



City of Port Orchard Council Meeting Agenda
June 25, 2019
6:30 p.m.

Mayor:

Rob Putaansuu
Administrative Official

Councilmembers:

Bek Ashby (Mayor Pro-Tem)
Chair: ED/Tourism/LT Committee
Staff: Development Director
Finance Committee
KRCC / PSRC TransPol / KRCC TransPol
KRCC PlanPol-alt / PRTPO

Shawn Cucciardi
Finance Committee
Land Use Committee
PSRC EDD-alt

Fred Chang
Utilities Committee
Sewer Advisory Committee (SAC)
Staff: Public Works Director

Jay Rosapepe
ED/Tourism/LT Committee
Utilities Committee
Chair: Lodging Tax Committee
Sewer Advisory Committee (SAC)
KRCC-alt / KRCC TransPol-alt
Kitsap Transit-alt

John Clauson
Chair: Finance Committee
Staff: Finance Director
Kitsap Public Health District-alt
KEDA/KADA-alt

Cindy Lucarelli
Chair: Utilities and SAC Committee
Staff: Public Works Director
Chair: Chimes and Lights Committee
Staff: City Clerk
KEDA/KADA

Scott Diener
Chair: Land Use Committee
Staff: Development Director
ED/Tourism/LT Committee

Department Directors:
Nicholas Bond, AICP
Development Director

Mark Dorsey, P.E.
Director of Public Works/City Engineer

Tim Drury
Municipal Court Judge

Noah Crocker, M.B.A.
Finance Director

Geoffrey Marti
Police Chief

Brandy Rinearson, MMC, CPRO
City Clerk

Contact us:

216 Prospect Street
Port Orchard, WA 98366
(360) 876-4407

1. CALL TO ORDER

A. Pledge of Allegiance

2. APPROVAL OF AGENDA

3. CITIZENS COMMENTS

*(Please limit your comments to **3 minutes** for items listed on the Agenda and that are not for a Public Hearing. When recognized by the Mayor, please state your name for the official record)*

4. CONSENT AGENDA

(Approval of Consent Agenda passes all routine items listed below, which have been distributed to each Councilmember for reading and study. Consent Agenda items are not considered separately unless a Councilmember so requests. In the event of such a request, the item is returned to Business Items.)

A. Approval of Vouchers and Electronic Payments

B. Approval of Payroll and Direct Deposits

C. Excusal of Councilmember Lucarelli from Tonight's Meeting for Personal Reasons

5. PRESENTATION

6. PUBLIC HEARING

A. Public Hearing on Permanent Ordinance to Regulate Social Service Facilities to House Sexually Violent Predators and Repeal Interim Ordinance No. 015-19 (Bond) *Page 3*

7. BUSINESS ITEMS

A. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 20.39 to Provide Permanent Regulations for the Siting and Development of Secured Residential Facilities and Repeal Ordinance No. 015-19 (Bond) *Page 33*

B. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapters 20.39 and 20.58, Residential Yard, Garage and Estate Sales; Charitable Auctions and Rummage Sales; and Temporary Uses Exempt from Permit Requirements (Bond) *Page 35*

C. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 20.66 Vehicle Service and Repair Accessory to Residential Uses (Bond) *Page 47*

D. Adoption of an Ordinance Amending Provisions of Port Orchard Municipal Code Title 20 for Enforcement Provisions and Penalties (Bond) *Page 55*

E. Adoption of a Resolution Adopting the Final Plat of Plat of Muirfield Phase 1 (McCormick Woods Phase III) (Bond) *Page 71*

F. Adoption of a Resolution Approving a Contract with Reid Middleton, Inc. for the Downtown Stormwater Basin Plan Project and Documenting Procurement Procedures (Dorsey) **Page 87**

G. Approval of the June 11, 2019, City Council Meeting Minutes **Page 150**

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

*(Please limit your comments to **3 minutes** for any items not up for Public Hearing. When recognized by the Mayor, please state your name for the official record)*

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

14. ADJOURNMENT

COMMITTEE MEETINGS

	Date & Time	Location
Finance	TBD	City Hall
Economic Development and Tourism	July 8, 2019; 9:30am	City Hall
Utilities	July 15, 2019; 9:30am	City Hall
Sewer Advisory	August 14, 2019; 6:30pm	City Hall
Land Use	July 1, 2019; 9:30am	DCD*
Lodging Tax Advisory	TBD	City Hall
Festival of Chimes & Lights	August 19, 2019; 3:30pm	City Hall
Outside Agency Committees	Varies	Varies

*DCD, Department of Community Development, 720 Prospect Street, Port Orchard

CITY COUNCIL GOOD OF THE ORDER

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.
The Council may consider other ordinances and matters not listed on the Agenda, unless specific notification period is required.
Meeting materials are available on the City's website at: www.cityofportorchard.us or by contacting the City Clerk's office at (360) 876-4407.
The City of Port Orchard does not discriminate on the basis of disability. Contact the City Clerk's office should you need special accommodations.



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.:	<u>Public Hearing 6A</u>	Meeting Date:	<u>June 25, 2019</u>
Subject:	<u>Public Hearing on Permanent Ordinance to Regulate Social Service Facilities to House Sexually Violent Predators and Repeal Interim Ordinance No. 015-19</u>	Prepared by:	<u>Nicholas Bond, AICP DCD Director</u>
		Atty Routing No.:	<u>022-19</u>
		Atty Review Date:	<u>May 6, 2019</u>

Summary: On April 9, 2019, the City Council adopted an emergency interim zoning ordinance (Ordinance 015-19) to provide regulations for the siting and development of secured residential facilities for sexually violent predators (“Secured High Risk Social Service Facilities”). Per RCW 36.70A.390, the Council is required to hold a public hearing within 60 days of adoption of an interim zoning ordinance. The Council held a public hearing on May 14, 2019. Following the public hearing, the Council directed staff to work with the City Attorney to prepare a permanent ordinance, based on the emergency interim ordinance, to be adopted by the end of June 2019.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends that the City Council hold a public hearing on the permanent ordinance amending Chapter 20.39 POMC to provide permanent regulations for the siting and development of secured residential facilities for sexually violent predators and repealing Interim Ordinance No 015-19.

Fiscal Impact: This proposal is not expected to impact the city’s budget.

Alternatives: Do not hold the public hearing.

Attachments: Ordinance; Interim Ordinance 015-19

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ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING CHAPTER 20.39 OF THE PORT ORCHARD MUNICIPAL CODE TO ADOPT REGULATIONS RELATED TO SOCIAL SERVICES FACILITIES; REPEALING INTERIM ORDINANCE NO. 015-19; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1990, Washington State passed a law, Chapter 71.09 RCW, to authorize the indefinite civil commitment of individuals found by a Superior Court to be a Sexually Violent Predator (SVP); and

WHEREAS, certain individuals that are civilly committed as SVPs have fulfilled their sentence, but have been found to suffer from a mental abnormality or personality disorder that makes the individual likely to reoffend if not confined in a secure facility; and

WHEREAS, in 1991, a federal district court civil rights lawsuit was filed alleging violations of the constitutional rights of individuals that were civilly committed under Washington law; and

WHEREAS, in 1994, the Federal District Court for Western Washington entered an order and injunction requiring the state to provide constitutionally adequate mental health treatment for individuals that have been civilly committed. The court also found that the lack of a less restrictive alternative (LRA) to total confinement limited an individual's opportunity to demonstrate their reduced risk and ordered the state to explore alternatives; and

WHEREAS, in 2007, the federal district court dismissed the injunction and closed the case after the state established two Secure Community Transition Facilities (SCTF) and amended state law, RCW 71.09.070, to require an annual review to determine if an SVP is eligible for placement in an LRA; and

WHEREAS, an LRA is a facility that provides court-ordered supervision, security, and treatment to individuals that have been civilly committed and conditionally released from a total confinement facility; and

WHEREAS, Washington State does not regulate the location or land use and life safety impacts of community based LRAs; and

WHEREAS, the City Council of the City of Port Orchard determined that current city regulations do not sufficiently define LRA facilities or mitigate their land use and life safety impacts to protect both the residents of potential LRA facilities within the city or the

neighbors of such facilities; and

WHEREAS, the Growth Management Act (GMA), Chapter 36.70A RCW, provides that each jurisdiction's comprehensive land use plan and development regulations shall be subject to continuing review and evaluation; and

WHEREAS, the City Council adopted an interim zoning ordinance (Interim Ordinance No. 015-19) to protect public health and safety pursuant to RCW 36.70A.390; and

WHEREAS, on May 14, 2019, pursuant to RCW 36.70A.390, the City Council held a public hearing, which was within sixty (60) days of the adoption of Interim Ordinance No. 015-19; and

WHEREAS, on April 29, 2019, the City of Port Orchard notified the Department of Commerce of its intent to adopt a permanent ordinance to replace Interim Ordinance No. 015-19; and

WHEREAS, on June 4, 2019, the Planning Commission reviewed the proposed permanent ordinance, and recommended approval of the permanent ordinance to the City Council; and

WHEREAS, on June 25, 2019, pursuant to Section 5 of Interim Ordinance No. 015-19, the City Council held a public hearing on the proposed permanent ordinance; and

WHEREAS, the City Council considered the oral testimony and written information provided at the public hearings, if any; and

WHEREAS, the City Council now desires to enact permanent regulations to protect public health and safety in a way that mitigates land use and life safety impacts without precluding the state-mandated placement of housing for persons that are civilly committed and conditionally released to a less restrictive alternative to total confinement; now, therefore,

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

SECTION 1. Findings. The City Council adopts all of the "Whereas" sections of this Ordinance as findings in support of this Ordinance.

SECTION 2. Amendments to POMC 20.39.040 Use Table Adopted. Amendments to the Use Table set forth in Section 20.39.040 of the Port Orchard Municipal Code (POMC) are hereby

permanently adopted as set forth in Attachment 1, attached hereto and incorporated herein by this reference.

SECTION 3. Amendments to POMC 20.39.120 Adopted. Amendments to the definition of “Social Services” set forth in POMC 20.39.120 are hereby permanently adopted as follows:

20.39.120 Social Services. Defined: A facility that provides treatment for persons not protected under the Fair Housing Act or who present a direct threat to the persons or property of others. Includes persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders. Also includes facilities that provide transient housing related to post-incarceration and social service programs. Does not include facilities serving persons who have been civilly committed as Sexually Violent Predators (SVPs) and conditionally released to a less restrictive alternative (LRA) in accordance with Chapter 71.09 RCW. Such facilities are are addressed in POMC 20.39.122, below (“Secured High Risk Social Service Facilities”).

SECTION 4. New POMC Section 20.39.122 Adopted. A new POMC Section 20.39.122 is hereby permanently adopted as follows:

20.39.122. Secured High Risk Social Service Facilities. Secured high risk social service facilities are facilities serving one or more persons civilly committed as Sexually Violent Predators (SVPs) and conditionally released to a less restrictive alternative (LRA) in accordance with Chapter 71.09 RCW. An LRA is a facility that provides court-ordered supervision, security, and sex offender treatment services.

(1) Secured high risk social services facilities shall only be permitted in zones where permitted as a conditional use in the land use table in this chapter.

(2) Where indicated as a conditional use in the use table, Section 20.39.040, a secured high risk social services facility is required to obtain a conditional use permit per Chapter 20.50. In addition to the criteria for approval in Section 20.50.050, the hearing examiner must also make the following findings in order to issue the conditional use permit:

(a) The city shall hold a neighborhood meeting prior to a public hearing for the proposed secured high risk social services facility. The project applicant shall cover all meeting costs.

(b) The city shall provide community notification to all landowners within a half-mile radius of the proposed secured high risk social services facility at least two (2) weeks prior to a neighborhood meeting. The project applicant shall cover all community notification costs.

(c) The secured high risk social services facility shall not be located adjacent to, immediately across a street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time the secured high risk social services facility is established.

(i) "Within the line of sight" means that it is possible to reasonably visually distinguish and recognize individuals.

(ii) "Risk potential activities and facilities" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released to an LRA. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified during a public hearing. For the purposes of this section, "school bus stops" does not include bus stops established primarily for public transit.

(d) The secured high risk social services facility shall not be located in a community protection zone as defined in RCW 9.94A.030(6).

(i) Distance shall be measured from all property lines of the social services facility and from all property lines of the facilities and grounds of a public or private school.

(e) The secured high risk social services facility shall meet the applicable health district standards for water and sewage disposal to account for staff and residents.

(f) Principal access to the secured high risk social services facility shall be from a city-maintained right-of-way.

(g) If a person's liberty is restricted or a person is not capable of self-preservation without physical assistance, the secured high risk social services facility shall be equipped with an automated fire sprinkler system as required by the building code.

(h) If windows/doors are required to be secured, the secured high risk social services facility shall have a system to automatically release locks, which shall be interlocked with the fire protection system.

(i) The secured high risk social services facility shall have backup power sufficient to energize the safety and security systems in the event of a power outage.

SECTION 5. Repeal of Interim Ordinance. Interim Ordinance No. 015-19 is hereby repealed in its entirety as of the effective date of this Ordinance.

SECTION 6. Severability. If any section, sentence, clause or phrase of this Ordinance or its application to any person or circumstance should be 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 section, sentence, clause or phrase of this Ordinance nor shall the application of the provision to other persons or circumstances be affected.

SECTION 7. Clerical/Typographical Error. Should this Ordinance, upon being enacted by the City Council of the City of Port Orchard during its deliberations on June 25, 2019 have anything inadvertently left out or in error upon publication, the explicit action of the City Council as discussed and passed shall prevail upon subsequent review and verification by the City Council.

SECTION 8. Effective Date. This Ordinance shall be in full force and effect five (5) days after posting and publication, as required by law. A summary of the Ordinance may be published in lieu of the entire Ordinance, as authorized by State 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 25th day of June 2019.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Sharon Cates, City Attorney

Bek Ashby, Councilmember

PUBLISHED:

EFFECTIVE DATE:

ATTACHMENTS:

Attachment 1: Amended POMC 20.39.40 Use Table

20.39.040 Use table.

(Gray shading separates categories into Residential, Commercial & Industrial, & Civic/Parks)

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Residential Uses																						
All household living, as listed below:																						
Single-family detached (including new manufactured homes)	P	P	P	--	--	P	P		P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Designated Manufactured Home, Manufactured or Mobile Home (except for new designated manufactured homes)	--	-	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.600-615
New Designated Manufactured Home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	
Two-family	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Single-family attached (2 units)	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Single-family attached (3 or 4 units)	--	P	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Single-family attached (5 or 6 units)	--	--	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Multi-family (3 or 4 units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Multi-family (5 or more units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Manufactured or Mobile Home Park	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.600-615
Boarding House	--	--	--	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Congregate Living Facilities	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Lodging House	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Group home (up to 8 residents), except as follows:	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Adult Family Home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	
All group living (9 or more residents)	--	--	--	C	C	--	--	P	C	P	C	--	P	P	--	--	--	--	--	--	--	20.39.610
Social Services Facilities	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P		--	--	--	20.39.615
Secured High Risk Social Services Facilities	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards	
Public Uses																							
All civic uses, as listed below:																							
Community college, university, trade or technical school (8,000 square feet or less).	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	20.39.240	
Community college, university, trade or technical school (more than 8,000 square feet).	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	--	C	20.39.240	
Club or lodge	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	20.39.240	
Public use	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.240	
Museum, library	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--	P	20.39.240	
Place of worship	C	C	C	C	C	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	20.39.240	
School (K-12)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	20.39.240	
Jail or Detention Center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	20.39.240
Transit park and ride lot	--	-	C	C	C	-	--	C	C	P	C	C	C	P	P	P	P	P	P	--	P		
Transfer station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	20.39.230	
Transit bus base	-	-	-	-	-	-	-	-	-	-	-	-	-	-	--	--	P	P	-	-	P	20.39.210	
All open space and park uses, as listed below:																							
Cemetery	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	20.39.410	
Golf course	C	C	C	--	--	C	--	--	--	--	--	--	--	C	--	--	--	--	--	P	P	20.39.410	
Park, recreation field	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	20.39.410	
Animal shelter or adoption center	--	--	--	--	--	--	--	--	--	--	--	--	--	C-	C	C	C	C	C	--	C-	20.39.200	
All utilities, as listed below:																							
Minor utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.415	
Major utilities	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	P	20.39.415	
Wireless telecommunication facilities, as listed below																							
Amateur radio operator tower	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.270	
Small cell wireless telecommunication facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.270	

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Wireless telecommunication tower (excludes small cell facilities)	C	C	C	C	C	C	--	C	C	C	C	C	C	C	C	C	C	C	C	--	C	20.39.270
Commercial Uses																						
All day care, as listed below:																						
Family day care (6 children or fewer)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.505
Group day care (mini day care) (7 to 12)	C	C	C	--	--	C	C	C	P	P	--	P	P	P	--	--	--	--	--	--	--	20.39.505
Day care center (13 or more)	--	--	--	--	--	--	--	C	C	C	--	P	C	P	P	--	--	--	--	--	--	20.39.505
All indoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	P	C	P	--	P	P	--	--	--	--	C	--	
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	C	20.39.510
Special event facility	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	C	C	--	C	C	C	20.39.510
Commercial Entertainment, except as follows:	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	--	
Adult Entertainment	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	20.39.515
All outdoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	C-	C	P	--	P	P	--	--	--	--	C	C	
Campground, travel trailer park, RV park (does not include mobile home park)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	20.39.530
Horse stable, riding academy, equestrian center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	20.39.530
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	20.39.530
Marina (upland areas)	--	--	--	--	--	--	--	--	--	--	C	C	--	C	C	C	C	C	C	C	C	20.39.575
All overnight lodging, as listed below:																						
Level 1: Vacation rentals or similar short-term house/room rentals	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	---	--	--	--	--	20.39.535
Level 2: Bed and breakfast (up to 7 rooms)	C	C	C	--	--	C	C	--	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.535
Level 3: Motel	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	--	20.39.535

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Level 4: Hotel										P	P	P	--	P	P							20.39.535
All medical, except as listed below:	--	--	--	--	--	--	--	--		C	C	P	P	P	P	P	--	--	--	--	P	
Hospital	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	C	20.39.520
All office, except as listed below:	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	P	--	--	--	--	--	
Bail bonds	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	--	--	--	--	--	--	20.39.525
Surface parking: commercial parking, commuter lease parking or park and ride, remote parking	--	--	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	--	P	--	C	20.39.540
Commercial parking garage – standalone	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	P	--	--	--	--	C	20.39.540
Electric vehicle charging stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.12
All personal service, except as listed below:	--	--	--	--	--	--	--	C	C	P	C	P	P	P	P	C	--	--	--	--	--	
Funeral home	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	--	--	--	--	--	--	20.39.545
Crematorium	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	20.39.545
Indoor animal care	--	--	--	--	--	--	--	--	C	P	--	P	--	P	P	P	--	--	--	--	--	20.39.550
Outdoor animal care	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	20.39.555
Business services	--	--	--	--	--	--	--	C	P	P	P	P	P	P	P	P	--	--	C	--	--	20.39.570
Conference center	-	-	-	-	-	-	-	-	-	-	C	C	C	C	C	-	-	-	C	-	C	20.39.310
All restaurants except as listed below:	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	--	--	--	--	--	--	
Food truck	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	20.39.562
All retail sales, as listed below:																						
Retail establishment (up to 5,000 gross floor area)	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	20.39.565
Retail establishment (5,001 - 15,000 gross floor area)	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	P	--	--	--	--	--	20.39.565

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Retail establishment (15,001 - 50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	--	20.39.565
Retail establishment over (50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	--	--	20.39.565
Fireworks sales in accordance with POMC 5.60.	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	
Recreational marijuana sales	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	--	--	--	--	20.64
Convenience store with fuel pumps	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	--	--	--	20.39.565
Convenience store without fuel pumps	--	--	--	--	--	--	--	--	C	C	C	--	--	P	P	P	--	--	--	--	--	20.39.565
Fuel station, including fuel pumps and fuel sales, without convenience store	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	--	--	--	--	
Automobile service station.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	P	-	-	-	-	20.39.300
All vehicle and tool/construction equipment sales and rental, as listed below:																						
Light vehicle and light tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.565
Heavy vehicle and heavy tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.565
All vehicle service and repair, as listed below:																						
Car wash	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	20.39.625
Vehicle service and repair, minor	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.640
Vehicle service and repair, major	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.645
Vehicle service and repair, commercial vehicle	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.650

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Industrial Uses																						
All heavy industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	20.39.605
All light manufacturing, except as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	
Commercial laundry, dry cleaning or carpet cleaning facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.610
Brewery, Distillery under 5,000 square feet	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	--	--	--	--	--	--	
Brewery, Distillery 5,001-15,000 square feet	--	--	--	--	--	--	--	--	--	--	C	C	--	C	P	P	--	--	--	--	--	
Brewery, Distillery over 15,000 square feet	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	
Craft shop	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	20.39.610
Food and beverage processing, boutique (area used for processing less than 3,000 SF)	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	20.39.610
Food and beverage processing, industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.610
Recreational marijuana production	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	20.64
All research and development	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	--	20.39.615
Resource extraction – mining, dredging, raw mineral processing, except:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	20.39.620
Timber harvesting in the absence of concurrent development	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Sand and Gravel Mining	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	
Stockpiling of sand, gravel or other aggregate materials	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	--	--	P	20.39.620
Sheet metal, welding, machine shop, tool and equipment manufacturing, vehicle painting facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	P	--	--	P	20.39.610
All warehouse, storage and distribution, as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	
Enclosed storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	20.39.655

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Self-service storage, mini-warehouse	--	--	--	--	--	--	--	--	--	C	--	--	--	C	C	C	--	--	--	--	--	20.39.655
Storage yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	P	P			P	20.39.470
All waste-related service, including wastewater treatment facilities, decant facilities and recycling centers	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	P	20.39.660
Recreational marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	20.64
Agricultural Uses																						
All agriculture, as listed below:																						
Agricultural processing, excluding marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	20.39.705
Community garden	P	P	P	P	P	P	--	P	P	P	--	--	--	--	--	--	--	--	--	P	P	20.39.705
Nursery	--	--	--	--	--	--	P	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.705
Winery	--	--	--	--	--	--	C	--	--	C	C	C	--	P	P	P	P	--	--	--	--	20.39.705
Accessory uses not otherwise listed below, as determined by the [Administrator]:																						
Accessory dwelling units, as listed below:																						
Accessory apartment (attached dwelling)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.68, 20.39.805
Backyard cottage dwelling	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.805
Drive-thru facility	--	--	--	--	--	--	--	--	--	C	--	--	--	P	P	P	P	--	--	--	--	20.39.870
Home occupation	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.830
Home business	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.835
Livestock keeping	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.845
Outdoor display	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	--	20.39.850

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards	
Outdoor storage as listed below:																							
Low-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	20.39.855	
High-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.855	
Self-Storage as accessory use to Apartment Building	--	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.860	
Vehicle service and repair, accessory to a residential use	P	P	--	--	--	P	P	--	--	--	--	--	--	P	P	--	--	--	--	--	--	20.39.900	
Park as accessory use to residential development	P	P	P	P	P	P	--	P	P	P	P	P	P	--	--	--	--	--	--	--	--		
Medical marijuana cooperative	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	Ch. 20.64	

Key: P = Permitted Use C = Conditional Use -- = Use Not Permitted

ORDINANCE NO. 015-19

AN EMERGENCY INTERIM ZONING ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING CHAPTER 20.39 OF THE PORT ORCHARD MUNICIPAL CODE TO ADOPT INTERIM REGULATIONS RELATED TO SOCIAL SERVICES FACILITIES; PROVIDING FOR A PUBLIC HEARING, SEVERABILITY, CORRECTIONS, AND PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1990, Washington State passed a law, Chapter 71.09 RCW, to authorize the indefinite civil commitment of individuals found by a Superior Court to be a Sexually Violent Predator (SVP); and

WHEREAS, certain individuals that are civilly committed as SVPs have fulfilled their sentence, but have been found to suffer from a mental abnormality or personality disorder that makes the individual likely to reoffend if not confined in a secure facility; and

WHEREAS, in 1991, a federal district court civil rights lawsuit was filed alleging violations of the constitutional rights of individuals that were civilly committed under Washington law; and

WHEREAS, in 1994, the Federal District Court for Western Washington entered an order and injunction requiring the state to provide constitutionally adequate mental health treatment for individuals that have been civilly committed. The court also found that the lack of a less restrictive alternative (LRA) to total confinement limited an individual's opportunity to demonstrate their reduced risk and ordered the state to explore alternatives; and

WHEREAS, in 2007, the federal district court dismissed the injunction and closed the case after the state established two Secure Community Transition Facilities (SCTF) and amended state law, RCW 71.09.070, to require an annual review to determine if an SVP is eligible for placement in an LRA; and

WHEREAS, an LRA is a facility that provides court-ordered supervision, security, and treatment to individuals that have been civilly committed and conditionally released from a total confinement facility; and

WHEREAS, Washington State does not regulate the location or land use and life safety impacts of community based LRAs; and

WHEREAS, the City Council of the City of Port Orchard has determined that current city regulations do not sufficiently define LRA facilities or mitigate their land use and life safety impacts to protect both the residents of potential LRA facilities within the city or the neighbors of such facilities; and

WHEREAS, the Growth Management Act (GMA), Chapter 36.70A RCW, provides that each jurisdiction's comprehensive land use plan and development regulations shall be subject to continuing review and evaluation; and

WHEREAS, the City Council has authority to adopt interim zoning regulations to protect public health and safety pursuant to RCW 36.70A.390; and

WHEREAS, the City Council desires to enact interim regulations to protect public health and safety in a way that mitigates land use and life safety impacts without precluding the state-mandated placement of housing for persons that are civilly committed and conditionally released to a less restrictive alternative to total confinement; now, therefore,

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

SECTION 1. Findings. The City Council adopts all of the "Whereas" sections of this Ordinance as findings in support of this Ordinance.

SECTION 2. Amendments to POMC 20.39.040 Use Table Adopted. Amendments to the Use Table set forth in Section 20.39.040 of the Port Orchard Municipal Code (POMC) are hereby adopted as set forth in Attachment 1, attached hereto and incorporated herein by this reference.

SECTION 3. Amendments to POMC 20.39.120 Adopted. Amendments to the definition of "Social Services" set forth in POMC 20.39.120 are hereby adopted as follows:

20.39.120 Social Services. Defined: A facility that provides treatment for persons not protected under the Fair Housing Act or who present a direct threat to the persons or property of others. Includes persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders. Also includes facilities that provide transient housing related to post-incarceration and social service programs. Does not include facilities serving persons who have been civilly committed as Sexually Violent Predators (SVPs) and conditionally

released to a less restrictive alternative (LRA) in accordance with Chapter 71.09 RCW. Such facilities are addressed in POMC 20.39.122 (“Secured High Risk Social Service Facilities”).

SECTION 4. New POMC Section 20.39.122 Adopted. A new POMC Section 20.39.122 is hereby adopted as follows:

20.39.122. Secured High Risk Social Service Facilities. Secured high risk social service facilities are facilities serving one or more persons civilly committed as Sexually Violent Predators (SVPs) and conditionally released to a less restrictive alternative (LRA) in accordance with Chapter 71.09 RCW. An LRA is a facility that provides court-ordered supervision, security, and sex offender treatment services.

(1) Secured high risk social services facilities shall only be permitted in zones where permitted as a conditional use in the land use table in this chapter.

(2) Where indicated as a conditional use in the use table, Section 20.39.040, a secured high risk social services facility is required to obtain a conditional use permit per Chapter 20.50. In addition to the criteria for approval in Section 20.50.050, the hearing examiner must also make the following findings in order to issue the conditional use permit:

(a) The city shall hold a neighborhood meeting prior to a public hearing for the proposed secured high risk social services facility. The project applicant shall cover all meeting costs.

(b) The city shall provide community notification to all landowners within a half-mile radius of the proposed secured high risk social services facility at least two (2) weeks prior to a neighborhood meeting. The project applicant shall cover all community notification costs.

(c) The secured high risk social services facility shall not be located adjacent to, immediately across a street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time the secured high risk social services facility is established.

(i) “Within the line of sight” means that it is possible to reasonably visually distinguish and recognize individuals.

(ii) “Risk potential activities and facilities” means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released to an LRA. Risk potential activities and facilities include: Public and private schools, school bus stops,

licensed day care and licensed preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified during a public hearing. For the purposes of this section, "school bus stops" does not include bus stops established primarily for public transit.

(d) The secured high risk social services facility shall not be located in a community protection zone as defined in RCW 9.94A.030(6).

(i) Distance shall be measured from all property lines of the social services facility and from all property lines of the facilities and grounds of a public or private school.

(e) The secured high risk social services facility shall meet the applicable health district standards for water and sewage disposal to account for staff and residents.

(f) Principal access to the secured high risk social services facility shall be from a city-maintained right-of-way.

(g) If a person's liberty is restricted or a person is not capable of self-preservation without physical assistance, the secured high risk social services facility shall be equipped with an automated fire sprinkler system as required by the building code.

(h) If windows/doors are required to be secured, the secured high risk social services facility shall have a system to automatically release locks, which shall be interlocked with the fire protection system.

(i) The secured high risk social services facility shall have backup power sufficient to energize the safety and security systems in the event of a power outage.

SECTION 5. Public Hearing. This Ordinance is being adopted as an interim measure to mitigate land use impacts of housing for persons that have been civilly committed and conditionally released to a less restrictive alternative. A public hearing will be held, pursuant to the provisions of RCW 36.70A.390 within sixty (60) days of the date of this Ordinance. Following the public hearing, the Department of Community Development may be directed to develop a permanent Ordinance which will be considered at a public hearing within six (6) months of the date of this Ordinance.

SECTION 6. Severability. If any section, sentence, clause or phrase of this Ordinance or its application to any person or circumstance should be 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 section, sentence, clause or phrase of this Ordinance nor shall the application of the provision to other persons or circumstances be affected.

SECTION 7. Clerical/Typographical Error. Should this Ordinance, upon being enacted by the City Council of the City of Port Orchard during its deliberations on April 9, 2019 have anything inadvertently left out or in error upon publication, the explicit action of the City Council as discussed and passed shall prevail upon subsequent review and verification by the City Council.

SECTION 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

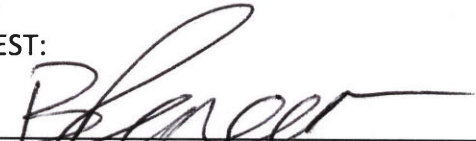
SECTION 9. Declaration of Emergency. Pursuant to RCW 35A.12.130, the City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect immediately upon passage by a majority vote plus one of the whole membership of the Council. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

SECTION 10. Effective Date. In accordance with RCW 35A.12.130, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

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 9th day of April 2019.




Robert Putaansuu, Mayor

ATTEST:


Brandy Rinearson, MMC, City Clerk



APPROVED AS TO FORM:


Sharon Cates, City Attorney

SPONSOR


Shawn Cucciardi, Councilmember

PUBLISHED: April 19, 2019

EFFECTIVE DATE: April 24, 2019

ATTACHMENTS:

Attachment 1: Amended POMC 20.39.40 Use Table

20.39.040 Use table.

(Gray shading separates categories into Residential, Commercial & Industrial, & Civic/Parks)

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Residential Uses																						
All household living, as listed below:																						
Single-family detached (including new manufactured homes)	P	P	P	--	--	P	P		P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Designated Manufactured Home, Manufactured or Mobile Home (except for new designated manufactured homes)	--	-	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.600-615
New Designated Manufactured Home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	
Two-family	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Single-family attached (2 units)	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Single-family attached (3 or 4 units)	--	P	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Single-family attached (5 or 6 units)	--	--	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Multi-family (3 or 4 units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Multi-family (5 or more units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	20.39.600-615
Manufactured or Mobile Home Park	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.600-615
Boarding House	--	--	--	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Congregate Living Facilities	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Lodging House	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Group home (up to 8 residents), except as follows:	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600-615
Adult Family Home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	
All group living (9 or more residents)	--	--	--	C	C	--	--	P	C	P	C	--	P	P	--	--	--	--	--	--	--	20.39.610
Social Services Facilities	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P		--	--	--	20.39.615

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Specific Use																						
Secured High Risk Social Services Facilities	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	
Public Uses																						
All civic uses, as listed below:																						
Community college, university, trade or technical school (8,000 square feet or less).	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	20.39.240
Community college, university, trade or technical school (more than 8,000 square feet).	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	--	C	20.39.240
Club or lodge	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	20.39.240
Public use	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.240
Museum, library	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--	P	20.39.240
Place of worship	C	C	C	C	C	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	20.39.240
School (K-12)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	20.39.240
Jail or Detention Center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	20.39.240
Transit park and ride lot	--	-	C	C	C	-	--	C	C	P	C	C	C	P	P	P	P	P	P	--	P	
Transfer station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	20.39.230
Transit bus base	-	-	-	-	-	-	-	-	-	-	-	-	-	-	--	--	P	P	-	-	P	20.39.210
All open space and park uses, as listed below:																						
Cemetery	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	20.39.410
Golf course	C	C	C	--	--	C	--	--	--	--	--	--	--	C	--	--	--	--	--	P	P	20.39.410
Park, recreation field	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	20.39.410
Animal shelter or adoption center	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	--	C	20.39.200
All utilities, as listed below:																						
Minor utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.415
Major utilities	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	P	20.39.415
Wireless telecommunication facilities, as listed below																						
Amateur radio operator tower	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.270

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Small cell wireless telecommunication facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.270
Wireless telecommunication tower (excludes small cell facilities)	C	C	C	C	C	C	--	C	C	C	C	C	C	C	C	C	C	C	C	--	C	20.39.270
Commercial Uses																						
All day care, as listed below:																						
Family day care (6 children or fewer)	P	P	P	--	--	P	P	--	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.505
Group day care (mini day care) (7 to 12)	C	C	C	--	--	C	C	C	P	P	--	P	P	P	--	--	--	--	--	--	--	20.39.505
Day care center (13 or more)	--	--	--	--	--	--	--	C	C	C	--	P	C	P	P	--	--	--	--	--	--	20.39.505
All indoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	P	C	P	--	P	P	--	--	--	--	C	--	
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	C	20.39.510
Special event facility	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	C	C	--	C	C	C	20.39.510
Commercial Entertainment, except as follows:	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	--	
Adult Entertainment	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	20.39.515
All outdoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	C	C	P	--	P	P	--	--	--	--	C	C	
Campground, travel trailer park, RV park (does not include mobile home park)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	20.39.530
Horse stable, riding academy, equestrian center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	20.39.530
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	20.39.530
Marina (upland areas)	--	--	--	--	--	--	--	--	--	--	C	C	--	C	C	C	C	C	C	C	C	20.39.575
All overnight lodging, as listed below:																						
Level 1: Vacation rentals or similar short-term house/room rentals	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	--	--	--	--	20.39.535

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Level 2: Bed and breakfast (up to 7 rooms)	C	C	C	--	--	C	C	--	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.535
Level 3: Motel	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	--	20.39.535
Level 4: Hotel										P	P	P	--	P	P							20.39.535
All medical, except as listed below:	--	--	--	--	--	--	--	--		C	C	P	P	P	P	P	--	--	--	--	P	
Hospital	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	C	20.39.520
All office, except as listed below:	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	P	--	--	--	--	--	
Bail bonds	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	--	--	--	--	--	--	20.39.525
Surface parking: commercial parking, commuter lease parking or park and ride, remote parking	--	--	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	--	P	--	C	20.39.540
Commercial parking garage – standalone	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	P	--	--	--	--	C	20.39.540
Electric vehicle charging stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.12
All personal service, except as listed below:	--	--	--	--	--	--	--	C	C	P	C	P	P	P	P	C	--	--	--	--	--	
Funeral home	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	--	--	--	--	--	--	20.39.545
Crematorium	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	20.39.545
Indoor animal care	--	--	--	--	--	--	--	--	C	P	--	P	--	P	P	P	--	--	--	--	--	20.39.550
Outdoor animal care	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	20.39.555
Business services	--	--	--	--	--	--	--	C	P	P	P	P	P	P	P	P	--	--	C	--	--	20.39.570
Conference center	-	-	-	-	-	-	-	-	-	-	C	C	C	C	C	-	-	-	C	-	C	20.39.310
All restaurants except as listed below:	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	--	--	--	--	--	--	
Food truck	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	20.39.562
All retail sales, as listed below:																						
Retail establishment (up to 5,000 gross floor area)	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	20.39.565

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Retail establishment (5,001 - 15,000 gross floor area)	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	P	--	--	--	--	--	20.39.565
Retail establishment (15,001 - 50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	--	20.39.565
Retail establishment over (50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	--	--	20.39.565
Fireworks sales in accordance with POMC 5.60.	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	
Recreational marijuana sales	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	--	--	--	--	20.64
Convenience store with fuel pumps	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	--	--	--	20.39.565
Convenience store without fuel pumps	--	--	--	--	--	--	--	--	C	C	C	--	--	P	P	P	--	--	--	--	--	20.39.565
Fuel station, including fuel pumps and fuel sales, without convenience store	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	--	--	--	--	
Automobile service station.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	P	-	-	-	-	20.39.300
All vehicle and tool/construction equipment sales and rental, as listed below:																						
Light vehicle and light tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.565
Heavy vehicle and heavy tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.565
All vehicle service and repair, as listed below:																						
Car wash	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	20.39.625
Vehicle service and repair, minor	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.640
Vehicle service and repair, major	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.645

Use Category	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Vehicle service and repair, commercial vehicle	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.650
Industrial Uses																						
All heavy industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	20.39.605
All light manufacturing, except as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	
Commercial laundry, dry cleaning or carpet cleaning facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.610
Brewery, Distillery under 5,000 square feet	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	--	--	--	--	--	--	
Brewery, Distillery 5,001-15,000 square feet	--	--	--	--	--	--	--	--	--	--	C	C	--	C	P	P	--	--	--	--	--	
Brewery, Distillery over 15,000 square feet	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	
Craft shop	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	20.39.610
Food and beverage processing, boutique (area used for processing less than 3,000 SF)	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	20.39.610
Food and beverage processing, industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.610
Recreational marijuana production	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	20.64
All research and development	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	--	20.39.615
Resource extraction – mining, dredging, raw mineral processing, except:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	20.39.620
Timber harvesting in the absence of concurrent development	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Sand and Gravel Mining	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	
Stockpiling of sand, gravel or other aggregate materials	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	--	--	P	20.39.620
Sheet metal, welding, machine shop, tool and equipment manufacturing, vehicle painting facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	P	--	--	P	20.39.610

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
All warehouse, storage and distribution, as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	
Enclosed storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	20.39.655
Self-service storage, mini-warehouse	--	--	--	--	--	--	--	--	--	C	--	--	--	C	C	C	--	--	--	--	--	20.39.655
Storage yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	P	P			P	20.39.470
All waste-related service, including wastewater treatment facilities, decant facilities and recycling centers	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	P	20.39.660
Recreational marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	20.64
Agricultural Uses																						
All agriculture, as listed below:																						
Agricultural processing, excluding marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	20.39.705
Community garden	P	P	P	P	P	P	--	P	P	P	--	--	--	--	--	--	--	--	--	P	P	20.39.705
Nursery	--	--	--	--	--	--	P	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.705
Winery	--	--	--	--	--	--	C	--	--	C	C	C	--	P	P	P	P	--	--	--	--	20.39.705
Accessory uses not otherwise listed below, as determined by the [Administrator]:																						
Accessory dwelling units, as listed below:																						
Accessory apartment (attached dwelling)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.68, 20.39.80
Backyard cottage dwelling	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.805
Drive-thru facility	--	--	--	--	--	--	--	--	--	C	--	--	--	P	P	P	P	--	--	--	--	20.39.870
Home occupation	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.830

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Home business	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.835
Livestock keeping	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.845
Outdoor display	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	--	20.39.850
Outdoor storage as listed below:																						
Low-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	20.39.855
High-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.855
Self-Storage as accessory use to Apartment Building	--	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.860
Vehicle service and repair, accessory to a residential use	P	P	--	--	--	P	P	--	--	--	--	--	--	P	P	--	--	--	--	--	--	20.39.900
Park as accessory use to residential development	P	P	P	P	P	P	--	P	P	P	P	P	P	--	--	--	--	--	--	--	--	
Medical marijuana cooperative	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	Ch. 20.64

Key: P = Permitted Use C = Conditional Use -- = Use Not Permitted



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: Business Item 7A
Subject: Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 20.39 to Provide Permanent Regulations for the Siting and Development of Secured Residential Facilities and Repeal Ordinance No. 015-19

Meeting Date: June 25, 2019
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: 022-19
Atty Review Date: May 6, 2019

Summary: On April 9, 2019, the City Council adopted an emergency interim zoning ordinance (Ordinance 015-19) to provide regulations for the siting and development of secured residential facilities for sexually violent predators (“Secured High Risk Social Service Facilities”). Per RCW 36.70A.390, the Council is required to hold a public hearing within 60 days of adoption of an interim zoning ordinance. The Council held a public hearing on May 14, 2019. Following the public hearing, the Council directed staff to work with the City Attorney to prepare a permanent ordinance, based on the emergency interim ordinance, to be adopted by the end of June 2019 after a second public hearing.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends that the City Council adopt an ordinance amending Chapter 20.39 POMC to provide permanent regulations for the siting and development of secured residential facilities for sexually violent predators and repealing Interim Ordinance No 015-19.

Motion for consideration: “I move to adopt an ordinance amending Chapter 20.39 POMC to provide permanent regulations for the siting and development of secured residential facilities for sexually violent predators and repealing Interim Ordinance No. 015-19.”

Fiscal Impact: This proposal is not expected to impact the city’s budget.

Alternatives: Direct staff to revise the permanent ordinance; do not adopt a permanent ordinance. If the Council does not adopt a permanent ordinance, RCW 36.70A.290 provides that Interim Ordinance 015-19 shall not be effective for longer than six months – i.e., October 9, 2019 – unless a work plan is adopted by Council or a public hearing is held and findings of fact are made prior to renewal of the interim ordinance by Council.

Attachments: Documents provided with the Public Hearing staff report.

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Agenda Staff Report

Agenda Item No.: <u>Business Item 7B</u>	Meeting Date: <u>June 25, 2019</u>
Subject: <u>Adoption of an Ordinance Amending Port Orchard Municipal Code Chapters 20.39 and 20.58 Residential Yard, Garage and Estate Sales; Charitable Auctions and Rummage Sales; and Temporary Uses Exempt from Permit Requirements</u>	Prepared by: <u>Nicholas Bond, AICP DCD Director</u>
	Atty Routing No.: <u>020-19</u>
	Atty Review Date: <u>June 12, 2019</u>

Summary: Garage, yard, and estate sales can be a beneficial activity in the community, bringing neighbors together, recycling household goods, and helping people declutter, among other things. However, frequent or continuous sales can disrupt neighborhoods, cause excessive traffic, and constitute illegal businesses.

Though not a significant problem in Port Orchard, occasional abuses of such sales has revealed the need for regulation of such activities. Following a survey of other jurisdictions in Washington, an ordinance has been drafted that limits the frequency, duration, operating hours, and certain other characteristics of sales events.

The proposed ordinance also includes similar provisions for charitable auctions and rummage/jumble sales in residential zones. Such sales in non-residential zones are already addressed in the Temporary Uses chapter, in a general provision regarding parking lot sales.

Finally, the proposed ordinance would remove a provision from the Temporary Uses chapter that effectively allows any use in any zone as long as it occurs for not more than three days, four times per year.

The Planning Commission has reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommends the Council approve the proposed amendments.

The City Council considered the proposed amendments on June 18, 2019. In response to Council comments, a limit on the duration of events and a prohibition on displaying goods in the public right-of-way have been added to Section 3, regarding charitable auctions and rummage and jumble sales in residential zones.

Relationship to Comprehensive Plan: Not applicable.

Recommendation: Staff recommends that the City Council adopt the proposed ordinance.

Motion for consideration: "I move to adopt an ordinance amending POMC Chapters 20.39 and 20.58 as they relate to residential yard, garage, and estate sales, auctions, and rummage & jumble sales in residential zones, and to temporary uses exempt from permitting."

Fiscal Impact: None

Alternatives: Do not adopt the proposed amendments; revise the proposed amendments.

Attachments: Ordinance; Redline Changes to POMC 20.39 and POMC 20.58.140

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO GARAGE, YARD, AND ESTATE SALES, AND CHARITABLE AUCTIONS AND RUMMAGE SALES IN RESIDENTIAL ZONES; REPEALING SECTION 20.58.140(2) OF THE PORT ORCHARD MUNICIPAL CODE; ADOPTING NEW SECTIONS IN CHAPTER 20.39 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, Residential garage, yard, and estate sales, and auctions and rummage sales for non-profit organizations, can be a beneficial activity in the community, bringing neighbors together, recycling household goods, and helping people declutter, among other things; and

WHEREAS, frequent or continuous sales in residential areas can have a harmful effect, disrupting neighborhoods, causing excessive traffic, and being a way of running a business without the costs and regulations borne by those who operate businesses legally; and

WHEREAS, a current provision in POMC Chapter 20.58 (Temporary Uses) that could govern such uses is vague and could allow incompatible uses in all zones; and

WHEREAS, on March 25, 2019, the Land Use Committee of the City Council considered the issue of regulating such sales, and a variety of typical provisions based on a survey of other jurisdictions, and recommended drafting regulations containing selected provisions for consideration by the Planning Commission and the City Council; and,

WHEREAS, on June 4, 2019, the City's Planning Commission held a public hearing on the proposed amendments and voted unanimously to recommend approval by the City Council; now, therefore,

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

SECTION 1. POMC Section 20.58.140(2) repealed. Port Orchard Municipal Code, Section 20.58.140(2), is hereby repealed.

SECTION 2. New POMC Section 20.39.660 Adopted. A new POMC Section 20.39.660 is hereby adopted as follows:

20.39.660 Residential Yard, Garage, and Estate Sales. Periodic, non-commercial sales

of personal and household goods, and professional estate sales, at residential dwellings shall be allowed as an accessory use, provided such sale events conform to the following conditions:

- (1) A maximum of four events per residential address per calendar year.
- (2) A maximum of four consecutive days per event.
- (3) Limited to the hours of 8:00 am to 6:00 pm.
- (4) Goods shall not be placed in the public right-of-way.
- (5) It shall be the responsibility of the resident and/or operator of the sale to ensure traffic is not obstructed.
- (6) All goods, tables, canopies, tarps, and associated paraphernalia shall be removed from public view between sale events.
- (7) Goods shall be limited to the personal or household property of the estate, the residents of the sale location, and/or the participants in the sale. There shall be no sale of goods or products purchased or produced for resale or otherwise sold by the sale participants in a commercial enterprise.
- (8) Professional estate sale operators shall be properly licensed in accordance with POMC Chapter 5.12.

SECTION 3. New POMC Section 20.39.670 Adopted. A new POMC Section 20.39.660 is hereby adopted as follows:

20.39.670 Charitable Auctions and Rummage and Jumble Sales in Residential Zones.

Periodic, non-commercial outdoor sales of donated goods for the benefit of charitable, non-profit organizations or non-commercial educational institutions shall be allowed as an accessory use according to the following conditions:

- (1) Limited to a maximum of four events per location per year.
- (2) Limited to a maximum of four consecutive days per event.
- (3) Limited to the hours of 8:00 am to 6:00 pm.
- (4) Goods shall not be placed in the public right-of-way.
- (5) It shall be the responsibility of the operator of the sale to ensure traffic is not obstructed.
- (6) All goods, tables, canopies, and associated paraphernalia shall be removed from public view between sale events.
- (7) Shall be conducted on the premises of charitable, non-profit organizations or non-commercial educational institutions.
- (8) Variance from these conditions, or events held at other locations, may be permitted

subject to a Temporary Use Permit in accordance with POMC Chapter 20.58.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance should 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 6. 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 25th day of June 2019.

Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Scott Diener, Councilmember

APPROVED AS TO FORM:

City Attorney

PUBLISHED:

EFFECTIVE DATE:

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Chapter 20.39

USE PROVISIONS

Sections:

Accessory Uses.

20.39.600 Accessory Apartment

20.39.605 Backyard Cottage Dwelling

20.39.610 Drive-Thru Facility

20.39.615 Home Occupation

20.39.620 Home Business

20.39.625 Livestock Keeping

20.39.630 Outdoor Display

20.39.635 Outdoor Storage

20.39.640 Indoor Self-Storage as Accessory Use to Apartment Buildings

20.39.645 Vehicle Service and Repair Accessory to Residential Uses

20.39.650 Medical Marijuana Cooperative

20.39.660 Residential Yard, Garage, and Estate Sales

20.39.670 Charitable Auctions and Rummage and Jumble Sales in Residential Zones

Accessory Uses

20.39.600 Accessory Dwelling Units (1) Defined: An accessory dwelling unit (ADU) is a separate, complete dwelling unit attached to or contained within the structure of the primary home or use. An ADU may be either an accessory apartment (attached dwelling) or a backyard cottage dwelling.
(2) Requirements: Refer to Section 20.68 of this Title.

20.39.610 Drive-Thru Facility. Defined: A facility at which the customer is served while sitting in a vehicle, typically associated with drive-thru restaurants, banks and pharmacies.
(1) No drive-thru window, lane or order box is permitted within 50 feet of a ground floor residential use (measured from the residential lot line to the closest point of the drive-thru lane).
(2) In all drive-thru areas, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru, must be located to the side or rear of the building. Drive-thru windows and lanes may not be placed between a public street (not including an alley) and the associated building.
(3) Queuing, landscaping and screening requirements are specified in Section 20.124.060 and Chapter 20.128.

20.39.615 Home Occupation. Defined: A home occupation provides a service or product that is conducted wholly within a dwelling unit. Customers and employees coming to the dwelling to conduct business are not allowed. A home occupation does not include a bed and breakfast or day care facility.
(1) The use of the dwelling unit for a home occupation must be clearly incidental and subordinate to its use for residential purposes, and under no circumstances change the residential character of the building.

- (2) No business, storage or warehousing of materials, supplies or equipment is allowed outside.
- (3) No equipment or process may be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
- (4) No display of products may be visible from the street.
- (1) No persons other than members of the family residing on the premises may be engaged in the home occupation.
- (2) No more than one vehicle may be used in the conduct of the home occupation, and it must be parked on-site.
- (3) Storage space and the operation of the business cannot exceed twenty-five percent of the total floor area of the dwelling (including any accessory structures on the lot).
- (4) Customers and employees are not allowed.
- (5) The delivery of materials may not exceed more than two (2) deliveries of per day. No delivery may be by a vehicle larger than typical delivery van.
- (6) No signs advertising the home occupation are allowed.

20.39.620 Home Business. Defined: A home business provides a service or product that is conducted wholly within a dwelling that requires employees, customers, clients or patrons to visit the dwelling. A home business does not include a bed and breakfast or day care facility.

- (1) The use of the dwelling unit for a home business must be clearly incidental and subordinate to its use for residential purposes, and under no circumstances change the residential character of the building.
- (2) No business, storage or warehousing of materials, supplies or equipment is allowed outside.
- (3) No equipment or process may be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
- (4) No display of products may be visible from the street.
- (5) The home business must be conducted by a person residing on the premises.
- (6) No employees of the business shall work on the premises.
- (7) No more than one vehicle may be used in the conduct of the home business, and the vehicle must be parked on-site.
- (8) Storage space and the operation of the business inside the dwelling cannot exceed twenty-five percent of the total floor area of the building (including any accessory structures on the lot).
- (9) Not more than six (6) clients a day are permitted to visit the home business.
- (10) The delivery of materials may not exceed more than two (2) deliveries of per day. No delivery may be by a vehicle larger than typical delivery van.
- (7) Retail sales of goods must be entirely accessory to any service provided on the site (such as hair care products sold as an accessory to hair cutting).
- (8) No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.

Livestock Keeping. Defined: Livestock includes any animals of the equine, swine or bovine class, including goats, sheep, mules, cattle, hogs, pigs and other grazing animals, and all ratites, including, but not limited to, ostriches, emus and rheas.

- (1) Prohibited:
 - (a) The keeping of any animal other than dogs, cats and other household domestic animals and those specifically allowed below is prohibited.
 - (b) Roosters are not allowed.
- (2) Rabbits, Turkeys, Ducks and Chickens:

- (a) One rabbit, turkey, duck or chicken is allowed per 1,500 square feet of lot area, provided that no more than five (5) rabbits, ducks or chickens, and no more than three (3) turkeys are located on a single parcel.
 - (b) An area of at least twenty (20) square feet or at least four (4) square feet for each rabbit, turkey, duck or chicken, whichever is larger, must be provided. The area must be adequately fenced, cannot be located in a front yard, be at least twenty-five (25) feet from any dwelling on an abutting lot and be at least fifteen (15) feet from any side or rear lot line.
 - (c) Coops or cages may not exceed 8 feet in height.
- (3) Alpacas, Llamas, Goats and Sheep:
- (a) A lot least one half (1/2) acre in size is allowed one (1) alpaca, llama, goat or sheep per 10,000 square feet of lot area.
 - (b) An area of at least five hundred (500) square feet or at least two hundred fifty (250) square feet for each alpaca, llama, goat or sheep, whichever is larger, must be provided.
 - (c) The containment area must be adequately fenced, cannot be located in a front yard and must be at least fifteen (15) feet from any side or rear lot line.

20.39.630 Outdoor Display. Defined: The outdoor display of products actively available for sale. The outdoor placement of propane gas storage racks, ice storage bins, soft drink or similar vending machines is considered outdoor display. Outdoor display does not include merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers (see limited outdoor storage). Where allowed, the outdoor sale or rental of vehicles or equipment as part of a properly permitted use is not considered outdoor display.

- (1) Outdoor display is only allowed with a permitted nonresidential use.
- (2) Outdoor display must abut the primary façade with the principal customer entrance, and may not extend more than six (6) feet from the facade or occupy more than twenty-five percent of the horizontal length of the façade.
- (3) Outdoor display may not exceed six (6) feet in height.
- (4) Outdoor display must be removed and placed inside a fully-enclosed building at the end of each business day, except propane gas storage racks, ice storage bins, soft drink or similar vending machines may remain outside overnight.
- (5) Outdoor display may not encroach upon any public right-of-way or sidewalk. Outdoor display may not impair the ability of pedestrians to use the sidewalk. There must be a minimum of six (6) feet of clear distance of sidewalk at all times.

20.39.635 Outdoor Storage.

Defined:

- (1) Low-Impact:
 - (a) Low-impact outdoor storage includes, but is not limited to:
 - i. The overnight outdoor storage of vehicles awaiting repair;
 - ii. The outdoor storage of merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers;
 - iii. Outdoor sale areas for sheds, building supplies, garden supplies, plants, lawn movers, barbecue's and other similar items; and
 - iv. The outdoor storage of vehicles, boats, recreational vehicles or other similar vehicles at a self-service storage, mini warehouse facility.
 - (b) Use Standards:

- i. All material stored outdoors cannot be located in a required setback;
- ii. All material stored outdoors may not be more than twelve (12) feet in height;
- iii. All material stored outdoors must be fully screened from view from the public right-of-way and abutting properties using a Type A or B buffer (see Chapter 20.128.060); and
- iv. Vehicles awaiting repair may only be stored up to fourteen (14) days within the screened storage area.

(2) High-Impact:

(a) High-impact outdoor storage includes, but is not limited to:

- i. The outdoor storage of contractors equipment, lumber, pipe, steel or wood;
- ii. The outdoor storage of salvage, recycled materials or scrap metal;
- iii. The outdoor storage of impounded or inoperable vehicles;
- iv. The outdoor storage or loading yard for vehicles, trailers or equipment;
- v. The outdoor storage of construction material; and
- vi. The outdoor storage of domestic or construction waste or debris.

(b) Use Standards:

- i. All material stored outdoors cannot be located in a required setback and must be located at least fifteen (15) feet from the public right-of-way; and
- ii. All material stored outdoors must be fully screened from view from the public right-of-way and abutting properties using a Type C or D buffer (see Chapter 20.128.060).

20.39.640 Indoor Self Storage as Accessory Use to Apartment Buildings. Indoor self-storage may be permitted as an accessory use to a site containing one or more apartment buildings as defined in POMC 20.32, provided that the gross floor area of self-storage does not exceed twenty percent of the gross floor area of the residential living space located within apartment buildings on the site.

20.39.645 Vehicle Service and Repair Accessory to Residential Uses. Vehicle service and repair, as an accessory use to an existing residential use, is allowed pursuant to the requirements of Chapter 20.66 and the land use table in Chapter 20.39.

20.39.650 Medical Marijuana Cooperatives. Medical marijuana cooperatives, as an accessory use to an existing residential use, are allowed pursuant to the requirements of Chapter 20.64 and the land use table in Chapter 20.39.

20.39.660 Residential Yard, Garage, and Estate Sales. Periodic, non-commercial sales of personal and household goods, and professional estate sales, at residential dwellings shall be allowed as an accessory use, provided such sale events conform to the following conditions:

(1) A maximum of four events per residential address per calendar year.

(2) A maximum of four consecutive days per event.

(3) Limited to the hours of 8:00 am to 6:00 pm.

(4) Goods shall not be placed in the public right-of-way.

(5) It shall be the responsibility of the resident and/or operator of the sale to ensure traffic is not obstructed.

(6) All goods, tables, canopies, tarps, and associated paraphernalia shall be removed from public view between sale events.

(7) Goods shall be limited to the personal or household property of the estate, the residents of the sale location, and/or the participants in the sale. There shall be no sale of goods or products purchased or produced for resale or otherwise sold by the sale participants in a commercial enterprise.

(8) Professional estate sale operators shall be properly licensed in accordance with POMC Chapter 5.12.

20.39.670 Charitable Auctions and Rummage and Jumble Sales in Residential Zones. Periodic, non-commercial outdoor sales of donated goods for the benefit of charitable, non-profit organizations or non-commercial educational institutions shall be allowed as an accessory use according to the following conditions:

(1) Limited to a maximum of four events per location per year.

(2) Limited to a maximum of four consecutive days per event.

(3) Limited to the hours of 8:00 am to 6:00 pm.

(4) Goods shall not be placed in the public right-of-way.

(5) It shall be the responsibility of the operator of the sale to ensure traffic is not obstructed.

(6) All goods, tables, canopies, and associated paraphernalia shall be removed from public view between sale events.

(7) Shall be conducted on the premises of charitable, non-profit organizations or non-commercial educational institutions.

(8) Variance from these conditions, or events held at other locations, may be permitted subject to a Temporary Use Permit in accordance with POMC Chapter 20.58.

Chapter 20.58

TEMPORARY USES

Sections:

20.58.110 Temporary uses.

20.58.120 Temporary uses requiring permits.

20.58.130 Additional permit requirements.

20.58.140 Temporary uses exempt from permit requirements.

20.58.140 Temporary uses exempt from permit requirements.

(1) The following uses shall be exempt from requirements for a temporary use permit when located in the CH, CC, DMU, GMU, CMU, IL, IH, CF, PR or CI zones for the time period specified below:

(a) Seasonal uses not to exceed a total of 30 days each calendar year, such as Christmas tree lots and produce stands.

(b) A special event not to exceed a total of 14 consecutive days, such as amusement rides, carnivals, or circuses, community festivals, and parking lot sales.

~~(2) Any use not exceeding a consecutive total of three days for a maximum of four events each calendar year shall be exempt from requirements for a temporary use permit.~~

~~(3) Any community event held in a public park or property and not exceeding a period of seven days shall be exempt from requirements for a temporary use permit.~~

~~(4) Temporary structures for tools storage, equipment, and for supervisory offices may be permitted for construction projects; provided, that such structures are:~~

~~(a) Allowed only during periods of active construction.~~

~~(b) Removed within 30 days of project completion or cessation of work.~~

~~(5) One temporary real estate office located on any new residential development; provided, that activities are limited to the initial sale or rental of property or units within the development. The office use shall be discontinued within 30 days of the issuance of a final certificate of occupancy of the last unit in the development.~~

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7C</u>	Meeting Date:	<u>June 25, 2019</u>
Subject:	<u>Adoption of an Ordinance Amending Port</u>	Prepared by:	<u>Nicholas Bond</u>
	<u>Orchard Municipal Code Chapter 20.66 Vehicle</u>		<u>DCD Director</u>
	<u>Service and Repair Accessory to Residential</u>	Atty Routing No.:	<u>020-19</u>
	<u>Uses</u>	Atty Review Date:	<u>June 12, 2019</u>

Summary: In June 2017, the City Council adopted regulations for vehicle service and repair accessory to residential uses, as part of the Unified Development Code, under POMC Chapter 20.66. Those regulations have been very helpful in dealing with such activity in cases where it has exceeded what is reasonable and common and become a public nuisance. However, further review and application have revealed the need for refinement of the regulations, including adding detail and definitions and extending the prohibition on work in the right-of-way to private roads.

The Planning Commission has reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommends the Council approve the proposed amendments.

The City Council considered the proposed amendments on June 18, 2019. In response to Council comments, the definitions of “Vehicle and Equipment Service and Repair Work,” “Work-Major,” and “Work-Minor” have been revised into “Vehicles and Equipment” and “Work.”

Relationship to Comprehensive Plan: Not applicable.

Recommendation: Staff recommends that the City Council adopt the proposed ordinance amending POMC Chapter 20.66 – Vehicle Service and Repair Accessory to Residential Uses.

Motion for consideration: “I move to adopt the proposed ordinance amending POMC Chapter 20.66 as presented.”

Fiscal Impact: None.

Alternatives: Do not adopt the proposed amendments; revise the proposed amendments.

Attachments: Ordinance; Redline Changes to POMC 20.66.

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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
AMENDING CHAPTER 20.66 OF THE PORT ORCHARD MUNICIPAL
CODE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND
SETTING AN EFFECTIVE DATE.**

WHEREAS, In June 2017, the City Council adopted regulations for vehicle service and repair accessory to residential uses, as part of the Unified Development Code; and

WHEREAS, further review and application have revealed the need for refinement of the regulations, including adding detail and definitions and extending the prohibition on work in the right-of-way to private roads; and

WHEREAS, on March 25, 2019, the Land Use Committee of the City Council reviewed the proposed amendments and recommended bringing them forward for consideration by the Planning Commission and the City Council; and,

WHEREAS, on June 4, 2019, the City's Planning Commission held a public hearing on the proposed amendments and voted unanimously to recommend approval by the City Council; now, therefore,

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

SECTION 1. POMC Chapter 20.66 Amended. POMC Chapter 20.66 is hereby amended to read as follows:

Sections:

20.66.010 Definitions.

20.66.020 Service and Repair Standards.

20.66.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

(1) "Driveway" and "Parking Pad" means established driving and parking areas located on the property, not within the public right-of-way, private roadway, or ingress/egress easement.

(2) "Major Parts and Components" means and includes, but is not limited to: body panels, frame components, bumpers, hoods, doors, engines, transmissions, differentials, and

similar parts and assemblies.

(3) “Recreational, Sporting, and Utility Vehicles and Equipment” means and includes, without limitation: motorhomes, travel trailers, pickup truck campers, off-road vehicles, boats, jet skis, racing vehicles of all types, construction vehicles and equipment, boat and utility trailers, motorcycles, and all such similar vehicles and equipment, whether self-powered or unpowered.

(4) “Roadway” means and includes the paved or unpaved road surface and any associated sidewalk, improved or unimproved shoulder, parking strip, and landscaping.

(5) “Vehicles and Equipment” means and includes motor vehicles, non-motorized, recreational, sporting, utility, or other vehicles and related equipment of any type.

(6) “Work” means and includes, but is not limited to repair, service, maintenance, restoration, modification, assembly, disassembly, construction, reconstruction, testing, tune-up and other work, and is categorized as follows:

(a) “Major Work” means and includes, but is not limited to: removal, installation, disassembly, or assembly of major parts and components; body or frame work; rebuilding engines and transmissions; testing of alarms and sound systems; and similar work.

(b) “Minor Work” means routine, basic maintenance and repairs, including such work as changing tires, fluids, and filters, replacing wiper blades, light bulbs, brake pads/shoes, and other minor parts, diagnostics and tune-ups, and similar work.

20.66.020 Service and Repair Standards.

The repair, service, restoration, modification, assembly, disassembly, construction, reconstruction, tune-up, or other Work on motor, recreational, sporting, utility, or other vehicles on any residential premises in any non-residential zone, unless an integral part of a legal use in the zone, or on any property in any residential zone, unless an integral part of a legal non-conforming use, shall be subject to the following standards:

(1) Work shall be limited to the non-commercial service, repair, and maintenance of motor vehicles, recreational, sporting, or utility vehicles and vehicular equipment that are owned by or currently registered to residents of the premises on which the Work is being done.

(2) Major Work is prohibited in multi-family residential complexes of five (5) or more

dwelling units on a parcel, unless entirely within an enclosed garage.

(3) Work shall not be done on a vacant lot or in or on any public or private roadway, public right-of-way, or ingress/egress easement, including those adjacent to the owner's residence, except for emergency repairs necessary to enable the safe movement of a vehicle stranded on the roadway or right-of-way. Vehicles undergoing, awaiting, or otherwise associated with such Work shall not be stored on any vacant lot, roadway, easement, or public right-of-way.

(4) No more than one (1) vehicle may be undergoing or in any stage of service, repair, or other Work at any one time.

(5) Outdoor Work shall be conducted only between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends.

(6) Major Work, shall only be conducted within a fully enclosed garage or accessory building. Minor Work shall only be performed in a fully enclosed building, an open accessory structure, on a parking pad or in the driveway.

(7) Parts, equipment, tools, debris, excess materials or other supplies shall be stored within a fully enclosed structure such as a garage or accessory building when not in use.

(8) Work shall not create a nuisance to the neighbors or the public. Work shall not include the repeated or extended revving of engines, noises in violation of POMC 9.24.050 (Public Disturbance Noises), or the creation of smoke or noxious fumes or vapors that extend beyond the perimeter of the property, or create a fire hazard or other danger to the public health, safety, or welfare.

(9) Upon completion of any Work regulated by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths or rags, and all other equipment or material used in the Work, and the property shall be left in such a condition that no hazard to persons or property shall remain.

(10) Oil, gasoline, antifreeze, and other automotive fluids, solvents, or other chemicals shall not be drained or allowed to spill on the ground. Spills of any such fluids or chemicals shall be cleaned up promptly and thoroughly and all fluids, chemicals, and contaminated soils or materials shall be disposed in a safe, legal, and proper manner, in accordance with all applicable state, federal, and local regulations, including but not limited to POMC Chapter 15.30 (Illegal Discharge Detection and Elimination). In the event of any leak, spill, or accumulation of such fluids, chemicals, or other hazardous or potentially-hazardous materials, which do or potentially may get into the municipal stormwater system or any surface water or groundwater, any person involved in or responsible for the Work and/or

the property, or otherwise aware of such leak, spill, or accumulation shall notify the proper authorities as specified in POMC Chapter 15.30.120, as now written or as hereafter amended or replaced.

(11) Storage, containment, and disposal of all waste products and hazardous materials shall be in accordance with all applicable state, federal, and local regulations.

(12) Painting of vehicles or equipment is prohibited, whether inside or outside of a building.

SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance should 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 25th day of June 2019.

Robert Putansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Scott Diener, Councilmember

APPROVED AS TO FORM:

Sharon Cates, City Attorney

PUBLISHED:
EFFECTIVE DATE:

Chapter 20.66
VEHICLE SERVICE AND REPAIR
ACCESSORY TO RESIDENTIAL USES

Sections:

20.66.010 ~~Vehicle service and repair accessory to residential uses~~ Definitions.

20.66.020 Service and Repair Standards.

20.66.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

(1) “Driveway” and “Parking Pad” means established driving and parking areas located on the property, not within the public right-of-way, private roadway, or ingress/egress easement.

(2) “Major Parts and Components” means and includes, but is not limited to: body panels, frame components, bumpers, hoods, doors, engines, transmissions, differentials, and similar parts and assemblies.

(3) “Recreational, Sporting, and Utility Vehicles and Equipment” means and includes, without limitation: motorhomes, travel trailers, pickup truck campers, off-road vehicles, boats, jet skis, racing vehicles of all types, construction vehicles and equipment, boat and utility trailers, motorcycles, and all such similar vehicles and equipment, whether self-powered or unpowered.

(4) “Roadway” means and includes the paved or unpaved road surface and any associated sidewalk, improved or unimproved shoulder, parking strip, and landscaping.

(5) “Vehicles and Equipment” means and includes motor vehicles, non-motorized, recreational, sporting, utility, or other vehicles and related equipment of any type.

(6) “Work” means and includes, but is not limited to repair, service, maintenance, restoration, modification, assembly, disassembly, construction, reconstruction, testing, tune-up and other work, and is categorized as follows:

(a) “Major Work” means and includes, but is not limited to: removal, installation, disassembly, or assembly of major parts and components; body or frame work; rebuilding engines and transmissions; testing of alarms and sound systems; and similar work.

(b) “Minor Work” means routine, basic maintenance and repairs, including such work as changing tires, fluids, and filters, replacing wiper blades, light bulbs, brake pads/shoes, and other minor parts, diagnostics and tune-ups, and similar work.

20.66.010–020 ~~Vehicle service and repair accessory to residential uses~~ Service and Repair Standards.

The repair, service, restoration, modification, assembly, disassembly, construction, reconstruction, tune-up, or other work on a motor, recreational, sporting, utility, or other vehicles on any residential premises in any non-residential zone, unless an integral part of a legal use in the zone, or on any property in any residential zone, unless an integral part of a legal non-conforming use, shall be subject to the following standards:

(1) Work shall be limited to the non-commercial service, repair, and maintenance of motor vehicles, recreational vehicles, sporting, or utility vehicles and vehicular equipment that ~~is~~ are owned by or currently registered to a resident of the premises on which the Work is being done or a member of the residents' family, which shall be limited to parents, grandparents, spouse, or children related by blood, marriage or adoption.

(2) ~~Such work~~ Major Work is prohibited in multi-family residential complexes of ~~three (3)~~ five (5) or more dwelling units on a parcel, unless totally entirely within an enclosed garage.

(3) ~~Such work~~ Work shall not be done on a vacant lot or in or on any public or private roadway, public right-of-way, or ingress/egress easement, including those adjacent to the owner's residence, except for emergency repairs necessary to enable the safe movement of a vehicle stranded on the roadway or right-of-way. Vehicles undergoing, awaiting, or otherwise associated with such Work shall not be stored on any vacant lot, roadway, easement, or public right-of-way.

(4) No more than one (1) vehicle may be undergoing or in any stage of ~~service or~~ repair, or other Work at any one time.

(5) ~~Such work~~ Outdoor Work shall be conducted only between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends.

(6) ~~Assembly, disassembly, bodywork, or other similar major repair work~~ Major Work, shall only be conducted within a fully enclosed garage or accessory building. ~~All other service and repair work may~~ Minor Work shall only be performed in a fully enclosed building, an open accessory structure, on a parking pad or in the driveway directly adjacent to the garage, or carport. Such work shall not be performed in the public right of way nor shall vehicles be stored in the public right of way.

~~(7) The parking pad shall have an all-weather surface such as asphalt or concrete, paver stones, grasscrete or a minimum of three (3) inches packed gravel, which shall be maintained in such condition as to act as an impervious surface.~~

~~(87)~~ Parts, equipment, tools, debris, excess materials or other supplies ~~associated with vehicle service or repair~~ shall be stored within a fully enclosed structure such as a garage or accessory building when not in use.

~~(98)~~ ~~The performance of such work~~ Work shall not create a nuisance to the neighbors or the public. Work shall not include the repeated or extended revving of engines, noises in violation of POMC 9.24.050 (Public Disturbance Noises), or the creation of smoke or noxious fumes or vapors that extend beyond the perimeter of the property, or create a fire hazard or other danger to the public health, safety, or welfare.

~~(109)~~ Upon completion of any ~~work allowed~~ Work regulated by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths or rags, and all other equipment or material used in the work, and the property shall be left in such a condition that no hazard to persons or property shall remain.

~~(1110)~~ Oil, gasoline, antifreeze, and other automotive fluids, solvents, or other chemicals shall not be drained or

allowed to spill on the ground. Spills of any such fluids or chemicals shall be cleaned up promptly and thoroughly and all fluids, chemicals, and contaminated soils or materials shall be disposed in a safe, legal, and proper manner, in accordance with all applicable state, federal, and local regulations, including but not limited to POMC Chapter 15.30 (Illegal Discharge Detection and Elimination). In the event of any leak, spill, or accumulation of such fluids, chemicals, or other hazardous or potentially-hazardous materials, which do or potentially may get into the municipal stormwater system or any surface water or groundwater, any person involved in or responsible for the Work and/or the property, or otherwise aware of such leak, spill, or accumulation shall notify the proper authorities as specified in POMC Chapter 15.30.120, as now written or as hereafter amended or replaced.

~~(1211)~~ Storage, containment, and disposal of all waste products and hazardous materials shall be in accordance with all applicable state, federal, and local regulations.

~~(13)~~ Disposal of all waste products shall be in accordance with all applicable state and local regulations.

~~(1412)~~ Painting of vehicles or equipment is prohibited, whether inside or outside of a building.

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7D</u>	Meeting Date:	<u>June 25, 2019</u>
Subject:	<u>Adoption of an Ordinance Amending</u>	Prepared by:	<u>Nicholas Bond</u>
	<u>Provisions of Port Orchard Municipal Code</u>		<u>DCD Director</u>
	<u>Title 20 for Enforcement Provisions and</u>	Atty Routing No.:	<u>020-19</u>
	<u>Penalties</u>	Atty Review Date:	<u>June 12, 2019</u>

Summary: The Port Orchard Unified Development Code contains various enforcement and penalty provisions in different chapters, some of which are inconsistent with others or with State law, and some of which are leftovers from an administrative civil penalty process that is no longer used in Port Orchard.

In addition, most sections contain only civil infraction penalties and include no option for criminal penalties. The lack of a criminal penalty option limits the penalties available in the case of very serious and/or intentional code violations and makes it impossible to obtain warrants to investigate violations that cannot be documented otherwise. In the State of Washington, courts can issue warrants only for criminal investigations, not for civil investigations.

In the interest of making all Development Code enforcement provisions internally consistent, and consistent with other Municipal Code regulations under the purview of the Code Enforcement Officer, putting them all in one place, and providing for criminal penalties and other legal options, a comprehensive revision of these provisions has been prepared. [Note: Special enforcement provisions related to State and Federal regulations, in certain chapters and subtitles, would remain in those chapters and subtitles.]

The Planning Commission has reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommends the Council approve the proposed amendments.

Relationship to Comprehensive Plan: Not applicable.

Recommendation: Staff recommends that the City Council adopt the proposed ordinance amending the enforcement provisions of POMC Chapters 20.02, 20.62, 20.82, 20.140, and 20.150.

Motion for consideration: "I move to adopt an ordinance standardizing and consolidating the enforcement provisions in Title 20."

Fiscal Impact: None

Alternatives: Do not adopt the proposed amendments; revise the proposed amendments.

Attachments: Ordinance; Redline Changes to POMC Chapters 20.02, 20.62, 20.82, 20.140, and 20.150.

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, CONSOLIDATING AND STANDARDIZING ENFORCEMENT PROVISIONS WITHIN THE DEVELOPMENT CODE AND MAKING THEM CONSISTENT WITH OTHER MUNICIPAL CODE REGULATIONS UNDER THE PURVIEW OF THE CODE ENFORCEMENT OFFICER; PROVIDING FOR CRIMINAL PENALTIES AND OTHER LEGAL OPTIONS; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Port Orchard Unified Development Code contains various enforcement and penalty provisions in different chapters, some of which are inconsistent with others or with State law, and some of which are related to an enforcement process that is no longer used in Port Orchard; and

WHEREAS, most sections contain only civil infraction penalties and include no option for criminal penalties; and

WHEREAS, the lack of a criminal penalty option limits the penalties available in the case of very serious and/or intentional code violations and makes it impossible to obtain warrants, which in Washington State are only available for criminal investigations, to investigate violations that cannot be documented otherwise; and

WHEREAS, on March 25, 2019, the Land Use Committee of the City Council considered the proposed amendments and recommended bringing them forward for consideration by the Planning Commission and the City Council; and,

WHEREAS, on June 4, 2019, the City's Planning Commission held a public hearing on the proposed amendments and voted unanimously to recommend approval by the City Council; now, therefore,

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

SECTION 1. POMC Sections Amended. POMC Title 20 - Unified Development Code, Sections 20.02.060, 20.62.110, 20.82.040, 20.140.180, 20.150.270, attached as Exhibit 1 hereto and incorporated fully herein by this reference, are hereby amended to read as shown in Exhibit 1.

SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance should 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 25th day of June 2019.

Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Scott Diener, Councilmember

APPROVED AS TO FORM:

Sharon Cates, City Attorney

PUBLISHED:

EFFECTIVE DATE:

EXHIBITS: Exhibit 1, Revisions to POMC Chapters 20.02, 20.62, 20.82, 20.140 and 20.150

Ordinance ____

Exhibit 1, Revisions to POMC Chapters 20.02, 20.62, 20.82, 20.140 and 20.150

Subtitle I. General Provisions

Chapter 20.02 – Administration and Enforcement

20.02.060 Violations – Enforcement – Penalties.

(1) Violations.

(a) It is a violation of this title for any person to initiate or continue or cause to be initiated or continued the use of any structure, land, or property within the city of Port Orchard without first obtaining the permits or authorizations required for the use by this title.

(b) It is a violation of this title for any person to use, construct, locate, alter, demolish, or cause to be used, constructed, located, altered, or demolished any structure, land, or property within the city of Port Orchard in any manner that is not permitted by this title or by the terms of any permit or approval issued pursuant to this title or previous codes, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

(c) It is a violation of this title to remove, deface, or fail to comply with any sign, notice, complaint, or order required by or posted in accordance with this title.

(d) It is a violation of this title to misrepresent any material fact in any application, plans, or other information submitted to obtain any land use, building, or development permit or approval.

(e) It is a violation of this title for anyone to fail to comply with the requirements of this title.

(f) Any violation of this title shall constitute a public nuisance.

(2) Enforcement.

(a) It shall be the duty of the director, or his/her duly authorized designee, to enforce this title. The director may call upon the code enforcement officer, building official, police, fire, health, public works or other appropriate city departments to assist in enforcement.

(b) This title shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(c) It is the intent of this title to place the obligation of complying with its requirements upon the owner, occupier, or other person in control of or responsible for the condition of the land and buildings within the scope of this title.

(d) Upon presentation of proper credentials, the director or duly authorized representative of the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the enforcement duties under this chapter.

(e) No provision of or term used in this title is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

(3) Penalties. When the director determines that a violation of any provision of this title has occurred or is occurring the director may institute any of the following enforcement actions:

(a) Subject to the provisions of Chapter 2.64 POMC any business, agency, property owner, and/or other person who violates the standards set forth in this title or the more stringent standards imposed by the city engineer, hearing examiner, planning commission, and/or city council as allowed herein shall be guilty of a civil infraction.

(b) In addition to any remedy provided for in this title and Chapter 2.64 POMC, the director may issue a stop work order and/or notice to vacate and other lawful orders. Any person removing such sign without the

permission of the proper authority shall be guilty of a misdemeanor.

(c) In addition or alternative to any other penalty provided herein or by law, any violation of, or failure to comply with, any provision of this Title or any lawful order issued hereunder, shall constitute a misdemeanor, punishable by a fine of not more than \$1,000, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

(d) In addition or alternative to any other remedy provided by this title or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person or property in violation or failure to comply with any provision of this chapter, to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such action or proceeding, the costs and reasonable attorneys' fees incurred by the city shall be recoverable as a personal obligation of the property owner and/or responsible party and/or a lien against the property. To the maximum extent allowed by law, such lien shall constitute a special assessment of equal rank with state, county, and municipal taxes.

(e) Each day in which a violation of this Title occurs or is allowed to continue shall constitute a separate offense and be subject to the enforcement and penalties provided herein.

Subtitle IV. Supplemental Zoning Regulations

Chapter 20.62 – Mobile Home Regulations

20.62.110 Violation – Penalty.

This chapter shall be enforced according to the regulations and provisions of Chapter 20.02 POMC, Administration and Enforcement.

Subtitle V. Division of Land

Chapter 20.82 – Administration and Enforcement

20.82.040 Violations, enforcement, and penalties.

(1) General. It is a violation of this subtitle for a person to divide, segregate, sell, or transfer, or offer to sell or transfer, real property in violation of this subtitle. It is a violation of this subtitle to do any other thing with respect to a lot, tract, parcel, or property in the city that violates this subtitle or violates a plat or short plat restriction imposed by the city.

(2) Enforcement. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this subtitle or of any notice or lawful order issued hereunder. Except as otherwise provided in this Section, any violation of this subtitle shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.

(3) Any person or any agent thereof who divides land into lots, tracts, or parcels of land and sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat, short plat, boundary line adjustment, or binding site plan filed for record, or who otherwise violates or fails to comply with any of the provisions of this subtitle shall be guilty of a gross misdemeanor. Each violation involving a separate lot, tract, or parcel of land is a separate and distinct offense; provided, an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary plat approval is not a violation of this subtitle if performance of the offer or agreement is expressly conditioned on the recording of the final plat containing the lot, tract, or parcel. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to the seller shall be permitted until the final plat is recorded.

(4) Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of this subtitle or any term or condition of plat approval prescribed for the plat, the city may commence an action to restrain and enjoin such use and compel compliance with the provision, terms, or conditions. The costs of such action may be taxed against the violator.

(5) Any person who violates any court order or injunction issued pursuant to this subtitle is guilty of a misdemeanor.

(6) No building permit, septic tank permit, or other development permit shall be issued for any lot, tract, or parcel of land divided in violation of this subtitle unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this subtitle and each purchaser or transferee may recover his or her damages from any person, firm, corporation, or agent selling or transferring land in violation of this subtitle, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this subtitle as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may, as an alternative to conforming their property to these requirements, rescind the sale, or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned thereby.

(7) The director of the department of community development has the authority to adopt rules and regulations to carry out the provisions of this subtitle and has the authority to administer and enforce this subtitle and any such rules and regulations.

Subtitle VI. Development Standards and Regulations

Chapter 20.140 – Land Disturbing Activity

20.140.180 Permit Suspension/Revocation.

The director may suspend work or revoke a land disturbing activity permit, as appropriate, whenever:

- (a) The work is not authorized by a valid permit;
- (b) The applicant requests such revocation or suspension;
- (c) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other applicable city ordinances;
- (d) Entry upon the property for the purposes of investigation or inspection has been denied;
- (e) The applicant has made a misrepresentation of a material fact in applying for such permit;
- (f) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;
- (g) The required project security has expired or been expended to the point that it no longer provides assurance of completion of the project in compliance with the terms of the permit; or
- (h) The permit has not been acted upon or extended within the time allowed pursuant to this chapter.

Subtitle VII. Stormwater Drainage

Chapter 20.150 – Stormwater Drainage

20.150.270 Enforcement.

(1) Violations of this chapter. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter or of any notice or lawful order issued hereunder. Any violation of this chapter shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.

(2) Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the director is authorized to enter upon the subject private property, without giving prior notice, to take

any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as provided in this chapter.

(7) Violation of Additional Laws. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions associated with each, including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

: Subtitle I. General Provisions
Chapter 20.02 – Administration and Enforcement

20.02.060 Violations – Enforcement – Penalties.

(1) Violations.

(a) It is a violation of this title for any person to initiate or ~~maintain-continue~~ or cause to be initiated or ~~maintained-continued~~ the use of any structure, land, or property within the city of Port Orchard without first obtaining the permits or authorizations required for the use by this title.

(b) It is a violation of this title for any person to use, construct, locate, ~~alter,~~ demolish, or cause to be used, constructed, located, ~~altered,~~ or demolished any structure, land, or property within the city of Port Orchard in any manner that is not permitted by this title or by the terms of any permit or approval issued pursuant to this title or previous codes, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

(c) It is a violation of this title to remove, ~~or~~ deface, or fail to comply with any sign, notice, complaint, or order required by or posted in accordance with this title.

(d) It is a violation of this title to misrepresent any material fact in any application, plans, or other information submitted to obtain any land use, building, or development permit or approval.

(e) It is a violation of this title for anyone to fail to comply with the requirements of this title.

~~(f) It is a violation of this title for any person to construct or use any structure or portion thereof in a manner contrary to a permit or approval term or condition.~~

(f) Any violation of this title shall constitute a public nuisance.

(2) Enforcement.

(a) It shall be the duty of the director, or his/her duly authorized designee, to enforce this title. The director may call upon the code enforcement officer, building official, police, fire, health, public works or other appropriate city departments to assist in enforcement.

(b) This title shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(c) It is the intent of this title to place the obligation of complying with its requirements upon the owner, occupier, or other person in control of or responsible for the condition of the land and buildings within the scope of this title.

(d) Upon presentation of proper credentials, the director or duly authorized representative of the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued ~~inspection~~-warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the enforcement duties under this chapter.

(e) No provision of or term used in this title is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

(3) Penalties. When the director determines that a violation of any provision of this title has occurred or is

occurring the director may institute any of the following enforcement actions:

(a) Subject to the provisions of Chapter 2.64 POMC any business, agency, property owner, and/or other person who violates the standards set forth in this title or the more stringent standards imposed by the city engineer, hearing examiner, planning commission, and/or city council as allowed herein shall be guilty of a civil infraction.

(b) In addition to any remedy provided for in this title and Chapter 2.64 POMC, the director may issue a stop work order and/or notice to vacate and other lawful orders. Any person removing such sign without the permission of the proper authority shall be guilty of a misdemeanor.

(c) In addition or alternative to any other penalty provided herein or by law, any violation of, or failure to comply with, any provision of this Title or any lawful order issued hereunder, shall constitute a misdemeanor, punishable by a fine of not more than \$1,000, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

(ed) In addition or alternative to any other remedy provided by this title or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person or property in violation or failure to comply with any provision of this chapter, to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such action or proceeding, the costs and reasonable attorneys' fees incurred by the city shall be recoverable as a personal obligation of the property owner and/or responsible party and/or a lien against the property. To the maximum extent allowed by law, such lien shall constitute a special assessment of equal rank with state, county, and municipal taxes.~~In addition to any remedy provided for in this title and Chapter 2.64 POMC, the city shall also have the right to abate any violation of this title by seeking injunctive relief in the Kitsap County superior court. The business, agency, property owner, and/or other person responsible for the violations shall be required to pay all the city's legal costs including reasonable attorney's fees accrued in bringing and enforcing such legal action.~~

(e) Each day in which a violation of this Title occurs or is allowed to continue shall constitute a separate offense and be subject to the enforcement and penalties provided herein.

Subtitle IV. Supplemental Zoning Regulations Chapter 20.62 – Mobile Home Regulations

20.62.110 Violation – Penalty.

~~(1) Any person, firm, or corporation violating or failing to comply with the provisions of these rules and regulations shall be guilty of a misdemeanor. Each person, firm or corporation is guilty of a separate offense for each and every day or portion thereof during which the violation of these regulations continue.~~

~~(2) Penalty upon conviction shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than 90 days or by both such fine and imprisonment.~~

~~(3) This chapter shall be enforced according to the regulations and provisions of Chapter 20.02 POMC, Administration and Enforcement.~~

Subtitle V. Division of Land Chapter 20.82 – Administration and Enforcement

20.82.040 Violations, enforcement, and penalties.

(1) General. It is a violation of this subtitle for a person to divide, segregate, sell, or transfer, or offer to sell or transfer, real property in violation of this subtitle. It is a violation of this subtitle to do any other thing with respect to a lot, tract, parcel, or property in the city that violates this subtitle or violates a plat or short plat restriction imposed by the city.

~~(2) Enforcement. The city shall use the applicable provisions of Chapter 20.02 POMC in the investigation, enforcement, and prosecution of the violations of this subtitle.~~

~~(3) Civil Infraction. Except as otherwise provided in this subtitle, no person shall violate or fail to comply with this subtitle. A violation of or failure to comply with this subtitle is a civil infraction.~~

~~(4) Criminal Penalty. Except as otherwise provided in this subtitle, in addition to or as an alternative to any other penalty provided in this subtitle or by law, a person convicted of a violation of this subtitle is guilty of a misdemeanor. Upon conviction a person may also be ordered to abate, discontinue, or correct a violation of this subtitle.~~

~~(5) Other Lawful Remedies. Nothing in this section shall limit the right of the city to pursue other lawful criminal, civil, or equitable remedies to abate, discontinue, or correct violations of this subtitle.~~

~~(6) It is unlawful to violate or fail to comply with any provision of this subtitle or any such rule or regulation. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this subtitle or of any notice or lawful order issued hereunder. Except as otherwise provided in this Section, any violation of this subtitle shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.~~

(73) Any person or any agent thereof who divides land into lots, tracts, or parcels of land and sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat, short plat, boundary line adjustment, or binding site plan filed for record, or who otherwise violates or fails to comply with any of the provisions of this subtitle shall be guilty of a gross misdemeanor. Each violation involving a separate lot, tract, or parcel of land is a separate and distinct offense; provided, an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary plat approval is not a violation of this subtitle if performance of the offer or agreement is expressly conditioned on the recording of the final plat containing the lot, tract, or parcel. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to the seller shall be permitted until the final plat is recorded.

(84) Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of this subtitle or any term or condition of plat approval prescribed for the plat, the city may commence an action to restrain and enjoin such use and compel compliance with the provision, terms, or conditions. The costs of such action may be taxed against the violator.

(95) Any person who violates any court order or injunction issued pursuant to this subtitle is guilty of a misdemeanor.

(106) No building permit, septic tank permit, or other development permit shall be issued for any lot, tract, or parcel of land divided in violation of this subtitle unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this subtitle and each purchaser or transferee may recover his or her damages from any person, firm, corporation, or agent selling or transferring land in violation of this subtitle, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this subtitle as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may, as an alternative to conforming their property to these requirements, rescind the sale, or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned

thereby.

~~(117)~~ The director of the department of community development has the authority to adopt rules and regulations to carry out the provisions of this subtitle and has the authority to administer and enforce this subtitle and any such rules and regulations.

~~(12) In addition to the remedies prescribed in this section, the city may pursue any other enforcement authorized by law.~~

Subtitle VI. Development Standards and Regulations

Chapter 20.140 – Land Disturbing Activity

20.140.180 ~~Enforcement, violations, and penalties.~~

~~(1) Permit Suspension/Revocation.–~~

The director may suspend work or revoke a land disturbing activity permit, as appropriate, whenever:

- (a) The work is not authorized by a valid permit;
- (b) The applicant requests such revocation or suspension;
- (c) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other applicable city ordinances;
- (d) Entry upon the property for the purposes of investigation or inspection has been denied;
- (e) The applicant has made a misrepresentation of a material fact in applying for such permit;
- (f) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;
- (g) The required project security has expired or been expended to the point that it no longer provides assurance of completion of the project in compliance with the terms of the permit; or
- (h) The permit has not been acted upon or extended within the time allowed pursuant to this chapter.

~~(2) Except as otherwise provided in this chapter, any violation of any provision of this chapter constitutes a civil-code violation subject to and enforced pursuant to the provisions of Chapter 2.64 POMC.~~

Subtitle VII. Stormwater Drainage

Chapter 20.150 – Stormwater Drainage

20.150.270 Enforcement.

(1) ~~Failure to Comply~~Violations of this chapter. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter or of any notice or lawful order issued hereunder. Any violation of this chapter shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.

(2) Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties

as provided in this chapter.

~~(3) Civil Infraction. Except as provided in subsection (4) of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in Chapter 2.64 POMC. A civil infraction under this section shall be processed in the manner set forth in Chapter 2.64 POMC.~~

~~(4) Misdemeanor. Any person who again violates this chapter within 12 months after having been found to be in violation of this chapter commits a misdemeanor.~~

~~(5) Civil Penalty. In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with Chapter 2.64 POMC.~~

~~(6) Additional Remedies. In addition to any other remedy provided by this chapter or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.~~

(7) Violation of Additional Laws. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions associated with each, including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

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City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: Business Item 7E
Subject: Adoption of a Resolution Adopting the
Final Plat of Muirfield Phase 1 (McCormick
Woods Phase III)

Meeting Date: June 25, 2019
Prepared by: Nick Bond, AICP
DCD Director
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: The site is identified as McCormick Woods Phase III and was granted approval with conditions by the Kitsap County Hearing Examiner on June 20, 1990. A Final Environmental Impact Statement for the McCormick Woods Planned Residential Development was issued on August 30, 1985, and subsequently adopted by Kitsap County as part of the approval of McCormick Woods, Phase III Preliminary Plat approval on June 20, 1990. The Plat of Muirfield Phase I subdivision creates 28 single-family residential lots and three tracts. A portion of the development is identified as areas of future development which will require the approval of a Final Plat. The applicant has installed or bonded for roadway illumination, roads, sidewalks, landscaping, water and sewer, and storm drainage improvements. Streets within this final plat are for public use and will be accepted into the City's road system.

Recommendation: Adoption of a resolution, granting approval of the final plat of Plat of Muirfield.

Relationship to Comprehensive Plan: Not applicable.

Motion for consideration: I move to adopt a resolution, as presented, granting final plat approval for Plat of Muirfield.

Fiscal Impact: Income from building permit fees, ongoing maintenance of public infrastructure.

Alternatives: Approval with added conditions.

Attachments: Resolution, Plat map, DCD Approval Letter, PW Approval Letter, SKFR Approval Letter, and Bill of Sale.

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RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
GRANTING FINAL PLAT APPROVAL FOR A 28-LOT AND THREE-TRACT PLAT
KNOWN AS PLAT OF MUIRFIELD.**

WHEREAS, on December 16, 1985, the Kitsap County Hearing Examiner approved the Preliminary Plat/Planned Unit Development known as McCormick Woods Preliminary Plat/PUD Phase I; and

WHEREAS, on June 20, 1990, the Kitsap County Hearing Examiner approved the Preliminary Plat known as McCormick Woods Phase III; and

WHEREAS, on August 30, 1985, Kitsap County issued a Final Environmental Impact Statement for the McCormick Woods Phase III Development; and

WHEREAS, on January 11, 2019 an application was submitted for the final plat of Parcel C of the McCormick Woods Phase III preliminary plat, now named Plat of Muirfield, for the subdivision of 28 single-family residential lots, three tracts, public right-of-way, and areas for future development; and

WHEREAS, the Director of Public Works has determined that the proposed means of sewage disposal and water supply are adequate and recommends approval of the final plat; and

WHEREAS, on June 11, 2019, the City Council passed a moratorium on development within the 580 & 660 water zones, of which Plat of Muirfield is a part, due to insufficient water capacity; the moratorium prohibits building that requires new water connections until the moratorium is lifted, but does not limit the ability to develop plats; and

WHEREAS, the City Engineer recommends approval of the final plat; and

WHEREAS, the City Community Development Director recommends approval of the final plat; and

WHEREAS, the City Council finds that Parcel C of the McCormick Woods Phase III plat, now named Plat of Muirfield, conforms to all terms and conditions of the preliminary plat approval and that said subdivision meets the requirements of Chapter 58.17 RCW and other applicable state laws and local ordinances; and

WHEREAS, the City Council finds that Plat of Muirfield conforms to the applicable zoning requirements and Port Orchard's Comprehensive Plan; now, therefore;

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES
AS FOLLOWS:**

THAT: The Port Orchard City Council approves the final plat for Plat of Muirfield, as illustrated and as legally described in Exhibit A, attached hereto; and

FURTHER THAT: The Plat of Muirfield subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval for a period of five years after final plat approval unless the City Council finds that a change in conditions has created a serious threat to the public health or safety in the subdivision.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the Clerk in authentication of such passage this 25th day of June 2019.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

PLAT OF MUIRFIELD PHASE I

SHEET 1 OF 6

A PORTION OF THE NE 1/4 OF THE NW 1/4 & OF THE NW 1/4 OF THE NE1/4 OF SEC. 09,
TWP. 23N., RNG. 1E., W.M., & OF THE SW 1/4 OF THE SE 1/4 OF SEC 04, TWP. 23N., RNG. 1E., W.M.
CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS IN THE FEE SIMPLE OR CONTRACT PURCHASER AND MORTGAGE HOLDER OF THE LAND HEREBY PLATTED, HEREBY DECLARE THIS PLAT AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS AND AVENUES SHOWN THEREON AND USE THEREOF FOR ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS AND BLOCKS SHOWN ON THIS PLAT IN THE ORIGINAL REASONABLE GRADING OF THE STREETS AND AVENUES SHOWN HEREON. THE UNDERSIGNED OWNERS HEREBY WAIVE ALL CLAIMS FOR DAMAGES AGAINST ANY GOVERNMENTAL AUTHORITY WHICH MAY BE OCCASIONED TO THE ADJACENT LAND BY THE ESTABLISHED CONSTRUCTION, DRAINAGE AND MAINTENANCE OF SAID ROAD. THIS SUBDIVISION HAS BEEN MADE WITH OUR FEE CONSENT AND IN ACCORDANCE WITH OUR DESIRES.

THE UNDERSIGNED OWNERS OF THE INTEREST IN THE REAL ESTATE DESCRIBED HEREIN HEREBY DECLARE THIS MAP AND DEDICATE THE SAME FOR A COMMON INTEREST COMMUNITY NAMED MCCORMICK WOODS HOMEOWNER'S ASSOCIATION, A PLAT COMMUNITY, AS THAT TERM IS DEFINED IN THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT, SOLELY TO MEET THE REQUIREMENTS OF THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT AND NOT FOR ANY PUBLIC PURPOSE. THIS MAP AND ANY PORTION THEREOF IS RESTRICTED BY LAW AND THE DECLARATION FOR MCCORMICK WOODS HOMEOWNER'S ASSOCIATION, RECORDED UNDER KITSAP COUNTY RECORDING NO. 201612270094.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS THIS 5th DAY OF JUNE, 2019.

MCCORMICK DEVELOPMENT CORP.,
A WASHINGTON CORPORATION

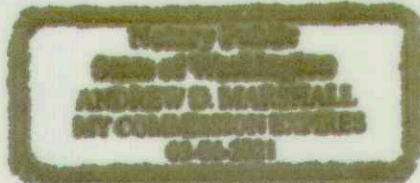
BY: James Tosti
IT'S: Managing Member

ACKNOWLEDGEMENTS:

STATE OF WASHINGTON)
COUNTY OF KING) SS

ON THIS 5th DAY OF JUNE, 2019, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED James Tosti TO ME PERSONALLY KNOWN (OR PROVEN ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE Managing Member OF MCCORMICK DEVELOPMENT CORP., A WASHINGTON CORPORATION, THE COMPANY THAT EXECUTED THE WITHIN AND FOREGOING INSTRUMENT, AND ACKNOWLEDGED SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE SAID INSTRUMENT AND THAT THE SEAL AFFIXED, IF ANY, IS THE CORPORATE SEAL OF SAID CORPORATION.

WITNESS MY HAND AND SEAL HERETO AFFIXED THE DAY AND YEAR IN THIS CERTIFICATE ABOVE WRITTEN.



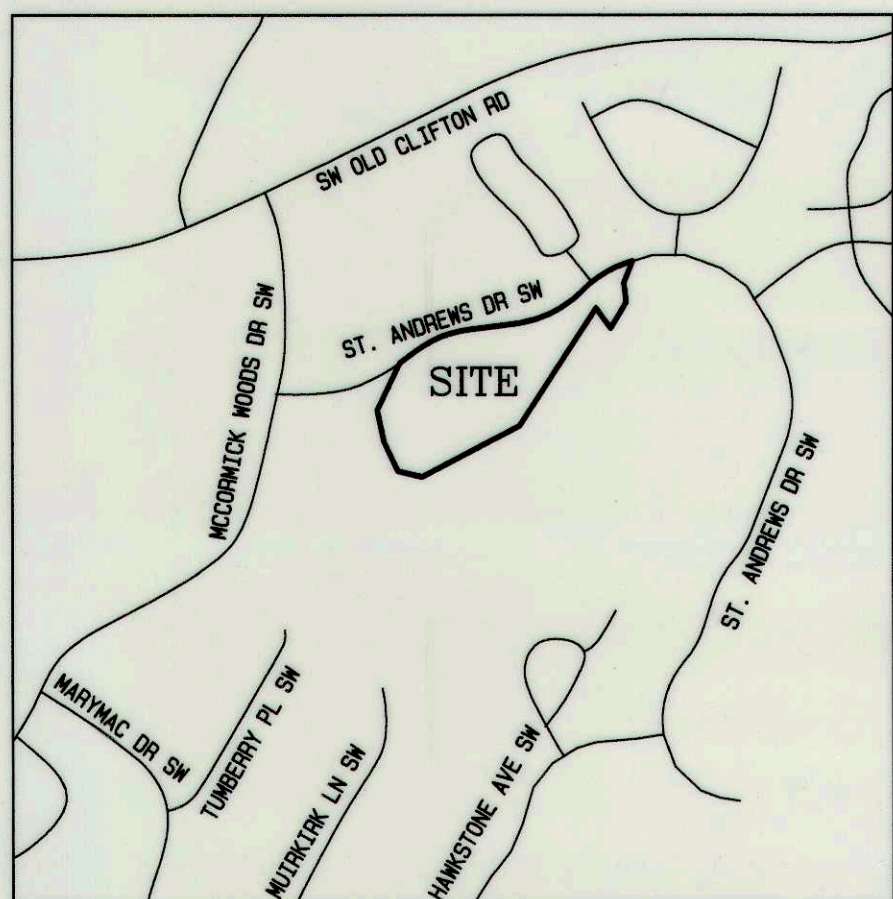
Andrew D Marshall
NOTARY PUBLIC IN AND FOR THE STATE
OF WASHINGTON, RESIDING IN Kirkland
MY COMMISSION EXPIRES: 03-06-21
Andrew D Marshall
PRINT NOTARY NAME

UTILITY EASEMENT:

AN EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO CASCADE NATURAL GAS, ANY WATER COMPANY, US POSTAL SERVICE, QWEST COMMUNICATIONS COMPANY, PUGET SOUND ENERGY, INC., ANY CABLE TELEPHONE COMPANY, ANY CITY, KITSAP COUNTY, ANY OTHER PUBLIC OR PRIVATE UNDERGROUND UTILITY SERVICE (INCLUDING, BUT NOT LIMITED TO, PRIVATE ROOF DRAINS) AND OTHER UTILITIES, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS,

UNDER AND UPON THE EXTERIOR TEN (10) FEET OF FRONT BOUNDARY LINES OF ALL LOTS AND TRACTS, IN WHICH TO INSTALL, LAY, CONSTRUCT, RENEW, OPERATE, MAINTAIN AND REMOVE UTILITY SYSTEMS, LINES, FIXTURES AND APPURTENANCES ATTACHED THERETO, FOR THE PURPOSE OF PROVIDING UTILITY SERVICES TO THE SUBDIVISION AND OTHER PROPERTY, TOGETHER WITH THE RIGHT TO ENTER UPON THE LOTS AND TRACTS AT ALL TIMES FOR THE PURPOSES STATED, WITH THE UNDERSTANDING THAT ANY GRANTEE SHALL BE RESPONSIBLE FOR ALL UNNECESSARY DAMAGE IT CAUSES TO ANY REAL PROPERTY OWNER IN THE SUBDIVISION BY EXERCISE OF RIGHTS AND PRIVILEGES HEREIN GRANTED.

VICINITY MAP



1"=1000'

CITY ENGINEER'S APPROVAL:

I HEREBY CERTIFY THAT THIS FINAL PLAT IS CONSISTENT WITH ALL APPLICABLE CITY IMPROVEMENT STANDARDS AND REQUIREMENTS IN FORCE ON THE DATE OF PRELIMINARY/SHORT PLAT APPROVAL. I HAVE APPROVED THIS FINAL PLAT AS TO THE LAYOUT OF STREETS, ALLEYS AND OTHER RIGHTS-OF-WAY, DESIGN OF BRIDGES, SEWAGE AND WATER SYSTEMS AND OTHER STRUCTURES. EXAMINED AND APPROVED

BY ME THIS 20th DAY OF June, 2019.

CITY ENGINEER

CITY COUNCIL APPROVAL:

APPROVED BY THE CITY COUNCIL OF THE CITY OF PORT ORCHARD THIS

____ DAY OF _____, 201____.

ATTEST:

CITY CLERK

MAYOR

CITY FINANCE DIRECTOR APPROVAL:

I HEREBY CERTIFY THAT ALL TAXES AND DELINQUENT ASSESSMENTS FOR WHICH THE PROPERTY MAY BE LIABLE AS OF THE DATE OF CERTIFICATION HAVE BEEN DULY PAID, SATISFIED OR DISCHARGED.

EXECUTED THIS 18th DAY OF June, 2019.

FINANCE DIRECTOR

AUDITOR'S CERTIFICATE:

FILED AT THE REQUEST OF STEPHEN H WOODS, PLS, THIS ____ DAY OF ____

2018, AND RECORDED IN VOLUME ____ OF PLATS, PAGE(S) ____ RECORDS OF KITSAP COUNTY, WASHINGTON.

KITSAP COUNTY AUDITOR

FEE: _____

COUNTY TREASURER APPROVAL:

THIS IS TO CERTIFY THAT ALL TAXES HERETOFORE LEVIED AND WHICH HAS BECOME A LIEN UPON THE LANDS HEREIN DESCRIBED, HAVE BEEN FULLY PAID AND DISCHARGED, ACCORDING TO THE RECORDS OF MY OFFICE, UP TO AND INCLUDING THE YEAR ____.

EXECUTED THIS ____ DAY OF _____, 201____.

COUNTY TREASURER

PUBLIC WORKS DIRECTOR:

EXAMINED AND APPROVED THIS 20th DAY OF June, 2019.

PUBLIC WORKS DIRECTOR

6/20/19
DATE

COMMUNITY DEVELOPMENT DIRECTOR:

EXAMINED AND APPROVED THIS 19th DAY OF June, 2019.

COMMUNITY DEVELOPMENT DIRECTOR

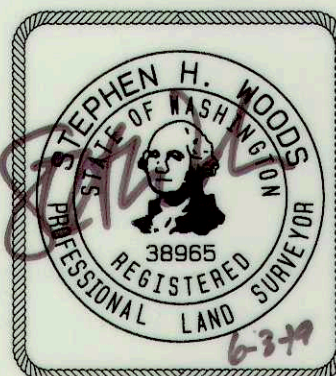
6/29/19
DATE

LAND SURVEYOR'S CERTIFICATE:

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF MCCORMICK DEVELOPMENT CORP. A WASHINGTON CORPORATION, IN MARCH, 2019. I HEREBY CERTIFY THAT THIS MAP FOR THE PLAT OF MUIRFIELD, PHASE I, IS BASED UPON AN ACTUAL SURVEY OF THE PROPERTY HEREIN DESCRIBED; THAT THE BEARINGS AND DISTANCES ARE CORRECTLY SHOWN; THAT ALL INFORMATION REQUIRED BY THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT IS SUPPLIED HEREIN; ALL MONUMENTS AND LOT CORNERS ARE SET OR BONDED WITH THE CITY AND WILL BE SET PRIOR TO RELEASE OF THE BOND. THAT THIS PLAT CONFORMS TO THE APPROVED PRELIMINARY PLAT AND THE CONDITIONS OF APPROVAL THEREOF.

Stephen H. Woods
STEPHEN H. WOODS, P. L. S. 38965

6-3-19
DATE



Job No. 17-203



SHEET 1 OF 6

VOLUME / PAGE

PLAT OF MUIRFIELD PHASE I

SHEET 2 OF 6

LEGAL DESCRIPTION:

PARCEL 2 OF DECLARATION OF LAND SEGREGATION RECORDED FEBRUARY 19, 2016 UNDER RECORDING NO. 201602190050, AND AS SHOWN ON SURVEY RECORDED IN VOLUME B2 OF SURVEYS, PAGES 25 AND 26, UNDER RECORDING NO. 201602190049; BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 4 AND THE NORTHEAST QUARTER AND THE NORTHWEST QUARTER OF SECTION 9, ALL IN TOWNSHIP 23 NORTH, RANGE 1 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

BASIS OF BEARING:

GRID NORTH, BASED UPON GLOBAL POSITIONING SYSTEM (GPS) LAMBERT GRID WASHINGTON STATE NORTH ZONE COORDINATES. THE NORTH AMERICAN DATUM OF 1983/2011 (NAD 83/2011 EPOCH 2010.00) GRID COORDINATES WERE FOUND TO BE 192331.85 / 1185648.48 AT A PUNCH IN 3" BRASS DISK AT THE EAST QUARTER CORNER OF SECTION 4, TOWNSHIP 23 NORTH, RANGE 1 EAST, W.M.. THE INVERSE OF BOTH THE SEA LEVEL CORRECTION FACTOR OF 0.9999871363 AND THE GRID SCALE FACTOR OF 0.9999977172 WAS APPLIED TO THE GRID COORDINATES FOR SHOWN GROUND DISTANCES.

SURVEY NOTES:

- 1) THE MONUMENT CONTROL SHOWN FOR THIS SITE WAS ACCOMPLISHED BY FIELD TRAVERSE UTILIZING A ONE (1) SECOND THEODOLITE WITH INTEGRAL ELECTRONIC DISTANCE MEASURING METER (GEODIMETER 600) AND REAL TIME KINEMATIC (RTK) / STATIC GLOBAL POSITIONING SYSTEM (GPS TRIMBLE R8). LINEAR AND ANGULAR CLOSURE OF THE TRAVERSES MEET THE STANDARDS OF WAC 332-130-090.
- 2) UTILITIES OTHER THAN THOSE SHOWN MAY EXIST ON THIS SITE. ONLY THOSE WHICH ARE VISIBLE OR HAVING VISIBLE EVIDENCE OF THEIR INSTALLATION ARE SHOWN HEREON.
- 3) THIS SURVEY REPRESENTS PHYSICAL IMPROVEMENT CONDITIONS AS THEY EXISTED FEBRUARY 16, 2018, THE DATE OF THIS FIELD SURVEY.
- 4) FULL RELIANCE FOR LEGAL DESCRIPTIONS AND RECORDED EASEMENTS HAVE BEEN PLACED ON THE TITLE REPORT FROM FIRST AMERICAN TITLE AMENDED SUBDIVISION CERTIFICATE ORDER NUMBER 03K-13053, DATED JULY 19, 2018 AT 08:00 A.M.. NO ADDITIONAL RESEARCH HAS BEEN ATTEMPTED.
- 5) OFFSET DIMENSIONS SHOWN HEREON ARE MEASURED PERPENDICULAR TO PROPERTY LINES.

TITLE EXCEPTIONS:

- 1) STATEMENT OF GENERAL TAXES.
- 2) THIS PROPERTY IS SUBJECT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FILED UNDER RECORDING NO. 201612270094.
- 3) THIS PROPERTY IS SUBJECT TO PROVISIONS OF THE ARTICLES OF INCORPORATION AND BY-LAWS OF THE MCCORMICK WOODS ASSOCIATION.
- 4) THIS PROPERTY IS SUBJECT TO SUBSTITUTE DECLARATION OF PLANNED UNIT DEVELOPMENT, FILED UNDER RECORDING NO'S 200301150187 200301290268.
- 5) THIS PROPERTY IS SUBJECT TO AN EASEMENT AGREEMENT FOR GOLF COURSE ENCROACHMENTS FILED UNDER RECORDING NO. 200309040127. SAID AGREEMENT IS A RERECORDING OF AGREEMENT RECORDED UNDER AUDITOR'S FILE NO. 200309030132. DOCUMENTS CONTAINS INSUFFICIENT INFORMATION TO SHOW AN EXACT LOCATION AND THEREFORE CANNOT BE SHOWN.
- 6) THIS PROPERTY IS SUBJECT TO AN EASEMENT AGREEMENT FOR A GOLF COURSE SETBACK AREA AS DESCRIBED IN DOCUMENT FILED UNDER RECORDING NO. 200309040128, BEING A RERECORDING OF INSTRUMENT UNDER AUDITOR'S FILE NO. 200309030131. THIS DOCUMENT CONTAINS INSUFFICIENT INFORMATION TO SHOW AN EXACT LOCATION AND, THEREFORE, CANNOT BE PLOTTED HEREON.
- 7) THIS PROPERTY IS SUBJECT TO THE MCCORMICK WOODS DEVELOPMENT AGREEMENT FOR TRANSPORTATION AS FILED UNDER RECORDING NO. 200510210280.
- 8) THIS PROPERTY IS SUBJECT TO DEVELOPMENT AGREEMENTS FILED UNDER RECORDING NO. 201309160217.
- 9) THIS PROPERTY IS SUBJECT TO ASSIGNMENT OF AGREEMENTS, EASEMENTS, COVENANTS AND RECORDED INTERESTS FILED UNDER AFN 201512310228.
- 10) THIS PROPERTY IS SUBJECT TO THE "CITY OF PORT ORCHARD MCCORMICK WOODS LIFT STATIONS #1 & #2 UPGRADE AGREEMENT," PER DOCUMENT FILED UNDER RECORDING NO. 201805160074.
- 11) DEED OF TRUST PER RECORDING NUMBER 201807190095.

PLAT NOTES:

- 1) TRACTS "LA10," "LA15," AND "LA20" ARE OPEN SPACE AND LANDSCAPE TRACTS TO BE OWNED/MAINTAINED BY THE MCCORMICK WOODS HOME OWNERS ASSOCIATION (HOA).
- 2) TRACT EV100 IS A PUBLIC EMERGENCY ACCESS TRACT TO BE OWNED AND MAINTAINED BY THE CITY OF PORT ORCHARD.
- 3) TRACT SD10 IS A STORM UTILITY TRACT TO BE OWNED/MAINTAINED BY THE MCCORMICK WOODS HOME OWNER'S ASSOCIATION (HOA).
- 4) TRACT FD2 IS A FUTURE DEVELOPMENT TRACT TO BE OWNED AND MAINTAINED BY THE MCCORMICK DEVELOPMENT CORPORATION.
- 5) ALL LOTS SHALL BE ACCESSED FROM INTERIOR ROADS ONLY.
- 6) THE PROPERTY OWNERS WITHIN THIS PLAT SHALL BE RESPONSIBLE FOR MAINTENANCE OF ALL LANDSCAPING WITHIN THE EXISTING AND PROPOSED RIGHT-OF-WAY INCLUDING ANY STRUCTURES OTHER THAN ROADWAY, STORM DRAINAGE FACILITIES, AND TRAFFIC SIGNAGE. MAINTENANCE SHALL INCLUDE, BUT NOT BE LIMITED TO, MOWING OF LAWN AREAS.
- 7) WATER SUPPLY AND STORAGE IS TO BE PROVIDED BY THE CITY OF PORT ORCHARD'S EXISTING WATER SYSTEM FOR FOR THIS PHASE 1 DEVELOPMENT OF 28 LOTS.

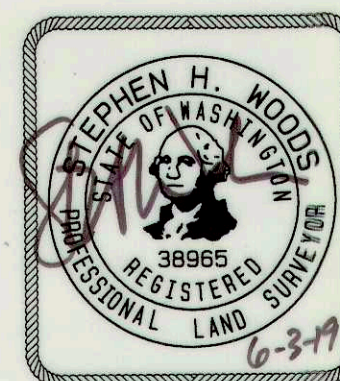
MAXIMUM IMPERVIOUS SURFACE AREAS:

LOT	AREA	LOT	AREA
1	5,068 S.F.	15	4,281 S.F.
2	5,135 S.F.	16	5,713 S.F.
3	5,048 S.F.	17	4,209 S.F.
4	4,655 S.F.	18	4,621 S.F.
5	4,620 S.F.	19	3,630 S.F.
6	4,620 S.F.	20	3,631 S.F.
7	4,620 S.F.	21	3,966 S.F.
8	4,620 S.F.	22	3,965 S.F.
9	4,620 S.F.	23	3,963 S.F.
10	5,187 S.F.	24	3,977 S.F.
11	3,580 S.F.	25	5,144 S.F.
12	3,598 S.F.	26	4,832 S.F.
13	4,132 S.F.	27	3,630 S.F.
14	3,300 S.F.	28	3,630 S.F.

BUILDING SETBACKS

LOT AREA	BUILDING SETBACK
PRIMARY STREET	10 FEET
SIDE STREET	10 FEET
SIDE INTERIOR	5 FEET
REAR	10 FEET

Job No. 17-203



CONTOUR

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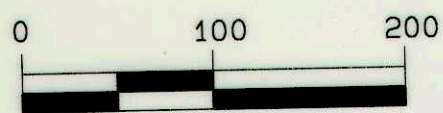
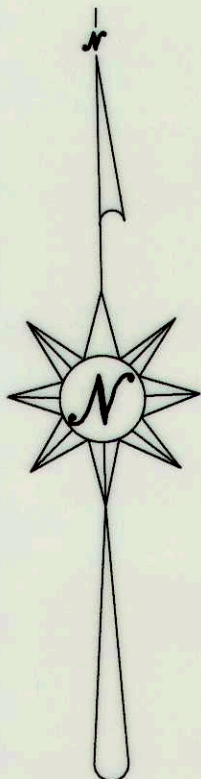
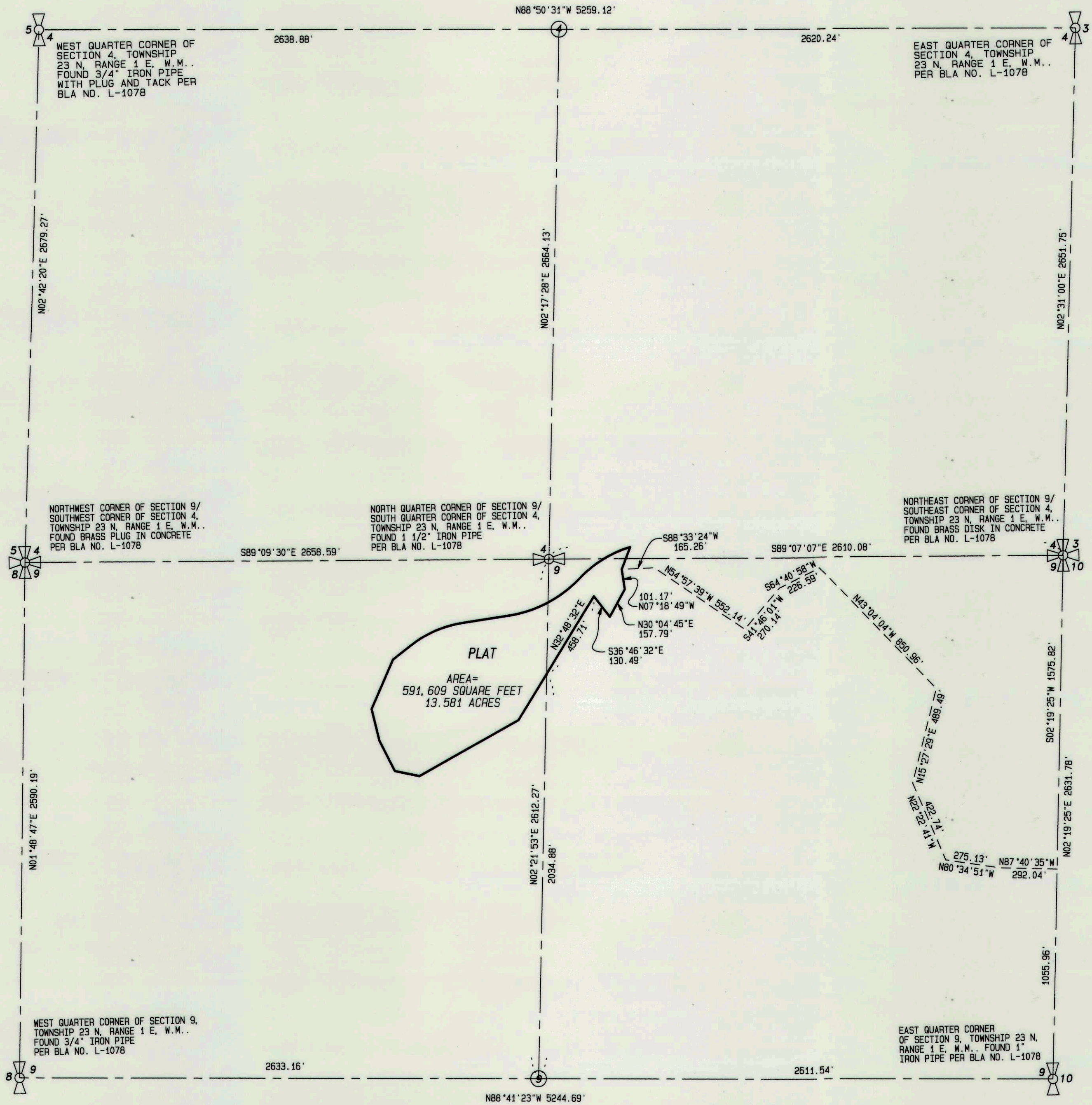
CIVIL ENGINEERS ~ SURVEYORS LAND PLANNERS
4706 97th Street NW, Suite #100, Gig Harbor, WA 98335
Phone: 253-857-5454 Fax: 253-509-0044 info@contourplc.com

SHEET 2 OF 6

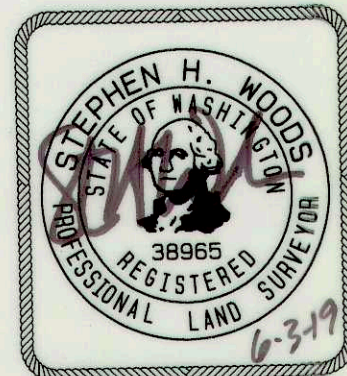
VOLUME/PAGE

PLAT OF MUIRFIELD PHASE I

SHEET 3 OF 6



Scale:
1" = 400'



Job No. 17-203

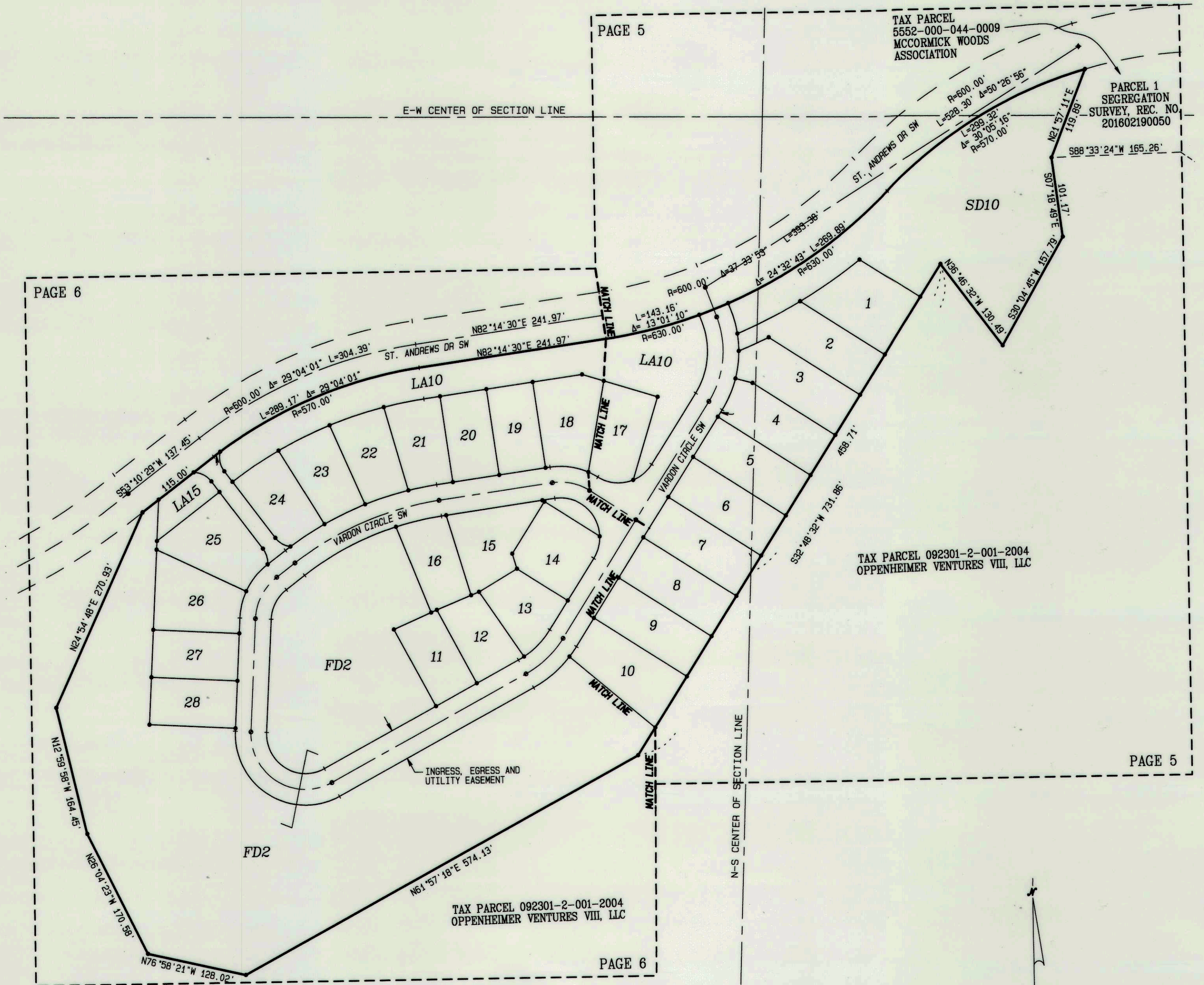
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CIVIL ENGINEERS • SURVEYORS • LAND PLANNERS
4706 97th Street NW, Suite #100, Gig Harbor, WA 98335
Phone: 253-857-5454 Fax: 253-509-0044 info@contourpllc.com

SHEET 3 OF 6

VOLUME / PAGE

PLAT OF MUIRFIELD PHASE I

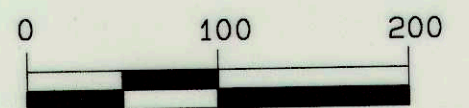
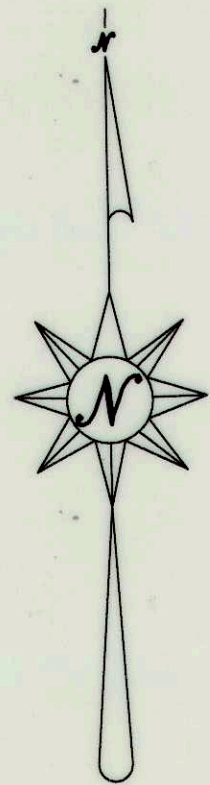
SHEET 4 OF 6



ADDRESSES:

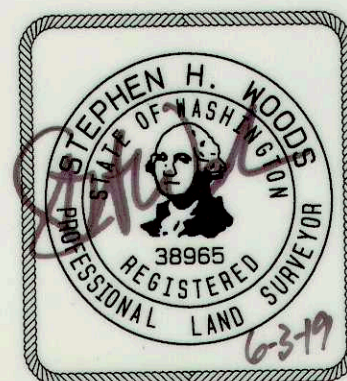
LOT NUMBER	ADDRESS
1	2370 VARDON CIRCLE SW
2	2376 VARDON CIRCLE SW
3	2382 VARDON CIRCLE SW
4	2400 VARDON CIRCLE SW
5	2406 VARDON CIRCLE SW
6	2412 VARDON CIRCLE SW
7	2418 VARDON CIRCLE SW
8	2424 VARDON CIRCLE SW
9	2430 VARDON CIRCLE SW
10	2436 VARDON CIRCLE SW
11	2457 VARDON CIRCLE SW
12	2447 VARDON CIRCLE SW
13	2439 VARDON CIRCLE SW
14	2431 VARDON CIRCLE SW

LOT NUMBER	ADDRESS
15	2559 VARDON CIRCLE SW
16	2553 VARDON CIRCLE SW
17	2580 VARDON CIRCLE SW
18	2574 VARDON CIRCLE SW
19	2568 VARDON CIRCLE SW
20	2562 VARDON CIRCLE SW
21	2556 VARDON CIRCLE SW
22	2550 VARDON CIRCLE SW
23	2544 VARDON CIRCLE SW
24	2538 VARDON CIRCLE SW
25	2532 VARDON CIRCLE SW
26	2526 VARDON CIRCLE SW
27	2520 VARDON CIRCLE SW
28	2514 VARDON CIRCLE SW



Scale:
1" = 100'

Job No. 17-203

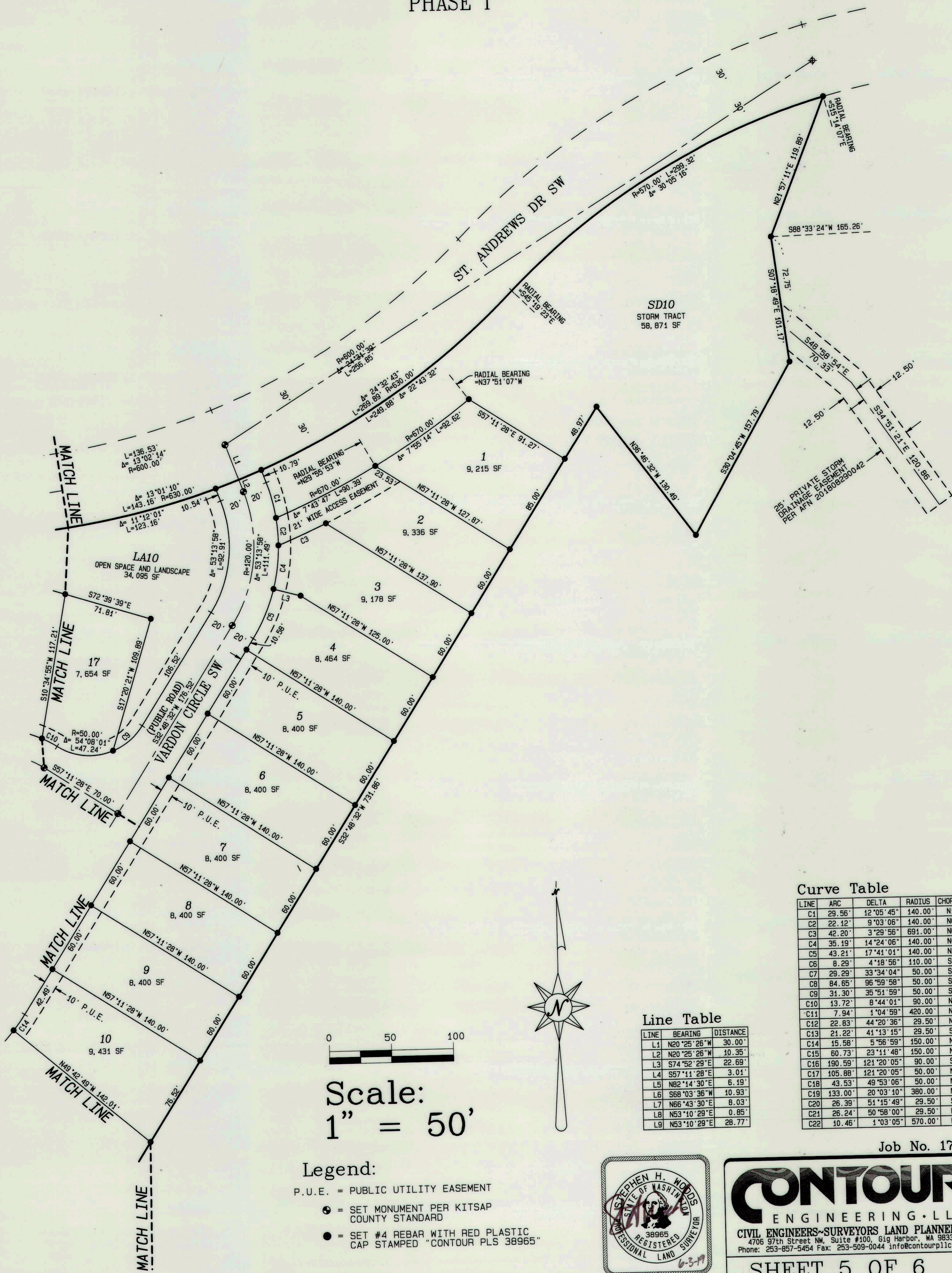


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SHEET 4 OF 6

VOLUME / PAGE

PLAT OF MUIRFIELD PHASE I



SD10
STORM TRACT
58,871 SF

LA10
OPEN SPACE AND LANDSCAPE
34,095 SF

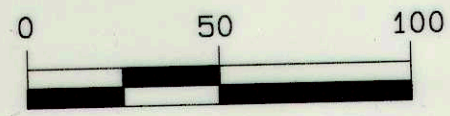
25' PRIVATE STORM
DRAINAGE EASEMENT
PER AFN 201808230042

Curve Table

LINE	ARC	DELTA	RADIUS	CHORD BEARING
C1	29.56'	12°05'45"	140.00'	N14°22'33"W
C2	22.12'	9°03'06"	140.00'	N03°48'08"W
C3	42.20'	3°29'56"	691.00'	N66°37'38"E
C4	35.19'	14°24'06"	140.00'	N07°55'28"E
C5	43.21'	17°41'01"	140.00'	N23°58'01"E
C6	8.29'	4°18'56"	110.00'	S59°47'51"W
C7	29.29'	33°34'04"	50.00'	S16°01'30"W
C8	84.65'	96°59'58"	50.00'	S49°15'31"E
C9	31.30'	35°51'59"	50.00'	S50°44'32"W
C10	13.72'	8°44'01"	90.00'	N61°33'28"W
C11	7.94'	1°04'59"	420.00'	N53°42'59"E
C12	22.83'	44°20'36"	29.50'	N58°59'48"W
C13	21.22'	41°13'15"	29.50'	S16°12'53"E
C14	15.58'	5°56'59"	150.00'	N35°47'01"E
C15	60.73'	23°11'48"	150.00'	N50°21'25"E
C16	190.59'	121°20'05"	90.00'	S57°22'39"E
C17	105.88'	121°20'05"	50.00'	N57°22'39"W
C18	43.53'	49°53'06"	50.00'	N28°13'57"E
C19	133.00'	20°03'10"	380.00'	N63°12'05"E
C20	26.39'	51°15'49"	29.50'	S62°27'25"E
C21	26.24'	50°58'00"	29.50'	N11°20'30"W
C22	10.46'	1°03'05"	570.00'	N53°42'02"E

Line Table

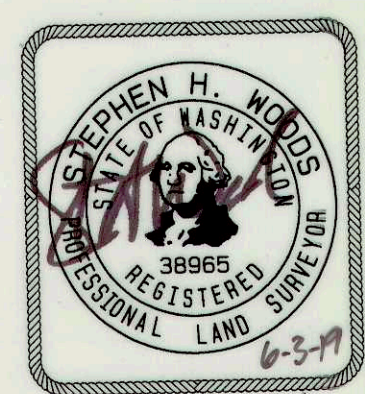
LINE	BEARING	DISTANCE
L1	N20°25'26"W	30.00'
L2	N20°25'26"W	10.35'
L3	S74°52'29"E	22.69'
L4	S57°11'28"E	3.01'
L5	N62°14'30"E	6.19'
L6	S68°03'36"W	10.93'
L7	N66°43'30"E	8.03'
L8	N53°10'29"E	0.85'
L9	N53°10'29"E	28.77'



Scale:
1" = 50'

Legend:

- P.U.E. = PUBLIC UTILITY EASEMENT
- ⊙ = SET MONUMENT PER KITSAP COUNTY STANDARD
- = SET #4 REBAR WITH RED PLASTIC CAP STAMPED "CONTOUR PLS 38965"



Job No. 17-203

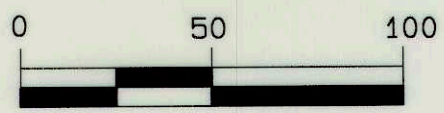
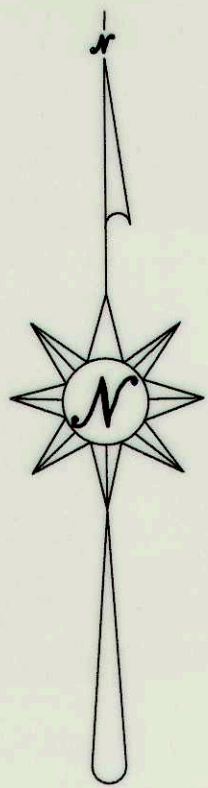
CONTOUR

ENGINEERING • LLC
CIVIL ENGINEERS • SURVEYORS • LAND PLANNERS
4706 97th Street NW, Suite #100, Gig Harbor, WA 98335
Phone: 253-857-5454 Fax: 253-509-0044 info@contourplc.com

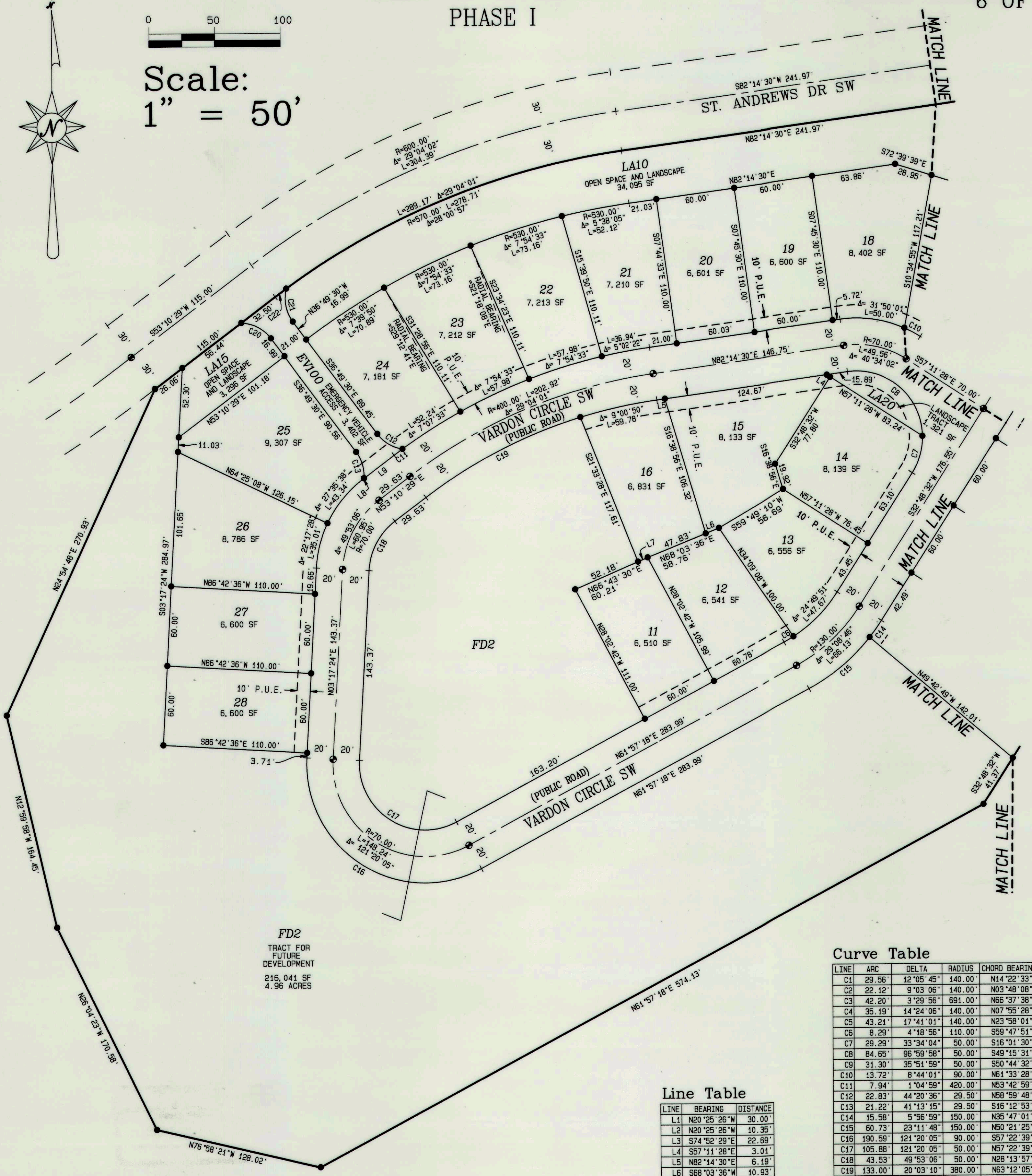
SHEET 5 OF 6

PLAT OF MUIRFIELD PHASE I

SHEET
6 OF 6



Scale:
1" = 50'



FD2
TRACT FOR
FUTURE
DEVELOPMENT
216,041 SF
4.96 ACRES

Curve Table

LINE	ARC	DELTA	RADIUS	CHORD BEARING
C1	29.56'	12°05'45"	140.00'	N14°22'33"W
C2	22.12'	9°03'06"	140.00'	N03°48'08"W
C3	42.20'	3°29'56"	691.00'	N66°37'38"E
C4	35.19'	14°24'06"	140.00'	N07°55'28"E
C5	43.21'	17°41'01"	140.00'	N23°58'01"E
C6	8.29'	4°18'56"	110.00'	S59°47'51"W
C7	29.29'	33°34'04"	50.00'	S16°01'30"W
C8	84.65'	96°59'58"	50.00'	S49°15'31"E
C9	31.30'	35°51'59"	50.00'	S50°44'32"W
C10	13.72'	8°44'01"	90.00'	N61°33'28"W
C11	7.94'	1°04'59"	420.00'	N53°42'59"E
C12	22.83'	44°20'36"	29.50'	N58°59'48"W
C13	21.22'	41°13'15"	29.50'	S16°12'53"E
C14	15.58'	5°56'59"	150.00'	N35°47'01"E
C15	60.73'	23°11'48"	150.00'	N50°21'25"E
C16	190.59'	121°20'05"	90.00'	S57°22'39"E
C17	105.88'	121°20'05"	50.00'	N57°22'39"W
C18	43.53'	49°53'06"	50.00'	N28°13'57"E
C19	133.00'	20°03'10"	380.00'	N63°12'05"E
C20	26.39'	51°15'49"	29.50'	S62°27'25"E
C21	26.24'	50°58'00"	29.50'	N11°20'30"W
C22	10.46'	1°03'05"	570.00'	N53°42'02"E

Line Table

LINE	BEARING	DISTANCE
L1	N20°25'26"W	30.00'
L2	N20°25'26"W	10.35'
L3	S74°52'29"E	22.69'
L4	S57°11'28"E	3.01'
L5	N82°14'30"E	6.19'
L6	S68°03'36"W	10.93'
L7	N66°43'30"E	8.03'
L8	N53°10'29"E	0.85'
L9	N53°10'29"E	28.77'

Legend:

- P.U.E. = PUBLIC UTILITY EASEMENT
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CONTOUR
ENGINEERING • LLC
CIVIL ENGINEERS • SURVEYORS • LAND PLANNERS
4706 97th Street NW, Suite #100, Gig Harbor, WA 98335
Phone: 253-857-5454 Fax: 253-509-0044 info@contourplc.com

SHEET 6 OF 6

Job No. 17-203

VOLUME/PAGE



CITY OF PORT ORCHARD
Development Director
216 Prospect Street, Port Orchard, WA 98366
Phone: (360) 874-5533 • Fax: (360) 876-4980
planning@cityofportorchard.us
www.cityofportorchard.us

June 4, 2019

City Council
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

Re: Recommendation of Approval of Final Plat for Muirfield Plat LU19-PLAT FINAL-01

Dear City Council:

In accordance with RCW 58.17.150(2), I hereby state that I have reviewed the subdivision documents for conformance to applicable land use regulations and to the conditions in the Kitsap County Hearing Examiner decision dated June 20, 1990, the conditions of the Final Environmental Impact Statement dated August 30, 1985. The subdivision complies with all terms and conditions of the approved preliminary plat that are within the authority of the Department of Community Development. I therefore recommend approval of the final plat.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Nicholas Bond', written in a cursive style.

Nicholas Bond, AICP
City Development Director



CITY OF PORT ORCHARD

Public Works Director

216 Prospect Street, Port Orchard, WA 98366
Phone: (360) 876-4991 • Fax: (360) 876-4980
mdorsey@cityofportorchard.us
www.cityofportorchard.us

June 20, 2019

Port Orchard City Council
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

Re: Recommendation of Approval of Final Plat for Muirfield - Phase 1
(McCormick Woods Parcel C)

Dear City Council:

In accordance with RCW 58.17.150(2), I hereby state that I have reviewed the subdivision documents for conformance to applicable land use regulations and to the conditions in the Kitsap County Hearing Examiner decision dated June 20, 1990, and conditions of the Final Environmental Impact Statement dated August 30, 1985. The subdivision complies with all terms and conditions of the approved preliminary plat that are within the authority of the Department of Community Development.

I also state that the City of Port Orchard has confirmed that it has sufficient sewage disposal, pursuant to the current interim and/or the completion of the final McCormick Sewerage Lift Station No. 1 Improvements. With regards to water supply capacity to serve the subdivision known as Muirfield, a moratorium was passed by the Port Orchard City Council on June 11, 2019 due to insufficient water capacity. While the required plat specific water improvements have been built, as there is currently insufficient water capacity to serve Muirfield, all building requiring new water connections is prohibited until the moratorium is lifted. Finally, the final plat documents have been reviewed, and I have confirmed that all working drawings and specifications for the improvements have been prepared in conformance with City standards and that all required improvements are either complete and accepted, or that a Performance Bond has been established for all unfinished work.

I therefore recommend approval of the final plat. If you should have any questions, or need additional information, please feel free to contact me at this office.

Sincerely,



Mark R. Dorsey, P.E.
Public Works Director/City Engineer

MRD;mrD

Cc: Sharon Cates – City Attorney
Nick Bond – Development Director
File



Fire Chief Steven T. Wright

Commissioners: Miche Eslava (R) Dave Gelsleichter (R) Paul Golnik (R) Gerald Preuss (R)

City Council
City of Port Orchard
216 Prospect Street
Port Orchard WA 98366

Dusty Wiley May 22, 2019

RE: Recommendation of Approval of Final Plat for McCormick Woods Parcel C Muirfield Plat

Dear City Council:

In accordance with RCW 58.17.150(2), I hereby state that I have reviewed the subdivision documents for conformance to applicable land use regulations and to the conditions in the Kitsap County Hearing Examiner decision and conditions. The subdivision complies with all terms and conditions of the approved preliminary plat that are within the authority of South Kitsap Fire and Rescue. I therefore recommend approval of the final plat.

Sincerely,

A handwritten signature in blue ink that reads "Brad Wiggins - 328".

Brad Wiggins
Deputy Fire Marshal
South Kitsap Fire and Rescue

1974 Fircrest Drive SE Port Orchard, WA 98366

360-871-2411 Office

www.skfr.org or like us on Facebook

360-871-2426 Fax



GENERAL CONTRACTORS

1333 Lloyd Parkway • Port Orchard, WA 98367
(360) 876-9737 • Fax (360) 876-9760

"Building on a Reputation of Quality"

4/24/2019

RE: McCormick Woods Parcel "C" (46 Lot Plat), MUIRFIELD

Attn: Nick Tosti
McCormick Communities LLC
805 Kirkland Ave, Suite 200
Kirkland WA 98033

Subject: CONSTRUCTION IMPROVEMENT COST ESTIMATE FOR BILL OF SALE

Item	Quantity	Unit	Unit Cost	SUB-TOTAL	TOTAL	TAX
CRUSHED ROCK UNDER ASPHALT & CONCRETE					\$86,456.90	USE
3" CSBC UNDER ASPHALT	5074	SY	4.15	\$21,057.10		
4" CSTC UNDER ASPHALT	5074	SY	5.40	\$27,399.60		
4" CSTC UNDER SIDEWALKS	1155	SY	8.60	\$9,933.00		
EVA 4" CSTC & 3" CSBC UNDER GRASS PAVERS (9/3/18)	392	SY	12.20	\$4,782.40		
EVA GEOBLOCK 5151 GRASS PAVERS & TOPSOIL	392	SY	59.40	\$23,284.80		
SITE CONCRETE					\$103,157.50	USE
ROLLED CURBS	3400	LF	14.50	\$49,300.00		
6" SIDEWALKS	10395	SF	4.50	\$46,777.50		
ADA RAMPS	3	EA	1,160.00	\$3,480.00		
EVA VERTICAL CURB (C6.00)	144	LF	25.00	\$3,600.00		
ASPHALT PAVING (9/3/18)					\$96,598.60	USE
3" HMA	5074	SY	18.90	\$95,898.60		
THICKENED EDGE 18"	280	LF	2.50	\$700.00		
STORM SYSTEM					\$149,131.50	USE
12" N-12	503	LF	24.50	\$12,323.50		
18" N-12	968	LF	38.00	\$36,784.00		
24" N-12	834	LF	66.00	\$55,044.00		
TYPE 1 CATCH BASIN	5	LF	1,200.00	\$6,000.00		
TYPE 1L CATCH BASIN	4	EA	1,750.00	\$7,000.00		
48" TYPE 2 CATCH BASIN	5	EA	4,830.00	\$24,150.00		
48" OVERFLOW STRUCTURE w/BIRDCAGE	1	EA	5,730.00	\$5,730.00		
18" TRASH RACK	3	EA	500.00	\$1,500.00		
24" TRASH RACK	1	EA	600.00	\$600.00		
WATER SYSTEM (Inc. Field Lock Gaskets)					\$193,603.50	SALES
SINGLE SERVICE	4	EA	1,450.00	\$5,800.00		
DOUBLE SERVICE (Single Service in Same Trench)	21	EA	1,650.00	\$34,650.00		
1" IRRIGATION METER SETTER w/2 EA CROSSING SLEEVES	1	LS	2,200.00	\$2,200.00		
4" DI PIPE	168	EA	41.50	\$6,972.00		
6" DI PIPE	40	LF	39.00	\$1,560.00		
8" DI PIPE	1915	LF	38.10	\$72,961.50		
FIRE HYDRANTS w/TIE BACKS	3	EA	6,000.00	\$18,000.00		
BLOW OFF ASSY	2	EA	1,980.00	\$3,960.00		
AIR VAC ASSY	1	EA	3,500.00	\$3,500.00		
6" GATE VALVE	3	EA	1,150.00	\$3,450.00		
8" GATE VALVE	5	EA	1,500.00	\$7,500.00		
4" GATE VALVE	2	EA	950.00	\$1,900.00		
8X6 TEE	3	EA	850.00	\$2,550.00		
8X8 TEE	2	EA	900.00	\$1,800.00		
8X4 TEE	2	EA	750.00	\$1,500.00		
8" BENDS & ADAPTORS	19	EA	400.00	\$7,600.00		
4" BENDS & PLUGS	6	EA	200.00	\$1,200.00		
10"X8 TAP, ASPHALT REMOVAL PATCH BACK & TRAFFIC CONTROL	1	LS	16,500.00	\$16,500.00		

<u>WATER OFFSITE (Inc. Field Lock Gaskets)</u>				\$148,019.00	SALES
DEMO & DISPOSE OF EXISTING WATER LINE	1	LS	\$7,500.00	\$7,500.00	
SAWCUT	800	LF	\$2.50	\$2,000.00	
ASPHALT DISPOSAL	90	TON	\$35.00	\$3,150.00	
6" DI	26	LF	\$39.00	\$1,014.00	
10" DI	790	LF	67.50	\$53,325.00	
10" GATE VALVE	5	EA	1,850.00	\$9,250.00	
8" GATE VALVE	1	EA	1,500.00	\$1,500.00	
6" GATE VALVE	1	EA	1,150.00	\$1,150.00	
10" TEE	3	EA	950.00	\$2,850.00	
10" ADAPTOR	4	EA	680.00	\$2,720.00	
8X10 CROSS	1	EA	1,450.00	\$1,450.00	
10X6 REDUCER	1	EA	680.00	\$680.00	
10" BENDS	2	EA	750.00	\$1,500.00	
8" & 10" BLIND FLANGE	3	EA	450.00	\$1,350.00	
FIRE HYDRANTS w/TIE BACKS	1	EA	6,000.00	\$6,000.00	
AIR VAC ASSY	1	EA	3,500.00	\$3,500.00	
REVERSE TIE BACKS	5	EA	1,500.00	\$7,500.00	
CONNECTION & FLUSH (Night Work)	1	LS	15,200.00	\$15,200.00	
3" CLASS B BASE COURSE	90	TON	26.00	\$2,340.00	
4" CSTC	120	TON	35.00	\$4,200.00	
ASPHALT PATCH BACK	90	TON	150.00	\$13,500.00	
TRAFFIC CONTROL (5 DAYS)	1	LS	6,340.00	\$6,340.00	
<u>SEWER ONSITE</u>				\$109,444.30	USE
8" SEWER PIPE	1543	LF	30.10	\$46,444.30	
48" SSMH	14	EA	4,500.00	\$63,000.00	
<u>SEWER OFFSITE</u>				\$238,510.00	USE
SAWCUT ASPHALT	2600	LF	\$2.50	\$6,500.00	
ASPHALT DISPOSAL	200	TON	\$35.00	\$7,000.00	
8" SEWER PIPE	1250	LF	71.10	\$88,875.00	
48" SSMH	4	EA	7,870.00	\$31,480.00	
60" SSMH	3	EA	14,000.00	\$42,000.00	
48" SADDLE MANHOLE & CHANNEL	1	EA	10,600.00	\$10,600.00	
3" CLASS B BASE COURSE	130	TON	27.50	\$3,575.00	
4" CSTC	180	TON	36.00	\$6,480.00	
ASPHALT PATCH BACK	280	TON	150.00	\$42,000.00	
<u>OFFSITE SEWER & WATER RESTORATION</u>				\$61,121.00	USE
2" GRIND & OVERLAY	2890	SY	18.90	\$54,621.00	
REPLACE FOG LINE & DBL YELLOW CENTER LINE	1	LS	4,000.00	\$4,000.00	
DITCH RESTORATION & SEEDING	1	LS	2,500.00	\$2,500.00	
<u>MISC. ITEMS</u>				\$27,270.00	USE
PURCHASE & PLACE MONUMENTS (Excludes Survey)	16	EA	920.00	\$14,720.00	
PRIVATE ROAD & STREET SIGNS	20	EA	610.00	\$12,200.00	
PAINT & LETTER CURB AT EVA (C6.00)	1	LS	350.00	\$350.00	

*****USE TAX INCLUDED IN ITEMS LISTED**

SUB TOTAL	\$1,213,312.30
9% W.S.S.T	\$109,198.11
TOTAL	\$1,322,510.41

Please feel free to call me at anytime if you have any questions or comments.

Robert Lumsden
General Manager

**M-Bond 20% of Bill of
Sale Estimate**

**M-Bond Amount
\$264,502.08**

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City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: <u>Business Item 7F</u> Subject: <u>Adoption of a Resolution Approving</u> <u>a Contract with Reid Middleton, Inc. for</u> <u>the Downtown Stormwater Basin Plan</u> <u>Project and Documenting Procurement</u> <u>Procedures</u>	Meeting Date: <u>June 25, 2019</u> Prepared by: <u>Mark Dorsey, P.E.</u> <u>Public Works Director</u> Atty Routing No.: <u>N/A</u> Atty Review Date: <u>N/A</u>
---	---

Summary: On March 15 and March 22, 2019, the City’s Public Works Department published a Request for Qualifications (RFQ) for the 2019-2020 Downtown Stormwater Basin Plan Project. By the April 5, 2019 deadline, five (5) Statements of Qualification (SOQ) were received. On May 8, 2019, upon the scoring/ranking of the SOQ’s received, and upon interviewing the top three (3) qualified firms, the City selected Reid Middleton, Inc. for the Project. Public Works Staff then met with Reid Middleton, Inc. to discuss, clarify and develop the Project Understanding. On May 31, 2019, the City received a defined Scope of Work, Budget and Project Timeline for the Project, in an amount not to exceed \$206,593.00.

Recommendation: Staff recommends adoption of a Resolution, thereby approving a Contract with Reid Middleton, Inc. for the 2019-2020 Downtown Stormwater Basin Plan Project in an amount not to exceed \$205,593.00 and documenting the Professional Services procurement procedures.

Relationship to Comprehensive Plan: Chapter 7 – Utilities (Storm).

Motion for Consideration: I move to adopt a Resolution, thereby approving a Contract with Reid Middleton, Inc. for the 2019-2020 Downtown Stormwater Basin Plan Project in an amount not to exceed \$205,593.00 and documenting the Professional Services procurement procedures.

Fiscal Impact: The City of Port Orchard has been awarded a \$216,593.00 grant from the Department of Ecology (WQC-2018-PorOrPW-00206.) A Budget Amendment will be required to program this awarded funding.

Attachments: Resolution, Contract and Reid Middleton, Inc. Proposal (dated 5/31/2019).

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. C044-19 WITH REID MIDDLETON, INC. FOR THE 2019 – 2020 DOWNTOWN STORMWATER BASIN PLAN PROJECT AND DOCUMENTING PROFESSIONAL SERVICES PROCUREMENT PROCEDURES.

WHEREAS, on March 15 and March 22, 2019, the City of Port Orchard Public Works Department published a Request for Qualifications (RFQ) for the Downtown Stormwater Basin Plan Project; and

WHEREAS, by the April 5, 2019 deadline, the City’s Public Works Department received five (5) Statements of Qualification (SOQ) from qualified firms; and

WHEREAS, on May 8, 2019, upon scoring/ranking of the SOQ’s received, the City’s Public Works Department interviewed the top three (3) qualified firms; and

WHEREAS, based on interview scoring, the City’s Public Works Department selected Reid Middleton, Inc. for the Project award and then met to discuss, clarify and develop the Project Understanding (Scope, Budget and Timeline); and

WHEREAS, on May 31, 2019, Reid Middleton, Inc. provided the City’s Public Works Department with a viable Proposal; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor’s Office, wishes to document their consultant selection process as described above for this particular contract by Resolution; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: The Port Orchard City Council approves Contract 044 -19 with Reid Middleton, Inc. for the 2019-2020 Downtown Stormwater Basin Plan Project and adopts the “Whereas” statements contained herein, as findings in support of the City’s consultant selection procurement procedures.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the Clerk in authentication of such passage this 25th day of June 2019.

Robert Putaansuu, Mayor

ATTEST:

City Clerk, Brandy Rinearson, MMC

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CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 25th day of June 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 Reid Middleton, Inc., a Corporation, organized under the laws of the State of Washington, doing business at:

Reid Middleton, Inc. (hereinafter the "CONSULTANT")
728 134th Street SW, Suite 200
Everett, WA 98204

Contact: Julian L. Dodge, P.E., Phone: 425.741.3800

for professional services in connection with the following Project:

2019-2020 Downtown Basin Stormwater Plan Project

TERMS AND CONDITIONS

1. Services by Consultant.

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibits "A thru E." 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. Consultant shall perform the services described in the Scope of Work in accordance with the Tasks identified within Exhibit "F" and the Terms of this Agreement. If delays beyond Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

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

3. **Terms.** This Agreement shall commence on June 26, 2019 ("Commencement Date") and shall terminate December 31, 2020 unless extended or terminated in writing as provided herein. **Additionally, the City reserves the right to retain Reid Middleton, Inc. for the 100% Ad Ready PS&E and Permitting Phase, and therefore, reserves the right to offer one year extensions as-needed, prior to contract expiration to retain the selected company's services for services that fall within the budget authority for this project.**

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 \$206,593.00 without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibits "A thru F."

TIME AND MATERIALS. Compensation for these services shall be on a time and material basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "_____."

OTHER. _____

5. **Payment.**

A. 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 sixty (60) 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. 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, Consultant will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

6. Discrimination and Compliance with Laws

A. 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.

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 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 terms 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. Consultant shall obtain a City of Port Orchard business license prior to receipt of 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 City, in whole or in part, and may result in ineligibility for further work for 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. The 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 Consultant pursuant to this Agreement shall be submitted to City, and 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. Consultant shall not be entitled to any reallocation of cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon 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 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. 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 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 City, shall be forwarded to City at its request and may be used by 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 shall be at the City's risk and without liability to the Consultant.

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 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 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 the Consultant's own risk, and the Consultant shall be responsible for any loss 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 reasonable attorneys' fees, to the extent caused by 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.

This Agreement is Subject to RCW 4.24.115. 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 the 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. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. 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.

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 endorse 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

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. 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 Consultant or by 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
Reid Middleton, Inc.
~~Kenneth D. Andersen, P.E.~~ *Julian L. Dodge, P.E.*
728 134th Street SW, Suite 200
Everett, WA 98204

Phone: (425) 741.3800

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 attorney's 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.

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

CITY OF PORT ORCHARD,
WASHINGTON

CONSULTANT

By: _____
Robert Putaansuu
Mayor

By: Julian L. Dodge, P.E.

Name: ~~Kenneth D. Andersen, P.E.~~
Julian L. Dodge, P.E.

Title: Principal

Date: _____

Date: 19 July 2019

Attest:

By: _____
Brandy Rinearson, CMC
City Clerk

APPROVED AS TO FORM:

By: _____
Sharon Cates
City Attorney

May 31, 2019
File No. 212019.913.013

Mr. Mark Dorsey, P.E.
Public Works Director/City Engineer
City of Port Orchard
216 Prospect Drive
Port Orchard, WA 98366

Subject: Proposal for Professional Services
City of Port Orchard - Downtown Basin Stormwater Plan Project

Dear Mr. Dorsey:

Thank you for selecting Reid Middleton to provide professional engineering services for the City of Port Orchard, Downtown Basin Stormwater Plan project. We look forward to working with you on this project.

A. PROJECT UNDERSTANDING

The City of Port Orchard (City) has received a Washington State Department of Ecology (DOE) grant to develop the Downtown Basin Stormwater Plan. The scope of work for this fee proposal will match the scope of work given in the DOE Agreement No. WQC-2018-PoOrPW-00206 with the City of Port Orchard and provided in Exhibit B. The basin to be studied extends from Sinclair Inlet uphill and south to approximately Taylor Street and just east of Cline Avenue on the west and west of Harrison Avenue on the east. The basin is shown shaded in yellow on Exhibit C, and for this fee proposal and study is referred to as the Central Basin. The study is divided into four tasks as follows:

- **Task 1:** Project Administration/Management will be primarily the City of Port Orchard's task to perform.
- **Task 2:** Data Review, Gap Analysis, Field Investigation will be performed by Reid Middleton.
- **Task 3:** Model Development and Application will be performed by GeoEngineers as a subconsultant to Reid Middleton.
- **Task 4:** Downtown Basin Stormwater Plan will be performed by Reid Middleton.

The grant agreement requires that these four tasks are completed for the Central Basin and are included in this scope of work.

701 913 1
778 144th Street SW
Suite 201
Everett, WA 98201
212019.913.013

www.reidmiddleton.com

There are also two basins immediately east and west of the Central Basin referred to as the East and West Basins. The East and West Basins are delineated by a blue dashed line, the edges of the Central Basin and the Sinclair Inlet shoreline as shown on the map in Exhibit C. These basins will be described and briefly discussed in the Downtown Basin Stormwater Plan. If there is grant budget remaining, Reid Middleton will perform Task 2, Task 3, and possibly Task 4 for the East and West Basins. The amount of work for the East and West Basins will be based on remaining budget after the four tasks are performed for the Central Basin.

It is our understanding that notice-to-proceed will occur in June 2019, and the work shall be completed by December 2020.

B. SCOPE OF SERVICES

1. See Exhibit B, DOE Agreement No. WQC-2018-PoOrPW-00206 with the City of Port Orchard.
2. See Exhibit C, Downtown Stormwater Basin Map.
3. See Exhibit D, GeoEngineers Fee Spreadsheet.
4. See Exhibit E, Reid Middleton Fee Spreadsheet.

C. COMPENSATION

1. For civil engineering services described in Exhibit B, Reid Middleton shall be paid on a time-plus-expense basis using the rates indicated in Exhibit "A," Schedule of Charges Effective July 1, 2019, attached to the agreement. We estimate the fee for this portion of the services to be \$136,229, as summarized below and in the attached Exhibit E. We will not exceed this amount without prior approval from the City of Port Orchard.

Task 2	\$	56,222
Task 3		3,930
Task 4		76,077
Reid Middleton Tasks Total	\$	136,229

2. For services described in Exhibit D, GeoEngineers SOW and Fee Proposal, Reid Middleton shall be paid on a time-plus-expense basis. We estimate the fee for this portion of the services to be \$70,364, as summarized below:

Mr. Mark Dorsey
City of Port Orchard
May 31, 2019
File No. 212019.913.013
Page 3

Task 2	\$	640
Task 3		45,347
Task 4		17,980
Subtotal	\$	63,967
Reid Middleton Mark-Up (10%)	\$	6,397
GeoEngineers Total	\$	70,364

Estimated Project Cost: \$206,593

D. REID MIDDLETON STAFF

Julian Dodge, PE will be Reid Middleton's project manager. However, other individuals at Reid Middleton will work on aspects of your project as required.

We appreciate the opportunity to submit this proposal. If you have any questions or comments please call me.

Sincerely,

Reid Middleton, Inc.



Julian L. Dodge, P.E.
Director of Civil Projects

Attachments

kab\H:\21Cp\19\913\013 City of Port Orchard Downtown Basin Study\Agreement Letter - 190531.docx\jld

Reid Middleton, Inc.
Exhibit "A" Schedule of Charges
Effective July 1, 2019 through June 30, 2020

I. Personnel	Hourly Rate
Principal	\$ 205.00 - \$ 260.00
Principal Engineer/Principal Planner/Principal Surveyor	\$ 205.00 - \$ 250.00
Senior Engineer/Senior Planner/Senior Surveyor	\$ 180.00 - \$ 205.00
Project Engineer/Project Designer/Project Surveyor/Project Planner	\$ 140.00 - \$ 175.00
Design Engineer/Designer II/Design Technician/Survey Crew Chief/ Technical Writer II/ Graphic Designer II	\$ 115.00 - \$ 140.00
Designer I/Planner/CAD Technician II	\$ 105.00 - \$ 125.00
Project Administrator	\$ 100.00 - \$ 120.00
CAD Technician I/Survey Technician/Technician/Technical Writer I	\$ 90.00 - \$ 110.00
Survey Crew (1 Person/RTK/Robotic/Scanning)	\$ 135.00
Survey Crew (2 Person/RTK/Robotic/Scanning)	\$ 185.00
Survey Crew (3 Person/ RTK/Robotic/Scanning)	\$ 235.00

Expert Witness/Forensic Engineering 1.5 times usual hourly rate (4 hour minimum)

Individuals not in the regular employ of Reid Middleton may occasionally be engaged to meet specific project requirements. Charges for such personnel will be comparable to charges for regular Reid Middleton personnel.

A premium may be charged if project requirements make overtime work necessary.

II. Equipment	Rate
Design Software/Computer Aided Drafting	\$ 12.00/hour

III. Reimbursable Expenses	
Local Mileage - Automobile	\$ 0.58/mile
Local Mileage - Survey Truck	\$ 0.65/mile

Expenses that are directly attributable to the project are invoiced at cost plus 15%. These expenses include, but are not limited to, subconsultant or subcontractor services, travel and subsistence, communications, couriers, postage, fees and permits, document reproduction, special instrumentation and field equipment rental, premiums for additional insurance where required, special supplies, and other costs directly applicable to the project.

A new schedule of charges is issued and becomes effective July 1 each year. Charges for all work, including continuing projects initiated in prior years, will be based on the latest schedule of charges.

IV. Client Advances

Unless the parties agree otherwise in writing, charges for the following items shall be paid by the client directly, shall not be the responsibility of Reid Middleton, and shall be in addition to any fee stipulated in the agreement: government fees, including permit and review fees; soils testing fees and costs; charges for aerial photography; and charges for monuments. If Reid Middleton determines, in its discretion, to advance any of these costs in the interest of the project, the amount of the advance, plus a fifteen percent administrative fee, shall be paid by the client upon presentation of an invoice therefore.



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement No. WQC-2018-PoOrPW-00206

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF PORT ORCHARD PUBLIC WORKS DEPT.

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and City of Port Orchard Public Works Dept., hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Port Orchard Downtown Basin Stormwater Plan
Total Cost:	\$216,840.00
Total Eligible Cost:	\$216,840.00
Ecology Share:	\$216,840.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2018
The Expiration Date of this Agreement is no later than:	06/30/2021
Project Type:	Stormwater Facility

Project Short Description:

This project will develop a Downtown Basin Stormwater Plan for the City of Port Orchard. This project will provide a roadmap for implementing water quality treatment for total suspended solids (TSS) and will also reduce flows to Sinclair Inlet by increasing stormwater treatment, infiltration and/or providing stormwater detention. Additional benefits of this project include modernizing infrastructure and flow control in nearshore areas.

Project Long Description:

This project will develop a Downtown Basin Stormwater Plan to improve stormwater quality for Port Orchard's downtown and shoreline areas. Port Orchard's downtown basins drain approximately 74 acres of existing mixed development to Sinclair Inlet. The Plan will guide the investment in structural and non-structural best management practices (BMPs) to improve stormwater water quality draining from Port Orchard's older developed commercial and residential areas. These areas currently lack any permanent runoff collection, conveyance, or treatment measures. The Plan will identify prioritized stormwater capital improvement projects

State of Washington Department of Ecology
Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

and stormwater-related activities that most efficiently provide flow control within the downtown basin and improve the long-term water quality of Sinclair Inlet.

The RECIPIENT will inventory stormwater management constraints and opportunities in the basin, analyze water quality data, use modeling tools to assess current water quality and flows at the downtown outfalls, and determine the most cost-effective alternative(s) to address the water quality deficiencies. Any essential data gaps in terms of stormwater infrastructure or water quality will be addressed. Plan sections will include an existing conditions assessment, plan objectives, basin opportunities and constraints, facility and activity alternatives, funding alternatives, alternatives evaluation, and plan recommendations and implementation.

Overall Goal:

This project will help protect and restore water quality in Washington state by reducing stormwater impacts from existing infrastructure and development.

RECIPIENT INFORMATION

Organization Name: City of Port Orchard Public Works Dept.

Federal Tax ID: 91-6001487

DUNS Number: 081932790

Mailing Address: 216 Prospect Street
Port Orchard, WA 98366

Physical Address: 216 Prospect Street
Port Orchard, Washington 98366

Contacts

Project Manager	Zack Holt Stormwater Program Manager 216 Prospect St. Port Orchard, Washington 98366 Email: zholt@cityofportorchard.us Phone: (360) 876-4991
Billing Contact	Heidi Draper Accounting Assistant III 216 Prospect Street Port Orchard, Washington 98366 Email: hdraper@cityofportorchard.us Phone: (360) 874-5523
Authorized Signatory	Robert B Putaansuu Mayor 216 Prospect Street Port Orchard, Washington 98366 Email: rputaansuu@cityofportorchard.us Phone: (360) 876-4991

Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
 Water Quality
 PO BOX 47600
 Olympia, WA 98504-7600

Physical Address: Water Quality
 300 Desmond Drive SE
 Lacey, WA 98503

Contacts

<p>Project Manager</p>	<p>Denise Di Santo</p> <p>3190 - 160th Ave SE Bellevue, Washington 98008-5452 Email: ddis461@ecy.wa.gov Phone: (425) 649-7025</p>
<p>Financial Manager</p>	<p>Sarah Zehner Water Quality Financial Manager</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: szez461@ecy.wa.gov Phone: (360) 407-7196</p>
<p>Technical Advisor</p>	<p>Amanda Heye</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: ahey461@ecy.wa.gov Phone: (360) 407-6457</p>

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

City of Port Orchard Public Works Dept.

By: _____

By: _____

Heather R. Bartlett
Water Quality
Program Manager
Date

Robert B Putaansuu
Mayor
Date

Template Approved to Form by
Attorney General's Office

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

Brandy Rinearson

City Clerk

Date

Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

SCOPE OF WORK

Task Number: 1 **Task Cost: \$9,840.00**

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Zack Holt

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

SCOPE OF WORK

Task Number: 2 Task Cost: \$36,500.00

Task Title: Data Review, Gap Analysis, Field Investigation

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will complete a data and information review and gap analysis.
- B. The RECIPIENT will complete supportive field investigation as determined necessary from the gap analysis to complete the data gap field inventory.

Task Goal Statement:

The RECIPIENT will complete all data review and data gap analysis and supporting field investigation tasks and respond to ECOLOGY comments in a timely manner. The RECIPIENT will compile existing data and fill data gaps needed to develop the analytical tools and models (GIS, water quality, and hydrologic/hydraulic) that will be used during alternative development and assessment work completed under subsequent tasks.

Task Expected Outcome:

The project will complete a preliminary characterization of the existing stormwater infrastructure and identify opportunities/constraints for stormwater activities and projects, fill key data gaps regarding the City’s existing stormwater system infrastructure, and ensure high quality is data used in the water quality and hydraulic models being developed.

Recipient Task Coordinator: Zack Holt

Data Review, Gap Analysis, Field Investigation

Deliverables

Number	Description	Due Date
2.1	Draft of Existing Conditions Technical Memorandum. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Responses to Existing Conditions Technical Memorandum ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.3	Data Gap Field Inventory Map or Informational Tool in GIS format. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Responses to Data Gap Field Inventory ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

SCOPE OF WORK

Task Number: 3 **Task Cost: \$42,000.00**

Task Title: Model Development and Application

Task Description:

- A. The RECIPIENT will provide hydraulic model development and application for this project.
- B. The RECIPIENT will provide water quality model development and application for this project.
- C. The RECIPIENT will submit a QAPP to ECOLOGY for review and acceptance prior to modeling. The QAPP must include how the RECIPIENT will develop and apply the models to quantify the magnitude of flow and pollutant loading.
- D. Upon completion of hydraulic and water quality modeling runs, the RECIPIENT will provide to ECOLOGY:
 1. GIS compatible project area in Shapefile, Geodatabase file, or ECOLOGY-Approved Equivalent. The project area will include features to show treatment facilities and contributing areas.
 2. A technical memorandum to accompany the GIS file with explanation of the completed analysis.

Task Goal Statement:

The RECIPIENT will develop water quality and hydraulic models and complete model runs to quantify the magnitude of pollutant loading and flows/water surface elevations at points of interest in the downtown basin. The RECIPIENT will communicate with ECOLOGY in a timely fashion and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

The project will develop and use water quality and hydraulic models to determine the most effective infrastructure investments to improve water quality and alleviate localized flooding through flow control in the downtown stormwater basin. The model will be developed and used in accordance with the completed QAPP and outlined methodology.

Recipient Task Coordinator: Zack Holt

Model Development and Application

Deliverables

Number	Description	Due Date
3.1	Modeling Quality Assurance Plan. Submit to ECOLOGY for review and acceptance. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Responses to Modeling Quality Assurance Plan ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Hydraulic Model (SWMM) and technical memorandum. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.4	Responses to Hydraulic Model (SWMM) and technical memorandum. ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.5	Water quality model (spreadsheet) and technical memorandum. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Responses to water quality model and technical memorandum ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.7	Project Area Shapefile, Geodatabase file, or ECOLOGY-approved Equivalent. The project area will include features for treatment facilities and contributing areas. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 4 **Task Cost: \$128,500.00**

Task Title: Downtown Basin Stormwater Plan

Task Description:

A. The RECIPIENT will complete the draft and final Downtown Basin Stormwater Plan. At a minimum the plan will include the following elements or their equivalent:

1. Executive Summary
2. Introduction/Background
3. Existing Conditions Assessment
4. Technical Memorandum for model development
5. Stormwater Management Options (SMO) List and Metrics Matrix
6. Description of Stakeholder Engagement
7. Final Priority SMO List
8. Schedule for Implementation
9. Estimation of Yearly Budget Needs and Identification of Funding Sources
10. Description of Adaptive Management and Plan Update Process

B. Present Plan to appropriate decision makers and stakeholders.

Task Goal Statement:

The RECIPIENT will completion of the Downtown Basin Stormwater Plan in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

The project will provide a completed Downtown Basin Stormwater Plan that will provide a roadmap for implementing water quality BMPs and activities to improve stormwater quality entering Sinclair Inlet and water quality benefits including flow control and reductions in total suspended solids (TSS).

Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

Recipient Task Coordinator: Zack Holt

Downtown Basin Stormwater Plan

Deliverables

Number	Description	Due Date
4.1	Draft Downtown Basin Stormwater Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Responses to Draft Downtown Basin Stormwater Plan ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Final Downtown Basin Stormwater Plan uploaded to EAGL. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.4	Responses to Final Downtown Basin Stormwater Plan ECOLOGY comments. Upload to EAGL and notify ECOLOGY when upload is complete.	

BUDGET

Funding Distribution EG190320

NOTE: *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: SFAP Green Retrofit Incentive Funding Type: Grant
 Funding Effective Date: 07/01/2018 Funding Expiration Date: 06/30/2021

Funding Source:

Title: SFAP-SFY18
 Type: State
 Funding Source %: 100%
 Description: Environmental Legacy Stewardship Account (ELSA) - State

Approved Indirect Costs Rate: Approved State Indirect Rate: 0%
 Recipient Match %: 0%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

SFAP Green Retrofit Incentive	Task Total
Project Administration/Management	\$ 9,840.00
Data Review, Gap Analysis, Field Investigation	\$ 36,500.00
Model Development and Application	\$ 42,000.00
Downtown Basin Stormwater Plan	\$ 128,500.00

Total: \$ 216,840.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SFAP Green Retrofit Incentive	0.00 %	\$ 0.00	\$ 216,840.00	\$ 216,840.00
Total		\$ 0.00	\$ 216,840.00	\$ 216,840.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY’s Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defeasance” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY's Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

B. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

a. **Evidence of Land Value and Title.** The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.

b. **Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased

Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.

c. **Conveyance of Rights to the State of Washington.** Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

Documentation Options:

1. **Deed of Right.** The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTs shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.

2. **Assignment of Rights.** The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

3. **Easements and Leases.** The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. **Federal Acquisition Policies.** See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.

2. **State Acquisition Policies.** When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

3. **Housing and Relocation.** In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. **Certification.** The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

i. No hazardous substances were found on the site, or

ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

C. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State's Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the registration process online at:

<http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process allows the RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If the RECIPIENT has questions about the vendor registration process or setting up direct deposit payments contact DES Payee Help Desk at (360) 407-8180 or payeehelpdesk@watech.wa.gov.

E. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

SECTION 3: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. "Section 319 Initial Data Reporting" form in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA

logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

“This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting”.

B. Acquisitions: Section 319 and SRF Equivalency project RECIPIENTs shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)-Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

C. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

audit submission, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

D. Archaeological Resources and Historic Properties (Section 106): The RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800).

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that their organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

H. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

I. Trafficking In Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons during the period of time this agreement is effective. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

SECTION 5: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation
2. Opinion of RECIPIENT's Legal Council
3. Authorizing Ordinance or Resolution
4. Federal Funding Accountability and Transparency Act (FFATA) Form
5. CWSRF Federal Reporting Information form available in EAGL
6. Fiscal Sustainability Plan Certification Form (only required if the project includes construction of a wastewater or stormwater facility construction)
7. Cost and Effectiveness Analysis Certification Form

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager

before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: (For designated equivalency projects only)

1. The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitle1-chap11.pdf).

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the

RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at:
<http://www.ecy.wa.gov/programs/wq/funding/FundPrgrms/CWSRF/SignageGuidanceJune2015.pdf>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

J. Loan Repayment:

Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

State of Washington Department of Ecology
 Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology
 Cashiering Unit
 P.O. Box 47611
 Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

Fiscal Office.

K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing

requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves "public work" and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the "General Comments" text box of each progress report.

"We verify that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR (If applicable)
- Washington State Prevailing Wage Rate, Chapter 39.12 RCW (Pertaining to all recipients)
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33"

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT's financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

1. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or

2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide

to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrs.gov <http://www.fsrs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsrs.gov <http://www.fsrs.gov>.

GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 1/22/2018 VERSION

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff and contractors working at the project site.
 - Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
 - d) If any human remains are found while conducting work under this Agreement:

State of Washington Department of Ecology
 Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@watech.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

- a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact

State of Washington Department of Ecology
 Agreement No: WQC-2018-PoOrPW-00206
 Project Title: Port Orchard Downtown Basin Stormwater Plan
 Recipient Name: City of Port Orchard Public Works Dept.

the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

minority and women's businesses.

d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

authorize others to use the same for federal, state, or local government purposes.

- b) **Publications.** When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) **Presentation and Promotional Materials.** ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) **Tangible Property Rights.** ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) **Personal Property Furnished by ECOLOGY.** When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) **Acquisition Projects.** The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) **Conversions.** Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination. All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of

this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder. RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, ,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

27. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the

Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the recipient/contractor through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the recipient/contractor. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work

State of Washington Department of Ecology
Agreement No: WQC-2018-PoOrPW-00206
Project Title: Port Orchard Downtown Basin Stormwater Plan
Recipient Name: City of Port Orchard Public Works Dept.

completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

EXHIBIT D

Project: Downtown Basin Stormwater Plan
 Client: City of Port Orchard
 Date: 2019-05-23
 Project No.: 0169-000-10

Personnel Rate	Civil/Engineers												Task Hours	Labor Fee				
	Principal	Associate	Senior 2	Senior 1	Engineer 2	Scientist 1	Staff 3	Staff 2	Staff 1	GIS	CAI	Admin						
Task 1. Project Administration/Management	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
1.1 Quarterly Progress Reports																0		
1.2 Recipient Closeout Report																0		
1.3 Project Outcome Summary Report																4	\$640.00	
Task 2. Data Review, Gap Analysis, Field Investigation	0	0	0	0	4	0	0	0	0	0	0	0	0	0	0	0	\$640.00	
2.1 Existing Conditions Technical Memorandum					2											2		
2.2 Existing Conditions Technical Memorandum Comments					2											2		
2.3 Data Gap Field Inventory Map																0		
2.4 Data Gap Field Inventory Map Comments																0		
Task 3. Model Development and Application	10	0	0	11	84	0	112	0	40	12	0	0	0	0	283	\$40,310.00		
3.1 Modeling Modeling QAPP and 3 meetings	6			2	22		24								30			
3.2 Modeling QAPP Comment Response	1			1	2		8								12			
3.3 Hydraulic Model and Technical Memorandum	2			2	24		32		20			4			64			
3.4 Hydraulic Model and Technical Memorandum Comment Response	1			2	4		8					4			15			
3.5 Water Quality Model and Technical Memorandum	2			2	24		32		20			4			64			
3.6 Water Quality Model and Technical Memorandum Comment Response	1			1	4		4					4			10			
3.7 Project Area Stormwater Data Deliverable	1			1	4		4			12		0			22			
Task 4. Downtown Basin Stormwater Plan	4	0	0	4	28	0	32	0	0	0	0	0	0	0	130	\$17,980.00		
4.1 Draft Downtown Basin Stormwater Plan															0			
4.1.1 Stormwater Management Options (SMO) List and Metrics Matrix				2	24		32								60			
4.2 Draft Downtown Basin Stormwater Plan Comments	2														0			
4.3 Final Downtown Basin Stormwater Plan															0			
4.3.1 Final Priority SMO List				3	24		32								60			
4.4 Final Downtown Basin Stormwater Plan Comments	3														0			
Other Sub Total																	\$50,930.00	
Expenses																		
Vehicle Mileage															600	\$10,333	\$333.00	
Meals															8	\$66.00	\$528.00	
Printing															4	\$160.00	\$640.00	
Expense Sub Total																	\$1,501.00	
AISC																1	\$1,333.00	\$1,333.00
Total																	\$53,964.00	

Assumptions



128 13th Street NW
 Everett, WA 98204
 (425) 741-3800
 (425) 741-3800 FAX

Downtown Basin Stormwater Plan Project
 City of Port Orchard
 212019.913.013
 H:\21Cpl180913\013 City of Port Orchard Downtown Basin Study\Fee est 190531.xlsx\Std Rates

BY: JLD
 DATE: 5/30/2019
 Revised

CHKD BY: kab 5/30/19, 5/31/19

EXHIBIT E

Task No	Description	Principal Engineer KA	Project Manager JLD	Senior Engineer	Project Engineer	Design Engineer	Tech Writer II	Proj Admin	Principal Surveyor	Project Surveyor	Survey Crew 2	Total Labor hours	Total Labor Earnings	Computer hrs @ \$12	Mileage \$	Travel & Misc cost \$	Bus cost	Total (Earnings + Mileage + Travel + Bus)	Labor & Reimb	Number of Trips and Migh
002	Data Review, Gap Analysis, Field Investigation Central Basin																			
	Meeting with City, minutes		8		8							8	2,000	0		85		2,085		2
	Prepare safety, access, QA/QC plans		2			1						2	500	0				500		1
	site visit DOE		6									6	1,500	0				1,500		1
	Job setup				2			2				4	1,000	0		85		1,085		1
	Project Management/Administration		2					2				4	1,000	0				1,000		1
	Data Review		4		16	8						28	7,000	0				7,000		4
	Gap Analysis		4		12	6						22	5,500	0				5,500		3
	Site work to provide additional data		8		60					60		128	3,200	0	475			3,675		20
	Existing Conditions Technical Memorandum		4		16		3					23	5,775	0				5,775		3
	Comment Response Tech Memo		1		6					40		7	1,725	0				1,725		1
	Data Gap Map		4		40							84	21,000	0				21,000		13
	Comment Response Data Gap Map		1		6					4		6	1,500	0				1,500		1
	Subtotal Task 001	0	42	0	0	106	15	3	4	0	194	0	334	0	0	595	0	650	0	56,223
003	Model Development and Application Central Basin																			
	Project Management/Administration		2					2				4	1,000	0				1,000		1
	Review QAPP		1		2							3	750	0				750		1
	Review Tech Memos		1		2							3	750	0				750		1
	Review/coordinate modeling efforts		2		4							6	1,500	0				1,500		1
	Review/coordinate responses QAPP		1		1							2	500	0				500		1
	Review/coordinate responses Tech Memo		1		1							2	500	0				500		1
	Subtotal Task 002	0	8	0	0	10	0	0	2	0	0	20	3,950	0	0	0	0	3,950	0	5,693
004	Downtown Basin Stormwater Plan Central Basin																			
	Executive Summary		3		3		2					8	2,000	0				2,000		1
	Intro/background		4		8		3					15	3,750	0				3,750		2
	Existing conditions Assessment		8		30	20	3					61	15,250	0				15,250		10
	Tech Memo for Model						2					2	500	0				500		1
	SMO List & Metrics Matrix		15		60	30	2					107	26,750	0				26,750		18
	Desc. Stakeholder Engagement		2		6		2					12	3,000	0				3,000		2
	Final Priority SMO List		8		18	12	2					40	10,000	0				10,000		7
	Schedule Implementation		4		8		2					14	3,500	0				3,500		2
	Yearly Budget & Funding Sources		6		12	8	2					28	7,000	0				7,000		4
	Desc. Adaptive Management & Plan Update		3		6		2					13	3,250	0				3,250		2
	Responses to Draft Plan Comments		6		12	6	6					30	7,500	0				7,500		5
	Responses to Final Plan Comments		4		8	6	4					22	5,500	0				5,500		3
	Project Management/Administration		10					8				18	4,500	0				4,500		3
	QA/QC		4		12							16	4,000	0				4,000		3
	Yearly coordination		8		8							16	4,000	0	170			4,170		3
	City Meeting		12		12							24	6,000	0				6,000		5
	Subtotal Task 003	0	97	0	12	195	82	32	8	0	0	428	10,890	0	0	170	0	137	0	76,077

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Downtown Basin Stormwater Plan Project
 City of Port Orchard
 212019.913.013
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BY: JLD
 DATE: 6/30/2019
 Revised

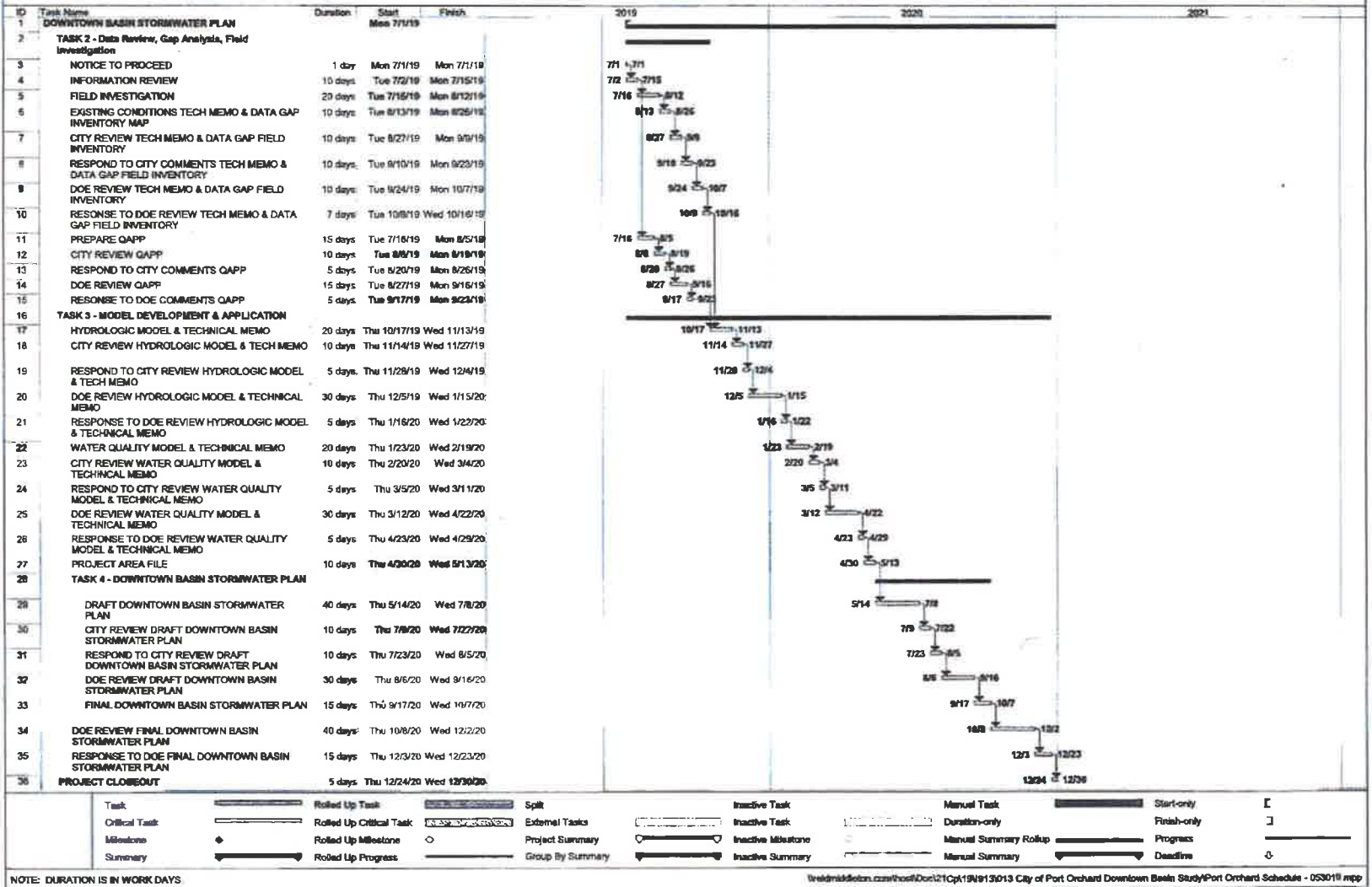
CHKD BY: kab 5/30/19, 6/31/19

Task No.	Description	Principal Engineer	Project Manager	Senior Engineer	Project Engineer	Design Engineer	Tech Writer II	Proj Admin	Principal Surveyor	Project Surveyor	Survey Crew 2	Total Labor hours	Total Labor Earnings	Computer	Mileage	Travel & Misc	Sub	Total Reimb	Labor & Reimb	Number of Trips and Migs	
		Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	hrs	\$	hrs	\$	cost	cost	10%		
		KA	JLD		Mark	CD	EW	KB	PA	DIW											
	TOTAL HOURS	0	294	0	24	0	0	0	0	0	0	318	0	0	0	0	0	0	0	136,231	
	SubTotal Cost	0	73,500	0	4,680	0	0	0	0	0	0		78,180								
	Percent of Total Hours	0%	92%	0%	6%	0%	0%	0%	0%	0%	0%										
Assumptions		Wtd Avg Wtdy																			
Hours and rates shown are for estimating purposes only. The actual number of hours charged to the project and personnel used may vary. Hours worked will be																			TOTAL		136,231

EXHIBIT F

CITY OF PORT ORCHARD DOWNTOWN BASIN STORMWATER PLAN PROJECT SCHEDULE

CREATED: 05/31/2019
LAST UPDATED: 0000/0000
By: Reid Middleton





**City of Port Orchard
Council Meeting Minutes
Regular Meeting of June 11, 2019**

1. CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Ashby	Absent
Councilmember Chang	Present
Councilmember Clauson	Present
Councilmember Cucciardi	Present
Councilmember Diener	Present
Councilmember Lucarelli	Present
Councilmember Rosapepe	Present
Mayor Putaansuu	Present

Staff present: Public Works Director Dorsey, Finance Director Crocker, Community Development Director Bond, City Attorney Cates, Deputy City Clerk Floyd and Office Assistant II Whisenant.

A. PLEDGE OF ALLEGIANCE

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

2. APPROVAL OF AGENDA

MOTION: By Councilmember Cucciardi, seconded by Councilmember Diener, to move Executive Session to the end of Business Items.

The motion carried.

MOTION: By Councilmember Clauson, seconded by Councilmember Rosapepe, to accept the agenda as amended.

The motion carried.

3. CITIZENS COMMENTS

Steve Sego here to answer any questions regarding the proposed amendment on the Purchase and Sale Agreement for 640 Bay Street with Waterman Investment Partners. Also, shared discussions held at the Kitsap Public Facilities District meeting and the support from the board members for the proposed Community Events Center.

Mayor Putaansuu also commented on the Kitsap Public Facilities District request for facility use at City Hall and explained the waiver of costs, except for afterhours staff time, if applicable.

4. CONSENT AGENDA

- A.** Approval of Voucher Nos. 76864 through 76930 including bank drafts in the amount of \$432,398.68 and Electronic Payments in the amount of \$134,023.59 totaling \$566,422.27.
- B.** Approval of Payroll Check Nos. 76851 through 76863, including bank drafts and EFT's in the amount of \$253,209.98; and Direct Deposits in the amount of \$166,010.54 totaling \$419,220.52.
- C.** Approval of the May 21, 2019 Work Study Meeting Minutes
- D.** Approval of the May 28, 2019, Council Meeting Minutes
- E.** Approval of a Contract with the Port Orchard Independent as the City's Official Newspaper
- F.** Excusal of Councilmember Ashby for Personal Obligations

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to approve the consent agenda as presented.

The motion carried.

5. PRESENTATION

There was no presentation.

6. PUBLIC HEARING

There was no Public Hearing.

7. BUSINESS ITEMS

A. Adoption of an Ordinance Extending Term of the Mixed-Use Pilot Program

MOTION: By Councilmember Cucciardi, seconded by Councilmember Diener, to adopt an ordinance to extend the mixed-use pilot program to June 30, 2020, as presented.

The motion carried.

(Ordinance No. 019-19)

B. Approval of Addendum No. 2 to Contract No. 053-18 with Waterman Investment Partners, LLC, for the Real Estate Purchase and Sale Agreement for 640 Bay Street

MOTION: By Councilmember Lucarelli, seconded by Councilmember Cucciardi, to approve Amendment No. 2 to the 640 Bay Street Purchase and Sale Agreement as presented.

The motion carried

At 6:43 p.m., Mayor Putaansuu recessed the meeting for a 20-minute executive session [pursuant to RCW 42.30.110(1)(i), to discuss a potential litigation matter].

At 7:03 p.m., Mayor Putaansuu extended the executive session an additional 15 minutes.

At 7:18 p.m., Mayor Putaansuu extended the executive session an additional 15 minutes.

At 7:33 p.m., Mayor Putaansuu extended the executive session an additional 10 minutes.

At 7:48 p.m., Mayor Putaansuu extended the executive session an additional 5 minutes.

At 8:39 p.m., Mayor Putaansuu reconvened Council back into regular session.

MOTION: By Councilmember Clauson, seconded by Councilmember Rosapepe, to add a new item to Business Items 7C as Adoption of an Ordinance Establishing a 6-month moratorium on certain developments in the 580 and 660 Water Zones.

The motion carried.

Mayor Putaansuu stated: The City commenced a water facility plan update in 2017. As part of that update, we hired expert water consultants to do thorough review of our water facilities plan and create an updated plan. During the course of this review, it has come to the attention of our water department that the City is over-extended on water connections for the 580 and 660 water service zones. This is the area where the McCormick Development is occurring. This issue is a combination of being short of reservoir or “water storage” capacity combined with a potential supply shortage and the need to upgrade Bremerton’s Anderson pump station to ensure uninterrupted water supply.

It is of paramount importance to the City that we provide for the public health, safety and welfare for the people of Port Orchard. Now that we are aware that we have an issue in the 580 and 660 zones, we need to work hard to find a solution. Our first step is to make sure that the water facilities problem is not exacerbated by continuing to allow new connections when we are already beyond our maximum capacity. Therefore, issuing a moratorium to pause all building permits which require a new water connection is a necessary first step.

The issuance of a moratorium will also give the City time to work through the water facilities plan update and determine how we can best solve this problem.

The City is committed to finding a solution to this problem and to ensure that this area will have the water it needs for both household use and fire flow. By putting the moratorium in place we can do so without the added threat of additional connections making the problem worse.

We will hold the Public Hearing for this moratorium on July 23rd and will take public testimony about the moratorium at that time.

C. New Item: Adoption of an Ordinance Establishing a 6-month moratorium on certain developments in the 580 and 660 Water Zones

MOTION: By Councilmember Diener, seconded by Councilmember Chang, to approve an ordinance adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; imposing a temporary six-month moratorium on the acceptance of certain development in the 580 & 660 water zones; setting forth findings of fact in support of this moratorium; imposing the moratorium; stating the effect on vested rights; providing for exclusions; recognizing that public hearing will be held within 60 days; authorizing interpretative authority; providing for severability; declaring an emergency; setting the duration; and establishing an immediate effective date.

The motion carried

Consensus of the council is that they are committed to the protect the City and its residents and acknowledged there are a lot of unanswered questions; the Mayor, staff, and legal counsel was asked to work diligently towards resolving the issue and provide the necessary data to the Council.

The motion carried

8. DISCUSSION ITEMS (No Action to be Taken)

There were no discussion items.

9. REPORTS OF COUNCIL COMMITTEES

Councilmember Clauson reported the Finance Committee is next meeting is yet to be determined.

Mayor Putansuu reported that the next Economic Development and Tourism Committee meeting is scheduled for July 8.

Councilmember Lucarelli reported the Utilities Committee is scheduled to meet July 15. Reported the next Sewer Advisory Committee meeting is scheduled for August 14.

Councilmember Diener reported the Land Use Committee is scheduled to meet July 1.

Councilmember Rosapepe reported the next Lodging Tax Advisory Committee meeting is to be determined.

Councilmember Lucarelli reported the Chimes & Lights Committee is scheduled to meet August 19.

Mayor Putaansuu informed of his upcoming meeting with PSRC, with the TransPol Committee, for a challenging proposal to request funds for the Tremont Project.

10. REPORT OF MAYOR

The Mayor reported the following:

- Received the preliminary estimated population for the City from the Office of Financial Management (OFM);
- Kitsap County Fireworks ban and how it relates to the City;
- Working on maintenance Bid for Tremont project landscaping; and
- Attending AWC Annual Conference.

11. REPORT OF DEPARTMENT HEADS

Public Works Director Dorsey informed of the maintenance bond on Tremont project landscaping, gave update on paving Tremont project, and ribbon cutting scheduled for Rockwell Park.

Community Development Director Bond reported on the Vision 2050 with Puget Sound Regional Council (PSRC) update.

OTHER DISCUSSIONS:

Councilmember Clauson gave an update that Kitsap Transit is refurbishing the Annapolis Ferry Dock and it will be out of commission. Sailings will increase in the downtown Port Orchard dock and added bus service to bring commuters from the Annapolis Ferry Dock to downtown for ferry sailings.

12. CITIZEN COMMENTS

There were no citizen comments.

13. EXECUTIVE SESSION

Executive Session was held earlier in the meeting.

14. ADJOURNMENT

The meeting adjourned at 8:10 p.m. No other action was taken. Part One Audio was successful Part Two Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, Mayor