



**Meeting Location:**  
Council Chambers, 3<sup>rd</sup> Floor  
216 Prospect Street  
Port Orchard, WA 98366

**Contact us:**  
Phone (360) 876-4407  
[cityhall@portorchardwa.gov](mailto:cityhall@portorchardwa.gov)  
[www.portorchardwa.gov](http://www.portorchardwa.gov)

---

**City of Port Orchard City Council  
Regular Meeting Agenda  
March 26, 2024  
6:30 p.m.**

*Pursuant to the Open Public Meetings Act, Chapter 42.30 RCW, the City Council is conducting its public meeting in a hybrid format with options for in-person attendance in the Council Chambers at City Hall or remote viewing and participation via Zoom (link below). The meeting is streamed live on the City's YouTube channel, click [here](#).*

**Remote access**

**Link:** <https://us02web.zoom.us/j/81608370394>

**Zoom Meeting ID:** 816 0837 0394

**Zoom Call-In:** 1.253.215.8782

**Guiding Principles**

- Are we raising the bar?
- Are we honoring the past, but not living in the past?
- Are we building connections with outside partners?
- Is the decision-making process positively impacting diversity, equity, and inclusion?

**1. CALL TO ORDER**

- A.** Pledge of Allegiance

**2. APPROVAL OF AGENDA**

**3. CITIZENS COMMENTS ON AGENDA ITEMS**

*(This is an opportunity for citizens to address the City Council on agenda items that are not associated with a Public Hearing on this agenda. Comments are limited to **3 minutes**. Please approach the podium or raise your Zoom hand if viewing remotely and wait to be recognized by the Mayor. Then, state your name for the official record. If you are attending remotely by Zoom via telephone, enter \*9 from your keypad to raise your hand.)*

**4. CONSENT AGENDA**

*(Items listed are to be considered routine in nature and are grouped together in a single motion. A Councilmember may remove an item for separate consideration upon request. In the event of such request, the item is placed under Business Items.)*

- A.** Approval of Vouchers and Electronic Payments
- B.** Approval of Payroll and Direct Deposits
- C.** [Approval of Amendment No. 5 to Contract No. 053-19 with Terraphase Engineering, Inc. for the ESSB 6091 Foster Pilot Project Services \(Ryan\)](#) **Page 4**
- D.** [Approval of the March 12, 2024, City Council Regular Meeting Minutes](#) **Page 48**

**5. PRESENTATION**

- A.** Representative Derek Kilmer

## 6. PUBLIC HEARING

## 7. BUSINESS ITEMS

- A. Adoption of an Ordinance Delaying Effective Date for Updated Storm Drainage Service Charges and Capital Facilities Charges to June 1, 2024 (Ryan) Page 53

## 8. DISCUSSION ITEMS (No Action to be Taken)

## 9. REPORTS OF COUNCIL COMMITTEES

## 10. REPORT OF MAYOR

## 11. REPORT OF DEPARTMENT HEADS

## 12. CITIZEN COMMENTS ON ANY ITEM

*(This is an opportunity for citizens to address the City Council on any items that are not associated with a Public Hearing on this agenda. Comments are limited to **3 minutes**. Please approach the podium or raise your Zoom hand if viewing remotely and wait to be recognized by the Mayor. Then, state your name for the official record. If you are attending remotely by Zoom via telephone, enter \*9 from your keypad to raise your hand.)*

**13. EXECUTIVE SESSION:** Pursuant to RCW 42.30.110, the City Council **WILL** hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

## 14. CITY COUNCIL GOOD OF THE ORDER

## 15. ADJOURNMENT

---

## CITY COUNCIL ADVISORY COMMITTEES

*(Three council members serve on the committee with staff to make collaborative recommendations about work product. Staff then prepares the items for full Council consideration based on the Committee's discussion.)*

STANDING COMMITTEE	Date & Time	Location
Economic Development and Tourism	April 8, 2024; 9:30am – 2 <sup>nd</sup> Monday of the month	Remote Access
Utilities	TBD; 5:00pm – 2 <sup>nd</sup> Tuesday of the month	Remote Access
Finance	April 16; 4:00pm – 3 <sup>rd</sup> Tuesday of the month	Remote Access
Transportation	March 26; 4:30pm- 4 <sup>th</sup> Tuesday of the month	Remote Access
Land Use	April 17; 4:30pm – 3 <sup>rd</sup> Wednesday of the month	Remote Access
Lodging Tax Advisory	TBD 2024	Remote Access
Sewer Advisory	June 11, 2024; 3:00pm	*WSUD
Council Retreat	April 12, 2024; 9:00am	City Hall
Outside Agency Committees	Varies	Varies

\*West Sound Utility District, 2924 SE Lund Avenue Port Orchard, WA

ADA Requirements: In compliance with the Americans with Disabilities Act, if you need accommodations to participate in this meeting, please contact the City Clerk's office at (360) 876-4407. Notification at least 48 hours in advance of the meeting will enable the City to make arrangements to assure accessibility to this meeting.

**REMINDER: Please silence all electronic devices while City Council is in session.**

To subscribe to our general news & public notices click the link: <https://portorchardwa.gov/subscribe>

**Robert (Rob) Putaansuu**  
**Mayor**  
Administrative Official

**Eric Worden**  
**Councilmember Position 4**  
Land Use Committee  
Utilities/Sewer Advisory Committee  
KRCC-alt

Brandy Wallace, MMC, CPRO  
**City Clerk**  
  
Matt Brown  
**Police Chief**

**Mark Trenary**  
**Councilmember Position 1**  
Finance Committee  
Transportation Committee  
KRCC  
PSRC-alt

**Heidi Fenton**  
**Councilmember Position 5**  
Utilities/Sewer Advisory Committee  
E/D & Tourism Committee  
Transportation Committee

Debbie Lund, CEBS SPHR SHRM-SCP  
**Human Resources Director**  
  
Nicholas Bond, AICP  
**Community Development Director**

**Jay Rosapepe**  
**Councilmember Position 2**  
Utilities/Sewer Advisory Committee  
Land Use Committee  
KEDA-alt

**Fred Chang**  
**Councilmember Position 6**  
**(Mayor Pro-Tempore)**  
E/D & Tourism Committee  
Finance Committee

Noah Crocker, M.B.A.  
**Finance Director**  
  
Denis Ryan, CPWP-M, CPRP  
**Public Works Director**

**Scott Diener**  
**Councilmember Position 3**  
Land Use Committee  
Transportation Committee  
Kitsap Public Health District

**John Morrissey**  
**Councilmember Position At-Large**  
Finance Committee  
E/D & Tourism Committee  
Lodging Tax, **Chair**  
Kitsap Economic Development Alliance

Tim Drury  
**Municipal Court Judge**



## **Agenda Staff Report**

Agenda Item No.: Consent Agenda 4C

Meeting Date: March 26, 2024

Subject: Approval of Amendment No. 5 to  
Contract No. 053-19 with Terraphase  
Engineering, Inc. for the ESSB 6091  
Foster Pilot Project Services

Prepared By: Denis Ryan  
Public Works Director

**Summary:** On September 10, 2019, the Port Orchard City Council Approved Contract No. C053-19 with engineering and consulting firm Robinson Noble, Inc. (the "Consultant") for ESSB 6091 Foster Pilot Project Services, including streamflow augmentation/restoration, net ecological benefits and hydrogeological services (the "Project"). On December 3, 2020, and November 15, 2021, consistent with the City's purchasing policies that delegate signature authority for time-only amendments to existing contracts, the Public Works Director executed Amendments 1 and 2 (time-only amendments) to the Agreement, extending the duration of the Agreement. On June 8, 2022 and June 13, 2023, the City Council approved Amendments 3 and 4 extending the Agreement's termination date and increasing the contract Not to Exceed amount.

Since the contract was executed, Robinson Noble, Inc. partnered with Terraphase Engineers and is now known as Terraphase Engineering, Inc. However, staffing for the Project remains the same.

The continued assistance of the Consultant, leveraging their expertise is needed to complete continuing tasks. Additionally, there have been significant delays in the Foster Pilot Process attributed to regulatory agency and legislative challenges. The City would like to increase the contract amount to allow this work to be completed and extend the Consultant's agreement to retain their services through June 30, 2025. This proposed Amendment would extend the duration of the contract to June 30, 2025, reflect the Consultant's name change, and increase the Contract amount by \$60,391, for a total amended contract amount of \$624,248.

**Recommendation:** Staff recommends the Council authorize the Mayor to execute Amendment No. 5 to Contract No. C053-19 with Terraphase, Inc. for ESSB 6091 Foster Pilot Project Services to extend the duration of the contract, reflect the name change, and increase the contract amount for the extension period.

**Relationship to Comprehensive Plan:** Chapter 7: Utilities



**Motion for consideration:** I move to authorize the Mayor to execute Amendment No. 5 to Contract No. C053-19 with Terraphase Engineering, Inc., for ESSB 6091 Foster Pilot Project Services.

**Fiscal Impact:** This project was funded in the 2023-2024 Biennial Budget (GL Code 411.05.534.10.40). A budget amendment may be required.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:**

- Amendment No. 5
- Amendment Authorization
- Exhibits (revised)
- Courtesy Copy of Agreement 053-19

# CITY OF PORT ORCHARD

## Authorization for Change Order No. 5

<b>Date:</b> <u>March 26, 2024</u> <b>Project:</b> <u>ESSB 6091 Foster</u> <u>Pilot Project Services</u> <b>Contract / Job #</b> <u>C053-19</u>	<b>Contractor:</b> <u>Terraphase Engineering, Inc.</u> <u>2105 South C Street</u> <u>Tacoma, WA 98402</u>
--	---

### THIS CHANGE ORDER AUTHORIZES THE FOLLOWING CHANGES TO THE AGREEMENT:

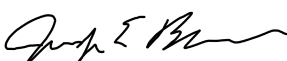
- A company name change from Robinson Noble, Inc to **Terraphase Engineering, Inc.**
- Section 3 Terms:** A time extension extending the Agreement termination date to June 30, 2025
- Section 4 Compensation:** A Contract increase of \$60,239, for a "TIME AND MATERIALS NOT TO EXCEED, as amended from \$562,857 to \$624,248 (inclusive of all amounts paid prior to the execution of this amendment). Revision of Exhibit E: Fee Schedule

In all other respects the Underlying agreement between the parties shall remain in full force and effect, amended as set forth herein, but only as set forth herein.


The Amendment is required due to revisions of the City's water demand and delays in the Foster Pilot Project processes.

Contract History					
	Amount	Sales Tax	Total	Date	Appvd by
<b>Original Contract</b>	\$324,900.00	\$0.00	<b>\$324,900.00</b>	10-Sep-19	Council
Amendment 1	\$0.00	\$0.00	\$0.00	03-Dec-20	PW Director
Amendment 2	\$0.00	\$0.00	\$0.00	15-Nov-21	PW Director
Amendment 3	\$138,957.00	\$0.00	\$138,957.00	08-Jun-22	Council
Amendment 4	\$100,000.00	\$0.00	\$100,000.00	13-Jun-23	Council
Amendment 5	\$60,391.00	\$0.00	\$60,391.00	26-Mar-24	Council
<b>Total Contract</b>	<b>\$624,248.00</b>	<b>\$0.00</b>	<b>\$624,248.00</b>		

I have reviewed the Change Order information above and certify that to the best of my knowledge descriptions and costs are true and accurate.

  
 Contractor Approval Signature

Joseph E. Becker, Senior Principal Hydrogeologist  
 Printed Name & Title

  
 Public Works Director

Denis Ryan  
 Printed Name

**Public Works Contracts Greater than \$35,000:** Change Orders that do not exceed 10%, with a maximum of \$50,000, of either legally authorized budget limit or contract amount established by City Council can be approved by the Public Works Director. Total Contract Amount shall reset to reflect new Council-approved contract totals authorized prior to the requested change order. **\$50,000-\$100,000 require Mayoral Approval. \$100,000 and over require Council Approval**

**Public Works Contracts under \$35,000,** change orders that individually do not exceed \$7,500 with an aggregate cap of \$10,000.

**Public Works Contracts unbudgeted and under \$7,500:** All Change Orders that do not exceed an aggregate cap of \$7,500 (Excluding underlying value), provided there are departmental funds available in the budget.

**All Departments:** Mayor approves any and all Change orders that do not exceed 10% of either authorized budget limit or contract amount established by City Council. **With a maximum aggregate amount of \$100,000.** Total Contract Amount shall reset to reflect new Council-approved contract totals authorized prior to the requested change order. **Any individual Change order that is over \$100,000 requires Council approval**

Approved: \_\_\_\_\_  
 Mayor

Attest: \_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 Council Approval Date

**Amendment No. 5 to Contract No. 053-19**

**CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT WITH  
*Terraphase Engineering, Inc***

THIS AMENDMENT No. 5 to Contract No. 053-19 ("Amendment") is entered into between the City of Port Orchard, a Washington municipal corporation ("City" or "Port Orchard") and Terraphase Engineering, Inc, a Washington corporation ("Consultant"). City and Consultant are each a "Party" and together "Parties" to this Amendment.

**RECITALS:**

**WHEREAS**, on the September 10, 2019, the City executed a Professional Services Agreement for ESSB 6091 Foster Pilot Project Services with the Robinson Noble, Inc ("Underlying Agreement"); and

**WHEREAS**, on December 3, 2020, November 15, 2021, June 8, 2022, and June 13, 2023 respectively, Amendments 1, 2, 3, and 4 were approved, extending the Underlying Agreement's termination date to December 31, 2024, and increasing the Agreement Time and Materials Not to Exceed to \$562,857; and

**WHEREAS**, the "Consultant" changed its entity name from Robinson Noble, Inc to Terraphase Engineering, Inc.; and

**WHEREAS**, continuing services for the ESSB 6091 Foster Pilot Project are required by the City that will exceed the current value of the Underlying Agreement; and

**WHEREAS**, the termination date of the underlying Agreement needs to be extended to allow time to complete the continuing work; and

**WHEREAS**, the Consultant and the City have conferred and agreed to extend the termination date, Section 3 (Terms), of the agreement, as amended to June 30, 2025, and to increase the "Time and Materials Not to Exceed" amount, Section 4 (Compensation), of the agreement from \$562,857 to \$624,628 in anticipation of the continuing work; and

**WHEREAS**, the parties wish to memorialize their agreement and so modify the Underlying Agreement;

NOW, THEREFORE, in consideration of the mutual benefits accruing, it is agreed by and between the parties thereto as follows:

**FIFTH AMENDMENT TO AGREEMENT:****1. Amendment.**

- a. The Consultant entity name is changed from Robinson Noble, Inc to Terraphase engineering, Inc.
- b. Section 3 Terms of the Agreement is hereby amended to read as follows:  
This agreement shall commence on September 10, 2019 ("Commencement Date") and shall terminate June 30, 2025, unless extended or terminated in writing as provided herein.
- c. Section 4 Compensation of the Agreement is hereby amended to read as follows:  
TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$624,248, inclusive of all amounts paid prior to the execution of Amendment No. 5 to this Agreement, without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit "A thru E" (as revised).

**2. Severability.** The provisions of this Amendment are declared to be severable. If any provision of this Amendment is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

**3. Entire Agreement.** The written provisions and terms of this Amendment shall supersede all prior verbal statements of any officer or other representative of the parties, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Amendment. The entire agreement between the Parties with respect to the subject matter hereunder is contained in the Agreement and exhibits thereto, any prior executed amendments and this Amendment. Should any language in any of the Exhibits to the Agreement or prior amendments conflict with any language contained in this Amendment, then this Amendment shall prevail. Except as modified by this Amendment, all other provisions of the original Agreement and any amendments thereto not inconsistent with this Amendment shall remain in full force and effect.

**4. Effective date.** This Amendment shall be effective as of March 26, 2024.

DATED this 26th day of March, 2024.

CITY OF PORT ORCHARD, WASHINGTON

\_\_\_\_\_  
Robert Putaansuu, Mayor

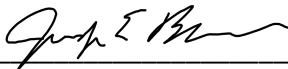
ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney

CONSULTANT



\_\_\_\_\_  
Signature

\_\_\_\_\_  
Joseph E. Becker, Senior Principal Hydrogeologist

\_\_\_\_\_  
Printed Name and Title

February 6, 2024

Ms. Jacki Brown  
Utility Manger  
City of Port Orchard, Public Works Department  
216 Prospect Street  
Port Orchard, WA 98366

*sent via email to [jbrown@portorchardwa.gov](mailto:jbrown@portorchardwa.gov)*

**Subject: Revised budget and change order request for ESSB 6091 'Foster' Pilot Project**

Dear Jacki:

Once again, the City's Foster pilot project requires time and consulting services beyond what was expected when preparing our last change order. The current contract runs through the end of this year and has an approved budget of \$563,857. Based on my accounting, as of our last invoice (dated January 11<sup>th</sup>), we have approximately \$71,089 left in the budget. To finish the project, we need to finalize the mitigation plan and complete the cost-reimbursement processing of the water right applications.

### Reason for Change Order

The primary reason for this change order request is due to revisions to the City's water demand, which required re-accomplishing the groundwater modeling, revising the net-ecological-benefit (NEB) analysis, and revising the mitigation plan. This work, in addition to other delays, also is extending the time required to complete to project.

### Change Order Request

The remaining work includes finalizing the mitigation plan, completing the revised NEB analysis and report, developing monitoring and compliance assurance conditions and provisions, writing the draft and final reports of examination (ROEs) for the new and change water rights applications, continued stakeholder and Tribal outreach, and various project management tasks. The mitigation plan is being revised with the new impact numbers from the revised modeling, which are also driving the need for a revised NEB analysis. The scope of the remaining tasks is similar to what was previously defined but require additional time due to the increase in complexity of the project.

### Budget Request

We will need extra budget to complete the work. Specifically, we request a budget increase of \$60,391. This includes an increase of \$30,382 for Terraphase's work, an increase of \$25,566 for ESA, and an increase of \$4,443 for WestWater. The extra budget for WestWater is to make up for a previous budget overrun on their part and to provide several thousand contingency dollars should their additional services be required. Carollo already has a small contingency budget left, and therefore, no additional increase is being requested for them at this time. I would also like to request that the fee schedule for

February 6, 2024  
Ms. Jacki Brown, Utility Manger  
Revised budget and change order request for ESSB 6091 'Foster' Pilot Project

---

the project be changed. The current contracted fee schedule follows Robinson Noble's January 2023 rates. I propose changing to the 2024 Terraphase fee schedule with a 15% discount, which is attached to this letter. The requested budget increase reflects this proposed fee schedule.

### Time Extension Request

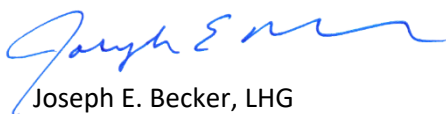
I believe we are close to finishing the mitigation plan; however, further consultation with the Tribes may require additional time. Once the mitigation plan is finished, the drafting of the ROEs should progress relatively smoothly. Overall, I believe we can complete the project before the end of the year, to be on the safe side, I suggest extending the contract until June 30, 2025.

### Closing

In summary, we are requesting a contract extension to June 30, 2025 and a budget increase of \$60,391, bringing the total budget to \$624,248. We are also requesting permission to use our current fee schedule with a 15% discount. Terraphase is grateful for the opportunity to offer our services on this important project. If you have any questions or comments regarding this submittal, please contact me at 253-970-3100 or via email.

Sincerely,

for Terraphase Engineering Inc.



Joseph E. Becker, LHG  
Senior Principal Hydrogeologist

JEB

Attachment:

- Terraphase Engineering 2024 Discounted Fee Schedule



## 2024 Standard Schedule of Charges with 15% Discount/15% ODC

Labor Classification	Standard Hourly Rate	Hourly Rate with 10% Discount
Senior Principal	\$303	\$257.55
Principal Engineer/Scientist	\$286	\$243.10
Senior Associate Engineer/Scientist	\$266	\$226.10
Associate Engineer/Scientist	\$250	\$212.50
Senior Project Engineer/Scientist	\$235	\$199.75
Project Engineer/Scientist	\$219	\$186.15
Senior Staff 2 Engineer/Scientist	\$202	\$171.70
Senior Staff 1 Engineer/Scientist	\$183	\$155.55
Staff 2 Engineer/Scientist	\$164	\$139.40
Staff 1 Engineer/Scientist	\$144	\$122.40
Senior Technician	\$149	\$126.65
Technician 3	\$129	\$109.65
Technician 2	\$109	\$92.65
Technician 1	\$91	\$77.35
Senior Editor/Senior Project Coordinator	\$158	\$134.30
Editor 2/Project Coordinator 2/Accountant 2	\$140	\$119.00
Editor 1/Project Coordinator 1/Accountant 1	\$117	\$99.45
Administrator/Project Assistant/Billing Specialist	\$98	\$83.30

### Labor Charges

All time will be recorded and charged to nearest 0.1 hour. Expert testimony at trials, hearings and depositions will be billed at 150% of the standard hourly rate. For each day when testimony is provided, a minimum of 8 hours will be billed. Preparatory time will be billed at standard rates.

### Expenses

Subcontractor fees and other direct costs, such as air travel, project supplies and rental equipment, etc. will be itemized and billed at our cost plus a fifteen percent handling charge. Vehicle mileage when itemized is billed at the standard government rate in effect at the time of travel ([www.gsa.gov/mileage](http://www.gsa.gov/mileage)).

### Payment

Payment is to be made to Terraphase Engineering Inc. as follows:

Check Payments:	Wire/ACH Payments:
Terraphase Engineering Inc. P.O. Box 102399 Pasadena, CA 91189-2399	Terraphase Engineering Inc. JPMorgan Chase Bank Account Number [REDACTED] Routing Number [REDACTED]

Payment is due within 30 days of receipt of invoice. A service charge of 1.5% per month or the allowable legal rate may be charged on amounts that are past due for more than 30 days.

### Annual Escalation

Rates are subject to revision by annual calendar year escalation in January. Rates on invoices will reflect rates in effect at time of invoicing.



## CITY OF PORT ORCHARD PERSONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 10<sup>th</sup> day of September 2019, by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PORT ORCHARD, WASHINGTON (hereinafter the "CITY")  
216 Prospect Street  
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

And Robinson and Noble, Inc., a corporation, organized under the laws of the State of Washington, doing business at:

ROBINSON NOBLE, INC. (hereinafter the "CONSULTANT")  
2105 South C Street  
Tacoma, WA 98402

Contact: Joseph E. Becker, LHG Phone: 253.475.7711 Email: JBecker@robinson-noble.com  
Principal Hydrogeologist

for personal services in connection with the following Project:

*2019-2020 ESSB 6091 Foster Pilot Project Services*

### TERMS AND CONDITIONS

#### 1. Services by Consultant.

A. The Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A thru D." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

#### 2. Schedule of Work.

A. The Consultant shall perform the services described in the Scope of Work in accordance with the tasks identified within Exhibit "A thru D" and the terms of this Agreement. If delays beyond the Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. The Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

---

*City of Port Orchard and Robinson Noble, Inc.*

*Contract No. C053-19*

U:\ENGINEERING\WATER\Well #13\2018 - 2020 Well #13 Project\Admin\Consultant Selection Well #13\Water Rights\_Foster\RobNob 2019-2020\PSA\_RN 2019-2020 Foster (with SEC edits).docx Rev 7/18/2019

9/10/2019 9/16/19

3. **Terms.** This Agreement shall commence on August 20, 2019 ("Commencement Date") and shall terminate December 31, 2020 unless extended or terminated in writing as provided herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company's services.**

4. **Compensation.**

- ☐ LUMP SUM. Compensation for these services shall be a Lump Sum of \$ \_\_\_\_\_.
- ☒ TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$324,900 without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit "A thru E."
- ☐ TIME AND MATERIALS. Compensation for these services shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "\_\_\_\_."
- ☐ OTHER. \_\_\_\_\_

5. **Payment.**

A. The Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, the Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination and Compliance with Laws**

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

City of Port Orchard and Robinson Noble, Inc.

Contract No. C053-19

U:\ENGINEERING\WATER\Well #13\2018 - 2020 Well #13 Project\Admin\Consultant Selection Well #13\Water Rights\_Foster\RobNob 2019-2020\FSA\_RN 2019-2020 Foster (with SEC edits).docx

Rev 7/18/2019

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the term(s) of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. The Consultant shall obtain a City of Port Orchard business license prior to commencing work pursuant to a written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

**7. Relationship of Parties.** The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including but not limited to compensation, insurance, and unemployment insurance, are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

## **8. Suspension and Termination of Agreement**

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. This Agreement may be terminated upon the default of the Consultant and the failure of the Consultant to cure such default within a reasonable time after receiving written notice of the default.

### **C. Rights Upon Termination.**

1. With or Without Cause. Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. The Consultant shall not be entitled to any reallocation of cost, profit or overhead. The Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. The Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon

---

*City of Port Orchard and Robinson Noble, Inc.*

*Contract No. C053-19*

U:\ENGINEERING\WATER\Well #13\2018 - 2020 Well #13 Project\Admin\Consultant Selection Well #13\Water Rights\_Foster\RobNob 2019-2020\PSA\_RN 2019-2020 Foster (with SEC edits) docx

Rev 7/18/2019

termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. **Default.** If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained, by the City by reason of such default.

D. **Suspension.** The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. **Notice of Termination or Suspension.** If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to the Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. **Standard of Care.** The Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

#### 10. **Ownership of Work Product.**

A. All data, materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. Upon termination of this Agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to City. Any reuse or modification of such documents, reports or other material or work of the Consultant for purposes other than those intended by the Consultant in its scope of services under this Agreement shall be at the City's risk.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in the Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise. The Consultant is permitted to disclose any such information only to the extent required by law, subpoena or other court order.

11. **Work Performed at the Consultant's Risk.** The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at

---

*City of Port Orchard and Robinson Noble, Inc.*

*Contract No. C053-19*

U:\ENGINEERING\WATER\Well #13\2018 - 2020 Well #13 Project\Admin\Consultant Selection Well #13\Water Rights - Foster\RobNob 2019-2020\PSA\_RN 2019-2020 Foster (with SEC edita) docx Rcv 7/18/2019



the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

**12. Indemnification.** The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or resulting from the negligent acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'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.

**13. Insurance.** The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**A. Minimum Scope of Insurance**

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

## B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Workers' Compensation Employer's Liability each accident \$1,000,000, Employer's Liability Disease each employee \$1,000,000, and Employer's Liability Disease – Policy Limit \$1,000,000.
4. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

## C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

## D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

## E. Verification of Coverage

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

**14. Assigning or Subcontracting.** The Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

**15. Notice.** Any notices required to be given by the City to the Consultant or by the Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Robert Putaansuu  
Mayor  
216 Prospect Street  
Port Orchard, WA 98366

Phone: 360.876.4407  
Fax: 360.895.9029

CONSULTANT  
Robinson Noble, Inc.  
2105 South C Street  
Tacoma, WA 98402

Phone: 253.475.7711  
Fax: 253.472.5846

**16. Resolution of Disputes and Governing Law.**

A. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, who shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

**17. General Provisions.**

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. **Entire Agreement.** The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

## 18. Title VI

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Consultant will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Consultant of the Consultant's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

---

*City of Port Orchard and Robinson Noble, Inc.*

*Contract No. C053-19*

U:\ENGINEERING\WATER\Well #13\2018 - 2020 Well #13 Project\Admin\Consultant Selection Well #13\Water Rights\_Foster\RobNob 2019-2020\PSA\_RN 2019-2020 Foster (with SEC edits).docx

Rev 7/18/2019



5. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding payments to the Consultant under the Agreement until the Consultant complies; and/or
  2. cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the City to enter into any litigation to protect the interests of the City. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PORT ORCHARD,  
WASHINGTON

By: [Signature]  
Robert Putaansuu, Mayor

ATTEST/AUTHENTICATE:

By: [Signature]  
Brandy Rinearson, MMC  
City Clerk

APPROVED AS TO FORM:

By: [Signature]  
Sharon Cates, City Attorney

CONSULTANT

By: Joseph E  
Becker

Digitally signed by Joseph E  
Becker  
Date: 2019.08.14 16:27:59  
-07'00'

Name: Joseph E. Becker

Title: President



City of Port Orchard and Robinson Noble, Inc.

Contract No. C053-19

U:\ENGINEERING\WATER\Well #13\2018 - 2020 Well #13 Project\Admin\Consultant Selection Well #13\Water Rights\_Foster\RobNob 2019-2020\PSA\_RN 2019-2020 Foster (with SEC edits).docx

Rev 7/18/2019

## APPENDIX A

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

## Exhibit A



August 13, 2019

Mr. Mark Dorsey  
Public Works Director  
City of Port Orchard  
216 Prospect Street  
Port Orchard, WA 98366

Subject: Robinson Noble scope of work and cost estimate for ESSB 6091 'Foster' Pilot Project  
Streamflow Augmentation/Restoration, Net Ecological Benefits & Hydrogeological Services

Dear Mark,

In February, the City of Port Orchard contracted with Robinson Noble to provide hydrogeologic and water rights consulting in relation to the City's Foster pilot project. In July, with changes in the project, the City decided to send out a competitive request for qualifications to complete the work. Earlier today, you emailed me to say that the Robinson Noble team was selected to continue the Foster pilot work and asked for a new scope of work. We appreciate the City's confidence in our work.

With this letter, I am providing a new scope of work and cost estimate. It is based on the previous scope, as well as new information that has come to light since the previous scope was written. This new information includes the final guidance from Ecology for the net ecological benefit analysis (dated July 31) and the latest modeling. As you directed, this scope includes, as noted below, the work previously completed.

I've broken down the scope into two general tasks: 1) completing the modeling and providing a hydrogeologic impact report; and 2) providing CRA services, including writing the draft Report of Examinations. Subtasks that are complete or partially complete as of the time of writing this scope are noted with comments on status. If a subtask description does not have a status comment, work has yet to begin.

### **Task 1: Modeling and Hydrogeologic Impact Report**

#### **Subtask 1A: Initial Model Modifications and Error Estimates**

As a requirement of the preliminary permits for Wells 12 and 13, Ecology requires the USGS Kitsap groundwater model be used to analyze potential impacts of withdrawals from the wells. Prior using the model, slight modifications were needed, such as inserting Wells 12 and 13 and changing the number of stress periods. In addition, an estimate of model error was necessary so that modeled changes in streamflow can be addressed with respect to model error. The estimate of model error was also used to estimate the area of potential influence of the new wells, i.e. the area in which stream impacts may rise above the level of model error.

**Status:** this work is complete

#### **Subtask 1B: Steady-state Modeling**

As a requirement of the preliminary permits, the USGS Kitsap groundwater flow model needs to be used to conduct steady-state modeling simulations of the proposed new water withdrawals under water right applications G1-28476A (Well 12) and G1-28162A (Well 12) as well as the change applications related to G1-\*04166C, G1-2458gC, G1-26119P, G1-24437P, G1-2644P, and G1-26454P which make Well 13 as an additional point of withdrawal for Wells 6, 7, and 10; make Well 11 an additional point of withdrawal for McCormick Wells 1, 2, 3, and 4B; and make Well 12 an additional point of withdrawal for Well 11 and McCormick Wells 1, 2, 3, and 4B.

Baseline model simulations will first be run using currently allowed water rights withdrawals. Then predictive simulations will be run with the newly propose withdrawals under the above listed applications. The results of the two sets of runs will be compared to determine projected stream flow impairments. Separate model runs will be conducted for each of the applications as well as combinations of all the applications.

**Status:** the majority of this work is complete, and it likely will be all complete by the effective date of the new contract (unless Ecology requests additional model modifications, see optional subtask 1E below). The simulations had to be re-run when the projected future water demand was revised in July.

#### **Subtask 1C: Stream Record Analysis.**

In order to prioritize timing of potential mitigation, as well as examine the relationship between critical periods of natural streamflow and any projected impacts to stream flow, an analysis of the hydrographs of the potentially impacted streams needs to be made. We will examine and analyze existing stream gage records available from Kitsap PUD and the USGS for each of the potentially impacted streams where such data is available. Results will be provided in the Task 1 report.

**Status:** the majority of this work is complete, and it likely will be all complete by the effective date of the new contract.

#### **Subtask 1D: Transient Modeling.**

Transient modeling will allow timing of impacts to be defined. However, based on the provisions of the preliminary permits for Wells 12 and 13, transient modeling is to occur following consultation with Ecology and the Tribes. In a previous meeting with Ecology, the City requested Ecology concurrence on conducting transient modeling. Ecology's concurrence was given.

Transient modeling will look at several combinations of the above listed water rights applications and compare results to baseline simulations under currently authorized rights. Various simulations will be run including looking at the effects of instantaneously changing to the new water rights amounts and phasing in the new rights over a 50-year period based upon projected water demands provided by the City's engineer, BHC. Because of the extremely long run times for the USGS Kitsap model, most the transient simulations will use year-long stress periods. However, to investigate the effect of seasonal changes in production, several



simulations will be made with month-long stress periods. (A single model run of 50 years with month-long stress periods takes about four full days.)

Results will be analyzed to look to total projected impairments of streams as well the timing of the impairments, both annually and seasonally. Results will be presented to the Tribe and Ecology for comment.

**Status:** the majority of this work is complete. It is likely the analysis of results will be completed by the effective date of the new contract. The simulations had to be re-run with the revision to the water demand in July. The presentation of results to the Tribe and Ecology is not yet scheduled.

#### **Subtask 1E: (Optional) Refinement/Modification of the Model**

According to the preliminary permits, Ecology may require refinement or modification of the model (based on the model results) followed by re-running some or all of the previous model simulations. We will not know whether this will be required until after results are presented to the Tribe and Ecology. There are two main concerns that may prompt modification of the model. The first is that the deep aquifer at Well 12 location is poorly represented in the model. In the model, the aquifer at Well 12 is essentially absent (the modeled Well 12 produces from a low permeability zone<sup>1</sup>). The second is the depth of Well 13. The deep aquifer at the Well 13 site in the model is at about 800 feet below sea level. Drilling of Well 13 found the aquifer considerably deeper, at about -1100 to -1500 below sea level (this zone is partially in a confining unit and partially in bedrock within the model).

If required, the model will be modified to address these conditions and the simulations re-run as necessary. In this case, an additional meeting with the Tribe and Ecology presenting the revised model results will likely be required.

#### **Subtask 1F: Hydrogeology and Impact Report.**

The deliverable for Task 1 will be a technical memorandum describing the hydrogeology of the area, the stream hydrographic analysis, the modeling procedures and results, and a summary of projected impacts to area streams. The report will be written so that it is easily incorporated into a later draft Reports of Examination for the various water right applications.

#### **Subtask 1G: Project Management, Meetings, and other Assistance.**

Task 1 includes a number of meetings, including meetings between the team members, two meetings with the Tribe and Ecology (either together or separately), and attendance Foster legislative committee meetings as directed. It also includes additional general project management time. Other non-scoped technical assistance will be provided as requested by the City.

**Status:** several team member meeting have occurred, as well as one meeting with Ecology and one informal meeting with the Tribe.

---

<sup>1</sup> This situation results in the simulated Well 12 producing a very large amount of drawdown in the model. Of course, since Well 12 has yet to be drilled, the lack of a deep aquifer at the site may be real.

### **Task 1 Schedule**

The complexity of the model simulations coupled with changing guidance from Ecology has significantly changed the scheduling of Task 1. Currently, Task 1 can likely be completed by the end of September provided model modification is not required. If the model needs to be modified and various simulations re-run, task 1 could potentially run to the end of November.

### **Task 2: Water Right Processing**

This scope of work assumes the applications will be processed through a streamlined Cost Reimbursement Agreement (CRA) with Robinson Noble acting as the consultant conducting all work, including drafting the Reports of Examination (ROEs). Matt Rakow with Ecology previously indicated a streamlined CRA will be allowed. The work is divided into six subtasks.

#### **Subtask 2A: Tier 1 Avoidance Analysis.**

The ROEs will need to address the three tiers of analysis described in pilot project legislation. The first tier is avoidance. For this subtask, Robinson Noble will work with Tom Pors to address avoidance of impairments in the ROEs. Tom Pors has indicated, based on Ecology guidance, that the tier 1 analysis will be rather simple.

#### **Subtask 2B: Tier 2 Minimization Analysis.**

This work will involve two set types of mitigation: stream augmentation and replacement water rights. Work on the stream augmentation portion of this subtask will be completed by Robinson Noble in conjunction with our subconsultant, Carollo Engineers (Carollo). Carollo's scope of work is summarized here but the full body of their scope is included as part of this scope and is attached as Exhibit A. For the replacement water rights portion of this subtask, work will be completed by Robinson Noble in conjunction with our subconsultant, WestWater Research (WestWater). WestWater's scope of work is summarized here but the full body of their scope is included as part of this scope and is attached as Exhibit B. Subtask 2B will start with a team meeting to discuss the results of the impairment analysis and to coordinate subtask communications and workloads between team members and the City.

Stream augmentation will be proposed for those impacted creeks where it is reasonably attainable. Currently this includes creeks within the Port Orchard service area (Blackjack, Ross, Anderson, and Parrish), as well as creeks in within neighboring purveyors service areas where agreements might be reached to provide augmentation. Specifically, these are Salmonberry Creek via West Sound Utilities and Gorst Creek (and possibly the Union River) via the City of Bremerton.

Stream augmentation at Blackjack, Ross, Anderson, and Parrish will use the previous stream mitigation plan developed for the City in 2006 which provided design concept stream augmentation on these four creeks provided the sites can handle the (presumed) new larger flows. Carollo will use the City's hydraulic model to confirm transmission capacities to the sites. Similar conceptual designs will be provided for Salmonberry and Gorst Creeks if agreements can be worked out with West Sound and the City of Bremerton.

For other impacted creeks, Robinson Noble will provide support for determining that stream augmentation as being not reasonably attainable. Carollo will assist with definition of conceptual-level stream augmentation and provide definition of where it is not reasonably attainable by looking at costs and impediment to extending City service to the more distant impacted streams.

For creeks where stream augmentation is not reasonably attainable (currently scoped as upper Blackjack, Olalla, Crescent, Purdy, Burly, Huge/Minter, Rocky, and Coulter Creeks), a search will be conducted for replacement water rights that potentially could be purchased to mitigate modeled impacts. The water right search will be accomplished WestWater Research. Based on our experience in the area, we believe that few if any such water rights will be found. However, the search needs to be accomplished to satisfy Ecology's tier 2 guidance. Should suitable water rights be identified by the search, we will attempt to ascertain the owners of said rights and contact them as to their interest in selling the rights. Negotiating the actual sale of rights to the City is outside the current scope. More details on the water right search are provided in the attached scope of work from WestWater.

#### **Subtask 2C: Tier 3 Compensation Analysis.**

The third tier is compensation analysis. Work on subtask 2C will be completed by Robinson Noble in conjunction with our subconsultant, Environmental Science Associates (ESA). ESA's scope of work is summarized here but the full body of their scope is included as part of this scope and is attached as Exhibit C.

The compensation analysis will consist of several major facets: developing the compensation plan, completing the NEB analysis to demonstrate the plan adequately offsets impairments, and working with stakeholders to get general agreement on the plan and the NEB analysis. We plan for three meetings with stakeholders.

We assume the development of projects for the tier 3 mitigation will occur from potential mitigation projects in existing reports and that no new projects will need to be identified. We also assume no field work will be required for either the selection/development of mitigation projects or calculations of ecological benefit. ESA will develop an analysis framework with mitigation projects and preliminary credit/debit calculations which will be shared with the City and stakeholders and subject to revisions to address comments.

When the framework is agreed upon, ESA will prepare a NEB report following Ecology's final guidance dated July 31<sup>st</sup>. The report will include an evaluation and description of impacts and ecological offsets, as well as a matrix that describes all impacts and offsets, summing up the net benefits in a quantitative or semi-quantitative manner. It will also include a discussion of financial and other assurances that mitigation will be implemented and remain in place, monitoring or evaluations plans to ensure lasting benefits, and descriptions of contingency plans or corrective actions to be taken if goals are not met. We anticipate the City will need to participate in developing with the assurances and contingency sections. Assistance from the City may also be required to obtain support from tribal, state and local resource managers.

#### **Subtask 2D: Monitoring, Reporting, Compliance, and Assurance.**

This subtask will involve designing monitoring, reporting, compliance, and assurance conditions for the ROEs. We will work together with Tom Pors, and in consultation with Ecology, to identify compatible conditions for inclusion as provisions in the ROEs. ESA will provide monitoring and assurance plans within their subtask 2C report that will be used as input for this subtask.

**Subtask 2E: Draft Reports of Examination.**

Robinson Noble will write draft ROEs for the two new and six change applications that are pending. The results of Task 1 and Subtasks 2A – 2D will be incorporated into the draft ROEs. We presume that preliminary drafts may be submitted to the Tribe for comment. Following possible incorporation of Tribal comments, the drafts will be delivered to Ecology. Ecology's comments will be worked into final drafts for posting on Ecology's website.

**Subtask 2F: Project Management, Meetings, and other Assistance.**

This scope includes five in-person meetings between Robinson Noble and various team members as the project progresses, attendance at Foster legislative committee meetings as requested, and attendance at three meetings with Tribal or other stakeholders. This task also includes project management following the end of Task 1 and any assistance of Robinson Noble with other parts of the process not specified in Tasks 1 and 2.

**Task 2 Schedule**

Task 2 was scheduled to start in June but has been delayed due to the time Task 1 has taken. Task 2 work will begin following the effective date of the new contract, assumed to be September 1<sup>st</sup>. Because of the evolving nature of the Foster program and the uncertainty of whether subtask 1E will be required, as well as meetings with and review by the Tribes and Ecology, the schedule below is an estimate.

Subtask 2A: Tier 1 Avoidance Analysis	September
Subtask 2B: Tier 2 Minimization Analysis	September - November
Subtask 2C: Tier 3 Compensation Analysis	September - November
Subtask 2D: Monitoring, Reporting, etc.	December – January 2020
Subtask 2E: Draft Reports of Examination	February – August 2020
Subtask 2F: PM, Meetings, Other Assistance	September 2019 – August 2020

**Estimated Cost**

While this current version of the scope of work is better defined than the version from earlier this year, it is still expected that the exact nature of the required work may evolve as the project progresses and with input from the Tribe, WDFW, and Ecology. Therefore, the following cost estimate is truly an estimate and could be higher or lower depending upon how the project progresses.

Based on our current understanding of the project and the conditions outlined in this scope, we estimate the cost of our services for Task 1, as described above, to be \$80,500. This includes



August 13, 2019  
Mr. Mark Dorsey  
Robinson Noble Foster Pilot Project Services Scope of Work  
Page 7

\$17,500 for optional subtask 1E and \$3,500 for other assistance as request under subtask 1G. Our estimate for Task 2, including the services of ESA, Carollo, and WestWater, is estimated at \$294,400. Together, the total estimated cost is \$374,900. This estimate is based upon Robinson Noble's current fee schedule, attached as Exhibit D.

The estimated cost includes work to date. As of today, we have invoiced \$41,659 under the existing contract and have another \$3,472 booked against the project but not yet invoiced. It is likely that we will accrue another \$4,000 or \$5,000 worth of work prior to the end of the current contract and the start of the new contract. This projects to approximately \$50,000 worth of work being completed prior to the execution date of the new contract. Consequently, the work yet-to-be completed under the new contract is estimated at \$324,900. Of course, this total depends on how much work we actually complete prior to the new contract as well as the start date of the new contract.

I hope this scope of work and cost estimate is adequate for your needs. Please contact us if we can provide additional information or modify the scope of work to better assist the City. If you have questions or need additional information, please contact me. Thank you for the opportunity to continue being of service to the City.

Sincerely,  
Robinson Noble, Inc.



Joseph E. Becker, LHG  
Principal Hydrogeologist

## Exhibit B

### SCOPE OF WORK

### ROBINSON NOBLE

### PORT ORCHARD STREAMFLOW AUGMENTATION STUDY

#### SCOPE OF SERVICES

The following Scope of Services has been developed to assist the City of Port Orchard (City) with the identification of conceptual infrastructure needed for stream augmentation. The task will consider using City water or wholesale water from Group A water systems and identify the water system infrastructure needed to deliver the water, including pipes, pump station, etc.

#### PROJECT ASSUMPTIONS

- Carollo Engineers, Inc. will be referred to as "Consultant" in this document.
- The City of Port Orchard and its staff will be referred to as "City" in this document.
- Robinson Noble Inc. will be referred to as "Prime".
- Environmental Sciences Associates will be referred to as "ESA"
- All meetings will be held at the City offices unless specified as a teleconference.
- Draft deliverables will be provided in electronic copy (PDF and/or Microsoft Word) transmitted via email or secure file transfer.
- Consultant to provide an agenda, meeting materials, and a meeting summary documenting discussions, action items, and decisions for all facilitated meetings. Meeting summary and related materials will be transmitted electronically in MS Word and PDF formats via email.
- The Prime and City will print and produce additional copies of all documents as necessary for their use beyond what will be provided by the Consultant, as stated within this scope of services.
- Consultant shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits, or for economic, incidental or consequential damages to the Prime, City or any third party arising out of breach of contract, termination, or for professional negligence. Additionally, Consultant shall not be responsible for acts and decisions of third parties, including governmental agencies, other than Consultant's subconsultants, that impact project completion and/or success.

- The Prime shall furnish Consultant with available studies, reports, and other data pertinent to Consultant's services; obtain or authorize Consultant to obtain or provide additional reports and data as required; furnish to Consultant services of others required for the performance of Consultant's services hereunder, and Consultant shall be entitled to use and rely upon all such information and services provided by the Prime, City or others in performing Consultant's services under this Agreement.
- The services to be performed by Consultant are intended solely for the benefit of the Prime or City. No person or entity not a signatory to this Agreement shall be entitled to rely on Consultant's performance of its services hereunder, and no right to assert a claim against Consultant by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Consultant's services hereunder.
- The City shall arrange for access to and make all provisions for Consultant to enter upon public and private property, as required for Consultant to perform services hereunder.
- In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for potential projects, Consultant has no control over cost or price of labor and material; unknown or latent conditions of existing equipment or structures that may affect operation and maintenance costs; competitive bidding procedures and market conditions; time or quality of performance of third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate project cost or schedule. Therefore, Consultant makes no warranty that the City's actual project costs, financial aspects, economic feasibility, or schedules will not vary from Consultant's opinions, analyses, projections, or estimates.
- Project is anticipated to last four (4) months. It is assumed each Monthly Progress Report and Invoice requires 3 hours of Project Manager (PM) effort, 1 hour of Quality Manager/PIC, and 1 hour for Document Processing.
- It is assumed meetings or workshops will be attended by two Consultant Staff: Project Manager (4 hours) and Professional (6 hours). Document Processing of 1 hour is assumed for meeting minutes.
- It is assumed teleconferences will be attended by two Consultant Staff: Project Manager (1.5 hours) and Professional (3 hours). Document Processing of 1 hour is assumed for meeting minutes.
- It is assumed that each stream augmentation option in Task 200 will require 4 hours of Professional effort, 2 hours of GIS effort, 1 hour of PM effort, and 15 minutes of Quality Manager Effort.
- It is assumed that costing each stream augmentation option in Task 300 will require 2 hours of Professional effort, 1.75 hour of GIS effort, 0.25 hours of PM effort, and 5 minutes of Quality Manager Effort.

## Tasks

### Task 100 – Project Management

The objective of this task is to track and execute the project in accordance with the schedule, budget, and quality expectations that are established. This task includes the following project management work activities:

1. Monthly Progress Reports and Invoices. This subtask includes preparing and submitting the work-in-progress reports and monthly invoices showing current project scope, budget, and schedule status and identifying key issues or elements of the project that will need to be addressed in the proceeding weeks. An electronic version of the monthly progress reports and invoices will be sent to the Prime for review and approval. Provide regular communication on project progress to the Prime. Conduct internal coordination as required to manage the project.
2. Kick-off Teleconference. Attend a kick-off meeting with City to establish goals and criteria for analyses. Discuss available data and tools.
3. Ecology Coordination Meeting. Facilitate a meeting with Ecology Staff to review and obtain comments on the Stream Augmentation infrastructure methodology. Incorporate comments into Tasks 200 through 400.

### Task 200 – Stream Augmentation Analysis

The objective of this task is to identify infrastructure needed to provide direct stream augmentation with potable water. The task will consider using City water or wholesale water from Group A water systems. Infrastructure needed to deliver the water will be identified, including pipes, pump station, etc. Subtasks include:

1. Stream Augmentation Meeting. Attend a meeting with Prime and City to review the location and quantity of stream augmentation needed based on data and input provided from the City, the City's water rights attorney, Prime, and ESA. It is assumed that 15 sites will be considered: four sites in or directly adjacent to the City Service area and eleven sites outside the City's service area. It is assumed the City will identify Group A water systems that have sufficient available supply for stream augmentation outside of the City's service area, including West Sound Utility District, City of Bremerton, and Washington Water.
2. City Stream Augmentation Verification. Evaluate stream augmentation by the City to up to four existing sites in or directly adjacent to City's Service Area that have current conceptual designs. These designs were based on a previously proposed lower augmentation rates. The evaluation will use the City's hydraulic model to verify the transmission capacity for to the new augmentation rates. Document any new pressure or velocity deficiencies due to stream augmentation during the hydraulic modeling from the Maximum Day Demand (MDD) and MDD plus fire flow scenario for near-term and long-term demand projections. Propose improvements to mitigate new deficiencies. It is assumed the City will provide a calibrated model and demand scenarios representing the study conditions and includes the augmentation sites. Review of the on-site stream augmentation conceptual design is not included in this task.
3. Outside City Service Area Stream Augmentation. Evaluate up to eleven sites outside the current service area. Two options for stream augmentation: 1. Extend City service to the site and 2.

Purchase wholesale supply from nearby Group A. Evaluations will be made using engineering calculations; the City's hydraulic model will not be used.

- a. Extend City Service. Identify a potential option to extend the City water system to up to eleven stream augmentation sites outside of current service area. Assess the infrastructure needed to convey supply to the augmentation site, based on engineering calculation, including booster pump stations and transmission piping.
  - b. Group A Stream Augmentation. It is assumed that Group A systems identified by the City with sufficient available supply will only be identified for two stream augmentation sites. For those two sites, Consultant will identify infrastructure needed to convey wholesale supplies. It is assumed that the City will provide a meter location, available supply, minimum pressure, and typical disinfection residual concentrations. Assess the infrastructure needed to convey supply to the augmentation sites, based on engineering calculations, including booster pump stations and transmission piping. Identify sites that cannot be served by Group A system.
4. Transmission Routing Teleconference. Facilitate a teleconference with the Prime and City to coordinate preferred routes for transmission piping.
  5. Stream Augmentation Infrastructure Workshop. Facilitate a workshop with City to review and comment on the potential infrastructure needed to supply for the 15 potential stream augmentation sites.

#### Task 300 –Stream Augmentation Infrastructure Costs

The objective of this task is to estimate the infrastructure costs for stream augmentation sites. Costs will be calculated based on capital infrastructure and potential connection charges for wholesale water purchases for up to 17 stream augmentation options identified in Task 200. Subtasks include:

1. Infrastructure Costs. Calculate infrastructure costs for up to 25 stream augmentation options. Capital costs will be based on planning-level conceptual estimates. Transmission costs will be based on typical cost per linear foot of water main installation. Connection charges for the purchase of Group A supply is assumed to be provided by the City.
2. Cost Teleconference. Facilitate a teleconference with the Prime and City to review infrastructure costs.
3. Selection Workshop. Attend a workshop facilitated by the Prime to review stream augmentation options.

#### Task 400 – Documentation

The objective of this task is to document the stream augmentation evaluations in previous tasks.

Subtasks include:

1. Draft Report. Document Tasks in a short report, including stream augmentation locations, required infrastructure, and costs. Provide a draft Report for Prime review and comment.
2. City Review Draft Report. Incorporate Prime comments into a City Review Draft Report. Submit Report to City for review and comment.
3. Final Report. Incorporate City comments into a final signed and sealed Report for submittal to Prime.

*Meeting List:*

- Kick-off Teleconference.
- Ecology coordination Meeting.
- Stream Augmentation Meeting.
- Transmission Routing Teleconference.
- Stream Augmentation Infrastructure Workshop.
- Cost Teleconference.
- Selection Workshop.

*Deliverable List:*

- Meeting Agenda, materials, and summary.
- Draft Report.
- City Review Draft Report.
- Final Report.





**Main Office**  
805 W. Idaho Street #310  
Boise, ID 83702  
(208) 433-0255

**West Coast**  
20522 NE 116<sup>th</sup> Circle  
Brush Prairie, WA 98606  
(360) 695-5233

**Southwest**  
4747 N. 7<sup>th</sup> Street #412  
Phoenix, AZ 85014  
(602) 595-7009

**Rocky Mountain**  
320 E. Vine Drive #223  
Fort Collins, CO 80524  
(970) 672-1811

## Exhibit C

---

**To:** Robinson Noble  
**From:** WestWater Research  
**Date:** June 10, 2019  
**Re:** City of Port Orchard

---

### Background and Purpose

The City of Port Orchard is attempting to move municipal water supply wells to alternative locations. Hydrologic studies have shown evidence that doing so may have negative impact on surface water stream flow and senior water right holders. To reduce these impacts, the city may be required to acquire available water rights to provide in-kind mitigation for reduced stream flows. New draft legislation affecting water rights may allow other out-of-kind mitigation efforts if there is evidence no water rights are "reasonably attainable" for in-kind mitigation. This proposal provides a scope of work and budget to evaluate water rights within certain regions to determine if there are potentially available water rights for acquisition that would be considered "reasonably attainable".

### Scope of Work

#### Water Rights Desktop Review

##### Task 1: Review Ecology Water Rights Data

- WestWater will acquire updated versions of Ecology's GWIS geodatabase as well as other tabular datasets in the WRTS database system. Study area will be determined and delineated in coordination with client to cover the Blackjack, Olalla, Crescent, Purdy, Burley, Huge/Minter, Rocky, and Coulter Creek systems.
- WestWater will perform initial selection of diversion data for all water rights. GIS data will be crosschecked to tabular water rights datasets to ensure that all water rights have been mapped and no water rights are being missed. Any discrepancies between GIS datasets and tabular data, if any, will be researched and resolved resulting in a master list of water rights within the defined geographic area.
- A web based map will be set up to host and maintain data on the ArcGIS online platform to provide access to original and filtered water rights data, and any other geospatial data utilized or developed during the process.
- Water rights will initially be filtered down based on water rights status, ownership, size, use type and other screening criteria as determined by WestWater. All records will be properly noted to identify reason for exclusion. Any remaining water rights will be reviewed with additional scrutiny in Task 2.

**Task 2: Perform a preliminary validity analysis**

- Any water rights identified from the initial selection and review will undergo further analysis. This will involve an additional screening based on initial mapping of water rights and may include aerial imagery analysis, document review, and other research as needed.
- Based on the results of the analysis, a list of candidate water rights will be compiled to be further analyzed in Task 3.

**Task 3: Water Right Ownership Research**

- To determine if identified water rights are potentially available for acquisition, current ownership will need to be determined in order to contact water right holders. Current water right ownership is not actively maintained by Ecology and requires additional review of water rights place of use information and county land ownership records.
- All existing places of use within Ecology's GIS layers will be utilized and verified against water right documents to assure accuracy. A preliminary review of GIS layers indicates that there are a significant number of unmapped water rights within the region. Unmapped places of use may need to be mapped using water rights application maps and/or legal descriptions on water rights documents. Due to the large amount of unmapped water rights in the subject area, mapping place of use could require considerable efforts and may affect budget depending on how many records require review.
- Parcel data maintained by relevant counties will be acquired and overlaid on the place of use data. Water right ownership is generally appurtenant to landownership. Landowner information for parcels adjoining the place of use of a water right will be recorded. WestWater anticipates that multiple landowners may be identified for some water rights due to general legal descriptions of the water right place of use or quality limitations of legal descriptions provided on water right certificates. This information will assist in further narrowing the list of candidate water rights. For example, water rights that have been divided through multiple property sales often do not represent viable acquisition opportunities.

**Task 4: Water Right Field Inspection Analysis**

- If potential water right acquisition opportunities arise, field inspections for each candidate water right may be conducted if determined necessary and beneficial to determining if the rights are reasonably available. Data developed in the ArcGIS online webmap under Task 1 will be utilized to collect pictures, additional notes, and any other relevant data supporting water rights. The field inspections provide an opportunity to verify the location of the water rights, ownership information, as well as determine the current use of the water right.

**Task 5: Water Right Owner Outreach**

- Letters of inquiry may be sent to landowners that fulfil criteria of potential acquisition opportunities to determine willingness to sell. WestWater will consult with R&N, Port Orchard and other legal counsel to determine if this task is necessary and the best approach to execute.





### Task 6: Summary report of findings

- A summary report outlining the research process and findings will be developed. Accompanying maps will be developed to display diversions researched and any identified candidate water rights. Detailed profile maps of candidate water rights will be identified along with field observations and photos if applicable.

### Project Schedule

Work will be completed within 12 weeks of engagement. At approximately the 4<sup>th</sup> week of the project a conference call will be held to discuss the results of Task 1 and 2 to determine next required steps of project. If candidate water rights are identified, Task 3 will be completed to further filter the results at approximately week 5. A second conference call may be required to discuss findings. If determined that field visits are required, Task 4 will be completed at approximately week 6 followed by Task 5 if water rights are determined to be potentially available for acquisition. A report will be furnished at the completion of the project.

Task/Week	1	2	3	4	5	6	7	8
Task 1: Review Ecology Water Rights Data								
Task 2: Perform a preliminary validity analysis								
Task 3: Water Right Ownership Research								
Task 4: Water Right Field Inspection Analysis								
Task 5: Water Right Owner Outreach								
Task 6: Summary report of findings								

### Project Deliverables

Project deliverables to the following:

- Web map built displaying Points of Diversion information and filtered datasets displaying analysis results
- Up to 3 conference calls to discuss results and findings
- Summary report discussing methodology and research results



## Project Budget

To complete all tasks within the scope it is estimated to cost between \$31,300 and \$44,240. Depending on the results of the analysis, field verification and water right owner outreach (Tasks 4 and 5) may not be necessary.

Tasks	Required Tasks	Optional Tasks
<b>Task 1: Review Ecology Water Rights Data</b>	\$12,560	
<b>Task 2: Perform a preliminary validity analysis</b>	\$7,180	
<b>Task 3: Water Right Ownership Research</b>	\$6,000	
<b>Task 4: Water Right Field Inspection Analysis</b>		\$9,360
<b>Task 5: Water Right Owner Outreach</b>		\$3,580
<b>Task 6: Summary report of findings</b>	\$5,560	
Subtotal	\$31,300	\$12,940
Optional Tasks Subtotal		
<b>Grand Totals</b>		<b>\$31,300 - \$44,240</b>



## Exhibit D

### Scope of Work Preparation of Net Ecological Benefit Analysis For the City of Port Orchard ESSB 6091 Pilot Project

June 4, 2019

#### Project Understanding

The City of Port Orchard's (City) application for an additional municipal water right has been accepted as a pilot project for the joint legislative task force on water mitigation formed by the Washington State Legislature in ESSB 6091. RCW 90.94.090(8) outlines a mitigation sequence that the City, as a pilot project participant, must follow when creating a mitigation plan to offset impacts from the proposed projects. The mitigation sequence includes avoidance, minimization, and compensation. As part of the compensation step, "net ecological benefit" to fish and related aquatic resources are to be provided using in-kind and/or out-of-kind mitigation.

The City has applied for water right changes and new water rights for new Wells 12 and 13. To mitigate for the water withdrawal effects, the City is planning for both in-kind and out-of-kind mitigation actions. Achieving "net ecological benefit" necessitates that the anticipated benefits of the mitigation portfolio offset the anticipated impacts of the project. A scientifically-sound, defensible analysis framework is needed to characterize the anticipated impacts and benefits. In May 2019, Ecology published *Draft Final Guidance for Determining Net Ecological Benefit* which provides an overview of the information Ecology will be looking for in such analysis. This document is out for public comment which will be addressed in a final version. This scope of work is based on the Draft Final Guidance and may need to be adjusted pending changes included in the final version expected to be issued in July 2019.

Robinson Noble has been hired by the City to provide hydrogeological and water rights services for the pilot project. However, they need assistance in performing the required net ecological benefit analysis. This proposed scope of work is for Environmental Science Associates (ESA) to develop and implement an analysis comparing the anticipated water withdrawal impacts to the anticipated mitigation benefits. This analysis will document the extent to which the proposed mitigation portfolio meets the net ecological benefit threshold. Following is ESA's understanding of the anticipated impacts and mitigation portfolio:

- The City's water rights applications are for the deep sub-sea level aquifer, which will reduce impacts on Kitsap County streams from existing shallower municipal wells, but which could result in smaller impacts to a larger geographic area.
- The geographic area of potential effect includes approximately 20 named creek systems in the project vicinity. Preliminary analysis indicates the largest magnitude of flow depletion is on the order of 0.15 cubic feet per second (110 acre-feet per year).

## Scope of Work

### Task 1. Stakeholder Meetings

ESA will participate in up to three meetings with project stakeholders to introduce the net ecological benefit analysis requirements and gain meeting participants' approval of the analysis method being implemented. Up to two ESA staff will participate in each meeting. ESA will prepare PowerPoint presentations and handouts, as needed, to support the planned topic for each meeting. Additional discussions with stakeholders to follow up on specific topics or questions are anticipated.

#### *Assumptions:*

- The City or Robinson Noble, with input from ESA, will develop the list of stakeholders and will be responsible for stakeholder outreach.
- ESA is not responsible for stakeholder meeting logistics. ESA will communicate with meeting organizers to help set the agenda for net ecological benefit topics.
- Each meeting will be in the vicinity of Port Orchard or Poulsbo and last up to 3 hours in length.
- If stakeholder meetings identify tasks or effort that is beyond the established scope and budget, ESA will notify the City and Robinson Noble and provide a written amendment to the scope and/or budget. ESA will undertake such additional work only upon the City's written authorization.
- ESA will prepare summary notes of the net ecological benefit topic of each meeting.
- Up to 24 hours of discussions with stakeholders outside of the meetings are expected to follow up on specific topics or questions about the mitigation or net ecological benefit analysis.

#### *Deliverables:*

- Summary of meeting discussions focusing on net ecological benefit in electronic format.
- PowerPoint presentations and handouts, as needed, to support each meeting.

### Task 2. Analysis Framework Development

ESA will review available background materials and develop a structured and transparent analysis framework to use as the basis for making a net ecological benefit determination. The framework will be developed to meet the requirements of Ecology's 2019 Draft Final Guidance document. The framework will calculate the anticipated ecological impacts associated with surface water flow depletions as well as the anticipated ecological benefit associated with the proposed out-of-kind mitigation. The impacts and benefits are expected to be calculated by assigning points.

Ecology's 2008 Implementation Plan for the Adoption of Water Resources Management Programs in WRIA 27 (Lewis) and WRIA 28 (Salmon-Washougal) will be introduced to stakeholders as a potential framework to use. It is anticipated that the overall concept of scoring impacts and benefits will be accepted by the stakeholders, but that revisions will be necessary. Up to three iterations of the analysis framework will be conducted to test and refine the scoring system and address comments from stakeholders. The development of iterations will include review and documentation of scientific literature to support the framework scoring assignments.

Flow depletion inputs to the analysis framework will be provided to ESA. ESA will work with Robinson Noble to obtain information on the anticipated impacts of the water withdrawals. These inputs are expected to be in terms of the magnitude of surface water reductions (to nearest 0.1 cubic feet per second) and the length of river (to nearest 0.1 river mile). The location of the impacts relative to proposed in-kind mitigation (i.e., upstream or downstream) will also be needed.

Habitat type and quantity inputs will be calculated by ESA using GIS. ESA will work with Robinson Noble to identify up to six potential habitat mitigation projects from existing reports. ESA will use GIS tools to prepare conceptual polygons by habitat type in the project area and quantify the area and/or length. The habitat types may include: side channels, wetlands, and connected floodplains among others. The area calculations may need to be made under up to two flow scenarios (e.g., late summer low flow and extreme storm event).

*Assumptions:*

- The development of the mitigation projects and calculation of ecological uplift will be a desktop exercise and does not include fieldwork or survey.
- No new potential mitigation projects will need to be identified by ESA other than those in existing reports.
- Framework development discussions with the stakeholders will use the surface water depletion estimates provided by Robinson Noble.
- Robinson Noble will provide surface water depletion inputs for the framework that indicate the spatial extent, time duration, and magnitude of water depletion. For example, X miles of 0.1 cubic feet per second (cfs) depletion over three weeks and Y miles of 0.2 cfs depletion over two weeks.
- Habitat type and quantity inputs will be developed by ESA using information from existing reports. It is anticipated that assumptions about the project footprint, area of influence, and design features will be necessary and ESA will document those in the framework
- Up to three iterations of the analysis framework will be conducted to address comments from the City and stakeholders.

*Deliverables:*

- Analysis framework table with preliminary credit and debit calculations.

**Task 3. Net Ecological Benefit Analysis Report**

ESA will prepare a Net Ecological Benefit Analysis Report per the requirements of Ecology's 2019 Draft Final Guidance document. The report will describe the methods and results of the analysis framework developed in Task 2. The analysis will be a structured and transparent ledger or matrix describing all the impacts and offsets.

The documentation of net ecological benefit analysis required in Ecology (2019) includes elements that ESA and Robinson Noble will need to work together to prepare. Table 1 lists the elements required in Ecology (2019) and the responsible company.

**Table 1. Net Ecological Benefit Elements and Company Responsibilities**

Element	Responsibility
Demonstrate that complete avoidance and minimization of impacts is not reasonably attainable with water offset projects.	Robinson Noble
Structure the analysis in the form of a ledger or matrix that describes all the impacts and offsets in detail and sums up the net benefits in a quantitative or semi-quantitative manner.	ESA
Describe any ecological impacts that are not offset through in-place and in-kind replacement of consumptive water use.	ESA
Include an evaluation of impacts and offsets based on a detailed hydrological analysis, conceptual model, or numerical model.	ESA
Document financial and other assurances that the mitigation will be fully implemented and remain in place for the full duration of the new water use (likely in perpetuity).	ESA/ Robinson Noble
Include monitoring and evaluation plans that describe or detail maintenance needed to ensure lasting benefits.	ESA
Include contingency plans or corrective actions to be taken if goals and measures are not achieved.	ESA/ Robinson Noble
Include information that describes the level of support for the proposed mitigation pilot from tribal, state and local resource managers (which may be in the form of letters of support or agreement).	Robinson Noble/City of Port Orchard
Identify and document scientific sources and methods of analysis	ESA

ESA will prepare a draft report in electronic format. Three rounds of review of the draft report are anticipated. The first draft will be provided for City review. ESA will address comments and submit a second draft for stakeholders (tribe(s)) review. ESA will address comments and submit a third draft for Ecology review. ESA will address comments and electronically submit a final report.

*Assumptions:*

- City will provide compiled written comments on first draft.
- Robinson Noble or City will provide compiled written comments from stakeholders (tribe(s)) on second draft.
- Robinson Noble or City will provide compiled written comments from Ecology on third draft.
- Robinson Noble will respond to comments on text prepared by them.
- If the comments require more effort than is included in the established scope and budget, ESA will notify the City and Robinson Noble and provide a written amendment to the scope and/or budget. ESA will undertake such additional work only upon the City's written authorization.

*Deliverables:*

- Three drafts and a final Net Ecological Benefit report will be delivered in electronic format.



#### Task 4. Project Management

ESA will conduct project management activities including communication with the City, Thomas Pors, Robinson Noble (prime consultant), and the ESA project team. In addition, monthly invoices and progress reports will be prepared.

*Assumptions:*

- The project is anticipated to last up to 20 months from NTP to project closeout.

*Deliverables:*

- Invoices and progress reports.
- Monthly, or more frequent, project updates via email and/or teleconference with the Robinson Noble project manager.

## **Budget**

The ESA budget for each task is presented in Table 1. The project will be billed on a time and materials, not-to-exceed basis. The total authorized amount for all tasks is \$88,950.00. Surplus budget from completed tasks can be moved to other tasks.

**Table 1. Budget by Task.**

<b>Task</b>	<b>Budget</b>
Task 1. Stakeholder Meetings	\$15,410.00
Task 2. Analysis Framework Development	\$32,000.00
Task 3. Net Ecological Benefit Report	\$34,250.00
Task 4. Project Management	\$7,290.00
<b>Total</b>	<b>\$88,950.00</b>



**ROBINSON  
NOBLE**

**General Fee Schedule**

**Exhibit E**

**January 1, 2019**

<b>Professional Positions</b>		<b>Fee per Hour</b>
Principal Engineer, Hydrogeologist or Environmental Scientist		\$187
Associate Engineer, Hydrogeologist or Environmental Scientist		\$171
Senior Engineer, Hydrogeologist or Environmental Scientist		\$146
Senior Project Engineer, Hydrogeologist or Environmental Scientist		\$126
Project Engineer, Hydrogeologist or Environmental Scientist		\$113
Staff Engineer, Hydrogeologist or Environmental Scientist		\$102
Senior Field Staff		\$93
Field Staff		\$80
Legal Support/Expert Witness Services/Testimony		150% of above rates
<b>Support Positions</b>		
Senior GIS/CAD Specialist		\$95
Senior Technician		\$95
Senior Administrator		\$83
GIS/CAD Specialist		\$83
Technician		\$83
Administrator		\$72
Clerical Support		\$72
<b>Other Fees and Costs</b>		
<b>Subcontracts/ Management Fee</b>	Professional services	15%
	Outside laboratory services	15%
	Construction subcontracts	15%
<b>Other Costs</b>	Travel (auto)	\$0.64/mile
	Travel (other)	Cost +10%
	Per diem	Prevailing State rate +10%
	Other direct expenses	Cost +10%
Field and laboratory testing/equipment rental		See following pages

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.



**Hydrogeologic Equipment Rental Schedule**  
**January 1, 2019**

<u>Equipment</u>	<u>Unit</u>	<u>Rate</u>
Water Level Transducer and Data Logger	Per day	\$25
Field Laptop Computer	Per day	\$40
Electric Water Level Sounder(s)	0 to 300 ft	Flat fee per project
	over 300 ft	Flat fee per project
		\$30
		\$60
DC Submersible Purge Pump (Single Stage)	Per pump	List price + 10%
DC Submersible Purge Pump (Dual Stage)	Per pump	List price + 10%
Double-Ring Infiltrometer	Per day	\$50
Schonstedt Gradient Magnetometer	Per day	\$75
Geonics EM-61 Metal Detector	Per day	\$500
Downhole Gamma/Resistivity/Temperature Logging Equipment	Per day	\$500
Downhole Caliper Logging Equipment	Per day	\$350
Draw Works	Per day	\$600
Mechanical Sieve Sample Equipment	Flat fee per well	\$50
2-inch Gasoline-powered Centrifugal Pump (includes hoses)	Per day	\$100
2-inch Submersible Pump + Controller	Per day	\$180
Generator & Fuel	Per day	\$70
Hand Auger	Per day	\$50
Survey Gear (laser level & rod)	Per day	\$85
FlowTracker Acoustic Doppler Velocimeter Stream Gaging Equipment	Per day	\$200
pH Field Meter	Per day	\$25
GPS	Per day	\$20
Other Equipment	Negotiated	Negotiated
Digital Camera	Per day	\$10

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.

**Environmental Equipment Rental and Consumable Schedule**  
**January 1, 2019**

<u>Equipment</u>	<u>Unit</u>	<u>Rate</u>
Water Level Transducer and Data Logger	Per day	\$50
Field Laptop Computer	Per day	\$40
Electronic Water Level Sounder	Per day	\$30
Electronic Interface Probe	Per day	\$75
DC Operated Peristaltic Pump	Per day	\$45
2-inch Gasoline-powered Centrifugal Pump (includes hoses)	Per day	\$100
2-inch Submersible Pump + Controller	Per day	\$350
Generator & Fuel	Per day	\$70
Low-Flow Bladder Pump	Per day	\$175
Photoionization Detector	Per day	\$75
Combustible Gas Indicator	Per day	\$65
GPS	Per day	\$20
Water Quality Meter	Per day	\$200
Teflon Water Bailer	Per day	\$30
Soil Sampling Equipment (manual)	Per day	\$25
Mechanical Sieve Sample Equipment	Flat fee per project	\$50
Survey Gear (laser level & rod)	Per day	\$85
pH Field Meter (soils)	Per day	\$50
Soil Vapor Extraction System	Per month	\$750
Digital Camera	Per day	\$10
Hand Auger	Per day	\$50
Other Equipment	Negotiated	Negotiated
<u>Consumable Items:</u>		
Polyethylene Purge/Sampling Tubing	Each 10 feet	\$2.50
DC Submersible Purge Pump (Single stage)	Per pump	List price + 10%
DC Submersible Purge Pump (Dual Stage)	Per pump	List price + 10%
Silicone Peristaltic Pump Head Tubing	Each foot	\$4.00
Bladders for Low-Flow Bladder Pump	Each	\$5.00
Water Sample Bailer	Each	\$10
Bailer Rope/String	Each 10 feet	\$1.00
Personal Protection Equipment	Per day per person	\$50

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.

**Geotechnical Field and Laboratory Testing Schedule  
January 1, 2019**

<u>Test</u>		<u>Fee</u>
Portable Nuclear Density Gauge	Per Hour	\$5.00
Slope Inclinator	Per day	\$250
Direct Shear	Point	\$200
Moisture-Density Relationship Curves:	Each	1 pt \$120
	Each	Multiple pts \$225
Sieve Analyses (Gradations-Wet Sieve)	Each	\$150
Bulk Sieve (if gravelly or >10lb)	Add	\$70
200 Wash	Each	\$80
Hydrometer Analysis	Each	\$175
Falling Head Permeability	Each	\$165
Atterberg Limits (Liquid Limit and Plastic Limit)	Each	\$220
Moisture Content	Each	\$12
Dynamic Cone Penetrometer	Day	\$225
Points	Each	\$20
Resistivity 4-point Gauge	Day	\$300
Hand Auger	Per day	\$50
Consolidation Test Incremental Loading (9 loads, 0.125 TSF to 32 TSF, 4 unloads)		\$550 \$50/each additional load
Shelby Tube Extrusion/Sample Description		\$40
Single-Ring Infiltrometer	Per day	\$50

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.



## 1. CALL TO ORDER AND ROLL CALL

Mayor Pro-Tem Chang called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Chang	Present
Councilmember Diener	Present
Councilmember Fenton	Present
Councilmember Morrissey	Present
Councilmember Rosapepe	Present
Councilmember Trenary	Present
Councilmember Worden	Present
Mayor Putaansuu	Absent

Staff present: Public Works Director Ryan, Finance Director Crocker, Utilities Manager J. Brown, Assistant City Engineer Hammer, Police Chief M. Brown, City Attorney Archer, City Clerk Wallace, and Deputy City Clerk Floyd.

The meeting streamed live on YouTube.

## A. PLEDGE OF ALLEGIANCE (Time Stamp 00:15)

**Police Chief Brown** led the audience and Council in the Pledge of Allegiance.

## 2. APPROVAL OF AGENDA (Time Stamp: 00:49)

**MOTION:** By Councilmember Morrissey, seconded by Councilmember Rosapepe, to approve the agenda as presented.

**The motion carried.**

## 3. CITIZENS COMMENTS ON AGENDA ITEMS (Time Stamp 01:16)

There were no citizen comments.

## 4. CONSENT AGENDA (Time Stamp: 01:52)

Approval of Voucher Nos. **87386** through **87416** and **87421** through **87468** including bank drafts in the amount of \$564,638.66 and EFT's in the amount of \$1,607,657.22 totaling \$2,172,295.88.

- A. Approval of Payroll Check Nos. 87417 through 87420 including bank drafts and EFT's in the amount of \$186,814.01 and Direct Deposits in the amount of \$ \$266,940.43 totaling \$453,754.44.
- B. Adoption of a Resolution Approving an Agreement with the WA State Department of Ecology for FY2023-2025 Stormwater Capacity Grant and Ratifying the Mayor's Signature (Resolution No. 015-24 and Contract No. 031-24)
- C. Adoption of a Resolution Approving an Interlocal Agreement with Kitsap County Public Works Regarding Traffic Signal, Street Lights Repair, and Maintenance (Resolution No. 016-24 and Contract No. 032-24)
- D. Approval of the February 27, 2024, City Council Regular Meeting Minutes

**MOTION:** By Councilmember Rosapepe, seconded by Councilmember Trenary, to approve the amended Consent Agenda as presented.

**The motion carried.**

## **5. PRESENTATION**

### **A. Police Commission Ceremony (Time Stamp 02:18)**

Police Chief Brown introduced Deputy Chief Alan Iwashita, Deputy Police Chief Andy Brandon, Police Sergeant Jon Eilertson, Police Sergeant Andee Walton, and Patrol Officer Austin Hadnott, who then took their Oaths of Office.

## **6. PUBLIC HEARING**

There were no public hearings.

## **7. BUSINESS ITEMS**

### **A. Adoption of a Resolution for the New National Opioids Settlements (Johnson & Johnson) Regarding State of Washington v. Johnson & Johnson, et al., King County Superior Ct. Cause No. 20-2-00184-8SEA (Time Stamp 11:56)**

**MOTION:** By Councilmember Diener, seconded by Councilmember Rosapepe, to authorize the Mayor to Execute the Participation Form for settlement of claims with the State of Washington for the *State of Washington v. Johnson & Johnson, et al.* matter (King County Superior Court Cause No. 20-2-00184-8SEA) and to authorize implementation of the same.

**The motion carried.**  
**(Resolution No. 017-24)**

### **B. Adoption of a Resolution Approving a Contract with Baumwelt for the Givens Park Sport Court Remodel Project (Time Stamp: 21:58)**



**MOTION:** By Councilmember Fenton seconded by Councilmember Trenary, to adopt a resolution, authorizing the Mayor to execute a Contract with Baumwelt for Givens Park Sport Court Remodel Project.

**The motion carried.**

**(Resolution No. 018-24 and Contract No. 033-24)**

**C. Approval of Change Orders No. 1 and 2 to Contract No. 059-23 with Stellar J Corporation for the Marina Pump Station (Time Stamp 26:07)**

**MOTION:** By Councilmember Worden, seconded by Councilmember Fenton, to authorize the Mayor to execute Change Order No. 1 and Change Order No. 2 to Contract No. C059-23 with Stellar J Corporation for the Marina Pump Station Improvement project and to add an amount of \$107,638.77 for a contract total of \$14,995,583.04 (applicable taxes included).

**The motion carried.**

**8. DISCUSSION ITEMS (No Action to be Taken)**

**A. Sewer and Water Projects and Funding (Time Stamp 30:50)**

Finance Director Crocker gave a presentation 'Utilities Funding 101' which included rates, Capital Facility Charges (CFC), Real Estate Excise Tax (REET), other sources, Fund 411 Water-Operations, Fund 421 Storm Drainage-Operations, Fund 431 Sewer-Operations, Fund 413 Water Capital Construction, Fund 423 Storm Capital, and Fund 433 Sewer Capital Construction.

Utilities Manager Brown gave a presentation 'Utilities Projects' which included water projects, sewer projects, and stormwater projects.

**B. Bethel Phase 1, Preliminary Plans (Time Stamp 1:05:17)**

Patrick Holm with SCJ Alliance and Assistant City Engineer Hammer gave a presentation which included an overview of the Bethel Road roundabouts at Blueberry Road, Salmonberry Road, Bethel Road-Cross Section, Salmonberry Road frontage improvements, and Salmonberry Road-Cross Section.

Additional discussion was held regarding property owners turning into Bethel Road from their driveways, multi-lane roundabouts, public outreach, traffic flow, landscaping, future expansion, and acquisitions.

**9. REPORTS OF COUNCIL COMMITTEES (Time Stamp 1:39:00)**

Mayor Pro-Tem Chang reported the Economic Development and Tourism Committee is scheduled to meet April 8<sup>th</sup>. The Transportation Committee is scheduled to meet March 26<sup>th</sup>.

Councilmember Rosapepe reported on the March 12<sup>th</sup> Utilities Committee meeting. The Sewer Advisory Committee is scheduled to meet March 19<sup>th</sup>.

Councilmember Diener reported he received an email and letter asking for the Council's individual support of the U.S. Forest Service-Legacy Roads and Trails Remediation Initiative.

Councilmember Morrissey reminded the Council of the upcoming Kitsap Economic Development Alliance Annual Meeting and Luncheon.

#### **10. REPORT OF THE MAYOR (Time Stamp: 1:46:57)**

The Mayor Pro-Tem reported on:

- Celebration of Life for former Councilmember Carolyn Powers.
- Thanked public works staff for cleaning debris that had fallen onto Division Street.
- Reminded Council to email their retreat items to Mayor Putaansuu.

#### **11. REPORT OF DEPARTMENT HEADS (Time Stamp 1:47:44)**

Public Works Director Ryan thanked his staff and said he is very fortunate to have such a talented team and also spoke about the Marina Pump Station, radio read meters and asset management updates.

Finance Director Crocker asked that the Finance Committee meeting be virtual due to City Hall construction and relocation of employees.

City Attorney Archer provided a brief update on the Grants Pass matter.

Police Chief Brown reported the police department is only 3-weeks away from moving back into their location at City Hall and also reported on traffic numbers.

#### **12. CITIZEN COMMENTS ON ANY ITEM (Time Stamp 1:52:08)**

There were no citizen comments.

#### **13. CITY COUNCIL GOOD OF THE ORDER (Time Stamp: 1:52:21)**

Councilmembers Diener and Worden spoke about the Coffee with Council event.

Councilmember Worden congratulated Police Chief Brown on the 5 hires/promotions.

#### **14. EXECUTIVE SESSION**

There was no executive session.

#### **15. ADJOURNMENT**

**MOTION:** By Councilmember Rosapepe, seconded by Councilmember Fenton, to adjourn the meeting.

**The motion carried.**

The meeting adjourned at 8:27 p.m. No other action was taken. Audio/Visual was successful.

---

Brandy Wallace, MMC, City Clerk

---

Fred Chang, Mayor Pro-Tem



## **Agenda Staff Report**

Agenda Item No.: Business Item 7A

Meeting Date: March 26, 2024

Subject: Adoption of an Ordinance Delaying  
Effective Date for Updated Storm  
Drainage Service Charges and Capital  
Facilities Charges to June 1, 2024

Prepared By: Denis Ryan  
Public Works Director

**Summary:** The City first established a storm drainage utility in 2008. In 2022 and 2023, the City worked extensively to develop the City of Port Orchard Stormwater and Watersheds Comprehensive Plan with the assistance of consulting experts. The City Council adopted the Plan in November 2023. In coordination with the Plan, the City analyzed the storm drainage requirements and capital improvements to meet the level of service needs of the community. This analysis included a study of the necessary rates and charges to fund the identified level of service. Following the study, the City Council adopted an Ordinance setting the stormwater utility rates to meet those needs and establishing a stormwater capital facility charge. The effective date for the updated fees and costs was set by Ordinance for April 1, 2024. Since the adoption of that ordinance, staff have identified necessary amendments to the Port Orchard Municipal Code Chapter 13.06 "Storm Drainage Utility" to ensure implementation of the updated rates and charges is efficient and effective. In addition, staff recommends additional public outreach regarding the updated rates and charges prior to implementation. For these reasons, staff recommends a short delay of the effective date from April 1, 2024, to June 1, 2024. Staff believes this amount of time will allow for these issues to be addressed and these goals to be met.

**Recommendation:** Staff recommends the Council adopt an ordinance amending Ordinance No. 038-23, to delay the effective date of the updated stormwater rates and charges from April 1, 2024, to June 1, 2024.

**Relationship to Comprehensive Plan:** Chapter 7: Utilities

**Motion for consideration:** I move to adopt an ordinance amending Ordinance No. 038-23 by delaying the effective date of the updated stormwater utility rates and charges to June 1, 2024.

**Fiscal Impact:** The delay may have a de minimus impact on the collection of these fees between April 1, 2024, and June 1, 2024.

**Alternatives:** Do not approve and provide alternative guidance.

**Attachments:** Ordinance  
Courtesy copy of Ordinance No. 038-23, as adopted



**ORDINANCE NO. \*\***

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE STORM DRAINAGE RATES AND CAPITAL FACILITY CHARGES (CFC); AMENDING ORDINANCE NO. 038-23 TO DELAY EFFECTIVE DATE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, following a comprehensive rate study, the City Council recently amended the City's rates and fees for its stormwater utility, including storm drainage rates and capital facility charges, via Ordinance No. 038-23; and

**WHEREAS**, pursuant to Ordinance No. 038-23, the effective date of the updated rates and fees is April 1, 2024; and

**WHEREAS**, in the process of preparing to implement the amendments set out in Ordinance No. 038-23, staff identified additional necessary amendments to refine and clarify the City's implementation of the recently amended rates and fees; and

**WHEREAS**, the City also desires to perform additional outreach to customers of the stormwater utility prior to the effective date of the updated rates and charges; and

**WHEREAS**, to perform the additional outreach and to address all additional necessary amendments prior to implementation, the City desires to delay the effective date until June 1, 2024; and

**WHEREAS**, the City Council finds that delaying the effective for Ordinance No. 038-23 is consistent with goals and policies of the City's 2023 Stormwater and Watersheds Comprehensive Plan and related regulations, and serve the public health, safety, and general welfare of the citizens of Port Orchard; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1. Amendment.** Section 7 of Ordinance No. 038-23 is hereby amended, in part, as follows:

**Effective Date.** This ordinance shall be posted and published as required by law and shall be effective and in full force five (5) days following publication, provided, however, that the rates and fees described in Sections 2 through 4 above, shall be effective June 1, 2024. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

**SECTION 2. Severability.** Should any portion of this ordinance be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section,

sentence, clause or phrase of this Ordinance.

**SECTION 3. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**SECTION 4. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 26<sup>th</sup> day of March 2024.

\_\_\_\_\_  
Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

\_\_\_\_\_  
Mark Trenary, Councilmember

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney

PUBLISHED:  
EFFECTIVE DATE:

**ORDINANCE NO. 038-23**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE STORM DRAINAGE RATES AND CAPITAL FACILITY CHARGES (CFC); AMENDING PORT ORCHARD MUNICIPAL CODE (POMC) SECTION 13.06.100 TO UPDATE STORM DRAINAGE RATES THROUGH 2028; ADDING NEW SECTIONS 13.06.150 AND 13.06.160 TO THE POMC TO ADOPT STORM DRAINAGE CAPITAL FACILITY CHARGES AND INSPECTION FEES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City has been in the process of updating its Stormwater and Watersheds Comprehensive Plan; and

**WHEREAS**, on November 28, 2023, the City Council adopted the 2023 Stormwater and Watersheds Comprehensive Plan by resolution; and

**WHEREAS**, in coordination with the 2023 Stormwater and Watersheds Comprehensive Plan, the City reviewed storm drainage rates and the need for a capital facilities fee for new or expanded buildings and/or development that impact the storm drainage system; and

**WHEREAS**, in order to implement these rate changes and fees, amendments to Chapter 13.06 "Storm Drainage Utility" are needed; and

**WHEREAS**, the City Council finds that the amendments herein are consistent with goals and policies of the City's 2023 Stormwater and Watersheds Comprehensive Plan and related regulations, and serve the public health, safety, and general welfare of the citizens of Port Orchard; **now, therefore**,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** The above recitals are adopted as findings for this Ordinance.

**SECTION 2.** Section 13.06.100 of the Port Orchard Municipal Code is hereby amended to read as follows:

**13.06.100 Storm drainage service charges.**

In accordance with the basis for a rate structure set forth in POMC 13.06.070 and 13.06.080, there is levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected from the owners of such properties:

(1) ~~Effective January 1, 2009, the storm drainage charges are shown below:~~

~~(a) For all single family residential accounts, including mobile homes, the monthly~~

~~service charge shall be \$7.00.~~

~~(b) For all duplexes and triplexes, the monthly service charge shall be \$7.00 for each residential unit.~~

~~(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$7.00, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.~~

~~(2) Effective January 1, 2015, the storm drainage charges are shown below:~~

~~(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$9.70.~~

~~(b) For all duplexes and triplexes, the monthly service charge shall be \$9.70 for each residential unit.~~

~~(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$9.70, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.~~

~~(3) Effective June 1, 2015~~2024, the storm drainage charges are shown below:

~~(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$14.00~~18.34.

~~(b) For all duplexes and triplexes, the monthly service charge shall be \$14.00~~18.34 for each residential unit.

~~(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$14.00~~18.34, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(2) Effective January 1, 2025, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$24.03.

(b) For all duplexes and triplexes, the monthly service charge shall be \$24.03 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$24.03, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(3) Effective January 1, 2026, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$31.47.

(b) For all duplexes and triplexes, the monthly service charge shall be \$31.47 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$31.47, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(4) Effective January 1, 2027, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$32.42.

(b) For all duplexes and triplexes, the monthly service charge shall be \$32.42 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$32.42, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(5) Effective January 1, 2028, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$33.39.

(b) For all duplexes and triplexes, the monthly service charge shall be \$33.39 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$33.39 multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

**SECTION 3.** A new Section 13.06.150 is hereby added to the Port Orchard Municipal Code to read as follows:

**13.06.150 Storm drainage capital facilities charge.**

(1) The storm drainage capital facility charge is designed to mitigate the impact of new demands on the existing storm drainage system and to require new or expanded development to pay its fair share of the value of the storm drainage system including, but not limited to, storm drainage transmission, storage, management, filtration, and dispersal facilities in compliance with the City's NPDES permit. The storm drainage capital facility charge applies to new construction, changes in use, and building modifications which modify the ISU count for the property. Prior to connecting to the city's storm drainage system and obtaining either a building permit or certificate of occupancy, the property owner shall pay, in addition to other applicable charges, the applicable storm drainage capital facility charge. The storm drainage capital facility charge for a residential or nonresidential connection is based on a set fee per ISU which is set forth in POMC 13.06.160.

(2) Storm drainage Capital Facility Charge – Exception for Redevelopment or Change of Use. Property owners may apply to receive a partial or a full exception to the assessment of the storm drainage capital facility charge, provided all of the following requirements are met:

(a) Property owners must submit an application for a partial or a full exception on the city's application form prior to the issuance of any land use or



development permits which change the use or development of the property; and

(b) A nonresidential or residential account has continuously paid a minimum base fee as applicable; and

(c) The property owner decides to construct a new building, change the original use, or modify the original building; and

(d) For a full exception, after the building improvements are completed, or new use implemented, the total calculated ISU for the account will be equal to or less than the ISU number calculated by the city under the prior use or development consistent with this section. A partial exception is applicable when the new ISU calculation is larger than the existing ISU calculation. In such case the city will establish the prior calculated ISU which will be used as the basis for a credit toward the storm

(3) At the time the storm drainage capital facility charge is paid, a storm drainage inspection fee shall be paid. The storm drainage inspection fee is set forth in POMC 13.06.160.

**SECTION 4.** A new Section 13.06.160 is hereby added to the Port Orchard Municipal Code to read as follows:

**13.04.025 Fee schedule.**

(1) The fees set forth below are referenced in POMC 13.06.160.

Storm Drainage Fees	
---------------------	--

Storm Drainage Capital Facility Charge	POMC 13.06.150
Per ISU	\$3,087

Storm Drainage Inspection Fee	POMC 13.06.155
Per Connection	\$111.37

**SECTION 5. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause, or phrase of this ordinance.

**SECTION 6. Corrections.** Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this Ordinance, including but not limited to the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any reference thereto.

**SECTION 7. Effective Date.** This ordinance shall be posted and published as required by law and shall be effective and in full force five (5) days following publication, provided, however, that the rates and fees described in Sections 2 through 4 above, shall be effective April 1, 2024. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor Pro-Tem and attested by the Clerk in authentication of such passage this 12<sup>TH</sup> day of December 2023.

DocuSigned by:

Mark Trenary

AFF15B026C3E4D8

Mark Trenary, Mayor Pro-Tem

ATTEST:

*Jenine Floyd*  
Jenine Floyd, CMC, Deputy City Clerk

APPROVED AS TO FORM:

DocuSigned by:



203701F25520A57

Charlotte A. Archer, City Attorney

SPONSOR:

*Cindy Lucarelli*  
Cindy Lucarelli, Councilmember

PUBLISHED: December 15, 2023

EFFECTIVE DATE: December 20, 2023

