



# City Council Agenda Bill

# 20083

Bill Number

**Subject:** Memorandum of Agreement ("MOA") with the Public Utility District #1 of Whatcom County Regarding Use of Water Diversion/Intake Facility

**Summary Statement:** In order to create options for future water system development, the City is planning to file an application to add additional points of diversion to its Nooksack River water right. To facilitate approval of the application, the City must demonstrate that it will have access to the diversion site. The proposed MOA demonstrates the City's ability to gain such access.

**Previous Council Action:** None

**Fiscal Impact:** None for executing the MOA. Change Application fee and public notification costs are approximately \$6,400.

**Funding Source:** Water Fund

**Attachments:** Memorandum of Agreement

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Committee Briefing Council Vote Requested	12-Aug-2013	Authorize Contract	Ted Carlson, PW Director	5 min

**Council Committee:**

**Public Works / Public Safety**

Stan Snapp, Chair

Terry Bornemann; Gene Knutson

**Committee Actions:**

**Agenda Bill Contact:**

Clare Foglesong 778-7965

Reviewed By	Initials	Date
Ted Carlson, PW Director	<i>TC</i>	8/6/13
Legal Mayor	<i>RL</i>	8-6-13

**Council Action:**



**DEPARTMENT OF PUBLIC WORKS**  
210 Lottie Street, Bellingham, WA 98225  
Telephone (360) 778-7900 FAX (360) 778-7901

**DATE:** August 5, 2013

**TO:** Honorable Mayor Linville  
Bellingham City Council

**THROUGH:** Ted Carlson, Director

**FROM:** Jon Hutchings, Assistant Public Works Director

**SUBJECT:** Memorandum of Agreement (MOA) with City of Lynden and Public Utilities  
District No. 1 of Whatcom County

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**Council actions requested.** Public Works requests approval for the Mayor to execute two MOAs for the purpose of advancing access to potential diversion sites on the Nooksack River. The Agreements support an application to the Department of Ecology to add two points of diversion to the City's Middle Fork Nooksack water right.

**Background.** The City continues to work toward its long-term goals of assuring clean and affordable drinking water to the City's growing population, securing food production on the region's most productive agricultural soils, and restoring productivity of Nooksack River for harvestable excess of salmon. Water availability is a principal consideration in achieving these goals. Establishing additional diversion locations in the Nooksack system will benefit the City and the region now and 20 to 50 years in the future.

**Benefits to the City.** Public Works presently operates its water supply as a linear system that begins at a single diversion high on Middle Fork and transmits water for storage in the Lake Whatcom Reservoir. The present operating arrangement will remain preferred and Public Works wishes to establish redundancy in the delivery system and prepare to satisfy future changes in demand. Adding diversion options at downstream locations accomplishes this goal, while protecting the City's interests in water and offering the potential for solutions to regional water supply issues.

Memorandum of Agreement  
between  
City of Bellingham and Public Utility District #1 of Whatcom County

This Memorandum of Agreement is entered this \_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Bellingham (“Bellingham”) and the Public Utility District #1 of Whatcom County (PUD1), both municipal corporations organized under the laws of the state of Washington, in consideration of the mutual promises and covenants contained herein.

ARTICLE 1. RECITALS

- 1.1 Bellingham and PUD1 continue to cooperate in pursuit of collaborative solutions to Whatcom County regional water issues.
- 1.2 PUD1 owns and controls the property described in Exhibit A (“Water Intake Property”) on which is located a water diversion/intake facility on the left bank of the Nooksack River adjacent to and downstream of the East Main Street Bridge.
- 1.3 Bellingham will require one or more additional alternate points of withdrawal to provide necessary system redundancy and to meet future municipal water system demands.
- 1.4 Bellingham and PUD1 are taking steps to address their future water system demands as required by state law.

ARTICLE 2. PURPOSE

The purpose of this Memorandum of Agreement (“Agreement”) is to outline the mutual understandings and framework under which Bellingham and PUD1 will work together to achieve common objectives requiring use of PUD1’s water diversion/intake facility on the Water Intake Property. This is not an enforceable contract, but rather conceptual in nature.

ARTICLE 3. TERMS

- 3.1 Subject to an access agreement to be negotiated and then approved by the Commission for PUD1, PUD1 agrees to provide Bellingham access and use of PUD1's property and diversion structure.
- 3.2 Bellingham agrees to pay the full cost of improvements, regulatory requirements and maintenance necessary for operation of a water withdrawal that exclusively benefits Bellingham.

3.3 Bellingham and PUD1 agree to share the cost of any improvements, regulatory requirements, and maintenance that benefit a joint Bellingham and PUD1 project.

**CITY OF BELLINGHAM**

**PUBLIC UTILITY DISTRICT #1 of  
WHATCOM COUNTY**

\_\_\_\_\_  
Kelli Linville, Mayor

\_\_\_\_\_  
Steve Jilk, General Manager

**Approved as to form:**

\_\_\_\_\_  
Attorney for City of Bellingham

**Department Approval:**

\_\_\_\_\_  
Public Works Director

**Attested:**

\_\_\_\_\_  
Finance Director

**Attachment "A"**  
**Property Description**

**Owner:** Public Utility District No. 1

**Geographic ID:** 3902291904380000

**Parcel ID:** 98486

**Legal Description:**

TRIANGULAR TR IN GOVT LOT 2 DAF-WLY BNDRY BEING NOOKSACK RIVER-NLY BNDRY BEING R/W OF APPROACH TO FERNDALE BRIDGE AS REC IN VOL 353-D-423 AF 660928-S BNDRY BEING N LI OF CO RD 56 SD TR BEING DAF-BEAP OF INTERS OF C/L OF R/W OF GREAT NORTHERN RR-C/L OF CO

T39N R02E, Section 29

**Physical Address:**

E MAIN ST FERNDALE, WA

