

RESOLUTION NO. 15 - 2015

**RESOLUTION AMENDING RESOLUTION NO. 33-2001 AND
RESOLUTION NO. 39-2004 ADOPTING PROCEDURES FOR
IMPLEMENTATION OF THE SAN JUAN COUNTY PUBLIC
FACILITIES FINANCING ASSISTANCE PROGRAM**

BACKGROUND

- A. In 1997 the State of Washington enacted legislation known as RCW Chapter 82.14.370 which provided distressed counties authorization to impose a sales and use tax of .04% to be used for financing public facilities in rural counties.
- B. In 1999 the state of Washington amended RCW 82.14.370 to apply to rural counties rather than distressed counties and increased the amount of the sales and use tax to .08%.
- C. In 2007 the state of Washington amended RCW 82.14.370 to allow for a new maximum sales and use tax rate of .09%, and the County Council passed Ordinance 30-2007 to amend section 3.26.020 of the San Juan County Code to increase the rate of tax to nine one-hundredths of one percent (.09%) of the selling price in the case of a sales tax or value of the article used in the case of use tax.
- D. In 2012 the state of Washington amended RCW 82.14.370 with a new definition of Public Facilities.
- E. The tax money collected has been deposited in the public facilities improvement fund as directed in Ordinance 8-1999, Ordinance 5-2004, and Ordinance 30-2007.
- F. The County Council desires to amend exhibit A of Resolution 39-2004 setting out the Public Facilities Financing Assistance Program (PFFAP) application procedures.

NOW, THEREFORE, BE IT RESOLVED by the County Council of San Juan County, state of Washington, as follows:

1. Exhibit A of Resolution 39-2004 titled San Juan County Public Facilities Financing Assistance Program (PFFAP) Application Procedures is hereby amended as shown on Exhibit A to this resolution.

ADOPTED this 27TH day of APRIL 2015.

ATTEST: Clerk of the Council

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

Ingrid Gabriel 5/6/2015
Ingrid Gabriel, Clerk Date

Bob Jarman
Bob Jarman, Chair
District 1

REVIEWED BY COUNTY MANAGER

Michael J. Thomas 5/5/15
Michael J. Thomas Date

EXCUSED
Jamie Stephens, Vice-Chair
District 3

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: RK Gaylord 5/1/15
Date

Rick Hughes
Rick Hughes, Member
District 2

EXHIBIT A

**SAN JUAN COUNTY
PUBLIC FACILITIES FINANCING ASSISTANCE PROGRAM (PFFAP)
APPLICATION PROCEDURES**

Overview

In 1997 the state of Washington enacted sales tax “rebate” legislation, which allowed certain “distressed” rural counties to retain a portion of the state sales tax for the purpose of financing public facilities. The amount was not to exceed .04% of one percent. In 1999 this legislation was amended to redefine “rural” counties; increase the amount of sales tax to be returned to these rural counties to .08%; define qualifying public facilities; and direct counties to consult with cities, towns, and port districts within the county.

The amended legislation made San Juan County eligible to begin collecting the sales tax rebate. In 1999 San Juan County adopted Ordinance No. 8-1999 to qualify for receipt of the .08% funds from the State Department of Revenue beginning January 1, 2000. The ordinance also established a special revenue fund titled the Public Facilities Improvement Fund (PFIF) in the county treasury. In 2001 the County Adopted Ordinance 3-2001 which set out the allocations of disbursement of the funds. In 2004 the County Adopted Ordinance No. 5-2004 amending the disbursement of funds, and in 2007 the County adopted Ordinance No. 30-2007 amending the tax rate to .09%.

The amount of the PFFAP funds available for each year will vary depending upon the sales tax receipts generated from within San Juan County. Funding for the program in San Juan County terminates by ordinance in 25 years (2025).

Applicable Law and Relevant Terms

RCW 82.14; specifically RCW 82.14.370.

San Juan County Ordinance 8-1999, Ordinance 3-2001, ~~and~~ Ordinance 5-2004, and Ordinance 30-2007.

- Moneys collected under this section shall only be used to finance public facilities serving economic development purposes.
- “Public facilities” means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, ~~electricity~~ electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington. RCW 82.14.370.
- To qualify for financing using these funds, a public facility “ . . . must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county’s comprehensive plan, or the comprehensive plan of a city or town located

within the county ~~for those counties planning under RCW 36.70A.040~~ ~~...[which does its planning under (the GMA) Growth Management Act]."~~

- "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

Guidelines

The purpose of the following guidelines is to set out application procedures for those entities applying for grants funded by the PFIF under Ordinance 3-2001 as amended by Ordinance 5-2004 and Ordinance 30-2007.

Potential Revolving Loan Fund Borrowers and Grant Recipients

~~San Juan County~~

~~Town of Friday Harbor~~

~~State of Washington including state agencies~~

~~Federal government including state agencies~~

~~Others: Economic development councils and special purpose local government districts who seek funding that complies with RCW 82.14.370 and County ordinances.~~

Town of Friday Harbor Allocation

The Town of Friday Harbor contributes a portion of the rebate sales tax, and as the only ferry access point, municipal service provider, and urban growth area on San Juan Island, it has the sole responsibility of providing urban levels of service on the island. Therefore, a minimum of twenty-five percent (25%) of the PFIF shall be allocated to the Town on an annual basis.

PFFAP Administration

The ~~BOCC~~ County Council in coordination with the ~~County Auditor's department~~ Manager's department shall administer the program. The County Auditor shall manage all financial aspects of the PFIF.

~~Loan repayment p~~Procedures, for default provisions, ~~administration~~ fees to be paid by borrowers, monitoring, ~~and~~ compliance auditing and other applicable matters shall be established by the Auditor in consultation with the ~~BOCC~~ County Council, and the Prosecuting Attorney.

PFFAP Application Procedure

1. The ~~Board of County Commissioners~~ Office of the County Manager shall publish notice and solicit grant ~~or loan~~ applications at least once annually. The application period shall commence on May 15 and end on June 15. Completed applications shall be delivered or mailed in duplicate to the ~~Clerk of the Board, Board of County Commissioners~~ Office of the County Manager, 350 Court Street, #1 5, Friday Harbor, Washington, 98250.
2. Applications may be obtained from the office of the ~~Board of County Commissioners~~ County Manager at 105 Second Street, Suite 203 in Friday Harbor.

3. Legal Compliance Review: Because of the statutory legal requirements governing the spending of these funds applicants are encouraged to seek their own legal review prior to submission of the grant applications. Before the awards are made, the Prosecuting Attorney's office will review the proposed award(s) for compliance with state statutes.
4. The BOCC County Council shall award funds as soon as practical after July 1 of each year in accordance with Ordinance 5-2004.

Project Evaluation and Awards

The BOCC Evaluation Team and County Council shall consider the following criteria for project evaluation and ranking:

1. The evaluation team shall be comprised of a representative of the following entities ~~per SSB 6113~~: Town of Friday Harbor; Port Districts (two as advisory members and one as a voting member, with one vote rotated yearly between the three districts); Economic Development Council; Prosecuting Attorney: (advisory); Auditor; and ~~Board of County Commissioners~~ the County Council Chair.
 - Qualifying Project applicants will be invited to make a brief presentation to the evaluation team at a meeting prior to its deliberations and development of a funding recommendation for the County Council.
 - The County Manager, or designee, will facilitate the application and review process. All communications with the applicants shall be through the Office of the County Manager prior to the evaluation team presentation meeting.
 - If an applying agency has a voting member on the evaluation team, the presentation to the evaluation team must be made by someone from that agency other than the evaluation team member.
 - The evaluation team will meet to review and score the PFFAP applications, deliberate, and develop a recommendation to the County Council.
 - The final funding allocation decision will be made by the County Council following a public hearing.
2. The ~~loan or~~ grant is to be used to support public facilities that foster economic development in San Juan County.
 - Proposed public facilities must facilitate the creation or retention of businesses and jobs in San Juan County.
 - Projects should stimulate, not replace, private capital investment.
3. Supplemental funding sources for a ~~loan or~~ grant should be aggressively pursued.
4. Reward financial partnerships.
 - Grant priority to projects if local, state and federal funds are leveraged. Private funds spent on public facility improvements will similarly be credited towards leverage.
5. Promote local initiative and sound planning.

- Projects must be specifically identified in the appropriate county or town comprehensive plans, economic development plans, or capital facility elements as required by RCW 82.14.370. Verification from the local planning agency(ies) shall be included with the application.
 - Projects should be prioritized based on readiness to proceed (e.g. designs, engineering, and environmental analysis already completed, permit applications prepared, filed, or approved, etc.).
 - Local financial, community, and political commitments to the project are evident.
 - Projects that additionally achieve environmental protection goals should be positively credited.
 - Funding for planning of projects that will result in construction of a public facility will be considered.
6. Projects should benefit the community and the public at large.
- Investments that lead to “windfall profits” shall be avoided.
 - Islands or areas on an island with higher levels of public facility shortfalls should receive a corresponding higher priority.
 - Projects that take advantage of “windows of opportunity” should receive priority.
7. Speculative projects must be supported by critical feasibility or marketing studies that have undergone peer review and are made available with the application.
- Projects that cannot demonstrate immediate job creation potential must be carefully evaluated for future job creation potential.
8. Grants are good for 30 months from the date of Council approval. Grantees may request extension from the evaluation team during the annual grant evaluation cycle. The committee will make a recommendation to the Council to extend or not. The Council has final approval authority.

Program Modifications

Economic development is an on-going process. It is recognized that program changes may be necessary in the future to respond to unforeseen circumstances and improve the chances of sustainable economic growth. The ~~BOCC~~ County Council, in coordination with the County Manager, will work with the economic development community to evaluate this plan, modifying it as necessary to assure it remains timely.