, and a five-foot wide sidewalk along the entire  
4 length of the site frontage.

5 Based on the Traffic Impact Study dated May 1, 2015 and the revised traffic  
6 summary dated March 14, 2016 (Ex. 17), the development is anticipated to  
7 generate approximately 42 PM peak-hour trips. The level of service analysis  
shows that all of the study intersections in the TIA are anticipated to operate  
within acceptable thresholds.

8 Impacts to the City's transportation system are mitigated through the collection of  
9 traffic mitigation fees. In accordance with the City's traffic impact mitigation fee  
10 program as established under MMC Chapter 20.12, impact fees require a standard  
11 fee amount per dwelling unit as a condition of residential development within the  
12 City. Traffic impact fees shall be paid in accordance with MMC Chapter 20.12  
13 and shall be based on the amount in effect at the time of payment. Frontage  
improvements and paving, including curb, gutter, sidewalk, and street trees shall  
be installed along all public streets within the subdivision in accordance with the  
City's Public Works Design and Construction Standards.

14 G. Davis/Johnson Requested Road Stub. The record does not establish that the  
15 Lot 16 road stub requested by Ms. Davis will materially improve upon any traffic  
16 impacts created by the proposal. This is because there is no compelling evidence  
that such a stub road would serve as a secondary access to the Skyview Ridge  
development in the foreseeable future.

17 Overview. As an overview of this issue, and as outlined in Conclusion of Law No.  
18 17, the City can only take property away from the applicant in order to create a  
19 stub road if such a road would help alleviate a problem caused by the  
20 development. Secondary access to the Skyview Ridge development in Phase I is  
21 dependent upon the completion of the Eaglemont project. Consequently, a stub  
22 road would arguably improve upon traffic flow and safety by serving as a backup  
23 access point should Eaglemont not be completed. However, there is no evidence  
24 to suggest that the stub road will ever provide secondary access anytime in the  
near future as there was no evidence presented on the timeframe for anticipated  
development of the Davis properties. Without indication as to when development  
will occur, it cannot be determined that the proposed stub road would provide any  
material mitigation to the traffic impacts of the proposal.

25 Background. As background, during the hearing, the examiner was presented for  
the first time with a request that the applicant extend proposed 194<sup>th</sup> St. through  
proposed Lot 16 to end in a stub road to provide access to parcels owned by Susan  
Davis and related family members, the Johnsons. This request was submitted via

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the admission of Ex. 11G and 11I (the Davis properties are identified as Johnson and Davis in the aerial). The Davis parcels adjoin the subject property to the north and are best depicted in the aerial photograph of Ex. 11I. The parcels apparently total 21.54 acres. The parcels are located outside the City’s urban growth area, but are located within the County’s Rural Urban Transition Area (“RUTA”) designation, which anticipates future inclusion of the designated properties in an urban growth area. Ms. Davis also notes that her family’s properties could currently be divided into a cluster subdivision pursuant to Chapter 30.41C Snohomish County Code and that land must be set aside under these cluster regulations for potential urban development should the property be re-designated as within an urban growth area.

As further background, as depicted in the aerial of Ex. 11I, the Johnson property fronts 191<sup>st</sup> Ave SE with a narrow 30-foot wide panhandle. This panhandle is a 30-foot easement that provides access to the Davis and Johnson properties. The subject property has an adjoining 30-foot wide easement immediately to the south. According to Ms. Davis, the intent behind this easement was to merge them into a 60-foot wide access road that connects 191<sup>st</sup> Ave to 197<sup>th</sup> Ave. The applicant testified there is nothing recorded to support this position. According to Ms. Davis, the City determined that the access easement along the north of the property could not serve as access to the project because of utility easements that cross the easement to the east of the Davis properties. According to Ms. Davis, this is why the applicant proposed its primary access road as 132<sup>nd</sup> Pl. SE, to the south.

Access to 191<sup>st</sup> Avenue from the Davis/Johnson Properties. Mr. Shockey raises a compelling point in Ex. 11G that Skyview Ridge is at least partially responsible for access limitations to the Davis properties. As shown in the plat map included in Exhibit 11I, 132<sup>nd</sup> St. will connect to 191<sup>st</sup> Ave less than 75 feet south of the Davis 30-foot access easement. Mr. Shockey asserts in Ex. 11G that this distance between intersections would be too small to be authorized by the City. Mr. Shockey does not identify any code citation to support his claim. However, the City does not dispute this claim and Mr. Shockey is a professional planner. If the Davis properties are fully subdivided through clustering (or subdivision if the properties later become designated urban growth areas), it is plausible that City engineering staff would consider the Davis easement connection with 191<sup>st</sup> as unsafe. Arguably, therefore, the applicant’s 191<sup>st</sup> connection could be considered as a contributing factor to the access problems of the Davis properties. However, a greater contributing factor appears to be the utility easements and the lack of street frontage along 191<sup>st</sup>.

Johnson/Davis Properties Not Landlocked. Ultimately, the primary “problem” created by a proposed subdivision that would justify a secondary access would be the need for multiple access points for emergency access, multiple egress/evacuation routes, and multiple access points to distribute traffic volume. As noted elsewhere in this recommendation, Phase I of the subdivision is

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dependent upon the development of Eaglemont for its second access point. It is therefore possible, although unlikely, that Eaglemont may not be completed and Phase I would be left with one access point. Consequently, a second access point through Lot 16 as proposed by Ms. Davis would arguably mitigate Skyview Ridge traffic impacts if there was some compelling evidence that the stub road would be developed into a second connection into the surrounding road system, ultimately leading to 191<sup>st</sup>, 197<sup>th</sup> or Chain Link Road. Ms. Davis argued against her interest on this point<sup>1</sup>, appearing to testify during the hearing that her property would be completely landlocked without a connection to Skyview Ridge, asserting that utility easements and the proximity of other intersections do not make any other connections possible. However, Ms. Davis' planner, Reid Shockey, acknowledged in his written submission, Ex. 11G, that a single connection could be made to 197<sup>th</sup> without Skyview Ridge. Given the large size of the Davis parcels, their extensive street frontage along 197<sup>th</sup> and Chain Link Road and the expertise of Mr. Shockey, it is determined that the Davis properties will not in fact be landlocked absent a connection to Skyview Ridge.

Development Timeline is Uncertain Outside of Designated UGA. Although it certainly appears to be within the realm of possibility that the Lot 16 stub road could someday be extended to 191<sup>st</sup>, 197<sup>th</sup> or Chain Link Road, there is nothing in the record to support a finding that this will be done any time in the foreseeable future. Although development has certainly been occurring at a steady pace within the adjoining UGA, there was no evidence presented to show that RUTA properties in the area are being developed at any significant rate. In point of fact, one may expect an owner of RUTA property to wait until its property is designated a UGA in order to take advantage of the greater densities allowed for UGA properties. No evidence was presented that such a re-designation would occur any time soon. To exacerbate matters, the Davis properties aren't in the City of Monroe. This split in jurisdictional review increases the possibility that if the Davis properties are developed, Snohomish County may decide to not even use the stub road as a connection point with Skyview Ridge due to its different development standards and different engineering staff.

7. Superior Design. The PRD provides a design superior to that which would be required by the subdivision criteria. As testified by staff at the hearing, the benefits derived from the PRD application are additional park and recreational spaces, trail system and benches and perimeter landscaping. No park improvements or perimeter landscaping would be required if it were just a subdivision application. The proposal also includes a significant amount of open space that is centrally located in the subdivision. Although the open space is already required by the City's critical areas

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<sup>1</sup> It violates the takings clause to make a developer give up property to provide to landlocked properties. See *Luxembourg Group v. Snohomish County*, 76 Wn. App. 502, review denied, 127 Wn.2d 1005 (1995).

1 ordinance, the applicant has done a good job in integrating this open space as a  
2 central focus of PRD design.

### 3 CONCLUSIONS OF LAW

#### 4 **Procedural:**

5 1. Authority of Hearing Examiner. MMC 21.20.050(F) provides that the Examiner  
6 shall hold hearings and make recommendations to the City Council on applications  
7 for preliminary plat and PRD approval.

#### 8 **Substantive:**

9 2. Zoning and Comprehensive Plan Designation. The project site is zoned Residential  
10 four dwelling units per acre (R4) with a vested Comprehensive Plan land use  
11 designation of Residential 2-5 dwelling units per acre. Under the recently adopted  
12 Comprehensive Plan (December 8, 2015), the site's land use designation is Low  
13 Density SFR.

14 3. Review Criteria and Application. Subdivision criteria are specifically governed by  
15 MMC 17.12.030(H). PRD standards are governed by MMC 18.84.080. In addition,  
16 MMC 21.50.030(C) imposes standards that apply to all development reviewed by the  
17 hearings examiner. Applicable code provisions are quoted below in italics and applied  
18 through corresponding Conclusions of Law.

#### 19 **Subdivision Criteria**

20 **MMC 17.12.030(H):** ... *The hearing authority shall inquire into how the public  
21 interest of future residents of the preliminary plat are to be served by the subdivision  
22 and its dedications. It shall determine if provisions are made to protect the public  
23 health, safety and general welfare by the provision of open spaces, drainage ways,  
24 streets, alleys, other public ways, water supplies, sanitary waste, parks, playgrounds,  
25 sites for schools and school grounds and shall consider all other relevant facts and  
determine whether the public interest of the future residents of the subdivision will be  
served by the dedications therein:*

*1. The hearing authority shall consider if the proposed subdivision conforms to  
the comprehensive plan and the Shoreline Master Program;*







1 8. As determined in Finding of Fact No. 6, the proposal is served by adequate public  
2 facilities as required by the criterion above.

3 **MMC 18.84.120(D):** *The proposed landscaping within the PRD's perimeter is*  
4 *superior to that normally required by the city; and*

5 9. The PRD project proposes perimeter landscaping, which according to staff would  
6 otherwise not be required for the proposal.

7 **MMC 18.84.120(E):** *At least one major circulation point is functionally connected to*  
8 *a public right-of-way; and*

9 10. All the interior roads ultimately connect to exterior public roads.

10 **MMC 18.84.120(F):** *The open space within the PRD is integrated into the design of*  
11 *the project rather than an isolated element; and*

12 11. The open space of the PRD is well integrated into the PRD design. The open  
13 space serves as a central focal point and view enhancement for a majority of the  
14 homes in the PRD.

15 **MMC 18.84.120(G):** *The PRD is compatible with the adjacent development; and*

16 12. The PRD is compatible with adjacent development. Surrounding development is  
17 predominantly single-family residential. The subject property has an existing single-  
18 family residence and a vacant parcel. All of the surrounding properties are developed  
19 with single-family residences, though the parcels to the south and east of the site are  
20 part of the proposed Eaglemont Plat and together will be developed with eight single-  
21 family residences. Eaglemont provides for the same or similar densities to that  
22 proposed for the PRD.

23 **MMC 18.84.120(H):** *Undeveloped land adjoining the PRD may be developed in*  
24 *coordination with the PRD; and*

25 13. Access with the pending Eaglemont development has been coordinated to the  
26 extent that a road from Eaglemont will serve as secondary access to the proposal.

**MMC 18.84.120(I):** *The PRD is harmonious and appropriate in design, character*  
*and appearance to the existing or intended character of development in the*  
*immediate vicinity; and*

1 14. For the reasons identified in Conclusion of Law No. 12, the proposal is  
2 harmonious and appropriate in design etc. with surrounding development. The  
3 extensive amount of open space and superior landscaping amenities further enhances  
4 the compatibility of the proposal.

5 **MMC 18.84.120(J):** *Roads, streets and sidewalks, existing and proposed, comply*  
6 *with the standards and requirements of this chapter and the Monroe Municipal Code;*  
7 *and*

8 15. City public works staff have reviewed the plat drawings and found the proposed  
9 design for streets and sidewalks to be consistent with applicable City standards.

10 **MMC 18.84.120(K):** *Each phase of the PRD, as it is completed, shall contain the*  
11 *required parking spaces, open space, recreation facilities, landscaping, and utility*  
12 *area planned for that phase.*

13 16. Compliance with the amenities proposed in the PRD shall be required for final  
14 PRD approval as required by MMC 18.84.070(C).

#### 15 **Requested Stub Road**

16 17. Davis/Johnson Requested Road Stub. The City cannot legally require the  
17 application to provide a stub road at Lot 16 because there is insufficient evidence to  
18 establish that the stub road can be used for secondary access to the Skyview Ridge  
19 development within the foreseeable future.

20 The pertinent case on this issue is one of the infamous “road to nowhere” cases,  
21 *Unlimited v. Kitsap County*, 50 Wn. App. 723 (1988). As in this application, Kitsap  
22 County required the dedication of right of way in *Unlimited* for a proposed  
23 subdivision to connect to adjoining undeveloped property. The *Unlimited* court found  
24 the dedication to be an unconstitutional taking without compensation, since “*there is*  
25 *no expectation that the Berg/Carlson [adjoining vacant land] is to be developed at*  
*the same time as the Unlimited’s development, or for that matter, any time soon.*” As  
explained in another “road to nowhere case”, in order to justify the taking of road  
right of way, the government has the burden of proving that the right of way is  
necessary to solve a problem created by the development and that the solution (taking  
the right of way) is proportional to the problem. *See Burton v. Clark County*, 91 Wn.  
App. 505 (1998). *Burton* also found a taking, because the government was unable to  
establish that the future connection for a required road stub in a planned unit

1 development would be built anytime in the foreseeable future. 91 Wn. App. at 528-  
29.

2 As determined in Finding of Fact No. 6G, the preponderance of evidence does not  
3 establish that a connection to the requested Lot 16 stub road would be built anytime  
4 within the foreseeable future. This situation is somewhat distinguishable to *Burton*  
5 and *Unlimited* in that the applicant of this case might be partially responsible for one  
6 of the access limitations of the Davis properties as identified in Finding of Fact No.  
7 6G, but any such contributing factor is relatively modest. The majority of access  
8 problems suffered by the Davis properties are not attributable to the Skyview Ridge  
development and requiring the loss of Lot 16 (as well as probably one other lot)  
would not be proportional to the scope of the Davis access issues.

### 9 DECISION

10 The proposed preliminary plat and PRD are found to be consistent with all applicable  
11 development regulations for the reasons identified in the Conclusions of Law. It is  
12 recommended that the City Council approve the Skyview Ridge preliminary plat and  
13 PRD applications (15-PLPR-0002) subject to the following conditions:

- 14 1. The applicant shall submit housing elevation drawings (similar to those  
15 provided at the preliminary stage) concurrent with building permit submittal  
16 demonstrating compliance with the housing standards per MMC section  
18.84.080(G).
- 17 2. The applicant shall provide a copy of the Covenants, Conditions, and  
18 Restrictions (CC&R's) to the City for review at the time of submittal of final  
19 PRD per MMC section 18.84.080(E).
- 20 3. All street frontage landscaping/irrigation improvements shall be bonded until  
21 such time that housing construction is completed.
- 22 4. Irrigation is required for all street trees and newly planted vegetation within  
23 the right-of-way and within Tracts (where applicable and required by the  
24 City). The applicant shall submit an irrigation plan prior to construction for  
review and approval by the City.
- 25 5. The NGPE split-rail fencing shall be identified on the landscape and civil  
plans consistent with the Critical Area Study.



**LOTS AND TRACTS AREAS**

LOTS 1-36 (PHASE I)	223,080 SF	5.12 ACRES
LOTS 1-6 (PHASE I)	32,002 SF	0.73 ACRES
TRACT 989 (DETENTION TRACT)	32,878 SF	0.75 ACRES
TRACT 990 (P.A. R.T. USABLE OPEN SPACE)	17,552 SF	0.40 ACRES
TRACT 997 (P.A. R.T. USABLE OPEN SPACE)	7,981 SF	0.23 ACRES
TRACT 994 (P.A. R.T. USABLE OPEN SPACE)	19,009 SF	0.44 ACRES
TRACT 996 (N.G.P.A. TRACT)	36,226 SF	0.89 ACRES
TRACT 994 (N.G.P.A. TRACT)	14,619 SF	0.34 ACRES
TRACT 993 (LANDSCAPE BUFFER)	10,363 SF	0.24 ACRES
TRACT 992 (LANDSCAPE BUFFER)	3,280 SF	0.08 ACRES
TRACT 991 (LANDSCAPE BUFFER)	1,291 SF	0.03 ACRES
TRACT 990 (LANDSCAPE BUFFER)	4,676 SF	0.11 ACRES
TRACT 989 (ACCESS AND UTILITIES TRACT)	4,215 SF	0.10 ACRES
TRACT 988 (ACCESS AND UTILITIES TRACT)	1,396 SF	0.03 ACRES

(P. & R.T. - PARK AND RECREATION TRACT)

**PUGET SOUND ENERGY NOTE:**  
 THE PUGET SOUND ENERGY EASEMENT CORRIDOR, OF WHICH AFN 496103 IS A PART, IS RESERVED FOR FUTURE TO MEET REGIONAL POWER DEMANDS. IMPROVEMENTS MADE IN THIS CORRIDOR WITH THIS DEVELOPMENT MAY NOT BE COMPATIBLE WITH HIGH VOLTAGE TRANSMISSION WHEN IT IS INSTALLED. WHEN ELECTRIC FACILITIES ARE INSTALLED, CERTAIN USES AND OR IMPROVEMENTS OF THE EASEMENT AREA WILL BE SUBJECT TO THE EXISTING EASEMENTS AND LOCAL, STATE, AND FEDERAL REGULATIONS THAT GOVERN THE SAFE AND RELIABLE OPERATION OF REGIONAL TRANSMISSION FACILITIES OR USES WHICH IN THE OPINION OF PSE INTERFERES WITH OR ENDANGERS THE OPERATION OF SAID FACILITIES. REMEDIES MAY INVOLVE, BUT ARE NOT LIMITED TO, REMOVAL OF TREES AND VEGETATION, METAL OBJECTS/STRUCTURES, AND ANY OTHER STRUCTURES OR OBJECTS THAT MAY INTERFERE WITH OR IMPEDE THE CONSTRUCTION OF SAID TRANSMISSION AND ITS SAFE AND RELIABLE OPERATION. PSE'S CONSENT FOR USE WAS EXECUTED BY THE OWNER/DEVELOPER HANSON HOMES AT SKYVIEW RIDGE, LLC, 2016 AND RECORDED UNDER SNOHOMISH COUNTY AUDITOR'S FILE NO.

**SKY VIEW RIDGE**  
 IN THE N.E. 1/4, N.E. 1/4 OF  
 SECTION 36, TOWNSHIP 28 NORTH, RANGE 6 EAST, W.M.  
 CITY OF MONROE, SNOHOMISH COUNTY, WASHINGTON  
 15-PLPR-0002

**LOT RANGE AREAS**

4,500 - 5,800 SQUARE FEET	21 LOTS	50.00 PERCENTAGE OF LOTS
5,801 - 6,800 SQUARE FEET	14 LOTS	33.33 PERCENTAGE OF LOTS
6,801 - 8,281 SQUARE FEET	7 LOTS	16.67 PERCENTAGE OF LOTS

**PROJECT DESIGN TEAM**

**APPLICANT/OWNER:**  
 HANSON HOMES AT SKYVIEW RIDGE, LLC  
 P.O. BOX 2289  
 SNOHOMISH, WA 98291  
 (425) 328-3202  
 EMAIL: 201HANSONHOMES@GMAIL.COM  
 CONTACT: RICK HANSON

**OWNER (1-002):**  
 MUREL ANDERSON  
 40502 PORCUPINE RD N  
 DAVENPORT, WA 99122

**LANDSCAPE:**  
 ORIGIN DESIGN GROUP  
 8011 4TH PLACE, N.E.  
 LAKE STEVENS, WA 98258  
 (425) 346.1905  
 EMAIL: ORIGINDESIGN@GMAIL.COM  
 CONTACT: KRISTAL LOWE

**PLANNER / PROJECT CONTACT:**  
 LAND RESOLUTIONS  
 3605 COLBY AVENUE  
 EVERETT, WA 98201  
 (425) 258-4438  
 CONTACT: PAUL DARRROW  
 PAUL@ORCAL.SI.COM

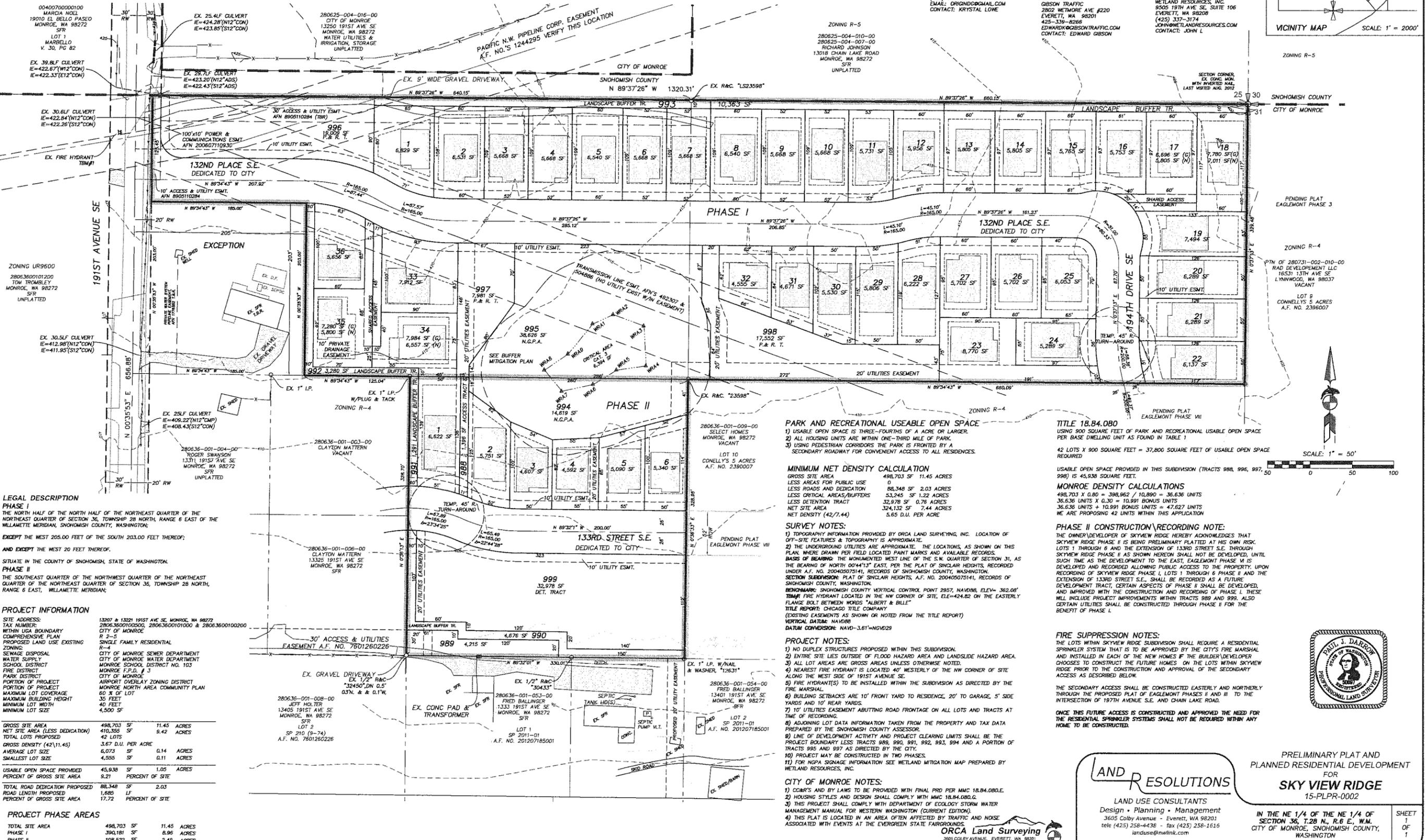
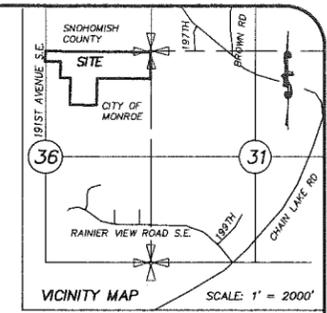
**ENGINEER:**  
 OMEGA ENGINEERING, INC.  
 2707 WETMORE AVENUE  
 EVERETT, WA 98201  
 (425) 387-3820  
 FAX (425) 258-1958  
 EMAIL: JOE@OMEGA-ENG.COM  
 CONTACT: JOSEPH SWEBY

**TRAFFIC:**  
 GIBSON TRAFFIC  
 2802 WETMORE AVE #220  
 EVERETT, WA 98201  
 425-339-8268  
 EDWARD@GIBSONTRAFFIC.COM  
 CONTACT: EDWARD GIBSON

**SURVEYOR:**  
 ORCA LAND SURVEYING, INC.  
 3605 COLBY AVENUE  
 EVERETT, WA 98201  
 (425) 258-3400  
 CONTACT: PAUL DARRROW  
 PAUL@ORCAL.SI.COM

**GEO-TECH:**  
 LIU & ASSOCIATES, INC.  
 19213 KENLAKE PLACE NE  
 KENMORE, WA 98028  
 (425) 483-9134  
 EMAIL: JULIANLIU100@YAHOO.COM  
 CONTACT: JULIAN LIU

**BIOLOGIST:**  
 WETLAND RESOURCES, INC.  
 9505 19TH AVE SE, SUITE 106  
 EVERETT, WA 98208  
 (425) 337-3174  
 JOHN@WETLANDRESOURCES.COM  
 CONTACT: JOHN L



**LEGAL DESCRIPTION**  
**PHASE I**  
 THE NORTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 28 NORTH, RANGE 6 EAST OF THE WILLAMETTE MERIDIAN, SNOHOMISH COUNTY, WASHINGTON;  
 AND EXCEPT THE WEST 205.00 FEET OF THE SOUTH 203.00 FEET THEREOF;  
 AND EXCEPT THE WEST 20 FEET THEREOF.  
 SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.  
**PHASE II**  
 THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 28 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN;

**PROJECT INFORMATION**

SITE ADDRESS: 13207 & 13221 191ST AVE SE, MONROE, WA 98272  
 TAX NUMBER: 28063600100200, 28063600101000 & 28063600100200  
 WITHIN UGA BOUNDARY  
 COMPREHENSIVE PLAN  
 PROPOSED LAND USE EXISTING: SINGLE FAMILY RESIDENTIAL  
 ZONING: R-4  
 CITY OF MONROE SEWER DEPARTMENT: CITY OF MONROE SEWER DEPARTMENT  
 WATER SUPPLY: MONROE NORTH AREA COMMUNITY PLAN  
 MONROE SCHOOL DISTRICT NO. 103  
 MONROE F.P.D. 3  
 FIRE DISTRICT: CITY OF MONROE  
 PARK DISTRICT: AIRPORT OVERLAY ZONING DISTRICT  
 PORTION OF PROJECT: MONROE NORTH AREA COMMUNITY PLAN  
 MAXIMUM LOT COVERAGE: 60 % OF LOT  
 MAXIMUM BUILDING HEIGHT: 35 FEET  
 MINIMUM LOT WIDTH: 40 FEET  
 MINIMUM LOT SIZE: 4,500 SF

GROSS SITE AREA	498,703 SF	11.45 ACRES
NET SITE AREA (LESS DEDICATION)	410,355 SF	9.42 ACRES
TOTAL LOTS PROPOSED	42 LOTS	
GROSS DENSITY (42/11.45)	3.67 D.U. PER ACRE	
AVERAGE LOT SIZE	6,073 SF	0.14 ACRES
SMALLEST LOT SIZE	4,555 SF	0.11 ACRES
USABLE OPEN SPACE PROVIDED	45,938 SF	1.05 ACRES
PERCENT OF GROSS SITE AREA	9.21	PERCENT OF SITE
TOTAL ROAD DEDICATION PROPOSED	88,348 SF	2.03 ACRES
ROAD LENGTH PROPOSED	1,685 LF	
PERCENT OF GROSS SITE AREA	17.72	PERCENT OF SITE

**PROJECT PHASE AREAS**

TOTAL SITE AREA	498,703 SF	11.45 ACRES
PHASE I	390,181 SF	8.96 ACRES
PHASE II	108,522 SF	2.49 ACRES

**PARK AND RECREATIONAL USEABLE OPEN SPACE**  
 PARK AND RECREATIONAL USEABLE OPEN SPACE IS THREE-FOURTHS OF A ACRE OR LARGER.  
 ALL HOUSING UNITS ARE WITHIN ONE-THIRD MILE OF PARK.  
 USING PEDESTRIAN CORRIDORS THE PARK IS FRONTED BY A SECONDARY ROADWAY FOR CONVENIENCE ACCESS TO ALL RESIDENCES.

**MINIMUM NET DENSITY CALCULATION**  
 GROSS SITE AREA 498,703 SF 11.45 ACRES  
 LESS AREAS FOR PUBLIC USE 0  
 LESS ROADS AND DEDICATION 88,348 SF 2.03 ACRES  
 LESS CRITICAL AREAS/BUFFERS 83,245 SF 1.92 ACRES  
 LESS DETENTION TRACT 32,978 SF 0.76 ACRES  
 NET SITE AREA 324,132 SF 7.44 ACRES  
 NET DENSITY (42/7.44) 5.65 D.U. PER ACRE

**TITLE 18.84.080**  
 USING 900 SQUARE FEET OF PARK AND RECREATIONAL USEABLE OPEN SPACE PER BASE DWELLING UNIT AS FOUND IN TABLE 1  
 42 LOTS X 900 SQUARE FEET = 37,800 SQUARE FEET OF USABLE OPEN SPACE REQUIRED  
 USABLE OPEN SPACE PROVIDED IN THIS SUBDIVISION (TRACTS 988, 996, 997, 998) IS 45,938 SQUARE FEET.  
**MONROE DENSITY CALCULATIONS**  
 498,703 X 0.80 = 398,962 / 10,890 = 36.636 UNITS  
 36.636 UNITS X 0.30 = 10.991 BONUS UNITS  
 36.636 UNITS + 10.991 BONUS UNITS = 47.627 UNITS  
 WE ARE PROPOSING 42 UNITS WITHIN THIS APPLICATION

**SURVEY NOTES:**  
 1) TOPOGRAPHY INFORMATION PROVIDED BY ORCA LAND SURVEYING, INC. LOCATION OF OFF-SITE FEATURES & TOPOGRAPHY IS APPROXIMATE.  
 2) THE UNDERGROUND UTILITIES ARE APPROXIMATE. THE LOCATIONS, AS SHOWN ON THIS PLAN, ARE BASED ON FIELD LOCATED POINTS AND AVAILABLE RECORDS.  
 3) THE BEARING OF THE MONUMENTED WEST LINE OF THE S.W. QUARTER OF SECTION 31, AS THE BEARING OF NORTH 00°44'13" EAST, PER THE PLAT OF SINGULAR HEIGHTS, RECORDED UNDER A.F. NO. 20040575141, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.  
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**PHASE II CONSTRUCTION RECORDING NOTE:**  
 THE OWNER/DEVELOPER OF SKYVIEW RIDGE HEREBY ACKNOWLEDGES THAT SKYVIEW RIDGE PHASE II IS BEING PRELIMINARY PLATTED AT HIS OWN RISK. LOTS 1 THROUGH 6 AND THE EXTENSION OF 133RD STREET S.E. THROUGH SKYVIEW RIDGE PHASE II AS SHOWN HEREON SHALL NOT BE DEVELOPED, UNTIL SUCH TIME AS THE DEVELOPMENT TO THE EAST, EAGLEMONT PHASE VI IS DEVELOPED AND RECORDED ALLOWING PUBLIC ACCESS TO THE PROPERTY. UPON RECORDING OF SKYVIEW RIDGE PHASE I, LOTS 1 THROUGH 6 PHASE II AND THE EXTENSION OF 133RD STREET S.E. SHALL BE RECORDED AS A FUTURE DEVELOPMENT TRACT, CERTAIN ASPECTS OF PHASE II SHALL BE DEVELOPED, AND IMPROVED WITH THE CONSTRUCTION AND RECORDING OF PHASE I. THESE WILL INCLUDE PROJECT IMPROVEMENTS WITHIN TRACTS 989 AND 999. ALSO CERTAIN UTILITIES SHALL BE CONSTRUCTED THROUGH PHASE II FOR THE BENEFIT OF PHASE I.

**PROJECT NOTES:**  
 1) NO DUPLEX STRUCTURES PROPOSED WITHIN THIS SUBDIVISION.  
 2) ENTIRE SITE LIES OUTSIDE OF FLOOD HAZARD AREA AND LANDSLIDE HAZARD AREA.  
 3) ALL LOT AREAS ARE GROSS AREAS UNLESS OTHERWISE NOTED.  
 4) NEAREST FIRE HYDRANT IS LOCATED 40' WESTERLY OF THE NW CORNER OF SITE ALONG THE WEST SIDE OF 191ST AVENUE SE.  
 5) FIRE HYDRANT(S) TO BE INSTALLED WITHIN THE SUBDIVISION AS DIRECTED BY THE FIRE MARSHAL.  
 6) BUILDING SETBACKS ARE 10' FRONT YARD TO RESIDENCE, 20' TO GARAGE, 5' SIDE YARDS AND 10' REAR YARDS.  
 7) 10' UTILITIES EASEMENT ABUTTING ROAD FRONTAGE ON ALL LOTS AND TRACTS AT TIME OF RECORDING.  
 8) ADJOINING LOT DATA INFORMATION TAKEN FROM THE PROPERTY AND TAX DATA PREPARED BY THE SNOHOMISH COUNTY ASSESSOR.  
 9) LINE OF DEVELOPMENT ACTIVITY AND PROJECT CLEARING UNITS SHALL BE THE PROJECT BOUNDARY LESS TRACTS 989, 990, 991, 992, 993, 994 AND A PORTION OF TRACTS 985 AND 997 AS DIRECTED BY THE CITY.  
 10) PROJECT MAY BE CONSTRUCTED IN TWO PHASES.  
 11) FOR NEPA SIGNAGE INFORMATION SEE WETLAND MITIGATION MAP PREPARED BY WETLAND RESOURCES, INC.

**FIRE SUPPRESSION NOTES:**  
 THE LOTS WITHIN SKYVIEW RIDGE SUBDIVISION SHALL REQUIRE A RESIDENTIAL SPRINKLER SYSTEM THAT IS TO BE APPROVED BY THE CITY'S FIRE MARSHAL AND INSTALLED IN EACH OF THE NEW HOMES BY THE BUILDER/DEVELOPER CHOOSES TO CONSTRUCT THE FUTURE HOMES ON THE LOTS WITHIN SKYVIEW RIDGE PRIOR TO THE CONSTRUCTION AND APPROVAL OF THE SECONDARY ACCESS AS DESCRIBED BELOW.  
 THE SECONDARY ACCESS SHALL BE CONSTRUCTED EASTERLY AND NORTHERLY THROUGH THE PROPOSED PLAT OF EAGLEMONT PHASES II AND III TO THE INTERSECTION OF 197TH AVENUE S.E. AND CHAIN LAKE ROAD.  
 ONCE THIS FUTURE ACCESS IS CONSTRUCTED AND APPROVED THE NEED FOR THE RESIDENTIAL SPRINKLER SYSTEMS SHALL NOT BE REQUIRED WITHIN ANY HOME TO BE CONSTRUCTED.

**CITY OF MONROE NOTES:**  
 1) COAR'S AND BY LAWS TO BE PROVIDED WITH FINAL PRO PER MMC 18.84.080.E.  
 2) HOUSING STYLES AND DESIGN SHALL COMPLY WITH MMC 18.84.080.G.  
 3) THIS PROJECT SHALL COMPLY WITH DEPARTMENT OF ECOLOGY STORM WATER MANAGEMENT MANUAL FOR WESTERN WASHINGTON (CURRENT EDITION).  
 4) THIS PLAT IS LOCATED IN AN AREA OFTEN AFFECTED BY TRAFFIC AND NOISE ASSOCIATED WITH EVENTS AT THE EVERGREEN STATE FAIRGROUNDS.

**LAND RESOLUTIONS**  
 LAND USE CONSULTANTS  
 Design • Planning • Management  
 3605 Colby Avenue - Everett, WA 98201  
 tele (425) 258-4438 - fax (425) 258-1616  
 landuse@lresolutions.com

**PRELIMINARY PLAT AND PLANNED RESIDENTIAL DEVELOPMENT FOR SKYVIEW RIDGE 15-PLPR-0002**

IN THE NE 1/4 OF THE NE 1/4 OF SECTION 36, T.28 N. R.6 E., W.M. CITY OF MONROE, SNOHOMISH COUNTY, WASHINGTON

SHEET OF 1

PROJECT: 2014-109 DWG BY: RLM DATE: 3/09/16 REV: - New Business #1



# MONROE CITY COUNCIL

## Agenda Bill No. 16-053

<b>SUBJECT:</b>	<i>Discussion: Downtown Fee Waiver Report</i>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
04/26/2016	Community Development	Dave Osaki	Dave Osaki	<b>New Business #2</b>

**Discussion:** 04/26/2016

- Attachments:**
1. Ordinance No. 009/2015
  2. Downtown Planning Area Permit Fee Waiver Spreadsheet

**REQUESTED ACTION:** Move to direct the Mayor and City Staff to prepare an ordinance for the City Council’s consideration that would extend the downtown fee waiver program for an additional one year period beyond the current June 14, 2016, expiration date.

### DESCRIPTION/BACKGROUND

On June 2, 2015, the Monroe City Council passed Ordinance No. 009/2015 (*Attachment 1*) temporarily eliminating certain fees for certain permits associated with development in the downtown. Ordinance No. 009/2015 is to automatically expire one year after its effective date (June 14, 2015) unless repealed sooner by the City Council.

Section 7 of Ordinance No 009/2015 states, in part:

“Section 7. Approximately 45 days before the automatic expiration of this ordinance, the Director of Community Development, or his designee, shall report to the City Council on the costs and benefits to the City of Monroe as a result of this ordinance.”

This agenda bill constitutes that report.

Attachment 2 is table that itemizes issued permits subject to the downtown fee waiver program. Permit application type, location, applicant, and the waived permit fee amount are among the information included in the table. Thirty permits have been issued totaling \$9,778.79 in waived fees. The fees waived range from \$45.19 to \$1,451.63. Each permit is listed separately in Attachment 2; consequently, an applicant may be listed multiple times if multiple permit types were issued for a project located at a single address.

### IMPACT – BUDGET

\$9,778.79 in permit fees in the Downtown Planning Area has been waived since the City Council adoption of Ordinance No. 009/2015.

*However,* it is possible that certain development activity (and its associated permit revenue) would not have occurred without the adoption of Ordinance No. 009/2015. Further, in cases where development has been incentivized by the downtown permit fee waiver, the City may benefit from other permit revenue that might not otherwise have resulted (e.g. sales tax revenue).

### TIME CONSTRAINTS

Ordinance No. 009/2015 will expire June 14, 2016, unless extended.

**CITY OF MONROE  
ORDINANCE NO. 009/2015**

AN ORDINANCE OF THE CITY OF MONROE,  
WASHINGTON, TEMPORARILY ELIMINATING FEES FOR  
CERTAIN PERMITS ASSOCIATED WITH DEVELOPMENT  
IN THE DOWNTOWN AREA AND FIXING A TIME WHEN  
THE SAME SHALL BECOME EFFECTIVE

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WHEREAS, the City of Monroe processes permits required for development of land; and

WHEREAS, a condition precedent for processing any application for said permits is the payment of fees associated therewith; and

WHEREAS, development in the downtown area of the City of Monroe has been lagging those in other areas of the City; and

WHEREAS, the slowdown in development in the downtown area of the City is resulting in lower tax revenues for the City; and

WHEREAS, the City Council finds it is desirable and beneficial to the City of Monroe to encourage development in the downtown area of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City of Monroe shall not charge any fee as a condition precedent for processing applications for any city permit that is listed in Exhibit A, attached hereto and incorporated herein by this reference, for developments in the Downtown Area. Fee waivers do not apply to Single-family dwelling permits.

Section 2. Downtown Area shall exclusively include those areas within the City as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

Section 3. The following fees shall remain unaffected by the adoption of this ordinance: (1) fees for application for city permit that are not listed in Exhibit A; (2) fees for any application for permit that are listed in Exhibit C, attached hereto and incorporated herein by this reference; (3) fees for any application for non-city permits, including but not limited to those required by or originating from the State of Washington or special purpose districts; (4) fees associated with third party consultant work necessary to process any application for permit; and (5) fees for application for permit for development outside the Downtown Benefit District.

Section 4. Any question or ambiguity relating to whether a certain fee is affected by the adoption of this ordinance as provided in Section 1, or remain unaffected as provided in Section 3, shall be decided in favor of the latter.

Section 5. Future amendments to what is commonly referred to as the City of Monroe's Fee Resolution shall be consistent with this ordinance.

Section 6. The City of Monroe shall not increase, as a direct result of this ordinance, the fees for any application for permit for development outside the Downtown Area, for which there is no fee for the same application within the Downtown Area.

Section 7. Unless sooner repealed by action of the City Council, this ordinance shall automatically expire one year after its effective date. Approximately forty-five days before the automatic expiration of this ordinance, the Director of Community Development, or his designee, shall report to the City Council on the costs and benefits to the City of Monroe as a result of this ordinance.

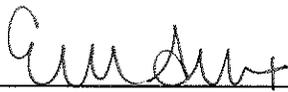
Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 9. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law. PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 2nd day of June, 2015.

1<sup>st</sup> Reading June 2, 2015  
Final Reading: Waived  
Published: June 9, 2015  
Effective: June 14, 2015

(SEAL)

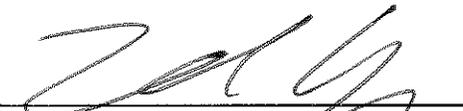
ATTEST:

  
Elizabeth M. Smoot, CMC, City Clerk

CITY OF MONROE, WASHINGTON:

  
Geoffrey Thomas, Mayor

APPROVED AS TO FORM:

  
J. Zachary Lell, City Attorney

## EXHIBIT A

### FEES TO BE WAIVED:

- Accessory dwelling units
- Boundary line adjustment
- Environmental (SEPA) review (DNS and Mitigated only; environmental consultant fees not waived)
- Short plat
- Plat amendments
- Site plan review
- Building permits -
  - Building plan review fees (structural consultant review fees not waived)
  - Building permit fees (State's \$4.50 building permit fee not waived)
- Plumbing and mechanical fees
- Public works construction fees
- Right-of-way permits
- Utility availability letter
- Grading plan review fees
- Grading permit
- Sign Permits
- Tenant Improvement Permits
- Demolition Permits

## EXHIBIT B

Area included within the "Downtown Area".

The area bordered by the following: Madison Street on the west, McDougall Street on the south, Al Borlin Park on the east and US 2 on the north. Where the boundaries are indicated by a street, the boundary shall be the centerline of that street. Where the boundaries are irregular, the study area boundary shown on the Downtown Master Plan shall control.

## EXHIBIT C

### FEES NOT WAIVED:

Contract and binding site plan  
Land clearing permits  
Model homes  
Subdivisions  
Planned residential development  
Rezone application  
Shoreline permits (includes variances, conditional uses, substantial development;  
environmental consultant)  
Special use permit  
Variance  
Conditional use permit  
Fire flow test  
Street right-of-way vacation fees  
Special flood hazard area development permit

Any State fees on permits  
Capital improvement fees  
Consultant charges  
Fire District fees  
Reimbursement agreement fees  
Transportation concurrency fees  
Water service connection fees  
Sewer connection fees  
Water, sanitary sewer and storm sewer frontage fees  
Park Plan, Transportation Plan, and School impact fees  
SEPA concurrency fees





# MONROE CITY COUNCIL

## Agenda Bill No. 16-054

<b>SUBJECT:</b>	<i>Authorize the Mayor Pro Tem to Sign the Snohomish County CDBG Grant Agreement for the Railroad Crossing Sidewalk Extension Project</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
04/26/2016	Public Works Design & Construction	Jim Gardner	Brad Feilberg	<b>New Business #3</b>

**Discussion:** 04/26/2016; 11/4/2014

**Attachments:** 1. Contract with Snohomish County, including Exhibits A, B, C, D & F

**REQUESTED ACTION:** Move to authorize the Mayor Pro Tem to sign the Snohomish County CDBG Grant Agreement for the Railroad Crossing Sidewalk Extension Project; and expressly authorize further minor revisions as deemed necessary or appropriate.

### DESCRIPTION/BACKGROUND

On November 4, 2014, the City Council endorsed submittal of an application for the Railroad Crossing Sidewalk Project, which will construct sidewalks along the east side of 179<sup>th</sup> Avenue SE and along the east side of Fryelands Boulevard. Both projects are on the City Transportation Improvement Program (TIP) and lie within the low-mod income area of Monroe.

Snohomish County administers the grant and has prepared a contract so that the City may receive the funds. The contract is attached along with the Basic Terms and Conditions.

After the contract is signed, City staff will begin design of the Railroad Crossing Project as time will allow. Due to current staff workload the preparation of plans and specifications for the project to advertise for bid will be pushed out to Fall 2016. Once plans and specifications are complete, the project will go out to bid in early 2017 in preparation for the construction season.

This consent item seeks Council to authorize:

- The Mayor Pro Tem to sign the CDBG contract with Snohomish County.
- Creation of plans and specifications for the project.
- Solicitation of bids for the project.

### IMPACT – BUDGET

Signing the contract will allow City expenses as relating to the Railroad Crossing Project to become reimbursable from the Community Development Block Grant.

### TIME CONSTRAINTS

Once the contract with Snohomish County is signed, the City will have 18 months to finish the project. By beginning in the summer of 2016 it will allow for selection of a contractor in Spring of 2017 and building the project during the 2017 construction season.



**SNOHOMISH COUNTY HUMAN SERVICES DEPARTMENT**  
 3000 ROCKEFELLER AVENUE, M/S 305 | EVERETT, WA 98201  
 (425) 388-7200

<b>CONTRACT SPECIFICS:</b>			
Contract Number: <u>HCS-15-21-1502-235</u>		Title of Project/Services: <u>Railroad Crossing Sidewalk Extensions</u>	
Maximum Contract Amount: \$244,500	Start Date: 10/30/2015	End Date: 10/01/2017	Status Determination: <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor

<b>CONTRACTING ORGANIZATION:</b>			
Name: <u>City of Monroe</u>	IRS Tax No. \ EIN: <u>91-6004164</u>		
Address: <u>806 W. Main Street</u>	Unique Entity Identifier: <u>39269899</u>		
City: <u>Monroe</u>	Contact Person: <u>James Gardner</u>		
State & Zip: <u>WA, 98272</u>	Telephone: <u>360-863-4542</u>		

<b>FUNDING:</b>			
Funding Authority: <u>n/a</u>	Funding Specifics: <u>CDBG – Public Facilities &amp; Infrastructure</u>		
Federal Agency: <u>HUD</u>	CFDA No. & Title: <u>14.218 CDBG Entitlement</u>		
Federal Award ID No: <u>B-15-UC-530003</u>			

<b>County Program Division:</b> HCS	<b>County Contact Person:</b> Dee White	<b>Contact Phone Number:</b> 425-388-3260
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Additional terms of this Contract are set out in and governed by the following, which are incorporated herein by reference:

Basic Terms and Conditions Agreement HSD-2015-138-235 maintained on file at the Human Services Department:					
Specific Terms and Conditions	Attached as	Exhibit A	Report of Actual Expenditures	Attached as	Exhibit E
Statement of Work	Attached as	Exhibit B	Certification Regarding Lobbying	Attached as	Exhibit F
Approved Contract Budget	Attached as	Exhibit C			
Request for Reimbursement	Attached as	Exhibit D			

In the event of any inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order: (a) appropriate provisions of state and federal law, (b) Specific Terms and Conditions, (c) Basic Terms and Conditions, (d) other attachments incorporated by reference, and (e) other documents incorporated by reference.

THE CONTRACTING ORGANIZATION IDENTIFIED ABOVE (HEREINAFTER REFERRED TO AS AGENCY), AND SNOHOMISH COUNTY (HEREINAFTER REFERRED TO AS COUNTY), HEREBY ACKNOWLEDGE AND AGREE TO THE TERMS OF THIS CONTRACT. SIGNATURES FOR BOTH PARTIES ARE REQUIRED BELOW. BY SIGNING, THE AGENCY IS CERTIFYING THAT IT IS NOT DEBARRED, SUSPENDED, OR OTHERWISE EXCLUDED FROM PARTICIPATING IN FEDERALLY FUNDED PROGRAMS.

FOR THE CONTRACTING ORGANIZATION:

\_\_\_\_\_  
 (Signature) (Date)

\_\_\_\_\_  
 (Title)

FOR SNOHOMISH COUNTY:

\_\_\_\_\_  
 Mary Jane Brell Vujovic, Director  
 Department of Human Services (Date)

**EXHIBIT A**  
**SPECIFIC TERMS AND CONDITIONS**  
**PUBLIC AGENCIES**  
**RAILROAD CROSSING SIDEWALK EXTENSIONS**

**I. SPECIAL TERMS AND CONDITIONS**

**A. Designation**

The Agency expressly agrees to undertake that certain community development assistance project fully described in the **Statement of Work, Exhibit B**, which is located within the corporate boundaries of said Agency, as the same is commonly referred to as a Community Development Block Grant (CDBG) project within the Housing and Community Development Act of 1974, as now or hereafter amended (hereinafter "the Act"). The undertaking shall be in full accord with the Act, rules and regulations promulgated thereunder, and all other laws, ordinances, and rules and regulations not inconsistent therewith.

**B. Subgrant**

The Agency is hereby allotted through a subgrant the sum as shown in **Approved Contract Budget, Exhibit C**. It is expressly agreed and understood that the total amount to be paid by the County under this Contract shall not exceed the amount shown in Exhibit C.

**C. General Compliance**

The Agency agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants), including Subpart K of those regulations, except that:

1. The Agency does not assume the County's environmental responsibilities described in 24 CFR § 570.604; and
2. The Agency does not assume the County's responsibility for initiating the review process under the provisions of 24 CFR Part 58. The Agency also agrees to comply with all other applicable federal, state, and local laws, regulations, and policies governing the funds provided in this Contract.

D. Notice to Proceed

The County shall furnish the Agency with written Notice to Proceed upon release of funds from HUD related to the project pursuant to 24 CFR Part 58. No work on the project shall occur prior to the Notice to Proceed without prior written approval from the County.

E. Construction Process

With regard to any capital improvement project specified in Exhibit B of this Contract, the Agency shall administer the project in such a way as to ensure completion of the project satisfactory to the County.

Bid procedures and bid documents must be approved by the Snohomish County Office of Housing and Community Development, or its successor County department or agency, prior to award of any subcontracts for construction, services, and capital improvements financed in whole or in part under this Contract.

F. Use of Property

The following provisions apply to real and personal property, if any, improved, or acquired through this Contract:

1. The Agency agrees to use real and personal property improved or acquired in whole or in part with CDBG funds provided under this Contract for the authorized purpose of the project, as stated in Exhibit B.III.
2. As set forth in applicable Office of Management and Budget, (hereafter (OMB)), the Agency shall not dispose of or encumber the title or other interests of the property as long as needed for that purpose, except as otherwise provided by federal statute.
3. The Agency shall obtain written approval by the County for the use of real property in other federally-sponsored projects when the Agency determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by HUD.
4. As provided by OMB, when the real property is no longer needed as provided in paragraphs 1 and 3 above, the Agency shall request disposition instructions from the County.

5. The Agency agrees to:
  - a. Keep the property in good condition and repair;
  - b. Not remove or demolish any building thereon;
  - c. Complete or restore promptly and in good and workmanlike manner any building that may be constructed, damaged, or destroyed, and to pay when due all claims for labor performed and materials furnished therefore;
  - d. Comply with all laws affecting the property or requiring any alterations or improvements to be made;
  - e. Not commit or permit waste thereof;
  - f. Not commit, suffer, or permit any act upon the property in violation of law; and
  - g. Do all other acts which from the character or use of the property may be reasonably necessary to preserve and conserve its value.
6. The Agency agrees to pay before delinquent all taxes, assessments and any other charges affecting the property when due, and all encumbrances, charges and liens, with interest, on the property or any part thereof.

## II. FISCAL MANAGEMENT

### A. Payment and Disbursements

Disbursements by the County pursuant to this Contract shall be on a reimbursement basis covering actual expenditures by the Agency or obligations of the Agency currently due and owing, but not paid, and are subject to the requirements in the **Basic Terms and Conditions** referenced on the Signature Page.

Disbursements shall be limited to allowable costs and will not be made unless, at a minimum, all the following occur:

1. Receipt by the County of a Request for Reimbursement/Actual Expenditure Report, together with a Report of Actual Expenditures, supported by copies of vouchers, invoices, salary and wage summaries, or other documentation;

2. Determination by the County that the expenditures or obligations for which reimbursement is sought constitute allowable costs under the principles set forth in applicable OMB and come within the Project Budget; and
3. Payments may be contingent upon certification of the Agency's financial management system in accordance with the standards specified in OMB.

**B. Budget Revisions**

The Agency shall submit to the County a written request for approval of revisions to the Project Budget. Written budget revision approval must be received by the Agency before incurring any expenditures or obligations against the revised Project Budget.

1. In the event a proposed revision would result in an increase or decrease of ten percent (10%) or more in an approved budget object category with no change to the total Contract amount, the revision will be approved or disapproved by the County.
2. Proposed budget changes, which increase or decrease the total Contract amount, shall necessitate a written amendment to this Contract.

**C. Program Income**

1. Defined

"Program income" means gross income received by the Agency directly generated from the CDBG-supported activity, or earned only as a result of this Contract "during the grant period," as that phrase is defined in OMB. When program income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. Except as provided in 24 CFR § 570.500, program income includes, but is not limited to, the following:

- a. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- b. Proceeds from the disposition of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired by the Agency with CDBG funds, less costs incidental to generation of the income;

- d. Gross income from the use or rental of real property, owned by the Agency, that was constructed or improved with CDBG funds, less costs incidental to generation of the income;
- e. Payments of principal and interest on loans made using CDBG funds;
- f. Proceeds from the sale of loans made with CDBG funds;
- g. Proceeds from the sale of obligations secured by loans made with CDBG funds;
- h. Interest earned on program income pending its disposition; and
- i. Funds collected through special assessments made against properties owned and occupied by households not of low and moderate income, where the assessments are used to recover all or part of the CDBG portion of a public improvement.

## 2. Recording and Reporting Program Income

The receipt and expenditure of program income as defined above shall be recorded as part of the financial transactions under this Contract. The Agency shall report monthly all program income (as defined at 24 CFR § 570.500(a)) generated by activities carried out with CDBG funds made available under this Contract.

## 3. Disposition of Program Income Received by the Agency

- a. The use of program income by the Agency shall comply with the requirements set forth at 24 CFR § 570.504. By way of further limitation, the Agency may use such income during the Contract period for activities permitted under this Contract and shall reduce requests for additional funds by the amount of any such program income balance on hand. All unexpended program income shall be returned to the County at the end of the Contract period. All interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the County.
- b. Program income received before close-out of this Contract may, at the discretion of the County, be retained by the Agency if the income is treated as additional CDBG funds to continue or benefit the project and is subject to all applicable requirements governing the use of CDBG funds.

- c. If the Agency is allowed to retain program income, that income shall affect disbursements under this Contract from the County as follows:
  - 1) Program income in the form of repayments to, or interest earned on, a revolving fund as defined in 24 CFR § 570.500(b) shall be disbursed from the fund in accordance with the fiscal management requirements of this Contract before additional cash withdrawals are made from the County for the same activity.
  - 2) All other program income shall be disbursed for eligible project activity before additional cash withdrawals are made from the County.
- d. Program income on hand when the Contract is closed out, or received after the Contract is closed out, shall be subject to the following:
  - 1) Unless otherwise provided elsewhere in this Contract, and subject to the requirements of paragraph 2 of this subsection, if at the time of close-out the Agency has another ongoing CDBG grant received directly from the County, income received after close-out shall be treated as program income of the ongoing grant program.
  - 2) If the Agency does not have another ongoing grant received directly from the County at the time of close-out, income received after close-out from the disposition of real property or from loans outstanding at the time of close-out shall be used for activities that meet one of the national objectives in 24 CFR § 570.208 and the eligibility requirements described in Section 105 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5301 et seq.).
  - 3) In any circumstances not covered by paragraphs (1) or (2) above, the Agency shall promptly contact the County to obtain appropriate disposition instructions.

D. Indirect Costs

If indirect costs are charged, the Agency will develop an indirect cost allocation plan for determining the appropriate Agency's share of administrative costs and shall submit such plan to the County for approval, in a form specified by the County.

E. Accounting Standards

The Agency agrees to comply with OMB and agrees to adhere to the accounting principles and procedures required therein, utilize adequate

internal controls, and maintain necessary source documentation for all costs incurred.

F. Cost Principles

The Agency shall administer its project in conformance with OMB. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

III. INSURANCE REQUIREMENTS

Prior to commencement of the project, the Agency, shall procure and maintain for the duration of the Contract, insurance as specified in the Basic Terms and Conditions against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the project hereunder by the Agency, its agents, representatives, employees contractors or subcontractors. Review of the Agency's insurance by the County shall not relieve or decrease the liability of the Agency.

- A. In addition to the insurance requirements in the Basic Terms and Conditions, the Agency shall comply with the bonding and contract provision requirements in OMB.
- B. Builder's Risk Insurance: The Agency shall provide, unless the subagency elects to provide, in a form acceptable to the County, Builder's Risk Coverage in the amount of the Replacement Cost equal to completed construction value, with Agency and Snohomish County protected as their interests may appear.

IV. PROJECT REQUIREMENTS

A. Applicability of Uniform Administrative Requirements

The project shall be conducted and administered in compliance with the regulations, policies, guidelines and requirements of OMB, as they relate to the acceptance and use of federal funds under this Contract. The applicable sections of OMB are set forth at 24 CFR § 570.502(a). Where federal standards differ from applicable local or state standards, the stricter standards shall apply.

B. Local Financial Support

The Agency agrees to utilize funds available under this Contract to supplement rather than to supplant funds otherwise available. The subgrant amount authorized under this Contract shall not be utilized to substantially reduce the amount of local financial support for community development

activities below the level of such support prior to the availability of such assistance.

The County's share of total project costs, as shown in Exhibit C, shall remain constant throughout the life of the Contract. Any cost savings shall be proportionately shared by the County and the Agency.

C. Procurement Contracts

In addition to the requirements contained in the Basic Terms & Conditions referenced on the Contract Face Sheet, and unless specified otherwise in this Contract, the Agency shall procure all materials, property, or services in accordance with the requirements of OMB. The following provisions apply to procurements of supplies, equipment, construction, or other services financed in whole or part under this Contract:

1. Award

All procurement contracts financed in part or in whole with funds under this Contract shall contain insurance provisions that at a minimum are equal to those insurance provisions contained in "SUB-GRANTEE GENERAL CONDITIONS—General Conditions for Facilities Contracts Assisted Under the Snohomish County Community Development Block Grant Program" on file at the County, as those provisions may be amended from time to time.

2. Debarment and Suspension

No portion of the award made under this Contract shall be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund, any construction contractor or subcontractor during any period of debarment, suspension, voluntary exclusion or placement in ineligibility status of such construction contractor or subcontractor under the provisions of 24 CFR Part 24. The Agency represents and warrants that the Agency is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal assistance programs under such regulations or Executive Orders Nos. 12549 or 12689.

3. Travel

The Agency shall obtain written approval from the County for any travel outside the metropolitan area with funds provided under this Contract.

D. Compliance with Architectural and Construction Standards

Any facility constructed pursuant to this Contract shall comply with applicable design requirements of the Federal Architectural Barriers Act of 1968 (codified at 42 USC § 4151 et seq.); Chapter 70.92 RCW; Section 8 Existing Housing Standards, 24 CFR Part 882; Cost Effective Energy Conservation Standards, 24 CFR §§ 965.301-965.308; and the Uniform Federal Accessibility Requirements required by 24 CFR Part 8. The Agency shall condition any grants, awards, or loans made with assistance under this Contract with those applicable standards.

E. Real Property

1. Transfer

a. Flood Insurance

Any contract or agreement for the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary of HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended (42 U.S.C. § 4001 et seq.), provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as may be required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Contract.

b. Covenants

- 1) Where assistance under this Contract is provided in the form of real property or an interest in the property from the County, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure non-discrimination for the period during which the real property is used for a purpose for which the assistance under this Contract is extended or for another purpose involving the provision of similar services or benefits.
- 2) Where no transfer of property is involved, but property is purchased or improved with financial assistance under this Contract, the Agency shall agree to include the covenant described in this Contract in the instrument effecting or recording any subsequent transfer of the property.

- 3) Where assistance under this Contract is provided in the form of real property or an interest in the property from the County, the covenant shall also include a condition coupled with a right to be reserved by the County to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the County may, upon request of the transferee, if necessary to accomplish such financing, and upon such conditions as the County deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

## 2. Change in Use

The standards described in this section apply to real property within the Agency's control which was acquired or improved in whole or in part using CDBG funds provided pursuant to this Contract. Except as otherwise provided by federal statutes, the Agency will use real property acquired with funds provided under this Contract for its originally authorized purposes as long as needed for those purposes and shall not dispose of or encumber its title or other interests in that property. These standards shall apply from the date CDBG funds are first spent for the property until five years from the date the Agency is no longer considered by HUD to be part of the urban county as defined at 24 CFR § 570.3.

- a. The Agency may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made as specified in Exhibit B unless the Agency receives prior written approval from the County, and either:
  - 1) The new use of such property qualifies as meeting one of the national objectives in 24 CFR § 570.901 and is not a building for the general conduct of government; or
  - 2) The requirements in paragraph (b) of this section are met.
- b. If the Agency determines, after prior approval from the County, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a) (1) of this section, it may retain or dispose of the property for the changed use if the Agency reimburses the County in the amount of the current fair market value of the property,

less any portion of the value attributable to expenditures of non-grant funds for acquisition of, and improvements to, the property.

- c. If the change of use occurs after close-out, the Agency shall promptly notify the County to obtain appropriate disposition instructions.

F. Public Information

1. The Agency shall insure recognition of the role of the County in providing services through this Contract. All activities, facilities, and items utilized pursuant to this Contract shall be prominently labeled as to funding source.
2. In all news releases and other public notices related to or funded under this Contract, the Agency shall include information identifying the source of funds as the Snohomish County Community Development Block Grant Program. The Agency will include a reference to the support provided herein in all publications made possible with funds available under this Contract.
3. For all construction projects, the Agency shall erect a sign to County specifications at the construction site, identifying the source of funds, except that this requirement may be waived for construction projects of \$10,000 or less.

G. Use and Reversion of Assets

The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of OMB as applicable.

V. PROJECT MANAGEMENT

A. Non-Expendable Personal Property ("Equipment")

"Equipment" shall mean an article of non-expendable, personal property or information technology systems and software, including exempt property (as that term is defined in OMB), having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

1. Title

Subject to the obligations and conditions set forth in OMB and this section, title to equipment acquired under this Contract will vest upon acquisition in the Agency.

## 2. Use

- a. In the case of assistance under this Contract to provide personal property, the compliance requirements of Section 504 of the Rehabilitation Act of 1973, as amended, found in this Contract, shall obligate the Agency for the period during which it retains ownership or possession of the equipment.
- b. Equipment shall be used by the Agency in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by funds allotted under this Contract. The Agency shall not encumber the equipment without the approval of the County. When no longer needed for the original project or program, the equipment may be used in other activities currently or previously supported by Snohomish County CDBG funds or other federally-sponsored activities as provided by OMB.
- c. During the time the equipment is used on the project or program for which it was acquired, the Agency shall also make equipment available for use on other projects or programs currently or previously supported by the County providing such use will not interfere with the work on the project or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the County. User charges shall be treated as program income.
- d. The Agency shall not use equipment acquired with CDBG funds to provide services to non-federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by federal statute, for as long as the federal government retains an interest in the equipment.
- e. When acquiring replacement equipment, the Agency may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the County.

## 3. Management Requirements

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with CDBG funds, until disposition takes place will, at a minimum, meet the requirements of OMB, including the following:

- a. Equipment records must be maintained accurately and shall include a description of the equipment, a manufacturer's serial number or other identification number, the source of equipment, including the award

number, who holds title, the acquisition date (or date received, if the equipment was furnished by the federal government), cost of the equipment, information from which the percentage of federal participation in the cost of the equipment can be calculated, the location and condition of the equipment, and the date information was reported, unit acquisition cost, and ultimate disposition data including the date of disposal and sale price of the equipment or the method used to determine current fair market value when the Agency compensated the County for its share.

- b. Equipment owned by the federal government shall be identified to indicate federal ownership.
  - c. A physical inventory of the equipment shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Agency shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
  - d. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft shall be investigated and fully documented.
  - e. Adequate maintenance procedures shall be developed to keep the equipment in good condition.
  - f. If the Agency is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the fullest extent practicable and result in the highest possible return.
4. Disposition

When original or replacement equipment acquired under this Contract is no longer needed by the Agency for the original project or program or for other activities currently or previously supported by the County, disposition of the equipment will be made as provided in OMB and as follows:

- a. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the County.
- b. Items of equipment with a current per-unit fair market value of \$5,000 or more may be retained or sold and the County shall be paid an

amount calculated by multiplying the current market value or proceeds from sale by the County's share of the equipment.

- c. In cases where the Agency fails to take appropriate disposition actions, the County may direct the Agency to take excess and disposition actions.

#### 5. Right to Transfer Title

As provided in OMB, the County reserves the right to require the Agency to transfer title of equipment to the federal government or a third party named by the County when such a third party is otherwise eligible under existing statutes, as determined by the County. Such transfers shall be subject to the following standards:

- a. The property shall be identified in this Contract or otherwise made known to the Agency in writing.
- b. The County shall issue disposition instructions within 120 calendar days after the end of the County support of the project for which the equipment was acquired. If the County fails to issue disposition instructions within the 120 calendar-day period, the Agency shall apply the standards of OMB, as appropriate.
- c. When title to equipment is transferred, the Agency shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

#### 6. Fees for Services

The Agency shall not use equipment acquired with federal funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by federal statute.

#### B. Expendable Tangible Personal Property ("Supplies")

"Supplies" means all tangible personal property other than equipment as defined in OMB.

##### 1. Title

Title to supplies and other expendable personal property acquired under this Contract will vest, upon acquisition, in the Agency.

2. Disposition

As provided in OMB, if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination, cancellation or completion of the project or program, and if the supplies are not needed for any other federally-sponsored project or program, the Agency shall compensate the County for its share.

**VI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT**

A. The Agency agrees to comply with:

1. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601 et. seq. (the "Uniform Relocation Act"), and implementing regulations at 49 CFR Part 24 and 24 CFR § 570.606(b);
2. The requirements of 24 CFR § 570.606(c) governing the Residential Anti-Displacement and Relocation Assistance Plan under Section 104(d) of the Housing and Community Development Act, 42 U.S.C. § 5304(d); and
3. The requirements in 24 CFR § 570.606(d) governing optional relocation policies.

B. The acquisition of any owner-occupied property shall be conducted to assure that the owner-occupant is not "displaced" as defined in the Uniform Relocation Act, its implementing regulations at 49 CFR Part 24, and the CDBG regulations contained at 24 CFR § 570.606. Properties to be acquired either permanently or temporarily must be vacant of renters for at least 90 days prior to the date of initiation of negotiations for lease or purchase. Property that is renter-occupied will not be considered for acquisition unless prior written approval is received from the County. Property that is owner-occupied will be considered for acquisition if:

1. The owner voluntarily enters into an agreement to sell/lease the property to the Agency;
2. The owner agrees to forfeit possession of the property upon execution of the sale/lease agreement; and
3. The owner voluntarily waives any rights to relocation payments or other relocation assistance under the Uniform Relocation Act or other similar requirement.

- C. The Agency shall provide relocation assistance to displaced persons as defined by 24 CFR § 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. In the event any occupant of any real property acquired with assistance provided under this Contract is deemed by the County or by higher authority to have been displaced and thereby to be entitled to relocation assistance under these authorities, the Agency shall be solely responsible for providing the required assistance and paying all costs therefor, and the Agency shall hold the County harmless from any liability for such assistance. The Agency also agrees to comply with applicable County ordinances, resolutions and policies, if any, concerning the displacement of persons from their residences.

## VII. PERSONNEL AND PARTICIPANT CONDITIONS

### A. Civil Rights

#### 1. Compliance

The Agency agrees to, and agrees to require its construction contractors and subcontractors performing work funded in whole or in part under this Contract to, comply at all times with applicable federal and state statutes and laws relating to civil rights, including but not limited to:

- a. Title VI of the Civil Rights Act of 1964, as amended (P.L. 88-352), and 24 CFR Part 1 (Non-discrimination in Programs or Activities Receiving Federal Financial Assistance);
- b. Title VIII of Civil Rights Act of 1968, as amended (P.L. 90-284), and 24 CFR § 570.601 (Non-discrimination in Housing);
- c. Sections 104(b) and 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 USC §§ 5304(b) and 5309), and 24 CFR § 570.602 (Non-discrimination in any Program or Activity);
- d. Section 504 of Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) (handicapped);
- e. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.);
- f. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.);

- g. Executive Order No. 11063 and 24 CFR Part 107 (Equal Opportunity in Housing);
- h. Executive Order No. 11246, as amended by Executive Orders Nos. 11375, 11478, 12107 and 12086, and 41 CFR Part 60 (Regarding Non-Discrimination in Employment);
- i. Executive Orders 11625, 12432 and 12138, and 24 CFR § 570.506(g) (6) (Use of Minority and Women's Business Enterprises);
- j. Contracts for Architectural and Engineering Services - Participation by Minority and Women-Owned Firms, RCW 39.80.040;
- k. Discrimination prohibitions under Chapter 49.60 RCW; and
- l. Public Works or Improvements - Minority Business, RCW 35.23.352 (2nd and 3rd class cities and towns 1,500 or more citizens), as applicable.

The Agency agrees that it will assist and cooperate actively with the County, HUD and the Secretary of Labor in obtaining the compliance of construction contractors and subcontractors with the statutes and laws referred to in this Contract and the rules, regulations, and relevant orders of the Secretary of Labor; it will furnish the County, HUD and the Secretary of Labor such information as they may require for the supervision of such compliance; and it will otherwise assist the County, HUD and the Department of Labor in the discharge of the Department of Labor's primary responsibility for securing compliance. The Agency will also ensure the compliance of construction contractors and subcontractors with state requirements pertaining to equal opportunity.

## 2. Non-Discrimination

In addition to the Non-Discrimination requirements in the Basic Terms and Conditions, the Agency agrees to comply with the non-discrimination in employment and opportunities laws, regulations, and executive orders referenced in 24 CFR § 570.607, as revised by Executive Order No. 13279. The Non-Discrimination provisions in Section 109 of the Act are still applicable.

- a. The Agency shall not use methods of administration or site selection criteria which have such a discriminatory effect; PROVIDED, that nothing herein shall prohibit actions designated to correct the effects of prior discriminatory practices or conditions; and PROVIDED, FURTHER, that separate living and restroom facilities for the different sexes may be constructed and maintained.

- b. The Agency shall comply with the HUD published Final Rule "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity," published in the Federal Register on February 3, 2012.

### 3. Land Covenants

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the regulations under 24 CFR Part 1, including 24 CFR §§ 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract, the Agency shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, ethnic or national origin, age, gender, handicap or sexual orientation, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, and providing that the Agency, the County and the United States are beneficiaries of and entitled to enforce such covenants. The Agency, in undertaking its obligations to carry out the project assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

### 4. Section 504

The Agency agrees to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), prohibiting discrimination against individuals with disabilities or handicaps in any federally-assisted program, and all federal regulations issued pursuant thereto, including the regulations under 24 CFR Part 8. The County shall provide the Agency with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Contract.

## B. Affirmative Action

1. The Department of Housing and Urban Development, Northwest/Alaska Area, Washington State Office, has established a goal for Snohomish County that 7.7% of all CDBG contract dollars be committed to minority-owned businesses. In order to meet this goal, Snohomish County requires that the Agency, in all construction contracts of \$50,000 or more funded wholly or in part with Snohomish County CDBG funds, demonstrate a good faith effort to attain 7.7% MBE participation. In addition, the Agency is required to report to the County all contracts of \$1,000 or more for labor, materials, supplies or professional services funded wholly or in part with CDBG funds.

The Agency shall submit such documentation as deemed necessary by the County to support compliance with the Minority Business Enterprise requirements.

## 2. Women- and Minority-Owned Businesses

As required by OMB, the Agency will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps shall include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business and women's business enterprises;
- e. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the construction contractor, if subcontracts are to be let, to take the affirmative steps listed above.

## 3. Access to Records

The Agency shall furnish and cause each of its own Subagencies to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the County, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

## 4. Notifications

The Agency will send to its labor union or representative of workers with which it has a collective bargaining contract or other contract or

understanding, a notice, to be provided by the Agency contracting officer, advising the labor union or workers' representative of the Agency's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

### C. Employment Restrictions

#### 1. Labor Standards

The Agency agrees to comply, and shall require that project construction contractors and subcontractors comply, with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. §§ 276a-276a-5), the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Contract. The Agency also agrees to comply, and shall require that project construction contractors and subcontractors comply, with the requirements of the Copeland Anti-Kick Back Act (18 U.S.C. § 874 et seq.) and its implementing regulations at 29 CFR Part 5. The Agency shall maintain documentation that demonstrates compliance with hour and wage requirements of this section. Such documentation shall be made available to the County for review upon request.

- a. The Agency shall likewise ensure compliance with Chapter 39.12 RCW pertaining to payment of state prevailing wages on public works projects and with Chapter 49.28 RCW pertaining to an eight-hour work day.
- b. The Agency agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all construction contractors and subcontractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this Contract, shall comply with federal requirements adopted by the County pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Agency of its obligation, if any, to require payment of the higher wage. The Agency shall cause or require to be inserted in full, in all such contracts or subcontracts subject to such regulations, provisions meeting the requirements of this paragraph.

- c. No portion of the award made under this CDBG Contract shall be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund, any construction contractor or subcontractor during any period of debarment, suspension, voluntary exclusion or placement in ineligibility status of such Agency or subrecipient under the provisions of 24 CFR Part 24. The Agency represents and warrants that the construction contractor is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal assistance programs under such regulations or Executive Orders Nos. 12549 and 12689, "Debarment and Suspension." The Excluded Parties List System can be checked at the following web-site: [www.sam.gov](http://www.sam.gov).

## 2. "Section 3" Clause

### a. Compliance

Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701u), and as implemented by the regulations set forth in 24 CFR Part 135, and all applicable rules and orders issued thereunder prior to the execution of this Contract, shall be a condition of the federal financial assistance provided under this Contract and binding upon the County, the Agency and any of the Agency's Subagencies. Failure to fulfill these requirements shall subject the County, the Agency and any of the Agency's Subagencies, their successors and assigns, to those sanctions specified by the Contract through which federal assistance is provided. The Agency certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Agency further agrees to comply with these "Section 3" requirements and to include the following language, set forth in 24 CFR § 135.38, in all subcontracts executed under this Contract:

- 1) The work to be performed under this Contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low-

income persons residing in the metropolitan area in which the project is located.

- 2) The Agency further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.
- 3) The Agency certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Agency agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Agency will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subagency is in violation of regulations issued by HUD. The Agency will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the

entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

d. Snohomish County Section 3 Area

Snohomish County has identified its Section 3 area as that area within the corporate boundaries of Snohomish County. The term "low income" includes low-income unemployed residents of Snohomish County. The Agency will, to the greatest extent feasible, provide employment opportunities to those individuals.

D. Conduct

1. Subcontracts

The Agency shall undertake to insure that all subcontracts let in the performance of this Contract shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the County along with documentation concerning the selection process.

2. Hatch Act

The Agency agrees that no funds provided, nor personnel employed, under this Contract shall be in any way or to any extent be applied to, or engaged in, the conduct of political activities in violation of 5 U.S.C. Chapter 15.

3. Conflict of Interest

a. In the procurement of supplies, equipment, construction, and services by recipients and subrecipients, the Agency agrees to abide by the conflict of interest provisions of OMB, which include (but are not limited to) the following:

1) The Agency shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds.

2) No employee, officer or agent of the Agency shall participate in the selection, or in the award or administration, of a contract supported by federal funds if a conflict of interest, real or apparent, and as described in OMB, would be involved.

- 3) The Agency's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Agencies, potential Agencies, or parties to subcontracts. The Agency may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.
  - 4) To the extent permitted by state or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the Agency's officers, employees or agents, or by Subagencies or their agents.
  - 5) In all cases not governed by OMB, the provisions of 24 CFR § 570.611(a) shall apply.
- b. In addition to the Conflict of Interest and Kickback provisions in the Basic Terms and Conditions, the following applies:

Upon the written request of the Agency, the County may grant an exception to the provisions of paragraph (2) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the County's Community Development Block Grant Program and the effective and efficient administration of the Agency's project. An exception may be considered only after the Agency has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.

#### 4. Religious or Faith-Based Organizations; Inherently Religious Activities; Non-Discrimination

The following provisions imposed by 24 CFR § 570.200(j) applies to all recipients of CDBG funds through the County, including the Agency:

##### a. Eligibility

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program.

##### b. Inherently Religious Activities

Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as a part of the programs or services funded under 24 CFR Part 570. If the Agency conducts such activities, the activities must be offered separately, in time or location, from the

programs or services funded under 24 CFR Part 570, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

c. Discrimination Against Beneficiaries or Prospective Beneficiaries

An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

d. Structures Used for Inherently Religious Activities

CDBG funds may not be used for the acquisition, construction or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under 24 CFR Part 570. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in 24 CFR Part 570. Sanctuaries, chapels or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements.

e. Employment discrimination

Pursuant to 24 CFR § 5.109(e), a religious organization's exemption from the federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (codified at 42 U.S.C. § 2000e-1), is not forfeited when the organization participates in the HUD program. Notwithstanding the foregoing, non-discrimination requirements imposed by statute on all CDBG grantees shall apply to religious and faith-based organizations.

f. Commingling of Funds

If applicable, pursuant to 24 CFR § 570.200(j)(6), if the local government voluntarily contributes its own funds to supplement the activities funded pursuant to this Contract, the local government has the option to segregate the federal CDBG funds or commingle them. However, if the funds are commingled, the requirements of this section apply to all of the commingled funds.

## VIII. ENVIRONMENTAL CONDITIONS

### A. Air and Water

The Agency agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

1. Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.;
  - a. Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., including but not limited to 33 U.S.C. § 1318 relating to inspection, monitoring, entry, reports as information, as well as other requirements specified in 33 U.S.C. §§ 114 and 305, and all regulations and guidelines issued thereunder; and
  - b. Environmental Protection Agency ("EPA") regulations pursuant thereto at 40 CFR Chapter I, as amended.
2. In compliance with said regulations, the Agency shall enforce and cause or require to be inserted in full in all contracts and subcontracts with respect to any non-exempt transaction thereunder funded with assistance provided under this Contract, the following requirements:
  - a. A stipulation that any facility to be utilized in the performance or any non-exempt contract or subcontract is not listed on the List of Violating Facilities issued by the EPA pursuant to 40 CFR § 15.20.
  - b. Agreement to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC § 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1318), relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Sections 114 and 308 and all regulations and guidelines issued thereunder.
  - c. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
  - d. Agreement by the Agency to include or cause to be included the criteria and requirements in paragraph a through f of this subsection in every non-exempt subcontract and requiring that the Agency will take such actions as the government may direct as a means of enforcing such provisions.

- e. In no event shall any amount of the assistance provided under this Contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.
- f. In accordance with RCW 39.04.120, all invitations for bid proposals for construction projects shall set forth in the contract documents, to the extent they are reasonably obtainable by the Agency, those provisions of federal, state and local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources that affect or are affected by the Project.

B. Environmental Review

1. NEPA

Pursuant to 24 CFR § 58.4, the County retains environmental review responsibility for purposes of fulfilling requirements of the National Environmental Policy Act for each activity carried out with CDBG funds. The County may require the Agency to furnish data, information and assistance for the County's review and assessment in order for the County to discharge its responsibilities including determining whether the County must prepare an Environmental Impact Statement.

2. SEPA

The Agency retains responsibility for fulfilling the requirements of the State Environmental Policy Act and regulations and ordinances adopted thereunder.

3. Compliance as Pre-Condition

Performance by the Agency under this Contract shall include satisfaction of all applicable requirements of the National and State Environmental Policy Acts. No funds may be committed to a CDBG activity or project before completion of the environmental review and approval of the request for release of funds related certification, except as authorized by 24 CFR Part 58.

C. Flood Disaster Protection

This Contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (Public Law No. 93-234). In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001 et seq.), the Agency shall assure that for all activities located in an area identified by the Federal Emergency Management Agency ("FEMA") as having special flood

hazards, flood insurance under the National Flood Insurance Program is obtained and maintained for the mandatory period as a condition of financial assistance for acquisition or construction purposes (including rehabilitation). No portion of the assistance provided under this Contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this Contract for such acquisition or construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

D. Lead-Based Paint

The Agency agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to the HUD lead-based paint regulations found at 24 CFR § 570.608 and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

The Agency shall condition any grants or loans for the rehabilitation of residential structures made with assistance provided under this Contract upon compliance with the provisions for the elimination of lead-based paint hazards in those regulations, and the Agency shall be responsible for the inspections and certifications required thereunder.

E. Historic Preservation

The Agency agrees to comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1996, as amended (16 U.S.C. § 470 et seq.) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Contract. In general, this requires concurrence from the State Historic Preservation

Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

## IX. RECORDS

### A. Maintenance

The Agency shall maintain all records required by the federal regulations specified in 24 CFR § 570.506, and the requirements in the Basic Terms and Conditions, that are pertinent to the activities to be funded under this Contract. Such records shall include but are not limited to:

1. Records providing a full description of each activity undertaken;
2. Records demonstrating that each activity undertaken meets one of the national objectives of the CDBG program, as required by 24 CFR § 570.200(a)(2) and 24 CFR § 570.208;
3. Records required to determine the eligibility of activities;
4. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
5. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
6. Financial records as required by 24 CFR § 570.502 and OMB;
7. Other records necessary to document compliance with Subpart K of 24 CFR Part 570; and
8. The Agency also agrees to generate and maintain sufficient records to enable the County to determine whether the Agency has met the requirements of this Contract and the requirements of 24 CFR § 570.506, including:
  - a. Financial management records in the form of separate accounts, including personnel, property, financial and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature and all services performed under this Contract, and such other records as are required under the provisions of the uniform administrative requirements set forth in Contract;
  - b. Acquisition and relocation records as required by 24 CFR § 70.606;

- c. Equal opportunity records, including:
  - 1) A breakdown of persons by race, ethnic group, sex, and age, who have participated in or benefited from the project; and
  - 2) Data which records its affirmative action in equal opportunity employment including, but not limited to, employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs, or terminations, pay or other compensation, and selection for training.
- d. Section 3 records, including:
  - 1) Data which records its good faith effort to identify, train, and/or hire lower income residents of the project area; and
  - 2) Data which records utilization of business concerns which are located in or owned in substantial part by persons residing in the area of the project.
- e. Minority business enterprise participation records, including: data which records utilization and attempts to utilize minority business enterprises;
- f. Records that demonstrate compliance with one or more of the national objectives as required by 24 CFR § 570.200(a)(2) and 24 CFR § 570.208;
- g. Client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request; and
- h. The Agency understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Agency's responsibilities with respect to services provided under this Contract, may be prohibited by the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1301 et seq.), Chapter 70.02 RCW (Washington Uniform Health Care Information Act), Chapter 71.34 RCW (mental health services for minors), Chapter 70.96A (alcohol and drug abuse treatment records), RCW 43.63A.655(1)(a) (protection of privacy of homeless individuals), RCW 43.185C.030, RCW 70.123.075 and Chapter 40.24 RCW, among others, unless

written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

**B. Retention**

The above records and all other financial records, supporting documents, statistical records and all other records pertinent to this Contract shall be retained for a period of seven (7) years after close out or termination of this Contract, except as follows:

1. Records that are the subject of audit, litigation, claims, negotiations or other actions shall be retained until the completion of the actions and resolution of all issues or for seven (7) years, whichever occurs later.
2. Records for non-expendable property shall be retained for seven (7) years after its final disposition.
3. Records for any displaced person shall be retained for seven (7) years after the person has received final payment.

**X. REPORTS**

A. The Agency agrees to submit to the County such reports as the County requests pursuant to the requirements of state or federal law.

B. At a minimum, the Agency shall submit an Annual Report in a format prescribed by the County. The annual project report shall be due two weeks after the end of each Snohomish County CDBG Program Year (July 1 to June 30) during which Project activities are conducted, shall cover the preceding one-year period, and shall have the following contents:

1. Project Progress

Progress on the project during the preceding year shall be summarized.

2. Financial Management

Financial information necessary shall be given to show compliance with the uniform administrative requirements set forth in this Contract.

3. Local Financial Support

Compliance with the Local Financial Support section of this Contract shall be indicated.

4. Relocation and Acquisition

Real property acquired, number of persons and businesses relocated, number remaining in the relocation workload, and a general breakdown of relocation costs shall be reported.

5. Equal Opportunity

Compliance with the Equal Opportunity requirements of this Contract shall be documented by:

- a. A summary of equal opportunity records;
- b. A description of any methods of administration, site selection criteria, or actions designed to overcome the effects of past discrimination, or to promote equal opportunities;
- c. A description of any site selection policies or actions designed to further fair housing; and
- d. A summary of minority business enterprise participation records.

**XI. PROJECT DURATION**

A. Suspension or Termination for Cause

In addition to the requirements in the Basic Terms and Conditions, and in accordance with OMB, the County may suspend or terminate this Contract if the Agency materially fails to comply with any of the terms of this Contract.

B. Termination for Convenience

In accordance with OMB, and the Basic Terms and Conditions, this Contract may also be terminated for convenience by either the County or the Agency, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the County determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the County may terminate the award in its entirety.

C. After-the-Contract Requirements

1. Close-out

- a. The terms of this Contract shall remain in effect during any period that the Agency has control over CDBG funds, including program income.

The County will close out the award when it determines, in its sole discretion, that all applicable administrative actions and all required work of the grant has been completed.

b. Federally-owned/County-owned Property Reports.

In accordance with this contract the Agency must submit an inventory of all federally-owned or County-owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the County of property no longer needed.

2. Obligations After Close-out or Termination

The close-out or termination of this Contract does not affect:

- a. The County's right to disallow costs and recover funds on the basis of a later audit or other review;
- b. The Agency's obligation to return any funds due as a result of later refunds, corrections or other transactions;
- c. Records retention as required;
- d. Property standards;
- e. Audit requirements;
- f. Insurance requirements;
- g. Use of property requirements;
- h. Hold harmless requirements;
- i. Indemnification requirements;
- j. Venue stipulation;
- k. Non-assignability of claims;
- l. Rights in data;
- m. Non-waiver of breach; and
- n. Non-assignability of obligations.

### 3. Collection of Amounts Due

- a. Any funds paid to the Agency in excess of the amount to which the Agency is finally determined to be entitled under the terms of the award constitute a debt to the County. If not paid within a reasonable period after demand, the County may reduce the debt by:
  - 1) Making an administrative offset against other requests for reimbursements;
  - 2) Withholding advance payments otherwise due to the Agency; or
  - 3) Other action permitted by law.
- b. Except where otherwise provided by statute or regulation, the County will charge interest on an overdue debt. The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

## **XII. CAPTIONS**

The section headings and subheadings contained in this Contract are included for convenience of reference only and shall not define, limit or otherwise affect the terms, scope, or intent of this Contract.

## **XIII. BREACH BY THE AGENCY**

In addition to the requirements in the Basic Terms and Conditions, the following apply:

- A. In the event of a material breach of any of the provisions of this Contract by the Agency, the County may give written notice thereof to the Agency by registered or certified mail addressed to the Agency at the notice address determined pursuant to this Contract. If such violation is not corrected to the satisfaction of the County within thirty (30) days after the date such notice is mailed (or within such shorter or longer time as the County, in its sole discretion, may determine), the County may, without further prior notice, declare in writing a default under this Contract and terminate or suspend this Contract.
- B. The County also may, if it deems it appropriate, apply to any court, state or federal, for remedy for breach of contract; for specific performance of this Contract; for an injunction against any violation by the Agency of this Contract; for the appointment of a receiver to take over and operate the project in accordance with the terms of this Contract; or for such other and further relief as may be appropriate, it being agreed by the Agency that the

injury to the County arising from a default under and of the terms of this Contract would be irreparable and that it would be extremely difficult to ascertain the amount of compensation to the County, which would afford adequate relief, in light of the purposes and policies of the CDBG program. As an alternative, the County may in its sole discretion decide to submit the matter to arbitration.

**XIV. ENTIRE CONTRACT; MODIFICATION**

This Contract constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussion and understandings between them.

**XV. TIME OF THE ESSENCE**

Time is of the essence in the performance of each party's obligations under this Contract. Each party will carry out its obligations under this Contract diligently and in good faith.

**EXHIBIT B**  
**STATEMENT OF WORK**  
**RAILROAD CROSSING SIDEWALK EXTENSIONS**

**I. CDBG PROJECT ACTIVITY**

The project is eligible under the National Objective of principally benefiting low- and moderate-income persons as an **area wide benefit** activity. The project is located in Census Tract 052204, Block Group 31 and Census Tract 52208, Block Group #3, where a combined total of 51.3% of the households are low- and moderate-income.

**II. PROJECT DESCRIPTION**

Real or personal property improved or acquired with CDBG funds under the Contract will be used for: Professional services and construction costs in connection with sidewalk extensions across the Burlington Northern Santa Fe (BNSF) rail lines to bus stops located at two intersections on Highway 2.

**III. USE OF PROPERTY**

The Agency agrees to use real and personal property improved or acquired in whole or in part with CDBG funds provided under this Contract for the authorized purpose of the **Railroad Crossing Sidewalk Extensions** located at **Fryelands Boulevard & Highway 2 and 179th Avenue SE & Highway 2, Monroe, WA 98272.**

**IV. MITIGATING FACTORS (see environmental review) None**

**PUBLIC FACILITIES & INFRASTRUCTURE**  
**CONSTRUCTION TIMELINE**

Provide estimated dates of completion for each activity listed below. Add other activities relevant to the project as needed.

Years	2015	2015 / 2016						2016 / 2017											
List of Activities	OCT / NOV	DEC / JAN	FEB / MAR	APR / MAY	JUN / JUL	AUG / SEPT	OCT / NOV	DEC / JAN	FEB / MAR	APR / MAY	JUN / JUL	AUG / SEPT	OCT						
Management /Admin.																			
Property Acquisition	X	X	X	X	X	X													
Planning/ Preliminary				X	X	X													
Architect/ Engineering					X	X													
Detailed Design Bidding Procedures							X	X	X										
Construction										X	X								
Project Close Out Procedures													X						
Project Complete														X					

**SNOHOMISH COUNTY  
HUMAN SERVICES DEPARTMENT**

**EXHIBIT C  
APPROVED CONTRACT BUDGET  
COST REIMBURSEMENT**

PROGRAM TITLE: Railroad Crossing Sidewalk Extensions

AGENCY: City of Monroe

ADDRESS: 806 W. Main Street, Monroe, WA 98272

CONTRACT PERIOD: 10/30/2015 TO 10/1/2017

REVENUE SOURCES:  
FUNDS AWARDED UNDER CONTRACT:

REVENUE SOURCE	AMOUNT
HUD-Community Development Block Grant CFDA 14.218	\$244,500
_____	_____
_____	_____
_____	_____
TOTAL FUNDS AWARDED:	\$244,500

NON-FEDERAL MATCHING RESOURCES:

_____	_____
_____	_____
TOTAL NON-FEDERAL RESOURCES:	\$ 0.00

MATCH REQUIREMENTS FOR CONTRACT: PERCENTAGE: N/A AMOUNT: N/A

OTHER PROGRAM RESOURCES (Identify):

SOURCE	PERIOD	AMOUNT
City Funds	10/30/15 – 10/1/2017	\$47,000
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL OTHER RESOURCES		\$47,000

**SNOHOMISH COUNTY  
HUMAN SERVICES DEPARTMENT**

**EXPENDITURES**

BARS #	CATEGORY	FUND SOURCE: CDBG	MATCHING RESOURCES	TOTAL	OTHER RESOURCES
10	Salaries/Wages				
20	Benefits				
30	Supplies				
41	Prof. Services	\$12,000		\$12,000	\$20,271
42	Postage				
42	Telephone				
43	Mileage/Fares				
43	Meals				
43	Lodging				
44	Advertising				
45	Leases/Rentals				
46	Insurance				
47	Utilities				
48	Repairs/Maint.				
49	Printing				
49	Dues/Subscript.				
49	Registr/Tuition				
64	Machinery/Equip Acquisition				
	Misc. Construction	232,500		232,500	26,729
	TOTAL	\$244,500		\$244,500	\$47,000

**SNOHOMISH COUNTY  
HUMAN SERVICES DEPARTMENT**

**EXPENDITURE NARRATIVE**

AMOUNT	TYPE OF EXPENDITURE:    i.e.    Salaries: 40% Program person, etc. Benefits: FICA, MEDICAL, etc. Communications: Postage, Telephone, etc.
<p>\$232,500 12,000</p>	<p>Misc. construction costs Professional fees</p>
<p>TOTAL: \$244,500</p>	

**SNOHOMISH COUNTY  
HUMAN SERVICES DEPARTMENT**

**DETAIL SALARIES/WAGES**

POSITION	FT/PT	% OF TIME TO FUND	FUND	TOTAL MONTHLY	MONTHLY CHG TO FUND	TOTAL CHG TO FUND
		NA		NA	NA	NA
					TOTAL	n/a

NOTE: Above figures may reflect rounding

**EXHIBIT D  
SNOHOMISH COUNTY  
HOUSING AND URBAN DEVELOPMENT PROJECTS  
REQUEST FOR REIMBURSEMENT/ACTUAL EXPENDITURE REPORT**

<b>Date:</b>	
<b>Project Title:</b>	<b>Railroad Crossing Sidewalk Extensions</b>
<b>Contract Number:</b>	<b>HCS-15-21-1502-235</b>
<b>Contracting Agency:</b>	<b>City of Monroe</b>
<b>Claim Period:</b>	
<b>Claim Amount:</b>	

CERTIFICATIONS:

1. I, the undersigned, do hereby certify under penalty of perjury:
2. That I am duly authorized to submit this claim for reimbursement on behalf of the above Contract/Organization/Agency;
3. That the enclosed Report of Actual Expenditures and documentation accurately reflects materials furnished, services rendered, and/or labor performed in furtherance of the above project;
4. That payment has been made or is currently due or obligated for such materials, services and/or labor;
5. That such expenditures or current obligation constitute allowable costs under the principles in applicable Office of Management and Budget Circulars and conform to the approved Project Budget; and
6. That the materials, services, and/or labor for which reimbursement from HUD grant funds is requested by this document have not and will not be paid or reimbursed by any other agency, corporation, partnership, firm or individual, OTHER THAN the Contracting Organization/Agency, its officers, agents, and/or employees.

<b>Office Use Only:</b>	
Program _____	
FY _____	
Obj# _____	
Date Posted _____	
% Complete _____	
CY _____	

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

\_\_\_\_\_  
(Position)

<b>Compliance</b>	
<input type="checkbox"/> Authorized Signature	<input type="checkbox"/> Within Budget
<input type="checkbox"/> Allowable/Eligible Costs	<input type="checkbox"/> Meets Contract Terms
<input type="checkbox"/> Sufficient Funds	<input type="checkbox"/> Documentation
G.A. _____	Date _____

Exhibit D  
HCS-15-21-1502-235  
City of Monroe  
Page 1 of 1

**EXHIBIT E  
SNOHOMISH COUNTY  
HOUSING AND URBAN DEVELOPMENT PROJECTS  
REPORT OF ACTUAL EXPENDITURES - HUD PROJECTS**

<b>Date:</b>	
<b>Project Title:</b>	Railroad Crossing Sidewalk Extensions
<b>Contract Number:</b>	HCS-15-21-1502-235
<b>Contracting Agency:</b>	City of Monroe
<b>Claim Period:</b>	
<b>Claim Amount:</b>	

Category	Expenditures This Period			Cumulative Exp. to Date		
	HUD Funds	Other (Specify)	Total	HUD Funds	Other (Specify)	Total
Salaries & Wages						
Benefits						
Supplies						
Prof. Services						
Postage						
Telephone						
Mileage/fares						
Meals						
Lodging						
Advertising						
Lease/Rentals						
Insurance						
Utilities						
Repair/Maint.						
Printing						
Dues/Subscript.						
Registr/Tuition						
Machinery/Equipment						
Acquisition						
Misc. Construction						
<b>TOTALS</b>						

EXHIBIT F

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

AGENCY NAME: **City of Monroe**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## INSTRUCTION FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

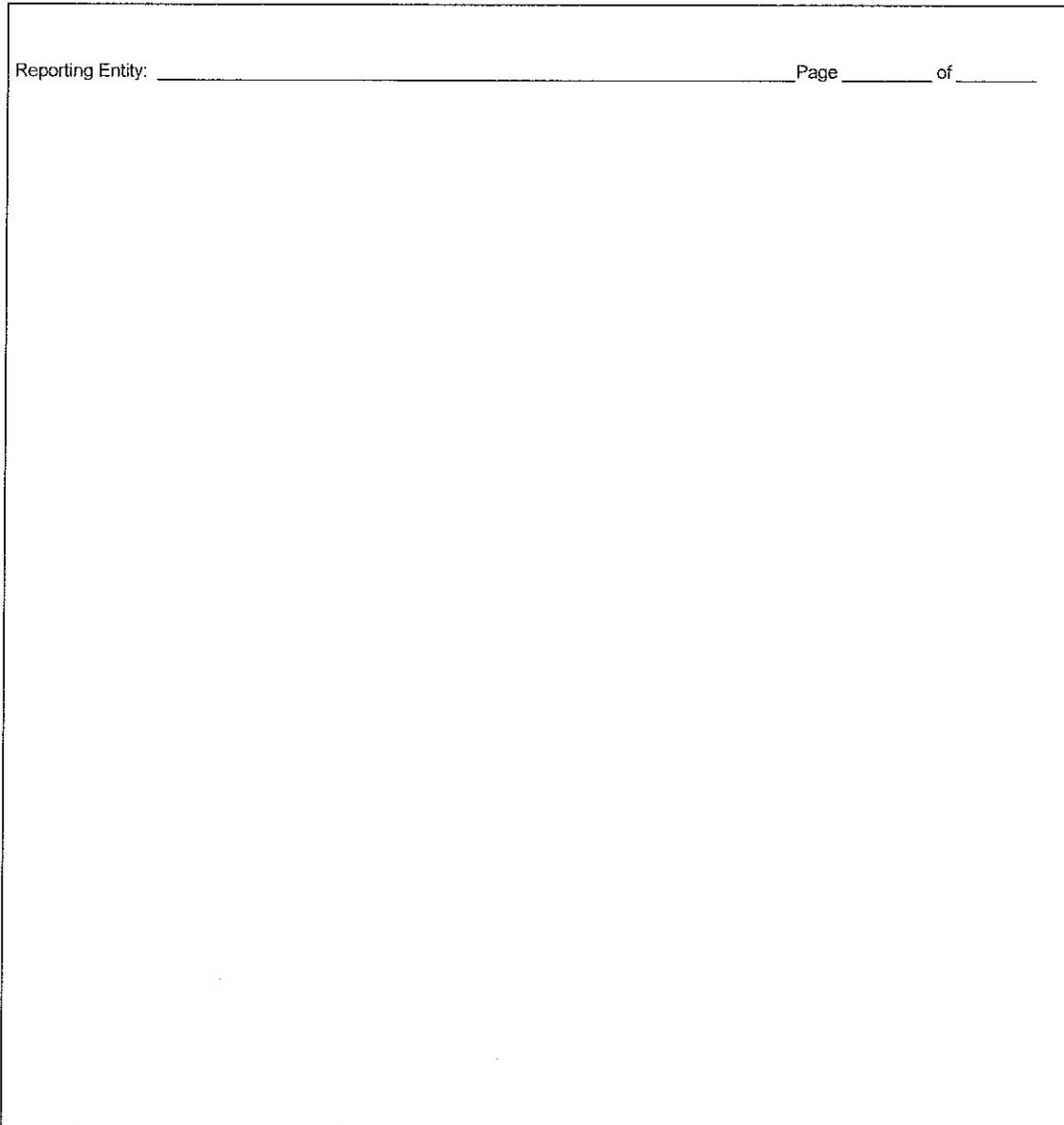
1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. Of the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
1. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
2. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
3. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
4. Provide a specific and detailed description of the service that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
5. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
6. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington D.C. 20503.

**DISCLOSURE OF LOBBYING ACTIVITIES**  
CONTINUATION SHEET

Approved by OMB  
0348-0046

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_



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Standard For – LLL

Exhibit F  
HCS-15-21-1502-235  
City of Monroe  
Page 4 of 4



# MONROE THIS WEEK

April 22, 2016 Edition 16

**Mayor**

*Geoffrey Thomas*  
[gthomas@monroewa.gov](mailto:gthomas@monroewa.gov)

**Councilmembers**

*Patsy Cudaback*  
*Kevin Hanford*  
*Ed Davis*  
*Jason Gamble*  
*Jim Kamp*  
*Jeff Rasmussen*  
*Kirk Scarboro*  
[councilmembers@monroewa.gov](mailto:councilmembers@monroewa.gov)

**City Hall**

806 West Main Street  
Monroe, WA 98272  
Phone: 360.794.7400  
Open 8AM – 5PM, M-F

**Appointment Openings**

No Openings At This Time

**Job Openings**

*Senior Engineer – Development Review*  
*Senior Planner*  
*Seasonal Parks*

**Events this Week**

- 04/22 - 24** *Spring Carnival, Evergreen State Fairgrounds, 4-10PM*
- 04/23** *American Legion Flag Disposal Ceremony, Lake Tye Park, 4-5:30PM*  
*Downtown Hoedown, The Hall at Marketplace, 6-10PM*
- 04/24** *Trout Unlimited "Kid's Fishing Day", Lake Tye Park, 8AM-5PM*
- 04/26** *City Council Planning/Transportation, Public Works, Parks & Recreation, and Public Safety Committee Meeting, 6PM*  
*City Council Meeting, Council Chambers, City Hall, 7PM*

From the Office of Mayor Thomas

To highlight some of the things going on in our community, I am writing this weekly city update, "Monroe This Week. If you have any suggestions or questions regarding "Monroe This Week" or the stories below, please contact me at [GThomas@MonroeWa.gov](mailto:GThomas@MonroeWa.gov).

Yours in Service,

Mayor Geoffrey Thomas

## Be In The Know!

### Parks News!

- The City of Monroe has just received notice of a Snohomish County Hotel/Motel Tax Fund grant award of \$15,200 for tourism-branded event mesh fencing and barricades for Monroe events! The grant award will be used to purchase event mesh fence, steel barricades and barricade storage holders to use for the Tri-Monroe Triathlon in 2016 and beyond. The opportunity to have the event mesh fence and steel barricades for the Tri-Monroe Triathlon will allow the City of Monroe to use the fencing for other sporting events or festivals needing a special area fenced such as beer gardens or VIP experiences. As part of the grant conditions, the fencing will be made available upon request to other cities in Snohomish County as needed.
- Parks and Recreation Department staff recently installed new safety-engineered wood surfacing chips and improved the underlying drainage system of the playground at Lake Tye Park. The City appreciates your patience while the playground was closed and we look forward to the benefits of this maintenance repair for this heavily-used play area.



**City of Monroe  
Year-to-Date Comparisons**

*The following are year-to-date comparisons*

**Sales Tax Revenues**

'15 to 3/31/15: \$973,181  
'16 to 3/31/16: \$1,100,427  
**UP \$127,246 or 13.08%**

**Real Estate Excise Tax**

'15 to 3/31/15: \$159,109  
'16 to 3/31/16: \$205,780  
**UP \$46,671 or 29.33%**

**Lodging Tax Revenues**

'15 to 3/31/15: \$10,441  
'16 to 3/31/16: \$13,813  
**UP \$3,371 or 32.29%**

**Business License Fees**

'15 to 3/31/15: \$13,344  
'16 to 3/31/16: \$14,221  
**UP \$877 or 6.57%**

**Building Permit Revenues**

'15 to 3/31/15: \$82,947  
'16 to 3/31/16: \$85,216  
**UP \$2,269 or 2.74%**

**Planning Fee Revenues**

'15 to 3/31/15: \$9,090  
'16 to 3/31/16: 7,625  
**DOWN \$1,465 or -16.12%**

**New House Permits**

'15 to 3/31/15: 21  
'16 to 3/31/16: 19  
**DOWN 2 units or 9.5%**

**Multi-Family Permits (# units)**

'15 to 3/31/15: 13  
'16 to 3/31/16: 4  
**DOWN 9 units or 69.2%**

**Building Division Inspections**

'15 to 3/31/15: 398  
'16 to 3/31/16: 420  
**UP 22 or 5.5%**

**Kids Fishing Day**

The Sky Valley Chapter of Trout Unlimited will host a free fishing day Sunday, April 24, 2016, from 8 a.m. to 1 p.m. at Lake Tye Park, located at 14964 Fryelands Boulevard in Monroe. Children 12 and under can fish for free and earn prizes. Fish will be in a netted area at the south end of the lake for easy fishing, and Trout Unlimited asks participants to bring their own fishing gear but will have gear available for use during the event. An adult fishing derby will be held from 2 to 5 p.m., with a cash prize of \$250 for the biggest fish caught and a \$500 bonus for anyone who catches a special tagged fish. The entry fee is \$10.

**25<sup>th</sup> Annual Community Awards Night**

The Monroe Chamber of Commerce Awards Night is quickly approaching! This is an evening of celebration and recognition of those in our community that make great things happen every day! The event will be held on Wednesday, April 27, 2016, at Monroe High School. Please RSVP to the Chamber: [office@monoroewachamber.org](mailto:office@monoroewachamber.org) or (360) 794-5488.

**Mark Your Calendars!**

"Movies under the Moon" will be here before you know it! Mark your calendars to come out and enjoy some fun movies under the stars! Here's this year's lineup:

August 5, 2016 -- *Inside Out*

August 12, 2016 -- *Pixels*

August 19, 2016 -- *Jurassic World*

August 26, 2016 -- *Star Wars: The Force Awakens*

Pre-movie festivities usually start around 8 p.m. Movie start times will be published when we are closer to the above dates.