



City of Port Orchard Council Meeting Agenda
June 23, 2020
6:30 p.m.

Mayor:

Rob Putaansuu
 Administrative Official

Councilmembers:

Bek Ashby
 Finance Committee
 Economic Development & Tourism Committee
 Transportation Committee
 KRCC/KRCC PlanPol-alt /KRCC TransPol
 PSRC-alt/PSRC TransPOL-Alt/PRTPO

Shawn Cucciardi
 Finance Committee
 E/D & Tourism Committee, **Chair**
 Kitsap Economic Development Alliance

Fred Chang
 Economic Development & Tourism Committee
 Land Use Committee

Jay Rosapepe (Mayor Pro-Tempore)
 Utilities/Sewer Advisory Committee
 Land Use Committee
 Transportation Committee
 Lodging Tax Advisory Committee, **Chair**
 KRCC-alt

John Clauson
 Finance Committee
 Utilities/Sewer Advisory Committee
 Kitsap Public Health District-alt

Cindy Lucarelli
 Festival of Chimes & Lights Committee, **Chair**
 Utilities/Sewer Advisory Committee
 Kitsap Economic Development Alliance

Scott Diener
 Land Use Committee, **Chair**
 Transportation 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

Matt Brown
 Police Chief

Brandy Rinearson, MMC, CPRO
 City Clerk

Meeting Location:

Council Chambers, 3rd Floor
 216 Prospect Street
 Port Orchard, WA 98366

Contact us:

(360) 876-4407
 cityhall@cityofportorchard.us

Pursuant to the Governor’s “Stay Home - Stay Safe” Order, the City will take actions on necessary and routine business items.

The City is prohibited from conducting meetings unless the meeting is NOT conducted in-person and instead provides options for the public to attend through telephone, internet or other means of remote access, and also provides the ability for persons attending the meeting (not in-person) to hear each other at the same time. Therefore;

Remote access only

Link: <https://us02web.zoom.us/j/82557383746>

Zoom Meeting ID: 825 5738 3746

Zoom Call-In: 1 253 215 8782

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. Approval of the June 9, 2020, Council Meeting Minutes *Page 3*

5. PRESENTATION

A. Kitsap Economic Development Alliance (Powers)

6. PUBLIC HEARING

A. Emergency Interim Zoning Ordinance No. 011-20, Temporarily Suspending Approval and Permit Expiration and Tolling Processing Procedural Deadlines (Bond) *Page 9*

7. BUSINESS ITEMS

A. Approval of Awarding the Low Bidder and Authorize the Mayor to Execute an Agreement for the City’s Official Newspaper (Rinearson) *Page 17*

B. Adoption of an Ordinance Amending Residential Design Standards in Port Orchard Municipal Code Chapters 20.32.020, 20.32.040 and 20.122.060 (Bond) *Page 29*

- C. [Adoption of a Resolution Approving the Utility Payment Plan Policy \(Crocker\)](#) **Page 43**
- D. [Adoption of a Resolution Approving an Interagency Agreement with Department of Commerce Related to the COVID-19 CARES Act Funding \(Crocker\)](#) **Page 49**
- E. [Adoption of a Resolution Approving a Contract with Land Expressions, LLC for the 2020 McCormick Village Park Splash Pad Retrofit Project \(Dorsey\)](#) **Page 83**
- F. [Adoption of a Resolution Approving a Contract with Advanced Diving Services Inc. for the 2020 In-Service Cleaning and Inspection of Potable Water Storage Tanks Utilizing Commercial Divers \(Dorsey\)](#) **Page 103**
- G. [Adoption of a Resolution to Apply for Grant Funding from the BAFBRB Program Managed by the State Recreation and Conservation Office for 100% Design of Culvert Replacement on Bay Street \(Dorsey\)](#) **Page 131**
- H. [Adoption of a Resolution to Apply for Grant Funding from the BAFBRB Program Managed by the State Recreation and Conservation Office to Remove a Culvert on Sidney Road \(Dorsey\)](#) **Page 139**
- I. [Approval of a Noise Exemption Permit to Kristin Waters for a July 4th Celebration \(Rinearson\)](#) **Page 147**

8. DISCUSSION ITEMS (No Action to be Taken)

- A. Cares Funding (Mayor)

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	July 14 - 2 nd Tuesday of each month	Remote Attendance
Economic Development and Tourism	July 13, 2020; 9:30am - 2 nd Monday of each month	Remote Attendance
Utilities	July 21, 2020; 5:00pm - 3 rd Tuesday of each month	Remote Attendance
Sewer Advisory	September 16, 2020; 6:30pm	TBD
Land Use	July 6, 2020; 9:30am - 1 st Monday of each month	Remote Attendance
Transportation	June 22, 2020; 5:00pm - 4 th Tuesday of each month	Remote Attendance
Lodging Tax Advisory	October, 2020	City Hall
Festival of Chimes & Lights	July 20, 2020; 3:30pm - 3 rd Monday of each month	Remote Attendance
Outside Agency Committees	Varies	Varies

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
Council Meeting Minutes
Regular Meeting of June 9, 2020**

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:

Councilmember Ashby	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Present via Remote Access
Councilmember Diener	Present via Remote Access
Councilmember Lucarelli	Present via Remote Access
Mayor Pro-Tem Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via Remote Access: Public Works Director Dorsey, Finance Director Crocker, Community Development Director Bond, HR Coordinator Lund, City Attorney Archer, Police Chief Brown, and Deputy City Clerk Floyd.

A. PLEDGE OF ALLEGIANCE

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

Police Chief Brown and Mayor Putaansuu read into the record messages regarding the murder of George Floyd and support for local protesters and law enforcement.

2. APPROVAL OF AGENDA

MOTION: By Councilmember Cucciardi, seconded by Councilmember Diener, to add Business Item 7H for a Letter Supporting the Port of Bremerton Breakwater Project and add a Discussion Item that speaks to the Port Orchard Cares Program.

The motion carried.

MOTION: By Councilmember Ashby, seconded by Councilmember Cucciardi, to approve the agenda as amended.

The motion carried.

3. CITIZENS COMMENTS

Matt Murphy, Chamber of Commerce, said the Mayor has given him masks to distribute throughout town. He will continue to hand them out and the businesses appreciate the support from the City.

4. CONSENT AGENDA

- A. Approval of Voucher Nos. 79695 through 79697 and 79708 through 79725, including bank drafts in the amount of \$463,701.35 and EFT's in the amount of \$477.20 totaling \$464,178.55.
- B. Approval of Payroll Check Nos. 79698 through 79707 including bank drafts and EFT's in the amount of \$253,858.91; and Direct Deposits in the amount of \$179,871.67 totaling \$433,730.58.
- C. Adoption of an Ordinance to Increase the Pay Rate of the Seasonal Public Works Position (**Ordinance No. 013-20**)
- D. Approval of Change Order No. 2 to Contract No. 019-20 with Arken, Inc. for the 2020 Library Leak Repair
- E. Approval of May 26, 2020, Council Meeting Minutes

MOTION: By Councilmember Ashby, seconded by Councilmember Lucarelli, to approve the consent agenda as presented.

The motion carried.

5. PRESENTATION

There were no presentations.

6. PUBLIC HEARING

There were no public hearings.

7. BUSINESS ITEMS

A. Adoption of a Resolution Approving a Contract with A-Advanced Septic Services, Inc. for the 2020 McCormick Woods Annual Septic Tank Pumping

In response to Councilmember Cucciardi, Mayor Putaansuu noted we are conducting this meeting via Zoom per the Governor's order as City Hall is still not open.

MOTION: By Councilmember Diener, seconded by Councilmember Clauson, to adopt Resolution No. 017-20, thereby approving Contract No. C050-20 with A-Advanced Septic Services, Inc. for the 2020 McCormick Woods Annual Septic Tank Pumping Contract in the amount of \$11,317.50.

The motion carried.

(Resolution No. 017-20 and Contract No. 050-20)

B. Adoption of a Resolution Approving a Contract with Apply-A-Line, LLC for the 2020 Thermoplastic Application

MOTION: By Councilmember Clauson, seconded by Councilmember Rosapepe, to adopt Resolution No. 016-20, thereby approving Contract No. C049-20 with Apply-A-Line, LLC for the 2020 Thermoplastic Application Contract in the amount not to exceed \$39,734.00.

The motion carried.

(Resolution No. 016-20 and Contract No. 049-20)

C. Adoption of a Resolution Establishing and Ratifying a Program to Assist Small Businesses and Provide Personal Protective Equipment (PPE)

MOTION: By Councilmember Lucarelli, seconded by Councilmember Cucciardi, to adopt a resolution establishing and ratifying a program to assist small business and provide personal protective equipment as applicable in the attached resolution.

The motion carried.

(Resolution No. 021-20)

D. Approval of City of Port Orchard Personnel Policies 12.4 Related to Furloughs

Councilmember Cucciardi asked what happens if there is a half-day furlough?

HR Coordinator Lund said the policy addresses partial day situations, but we could tweak the definition to say any day or any partial days.

MAIN MOTION: By Councilmember Cucciardi, seconded by Councilmember Diener, to approve personnel policy 12.4 related to Furloughs and authorize the Mayor to implement the policy as presented.

AMENDED MOTION: By Councilmember Cucciardi, seconded by Councilmember Lucarelli, to amend this particular furlough policy to include language that speaks not only to furlough days, but to furlough hours as we may have partial days of furlough applicable, and that the language to be updated throughout the policy as necessary.

The amended motion carried.

The main motion carried.

E. Approval of City of Port Orchard Personnel Policies 9.11 Regarding Key and Access Card

MOTION: By Councilmember Clauson, seconded by Councilmember Rosapepe, to approve personnel policy 9.11 related to Keys and Access Cards and authorize the Mayor to implement the policy as presented.

The motion carried.

F. Approval of Awarding the Low Bidder and Authorize the Mayor to Execute an Agreement for the City's Official Newspaper with The Seattle Times Company

Mayor Putaansuu said the City received an email from a citizen who wanted us to not accept the low bid.

Council, Mayor, and staff discussed the bids received, state law requiring acceptance of the lowest bid, printing in local papers, electronic versus paper printing, costs of printing, contract options, and re-bidding.

Councilmember Clauson would like the City to reach out to the Kitsap Sun and ask them why they did not submit a bid.

MAIN MOTION: By Councilmember Rosapepe, seconded by Councilmember Cucciardi, to approve The Seattle Times Company as the low bidder and authorize the Mayor to execute an agreement with The Seattle Times Company as the City's Official Newspaper in a form acceptable to the City Attorney.

Council, Mayor, and staff continued discussion regarding the bids and voiced concerns over timelines and not awarding to a local company.

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to table this discussion to the next meeting.

The motion passed. Councilmembers Cucciardi, Ashby, and Chang voted no.

G. Approval of the May 19, 2020, Council Work Study Meeting Minutes

MOTION: By Councilmember Ashby, seconded by Councilmember Clauson, to approve the minutes as presented.

The motion carried. Councilmember Diener abstained.

H. Approval of a Letter of Support to the Port of Bremerton for the Breakwater Project

Mayor Putaansuu said he emailed a draft letter to the Council earlier this evening. The breakwater is 45 years old and they [Port of Bremerton] designed a replacement and are pursuing grants and other forms of funding. The Port is asking the City of Port Orchard to support their application as the marina is within City jurisdiction.

MOTION: By Councilmember Clauson, seconded by Councilmember Cucciardi, to authorize the Mayor to submit a letter of support to the Port of Bremerton for the replacement of the breakwater by the marina.

The motion carried.

8. DISCUSSION ITEMS (No Action to be Taken)

A. Port Orchard Cares Program

Mayor Putaansuu provided an overview of the Port Orchard Cares Small Business Grant which included how small businesses qualify, what the grants could be used for, and what things are not allowed.

Council, Mayor, and staff discussed the program including what meets the criteria, how small businesses will spend the money, applicant certification, and if a business should receive a grant if they have any open code violations.

9. REPORTS OF COUNCIL COMMITTEES

Mayor Putaansuu noted the City was down 1.2% in sales tax which is far better than what was projected. This represents the numbers from March.

Mayor Putaansuu reported the Economic Development and Tourism Committee is scheduled to meet July 13th. The Utilities Committee is scheduled to meet June 16th. The Sewer Advisory Committee is scheduled to meet June 17th. The Transportation Committee is scheduled to meet June 23rd.

Councilmember Rosapepe reported the Lodging Tax Committee had a request from a non-profit to see about re-opening to look at an item. This was regarding renovations downtown, but the state auditor's opinion is this is not within lodging tax purview, so the request was declined.

Councilmember Lucarelli reported the Chimes and Lights Committee is scheduled to meet next week [June 15th].

Mayor Putaansuu reported on the AWC [Association of Washington Cities] Annual Conference and Kitsap Public Health Board.

Councilmember Ashby reported on next weeks KRCC [Kitsap Regional Coordinating Council] and PSRC [Puget Sound Regional Council] meetings.

Mayor Putaansuu noted Kitsap Transit is working on a park and ride study which is on the July work study agenda.

10. REPORT OF MAYOR

The Mayor reported on the following:

- Webpage updates;
- Mayor's videos;
- Wearing masks in City Hall;
- Rotary Club request for lighting improvements at Etta Turner Park;

Councilmembers Cucciardi, Clauson, and Ashby would like to wait about 2 months to see what our financial impacts will be.

Mayor Putaansuu said he will bring this back in August.

- Lobbyist interim activities plan; and
- Updated personnel policies.

11. REPORT OF DEPARTMENT HEADS

A. 2019 Impact Fee Annual Report

Development Director Bond reported on the 2019 Impact Fee Annual Report showing money collected and money spent for parks and transportation. Additionally, he reported on the 580 Zone reservoir and downtown subarea plan project and parks plan surveys.

Deputy City Clerk Floyd reported the City's contract with the Port Orchard Independent states \$2.40 per column inch and the Kitsap Sun quoted \$2.96 per line.

Finance Director Crocker reported on park impact fees and the McCormick Woods splash pad retrofit.

12. CITIZEN COMMENTS

William Browning voiced concerns with the City hiring Ryan Hayter with Hayter Industries as the City's communications specialist.

13. EXECUTIVE SESSION

There was no executive session.

14. ADJOURNMENT

The meeting adjourned at 8:41 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, Mayor



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Public Hearing 6A

Meeting Date: June 23, 2020

Subject: Emergency Interim Zoning Ordinance

Prepared by: Nick Bond

011-20, Temporarily Suspending Approval

Development Director

and Permit Expiration and Tolling

Atty Routing No.: Matter 11-Development

Processing Procedural Deadlines

Atty Review Date: April 28, 2020

Summary: On April 28 2020, the City Council adopted an emergency interim zoning ordinance (Ord. 011-20) extending the expiration dates and deadlines for certain permit decisions, process requirements and land use actions, in response to the Governor’s Proclamation 20-25 regarding the COVID-19 pandemic. The Proclamation prohibited in-person meetings by local government agencies, and restricted legislative bodies from taking action on any items that were not routine and necessary. Since the permit processing deadlines set by statute and the City’s municipal code were not tolled by the Governor’s Proclamation, and the City Council wished to prevent the expiration of development-related permits and applications, the Council approved the emergency ordinance to prevent active and pending approvals from expiring for a six-month period. Per RCW 36.70A.390, the Council is required to hold a public hearing within 60 days of adoption of an interim zoning ordinance.

Recommendation: Hold a public hearing on emergency interim Ordinance 011-20.

Fiscal Impact: None

Alternatives: Direct staff to prepare revisions to the emergency interim ordinance; rescind the emergency interim ordinance.

Attachments: Ordinance No. 011-20.

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ORDINANCE NO. 011-20

AN INTERIM ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE COVID-19 PANDEMIC; TEMPORARILY SUSPENDING APPROVAL AND PERMIT EXPIRATION AND TOLLING PROCESSING PROCEDURAL DEADLINES; AUTHORIZING ADMINISTRATIVE ACTION AND INTERPRETATIONS; DECLARING A PUBLIC EMERGENCY; ESTABLISHING AN EXPIRATION DATE CONSISTENT WITH RCW 36.70A.390; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the World Health Organization has determined that a global pandemic exists due to the novel coronavirus known as COVID-19; and

WHEREAS, on February 29, 2020, the Governor of the State of Washington issued Proclamation 20-25, proclaiming the existence of a State of Emergency due to COVID-19 and restricted the conduct of non-essential business and activities by Washington's residents; and

WHEREAS, on March 25, 2020, the Governor provided direction that construction activities are not considered essential under Proclamation 20-25, except in limited circumstances; and

WHEREAS, on March 24, 2020, the Governor issued Proclamation 20-28, prohibiting in-person meetings by local government agencies but authorizing meetings by telephone or videoconferencing during the pendency of Proclamation 20-25, but restricting legislative bodies from taking action on any item that is not routine and necessary or related to the COVID-19 response during this time period; and

WHEREAS, the Governor's Proclamation 20-25 and the general financial impact from the COVID-19 crisis have impacted the construction industry and created delays for an indeterminate period of time in the construction, inspection and review of development projects with an active application with the City and will cause delays for projects or applications filed during the state of emergency; and

WHEREAS, a number of land use and permit review statutes and provisions in the Port Orchard Municipal Code, including chapter 36.70B RCW and Title 20 of the Port Orchard Municipal Code, impose certain time limitations and process requirements, such as action by the City Council on items and public hearings, on development permit applications that are not achievable under the restrictions imposed by the Governor; and

WHEREAS, the City Council desires to ensure staff are compliant with the Governor's restrictions on non-essential activities, but acknowledges that processing deadlines set by statute or the municipal code have not been tolled by action of the Governor; and

WHEREAS, in order to prevent the expiration of development related permits, approvals and completed applications during this time of economic downturn, the City Council finds that extensions of the expiration dates for certain permits and land use actions are warranted; and

WHEREAS, RCW 36.70A.390 the City Council may adopt an emergency interim zoning ordinance for a period of up to six months if a public hearing on the proposal is held within at least sixty (60) days; and

WHEREAS, the City Council finds that the COVID-19 crisis creates a time-sensitive emergency necessitating an interim zoning ordinance temporarily extending development application and permit expiration periods during this emergency; and

WHEREAS, pursuant to RCW 36.70B.080(1), the City Council finds that an extension of the deadlines identified herein is necessary to process project applications currently pending with the City and those that will be submitted during the pandemic, due to the public health emergency and economic crisis; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this Ordinance is exempt from the requirements for a threshold determination under the State Environmental Policy Act (SEPA); and

WHEREAS, the City Council finds that the proposed interim regulations to temporarily grant extensions to certain deadlines are consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City and further advance the public health, safety and welfare; now, therefore,

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

SECTION 1. Findings and Recitals. The recitals set forth above are hereby adopted and incorporated as findings of fact in support of this Ordinance, in accordance with RCW 36.70A.390.

SECTION 2. Extensions of Development Applications and Permits. This Ordinance relates to the all development project applications and permits, including those under Titles 15 and 20 of the Port Orchard Municipal Code.

A. **Pre-existing Approvals and Permits.** A permit or development approval (for example, a preliminary subdivision plat or preliminary PUD) that was active and valid as of January 1, 2020, shall not lapse, terminate or otherwise expire prior to the expiration of this interim Ordinance, and the expiration date of the permit or development approval or time period for meeting a deadline or for performance of a condition of the permit or development approval shall be either the time currently provided by the Port Orchard Municipal Code or the expiration

of this interim Ordinance, which date is later, unless the specific time is required by state law and cannot be waived or altered by this action.

B. Approvals and Permits in Process or Later Received. Any application that the City is currently processing or that was determined to be complete while this interim Ordinance is effective shall not lapse, terminate or otherwise expire prior to the expiration of this Ordinance. The time period for meeting a deadline or for the performance of a condition of the application (including deadlines for obtaining permits that are ready for issuance) shall be either the time currently provided for by the Port Orchard Municipal Code or the expiration of this interim Ordinance, whichever date is later, unless the specific time period is required by state law and cannot be waived.

C. Internal Processing Deadlines. Application processing deadlines and timelines relating to project permit applications processed under Title 20 POMC, including but not limited to requirements for issuance of a notice of decision, are suspended and will be tolled for the duration of the Governor's Proclamation 20-25 or the expiration of this interim Ordinance, whichever date is later.

D. Authorization. The Director of the Department of Community Development is hereby authorized to issue temporary procedural interpretations to address deadlines or other requirements related to development activities that are not specifically addressed in this Ordinance, provided such interpretations are in effect for the duration of this Ordinance and are consistent with the intent and purpose of this Ordinance.

SECTION 3. Public Hearing. Pursuant to RCW 36.70A.390, a public hearing on the interim official controls established by this ordinance shall be held within sixty (60) days of the adoption of this ordinance to hear and consider public comment.

SECTION 4. Expiration. The City Council adopts this interim regulation under the authority of RCW 36.70A.390. Therefore, the interim controls adopted herein shall be in effect for a period of six (6) months from the effective date of this Ordinance and shall automatically expire after six months, unless extended as provided by statute or otherwise superseded by action of Council, whichever occurs first.

SECTION 5. Ordinance to be Transmitted to Commerce. Pursuant to RCW 36.70A.106, a copy of this interim Ordinance shall be transmitted to the Washington State Department of Commerce.

SECTION 6. Declaration of Emergency. Pursuant to RCW 35A.12.130 and RCW 35A.13.190, this Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, is passed by at least a majority of plus one of the whole membership of the City Council, and shall take effect and be in full force


immediately upon its adoption. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals set forth above, which are adopted by reference.

SECTION 7. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 9. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect immediately upon passage. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 28th day of April 2020.



Robert Putaansuu, Mayor

ATTEST:



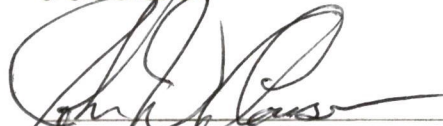
Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:



Charlotte A. Archer, City Attorney

SPONSORED BY:



Councilmember John Clauson

PUBLISHED DATE: May 1, 2020
EFFECTIVE DATE: April 28, 2020



Port Orchard Independent

Publication Name:
Port Orchard Independent

Publication URL:
www.portorchardindependent.com

Publication City and State:
Port Orchard, WA

Publication County:
Kitsap

Notice Popular Keyword Category:

Notice Keywords:

Notice Authentication Number:
202005051033386562572
2463794825

Notice URL:

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Notice Publish Date:
Friday, May 01, 2020

Notice Content

NOTICE OF CITY OF PORT ORCHARD ORDINANCE The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held April 28, 2020. **ORDINANCE NO. 011-20** AN INTERIM ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE COVID-19 PANDEMIC; TEMPORARILY SUSPENDING APPROVAL AND PERMIT EXPIRATION AND TOLLING PROCESSING PROCEDURAL DEADLINES; AUTHORIZING ADMINISTRATIVE ACTION AND INTERPRETATIONS; DECLARING A PUBLIC EMERGENCY; ESTABLISHING AN EXPIRATOIN DATE CONSISTENT WITH RCW 36.70A.390; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE. Copies of Ordinance No. 011-20 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request, a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 011-20 will be provided at a nominal charge. City of Port Orchard Brandy Rinearson City Clerk Date of first publication: May 1, 2020 (POI897668) ad+#897668]

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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 7A</u>	Meeting Date:	<u>June 23, 2020</u>
Subject:	<u>Approval of Awarding the Low Bidder</u>	Prepared by:	<u>Brandy Rinearson, MMC</u>
	<u>and Authorize the Mayor to Execute</u>		<u>City Clerk</u>
	<u>an Agreement for the City’s Official</u>	Atty Routing No:	<u>Matter 5 - Clerk</u>
	<u>Newspaper</u>	Atty Review Date:	<u>June 19, 2020</u>

Summary: Since approximately May 2020, the City’s official newspaper – the Port Orchard Independent has been exclusively publishing online. As a result, the paper does not meet the statutory requirements for a qualified paper under state law. In order to meet the City’s statutory obligations, the City has also been publishing in the Kitsap Sun, a qualified paper of general circulation that is publishing both online and in print. RCW 35A.40.210 and 35.23.352(7) requires each city with a population less than 20,000 to designate by Resolution an Official City Newspaper, and to select that paper via competitive bidding. The newspaper shall be of general circulation within the city or town and shall have been published regularly, at least once a week.

The City solicited bids for a new newspaper of record in late May 2020. The City received the following bids:

Port Orchard Independent:

Cost per single line	\$2.40
Cost per additional line	\$0.24

Circulation Numbers:

City of Port Orchard (within city limits)	4,106
South Kitsap Urban Growth Area	15,487

The Seattle Times Company:

Cost per single line, Mon.-Thur.	\$2.23
Cost per single line, Fri.-Sat.	\$3.97
Cost per single line, Sun.	\$5.34
Cost per additional line	Same as above

Circulation Numbers:

City of Port Orchard (within city limits)	(only able to calculate by Zip Codes)
South Kitsap Urban Growth Area, Sunday	1,154
South Kitsap Urban Growth Area, Daily	651

On June 9, 2020, this item was brought forward to Council for approval. During discussion, several Councilmembers voiced concern with awarding the low bidder to a newspaper that does not have a

qualifying circulation to our citizens and to redefine the scope of circulation. Discussion also noted that the Port Orchard Independent is not a qualified paper insofar as it is publishing online only.

The City Attorney stated Council may reject all bids, and direct the Mayor to modify the RFP to focus on obtaining clear distribution numbers to ensure that the selected paper has a sufficient circulation within the City to constitute "general circulation" per RCW 65.16.020.

Due to the need for the City to emergent need to designate a qualified newspaper of record, and pursuant to the Mayor's Proclamation of Emergency waiving procurement for COVID-19 related purchases, which has been ratified by the Council, the Council may temporarily appoint a qualified newspaper of record without competitively bidding the appointment.

The current motion on the floor is:

MAIN MOTION: By Councilmember Rosapepe, seconded by Councilmember Cucciardi, to approve The Seattle Times Company as the low bidder and authorize the Mayor to execute an agreement with The Seattle Times Company as the City's Official Newspaper in a form acceptable to the City Attorney.

Alternative Motion: To Adopt a Resolution of the City of Port Orchard, Washington, Rejecting All Bids for Official Newspaper, Directing Mayor to Modify the RFP and Re-Advertise, and Delegating the Kitsap Sun As the City's Temporary Newspaper of Record.

Recommendation: N/A

Relationship to Comprehensive Plan: N/A

Fiscal Impact: Funds have been designated for publications as part of the 2019/2020 Biennial Budget. A Budget adjustment may be needed.

Alternatives: None.

Attachments: Resolution, Bid Requirements, and bid documents.

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, REJECTING ALL BIDS FOR OFFICIAL NEWSPAPER, DIRECTING MAYOR TO MODIFY RFP AND RE-ADVERTISE, AND DESIGNATING THE KITSAP SUN AS THE CITY'S TEMPORARY NEWSPAPER OF RECORD.

WHEREAS, pursuant to RCW 35A.21.230, each code city shall designate a qualified official newspaper by resolution, and the qualifications for a legal newspaper are set out in RCW 65.16.020;

WHEREAS, pursuant to RCW 35.23.352(8) and RCW 35A.21.230, the City of Port Orchard, as a non-charter code city with a population under 20,000, the City must select its official newspaper of record by formal bid and the contract shall be awarded to the lowest responsible bidder; and

WHEREAS, the City's current newspaper of record, selected via competitive bidding, is the Port Orchard Independent; and

WHEREAS, the City has been using the services of the Port Orchard Independent despite the fact that the paper is only publishing on-line due to the economic crisis resulting from the COVID-19 pandemic and, in accordance with RCW 65.16.020 that paper is no longer qualified to serve as the City's newspaper of record; and

WHEREAS, in order to meet the statutory obligations for publishing notices and legislation in a print media (as opposed to online only), the City has also been publishing all notices in the Kitsap Sun, a qualified newspaper pursuant to RCW 65.16.020 with a general circulation in the City, at a substantial cost to the City; and

WHEREAS, in May 2020, the City solicited bids for its newspaper of record, and received two responses, including one from the Port Orchard Independent which is not a qualified paper under RCW 65.16.020; and

WHEREAS, the City Council desires to reject all bids and re-advertise, directing staff to modify the advertisement to solicit additional information regarding circulation within the City of Port Orchard to ensure the selected newspaper qualifies as a newspaper of general circulation within the City, as required by RCW 65.16.020; and

WHEREAS, however, because the Port Orchard Independent is no longer qualified to serve as the City's newspaper, and due to the City's emergent need to publish all actions, including those that are COVID-19 related, the City desires to temporarily utilize the Kitsap Sun, as the temporary newspaper of record; and NOW, THEREFORE,

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

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council hereby rejects all bids received in response to the City's May 2020 call for bids for an official newspaper.

THAT: consistent with the Mayor's Proclamation of Emergency and the waiver related thereto of competitive bidding for purchases necessary as a result of the COVID-19 pandemic, the City Council designates the Kitsap Sun as the City's official newspaper for sixty (60) days, until a long-term newspaper of record can be selected, and directs the Mayor to take action in accordance with this Resolution.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 23rd day of June 2020.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



City of Port Orchard

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

BID REQUIREMENTS/SPECIFICATIONS FOR CITY'S OFFICIAL NEWSPAPER

The City of Port Orchard is requesting bids to provide the service as the Official Newspaper of the City of Port Orchard. The term of the agreement will be for one (1) year. The selected vendor will be responsible for all legal publications as required by law during the term of this agreement.

Bids will be accepted until 4:00 pm on June 4, 2020. Bids received after that date and time will be rejected.

BIDS MUST BE SENT BY E-MAIL OR BY MAIL; HOWEVER, IF SENT BY MAIL, THE RESPONSIBILITY OF THEIR ON-TIME DELIVERY IS UPON THE BIDDER.

E-mail: Brandy Rinearson, City Clerk at cityclerk@cityofportorchard.us

Mailing address: 216 Prospect Street, Port Orchard, WA 98366.

Faxed bid proposals will not be accepted by the City of Port Orchard.

Any party submitting a timely bid will be liable for that bid until the City Council awards the agreement or sixty (60) days, whichever comes first.

The City of Port Orchard shall evaluate qualified bids based upon the criteria set forth herein and in state law. The City of Port Orchard reserves the right to reject any or all bids, at its sole discretion.

All information requested with this bid must be provided for the bid to be considered a valid and responsive bid.

If you have any questions regarding this request for bid, you may contact Brandy Rinearson, City Clerk, at 360 876-7030 or email at cityclerk@cityofportorchard.us, between the hours of 8:00 am and 4:30 pm, Monday thru Friday.

It is the sole responsibility of the submitting bidder to ensure that their bid has been received by the City Clerk's office in the proper time frame.

Upon award of an agreement, bid prices shall remain firm for the duration of the agreement.

BID AND AWARD CRITERIA:

To be eligible for award, all bidders' publications shall meet all of the requirements of Chapter 65.16 of the Revised Code of Washington. In addition, the newspaper must publish in hard-copy format (and may also publish electronically), must be an approved legal newspaper for Kitsap County and have a general circulation in and around the City of Port Orchard.

Bids must be submitted on the form provided and must identify the cost per column inch to publish all legal advertisements. Per RCW 65.16.091, the rate charged by a newspaper for legal notices shall not exceed the national advertising rate extended by the newspaper to all general advertisers and advertising agencies in its published rate card.

REQUIRED AFFIDAVIT OF PUBLICATION: The City requires, within fourteen (14) days after the last publication date of any City advertisement, the successful bidder will furnish an "Affidavit of Publication" certifying the date(s) the advertisement(s) was published. All interested bidders must confirm their ability to comply to this requirement.

The City will not pay for any ad which is improperly run. The successful bidder will re-run an improperly run ad at its own expense.

The successful bidder shall furnish an itemized statement of the City account monthly, listing the invoice number, item published, and the total amount of each invoice.

The term of an awarded agreement shall be for a period of one (1) year. The Bid shall be for the period of July 1, 2020 through June 30, 2021.

TERMS AND CONDITIONS: The selected bidder will be required to enter into an agreement with the City. A draft agreement outlining all terms and conditions is available upon request.

BID WITHDRAWAL: No bid can be withdrawn after having been formally opened by the City on the closing date and time.

REJECTION OF PROPOSAL: The City of Port Orchard reserves the right to reject any or all bids, and to waive any informality in bids.

CHANGES: The City of Port Orchard, at its sole discretion, reserves the right to change requirements/specifications during the agreement term. In the event the requirements/specifications are changed during the agreement term, the price will be adjusted to a mutually accepted level. All other terms and conditions of the agreement shall remain in effect for the remainder of the agreement. In the event that a mutually acceptable price adjustment cannot be reached, the City of Port Orchard reserves the right to terminate the agreement and to rebid with the new type requirements/specifications.

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City of Port Orchard

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

BID FORM

ALL INTERESTED BIDDERS MUST COMPLETE AND SUBMIT THE FOLLOWING:

Weekday Rate (Mon-Thurs.): \$2.23 per line per day. Sunday Rate: \$5.34 per line per day.
Friday & Saturday Rate: \$3.97 per line per day.
\$ _____ per single line for one day (including applicable sales tax).

If applicable: Cost per line \$ Same as above (including applicable sales tax), per day for more than one day.

In addition, please provide the City with circulation numbers within City limits as well as inside the Port Orchard Urban Growth Area and answer the following:

Audited circulation? Yes _____ No

Can only pull by zip code Circulation Number within City limits

Sunday 1154 - Daily 651 Circulation Number within the Port Orchard Urban Growth Area (Zip Codes 98366 and 98367)

Confirm you publish in hard-copy format? Yes _____ No

Confirm you are equipped to provide an Affidavit of Publication? Yes _____ No

The undersigned states that he or she is authorized to submit a bid on behalf of the corporation, partnership, or sole proprietorship listed below and further states that the corporation, partnership, or sole proprietorship is bound by the above offer.

Name of Legal Newspaper: The Seattle Times Company

Signed: Holly J Botts Title: Legal Advertising Representative

Typed or printed Name: Holly Botts

Address: 1000 Denny Way City/State/Zip: Seattle, WA 98109

Telephone Number: (206)652-6018 Date: 05/29/2020

Email: legals@seattletimes.com

RECEIVED

JUN 04 2020

CITY OF PORT ORCHARD
CITY CLERKS OFFICE



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

BID FORM

ALL INTERESTED BIDDERS MUST COMPLETE AND SUBMIT THE FOLLOWING:

\$ 2.40 per single line for one day (including applicable sales tax).

If applicable: Cost per line \$.24 (including applicable sales tax), per day for more than one day.

In addition, please provide the City with circulation numbers within City limits as well as inside the Port Orchard Urban Growth Area and answer the following:

Audited circulation? Yes No

4,106 Circulation Number within City limits

15,487 Circulation Number within the Port Orchard Urban Growth Area
(Zip Codes 98366 and 98367)

Confirm you publish in hard-copy format? Yes No + Kitsapdailynews.com

Confirm you are equipped to provide an Affidavit of Publication? Yes No

The undersigned states that he or she is authorized to submit a bid on behalf of the corporation, partnership, or sole proprietorship listed below and further states that the corporation, partnership, or sole proprietorship is bound by the above offer.

Name of Legal Newspaper: Port Orchard Independent

Signed: [Signature] Title: Advertising Director

Typed or printed Name: Keran Kennedy

Address: 911 Hildebrand NE City/State/Zip: Bainbridge Island WA, 98110-2847

Telephone Number: 206-842-6613 Date: 06.03.2020

Email: ekennedy@SoundPublishing.com

SOUND PUBLISHING INC.

Washington's Largest Publisher of Community Newspapers

Phone (360) 394-5800 • 19351 8th Avenue NE, Suite 106, Poulsbo, WA 98370 • www.soundpublishing.com

Brandy Rinearson
City Clerk
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

June 4, 2020

Re: Our sincere thanks and Port Orchard Independent Update

Dear Brandy,

We'd like to thank the City of Port Orchard for our longstanding partnership with Sound Publishing's weekly newspaper, the Port Orchard Independent. Over the years, we have appreciated the opportunity to be the City's official newspaper of record and it cannot be understated how grateful we are for your loyalty, understanding, flexibility and support as our company navigates the challenging economic impact that Covid-19 has had our business.

This letter is also to provide the City of Port Orchard with a clear vision of the current status of the Port Orchard Independent including future plans for your consideration through the City's 2020-2021 official newspaper bid process.

Current Status:

The Port Orchard Independent printed publication is temporarily paused, due to a dramatic loss in advertising revenue from local and national retailers. Local news along with legal notices are posted on our websites, KitsapDailyNews.com and the BainbridgeReview.com and pushed out through social media channels to increase the advertising viewing audience. Since the Bainbridge Island Review has not been paused, this will continue to be offered as an alternate publication.

Future Plans:

Relaunch: The Port Orchard Independent will be relaunched on Friday, July 10, publishing monthly in the interim (2nd Friday of each month) through the summer months. During the weeks the publication is not printed, the City will be offered the same opportunities as in the current status. As our revenues increase and businesses resume through Covid-19 recovery phases, Sound Publishing will also resume publishing on a weekly basis.

Size Change: At relaunch, the Port Orchard Independent will be converted from its current tabloid format (10" x 12.75") to a broadsheet format (10" x 20.75"). The column width will change slightly to 1.56".

Paid Publication: The Port Orchard Independent will resume publishing at full circulation in the south Kitsap area, however, we will be moving to a paid circulation model in the coming months, circulating not less than 2,500 copies each week as subscriptions ramp up.

Thank you again for your support of our local company and local journalism.

With best regards,



Terry Ward
Sound Publishing Vice-President & Publisher

RECEIVED

MAY 29 2020

CITY OF PORT ORCHARD
CITY CLERKS OFFICE



City of Port Orchard

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

BID FORM

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The undersigned states that he or she is authorized to submit a bid on behalf of the corporation, partnership, or sole proprietorship listed below and further states that the corporation, partnership, or sole proprietorship is bound by the above offer.

Name of Legal Newspaper: The Seattle Times Company

Signed: Holly J Botts Title: Legal Advertising Representative

Typed or printed Name: Holly Botts

Address: 1000 Denny Way City/State/Zip: Seattle, WA 98109

Telephone Number: (206)652-6018 Date: 05/29/2020

Email: legals@seattletimes.com

RECEIVED

MAY 29 2020

OFFICIAL NEWSPAPER ADVERTISEMENT FOR BIDS

City of Port Orchard

CITY OF PORT ORCHARD
CITY CLERKS OFFICE

The Seattle Times Company, 1000 Denny Way, Seattle, WA 98109

RATES. Per line, per day. 30-40 characters per line, counting spaces and punctuation. 14 lines per inch.

Publication Dates	Inch Rate	Line Rate
Monday thru Thursday	\$40.18	\$2.23
Friday or Saturday	\$71.40	\$3.97
Sunday	\$95.90	\$5.34

DEADLINES FOR LEGAL NOTICES.

Publication Day	Deadline
Monday	Friday, 4:30 p.m.
Tuesday	Friday, 4:30 p.m.
Wednesday	Monday, 4:30 p.m.
Thursday	Tuesday, 4:30 p.m.
Friday	Wednesday, 4:30 p.m.
Saturday	Thursday, 4:30 p.m.
Sunday	Friday, 4:30 p.m.

LEGAL NOTICE INFORMATION.

- You may choose any day of the week to publish your legal notice. We publish legal notices every day of the week.
- Our circulation reaches Washington State and mainly King and Snohomish counties. We also reach Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Thurston and Whatcom counties.
- Legal notices run online for 7 consecutive days when running 1 or more days a week in print.
- We provide notarized affidavit of publication for all legal notices at no charge.
- *The Seattle Times* meets all qualifications of RCW 65.16.020 and is recognized and listed with the King County of Superior Court as a legal newspaper of General Circulation.

CONTACT INFORMATION: Holly Botts, phone (206)652-6018, email legals@seattletimes.com

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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 7B
Subject: Adoption of an Ordinance Amending
Residential Design Standards in Port Orchard
Municipal Code Chapters 20.32.020, 20.32.040
and 20.122.060

Meeting Date: June 23, 2020
Prepared by: Nicholas Bond
DCD Director
Atty Routing No: Development-Matter 11
Atty Review Date: March 15, 2020

Summary: In November 2019, the City received a request from McCormick Communities and Quadrant Homes, requesting that the City revise certain residential design requirements in Title 20 POMC to better align with Quadrant’s standard housing designs. The Planning Commission reviewed the requests and agreed that most of them could be accommodated in revised design standards code language. These revisions, as presented in the attached ordinance and discussed below, address the following issues:

1. Elevation requirements for detached houses on sloping lots or lots below adjacent right-of-way (POMC 20.32.020);
2. Location of primary access to a detached house (POMC 20.32.020);
3. Allowing “carriage units” in cottage court developments (POMC 20.32.040);
4. Amending requirements for front porches (POMC 20.122.060).

Item 1 – Elevation requirements. At present, the code requires that the ground floor of a detached house must be elevated at least two feet above the adjacent grade. This presents difficulty for the many lots in Port Orchard that have significant slope and/or lots that are lower than an adjacent roadway. As a compromise to retain the privacy and aesthetic design appeal of a ground floor that is elevated from the street level, staff and the Planning Commission agreed on a code revision to require only those portions of the house structure within 15 feet of the interior edge of the rights-of-way for the primary or side street to meet the 2-foot elevation requirement.

Item 2 – Primary access location. McCormick/Quadrant felt that the current code requirement that the primary access for a detached house be located facing the primary street was too restrictive, and prevented the development of efficient, side-entry homes on narrower lots. The developer provided examples of side-entry homes on both corner and interior lots. Staff and the Planning Commission agreed that this option could provide a wider variety of housing options and price ranges within a development.

Item 3 – Carriage units. McCormick/Quadrant requested that the City add this housing type (units built above a detached garage structure) to the approved cottage court configuration. Previously, the code had not addressed units above garages. Staff and the Planning Commission agreed that this option could provide an additional housing option within a cottage court development and make more efficient use of the site. Provisions were also added to limit the size of garage/carriage unit buildings to ensure that they retain their accessory nature and appearance.

Item 4 – Front porch requirements. The code currently requires that detached homes have a front porch at least six feet deep, not including the steps. McCormick/Quadrant asked for flexibility on this requirement, so that a portion of the porch could be less than six feet deep, and additional usable indoor space could be provided in a front room. Staff and the Planning Commission agreed to this request, provided that the front door is recessed at least six feet so that the main entry retains a welcoming, attractive appearance.

The Planning Commission held a hearing on a draft ordinance on June 2, 2020, and voted to recommend approval of the draft ordinance to City Council. At the June 16 work-study meeting, the City Council considered a request by McCormick/Quadrant that had not been recommended for approval by the Planning Commission, to amend Section 20.139.015 to allow three-car garages on lots with a minimum width of 60 feet instead of the current code requirement of 74 feet. The City Council discussed this issue and asked that an ordinance be brought forward to include a compromise minimum width of 66 feet for three-car garages in this code section, which has been provided in the final ordinance presented to Council. All other recommendations by the Planning Commission were accepted by Council. Council may wish to discuss this provision further, and amend this width from 66 to 60 feet as requested.

Recommendation: Staff recommends that the City Council continue to discuss the 3-car garage width issue, and adopt an ordinance amending residential design standards in POMC Chapters 20.32.020, 20.32.040 and 20.122.060.

Motion for consideration: “I move to adopt an ordinance amending residential design standards in POMC Chapters 20.32.020, 20.32.040 and 20.122.060.”

Fiscal Impact: None

Alternatives: Do not adopt the ordinance; revise the ordinance.

Attachments: Ordinance.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO RESIDENTIAL DESIGN STANDARDS; AMENDING SECTIONS 20.32.020, 20.32.040 AND 20.122.060 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on June 13, 2017, the Port Orchard City Council adopted Ordinance 019-17, establishing a new unified development code at Title 20 of the Port Orchard Municipal Code (POMC), including Chapter 20.122 POMC, pertaining to Building Elements; and

WHEREAS, on March 12, 2019, the Port Orchard City Council adopted Ordinance 011-19 establishing Chapter 20.32 POMC, pertaining to Building Types, and amending Chapter 20.122 POMC; and

WHEREAS, in November 2019 the City received a request from McCormick Communities and Quadrant Homes, requesting that the City revise certain residential design requirements in Title 20 POMC to better align with Quadrant's standard housing designs; and

WHEREAS, where the Council deems appropriate and necessary, the City may adopt amendments to the City's development regulations pursuant to RCW 36.70A.106; and

WHEREAS, City staff prepared this Ordinance, adopting some of the requested amendments to the City's residential design requirements at Sections 20.32.020, 20.32.040 and 20.122.060 POMC;

WHEREAS, on March 4, 2020, the City submitted this Ordinance to the Department of Commerce, pursuant to RCW 36.70A.106; and

WHEREAS, on March 13, 2020, the City's SEPA official issued a determination of non-significance for the proposed revisions, and there have been no appeals; and

WHEREAS, on June 1, 2020, the proposed amendments were reviewed by the City Council's Land Use Committee, and

WHEREAS, on June 2, 2020, the Planning Commission held a duly-noticed public hearing on the proposed amendments, and the Planning Commission recommended approval of the proposed amendments; and

WHEREAS, on June 16, 2020, the proposed amendments were reviewed at the City Council’s work-study meeting; and

WHEREAS, at the June 16 work-study meeting the City Council considered a request by McCormick/Quadrant that had not been recommended for approval by the Planning Commission, to amend Section 20.139.015 to allow three-car garages on lots with a minimum width of 60 feet instead of the current code requirement of 74 feet, and the Council requested that staff amend the Ordinance to provide a compromise minimum width of 66 feet for three-car garages in this code section; and

WHEREAS, staff prepared a revised Ordinance to comply with the City Council’s direction and provided it to the Council for the June 23 regular meeting; and

WHEREAS, the City Council finds that this Ordinance is consistent with the City’s Comprehensive Plan, and that the amendments herein benefit the health, safety and welfare of the residents of the City; now, therefore,

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

SECTION 1. Findings and Recitals. The recitals set forth above are hereby adopted and incorporated as findings in support of this ordinance.

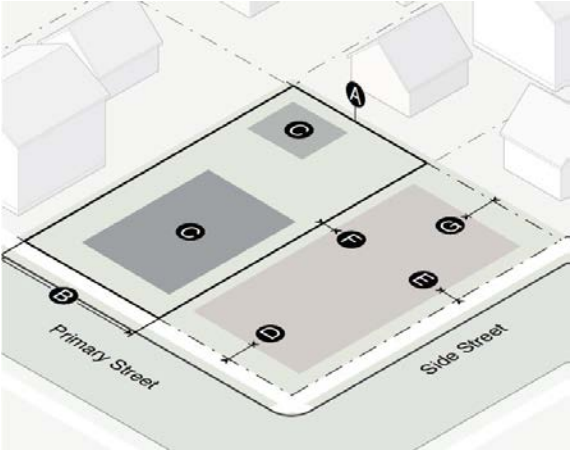
SECTION 2. Amendment. Section 20.32.020 of the POMC is hereby amended to read as follows:

20.32.020 Detached house.





- (1) Definition. A building type that accommodates one dwelling unit on an individual lot with yards on all sides.
- (2) Districts where allowed: GB, R1, R2, R3, R6, NMU, BPMU.



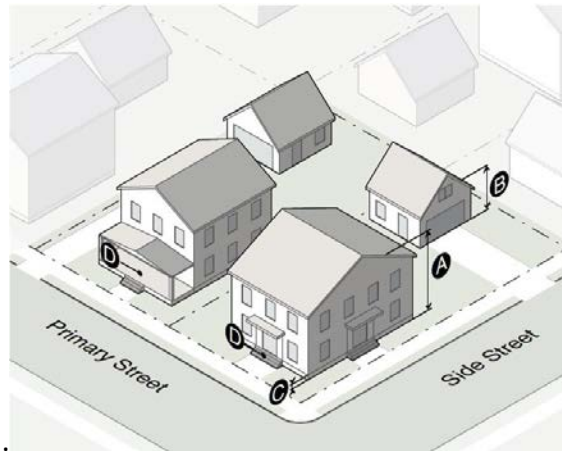
- (3) Lot and Placement.
 - (a) Minimum/maximum lot area: set by district.

- (b) Minimum lot width: set by district.
- (c) Maximum lot coverage: set by district.
- (d) Building and structure setback from primary street lot line: set by district.
- (e) Building and structure setback from side street lot line: set by district.
- (f) Building and structure setback from side interior lot line: set by district.
- (g) Building and structure setback from rear lot line: set by district.

(4) Maximum Dwelling Units Per Lot. One primary, one accessory.

(5) Build-to Zone (BTZ).

- (a) Building facade in primary street BTZ: does not apply.
- (b) Building facade in secondary street BTZ: does not apply.



(6) Height and Form.

- (a) Maximum principal building height: three stories/35 feet max.
- (b) Accessory structure: 24 feet max.
- (c) Minimum ground floor elevation: two feet minimum. For houses on lots located below the adjacent right-of-way, or which slope significantly down from the adjacent right-of-way, only those portions of the house structure within 15 feet of the interior edge of the rights-of-way for the primary or side street must meet this requirement.
- (d) Pedestrian Access.
 - (i) The main entrance to the home shall face the primary street, side street or side yard.
- (e) Building Elements Allowed.
 - (i) Balcony. See POMC 20.122.030.
 - (ii) Porch. See POMC 20.122.060.
 - (iii) Stoop. See POMC 20.122.070.
- (f) Parking Location.
 - (i) Front/Corner Yard Restrictions.
 - (ii) Garage Door Restrictions. See Chapter 20.139 POMC.

SECTION 3. Section 20.32.040 POMC is hereby amended to read as follows:

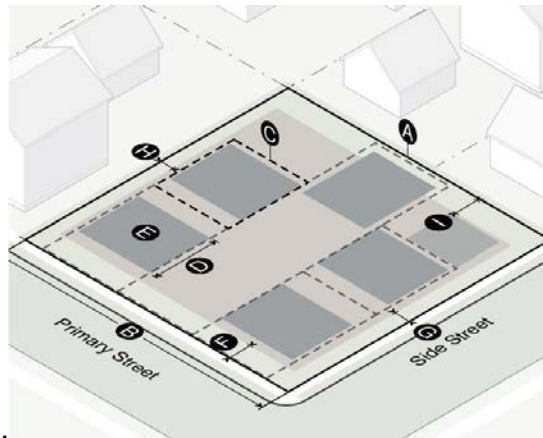
20.32.040 Cottage court.



- (1) Definition. A building configuration that accommodates five to 12 residential units. The residential units shall primarily be detached single-family dwelling units on individual lots organized around an internal shared courtyard, with optional carriage units located

above stand-alone common garage buildings. Accessory buildings such as a community building and common storage facilities are allowed. Cottage courts require an approved subdivision or short subdivision (depending on the total number of lots proposed).

- (2) Districts where allowed: R1, R2, R3, R6, RMU, NMU.



- (3) Lot and Placement.

- (a) Minimum site area: 22,500 square feet.
- (b) Minimum site width and depth: 150 feet.
- (c) Minimum lot area: 1,200 square feet.
- (d) Minimum lot width: 20 feet.
- (e) Maximum building footprint: 1,200 square feet.
- (f) Building and structure setback from primary street lot line: set by district.
- (g) Building and structure setback from side street lot line: set by district.
- (h) Building and structure setback from side interior lot line: set by district.
- (i) Building and structure setback from rear lot line: set by district.

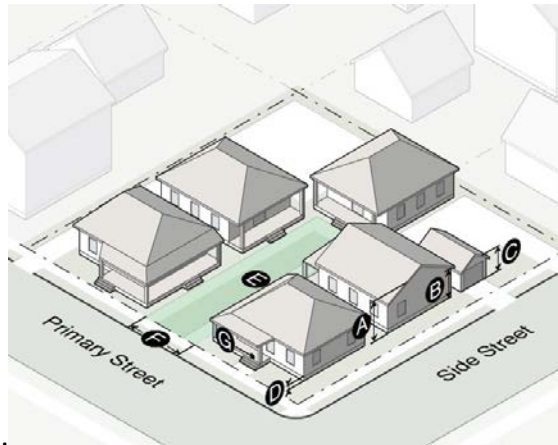
- (4) Maximum dwelling units allowed per site: five to 12.

- (5) Additional site area required per dwelling unit beyond five: 4,500 square feet.

- (6) Maximum lot coverage: does not apply.

- (7) Build-to Zone (BTZ).

- (a) Building facade in primary street BTZ: does not apply.
- (b) Building facade in secondary street BTZ: does not apply.



(8) Height and Form.

- (a) Maximum principal building height: One and one-half stories/24 feet maximum.
- (b) Maximum building wall plate height: 18 feet.
- (c) Maximum accessory structure height: 18 feet without a carriage unit. 24 feet with a carriage unit on the second floor.
- (d) Minimum ground floor elevation: two feet.
- (e) Courtyard Area.
 - (i) Minimum area: 3,000 feet.
 - (ii) Additional minimum courtyard area per dwelling unit beyond five units: 600 square feet minimum.
 - (iii) Courtyard cannot be parked or driven on, except for emergency access and as permitted for temporary events.
- (f) Minimum courtyard width: 40 feet.
- (g) Building Elements Allowed.
 - (i) Balcony. See POMC 20.122.030.
 - (ii) Porch. See POMC 20.122.060.
 - (iii) Stoop. See POMC 20.122.070.
- (h) Parking/Garage Location.
 - (i) Front/corner yard restrictions: not allowed.
- (i) Garages. As an accessory structure, stand-alone common garage buildings with no more than four (4) garage bays are allowed.

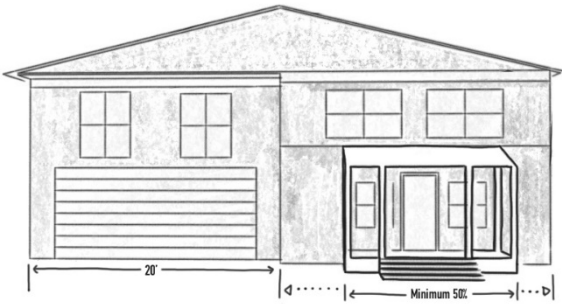
SECTION 4. Section 20.122.060 POMC is hereby amended to read as follows:

20.122.060 Porch.

A raised structure attached to a building, forming a covered entrance to a



doorway.



The 50% porch width shall be measured to include the habitable ground floor portion of the detached house only.



The 50% porch width shall be measured to include the habitable ground floor portion of the detached house only.

- (1) A front porch must be at least six feet deep (not including the steps). A portion of the porch may be less than six (6) feet deep provided that the front door is recessed by at least six (6) feet.
- (2) A front porch must be contiguous, with a width not less than 50 percent of the building facade from which it projects. For the purposes of this section, the front building façade shall not include that portion of the house containing an attached side-by-side garage.
- (3) A front porch must be roofed and may be screened, but cannot be fully enclosed.
- (4) A front porch may extend up to nine feet, including the steps, into a required front setback; provided, that such extension is at least three feet from the vertical plane of any lot line.
- (5) A front porch may not encroach into the public right-of-way.

SECTION 5. Section 20.139.015 is hereby amended to read as follows:

- (1) The configuration and maximum number of garage bays for the building types listed below shall be limited based on lot width as follows:

Building Type	Lot Width	Maximum number of side-by-side enclosed standard parking stalls when vehicle access is from primary street
Detached House	<40 feet	1
	40 feet up to 66 feet	2
	≥ 66 feet up to 100 feet	3
	>100 feet	No limit
Backyard Cottage	N/A	N/A
Side-by-Side Duplex	74 feet or less	1 per unit
	>74 feet	2 per unit
Duplex Back-to-Back	40 feet or less	1 for the front unit, no limit for rear unit

Building Type	Lot Width	Maximum number of side-by-side enclosed standard parking stalls when vehicle access is from primary street
	>40 feet	2 for the front unit, no limit for rear unit
Attached House	40 feet or less	1 per dwelling unit
	>40 feet	2 per unit
Townhouse	<30 feet	Not permitted
	30 feet or more	1 per unit
Accessory Buildings	N/A	N/A

(2) A side-by-side interior parking space shall mean an area within a structure designed for the storage of a single passenger car or light truck.

SECTION 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 7. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 8. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 23rd day of June 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:
EFFECTIVE DATE:

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RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
ADOPTING A UTILITY PAYMENT PLAN POLICY.**

WHEREAS, the financial and public health impact from the COVID-19 pandemic has been sudden and unprecedented; and

WHEREAS, the Washington State Governor has issued Proclamation 20.23.4, directing utility providers to develop a COVID-19 customer support program including alternative payment arrangements; and

WHEREAS, the City Council has previously approved Ordinance 009-20, delegating authority to the finance director to waive utility late fees, penalties and/or disconnections charges as well as make alternative utility payment arrangements under certain conditions: and

WHEREAS, the Finance Department has developed an alternative Payment Plan Policy consistent with the Ordinance 009-20 and the Governor's Proclamation; now, therefore,

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

THAT: The City Council approves the Utility Payment Policy as attached hereto as Exhibit A and incorporated herein by this reference. The Council further authorizes the Mayor to make adjustments to the policy as needed and report back any modifications to council within sixty (60) days of said modification.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 23rd day of June 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



Policy & Procedure

Subject: Utility Billing Payment Plan Options		
Beginning Date:	Page 1 of 2	
Approved by:	Effective Date:	Supersedes:

1.0 PURPOSE:

The Finance Department has put in place the below policy framework to assist customers experiencing economic hardship and requesting payment arrangements. These are the steps we are recommending putting into place for our utility system. This payment plan arrangement is in support of the governor's order relating to COVID-19 and our existing Port Orchard Municipal Code.

2.0 POLICY:

The city will provide payment options for those financially struggling through a pandemic event, declared emergencies, or extenuating circumstances (defined herein) while providing ongoing utility services to customers. It is imperative to protect the financial sustainability of the City's system, to avoid providing defaulting customers with a prohibited gift of public funds, and to avoid passing on the defaults to current rate payers.

3.0 PROCEDURES:

- Staff shall develop a payment plan option, including an application form, for customers with past due balances where the past due balance is attributable to a declared emergency, such as a pandemic, or other extenuating circumstances impacting the ratepayer's ability to pay, including but not limited to a documented financial hardship.
- The payment plan shall include, at a minimum, the following:
 - Bimonthly charges will continue.

- Taking past due amount and dividing by maximum of 6 months to be paid in combination with current amount due.
- Payment plan to go no longer than 6 months unless exception granted by the Finance Director.
- During the payment plan there will be no penalties or shutoffs incurred for those customers on an approved payment plan.
- Default on payments will make the plan void and return to current penalty and shutoff guidelines.

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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 7D
Subject: Adoption of a Resolution Approving an
Interagency Agreement with Department
of Commerce Related to the COVID-19
CARES Act Funding

Meeting Date: June 23, 2020
Prepared by: Noah Crocker
Finance Director
Atty Routing No.: Finance – Matter 7
Atty Review Date: June 16, 2020

Summary: The economic shock from the coronavirus pandemic has been sudden and unprecedented. Within the span of just a couple weeks, many businesses and public gathering spaces were shut down statewide, consumer spending on non-emergency items plummeted, and initial unemployment filings shattered old records. The full effect of these impacts will not be known for some time, but it is clear they will be significant.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted March 27, 2020, to provide immediate relief in response to the COVID-19 pandemic and its unprecedented economic impacts. This is a massive and wide-ranging stimulus bill that includes significant aid for state and local governments.

These distributions will be on a reimbursement basis using the Treasury Guidance for State, Territorial, Local and Tribal Governments (issued April 22, 2020; also see the Treasury Department's Coronavirus Relief Fund FAQs, updated most recently on May 28), and the Coronavirus Relief Funds for Local Governments Program Guidelines from the Washington State Department of Commerce (issued May 18, 2020).

The City of Port Orchard has spent significant unbudgeted financial resources to combat and respond to COVID-19 for its employees, citizens and businesses. Costs incurred due to the public health emergency with respect to COVID-19 during the period of March 1, 2020 thru October 31, 2020 are eligible for reimbursement from CARES Act funding. The City of Port Orchard is eligible for up to \$431,700 of CARES Act funding, administered through the Department of Commerce. In order to pursue these funds the City must execute an Interagency Agreement with the Department of Commerce, in a form required by the Department of Commerce.

Recommendation: Staff recommends the City Council approve the resolution approving the Interagency Agreement with Department of Commerce related to the COVID-19 CARES Act Funding.

Relationship to Comprehensive Plan: N/A

Motion for Consideration: I move to adopt a resolution authorizing the Mayor to enter into an Interagency Agreement with Department of Commerce, related to the COVID-19 CARES Act Funds for Local Governments in Washington State.

Fiscal Impact: \$431,700 in potential funding for the City.

Alternatives: Do not approve and provide alternative direction. Do not approve resolution and provide alternative guidance.

Attachments: Resolution, Ex. A – Interagency Agreement and CRF Program Guidelines.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
AUTHORIZING THE MAYOR TO ENTER INTO AN INTERAGENCY
AGREEMENT WITH DEPARTMENT OF COMMERCE RELATED TO
THE CARES ACT FUNDING DUE TO COVID-19.**

WHEREAS, the economic and public health impact from the coronavirus pandemic has been sudden and unprecedented; and

WHEREAS, the City of Port Orchard has spent significant unbudgeted financial resources to combat and respond to COVID-19 for its employees, citizens and businesses; and

WHEREAS, the City of Port Orchard is eligible for up to \$431,700 of CARES Act funding for local governments, administered through the Washington Department of Commerce, for costs incurred due to the public health emergence with respect to the COVID-19 during the period of March 1, 2020 thru October 31, 2020; and

WHEREAS, the City of Port Orchard will continue to incur unbudgeted expenses due to COVID-19, and desires to seeking funding provided by the CARES Act;

WHEREAS, the Department of Commerce requires the City to execute an Interagency Agreement with the Department prior to receiving the funds, and the contract covers the City's rights and obligations under the program; now, therefore,

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

THAT: The City Council authorizes the Mayor to enter into an Interagency Agreement with Department of Commerce related to the COVID-19 CARES Act Funds for Local Governments in Washington State program, attached hereto as Exhibit A and incorporated herein by this reference.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 23rd day of June 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



Interagency Agreement with

City of Port Orchard

through

the Coronavirus Relief Fund for Local Governments

For

Costs incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) during the period of March 1, 2020 thru October 31, 2020.

Start date: March 1, 2020

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FACE SHEET

Contract Number: 20-6541C-288

**Washington State Department of Commerce
Local Government Division
Community Capital Facilities Unit
Coronavirus Relief Fund for Local Governments**

1. Contractor City of Port Orchard 216 Prospect St Port Orchard, Washington 98366-5326		2. Contractor Doing Business As (optional)	
3. Contractor Representative Heidi Draper Accounting Assistant III (360) 876-4407 hdraper@cityofportorchard.us		4. COMMERCE Representative Karma Shannon Lawson Project Manager (360) 810-0185 Fax 360-586-5880 karma.shannonlawson@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525	
5. Contract Amount \$431,700.00	6. Funding Source Federal: X State: Other: N/A:	7. Start Date March 1, 2020	8. End Date October 31, 2020
9. Federal Funds (as applicable) \$431,700.00	Federal Agency: US Dept. of the Treasury	CFDA Number: 21.019	Indirect Rate (if applicable): 10.00%
10. Tax ID # XXXXXXXXXXXXXXXX	11. SWV # SWV0025665-00	12. UBI # 182000005	13. DUNS # N/A
14. Contract Purpose To provide funds for costs incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) during the period of March 1, 2020 thru October 31, 2020. Final invoices must be received by November 15, 2020.			
15. Signing Statement COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work, Attachment "B" – Budget & Invoicing, Attachment "C" – A-19 Certification, Attachment "D" – A-19 Activity Report			
FOR CONTRACTOR  _____ Rob Putaansuu, Mayor 6/10/20 _____ Date		FOR COMMERCE _____ Mark K. Barkley, Assistant Director, Local Government Division _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL 05-01-2020. APPROVAL ON FILE.	

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Funds under the Contract are made available and are subject to Section 601(a) of the Social Security Act, as amended by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and Title V and VI of the CARES Act.

The Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Contract, shall contain the following statements:

“This project was supported by a grant awarded by US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the Local Government Coronavirus Relief Fund thru the Washington State Department of Commerce.”

3. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

4. COMPENSATION

COMMERCE shall pay an amount not to exceed the contract amount listed on the Face Sheet for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work (Attachment A).

5. EXPENSES

Contractor shall receive reimbursement for allowable expenses as identified in the Scope of Work (Attachment A) or as authorized in advance by COMMERCE as reimbursable.

Travel expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Contractor shall receive compensation for travel expenses at current state travel reimbursement rates.

6. INDIRECT COSTS

Contractor shall provide their indirect cost rate that has been negotiated between their entity and the federal government. If no such rate exists a *de minimis* indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

7. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the Contractor for eligible Project expenditures, up to the maximum payable under this Contract. When requesting reimbursement for expenditures made, Contractor shall submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal. If the Contractor has constraints preventing access to COMMERCE's online A-19 portal, a hard copy A-19 form may be provided by the COMMERCE Project Manager upon request.

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

The voucher must be certified by an official of the Contractor with authority to bind the Contractor. The final voucher shall be submitted to COMMERCE no later than November 15, 2020.

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly.

The invoices shall describe and document, to COMMERCE's satisfaction, reimbursable expenditures as set forth under the Scope of Work (Attachment A) and Budget & Invoicing (Attachment B). The invoice shall include the Contract Number as stated on the Face Sheet.

Each voucher must be accompanied by an A-19 Certification (Attachment C) and A-19 Activity Report (Attachment D). The A-19 Certification must be certified by an authorized party of the Contractor to certify and attest all expenditures submitted on the voucher are in compliance with the United States Treasury Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

The A-19 Activity Report must be submitted which describes, in Excel spreadsheet and narrative form, a detailed breakdown of the expenditures within each applicable budget sub-category identified in the voucher, as well as a report of expenditures to date. COMMERCE will not release payment for any reimbursement request received unless and until the A-19 Certification and A-19 Activity Report is received. After approving the Invoice Voucher, A-19 Certification and Activity Report, COMMERCE shall promptly remit a warrant to the Contractor.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

Should the Contractor be found to spent funds inconsistent with federal laws, rules, guidelines, or otherwise inappropriately, it is the responsibility of the Contractor to reimburse Commerce for any amount spent on disallowed costs.

8. AUDIT

Contractor shall maintain internal controls providing reasonable assurance it is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs; and prepare appropriate financial statements, including a schedule of expenditures of federal awards.

If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

- A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Contractor is a subrecipient and expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Contractor shall notify COMMERCE they did not meet the single audit requirement.

The Contractor shall send all single audit documentation to auditreview@commerce.wa.gov.

9. DEBARMENT

- A. Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - ii. Have not within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 - iv. Have not within a three-year period preceding the signing of this Contract had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Contractor is unable to certify to any of the statements in this Contract, the Contractor shall attach an explanation to this Contract.
- C. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D. The Contractor further agrees by signing this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- i. The lower tier Contractor certifies, by signing this Contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - ii. Where the lower tier Contractor is unable to certify to any of the statements in this Contract, such contractor shall attach an explanation to this Contract.
- E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

10. LAWS

The Contractor shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

United States Laws, Regulations and Circulars (Federal)

Contractor shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Award, 2 CFR 200, Subpart F – Audit Requirements.

Contractor shall comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation.

Contractor shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.

11. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget & Invoicing
- Attachment C – A-19 Certification
- Attachment D – A-19 Activity Report

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "Contract" or "Agreement" means the entire written agreement between COMMERCE and the Contractor, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality.

**GENERAL TERMS AND CONDITIONS
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COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

- C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
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9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

11. RECAPTURE

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

12. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they

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relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. Contractor shall incorporate 2 CFR Part 200, Subpart F audit requirements into all subcontracts. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree

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with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A.** Stop work under the contract on the date, and to the extent specified, in the notice;
- B.** Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C.** Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D.** Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E.** Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F.** Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G.** Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the Authorized Representative has or may acquire an interest.

20. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Scope of Work

This funding is made available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) and Section V and VI of the CARES Act, for costs incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19). Under the CARES Act, the Coronavirus Relief Fund may be used to cover costs that:

1. **Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); AND**
2. **Are not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government.**

These funds may be used to reimburse for expenditures incurred during the period of March 1, 2020 thru Oct. 31, 2020. Please note: In order to ensure all funds have been fully utilized prior to the US Treasury’s December 30, 2020 end date, the State of Washington must closeout contracts by October 31, 2020. All final requests for reimbursement must be received no later than November 15, 2020.

Expenditures must be used for necessary actions taken to respond to the public health emergency. These may include expenditures incurred to allow the local government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

Payments may be used only to cover costs not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either:

1. The cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; OR
2. The cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget is the enacted budget for the relevant fiscal period for the particular government. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Allowable expenditures include, but are not limited to:

1. Medical expenses such as:
 - a. COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - b. Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - c. Costs of providing COVID-19 testing, including serological testing.
 - d. Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - e. Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:

- a. Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - b. Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - c. Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
 - d. Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - e. Expenses for public safety measures undertaken in response to COVID-19.
 - f. Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
 4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - a. Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - b. Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - c. Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - d. Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - e. COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - f. Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
 5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - a. Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - b. Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - c. Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
 6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Budget & Invoicing

The Contractor shall determine the appropriate budget and use of funds within the following 6 budget categories and their sub-categories:

1. Medical
2. Public Health
3. Payroll
4. Actions to Comply with Public Health Measures
5. Economic Support
6. Other Covid-19 Expenses

The Contractor shall submit invoice reimbursement requests to the Commerce Representative using the Commerce Contract Management System's (CMS) Online A-19 Portal. Each reimbursement request must include:

1. A-19 Certification form – An authorized party of the local government will certify each invoice (A19) submitted for reimbursement and attest that all incurred expenditures meet the US Treasury Department's guidance: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>
2. A-19 Activity Report
3. A detailed breakdown of the expenditures incurred within each applicable budget sub-category on the A-19 Activity Report.

The A-19 Certification and Activity Report templates will be provided with the executed contract. The documents are included in Attachment C and Attachment D for reference.

Receipts and proof of payment for costs incurred do not need to be submitted with A-19s. All contractors are required to maintain accounting records in accordance with state and federal laws. Records must be sufficient to demonstrate the funds have been used in accordance with section 601(d) of the Social Security Act. Commerce reserves the right to audit any costs submitted for reimbursement. The Contractor shall comply with Commerce A-19 audits and provide the appropriate records upon request.



LOCAL GOVERNMENT CORONAVIRUS RELIEF FUNDS CERTIFICATION

I, **<FIRST, LAST NAME>**, am the **<TITLE>** of **<LOCAL GOVERNMENT>**, and I certify that:

1. I have the authority and approval from the governing body on behalf of the Local Government to request reimbursement from the Department of Commerce (Commerce) per contract number **<COMMERCE CONTRACT NUMBER>** from the allocation of the Coronavirus Relief Fund as created in section 5001 of H.R.748, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") for eligible expenditures included on the corresponding A-19 invoice voucher for report period **<REPORT PERIOD FROM A-19>**.
2. I understand that as additional federal guidance becomes available, a contract amendment to the agreement between Commerce and the Local Government may become necessary.
3. I understand Commerce will rely on this certification as a material representation in processing this reimbursement.
4. I certify the use of funds submitted for reimbursement from the Coronavirus Relief Funds under this contract were used only to cover those costs that:
 - a. Are *necessary expenditures* incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. Were not accounted for in the budget most recently approved as of March 27, 2020; and
 - c. Were incurred during the period that begins on March 1, 2020, and ends on October 31, 2020.
5. I understand the use of funds pursuant to this certification must adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. We have reviewed the guidance established by U.S. Department of the Treasury¹ and certify costs meet the required guidance. Any funds expended by the Local Government or its subcontractor(s) in any manner that does not adhere to official federal guidance shall be returned to the State of Washington.


Footnote:

1 – Guidance available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf> (4/30/2020)


LOCAL GOVERNMENT CORONAVIRUS RELIEF FUNDS CERTIFICATION
Page 2 of 2

6. I understand the Local Government receiving funds pursuant to this certification shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with §200.333 *Retention requirements for records* of 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Such documentation shall be produced to Commerce upon request and may be subject to audit by the State Auditor.
7. I understand any funds provided pursuant to this certification cannot be used as a revenue replacement for lower than expected tax or other revenue collections.
8. I understand funds received pursuant to this certification cannot be used for expenditures for which the Local Government has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.

I certify that I have read the above certification and my statements contained herein are true and correct to the best of my knowledge.




Printed Name



Title

Signature



Date:

CRF A-19 Activity Report
INSTRUCTIONS

INSTRUCTIONS:

A completed CRF A-19 Certification and Activity Report must be submitted with each A-19 reimbursement request. The A-19 Activity Report must be submitted as an Excel spreadsheet, not a PDF. You must also include a detailed breakdown of the individual expenditures reported in **Column F** for each applicable sub-category included on the A-19 Activity Report.

There are 6 primary budget categories;

1. Medical Expenses
2. Public Health Expenses
3. Payroll expenses for public employees dedicated to COVID-19
4. Expenses to facilitate compliance with COVID-19-measures
5. Economic Supports
6. Other COVID-19 Expenses

Each primary budget category includes sub-categories and provides an option to add "other" sub-categories not listed.

Follow the below instructions when completing the A-19 Activity Report:

- 1 **REPORT PERIOD** - Enter the report period into **Cell D1** of the A-19 Activity Report.
 - a This should match the report period entered on the corresponding A-19.
 - b Report period should include MM/YY to MM/YYYY, i.e. 03/20, March 2020, 03/2020, etc.
- 2 **COLUMN E** - Enter the total amount of all previous reimbursement requests submitted to Commerce for each applicable sub-category.
- 3 **COLUMN F** - Enter the total amount being requested in the current reimbursement request for each applicable sub-category.
- 4 **COLUMN H: USE OF FUNDS** - You must include a general description of the use of the funds being requested for each applicable sub-category. Keep descriptions as concise as possible, but include adequate context to demonstrate how these funds helped address the COVID-19 emergency. If applicable, please consider:
 - a Providing a brief description of the specific activities performed.
 - b Identifying specific populations served.
 - c Identifying specific programs created or utilized.
 - d Including any known or intended outcomes, results, or community impacts.
- 5 **OTHER SUB-CATEGORIES** - Budget categories 1-5 include a placeholder to add an additional sub-category if necessary.
 - a Enter a **Title** for other expenses added within the appropriate budget category.
 - b Enter titles into **Cells: D10, D19, D27, D36, and D41**.
 - c There is only one "other" placeholder in each budget category section. Please combine multiple "other" sub-categories added to the same budget category.
- 6 **OTHER BUDGET CATEGORIES** - Budget category 6 is where you should include any eligible expenditures that don't fall under budget categories 1-5.
 - a Enter a **Title** for these "other" expenses within budget category 6.
 - b Enter titles into **Cells D44 - D48**.
 - c There are only 5 entry fields available within Budget Category 6.

Coronavirus Relief Fund
A-19 Activity Report

Report Period:

Eligible Expenditures	Previously Reported Expenditures	Current Expenditures this Invoice	Total Cumulative Expenditures	Brief Description of Use of Funds
1 Medical Expenses				
A. Public hospitals, clinics, and similar facilities	\$ -	\$ -	\$ -	
B. Temporary public medical facilities & increased capacity	\$ -	\$ -	\$ -	
C. COVID-19 testing, including serological testing	\$ -	\$ -	\$ -	
D. Emergency medical response expenses	\$ -	\$ -	\$ -	
E. Telemedicine capabilities	\$ -	\$ -	\$ -	
F. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
2 Public Health Expenses				
A. Communication and enforcement of public health measures	\$ -	\$ -	\$ -	
B. Medical and protective supplies, including sanitation and PPE	\$ -	\$ -	\$ -	
C. Disinfecting public areas and other facilities	\$ -	\$ -	\$ -	
D. Technical assistance on COVID-19 threat mitigation	\$ -	\$ -	\$ -	
E. Public safety measures undertaken	\$ -	\$ -	\$ -	
F. Quarantining individuals	\$ -	\$ -	\$ -	
G. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
3 Payroll expenses for public employees dedicated to COVID-19				
A. Public Safety	\$ -	\$ -	\$ -	
B. Public Health	\$ -	\$ -	\$ -	
C. Health Care	\$ -	\$ -	\$ -	
D. Human Services	\$ -	\$ -	\$ -	
E. Economic Development	\$ -	\$ -	\$ -	
F. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
4 Expenses to facilitate compliance with COVID-19-measures				
A. Food access and delivery to residents	\$ -	\$ -	\$ -	
B. Distance learning tied to school closings	\$ -	\$ -	\$ -	
C. Telework capabilities of public employees	\$ -	\$ -	\$ -	
D. Paid sick and paid family and medical leave to public employees	\$ -	\$ -	\$ -	
E. COVID-19-related expenses in county jails	\$ -	\$ -	\$ -	
F. Care and mitigation services for homeless populations	\$ -	\$ -	\$ -	
G. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
5 Economic Supports				
A. Small Business Grants for business interruptions	\$ -	\$ -	\$ -	
B. Payroll Support Programs	\$ -	\$ -	\$ -	
C. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
6 Other COVID-19 Expenses				
A. Other:	\$ -	\$ -	\$ -	
B. Other:	\$ -	\$ -	\$ -	
C. Other:	\$ -	\$ -	\$ -	
D. Other:	\$ -	\$ -	\$ -	
E. Other:	\$ -	\$ -	\$ -	
Sub-Total:	\$ -	\$ -	\$ -	
TOTAL:	\$ -	\$ -	\$ -	



Coronavirus Relief Funds for Local Governments Program Guidelines

CARES Act Funds for Local Governments
In Washington State

Administered by the Department of Commerce
Local Government Division

*P.O. Box 42525
Olympia, WA 98504-2525*

Contact Information

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Washington State Department of Commerce
Local Government Division
PO Box 42525
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Local Government Division

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Coronavirus Relief Funds (CRF) for Local Governments Program Guidelines

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General Information

1. Source of Funds

You have been awarded funds through the state's Coronavirus Relief Funds (CRF). The funds are available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

Your grant is funded entirely through the federal stimulus funding under the CARES Act provided by the U.S. Department of Treasury (US Treasury) to the Governor via the Office of Financial Management (OFM).

On April 27, 2020 Governor Inslee announced the award of nearly \$300 million to local governments in CRF from the state's allocation of the CARES Act funding.

2. Allocation Formula

OFM developed the allocation methodology and determined the jurisdiction amounts. The allocations were based on 2019 population estimates for each jurisdiction.

Funds will be provided to cities and counties with populations under 500,000 that were ineligible to receive direct funding under the CARES Act. Each county will receive a minimum distribution of \$250,000 and each city will receive a minimum distribution of \$25,000.

Cities and counties with populations over 500,000 did not receive a direct allocation from the state. Instead these jurisdictions received a direct allocation from the US Treasury (i.e. city of Seattle, King Co., Pierce Co., Snohomish Co., etc.).

For a complete list of cities and counties and their allocations, click [here](#).

3. Period of Performance

The Coronavirus Relief Funds may only be used for costs incurred by local governments in response to the COVID-19 public health emergency during the period of March 1, 2020 thru October 31, 2020.

The [US Treasury's Guidance](#) provides an end date of December 30, 2020. This is the end date in which the state must have reimbursed all "recipients of the funds" (grantees) their costs incurred in response to the COVID-19 emergency. In order to allow time for Commerce to process final payments and conduct contract closeouts; and for OFM to fully utilize any unspent funds before they expire, expenditures are only being accepted on costs incurred through October 31, 2020.

All final requests for reimbursement must be submitted no later than November 15, 2020.

4. Intended Use

Under the CARES Act, the Coronavirus Relief Funds (CRF) may be used to cover costs that:

1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); *AND*
2. Are **NOT** accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or local government. The "most recently

approved” budget refers to the enacted budget for the relevant fiscal period for the particular government. A cost meets this requirement if:

- a) The cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; *OR*
 - b) The cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.
3. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Funds may **NOT** be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The use of these funds are very broad and flexible, and can be used for both operating and **capital expenditures**.

If funds are being used for capital expenditures such as acquisition of real property or construction / renovation costs, please contact us immediately. We will provide you with further information and guidance. Utilizing CRF for these purposes will require additional Federal and state provisions being applied to the project such as:

- All projects must be reviewed under a Federal Section 106 review for archaeological and cultural resources if the project: acquires property, disturbs ground, and/or involves structures more than 50 years old. Grantees must submit documentation to the project manager when the review is complete. Section 106 supersedes the [Governor's Executive Order 05-05](#) review.
- Construction / renovation projects may be required to meet high-performance building standards and document they have entered the state's LEED certification process.
- Construction / renovation projects will be required to follow Federal Davis Bacon and state prevailing wage laws, rules, and regulations.

Additionally, grantees must ensure all capital expenditures are only for costs incurred through the limited timeframe of March 1, 2020 thru October 31, 2020.

5. Eligible costs

There are six (6) primary eligible cost categories. These cost categories and their eligible cost sub-categories are as follows:

1. **Medical expenses** such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.

- Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. **Public health expenses** such as:
- Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. **Payroll expenses** for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. **Expenses of actions to facilitate compliance with COVID-19-related public health measures**, such as:
- Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. **Expenses associated with the provision of economic support** in connection with the COVID-19 public health emergency, such as:
- Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a state, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

6. **Any other COVID-19-related expenses** reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

6. *Ineligible costs*

Non-allowable expenditures include, but are not limited to:

1. Expenses for the state share of Medicaid.
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by states to state unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

7. *Eligible cost test*

Grantees are charged with determining whether or not an expense is eligible based on the [US Treasury's Guidance](#) and as provided in the grantee's contract scope of work with Commerce.

To assist grantees with this determination, Commerce has developed an [eligibility cost test](#). This test gives each grantee full authority to make the appropriate call for each circumstance.

TEST – If all responses for the particular incurred cost are “true” for all five statements below, then a jurisdiction can feel confident the cost is eligible:

1. The expense is connected to the COVID-19 emergency.
2. The expense is “necessary”.
3. The expense is not filling a short fall in government revenues.
4. The expense is not funded thru another budget line item, allotment or allocation, as of March 27, 2020.
5. The expense wouldn't exist without COVID-19 OR would be for a “substantially different” purpose.

It is the responsibility of each grantee to define “**necessary**” or “**substantially different**”, giving the grantee the authority and flexibility to make their own determination.

Additional consideration – The intent of these funds is to help jurisdictions cover the *immediate impacts* of the COVID-19 emergency. Both direct costs to the jurisdiction and costs to their communities. There are many possible eligible costs.

Many costs are clearly eligible and others are in more of a grey area. One could probably justify some of the “grey area” costs based on the test, but are they directly addressing the *immediate impacts*? Possibly not. In these situations it may be safer and more appropriate to utilize the funds in one of the many other eligible cost categories that more clearly meet the intent of the funds. Again, each grantee has the full authority to make the final call based on their circumstances and justification.

8. Cost reimbursement

Funds are available on a reimbursement basis only, and cannot be advanced under *any* circumstances. If funds are being used for the acquisition of real property or construction / renovation costs, please contact us immediately. Reimbursable costs are those that a Grantee has already incurred. We may only reimburse grantees for eligible costs incurred in response to the COVID-19 public health emergency during the period of March 1, 2020 thru October 31, 2020.

Final Date of Reimbursements

In order to ensure all awardees and their costs incurred in response to the COVID-19 emergency are paid out by December 30, 2020 per the [US Treasury's Guidance](#), expenditures are only being accepted on costs incurred through **October 31, 2020**.

All final requests for reimbursement must be submitted no later than November 15, 2020.

Grantees will not be required to submit a proposed budget prior to contract execution. Grantees will have the discretion and flexibility to determine where these funds may best serve their communities.

Each grantee will determine eligible costs to submit for reimbursement. For reporting purposes, expenditures must be tracked at the sub-category level for the six (6) primary eligible cost categories, as follows:

1. Medical Expenses
 - A. Public hospitals, clinics, and similar facilities
 - B. Temporary public medical facilities & increased capacity
 - C. COVID-19 testing, including serological testing
 - D. Emergency medical response expenses
 - E. Telemedicine capabilities
 - F. Other
2. Public Health Expenses
 - A. Communication and enforcement of public health measures
 - B. Medical and protective supplies, including sanitation and PPE
 - C. Disinfecting public areas and other facilities
 - D. Technical assistance on COVID-19 threat mitigation
 - E. Public safety measures undertaken
 - F. Quarantining individuals
 - G. Other
3. Payroll expenses for public employees dedicated to COVID-19
 - A. Public Safety
 - B. Public Health
 - C. Health Care
 - D. Human Services
 - E. Economic Development
 - F. Other
4. Expenses to facilitate compliance with COVID-19 measures
 - A. Food access and delivery to residents
 - B. Distance learning tied to school closings
 - C. Telework capabilities of public employees

- D. Paid sick and paid family and medical leave to public employees
- E. COVID-19-related expenses in county jails
- F. Care and mitigation services for homeless populations
- G. Other

5. Economic Supports

- A. Small Business Grants for business interruptions
- B. Payroll Support Programs
- C. Other

6. Other COVID-19 Expenses

No receipts or proof of payment for costs incurred will be required to be submitted to Commerce. Grantees are still required to maintain sufficient accounting records in accordance with state and federal laws. Monitoring visits may be scheduled.

Process and Procedure to Obtain Funds

1. Award Letter

Commerce strives to administer funds expediently and with a minimum of red tape. We do so within the policies and procedures established by the US Treasury and state's Legislature, OFM, Commerce, and the Office of the Attorney General. Prior to receiving funds, a contract will need to be executed with Commerce.

Award letters with instructions to initiate the contracting process will be emailed to each city and county receiving an allocation by no later than May 22nd. Emails to cities will be sent to mayors and any other contacts obtained with the assistance of the Association of Washington Cities. Emails to counties will be sent to the county commissioners and any other contacts obtained with the assistance of the Washington State Association of Counties.

Included with the award letter will be:

- CRF Program Guidelines
- A draft contract template for review and to initiate the public process for authorization to execute once the final contract is available for execution
- Working Papers

2. Working papers

Your grant award packet includes *Working Papers*. The *Working Papers* ask for basic information needed to create a contract:

- Contact information for the person who will administer the grant once the contract is signed. Grant documents and correspondence will be sent to this person.
- Your Statewide Vendor Number (SWV#)
- Your Federal Indirect Rate
- Your fiscal year end date
- Name and title for the person authorized by the jurisdiction to sign the contract

Please complete and return the *Working Papers* to the Commerce project manager identified in the award letter as soon as possible, even if you do not plan to begin drawing your funds for a while. Your project manager will manage your contract until project completion. Feel free to give us a call if you have any questions as you fill out the form (see contact information on previous page).

3. Contract

Once the completed *Working Papers* have been received by the Commerce project manager identified in the award letter, a contract will be prepared and sent to you for signature. Have the authorized representative sign the contract and then return a scanned pdf copy to your project manager. Then the project manager will route the contract for Commerce's signature. It generally takes two to four weeks to fully execute a contract. Once executed by Commerce a fully executed copy will be scanned and a pdf copy emailed to the jurisdiction and you will have access to your funds.

Commerce is working to make the contracting process as quick and easy as possible.

4. Reimbursements

This is a reimbursement-style grant, meaning no advance payments. Funds are available once a contract is executed. All grantees are required to set up a SWV number so funds may be sent electronically. Grantees have the flexibility to cash out their grant or draw down funds as frequently as once a month as long as you have incurred documented eligible costs in response to the COVID-19 public health emergency during the period of March 1, 2020 thru October 31, 2020. All final requests for reimbursement must be submitted no later than November 15, 2020.

Commerce has moved to electronic vouchering through their Contracts Management System (CMS) Online A-19 Portal. Requests for reimbursement must be submitted online through the CMS System by an individual authorized by the Grantee's organization. Online electronic vouchering provides for grantees to receive reimbursements as quickly as possible. Grantees with barriers to using the online A-19 portal, may request an A-19 form from their Commerce project manager.

Access to CMS is available through the Secure Access Washington (SAW) portal. You will need to create a SAW account if you do not already have one. Please find detailed instructions here: [Office of Financial Management](#). It may take up to three weeks after you submit this information for an electronic transfer account to be set up. We will automatically receive your SWV number from the office that sets them up.

Once logged into SAW, add the Department of Commerce to your 'services' and submit an [Online A-19 External User Request form](#). Then Commerce will add you as a new external user in CMS; and the CMS system will generate and email a registration code to you to complete the CMS registration.

For additional grantee support, refer to the [Commerce Online A-19 Webpage for External Users](#), which includes SAW resources and the CMS manual for external users.

The A-19 voucher must include a detailed breakdown of the costs incurred within each eligible budget category and the total reportable eligible expenses in response to the COVID-19 public health emergency. Accompanying with each voucher must be an executed A-19 certification and A-19 activity report. Incomplete or improperly prepared submissions may result in payment delays. After receipt and acceptance of a fully completed A-19 voucher submittal, grantees can expect electronic reimbursements within 7-10 days.

No receipts or proof of payment for costs incurred will be required to be submitted to Commerce. Grantees are still required to maintain sufficient accounting records in accordance with state and federal laws; and are responsible for maintaining clear and accurate program records, and making them accessible to Commerce and the State Auditor.

Monitoring visits may be scheduled.

5. A-19 Certification and Activity Report

In order to receive reimbursement for eligible expenses incurred, each A-19 Voucher must include:

1. A completed [A-19 Certification](#):
 - An individual authorized to execute on behalf of the local government must certify by signing this document under penalty of perjury that the items and costs listed herein and on the accompanying Commerce A-19 Voucher are eligible charges for necessary expenditures incurred due to the COVID-19 public health emergency that were not previously accounted for in the most recent approved budget as of March 27, 2020,

and that the funds were used in accordance with section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

2. A completed [A-19 Activity Report](#) (*instructions included in document*):

- Must be submitted as an Excel spreadsheet, not a PDF.
- Include a detailed breakdown of the individual eligible expenditures reported by each sub-category of the six (6) primary budget categories. Each primary budget category includes sub-categories and provides an option to add “other” sub-categories.
- Include the total amount of all previous reimbursement requests for each applicable sub-category.
- Include the total amount of funds being requested in the current reimbursement request for each applicable sub-category.
- Include a brief description of the use of the funds being requested for each applicable sub-category. Keep descriptions as concise as possible, but include adequate context to demonstrate how these funds addressed the COVID-19 emergency. If applicable, please consider:
 - Providing a brief description of the specific activities performed.
 - Identifying specific populations served.
 - Identifying specific programs created or utilized.
 - Including any known or intended outcomes, results, or community impacts.

A certification and activity report must be completed and returned with each reimbursement voucher.

After the contract is executed, you will receive additional instructions on how to submit electronic reimbursement requests with the A-19 certification and A-19 activity report.



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 7E</u>	Meeting Date:	<u>June 23, 2020</u>
Subject:	<u>Adoption of a Resolution Approving a</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract with Land Expressions, LLC for</u>		<u>Public Works Director</u>
	<u>the 2020 McCormick Village Park Splash</u>	Atty Routing No.:	<u>N/A</u>
	<u>Pad Retrofit Project</u>	Atty Review Date:	<u>N/A</u>

Summary: On May 15 and May 22, 2020, the Public Works Department published a Request for Qualifications for landscape architectural services for the 2020 McCormick Village Park Splash Pad Retrofit (Schematic and Ad Ready Design) Project. By the May 29, 2020 deadline, three (3) Statements of Qualification (SOQ) were received. Upon review and scoring of SOQ’s by Staff, the Public Works Department selected Land Expressions, LLC for the Project. On June 12, 2020, a viable and satisfactory Proposal from Land Expressions, LLC was received for the Project (Design Development and Ad Ready Design) in the amount of \$40,880.00.

Relationship to Comprehensive Plan: Chapter 4 – Parks

Recommendation: Staff recommends adoption of Resolution No. 020-20, thereby approving Contract No. C056-20 with Land Expressions, LLC for the 2020 McCormick Village Park Splash Pad Retrofit (Design Development and Ad Ready Design) Project in the amount of \$40,880.00 and documenting the Professional Services procurement procedures.

Motion for Consideration: I move to adopt Resolution No. 020-20, thereby approving Contract No. C056-20 with Land Expressions, LLC for the 2020 McCormick Village Park Splash Pad Retrofit (Design Development and Ad Ready Design) Project in the amount of \$40,880.00, and documenting the Professional Services procurement procedures.

Fiscal Impact: \$100k funding from Park Impact Fees was allocated within the 2019-2020 Biennial Budget mid-biennial review.

Attachments: Resolution No. 020-20 and Ex. A - Contract No. C056-20 w/ Exhibit A & B (dated June 12, 2020).

RESOLUTION NO. 020-20

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO C056-20 WITH LAND EXPRESSIONS, LLC FOR THE 2020 MCCORMICK VILLAGE PARK SPLASH PAD RETROFIT PROJECT (DESIGN DEVELOPMENT AND AD READY DESIGN) AND DOCUMENTING THE PROFESSIONAL SERVICES PROCUREMENT PROCEDURES.

WHEREAS, on May 15 and May 22, 2020, the City of Port Orchard Public Works Department published a Request for Qualifications (RFQ) for landscape architecture services for the 2020 McCormick Village Park Splash Pad Retrofit Project (Schematic and Ad Ready Design); and

WHEREAS, by the May 29, 2020 submittal deadline the City's Public Works Department received three (3) Statements of Qualification from qualified firms; and

WHEREAS, upon the review and scoring by Public Works staff of the Statements of Qualification received, the City's Public Works Department selected Land Expressions, LLC for the design project; and

WHEREAS, on June 12, 2020, the City received a viable and satisfactory Proposal from Land Expressions LLC for the 2020 McCormick Village Park Splash Pad Retrofit (Design Development and Ad Ready Design) Project; and

WHEREAS, on June 12, 2020, Public Works Staff completed the Bidder Responsibility Checklist for Land Expressions, LLC; 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 herein for this particular contract by Resolution; now, therefore,

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

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The Port Orchard City Council approves and authorizes the Mayor to execute Contract No. C056-20 with Land Expressions, LLC for the 2020 McCormick Village Park Splash Pad Retrofit (Design Development and Ad Ready Design) Project, attached hereto as Exhibit A and incorporated herein by this reference.

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 23rd day of June, 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

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RESOLUTION NO. 020-20

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WHEREAS, upon the review and scoring by Public Works staff of the Statements of Qualification received, the City's Public Works Department selected Land Expressions, LLC for the design project; and

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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 23rd day of June, 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 23rd day of June 2020, 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, **Land Expressions, LLC**, a limited liability corporation, organized under the laws of the State of Washington, doing business at:

5615 East Day Mount Spokane Road (hereinafter the "CONSULTANT")
Mead, WA 99021

Contact: Clayton Varick, PLA Phone: 509.466.6683
Executive Manager

for professional services in connection with the following Project:

2020 McCormick Village Park Splash Pad Retrofit Project – Design Development and Ad Ready Design

TERMS AND CONDITIONS

1. Services by Consultant.

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

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

2. Schedule of Work.

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

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

City of Port Orchard and Land Expressions, LLC
Professional Service Agreement Contract No. C056-20

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3. **Terms.** This Agreement shall commence on June 23, 2020 (“Commencement Date”) and shall terminate August 31, 2020 unless extended or terminated in writing as provided herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company’s services.**

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$ _____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$40,880.00 without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit “B.”

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

OTHER. _____

5. **Payment.**

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

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

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

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

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

6. **Discrimination and Compliance with Laws**

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color,

national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

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

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

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

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

8. Suspension and Termination of Agreement

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

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

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. The Consultant shall not be entitled to any reallocation of cost,

City of Port Orchard and Land Expressions, LLC

Professional Service Agreement Contract No. C056-20

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profit or overhead. The Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. The Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

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

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

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

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

10. Ownership of Work Product.

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

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

City of Port Orchard and Land Expressions, LLC

Professional Service Agreement Contract No.C056-20

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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 of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

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

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

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

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

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

City of Port Orchard and Land Expressions, LLC

Professional Service Agreement Contract No. C056-20

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4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

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

C. Other Insurance Provisions

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

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

D. Acceptability of Insurers

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

E. Verification of Coverage

City of Port Orchard and Land Expressions, LLC

Professional Service Agreement Contract No. C056-20

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

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

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

Robert Putaansuu
Mayor
216 Prospect Street
Port Orchard, WA 98366

Phone: 360.876.4407
Fax: 360.895.9029

CONSULTANT
Land Expression, LLC
Dave Nelson, PLA / President
5615 East Day Mount Spokane Road
Mead, WA 99021
Phone: 509.466.6683

16. Resolution of Disputes and Governing Law.

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

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

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

17. General Provisions.

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

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

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

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

18. Title VI

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

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

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

City of Port Orchard and Land Expressions, LLC

Professional Service Agreement Contract No.C056-20

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books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the Consultant under the Agreement until the contractor complies; and/or
 2. cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the City to enter into any litigation to protect the interests of the City. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

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

CITY OF PORT ORCHARD,
WASHINGTON

By: _____
Robert Putaansuu, Mayor

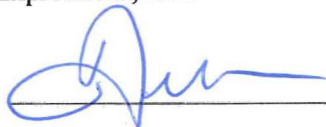
ATTEST/AUTHENTICATE:

By: _____
Brandy Rinearson, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Charlotte A. Archer, City Attorney

Land Expressions, LLC

By:  _____

Name: Dave Nelson, PLA

Title: President

APPENDIX A

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

Pertinent Non-Discrimination Authorities:

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

EXHIBIT A

June 12, 2020

City of Port Orchard
Attn: Mark Dorsey, PE, Public Works Director/City Engineer
216 Prospect Street
Port Orchard, WA 98366

RE: 2020 McCormick Village Park Splash Pad Retrofit Project

Mr. Dorsey:

Land Expressions is pleased to present this proposal for landscape architecture services for the **McCormick Village Splash Pad Retrofit Project**. If you have questions or comments about any aspect of this proposal, please contact me directly. Thank you for the opportunity to provide these professional services.

Project Description

The project is in Port Orchard, WA and is an existing, pass-through type splash pad, in an existing park. Currently, the splash pad uses a constant supply of potable water and directly drains to a sanitary sewer connection while in use. Construction Documents will be prepared to retrofit the splash pad to use recirculated water collected and filtered in a subterranean reservoir, which will backwash/overflow to the existing sanitary sewer connection. A mechanical system (pump, pipe, controller and all appurtenances) will be installed and housed to filter the reservoir and provide water to the splash pad features. As part of the design approval process, Land Expressions will provide documentation and apply for the Washington Department of Health permit on the City's behalf. The target completion date for documents is August 31st, 2020 – this does not include the permit as that timeline is not in our control.

(Article I) Scope of Services

Land Expressions' proposed scope of professional services includes the following. If additional services are required, please inform us so that we may revise our scope and fees.

1. SCHEMATIC DESIGN: N/A
2. DESIGN DEVELOPMENT
 - a. Perform site inventory and analysis due diligence.
 - b. Collect necessary as-built and civil information required – to be provided by the City electronically (CAD preferred) as available.
 - c. Create base sheet from existing SD plan supplied by the City. City to provide CAD title block if required.
 - d. Using information gathered and existing SD plan, convert the schematic pdf concept provided to a detailed site plan for acceptance. Design Development will be printed on client's title block (if requested) on 24x36 or 22x34 bond media.
 - i. At this deliverable, initial options for mechanical system and housing will be presented for selection by the City.

professional services agreement

- e. Attend two (2) team meetings via conference call with owner/project team to coordinate and review.
 - f. Provide an initial R.O.M. of Probable Cost.
3. CONSTRUCTION DOCUMENTS
- a. Develop a sheet set for bid and construction documents of selected improvements. Construction Documents will be printed on client's title block (if requested) on 24x36 or 22x34 bond media.
 - b. Drawings for this project may include:
 - i. Demolition Plan
 - ii. Site Plan
 - iii. Grading & Drainage Plan related to proposed elements only
 - iv. Piping and mechanical plan(s)
 - v. Electrical plan
 - vi. Planting adjustments if needed
 - vii. Irrigation adjustments if needed
 - viii. Construction detailing as required
 - c. Prepare note on plan-type specifications only, INCLUDING City required information for bid – provided by the City.
 - d. Attend two (2) team meetings via conference call with owner/project team to coordinate disciplines.
 - e. Update Estimate of Probable Cost.
4. CONSTRUCTION ADMINISTRATION/OBSERVATION – NOT A PART OF THIS SCOPE.

Explanation of Deliverables

1. Demolition Plan – keyed plan identifying limits of work, items to remove, items to salvage, etc.
2. Site Plan – drawing(s) indicating proposed improvements related to splash pad but not limited to walkways, building locations, signage, inert materials, etc.
3. Grading & Drainage Plan – drawing(s) indicating proposed surface modifications such as cut/fill, aesthetic berms, existing and proposed contours (if provided by the City), storm drainage structures, etc. to operate the splashpad.
4. Piping and Mechanical Plan(s) – drawing(s) indicating schematic piping/routes/sizes and mechanical components and layout for a complete recirculating system.
5. Electrical Plan – engineered drawings indicating utility service and design needs for the mechanical system/housing structure and electrical diagrams. Specs on drawing only.
6. Planting Plan - drawing(s) indicating scientific and common names, sizes, locations, and standard installation details for living plant material if required.
7. Irrigation Plan – simple schematic drawing indicating modifications required to meet the needs of the proposed improvements, if required.
8. Construction Details – all pertinent installation details needed to provide a qualified contractor the ability to price and construct the designed elements.

professional services agreement**Assumptions, Exclusions and Qualifications**

For the purpose of this proposal Land Expressions has made the following assumptions. If these assumptions are not correct, please contact us so that we may determine if modifications to this proposal are required.

1. Professional surveyor services are not included in this scope of work. Topographic and boundary survey data to be provided by client if required.
2. Geotechnical exploration and structural engineering are by others and are not included in this scope of work.
3. The City of Port Orchard will provide the necessary support/fee cost required to obtain a permit from the WSDOH.
4. The Owner will pay all application and permit fees.

(Article II) Summary of Professional Service Fees

Landscape Architecture services will be performed and billed on a Not to Exceed, hourly, basis as defined below. Hourly services will be billed according to Land Expressions' attached Schedule of Expenses. Reimbursable services (Civil, Electrical, Travel) are Lump sum fees and billed on a percent-complete basis. The maximum fee for services billed hourly will not be exceeded without client's prior authorization. Invoices will be submitted monthly and will be considered past due if not paid within 30 days of the invoice date.

Fees are proposed as follows:

<u>Landscape Architecture Services</u>	<u>Fees</u>
0100 – Design Development – Hourly, NTE, Land Expressions	\$10,625.00
0300 – Construction Documents – Hourly, NTE, Land Expressions	\$17,230.00
 <u>Reimbursable – LUMP SUM</u>	
0400 – Civil Engineering – stamp plans for regulatory agencies	\$7,700.00
0500 – Electrical Engineering – stamped electrical drawing	\$2,750.00
 Total Fee	 \$38,305.00
 <u>Reimbursable – Hourly, NTE</u>	
0600 – Travel, per trip, Land Expressions ONLY – estimated cost:	\$2,575.00
0700 – Construction Administration	N.I.C

Unless noted otherwise, direct project reimbursable expenses are separate from our fees. They include in-house production plotting, reprographic services, courier, and travel expenses. These will be billed at 1.20 times direct cost per the attached Schedule of Expenses. Travel costs, including time, will be billed as reimbursable expenses.

40,880⁰⁰ =

EXHIBIT B

SCHEDULE OF EXPENSES

Land Expressions
Landscape Architects

PROFESSIONAL SERVICES

Principal Landscape Architect	\$125/hr
Project Manager	\$125/hr
Landscape Architect	\$75/hr
Senior Designer	\$85/hr
Designer	\$65/hr
Estimator	\$75/hr
Clerical and Administrative	\$55/hr

REIMBURSABLE SERVICES

Consultant	1.10 x Direct Cost
Out of Office Services/Expenses	1.20 x Direct Cost
Mileage	\$0.58 /mile



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>	Meeting Date: <u>June 23, 2020</u>
Subject: <u>Adoption of a Resolution Approving a Contract</u>	Prepared by: <u>Mark Dorsey, P.E.</u>
<u>with Advanced Diving Services, Inc. for the</u>	<u>Public Works Director</u>
<u>2020 In-Service Cleaning and Inspection of</u>	Atty Routing No.: <u>N/A</u>
<u>Potable Water Storage Tanks Utilizing</u>	Atty Review Date: <u>N/A</u>
<u>Commercial Divers</u>	

Summary: On May 6, 2020, the City established a list of qualified contractors from the 2020 MRSC Small Works Roster (see Resolution - Exhibit A attached) for the Main Category; Site Improvement, Repair, and Maintenance, Water Facility Construction, and Maintenance and Sub-Category; Potable Water Tank Inspection, Reservoir Cleaning, Painting, and Caulking, Underwater Video Inspection to perform the 2020 In-Service Cleaning & Inspection of Potable Water Storage Tanks Utilizing Commercial Divers. On May 15, 2020, and pursuant to Resolution No. 019-17 (Section 5 – Bid Procedures), the City’s Public Works Department emailed a Request for Proposal for the 2020 In-Service Cleaning & Inspection of Potable Water Storage Tanks Utilizing Commercial Divers from three (3) MRSC Small Works Roster Contractors. Two (2) bids (including applicable taxes, labor, equipment, material and fees) were received prior to the June 12, 2020 proposal deadline as follows:

<i>Name of Contractor</i>	<i>Bid Total</i>
H2O Solutions, LLC	\$12,950.00
Advanced Diving Services, Inc.	\$13,539.98

H2O Solutions, LLC was deemed non-responsive as they did not acknowledge Addendum #1 in their bid packet. Addendum #1 addressed a Request for Information about the tank dimensions for each tank. Addendum #1 was issued to all contractor’s on May 18th, 2020.

On June 12, 2020, the City’s Public Works Department Staff completed the MRSC Mandatory Bidder Responsibility Checklist and determined that the Advanced Diving Services, Inc. bid of \$13,539.98 was the lowest qualified bid. The Public Works Department has confirmed that the bidding requirements for Public Work have been followed.

Recommendation: Staff recommends that the City Council adopt Resolution No. 022-20, thereby approving Contract No. C057-20 with Advanced Diving Services, Inc for the 2020 In-Service Cleaning & Inspection of Potable Water Storage Tanks Utilizing Commercial Divers in the amount of \$13,539.98, with the contract term beginning June 23, 2020, and ending August 31, 2020.

Relationship to Comprehensive Plan: Chapter 7 - Utilities

Motion for Consideration: I move to adopt Resolution No. 022-20, thereby approving Contract No. C057-20 with Advanced Diving Services, Inc. for the 2020 In-Service Cleaning & Inspection of Potable Water Storage Tanks Utilizing Commercial Divers in the amount not to exceed \$13,539.98.

Fiscal Impact: The 2019/2020 budget allocated \$25,000 for this activity (411.5.534.40.40).

Alternatives: None

Attachments: Resolution No. 022-20, Ex. A – MRSC Roster, and Ex. B – Small Works Contract No. C057-20.

RESOLUTION NO. 022-20

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING SMALL WORKS CONTRACT NO. C057-20 WITH ADVANCED DIVING SERVICES, INC. FOR THE 2020 IN-SERVICE CLEANING & INSPECTION OF POTABLE WATER STORAGE TANKS UTILIZING COMMERCIAL DIVERS AND DOCUMENTING THE SMALL WORKS ROSTER PROCUREMENT PROCEDURES.

WHEREAS, as performed annually since 2013, the Municipal Research and Services Center of Washington (MRSC) solicited on behalf of participating local government agencies within Washington State (including the City of Port Orchard) for the 2020 MRSC Small Works Roster; and

WHEREAS, on May 6, 2020, pursuant to RCW 39.04.155, the City's Public Works Department established a list of qualified contractors from the 2020 Small Works Roster (see Resolution Exhibit A, attached) for the Main Category – Site Improvement, Repair, and Maintenance, Water Facility Construction, and Maintenance and Sub-Category – Potable Water Tank Inspection, Reservoir Cleaning, Painting, and Caulking, Underwater Video Inspection; and

WHEREAS, on May 15, 2020, and pursuant to Resolution No. 019-17, Section 5.0 Bid Procedures the City's Public Works Department issued an email Invitation to Bid for the 2020 In-Service Cleaning & Inspection of Potable Water Storage Tanks Utilizing Commercial Divers to three (3) MRSC Small Works Roster Contractors; and

WHEREAS, on June 12, 2020, the City's Public Works Department received two (2) bids, whereby Advanced Diving Services, Inc. provided the lowest qualified Proposal for the 2020 In-Service Cleaning & Inspection of Potable Water Storage Tanks Utilizing Commercial Divers; and

WHEREAS, on June 12, 2020, the City's Public Works Department completed the MRSC Mandatory Bidder Responsibility Checklist on Advanced Diving Services, Inc.; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their selection/procurement process as described above for this particular contract by this Resolution; NOW, THEREFORE,

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

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council approves and authorizes the Mayor to execute Contract No. C057-20 with Advanced Diving Services, Inc. for the 2020 In-Service Cleaning &

Inspection of Potable Water Storage Tanks Utilizing Commercial Divers, which is attached hereto as Exhibit B and incorporated herein by this reference.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 23rd day of June 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

Ex. A

Public Agency Name:

City of Port Orchard

Roster Type:

Small Works Roster

Date:

05/06/2020

Time:

04:27 pm

Main Category:

Site Improvement, Repair, and Maintenance, Water Facility Construction, Repair, and Maintenance

Sub-Category:

Potable Water Tank Inspection, Reservoir Cleaning, Painting, and Caulking, Underwater Video Inspection

Accord Contractors, LLC

Accur Construction LLC



Advanced Diving Services, Inc.

Alba Painting & Coatings

Alderbrook Quarry Inc.

All Services Property Maintenance

American Pump and Electric

Andy Schwartz Construction

Aqua Dive Services, LLC

Arzate Contractors LLC

Associated Underwater Services, Inc.

Baker Underground & Construction, LLC

Blackwater Marine, LLC

BlumBeck Commercial Painting & Wall Covering LLC.

bottari & co

Cadence Construction, Inc.

Cascade Industrial Services LLC

Cascade Utilities, Inc.

Cascade West Construction Llc

Clark And Sons Excavating INC

Coastal Diving and Salvage

Coastal Services

Coastline Roofing & Construction INC

Coatings Northwest LLC

Columbia Industrial Coatings

Combined Construction, Inc.

CONSOR Engineers, LLC

Crux Diving, Inc

Crystal Soda Blast

Dirt Link, LLC

DN Tanks

Empire Well Drilling LLC

Engineering/Remediation Resources Group, Inc. (ERRG)

Enviro-Tech Diving Inc.

Extreme Coatings, Inc., dba ECI Services

FORMA Construction Company

Gemmell's Diving Services LLC

Global Diving & Salvage, Inc.

Golden Enviro LLC

Good Neighbor Handyman and Construction Services, LLC

Grenlar Construction



H2O Solutions

Harbor Offshore Inc.

HCI Industrial & Marine Coatings, Inc.

Huber General Contractors Inc

Hunnicut's Inc

Industrial Coatings Unlimited, LLC

Inland Potable Services, Inc.

Insta-Pipe, Inc

Iron Creek Construction

J.A.M. Construction, Inc.

J. Linder Painting, LLC

JTI Commercial Services

K-A General Construction Contractor LLC

KANDU Enterprise

Kaplan Homes Unlimited LLC.

KKLA Contractors, LLC

Kodiak Industrial Solutions, LLC

LaVelle Vac & Drainage

Leewens Corporation

Legacy Contracting, Inc.

Liden Land Development & Excavation INC.



Liquivision Technology, Inc.

LKE CORPORATION

Long Painting Company

Mass X Construction LLC

Mattila Painting, Inc

MCD, McDonald & Company, Inc

Midco Diving & Marine

Mills General LLC

Mink Enterprises

Molecular Inc

MOTARI PAINTING LLC

Nordland Construction Nw

Northwest Water Systems

N P M Construction Co.

NW Construction General Contracting, Inc.

NWCW

NW Relining LLC

Oceanside Construction, Inc.

One.7, Inc.

Pacific Tech Construction

Paintmaster Services Inc.

Penington Painting Company

Pipeline Video Inspection LLC

Pittsburg Tank & Tower Maintenance Co., Inc.

Purcell P & C, LLC

Quality Coating Ent. LLC

R. Hicks Steel Construction Services LLC

Rain for Rent

Rains Contracting Inc

Ram Construction General Contractors, LLC

RAZZ Construction, Inc.

Reign City Services LLC

Rhizorspainting llc

ROGNLINS INC.

Seattle Diving Services

SFE Global

Shearer & Associates, Inc.

SHOEMAKER EXCAVATION INC.

Simmons and Sons Contracting Inc

Sound Construction and Coating Inc

Souder Diving LLC

South Sound Contractors, LLC

Sparkle Wash Northwest-Pressure Washing

Sparkle Wash of Puget Sound, LLC

Team Industrial Services, Inc.

Tiger Construction, LTD

Transblue Bellevue

TRICO Companies, LLC

Trinity Contractors Inc.

Triple Eight Construction

Vac-Tec Septic & Water LLC.

Valdez Construction, Inc

WCCL SYSTEMS LLC

Western States Construction, Inc.

Ex. B

**CITY OF PORT ORCHARD SMALL WORKS UNDER 35K
CONSTRUCTION CONTRACT NO. C057-20
PUBLIC WORKS PROJECT NO. 2020-008**

THIS Agreement is made effective as of the 23rd day of June, 2020, by and between

CITY OF PORT ORCHARD, WASHINGTON (“CITY”)

216 Prospect Street

Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

and

Advanced Diving Services, Inc (“CONTRACTOR”)

2948 E Badger Way

New Harmony, UT 84757

Contact: James Nilsson Phone: 866.237.3483 Email: info@advanceddiving.com

for the following Project:

**2020 In-Service Cleaning and Inspection of Potable Water Storage Tanks (“PROJECT”)
Utilizing Commercial Divers**

The City and Contractor agree as follows:

1. **Contract Documents.** The Contractor shall complete the Work described in the Contract Documents for the Project. The following documents are collectively referred to as the “Contract Documents”:
 - a. This Agreement signed by the City and the Contractor;
 - b. Division 1 of WSDOT Standard Specifications for Road, Bridge and Municipal Construction, 2018 edition, together with APWA Supplement (1-99), subject to specific provisions contained within the Public Works Terms and Conditions;
 - c. The attached Special Provisions, Plans and Specifications;
 - d. Written change orders or orders for minor changes in the Work issued after execution of this Agreement;
 - e. Public Works Terms and Conditions;
 - f. Insurance and Bonding Requirements (unless bonding is waived); and

- g. The bid proposal submitted by the Contractor, except when inconsistent with Contract Documents a-f.

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. These Contract Documents complement each other in describing a complete work. Any requirement in one document binds as if stated in all. The Contractor shall provide any work or materials clearly implied in the Contract even if the Contract does not mention it specifically.

2. **Date of Commencement and Substantial Completion Date.** The date of commencement shall be June 23rd, 2020 . The Contractor shall substantially complete the Work not later than August 31st, 2020, subject to adjustment by change order.
3. The Contractor shall do all work and furnish all tools, materials, and equipment in accordance with the above described Construction Contract Documents. The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing of the work provided for in these Construction Contract Documents, except those items mentioned therein to be furnished by the City.
4. Subject to additions and deductions by change order, the construction Contract Sum is the base bid amount of **\$13,539.98 (applicable sales tax included)**. The construction Contract Sum shall include all items and services necessary for the proper execution and completion of the work. The City hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the work described in the Construction Contract Documents and to complete and finish the same according to the plans and specifications and the terms and conditions herein contained; and hereby contracts to pay for the same at the time and in the manner and upon the conditions provided for in this Contract.
5. The Contractor agrees to comply with all state and federal laws relating to the employment of labor and wage rates to be paid, including prevailing wage if applicable. The Contractor agrees to furnish insurance of the types and in the amounts set forth in the Construction Contract Documents.
6. The Contractor agrees to repair and replace all property of the City and all property of others damaged by himself, his employees, and sub-contractors.
7. The Contractor for himself and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein upon the part of the Contractor.
8. It is further provided that no liability shall attach to the City of Port Orchard by reason of entering into this Construction Contract, except as expressly provided herein.

9. Title VI

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

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

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

6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the City to enter into any litigation to protect the interests of the City. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed on the date first written above.

CITY OF PORT ORCHARD

CONTRACTOR

Robert Putansuu, Mayor

By: _____
Its: _____

ATTEST/AUTHENTICATE:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Charlotte A. Archer, City Attorney

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____ (*Corporate Officer (Not Contract Signer)*)
certify that I am the _____ (*Corporate Title*) of the
corporation named _____ as the Contractor in the Agreement attached hereto; that
_____, (*Contract Signer*) who signed said Agreement on behalf
of the Contractor, was then _____ (*Corporate Title*) of said corporation;
that said Agreement was duly signed for and in behalf of said corporation by authority of its
governing body, and is within the scope of its corporate powers.

Corporate Seal

Corp. officer signature (not contract signer)

Printed

Title

State of _____)
County of _____)

_____, (*corporate officer (not contract signer)*) being
duly sworn, deposes and says that he/she is _____ (*Corporate Title*)
of _____ (*Name of Corporation*)

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary Public (Signature)

Notary Public (Print)
My commission expires _____

**CITY OF PORT ORCHARD
PUBLIC WORK PROJECT TERMS AND CONDITIONS**

The following terms and conditions shall be used in conjunction with the Standard Specifications for Road, Bridge and Municipal Construction, 2018 edition, together with the APWA Supplement (Section 1-99), as issued by the Washington State Department of Transportation and American Public Works Association, Washington State Chapter, hereinafter referred to as the "standard specifications". The standard specifications, except as they may be modified or superseded by these provisions, shall govern all phases of work under this Contract, and they are by reference made an integral part of these specifications and Contract as if herein fully set forth.

When the provisions of the standard specification conflict with the terms and conditions as contained herein, the terms and conditions shall prevail.

1. **BID PRICE:** The bid price(s) shall include all necessary permits, fees and items of labor, material, equipment, tools, overhead and compensation, supplies, taxes, utilities and other incidentals necessary to complete the work in a fully functional and operational state. All prices including bid prices are in US funds.

2. **DEFINITIONS:** The term "City" means Port Orchard, Washington, "successful bidder" means the apparent lowest and best responsible bidder to whom an award is made, and "Contractor" means the successful bidder who has satisfied the requirements for the award and who receives a contract executed by the City. "Bidder" means the person, firm or corporation that has made an offer in response to the invitation to bid. "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations.

3. **LICENSING AND REGISTRATION:** The Contractor must have a Washington State certificate of registration per chapter 18.27 RCW; a current state unified business identifier number; and if applicable, industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number. In addition, the bidder must not be disqualified from bidding on any public works contracts under RCW 39.06.010 or 39.12.065(3).

4. **PUBLIC WORK REQUIREMENTS:** This project constitutes a public work under state law. Bidders are warned to take into consideration statutory legal requirements, particularly, the payment of prevailing wages and fringe benefits, payment and performance bonds (unless waived) and sales tax implications in making their bids. It is the sole responsibility of the bidder to insure that the appropriate labor classification(s) are identified and that the applicable wage and benefit rates are taken into consideration when preparing their bid according to these specifications. The Contractor shall complete and file State of Washington, Department of Labor & Industries, Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid forms and shall familiarize itself with their requirements. The Contractor shall also be responsible for and pay all costs pertaining to the processing of these forms.

5. **INSURANCE REQUIREMENT:** The successful bidder will furnish insurance as stipulated in the Attachment entitled "Insurance Requirements."

6. **RECEIPT OF ADDENDA:** All official clarifications or interpretations of the bid documents will be by written addenda only.

7. **PROJECT COMPLIANCE:** In compliance with the request for quotation, Bidder hereby proposes to perform all work for this project in strict accordance with the Contract Documents, at the Contract Sum, and within the time set forth herein with the understanding that time is of the essence in the performance of this Contract.

8. **TAXES:** Proposals shall include all applicable taxes except sales tax which is a separate bid item. It shall be the Bidder's responsibility to furnish Federal Excise Tax Exemption Certificate, when applicable.

9. **ERROR IN EXTENSION:** Unit price, when used, shall govern in case of extension error.

10. **PERMITS AND FEES:** The Contractor shall furnish all permits, inspection fees, and fees required in the performance of this Contract, including those charged under RCW 39.12.070 by the Department of Labor and Industries for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid, etc. The Department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The Contractor is responsible for all fees resulting from these statutes.

11. **CONTRACT:** The Contract, when properly signed, will be the only form that will be recognized by the City as an award. The executed Contract supersedes all previous communications and negotiations, except as referenced herein, and constitutes the entire agreement between the City and Contractor (parties), except as provided herein. The Contractor shall not make any changes, alterations, or variations in the terms of the Contract without the written consent of the City. No terms stated by the Bidder in its proposal shall be binding on the City unless accepted in writing by the City. The successful bidder may not assign the Contract resulting from this invitation to bid without the City's prior written consent. No waiver by the City of a breach of any provision of the terms and conditions outlined in the invitation to bid shall constitute a waiver of any other breach of such provision or of any other provisions.

12. **CHANGE ORDERS:** If the City or the Contractor requests a change in the Work, or either party believes that a change is necessary, then the parties shall comply with the following procedure to document and reflect a change in the Work: (a) The party requesting the change shall write a description of the change and give the description to the other party (the "Change Notice"); (b) Before proceeding with the change in Work, unless otherwise excused by emergency, the Contractor shall provide the City with a fixed-price written estimate of the cost and time impact of the change in Work; and (c) The City and the Contractor shall execute a Change Order confirming their agreement as to the change in Work, the fixed-price cost, and the extension of the Substantial Completion Date, if any. If the change in Work cannot be performed on a fixed-price basis, the Change Order shall identify the agreed method of compensation.

13. **CHANGE DIRECTIVES:** A "Change Directive" is a written order signed by the City, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Substantial Completion Date, or both. The City may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Substantial Completion Date being adjusted accordingly. A Change Directive shall only be used in the absence of total agreement on the terms of a Change Order. Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work and advise the City of its agreement or disagreement with the proposed method for determining the proposed adjustment in the Contract Sum and/or Substantial Completion Date, if any, provided in the Change Directive. A Change Directive signed by the Contractor indicates agreement with all terms set forth in the Change Directive. Such agreement shall be effective immediately and shall be recorded as soon as practical with a Change

Order. If the parties are unable to agree on an adjustment to the Contract Sum and/or Substantial Completion Date, if any, then either party may submit the matter for determination in accordance with Section 21.

14. **MINOR CHANGES IN THE WORK:** The City shall have the authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Substantial Completion Date and not inconsistent with the Contract documents. The Contractor shall promptly carry out such written orders for minor changes in the Work.

15. **COMPLIANCE WITH LAWS AND REGULATIONS:** The Contractor warrants full compliance with all applicable local, state or federal laws and regulations and agrees to indemnify and defend the City against any loss, cost, liability or damage, including reasonable attorney's fees, by reason of successful bidder's violation of this paragraph.

16. **INDEMNIFICATION:** All services to be rendered or performed under this Contract will be rendered or performed entirely at the Contractor's own risk. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. **IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.** The provisions of this section shall survive the expiration or termination of this Contract.

17. **TERMINATION:** This Contract may be terminated in whole or in part, without penalty, under the following conditions: 1) by mutual written agreement; 2) by the City for breach by the Contractor of any of the obligations or requirements set forth in the Contract Documents which would, at the option of the City, require the Contractor to assume liability for any and all damages, including the excess of re-procuring similar products or services; 3) for convenience of the City; or 4) by the City for non-appropriation of funds.

18. **TERMINATION BY THE CITY WITHOUT CAUSE:** Notwithstanding any other provisions contained herein, the City, without cause, may terminate the Contract between the parties by providing notice to the Contractor. Upon termination under this section: 1) All remaining obligations of the parties are discharged, but any right based upon breach or performance occurring prior to termination survives; 2) If the reasonable costs of performance incurred by the Contractor prior to termination exceed the amount paid by the City to the Contractor on the Contract Sum, the City shall reimburse the Contractor in the amount of such excess; 3) If the amount paid by the City to the Contractor on the Contract Sum exceeds the reasonable costs of performance incurred by the Contractor prior to termination, the Contractor shall reimburse the City in the amount of such excess; and 4) Any funds obtained or retained by the Contractor as provided in subsections 2) or 3), above, shall constitute full payment and consideration for the services performed by the Contractor prior to termination.

19. COMPLIANCE WITH TERMS: The City may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

20. PAYMENT: Contractor shall maintain time and expense records and provide them to the City along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice. All invoices shall be paid by the City within 45 days of receipt of a proper invoice. If the services rendered do not meet the requirements of the Contract, Contractor will correct or modify the work to comply with the Contract. City may withhold payment for such work until the work meets the requirements of the Contract.

21. RETAINAGE: Unless the City waives the retainage requirement, the City shall, pursuant to the requirements of RCW 60.28.011, retain five percent (5%) of the monies earned under this Contract, which shall be maintained by the City according to the Contractor's requested method.

22. DISPUTE RESOLUTION: In the event there is a dispute between the parties, the parties agree to resolve that dispute in the following manner: (a) The parties shall attempt in good faith to resolve any dispute promptly through negotiation. Either party may give the other party written notice that a dispute exists (a "Notice of Dispute"). The Notice of Dispute shall include a statement of such party's position. Within ten (10) days of the delivery of the Notice of Dispute, the parties shall meet at a mutually acceptable time and place and attempt to resolve the dispute; (b) If the parties are unable to resolve the dispute, they may elect to submit the dispute to mediation. The cost of the mediation shall be borne equally by the parties. The mediator shall be selected by the mutual agreement of the parties; (c) If the mediation does not result in a settlement of the dispute, the dispute shall be settled by binding arbitration by the Judicial Arbitration and Mediation Services ("JAMS") in accordance with the then operative construction rules of JAMS. The parties may select an arbitrator by mutual agreement, or if unable to agree, the arbitrator will be selected pursuant to the rules of JAMS. The parties shall be bound by the decision of such arbitrator. The arbitration shall be conducted in Kitsap County, Washington; provided, if JAMS is unable to conduct the arbitration in Kitsap County, then the arbitration shall be held in such location as the parties may agree after consulting with JAMS.

23. WARRANTY: Contractor shall provide a one (1) year warranty for the work and improvements installed by Contractor pursuant to the Contract, subject to the following terms and conditions: Contractor agrees that the work and improvements installed pursuant to the Contract shall remain free from defects in material, workmanship and installation (or, in the case of landscaping, shall survive,) for a period of twelve (12) months after written and final acceptance of the same and approval by the City. Maintenance is defined as acts carried out to prevent a decline, lapse or cessation of the state of the project or improvements as accepted by the City during the twelve (12) month period after final and written acceptance, and includes, but is not limited to, repair or replacement of defective workmanship, materials or installations. Contractor shall, at its sole cost and expense, carefully replace and/or repair any damage or defects in workmanship, materials or installation to the City-owned real property on which improvements have been installed, and leave the same in as good condition as it was before commencement of the work. City and Contractor agree that in the event any of the improvements or restoration work installed or completed by Contractor pursuant to the Contract fail to remain free from defects in materials, workmanship or installation (or in the case of landscaping, fail to survive), for a period of twelve (12) months from the date of approval/acceptance of the work by the City, Contractor shall repair and/replace the same within ten (10) days of demand by the City, and if Contractor should fail to do so, then Contractor shall:

1. Within twenty (20) days of demand of the City, make written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default.
2. In the event Contractor fails to make repairs or provide maintenance within the time period requested by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of repairing or maintaining the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to repair or maintain such improvements.

Any corrections required by the City shall be commenced within ten (10) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action as described above. No change, extension of time, alteration or addition to the work to be performed by Contractor shall affect the obligations of Contractor under this warranty. In addition, Contractor shall perform a walk-through with City representative(s) one (1) year after final acceptance of the project to determine if any repairs or maintenance for defective workmanship, materials, or installations is required. If so, such repairs and maintenance will be undertaken by Contractor pursuant to the timeline and procedures described above.

CITY OF PORT ORCHARD INSURANCE REQUIREMENTS

The Contractor shall procure and maintain for the duration of the Contract with the City, 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 Contractor, their agents, representatives, employees and subcontractors.

No Limitation. The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Minimum Scope of Insurance. The Contractor shall obtain insurance of the types described below:

- *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.
- *Commercial General Liability* insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability Insurance for liability arising from explosion, collapse or underground property damage. The City shall be named by endorsement as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG or substitute endorsements providing equivalent coverage.
- *Workers' Compensation* coverage as required by the Industrial Insurance laws of the State of Washington.
- *Builders Risk* insurance covering interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. The Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

- *Employer's Liability* insurance limit of \$1,000,000 each accident, Employer's Liability Disease each employee \$1,000,000 and Employer's Liability Disease – Policy limit \$1,000,000.

Minimum Amounts of Insurance. The Contractor shall maintain the following insurance limits:

- *Automobile Liability* insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- *Commercial General Liability* insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- *Builders Risk* insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

Other Insurance Provisions. The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respects the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it. If any coverage is written on a "claims made" basis, then a minimum of three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided by the City.

Contractor's Insurance for Other Losses. The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, including but not limited to the Contractor's employee-owned tools, machinery, equipment or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as any temporary structures, scaffolding and protective fences.

Waiver of Subrogation. The Contractor waives all rights against the City, any of its Subcontractors, Sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to this Insurance Requirements Section of the Contract or other property insurance applicable to the work. The Contractor's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City. The City will not waive its right to subrogation against the Contractor. The Contractor's insurance shall be endorsed acknowledging that the City will not waive its right to subrogation.

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

Verification of Coverage. The Contractor 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 Automobile Liability and Commercial General Liability

insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project.

Subcontractors. The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

Notice of Cancellation. The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

Failure to Maintain Insurance. The insurance required by this Section will not be canceled, materially changed or altered without forty-five (45) days prior written notice submitted to the City. Failure on the part of the Contractor to maintain insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract, or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

APPENDIX A

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

Pertinent Non-Discrimination Authorities:

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

EXHIBIT 1

Schedule of Project Price In-Service Cleaning and Inspection of Potable Water Storage Potable Water Tanks

<u>Item No.</u>	<u>Potable Water Tank Name/Description</u>	<u>Lump Sum Amount</u>
1.	McCormick #1 (60,000gal) Schedule A	\$ <u>967.00</u>
2.	McCormick #2 (60,000gal) Schedule B	\$ <u>967.00</u>
3.	McCormick 580 (450,000gal) Schedule C	\$ <u>967.00</u>
4.	City Hall (50,000gal) Schedule D	\$ <u>967.00</u>
5.	Maple Street (50,000gal) Schedule E	\$ <u>967.00</u>
6.	Sedgwick (1Mil) Schedule F	\$ <u>967.00</u>
7.	Old Clifton (1Mil) Schedule G	\$ <u>\$2,901.00</u>
8.	Morton Street (100,000gal) Schedule H	\$ <u>967.00</u>
9.	Van Zee Park (2Mil) Schedule I	\$ <u>3,869.98</u>
TOTAL BID:		\$ <u>13,539.98</u>

SALES TAX

In accordance with Section 1-07.2(1) State Sales Tax: Work performed on City, County, or Federally owned land, the Contractor shall include Washington State retail sales tax in the various unit bid prices or other amounts. These retail sales taxes shall include those the Contractor pays on purchases of materials, equipment, and supplies used or consumed in doing the work.



ADVANCED DIVING SERVICES, INC.

Proposal # JN-20-170

BID SCHEDULE

Company Name: City of Port Orchard
 Attn: Public Works – 2020 Potable Water Tank Cleaning
 216 Prospect Street
 Port Orchard, WA 98366
 Email: publicworks@cityofportorchard.us

PROPOSAL FOR UNDERWATER CLEANING & INSPECTION OF NINE POTABLE WATER STORAGE RESERVOIRS

Reservoir	Capacity (Gallons)	Dimensions Dia x Ht	Type	Surface Area (S.F.)	Cubic Yards of Sediment 1" Deep	Price for Cleaning up to 1" sediment and Inspection	Price for Cleaning additional sediment per 1" average depth
1. McCormick#1	60,000	25' X 15'		491	2	\$967.00	\$70
2. McCormick #2	60,000	25' X 15'		491	2	\$967.00	\$70
3. McCormick 580	450,000	42.7' X 42'		1,452	4	\$967.00	\$140
4. City Hall	50,000	38' x25'		950	3	\$967.00	\$105
5. Maple Street	50,000	37' x24'		888	3	\$967.00	\$105
6. Sedgwick	1 MG	68' X40'		3,630	11	\$967.00	\$385
7. Clifton	1 MG	100' X 30'		7,850	24	\$2,901.00	\$840
8. Morton Street	100,000	14 6' X 100'		178	1	\$967.00	\$35
9. Van Zee Park	2 MG	130' x 20'		13,267	41	\$3,869.98	\$1,435
1. Removal of additional sediment is charged per inch (based on cubic yard price to the right) for everything over the original depth specified above. (Sediment is measured and calculated as an average depth)						Variable Rates:	
						Avg. Sed.	1 Inch
2. Leak detection & repairs are performed on a time and material basis. See hourly rate. These procedures are performed only upon receiving your approval.						Cubic Yard	\$35
						\$ Per hour	\$250
						\$ Epoxy Material per TUBE	\$48
3. Sediment filtration is charged on a per filter bag basis. Dechlorination of the discharge water is a flat fee per reservoir.						Filter Bags	\$240 ea
						Dechlor.	\$50
4. If the reservoir is not accessible with a truck and trailer and requires us to use portable equipment, and hourly rate shall apply during setup and teardown. Delays are an hourly charge (see #6 below).						Port. Equip.	\$250
						Delay Hour.	\$250
5. Prices are valid for 90 days. Upon signature, work shall be scheduled at a mutually acceptable date within one year. Payment terms are net 30 days.							
6. Mobilization Charge \$1,500 It is anticipated the procedures will be performed in one mobilization. Cleaning and Inspection pricing may be reduced if scheduled while ADS crews are working in the general area, this requires some flexibility in scheduling the work. Reservoir cleanings and inspections are performed together.							

Our bids are based on a variety of factors that pertain to the length of time it takes to accomplish our work. The main consideration is the amount of sediment that has to be removed. This of course is mainly influenced by the floor area of the reservoir and the depth of the sediment. The following factors influence the length of time and our ability to accomplish the work.

- This quote is based and contingent upon the following.
- That all information provided us is correct, entry hatches are large enough for a diver to enter, and all reservoirs are accessible by a four-wheel-drive truck and 20' trailer.
 - During cleaning, reservoir water levels must be kept at or near full capacity unless instructed prior to proceeding with work.
 - Removed water, materials, and any necessary permitting are the responsibility of the customer (Placement of the effluent material is done at the direction of the customer within 100', unless otherwise specified in quote).
 - Quotes for cleaning assume the sediment is normal material (such as silt flocculated material, insects, light sand, manganese, rust, etc...) found in potable water reservoirs that is easily removed by our vacuuming procedures. Material that cannot be vacuumed such as concrete, construction material, gravel, rocks, detached coating, compact/adhered sediment, etc..., is considered debris and will be removed on the hourly rate (bid includes one hour of debris removal)

Name: James Nilsson
 Date: June 09, 2020

Advanced Diving Services, Inc.
 Tel: (866) 237-3483 Fax: (435) 586-2078
 E-Mail: info@advanceddiving.com www.advanceddiving.com





ADVANCED DIVING SERVICES, INC.

5. Unless specified in quote in detail we clean all submerged horizontal and angled berm or sloped surfaces. Vertical surfaces such as the walls can be cleaned but must be listed separately in the quote detail or estimated by the divers upon inspection. We do not clean surfaces that are out of the water.
6. If any information provided to us is incorrect or if any problems exist that inhibit our ability to complete the job on a timely schedule, then we will notify you of the problem and reserve the right to add on to the quote based on our estimate of the additional time it will take to complete the work. Charges for time delays are listed above. This paragraph only applies to any problems that are your responsibility.
7. Laboratory analysis of water, coating, or debris samples is your responsibility unless specified earlier.
8. If filtration or dechlorination of discharged effluent is required, note additional charges for cost of materials (see above).

Interior video inspection will be completed with real-time closed circuit high-resolution color underwater video equipment. All pertinent findings will be recorded on DVD format (including dive maintenance technician's findings and narrative summary), and on all checklists and written recommendations. Exterior inspection findings/color photographs will be noted on the exterior reservoir report. Video record, hardcopy written report and summary of recommendations will be provided upon completion of the operations and remain the property of the customer. Complete inspection will include the following criteria.

1. A visual inspection of the reservoir's interior and exterior.
2. A verbal report of the reservoir's condition given to the customer representative immediately after the inspection.
3. An Inspection report with the following information:
 - A. Nameplate Information.
 - B. Findings pertaining to condition of internal components (i.e. plumbing, vents, hatches, Cathodic system, etc...).
 - C. Numeric representation of the percent of corrosion and/or damaged areas.
 - D. Color video illustrating each type of coating failure, the general condition of coating and substrate. video shall be clear, sharp and definitive (interior video based on clarity of water in reservoir).
 - E. A report on coating failure analysis and the probable causes.
 - F. Report on pit depth and metal loss based on ASTM G 46-94 Standard Guide for Examination and Evaluation of Pitting Corrosion, measured in millimetres at significant corrosion modulation sites. Also calculated rate of metal loss and theoretical rate of penetration (if applicable).
 - G. A sample specification for repair or recoating of the interior and exterior if applicable.
 - H. Report referencing the various coating defects and causes reported.
4. A videotape of the general condition of the interior surfaces. The videotape shall be narrated with reference to the location of internal components and or pertinent findings noted.
5. Removal of silt from floors utilizing underwater methods.
6. A report on the thickness and type of silt on the reservoir floor.

- All Dive Maintenance Technicians and associated in-tank equipment are fully disinfected according to AWWA Standard C652-92.
- All Advanced Diving Services operations pertaining to Diving and Confined Space, conducted on your system are in compliance with all applicable OSHA, AWWA, and ADC standards, procedures, and regulations (including 1910.401 thru 1910.441).
- All inspection personnel are fully qualified commercial dive maintenance technicians certified in ASNT Non-Destructive testing.
- All of our repair, sealing and coating materials meet or exceed NSF 60 & 61 standards

WE PROPOSE to furnish labor and material – complete in accordance with the above specifications, and subject to conditions found on this agreement, for the sum of: (Pricing is contingent on scheduling the work, while a crew is in your general location).

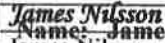

Reservoir Cleaning and Inspection including written reports (2).....	\$11,882.00
Mobilization	\$500.00*
Prevailing Wage Filing Fees	\$40.00
WA sales and use tax (Kitsap Co. .090)	\$1,117.98
Total	\$13,539.98**

*Mobilization fees have been reduced for scheduling work while ADS crews are in the general area.

**Sediment and water from the cleaning of the reservoirs to be discharged on-site

WA State Construction Contractor Registration #ADVANDS817P3, WA UBI 602-745-191

Accepted. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above (net 30 days).

Authorized Advanced Diving Services, Rep. Sincerely:  Name: James Nilsson Date: June 09, 2020 Director	Authorized Contracting Officer, Rep. Accepted By: _____ Date: _____  Advanced Diving Services, Inc. Tel: (866) 237-3483 Fax: (435) 586-2078 Signature: _____ Title: _____ Email: info@advanceddiving.com www.advanceddiving.com
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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 7G</u>	Meeting Date:	<u>June 23, 2020</u>
Subject:	<u>Adoption of a Resolution to Apply for Grant</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Funding from the BAFBRB Program Managed by</u>		<u>Public Works Director</u>
	<u>the State Recreation and Conservation Office</u>	Atty Routing No:	<u>N/A</u>
	<u>for 100% Design of Culvert Replacement on</u>	Atty Review Date:	<u>N/A</u>
	<u>Bay Street</u>		

Summary: The City of Port Orchard Public Works Department proposes to replace an existing drainage culvert on Bay Street. The culvert is located near the intersection of Bay Street and Arnold Avenue. The existing wooden culvert has had some structural failures, resulting in sink holes on Bay Street and is also a known barrier to salmon migration. While the city has done some repairs to fix the sinkholes and prevent further degradation a more permanent solution is needed for replacing the structure. It is unclear how long the existing culvert will be able to support traffic and maintain structural integrity. In 2018 the City conducted a 30% design analysis for this project to determine roughly what it would cost to replace the structure. Currently, estimates fall between \$1,300,000 and \$4,700,000 for total design and construction.

On May 29th, 2020, the City applied for a Recreation and Conservation Office (RCO) grant through the Brian Abbott Fish Barrier Removal Board (BAFBRB) Program to fund 100% design of the culvert replacement project. If awarded, the funds will be available to the City July 1, 2021. Design, due diligence assessments and permitting are anticipated to begin September 30, 2021 with construction anticipated to begin May 30, 2022. Cost estimates for this project are \$500,000. A grant match of 15% (\$75,000) is required from the City if this grant is awarded. With Council’s authorization to proceed with this project, match funding is available in the Storm Drainage Budget for the 2021-2022 biennial budget cycle.

Recommendation: Staff recommends that the City Council adopt a Resolution, thereby authorizing the Mayor and designees within the Public Works Department to apply for grant funding from the BAFBRB Program managed by the RCO, to commit to a grant match from the City, and to execute all documentation necessary to effectuate the grant and pursue this project to complete a 100% design for the Bay Street/Annapolis Creek culvert repair.

Relationship to Comprehensive Plan: N/A

Motion for Consideration: I move to adopt a Resolution, thereby authorizing the Mayor or designee to apply for grant funding from the BAFBRB Program managed by the RCO, to commit to a grant match of 15% from the City, and to execute all documentation necessary to effectuate the grant to fund 100% design of the culvert replacement for the Bay Street/Annapolis Creek culvert repair.

Fiscal Impact: If authorized, the 2021-2022 Biennial budget will allocate \$75,000 for this activity

Alternatives: None.

Attachments: Resolution No. 024-20 and RCO Resolution signed by AAG.

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
AUTHORIZING THE MAYOR OR DESIGNEE TO APPLY FOR AND ACCEPT
RCO GRANT FUNDING AND TO EXECUTE ALL NECESSARY DOCUMENTS
TO EFFECTUATE THE GRANT.**

WHEREAS, this Resolution authorizes the person(s) identified herein to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the Annapolis Creek Culvert Removal 100% design at Bay St. and Arnold Ave. Project (RCO # 20-1795) (hereinafter, the “Project”) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office); and

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above; now, therefore,

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

Section 1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above “Project.” Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Mark Dorsey, P.E.
Project contact (day-to-day administering of the grant and communicating with the RCO)	Zack Holt
RCO Grant Agreement (Agreement)	Robert Putaansuu, Mayor
Agreement amendments	Robert Putaansuu, Mayor
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	Robert Putaansuu, Mayor

The above persons are considered an “authorized representative(s)/agent(s)” for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

Section 2. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.

Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

[for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.

Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

[for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to

in writing by our organization and the Office. We agree to dedicate the property in a signed “Deed of Right” for fee acquisitions, or an “Assignment of Rights” for other than fee acquisitions (which documents will be based upon the Office’s standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

[for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

[for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.

[Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.

This authorization is deemed to be part of the formal grant application to the Office.

Our organization warrants and certifies that this authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

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 23rd day of June 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

Applicant Resolution/Authorization

Organization Name (sponsor) City of Port Orchard

Resolution No. or Document Name Resolution 024-20

Location of Resolution or Document: Port Orchard City Hall, 216 Prospect St. Port Orchard, WA 98366

Project(s) Number(s), and Name(s) Annapolis Creek Culvert Removal at Bay Street (RCO # 20-1795)

This authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."

Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Mark Dorsey, P.E.
Project contact (day-to-day administering of the grant and communicating with the RCO)	Zack Holt
RCO Grant Agreement (Agreement)	Robert Putaansuu, Mayor
Agreement amendments	Robert Putaansuu, Mayor
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	Robert Putaansuu, Mayor

Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.

Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

[for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.

Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

[for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

[for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

[for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.

[Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.

This authorization is deemed to be part of the formal grant application to the Office.

Our organization warrants and certifies that this authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

Washington State Attorney General's Office

Approved as to form *Brian Staller* 2/13/2020
Assistant Attorney General *Date*

You may reproduce the above language in your own format; however, text may not change.



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 7H</u>	Meeting Date:	<u>June 23, 2020</u>
Subject:	<u>Adoption of a Resolution to Apply for Grant</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Funding from the BAFBRB Program Managed</u>		<u>Public Works Director</u>
	<u>by the State Recreation and Conservation</u>	Atty Routing No.:	<u>N/A</u>
	<u>Office to Remove a Culvert on Sidney Road</u>	Atty Review Date:	<u>N/A</u>

Summary: The City of Port Orchard Public Works Department proposes to remove an existing drainage culvert located along Sidney Road at Ruby Creek, being approximately 850 feet south of the intersection of SW Hovde Road and Sidney Road. City staff have conducted a preliminary design analysis and have determined that the culvert will need to be replaced with a 30- ft span bridge as the existing culvert is beginning to show signs of failure. The Ruby Creek culvert supports water and sanitary sewer infrastructure and is also a known barrier to salmon migration.

On May 29, 2020, the City’s Public Works Department applied for a Recreation and Conservation Office (RCO) grant through the Brian Abbott Fish Barrier Removal Board (BAFBRB) Program to fund the culvert replacement project. If awarded, the funds will be available to the City on July 1, 2021. Design, due diligence assessments and permitting are anticipated to begin on September 30, 2021, with construction anticipated to begin on May 30, 2022. Design and construction cost estimates for this project are \$1,911,385. A grant match of 15% (\$286,708) is required from the City if this grant is awarded. With Council’s authorization to proceed with this project, match funding is available in the Storm Drainage Budget for the 2021-2022 biennial budget cycle.

Recommendation: Staff recommends that the City Council adopt a Resolution, thereby authorizing the Mayor and designees within the Public Works Department to apply for grant funding from the BAFBRB Program managed by the RCO, to commit to a grant match from the City, and to execute all documentation necessary to effectuate the grant and pursue this project to remove the Sidney Road culvert at Ruby Creek and replace it with a bridge.

Relationship to Comprehensive Plan: N/A

Motion for Consideration: I move to adopt a Resolution, thereby authorizing the Mayor or designee to apply for grant funding from the BAFBRB Program managed by the RCO, to commit to a grant match of 15% from the City, and to execute all documentation necessary to effectuate the grant to remove the Sidney Road culvert at Ruby Creek and replace it with a bridge.

Fiscal Impact: If authorized, the 2021-2022 Biennial budget will allocate \$286,708 for this activity

Alternatives: None

Attachments: Resolution 023-20 and RCO Resolution signed by AAG.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
AUTHORIZING THE MAYOR OR DESIGNEE TO APPLY FOR AND ACCEPT
RCO GRANT FUNDING AND TO EXECUTE ALL NECESSARY DOCUMENTS
TO EFFECTUATE THE GRANT.**

WHEREAS, this Resolution authorizes the person(s) identified herein to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the Ruby Creek Culvert Removal at Sidney Rd. Project (RCO # 20-1797) (hereinafter, the “Project”) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office); and

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above; now, therefore,

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

Section 1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above “Project.” Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Mark Dorsey, P.E.
Project contact (day-to-day administering of the grant and communicating with the RCO)	Zack Holt
RCO Grant Agreement (Agreement)	Robert Putaansuu, Mayor
Agreement amendments	Robert Putaansuu, Mayor
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	Robert Putaansuu, Mayor

The above persons are considered an “authorized representative(s)/agent(s)” for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

Section 2. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.

Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

[for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.

Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

[for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to

in writing by our organization and the Office. We agree to dedicate the property in a signed “Deed of Right” for fee acquisitions, or an “Assignment of Rights” for other than fee acquisitions (which documents will be based upon the Office’s standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

[for Development, Renovation, Enhancement, and Restoration Projects Only—If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

[for Development, Renovation, Enhancement, and Restoration Projects Only—If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.

[Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.

This authorization is deemed to be part of the formal grant application to the Office.

Our organization warrants and certifies that this authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

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 23rd day of June 2020.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



Applicant Resolution/Authorization

Organization Name (sponsor) City of Port Orchard

Resolution No. or Document Name Resolution 023-20

Location of Resolution or Document: Port Orchard City Hall, 216 Prospect St. Port Orchard, WA 98366

Project(s) Number(s), and Name(s) Ruby Creek Culvert Removal at Sidney Rd. (RCO # 20-1797)

This authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."

Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Mark Dorsey, P.E.
Project contact (day-to-day administering of the grant and communicating with the RCO)	Zack Holt
RCO Grant Agreement (Agreement)	Robert Putaansuu, Mayor
Agreement amendments	Robert Putaansuu, Mayor
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	Robert Putaansuu, Mayor

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our

representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.

Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

[for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.

Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

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[for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed,

renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.

[Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.

This authorization is deemed to be part of the formal grant application to the Office.

Our organization warrants and certifies that this authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

Washington State Attorney General's Office

Approved as to form *Brian Tallen* 2/13/2020 _____
Assistant Attorney General *Date*

You may reproduce the above language in your own format; however, text may not change.

Motion for consideration: I move to approve a special permit for Kristen Waters to hold her event on July 4, 2020, on her private property from 5pm to 1am.

Fiscal Impact: None.

Alternatives: Do not approve.

Attachments: Email correspondence and map of property location.

Jenine Floyd

From: Kristen Waters <kriswaters62@gmail.com>
Sent: Friday, June 5, 2020 2:42 PM
To: Brandy Rinearson
Subject: Re: Noise permit

Thank you so much for your quick response!

On Fri, Jun 5, 2020, 1:11 PM Brandy Rinearson <brinearson@cityofportorchard.us> wrote:

Kristen,

I will move forward with getting this on the Council agenda for consideration at their June 23, 2020 Council meeting. Keep in mind that if Kitsap County is not in Phase III of the Governor's Phased Approach Order, the City will not be able to support the event as the event will be having more than 5 people outside your household. The City is expected to know if we can move into Phase III the week of the Council meeting.

Best Wishes,

Brandy Rinearson, MMC, CPRO

City Clerk/Assistant to the Mayor

City of Port Orchard
Direct (360) 876-7030
Fax (360) 895-9029

www.cityofportorchard.us



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Please be aware that e-mails which pertain to City business may be considered public records and may be subject to public disclosure laws. If you think that you have received this e-mail message in error, please notify the sender via e-mail or telephone at 360.876.7030.

From: Kristen Waters <kriswaters62@gmail.com>
Sent: Friday, June 5, 2020 12:24 PM

To: Brandy Rinearson <brinearson@cityofportorchard.us>

Subject: Re: Noise permit

Good afternoon Brandy,

Thank you for your Quick response. Last year we had around 35 to 40 people. Not sure, but not expecting much more than that, and it's by indentation only.

Hope this helps answering your question.

Thank you and have a nice day.

On Fri, Jun 5, 2020, 12:14 PM Brandy Rinearson <brinearson@cityofportorchard.us> wrote:

Hello Kristen,

Can you tell me how many people you are expecting to participate and be on your property?

Best Wishes,

Brandy Rinearson, MMC, CPRO

City Clerk/Assistant to the Mayor

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From: Kristen Waters <kriswaters62@gmail.com>

Sent: Friday, June 5, 2020 12:02 PM

To: CityClerk Mailbox <CityClerk@cityofportorchard.us>; Jenine Floyd <jfloyd@cityofportorchard.us>

Subject: Noise permit

Good Day City Council,

My name is Kristen Waters and I have lived in Port Orchard for 30 plus years. I own apartments and have owned several businesses here too, Including Lifetime Muffler Brake and Hitch, Pacific Kai Construction Company, ETC.

My Question is this, I would like to have a celebration on my private property that has 4 1/2 acres, to include music. I have three private bands in which I have already paid for, and hired eight months ago. I had this same celebration last year and it was very successful, however last year I was told by Port Orchard Police Officers to get a noise permit this year. Well after calling and calling everywhere I was finally told to present this before you. My property is located at 4801 Glenwood Rd SW, Port Orchard. We would like to start around 5PM and go till 1AM July 4th, 2020. All people and cars will be parked on my property, So no public roads will be effected. This celebration is for my birthday and staff, It will be private by invitation only. I have contacted my neighbor, Cynthia Silvernale, whom has also given her approval, Her number is (360)801-4994.

Thank you so much for your consideration,

Sincerely,

Kristen Waters

(360)621-2335

Kriswaters62@gmail.com

4801 Glenwood Rd SW

Port Orchard, WA 98367

