ATTACHMENT A-1: Addendum to FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF SEQUIM
SHORELINE MASTER PROGRAM

City of Sequim’s and Ecology’s agreement on Ecology’s Required Changes
Sequim Ordinance No. 2013-018
Prepared by Jeffree Stewart on November 4, 2013

Brief Description of Proposed Amendment: The City of Sequim locally adopted a comprehensive
update of its Shoreline Master Program by adoption of Ordinance No. 2012-019 which replaced
the Shoreline Master Program previously adopted by Ordinance 96-032.

The Department of Ecology acknowledged that a complete submittal of the proposed update
was received on December 21, 2012. A statewide public review was conducted, and resulting
comments were addressed.

On September 9, 2013, Ecology conditionally approved The City of Sequim’s Shoreline Master
Program Comprehensive Update. On September 20, 2013, the City of Sequim responded to
Ecology’s Required Changes to their locally adopted Shoreline Master Program update.

Pursuant to RCW 90.58.090(2)(e)(ii), the City of Sequim sent proposed alternate language on
select items included in Ecology’s Required Changes. Subjects proposed for alternate language
were: Reasonable Use Exceptions, road maintenance and expansion provisions, and the
allowable length for docks.

FINDINGS OF FACT
City Acceptance of Required Changes:
As provided within their response to Ecology, and noted in Attachment B - Revised, the City
accepted all Recommended Changes, and also accepted Required Changes Nos. 1, 2, 3, and 4.
Alternate language was proposed or requested for Nos. 5, 6, 7, and 8.

In accord with WAC 173-26-120(7)(b)(ii) Ecology reviewed the City’s alternate language. In
 correspondence between the City and Ecology on September 25 and October 3, 2013, mutually
 agreeable wording was identified. The agreed upon language is summarized in a Revised
 Required Changes Summary.

These changes are referenced but not specifically identified in Ordinance No. 2013-18, which
notes that Sequim staff worked with the Washington Department of Ecology staff to reach
agreement on a final Program. Ordinance No. 2013-018 with the revised required changes was
adopted by the City on October 28, 2013. An October 31, 2013 letter from Sequim Mayor Ken
Hays to Ecology Director Maia Bellon made formal notification.
Details of revised required changes:
Ecology had required in #5 that Reasonable Use Exception provisions at Chapter 18.80.080 be excluded from the Environmentally Sensitive Areas code that gets adopted into the Shoreline Master Program.

The City was willing to accept deletion of the Reasonable use Exception Language. They proposed saying a shoreline variance would be required instead of a Reasonable Use Exception. The City remained convinced of the need for maintaining reference in the SMP to the phrase “reasonable use.”

If that wording was included, Ecology expressed concern that citizens could misconstrue the criteria for a Reasonable Use Exception. Ecology must ensure the reasonable use criteria used for environmentally sensitive areas would not be applied along with the different criteria for a shoreline variance for the same development proposal.

Ecology drafted a statement based on WAC 173-27-170, which references “reasonable use” explicitly. The following language was mutually agreed upon:

The SMP includes a means to ensure that reasonable use of the property is not precluded, or significantly interfered with, by the strict application of SMP bulk, dimensional or performance standards. A shoreline variance process is provided pursuant to RCW 90.58 and WAC 173-27-170.

The provisions of Critical and Environmentally Sensitive Areas Protection, Section 18.80.080 (A) Development Exceptions (aka Reasonable Use Exceptions) are not applied within shoreline jurisdiction. In the event an applicant wishes to make reasonable use project adjustments from standards in the SMP, all the criteria at Section 7.3.3 of the SMP must be met.

Agreement was also reached on #6 to include the following related reference statement:

City of Sequim – Alternate Language (18.80.080 A.)
Reasonable use exceptions will comply with Section 7.3.3. of the SMP.

The City was concerned that citizens might not understand the way Ecology had phrased limitations on residential dock length on marine waters in Required Change #7. Based on Guidelines requirements, Ecology provided alternative language about docks being the shortest length that would serve the use, while not extending more than 300 feet waterward.
The maximum length of new or expanded piers or docks for private or recreational use shall be the shortest length necessary to accomplish mooring based on conditions at the site. A dock shall not exceed the length of docks on adjacent properties, nor extend farther than 300 feet waterward as measured from the mean higher-high water mark. For moorage in shallow areas where these parameters prevent an effective dock, a buoy shall be used instead.

Ecology’s required change #8 focused on use regulations at Chapter 6.2.6(2)(b), for fill serving water-dependent uses. This change was meant to assure that roads located adjacent to or going across waterbodies would not be allowed to expand without appropriate limitation. The City recognized likely problems around maintenance of existing roads, based on how the provision was phrased, and proposed alternative language. Ecology accepted the City’s revised language.

Expansion, Maintenance, non-expanding alteration, or repair of transportation facilities currently located within the shoreline

CONCLUSIONS OF LAW
The City accepted four out of eight of Ecology’s original Required Change(s) including item No(s). 1, 2, 3, 4, (see Attachment B-Revised). The City and Ecology are in agreement on Required Change(s), including the alternative language proposed by the City for item Nos. 5, 6, 7, and 8 (Attachment B-Revised) as discussed here.

Based on the preceding, Ecology concludes that the alternative language to items No. 5, 6, 7, and 8 as these are shown above and identified in “Attachment B-Revised” is consistent with the Shoreline Management Act and the purpose and intent of Ecology’s originally Required Change provided in the September 9, 2013 conditional approval.

Therefore, the City of Sequim SMP can be approved by Ecology.

DECISION AND EFFECTIVE DATE
Ecology’s approval of the City’s proposed comprehensive SMP amendment together with acceptance of their alternative language is effective 14-days from the date of the Ecology’s Director’s letter notifying the City of final SMP approval.