

## ISLAND COUNTY COMMISSIONERS' WORK SESSION SCHEDULE APRIL 10, 2024

Meetings are available remotely. Those interested in attending the meetings by computer, tablet, or smartphone may use the following link: <https://tinyurl.com/ICWorkSession> or for voice only, **Dial by your location:** (253) 215-8782  
**Meeting ID:** 957 0144 6335 **Passcode:** 969196

9:00 a.m.	Commissioners
9:15 a.m.	Human Services
9:35 a.m.	Human Resources
9:45 a.m.	Planning & Community Development

### **NOON BREAK**

1:00 p.m.	Planning & Community Development (continued)
-----------	--

The Board of County Commissioners meets routinely in Work Session the first three Wednesdays of each month. Work Sessions are held in the Annex Building, Board of County Commissioners' Hearing Room, #B102, 1 NE 6<sup>th</sup> Street, Coupeville, WA.

Work Sessions are public meetings that provide an informal workshop format opportunity for the Board to review ongoing items with departments or to meet with other agencies, committees, or groups to discuss specific topics of mutual interest. Items are typically reviewed at Work Session before being scheduled on the agenda for the Board's regular Tuesday business meetings.

While Work Sessions do not have time set aside for verbal public comment, written public comment is welcomed and can be directed to the Clerk of the Board by submitting comments to [CommentBOCC@islandcountywa.gov](mailto:CommentBOCC@islandcountywa.gov). If you have questions regarding public comment, you may call (360) 679-7385. Written public comments are considered a public record.

Times for each department are approximate; a time slot scheduled for a specific department may be revised as the Work Session progresses. Because of the workshop format and time sensitivity, certain items, topics, and materials may be presented that are not included in the published agenda. **If you are interested in reviewing those documents, please contact the Clerk of the Board at (360) 679-7354.**

**NOTE: Audio recordings are posted within 48 hours of the meeting date. To listen to the recording visit the [Agenda Center](#) on the Island County website.**



**ISLAND COUNTY COMMISSIONERS**

**WORK SESSION AGENDA**

**MEETING DATE: 4/10/2024**

---

**To:** Jill Johnson, Chair  
Board of Island County Commissioners  
**From:** BOCC Staff

---

**Amount of time requested for agenda discussion. 15 minutes**

**Agenda Item No.: 1**

**Subject:** North Whidbey Pool, Park, and Recreation District (NWPPRD) Metropolitan Park District Request

**Description:** Discussion with NWPPRD regarding forming a metropolitan park on the August 2024 ballot.

**Attachment:** Draft Island County Resolution, City of Oak Harbor Resolution, RCW 35.61.060.

**Request:** (*Check boxes that apply*)

<input checked="" type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input type="checkbox"/> None/Informational	<input type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input type="checkbox"/> Other: _____

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF SUPPORTING THE  
NORTH WHIDBEY POOL, PARK, AND  
RECREATION DISTRICT REQUEST TO  
PLACE THE FORMATION OF A  
METROPOLITAN PARK DISTRICT ON  
AN ISLAND COUNTY SPECIAL ELECTION  
BALLOT

RESOLUTION NO. C- -24

**WHEREAS**, the North Whidbey Pool, Park, and Recreation District (NWPPRD) was formed by the citizens of the District in 1977; and

**WHEREAS**, Chapter 35.61 Revised Code of Washington (RCW) allows the formation of Metropolitan Park Districts (MPD) in territory located in portions or all of a city; and

**WHEREAS**, RCW 35.61.010 provides that "[a] metropolitan park district may be created for the management, control, improvement, maintenance, and the acquisition of parks, parkways, boulevards, and recreational facilities; and

**WHEREAS**, the John Vanderzicht Memorial Pool and Clover Valley Park provides a benefit to the citizens of Island County; and

**WHEREAS**, the City of Oak Harbor adopted Resolution 24-14 on April 2, 2024, stating their intent for the operation of the Metropolitan Park District (MPD); and

**WHEREAS**, the Board of County Commissioners supports presenting the question of formation to the voters; **NOW THEREFORE, BE IT RESOLVED**

Section 1. The Board of County Commissioners hereby requests the Department of Records and Elections call a special election to run in conjunction with the August 2024 Primary Election for the purpose of placing on the ballot the following proposition regarding the formation of a Metropolitan Park District:

**Proposition:** Island County Ordinance No. C- ##- 24 and City of Oak Harbor Resolution 24-14 jointly propose the creation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park, and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District. If approved, this proposition would create a metropolitan park district with all the powers provided in Chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed seventy-five cents per thousand dollars of assessed valuation. The district shall be governed by a five-member board of commissioners who will be elected at large.

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

Resolution No. C- -24  
Matter of Supporting the North Whidbey  
Pool, Park, and Recreation District

Section 2. Boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District. The boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District Metropolitan Park District shall encompass the City of Oak Harbor and North Whidbey Fire Protection District No. 2, as fully described in Attachment A, attached hereto and incorporated by reference.

**ADOPTED** this \*\*, 2024.

**BOARD OF COUNTY COMMISSIONERS  
ISLAND COUNTY WASHINGTON**

---

Jill Johnson, Chair

---

Melanie Bacon, Member

---

Janet St. Clair, Member

**ATTEST:**

---

Jennifer Roll, Clerk of the Board

RESOLUTION 24-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAK HARBOR,  
WASHINGTON, SUPPORTING THE NORTH WHIDBEY POOL, PARK, AND  
RECREATION DISTRICT REQUEST TO PLACE THE FORMATION OF A  
METROPOLITAN PARK DISTRICT ON AN ISLAND COUNTY  
SPECIAL ELECTION BALLOT

WHEREAS, the North Whidbey Pool, Park, and Recreation District (NWPPRD) was formed by the citizens of the District in 1977; and

WHEREAS, Chapter 35.61 Revised Code of Washington (RCW) allows the formation of Metropolitan Park Districts (MPD) in territory located in portions or all of a city; and

WHEREAS, RCW 35.61.010 provides that "[a] metropolitan park district may be created for the management, control, improvement, maintenance, and the acquisition of parks, parkways, boulevards, and recreational facilities; and

WHEREAS, the Board Chair and Executive Director of the NWPPRD addressed the Oak Harbor City Council on their proposal to establish a Metropolitan Park District (MPD) and, in doing so, establish stable, long-term funding to ensure the continued maintenance and operation of the John Vanderzicht Memorial Pool and Clover Valley Park, as well as the continued development of long-term recreational programs, facilities, and parks for residents of North Whidbey; and

WHEREAS, the City of Oak Harbor lies within the boundary of the proposed MPD; and

WHEREAS, the City of Oak Harbor is dedicated to collaborating with various organizations to ensure the provision of park and recreational programs and facilities for its residents, while being mindful of equitable distribution of financial responsibilities among all stakeholders.

WHEREAS, the City of Oak Harbor supports presenting the question of formation to the voters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON,  
DOES RESOLVE AS FOLLOWS:

Section 1. Request for Special Election. The City of Oak Harbor, Washington, hereby requests the Island County Council, through the Department of Records and Elections, call a special election to run in conjunction with the August 2024 Primary Election, for the purpose of placing on the ballot the following proposition regarding the formation of a Metropolitan Park District:

Proposition \_\_\_\_ : Island County Ordinance No. \_\_\_\_ and City of Oak Harbor Resolution 24-14 jointly propose the creation of the North Whidbey Pool, Park, and Recreation Metropolitan District (MPD) with boundaries coterminous as the North Whidbey Pool, Park and Recreation District (District) and encompass the City of Oak Harbor, Fire Protection District. If approved, this proposition would create a metropolitan park district with all the powers provided in Chapter 35.61 RCW, including, but not limited to, the authority to levy a general tax on all property located in the District each year not to exceed seventy-five cents per thousand dollars of assessed valuation. The District shall be governed by a five member board of commissioners to be elected at large.

For the formation of a metropolitan park district to be governed by a five-member board of commissioners to be elected at large.

Against the formation of a metropolitan park district.

Section 2. Boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District. The boundaries of the North Whidbey Pool, Park, and Recreation Metropolitan District Metropolitan Park District shall encompass the City of Oak Harbor and North Whidbey Fire Protection District No. 2, as fully described in Attachment A, attached hereto and incorporated by reference.

PASSED BY THE CITY COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON,  
AT A REGULAR MEETING THEREOF, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

THE CITY OF OAK HARBOR

Veto

Approve

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

Ronnie Wright, Mayor

Dated: \_\_\_\_\_

Attest:

---

Julie Nester, City Clerk

Approved as to Form:

---

Hillary Evans, City Attorney

## ATTACHMENT A

Legal Description for the proposed North Whidbey Pool, Park, and Recreation Metropolitan District, the boundaries of which are coterminous with the North Whidbey Pool, Park, and Recreation District.

Beginning at the Northwest corner of Section 24, Township .32 North, Range 1 West, W.M., Which is also the shoreline at Whidbey Island and Straits of Juan de Fuca. Thence East along the North Line of Section 24 to the Northwest Corner of the Powers Donation Land Claim; Thence South along the West Line of Powers Donation Land Claim to the Southwest Corner of the Donation Land Claim, which is also the Southwest Corner of Section 19, Township 32 North, Range 1 East, W.M.; Thence Easterly, Northerly, and Easterly along the South Line of the Powers Donation Land Claim and the North Line of the Lans Hale Donation Land Claim to the West Line of the Holbrook Donation Land Claim, which is the Center Line of a County Road known As Zylstra Road; Thence Northerly along the Center Line of Zylstra Road to the South Line of Section 18, Township 32 North, Range 1 East, W.M.; Thence, Easterly along the South Line of Sections 18, 17, and 16, Township 32 North, Range 1 East, W.M. to a point on the South Line of Section 16 and the East Line of the Jacob Smith Donation Land Claim projected Northerly Meet; Thence, South to the Northeast Corner of the Jacob Smith Donation Lana Claim; Thence South along the East Line of the Jacob Smith Donation Land Claim to the East West Center Line of Section 2, Township 32 North, Range 1 East, W.M. Thence Easterly along the Center Line of Section 21, to the West Boundary of the J. Condra Donation Land Claim; Thence South along the West Line of the J. Condra Donation Land Claim to the Center of Penn Cove. Thence North- easterly along the Center of Penn Cove to the Center of Saratoga Passage; Thence Northerly along the Center of Saratoga Passage and Skagit Bay to a point where the Center of Skagit Bay and the Channel of Deception Pass meet. Thence Westerly following the Channel of Deception Pass to the North-South Center Line of the Straits of Juan de Fuca. Thence South along the Center Line of the Strait of Juan de Fuca to the North Line of Section 24, Township 32 North, Range 1 West, W.M. projected Westerly; Thence East to the Point of Beginning.

**RCW 35.61.010 Creation—Territory included.** A metropolitan park district may be created for the management, control, improvement, maintenance, and acquisition of parks, parkways, boulevards, and recreational facilities. A metropolitan park district may include territory located in portions or all of one or more cities or counties, or one or more cities and counties, when created or enlarged as provided in this chapter. [2002 c 88 § 1; 1994 c 81 § 60; 1985 c 416 § 1; 1965 c 7 § 35.61.010. Prior: 1959 c 45 § 1; 1943 c 264 § 1; Rem. Supp. 1943 § 6741-1; prior: 1907 c 98 § 1; RRS § 6720.]

**Validating—1943 c 264:** "Acts of Metropolitan Park District Commissioners, and of the officers, employees and agents of Metropolitan Park Districts heretofore performed in good faith in accordance with the statutes which are hereby reenacted, are hereby validated, and all assessments, levies and collections and all proceedings to assess, levy and collect as well as all debts, contracts and obligations heretofore made or incurred by or in favor of any Metropolitan Park District heretofore at any time existing and all bonds or other obligations thereof are hereby declared to be legal and valid and of full force and effect." [1943 c 264 § 23.]



## ISLAND COUNTY HUMAN SERVICES

### WORK SESSION AGENDA

MEETING DATE: 4/10/2024

---

To: Jill Johnson, Chair  
Board of Island County Commissioners

From: Lynda Austin, Director

---

Amount of time requested for agenda discussion. 20 minutes

**DIVISION: Housing Assistance**

**Agenda Item No.: 1**

**Subject:** Capital Agreement 24-96722-101 with WA State Department of Commerce

**Description:** Connecting Housing to Infrastructure Program (CHIP) using State Capital Funds in the amount of \$2,000,000. to support the development of affordable housing by paying for the construction of utility infrastructure improvements and reimbursement of waived system development for the Camas Flats- Oak Harbor project.

**Attachment:** Contract 24-96722-101

**Request:** (Check boxes that apply)

<input checked="" type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input type="checkbox"/> None/Informational	<input type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input type="checkbox"/> Other: _____

**Budget Review:** In process

**P.A. Review:** In process

**DIVISION: Housing Assistance**

**Agenda Item No.: 1**

**Subject:** Purchase and Sale Agreement Parcel No. R13335-330-1180

**Description:** County owned land conveyed to Opportunity Council at no cost for the construction of affordable housing for a mix of income targets at or below 80% of the Area Median Income. PSA includes a Deed Restriction Covenant Agreement ensuring that the property shall be used solely for the purpose of providing no less than 82 affordable housing units.

**Attachments:** Purchase and Sale Agreement

**Request:** (Check boxes that apply)

<input checked="" type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input type="checkbox"/> None/Informational	<input type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input type="checkbox"/> Other: _____

**Budget Review:** In process

**P.A. Review:** In process



**Capital Agreement with  
Island County  
through**

Connecting Housing to Infrastructure Program (CHIP)  
using State Capital Funds

**Contract Number:**  
24-96722-101

**For**

To support the development of affordable housing by paying for the construction of utility infrastructure improvements and reimbursement of waived system development for the Camas Flats- Oak Harbor project

**Dated:** Saturday, July 1, 2023

# Table of Contents

<b>FACE SHEET.....</b>	<b>4</b>
<b>SPECIAL TERMS AND CONDITIONS.....</b>	<b>5</b>
1. CONTRACT MANAGEMENT .....	5
2. COMPENSATION.....	5
3. BILLING PROCEDURES AND PAYMENT.....	5
4. SUBCONTRACTOR DATA COLLECTION .....	6
5. HISTORICAL OR CULTURAL ARTIFACTS .....	6
6. INSURANCE.....	7
7. FRAUD AND OTHER LOSS REPORTING .....	7
8. ORDER OF PRECEDENCE .....	7
<b>GENERAL TERMS AND CONDITIONS.....</b>	<b>8</b>
1. DEFINITIONS .....	8
2. ALLOWABLE COSTS.....	8
3. ALL WRITINGS CONTAINED HEREIN.....	8
4. AMENDMENTS .....	8
5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35 .....	8
6. APPROVAL .....	9
7. ASSIGNMENT.....	9
8. ATTORNEYS' FEES .....	9
9. CODE REQUIREMENTS.....	9
10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION.....	9
11. CONFORMANCE .....	9
12. CONFLICT OF INTEREST.....	10
13. COPYRIGHT.....	10
14. DISALLOWED COSTS .....	10
15. DISPUTES .....	11
16. DUPLICATE PAYMENT.....	11
17. GOVERNING LAW AND VENUE .....	11
18. INDEMNIFICATION .....	11
19. INDEPENDENT CAPACITY OF THE CONTRACTOR .....	12
20. INDUSTRIAL INSURANCE COVERAGE .....	12
21. LAWS .....	12
22. LICENSING, ACCREDITATION AND REGISTRATION.....	12
23. LIMITATION OF AUTHORITY .....	12
24. LOCAL PUBLIC TRANSPORTATION COORDINATION.....	12
25. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS .....	12
26. PAY EQUITY.....	12
27. POLITICAL ACTIVITIES .....	13
28. PREVAILING WAGE LAW .....	13
29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION .....	13
30. PUBLICITY .....	13
31. RECAPTURE.....	13
32. RECORDS MAINTENANCE .....	14
33. REGISTRATION WITH DEPARTMENT OF REVENUE.....	14

34. RIGHT OF INSPECTION .....	14
35. SAVINGS .....	14
36. SEVERABILITY.....	14
37. SUBCONTRACTING .....	14
38. SURVIVAL.....	15
39. TAXES.....	15
40. TERMINATION FOR CAUSE.....	15
41. TERMINATION FOR CONVENIENCE.....	15
42. TERMINATION PROCEDURES.....	15
43. TREATMENT OF ASSETS .....	16
44. WAIVER .....	17
<b>ATTACHMENT A: SCOPE OF WORK.....</b>	<b>18</b>
<b>ATTACHMENT B: BUDGET .....</b>	<b>20</b>

## Face Sheet

Contract Number: 24-96722-101

**Washington State Department of Commerce  
Local Government Division  
State Building Construction Funds Grant**

<b>1. Contractor</b> Island County 1 NE 7th Street, Coupeville, WA 98239		<b>2. Contractor Project</b> Camas Flats, Oak Harbor Approximately 820 N Oak Harbor St Oak Harbor, WA 98277 Parcel R13335-330-1180	
<b>3. Contractor Representative</b> Lynda Austin, Director Human Services, <a href="mailto:L.austin@islandcountywa.gov">L.austin@islandcountywa.gov</a> 360-678-7996		<b>4. COMMERCE Representative</b> Mischa Venables CHIP Project Manager (360)725-3088 Mischa.venables@commerce.wa.gov	
<b>5. Contract Amount</b> \$2,000,000	<b>6. Funding Source</b> Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>		<b>7. Start Date</b> July 1, 2023
<b>9. Federal Funds (as applicable)</b> N/A		<b>Federal Agency:</b> <u>ALN</u>	
<b>10. Tax ID #</b> 91-6001321	<b>11. SWV #</b> SWV0000203-07	<b>12. UBI #</b> 151-000-298	
<b>14. Contract Purpose</b> To support the development of affordable housing by paying for the construction of utility infrastructure improvements and reimbursement of waived system development for the Camas Flats- Oak Harbor project			
COMMERCE, defined as the Department of Commerce, and Contractor acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents incorporated by reference: Contractor Terms and Conditions including Attachment "A" – Scope of Work Attachment "B" – Budget.			
<b>FOR CONTRACTOR</b>  Jill Johnson, Chair Board of County Commissioners, Island County  Signature  Date		<b>FOR COMMERCE</b>  Mark K. Barkley, Assistant Director, Local Government Division  Date  <b>APPROVED AS TO FORM ONLY</b> <b>BY ASSISTANT ATTORNEY GENERAL</b> <b>APPROVAL ON FILE</b>	

## **Special Terms and Conditions**

### **1. CONTRACT MANAGEMENT**

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

### **2. COMPENSATION**

COMMERCE shall pay an amount not to exceed \$2,000,000 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Contractor's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

### **3. BILLING PROCEDURES AND PAYMENT**

Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE via the Commerce Contracts Management System. If required, the attachments to the invoice request in the Commerce Contracts Management System shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number 24-96722-101. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

#### Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The Contractor must invoice for all expenses from the beginning of the contract through June 30, 2025, regardless of the contract start and end date.

#### Duplication of Billed Costs

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

#### Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

#### **4. SUBCONTRACTOR DATA COLLECTION**

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Contract funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

#### **5.**

#### **HISTORICAL OR CULTURAL ARTIFACTS**

Prior to approval and disbursement of any funds awarded under this Contract, Contractor shall complete the requirements of Governor's Executive Order 21-02, where applicable, or Contractor shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, Contractor shall, in accordance with Governor's Executive Order 21-02 coordinate with Commerce and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the Commerce Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Contractor shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permit.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Contractor may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

## **6. INSURANCE**

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

## **7. FRAUD AND OTHER LOSS REPORTING**

Contractor shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

## **8. ORDER OF PRECEDENCE**

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

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Add any other attachments incorporated by reference from the Face Sheet listed within order of attached.

## **General Terms and Conditions**

### **1. DEFINITIONS**

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

- A.** "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B.** "COMMERCE" shall mean the Washington Department of Commerce.
- C.** "Contract" or "Agreement" or "Grant" means the entire written agreement between COMMERCE and the Contractor, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D.** "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E.** "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- F.** "State" shall mean the state of Washington.
- G.** "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

### **2. ALLOWABLE COSTS**

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

### **3. ALL WRITINGS CONTAINED HEREIN**

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

### **4. AMENDMENTS**

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

### **5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

## **6. APPROVAL**

This contract shall be subject to the written approval of COMMERCE's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

## **7. ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

## **8. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys' fees and costs.

## **9. CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

## **10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

**A. "Confidential Information" as used in this section includes:**

- i.** All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
- ii.** All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
- iii.** All Personal Information in the possession of the Contractor that may not be disclosed under state or federal law.

**B.** The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

**C.** Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

## **11. CONFORMANCE**

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

## **12. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Contractor and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked with the COMMERCE program executing this Contract, including but not limited to formulating or drafting the legislation, participating in procurement planning and execution, awarding contracts, and monitoring contract, during the 24-month period preceding the start date of this Contract. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by Commerce that a conflict of interest exists, the Contractor may be disqualified from further consideration for the award of a Contract.

In the event this contract is terminated as provided above, Commerce shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of Commerce provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which Commerce makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

## **13. COPYRIGHT**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

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

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

## **14. DISALLOWED COSTS**

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

## **15. DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

## **16. DUPLICATE PAYMENT**

Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

## **17. GOVERNING LAW AND VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

## **18. INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

The Contractor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Contractor, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or its subcontractors, agents, or employees.

The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

## **19. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

## **20. INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable provisions of Title 51 RCW. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

## **21. LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

## **22. LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

## **23. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

## **24. LOCAL PUBLIC TRANSPORTATION COORDINATION**

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

## **25. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this contract.

## **26. PAY EQUITY**

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether

employees are similarly employed;

B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:

- i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
- ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
- iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

**27. POLITICAL ACTIVITIES**

Political activity of Contractor's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

**28. PREVAILING WAGE LAW**

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

**29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

**30. PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

**31. RECAPTURE**

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

## **32. RECORDS MAINTENANCE**

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

## **33. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

## **34. RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

## **35. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

## **36. SEVERABILITY**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

## **37. SUBCONTRACTING**

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

**38. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

**39. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

**40. TERMINATION FOR CAUSE**

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

**41. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

**42. TERMINATION PROCEDURES**

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

#### **43. TREATMENT OF ASSETS**

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.
- B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.
- E. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

**44. WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

DRAFT

## **Attachment A: Scope of Work**

To support the development of affordable housing by paying for the construction of utility infrastructure improvements and reimbursement of waived system development for the Camas Flats- Oak Harbor project

- Water service provider is the City of Oak Harbor. The connection needed is running water lines from the City's main line and teeing off to each building. The scope CHIP funds will pay for are only running the lines on the property. \$300,000 of CHIP funds will be used for running the water lines (of the \$819,371 estimate)
- The sewer system is provided by the City of Oak Harbor. The scope of work is to run sewer lines from each building on the property to the City's main sewer line. The scope for the CHIP funds will just be work done on the property line. \$200,000 of CHIP funds will be used for running sewer lines (of the \$314,610 total estimated costs)
- The storm water system is operated by the City of Oak Harbor. The scope of work is to store and treat 55,000 cubic feet of storm water generated on the site from impervious surface. The system will be an R tank under the parking lot with associated costs for catch basins and treatment (both surface and underground). The scope of work for the CHIP funds will all be within the property line. \$1,300,154 of the CHIP funds will be used for the storm system (of the total estimated cost of \$1,968,439)

Based on the criteria within the state capital budget, SB 5200 Sec 1021, (Laws of 2023), and criteria developed by Commerce to ensure the terms of the appropriation are met, all grants must meet the following criteria:

- Applicant must be a city, county or public utility district, applying in coordination with the developer of a multi-unit affordable housing project, located within a jurisdiction that imposed a sales and use tax under RCW 82.14.530(1)(a)(ii), 82.14.530(1)(b)(i)(B), 82.14.540, or 84.52.105.
- For system development charge waiver reimbursement, jurisdictions must have an adopted fee waiver program, and documentation that the fees have been waived for the affordable housing units by each provider for water, sewer, and stormwater, in accordance with the budget.

- The utility project must serve new multi-unit affordable<sup>1</sup> housing projects that serve and benefit low-income households.<sup>2</sup> If the project is a mixed-income project, the affordable portion of the development must be at least 25%. CHIP funds can pay for the system development charges for the affordable units.
- The affordable housing project should be part of a program that will monitor affordability for a minimum of 25 years, such as the Housing Trust Fund, low-income housing tax credits, housing authority, or a city monitoring process. A covenant and/or note and deed of trust may be required as part of securitization to ensure affordability.

#### CERTIFICATION PERFORMANCE MEASURE – SCOPE OF WORK

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE as of the date and year written below.

Jill Johnson, Chair Board of County Commissioners, Island County

DATE

<sup>1</sup> "Affordable housing" has the same meaning as in RCW 43.185A.010, and means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income. In the context of homeownership, the definition from the [Housing Trust Fund Handbook](#) applies (Section 701.7): "affordability occurs when a household's monthly housing costs are generally no more than 38 percent of monthly household income and total debt is no more than 45 percent of monthly household income. Housing costs include mortgage principal, interest, property taxes, homeowner insurance, homeowner association fees, and land lease fees, as applicable. Total debt includes other debt and utilities."

<sup>2</sup> "Low-income household" has the same definition as in RCW 43.185.010(6), and means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

## **Attachment B: Budget**

### **CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE ENTIRE PROJECT**

Type of Funding	Source Description and purpose	Amount
CHIP Grant	Washington State Department of Commerce	\$2,000,000
<b>Other Funds</b>		
	Island County ARPA	\$3,900,000
	Apple Health and Home	\$2,842,000
	Housing Trust Fund	\$2,158,000
	Tax Credit Equity (Key Bank)	\$14,640,756
	Permanent Mortgage	\$7,687,300
<b>Total Other Funds</b>		
<b>Total Project Funding</b>		

### **CERTIFICATION PERFORMANCE MEASURE - AVAILABILITY OF FUNDS**

The GRANTEE by its signature, certifies that project funding from sources other than those provided by this Grant Agreement has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this Grant Agreement, as of the date and year written below. The GRANTEE shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project, and shall make such records available for COMMERCE's review upon reasonable request.

---

Jill Johnson, Chair Board of County Commissioners, Island County

---

DATE

## **PURCHASE AND SALE AGREEMENT**

This PURCHASE AND SALE AGREEMENT ("Agreement") is made as of this day of \_\_\_\_\_, by and between Island County, a municipal corporation and political subdivision of the State of Washington ("Seller" or "County"), and the Opportunity Council, a nonprofit public benefit corporation in the State of Washington ("Buyer"), with references to the following facts:

### **RECITALS**

A. Seller is the owner of that certain real property located in Island County, Washington, as Parcel No. R13335-330-1180 (the "Land") commonly known as and by the street address of 900 N. Oak Harbor Street, Oak Harbor, WA and legally described on Exhibit A (the "Property");

B. Seller initially entered into a Transfer Agreement with Shelter Resources, INC for the subject property on September 2, 2022;

C. Shelter Resources, INC requested that the County assign transfer to the Opportunity Council (Buyer);

D. The County has provided its written consent for the assignment of the property to Opportunity Council (Buyer);

E. Seller desires and Buyer agrees that all housing units to be constructed on the property shall provide perpetual affordable housing to a mix of income targets at or below eighty percent (80%) of the Area Median Income (AMI) for Island County, Washington;

F. Seller agrees, upon the terms and conditions set forth herein, to transfer the Property to Buyer at no cost based on the public benefits of affordable housing identified in this Agreement.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual covenants herein contained, Buyer and Seller hereby agree as follows:

1. Description of The Property. Seller shall sell and convey to Buyer, and Buyer shall purchase and acquire from Seller, upon and subject to the terms and conditions set forth in this Agreement, the Property, which shall include: the land, together with any easements, appurtenances, rights, privileges, reversionary rights and improvements thereunto belonging or appurtenant to the Property.

2. No Cost. Seller will transfer the Property to Buyer at no cost based on the public benefits of affordable housing identified in this Agreement.

3. Closing Date. Within five (5) business days following the end of the Due Diligence period (the "Closing Date") and all the Closing Conditions have been satisfied as described in Sections 5(b) and 6(a) below, the closing of the purchase of the Property (the "Closing") shall be held at the offices of the Escrow Agent. The Closing shall occur when the Deed to Buyer is recorded.

4. Title and Survey Matters.

(a) Deed Restriction. At Closing, the Deed delivered to Buyer shall contain the Agreement in the substantially the same form as Exhibit B attached hereto (the "Deed Restriction

Covenant Agreement") that shall describe the terms and conditions of Buyer's Power of Termination (as described in Section 4(a)(ii)). The Power of Termination and the Deed Restriction Covenant Agreement shall be Permitted Exceptions.

(i) It is the intent of the parties hereto that the Property is used to develop, construct, promote, support, and operate affordable housing in Island County on a perpetual basis. In conjunction with this intent, Buyer and Seller agree to include the following "Use Restriction" in the Deed to Buyer:

"If during any period from the date hereof, the Property is not used to provide no less than eighty-two (82) affordable housing units servicing a mix of income targets at or below eighty percent (80%) of the Area Median Income (AMI) for Island County, Washington; then subject to the terms of the Deed Restriction Covenant Agreement dated the same date as this deed, the County shall have the right to re-enter and repossess the Property.

The County's right to re-enter and repossess the Property shall be referred to herein as "Power of Termination

(ii) The Deed Restriction Covenant Agreement shall be substantially in the form of Exhibit attached hereto and, among other things, shall provide that if the County believes the Use Restriction has been violated, the County shall provide Buyer with written notice of such belief. If the Use Restriction has been violated as determined pursuant to the Deed Restriction Covenant Agreement, the County shall have the right to repurchase the Property for the Purchase Price stated in the Deed Restriction Agreement.

(b) Conveyance. On the Closing Date, Seller shall convey to Buyer fee simple title to the Property by a duly executed and acknowledged Statutory Warranty Deed (the "Deed"), in substantially the form attached to this Agreement as Exhibit C, free and clear of all defects and encumbrances and subject only to the Deed Restriction Covenant Agreement.

(c) Preliminary Commitment. Buyer shall order a preliminary commitment for an owner's standard coverage policy of title insurance in the amount determined by Buyer to be issued by Title Company and accompanied by copies of all documents referred to in the commitment (the "Preliminary Commitment"). Buyer shall advise Seller by written notice what exceptions to title, if any, are objected to by Buyer ("Objections") within ten (10) days following the Effective Date or following the receipt of the Preliminary Commitment, whichever date is later, but in no event later than the Closing Date. If Buyer fails to give notice before the expiration of the ten (10) day period, or by the Closing Date, whichever is earlier, Buyer will be deemed to have approved the title exceptions identified in the Preliminary Commitment and all such exceptions shall be Permitted Exceptions. No later than seven (7) days after receipt of Buyer's notice, Seller may give Buyer notice that (i) Seller will remove Objections or (ii) Seller elects not to remove Objections. If Seller fails to give Buyer such notice, Seller will be deemed to have given Buyer notice as of the seventh (7<sup>th</sup>) day after receipt of Buyer's notice, or the Closing Date, whichever is earlier, that Seller elected not to remove any of the Objections. Notwithstanding the foregoing, Seller will be required to remove any monetary liens, monetary assessments or monetary encumbrances affecting the Property prior to or as of the Closing Date.

Immediately upon discovering the need to amend or add any exception to the Title Commitment, Escrow Agent shall notify Buyer and Seller. Within ten (10) business days after notice from Escrow Agent together with a copy of such intervening lien or matter, but in no event

later than the Closing Date, Buyer shall notify Seller in writing of any objections thereto (the “Amendment Objections”). No later than seven (7) days after receipt of Buyer’s notice, Seller may give Buyer notice that (i) Seller will remove Amendment Objections or (ii) Seller elects not to remove Amendment Objections. If Seller fails to give Buyer such notice, Seller will be deemed to have given Buyer notice as of the seventh (7<sup>th</sup>) day after receipt of Buyer’s notice, or the Closing Date, whichever is earlier, that Seller elected not to remove any of the Amendment Objections.

(d) Title Objections. If Seller elects not to remove any non-monetary Objections or Amendment Objections, Buyer will have five (5) days from receipt of Seller’s notice, but in no event later than the Closing Date, to notify Seller of Buyer’s election either to proceed with the purchase and take the Property subject to those exceptions, in which case the Objections and Amendment Objections shall be deemed Permitted Exceptions, or to terminate this Agreement. If Seller gives notice that it will cause one or more non-monetary Objections or Amendment Objections to be removed but fails to remove any of them from title on or before the Closing Date, Buyer may either (i) elect to terminate this Agreement by written notice to Seller, or (ii) proceed with the purchase and take the Property subject to those exceptions, which shall be deemed Permitted Exceptions. If Buyer elects to terminate this Agreement under this Section 4(c), neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement.

(e) Title Policy. Buyer shall receive at Closing, at Seller’s expense, an Owner’s Standard Coverage Title Insurance Policy (ALTA 2006) with such endorsements as Buyer may request, issued by the Title Company to be furnished to Buyer (“Title Policy”). The Title Policy shall be issued in the amount determined by Buyer and shall insure fee simple title to the Property in Buyer, subject only to the Permitted Exceptions. Buyer’s obligation to close this transaction shall be contingent on Buyer’s receipt of such Title Policy. If Buyer so elects, Buyer may purchase extended coverage with the additional portion of the premium for extended coverage to be paid by Buyer.

## 5. Contingencies and Obligations.

(a) Investigation of the Property. Seller shall provide or make available to Buyer for inspection and copying to the extent available or within Seller’s possession or control all documents and information pertaining to the Property, including, but not limited to, all soils reports and environmental studies, any existing surveys, architectural drawings or renderings, plans and specifications with respect to the Property except appraisals not performed in support of this transaction and other documents not available for public disclosure. Buyer and its employees and agents shall have the right from the date of this Agreement through Closing Date (or earlier termination of this Agreement) to enter upon the Property or any part thereof at reasonable times and from time to time upon providing two business days advance notice to the County and receiving the County’s approval, which shall not be unreasonably, withheld, conditioned or delayed, for the purpose, at Buyer’s cost and expense, of making all soil and other tests or studies under the provisions of this Agreement. If the County does not respond to the Buyer within the two-business-day period stated above, the County shall be deemed to have approved Buyer’s entry upon the Property; provided, however, Buyer shall indemnify and hold harmless Seller from and against any mechanic’s or other liens or claims that may be filed or asserted against the Property or Seller by any actions taken by Buyer in connection with the Property. Buyer’s obligation to purchase the Property shall be subject to and contingent upon Buyer’s inspection and approval, in its sole and absolute discretion, of the physical condition of the Property (“Property Inspection”), including, without limitation, the conducting of soil tests (including borings), toxic and hazardous waste studies, surveys, engineering, historical use, traffic and access studies, structural studies and review

of zoning, SEPA requests, fire, safety and other compliance matters. Buyer shall correct any damage to the Property caused by the Property Inspection and shall return the Property to its condition prior to the Property Inspection.

(b) Due Diligence Period. As used herein, the term "Due Diligence Period" means the period ending on the earlier of (i) the date that is ninety (90) days from execution of this Agreement by both parties; or (ii) the date that is five (5) days after Seller's receipt of Buyer's written notice to terminate the Due Diligence Period prior to the end of the ninety (90) day period.

(c) Buyer's Right to Terminate. If the conditions set forth in Section 5(a) are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right, prior to the expiration of the Due Diligence Period, to terminate its rights and obligations under this Agreement by sending written notice to Seller (such notice referred to as a "Termination Notice"), and the Buyer and Seller shall have no further rights or obligations under this Agreement except as otherwise provided in this Agreement.

6. Additional Closing Conditions.

(a) Buyer's obligation to purchase the Property shall be subject to the following conditions which must be satisfied by Seller as of Closing unless waived by Buyer at Closing:

(i) Buyer shall have received an allocation of Low Income Housing Tax Credits ("LIHTC Allocation") from the Washington State Housing Finance Commission (the "Commission") that is satisfactory to Buyer in its sole discretion by 6/12/2023. Regulatory Approval from Commission (together with any other consents required from any governmental entity in connection with the Sale, the "Required Consents"). Seller will use its best efforts to provide all information and documentation to Buyer and/or the Commission necessary to obtain the LIHTC Allocation;

(ii) Buyer shall have received an award of Housing Trust Funds ("HTF Award" from the Washington State Department of Commerce by 7/26/2023:

(iii) All representations and warranties of Seller contained herein shall be true, accurate and complete at the time of the Closing as if made again at such time;

(iv) Seller shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance);

(v) At Closing, Seller shall deliver title to the Property in the condition required by Section 4 of this Agreement;

(vi) At Closing, the physical condition of the Property shall be the same as on the date hereof, except as changed by Buyer's due diligence activities and damage resulting from the weather or other acts of God;

(b) If the conditions set forth in Section 6(a) are not satisfied as of Closing and Buyer does not waive same, neither Buyer nor Seller shall have any further rights or obligations under this Agreement except as otherwise provided in this Agreement.

7. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties, which representations and warranties shall be deemed made by Seller to Buyer also as of the Closing Date:

- (a) Parties in Possession. There are no parties or trespassers in possession or which have a right to possession of all or any portion of the Property, and there are no leases, licenses, or encroachments affecting the Property;
- (b) Foreign Person. Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code;
- (c) Option to Acquire Premises. No person or entity has any right of first refusal or option to acquire any interest in the Property or any part thereof, and Seller has not sold or contracted to sell the Property or any portion thereof or interest therein other than as set forth herein;
- (d) Sole Legal Owner. Seller is the sole legal fee owner of the Property, and is not holding fee title as a nominee for any other person or entity;
- (e) Taxes. There are no governmental taxes, fees or other impositions on the Property except surface water management fees.
- (f) Hazardous Substances. To the best of Seller's knowledge, the Property is not in violation of any law, ordinance, rule or regulation relating to the environmental conditions thereon. Moreover, to the best of Seller's knowledge, there is no hazardous waste or other substance, including but not limited to those that would be a hazardous waste, material or substance, toxic substance, gas or pollutant, as defined under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et. seq.*, the Washington Model Toxics Control Act, RCW Ch. 70.105D, RCW Ch. 70.95, and the regulations promulgated thereunder or under any applicable local or state environmental ordinance, statute, law, rule or regulation ("Hazardous Substances"), on or about the Property or on any parcels of land which abut the Property, except as disclosed in Exhibit C and the reports and other documents referenced therein, which shall be provided to the Buyer upon execution of this Agreement. Further, to the best of Seller's knowledge: (i) there has been no release, spill, leak, discharge, emission, leak or disposal, (ii) there are no substances or conditions, in or on the Property or any other parcels of land which may affect the Property or use thereof which may support a claim or cause of action under any federal, state or local environmental statute, regulation, ordinance or other environmental regulatory requirements and (iii) there is no asbestos, PCBs or underground storage tanks located on the Property or which have been removed there from, except as disclosed in Exhibit D and the reports and other documents referenced therein.
- (g) Indemnification. Seller agrees to indemnify, hold harmless and defend the Buyer, its appointed officials, officers, employees, agents and representatives, from and against any and all claims, actions, suits, liability, loss, cost, expenses and damages of any nature whatsoever, including costs and attorneys' fees, which are caused by or arise out of (i) the existence of Hazardous Substances on the Property or the migration of Hazardous Substances originally released or deposited on the Property onto other parcels of land; (ii) the Seller's failure or insufficient compliance with any federal, state or local laws applicable to Hazardous Substances; or (iii) any claim, in law or equity, brought by any third party or the Seller's own officials, officers, employees,

agents or representatives alleging any cause of action relating to the existence of Hazardous Substances on the Property or any migration of Hazardous Substances originally released or deposited on the Property onto other parcels of land, and, with respect to (i), (ii) and (iii), that existed, or in the case of migration commenced due to a condition that existed, as of or prior to the Closing Date and did so in violation of Seller's representations set forth in Section 7(f).

8. Closing.

(a) Time and Place. Provided that all the contingencies set forth in this Agreement have been previously fulfilled, the Closing shall take place at the place and time determined as set forth in Section 3 of this Agreement.

(i) Documents to be delivered by Seller. For and in consideration of, and as a condition precedent to, the payment to Seller of any of the Purchase Price, Seller shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

(ii) Statutory Warranty Deed. A Statutory Warranty deed ("Deed") in recordable form and otherwise in form and substance reasonably acceptable to Buyer containing the legal description of the Property in such form as will convey to Buyer a good and marketable title in fee simple to the Property, free and clear of all liens, encumbrances, conditions, easements, assignments, and restrictions, except for the Permitted Exceptions, which include the Use Restriction and Power of Termination as described in Section 4(a);

(iii) Title Documents. Such other documents, including, without limitation, lien waivers, indemnity bonds, and indemnification agreements as shall be reasonably required by the Title Company as a condition to its insuring Buyer's good and marketable fee simple title to the Property free of any exceptions, other than the Permitted Exceptions and the Use Restriction and Power of Termination;

(iv) Excise Tax Affidavit. An excise tax affidavit for filing with the Island County Auditor at the time of recording Deed;

(v) FIRPTA Affidavit. The affidavit of non-foreign status described in Section 7(b) of this Agreement, as required by federal tax law;

(vi) Title Policy. The Title Policy referred to in Section 4(f) of this Agreement.

(vii) Deed Restriction Covenant Agreement. An executed original counterpart of the Deed Restriction Covenant Agreement.

(b) Items to be Delivered by Buyer. Buyer shall deliver the Purchase Price.

(c) Payment of Costs. Seller and Buyer shall pay their own respective costs incurred with respect to this Agreement and the consummation of the purchase and sale of the Property including, without limitation, their own respective attorneys' fees. Notwithstanding the foregoing:

(i) Seller shall pay the costs of a standard owner's title policy and Buyer shall pay the costs, if any, of the extended coverage of the Title Policy;

- (ii) Buyer shall pay all recording fees;
- (iii) Buyer and Seller shall each pay one-half of the escrow fees;
- (iv) Seller shall pay any real estate excise tax due on the transaction.

(d) Real Property Taxes, Assessments, and Utility Charges. Seller is exempt from paying real property taxes. Any assessments and/or utility charges against the Property will be pro-rated at Closing. Buyer will be responsible for paying real property taxes, assessments, and/or utility charges if any, from the date of Closing.

(e) Monetary Liens. Seller shall pay or cause to be satisfied at or prior to Closing all monetary liens created by or arising through Seller on or with respect to all or any portion of the Property, including, but not limited to, mortgages, deeds of trust, security agreements,

assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements.

9. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Seller: Island County  
1 NE 7<sup>th</sup> Street  
Coupeville, WA 98239

Attention: County  
Commissioner, Jill Johnson

To Buyer: Opportunity Council  
1111 Cornwall Avenue  
Bellingham, WA 98225

Attention: Greg Winters

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

10. Survival of Representations and Warranties. All representations, warranties, covenants indemnities, and agreements of the parties contained in this Agreement, or in any instrument or other writing provided for herein, shall survive the Closing.

11. Event of Default. In the event of a default under this Agreement by Seller (including a breach of any representation, warranty or covenant set forth herein), Buyer shall be entitled (a) in addition to all other remedies, to seek monetary damages and specific performance of Seller's obligations hereunder; or (b) to terminate this Agreement by written notice to Seller and Escrow Agent. In the event of a breach or default by Buyer without any default by Seller or failure of any condition to Buyer's obligations hereunder, Seller's sole and exclusive remedy shall be to recover liquidated damages from Buyer in the amount of its attorney fees and enforcement costs due under section 14(g) below. The parties acknowledge that in the event of such default by Buyer, Seller will have incurred substantial but unascertainable damages and that therefore the provision herein for liquidated damages is a valid one.

12. Termination. In the event of a termination of this Agreement for any reason, all documents and funds will be returned to the party who deposited them except as otherwise provided herein, and neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement.

13. Possession. Buyer shall be entitled to possession of the Property on Closing.

14. Miscellaneous.

(a) Applicable Law and Venue. This Agreement shall in all respects, be governed by the laws of the State of Washington, and any action at law or equity to enforce or interpret its terms shall be filed in the Superior Court, Island County, Washington.

(b) Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties hereto.

(c) Modification or Amendment. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties hereto.

(d) Assignment. This Agreement may not be assigned without the prior written consent of all parties.

(e) Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

(f) Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect.

(g) Attorneys' Fees. Should either party bring suit to enforce this Agreement, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit.

(h) Interpretation. This Agreement has been submitted to the scrutiny of all parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its words, without consideration to or weight given to its being drafted by any party or its counsel. The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.

(i) Counterparts. This Agreement may be signed in counterparts and all of such counterparts when properly executed by the appropriate parties thereto together shall serve as a fully executed document, binding upon the parties.

Dated as of the date first written above.

**SELLER:**

ISLAND COUNTY  
a Municipal Corporation

By \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF ISLAND )

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

Dated: \_\_\_\_\_

Notary Public in and for the State of Washington  
residing at \_\_\_\_\_  
Appointment Expires: \_\_\_\_\_

APPROVED AS TO FORM:

**BUYER:**

OPPORTUNITY COUNCIL  
a nonprofit benefit corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF WASHINGTON        )  
                                  ) ss  
COUNTY OF ISLAND        )

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

**EXHIBIT A**

**Legal Description of the Property**

PT GWL ALLEN DC & GL11 DESC: BG PT ON WLN SD DC 450.33'N OF SWCR S89\*E PARA/TO NLN SD DC 681.8' SLY PARA/TO WLN SD DC 330' WLY PARA/TO NLN SD DC TO ELN OF CO RD (OLD HWY 1-D) NELY ALG SD ELN TPB EX ANY PT LY IN OLD HWY 1-D ALSO EX PT TO CITY OF OH AF#9400

## EXHIBIT B

After Recording Return To:  
Island County

### DEED RESTRICTION COVENANT AGREEMENT

GRANTOR: Island County, a political subdivision of the State of Washington  
OWNER: Opportunity Council, a nonprofit public benefit corporation in the  
State of Washington

Legal Description: (Additional legal on Exhibit A)

Assessor's Tax  
Parcel ID#: R13335-330-1180

Reference No(s). of  
Related Document(s): Statutory Warranty Deed # \_\_\_\_\_

THIS DEED RESTRICTION COVENANT AGREEMENT (the “Agreement”), is made as of this  
\_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between Island County, a political  
subdivision of the State of Washington (“County”), and Opportunity Council, a Washington  
State nonprofit public benefit corporation (“Owner”).

### RECITALS

A. The County initially entered into a Transfer Agreement with Shelter Resources, INC for the subject property on September 2, 2022;

B. Shelter Resources, INC requested that the County assign transfer to the Opportunity Council (Owner);

C. The County has provided its written consent for the assignment of the property to the Opportunity Council (Owner);

D. The County and the Owner recognize there is a growing need for affordable housing in Island County.

E. The Owner has purchased from the County that certain real property described on Exhibit A attached hereto (“Property”) as of the date hereof.

F. The County and the Owner both intend for the Property to be used to develop, construct, promote, support, and operate affordable housing in Island County.

G. The County and the Owner agree to the exercise by the County of the power of termination contained in this Agreement if the Owner fails to use the Property for the promotion, support, and operation of affordable housing in perpetuity in accordance with:

1. this Agreement;
2. the Developer Award Letter and Transfer Option Agreement
3. the Purchase & Sale Agreement;
4. the Statutory Warranty Deed;
5. the Island County ARPA Affordable Housing Grant Contract for Opportunity Council.

H. The County and the Owner desire to enter into this Agreement to set forth the rights and obligations of the parties with respect to the Property and its uses.

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual covenants herein contained, the County and the Owner hereby agree as follows:

## **AGREEMENT**

1. Deed Restriction Covenant. The above recitals are incorporated herein by this reference. From the date hereof in perpetuity from the date of this Agreement, the Property must be used to provide and support affordable housing in Island County.

2. Perpetual Term. This Agreement shall be effective for a perpetual term commencing on the date hereof (“Term”).

3. Definitions.

**Area Median Income (AMI):** Unless otherwise indicated in this document, Area Median Income (“AMI”) shall refer to the AMI for the Island County area, adjusted for household size, as estimated from time to time by the United States Department of Housing and Urban Development (“HUD”).

**County:** Island County, a political subdivision of the State of Washington.

**Developer:** The primary person, firm, agency, or organization responsible for the Proposal, as defined herein, and fulfillment of the subject Project, including having financial responsibility for meeting the obligations of its Proposal and the ensuing contracts, as specified in this Agreement, the Request for Proposals, the Proposal, the Island County ARPA Affordable Housing Grant Contract for Opportunity Council (ARPA Grant), and the Deed Restrictive Covenant Agreement.

**Housing Operations Manual:** The document to be developed, with the approval of the County, which specifies how housing operations for the Project shall be conducted during the period of affordability. The Housing Operations Manual shall meet the requirements as specified in Section 4.g of this Agreement.

**Island County ARPA Affordable Housing Grant Contract for Opportunity Council:** Island County received American Rescue Plan Act (“ARPA”) funds enacted by Congress and signed into law by President Joe Biden on March 11, 2021. These funds are also known as State and Local Fiscal Recovery Funds (“SLFRF.”). Island County has selected Opportunity Council as a “GRANTEE” to receive ARPA funds for the construction of 82 apartments in Oak Harbor, WA for Island County households with an annual income at or below 80% of the Area Median Income (“AMI”). The funding shall be provided as a Grant in the amount of Three Million, Nine Hundred Thousand Dollars (\$3,900,000.00) for infrastructure and pre-construction work. The ARPA grant contract is incorporated herein by this reference.

**Island County Developer Award Letter and Transfer Option Agreement.** The Island County Board of County Commissioners selected Shelter Resources, INC to develop mixed income affordable housing on county owned land (the Property) on May 22, 2022. The County also entered into a Transfer Option Agreement on September 2, 2022 with Shelter Resources, INC, providing them with the exclusive and irrevocable option to purchase the Property based on the terms, covenants, and conditions set forth in such agreement. Shelter Resources, INC. subsequently requested that the County provide its written consent to the assignment of Transfer Agreement to the Opportunity Council, which was granted by the County on \_\_\_\_\_. The Award Letter and Transfer Option Agreements are incorporated herein by this reference. Opportunity Council has assumed all the responsibilities and benefits as the Owner and Developer.

**Owner:** The person, firm, agency, or organization responsible for the fulfillment of the Project, and operation of the Project according to the provisions and restrictions of this Agreement, the Request for Proposals, the Proposal, and the ARPA Grant. The Owner shall be responsible for the actions of any property management firm or other agent, firm, or organization working on the Project to the extent that their work relates to the provisions and requirements of this Agreement.

**Project:** The housing to be developed and operated by the Owner on the Property in accordance with this Agreement.

**Property:** That certain real property located at 900 N. Oak Harbor Street, Oak Harbor, Washington (see Exhibit A), with a tax parcel number of R13335-330-1180.

**Proposal:** The formal response to the Request for Proposals, as defined herein, submitted by the Developer and accepted by the County as the basis for awarding the contract for the Project, consistent with the requirements specified in the Request for Proposals and any addenda, which specifies how the Developer intends to comply with the requirements specified in the Request for Proposals. Such Proposal is incorporated herein by this reference.

**Request for Proposals:** The County issued a Request for Proposal (RFP) in December 2021 from highly qualified affordable housing developers to develop and operate (or partner with an operator), mixed income multifamily affordable housing on county owned property (the Property). The RFP packet is incorporated herein by this reference.

4. Deed Restrictions. The following requirements of this Section 4 shall apply to the use of the Property during the Term and shall constitute the “Deed Restrictions” on the Property:

a. Property Use. The Property shall be used solely for the purpose of providing no less than Eighty-two (82) affordable rental housing units in which its occupants, who at the time of initial occupancy have gross household incomes at or below eighty percent (80%) of the Area Median Income (“AMI”) for the Island County area, adjusted for household size, as estimated from time to time by the United States Department of Housing and Urban Development (“HUD”). PROVIDED, HOWEVER, that the income of new tenants or owners subsequent to the date the Project certificate of occupancy is issued shall meet the gross annual household income standard as of the date of their initial occupancy. If at any time HUD no longer estimates median income, the income standard shall be based on a program selected by the County.

Furthermore, use of Property shall be limited as follows:

(i) The Property shall not be used for any uses other than the residential uses specified in this Section 4a.

(ii) The Property shall not be used for storage other than personal storage for the affordable housing units.

(iii) Parking on the Property shall be limited to operable and licensed vehicles owned by tenants/owners and property management staff.

(iv) The Property shall not be used for industrial or commercial uses, except as necessary to provide supportive services for tenants and as defined and permitted in the jurisdiction in which the Property is located.

(v) In developing and operating the Property, the Owner shall comply with all applicable state and local zoning and building code requirements, non-discrimination laws, licensing, permitting, and other requirements regarding the Property, the condition of the structure, and the operation of affordable housing units in the jurisdiction in which the housing is located.

b. Assessments, Taxes, Liens, Mortgages, and Fees. The Owner shall not incur any delinquent payment of real estate taxes, insurance, assessments, materialmen's liens, and/or any other fees associated with or attaching as a lien on the Property. The Owner shall not allow the imposition of any security interest to be recorded against the Property without the prior written approval of the County. Any other security interest in the Property will be subordinate to the security interest of the County, including this Agreement.

c. Transfer of Owner Interest. The Owner shall not transfer any of its interests in the Property without the express prior written consent of the County, which shall not be unreasonable withheld.

d. Insurance. The Property shall be continuously insured against loss by fire or other hazards in an amount not less than the total value of the land and improvements constructed thereon, subject to approval by the County's Division of Risk Management.

e. Eligibility for Tenancy. An applicant for tenancy shall be eligible for rental of an affordable housing unit if he or she meets all of the following criteria:

(i) Applicant households served must not exceed 80% of the AMI at the time of their execution of a lease for a unit in the Project. If other funding sources with different income eligibility requirements are used to support the Project, the County must be advised of those differing eligibility requirements and must approve of such funding terms in writing. Upon County approval of additional funding sources, the "most restrictive rule" will apply to ensure compliance of the Project.

(ii) The Owner may determine that an applicant is not eligible for admission if, on the basis of substantial, factual evidence of that person's prior actions, there is good cause to believe that the applicant will repeatedly fail to pay rent, will create a substantial threat to the health and safety of other tenants, or will repeatedly breach material requirements of the lease. Unsubstantiated oral statements will not be deemed substantial factual evidence.

(iii) The above eligibility criteria shall be exclusive and no other factors shall be considered in determining eligibility of applicants.

f. Rental Policy and Housing Operations Manual Requirements. The Owner shall rent affordable housing units on the Property to eligible tenants in accordance with a Housing Operations Manual, prepared by the Owner and approved by and on file with the County. All amendments to the Housing Operations Manual shall require the prior written approval of the County. The Housing Operations Manual shall include at a minimum the following:

- (i) Detailed actions to be taken by the Owner to affirmatively market and rent all units in the Project in accordance with the requirements set forth in the RFP and this Agreement. Such provisions shall ensure equal access to all persons in any category protected by federal, state, or local laws governing discrimination, and without regard to any arbitrary factor;
- (ii) A description of management procedures and on-site management operations;
- (iii) Specific reasonable criteria for determination of tenant eligibility, including occupancy standards, screening of applicants, and moving tenants into housing;
- (iv) A requirement that eligible tenants be selected based on the order of application, lottery, or other reasonable method approved by the County;
- (v) A requirement that prospective applicants be notified of eligibility and, based on turnover history, be notified of when a unit may be available;
- (vi) A requirement that ineligible applicants be notified of the reason for their ineligibility;
- (vii) Specific procedures through which applicants deemed to be ineligible may appeal this determination;
- (viii) A requirement for maintenance of a waiting list of eligible applicants;
- (ix) Move-out and unit turnaround procedures;
- (x) Provisions for the physical plant including the use of HUD Housing Quality Standards (HQS) as specified in 24 CFR 982.401, and provisions for maintenance, janitorial, and pest control; and
- (xi) Prohibition of discrimination against any prospective tenant on the basis of race, religion, ethnic or national origin, gender, sexual orientation, age,

disability, marital status, or any other arbitrary factor in violation of any federal, state, or local law governing discrimination in rental housing.

The Housing Operations Manual shall be completed, approved by the County, and in use at the time the Owner begins marketing the units in the Project, but not later than the date the certificate of occupancy for the Project is issued.

g. Lease and Occupancy Procedures. Each eligible applicant selected to occupy a unit shall enter into a written occupancy agreement or lease with the Owner, which agreement or lease shall contain those provisions as are required by the RFP and this Agreement and are consistent with local, state, and federal law.

The Owner shall establish reasonable rules of conduct and occupancy which shall be consistent with the RFP and consistent with local, state, and federal law. The rules shall be in writing and shall be given to each tenant.

Leases governing the landlord-tenant relationship shall be subject to Washington law including, but not limited to, Chapter 59.18 RCW, HOME Program statutes, and HOME Regulations.

The annual average occupancy for the affordable housing units shall not be less than 80%. The Owner shall provide annual reports of occupancy to the County. The reports shall include, but not be limited to, information about the number of units occupied, the demographics and income level of all tenants, tenure for each tenant, and the length and status of leases. The County may, from time to time, request addition data regarding occupancy of the Project.

h. Management and Maintenance. The Owner is responsible for operating the affordable housing units in accordance with the Housing Operations Manual and including, but not limited to, the following:

(i) The Owner shall be specifically responsible for all maintenance, repair, and management functions, including and without limitation to the following: selection of tenants, occupancy standards, complaint and grievance proceedings, evictions, collection of rents and security deposits, routine and extraordinary repairs, and replacement of capital items. The Owner shall maintain rental units and common areas in a safe and sanitary manner in accordance with local health, building, and housing codes; the Housing Operations Manual provided for in this Agreement; and applicable Housing Quality Standards ("HQS") (24 CFR 982.401). HQS are the minimum standards for building exterior, interior living space, heating and plumbing

systems, and health and safety conditions for HUD-assisted housing and are available at [http://edocket.access.gpo.gov/cfr\\_2003/aprqtr/pdf/24cfr982.401.pdf](http://edocket.access.gpo.gov/cfr_2003/aprqtr/pdf/24cfr982.401.pdf).

(ii) The Owner agrees to assume full financial and management responsibility for all operating and maintenance costs, including all repairs, corrections, and replacements necessary to maintain and preserve the Project in a safe and sanitary condition in accordance with standards prescribed by the County, this Agreement, the RFP, the Housing Operations Manual, and all applicable state and federal laws and local ordinances.

(iii) The Owner may, with the prior written approval of the County, contract with a management agent for the performance of the services or duties required above. However, such an arrangement shall not relieve the Owner of responsibility for the proper performance of these duties. Such a management contract shall be subject to prior written approval by the County and shall contain a provision allowing the Owner to terminate the management contract without penalty immediately upon written notice. Upon a determination by the County, and written notice to the Owner thereof, that the management agent performing the required functions has failed to operate the Project in accordance with this Agreement, the RFP, and the approved Housing Operations Manual, then the management agent shall be removed by the Owner. The Owner shall then make immediate arrangements, which shall be subject to County approval, for continuing performance of the required functions.

(iv) Upon a determination by the County, and written notice to the Owner thereof, that the Owner has failed to operate the affordable housing units in the Project in accordance with terms of this Agreement, the RFP, or the Housing Operations Manual, the County may require the Owner to contract with a qualified management agent to operate the Project, or to make such other arrangements as the County deems necessary to ensure performance of the required functions.

5. Audits and Right of Entry. In addition to the annual audits of occupancy to be provided by the Owner as required by Section 4.g hereof, the County may require the Owner to provide copies of financial documents and require audits from the Owner to ensure conformance to the Deed Restrictions. The County shall have the right upon forty-eight (48) hours' prior notice to the Owner and tenants to enter upon the Property and/or each affordable housing unit in the Project to ensure the Owner's compliance with the Deed Restrictions. If the Owner refuses to allow the County a right of entry upon the Property and/or affordable housing units to monitor compliance, the Owner will be considered in violation of the Deed Restrictions.

6. Event of Default. Any of the following will be considered an Event of Default and a violation of this Agreement:

- a. If the Owner violates any of the Deed Restrictions enumerated in Section 4 of this Agreement;
- b. If the Owner fails to provide annual reports as specified in Section 4.g of this Agreement;
- c. If the Owner refuses to allow the County a right of entry upon the Property or refuses to allow entrance into affordable housing units to monitor compliance as required by

Section 5 of this Agreement.

7. Notice of Default; Notice to Cure. If the County believes that an Event of Default has occurred, the County shall provide written notice thereof to the Owner, including a description of the specific actions or inactions that are alleged to constitute an Event of Default ("Default Notice") in accordance with Section 6 hereof. The Default Notice shall be accompanied by a Notice to Cure, by which the Owner shall have thirty (30) calendar days from its receipt of the Default Notice to perform corrective action to remediate the Event of Default to the satisfaction of the County. The Notice to Cure shall specify the action(s) the Owner must take to cure the Event of Default.

8. Actions Upon Default Notice; Failure to Cure; Right to Purchase; Purchase Price. If the County determines that an Event of Default has occurred, and the Owner has been given notice as provided for in Section 7 of this Agreement, and the Owner fails to cure the Default to the satisfaction of the County within the specified timeframe, the County, at its sole discretion, may take the following action(s):

- a. Seek injunctive relief in the Courts to compel the Owner to take action(s) to cure the Default(s); or.
- b. Exercise a Right to Purchase the Property and Project according to the following:
  - (i) within one hundred twenty (120) calendar days following the Owner's failure to cure, the County shall pay the Owner, and the Owner shall accept as full payment, the initial cost of any improvements constructed by the Owner thereon ("Owner's Cost"), to be determined based upon the contractor's invoices for work done to develop the site and construct the building for the Project. Such cost shall not include any Developer's fee or and expenses paid for by the ARPA grant. The Owner shall provide to the County copies of all invoices for development of the site and construction the building at the time the certificate of occupancy is issued for the Project; and
  - (ii) the County shall deduct from the purchase price the land cost which shall be determined by the County based on either: 150 percent of the market value for the land, excluding the value of any improvements, as determined by an appraisal conducted by the County at the time of the default or, the current estimated market value for the land of \$\_\_\_\_\_, with interest at 5% per annum, for the amount of the appreciation in the value of the property.
  - (iii) any unpaid balance of monies owned to the County or the Buyer from 8.b(i) and (ii) above shall be paid within 60 days of notice by the County.
  - (iv) The Owner shall relinquish all rights to the Property and Project.

9. Power of Termination; Transfer of Title; Right of Entry. Once the County has declared an Event of Default and the owner has failed to cure the Default, and the County has paid Purchase Price as specified in Section 8.b of this Agreement, the County shall have the power to terminate the estate and transfer title to the Property. The Owner shall execute a Statutory Warranty Deed and the County shall sign as to its acceptance and approval. The Owner shall immediately record the Statutory Warranty Deed with the Island County Auditor's Office upon Owner's receipt of payment of the Purchase Price by the County.

10. Notices. Unless applicable law requires a different method of giving notice, any and

all notices, demands or other communications required or desired to be given hereunder by either party (collectively, "notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

If to County: Island County  
1 NE 7<sup>th</sup> Street  
Coupeville, WA 98239  
Island County, Oak Harbor, WA  
Attention: Chair, Jill Johnson

If to Owner:      Opportunity Council  
                          1111 Cornwall Avenue  
                          Bellingham, WA 98225  
                          Attention: Greg Winters

Attention:  
With copy to: Attention:

Either party hereto may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

11. Applicable Law; Venue. This Agreement shall in all respects, be governed by the laws of the State of Washington. Any lawsuit regarding this Agreement must be brought in Island County, Washington.

12. Waiver. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

13. Conflicts. Should any conflicts exist between this Agreement and any document incorporated herein by reference, the text of this Agreement shall prevail.

14. Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties hereto.

15. Modification or Amendment. No amendment, change, or modification of this

Agreement shall be valid, unless in writing, executed with the same formalities as are required for the execution of this Agreement, and signed by each of the parties hereto.

16. Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns and shall be construed as covenants running with the Property. Each and every contract, deed, or other instrument covering or conveying the Property, or any portion thereof, shall be exclusively held to have been executed, delivered, and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed, or other instrument. As provided in Section 4 of this Agreement, any sale and/or conveyance of the Property, and corresponding assignment of this Agreement shall take place only with the express prior written permission of the County.

17. Headings. The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.

18. Counterparts. This Agreement may be signed in counterparts and all of such counterparts when properly executed by the parties hereto together shall serve as a fully executed document, binding upon the parties.

19. Severability. If any provision of this Agreement shall be held to be illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall attach only to such provision and shall not in any manner affect or render illegal, invalid, or unenforceable any other provision of this Agreement, and this Agreement shall be carried out as if any such illegal, invalid, or unenforceable provision were not contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day first above written.

**COUNTY:**

ISLAND COUNTY

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

**OWNER:**

By \_\_\_\_\_

STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF ISLAND )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of ISLAND County, a political subdivision of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

(Use this space for notarial stamp/seal)

Notary Public  
Print Name \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
COUNTY OF ISLAND )  
 ) SS.

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

Dated:

(Use this space for notarial stamp/seal)

Notary Public  
Print Name \_\_\_\_\_  
My commission expires \_\_\_\_\_

EXHIBIT A

Legal Description

PT GWL ALLEN DC & GL11 DESC: BG PT ON WLN SD DC 450.33'N OF SWCR S89\*E  
PARA/TO NLN SD DC 681.8' SLY PARA/TO WLN SD DC 330' WLY PARA/TO NLN SD DC TO  
ELN OF CO RD (OLD HWY 1-D) NELY ALG SD ELN TPB EX ANY PT LY IN OLD HWY 1-D  
ALSO EX PT TO CITY OF OH AF#9400

**EXHIBIT C**  
**STATUTORY WARRANTY DEED FORM**

**When Recorded Return To:**

---

**Document Title:** **STATUTORY WARRANTY DEED**

**Reference Number(s)  
of Related Documents:** N/A

**Grantor:** Island County, a municipal corporation and a political subdivision of the State of Washington

**Grantee:** Opportunity Council, a nonprofit public benefit corporation in the State of Washington

**Legal Description:** THAT PORTION OF THE FOLLOWING DESCRIBED AS

PT GWL ALLEN DC & GL11 DESC: BG PT ON WLN SD DC 450.33'N  
OF SWCR S89\*E PARA/TO NLN SD DC 681.8' SLY PARA/TO WLN  
SD DC 330' WLY PARA/TO NLN SD DC TO ELN OF CO RD (OLD  
HWY 1-D) NELY ALG SD ELN TPB EX ANY PT LY IN OLD HWY 1-  
D ALSO EX PT TO CITY OF OH AF#9400

Tax Parcel Number: R13335-330-1180

Consideration: For good and valuable consideration the sufficiency and receipt of which are hereby acknowledged as it relates to Grantee's condition to provide public benefits of affordable housing.

Conveyance of Grantor's Interest: For the above-mentioned consideration, the Grantor, hereby warrants, transfers and conveys, all of Grantor's right, title, and interest in the Described Property to Grantee, together with the improvements thereon, subject to liens, encumbrances, easements, restrictions and reservations of record, and together with all after-acquired title of the Grantor.

Property Restriction: It is the intent of the parties hereto that the Property is used to develop, construct, promote, support, and operate affordable housing on a perpetual basis subject to the terms of the Deed Restriction Covenant Agreement dated the same date as this deed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

GRANTOR: Island County

By \_\_\_\_\_

Its \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF ISLAND )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of Island County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Notary Public  
Print Name \_\_\_\_\_  
My commission expires \_\_\_\_\_

(Use this space for notarial stamp/seal)

**EXHIBIT D**  
Hazardous Substance Disclosures

Known substances on the Property:

1. None

Reports and Other Documents Provided:

1. Proposed Tri-County Sub-Acute Detox Facility NE 10<sup>th</sup> Avenue Site, Oak Harbor, Washington; Dated March 13, 2019

**Geotechnical Engineering Services**

Proposed Tri-County Sub-Acute Detox Facility  
NE 10<sup>th</sup> Avenue Site  
Oak Harbor, Washington

for  
**Island County Facilities Management**

March 13, 2019



**GEOENGINEERS**   
Earth Science + Technology

**Geotechnical Engineering Services**

Proposed Tri-County Sub-Acute Detox Facility  
NE 10<sup>th</sup> Avenue Site  
Oak Harbor, Washington

*for*  
**Island County Facilities Management**

March 13, 2019

**GEOENGINEERS** 

600 Dupont Street  
Bellingham, Washington 98225  
360.647.1510

**Geotechnical Engineering Services**  
**Proposed Tri-County Sub-Acute Detox Facility**  
**NE 10<sup>th</sup> Avenue Site**  
**Oak Harbor, Washington**

**File No. 0422-135-01**

**March 13, 2019**

Prepared for:

Island County Facilities Management  
PO Box 5000  
Oak Harbor, Washington 98239-5000

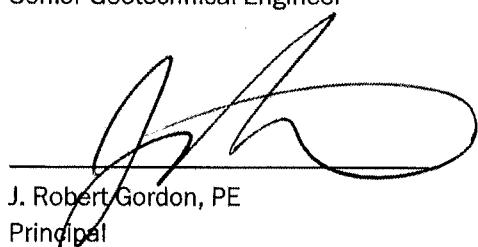
Attention: Larry Van Horn, Facilities Director

Prepared by:

GeoEngineers, Inc.  
600 Dupont Street  
Bellingham, Washington 98225  
360.647.1510



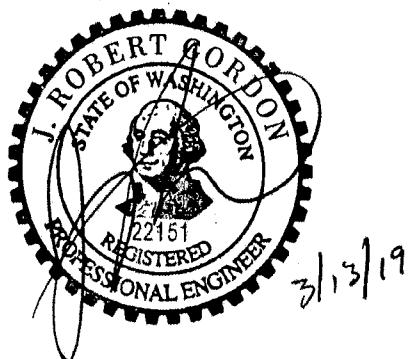
Aaron Hartvigsen, PE  
Senior Geotechnical Engineer



J. Robert Gordon, PE  
Principal

AJH:SWC:JRG:tin

cc: Andrew Hauss  
Cumming Corp. USA



Zachary Crum, PE  
BCRA

Disclaimer: Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.

## Table of Contents

<b>1.0 INTRODUCTION.....</b>	<b>1</b>
<b>2.0 SITE DESCRIPTION.....</b>	<b>1</b>
2.1. Surface Conditions .....	1
2.2. Geology.....	2
2.3. Field Explorations .....	2
2.4. Subsurface Conditions .....	2
2.5. Groundwater Conditions .....	3
<b>3.0 CONCLUSIONS AND RECOMMENDATIONS .....</b>	<b>3</b>
3.1. General.....	3
3.1.1. Seismic Design Considerations .....	3
3.1.1.1. Seismicity.....	3
3.1.1.2. 2015 IBC Seismic Design Information .....	4
3.1.1.3. Liquefaction Potential.....	4
3.1.2. Foundations .....	4
3.2.1. Foundation Design.....	5
3.2.2. Foundation Settlement.....	5
3.2.1.1. Footing Subgrade Preparation .....	5
3.2.2.1. Lateral Resistance .....	5
3.2.3. Construction Considerations .....	6
3.1.3. Slab-on-Grade Floor.....	6
3.3.1. Subgrade Preparation.....	6
3.3.2. Capillary Break .....	6
3.1.4. Site Drainage Considerations .....	7
3.1.5. Stormwater Infiltration Considerations .....	7
3.5.1. Pilot Infiltration Tests (PITs).....	7
3.5.2. Design Infiltration Rates .....	7
3.5.3. Infiltration Chamber Considerations .....	8
3.5.4. Infiltration Facility Subgrade Preparation .....	8
3.5.5. Cation Exchange Capacity and Organic Content.....	8
3.1.6. Light Pole Foundations.....	9
3.1.7. Pavement Design Recommendations .....	9
3.7.1. Subgrade Preparation.....	9
3.7.2. New Hot Mix Asphalt Pavement .....	9
3.7.3. Portland Cement Concrete Pavement .....	10
3.7.1.1. Ballasted Sidewalk.....	10
3.1.8. Rockeries .....	10
3.1.9. Earthwork .....	11
3.9.1. Site Preparation .....	11
3.9.2. Excavation .....	11
3.9.3. Structural Fill .....	12
3.9.4. Weather Considerations .....	13
3.1.10. Dewatering.....	13
3.1.11. Recommended Additional Geotechnical Services.....	13

<b>4.0 LIMITATIONS.....</b>	<b>14</b>
<b>5.0 REFERENCES .....</b>	<b>14</b>

## **LIST OF FIGURES**

Figure 1. Vicinity Map  
Figure 2. Site and Exploration Plan

## **APPENDICES**

Appendix A. Field Explorations and Laboratory Testing

    Figure A-1. Key to Exploration Logs  
    Figures A-2 through A-8. Logs of Test Pits  
    Figure A-9. Sieve Analysis Results  
    Figure A-10. Pilot Infiltration Test Results: TP/PIT-7  
    Figure A-11. Pilot Infiltration Test Results: TP/PIT-8

Appendix B.

    Figures B-1 through B-6. Logs of Test Pits  
    Figures B-7 and B-8. Sieve Analysis Results  
    Figure B-9. Pilot Infiltration Test Results: TP/PIT-1  
    Figure B-10. Pilot Infiltration Test Results: TP/PIT-6

Appendix C. Report Limitations and Guidelines for Use

## **1.0 INTRODUCTION**

This report presents the results of GeoEngineers, Inc.'s (GeoEngineers') geotechnical engineering services for the Proposed Tri-County Sub-Acute Detox Facility at NE 10<sup>th</sup> Avenue in Oak Harbor, Washington. The project location is shown in the Vicinity Map (Figure 1) and the existing site conditions are shown in the Site and Exploration Plan (Figure 2).

GeoEngineers provided geotechnical engineering services for the previously proposed site location of 730 North Oak Harbor Street in Oak Harbor, Washington. After completion of an initial phase of field explorations, the proposed building location was moved. No field explorations had been completed on the property at the new location; therefore, additional explorations were completed under a new agreement. Our understanding of the project is based on updated site plan information provided by Andrew Hauss with Cumming Corp. USA and Zachary Crum with BCRA, a review of a geologic map, our previous experience in the area, and experience on similar projects.

The following is a summary of our understanding of site conditions and design requirements:

- It is assumed that the building will be a wood-framed, single-story facility classified as a residential treatment facility by the Washington State Department of Health. The Sub-Acute Detox building will be approximately 10,300 square feet located on the western portion of the site with a finished floor elevation of 93.6 feet.
- The site is currently an undeveloped and vacant lot. Associated development infrastructure including paved parking, driveways, utilities, and stormwater improvements are also planned at the site. Based on previous experience in the City of Oak Harbor (City), infiltration is desirable and pilot infiltration tests (PITs) are required.

The purpose of our services was to provide geotechnical engineering recommendations and design criteria for site development. We also evaluated soil and groundwater conditions at the site as a basis for developing stormwater infiltration recommendations and a design infiltration rate for proposed shallow infiltration systems. Our scope of services included reviewing existing information, excavating seven additional test pits and completing two additional PITs, completing laboratory testing on samples obtained from the test pit explorations, performing engineering analyses, and preparing this report. Our geotechnical engineering services were completed in general accordance with our scope and fee estimate dated June 5, 2018, which was authorized on June 6, 2018 by John Matteson with Island County Facilities Management.

## **2.0 SITE DESCRIPTION**

### **2.1. Surface Conditions**

The site is located in a residential area bounded by NE 10<sup>th</sup> Avenue and single-family residences to the north, an apartment complex to the west, and undeveloped fields to the east and south. The site is a vacant mowed field. The site has a gentle downhill slope to the east with about 10 feet of vertical relief in 250 feet.

## 2.2. Geology

We reviewed a Washington State Department of Natural Resources (DNR) map for the project area, "Geologic Map of the Oak Harbor, Crescent Harbor, and Part of the Smith Island 7.5-minute Quadrangles, Island County, Washington" by Dragovich et al. (2006). The site is in an area mapped as Everson stade ice-contact deposits with Vashon stade glacial till mapped to the west. Everson ice-contact deposits typically consist of sand and gravel with locally variable amounts of silt, cobbles and boulders deposited during the Everson period of glaciation and typically occur as a thin mantle or in depressions ("kettles") over older glacial deposits. The Everson ice-contact deposits were deposited along glacial margins during a glacial recessional period and are likely not glacially consolidated to the extent of the underlying older Vashon deposits.

Vashon glacial till is generally a non-sorted, non-stratified mixture of sand, gravel and silt that has been overridden by several thousand feet of glacial ice. The glacial till unit typically has high shear strength, low compressibility, and low permeability characteristics in the undisturbed state.

## 2.3. Field Explorations

Subsurface soil and groundwater conditions were evaluated at the site by excavating seven test pits (TP/PIT-7, TP/PIT-8 and TP-9 through TP-13) using an excavator subcontracted to GeoEngineers. Test pits TP/PIT-7 and TP/PIT-8 were completed as PITs. Test pits and PITs were completed on June 13, 2018. The approximate locations of the test pits are shown in Figure 2. Details of the field exploration program, laboratory testing, and exploration logs, are presented in Appendix A.

During our initial services for the previously proposed building area along N Oak Harbor Street we completed six test pits and two PITs. The logs of test pits and PITs for the initial investigation are presented for reference in Appendix B and the locations shown in the site plan, Figure 2. The test pits and PITs are not discussed further in the text of this report.

## 2.4. Subsurface Conditions

The general soil profile at the site consists of topsoil overlying native ice-contact deposits and glacial till, consistent with the mapped geology. The upper portion of the ice-contact deposits was weathered.

- **Topsoil:** Topsoil was encountered at the ground surface at all exploration locations. The topsoil layer consisted of loose brown silty sand with variable amounts of organic matter including the surficial sod layer. The topsoil layer was typically 9 inches thick except for TP-7 where it was observed to be 12 inches thick. The engineering characteristics of this layer are variable but in its current state, this layer has low shear strength and is moderately compressible.
- **Ice-Contact Deposits:** Native soils consisting of ice-contact deposits or glacial transitional deposits were observed underlying the topsoil layer in all explorations. This unit generally consisted of sand and gravel with variable silt content and occasional cobbles. The upper 9 to 18 inches were observed to be weathered. This deposit was observed to extend to depths of 3½ to 7 feet below ground surface (bgs). This unit has moderate to high shear strength, low compressibility and variable permeability characteristics.
- **Glacial Till:** Glacial till was observed underlying the ice-contact deposits in all explorations. The glacial till consisted of dense to very dense silty sand with gravel. Glacial till was encountered to the full depth

explored in all explorations. This unit has very high shear strength, low compressibility, and low permeability characteristics.

## 2.5. Groundwater Conditions

Groundwater seepage was encountered in TP-9, TP-11, TP-12 and TP-13. Determination of seepage at TP/PIT-7 and TP/PIT-8 was not possible due to the infiltration tests completed at these locations. Groundwater seepage was typically observed at 4 to 6 feet bgs, just above the very dense glacial till contact depth. The groundwater seepage observed was interpreted to be perched groundwater. Shallow perched groundwater conditions can develop within sandier zones of the ice-contact deposits above very dense and relatively impermeable glacial till during the wetter portions of the year. The explorations were not left open long enough to allow groundwater levels to stabilize, nor were monitoring wells installed to monitor groundwater levels over time. The regional groundwater table is anticipated to be well below any proposed improvements. The groundwater conditions should be expected to vary as a function of season, precipitation and other factors.

# 3.0 CONCLUSIONS AND RECOMMENDATIONS

## 3.1. General

We conclude that the proposed structure can be supported on conventional shallow foundations. A summary of the primary design and development considerations for the proposed site development is provided below. The summary is presented for introductory purposes and should only be used in conjunction with the complete recommendations presented in this report.

- A Site Class D, in accordance with the 2015 International Building Code (IBC), is appropriate for design.
- Shallow foundations for the structures bearing on medium dense ice-contact deposits or compacted structural fill extending to these soils may be proportioned using an allowable bearing pressure of 3,000 pounds per square foot (psf).
- The building floor slab can be constructed as a conventional slab-on-grade with a minimum 4-inch thickness of capillary break material. An under slab drain system is not necessary.
- Excavations are expected to be limited to approximately 4 to 6 feet below existing site grades. Temporary open cut slopes are feasible at the site.
- Some of the surficial site soils have an elevated silt content. Although the majority of the soils will be suitable for all-weather earthwork, scheduling earthwork for the drier summer months would minimize grading costs for the project.
- Based on explorations and pilot infiltration testing, the site is suitable for the proposed infiltration and bioinfiltration systems.

## 3.1. Seismic Design Considerations

### 3.1.1. Seismicity

The site is located within the Puget Sound region, which is seismically active. Seismicity in this region is attributed primarily to the interaction between the Pacific, Juan de Fuca and North American plates. The Juan de Fuca plate is subducting beneath the North American plate. It is thought that the resulting

deformation and breakup of the Juan de Fuca plate might account for the deep focus earthquakes in the region. Hundreds of earthquakes have been recorded in the Puget Sound area. In recent history, four of these earthquakes were large events: (1) in 1946, a Richter magnitude 7.2 earthquake occurred in the Vancouver Island, British Columbia area; (2) in 1949, a Richter magnitude 7.1 earthquake occurred in the Olympia area; (3) in 1965, a Richter magnitude 6.5 earthquake occurred between Seattle and Tacoma; and (4) in 2001, a Richter magnitude 6.8 earthquake occurred near Olympia.

Research has concluded that historical large magnitude subduction-related earthquake activity has occurred along the Washington and Oregon coasts. Evidence suggests several large magnitude earthquakes (Richter magnitude 8 to 9) have occurred in the last 1,500 years, the most recent of which occurred about 300 years ago. No earthquakes of this magnitude have been documented during the recorded history of the Pacific Northwest. Local design practice in Puget Sound and local building codes now include the possible effect of a very large subduction earthquake and local known faults in the design of structures. The Utsalady Point Fault (No. 1) is mapped approximately  $\frac{1}{4}$  mile northeast of the site, the Oak Harbor Fault is mapped approximately  $1\frac{1}{2}$  miles southwest and the Southern Whidbey Fault is mapped approximately 10 miles southwest of the site. In our opinion, the site has a low risk of fault rupture.

### 3.1.2. 2015 IBC Seismic Design Information

The project will be designed utilizing 2015 IBC. We recommend the project site be classified as Site Class D as defined in the IBC. The design parameters for the 2015 IBC are summarized in Table 1 below. These values are based on an earthquake event that has a 2 percent chance of exceedance in a 50-year period.

**TABLE 1. SPECTRAL RESPONSE ACCELERATIONS (SRAs)**

<b>SRA and Site Coefficients</b>	<b>Short Period</b>	<b>1 Second Period</b>
Mapped SRA	SS = 1.324	S1 = 0.521
Site Coefficients	Fa = 1.0	Fv = 1.5
Max. Considered Earthquake SRA	SMS = 1.324	SM1 = 0.782
Design SRA	SDS = 0.883	SD1 = 0.521

Note: Soil Profile Type D Description: Stiff Soil Profile (15 < N < 50)

### 3.1.3. Liquefaction Potential

Liquefaction is a phenomenon where soils experience a rapid loss of internal strength as a consequence of strong ground shaking. Ground settlement, lateral spreading and/or sand boils may result from liquefaction. Structures supported on liquefied soils could suffer foundation settlement or lateral movement that could be severely damaging to the structure. Conditions favorable to liquefaction occur in loose to medium dense, clean to moderately silty sand that is below the groundwater level. Dense soils or soils that exhibit cohesion are less likely to be susceptible to liquefaction. The proposed building is underlain by generally medium dense to dense granular soils which are not considered susceptible to liquefaction.

## 3.2. Foundations

The proposed development will consist of a single-story wood framed structure with a finished floor elevation of 93.6 feet. Based on site topography structural fill will be required on the eastern portions of

the building to achieve subgrade elevation. The structure may be founded on conventional isolated or continuous spread footings as described below.

### **3.2.1. Foundation Design**

We recommend an allowable bearing pressure of 3,000 psf for shallow foundations where footings are founded on medium dense ice-contact deposits, glacial till, or on compacted structural fill over native glacial soils. For shallow foundation support, we recommend footing widths of at least 18 and 24 inches, respectively, for continuous wall and isolated column footings supporting the proposed buildings.

The allowable bearing pressure applies to the total dead and long-term live loads and may be increased up to one-third for short-term live loads such as wind or seismic forces. All footings near below-grade walls should be embedded to a depth that is at least below a 1H:1V (horizontal to vertical) line projected up from the bottom of the closest section of wall, otherwise the below-grade walls need to be designed for lateral loads from the footings.

Exterior footings for structures should be founded at least 18 inches below lowest adjacent finished grade for frost protection. Interior footings should be founded at least 12 inches below bottom of slab or adjacent finished grade.

### **3.2.2. Foundation Settlement**

We estimate that the post-construction settlement of footings founded on undisturbed ice-contact deposits, glacial till, or structural fill, as recommended in one of the options above, will be less than  $\frac{3}{4}$ -inch. Differential settlement between comparably loaded column footings or along a 25- to 50-foot section of continuous wall footing should be less than  $\frac{1}{2}$  inch. Soft, loose or disturbed soils not removed from footing excavations prior to placing concrete will result in additional settlement.

### **3.2.1. Footing Subgrade Preparation**

Shallow foundations should bear on undisturbed, medium dense to very dense native glacial soils or properly compacted structural fill extending down to native soil. Exposed native sand and gravel should be compacted to remediate any disturbance from the excavations. Any soft, loose or disturbed material remaining should be removed from the excavation. Portions of the subgrade soils that do not respond to compaction may require limited overexcavation and replacement up to 2 feet, or as directed by the field engineer. Depending on the silt content of the exposed subgrade, it may be prudent to place a layer of crushed rock on the bottom of the footing excavations to protect the footing subgrade soils from water and/or wet weather during construction. If it is necessary to place structural fill below footings, we recommend that the structural fill extend horizontally a distance equal to one-half the thickness (depth) of the fill, or a minimum of 12 inches, whichever is greater. The fill should be compacted to 95 percent of the maximum dry density (MDD) in accordance with ASTM International (ASTM) D 1557 and our recommendations for structural fill. Alternatively, the lateral limits of the overexcavation could be limited to the edge of the footings plus 6 inches if the overexcavation is backfilled with controlled density fill (CDF) or lean concrete.

### **3.2.2. Lateral Resistance**

Lateral foundation loads may be resisted by friction on the bases of the footings and by passive resistance on the sides of the footings. For footings supported in accordance with our recommendations, the allowable

frictional resistance may be computed using a coefficient of friction of 0.40 applied to vertical dead-load forces. The allowable passive resistance may be computed using an equivalent fluid density of 300 pounds per cubic foot (pcf) if the footing is poured directly against medium dense to dense sand and gravel or properly placed and compacted structural fill. The allowable passive resistance assumes that the soil extends out horizontally from the face of the foundation element for a distance at least equal to three times the height of the element and that structural fill is compacted to at least 90 percent of the MDD in accordance with ASTM D 1557. These values are for soil above the groundwater table and incorporate a factor of safety of about 1.5.

### **3.2.3. Construction Considerations**

Immediately prior to placing concrete, all debris and loose soils that accumulated in the footing excavations during forming and steel placement must be removed. Debris or loose soils not removed from the footing excavations will result in increased settlement.

We recommend that all completed footing excavations be observed by a representative of our firm prior to placing reinforcing steel and structural concrete. Our representative will evaluate that the bearing surface has been prepared in a manner consistent with our recommendations and that the subsurface conditions are as expected.

## **3.3. Slab-on-Grade Floor**

### **3.3.1. Subgrade Preparation**

The ground floor of the proposed structures may be supported as slabs-on-grade. It may be necessary to place structural fill to achieve finished floor subgrades. The slab should be supported on native ice-contact deposits, glacial till or on structural fill placed over these materials in accordance with the described site preparation and structural fill recommendations.

We recommend the subgrade be evaluated by a representative of our firm prior to placing the recommended capillary break material. Prior to placing the capillary break layer, the subgrade should be proof-rolled as described in the "Earthwork" section (Section 3.9) of this report, or probed by our representative.

### **3.3.2. Capillary Break**

A minimum 4-inch thick capillary break layer consisting of 1½-inch minus clean crushed gravel with negligible sand and silt per the 2018 Washington State Department of Transportation (WSDOT) Standard Specification Section 9-03.1(4)C, Grading No. 57, or other granular material with less than 3 percent silt as approved by the Engineer, should be placed to provide uniform support and form a capillary break beneath the slab.

The capillary break material should be covered with a heavy plastic sheet, such as 10-mil plastic sheeting, to act as a vapor retarder in all interior spaces. We recommend that the vapor barrier be constructed in accordance with the American Concrete Institute (ACI 302.1R) and that the plastic sheet be placed over the capillary break layer. The contractor should be made responsible for maintaining the integrity of the vapor barrier during construction.

### **3.4. Site Drainage Considerations**

Based on permeability of ice-contact deposits a perimeter footing drain is not required, but could be included for additional assurance, especially on the upslope (west) side of the structure. Additional drainage recommendations are provided below:

- We did not observe soil conditions that suggest that an underslab drainage system is necessary for general slab-on-grade for the building.
- If earthwork will occur during the wet season, perimeter ditching or interceptor trenches may be required to manage surface water entering the site.
- We recommend all downspouts be tightlined away from the building foundation area to the infiltration system.

### **3.5. Stormwater Infiltration Considerations**

Stormwater management at the site will consist of downspouts routed to a buried chamber infiltration system and paved surfaces routed to bioretention cells with underdrains and below-grade infiltration chambers. Design infiltration rates were determined based on guidance from the Washington Department of Ecology's 2014 Stormwater Management Manual for Western Washington (2014 SMMWW). The short-term infiltration was determined based on two in-situ PITs.

#### **3.5.1. Pilot Infiltration Tests (PITs)**

Two successful PITs were conducted at the site at the locations of TP/PIT-7 and TP/PIT-8 using GeoEngineers' standard methodology for stormwater facilities. Additional information regarding PIT procedures is presented in Appendix A. Infiltration data collected during the testing of TP/PIT-7 and TP/PIT-8 are presented in Figures A-10 and A-11.

#### **3.5.2. Design Infiltration Rates**

Table 2 summarizes short-term infiltration rates based on PIT results. Long-term infiltration rates were calculated for PIT methods using correction factors from Table III-3.3.1 of the 2014 SMMWW.

We recommend a correction factor for site variability ( $CF_v$ ) of 0.6 primarily due to the potential for soil variability at the site. A test correction factor ( $CF_t$ ) of 0.5 was applied to the PIT analysis method in accordance with Table III-3.3.1. A correction factor for influent control ( $CF_m$ ) of 0.9 is recommended, also in accordance with 2014 SMMWW. The resulting total composite correction factor ( $CF_r$ ) is  $CF_v \times CF_t \times CF_m$  corresponding to 0.27 for the small-scale PIT method.

**TABLE 2. LABORATORY AND INFILTRATION RATE SUMMARY**

Exploration Number	Sample Depth (feet)	USCS Symbol	Short-term Rate Based on PIT Results <sup>2</sup> (in/hr)	Long-term Rate Based on PIT Results <sup>2</sup> and CF=0.27 <sup>3</sup> (in/hr)
TP/PIT-7	2.5	SP-SM	4	1.08
TP/PIT-8	2.5	SP-SM	0.95	0.26

Notes:

<sup>1</sup> 2014 SMMWW Volume III, Section 3.3.6

<sup>2</sup> Based on 2014 SMMWW Small-Scale Pilot Infiltration Test guidelines (Section 3.3.6)

<sup>3</sup> CF based on following correction values: CF<sub>y</sub>=0.6, CF<sub>t</sub>=0.5, CF<sub>m</sub>=0.9 (2014 SMMWW Table 3.3.1)

in/hr = inches per hour

Based on factored, short-term infiltration rates from PIT testing, we recommend a long-term infiltration rate of 0.25 inches per hour be used at the site. This rate includes appropriate correction factors outlined in the 2014 SMMWW we recommend that infiltration systems include an overflow system.

### 3.5.3. Infiltration Chamber Considerations

The proposed infiltration facility will consist of plastic half round chambers with open bottoms. We understand that the bottom of chamber elevation will be 88 feet. Therefore, based on our explorations the required minimum 5-foot separation to the lower permeability till layer will be achieved. Some structural fill will be required during site grading to achieve a chamber elevation of 88 feet. Any structural fill below infiltration facility should consist of clean aggregate with negligible fines content. A suitable specification is AASHTO Grading No. 57, or other approved by GeoEngineers. The chambers may be designed with an allowable bearing capacity of 3,000 psf.

The proposed site grading is such that the top elevation of the curb is Elevation 92 feet, with a 5-foot landscape area and then a 3H:1V slope to existing grade at Elevation 86 feet. The horizontal distance from the infiltration facility to native ground is approximately 17 feet with 2 feet elevation difference between the bottom of chamber and intersection of site grading with native ground. It is our opinion that there is a very low risk of slope stability or seepage concerns due to the proposed geometry downgradient of the infiltration facility.

### 3.5.4. Infiltration Facility Subgrade Preparation

Subgrades below infiltration areas should be stripped of all silty and organic surface material to expose the ice-contact deposits. The exposed subgrade should be lightly scarified before constructing the infiltration section. Prepared subgrades should be protected from construction traffic, standing water or other disturbance. If portions of the subgrade become disturbed or are overcompacted, the subgrade should be scarified to a minimum depth of 8 inches and recompacted. The subgrade should be recompacted to between 90 and 92 percent of the MDD per ASTM International (ASTM) D 6938.

### 3.5.5. Cation Exchange Capacity and Organic Content

We submitted two samples for Cation Exchange Capacity (CEC) and Organic Content testing. The test results are included on the logs and in Appendix A.

The 2014 SMMWW requires that infiltration soils used for pollutant treatment have CEC values greater than or equal to 5 milliequivalents CEC per 100 grams of dry soil and organic content greater than or equal to one percent (Volume III, Section 3.3.7 Site Suitability Criteria 6). The existing site soils tested barely meet both requirements at TP/PIT-8. The sample tested from TP/PIT-7 is slightly under the requirement with CEC result of 4.6 meq/100g.

**TABLE 3. RESULTS OF ORGANIC CONTENT AND CATION EXCHANGE CAPACITY TESTING**

Exploration Number	Sample Depth (ft)	Organic Content (%)	Cation Exchange Capacity, CEC <sup>1</sup> (meq/100g)
TP/PIT-7	2.5	1.0	4.6
TP/PIT-8	2.5	1.0	5.0

### **3.6. Light Pole Foundations**

The character of the subsurface conditions will vary at the exact pole locations. Most of the upper soils will consist of granular ice-contact deposits. We recommend that drill rigs be capable of difficult drilling conditions including encountering gravels and likely cobbles in the ice-contact sands and gravels and very dense glacial till. The drill rig should have sufficient torque, down pressure and tools to achieve required design penetrations. Perched groundwater was encountered at some locations at the glacial till contact at approximately 4 to 7 feet bgs. Therefore, the contractor should be prepared to encounter caving conditions, and case the holes or otherwise manage groundwater for proper installation. The slough at the bottom of drilled shafts should be limited to 2 inches.

For the granular fill and ice-contact deposits at the site, we recommend an “allowable lateral bearing pressure” of 2,500 psf based on WSDOT Standards (Table 17-2 of *WSDOT Geotechnical Design Manual*). From the Foundation Depth Table, the foundation depth is dependent on the “allowable lateral bearing capacity,” foundation type (round or square), and “XYZ” of the signals/light poles.

### **3.7. Pavement Design Recommendations**

#### **3.7.1. Subgrade Preparation**

We recommend the subgrade soils in new pavement areas be prepared and evaluated as described in “Earthwork” Section 3.9 of this report. If the subgrade soils are excessively loose or soft, it may be necessary to excavate localized areas and replace them with additional gravel borrow or gravel base material. Pavement subgrade conditions (outside of infiltration areas) should be compacted to at least 95 percent MDD or to the extent practical, which may require aeration during dry weather.

#### **3.7.2. New Hot Mix Asphalt Pavement**

For typical light-duty pavement areas (e.g., automobile parking), we recommend a pavement section consisting of at least a 3-inch thickness of  $\frac{1}{2}$ -inch hot mix asphalt (HMA) (PG 58-22) per WSDOT Sections 5-04 and 9-03, over a 4-inch thickness of densely compacted crushed surfacing base course per WSDOT Section 9-03.9(3). In heavy-duty pavement areas (e.g., truck traffic areas, materials delivery) around the building, we recommend a pavement section consisting of at least a 4-inch thickness of  $\frac{1}{2}$ -inch HMA (PG 58-22) over 6-inch thickness of densely compacted crushed surfacing base course. The base course should be compacted to at least 95 percent of the MDD (ASTM D-1557). We recommend that a

proof-roll of the compacted base course be observed by a representative from our firm prior to paving. Soft or yielding areas observed during proof-rolling may require over-excavation and replacement with compacted structural fill.

The pavement sections recommended above are based on our experience. Thicker asphalt or gravel base sections may be needed based on the actual subgrade conditions, traffic data and intended use.

### **3.7.3. Portland Cement Concrete Pavement**

Portland cement concrete (PCC) sections should be considered for trash dumpster areas and where other concentrated heavy loads may occur. We recommend that these pavements consist of at least 6 inches of PCC over 6 inches of crushed surfacing base course. A thicker concrete section may be needed based on the actual traffic data. If the concrete pavement will have doweled joints, we recommend that the concrete thickness be increased by an amount equal to the diameter of the dowels. The base course and subgrade should be compacted to at least 95 percent MDD.

We recommend PCC pavements incorporate construction joints and/or crack control joints spaced maximum distances of 12 feet apart, center-to-center, in both the longitudinal and transverse directions. Crack control joints may be created by placing an insert or groove into the fresh concrete surface during finishing, or by sawcutting the concrete after it has initially set-up. We recommend the depth of the crack control joints be approximately quarter the thickness of the concrete; or about 1½ inches deep for the recommended concrete thickness of 6 inches. We also recommend the crack control joints be sealed with an appropriate sealant to help restrict water infiltration into the joints.

### **3.7.1. Ballasted Sidewalk**

We understand that ballasted sidewalks are planned as part of the project. The sidewalk will drain to one side where clean drainage rock will allow surface flow to infiltrate under the sidewalk and into a 6-inch layer of permeable ballast over the subgrade soils. The sidewalk subgrade should be prepared in accordance with the same recommendations provided in Section 3.5.4 Infiltration Facility Subgrade Preparation.

## **3.8. Rockeries**

We understand that rockeries may be used for minor grade transitions at the site. The primary purpose of a rockery is to protect the slope face from erosion and raveling, while providing limited soil retention. Rockeries may be used in both cut and fill areas. Rockeries are planned to be less than 4 feet exposed height. The height is measured as the vertical distance from the ground surface in front of the toe of the rockery to the top of the rockery. Rockeries should be installed by a qualified contractor experienced in rockery construction.

The base of rockeries should be embedded at least one-half the thickness of the lowest course of rocks or 12 inches below the adjacent ground surface, whichever is greater. Rockeries should be supported on firm, undisturbed native soils or compacted structural fill. The rockery should be constructed using rock sizes and procedures specified by the Association of Rockery Contractors and the 2018 WSDOT Standard Specifications, Sections 8-24 and 9-13.7(1), for the required rockery heights. A minimum 12-inch thick drainage layer consisting of permeable ballast per WSDOT 9-03.9(2) should be placed behind the rockery and drain to a drain pipe routed to a suitable discharge.

### 3.9. Earthwork

The existing native ice-contact deposits consist of sand with variable amounts of silt and gravel. Existing topsoil overlying native soils consist of silty sand with some organic matter. These soils are moisture-sensitive and are susceptible to disturbance by construction equipment during wet weather.

Temporary erosion control measures should be used during construction on the grade, location, soil type and other factors. Temporary erosion protection (for example, straw, plastic or rolled erosion control products [RECPs]) may be necessary to reduce sediment transport until vegetation is established or permanent surfacing applied. Appropriate BMPs should be incorporated into the temporary erosion and sediment control plan developed by the civil engineer. We are available to provide input if requested.

#### 3.9.1. Site Preparation

The proposed improvements will be constructed in areas currently surfaced primarily with field grass and topsoil. We recommend that any existing vegetation, sod and topsoil be stripped from all new building, pavement, and hardscape areas. For planning purposes, our test pit explorations indicate the depth of topsoil across the site to typically be 9 inches with some areas up to 12 inches.

After site stripping, the remaining native soils should be evaluated when exposed to determine if suitable for subgrade support of buildings and pavement. We recommend that the exposed subgrade be compacted to a firm and non-yielding condition prior to fill placement with a large vibratory roller. Any soft, loose, or otherwise unsuitable areas identified during subgrade preparation that cannot be compacted to a firm condition should be removed and replaced with compacted structural fill. During wet conditions or in areas of overexcavation, subgrade surfaces should be evaluated using a hand probe rod. We recommend that the subgrade be evaluated by a representative of GeoEngineers to confirm the subgrade is adequate for structural support.

Areas that will be used for infiltration facilities should not be compacted and construction traffic should not be allowed in these areas.

#### 3.9.2. Excavation

We expect that excavations for the proposed development will be limited to footings and utilities and will generally encounter fill and granular ice-contact deposits. Deeper excavations may encounter glacial till. Excavation can be completed using conventional earthwork equipment, although the very dense glacial till will be difficult to excavate. **Larger horsepower excavators, or dozers with ripping teeth will be more efficient for the dense glacial till layer.** Cobbles, boulders and/or very large glacial erratics may be encountered in the ice-contact deposits and glacial till.

Regardless of the soil type encountered in the excavation, either shoring, trench boxes or sloped sidewalls will be required for excavations deeper than 4 feet under Washington State Administrative Code (WAC) 296-155, Part N. We expect the excavations will be made as open cuts in conjunction with the use of a trench box and/or sloped sidewalls for shielding workers. For planning purposes only, the ice-contact deposits found on site is classified as "Type B" soil. The regulations allow temporary slopes for this condition up to 1H:1V. Glacial till found on-site is classified as "Type A" soil and regulations allow temporary slopes for this condition up to 0.75H:1V

The above regulations assume that surface loads such as construction equipment and storage loads will be kept a sufficient distance away from the top of the cut so the stability of the excavation is not affected. Flatter slopes and/or shoring will be necessary for those portions of the excavations which are subjected to significant seepage in order to maintain the stability of the cut. Temporary slopes in wet/saturated sand and gravel will be susceptible to sloughing, raveling and “running” conditions. It should be expected that unsupported cut slopes will experience some sloughing and raveling if exposed to surface water. Berms, hay bales or other provisions should be installed along the top of the excavation to intercept surface runoff to reduce the potential for sloughing and erosion of cut slopes during wet weather.

In our opinion, the contractor will be in the best position to observe subsurface conditions continuously throughout the construction process and to respond to the soil and groundwater conditions. Construction site safety is generally the sole responsibility of the contractor, who also is solely responsible for the means, methods, and sequencing of the construction operations and choices regarding temporary excavations and shoring. We are providing this information only as a service to our client. Under no circumstances should the information provided below be interpreted to mean that GeoEngineers, Inc. is assuming responsibility for construction site safety or the contractor's activities; such responsibility is not being implied and should not be inferred.

### **3.9.3. Structural Fill**

#### **3.9.3.1. General**

All new fill placed under the building and pavement areas should be placed and compacted as structural fill after the site preparation work is completed. The fill should be placed in horizontal lifts not exceeding 10 inches in loose thickness, or that thickness necessary to obtain the specified compaction with the equipment used. Each lift must be thoroughly and uniformly compacted. All structural fill material should be free of organic matter, debris and other deleterious material. The maximum particle size diameter should be the lesser of either 5 inches or one half of the loose lift thickness.

We recommend that all structural fill placed in building areas, or in pavement areas within 2 feet of pavement finished grade, be compacted to at least 95 percent of MDD as determined by the ASTM D 1557 test procedure. Below the upper 2 feet in pavement areas, we recommend that structural fill be compacted to at least 90 percent of the MDD.

As the amount of fines (material passing the U.S. No. 200 sieve) increases in a soil, it becomes more sensitive to small changes in moisture content and during wet conditions, adequate compaction becomes more difficult to achieve. Generally, soils containing more than about 5 percent fines by weight cannot be properly compacted when the moisture content is more than a few percent from optimum.

Sufficient earthwork monitoring and a sufficient number of in-place density tests should be performed to evaluate fill placement and compaction operations and to confirm that the required compaction is being achieved.

#### **3.9.3.2. Reuse of On-Site Native Soils**

Ice-contact deposits may be suitable for reuse as structural fill during dry weather conditions. The existing native ice-contact deposits could be considered for reuse and compacted sufficiently in areas requiring compaction of 95 percent of MDD if placed during dry weather. We recommend that earthwork occur during the summer months to minimize earthwork costs. It may be necessary to segregate “suitable” soils from

over-optimum moisture or fine-grained soils and segregate out any oversized particles and debris for off-site disposal.

#### **3.9.3.3. Imported Fill**

Imported soil should conform to the recommendations provided in “General” section above. During wet weather or on wet subgrades, and in the building and pavement areas we recommend using a select import fill: a sand and gravel with a fines content of less than 5 percent based on that portion passing the 3/4-inch sieve. We also recommend that this material be used for structural fill below footings, as necessary. We generally recommend at least 30 percent gravel (retained on the U.S. No. 4 sieve). A suitable specification would be gravel borrow as described in Section 9-03.14(1) of the WSDOT Standard Specifications, with the additional restriction that the fines content be limited to no more than 5 percent. Specific recommendations for slab-on-grade capillary break and infiltration facilities are provided individually in the pertinent sections of this report. Other import soils may be submitted and approved by the geotechnical engineer.

#### **3.9.4. Weather Considerations**

During wet weather, the ice-contact deposits may be susceptible to erosion. We provide the following wet weather considerations:

- Construction activities should be scheduled so that the length of time that soils are left exposed to moisture is reduced to the extent practical and limit the size of areas that are stripped of topsoil and left exposed.
- The ground surface in and around the work area should be sloped so that surface water is directed to a sump or discharge location. The ground surface should be graded such that areas of ponded water do not develop.
- Slopes with exposed soils should be covered with plastic sheeting or similar means.
- Providing upgradient perimeter ditches or low earthen berms and using temporary sumps to collect runoff and prevent water from ponding and damaging exposed subgrades.

#### **3.10. Dewatering**

Dewatering is unlikely to be needed for this project; however, the contractor should be prepared to use sumps and pumps if construction occurs during wet season or if perched groundwater or zones of seepage are encountered during construction. If constructed during the dry season, the perched groundwater level should be limited.

#### **3.11. Recommended Additional Geotechnical Services**

GeoEngineers should be retained to review the project plans and specifications when complete to confirm that our design recommendations have been implemented as intended. During construction, GeoEngineers should evaluate the suitability of the foundation and pavement subgrades, installation of subsurface drainage measures (especially infiltration facility subgrade), evaluate structural backfill, and provide a summary letter of our construction observation services. The purposes of GeoEngineers construction phase services are to confirm that the subsurface conditions are consistent with those observed in the explorations and other reasons described in Appendix C, Report Limitations and Guidelines for Use.

## **4.0 LIMITATIONS**

We have prepared this report for use by Island County Facilities Management and members of the design team for use in design of the proposed Tri-County Sub-Acute Detox Facility located at 10<sup>th</sup> Avenue Site in Oak Harbor, Washington.

Within the limitations of scope, schedule and budget, our services have been executed in accordance with generally accepted practices in the field of geotechnical engineering in this area at the time this report was prepared. No warranty or other conditions, express or implied, should be understood.

Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.

Please refer to Appendix B, "Report Limitations and Guidelines for Use," for additional information pertaining to use of this report.

## **5.0 REFERENCES**

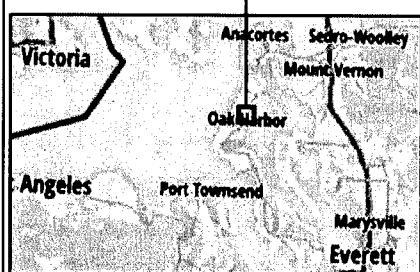
Dragovich, J.D., Petro, G.T., Thorsen, G.W., Larson, S.L., Foster, G.R., and Norman, D.K., Geologic map of the Oak Harbor, Crescent Harbor, and part of the Smith Island 7.5-minute quadrangles, Island County, Washington. Washington Division of Geology and Earth Resources Geologic Map, GM-59, scale 1:24,000, 2005.

International Code Council, "International Building Code." 2015

Washington State Department of Ecology, "Stormwater Management for Western Washington" Publication No. 14-10-055, December 2014.

Washington State Department of Transportation, "Standard Specifications for Road, Bridge and Municipal Construction." 2018.





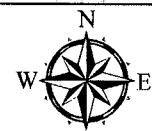
## Notes:

**NOTES:**

1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. cannot guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

Data Source: Mapbox Open Street Map, 2016

Projection: NAD 1983 UTM Zone 10N



2,000

2,000

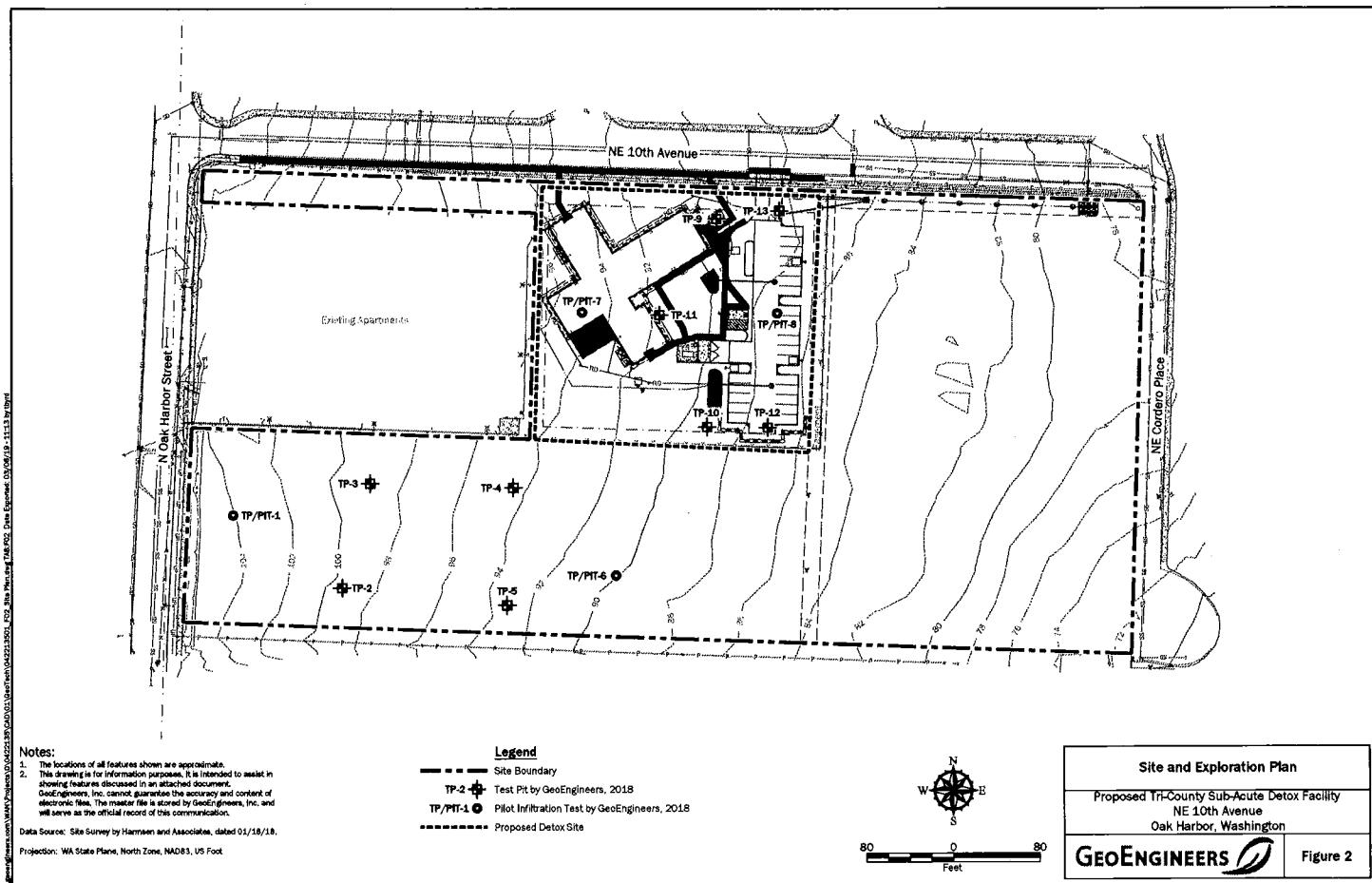
Feet

## Vicinity Map

## Proposed Tri-County Sub-Acute Detox Facility NE 10th Avenue, Oak Harbor, Washington

**GEOENGINEERS** 

Figure 1





**APPENDIX A**  
**Field Explorations and Laboratory Testing**

## **APPENDIX A**

### **FIELD EXPLORATIONS AND LABORATORY TESTING**

#### **Field Exploration**

Subsurface soil and groundwater conditions at the site were explored by GeoEngineers by excavating seven test pits (TP/PIT-7, TP/PIT-8 and TP-9 through TP-13) using a tracked excavator on June 13, 2018. The excavator was provided by Welch Brothers Construction subcontracted by GeoEngineers. The explorations were completed at the approximate locations shown in the Site and Exploration Plan, Figure 2. The locations of the explorations were determined by recreational grade global positioning system (GPS); therefore, the locations shown should be considered approximate. Test pits TP/PIT-7 and TP/PIT-8 were also completed as a Pilot Infiltration Test (PIT) as described below.

Disturbed soil samples were generally obtained from the sides of the test pits and the bucket of the excavator. The samples were placed in plastic bags to maintain the moisture content and transported back to our laboratory for analysis and testing. The test pits were backfilled with the excavated material upon completion and tamped with the excavator bucket.

The test pits were continuously monitored by a geotechnical engineer from our firm who examined and classified the soils encountered, obtained representative soil samples, observed groundwater conditions and prepared a detailed log of each exploration. Soils encountered were classified visually in general accordance with ASTM International (ASTM) D-2488-90, which is described in Figure A-1. The logs of the test pits are presented in Figures A-2 through A-8. The exploration logs are based on our interpretation of the field and laboratory data and indicate the various types of soils encountered. They also indicate the depths at which these soils or their characteristics change, although the change might actually be gradual. If the change occurred between samples in the test pits, it was interpreted.

#### **Laboratory Testing**

Soil samples obtained from the test pit explorations were transported to our laboratory and examined to confirm or modify field classifications, as well as to evaluate index properties of the soil samples. Representative samples were selected for laboratory testing consisting of the determination of the moisture content, percent fine s content, sieve analysis, organic content, and cation exchange capacity. The tests were performed in general accordance with test methods of ASTM or other applicable procedures.

#### **Moisture Content Testing**

The natural moisture contents of selected soil samples obtained from the test pits were determined in general accordance with ASTM D 2216 test procedures. The results from the moisture content determinations are displayed in the column labeled "Moisture Content %" adjacent to the corresponding samples on the summary logs.

#### **Percent Passing U.S. No. 200 Sieve**

Selected samples were "washed" through the U.S. No. 200 mesh sieve to determine the relative percentage of coarse- and fine-grained particles in the soil. The percent passing value represents the percentage by weight of the sample finer than the U.S. No. 200 sieve. These tests were conducted in general accordance with ASTM D 1140. The results from the percent fines determinations are displayed in the column labeled "Fines Content (%)" adjacent to the corresponding samples on the summary exploration logs.

### Sieve Analyses

Sieve analyses were performed on selected samples in general accordance with ASTM D 422 to determine the sample grain size distribution. The wet sieve analysis method was used to determine the percentage of soil greater than the U.S. No. 200 mesh sieve. The results of the sieve analyses were plotted, classified in general accordance with the Unified Soil Classification System (USCS), and are presented in Figure A-9.

### Organic Content

Organic content testing was completed on two samples in accordance with ASTM D 2974. The results of these tests are summarized in Table A-1 below and are indicated on the logs.

**TABLE A-1. RESULTS OF ORGANIC CONTENT TESTING**

Exploration Number	Sample Depth (ft)	Organic Content (%)
TP/PIT-7	2.5	1.0
TP/PIT-8	2.5	1.0

### Cation Exchange Capacity (CEC)

Laboratory testing for the project included submitting two representative samples to be analyzed for CEC per EPA Method 9080. The results of the analytical testing are summarized in Table A-2 below.

**TABLE A-2. RESULTS OF CATION EXCHANGE CAPACITY TESTING**

Exploration Number	Sample Depth (ft)	Cation Exchange Capacity, CEC <sup>1</sup> (meq/100g)
TP/PIT-7	2.5	4.6
TP/PIT-8	2.5	5.0

### Pilot Infiltration Testing

#### Summary

Two small scale pilot infiltration test (PITs) were successfully completed at the site at the locations of TP/PIT-7 and TP/PIT-8. The approximate locations of both PITs are shown in Figure 2 and a description of the PIT procedures is included below.

The PITs were conducted using GeoEngineers' standard methodology for stormwater facilities in Western Washington. The methodology is a synthesis of the best practices and generally meets and/or exceeds current procedures set forth by the Department of Ecology.

The measured initial hydraulic conductivity rate ( $K_{sat\text{-initial}}$ ) of the single completed cycle of TP/PIT-7 and TP/PIT-8 were 4.0 and 0.95 inches per hour respectively. Infiltration data collected during the infiltration testing of TP/PIT-7 and TP/PIT-8 are presented graphically in Figures A-10 and A-11, respectively.

#### Test Procedure

Pilot infiltration testing was completed on June 13, 2018. TP/PIT-7 and TP/PIT-8 were completed to a depth of about 3 feet with plan dimensions of about 6 feet by 4½ feet. The bottom area was about 27 square feet (sf).

A graduated wood stake (yard stick) was driven into the floor of the PITs as a visual reference for monitoring water levels during testing. A piezoelectric pressure transducer was secured to the yard stick to provide accurate water level records measured at thirty-second intervals throughout the duration of the test. The water source was provided via 2½ inch diameter fire hoses attached to a hydrant meter provided by the City of Oak Harbor. The hose was placed in a bucket in the test pit to reduce the potential for erosion caused by flowing water in the test hole.

The PITs were filled to a pre-determined initial water level (approximately 24 inches above the base of the excavation) then allowed to drain to a lower level. The PIT completed in TP/PIT-7 was filled four times. The PIT completed in TP/PIT-8 was filled twice. The overall testing process took approximately 8 hours for TP/PIT-7 and 7½ hours for TP/PIT-8. Water levels were measured frequently every 30 seconds, as shown in Figure A-10 for TP/PIT-7 and Figure A-11 for TP/PIT-8. At the conclusion of the infiltration tests, TP/PIT-7 was excavated to 7½ feet bgs and TP/PIT-8 was excavated to 6 feet bgs in order to obtain soil samples from below the bottom of the PIT base and evaluate presence or absence of groundwater or perching layers.

## SOIL CLASSIFICATION CHART

MAJOR DIVISIONS			SYMBOLS		TYPICAL DESCRIPTIONS
			GRAPH	LETTER	
COARSE GRAINED SOILS	GRAVEL AND GRAVELLY SOILS  MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN GRAVELS  (LITTLE OR NO FINES)		GW	WELL-GRADED GRAVELS, GRAVEL - SAND MIXTURES
		GRAVELS WITH FINES  (APPRECIABLE AMOUNT OF FINES)		GP	POORLY-GRADED GRAVELS, GRAVEL - SAND MIXTURES
		CLEAN SANDS  (LITTLE OR NO FINES)		GM	SILTY GRAVELS, GRAVEL - SAND - SILT MIXTURES
		GRAVELS WITH FINES  (APPRECIABLE AMOUNT OF FINES)		GC	CLAYEY GRAVELS, GRAVEL - SAND - CLAY MIXTURES
	SAND AND SANDY SOILS  MORE THAN 50% OF COARSE FRACTION PASSING ON NO. 4 SIEVE	CLEAN SANDS  (LITTLE OR NO FINES)		SW	WELL-GRADED SANDS, GRAVELLY SANDS
		SANDS WITH FINES  (APPRECIABLE AMOUNT OF FINES)		SP	POORLY-GRADED SANDS, GRAVELLY SAND
		CLEAN SANDS  (LITTLE OR NO FINES)		SM	SILTY SANDS, SAND - SILT MIXTURES
		SANDS WITH FINES  (APPRECIABLE AMOUNT OF FINES)		SC	CLAYEY SANDS, SAND - CLAY MIXTURES
FINE GRAINED SOILS	SILTS AND CLAYS  LIQUID LIMIT LESS THAN 50			ML	INORGANIC SILTS, ROCK FLOUR, CLAYEY SILTS WITH SLIGHT PLASTICITY
				CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
				OL	ORGANIC SILTS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
				MH	INORGANIC SILTS, MICAEOUS OR DIATOMACEOUS SILTY SOILS
	SILTS AND CLAYS  LIQUID LIMIT GREATER THAN 50			CH	INORGANIC CLAYS OF HIGH PLASTICITY
				OH	ORGANIC CLAYS AND SILTS OF MEDIUM TO HIGH PLASTICITY
		HIGHLY ORGANIC SOILS		PT	PEAT, HUMUS, SWAMP SOILS WITH HIGH ORGANIC CONTENTS

NOTE: Multiple symbols are used to indicate borderline or dual soil classifications

### Sampler Symbol Descriptions

- 
- 2.4-inch I.D. split barrel
- 
- Standard Penetration Test (SPT)
- 
- Shelby tube
- 
- Piston
- 
- Direct-Push
- 
- Bulk or grab
- 
- Continuous Coring

Blowcount is recorded for driven samplers as the number of blows required to advance sampler 12 inches (or distance noted). See exploration log for hammer weight and drop.

"P" indicates sampler pushed using the weight of the drill rig.

"WOH" indicates sampler pushed using the weight of the hammer.

### ADDITIONAL MATERIAL SYMBOLS

SYMBOLS		TYPICAL DESCRIPTIONS
GRAPH	LETTER	
	AC	Asphalt Concrete
	CC	Cement Concrete
	CR	Crushed Rock/ Quarry Spalls
	SOD	Sod/Forest Duff
	TS	Topsoil

### Groundwater Contact

Measured groundwater level in exploration, well, or piezometer

Measured free product in well or piezometer

### Graphic Log Contact

— Distinct contact between soil strata

— Approximate contact between soil strata

### Material Description Contact

— Contact between geologic units

— Contact between soil of the same geologic unit

### Laboratory / Field Tests

%F	Percent fines
%G	Percent gravel
AL	Atterberg limits
CA	Chemical analysis
CP	Laboratory compaction test
CS	Consolidation test
DD	Dry density
DS	Direct shear
HA	Hydrometer analysis
MC	Moisture content
MD	Moisture content and dry density
Mohs	Mohs hardness scale
OC	Organic content
PM	Permeability or hydraulic conductivity
PI	Plasticity index
PP	Pocket penetrometer
SA	Sieve analysis
TX	Triaxial compression
UC	Unconfined compression
VS	Vane shear

### Sheen Classification

NS	No Visible Sheen
SS	Slight Sheen
MS	Moderate Sheen
HS	Heavy Sheen

NOTE: The reader must refer to the discussion in the report text and the logs of explorations for a proper understanding of subsurface conditions. Descriptions on the logs apply only at the specific exploration locations and at the time the explorations were made; they are not warranted to be representative of subsurface conditions at other locations or times.

### Key to Exploration Logs

**GEOENGINEERS**

Figure A-1

Date Excavated	6/13/2018	Total Depth (ft)	7.5	Logged By Checked By	BWS AJH	Excavator Equipment	Welch Brothers Cat 312	See "Remarks" section for groundwater observed See "Remarks" section for caving observed
Surface Elevation (ft) Vertical Datum	95 NAVD88		Easting (X) Northing (Y)	1197063 481790		Coordinate System Horizontal Datum	WA State Plane North NAD83 (feet)	

Elevation (feet)	Depth (feet)	Testing Sample	Sample Name Testing	Graphic Log	Group Classification	MATERIAL DESCRIPTION			Moisture Content (%)	Fines Content (%)	REMARKS
0	0			TS	9 inches topsoil						
0.4	1			GP-GM	Brown fine to coarse gravel with silt, sand and rootlets (medium dense, moist) (ice-contact)						
0.8	2	1 SA		SPSM	Gray-brown fine to coarse sand with silt and gravel (medium dense, moist)				3	5	Moderate caving observed from 2 to 6 feet
1.2	3	SA OC CEC		SP	Gray-brown fine to coarse sand with gravel, trace silt (medium dense, moist)				4	5	OC = 1% CEC = 4.6 (meq/100g)
1.6	4	3		SP	Gray-brown fine to coarse sand with gravel, trace silt (medium dense, moist)						
2.0	5			SP							
2.4	6			SP					14	2	
2.8	7	4 SP		SM	Gray silty fine to coarse sand with gravel (very dense, moist) (till)				10	19	Groundwater seepage likely at 6 1/2 feet, water level observation not feasible based on PIT

Date: 7/2/18 Path-P:\0\0422135\GEO\GEOENGINEERS\DF\STD\JS\JUNE\_2017\GLB\GEO\TESTPIT-1P\_GEOLOGIC.SCE

Notes: See Figure A-1 for explanation of symbols.

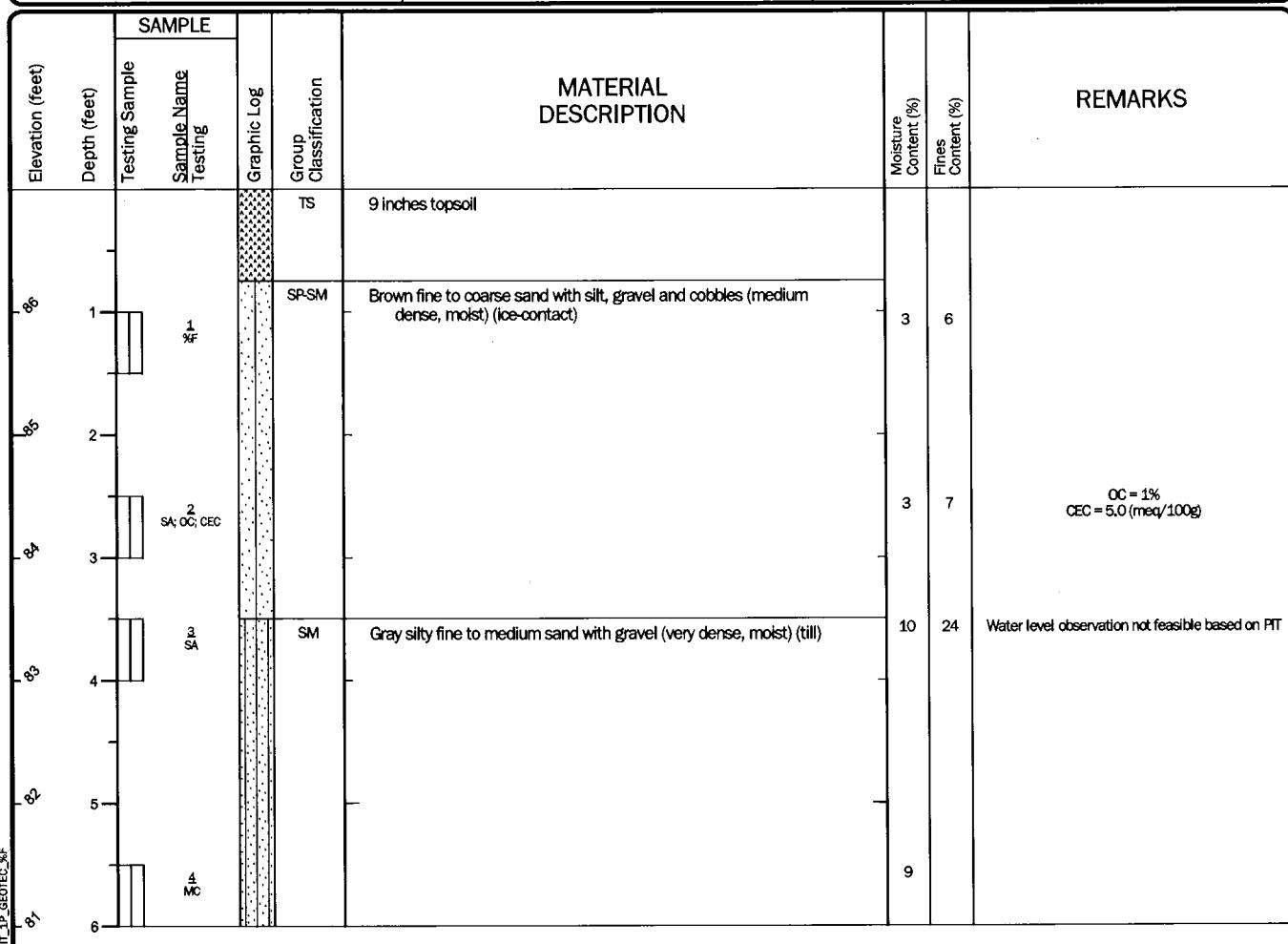
The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.

Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

### Log of Test Pit TP/PIT-7

<b>GEOENGINEERS</b> 	Project: Proposed Tri-County Sub-Acute Detox Facility Project Location: NE 10th Avenue, Oak Harbor, Washington Project Number: 0422-135-01	Figure A-2 Sheet 1 of 1
---	--	----------------------------

Date Excavated	6/13/2018	Total Depth (ft)	6	Logged By	BWS	Excavator	Welch Brothers	Groundwater not observed
Checked By	AIH	Equipment	Cat 312	Caving not observed				
Surface Elevation (ft)	87	Easting (X)	1197243	Coordinate System	WA State Plane North			
Vertical Datum	NAVD88	Northing (Y)	481789	Horizontal Datum	NAD83 (feet)			



Notes: See Figure A-1 for explanation of symbols.

The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.

Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

### Log of Test Pit TP/PIT-8

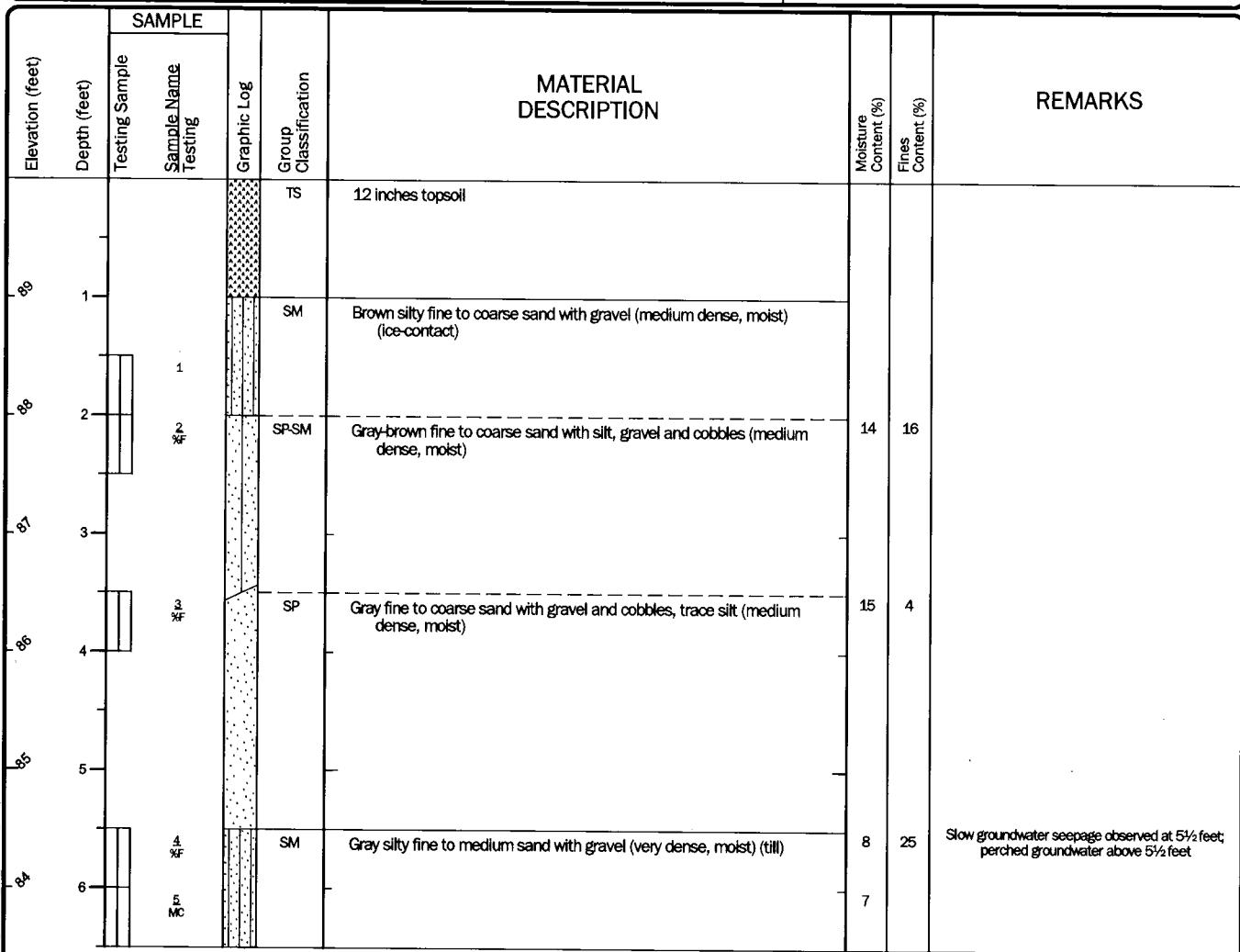


Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: NE 10th Avenue, Oak Harbor, Washington

Project Number: 0422-135-01

Date Excavated	6/13/2018	Total Depth (ft)	6.5	Logged By	BWS	Excavator	Welch Brothers	See "Remarks" section for groundwater observed			
Checked By	AJH	Equipment	Cat 312	Caving not observed							
Surface Elevation (ft)	90		Easting (X)	1197186		Coordinate System	WA State Plane North				
Vertical Datum	NAVD88		Northing (Y)	481875		Horizontal Datum	NAD83 (feet)				



Notes: See Figure A-1 for explanation of symbols

The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to  $\frac{1}{2}$  foot. Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

## Log of Test Pit TP-9

GEOENGINEERS 

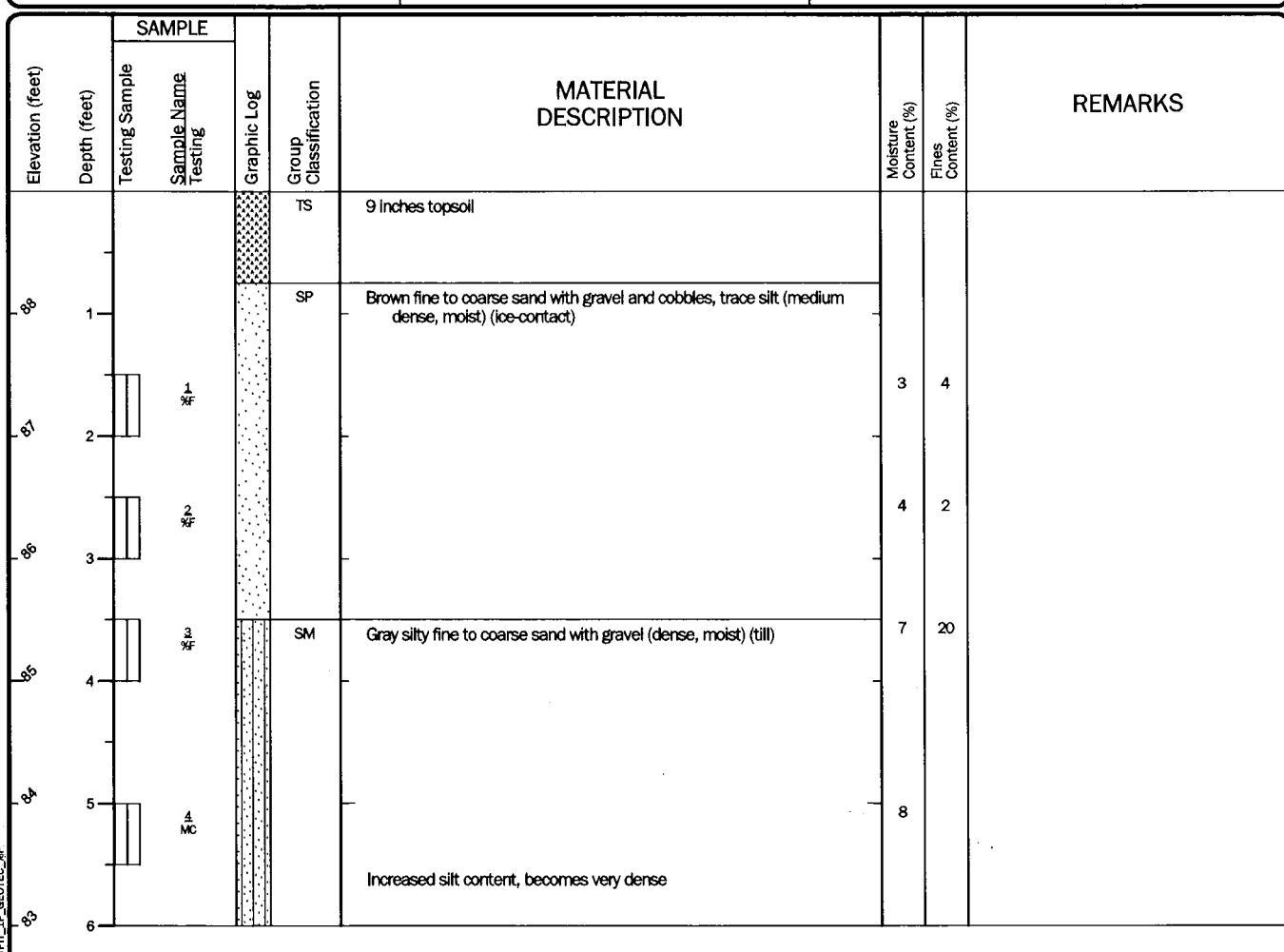
Project: Proposed Tri-County Sub-Acute Detox Facility

## Project Location: NE 10th Avenue, Oak Harbor, Washington

Project Number: 0422-135-01

Figure A-4  
Sheet 1 of 1

Date Excavated	6/13/2018	Total Depth (ft)	6	Logged By	BWS	Excavator	Welch Brothers	Groundwater not observed
Checked By	AJH	Equipment	Cat 312	Caving not observed				
Surface Elevation (ft)	89	Easting (X)	1197177	Coordinate System	WA State Plane North			
Vertical Datum	NAVD88	Northing (Y)	481686	Horizontal Datum	NAD83 (feet)			



Notes: See Figure A-1 for explanation of symbols.

The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.  
Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

### Log of Test Pit TP-10

<b>GEOENGINEERS</b> 	Project: Proposed Tri-County Sub-Acute Detox Facility
	Project Location: NE 10th Avenue, Oak Harbor, Washington
	Project Number: 0422-135-01

Date Excavated	6/13/2018	Total Depth (ft)	7.5	Logged By	BWS	Excavator	Welch Brothers	See "Remarks" section for groundwater observed See "Remarks" section for caving observed	
Surface Elevation (ft)	92 NAVD88			Easting (X)	1197134 Northing (Y) 481788		Coordinate System	WA State Plane North Horizontal Datum NAD83 (feet)	

Elevation (feet)	Depth (feet)	Testing Sample	Sample Name Testing	Graphic Log	Group Classification	MATERIAL DESCRIPTION			Moisture Content (%)	Fines Content (%)	REMARKS
					TS	9 inches topsoil					
9.7	1				SP-SM	Brown fine to coarse sand with silt, gravel, cobbles and rootlets (medium dense, moist) (ice-contact)					
9.0	2				SP	Gray fine to coarse sand with gravel and cobbles, trace silt (medium dense, moist)			3	7	Moderate caving observed from 2 to 6 feet
8.8	3								3	4	
8.6	4								3	4	
8.5	5				SPSM	Gray-brown fine to coarse sand with silt and gravel (dense, moist)			11	7	
8.3	6					Becomes wet			6		Moderate groundwater seepage observed at 6 feet
8.0	7				SM	Gray silty fine to medium sand with gravel (very dense, moist) (till)					

Notes: See Figure A-1 for explanation of symbols.  
The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.  
Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

### Log of Test Pit TP-11



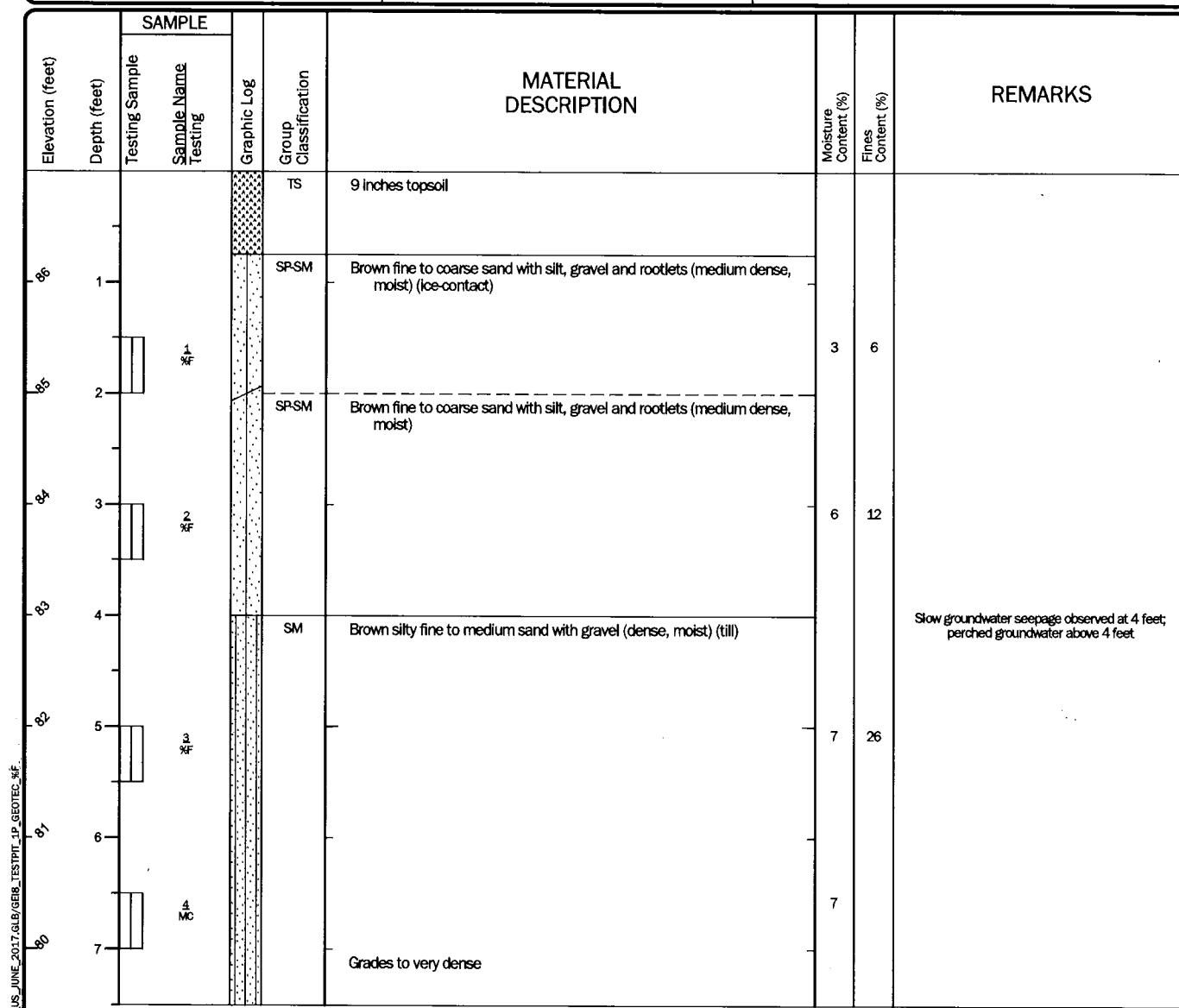
Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: NE 10th Avenue, Oak Harbor, Washington

Project Number: 0422-135-01

Figure A-6  
Sheet 1 of 1

Date Excavated	6/13/2018	Total Depth (ft)	7.5	Logged By	BWS	Excavator	Welch Brothers	See "Remarks" section for groundwater observed Caving not observed
Surface Elevation (ft)	87	Vertical Datum	NAVD88	Easting (X)	1197233	Northing (Y)	481685	Coordinate System Horizontal Datum WA State Plane North NAD83 (feet)



Date:7/12/2018 Path:P:\042213501.GPJ GINT:042213501.GPJ Delibary\Library\Geotechnical\Logs\TESTPIT\_1P\_GEOTEC\_SF

Notes: See Figure A-1 for explanation of symbols.

The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.  
Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

### Log of Test Pit TP-12



Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: NE 10th Avenue, Oak Harbor, Washington

Project Number: 0422-135-01

Figure A-7  
Sheet 1 of 1

Date Excavated	6/13/2018	Total Depth (ft)	7	Logged By	BWS	Excavator	Welch Brothers	See "Remarks" section for groundwater observed Caving not observed
Surface Elevation (ft) Vertical Datum	88 NAVD88	Easting (X)		Checked By	AJH	Equipment	Cat 312	Coordinate System Horizontal Datum WA State Plane North NAD83 (feet)

Elevation (feet)	Depth (feet)	Testing Sample	SAMPLE				Moisture Content (%)	Fines Content (%)	REMARKS
			Sample Name	Testing	Graphic Log	Group Classification			
81	1	1			TS	12 inches topsoil			
80	2				SP	Brown fine to coarse sand with gravel, occasional cobbles and rootlets, trace silt (medium dense, moist) (ice-contact)	2	3	
79	3								
78	4	2					11	3	
77	5				SM	Gray silty fine to coarse sand with gravel (very dense, moist) (till)			
76	6						8		Moderate groundwater seepage observed at 5 feet perched groundwater above 5 feet
75	7								

Notes: See Figure A-1 for explanation of symbols.

The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.  
Coordinates Data Source: Horizontal approximated based on aerial imagery. Vertical approximated based on topographic survey.

### Log of Test Pit TP-13

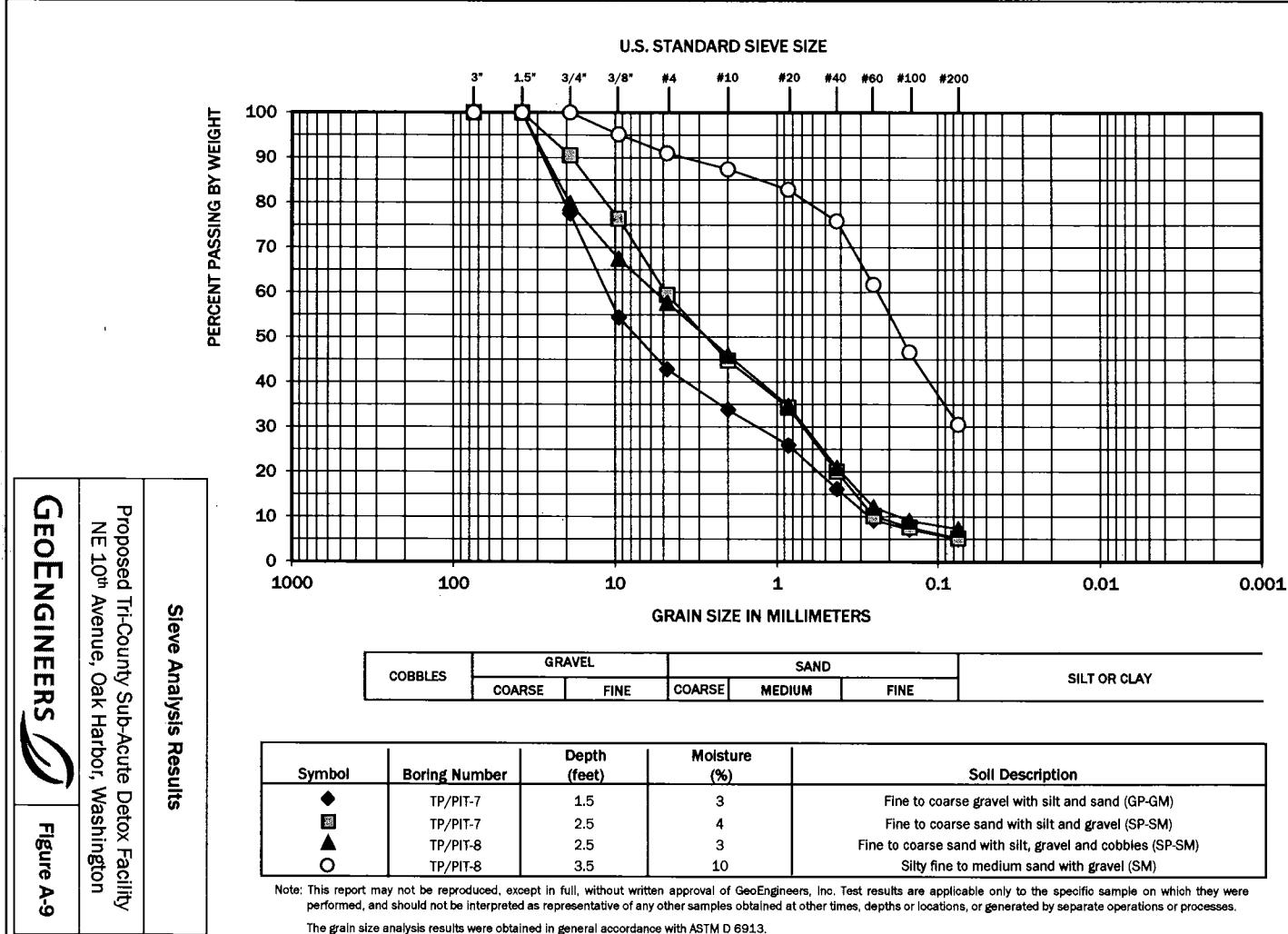


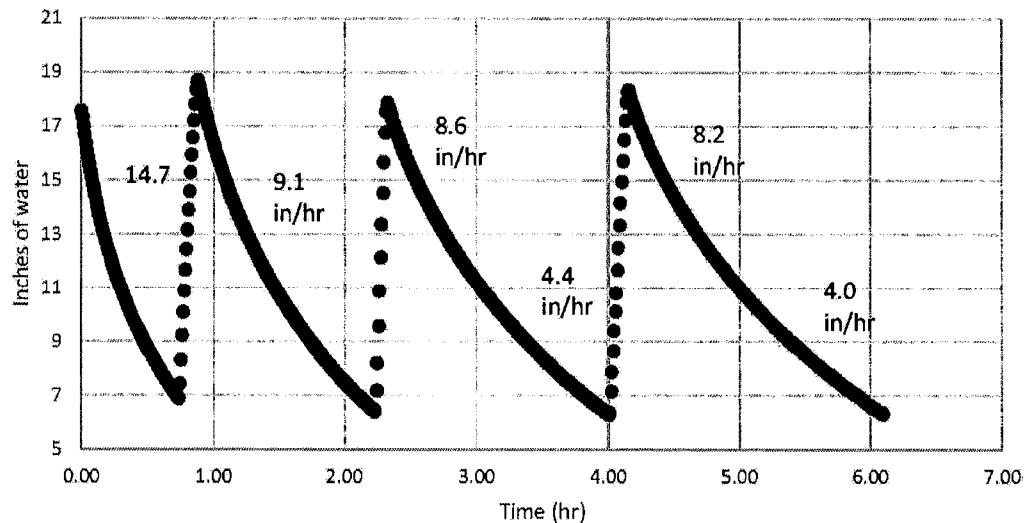
Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: NE 10th Avenue, Oak Harbor, Washington

Project Number: 0422-135-01

Figure A-8  
Sheet 1 of 1



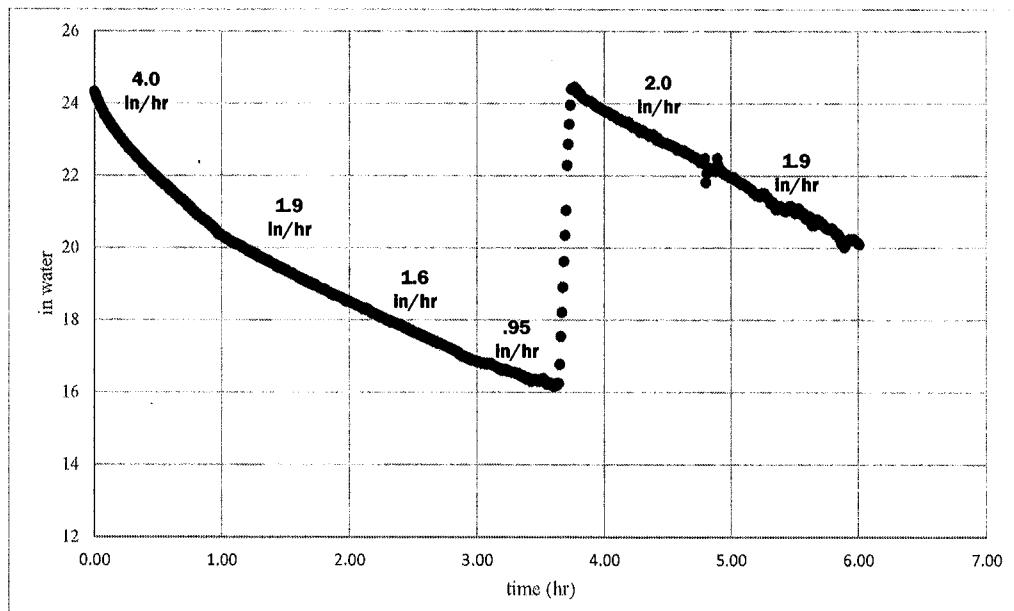


**Pilot Infiltration Test Results: TP/PIT-7**

Proposed Tri-County Sub-Acute Detox Facility  
NE 10<sup>th</sup> Avenue  
Oak Harbor, Washington

**GEOENGINEERS** 

Figure A-10



Pilot Infiltration Test Results: TP/PIT-8

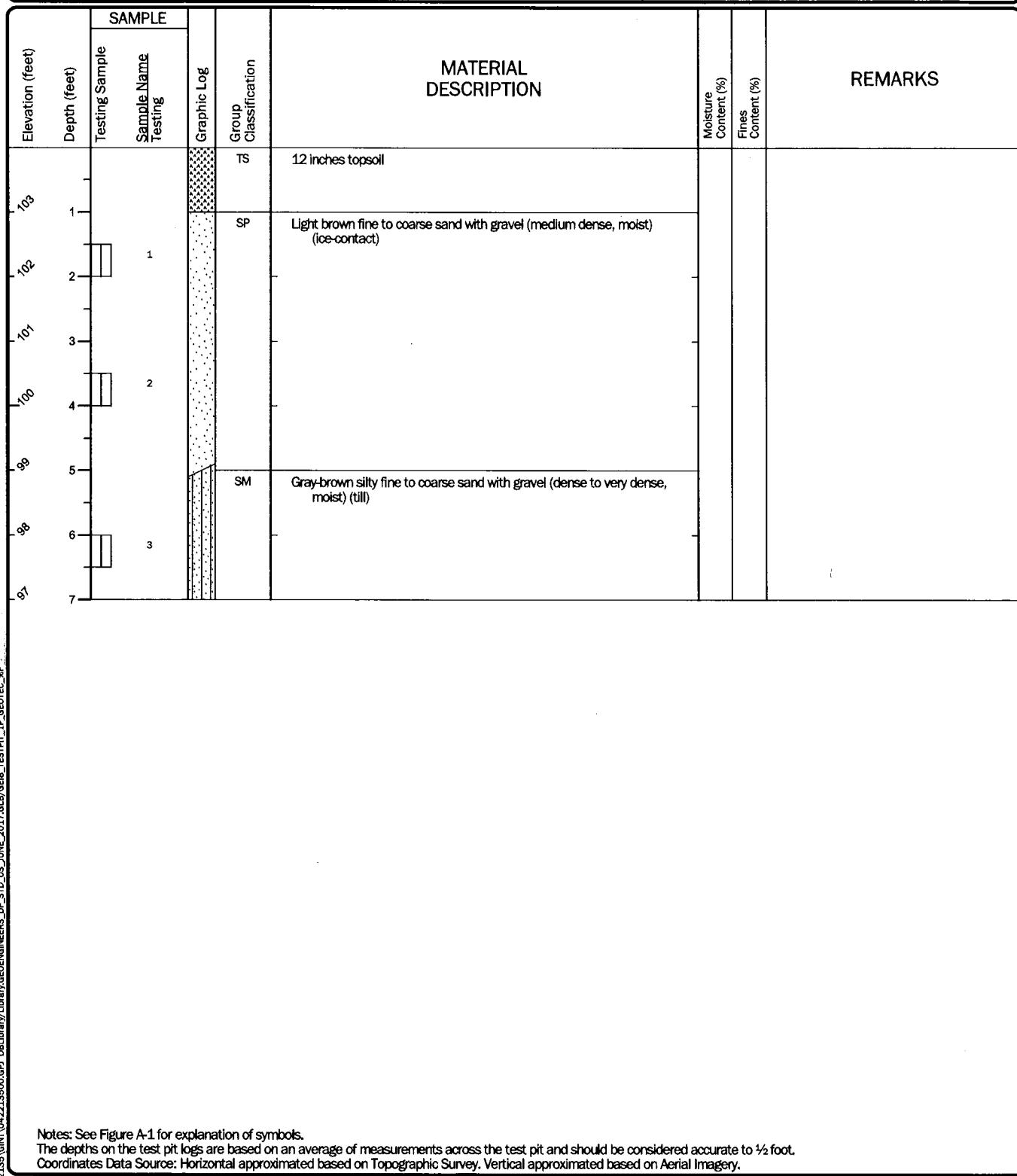
Proposed Tri-County Sub-Acute Detox Facility  
NE 10<sup>th</sup> Avenue  
Oak Harbor, Washington

GEOENGINEERS

Figure A-11

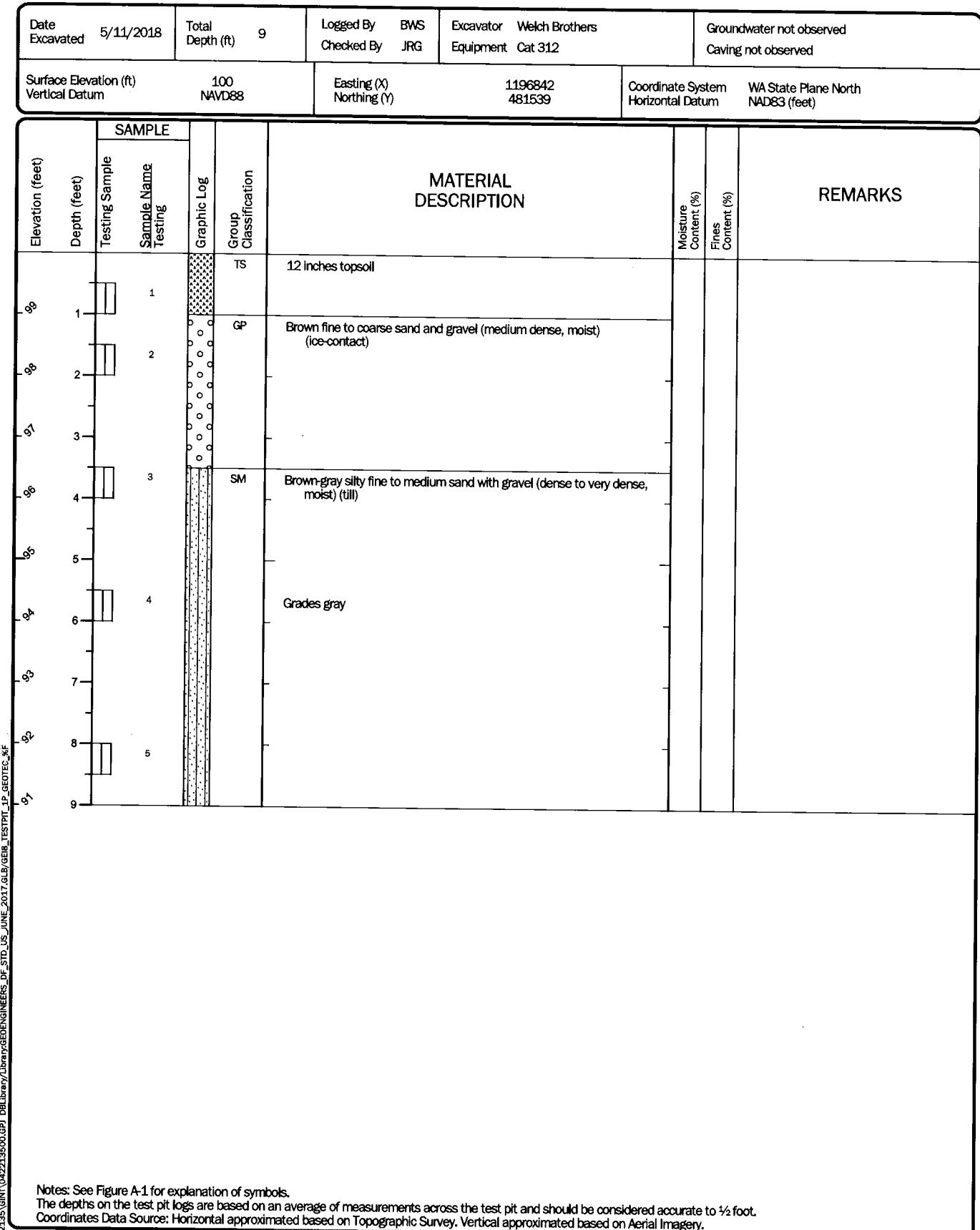
**APPENDIX B**  
**Nearby Field Explorations and Laboratory Testing**

Date Excavated	5/11/2018	Total Depth (ft)	7	Logged By	BWS	Excavator	Welch Brothers	Groundwater not observed
Checked By	JRG	Equipment	Cat 312	Caving not observed				
Surface Elevation (ft) Vertical Datum	104 NAVD88	Easting (X)	1196742	Coordinate System Horizontal Datum	WA State Plane North NAD83 (feet)			



### Log of Test Pit TP/PIT-1

	Project: Proposed Tri-County Sub-Acute Detox Facility Project Location: N. Oak Harbor Street, Oak Harbor, Washington Project Number: 0422-135-00	Figure B-1 Sheet 1 of 1
---	--	----------------------------



### Log of Test Pit TP-2



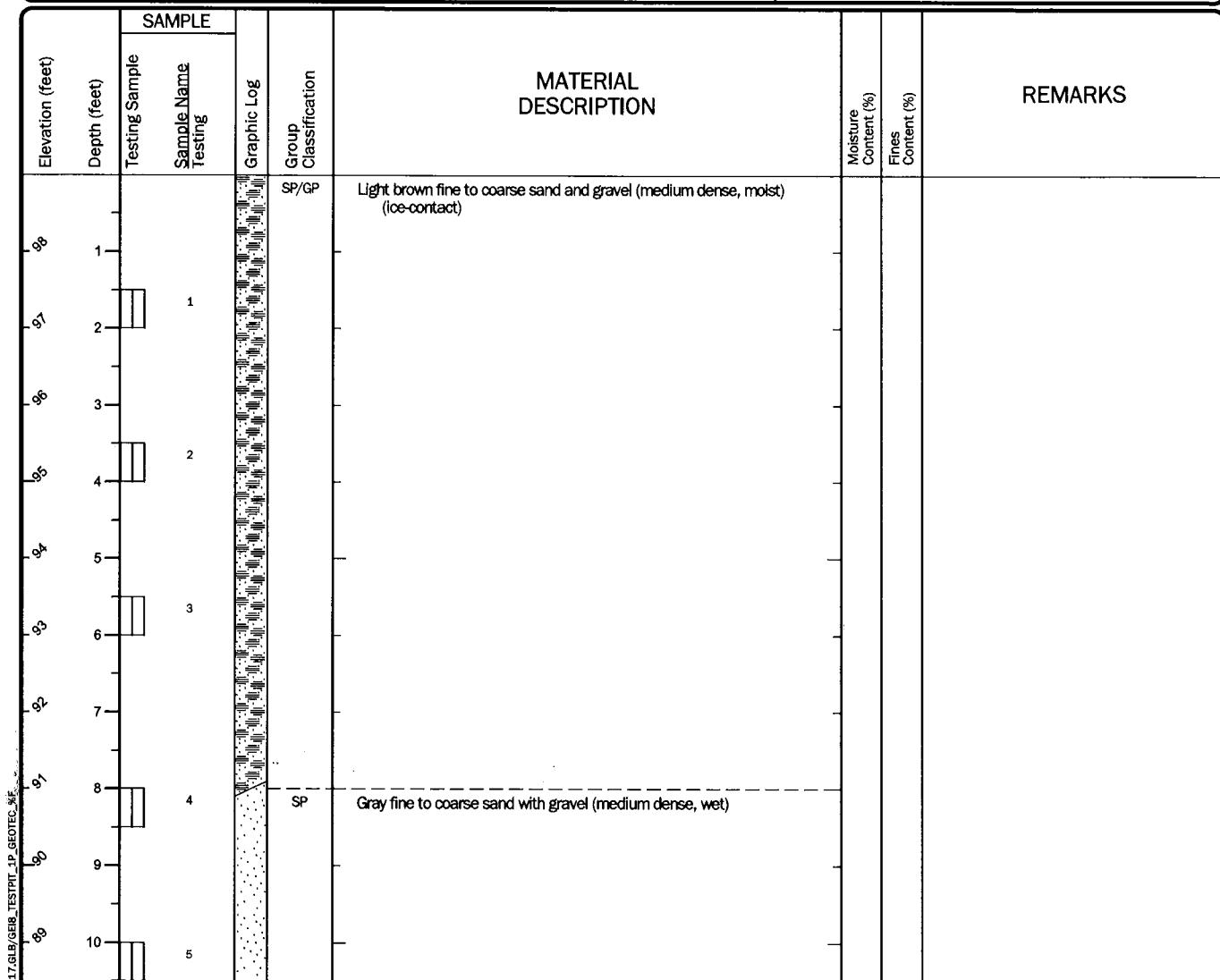
Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: N. Oak Harbor Street, Oak Harbor, Washington

Project Number: 0422-135-00

Figure B-2  
Sheet 1 of 1

Date Excavated	5/11/2018	Total Depth (ft)	10.5	Logged By	BWS	Excavator	Welch Brothers	Groundwater not observed
Checked By	JRG	Equipment	Cat 312	Caving not observed				
Surface Elevation (ft)	99	Easting (X)	1196868	Coordinate System	WA State Plane North			
Vertical Datum	NAVD88	Northing (Y)	481634	Horizontal Datum	NAD83 (feet)			



Date:7/12/18 Path:P:\0\04221350.GPJ DBLibrary\Library\GEOENGINEERS.DF STD US JUNE 2017.GLB\GEB\_TESTS\1P\_GEOLOGIC\_SITES

Notes: See Figure A-1 for explanation of symbols.  
The depths on the test pit logs are based on an average of measurements across the test pit and should be considered accurate to 1/2 foot.  
Coordinates Data Source: Horizontal approximated based on Topographic Survey. Vertical approximated based on Aerial Imagery.

### Log of Test Pit TP-3



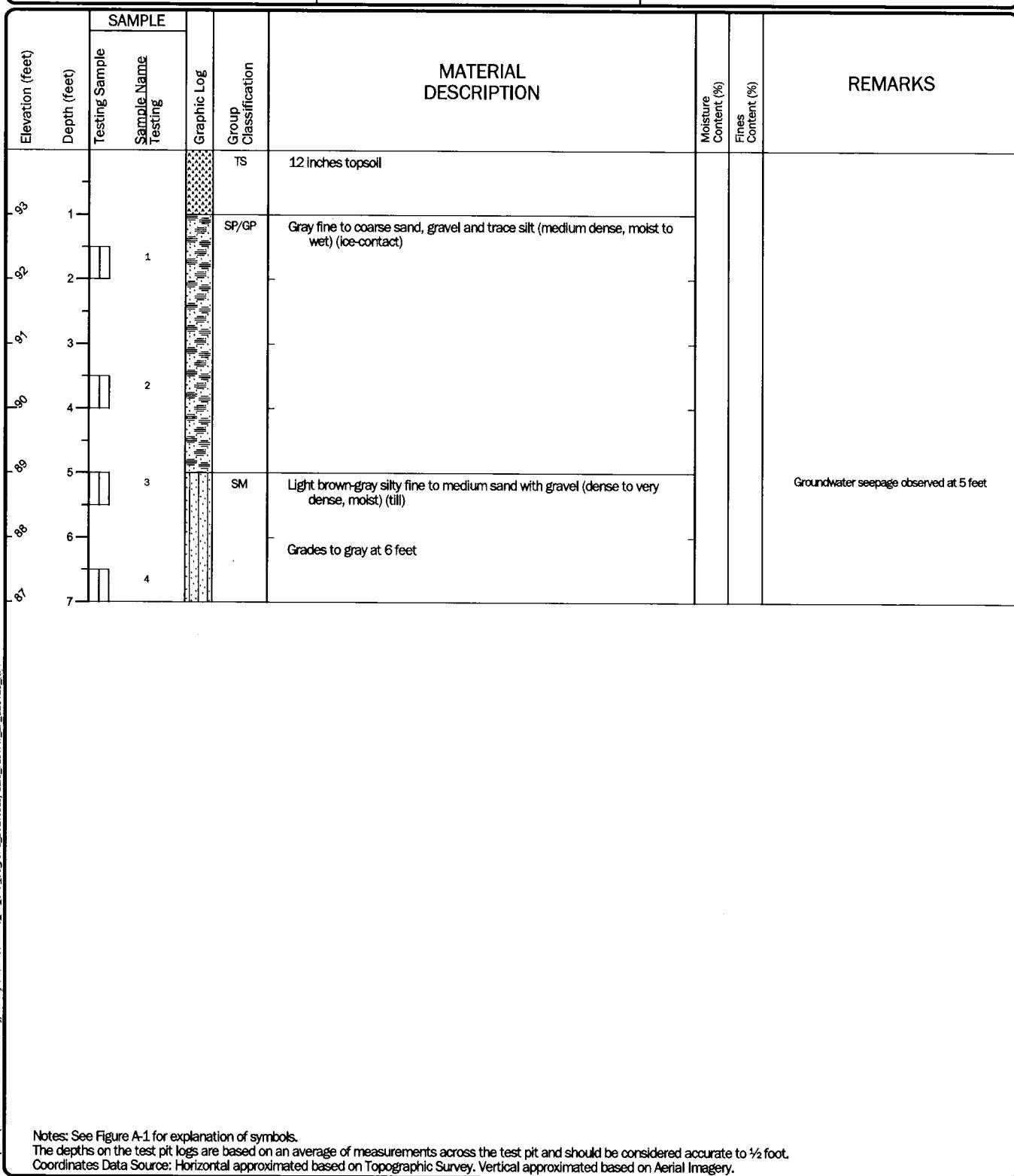
Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: N. Oak Harbor Street, Oak Harbor, Washington

Project Number: 0422-135-00

Figure B-3  
Sheet 1 of 1

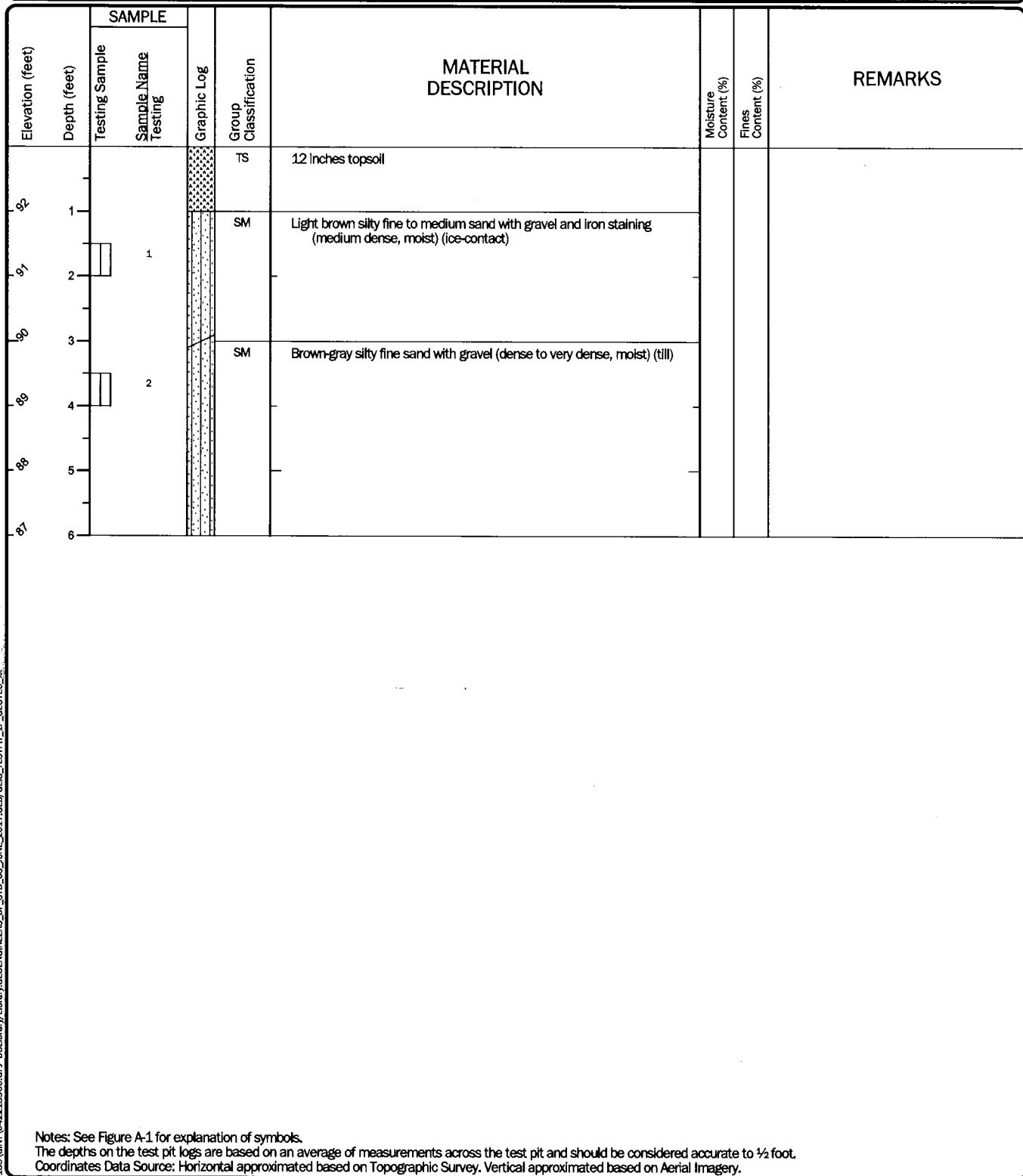
Date Excavated	5/11/2018	Total Depth (ft)	7	Logged By	BWS	Excavator	Welch Brothers	See "Remarks" section for groundwater observed Caving not observed
Surface Elevation (ft) Vertical Datum	94 NAVD88		Easting (X) Northing (Y)	1196999 481630		Coordinate System Horizontal Datum	WA State Plane North NAD83 (feet)	



### Log of Test Pit TP-4

	Project: Proposed Tri-County Sub-Acute Detox Facility Project Location: N. Oak Harbor Street, Oak Harbor, Washington Project Number: 0422-135-00	Figure B-4 Sheet 1 of 1
---	--	----------------------------

Date Excavated	5/11/2018	Total Depth (ft)	6	Logged By	BWS	Excavator	Welch Brothers	Groundwater not observed
Checked By	JRG	Equipment	Cat 312	Caving not observed				
Surface Elevation (ft)	93	Easting (X)	1196993	Coordinate System	WA State Plane North			
Vertical Datum	NAVD88	Northing (Y)	481524	Horizontal Datum	NAD83 (feet)			



### Log of Test Pit TP-5

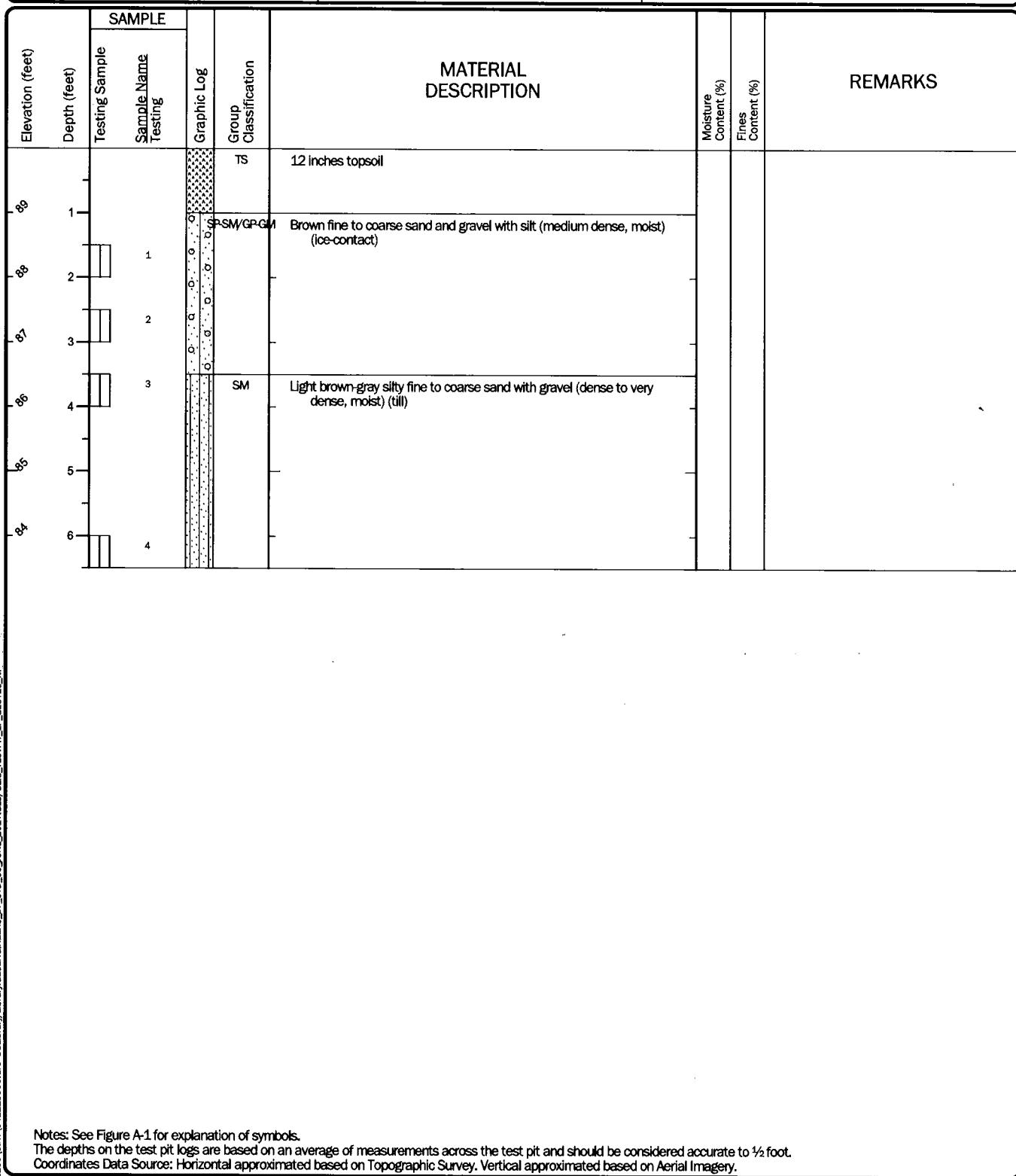


Project: Proposed Tri-County Sub-Acute Detox Facility

Project Location: N. Oak Harbor Street, Oak Harbor, Washington

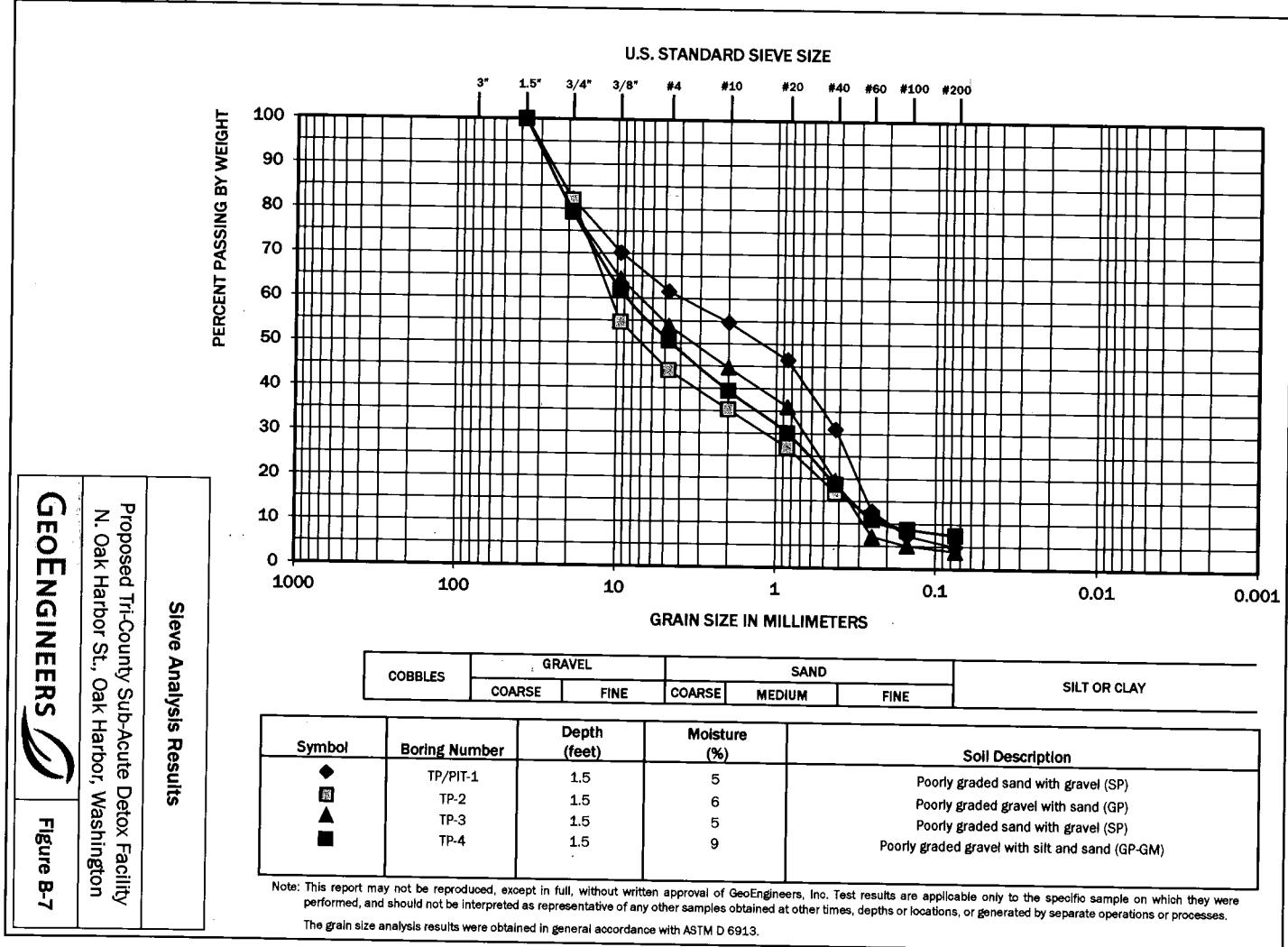
Project Number: 0422-135-00

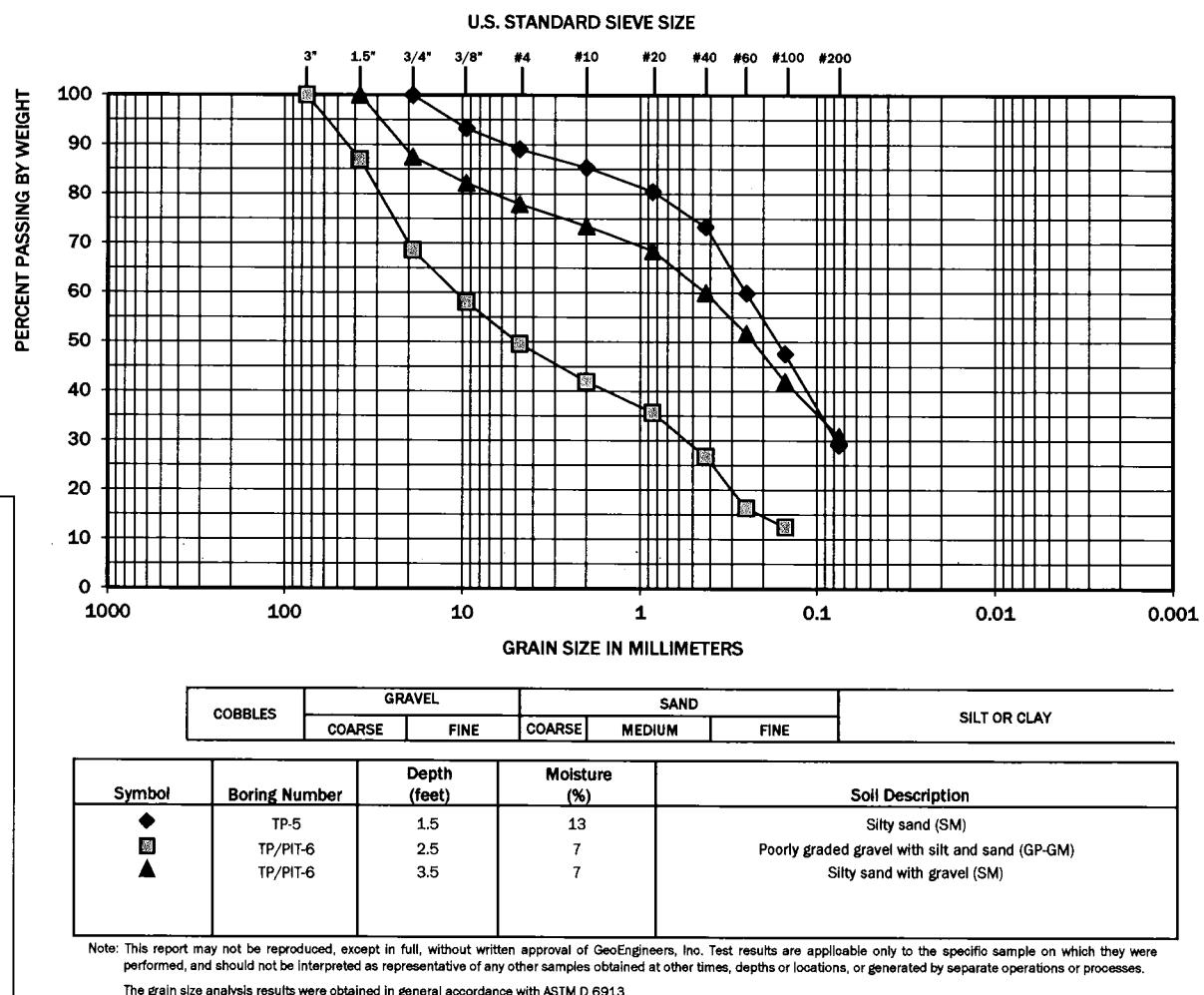
Date Excavated	5/11/2018	Total Depth (ft)	6.5	Logged By	BWS	Excavator	Welch Brothers	Groundwater not observed
Checked By	JRG	Equipment	Cat 312	Caving not observed				
Surface Elevation (ft) Vertical Datum	90 NAVD88	Easting (X) Northing (Y)	1197094 481550	Coordinate System Horizontal Datum	WA State Plane North NAD83 (feet)			



### Log of Test Pit TP/PIT-6

	Project: Proposed Tri-County Sub-Acute Detox Facility Project Location: N. Oak Harbor Street, Oak Harbor, Washington Project Number: 0422-135-00
---	--



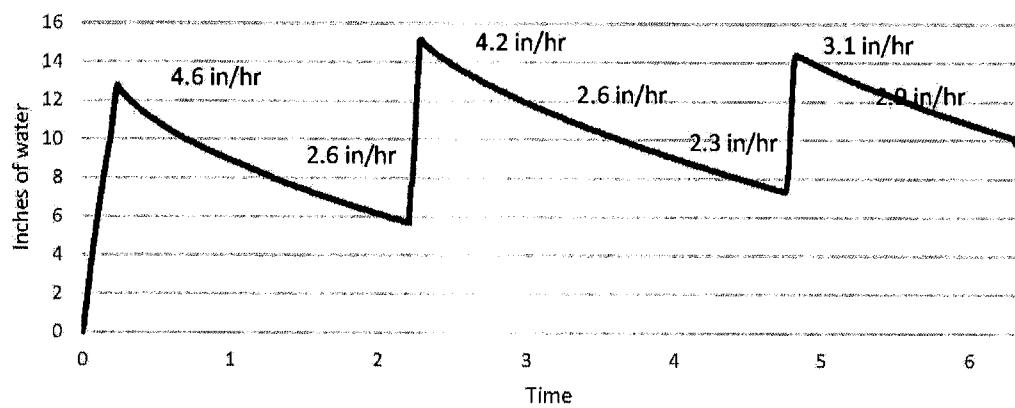


**GEOENGINEERS** 

Figure B-8

**Sieve Analysis Results**

Proposed Tri-County Sub-Acute Detox Facility  
N. Oak Harbor St., Oak Harbor, Washington

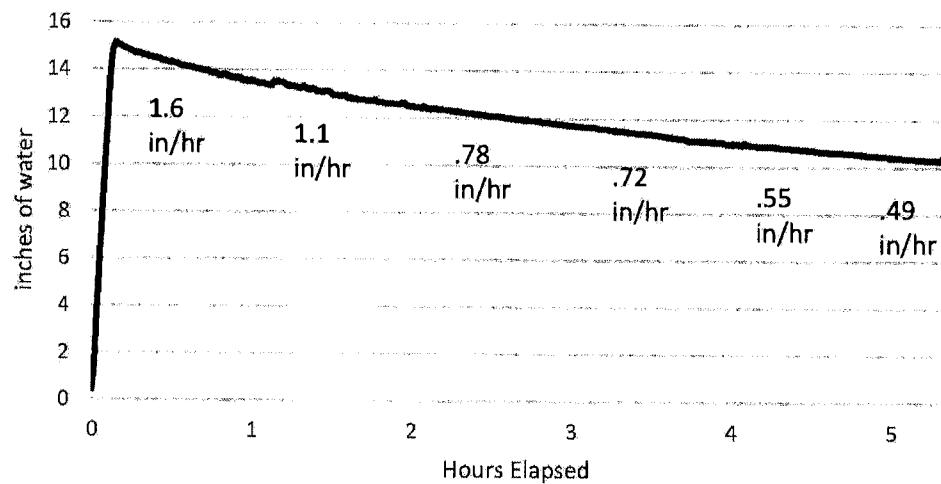


**Pilot Infiltration Test Results: TP/PIT-1**

Proposed Tri-County Sub-Acute Detox Facility  
N. Oak Harbor Street  
Oak Harbor, Washington

**GEOENGINEERS**

**Figure B-9**



**Pilot Infiltration Test Results: TP/PIT-6**

Proposed Tri-County Sub-Acute Detox Facility  
N. Oak Harbor Street  
Oak Harbor, Washington

**GEOENGINEERS** 

**Figure B-10**

**APPENDIX C**  
**Report Limitations and Guidelines for Use**

## **APPENDIX C**

### **REPORT LIMITATIONS AND GUIDELINES FOR USE<sup>1</sup>**

This appendix provides information to help you manage your risks with respect to the use of this report.

#### **Geotechnical Services are Performed for Specific Purposes, Persons and Projects**

This report has been prepared for use by Island County Facilities Management and members of the design team for use in the design of this project. This report may be made available to prospective contractors for bidding or estimating purposes; but our report, conclusions and interpretations should not be construed as a warranty of the subsurface conditions. This report is not intended for use by others, and the information contained herein is not applicable to other sites.

GeoEngineers structures our services to meet the specific needs of our clients. For example, a geotechnical or geologic study conducted for a civil engineer or architect may not fulfill the needs of a construction contractor or even another civil engineer or architect that are involved in the same project. Because each geotechnical or geologic study is unique, each geotechnical engineering or geologic report is unique, prepared solely for the specific client and project site. No one except Island County Facilities Management and members of the design team should rely on this report without first conferring with GeoEngineers. This report should not be applied for any purpose or project except the one originally contemplated.

#### **A Geotechnical Engineering or Geologic Report is Based on a Unique Set of Project-Specific Factors**

This report has been prepared for the proposed Tri-County Sub-Acute Detox Facility at NE 10th Avenue in Oak Harbor, Washington. GeoEngineers considered a number of unique, project-specific factors when establishing the scope of services for this project and report. Unless GeoEngineers specifically indicates otherwise, do not rely on this report if it was:

- not prepared for you,
- not prepared for your project,
- not prepared for the specific site explored, or
- completed before important project changes were made.

For example, changes that can affect the applicability of this report include those that affect:

- the function of the proposed structure;
- elevation, configuration, location, orientation or weight of the proposed structure;
- composition of the design team; or
- project ownership.

---

<sup>1</sup> Developed based on material provided by ASFE, Professional Firms Practicing in the Geosciences; [www.asfe.org](http://www.asfe.org).

If important changes are made after the date of this report, GeoEngineers should be given the opportunity to review our interpretations and recommendations and provide written modifications or confirmation, as appropriate.

### **Subsurface Conditions Can Change**

This geotechnical or geologic report is based on conditions that existed at the time the study was performed. The findings and conclusions of this report may be affected by the passage of time, by manmade events such as construction on or adjacent to the site, or by natural events such as floods, earthquakes, slope instability or groundwater fluctuations. Always contact GeoEngineers before applying a report to determine if it remains applicable.

### **Most Geotechnical and Geologic Findings are Professional Opinions**

Our interpretations of subsurface conditions are based on the boring results completed at the site. Site exploration identifies subsurface conditions only at those points where subsurface tests are conducted. GeoEngineers reviewed historic field and laboratory data and then applied our professional judgment to render an opinion about subsurface conditions throughout the site. Actual subsurface conditions may differ, sometimes significantly, from those indicated in this report. Our report, conclusions and interpretations should not be construed as a warranty of the subsurface conditions.

### **Geotechnical Engineering Report Recommendations are Not Final**

Do not over-rely on the preliminary construction recommendations included in this report. These recommendations are not final, because they were developed principally from GeoEngineers' professional judgment and opinion. GeoEngineers' recommendations can be finalized only by observing actual subsurface conditions revealed during construction. GeoEngineers cannot assume responsibility or liability for this report's recommendations if we do not perform construction observation.

Sufficient monitoring, testing and consultation by GeoEngineers should be provided during construction to confirm that the conditions encountered are consistent with those indicated by the explorations, to provide recommendations for design changes should the conditions revealed during the work differ from those anticipated, and to evaluate whether or not earthwork activities are completed in accordance with our recommendations. Retaining GeoEngineers for construction observation for this project is the most effective method of managing the risks associated with unanticipated conditions.

### **A Geotechnical Engineering or Geologic Report Could Be Subject to Misinterpretation**

Misinterpretation of this report by other design team members can result in costly problems. You could lower that risk by having GeoEngineers confer with appropriate members of the design team after submitting the report. Also retain GeoEngineers to review pertinent elements of the design team's plans and specifications. Contractors can also misinterpret a geotechnical engineering or geologic report. Reduce that risk by having GeoEngineers participate in pre-bid and preconstruction conferences, and by providing construction observation.

### **Give Contractors a Complete Report and Guidance**

Some owners and design professionals believe they can make contractors liable for unanticipated subsurface conditions by limiting what they provide for bid preparation. To help prevent costly problems, give contractors the complete geotechnical engineering or geologic report, but preface it with

a clearly written letter of transmittal. In that letter, advise contractors that the report was not prepared for purposes of bid development and that the report's accuracy is limited; encourage them to confer with GeoEngineers and/or to conduct additional study to obtain the specific types of information they need or prefer. A pre-bid conference can also be valuable. Be sure contractors have sufficient time to perform additional study. Only then might an owner be in a position to give contractors the best information available, while requiring them to at least share the financial responsibilities stemming from unanticipated conditions. Further, a contingency for unanticipated conditions should be included in your project budget and schedule.

### **Contractors Are Responsible for Site Safety on Their Own Construction Projects**

Our geotechnical recommendations are not intended to direct the contractor's procedures, methods, schedule or management of the work site. The contractor is solely responsible for job site safety and for managing construction operations to minimize risks to on-site personnel and to adjacent properties.

### **Read These Provisions Closely**

Some clients, design professionals and contractors may not recognize that the geoscience practices (geotechnical engineering or geology) are far less exact than other engineering and natural science disciplines. This lack of understanding can create unrealistic expectations that could lead to disappointments, claims and disputes. GeoEngineers includes these explanatory "limitations" provisions in our reports to help reduce such risks. Please confer with GeoEngineers if you are unclear how these "Report Limitations and Guidelines for Use" apply to your project or site.

### **Geotechnical, Geologic and Environmental Reports Should Not Be Interchanged**

The equipment, techniques and personnel used to perform an environmental study differ significantly from those used to perform a geotechnical or geologic study and vice versa. For that reason, a geotechnical engineering or geologic report does not usually relate any environmental findings, conclusions or recommendations; e.g., about the likelihood of encountering underground storage tanks or regulated contaminants. Similarly, environmental reports are not used to address geotechnical or geologic concerns regarding a specific project.

### **Topsoil**

For the purposes of this report, we consider topsoil to consist of generally fine-grained soil with an appreciable amount of organic matter based on visual examination, and to be unsuitable for direct support of the proposed improvements. However, the organic content and other mineralogical and gradational characteristics used to evaluate the suitability of soil for use in landscaping and agricultural purposes was not determined, nor considered in our analyses. Therefore, the information and recommendations in this report, and our logs and descriptions should not be used as a basis for estimating the volume of topsoil available for such purposes.

### **Biological Pollutants**

GeoEngineers' Scope of Work specifically excludes the investigation, detection, or assessment of the presence of Biological Compounds which are Pollutants in or around any structure. Accordingly, this report includes no interpretations, recommendations, findings, or conclusions for the purpose of detecting, assessing, or abating Biological Pollutants. The term "Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, and viruses, and/or any of their byproducts.





ISLAND COUNTY HUMAN RESOURCES/GSA

WORK SESSION AGENDA

MEETING DATE: 4/10/2024

---

To: Jill Johnson, Chair  
Board of Island County Commissioners  
From: Catherine Reid, Director

---

Amount of time requested for agenda discussion. 10 minutes

**DIVISION:** Not Applicable

**Agenda Item No.:** 1

**Subject:** Judicial Assistant Position

**Description:** Add the position of Judicial Assistant to the Superior Court.

**Attachment:** Job Requisition NO. 2024-027, Judicial Assistant Job Description

**Request:** *(Check boxes that apply)*

<input type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input type="checkbox"/> None/Informational	<input type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input checked="" type="checkbox"/> Other: <u>Agree to Posting</u>

**IT Review:** Not Applicable

**Budget Review:** Not Applicable

**P.A. Review:** Not Applicable



# Judicial Assistant

Class Code:  
JudAsstTBD  
(SUPERIOR  
COURT)

Bargaining Unit:

## ISLAND COUNTY

Established Date: Mar 25, 2024

Revision Date: Mar 25, 2024

## SUMMARY:

Provides administrative assistance to Superior Court judges and acts as the Court's liaison with litigants, jurors, attorneys and the general public, to ensure efficient operation of the Court. Provides confidential administrative and technical support for a Superior Court judicial officer and other duties for the Superior Court as assigned and directed.

## JOB DUTIES:

- Serves as primary liaison for counsel and parties regarding matters assigned to the Court. Provides information regarding case status and disposition to attorneys and pro se litigants. Assembles all necessary parties for scheduled courtroom proceedings.
- Acts as clerical assistant to judges, using word processing software, correspondence, jury instructions and other court documents.
- Arranges and tracks visiting judge assignments for both Island County Superior Court and San Juan County Superior Court following the provisions of RCW 4.12.040(1) as implemented by Supreme Court of Washington Order 25700-B-548.
- Prepares correspondence and drafts orders and related court documents as directed.
- Oversees and manages Courtroom technology including Zoom hearings, microphones and other technical aspects involved in remote and hybrid proceedings.
- Independently reviews, analyzes, prioritizes and responds to requests for Court assistance.
- Acts as the second bailiff during jury trials. Ensures the custody and welfare of jurors during trial. Advises all potential jurors where to be seated in the courtroom waiting jury roll call at the start of a trial. Supervises jurors during trial and deliberations. Arranges for beverages and food while in jury room. Communicates with the jurors regarding their needs. Must be available without notice to stay after hours with deliberating jurors.
- Maintains Guardian ad Litem and Court Visitor registries, including but not limited to screening new applications and conducting yearly updates.
- Prepares and arranges courtroom settings in all locations. This includes initiation, support, and oversight of remote hearing technology.
- May be tasked with performing related duties. Related duties as required are duties that may not be specifically listed in the position description but are within the general occupational series and responsibility level typically associated with the employee's classification of work.
- The work is performed in the usual office environment and in the courtroom. Extended periods of sitting and standing, with some bending twisting, reaching, and lifting up to 40 pounds.

- High level of alertness is required for all activity going on in the courtroom during proceedings. Danger of physical harm may occasionally be present in the courtroom.

## **KNOWLEDGE, SKILLS & ABILITIES:**

***Requires knowledge of, or ability to learn:***

- Superior Court procedures
- Legal terminology
- Technical applications including Odyssey, Judicial Information Systems, Jury Management System, Zoom, Word, Outlook, and Excel.

***Requires the ability to:***

- Exercise good judgment as to when to act independently and when to refer situations to higher authority.
- Work effectively in a multi-task environment and take appropriate initiative.
- Apply good judgment, creativity, and logical thinking to obtain potential solutions to problems.
- Communicate effectively both verbally and in writing.
- Plan and organize work, maintain flexibility, and manage time.
- Operate various types of office equipment and word processing programs.
- Follow verbal and written instructions.
- Adapt to and use new technology as courtroom and administrative procedures evolve.
- Ability to problem solve under pressure.
- Establish and maintain effective working relations with jurors, attorneys, associates, other county employees, and the public.
- Train and mentor others.
- Work well in a team environment.

## **EDUCATION, EXPERIENCE & CERTIFICATIONS:**

- Minimum of Associates Degree in related field or any combination of education, training and experience that fulfills the desired qualifications.
- CPR Training (can be taken after hire date).
- Valid Washington State driver's license.
- Minimum of 2 years direct experience working within the Judiciary or legal system.
  - More than 2 years of direct experience within the Judiciary may meet the qualifications criteria.
  - Other life experience may meet the qualifications criteria.

## Requisition Information

Requisition Number	Division	Job Type
2024-027	Superior Court	N/A
Class Spec	Working Title	List Type
Judicial Assistant (JudAsstTBD (SUPERIOR COURT))	Judicial Assistant	N/A
	Desired Start Date	EEO/Census Data Template
	N/A	N/A
Vacancies	HR Analyst	Position No
1	N/A	01
Hiring Manager	Department	Location
Megan Frazier	Superior Court	Coupeville Campus
Owner	Union	
Megan Frazier	N/A	
GL Account	PCN	
1412210	TBD	
Position Pay Grade		
Starting \$29.63 -		
\$36.07		
Comments		
N/A		
Authorization Comments		
N/A		

## Attachments

There are no available attachments



## ISLAND COUNTY PLANNING & COMMUNITY DEV.

### WORK SESSION AGENDA

MEETING DATE: 4/10/2024

---

To: **Jill Johnson, Chair**  
**Board of Island County Commissioners**  
  
From: **Mary Engle, Director**

---

Amount of time requested for agenda discussion. **120 minutes**

**DIVISION: Long Range Planning**

**Agenda Item No.: 1**

**Subject: Public Benefit Rating System Application**

**Description:** Mr. Grant, the agent for Freedom Park Association, has submitted a Public Benefits Rating System (PBRS) application. Their application was deemed complete on December 12, 2023. The agent is proposing 3 parcels, consisting of 3.58 acres, be eligible for classification in the PBRS program.

**Attachment:** **PDF of the Staff Report, Application, and Tax Agreement**

**Request:** *(Check boxes that apply)*

<input checked="" type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input type="checkbox"/> None/Informational	<input checked="" type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input type="checkbox"/> Other: _____

**IT Review:** Not Applicable

**Budget Review:** Not Applicable

**P.A. Review:** Not Applicable

*(continued on next page)*

**DIVISION: Long Range Planning****Agenda Item No.: 2****Subject:** Discussion about Joint Meeting with City of Oak Harbor**Description:** The Board of Island County Commissioners and the Oak Harbor City Council have planned a joint meeting on the afternoon of April 23, 2024, to coordinate on comprehensive planning. Long Range staff will review the agenda and goals and objectives with the Board in preparation of the joint meeting.**Attachment:** None**Request:** (Check boxes that apply)

<input type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input checked="" type="checkbox"/> None/Informational	<input type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input type="checkbox"/> Other: _____

**IT Review:** Not Applicable**Budget Review:** Not Applicable**P.A. Review:** Not Applicable**DIVISION: Long Range Planning****Agenda Item No.: 3****Subject:** Comp Plan – Natural Resources Goals & Policies Review**Description:** Long Range Planning staff will review the 2016 Natural Resources Goals and Policies with the Board.**Attachment:** Excerpt for Natural Resources and Compiled Comment Letters on Natural Resources**Request:** (Check boxes that apply)

<input type="checkbox"/> Move to Consent	<input type="checkbox"/> Move to Regular
<input checked="" type="checkbox"/> None/Informational	<input type="checkbox"/> Schedule a Public Hearing
<input type="checkbox"/> Signature Request	<input type="checkbox"/> Other: _____

**IT Review:** Not Applicable**Budget Review:** Not Applicable**P.A. Review:** Not Applicable



## Island County Planning and Community Development

*Mary Engle, Director*

---

Physical Address: 1 NE 6<sup>th</sup> St, Coupeville, WA 98239 Mailing Address: 1 NE 7<sup>th</sup> St, Coupeville, WA 98239  
 Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306  
 Email: [PlanningDept@islandcountywa.gov](mailto:PlanningDept@islandcountywa.gov) | <https://www.islandcountywa.gov/207/Planning-Community-Development>

---

**File No:** 404/23 PBRS

**Agent:** Grant Shaw

**Property Owner:** Freedom Park Association

**Assessor's Parcel Number:** R33220-087-1930, R33220-093-2240, R33220-093-2380

### **Summary of Application and Recommendation:**

---

Mr. Shaw, the agent representing Freedom Park Association, has submitted a Public Benefits Rating System (PBRS) application on December 12, 2023, and it was deemed complete on December 12, 2023. The application was for three parcels that consist of 3.58 acres.

The subject parcels are accessed via E North Camano Dr, a major arterial road. The total appraised value of the subject parcels has been reduced by the Assessor's Office in recent years as follows:

- In 2021 the assessed value of parcel R33220-087-1930 was \$130,000; in 2022 the assessed value was reduced to \$9,000.
- In 2017 the assessed value of parcel R33220-093-2240 was \$18,000; in 2018 the assessed value was reduced to \$9,000.
- In 2015 the assessed value of parcel R33220-093-2380 was \$11,571; in 2016 the assessed value was reduced to \$5,000; in 2018 the assessed value was reduced further to \$450.

### **Recommendation:** Conditional Approval

### **Preliminary Information:**

**Property Owner:**

Freedom Park Association  
 848 N Sunrise Blvd, Ste B, PMB 147  
 Camano Island, WA 98282

**Property Address:**

546 E North Camano Dr  
 Camano Island, WA 98282

**STAFF REPORT FOR  
APPLICATION FOR OPEN SPACE LAND CLASSIFICATION  
Island County Public Benefit Rating System (PBRS)  
404/23 PBRS – Freedom Park Assoc.**

**FINDINGS OF FACT**

The Island County Planning and Community Development Department considered the 404/23 PBRS Application for Open Space Classification under the Public Benefit Rating System (PBRS) program and finds the following:

**• PROPOSAL**

On December 12, 2023, Island County received an application from Grant Shaw and Freedom Park Association for three parcels eligibility into PBRS.

**• SITE DESCRIPTION**

Location: North end of Camano Island, located off E North Camano Dr., parcel numbers R33220-087-1930, R33220-093-2240, R33220-093-2380

Area & Site Condition: R33220-087-1930, R33220-093-2240, R33220-093-2380 are dedicated for park use with open space, sculptures, and playground equipment.

Access: The subject property is accessed via E North Camano Dr, a major arterial road located on Camano Island.

**• BACKGROUND**

The property is owned by the applicants.

	Parcel A	Parcel B	Parcel C	Totals
Parcel number	R33220-087-1930	R33220-093-2240	R33220-093-2380	3 parcels
Current taxes	\$208.16	\$217.71	\$198.97	\$624.84
Acres	2.53	1.0	.05	3.58
PBRS reduction	30%	30%	30%	\$187.45 (tax reduction amount)

**• LAND USE STANDARDS**

The properties are zoned as part of the Camano Gateway Village: R33220-087-1930, R33220-093-2240, R33220-093-2380

**• LEGAL AUTHORITY AND REQUIREMENTS**

- a. ICC 3.40.010 states that the Open Space Tax Act, RCW 84.34, provides an opportunity for landowners to apply for a reduction in property taxes for certain categories of open space, agriculture and timber lands.
- **BASIS FOR ASSESSMENT / ANALYSIS**
  - a. High Priority Resource – 5 Points Each
    - 5 Active or Passive Recreation Area:  
This property contains a park with a playground and open space that is open to the public.
  - b. Medium Priority Resources – 3 Points Each
    - 3 Scenic Natural Resources, Viewpoints, or View Corridors:  
This property contains a viewpoint and view corridor open to the public.
  - c. Low Priority Resources – 1 Points Each
    - 0
  - d. Bonus System Points – 5 Points Each
    - 5 Unlimited Public Access:  
This property provides unlimited public access as a public park.

Qualifying acres: 3.58

TOTAL: 13 out of 57 Points = 30% reduction in taxes

- **CONCLUSION**

The Applicant has demonstrated that 3.58 acres of their properties qualify for entry into Island County's PBRS program.

#### **RECOMMENDATION**

Based on the foregoing Findings of Fact and Conclusion, it is recommended that 404/23 be approved for PBRS under the following tax reductions and conditions:

R33220-087-1930, R33220-093-2240, R33220-093-2380, the 3.58 acres are eligible at a tax reduction of 30%.

1. Final determinations about exemptions, back taxes, and penalties described in WAC 458-30 and RCW 84.34 shall be made by the Island County Assessor.
2. No structures shall be erected upon such land except those directly related to, and compatible with, the classified use of the land.

4. There shall be no development or ground disturbing activities on the portion of the site that is classified as open space and received points from PBRS without prior approval from Island County.
5. There shall be no development on the portion of the subject property prior to review and approval of all appropriate land use and building permits. Approval of this application shall not be construed as approval of any structures or facilities.
6. The land shall be used only in accordance with the following additional restrictions:
  - a. **Active or Passive Recreation:** Eligible lands must remain available for public use for active or passive recreation.
  - b. **Scenic Natural Resources, Viewpoints or View Corridors:** The property must maintain view corridors.
  - c. **Unlimited Public Access:** The property must remain available for unlimited public access.
7. **Changes in Use:** If the Property Owner changes the use of the classified land, the Property Owner must notify the County Assessor of the change within sixty (60) days. The Assessor shall then impose an additional tax equal to the difference between the tax paid on current use value and the tax that would have been paid on that land had it not been so classified, payable for the seven (7) years last past, plus interest on this additional tax at the same rate as charged on delinquent property taxes, plus a penalty of twenty (20) percent of the total amount.
8. **Monitoring:** The Planning and Community Development Department shall monitor the property to determine the continuing compliance with all of the conditions under which open space classification was granted and the current uses of the property. Where the Planning and Community Development Department determines that the land is no longer being used for the purpose for which the classification was granted or there has been a change in use, it will report its findings within thirty (30) days to the County Assessor.
9. **Annual Affidavit:** Monitoring of lands for continuing eligibility for current use assessment as open space lands shall include an affidavit, to be submitted annually by the landowner, of continuing compliance with the terms and conditions under which open space classification was granted and the current uses of the property. The requisite form and contents of the affidavit required for monitoring shall be described more fully in the county guidelines implementing this chapter. The failure of the owner to submit the affidavit of compliance shall be grounds for the County to reevaluate the property under the PBRS.
10. **Agreement:** The Property Owner and Island County agree to the terms set forth in the "Open Space Taxation Agreement".

Enc:

Enclosure A – Vicinity Map

# APPLICATION CHECKLIST

## APPLICATIONS MUST INCLUDE ONE (1) ORIGINAL AND TWO (2) COPIES OF THE FOLLOWING DOCUMENTS:

*Nov'd Island County  
DEC 12 2023  
Community Development*

- Application:** Fill out the application form accurately and neatly by either typing or printing. Affirmation page must be notarized and have the appropriate owner signatures.
- Legal description of parcel:** Provide a typed, non-abbreviated, legal description of your property (obtained from the Assessor's Office).
- Legal description of open space:** Provide a typed, non-abbreviated legal description for the portion of the property proposed for open space.
- Assessor's Quarter Section Map:** *Only one assessor map is required.* Current prints of Assessor's maps may be ordered by mail for a nominal fee by calling (360) 679-7303. When ordering maps, you will need to provide the Section, Township, Range, or name of Plat, Addition with Block and Lot Number(s). Outline in red on the Assessor's map each property you are enrolling in the PBRS.
- Site plan map:** On a second copy of the Assessor's map or other map, draw and label each parcel with improvements (house, barn, well, etc.), streams, roads, and other physical characteristics. Label the present uses of the property and the area you are enrolling as open space. Write in the dimensions of the area to be excluded from open space (such as a home-site). Write the parcel numbers on the site plan map.
- Management Plans:** Only required for applicants proposing points which require a management plan. These are specified under the each point category listed in the *Basis for Assessment for Public Benefit Rating System* document.
- Additional documents:** Photographs, affidavits, sketches, etc. may be submitted to support the application. Additional information may be required upon review of the file. The more detailed information you can provide in your application, the better.

### Please Note:

1. When County staff begins to process your application, they will contact you to conduct a site visit on your property to evaluate its qualifications in the PBRS program.
2. It is highly recommended that you make additional copies of all application materials for your own records, as well as keep record of all correspondence with the County regarding your application.

# STATEMENT OF ADDITIONAL TAX, INTEREST, AND PENALTY DUE UPON REMOVAL FROM CLASSIFICATION UNDER RCW 84.34.070

Upon removal of classification from this property, an additional tax shall be imposed equal to the sum of the following:

1. The difference between the property tax that was levied upon the current use value and the tax that would have been levied upon fair assessed value for the seven tax years preceding removal in addition to the portion of the tax year when the removal takes place; plus
2. Interest at the statutory rate charged on delinquent property taxes specified in RCW 84.56.020 from April 30 of the year the tax would have been paid without penalty to the date of removal; plus
3. A penalty of 20% added to the total amount computed in 1 and 2 above, except when the property owner complies with the withdrawal procedure specified in RCW 84.34.070, or where the additional tax is not applied as provided in 4 (below).
4. Removal of land is not subject to additional tax, interest, and penalties in the following instances:
  - a) Land is transferred to a government entity in exchange for other land located in the state of Washington.
  - b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action.
  - c) A natural disaster such as flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.
  - d) Official action by an agency of the State of Washington or by the County or the city where the land is located disallowing the present use of such land.
  - e) Transfer of land to a church when such land would qualify for exemption pursuant to RCW 84.36.020.
  - f) Acquisition of property interests by State agencies or organizations qualified under RCW 84.34.210 and 64.04.130 [see RCW 84.34.108(5)(f)].
  - g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e) (farm home-site).
  - h) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
  - i) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.
  - j) Transfer of lands between certain Current Use Taxation Classifications (ICC 3.40.180).
  - k) Land is sold or transferred within two (2) years of the death of the owner of at least fifty-percent (50%) interest in the land.
  - l) Purchaser of land in classification signs a Notice of Continuance with the County Assessor's Office.

**ISLAND COUNTY**  
**PUBLIC BENEFIT RATING SYSTEM**  
**APPLICATION**



Rcv'd Island County  
DEC 12 2023  
Community Development

~OPEN SPACE LAND CLASSIFICATION IN ACCORDANCE WITH 84.34 RCW & ICC 3.40~

**CONTACT INFORMATION**

Agent <sup>1</sup> Name:	Grant Shaw
Agent Mailing Address:	644 Scandia Parkway Camano Island WA, 98282
Agent Phone Number:	425-870-4576
Agent Email Address:	Freedomparkgrant@gmail.com
Applicant <sup>2</sup> Name:	Freedom Park Association
Applicant Mailing Address:	848 N Sunrise Blvd, Ste B PMB 147 Camano Island WA. 98282
Applicant Phone Number:	425-870-4576
Applicant Email Address:	FreedomParkCamano@gmail.com

<sup>1</sup>An Applicant Authorization Form is required if an applicant uses an agent to apply on their behalf.

<sup>2</sup>The applicant is considered to be the property owner, unless otherwise noted.

**PROPERTY INFORMATION**

Property Address <sup>3</sup> :	546 E North Camano Dr. Camano Island WA 98282
Name of Access Road:	North Camano Drive
This is a:	<input checked="" type="checkbox"/> Public Road - Access Permit Number: <input type="checkbox"/> Private Road
Within City/Town Limits?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, City/Town:
Presently in Current Use Program?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes, Program:
Applicant's Interest in Property:	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Purchasing through contract <input type="checkbox"/> Other, Please explain:

Tax Parcel Number(s)	Total Acreage	Acreage for PBRS
R - 33220 - 087 -1930	2.53	2.53
R - 33220 - 093 - 2240	1	1
R - 33220 - 093 - 2380	.05	.05

<sup>3</sup>If no address, provide nearest crossroads and written directions to the property on a separate sheet of paper.

# AFFIRMATION

As owner(s) of the land described in this application, I hereby indicate by my signature that I (we) am (are) aware of the potential tax liability involved when the land ceases to be classified under the provisions of RCW 84.34 and ICC 3.40.

I (we) also declare under the penalties for false swearing that this application and any accompanying documents have been examined by me (us) and to the best of my (our) knowledge it is a true, correct, and complete statement. (All owners of the property must print and sign below)

Mike Nestor, President, FPA

Print Name



Signature

Grant Shaw, Vice President, FPA

Print Name



Signature

Print Name



Signature

Print Name



Signature

State of Washington  
County of Island



On This day personally appeared before me Mike Nestor +

Grant Shaw

to me proven to be the individual(s) described in  
and who executed the within and foregoing instrument, and acknowledged that \_\_\_\_\_ signed the  
same as \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned.

Martha Magna

(Notary Signature)

Martha Magna

(Printed Notary Name)

12/5/23

(Date)

Marysville

(Residing at)

April 13, 2027

(My commission Expires)

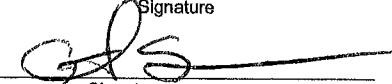
## APPLICANT AUTHORIZATION FORM

If you are authorizing an agent or contractor to apply for permit(s) on your behalf, you must complete this form providing authorization for a designated agent to apply for permit(s) on your behalf. This form is required for the protection of the landowner. An application authorizing an agent to act on the landowner's behalf that is not accompanied by a signed and notarized Applicant Authorization Form will not be accepted. All original signatures must be in ink.

I, Freedom Park Association, the owner(s) of the subject property, understand that by completing this form I hereby authorize Grant Shaw to act as my agent.

I understand that the agent will be authorized to submit applications on my behalf.

I also understand that once an application has been submitted that all future correspondence will be directed to the agent only.

1) <u>Mike Nestor, President FPA</u> Property Owner Name (print)	 Signature
2) <u>Grant Shaw, Vice Pres. FPA</u> Property Owner Name (print)	 Signature
<u>12/05/23</u> Date	
<p>State of Washington County of <u>Tacoma</u></p> <p><b>MARTHA MAGANA</b> NOTARY PUBLIC 116653 COMMISSION EXPIRES 12/31/21 STATE OF WASHINGTON</p> <p>On This day personally appeared before me <u>Mike Nestor</u> at <u>Grant Shaw</u> to me proven to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that <u>Mike Nestor</u> signed the same as <u>Grant Shaw</u> free and voluntary act and deed, for the uses and purposes therein mentioned.</p> <p><u>Mark J. Shaw</u> (Notary Signature) <u>Martha Magana</u> (Printed Notary Name) <u>12/5/23</u> (Date) <u>Marysville</u> (Residing at) <u>April 13, 2027</u> (My commission Expires)</p>	
3) Property Owner Name (print)	Signature
4) Property Owner Name (print)	Signature
Date	
<p>State of Washington County of <u>Island</u></p> <p>On This day personally appeared before me _____ to me proven to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.</p> <p>_____ (Notary Signature) _____ (Printed Notary Name) _____ (Date) _____ (Residing at) _____ (My commission Expires)</p>	

# PROPERTY INFORMATION

## I. GENERAL

A. Describe all present and proposed uses of the proposed open space land on your parcel(s). Attach additional sheets if necessary.

Freedom Park, is a private park open to the public every day of the year. built by volunteers and maintained by volunteers and community donations.

The land was originally donated as a Artists Park and WW2 Survivors memorial. The local Scouts perform flag retirement ceremonies multiple times a year at the park.

The park also hosts an annual Pride Event that has been amazing to see grow.

In 2010 the Playgound was built by volunteers and has been a gem of the community!

We also host the Welcome To Camano sign at Terry's Corner!

B. Describe all present and proposed uses of the non-open space land on your parcel(s).

Freedom Park, is a private park open to the public every day of the year. built by volunteers and maintained by volunteers and community donations.

The land was originally donated as a Artists Park and WW2 Survivors memorial. The local Scouts perform flag retirement ceremonies multiple times a year at the park.

The park also hosts an annual Pride Event that has been amazing to see grow.

In 2010 the Playgound was built by volunteers and has been a gem of the community!

We also host the Welcome To Camano sign at Terry's Corner! A landmark of Camano History!

C. Describe all existing and planned improvements such as buildings, drainage systems, wells, and roads. Indicate distance of the improvements from the proposed open space land.

No Planned improvements at this time.

D. Is the land subject to lease or other agreement, such as an easement, which permits any other use than its present use?

Yes – If yes, attach copies of all leases, options, easements, & similar agreements  
 No

# PROPERTY INFORMATION

## II. RESOURCE INVENTORY

Identify which of the following priority resources, as defined in the *Basis for Assessment for Island County Public Benefit Rating System* document, are contained on your property. Remember to include justifications for each category on the next page or a separate sheet of paper.

### Priority Resource Points

30 points maximum from no more than 6 Priority Resource categories per ICC 3.40.030.

<b>High Priority Resource (5 Points)</b>	
Resource and Rural Agricultural Lands	
Integrated Forest Management Plan	
Privately Owned Trails and Corridors	
"Natural" Shoreline Environments	
Significant Fish and Wildlife Habitat	
Conservation Areas, Species and Habitats of Local Importance, Category A or B	
Wetlands, and Special Plant Sites	
Historic Landmark/Archaeological Site	
Private Lands within Designated National Preserves	
Active or Passive Recreation Area	5
<b>Medium Priority Resource (3 Points)</b>	
"Conservancy" Shoreline Environment	
Flood Hazard Buffer Area	
Geologic Hazard Buffer Area	
Scenic Natural Resources, Viewpoint, or View Corridors	3
Urban Growth Area Open Space	
Public Lands Buffer	
Category C or D Wetlands	
<b>Low Priority Resource (1 Point)</b>	
Artificial/Category E Wetlands	
<b>Total Priority Resource Points</b>	

### Bonus System Points

38 points maximum per ICC 3.40.030(D).

Public Priority (5 pts)	3
Voluntary Resource or Critical Area Restoration (5 pts)	
Surface Water Quality Buffer Areas (1, 3, 5 pts)	
Drainage Area (5 pts)	
Contiguous Parcels Under Separate Ownership (3 pts)	3
Conservation/Historic Easement in Perpetuity (5 pts)	
Properties with an Approved Rural Stewardship Plan (5 pts)	
Properties near or adjacent to a public or current use classified land (2, 4, or 5 pts)	

### Bonus System Cont. – Public Access<sup>1</sup>

Unlimited Public Access (5 pts)	5
Limited Public Access/Sensitive Area (5 pts)	
Privately Owned Tideland Access (5 pts)	
Limited Public Access (3 pts)	
No Public Access (0 pts)	

### Total Bonus System Points

<sup>1</sup>Public access is not required as a condition of enrollment into the PBRS program; although, public access is *highly* encouraged. If proposing public access, describe on a separate sheet of paper how the land can be accessed by the public.

### TOTAL PRIORITY RESOURCE AND BONUS SYSTEM POINTS

**19**

### Qualifies for the Super Bonus Category? (circle one)

Yes/  
No

### Corresponding Tax Reduction (for reference purposes only)

Public Benefit Rating Points	Tax Reduction
0-4	0% of assessed value
5-9	20% of assessed value
10-14	30% of assessed value
15-19	40% of assessed value
20-24	50% of assessed value
25-29	60% of assessed value
30-34	70% of assessed value
35-39	80% of assessed value
40-57	90% of assessed value

## PROPERTY INFORMATION

### III. PRIORITY RESOURCE AND BONUS SYSTEM JUSTIFICATION

For each of the priority resource and bonus system points you choose above, please fill out one explanation section below. You should also submit additional supporting documentations, as applicable. If you require additional sections, please copy this page or use a separate sheet of paper. Please review the *Basis for Assessment for Island County Public Benefit Rating System* document for more information.

**Priority Resource:** Active or Passive Recreation Area      **Resource Acreage:** 3.58    **Points:** 6

**Please explain the reason(s) you believe your property qualifies for this priority resource:**  
Freedom Park is open 365 days a year.

The playground is great for children to have fun and exercise. Walking to all of the art pieces around the park is a relaxing and thoughtful experience.

Summer you see kids playing frisbee and sometimes flying kites. Dog walkers are common. The hill becomes a safe place to sled instead of on a roadway.

**Priority Resource:** Scenic Natural Resources, Viewpoint,      **Resource Acreage:** 3.58    **Points:** 3

**Please explain the reason(s) you believe your property qualifies for this priority resource:**  
Starting with our welcome to Camano sign dating back to the late 40's early 50's it is a landmark of Camano History.

The hills of the park offer scenic views of Port Susan Bay and Mt Rainier. One of our art pieces on the hill is designed to frame both when looking through it.

**Priority Resource:** Public Priority      **Resource Acreage:** 3.58    **Points:** 3

**Please explain the reason(s) you believe your property qualifies for this priority resource:**  
While not defined as a priority in the Basis for Assessment, Freedom Park's rich history, a land mark, and contribution to the community makes it a Public Priority on our island.

Operated and funded by volunteers, the park is hugely supported by the community.





## Legal Description of Parcel / Legal Description of Open Space

Rec'd Island County  
DEC 12 2023  
Community Development

**Lot 1: East Parcel** World War 2 Survivors Memorial & Artists Park

R33220-087-1930 PID 803957

Acreage 2.53 Sec/Twn/Rng: 20/32/R3

Legal Description:

PT LOT 3 SP 79-232 AF#364488 LY E OF LN PARA/W & 255' ELY OF WHEN MEAS AT R/A TO WLN SD LOT 3  
EX PT TO IS CO AF#364273 EX PT TO ST OF WA FOR HWY AF#91005898

**Lot 2: Middle parcel** Playground

R33220-093-2240 PID 163174

Acreage: 1 Sec/Twn/Rng: 20/32/R3

Legal Description:

TR 4 - SP 79-232 AF#364488 52 - IN SE SW BG S/4 CR N926.38' N69\*W20.2' ALG CUR /L 289.85' TPB  
S119.55' ALG CUR/L 279.38' N209.41' S88\* E98.49' ALG CUR/R 170.72' TPB CANCEL EZ AF#89005051

**Lot 3: West Parcel** Welcome to Camano Sign and Artists Park, main access to playground.

R33220-093-2380 PID 163183

Acreage: .05 Sec/Twn/Rng: 20/32/R3

Legal Description:

62 - IN SE SW:20'STRIP E OF & PAR/TO LN BG 310.05' WLY ALG SLN N CAM DR FR INTER/W ELN SE SW &  
SLN SD RD S TO NLN SR532

**Property Owner: Freedom Park Association**

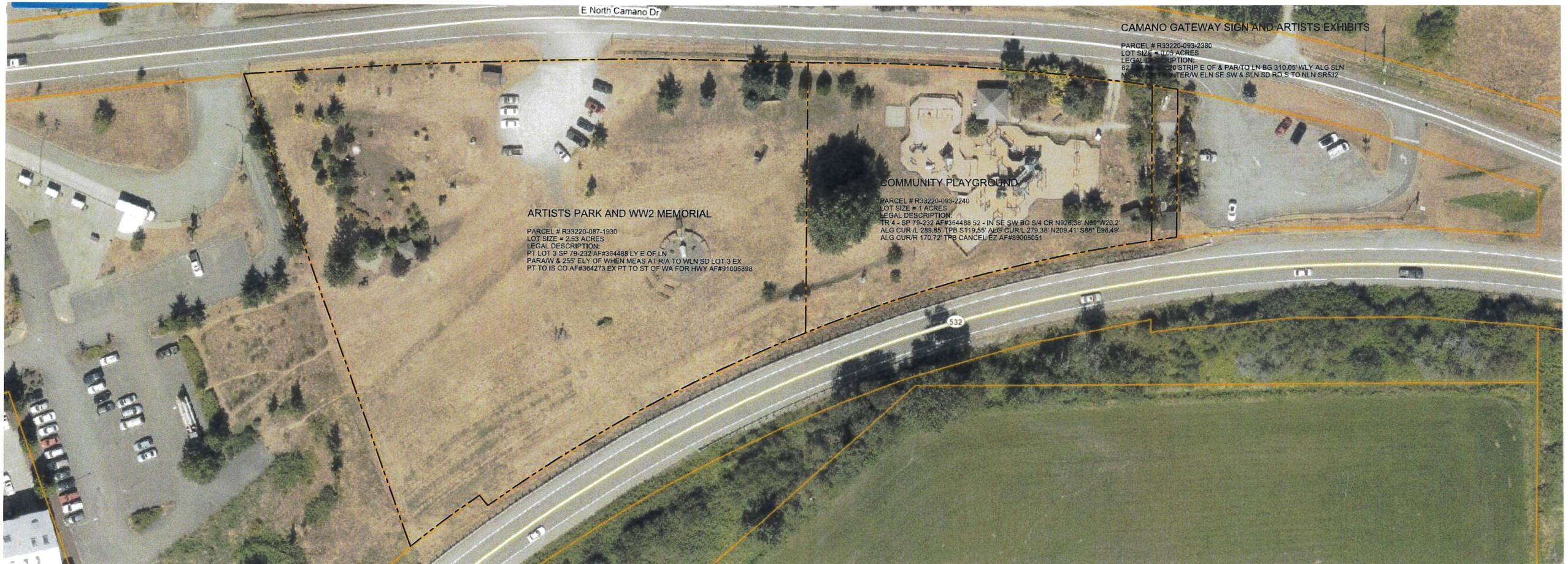
Mailing address:

848 N Sunrise Blvd, STE B, PMB 147

Camano Island WA. 98282

Mike Nestor, Freedom Park Assoc. President

Grant Shaw, Freedom Park Assoc. Vice-President



0 10' 20' 40' 80'  
SCALE: 1" = 40'

## SITE PLAN

DATE: 11-30-2023  
DESIGNED: DN  
DRAWN: JG  
JOB NO:  
SHEET:  
**A1.1**

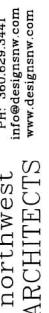
## FREEDOM PARK ASSOCIATION

ISLAND COUNTY  
848 N SUNRISE BLVD, SITE B PMB 147  
CAMAANO ISLAND, WA 98282

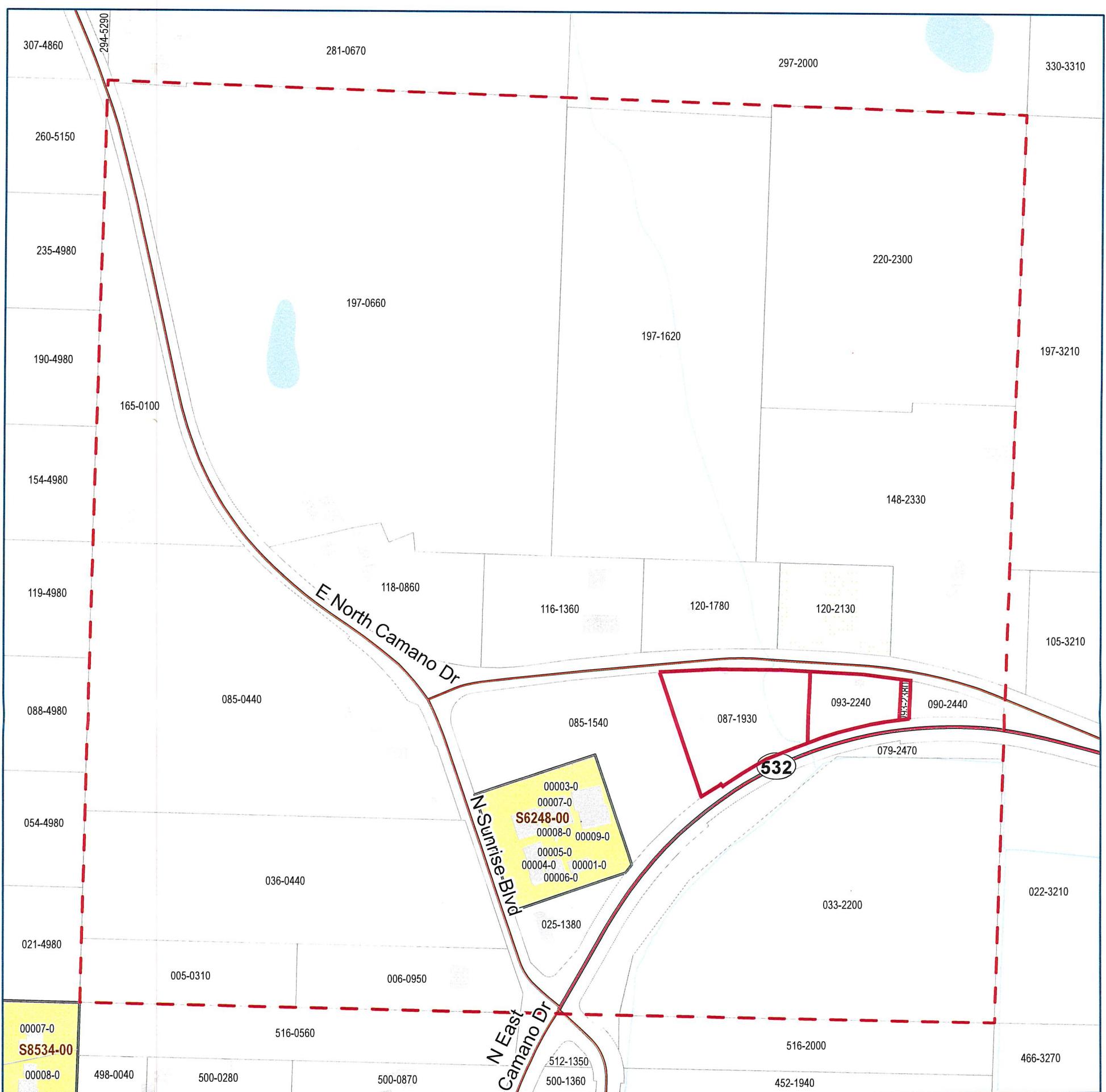
REVISIONS:
1. CLOSER DOOR ADJ. & WINDOW CONFIGURATION LAING WALL ADJUSTMENT
2.
3.
4.

26915 102nd DR NW #201  
STANWOOD, WA 98292  
PH: 360.659.3441  
info@designsnw.com  
www.designsnw.com

DESIGNS northwest ARCHITECTS



©Copyright 2018 DNWA, Inc - Property of DNWA, Inc & is an instrument of service.

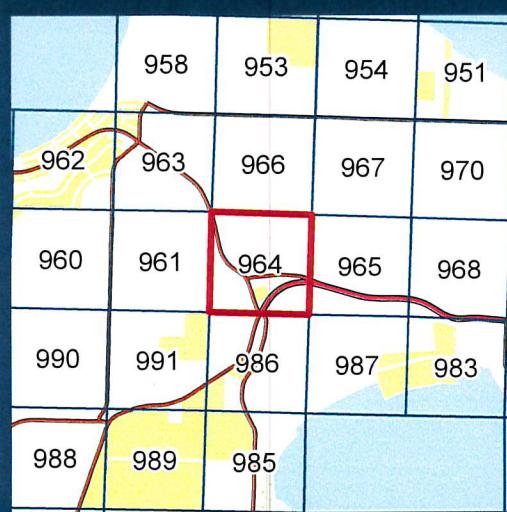


Map ID: 964

SW 1/4 Sec.20 Twp.32 R.3E

20-32-3E

Island County  
Assessor's Office



Current Quarter Section

Parcels

Plats

Abbreviated parcel numbers are listed. To get the full number:

**Metes and bounds parcels (e.g. "R01234-567-8910")**

Add the letter "R" followed by the Range (R), Township (Twp), and Section (S) number and a dash to the front of the labeled parcel number.

Example: R + (R, Twp, S) 01234- + (labeled parcel #) 567-8910

**Parcels in plats (e.g. "S1234-00-56789-0")**

Add the "S" number of the plat and a dash to the front of the labeled parcel number in the plat.

Example: (labeled plat #) S1234-00- + (labeled parcel #) 56789-0



8/12/2022

964

1:4,800  
0 200 400 Feet

For more information, visit  
[www.islandcountywa.gov](http://www.islandcountywa.gov)

**DO NOT USE AS A LEGAL DOCUMENT**

These maps were created from available public records and existing map sources, and from different surveyors and their surveys. Map features from all sources have been adjusted to achieve a "best fit" registration to the Ownership parcels. While great care was taken in this process, maps from different sources rarely agree as to the precise location of geographic features. The relative positioning of map features to one another results from combining different map sources without field "ground truthing."



Rec'd Island County  
DEC 12 2023  
Community Development

**When Recorded Return to:**

Island County Planning and Community Development  
1 NE 7<sup>th</sup> St  
Coupeville, WA 98239

## **Open Space Taxation Agreement**

### **Public Benefit Rating System (PBRS) - Chapter 3.40 ICC**

**Grantor:** Island County

**Grantee(s):** Freedom Park Association

**Assessor's Property Tax Parcel Number(s):** R33220-087-1930, R33220-093-2240,  
R33220-093-2380

**Abbreviated Legal Description(s):** See Attachment "A"

**Full Legal Description(s):** See Attachment "A"

**Planning File Number:** 404/23 PBRS

The application for PBRS classification has been:

<input type="checkbox"/> Approved in Whole	<input checked="" type="checkbox"/> Approved with Condition
<input type="checkbox"/> Denied in Whole	<input type="checkbox"/> Denied in Part

**Point Value Earned:** 13 **Percent Tax Reduction Earned:** Thirty (30%)

The parties, in consideration of the mutual covenants and conditions set forth herein, do agree to the following:

1. This agreement shall be effective on the date the legislative body receives this signed agreement from the property owner and shall remain in effect until the property is withdrawn or removed from classification.
2. This agreement shall apply to the parcels of land described herein and shall be binding upon the heirs, successors and assignees of the parties hereto.
3. Final determinations about exemptions, back taxes, and penalties described in WAC 458-30 and RCW 84.34 shall be made by the Island County Assessor.
4. The 40% tax reduction shall be afforded in the following manner:

Tax Parcel Number(s)	Legal Acreage	Acreage in PBRS
R33220-087-1930	2.53	2.53
R33220-093-2240	1.0	1.0
R33220-093-2380	0.05	0.05
<b>TOTAL</b>	<b>3.58</b>	<b>3.58</b>

5. No structures shall be erected upon such land except those directly related to, and compatible with, the classified use of the land.
6. There shall be no development or ground disturbing activities on the portion of the site that is classified as open space without prior approval from Island County.
7. There shall be no development on the portion of the subject property prior to review and approval of all appropriate land use and building permits. Approval of this application shall not be construed as approval of any structures or facilities.
8. The land shall be used only in accordance with the following additional restrictions:
  - a. **Active or Passive Recreation:** Eligible lands must remain available for public use for active or passive recreation.
  - b. **Scenic or Natural Resources:** The property must maintain view corridors.
  - c. **Unlimited Public Access:** The property must remain available for unlimited public access.
9. **Changes in Use:** If the property owner changes the use of the classified land, the owner must notify the County assessor of the change within sixty (60) days. The assessor shall then impose an additional tax equal to the difference between the tax paid on current use value and the tax that would have been paid on that land had it not been so classified, payable for the seven (7) years last past, plus interest on this additional tax at the same rate as charged on delinquent property taxes, plus a penalty of twenty (20) percent of the total amount.
10. **Monitoring:** The Planning and Community Development Department shall monitor the property to determine the continuing compliance with all of the conditions under which open space classification was granted and the current uses of the property. Where the Planning and Community Development

Department determines that the land is no longer being used for the purpose for which the classification was granted or there has been a change in use, it will report its findings within thirty (30) days to the county assessor.

11. ***Annual Affidavit:*** Monitoring of lands for continuing eligibility for current use assessment as open space lands shall include an affidavit, to be submitted annually by the landowner, of continuing compliance with the terms and conditions under which open space classification was granted and the current uses of the property. The requisite form and contents of the affidavit required for monitoring shall be described more fully in the county guidelines implementing this chapter. The failure of the owner to submit the affidavit of compliance shall be grounds for the county to reevaluate the property under the PBRS.
12. ***Withdrawal:*** After eight (8) years of the initial ten-year period has passed, the landowner may request that all or part of his/her land be withdrawn from the classification. The landowner must submit the request to withdraw classification to the assessor at least two (2) years prior to the date upon which it is to be removed from the current use assessment classification. The request to withdraw classification may be revoked at any time until the land is withdrawn from classification. After withdrawal, the applicable taxes and interest shall be imposed as provided in RCW 84.34.070 and 84.34.108
13. ***Partial Withdrawal:*** If a portion of a parcel is removed from classification the remaining portion must meet the same requirements, as did the entire parcel when the land was originally granted classification. Following withdrawal from classification, future valuation of such land as open space resource property under the public benefit rating system is contingent upon reapplication and approval under this chapter. After withdrawal, the applicable taxes and interest shall be imposed as provided in RCW 84.34.070 and 84.34.108
14. ***Removal of Land Not Subject to Additional Tax, Interest, and Penalties:*** Removal of the subject property from the PBRS program is not subject to additional tax, interest, and penalties in the following instances:
  - a. The property is transferred to a government entity in exchange for other land located in the State of Washington;
  - b. The property is taken by power of eminent domain or transferred in anticipation of the exercise of such power;
  - c. The property is sold or transferred within two (2) years of the death of the owner of at least fifty-percent interest in the land;
  - d. A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of an act of the landowner which changes the use of such property;
  - e. Official action by the state, county or city disallows the present use of such land;
  - f. The property is transferred to a church, such that the land would qualify for a property tax exemption; or
  - g. Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purpose of protecting, preserving, maintaining, improving, restoring, limiting the future use of, or otherwise conserving, selected open space land as defined in Chapter 84.34 RCW for public use and enjoyment.
15. ***Transfer of Lands Between Current Use Taxation Classifications:*** Reclassified between the following current use assessment resource categories pursuant to RCW 84.34.070 are not considered withdrawals and are not subject to the additional tax interest and penalties:
  - a. Reclassification of this property to farm and agricultural lands (RCW 84.34) or designated forest lands (RCW 84.33); or
  - b. Reclassification from open space designated farm and agricultural conservation land under RCW 84.34.020(8) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land.

16. ***Sale of Open Space Classified Land:*** When classified open space land is sold, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty of all or a portion of classified lands, unless the new owner signs the notice of continuance which is attached to or shown on the excise tax affidavit. The county auditor shall not accept an instrument of conveyance on any classified land unless the notice of continuance has been signed or the additional tax has been paid.
17. ***Breach:*** After the effective date of this agreement, any change in use of the land, except as identified in sections 12, 13, 14, or 15 above, shall be considered a breach of this agreement, and shall be subject to removal of classification and liable for applicable taxes, penalties, and interest as provided in RCW 84.34.080 and RCW 84.34.108.

It is declared that this agreement specifies the classification and conditions as provided for in Chapter 84.34 RCW, ICC 3.40, and the conditions imposed by this Granting Authority. This agreement to tax according to the use of the property may be annulled or canceled at any time by the Legislature.

Granting Authority:

Dated: \_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS  
ISLAND COUNTY, WASHINGTON**

---

Jill Johnson, Chair

---

Janet St. Clair, Member

---

Melanie Bacon, Member

As owner(s) of the herein described land I/we indicated by my/our signature(s) that I am/we are aware of the potential tax liability and hereby accept the classification and conditions of this agreement.

Dated: \_\_\_\_\_

Owner(s)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Must be signed by all owners)

Date signed agreement received by Legislative Authority \_\_\_\_\_

## Attachment "A"

### Full Legal Description for Parcels R33220-087-1930, R33220-093-2240, R33220-093-2380

**Lot 1: East Parcel** World War 2 Survivors Memorial & Artists Park

R33220-087-1930 PID 803957

Acreage 2.53 Sec/Twn/Rng: 20/32/R3

Legal Description:

PT LOT 3 SP 79-232 AF#364488 LY E OF LN PARA/W & 255' ELY OF WHEN MEAS AT R/A TO WLN SD LOT 3  
EX PT TO IS CO AF#364273 EX PT TO ST OF WA FOR HWY AF#91005898

**Lot 2: Middle parcel** Playground

R33220-093-2240 PID 163174

Acreage: 1 Sec/Twn/Rng: 20/32/R3

Legal Description:

TR 4 - SP 79-232 AF#364488 52 - IN SE SW BG S/4 CR N926.38' N69\*W20.2' ALG CUR /L 289.85' TPB  
S119.55' ALG CUR/L 279.38' N209.41' S88\* E98.49' ALG CUR/R 170.72' TPB CANCEL EZ AF#89005051

**Lot 3: West Parcel** Welcome to Camano Sign and Artists Park, main access to playground.

R33220-093-2380 PID 163183

Acreage: .05 Sec/Twn/Rng: 20/32/R3

Legal Description:

62 - IN SE SW:20' STRIP E OF & PAR/TO LN BG 310.05' WLY ALG SLN N CAM DR FR INTER/W ELN SE SW &  
SLN SD RD S TO NLN SR532



## Island County Planning and Community Development

*Mary Engle, Director*

Physical Address: 1 NE 6<sup>th</sup> St, Coupeville, WA 98239 Mailing Address: 1 NE 7<sup>th</sup> St, Coupeville, WA 98239

Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306

Email: [PlanningDept@islandcountywa.gov](mailto:PlanningDept@islandcountywa.gov) | <https://www.islandcountywa.gov/207/Planning-Community-Development>

### ~ MEMORANDUM ~

**TO:** **Board of County Commissioners**  
**FROM:** **Mary Engle, Planning Director**  
**DATE:** **April 10, 2024**  
**SUBJECT:** **Comprehensive Plan – Natural Resources Goals & Policies Discussion**

Long Range Planning staff will lead the Board of Island County Commissioners in a review of the Comprehensive Plan Natural Resources Element's goals and policies. Staff will provide Growth Management Act (GMA) required updates, department feedback, and public input to frame the conversation on what changes are needed for the 2025 periodic update.

#### Attachments:

- Excerpt from the Island County Comprehensive Plan – 2018 Natural Resources Element Goals and Policies



## Island County Planning and Community Development

*Mary Engle, Director*

---

Physical Address: 1 NE 6<sup>th</sup> St, Coupeville, WA 98239 Mailing Address: 1 NE 7<sup>th</sup> St, Coupeville, WA 98239  
Ph: Whidbey 360-679-7339 | Camano 360-387-3443 | Fax: 360-679-7306  
Email: [PlanningDept@islandcountywa.gov](mailto:PlanningDept@islandcountywa.gov) | <https://www.islandcountywa.gov/207/Planning-Community-Development>

## EXCERPT FROM THE ISLAND COUNTY 2016 COMPREHENSIVE PLAN – NATURAL RESOURCES ELEMENT

### GENERAL ENVIRONMENTAL QUALITY

**Goal 1. Safeguard the natural environment as an integrated system where the land, water, and air resources interact creating a balanced environment for all life on the islands.**

**NR 1.1.** Include the best available science in developing policies and development regulations to protect the functions and values of critical areas and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

**NR 1.2.** Preserve Island County's environmental quality through the careful use of land, water and air resources.

**NR 1.2.1.** Extraction of mineral resources must minimize detrimental effects to the environment. (Other policies related to the siting and conservation of mineral lands are located in the Land Use Element.)

**NR 1.2.2.** Infilling of developed lands, Urban Growth Areas and areas of more intensive rural development will be encouraged in order to provide public facilities and services in the most efficient manner, as laid out in the Land Use Element.

**NR 1.2.3.** Island County encourages low-impact development practices.

**NR 1.3.** Conserve energy by encouraging efficient consumption and proper land use management.

**NR 1.3.1.** Government must provide leadership and education in employing energy conservation practices and the use of renewable energy technologies.

**NR 1.3.1.1.** Recycling of wastes and use of recycled or reused materials will be encouraged.

**NR 1.3.1.2.** Use of gray and treated black water will be encouraged, provided treatment design meets public health standards.

**NR 1.3.2.** Transportation systems and land use patterns must be designed to consider conservation of energy. Primary employers, commercial users and population centers will be

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

clustered where possible to minimize worker, service and consumer travel, as laid out in the Transportation Element.

**NR 1.3.3.** Government services will be sited to minimize consumer travel, as laid out in the Capital Facilities Element.

**NR 1.3.4.** Island County will encourage developments and structures with energy conservation technologies.

**NR 1.4.** High intensity lighting is discouraged, but where necessary will require that it must be shielded from adjacent properties and roads and shielded and directed down to reduce impacts to the dark sky.

### AIR QUALITY

#### **Goal 2. Preserve a high level of air quality.**

**NR 2.1.** Emphasis will be given to alternative forms of transportation (public transit, car pools, bicycle and pedestrian trails) decreasing dependency on the single occupant automobile.

**NR 2.2.** Promote non-polluting alternatives to wood burning, such as solar heating and chipping instead of burning slash.

### WETLANDS

#### **Goal 3. Protect wetlands from a net loss in functions.**

**NR 3.1.** Protect, preserve, and enhance wetlands to achieve no net loss of wetland functions.

**NR 3.1.1.** Avoid land development that causes loss of wetland functions. When there is no reasonable alternative, minimize and mitigate adverse impacts to wetland functions.

**NR 3.1.2.** Mitigation projects that add to existing wetlands or increase functions and values of degraded wetlands are preferred over efforts to create wetlands from non-wetland areas and should remain subject to wetlands protection regulations.

**NR 3.1.3.** Prohibit alteration of land that results in degradation of Category A wetlands, except for maintenance of existing public use or road or utility crossings that are the least environmentally damaging practical alternative or if necessary to permit reasonable use of the land. In such cases, minimize and mitigate the degradation.

**NR 3.1.4.** Implement non-regulatory wetlands protection measures such as acquisition and incentive programs and the public benefit ratings system.

**NR 3.1.5.** Provide continuity of natural systems by establishing

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

protected corridors of native vegetation between wetlands systems using buffer averaging, density incentives, land acquisition, site design and other techniques.

- NR 3.2.** Consider economic, environmental, and cultural costs when evaluating proposals for wetland alterations, and recognize instances where development or alteration within or adjacent to wetlands is acceptable.
- NR 3.2.1.** Allow reasonable use of a property, provided all wetlands functions are evaluated, the least harmful alternative is pursued, and degraded functions are mitigated, on site as far as possible.
- NR 3.3.** Development will be located away from regulated wetlands by use of buffers and Planned Residential Developments.
- NR 3.4.** Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible to potential and existing landowners, interested citizens, and development interests to aid in the protection of these areas.
- NR 3.5.** Alteration will occur only after careful consideration of the function of the area, the potential environmental costs of alterations, the sensitivity of the area to disturbance, and the intensity and potential risks associated with a proposed land use.
- NR 3.6.** When a violation of the policies and regulations of this area is identified, the enforcement action and severity of any penalty will be proportional to the nature and circumstances of the violation and the damage or risk to private and public resources.
- NR 3.7.** Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.

**NR 3.8.** Wetlands regulations are contained in ICC 17.02B and where applicable, ICC 17.05A.

### **FISH AND WILDLIFE HABITAT CONSERVATION AREAS OVERLAY**

#### **Goal 4. Protect Fish and Wildlife Habitat Conservation Areas.**

- NR 4.1.** Develop specific criteria and processes to nominate, designate and classify habitats and species of local importance.
- NR 4.2.** Periodically review and update designations as new information on species viability and habitat needs becomes available.

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

**NR 4.3.** Conserve habitats necessary for continued reproductive success of designated species.

**NR 4.3.1.** Protect elements necessary to the survival of designated species, including habitat areas such as nests, breeding areas, nurseries from disturbance during critical life cycle periods.

**NR 4.3.2.** Encourage enhancement of degraded habitat areas.

**NR 4.3.3.** Based on the recommendations of Biological Site Assessment or Habitat Management Plan, provide physical buffers or timing restrictions around specific habitat areas used by designated species commensurate to the seasonal use of the area (where that is the case), the sensitivity of the species and habitat, the relative importance of the species and habitat, and the intensity of proposed and actual uses.

**NR 4.3.4.** Landscaping, screening, or vegetated buffers required through development review should retain, salvage, or re-establish native vegetation.

**NR 4.3.5.** Limit the use of non-native and prohibit the use of invasive plant species in Fish and Wildlife Habitat Conservation Areas.

**NR 4.3.6.** Encourage the provision of corridors and networks of native vegetation between protected habitat areas to minimize isolating and fragmenting designated wildlife habitat. Incorporate natural resource lands supporting uses such as forestry and agriculture into wildlife corridors and networks.

**NR 4.3.7.** Consult with State and Federal agencies when making wildlife management and protection decisions.

**NR 4.3.8.** Develop and implement programs to restore, rehabilitate, and acquire important habitat areas.

**NR 4.4.** Protect all streams.

**NR 4.5.** Protect near shore habitats, including commercial and recreational shellfish areas; kelp and eelgrass beds; herring, sand lance and smelt spawning areas.

**NR 4.5.1.** The design of new and replacement on site sewage systems shall meet the minimum requirements outlined in ICC 8.07C and where applicable, meet the siting requirements in ICC 17.05A

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

- NR 4.5.2. Require buffers for new development adjacent to streams and marine habitats.
- NR 4.5.3. Require preparation of farm plans for new agriculture uses in the Commercial Agriculture land use district.
- NR 4.5.4. Require implementation of best management practices for new and existing agricultural activities.
- NR 4.6.** Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible to potential and existing landowners, interested citizens, and development interests to aid in the protection of these areas.
- NR 4.7.** Regulation of these areas will take into consideration the function of the area, the potential environmental costs of alterations, the sensitivity of the area to disturbance, and the intensity and potential risks associated with a proposed land use.
- NR 4.8.** When a violation of the policies and regulations of this area is identified, the enforcement action and severity of any penalty will be proportional to the nature and circumstances of the violation and the damage or risk to private and public resources.
- NR 4.9.** Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.
- NR 4.10.** Fish and Wildlife Habitat Conservation Areas regulations are contained in ICC 17.02B and where applicable, 17.05A.

### **FREQUENTLY FLOODED AREAS**

**Goal 5. Protect public health, safety, and welfare, to minimize public and private losses due to flood conditions in frequently flooded areas.**

- NR 5.1.** Reduce the potential for physical injury and damage to public and private property from flooding by minimizing impacts of upstream land uses.
  - NR 5.1.1.** Protect natural water storage areas and drainage systems, including wetlands, streams and lakes, to reduce downstream flooding.
  - NR 5.1.2.** Ensure new development above identified thresholds minimizes additional runoff by limiting impervious surfaces, unnecessary grading and compaction of soils, and preserving areas of undisturbed vegetation.
  - NR 5.1.3.** Ensure new development above identified

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

thresholds is accompanied by appropriate stormwater facilities, such as detention ponds, infiltration facilities, and other measures to maintain rates of runoff at pre-development levels.

- NR 5.1.4.** Impose standards for construction in frequently flooded areas to minimize the potential for physical injury and property damage.
- NR 5.2.** Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible to potential and existing landowners, interested citizens, and development interests to aid in the protection of these areas.
- NR 5.3.** When a violation of the policies and regulations of this area is identified, the enforcement action and severity of any penalty will be proportional to the nature and circumstances of the violation and the damage or risk to private and public resources.
- NR 5.4.** Development regulations shall be implemented in addition to those associated with the underlying land use designation.
- NR 5.5.** The County's Surface Water Program will continue to work to review drainage, flooding, and stormwater run-off in the area and nearby jurisdictions to provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state
- NR 5.6.** Regulations for frequently flooded areas are contained in the ICC 17.02B, as well as ICC 17.05A for the FEMA designated 1% flood zone.

## GEOLOGICALLY HAZARDOUS AREAS (STEEP/UNSTABLE SLOPES)

**Goal 6. Protect the public health, safety, and welfare from threats resulting from incompatible development being sited on or near steep and/or unstable slopes.**

- NR 6.1.** Minimize damage to life, health, property, and natural resources caused by geological processes.
- NR 6.1.1.** Require thorough geotechnical investigation of localized conditions during the review of proposed development within areas of steep/unstable slopes. The amount of information required will be proportionate to the severity of the geologic hazard and the susceptibility of the proposed development.
- NR 6.1.2.** Encourage, and where appropriate, require use of special engineering, site design, and modified

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

construction practices.

- NR 6.1.3.** Prohibit activities and land uses which cause or exacerbate existing hazardous geological conditions.
- NR 6.2.** Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible to potential and existing landowners, interested citizens, and development interests to aid in the protection of these areas.
- NR 6.3.** Regulation of these areas will take into consideration the sensitivity of the area to disturbance, and the intensity and potential risks associated with a proposed land use.
- NR 6.4.** When a violation of the policies and regulations of this area is identified, the enforcement action and severity of any penalty will be proportional to the nature and circumstances of the violation and the damage or risk to private and public resources.
- NR 6.5.** Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.
- NR 6.6.** Steep and unstable slope regulations are contained in ICC 17.02B.

## WATER RESOURCES

**Goal 7. Manage and protect ground water and provide for resource protection through a common goal of non-degradation for existing and future residents of Island County.**

- NR 7.1.** Protect the quantity and quality of groundwater resources for existing and future residents of Island County.
  - NR 7.1.1.** Provide incentive programs to encourage participation in water conservation and aquifer recharge area protection programs.
  - NR 7.1.2.** No development shall be allowed in areas of known ground water limitations as determined by the Health Department, unless it can be proven through objective well tests not to diminish water supplies or reduce water quality for existing users, per ICC 8.09 and related policies.
  - NR 7.1.3.** Continue to carefully evaluate the hydrogeologic setting when making decisions on potentially contaminating land uses, and require use of Best Management Practices, hazardous material management plans, and other tools to help prevent contamination of ground water.
- NR 7.2.** The County will promote the retention and reuse of stormwater when it is the best and environmentally correct option.

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

**NR 7.3.** Public education concerning water conservation will be a continuing high priority.

**NR 7.4.** Reuse of water, recharge of aquifers and alternative storage systems will be encouraged.

### **Goal 8. Protect aquifer recharge areas from contamination and insure long term recharge potential.**

**NR 8.1.** Consider acquisition of areas with particular value to ground water recharge.

**NR 8.2.** Continue efforts to identify areas with ground water problems such as seawater intrusion, groundwater depletion, and contamination from surface activities.

**NR 8.2.1.** Continue implementing data collection and analysis efforts as recommended in the Ground Water Management Program.

**NR 8.2.2.** Work with the Island County Health Department, Washington Departments of Health and Ecology to make best use of available data and new technology.

**NR 8.2.3.** Use site-specific data as it becomes available to determine locations of important recharge areas, areas of limited ground water availability, and areas of particular vulnerability to contamination from surface activities. Maintain, update, and coordinate this data to make the most effective use of the available information.

### **Goal 9. Ensure that Island County plans and develops in a manner that utilizes the best available information regarding water resources so that the resource will be preserved for current and future use.**

**NR 9.1.** Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible to potential and existing landowners, interested citizens, and development interests to aid in the protection of these areas.

**NR 9.2.** Watershed management planning will be cognizant of the need to preserve water supply while providing drainage facilities to protect the welfare and safety of the community.

**NR 9.3.** Development plans will contain plans for facilities to mitigate the impacts of increased runoff, stormwater drainage and flooding.

**NR 9.4.** The location and design of development will be carefully guided in order to minimize potential adverse impacts on the quality of ground and surface waters.

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

**NR 9.5.** Land use patterns and practices conserving the integrity of the natural watershed system will be encouraged.

### **Goal 10. Natural Lands Conserve a variety of natural lands, in both public and private ownership, for the enjoyment and economic benefit of current and future residents of Island County.**

**NR 10.1.** Balance public and private interests in land.

**NR 10.1.1.** Correct any imbalance in public policies between open space protection and land development incentives through sound incentives for land conservation and careful analysis of the equity and real costs, both financial and environmental, of subsidizing development.

**NR 10.1.2.** Only consider divestment in publicly owned open lands and resources if careful analysis shows that they contain little value as public conservation or recreational land.

**NR 10.1.3.** The proceeds from the selling or trading of publicly owned open lands and resources should be reinvested in conservation of land and resources, either directly or through a dedicated fund that yields continuing income streams devoted to land conservation.

**NR 10.1.4.** Respect property rights when developing regulations and policies around land conservation.

**NR 10.1.4.1.** Ensure that the designation of natural lands does not infringe on individual property rights.

**NR 10.1.5.** Develop objective criteria to prioritize public expenditures for the acquisition of fee simple or other interests in natural lands.

**NR 10.2.** Identify funding sources for the acquisition or protection of natural lands in accordance with the Parks and Recreation Element

### **Goal 11. Prioritize the protection of natural lands that coincide with other valuable resources, including ecological, historical, agricultural, recreational, and cultural lands.**

**NR 11.1.** Maintain the important ecological functions and values of natural landscapes such as wetlands, stream corridors, shoreline systems and forests.

**NR 11.1.1.** Develop land use regulations and strategies such as

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

cluster development and wetlands buffer requirements to identify and preserve important natural lands areas located on sites proposed for development.

**NR 11.1.2.** Prioritize the protection of natural lands that contain historic or archaeological sites, structures and landscapes which are important to local culture and retain the county's rural quality and character.

**NR 11.2.** Conserve agricultural lands for the continued profitable production of crops, timber and livestock.

**NR 11.2.1.** Discourage the conversion of properties identified as having prime farmland soils to non-agricultural uses.

**NR 11.2.2.** Look into possible strategies for protecting agricultural uses and maintaining the economic viability and sustainability of existing farms.

**NR 11.3.** Enhance recreational opportunities for County residents.

### **Goal 12. Protect natural, scenic, cultural, and historic lands as community assets.**

**NR 12.1.** Maintain Island County's natural lands and open space to protect health and welfare, enhance the quality of life, preserve heritage, promote economic vitality and reduce the burden on government resources.

**NR 12.2.** When converting land to a use that requires water availability, Island County will prohibit major alterations to the land beyond the minimum necessary to do soil and water testing prior to the issuance of a water right or other state or local authorized evidence of adequate potable water.

**NR 12.3.** Ensure residents have adequate access to open space areas, including land that contains natural areas, habitat lands, natural drainage features, and/or other environmental, cultural, and scenic resources.

### **Goal 13. Continue to promote active public involvement in the conservation or protection of important natural lands.**

**NR 13.1.** Foster enduring voluntary land conservation through government assistance such as income and estate tax benefits, technical assistance grants and programs to purchase partial land interests.

**NR 13.1.1.** Continue implementing the Public Benefit Rating System as a property tax reduction incentive program for property owners to conserve open space.

## **EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN**

**NR 13.1.2.** Maintain existing current use taxation programs for designated forest and agricultural lands.

**Goal 14.** Continue an open dialogue between Island County, incorporated jurisdictions, special purpose districts, non-profits, and other interested individuals and organizations working toward the conservation or protection of natural lands.

- NR 14.1.** Establish and maintain partnerships with State and Federal agencies, cities, towns, private non-profit conservation groups, port districts, school districts, tribes, foundations, corporations and individuals for the purpose of acquiring or protecting natural lands.
- NR 14.2.** Design and implement education programs to promote the benefits of conserving natural lands, and to introduce available and proposed current use taxation programs.

### **RESOURCE LANDS**

**Goal 15.** Protect existing and ongoing resource management operations and preserving long- term commercial viability of those uses.

#### **RURAL FOREST**

- NR 15.1.** Measures shall be used to support silviculture industries.
- NR 15.2.** Encourage the conservation of lands suitable for forestry use and support forestry as an activity valued in the County.
- NR 15.3.** Cluster development or encourage low intensity uses to minimize site clearing and maintain future forestry use options
- NR 15.4.** Encourage forestry landowners to retain their lands in timber production and to utilize tax incentive programs.
- NR 15.5.** Support innovative public and private programs that provide foresters incentives to stay on the land.
- NR 15.6.** Encourage selective clearing and logging, as opposed to clearcutting, if forest harvesting is done in the Ebey's Landing National Historical Reserve.

#### **COMMERCIAL AGRICULTURE**

**NR 15.7.** Achieve agricultural preservation through:

- NR 15.7.1.** Right to farm and forest measures which protect the right to pursue farm and forestry activities.
- NR 15.7.2.** Support the continuation of preferential tax programs.
- NR 15.8.** Encourage an effective stewardship of the environment

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

to conserve and protect Commercial Agriculture lands.

**NR 15.8.1.** Prevent or correct agricultural practices that produce non point source pollution of surface and groundwater.

**NR 15.8.2.** Take measures to minimize adverse impacts of agricultural activities.

**NR 15.9.** Protect agricultural operations from incompatible uses by using measures including, but not limited to:

**NR 15.9.1.** Ensuring that uses on adjacent lands do not interfere with continuing agricultural good management practices on resource lands;

**NR 15.9.2.** Setbacks and buffer strips should be on land within the development unless an alternative is mutually agreed on by adjacent landowners; and

**NR 15.9.3.** Public education concerning resource activities and the common benefits derived from them.

**NR 15.10.** Protect and promote related development such as farmers markets and roadside stands, cooperative marketing, and value added products, etc.

**NR 15.11.** Strengthen public disclosure of current adjacent agricultural activities by means of a “right to farm” notice on the deed, area maps, etc.

**NR 15.12.** Support the continued existence of agricultural lands by means of tax incentives or other appropriate financial aid or incentives.

**NR 15.13.** Coordinate agricultural land preservation policies with other jurisdictions, special districts and their respective programs.

**NR 15.14.** Coordinate agricultural land preservation policies with other County wide Planning Policies through:

**NR 15.14.1.** Correlating agricultural land preservation policies with Urban Growth Area policies and with public facility and service provision policies to prevent the extension of urban services to areas intended for continued agricultural use;

**NR 15.14.2.** Ensuring that public facility and service extension, even if not directly serving the agricultural lands, do not stimulate the conversion of agricultural land or make its preservation and protection more difficult.

**NR 15.15.** In order to assure the rights of agricultural land owners and to provide them reasonable flexibility to modify classification of their land, owners of agricultural land may request change of agricultural lands classification under certain circumstances.

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

**NR 15.16.** Cooperative agricultural production and marketing will be encouraged.

### **MINERAL LANDS**

**NR 15.17.** Maintain and enhance natural resource based industries.

**NR 15.17.1.** Assure conservation of mineral resource lands.

**NR 15.17.1.1.** Assure that the use of lands adjacent to mineral resource lands do not interfere with the continued use, in accordance with best management practices, of lands designated for the extraction of minerals.

**NR 15.17.1.2.** Assure that the excavated land will have an ultimate economic use which will complement and preserve the value of adjoining land.

**NR 15.17.1.3.** Maintain the contribution of mining and processing operations to the Island County employment base.

**NR 15.17.2.** Island County will provide for title or plat notification for property owners within 300 feet of an existing approved mining operation.

**NR 15.17.3.** Regulate surface mining operations to minimize land use conflicts through the conditional use process.

**NR 15.17.4.** Apply standards which consider noise levels, light pollution, dust, visual screening, transportation impacts, hours of operation, water quality and groundwater protection and consumption, to new and expanding mine operations.

**NR 15.17.5.** Encourage the purchase of development rights, by the mine developer, of the area within 300 feet of the proposed mine, thus limiting use within that area to forestry, agricultural or designated open space, for the life of the mining operation.

**NR 15.18.** Allow extractive industries to locate where prime natural resource deposits exist, provided these sites are separated by buffers from existing residential areas and restored for appropriate reuse after removing the resource material.

**NR 15.19.** Discourage new residential uses from locating near active extractive sites, unless the residential developer provides

## EXCERPT FROM THE 2016 ISLAND COUNTY COMPREHENSIVE PLAN

adequate buffering.

- NR 15.20.** Operation of new and expanding sites will be regulated by land development standards to ensure proper siting and to minimize environmental impacts during operation.
- NR 15.21.** There is no minimum parcel size for existing operations. Future commercial sites generally should be 10 acres or greater to provide for adequate screening. Future small scale operations such as borrow pits may be less than 10 acres.
- NR 15.22.** On sites with disturbed areas of three acres or less, site reclamation will be carried out as soon as practical, as phased operations are completed, to prevent erosion and water quality degradation, and to return the site to a natural state. Reclaimed sites can be used for any of the uses permitted in the underlying land use designation.
- NR 15.23.** Surface mining is not considered to be a permanent use of the land. The land should be utilized consistent with the long term plans of the community, and mining allowed based upon performance standards.
- NR 15.24.** Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.
- NR 15.25.** Island County shall notify adjacent landowners of the existence of a surface mine and to the extent known, undeveloped mineral resources, acknowledging that surface mining is market dependent, and operations may be intermittent and more or less intense at times.



## Island County Public Health

*Shawn Morris, ND – Public Health Director*

1 NE 7<sup>th</sup> St, Coupeville, WA 98239

Ph: Whidbey 360-679-7350 | Camano 360-678-8261 | N Whidbey 360-240-5554

Email: [Publichealth@islandcountywa.gov](mailto:Publichealth@islandcountywa.gov) | [www.islandcountywa.gov](http://www.islandcountywa.gov)

### MEMORANDUM

11/15/2023

TO: Island County Planning Department

FROM: Shawn Morris, Public Health Director

RE: Summary Memo - Island County Department of Health Meeting - November 9th, 2023

On November 9th, 2023, a meeting was held with the Island County Department of Health to address water-related challenges and establish a collaborative approach. Present were members of Island County Public Health and members of a group called The Water Cohort. The primary focus was on the need for real-time data and policy reform to address water resources sustainability, focusing on programs managed by Island County Public Health.

Representatives of The Water Cohort emphasized the importance of responsible stewardship of groundwater resources. The Island County Hydrogeologist and Environmental Health Manager discussed groundwater monitoring approaches and programmatic goals. The Natural Resources Manager and Watershed Planner discussed surface water priorities. The discussion explored the following pathways for continual improvement:

- Expanding real-time data through monitoring wells and policy alignment, taking inspiration from Kitsap County's approach of viewing water as a resource.
- Preserving wetlands and critical habitat involved that support water quality and infiltration, along with handling stormwater comprehensively.
- Strengthening our understanding of aging drinking water infrastructure and needs for local systems.
- The need for greater involvement in water rights issues was emphasized.

Specific action items centered on the importance of monitoring, along with a focus on assessing the state of aging drinking water infrastructure, while ensuring water systems are efficiently managed. The discussion further delved into the necessity of addressing stormwater management and integrating long-term plans to handle population growth sustainably in relation to drinking water resources. The conversation stressed the importance of funding for studies and monitoring wells, with an emphasis on utilizing real-time data to inform state authorities. Island County Public Health committed to continued discussions and to refine the requests for funding related to identified priorities. Public Health also discussed summarizing and sharing notes with Island County Planning to help inform Comprehensive Planning elements related to water resources. The meeting concluded with plans for future collaboration, including exploring funding opportunities and refining the ask for support.

To: Comprehensive Plan Team, County Commissioners, Public Works, Planning and Health Departments

From: Bill Poss, Langley WA [poss@whidbey.com](mailto:poss@whidbey.com)

Two important resources Island County are groundwater and forest lands. A substantial amount the County is dependent upon groundwater resources for potable water. The U.S. Environmental Protection Agency designated Island County with “Sole Source Aquifer” status.

The economy, property values and quality of life would be severely impacted without adequate supply of groundwater.

A healthy forest landscape helps to reduce and filter stormwater runoff and enhance recharge groundwater as well as many other economic and ecological benefits to the entire community. Land use activities can significantly reduce or enhance recharge rates.

As an elected Commissioner of a South Whidbey Water District, I am keenly aware of the issues related to groundwater supply, quality and delivery.

Additionally, after many years of reviewing development applications for Island County Public Works, I observed how stormwater runoff problems can be avoided with thoughtful, simple, affordable site development and stormwater management techniques.

Natural drainage systems, also known as Low Impact Development (LID) best management practices such as rain gardens, infiltration or dispersion systems and retention of native vegetation buffers are proven techniques that are very successful in mitigating stormwater runoff quality and quantity problems and enhancing groundwater recharge.

Careful consideration of how a property is cleared, graded and developed can result in stormwater runoff patterns either being a problem or being an asset.

Currently, there are gaps in the Island County Stormwater Ordinance (ICC 11.03) that exempt a substantive amount proposed development from stormwater review.

For example, per 11.03.100 “*Drainage narratives for small residential development shall not be required, except for proposals in areas designated as critical drainage areas*”.

Additionally, per 11.03.120 “*Small residential development activities and other small development activities, including the regulated division of land, of lots 2.5 acres or larger in size shall be exempt from the stormwater quantity control, source control of pollution, and stormwater treatment BMPs of this chapter except in critical drainage areas*”.

Critical Drainage Areas are typically small parcels in dense older platted areas designated as Rural Areas of Intense Development (RAIDS). However, many RAIDS have not been designated as Critical Drainage Areas and most of the Rural zone is 5 acre or larger parcels.

Therefore, development activity in many areas of the Rural Zone and many RAIDS are exempted from stormwater review.

The intent of the Island County Stormwater Ordinance is to employ methodologies that mimic predevelopment hydrology and avoid creating or aggravating downstream problems.

Low Impact Development (LID) best management practices are a preferred method rather than traditional detention ponds and culverts directing runoff to county road ditches and often eventually to the salt water.

Low Impact Development (LID) best management practices are typically inexpensive, or no cost at all. On larger properties, the most effective method is often simply to retain an adequate native vegetation buffer around the perimeter of the developed footprint which can absorb runoff and percolate back into the soil.

Thoughtful action in managing stormwater so that it doesn't impact neighbors or the ecology in a negative way increases the opportunity for groundwater recharge.

Additionally, the Island County Clearing and Grading Ordinance (ICC 11.02) exempts from permit requirements clearing a property to bare earth of 2 up to acres (ICC 11.02.080.d). This allows for a substantial amount of land disturbing without consideration of stormwater runoff impacts.

The County Health Department administers ICC 8.09.097 - *Critical Aquifer Recharge Area Protection*. Per ICC 8.09.097 *Definitions*:

*“Critical aquifer recharge areas means areas with a critical recharge effect on aquifers used for potable water, including sole source aquifer recharge areas designated pursuant to the federal Safe Drinking Water Act”*.

It appears ICC 8.09.097 is primarily intended to protect groundwater from pollution and does not address the recharge process of groundwater-percolation of precipitation into the ground to the aquifer.

With the anticipated growth of population and the unknown impact of climate change, attention should be given to ensure island aquifers are recharged to provide clean potable water.

The following recommendations relate to development codes 11.02 (Clearing and Grading) and 11.03 (Stormwater) to enhance groundwater recharge:

1. Per ICC 11.03.080 the Board of Commissioners can designate Critical Drainage Areas.
  - Designate the entire County as a "Critical Drainage Area" to mirror the designation of Island County as a sole source aquifer or:
  - designate all RAID's as Critical Drainage Areas.
2. Remove the exemption of parcels 2.5 acres in size or larger from stormwater control requirements.
3. Amend the Clearing and Grading exemption of up to 2 acres to bare earth to a smaller threshold (1 acre). This will incentivize development to limit the footprint of disturbance.
4. Require major development activities (those creating over 5000 square feet of new impervious surfaces) to consider groundwater recharge. A drainage plan should not only describe how site development will not create adverse stormwater impacts but also encourage groundwater recharge.

The following comments/recommendations regarding groundwater recharge address the Zoning Ordinance (ICC 17.03):

**Maintain healthy forested landscapes**

It is well understood that a healthy, diverse native forest landscape has many economic and ecological benefits including reducing stormwater runoff and groundwater recharge.

Per ICC 17.03.110 “*The primary purpose of the Rural Forest (RF) Zone is to protect and encourage the long term productive use of Island County's forest land resources of local significance. It is established to identify geographical areas where commercial forest management practices can be conducted in an efficient manner; and to help maximize the productivity of the land so classified. Secondarily, lands classified RF provide recreation opportunities, scenic open space, wildlife habitat and watershed management to the extent such use is consistent with the primary purposes of the zone*”.

1. Change the term “*Secondarily*” to “*Additionally*” and include “*groundwater recharge*” to give additional weight the non-timber extraction role of forest lands and highlight the importance of the groundwater resource.
2. In the Rural Forest Zone there is no clear guidance or limitation on conversion to non-forestry uses. The Rural Forest Zoning designation needs a clear, transparent and predictable standard for conversion proposals in order to meet the intent and purposes of the RF Zone.

A 10% conversion threshold of the total acreage was previously implemented for many years on Rural Forest parcels that allowed for reasonable use while retaining the bulk of the parcel in a forested condition. This would allow for timber management (and the tax program benefits) per the intent of the Comprehensive Plan and consistent with the Zoning Code Rural Forest designation.

Consideration of my comments is appreciated.

Bill Poss

[poss@whidbey.com](mailto:poss@whidbey.com)

360 632-0261

<u>Department</u>	<u>Feedback</u>
<b>Island Co Marine Resources Committee (MRC)</b>	<p><b>Introduction to MRC recommendations:</b></p> <p>The following comments and recommendations are presented on behalf of the Island County Marine Resources Committee (MRC), a diverse group of volunteers with a wide range of skills, formal training and professional experiences all pertinent to the MRC's purpose to protect and restore Island County's marine life, 200+ miles of shoreline habitat and ecosystems.</p> <p>This purpose requires attention to the county's integrated ecological networks that include shore and tideland water quality, flood prone areas, inland wetlands and streams, forests and lands modified for a variety of uses. This purpose also requires consideration of emerging climate and sea level changes which impact these systems and will require policy adjustments.</p> <p>Our recommendations speak to this wide range of domains within the Natural Resources element of the Comprehensive Plan. For information that supports our recommendations, please see the white paper: <b><i>Emerging Hazards, Challenges and Opportunities Facing Island County related to Climate Change</i></b>, submitted by the MRC to the Board of County Commissioners on 12/20/23 (link below): <a href="https://www.islandcountymrc.org/media/21254/20231106-mrc-climate-change-white-paper.pdf">https://www.islandcountymrc.org/media/21254/20231106-mrc-climate-change-white-paper.pdf</a></p> <p>Thank you for the opportunity to submit comments.</p>
<b>MRC</b>	<p><b>NR 1.3 (General Environmental Quality - Conserve Energy)</b></p> <p><b>Add:</b> encourage and model use of alternate energy sources, discourage the use of fossil fuels, and intensify community efforts to reduce waste, reuse and recycle all forms of unwanted items and materials and eliminate food waste.</p>
<b>MRC</b>	<p><b>NR 1.4 (Protecting the Night Sky)</b></p> <p><b>Rewrite:</b> The night sky is an asset of importance to animal and human populations. It should be preserved through discouraging exterior lighting and, when used, requiring that all exterior lighting be shielded from adjacent properties and directed downward. This applies to all exterior lighting and particularly to high intensity night lighting (code should define high intensity). DarkSky certification is a resource of interest: <a href="https://darksky.org/what-we-do/international-dark-sky-places/">https://darksky.org/what-we-do/international-dark-sky-places/</a> and national and international identification of night sky sites as tourist destinations are also of interest: <a href="https://www.nationalgeographic.com/travel/article/dark-sky-tourism-is-on-the-rise-in-the-us">https://www.nationalgeographic.com/travel/article/dark-sky-tourism-is-on-the-rise-in-the-us</a></p>
<b>MRC</b>	<p><b>NR Goal 2 (Air Quality)</b></p> <p><b>Add:</b> Air quality is an essential factor of importance to all forms of life. Air pollution from county sources is dominated by vehicles, off-road vehicles (including marine) and fires. Strategies to improve and preserve air quality include limiting use of fossil fuels and incentivizing conversion to alternate fuels for school buses (to improve air quality for children) and for wood stoves to heat pumps (to improve air quality especially for sensitive populations).</p>

MRC	<p><b>NR Goal 3 (Wetlands)</b></p> <p><b>Consideration:</b> Throughout this goal we suggest leaning into protection (and enforcement of protection) of the resource vs justifying encroachment. This would complement priorities for safety, climate resilience and water recharge and ecological habitat protection. We also suggest an extension of the goal: ..."wetlands are valuable because they clean the water, recharge water supplies, regulate temperature, reduce flood risks, and provide fish and wildlife habitat. In addition, wetlands provide recreational opportunities, aesthetic benefits, sites for research and education, and support indigenous and commercial fisheries."</p>
MRC	<p><b>NR 3.1.1</b></p> <p><b>Consideration:</b> The loss of wetland footprints and functions is a significant loss for water recharge, stormwater management and wildlife habitat all of which compel leaning toward conservation and away from encroachment; toward respect for buffers and toward minimizing the need for mitigation.</p> <p><b>What constitutes “when there is no reasonable alternative”? Code should provide a definition, and possibly examples of solutions.</b></p> <p>For example: <i>a wetland mitigation bank is an example of a type of solution and means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources. Wetland Mitigation Banks are certified by the State under WAC 173-700 and are eligible for a designated service area. Credits from mitigation may be used to compensate for wetland impacts within the approved service area. Use of an approved wetland mitigation bank is usually permitted when the applicant has clearly demonstrated that on-site mitigation is not feasible. The use of the approved wetland mitigation bank may be necessary to achieve reasonable use of the subject property.</i></p> <p>We suggest potential policies to be added to code after NR 3.1.5:</p> <p><b>Add: NR 3.1.6.</b> <i>The County should allow for use of credits from certified mitigation banks when on-site mitigation is not feasible.</i></p> <p><b>Add: NR 3.1.7.</b> <i>The County should identify potential mitigation banks for certification to provide opportunities within designated areas. Best available science (BAS) should be used to identify mitigation best practices and evaluate mitigation outcomes.</i></p>
MRC	<p><b>NR 3.1.2</b></p> <p><b>New wording:</b> <i>"When development will impact wetlands, projects that add to existing wetlands and/ or increase functions and values of degraded wetlands are preferred over efforts to mitigate and/ or create wetlands from non-wetland areas and should remain subject to wetlands protection regulations"</i></p>
MRC	<p><b>NR 3.3</b></p> <p><b>Add:</b> ...<i>"Ensure septic systems are not, under any circumstances, located in wetlands or their buffers, or in areas that are subject to flooding for any reason particularly during high runoff rain storms or coastal flooding events."</i></p>

MRC	<p><b>NR 3.1.6 (additional section as suggested in 3.1.1 re: wetland mitigation banks)</b>  <i>The County should allow for use of credits from certified mitigation banks when on-site mitigation is not feasible.</i></p>
	<p><b>NR 3.1.7 (additional section as suggested in 3.1.1 re: wetland mitigation banks)</b>  <i>The County should identify potential mitigation banks for certification to provide opportunities within designated areas.</i></p>
MRC	<p><b>NR 3.7</b>  <b>New wording:</b> "When development will impact wetlands, projects that add to existing wetlands, increase functions and values of degraded wetlands are preferred over efforts to mitigate and/ or create wetlands from non-wetland areas and should remain subject to wetlands protection regulations"</p>
MRC	<p><b>NR Goal 4 (Fish and wildlife habitat conservation )</b>  Throughout this goal we suggest leaning into protection (and enforcement of protection) of the resource vs justifying encroachment. This would complement priorities for safety, climate resilience and water recharge.</p>
MRC	<p><b>NR 4.4</b>  <b>Need to clarify what it means to "protect all streams".</b> Is there a 100 foot buffer around all streams to prevent sediment from impacting the stream? Is there a 50 foot buffer? Is there a requirement to leave vegetation in place around the stream? What monitoring is required to "protect all streams". Protect them from what? Temperature changes? Effects of drought? Sediment buildup? Scouring the sediment and washing it downstream?</p> <p><b>Suggested Language:</b> <i>Buffers should reflect Best Available Science (BAS) including Washington Dept. of Fish and Wildlife (WA DFW) guidance on Fish and Wildlife Conservation Areas. The scientific literature review informs WA DFW's position that protecting the area within one SPTH200 from the edge of a stream channel maintaining full riparian ecosystem functions for all aquatic species, including salmon, and promotes healthy, intact riparian ecosystems. Site Potential Tree Height at 200 years "SPTH200" refers to "the average maximum height of the tallest dominant trees (200 years or more) for a given site class. The phrase "200 years or more" is in reference to the approximate minimum age of old-growth forests, which reflects an underlying assumption that old-growth forest conditions are needed for full riparian ecosystem functions.</i></p>
MRC	<p><b>NR 4.5.1</b>  <b>Add:</b> ... <i>Because of the fragility of the island ecosystems, ban all new Concentrated Animal Feeding Operations (CAFO) and ensure that the currently functioning CAFOs are adequately inspected, monitored, and enforcement takes place if there is any risk to the waterways of the County.</i></p> <p>There are Best Management Practices published by WSU:  <a href="https://extension.wsu.edu/animalag/content/what-is-required-in-a-nutrient-management-plan/">https://extension.wsu.edu/animalag/content/what-is-required-in-a-nutrient-management-plan/</a></p>

MRC	<p><b>NR Goal 4.7</b></p> <p>To guide decision-makers in considering the tradeoffs between existing land use and applications for changing the use that may impact near shore areas, enumerate the ecosystem services that may be impacted. For instance, beaches provide biodiversity, habitats for spawning of important marine species, recreation, coastal protection, nutrient regulation, etc. Coastal ecosystems such as salt marshes act as natural barriers that protect coastlines against storm damage, dissipating wave energy and reducing the risk of coastal flooding and erosion. When shoreline areas are changed, there are impacts to the marine environment, which may inhibit spawning of forage fish which impact the many species that feed on them. Consider the linkages between all aspects of the food web when considering the impacts of land use changes.</p>
MRC	<p><b>NR Goal 5 (Frequently flooded areas)</b></p> <p><i>Historically flood-prone areas and traditional treatments of these locations are subject to major changes as climate change and sea level rise become evident in fluctuations of inundation and drought in fresh water conditions, as extremes in sea level dynamically press to higher levels and as storms intensify. These pressures will create a basis for policies designed for safety, resilience, sustainability and protection. At the same time, these pressures may open opportunities to conserve habitat of importance for fish, wildlife, public recreation and access; and for mitigation. Expand consideration of frequently flooded areas beyond stream flooding. Frequently flooded areas are areas that are subject to periodic inundation due to high ground water or areas subject to tidal flooding that are subject to at least one percent or great chance of flooding in any given year.</i></p>
MRC	<p><b>NR 5.1.2</b></p> <p><b>Suggestion:</b> Require constructed wetlands or other mitigation if more than 25% of the property is impervious through development. 75% of properties must be pervious.</p>
MRC	<p><b>NR 5.1.3</b></p> <p><b>Suggestion:</b> What is the threshold to trigger minimizing run off? (Our preference is that this ideally should be a routine practice.) Suggest 25% in the NR 5.1.2 per comment above and that all thresholds should be based on Best Available Science.</p>
MRC	<p><b>NR 5.5</b></p> <p><b>Addition:</b> to implement LID practices to minimize storm water flooding, direct stormwater for safety and resilience, and add to freshwater recharge.</p>
MRC	<p><b>NR 5.5.1</b></p> <p><b>Recommended additional clarification:</b> Ensure septic systems are not, under any circumstances, located in areas that are subject to flooding for any reason, particularly during high runoff rain storms or coastal flooding events.</p>
MRC	<p><b>NR 5.6</b></p> <p><b>Suggest use of NOAA planning document:</b> <a href="https://coast.noaa.gov/digitalcoast/tools/slrf.html">https://coast.noaa.gov/digitalcoast/tools/slrf.html</a> and consultation with UW Climate Impacts Group (CIG) and the CIG resource library</p>

MRC	<p><b>NR Goal 6 Geologically Hazardous Areas</b></p> <p><b>Consideration:</b> Throughout this goal we suggest leaning into protection (and enforcement) of the resource vs justifying encroachment and advising of risks on such sites before permitting. This would complement priorities for safety, climate resilience and water recharge and support wildlife habitat goals.</p>
MRC	<p><b>NR 6.1</b></p> <p><b>Addition:</b> ....caused by geological processes and/ or human disturbances including site modification, modification of vegetation and/ or modifications for storm water management</p>
MRC	<p><b>NR 6.1.1</b></p> <p><b>Addition:</b> description of risks</p>
MRC	<p><b>NR 6.2</b></p> <p><b>Addition:</b> Discourage development, advise of risks and ...</p>
MRC	<p><b>NR 6.3</b></p> <p><b>Addition:</b> .... Existing and emerging hazardous geological conditions</p>
MRC	<p><b>NR 6.4</b></p> <p><b>Addition:</b> ....and short and long-term potential impact to public safety.</p>
MRC	<p><b>NR 6.5</b></p> <p><b>Consideration:</b> This is a valuable location for an enforcement clause?</p>
MRC	<p><b>NR 7.1</b></p> <p><b>Suggested Edit:</b> Protect the quantity and quality of the groundwater through an integrated systems-approach to management of watersheds, areas of recharge, utilization of wells and septic systems and employment of BAS for the benefit of existing and future residents of Island County.</p>
MRC	<p><b>NR 7.1.1</b></p> <p><b>Recommendation:</b> Provide incentive programs to encourage residential and commercial water users to participate in water conservation and aquifer recharge area protection programs.</p>
MRC	<p><b>NR 7.3</b></p> <p><b>Recommendation:</b> this be incorporated as part of the County Building Code and strengthened with goals and outcomes</p>
MRC	<p><b>NR 7.4</b></p> <p><b>Recommendation:</b> this be incorporated as part of the County Building Code and strengthened with goals and outcomes</p>

<b>MRC</b>	<b>Goal 8 Protect aquifer recharge areas</b> <b>Recommendation:</b> adding examples of strategies to accomplish this
<b>MRC</b>	<b>NR 8.1</b> <b>Suggestion:</b> with water information required for permitting, include recharge related to the planned source.
<b>MRC</b>	<b>NR 8.2.1</b> <b>Addition:</b> <i>...contamination from surface activities and risks for salt water intrusion</i>
<b>MRC</b>	<b>NR 9.1</b> <b>Consideration:</b> County Departments and property owners use the available tools to plan for increased rainfall in winter and droughts in summer.
<b>MRC</b>	<b>NR 9.2</b> <b>Suggestion:</b> reference to LID and storm water management  <b>Addition:</b> <i>County Departments and property owners use the available tools to plan for increased rainfall in winter and droughts in summer.</i>
<b>MRC</b>	<b>NR 9.3</b> <b>Suggestion:</b> reference to LID and storm water management  <b>Addition:</b> <i>County Departments and property owners use the available tools to plan for increased rainfall in winter and droughts in summer.</i>
<b>MRC</b>	<b>NR 9.4</b> <b>Consideration:</b> is this strong enough to be implemented and protective enough?  <b>Addition:</b> <i>... Consider groundwater and watersheds when locating areas of planned development.</i>
<b>MRC</b>	<b>NR 9.5</b> <b>Recommendation:</b> <b>Strengthen this language in light of changing climate conditions and incorporate best practices into the Building Code.</b> This is an opportunity for examples and incentives to move from a vague encouragement to a tangible practices.
<b>MRC</b>	<b>NR 10.1</b> <b>Addition:</b> <i>....Carefully consider siting solar and wind on public or private lands. Be careful to ensure that the public has access to the shoreline, and open space.</i>

MRC	<p><b>NR 10.1.1 and 10.1.2</b></p> <p><b>Recommendation:</b> Using the broad definition of ecosystem services and considering the value of those services can help with considerations of “real costs”. A good reference for this can be found at:</p> <p><a href="https://coast.noaa.gov/data/digitalcoast/pdf/measuring-value-ecosystem-services.pdf">https://coast.noaa.gov/data/digitalcoast/pdf/measuring-value-ecosystem-services.pdf</a></p> <p>The judgment that a particular parcel has “little value as public conservation or recreational land” needs to be based on sound science. The NOAA methodology is a tested way to make such judgements.</p>
MRC	<p><b>NR 10.2</b></p> <p><b>Addition:</b> .../identify shorelines and tidelands as “open space”</p>
MRC	<p><b>NR Goal 11</b></p> <p><b>Consideration:</b> The language used in this goal is broad and expressed in terms that a layman can understand. There is no jargon. However, the concept of “valuable resources” is not defined. How is the value of a resource determined? This goal presents an opportunity to promote more systemic thinking - how resources depend on each other - which should be emphasized since each of these goals does not exist in a vacuum, but is very much related to all of the other goals.</p>
MRC	<p><b>NR 11.3</b></p> <p><b>Strengthen this language</b> - this is an opportunity for examples and incentives to move from a vague encouragement to a tangible recommendation</p> <p>Consider language that includes visitors to Island county and not just County residents. Tourism is an economic driver.</p>
MRC	<p><b>NR 11.4 New additional section</b></p> <p>Suggest adding an additional sub goal that speaks to the value of land for renewable energy production or carbon sequestration. Balancing this new and important land use category will be important for the future of Island County .</p>
MRC	<p><b>NR 11.5 New additional section</b></p> <p><b>Add:</b> ...Recognize, care for and publicize historic public access sites to shore and tidelands and encourage tideland owners to tolerate/ support public access and consider allowing public access on tidelands at low tide.</p>
MRC	<p><b>NR 12.3</b></p> <p><b>Addition:</b> ...also including shoreline and tideland open spaces to be accomplished by maintaining and publicizing locations of historic points of public access to shorelands and tidelands, adding new sites for public to access shore and tidelands, and encouraging tideland owners to allow public access to their privately owned tidelands.</p>

MRC	<p><b>NR 12.4</b></p> <p><b>Addition of section:</b> <i>When considering “community driven relocation” as a response to sea level rise, consider the benefits of the addition of wetlands, estuary, shoreline, public access, open space in the equation. For context and definitions for “community driven relocation” see the National Academies Report: <a href="https://nap.nationalacademies.org/catalog/27213/community-driven-relocation-recommendations-for-the-us-gulf-coast-region?utm_source=All+DBASSE+Newsletters&amp;utm_campaign=dae0350015-BECS+community+driven+relocation+release&amp;utm_medium=email&amp;utm_term=0_e16023964e-dae0350015-275387388">https://nap.nationalacademies.org/catalog/27213/community-driven-relocation-recommendations-for-the-us-gulf-coast-region?utm_source=All+DBASSE+Newsletters&amp;utm_campaign=dae0350015-BECS+community+driven+relocation+release&amp;utm_medium=email&amp;utm_term=0_e16023964e-dae0350015-275387388</a></i></p> <p>These recommendations were developed for communities along the Gulf of Mexico already impacted by sea level rise, but the recommendations are useful for thinking through the implications for Island County.</p>
MRC	<p><b>NR goal 13</b></p> <p><b>Consideration:</b> The goal focuses on explicit financial commitments (e.g. income and estate tax benefits, technical assistance grants and programs to purchase partial land interests.) It would be advantageous to explore other types of incentives that might be offered. Working with partners in the private or non-profit sector, or even in other areas of government, there may be additional opportunities that could be enumerated here. Otherwise, perhaps <u>broadening the language so as not to preclude new and innovative solutions</u> would be wise.</p>
MRC	<p><b>NR 13 New additional section</b></p> <p>Per NR 12.3 above ....<i>explore and implement incentives to encourage public access to shore and tide lands.</i></p>
MRC	<p><b>NR 14 New additional section</b></p> <p>Per NR 12.3 above ... <i>explore and implement incentives to encourage public access to shore and tide lands.</i></p>
MRC	<p><b>NR 15.8</b></p> <p><b>Addition:</b> ... <i>to also avoid contamination of shorelands, tidal marshes and frequently flooded areas</i></p>
MRC	<p><b>NR 15.18.1</b></p> <p><b>Addition:</b> ... <i>to avoid contamination of shorelands, tidal marshes and frequently flooded areas.</i></p>

**From:** Carlos Andersen <[2carlosandersen@gmail.com](mailto:2carlosandersen@gmail.com)>  
**Date:** September 28, 2023 at 13:17:01 PDT  
**To:** [CompPlan@islandcountywa.gov](mailto:CompPlan@islandcountywa.gov)  
**Subject:** Comp Plan Comments

Thank you for the opportunity to provide comments for updates to the existing Comprehensive Plan.

For the purpose of these comments, Deer Lagoon is defined as the wetlands area West of the twin dikes and also the tidally influenced lagoon or estuary East of these dikes and connected to Useless Bay. All of which is called Deer Lagoon.

Island County in January 2004 purchased 379 acres at Deer Lagoon with the help of a federal grant from the U. S. Fish and Wildlife Service. The lagoon is a state recognized Important Bird Area (IBA) with at least 211 different bird species having been documented at the lagoon. Washington State Fish and Wildlife has concluded Deer Lagoon is the single most important site on Whidbey Island for use by waterfowl. The lagoon is a critical resting and feeding site for migrating shorebirds in the spring and fall and for overwintering waterfowl. The lagoon has been labeled the most important wetlands in Island County and for this reason alone deserves the highest levels of protection.

Since the lagoon was purchased in January 2004 Island County growth rate in nearly 20 years has gone from around 77,700 to 89,400. An increase of about 12,000 new residence and at a growth rate of over 15%. As would be expected visitation numbers at the lagoon have also increased accordingly. This point is acknowledged in the current Comp plan in Element 6. The 6.1 Introduction states that "The need for conservation and protection of natural resources increases as the County population continues to grow. In 6.1.2, "Vision For Natural Resources", it states, "Natural resource systems should be conserved and preserved in recognition of the irreplaceable character of such resources, and their importance to the quality of life of residence, visitors, and the future generations of Island County. Provisions should be made for natural resources to meet human needs throughout the County in order to protect them, and enhance enjoyment and appreciation of the environment."

Better definition and clarification of the term "parks" is needed in the Comp plan Element 7. Deer Lagoon is not managed by parks, however it is called a "park" several times in the existing Comp plan and has several different meanings or uses. The language needs to be fixed and clarified as it is confusing when applied to Deer Lagoon.

In the current Comp plan Deer lagoon on page 21 is classified as "Conservation Lands". Confusingly, Deer lagoon is presented in Element 7, page 18 under "Conservation Areas". Conservation Areas are defined as: 7.2.3.2.3 Conservation Areas: conservation areas are lands set aside primarily for ecological conservation and protection but may provide passive outdoor recreational uses that are secondary to and do not conflict with conservation values". Clearly conservation values have been degraded since the 2004 purchase of the lagoon and current activities conflict with conservation values. Most passive recreation activities should be limited or restricted.

Also confusing in Element 7 of the Comp plan is Deer Lagoon being presented under "County Park Land Classification". This is stated as being part of the Island County's Park System. Again, Deer Lagoon is not a park maintained by the Parks Department but a Conservation Area overseen by Public Works. The use of "Parks" is confusing at best and these terms need to be clarified. Again, page 21 of Element 7 confusingly has Deer Lagoon as a "Park", a "Recreation Area" and lastly as "Conservation Lands". Map

7J on page 24 shows the lagoon as "Conservation Lands". Map 7M on page 44 shows the lagoon as an Island County "Park with trails". Map 7N incorrectly shows Deer Lagoon as a "Park with Beach Access". All this confusing language and classifications need to be fixed and clarified.

The federal grant clearly states management requirements for the lagoon as restoration and preservation of fish and wildlife habitat. Passive recreation may only be allowed if and only if habitat was not degraded by these activities. Most passive recreation at Deer Lagoon is therefore in conflict with grant funds.

Deer Lagoon requires a detailed site specific management plan. The Comp plan alone does not adequately protect or preserve the lagoon as required.

Deer Lagoon is a preserve and should only be used per the federal grant requirements. If grant requirements are met the lagoon then might be considered for minimal passive recreational use. Passive recreation, as stated in the federal grant requirements, is secondary to restoration and preservation of the lagoon. Per the grant, passive recreation cannot impact in anyway habitat and conservation. Passive recreation can only be considered if and only if conservation requirements are met and no impact to the habitat occurs. Habitat conservation and enhancement are stated by the County as the highest priority for the lagoon. In the current plan on page 64 under Goal 6 the County states as a goal, "Consider a higher level of habitat stewardship to address invasive species removal, natural area restoration, and habitat preservation needs." This is in line with the federal grant requirements.

In May 2021 Island County employees illegally mowed and obliterated the wildlife and bird habitat on the West dike at the height of breeding and nesting season. Had a detailed management plan been in place for Deer Lagoon the County would have been required to follow established guidelines contained within the plan for possible project approval. The plan would have clearly established a process indicating that mowing the entire West dike at the height of bird breeding and nesting season back in 2021 was prohibited. County employees obviously were not aware of the existing federal grant management plan as part of the 2004 agreement the County signed to receive federal grant monies to purchase Deer Lagoon. No SEPA checklist, no wetlands report, and no permits were applied for as required to complete this work at this sensitive habitat location. This one example very clearly illustrates the critical need to have a site specific management plan in place at Deer Lagoon so County departments are aware of all requirements and regulations, and the steps to follow, prior to completing any work at Deer Lagoon. This plan would establish the process required to be followed. Had a management plan been in place a thorough pre-project review would have indicated the mowing was prohibited. Especially without any required permits and environmental oversight.

Mowing of the dike was also in violation of the Federal Migratory Bird Treaty Act (MBTA). Somehow the County avoided being fined for their illegal actions. The destruction of the habitat by the mowing provided an opportunity for Island County to partner with the Whidbey Audubon Society (WAS) to complete a planting and restoration project to repair the damaged habitat. This required an investment of at least \$5000 each and hundreds of volunteer hours by WAS. Following the illegal mowing the County did follow a County project approval process that evaluated the proposed restoration project and necessary permits were obtained. Again, had a management plan been formulated and adopted for Deer Lagoon the County would have determined the mowing was prohibited and habitat destruction would have been avoided and the habitat would have remained intact.

Another example for the need for a management plan is the illegal tree cutting on County property

including in the wetlands that occurred in March 2023. The tree cutting was likely done by a property owner trying to improve their views of the lagoon to the West. Comments by County employees at the time of a filed complaint seemed that they were not aware of the grant requirements, or the grant and their responsibility to preserve and protect this critical and sensitive area. Not to mention penalize responsible parties for illegally cutting trees down on County property. County employees were also not aware of the designated critical and environmentally sensitive areas at the lagoon. Page 7 of Element 6 states "When wetlands or fish and wildlife habitat conservation areas are damaged in violation of the law, restoration to at least pre-existing functional condition will be required." The County did not following this requirement of the existing Comp plan.

In the almost 20 years since the County purchased the lagoon it seems the County has taken minimal actions to comply with the federal grant requirements. The only obvious passive management "actions" taken by the County appear to be at the North of the lagoon off of Deer Lagoon Road where the chain linked fence was removed and bollards installed. Other "actions" taken by the County included the illegal mowing of the dike. Some minimal invasive species management has also taken place. No obvious restoration or preservation actions appear to have been initiated or taken by the County since 2004.

Any boat on the lagoon or wetland area to the West has the potential to cause irreparable damage to wildlife especially birds. The American White Pelican visits the lagoon from around April to early Fall. These birds are also protected by the MBTA as well as by state law. Disturbances or harassment is in violation of these laws. People come from across the state and beyond to get a glimpse of the wonderful Pelicans, infusing important tourism dollars into the local economy. Nesting has not been documented at the lagoon but there is the potential they will breed and nest at the lagoon. American White Pelicans are very intolerant of interactions with people and are easily disturbed. As documented at the only nesting colony in Washington State on the Columbia River, human disturbances have caused the Pelicans to abandon their colonies. At Deer Lagoon any intrusion by watercraft coming near them would have a devastating effect and cause them to possibly permanently leave the lagoon. So, protections of these habitats and prohibitions of watercraft of all types is required to not allow further degradation of conservation values and disruption of wildlife.

Island County Code 09.05.10 prohibits motorized boats powered by a chemical based fuel on Goss Lake. A similar code should be established to prohibit all watercraft at Deer Lagoon. Any pollution from chemical/petroleum based fuel would cause severe damage to the fish and wildlife habitat. Once petroleum products contact the water even as a sheen, damage is occurring. When birds contact petroleum products these toxic chemicals naturally adhere to their feathers. During preening, birds then ingest these toxic chemicals. This also holds true with the resident river otters. To prevent damage and degradation of conservation values and habitat, motorized boats should be prohibited from Deer Lagoon.

Passive recreation should be to enjoy the natural environment at the lagoon, enhancing the quality of life for all current and future visitors. Activities beyond walking, reading, bird watching, photography and other similar low impact activities should be prohibited as they degrade the conservation value of the site. Passive recreation examples provided in the federal grant management requirements are just that, examples and not expected to be allowed or approved. Passive recreation at the lagoon is secondary to conservation value and only if no degradation of those values are anticipated or documented.

There is a need for areas on the island for peace and quiet, tranquility, solitude, and walks in nature and

not "recreation". Deer Lagoon is that place. Nature walks as a use is noted in Element 7. And to quote again from the current Comp plan in Element 6.1 Introduction, "Natural resource systems should be conserved and preserved in recognition of the irreplaceable character of such resources, and their importance to the quality of life of residence, visitors, and the future generations of Island County. Provisions should be made for natural resources to meet human needs throughout the County in order to protect them, and enhance enjoyment and appreciation of the environment."

As a designated conservation area Deer Lagoon is required to be managed so as to not allow recreational uses that conflict with its conservation values, a prime component of which is habitat for a broad range of bird species, including migratory and breeding birds.

Land use has changed at the lagoon since the purchase of the site. Current impacts to the lagoon include watercraft both motorized and non-motorized, kitesurfing, paddle boarding, kayaking, jogging, bike riding, electric powered bikes, etc. Horseback riding also has negative impacts to the habitat and degrades conservation values. The County should not be allowing these uses that were not there before without a detailed management plan and community input.

Island County owns almost all of the property that encircles the wetlands area except for four parcels at the southeast corner. For protection and control, these private properties at the south end of the wetland area are the weak link in achieving full protection of the site. These privately owned parcels have direct access to the lagoon. The County should investigate the possibility to purchase small portions of these parcels or pursue agreements with these owners that will provide complete protection for the wetlands forever and place full ownership and control into the County domain.

Other important issues and items a site specific management plan for Deer Lagoon should address:

The Federal grant application signed by the County stated the property would be maintained by the Island County Parks Department. It goes on to say the Parks department will provide oversight of land management and direct minimal passive recreational development. Overall the intent is to maintain the site as open space with a focus on habitat conservation and enhancement. These statements should be followed and adhered to.

An informational kiosk at the trailhead should be installed to provide information to the public of the environmentally sensitive and important habitats as well as the partnerships the County has developed with others to preserve and protect this unique and special natural area.

Illegal trail building into the wetlands have been noted and also human waste is found at these illegal trail areas. This degrades the conservation values and causes water pollution and habitat destruction.

Some type of public restrooms are therefore needed at the trailhead off Deer Lagoon Road to the North. Given the increased use at the site and noted areas of human waste, public restroom facilities should be considered to serve the public and to prevent contamination of nearby water and natural resources. Portable toilets could be a good temporary option.

Runoff from the upgradient Useless Bay golf course and the surrounding community contain pesticides and fertilizers causing water pollution that also impacts the water quality of the lagoon. These sources of pollution should be studied and if needed preventive measures implemented to filter these contaminants to prevent degradation of the habitat and conservation values.

The Guardian reports that American households added about nine million dogs since Covid. We see this increase in dogs and dog waste at Deer Lagoon. This would be addressed in a detailed management plan for the lagoon. Many dog owners use the trails as an off-leash area causing disruption to wildlife and damage to the habitat, degrading conservation values. Dog waste causes water and environmental pollution and is a human health hazard. Plastic bags of dog waste instead of being properly disposed of have been thrown into the bushes along the trails. A dog waste disposal container may be needed. Due to the increased use by dogs and the observed negative environmental impacts and degradation of conservation values caused by them, dogs should be banned from this site.

Drone use should be prohibited at the lagoon. It is well documented the negative and devastating impacts drones have on wildlife and especially birds. A management plan would address this and the negative impacts on conservation values and wildlife.

Due to disturbance and damage to the habitat and wildlife, degradation of conservation values, and the likely probability of birds becoming entangled and injured by monofilament fishing line and other fishing equipment, fishing should be prohibited.

Known Native American archeological/cultural site(s) located at the lagoon need to be further identified, documented, protected and preserved.

The Barnum Point County Park management plan could be a good resource and example for a Deer Lagoon management plan.

Deer Lagoon is too special and unique of a place to not have a dedicated detailed site specific management plan to guide future uses and to preserve, protect and enhance current conditions. If another ten years is allowed to pass before more stringent protections are proposed and implemented it will be too late and we will have lost this opportunity to save this island gem.

Thank you for allowing this opportunity to comment on updates to the Comp plan. Please include the Whidbey Audubon Society as a partner in crafting a management plan for Deer Lagoon.

Respectfully Submitted,

Carlos Andersen  
Whidbey Audubon Society

Thank you for the opportunity to provide input on the Natural Resources Goals and Policies as part of the Planning Commission's recommendations for the Comprehensive Plan update.

My comments relate primarily to Goal 7, Water Resources, and specifically to the failure of the current Plan to include lakes as an important part of the surface water resources of the County. Although lakes are mentioned in 5.1.1 as important storage areas that require protection, the elements in Goal 7 fail to adequately protect this important resource. Although groundwater protection is featured prominently in Goals 7 and 8 of the current Plan, the connection between lakes and groundwater is not acknowledged. For example, the water budget for Lone Lake in the *Lone Lake Algae Management Plan*, developed by the Whidbey Island Conservation District in 2020, clearly illustrates this connection. Depending on the season, groundwater input can be significant source of water for the lake, or it can provide substantial groundwater recharge. Other lakes in the County probably function in a similar way and are therefore an integral component of our water resources.

Lone Lake (and possibly other lakes in the County if monitoring and data collection were more robust) also hosts toxic algae blooms throughout most of the summer. This has disrupted recreational use of the lake, e.g., closures limit access for fishing, sailing, kayaking, etc., and presents a substantial environmental and human health risk. Fish kills in the lake have been attributed to die-offs of algae blooms that resulted in dissolved oxygen depletion, and dead deer and geese have been found around the lake in recent years when high algae toxin concentrations were present in the lake. The lake also poses a health risk to humans and pets that come into contact with, or ingest, lake water containing algal toxins. Recently, a private well adjacent to a lake in eastern Washington that contained a toxic algae bloom was reported to contain algae toxins, demonstrating the connection between surface water and groundwater and linkages to human health.

Lakes are often the focus of human interaction with freshwater resources. They provide multiple beneficial uses to humans and critical habitat for wildlife. I am not aware of even a basic inventory of lake water resources in the County or routine water quality monitoring of surface water in lakes in the County, which is fundamental to effective protection and management of a natural resource. I suggest that the revised Plan acknowledge the importance of managing surface

water to protect environmental and human health in lakes and explicitly address lake water quality issues in the County as part of the Natural Resources element.

Mark Sytsma, PhD  
2760 Salal Lane  
Langley, WA 98260  
503-307-6131