



LAKE WHATCOM WATER AND SEWER DISTRICT  
1220 LAKEWAY DRIVE  
BELLINGHAM, WASHINGTON 98229

REGULAR MEETING  
OF THE BOARD OF COMMISSIONERS

AGENDA

*April 12, 2017*

6:30 p.m. – Regular Session

1. CALL TO ORDER
2. PUBLIC COMMENT OPPORTUNITY  
At this time, members of the public may address the Commission. Please state your name prior to making comments.
3. ADDITIONS, DELETIONS, OR CHANGES TO THE AGENDA
4. CONSENT AGENDA
5. SPECIFIC ITEMS OF BUSINESS:
  - A. Academy Road Water Service
  - B. Eagleridge Sewer Connection Charges Phase 2
  - C. Monthly Budget Analysis
  - D. Emergency Management Agreement
  - E. Aquatic Invasive Species Interlocal Agreement for 2017 and 2018
6. OTHER BUSINESS
7. MANAGER'S REPORT
8. PUBLIC COMMENT OPPORTUNITY
9. ADJOURNMENT



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	April 5, 2017		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL <i>Patrick Sorensen</i>		
MEETING AGENDA DATE:	April 12, 2017		
AGENDA ITEM NUMBER:			
SUBJECT:	Ray Living Trust Denial of Service and Covenant Binding Real Property Regarding Future Water & Sewer Service		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	1. Amendment to Original Petition – Email Chain Dated 3-28-17		
	2. Revised Covenant to Bind		
	3. Revised Covenant to Bind Redline		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

The attached represents a final Agreement with the Ray Living Trust regarding property commonly known as 1915 Academy Road. The Ray Living Trust is seeking water service through Whatcom County Water District # 7 in order to serve a proposed short plat. Staff believes the property in question is within the boundary of the Lake Whatcom Water & Sewer District (LWWSD). As discussed previously LWWSD is presently not in the position to service this area with domestic water at this time, without an extension exceeding 1/2 mile. The Ray Living Trust is proposing that we formally deny them service through a letter to Whatcom County and in turn allow them to seek water service from District # 7. As we discussed previously LWWSD has concerns about giving up claim to our service area without knowing what the future will bring.

After taking into account prior direction from the Board and ongoing discussions with the Ray's legal counsel we are proposing to grant the letter of denial and consent to allow this property to be served by District # 7. As a condition, they must agree to and sign the attached Covenant Binding Real Property Regarding Future Water and Sewer Service. This provides language that states that they will not challenge connection to LWWSD's water and sewer systems should they ever become available. In this event they would also have to pay all appropriate connection and permit fee to the District. As proposed this would also depend upon the City of Bellingham allowing District # 7 to serve the Academy property. Finally, there is language that takes into account the potential of the subject area being formally

recognized as being within District # 7's service boundary. The proposed covenant will also allow for development served by private well on an interim basis.

**FISCAL IMPACT**

At this time there is no direct fiscal impact to the District as we are not paying for the extension of water infrastructure or service.

**RECOMMENDED BOARD ACTION**

Staff recommends that the developer's request to waive connection requirements be approved provided that a Covenant Binding Property Regarding Future Water and/or Sewer Service are recorded with the Whatcom County Auditor.

**PROPOSED MOTION**

Approve the developer's request to waive the requirement to connect 1915 Academy Road (Gradual Valley Short Plat) to District water provided that a Covenant Binding Property Regarding Future Water and/or Sewer Service is recorded for all lots in the short plat prior to issuance of the Denial of Service. Authorize the General Manager to sign the Covenant on the District's behalf.

## Bill Hunter

---

**From:** Bob Carmichael <Bob@CarmichaelClark.com>  
**Sent:** Tuesday, March 28, 2017 12:16 PM  
**To:** Bill Hunter  
**Cc:** Patrick Sorensen  
**Subject:** FW: Ray Petition

Bill,

Please include the below email chain in the Board's packet for the next Board meeting. It represents the amendment of the original petition to include the request not to require the Covenant to Bind. Thank you.

Bob

**Robert A. Carmichael | Attorney**  
[bob@CarmichaelClark.com](mailto:bob@CarmichaelClark.com)

Carmichael Clark, PS  
1700 D Street P. 360 647 1500  
Bellingham, WA F. 360 647 1501  
98225 CarmichaelClark.com

\*\*\*\*\*

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**From:** Bob Carmichael  
**Sent:** Wednesday, March 08, 2017 4:46 PM  
**To:** Patrick Sorensen <patrick.sorensen@lwwsd.org>; 'Bill Hunter' <bill.hunter@lwwsd.org>; 'Melanie Mankamyer' <mmankamyer@wilsonengineering.com>  
**Subject:** FW: Ray Petition

**Robert A. Carmichael | Attorney**  
[bob@CarmichaelClark.com](mailto:bob@CarmichaelClark.com)

Carmichael Clark, PS  
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**From:** Dannon Traxler [<mailto:dtraxler@langabeertraxler.com>]  
**Sent:** Wednesday, March 08, 2017 3:13 PM  
**To:** Bob Carmichael <[Bob@CarmichaelClark.com](mailto:Bob@CarmichaelClark.com)>  
**Subject:** Ray Petition

Bob,  
I've been thinking about this more, and this may be better framed as a request that LWWSO not oppose service by District 7 or dispute District 7's ability to serve.

I really enjoyed the presentation to Council last night. I thought you all did a great job of presenting balanced information.

Thank you,  
Dannon

**Dannon C. Traxler**

Attorney at Law

**LANGABEER & TRAXLER, P.S.**

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Bellingham, WA 98225  
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**From:** Dannon Traxler  
**Sent:** Tuesday, March 7, 2017 9:37 AM  
**To:** 'Bob Carmichael' <[Bob@CarmichaelClark.com](mailto:Bob@CarmichaelClark.com)>  
**Cc:** Patrick Sorensen <[patrick.sorensen@lwwsd.org](mailto:patrick.sorensen@lwwsd.org)>; Bill Hunter <[bill.hunter@lwwsd.org](mailto:bill.hunter@lwwsd.org)>  
**Subject:** RE: District 7 Service Area Map

Dear Bob,

Thank you for your email. The assertion that we are within LWWSO's service area conflicts to a certain extent with District 7's service area map showing our property (those lots that are part of the 1983 short plat) to be within the District 7 service area and the fact that that portion of our property is actually served with water from District 7. As we discussed on the phone, the property is currently served by four installed meters from District 7. District 7 understands

that portion of our property is within their service area and we believe is primed to serve our newly platted lots with water subject to the approval of Bellingham. We are trying to avoid having a "disputed service area."

To that end, in addition to our request that we not be required to sign a covenant, which would create an inherent conflict with a district that is already serving us, we would like the Board to acknowledge District 7's service area map showing us to be within its service area and agree not to dispute that service area. We would also like LWWSD to agree not to dispute water service by District 7 to those lots it already serves, and not to dispute service by District 7 to any additional lots created through the platting process.

Please let me know how best to present this request to the Board and if you have any questions/comments.

Thank you,  
Dannon

**Dannon C. Traxler**

Attorney at Law

**LANGABEER & TRAXLER, P.S.**

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**From:** Bob Carmichael [mailto:Bob@CarmichaelClark.com]

**Sent:** Monday, March 6, 2017 5:40 PM

**To:** Dannon Traxler <dtraxler@langabeertraxler.com>

**Cc:** Patrick Sorensen <patrick.sorensen@lwwsd.org>; Bill Hunter <bill.hunter@lwwsd.org>

**Subject:** RE: District 7 Service Area Map

Dannon,

Yes, we will postpone the consideration of your petition, as verbally revised to request only the denial letter and to be excused from signing the Covenant to Bind as required per District code. Consideration of your revised petition will now be at the LWWSD March 22<sup>nd</sup> meeting.

As to the LWWSD boundary and service area, I was advised by Wilson Engineering this afternoon that they carefully followed the legal description of the District boundaries (attached) and determined that the boundary lines as shown on page 14 of the packet are correct. They also mapped out the boundary line in that area on the other attachment hereto

when they took an initial look at your petition. The boundary in the area of your clients property as shown on the 2010 Comprehensive Water System Plan is incorrect.

Under a strict reading of the Code, given the District's position on the boundary, a Covenant to Bind is required. It is a legitimate question, however, as to whether the District will ever serve that area in the future. We will discuss all this when Bill returns next week.

Bob

**Robert A. Carmichael** | Attorney  
[bob@CarmichaelClark.com](mailto:bob@CarmichaelClark.com)

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**From:** Dannon Traxler [<mailto:dtraxler@langabeertraxler.com>]  
**Sent:** Monday, March 06, 2017 4:06 PM  
**To:** Bob Carmichael <[Bob@CarmichaelClark.com](mailto:Bob@CarmichaelClark.com)>  
**Subject:** RE: District 7 Service Area Map

Thank you. Should I assume that the Board's review of this matter will be postponed to the 22<sup>nd</sup>?  
Dannon

**Dannon C. Traxler**  
Attorney at Law  
**LANGABEER & TRAXLER, P.S.**  
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**From:** Bob Carmichael [<mailto:Bob@CarmichaelClark.com>]  
**Sent:** Monday, March 6, 2017 3:45 PM  
**To:** Dannon Traxler <[dtraxler@langabeertraxler.com](mailto:dtraxler@langabeertraxler.com)>  
**Subject:** RE: District 7 Service Area Map

Dannon,

My client and I are trying to schedule a conference call with our consulting engineer at Wilson. I will let you know the outcome.

Bob

**Robert A. Carmichael** | Attorney  
[bob@CarmichaelClark.com](mailto:bob@CarmichaelClark.com)

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**From:** Dannon Traxler [<mailto:dtraxler@langabeertraxler.com>]  
**Sent:** Monday, March 06, 2017 2:47 PM  
**To:** Bob Carmichael <[Bob@CarmichaelClark.com](mailto:Bob@CarmichaelClark.com)>  
**Subject:** RE: District 7 Service Area Map

Bob,

I've spoken with my clients, and they have no objection to postponing consideration of their petition for two weeks until we can get all of this sorted out. Please let me know when you have a chance to discuss with your client and we can discuss next steps.

Thank you,  
Dannon

Dannon C. Traxler



Attorney at Law

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**From:** Bob Carmichael [<mailto:Bob@CarmichaelClark.com>]  
**Sent:** Monday, March 6, 2017 11:53 AM  
**To:** Dannon Traxler <[dtraxler@langabeertraxler.com](mailto:dtraxler@langabeertraxler.com)>  
**Subject:** RE: District 7 Service Area Map

Received. Thank you.

Bob

**Robert A. Carmichael** | Attorney  
[bob@CarmichaelClark.com](mailto:bob@CarmichaelClark.com)

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**From:** Dannon Traxler [<mailto:dtraxler@langabeertraxler.com>]  
**Sent:** Monday, March 06, 2017 11:45 AM  
**To:** Bob Carmichael <[Bob@CarmichaelClark.com](mailto:Bob@CarmichaelClark.com)>  
**Subject:** FW: District 7 Service Area Map

Bob,

Here is the map of District 7's service area, received from Dave Olson. Please let me know if you need anything else.

Thank you,

Dannon

**Dannon C. Traxler**

Attorney at Law

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CARMICHAEL CLARK, P.S.  
ROBERT A. CARMICHAEL  
P. O. BOX 5226  
BELLINGHAM, WA 98227

---

**Document Title:**

Covenant Binding Property Regarding Future Water and Sewer Service

**Reference # of related documents:**

---

**Grantors:**

Neil A. Ray and Adelanna M. Ray, Trustees of the Ray Living Trust, dated February 9, 2011

**Grantees:**

Lake Whatcom Water and Sewer District, a Washington municipal corporation

**Brief Legal Description:**

LOT 4 GRADUAL VALLEY SHORT PLAT BOOK 9 SP PG 82

**Parcel number:**

380323 298185 0000

## COVENANT BINDING REAL PROPERTY REGARDING FUTURE WATER AND SEWER SERVICE

---

THIS Covenant Binding Real Property Regarding Future Water and Sewer Service (hereinafter "Covenant") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between Neil A. Ray and Adelanna M. Ray, Trustees of the Ray Living Trust, dated February 9, 2011 ("Grantor") and LAKE WHATCOM WATER SEWER DISTRICT, a Washington municipal corporation ("Grantee" or "District"), and pertains to the provision of future municipal water services. Grantor and Grantee may be collectively referred to herein as "Parties".

### RECITALS AND PROPERTY DESCRIPTION

**WHEREAS**, Grantor is the owner in fee of real property commonly known as 1915 Academy Road, Bellingham, WA 98226, legally described as:

Lot 4, Gradual Valley Short Plat, according to the Plat thereof, recorded in Book 9 of Short Plats, Page 82, under Auditor's File No. 1464157, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

And hereinafter referred to as the "Property"; and

**WHEREAS**, the District supplies both water services and sanitary sewage disposal services to customers within its recognized service area under provisions of Title 57 RCW; and

**WHEREAS**, the Property is located within the District's recognized service area; and

**WHEREAS**, the District does not currently have water service available to the Property without an extension of the District system in excess of one-half mile; and

WHEREAS, the Property also appears to be located within the service area claimed by Whatcom County Water District No. 7 ("District No. 7"), meaning it appears to be in an area of overlapping service areas for the District and District No. 7; and

WHEREAS, Whatcom County Water District No. 7 ("District No. 7") is currently providing water to one single family residence on the Property, and based on information from Grantor, is contractually obligated to serve three adjoining parcels which are not part of a proposed subdivision on the Property; and

WHEREAS, subject to approval from the City of Bellingham, District No. 7 is able to supply the proposed subdivision on the Property with water service from infrastructure nearby; and

**WHEREAS**, the District is willing to allow District No. 7 to provide additional water service connections to the Property on an interim basis until such time as the District extends water service to the Property, subject to the terms of this Covenant; and

**WHEREAS**, alternatively, the District is willing to allow the Property to be serviced by a private well on an interim basis, subject to the terms of this Covenant; and

**WHEREAS**, the District is not relinquishing any portion of its service area by entering into this Covenant; and

**WHEREAS**, pursuant to the terms of this Covenant, the District assumes no responsibility for fire protection for the Property or for operation and maintenance of the Property's water system; and

**WHEREAS**, the above recitals are a material part of this Covenant;

**NOW THEREFORE**, in view of the foregoing recitals and in consideration of the mutual covenants and promises set out below, the Parties agree as follows:

## **I. COVENANT**

### **1.1 Connection upon Availability of Water.**

**1.1.1 Grantor to Connect.** In the event that the District determines, in its sole discretion, that it has water infrastructure sufficient to serve the Property, Grantor agrees to connect to the District water system, pay all standard District fees and charges, and comply with all District policies regarding water conservation.

**1.1.2 Disconnect Costs.** The Grantor shall be responsible for satisfying any requirements of Washington Department of Ecology or the Whatcom County Health Department related to disconnection from, and if necessary removal of, infrastructure which will serve the Property on an interim basis.

### **1.2 Waiver of Grantor's rights.**

**1.2.1 ULID (Utility Local Improvement District) Formation.** Grantor waives its right and that of its heirs, successors and assigns to protest the formation of a ULID by the District for the provision of water service to any area which includes the Property.

**1.2.2 ULID Protests.** Grantor reserves its right to protest the amount of any proposed assessment pursuant to a ULID on the grounds that the assessment is inequitable compared to that of the other comparable property within the ULID or that the amount of the assessment does not reflect the benefit received by the Property.

**1.2.3 Developer Extension Agreements.** Grantor further waives its right to object to or protest the inclusion of the Property within the benefit area of a future developer extension which constructs facilities capable of providing water and/or sewer service to the Property.

**1.3. Run with the Land.** This Covenant and all rights and obligations described in this Covenant are perpetual and shall run with the land and are binding on all Parties having or acquiring any right, title, or interest in the Property described herein or any part thereof.

**1.4 Removal from Service Area.** In the event the District removes the Property from its service area in the future, the District shall at the request of Grantor execute a recordable document extinguishing this Covenant and provide same to Grantor for recording.

## II. GENERAL PROVISIONS

**2.1 Notices.** Written notices to Grantor shall be mailed to the mailing address on file with the Whatcom County auditor's office for the owner of record of the Property.

**2.2 Indemnification.** Grantor shall hold harmless and indemnify the District absolutely and without limit against all claims, demands, suits, actions, orders, judgments, damages, fines, penalties, costs and expenses, including court costs and reasonable attorney fees, arising from any act or omission by Grantor in securing water for the Property by an alternative means other than through the District.

**2.3 Attorney's Fees and Costs.** In the event of any cause of action or litigation arising out of an alleged breach of this Covenant, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs.

**2.4 Governing Law and Venue.** This Covenant shall be governed by the laws of the State of Washington. Venue shall be in Whatcom County Superior Court.

**2.5 Complete Agreement – No Modifications Except in Writing.** This Covenant is a completely integrated document and shall supersede any prior or contemporaneous written or verbal agreements or understandings on the subject of the Covenant. There shall be no modification hereof except by written agreement of the Parties.

**2.6 Severability.** In the event that any part of this Covenant is determined to be unlawful or invalid for any reason, the remainder of the Covenant which is not unlawful or invalid shall remain in full force and effect.

**2.7 Counterparts.** This Covenant may consist of two or more separately ratified counterparts, each of which shall constitute a duplicate original of this Covenant.

**IN WITNESS WHEREOF,** the Parties have executed this Covenant the date first above written.

**Lake Whatcom Water and Sewer District**

**Ray Living Trust**

\_\_\_\_\_  
By: Patrick Sorensen

\_\_\_\_\_  
By: Neil A. Ray

Its: General Manager

Its: Trustee

---

By: Adelanna M. Ray

Its: Trustee

STATE OF WASHINGTON )  
 )  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that PATRICK SORENSEN 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 GENERAL MANAGER of LAKE WHATCOM WATER AND SEWER DISTRICT to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC for the State of Washington.  
My Commission expires \_\_\_\_\_.

STATE OF ~~MARYLAND~~WASHINGTON )  
 )  
COUNTY OF ~~MONTGOMERY~~WHATCOM )

I certify that I know or have satisfactory evidence that NEIL A. RAY 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 TRUSTEE of RAY LIVING TRUST, DATED FEBRUARY 9, 2011 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC for the State of Washington.  
My Commission expires \_\_\_\_\_.



STATE OF ~~MARYLAND~~WASHINGTON \_\_\_\_\_ )  
\_\_\_\_\_) )  
COUNTY OF ~~MONTGOMERY~~WHATCOM )

I certify that I know or have satisfactory evidence that ADELANNA M. RAY is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the TRUSTEE of RAY LIVING TRUST, DATED FEBRUARY 9, 2011 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC for the State of Washington.  
My Commission expires \_\_\_\_\_.

**WHEN RECORDED RETURN TO:**

CARMICHAEL CLARK, P.S.

ROBERT A. CARMICHAEL

P. O. BOX 5226

BELLINGHAM, WA 98227

---

**Document Title:**

Covenant Binding Property Regarding Future Water and Sewer Service

**Reference # of related documents:**

---

**Grantors:**

Neil A. Ray and Adelanna M. Ray, Trustees of the Ray Living Trust, dated February 9, 2011

**Grantees:**

Lake Whatcom Water and Sewer District, a Washington municipal corporation

**Brief Legal Description:**

LOT 4 GRADUAL VALLEY SHORT PLAT BOOK 9 SP PG 82

**Parcel number:**

380323 298185 0000

## COVENANT BINDING REAL PROPERTY REGARDING FUTURE WATER AND SEWER SERVICE

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THIS Covenant Binding Real Property Regarding Future Water and Sewer Service (hereinafter "Covenant") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between Neil A. Ray and Adelanna M. Ray, Trustees of the Ray Living Trust, dated February 9, 2011 ("Grantor") and LAKE WHATCOM WATER SEWER DISTRICT, a Washington municipal corporation ("Grantee" or "District"), and pertains to the provision of future municipal water services. Grantor and Grantee may be collectively referred to herein as "Parties".

### RECITALS AND PROPERTY DESCRIPTION

**WHEREAS**, Grantor is the owner in fee of real property commonly known as 1915 Academy Road, Bellingham, WA 98226, legally described as:

Lot 4, Gradual Valley Short Plat, according to the Plat thereof, recorded in Book 9 of Short Plats, Page 82, under Auditor's File No. 1464157, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

And hereinafter referred to as the "Property"; and

**WHEREAS**, the District supplies both water services and sanitary sewage disposal services to customers within its recognized service area under provisions of Title 57 RCW; and

**WHEREAS**, the Property is located within the District's recognized service area; and

**WHEREAS**, the District does not currently have water service available to the Property without an extension of the District system in excess of one-half mile; and

**WHEREAS**, the Property also appears to be located within the service area claimed by Whatcom County Water District No. 7 ("District No. 7"), meaning it appears to be in an area of overlapping service areas for the District and District No. 7; and

**WHEREAS**, Whatcom County Water District No. 7 ("District No. 7") is currently providing water to one single family residence on the Property, and based on information from Grantor, is contractually obligated to serve three adjoining parcels which are not part of a proposed subdivision on the Property; and

**WHEREAS**, subject to approval from the City of Bellingham, District No. 7 is able to supply the proposed subdivision on the Property with water service from infrastructure nearby; and

**WHEREAS**, the District is willing to allow District No. 7 to provide additional water service connections to the Property on an interim basis until such time as the District extends water service to the Property, subject to the terms of this Covenant; and

**WHEREAS**, alternatively, the District is willing to allow the Property to be serviced by a private well on an interim basis, subject to the terms of this Covenant; and

**WHEREAS**, the District is not relinquishing any portion of its service area by entering into this Covenant; and

**WHEREAS**, pursuant to the terms of this Covenant, the District assumes no responsibility for fire protection for the Property or for operation and maintenance of the Property's water system; and

**WHEREAS**, the above recitals are a material part of this Covenant;

**NOW THEREFORE**, in view of the foregoing recitals and in consideration of the mutual covenants and promises set out below, the Parties agree as follows:

## **I. COVENANT**

### **1.1 Connection upon Availability of Water.**

**1.1.1 Grantor to Connect.** In the event that the District determines, in its sole discretion, that it has water infrastructure sufficient to serve the Property, Grantor agrees to connect to the District water system, pay all standard District fees and charges, and comply with all District policies regarding water conservation.

**1.1.2 Disconnect Costs.** The Grantor shall be responsible for satisfying any requirements of Washington Department of Ecology or the Whatcom County Health Department related to disconnection from, and if necessary removal of, infrastructure which will serve the Property on an interim basis.

### **1.2 Waiver of Grantor's rights.**

**1.2.1 ULID (Utility Local Improvement District) Formation.** Grantor waives its right and that of its heirs, successors and assigns to protest the formation of a ULID by the District for the provision of water service to any area which includes the Property.

**1.2.2 ULID Protests.** Grantor reserves its right to protest the amount of any proposed assessment pursuant to a ULID on the grounds that the assessment is inequitable compared to that of the other comparable property within the ULID or that the amount of the assessment does not reflect the benefit received by the Property.

**1.2.3 Developer Extension Agreements.** Grantor further waives its right to object to or protest the inclusion of the Property within the benefit area of a future developer extension which constructs facilities capable of providing water and/or sewer service to the Property.

- 1.3. Run with the Land.** This Covenant and all rights and obligations described in this Covenant are perpetual and shall run with the land and are binding on all Parties having or acquiring any right, title, or interest in the Property described herein or any part thereof.
- 1.4 Removal from Service Area.** In the event the District removes the Property from its service area in the future, the District shall at the request of Grantor execute a recordable document extinguishing this Covenant and provide same to Grantor for recording.

## II. GENERAL PROVISIONS

- 2.1 Notices.** Written notices to Grantor shall be mailed to the mailing address on file with the Whatcom County auditor's office for the owner of record of the Property.
- 2.2 Indemnification.** Grantor shall hold harmless and indemnify the District absolutely and without limit against all claims, demands, suits, actions, orders, judgments, damages, fines, penalties, costs and expenses, including court costs and reasonable attorney fees, arising from any act or omission by Grantor in securing water for the Property by an alternative means other than through the District.
- 2.3 Attorney's Fees and Costs.** In the event of any cause of action or litigation arising out of an alleged breach of this Covenant, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs.
- 2.4 Governing Law and Venue.** This Covenant shall be governed by the laws of the State of Washington. Venue shall be in Whatcom County Superior Court.
- 2.5 Complete Agreement – No Modifications Except in Writing.** This Covenant is a completely integrated document and shall supersede any prior or contemporaneous written or verbal agreements or understandings on the subject of the Covenant. There shall be no modification hereof except by written agreement of the Parties.
- 2.6 Severability.** In the event that any part of this Covenant is determined to be unlawful or invalid for any reason, the remainder of the Covenant which is not unlawful or invalid shall remain in full force and effect.
- 2.7 Counterparts.** This Covenant may consist of two or more separately ratified counterparts, each of which shall constitute a duplicate original of this Covenant.

**IN WITNESS WHEREOF,** the Parties have executed this Covenant the date first above written.

**Lake Whatcom Water and Sewer District**

**Ray Living Trust**

\_\_\_\_\_  
By: Patrick Sorensen

\_\_\_\_\_  
By: Neil A. Ray

Its: General Manager

Its: Trustee

\_\_\_\_\_  
By: Adelanna M. Ray

Its: Trustee

STATE OF WASHINGTON )

)

COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that PATRICK SORENSEN 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 GENERAL MANAGER of LAKE WHATCOM WATER AND SEWER DISTRICT to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

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

NOTARY PUBLIC for the State of Washington.

My Commission expires \_\_\_\_\_.

STATE OF MARYLAND )

)

COUNTY OF MONTGOMERY )

I certify that I know or have satisfactory evidence that NEIL A. RAY 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 TRUSTEE of RAY LIVING TRUST, DATED FEBRUARY 9, 2011 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

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

NOTARY PUBLIC for the State of Washington.

My Commission expires \_\_\_\_\_.

STATE OF MARYLAND            )  
                                          )  
COUNTY OF MONTGOMERY    )

I certify that I know or have satisfactory evidence that ADELANNA M. RAY is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the TRUSTEE of RAY LIVING TRUST, DATED FEBRUARY 9, 2011 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

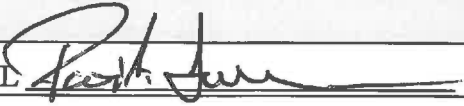
DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC for the State of Washington.  
My Commission expires \_\_\_\_\_.



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	April 5, 2017		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL 		
MEETING AGENDA DATE:	April 12, 2017		
AGENDA ITEM NUMBER:	5.B.		
SUBJECT:	Eagleridge Sewer Connection Charges - Phase II Development Reimbursement		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	1. March 6, 2017 District Report Re Eagleridge Phase II Sewer Connection Charges		
	2. Spread Sheet Outling Proposed Reimbursements		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

At the February 23, 2017 Board Meeting it was decided that a customer who was building a new home in the Eagleridge Phase II development would not have to pay a sewer connection charge because it had been determined that sewer connection fees had previously been paid when the development was originally initiated in the late 1980's (per February 23, 2017 Board minutes). However, in evaluating this issue it was also determined that four other properties has mistakenly also paid sewer permit fees between July 2006 and July 2016.

In a report dated March 6, 2017, put together by District Construction Engineer Kristin Hemenway, the history behind the 32 platted lots in Phase II reveals that the District mistakenly charged these property owners the sewer permit fee charged at the time (see attached report). At your February 23 meeting the Board directed staff to prepare to refund these property owners their original sewer permit fee and interest.

**FISCAL IMPACT**

Hemenway calculated, and Finance Manager Denton confirmed that that a total of \$17,776.06 is owed to the four property owners. This amount includes \$692.09 in interest as based upon an average historical 6 – month CD rate from 2006 through 2016. Attached is a spread sheet that outlines each lot location, property owner, permit date, fee paid at the time, and interest owed. The information in the spread sheet comes from Hemenway's research in the attached report. Again, all of the information in the report has been confirmed and is reflected in the separate spread sheet. Fortunately, the original property owners still own these homes.



**RECOMMENDED BOARD ACTION**

That the Board of Commissioners authorizes payment of \$17,776.06 to the four respective property owners identified in the attached report. This number also includes interest as described previously. This reconciliation and payment amount should also be reflected in each individual account file.

**PROPOSED MOTION**

To reimburse the four respective property owners a combined total of \$17,776.06 as described within the presented March 6, 2017 staff report and spreadsheet.



# MEMORANDUM

**To:** Patrick Sorensen & Bill Hunter

**From:** Kristin Hemenway, Construction Engineer *(KH)*

**Date:** March 6, 2017

**Subject:** **Eagleridge Sewer Connection Charges – Phase II Development Agreement Cancelling Standard Participation Contracts and Setting Connection Fees (Dated November 6, 1989, Whatcom County Auditor's File No. 900119085)**

This memo is prepared per your request and pursuant to the Board Meeting on February 23, 2017 where Scott Swanson queried the Board regarding the District's handling of the pre-paid connection charges in Eagleridge. Scott Swanson presented the subject document, Whatcom County Auditor's File No. 900119085, where it states in Section D, Item 2, Cost to Owners:

"Eagleridge Associates shall pay to the District the sum of \$16,720.00 as the connection or facilities fee for sewer service to the Eagleridge Plat, phase II, representing a total of 32 platted lots at \$585.00 per lot. Lot owners seeking sewer connection in Phase I shall be directly responsible for payment to the District of the applicable connection fee".

Accordingly, this memo summarizes the fees paid for water and sewer connections issued for Eagleridge development Phase II where a credit may be due for excess sewer connection charges.

**Table 1: Eagleridge Phase II Development**  
(Accounts where permit applicant and current owner remain the same (see note 1))

Acct #	Address	Div	Lot	Permit Date	Sewer Fee Paid	Owner's Name
150001058	3226 Eagleridge Way	2	19	7/20/2006	\$3,092.00	Marco Boulos
150001526	1729 Eagleridge Dr.	2	9	9/22/2008	\$4,530.00	Kuldeep & Manjeet Parmar
150001541	3231 Eagleridge Way	2	18	9/28/2009	\$4,731.00	Ken & Amanda Dawson
150001576	3233 Eagleridge Way	2	17	7/16/2016	\$4,731.00	Sergey Savchuk
<b>Total</b>					<b>\$17,084.00</b>	

**Notes:**

1. I was asked to review the Whatcom County Assessor's website to determine the property owner's name, property sales history and also our records showing the permit applicant information. The table summarizes instances where the permit applicant's name remains the same as the current property owner, and additional fees were collected.
2. Account permit applications and Whatcom County Assessor information are attached for the properties listed in Table 1.

As summarized in Table 1, it appears that the District collected extra charges totaling \$17,084.00. A full analysis of Eagleridge Phases I and II permits are in my file and available for your review if needed.

The next step should be for the Accounts Receivable department to confirm receipt of the payments in the District's accounting software.

Kristin

# 2

ACCT #	ADDRESS	DIV	LOT	PERMIT DATE	SEWER FEE PAID	AVERAGE INTEREST RATE	INTEREST	TOTAL REFUND	OWNER'S NAME
150001058	3226 Eagleridge	2	19	7/20/2006	\$ 3,092.00	1.13%	\$ 369.72	\$ 3,461.72	Marco Boulos
150001526	1729 Eagleridge	2	9	9/22/2008	\$ 4,530.00	0.53%	\$ 196.19	\$ 4,726.16	Kuldeep&Manjeet Parmar
150001541	3231 Eagleridge	2	18	9/28/2009	\$ 4,731.00	0.33%	\$ 110.54	\$ 4,841.54	Ken and Amanda Dawson
150001576	3233 Eagleridge	2	17	7/16/2016	\$ 4,731.00	0.33%	\$ 15.64	\$ 4,746.64	Sergey Savchuk
<b>TOTALS</b>					<b>\$ 17,084.00</b>		<b>\$ 692.09</b>	<b>\$ 17,776.06</b>	



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	April 6, 2017		
TO BOARD OF COMMISSIONERS			
FROM: Debi Denton	MANAGER APPROVAL <i>Paul Jew</i>		
MEETING AGENDA DATE:	April 12, 2017		
AGENDA ITEM NUMBER:	5.C.		
SUBJECT:	Monthly Budget Analysis		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	Monthly Budget Analysis through 3/31/2017		
	Investments/Cash through 3/31/2017		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input type="checkbox"/>	INFORMATIONAL/ OTHER <input checked="" type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

Information only

**FISCAL IMPACT**

n/a

**RECOMMENDED BOARD ACTION**

n/a

**PROPOSED MOTION**

n/a



**LAKE WHATCOM WATER AND SEWER**

**INVESTMENTS/CASH AS OF 03/31/2017**

Cash		\$ 2,956,826		0.30%
LGIP		\$ 4,057		0.42%
			<b>PAR VALUE</b>	<b>YIELD</b>
FICO - ProEquity	Non-Callable	\$ 440,000		Aug-18 0.91%
FICO - ProEquity	Non-Callable	\$ 375,000		Dec-18 0.90%
FICO - ProEquity	Non-Callable	\$ 250,000		Dec-18 0.90%
FFCB - ProEquity	Callable 10/2017	\$ 500,000		Oct-19 1.44%
FFCB - ProEquity	Callable 8/2017	\$ 750,000		Aug-20 1.10%
US Bank		\$ 2,315,000		
<b>TOTAL</b>		<b>\$ 5,275,883</b>		



**LAKE WHATCOM WATER AND SEWER FUND SUMMARY 2017**

	401	420 SYSTEM REINVESTME NT	425 SEWER/ STORM WATER CONTINGENCY	426 WATER CONTINGENCY	431 2016 BOND PROJECTS	440 DWSRF PROJECTS	450 DEBT SERVICE	460 2009 BOND RESERVE (RESTRICTED)	TOTAL
OPERATING	1,444,675	93,418	2,173	-	300,000	308,711	-	4,935	2,153,912
2017 REVENUES AND TRANSFERS IN	(1,161,861)	(92,407)	(15,646)	-	(1,763)	(450,798)	-	(620)	(1,723,095)
2017 EXPENDITURES AND TRANSFERS OUT	1,980,328	-	878,723	440,000	98,444	661,352	22,990	763,229	4,845,066
CASH/INVESTMENTS 2016 CARRYOVER									
<b>MONTH END BALANCE</b>	<b>\$2,263,142</b>	<b>\$1,011</b>	<b>\$865,250</b>	<b>\$440,000</b>	<b>\$396,681</b>	<b>\$519,265</b>	<b>\$22,990</b>	<b>\$767,544</b>	<b>\$5,275,883</b>
<b>ALLOCATED TO OPERATING RESERVES</b>	<b>-\$800,000</b>								<b>-\$800,000</b>
	<b>\$1,463,142</b>								<b>\$4,475,883</b>



## MONTHLY BUDGET ANALYSIS

Description

Budget  
2017

YTD  
3/31/2017  
25%

### OPERATING FUND - 401

#### REVENUES

401-333-97-00	FEMA Aug 2015 Storm Assistance	-	14,280	
401-343-40-10	Water Sales Metered (8.75% base rate increase) *	2,279,985	492,700	22%
401-343-41-10	Permits Operation portion (10 new connection permits)	30,000	230	1%
401-343-50-11	Sewer Service Residential (2.5% rate increase) *	3,844,032	914,077	24%
401-343-50-19	Sewer Service Other	5,000	496	10%
401-343-81-10	Combined Fees	30,000	6,925	23%
401-359-90-00	Late fees	50,000	13,746	27%
401-361-11-00	Investment Interest	1,500	4	0%
401-361-40-00-80	ULID #18 Interest	15,000	203	1%
401-368-10-00-80	ULID #18 Principal	40,000	1,808	5%
401-369-10-00	Sale of scrap metal and surplus	2,500	-	0%
401-369-10-01	Miscellaneous	-	206	
<b>TOTAL REVENUES</b>		<b>6,298,017</b>	<b>1,444,675</b>	<b>23%</b>

\* Per Resolution 820 effective 11/9/2015  
Scheduled annual rate increase



	Description	Budget	YTD
<b>MONTHLY BUDGET ANALYSIS</b>		<b>2017</b>	<b>3/31/2017</b>
<b>OPERATING FUND - 401</b>			<b>25%</b>
<b>EXPENDITURES</b>			
401-53X-10-10	Admin Payroll (2.4% cola plus step increases - 2017)	639,252	144,956
401-53X-10-20	Admin Personnel Benefits (Medical,Retirement etc)	269,830	59,299
401-53X-10-31	Gen Admin Supplies	25,000	4,628
401-53X-10-31-01	Meetings/Team building	1,500	877
401-53X-10-40	Web pay/Bank Fees (WA Fed; Xpress, Chase)	20,000	6,728
	Interlocal - Lake Whatcom Management Program 5,000		
	Interlocal - Invasive Species 50,000		
	Interlocal - Lake Whatcom Tributary Monitor 10,000		
401-534-10-41-00	Water Quality Assurance Programs (TOTAL)	65,000	-
	County Auditor Filing Fees (Simplifile)	4,500	
	Data Bar (Statement processing)	21,000	
	Answering Service	1,700	
	Data Pro (Time clock system)	1,500	
	BIAS Financial Software	20,000	
	Web Check services	5,000	
	WA State Auditor	22,000	
	CPA (Internal audit and Financial statements)	6,000	
	Docuware/Web site maintenance and upgrade	5,000	
	Legal Counsel	60,000	
	3D - Computer support	20,000	
	Watchguard	1,000	
	Building security	1,500	
	Building custodial	7,700	
	Pest control	600	
	Landscaping service	5,500	
	South Whatcom Fire (hydrant maintenance)	2,000	
	GE Scada System Software Maintenance - Operations	7,500	
	Wilson Engineering	7,000	
	Camera Van Software	1,500	
	SCADA/PLC Support - Engineering/Operations	5,000	
	Cartegraph - Engineering/Operations	8,000	
	Auto Desk (DLT) - Engineering	1,000	
	GIS Partnership	1,000	
	Rockwell - Engineering/Operations	500	
	IT Pipes	1,500	
	ESRI - ARC GIS	1,500	
	Innovyze - Engineering	2,500	
	Master Meter	2,000	
	Generator Load Testing	22,000	
	Cyberlock software	1,000	
	Whatcom Co Emergency Management	20,000	
	Misc (Bid notices etc.)	3,000	
401-53X-10-41-01	Professional Services (TOTAL)	270,000	99,705
401-53X-10-42	Communication	50,000	14,436
401-53X-10-45	Admin Lease	2,000	450
401-53X-10-46	Property Insurance	138,000	-
401-53X-10-49	Admin Misc.	1,000	-
401-53X-10-49-01	Memberships/Dues	15,000	13,688
401-53X-10-49-02	WA State Dept of Revenue Taxes/Permits	208,000	33,136
401-53X-40-43	Training & Travel	35,000	5,638
401-53X-40-43-01	Tuition reimbursement	1,000	-
401-53X-50-31	Maintenance Supplies	180,000	27,130
401-53X-50-48	Operations Repair/Maint	130,000	69,427
401-53X-50-49	Insurance Claims	5,000	4,163
401-53X-60-41	Operations Contracted	9,000	940
401-534-60-47	Water City of Bellingham	40,000	10,005
401-535-60-47	Sewer City of Bellingham Treatment Fee	615,000	207,331
401-53X-80-10	Operations Payroll (2.4% cola plus step increases - 2017)	951,544	212,834
401-53X-80-20	Operations Personnel Benefits (Medical,Retirement etc)	414,930	93,357
401-53X-80-32	Fuel	20,000	5,544
401-53X-80-35	Safety Supplies	10,000	3,760
401-53X-80-35-01	Safety Supplies Boots	2,500	-
401-53X-80-35-02	Emergency Preparedness	10,000	
401-53X-80-47	General Utilities	208,000	61,977
401-53X-80-49	Laundry	4,000	852
	<b>OPERATING EXPENDITURES</b>	<b>4,340,556</b>	<b>1,080,861</b>

	Description	Budget	YTD
	<b>MONTHLY BUDGET ANALYSIS</b>	<b>2017</b>	<b>3/31/2017</b>
<b>TRANSFERS</b>	Transfers Out to System Reinvestment Fund 420	1,598,000	81,000
	Transfers Out to Sewer Contingency Reserve Fund 425	100,000	-
	Transfers Out to 2009 Bond Debt Service Fund 450	890,172	-
	<b>TOTAL EXPENDITURES</b>	<b>6,928,728</b>	<b>1,161,861</b>
<b>OPERATING FUND</b>	<b>OPERATING REVENUES</b>	<b>6,298,017</b>	<b>1,444,675</b>
	<b>EXPENDITURES</b>	<b>(6,928,728)</b>	<b>(1,161,861)</b>
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	<b>1,750,000</b>	<b>1,980,328</b>
	<b>RATE STABILIZATION RESERVES</b>	<b>(800,000)</b>	<b>(800,000)</b>
	<b>CASH/INVESTMENTS BALANCE</b>	<b>319,289</b>	<b>1,463,142</b>

	Description	Budget	YTD
	<b>MONTHLY BUDGET ANALYSIS</b>	<b>2017</b>	<b>3/31/2017</b>
<b>SYSTEM REINVESTMENT FUND - 420</b>			
420-333-66-00-00	North Shore Consolidatoin Feasibility Study		12,418
420-343-40-19-21	DEA Permits	-	-
420-343-40-19-22	DEA Permits	-	-
420-343-41-20-00	Permits Capital Portion (10 new connection permits)	70,000	-
420-343-50-20-00	Latecomer Fees	-	-
420-397-10-00-01	Transfers In from Operating Fund 401	1,598,000	81,000
	<b>TOTAL REVENUES</b>	<b>1,668,000</b>	<b>93,418</b>
	Active Projects to be completed in 2017	777,500	
	C 14-07 Lowe Sewer PS VFD	3,450	-
	C 15-04 Reservoir Site Security	5,000	1,398
	C15-06B Whatcom Falls Manhole Repair	17,350	250
	C16-03 Marina-Tomb Stationary Generator	6,785	1,044
	C 16-05 Water System Plan Update	100,000	17,055
	C 16-06 Replace SCADA Hardware	2,670	
	C 16-10 Little Strawberry Water Leak on bridge	10,000	
	C 16-11 Country Club Sewer Pump Station	632,245	10,345
	New 2017 Capital Projects (see CIP detail - 2017)	890,500	
	C 17-01 Tool truck	65,000	
	C 17-02 Admin staff vehicle	26,000	
	C 17-03 Locator/Meter reading van	28,000	
	C 17-04 New Admin Server	15,000	
	C 17-05 Geneva Pump Station pre-design and permits	100,000	
	C 17-05 Geneva Pump Station deisgn and bidding	100,000	
	Par Pump Station pre-design and permits	100,000	
	Par Pump Station design and bidding	100,000	
	C 17-06 Strawberry Canyon Back up Generator	20,000	388
	C 17-07 Beaver and Flat Car Level Transmitter Replacement	50,000	
	C 17-08 Install Ball Check Valves	10,000	
	C 17-09 CMOM	25,000	
	C 17-10 Eagleridge Fire Pump Control Upgrade - Scope and estimate	5,000	
	C 17-10 Eagleridge Fire Pump Control Upgrade Construction	35,000	
	C 17-11 Replace SVWTP Booster Station Roof	30,000	
	C 17-12 Mechanical Staff gauge for SVWTP Clearwell	4,000	
	C 17-13 Eagleridge Booster station controls	50,000	
	C 17-14 SVWTP Floor coating	5,000	
	C 17-15 SVWTP pumps and turbidimeter	7,500	1,180
	C 17-16 Water System rehab and replacement projects	40,000	5,822
	Water meter replacements	110,000	54,925
	<b>TOTAL EXPENDITURES</b>	<b>1,668,000</b>	<b>92,407</b>
<b>SYSTEM REINVESTMENT FUND</b>	<b>REVENUES</b>	<b>1,668,000</b>	<b>93,418</b>
	<b>EXPENDITURES</b>	<b>(1,668,000)</b>	<b>(92,407)</b>
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	<b>-</b>	<b>-</b>
	<b>CASH/INVESTMENTS BALANCE</b>	<b>-</b>	<b>1,011</b>

	Description	Budget	YTD
		2017	3/31/2017
<b>MONTHLY BUDGET ANALYSIS</b>			
<b>SEWER/STORM WATER CONTINGENCY FUND - 425</b>			
425-361-11-00	Investment Interest	3,750	2,173
425-397-10-00	Transfers In from Operating Fund 401	100,000	-
		-	
	<b>TOTAL REVENUES</b>	<b>103,750</b>	<b>2,173</b>
425-535-10-42	Investment Service Charges	200	42
425-594-38-63			
	C 16-07 North Shore Sampling	75,000	15,604
	C 16-12 Cedar Hills Storm Drain Relocate (Wilson Eng)	135,000	-
	<b>TOTAL EXPENDITURES</b>	<b>210,200</b>	<b>15,646</b>
<b>SEWER/STORM WATER CONTINGENCY FUND</b>	<b>REVENUES</b>	<b>103,750</b>	<b>2,173</b>
	<b>EXPENDITURES</b>	<b>(210,200)</b>	<b>(15,646)</b>
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	<b>887,000</b>	<b>878,723</b>
	<b>CASH/INVESTMENTS BALANCE (CAPITAL RESERVES SEWER)</b>	<b>780,550</b>	<b>865,250</b>
<b>WATER CONTINGENCY FUND - 426</b>			
426-361-11-00	Investment Interest	2,500	
	<b>TOTAL REVENUES</b>	<b>2,500</b>	<b>-</b>
426-594-38-64	Machinery/Equipment		
	<b>TOTAL EXPENDITURES</b>	<b>-</b>	<b>-</b>
<b>WATER CONTINGENCY FUND</b>	<b>REVENUES</b>	<b>2,500</b>	<b>-</b>
	<b>EXPENDITURES</b>	<b>-</b>	<b>-</b>
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	<b>440,000</b>	<b>440,000</b>
	<b>CASH/INVESTMENTS BALANCE (CAPITAL RESERVES WATER)</b>	<b>442,500</b>	<b>440,000</b>

	Description	Budget 2017	YTD 3/31/2017
<b>MONTHLY BUDGET ANALYSIS</b>			
<b>2016 CAPITAL BOND PROJECTS FUND - 431 RESTRICTED</b>			
	Transfers In from Fund 440		300,000
	<b>TOTAL REVENUES</b>	-	300,000
431-594-38-63	Strawberry Point Pump Station C14-05	156,923	1,763
	<b>TOTAL EXPENDITURES</b>	156,923	1,763
<b>CAPITAL BOND PROJECTS FUND</b>	<b>REVENUES</b>	-	300,000
	<b>EXPENDITURES</b>	(156,923)	(1,763)
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	156,923	98,444
	<b>CASH/INVESTMENTS BALANCE</b>	-	396,681
<b>DWSRF PROJECTS FUND - 440</b>			
440-391-70-46-41	Geneva AC Mains	-	
440-391-70-46-42	Division 22 Reservoir	229,950	308,711
440-397-10-41	Transfers In from Operating Fund 401	-	
	<b>TOTAL REVENUES</b>	229,950	308,711
440-594-34-62-40	Division 22 Reservoir	1,058,100	150,798
440-594-34-62-41	Geneva AC Mains		
	Transfers Out to Fund 431		300,000
	<b>TOTAL EXPENDITURES</b>	1,058,100	450,798
<b>DWSRF PROJECTS FUND</b>	<b>REVENUES</b>	229,950	308,711
	<b>EXPENDITURES</b>	(1,058,100)	(450,798)
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	828,150	661,352
	<b>CASH/INVESTMENTS BALANCE</b>	-	519,265
Expenditures offset by draws as projects progress.			

	Description	Budget	YTD
	<b>MONTHLY BUDGET ANALYSIS</b>	<b>2017</b>	<b>3/31/2017</b>
<b>DEBT SERVICE FUND - 450</b>			
450-397-10-00	Transfers In from Operating Fund 401	890,172	-
	<b>TOTAL REVENUES</b>	<b>890,172</b>	<b>-</b>
450-535-10-41-50	Bond Admin Fee	100	
450-591-34-77-41	Principal Geneva AC Mains	43,023	
450-591-34-77-42	Principal Div 22 Reservoir	119,937	
450-591-34-77-73	Principal Loan 064	47,252	
450-591-35-72-50	Principal Bond 2009	265,000	
450-591-35-72-51	Principal Bond 2016	125,000	
450-592-34-83-41	Interest Geneva AC Mains	14,923	
450-592-34-83-42	Interest Div 22 Reservoir	34,182	
450-592-34-83-73	Interest Loan 064	5,670	
450-592-35-83-50	Interest Bond 2009	30,900	
450-592-35-83-51	Interest Bond 2016	227,175	
	<b>TOTAL EXPENDITURES</b>	<b>913,162</b>	<b>-</b>
<b>DEBT SERVICE FUND</b>	<b>REVENUES</b>	<b>890,172</b>	<b>-</b>
	<b>EXPENDITURES</b>	<b>(913,162)</b>	<b>-</b>
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	<b>22,990</b>	<b>22,990</b>
	<b>CASH/INVESTMENTS BALANCE</b>	<b>-</b>	<b>22,990</b>
<b>BONDS RESERVE FUND - 460</b>			
<b>RESTRICTED</b>			
460-361-11-00	Investment Interest	3,850	4,935
	<b>TOTAL REVENUES</b>	<b>3,850</b>	<b>4,935</b>
460-535-10-41	Investment Service Charges	200	620
	<b>TOTAL EXPENDITURES</b>	<b>200</b>	<b>620</b>
<b>BONDS RESERVE FUND (RESTRICTED)</b>	<b>REVENUES</b>	<b>3,850</b>	<b>4,935</b>
	<b>EXPENDITURES</b>	<b>(200)</b>	<b>(620)</b>
	<b>CASH/INVESTMENTS BALANCE CARRYOVER</b>	<b>773,200</b>	<b>763,229</b>
	<b>CASH/INVESTMENTS BALANCE</b>	<b>776,850</b>	<b>767,544</b>



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	April 6, 2017		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL <i>Patrick Sorensen</i>		
MEETING AGENDA DATE:	April 12, 2017		
AGENDA ITEM NUMBER:	5.D.		
SUBJECT:	Emergency Management Agreement with Whatcom County		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	1. Draft Agreement		
	2.		
	3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

At the January 25, 2017 regular meeting, Whatcom County Sheriff Bill Elfo and John Gargett from Whatcom County Division of Emergency Management spoke to the Board of Commissioners about joining the Whatcom County Emergency Management Council and contracting with the County for specialized emergency management services. The subject was also discussed at the March 28, 2017 meeting.

As proposed the Division of Emergency Management will serve as a consultant, using their expertise to help us in further developing and managing our existing program and efforts. Their proposal is for a three year agreement and would essentially be a "Professional Service".

**FISCAL IMPACT**

Approximately \$20,000.00 per year.

**RECOMMENDED BOARD ACTION**

Review/discuss/consider the proposed Emergency Management Services Agreement with Whatcom County.

**PROPOSED MOTION**

To approve the Emergency Management Agreement with Whatcom County for 2017 through 2019 in an amount not to exceed \$20,000.00 per year. Further, to authorize the General Manager to sign this agreement on behalf of the District.

**CONTRACT FOR SERVICES AGREEMENT  
(Whatcom County Sheriff's Office to Provide Emergency Management Services)**

Lake Whatcom Water & Sewer District, hereinafter called Requestor and/or Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

**Exhibit A - Scope of Work**

Copies of Exhibit A is attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 20 17, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 20 19.

The general purpose or objective of this Agreement is to: provide emergency management services to the Lake Whatcom Water & Sewer District in Whatcom County, WA.

The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

**Billings** shall be for a fixed annual cost of \$20,000.00 per year, to be billed semi-annually.

**Payment for Services.** The County shall bill the Requester for services provided and shall send billings to the Requester billing address identified in this Agreement. The Requester shall reimburse the County within 30 days of receipt of billing from the County.

**Agreement Alterations and Amendments.** The County and the Requester may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind the County and the Requester.

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

**Governing Law.** This Agreement shall be governed in all respects by the laws of the State of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Whatcom County, State of Washington.

**INSURANCE.** The CONTRACTOR shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the Washington State Insurance Commissioner pursuant to Title 48 RCW. The Contracting Party with the County/Requestor in this contract, shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

Property Damage per occurrence - \$1,000,000.00

General Liability & Property Damage for bodily injury- \$3,000,000.00

A Certificate of Insurance and Endorsements must be provided that identifies the County as a named additional insured in the Contractor's insurance policy. This insurance shall be primary and shall waive all rights of subrogation. The County insurance shall be noncontributory. Proof of insurance requirements shall be provided by a Certificate of Insurance and Endorsements. Contractor must submit Certificate of Insurance and Endorsements as described above to the County prior to the commencement of any work on this project.

Failure of the Contractor to take out and/or maintain any required insurance shall not relieve the Contractor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification.

It is agreed by the parties that insurers shall have no right of recovery or subrogation against the County, including its employees and other agents and agencies. It is further agreed by the parties that insurance companies issuing the policy or policies required by this Agreement shall have no recourse against the County (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of policy. It is further agreed by the parties that any and all deductibles in the above described insurance policies shall be assumed by and be at the sole risk of the Contractor.



Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONTRACTOR, the SHERIFF'S OFFICE will be named on all policies as an additional insured. The CONTRACTOR'S insurance required by this Section shall be in all circumstances primary to any coverage for third-party liability claims or actions provided to the SHERIFF'S OFFICE and/or the COUNTY by the County's membership in a Ch. 48.62 RCW "Risk Pool." The CONTRACTOR shall furnish the SHERIFF'S OFFICE with verification of insurance and endorsements required by the AGREEMENT. The SHERIFF'S OFFICE reserves the right to require complete, certified copies of all required insurance policies and any endorsements at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the SHERIFF'S OFFICE.

Any coverage for third party liability claims provided to WHATCOM COUNTY or its SHERIFF by a "Risk Pool" created pursuant to Ch. 48.62 RCW shall be non-contributory with respect to any policy of insurance the Contractor must provide in order to comply with this Agreement.

If the proof of insurance or certificate indicating the County is an "additional insured" to a policy obtained by the Contractor refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Contractor to obtain the full text of that endorsement and forward that full text to the County.

### **INDEMNIFICATION.**

**A. General.** Contractor shall defend indemnify, and hold Whatcom County, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including all legal costs and attorney fees, arising out of or in connection with the Contractor's performance of this Agreement but in the case of concurrent negligence, only to the extent of the negligence of Contractor.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purposes of this indemnification. The parties further acknowledge that they have mutually negotiated this waiver.

**B. Indemnification and the Public Duty Doctrine.** Contractor understands that, pursuant to the legal doctrine in Washington called the "public duty doctrine," Whatcom County, its Sheriff's Office, and its officers and employees of the Whatcom County Sheriff's Office, owe a general duty to the public. Neither Whatcom County, its Sheriff's Office, nor any officer or employee of Whatcom County guarantees, in any way, the safety of any person or property as a result of the work performed under this Agreement. Contractor shall specifically indemnify, hold harmless, and defend Whatcom County, its Sheriff's Office, and each and every officer and employee thereof from any and all claims, injuries, damages, losses, or suits, including all legal costs and attorney fees arising out of the negligent acts or omissions of the Contractor, except to the extent of the concurrent negligence of Whatcom County.

The provisions of this Indemnification provisions shall survive the expiration or termination of this Agreement.

**PARTIES ARE INDEPENDENT.** The parties agree that neither shall be considered an employee or agent of the other.

**Survival of Indemnity Obligations.** Contracting Party with the County in this contract agrees all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

**Waiver:** Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of either party to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

**CONTRACTOR'S BUSINESS PERFORMED AT ITS OWN RISK.** Contractor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, guests, and all persons on Contractor's property and invitees at all times when Emergency Management staff or Sheriff's Office personnel are performing services pursuant to this Agreement.

**EMERGENCY INTERRUPTIONS IN SERVICE.** Emergency Management Staff and Sheriff's Office personnel performing services called for in this Agreement shall at all times be subject to the rules, regulations, and policies of Whatcom County and its Sheriff's Office, and shall be required to follow the orders of supervisors and command staff. Contractor understands that Emergency Management Staff and Sheriff's Office personnel, while performing services pursuant to this Agreement may, from time to time, be required to perform traditional duties for the benefit of the greater public. Therefore, from time to time, Emergency Management Staff and Sheriff's Office personnel performing services for Contractor may be required to respond to emergencies and abandon the services being called for under this Agreement.

**Termination.** Either party may terminate this agreement upon ninety (90) days written notice to the other party.

**Compliance with Laws.** Contractor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Contractor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

**Compliance with Civil Rights Laws.** During the period of performance for this Agreement, both parties shall comply with all federal, state, and local laws nondiscrimination laws.

**MISCELLANEOUS PROVISIONS.**

**Non-Waiver of Breach.** The failure of either party to insist upon strict performance of any of the covenants and 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.

**Resolution of Disputes and Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If the parties are unable to settle any dispute, difference, or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference, or claim, shall only be by filing suit exclusively under the venue, rules, and jurisdiction of the Whatcom County Superior Court, Whatcom County, Washington, unless the parties agree in writing to an alternative dispute resolution process. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the right of the Whatcom County Sheriff's Office to protections contained in the indemnification provision under this Agreement.

**Written Notice.** All written notices required under this agreement shall be sent to the parties at the addresses listed on the signature pages of the Agreement or forwarded electronically to the emails of the parties listed, and notices shall be deemed received three (3) business days after the date sent.

**Assignment.** Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

**Modification.** No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the Whatcom County Sheriff's Office and the Contractor.

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

**Entire Agreement.** The written provisions and terms of this Agreement, together with any Exhibits or Attachments attached hereto or referenced herein, shall supersede all prior verbal statements of any officer or other representative of the Whatcom County Sheriff's Office and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits or Attachments to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail. Further, the representative signing this Agreement on behalf of Contractor swears and affirms that he or she is authorized to enter into this Agreement on behalf of Contractor and that action is binding on the Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

CONTRACTOR INFORMATION

\_\_\_\_\_  
Patrick Sorensen (signature) \_\_\_\_\_ Date \_\_\_\_\_ District Legal Counsel Date \_\_\_\_\_  
General Manager



**EXHIBIT "A"**  
(SCOPE OF WORK)

The Whatcom County Sheriff's Office, Division of Emergency Management (WCSO-DEM), will provide the following services to the Lake Whatcom Water & Sewer District:

**Risk Assessment and Impact Analysis (RAIA)** – The WCSO-DEM will provide a RAIA for the LWWSD to include all risks that impact the ability of the LWWSD to deliver services. This RAIA will be completed each year and presented to the LWWSD as a basis for the Risk, Safety Security, Emergency and Crisis Management Planning that is a continuing and ongoing effort.

**Risk, Safety Security, Emergency and Crisis Management Plan (R-SEC Plan)** The WCSO-DEM will provide an annual update to the R-SEC Plan for the LWWSD based upon changes from the RAIA, personnel, and regulatory requirements. This R-SEC Plan will be completed by December 31 of each year as an annual update. Changes that are required during the year (such as additional action guidelines) will be issued as needed.

**Annual Risk, Safety Security, Emergency and Crisis Management Plan (R-SEC Plan) Workshop** - The WCSO-DEM will provide an annual one-day workshop which will be held at the Whatcom Unified Emergency Coordination Center that will include each of the areas served, Facilities and public agencies that are responsible for R-SEC Planning within the LWWSD. The output of this workshop will be updated plans specific to each location, building and staff.

**Assessment and Audit Exercise Design & Conduct** - The WCSO-DEM will provide exercise design for the LWWSD to include at least one full-scale or functional exercise and one table-top exercises each calendar year. The specific locations and scenarios will be determined by LWWSD and the WCSO-DEM Project Manager.

**Lake Whatcom Water & Sewer District Security Improvement Planning** – The WCSO-DEM will provide ongoing Security Improvement Planning with the LWWSD.

**Lake Whatcom Water & Sewer District Emergency Preparedness Improvement Planning** – The WCSO-DEM will provide ongoing Emergency Preparedness Improvement Planning with the LWWSD to include a site visit to each location and an assessment of the capacity to support needs during and following a significant event such as an earthquake, winter storm or chemical emergency. This annual site visit will include a summary report of the preparedness level for each location.

**Preparation of Annual Risk, Safety Security, Emergency and Crisis Management Improvement Plan** - The WCSO-DEM will prepare an annual Improvement Plan that will be used for LWWSD planning for improvements to its R-SEC program. This plan will be the guide for the LWWSD both in terms of short term improvements that can be undertaken with existing budgets as well as a guide for capital improvements.

**Assistance with Grant Applications.** The WCSO-DEM will provide consulting assistance to LWWSD in preparing applications for grant funding from FEMA and other sources.

**LWWSD Seat on Emergency Council or Board.** The LWWSD shall be presented for consideration and a vote for inclusion on the County Emergency Management Council

**Costs**

The cost for this scope of work is \$20,000 per year based on a three-year contract.



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	April 6, 2017		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL <i>Patrick Sorensen</i>		
MEETING AGENDA DATE:	April 12, 2017		
AGENDA ITEM NUMBER:	5.E.		
SUBJECT:	Inter Local Agreement (ILA) with the City of Bellingham for 2017-2018 Aquatic Invasive Species Program Coordination		
LIST DOCUMENTS PROVIDED ⇒			
NUMBER OF PAGES	1. Inter Local Agreement with the City of Bellingham		
INCLUDING AGENDA BILL:	2.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

The District has for since FY 2014 been a financial contributor to the Aquatic Invasive Species program administered by the City of Bellingham. This program is centered on the prevention of invasive species propagation in Lake Whatcom. Attached is a proposed renewal of the ILA for fiscal years 2017 – 2018.

**FISCAL IMPACT**

The District budgeted \$50,000 in 2017 as our contribution. The contribution amount annually has not increased since our involvement over the last three years. This proposed ILA renewal is based upon a 2 – year commitment. The City budgets on a two year basis. We would again budget \$50,000 in 2018. There is a provision in the agreement to end our participation with proper notice.

**RECOMMENDED BOARD ACTION**

That the Board of Commissioners authorizes the renewal of our participation in the Aquatic Invasive Species program for FY 2017 – 2018.

**PROPOSED MOTION**

A motion to approve renewing the District’s participation in the attached Inter Local Agreement with the City of Bellingham to fund the Aquatic Invasive Species program in FY 2017 - 2018 up to a maximum amount \$50,000 each year (\$100,000 over two years). This motion would also authorize the General Manager to sign the ILA on the District’s behalf.



City of Bellingham  
Public Works Department

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**TRANSMITTAL MEMORANDUM**

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**TO:** PATRICK SORENSON  
**FROM:** CLARE FOGELSONG/BECKY FAGER  
**SUBJECT:** ILA FOR 2017-2018 AIS PREVENTION PROGRAM COORDINATION  
**DATE:** MARCH 28, 2017

**THESE ARE TRANSMITTED AS CHECKED BELOW:**

- |                          |                |                                     |                  |
|--------------------------|----------------|-------------------------------------|------------------|
| <input type="checkbox"/> | For your files | <input checked="" type="checkbox"/> | Sign and return  |
| <input type="checkbox"/> | For your use   | <input type="checkbox"/>            | Per your request |
| <input type="checkbox"/> | Other:         |                                     |                  |

QTY.	DESCRIPTION
2	ILA FOR 2017-2018 AIS PREVENTION PROGRAM COORDINATION. PLEASE SIGN AND RETURN ONE (1) ORIGINAL BACK TO BECKY FAGER. THANK YOU!

REMARKS: Kindly advise us if documents are not as indicated above.

cc: Reading file  
Project file

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**Engineering**  
210 Lottie Street  
Bellingham, WA 98225  
(360) 778-7900  
Fax: (360) 778-7901  
pw@cob.org  
pw@cob.org

**Natural Resources**  
Physical: 2200 Nevada Street  
Mailing: 2221 Pacific Street  
Bellingham, WA 98229  
(360) 778-7800  
Fax: (360) 778-7801

**Operations**  
2221 Pacific Street  
Bellingham, WA 98229  
(360) 778-7700  
Fax: (360) 778-7701  
pw@cob.org

**INTERLOCAL AGREEMENT BETWEEN  
LAKE WHATCOM WATER AND SEWER DISTRICT AND THE CITY OF  
BELLINGHAM FOR  
2017-2018 AQUATIC INVASIVE SPECIES PROGRAM COORDINATION**

**WHEREAS**, the City of Bellingham (City) and Lake Whatcom Water and Sewer District ( District) have a mutual interest in protecting water resources in the Lake Whatcom and Lake Samish Watersheds; and

**WHEREAS**, Aquatic Invasive Species (AIS) are capable of impacting water quality, recreational use, public and private water supply systems, and the aquatic ecology of Lake Whatcom and Lake Samish; and

**WHEREAS**, the City and the District have committed resources to addressing AIS issues in Lake Whatcom and Lake Samish; and

**WHEREAS**, the risk of AIS introductions into Lake Whatcom and Lake Samish can be reduced by education of watercraft users and inspection of watercraft prior to launching; and

**WHEREAS**, the City and the District each have agreed to incur separate AIS program costs that are not included in this Agreement; and

**WHEREAS**, a coordinated effort to efficiently provide boat inspection and outreach services, including a sharing of some program costs, is needed to prevent the introduction of AIS into Lake Whatcom and Lake Samish.

**NOW, THEREFORE**, Lake Whatcom Water and Sewer District and the City of Bellingham agree as follows:

**1. SCOPE OF WORK**

**Task 1 - Administration:** The City will manage the AIS watercraft inspection program on behalf of the City and District.

**Task 2 – Outreach:** The City will schedule and staff education, outreach and inspection activities, and other related events, at mutually agreed locations in Whatcom County.

**Task 3 – Reporting:** Periodic reports of the program’s status will be provided to the District.

## **2. TERM**

(a) This agreement shall be effective January 1, 2017 and shall continue through December 31, 2018. The Agreement shall only be renewed, in writing, on terms then agreed to by the parties. The term shall be as stated in the Agreement regardless of the date of signature.

(b) This Agreement may be terminated for convenience by either party after giving of ninety (90) days written notice to the other party whereupon payment for time and effort expended up to and including the date of termination shall be paid in full.

(c) This agreement may be terminated for cause by either party after giving the defaulting party thirty (30) days written notice of default and an opportunity to cure.

## **3. PAYMENT**

(a) As compensation for the services specified in the Scope of Work, the District shall reimburse the City for one-fifths (1/5) of the actual labor, equipment, and material expenses incurred for the AIS program, up to a maximum amount of FIFTY THOUSAND DOLLARS (\$50,000) per year in 2017 and 2018 with a total maximum amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000). The maximum yearly amount \$50,000 or the total maximum amount payable under the Agreement of \$100,000 may not be exceeded unless agreed to in writing by each party. The following City expenses are eligible for reimbursement:

1. Inspector and Outreach Labor Costs
2. AIS Coordinator Labor Costs
3. Early Detection Monitoring Costs
4. Lake Risk Assessment Costs
5. Education and Outreach Costs
6. Associated Equipment and Supply Costs

(b) Payments to the City will be made quarterly based on invoices submitted to the District.



(c) The District shall promptly review and process invoices in accordance with its usual procedures.

(d) A short program update shall accompany each invoice.

#### **4. PERSONS RESPONSIBLE FOR ADMINISTRATION OF THE AGREEMENT**

The persons responsible for administration of this Agreement shall be:

Clare Fogelsong  
Natural Resources Policy Manager  
Public Works Department  
City of Bellingham  
2200 Nevada Street  
Bellingham, WA 98229  
Phone: (360) 778-7965  
Fax: (360) 778-7801

Patrick Sorenson  
Lake Whatcom Water and  
Sewer District  
General Manager  
1220 Lakeway Drive  
Bellingham, WA 98229  
Phone: (360) 733-9224  
Fax: (360) 738-8250

#### **5. LEGAL RELATIONS**

In performing the services outlined in this Agreement, neither party is acting as the agent or employee of the other; rather, each party is acting as an independent contractor. Each party agrees to defend, indemnify, and hold harmless as to all claims for damages arising out of activities it undertakes arising out of this Agreement.

#### **6. LIABILITY**

The City agrees to release, defend and indemnify the District from any claims, damages or liabilities arising out of the acts or omissions of the City, its staff members and its contractors in the performance of this Agreement. Likewise, the District agrees to defend and indemnify the City from any claims, damages or liabilities arising out of the acts or omissions of the District, its staff members and its contractors in the performance of this Agreement.

#### **7. MODIFICATIONS**

The terms of this Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

#### **8. APPLICABLE LAW**

In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

**9. SEVERABILITY**

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

**10. ENTIRE AGREEMENT**

This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

**11. RECORDATION**

Upon execution of this Agreement, the District shall file a copy of it with the office of its County Auditor pursuant to the requirements of RCW 39.34.

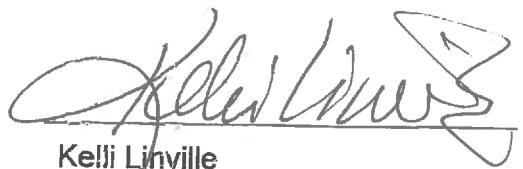
**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017 for **LAKE WHATCOM WATER AND SEWER DISTRICT:**

\_\_\_\_\_  
Patrick Sorensen  
LWWSD General Manger

**Approved as to Form:**

\_\_\_\_\_  
District Legal Counsel

EXECUTED this 24<sup>th</sup> day of March, 2017 for CITY OF BELLINGHAM:



Kelli Linville  
Mayor

**DEPARTMENTAL APPROVAL:**



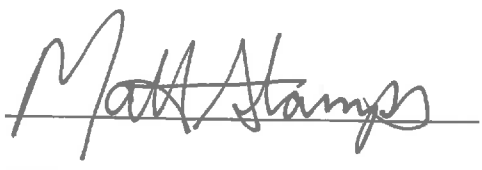
Ted Carlson  
Director

**ATTEST:**



Finance Director

**APPROVED AS TO FORM:**



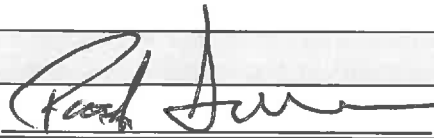
Office of the City Attorney

LF



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	April 6, 2017		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL 		
MEETING AGENDA DATE:	April 12, 2017		
AGENDA ITEM NUMBER:	7.0		
SUBJECT:	Manager's Report		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL: _____	1. Manager's Report		
	2.		
	3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input type="checkbox"/>	INFORMATIONAL/ OTHER <input checked="" type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

Updated information from the General Manager in advance of the Board meeting.

**FISCAL IMPACT**

None

**RECOMMENDED BOARD ACTION**

None required.

**PROPOSED MOTION**

None

## General Manager Comments

April 12, 2017

Regular Meeting

6:30 p.m.

### Important Upcoming Dates:

- **Meetings Associated with the Lake Whatcom Management Program:**
  - **Policy Group Meeting:** The next meeting is scheduled for May 15, 2017 at 3:00 p.m. downstairs at the Municipal Court Building in the conference room (same location as last year).
  - **Management Meeting:** There is not a meeting scheduled at this time.
- **Next Regular Board Meeting:** The next regular meeting will be held on **Wednesday, April 26th** at 8:00 a.m.
- **Employee Staff Meeting:** The next staff meeting is set for **Thursday, April 13, 2017 at 8:00 a.m.** in the Board Room. Commissioner Carter will be attending. Bill Hunter will be conducting the meeting as I will be at the WASWD Spring Conference.
- **Employee Safety Committee Meeting:** The next meeting is set for **April 13, 2017 at 9:00 a.m.** in the small conference room.
- **Washington Association of Sewer & Water Districts (WASWD) Section III Meeting:** The next Section III meeting will be held at the Washington Association of Sewer & Water District's Spring Conference at the Yakima Convention Center on **April 13, 2017 at 7:30 a.m.**
- **Whatcom Water District's Caucus Meeting:** The next Caucus meeting is set for **April 19, 2017** at 1:00 p.m. in the Board Room.

### Other:

- **Committee Meeting Reports as Needed:** This is a place holder for Board and staff members to report on recent committee meetings, such as the Lake Whatcom Policy Group, since the last Board Meeting.
- **Dates for Spring & Fall 2017 WASWD Conferences:** Reminder, the Fall Conference will be September 27 - 29 in Wenatchee. The conference's end on Fridays at noon. Both Commissioner Weide and I will be attending the Spring Conference in Yakima.
- **Annual Councils/Commission Lake Whatcom Meeting:** Reminder. The annual meeting with the City Council and County Council is scheduled to be held on Wednesday, March 29 at 6:30 p.m. in the Bellingham City Council Chambers. All available Council and Board members try and attend this meeting.

- **April 12 Meeting Date:** Both Commissioner Weide and I will not be available for this meeting as we will be at the Spring WASWD Conference in Yakima. Bill Hunter will represent the District and there will be a quorum to conduct District business.