



City of Port Orchard Council Meeting Agenda

October 10, 2023

6:30 p.m.

Mayor:

Rob Putaansuu
Administrative Official

Councilmembers:

Mark Trenary (Mayor Pro-Tempore)
E/D & Tourism Committee, **Chair**
Utilities/Sewer Advisory Committee
Transportation Committee
KRCC-alt

Shawn Cucciardi
Finance Committee
E/D & Tourism Committee
Lodging Tax, **Chair**

Fred Chang
Economic Development & Tourism Committee
Land Use Committee
Transportation Committee

Jay Rosapepe
Finance Committee,
Land Use Committee
KRCC, PSRC-alt, PSRC Transpol-alt, KRCC Transpol-alt, KRCC Planpol-alt,

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

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

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

Department Directors:

Nicholas Bond, AICP
Development Director

Denis Ryan
Public Works Director

Tim Drury
Municipal Court Judge

Noah Crocker, M.B.A.
Finance Director

Matt Brown
Police Chief

Brandy Wallace, MMC, CPRO
City Clerk

Meeting Location:

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

Contact us:

(360) 876-4407
cityhall@portorchardwa.gov

Pursuant to the Open Public Meetings Act, the City Council is conducting its public meeting in the Council Chambers at City Hall. Members of the public may view and provide public comment during the meeting in person at City Hall, via the online platform zoom (link below), or via telephone (number below). The public may also view the meeting live on the City's YouTube channel.

Remote access

Link: <https://us02web.zoom.us/j/81343070969>

Zoom Webinar ID: 813 4307 0969

Zoom Call-In: 1 253 215 8782

Guiding Principles

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

1. CALL TO ORDER**A. Pledge of Allegiance****2. APPROVAL OF AGENDA****3. CITIZENS COMMENTS**

*(Please limit your comments to **3 minutes** for items listed on the Agenda and that are not for a Public Hearing. Please keep your comments respectful and no personal attacks. This is a comment period and not a question-and-answer session. When recognized by the Mayor, please state your name for the official record. If you are attending remotely via telephone, enter *9 from your keypad to raise your hand.)*

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. Adoption of an Ordinance Amending Ordinance No. 013-23, Delaying the Effective Date for the 2021 Building Codes (Bond) Page 4****D. Adoption of a Resolution Approving an Amended Memorandum of Agreement with the Port of Bremerton for Waterfront Parking (Archer) Page 14****E. Adoption of a Resolution Approving Two Nonexclusive Perpetual Easements with Puget Sound Energy for a Portion of City Owned Property (Ryan) Page 33**

- F. Adoption of a Resolution Approving a Contract with Public Safety Testing for Entry Level Police Officer Testing (Lund) **Page 51**
- G. Approval of Road Closures for a Special Event: 2023 Festival of Chimes and Lights (Wallace) **Page 60**
- H. Approval of a Memorandum of Understanding with Teamsters Local 589 Representing Police Support Employees Re: Closure of City Hall (Lund) **Page 84**
- I. Approval of Amendment No. 1 to Contract No. 004-23 with Kitsap County Prosecuting Attorney for Prosecution of Municipal Criminal Complaints and Civil Infractions (Wallace) **Page 85**
- J. Approval of the September 19, 2023, City Council Work Study Session Meeting Minutes **Page 97**
- K. Excusal of Councilmember Clauson for Business Reasons

5. PRESENTATION

6. PUBLIC HEARING

- A. Ordinance Approving the Diaz Meadows Development Agreement (Bond) **Page 100**

7. BUSINESS ITEMS

- A. Adoption of an Ordinance Approving the Diaz Meadows Development Agreement (Bond) **Page 102**
- B. Adoption of an Ordinance Repealing POMC 3.48 Concerning the City's Multifamily Tax Exemption Policy (Bond) **Page 132**
- C. Adoption of an Ordinance Adopting POMC Section 2.04.235, Regarding Endorsements by the City Council (Archer) **Page 136**

8. DISCUSSION ITEMS (No Action to be Taken)

9. REPORTS OF COUNCIL COMMITTEES

10. REPORT OF MAYOR

11. REPORT OF DEPARTMENT HEADS

12. CITIZEN COMMENTS

*(Please limit your comments to **3 minutes** for any items not up for Public Hearing. When recognized by the Mayor, please state your name for the official record. If you are attending remotely via telephone, enter *9 from your keypad to raise your hand.)*

- 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. CITY COUNCIL GOOD OF THE ORDER

15. ADJOURNMENT

COMMITTEE MEETINGS

	Date & Time	Location
Economic Development and Tourism	TBD 2023; 9:30am	Remote Access
Utilities	November 14, 2023; 5:00pm	Remote Access
Finance	October 17, 2023; 5:00pm	Remote Access
Transportation	October 24, 2023; 4:30pm	Remote Access

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.portorchardwa.gov or by contacting the City Clerk's office at (360) 876-4407.

Festival of Chimes & Lights	October 16, 2023; 3:30pm	Remote Access
Land Use	October 18, 2023; 4:30pm	Remote Access
Lodging Tax Advisory	October 11, 2023; 10:00am	In person and Remote Access
Sewer Advisory	November 1, 2023; 6:30pm	WSUD
Outside Agency Committees	Varies	Varies

***WEST SOUND UTILITY DISTRICT, 2924 SE Lund Ave. Port Orchard**

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.portorchardwa.gov or by contacting the City Clerk's office at (360) 876-4407.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4C
Subject: Adoption of an Ordinance Amending
Ordinance No. 013-23, Delaying the
Effective Date for the 2021 Building Codes

Meeting Date: October 10, 2023
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: Development-Matter 11
Atty Review Date: October 5, 2023

Summary: The Washington State Building Code Council has delayed the effective date for the 2021 building codes for a second time. The City of Port Orchard approved Ordinance 013-23 adopting the 2023 Washington State Building codes in May 2023 and subsequently delayed the effective date of this ordinance by passing Ordinance 015-23 in June of 2023. Last month, the Washington State Building Code Council unexpectedly voted to delay the effective date of the new building codes again until March 15, 2024. As such, City staff has prepared an ordinance to delay the effective date of the new codes and ordinances as recently approved.

Relationship to Comprehensive Plan: N/A

Recommendation: City staff recommends adoption of an ordinance delaying the effective date of the 2021 building codes as presented.

Motion for consideration: “I move to adopt an ordinance amending ordinance number 013-23 and 015-23 delaying the effective date of the 2021 building codes as presented.”

Fiscal Impact: None foreseen.

Alternatives: Do not approve the contract as presented.

Attachments: Ordinance, Ordinance 013-23, Ordinance 015-23

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING ORDINANCE NO. 013-23, AS PREVIOUSLY AMENDED BY ORDINANCE NO. 015-23, AMENDING CHAPTER 20.200, CITY CONSTRUCTION CODE, OF THE PORT ORCHARD MUNICIPAL CODE TO CONFORM WITH UPDATES TO THE STATE BUILDING CODE UNDER CHAPTER 19.27 OF THE REVISED CODE OF WASHINGTON AND THE REVISED WASHINGTON STATE BUILDING CODE ACT; ADOPTING THE CURRENT STATE BUILDING CODES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Building Code Council (Code Council) periodically recommends and adopts uniform codes of statewide applicability, collectively referred to as the State Building Code; and

WHEREAS, the Washington state legislature has updated Chapter 19.27 of the Revised Code of Washington (RCW), the Washington State Building Code Act, to adopt the 2021 versions of the State Building Code; and

WHEREAS, by Ordinance No. 013-23, the City of Port Orchard adopted by reference the State Building Codes as required by state law, to locally enforce said rules for the health, safety, and welfare of the public, with an effective date of July 1, 2023, consistent with state direction at the time of adoption; and

WHEREAS, following the adoption of Ordinance No. 013-23, the State Building Code Council exercised its delegated authority to delay the implementation of the State Building Code, and accordingly the City Council authorized Ordinance No. 015-23, setting a new effective date of October 29, 2023, consistent with state direction at that time; and

WHEREAS, since the adoption of Ordinance No. 015-23, the State Building Code Council has again delayed the implementation of the State Building Code by an additional 1390 days, until March 15, 2024; and

WHEREAS, the City Council wishes to amend Ordinance No. 013-23, as amended by Ordinance No. 015-23, to further extend the effective date concurrent with the action by the State Building Code Council; and

WHEREAS, the SEPA Responsible Official for the City determined that adoption of this ordinance is categorically exempt from environmental review as a procedural action under WAC 197-11-800(20); now therefore,

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

SECTION 1. Amendment. Section 5 of Ordinance No. 013-23, as previously amended by Ordinance No. 015-23, is hereby amended to read as follows:

This ordinance shall be in full force five days after posting and publication, provided following publication the amendments to the POMC set forth herein shall be effective March 15, 2024.

SECTION 2. 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 3. Corrections. Upon approval of the city attorney, the city clerk and the codifiers of this ordinance are authorized to make necessary technical corrections to this ordinance, including, without limitation, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

SECTION 4. Effective Date. This ordinance shall be in full force five days after posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor Pro-Tem and attested by the Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM ONLY:

SPONSOR:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED DATE:
EFFECTIVE DATE:

ORDINANCE NO. 015-23

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING ORDINANCE NO. 013-23, AMENDING CHAPTER 20.200, CITY CONSTRUCTION CODE, OF THE PORT ORCHARD MUNICIPAL CODE TO CONFORM WITH UPDATES TO THE STATE BUILDING CODE UNDER CHAPTER 19.27 OF THE REVISED CODE OF WASHINGTON AND THE REVISED WASHINGTON STATE BUILDING CODE ACT; ADOPTING THE CURRENT STATE BUILDING CODES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Building Code Council (Code Council) periodically recommends and adopts uniform codes of statewide applicability, collectively referred to as the State Building Code; and

WHEREAS, the Washington state legislature has updated Chapter 19.27 of the Revised Code of Washington (RCW), the Washington State Building Code Act, to adopt the 2021 versions of the State Building Code; and

WHEREAS, by Ordinance No. 013-23, the City of Port Orchard adopted by reference the State Building Codes as required by state law, to locally enforce said rules for the health, safety, and welfare of the public, with an effective date of July 1, 2023, consistent with state direction at the time of adoption; and

WHEREAS, since the adoption of Ordinance No. 013-23, the State Building Code Council exercised its delegated authority to delay the implementation of the State Building Code by 120 days, until October 29, 2023; and

WHEREAS, the City Council wishes to amend Ordinance No. 013-23 to extend the effective date concurrent with the action by the State Building Code Council; and

WHEREAS, the SEPA Responsible Official for the City determined that adoption of this ordinance is categorically exempt from environmental review as a procedural action under WAC 197-11-800(20); now therefore,

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

SECTION 1. Amendment. Section 5 of Ordinance No. 013-23 is hereby amended to read as follows:

This ordinance shall be in full force five days after posting and publication, provided following publication the amendments to the POMC set forth herein shall be effective October 29, 2023.

SECTION 2. 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 3. Corrections. Upon approval of the city attorney, the city clerk and the codifiers of this ordinance are authorized to make necessary technical corrections to this ordinance, including, without limitation, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

SECTION 4. Effective Date. This ordinance shall be in full force five days after posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 13th day of June 2023.

DocuSigned by:

Rob Putaansuu

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Robert Putaansuu, Mayor

ATTEST:

DocuSigned by:

Brandy Wallace

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Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM ONLY:

DocuSigned by:

Charlotte A. Archer

203701F25520457...

Charlotte A. Archer, City Attorney

SPONSOR:

Jay Bosapepe

Jay Bosapepe, Councilmember

PUBLISHED DATE: June 16, 2023

EFFECTIVE DATE: June 21, 2023



ORDINANCE NO. 013-23

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING CHAPTER 20.200, CITY CONSTRUCTION CODE, OF THE PORT ORCHARD MUNICIPAL CODE TO CONFORM WITH UPDATES TO THE STATE BUILDING CODE UNDER CHAPTER 19.27 OF THE REVISED CODE OF WASHINGTON AND THE REVISED WASHINGTON STATE BUILDING CODE ACT; ADOPTING THE CURRENT STATE BUILDING CODES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Building Code Council (Code Council) periodically recommends and adopts uniform codes of statewide applicability, collectively referred to as the State Building Code; and

WHEREAS, the Washington state legislature has updated Chapter 19.27 of the Revised Code of Washington (RCW), the Washington State Building Code Act, to adopt the 2021 versions of the State Building Code, effective July 1, 2023; and

WHEREAS, the City of Port Orchard (the “City”) has adopted by reference the State Building Codes as required by state law, to locally enforce said rules for the health, safety, and welfare of the public; and

WHEREAS, Chapter 20.200 City Construction Code of the Port Orchard Municipal Code (POMC) will not conform to the State Building Code and RCW 19.27 after July 1, 2023 without amendment; and

WHEREAS, the City Council wishes to update sections in Chapter 20.200 of the POMC so that Title 20 of the POMC is consistent with the State Building Code and RCW 19.27, as updated effective July 1, 2023; and

WHEREAS, the SEPA Responsible Official for the City determined that adoption of this ordinance is categorically exempt from environmental review as a procedural action under WAC 197-11-800(20); now therefore

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

SECTION 1. Amendment of POMC 20.200.008 State Building Code, Adopted. Port Orchard Municipal Code Section 20.200.008 is hereby amended to read as follows:

Pursuant to RCW [35A.12.140](#), the city of Port Orchard hereby adopts the following codes of technical compliance by reference, which are incorporated herein; provided, that the amendments, deletions, and additions thereto as provided in this chapter shall govern over the published provisions of the respective adopted code:

(1) The 2021 Edition of the International Building Code as published by the International Code Council (ICC), including Appendix E, as adopted and amended by the Washington State Building Code Council (WSBCC) in WAC [51-50-003](#), is hereby adopted by reference. Additionally, Appendix B of the 2021 International Building Code is adopted by reference by the city of Port Orchard;

(2) The 2021 Edition of the International Residential Code as published by the ICC and as adopted and amended by the WSBCC in WAC [51-51-003](#). Additionally, Appendix M of the International Residential Code is adopted by reference by the city of Port Orchard;

(3) The 2021 Edition of the International Mechanical Code, as published by the ICC, as adopted and amended by the WSBCC in WAC [51-52-003](#), is hereby adopted by reference by the city of Port Orchard;

(4) The 2021 Edition of the International Fire Code, as published by the ICC, as adopted by the WSBCC in Chapter [51-54A](#) WAC, is hereby adopted by reference. Additionally, Appendix B of the International Fire Code is adopted by reference by the city of Port Orchard and portions of Appendix D are adopted as shown in POMC [20.200.016](#);

(5) The 2021 Edition of the Wildland Urban-Interface Code as published by the ICC, as adopted by the WSBCC in Chapter 51-55 WAC, is hereby adopted by reference.

(6) The 2021 Edition of the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials, and as adopted and amended by the WSBCC in WAC [51-56-003](#), is hereby adopted by reference;

(7) The 2021 Edition of the International Energy Conservation Code, Commercial, as adopted and amended by the Washington State Building Code Council in Chapter [51-11C](#) WAC;

(8) The 2021 Edition of the International Energy Conservation Code, Residential, as adopted and amended by the Washington State Building Code Council in Chapter [51-11R](#) WAC;

(9) The 2021 edition of the International Property Maintenance Code, as published by the ICC; and

(10) The 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings together with the appendices, as published by the International Conference of Building Officials, is hereby

adopted, except that references to the uniform codes shall be replaced with the appropriate technical codes and sections as adopted by the city.

A copy of the codes referenced herein shall be kept on file with the city clerk.

SECTION 2. Amendment of POMC 20.200.018, Appeals. Port Orchard Municipal Code Section 20.200.018 is hereby amended to read as follows:

Whenever the fire code authority shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the codes do not apply or that the true intent and meaning of the codes have been misconstrued or wrongly interpreted, the applicant may appeal from the decision within 30 days from the date of the decision in accordance with Section 113 of the 2021 Edition of the International Fire Code, as adopted herein.

SECTION 3. 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 4. Corrections. Upon approval of the city attorney, the city clerk and the codifiers of this ordinance are authorized to make necessary technical corrections to this ordinance, including, without limitation, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

SECTION 5. Effective Date. This ordinance shall be in full force five days after posting and publication, provided following publication the amendments to the POMC set forth herein shall be effective July 1, 2023. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 23rd day of May 2023.

DocuSigned by:

Robert Putaansuu

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Robert Putaansuu, Mayor

ATTEST:

DocuSigned by:

Brandy Wallace

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Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM ONLY:

SPONSOR:

DocuSigned by:



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Charlotte A. Archer, City Attorney



Scott Diener, Councilmember

PUBLISHED: May 26, 2023

EFFECTIVE: July 1, 2023



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4D
Subject: Adoption of a Resolution Approving
an Amended Memorandum of
Agreement with the Port of
Bremerton for Waterfront Parking

Meeting Date: October 10, 2023
Prepared by: Charlotte Archer, Atty
Atty Routing No.: 366922-0009 – PW
Atty Review Date: October 4, 2023

Summary: The City’s owns and operates an existing sewerage pump station located within the Port Orchard Harbor Area in Sinclair Inlet. The Port of Bremerton owns and operates the Port Orchard Marina adjacent to the City’s sewerage pump station. The City has designed the Marina Pump Station project to replace the existing sewerage pump station (the “Project”), and the Project will temporarily and permanently impact the Port’s property as well as adjacent waterfront parking.

In 1996, the City and Port executed a Memorandum of Understanding to set forth parking assignments and responsibilities for the parking area (the “1996 MOU”). This MOU focused on the Port’s property, including Kitsap County Parcels Nos. 4053-013-007-0103, 4028-001-001-0007, and 4028-001-011-0005, commonly known as Lots 3 and 4, which are used for water dependent uses and waterfront parking, as well as the City’s rights of way and associated public parking. Due to the configuration of the waterfront, and community events and business operations impacting parking in the area, in 2011, the City and the Port entered into a new Memorandum of Agreement (the “2011 MOA”) to supersede the 1996 MOU, setting forth terms to govern the City and Port’s use, management, and revenue collection for the parking areas.

Because the City’s Marina Pump Station project to serve the residents of Port Orchard will impact the parking areas covered by the 2011 MOA, the City provided notice to the Port of the proposal in January 2023. In response, in February 2023, the Port provided notice to the City of its intent to withdraw from the 2011 MOA effective June 1, 2023. The City and Port negotiated the terms of a Memorandum of Agreement to set forth the terms and conditions by which the Port will withdraw effective July 1, 2023, and to establish the use, management, and operation of the waterfront parking areas. The City Council Approved the MOA on July 11, 2023.

Following Council approval, the Port requested additional modifications regarding the transition timeline. In response, the City requested additional modifications to the agreement pertaining to code enforcement and the Port’s future choice of a parking ticketing system. The Port’s Board of Commissioner’s approved the revised version of the Agreement at its meeting on August 22, 2023, and requested the City approve the revised version.

Recommendation: Staff recommends the City Council adopt a Resolution authorizing the Mayor Pro-Tem to execute a revised Memorandum of Agreement with the Port of Bremerton for waterfront parking.

Relationship to Comprehensive Plan: Utilities

Motion for consideration: “I move to adopt a Resolution authorizing the Mayor Pro-Tem to execute a revised Memorandum of Agreement with the Port of Bremerton for waterfront parking.”

Fiscal Impact: None

Alternatives: Do not approve and provide alternative guidance, however this is tied to the Marina Pump Station project.

Attachments: Resolution
[Revised] Memorandum of Agreement with the Port of Bremerton
Courtesy Copy of 2011 MOA

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING
RESOLUTION NO. 066-23, AUTHORIZING THE MAYOR PRO-TEM TO EXECUTE A
MEMORANDUM OF AGREEMENT WITH THE PORT OF BREMERTON
CONCERNING WATERFRONT PARKING.**

WHEREAS, the Port Orchard Marina is owned and operated by the Port of Bremerton (the “Port”), including Kitsap County Parcels Nos. 4053-013-007-0103, 4028-001-001-0007, and 4028-001-011-0005, commonly known as Lots 3 and 4, which are used for water dependent uses and waterfront parking; and

WHEREAS, the City of Port Orchard owns and controls rights of way providing access to the aforementioned parking spaces, and has historically provided parking enforcement and associated services for these public parking lots; and

WHEREAS, in 1996, the City and the Port entered into a Memorandum of Understanding to set forth parking assignments and responsibilities for the area (the “1996 MOU”); and

WHEREAS, due to the configuration of the waterfront, and community events and business operations impacting parking in the area, in 2011, the City and the Port entered into a new Memorandum of Agreement (the “2011 MOA”) to supersede the 1996 MOU, setting forth terms to govern the City and Port’s use, management, and revenue collection for the parking areas; and

WHEREAS, the City’s proposal to construct the Marina Pump Station project to serve the residents of Port Orchard will impact the parking areas covered by the 2011 MOA, and accordingly, the City provided notice to the Port of the proposal in January 2023; and

WHEREAS, in February 2023, the Port provided notice to the City of its intent to withdraw from the 2011 MOA effective June 1, 2023; and

WHEREAS, the City and Port negotiated the terms of a Memorandum of Agreement to set forth the terms and conditions by which the Port will withdraw effective July 1, 2023, and to establish the use, management, and operation of the waterfront parking areas; and

WHEREAS, the proposed Memorandum of Agreement provides, among other terms, that the City and Port will work collaboratively to ensure public events continue in the area and that the City will provide parking enforcement to benefit the public that utilize these parking lots in exchange for compensation; and

WHEREAS, the City Council approved the Memorandum of Agreement by Resolution No. 066-23 on June 27, 2023, and following approval the Port requested additional modifications to the Memorandum of Agreement which are reflected in the version attached as Exhibit A and incorporated herein by this reference;

WHEREAS, the City Council finds it in the best interest of the City and its residents to

authorized the Mayor Pro-Tem to execute the revised Memorandum of Agreement with the Port for waterfront parking; 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: Resolution No. 066-23 is amended to substitute Exhibit A attached hereto and incorporated herein with this reference. The Mayor Pro-Tem is authorized to execute the Memorandum of Agreement attached hereto as Exhibit A and incorporated herein with this reference. The Mayor is further authorized to take all actions necessary to effectuate the terms of the Memorandum of Agreement.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor Pro-Tem and attested by the Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

Brandy Wallace, City Clerk, MMC

Memorandum of Agreement

for

Allocation and Control of Parking on Waterfront Property

Between

City of Port Orchard

and

Port of Bremerton

2023

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Exhibit A: DNR Lease No. 20-A09891

Exhibit B: Map of Premises

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“MOA”) is effective on the day of the last signature on this MOA, by and between the Port of Bremerton (“Port”), a public port district, and the City of Port Orchard (“City”), a Washington State municipal corporation.

RECITALS

- A. The Port Orchard Marina is owned and operated by the Port of Bremerton, which has a Port Management Agreement (PMA) no. 22-080016 with Department of Natural Resources (“DNR”) for use of State-owned aquatics lands for port purposes. It is located within the Port Orchard Harbor Area in Sinclair Inlet, in Kitsap County, Washington.
- B. The Port of Bremerton is in ownership of property including Kitsap Assessor Parcel Number # 4053-013-007-0103, commonly known as “Lot 3” and has been used for water dependent uses and waterfront parking.
- C. The Port of Bremerton is in ownership of property including Kitsap Assessor Parcel Number # 4028-001-001-0007, commonly known as “Lot 4” and has been used for water dependent uses and waterfront parking.
- D. The Port of Bremerton also has a lease no. 20-A09891 with DNR for use of State-owned aquatic lands including Kitsap Assessor Parcel Number # 4028-001-011-0005, that has been used for water dependent uses and waterfront parking, commonly known as the east end of the Port Orchard waterfront “Lot #4”.
- E. The City of Port Orchard is in ownership of the Harrison Avenue Right-of-Way, that has been used for water dependent uses and waterfront parking and includes portions of parking spaces within both “Lot 3” and “Lot 4”, this area is referred to as the “City’s Right-of-Way”.
- F. The 2011 existing MOA between the City of Port Orchard and Port of Bremerton previously provided the City of Port Orchard use, management, and revenue collection for the parking areas identified as “Lot 3” and “Lot 4”, with allocation of spaces for Port of Bremerton use at 707 Sidney Parkway, in the area commonly known as “Lot 1”.
- G. On January 9, 2023, The City of Port Orchard provided notice to the Port of Bremerton that the 2011 existing MOA between the City of Port Orchard and Port of Bremerton would be impacted by the Marina Pump Station project.
- H. On February 6, 2023, the Port of Bremerton provided notice to the City of Port Orchard with the intent to withdraw from the 2011 MOA effective June 1, 2023, however the Port extended that date while the parties negotiated the terms of a successor MOA.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

1. RECITALS

The foregoing recitals are true and correct and are incorporated herein by this reference.

2. PURPOSE

2.1 The purpose of this Memorandum of Agreement is to set forth the terms and conditions by which the Port will withdraw from the 2011 MOA for waterfront parking, and by July 1, 2023, will vacate the allocated parking spaces for Port of Bremerton located at 707 Sidney Parkway, in the area commonly known as "Lot 1".

2.2 The purpose of this Memorandum of AGREEMENT is also to set forth the means by which the Port will withdraw from the 2011 MOA for waterfront parking, and by July 1, 2023, will establish the Port of Bremerton use, management, and operation of the areas commonly known as Port Orchard East waterfront parking areas "Lot 3" and "Lot 4".

2.3 The purpose of this MOA is to also replace and rescind the existing 2011 MOA between the City of Port Orchard and the Port of Bremerton regarding waterfront parking.

3. PREMISES

The "Premises" include Kitsap Assessor Parcel Number # 4053-013-007-0103, # 4028-001-011-0005, Parcel Number # 4028-001-001-0007, including DNR aquatic lease No. 20-A09891 and including 15 partial parking spaces located within the Harrison Avenue right-of-way, of the areas commonly known as Port Orchard East waterfront parking areas "Lot 3" and "Lot 4".

4. EFFECTIVE DATE

The "Effective Date" of this MOA shall be the date this MOA has been fully executed.

5. TERM

The term of this agreement shall be ongoing unless terminated by written agreement or with 180-day written notification.

6. AGREEMENT

6.1 The Port shall withdraw from the 2011 Memorandum of Agreement for waterfront parking with the City of Port Orchard on July 1, 2023, and will vacate the allocated parking spaces for Port of Bremerton located at 707 Sidney Parkway, in the area commonly known as "Lot 1" upon execution of this agreement.

6.2 The Port of Bremerton will establish the use, management, operation, maintenance, and revenue collection of the premises, commonly known as Port Orchard East waterfront parking

areas “Lot 3” and “Lot 4” upon execution of this agreement.

6.3 Upon execution of this agreement, the Port of Bremerton will begin to manage community event permits and event usage of the premises, commonly known as Port Orchard East waterfront parking areas “Lot 3” and “Lot 4”. The Port of Bremerton will endeavor to honor existing approved 2023 City event permits as much as practicable and will coordinate with stakeholders.

6.4 The City of Port Orchard has agreed to provide parking enforcement for premises, commonly known as Port Orchard East waterfront parking areas “Lot 3” and “Lot 4”. Enforcement shall include Marina Tenant parking passes and interaction with the Port regarding implementation of Port parking rules and requirements. Parking enforcement shall commence upon notice to proceed issued to the City by the Port, which may or may not occur simultaneously with the effective date of this MOA. Parking enforcement shall be compensated pursuant to compensation identified in Section 7.

6.5 The Port of Bremerton will manage, control, and be responsible for all maintenance, striping, landscaping, curbs, surfacing, lighting, signage, and all capital projects for premises, commonly known as parking areas “Lot 3” and “Lot 4”.

6.6 The Port of Bremerton will manage, control, and be responsible for parking fare collection and any electronic parking kiosks for premises, commonly known as parking areas “Lot 3” and “Lot 4”.

6.7 The City of Port Orchard agrees to remove the existing parking kiosks and signage upon the execution of this agreement, provided the kiosks and signage shall be removed by September 30, 2023.

6.8 The City of Port Orchard agrees to coordinate with the Port of Bremerton regarding plans, permits, and approvals pertaining to the construction of the Bay Street Pedestrian Path Segment 1, located on the premises, commonly known as parking areas “Lot 3” and “Lot 4”.

6.9 With regards to any parking stalls or spaces not covered by this Agreement but which are located on the Premises described herein, the City shall be responsible for any such spaces in Lot 1, and the Port shall be responsible for any such spaces in Lots 3 and 4, including all necessary maintenance, striping, pavement repair, thermoplastics, sweeping, and landscaping.

7. COMPENSATION

7.1 Parking Enforcement: The Port shall provide compensation and payment to the City each year by June 30th for Parking Enforcement services provided by the City for Lot 3 and Lot 4.

7.2 Annual parking enforcement compensation shall be in the amount of \$12,000 each year.

7.3 The annual parking enforcement compensation may be increased each year beginning January 1, 2025. The compensation shall increase annually per CPI-U (All Urban Consumers Index) (1982-1984=100), not seasonally adjusted, for the Seattle-Tacoma-Bellevue area for that 12-month period from January 1st to December 31st indexed as the annual average, as is specified by the Bureau

of Labor Statistics, United States Department of Labor. Increases based on CPI-U shall take effect on January 1st of the following year. However, the increase shall be no more than 5% or no less than 1%.

7.4 In addition to the increase set out in Section 1.3 herein, the City shall be authorized to increase parking enforcement compensation upon six (6) months written notice to the Port if the City's costs associated with parking enforcement increase due to the Port's selection of a new permitting/ticketing method or vendor, including but not limited to a selection that triggers the City's purchase of necessary software or equipment at the request of the Port, or increased staff time dedicated to enforcement efforts due to the Port's choice of permitting method/vendor.

7.5 Initial parking enforcement compensation shall be prorated based on the number of days remaining in 2023 upon commencement of parking enforcement at the direction of the Port (see Section 6.4).

7.6 Compensation payment to the City shall be provided on or before June 30 of each year, with the initial prorated parking enforcement payment due to the City by December 31, 2023.

7.7 Termination of Parking Enforcement Services: Upon six (6) months of written notice, either party may terminate the agreement for parking enforcement. Termination of parking enforcement shall not impact or affect other sections of this agreement.

8. RESTRICTIONS ON USE

The Port shall maintain a total of 20 spaces located within Lot # 3, available to the public for 2-hour parking free of charge for the parking space. Those spaces shall not be exempt from enforcement due to a marina parking pass.

9. EVENTS COORDINATION

9.1 The Port of Bremerton and the City of Port Orchard agree to coordinate efforts related to community events occurring on the premises identified herein (for example, 4th of July, Cruz Car Show, Chimes & Lights), in relation to road closures, public works needs, police and first responder safety, transit operations, and similar use of public spaces. Community events located in areas controlled by the Port that do not involve the closure of or impact in any way Harrison Avenue shall be the primary responsibility of the Port, utilizing the Port's application process, provided the City shall be provided the opportunity to comment on the application. Community events involving Harrison Avenue shall be the primary responsibility of the City, utilizing the City's application process, provided the application shall be submitted to the Port for review and approval for events that propose to utilize property controlled by the Port.

9.2 The Port and the City agree to work together on a case-by-case basis to assist with temporary event parking for marina tenants where needed, related to specific community events (for example, 4th of July, Cruz Car Show, Chimes & Lights).

9.3 The Port of Bremerton and the City of Port Orchard agree to review and provide communication in relation to each other's Event permits and applications that may impact spaces or needs related to the premises.

9.4 For 2023, City event permits already approved by the City shall continue to be honored by the Port for 2023.

10. RECIPROCAL INDEMNIFICATION

To the maximum extent permitted by law, each Party shall defend, indemnify, and hold harmless the other Party and all of its officials, Board Members, employees, principals, and agents from all claims, demands, suits, actions, and liability of any kind, including injuries to persons or damages to property ("Claims"), which arise out of, are connected with, or are due to the negligent acts or omissions of the indemnifying Party, its contractors, and/or employees, agents and representatives in performing its obligations under this Agreement, provided each Party's obligation under this section applies only to the extent of the negligence of that Party or its contractors, employees, agents, or representatives.

Each of the Parties agrees that its obligations under this section extend to any claim, demand, cause of action and judgment brought by, or on behalf of, any of its employees or agents. For this purpose, both Parties, by mutual negotiation, hereby waive, regarding the other Party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW.

11. DEFAULT

Failure to perform any provision of this MOA shall constitute a default by the party failing to perform, unless such default is cured by the party failing to perform within 90 days after receiving written notice from the other party. Exceptions: If there is any delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, regulations or controls, enemy or hostile governmental action, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, such causes shall excuse the performance. If the default cannot reasonably be cured within 90 days, the non-performing party shall not be in default of this MOA if that party commences to cure the default within such ninety (90) day period and diligently and in good faith continues to cure the default.

12. NOTICE

Any notice given under this MOA shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier return receipt requested, with postage prepaid, at the following addresses, or at such other addresses as either the Port or City of Port Orchard may designate by notice as its new address:

Address for Port of Bremerton:	Chief Executive Officer Port of Bremerton 8850 SW State Hwy 3 Bremerton, WA 98312
Telephone No:	(360) 674-2381
Fax No:	(360) 674-2807

Email: jimr@portofbremerton.org

Address for City of Port Orchard: Mayor
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

Telephone No: (360) 876-4407
Fax No: (360) 895-9029
Email: rputaansuu@portorchardwa.gov

Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first-class or certified mail, one day after the date it is mailed, if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by email, facsimile or telephone to the address or numbers set forth above or such other address or number as may be provided from time to time; however, neither the Port nor City of Port Orchard may give official or binding notice by email, telephone or facsimile.

13. ENTIRE AGREEMENT

This MOA (including attached exhibits, if any) contains the entire AGREEMENT between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this MOA to be executed as of the date written below.

City of Port Orchard Resolution No. _____
Port of Bremerton Resolution No. _____

CITY OF PORT ORCHARD, a public municipality

By: _____

Jim Rothlin
Chief Executive Officer
Port of Bremerton

PORT OF BREMERTON, a public port district

By: _____

Robert Putaansuu
Mayor
City of Port Orchard

Date Signed: _____

Date Signed: _____

Memorandum of Agreement
between the City of Port Orchard and The Port of Bremerton
Concerning the Allocation and Control of Parking on Waterfront Property
City Contract No. 034-11

This Memorandum of Agreement (MOA) supersedes and replaces the previous agreement between the Port of Bremerton ("Port") and the City of Port Orchard ("City") (hereafter collectively referred to as "the parties") dated February 13, 1996 (see Exhibit A).

Background: The Port currently controls 30 parking spaces adjacent to the Port's Port Orchard Marina Park ("Lot #4"). These parking spaces are located on two property parcels; one parcel is owned by the Port and the other parcel is leased by the Port from the Washington State Department of Natural Resources ("WADNR"). The Port uses these spaces for Port Orchard Marina tenant parking and Marina Park parking. The City of Port Orchard ("City") currently controls 32 spaces in two rows directly in front of the Port's Port Orchard Marina office ("Lot #1") that the Port propose to occupy. These parking spaces (both merchant/paid parking and 4-hour parking) are located on a property parcel leased by the City from WADNR. The City also controls 87 spaces (both merchant/paid and paid) on, or partially on, a Port owned parcel of land on the waterfront accessed off Harrison Avenue (see Exhibit B, which is attached and incorporated by reference).

Discussion: Over time, the configuration of the waterfront and the impact of community events and business operations have made it advantageous for the City and the Port to exchange responsibility for the control of Lots #1 and #4. The major impacts driving the need to change are:

- The Port's Lot #4 spaces are sometimes underutilized due to the inconvenient distance of the lot from the marina gates. As a result, the boaters are more likely to use the 4-hour no-fee City parking in other lots nearer the marina gates, including Lot #1.
- When the Farmers Market is in operation adjacent to Lot #4, marina tenants using Lot #4 must drive through parts of the Farmer's Market. This is a safety concern for both the City and the Port. This also causes marina tenants to underutilize this lot and park in the no-fee City parking.
- When marina tenants use the no-fee City parking it lowers the number of spaces available for local merchant customers to park.
- Very few customers of local businesses use Lot #1. Most of the spaces in Lot #1 are used by commuters and merchants who would not be adversely impacted by using Lot #4.
- Community events frequently (3 to 5 times a year) require the Port to vacate its Lot #4 spaces and move marina tenant parking to 32 spaces in Lot #1 which have been vacated by the City for the event. This causes major disruption to the marina tenants who are the customers of the largest single downtown business in Port Orchard. In addition, this temporary swapping of parking spaces causes significant confusion amongst the public.
- The City's recent switch to an electronic paid parking system for the spaces accessed off Harrison Avenue.
- Parking needs associated with the Port's future Marina Park Expansion project.

Agreement: The Port and the City agree that it is in their best interest, and in the best interest of the public, to modify the current arrangement of parking management effective April 4, 2011 subject to the following:


1. Attached hereto and incorporated by reference is Exhibit C which depicts the proposed parking as described herein.
2. The City will retain control of the 87 (both merchant/paid and paid) spaces on the Port property accessed off Harrison Avenue.
3. The Port agrees to vacate all 30 parking spaces in Lot #4 and turn over control of those spaces to the City. The 11 existing waterfront spaces (Lot#4) will be converted into nine (9) 2-hour Marina Park parking spaces, one (1) ADA stall with ramp and parking enforcement provided by the City.
4. The City agrees to vacate 32 of its merchant/paid parking spaces in the second and third row in Lot #1 and turn over control of those spaces to the Port.

5. In consideration for a net gain of one parking space the Port agrees to take over from the City the grounds keeping responsibilities of the landscaped areas in the City's Lot #2 in front of the Port Orchard Marina at no cost to the City.
6. The City will maintain and enforce the 11 spaces (10 regular plus one ADA stall with ramp) facing the boardwalk in Lot #4 as 2-hour Marina Park parking to support public access to, and use of, the Port Orchard Marina Park and the planned waterfront trail.
7. The Port and the City will be responsible for signage and stripe painting revisions for the new parking spaces each acquired as a result of this agreement.
8. The City and the Port will establish and enforce their own rules for parking for the spaces they control regardless of which entity owns or leases the property where the parking spaces are located.
9. The City will have exclusive control of all other parking spaces in the downtown area, except for those spaces which are on private property and not allocated for City management by the property owner.
10. Parking enforcement by the City will be limited to those spaces under the exclusive control of the City. The City Parking Enforcement Person will not enforce Port parking rules. The City police will have parking enforcement authority in the Port parking areas.
11. Routine cleaning by the City Public Works Department will include both City and Port parking areas.
12. Closure of either party's parking areas will not be done without express consent of that party.
13. The City and the Port will keep each other informed of their parking regulations for their allocated areas. However, neither party can negate the parking regulations of the other.
14. The term of this agreement shall be ongoing unless terminated by written agreement or with 180-day written notification.
15. The failure of any party to insist upon strict performance of any of the terms and conditions of this Agreement shall not be construed to be a waiver or relinquishment of same, but the same shall be and remain in full force and effect.
16. Nothing contained in this Agreement shall be construed to create a liability or a right of indemnification by any third party.
17. If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of both parties.
18. Each individual executing this Agreement on behalf a party represents and warrants that such individual is duly authorized to execute and deliver the Agreement.
19. All notices and other communications to be given by either party may be given in writing to the appropriate party as follows:

City Clerk
City of Port Orchard
216 Prospect St.
Port Orchard, WA 98366
(360)876-4407

Chief Executive Officer
Port of Bremerton
8850 S.W. State Hwy.3
Port Orchard, WA 98367
(360) 674-2381

IN WITNESS WHEREOF, this Agreement has been executed by each party on the date set forth below:



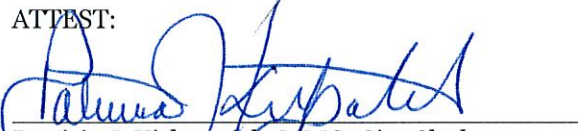
Lary Coppola, Mayor
City of Port Orchard

Dated: March 8, 2011



Cary Bozeman, Chief Executive Officer
Port of Bremerton

Dated: March 22, 2011

ATTEST:


Patricia J. Kirkpatrick, MMC, City Clerk



EXHIBIT A

MEMORANDUM OF UNDERSTANDING DOWNTOWN PARKING

This Memorandum of Understanding, MOU, is meant to replace previous arrangements between the Port of Bremerton, hereinafter referred to as the PORT, and the City of Port Orchard, hereinafter referred to as the CITY. The MOU will be effective for one year and then reviewed by both the CITY and PORT. The purpose of the that annual review will be to draft the joint resolution to formally adopt the downtown parking arrangements

Effective 1 January 1996, the following parking assignments are made, as shown by Enclosure 1:

1. The PORT will have exclusive control of the north row of parking spaces in front of the Harbor Master's office.
2. The PORT will have exclusive control of the 31 spaces in the vicinity of the Waterfront Park.
3. The CITY will have exclusive control of all other parking spaces in the downtown area, except for those spaces which are on private property and not allocated for CITY management by the property owner.


Parking enforcement by the City will be limited to those spaces under the exclusive control by the CITY. The CITY Parking Enforcement Person will not enforce PORT parking rules. The CITY Police will have parking enforcement authority in the PORT parking areas.

Routine cleaning by the CITY Public Works will include both CITY and PORT parking areas.

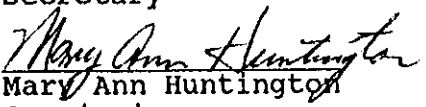
Closure of either party's parking areas will not be done without express consent of that party.

The CITY and PORT will keep each informed of their parking regulations for their allocated areas. However, neither party can negate the parking regulations of the other.


PORT OF BREMERTON


Fred S. Schoneman
President



Dick Feek
Secretary


Mary Ann Huntington
Commissioner

CITY OF PORT ORCHARD


Leslie J. Weatherill
Mayor

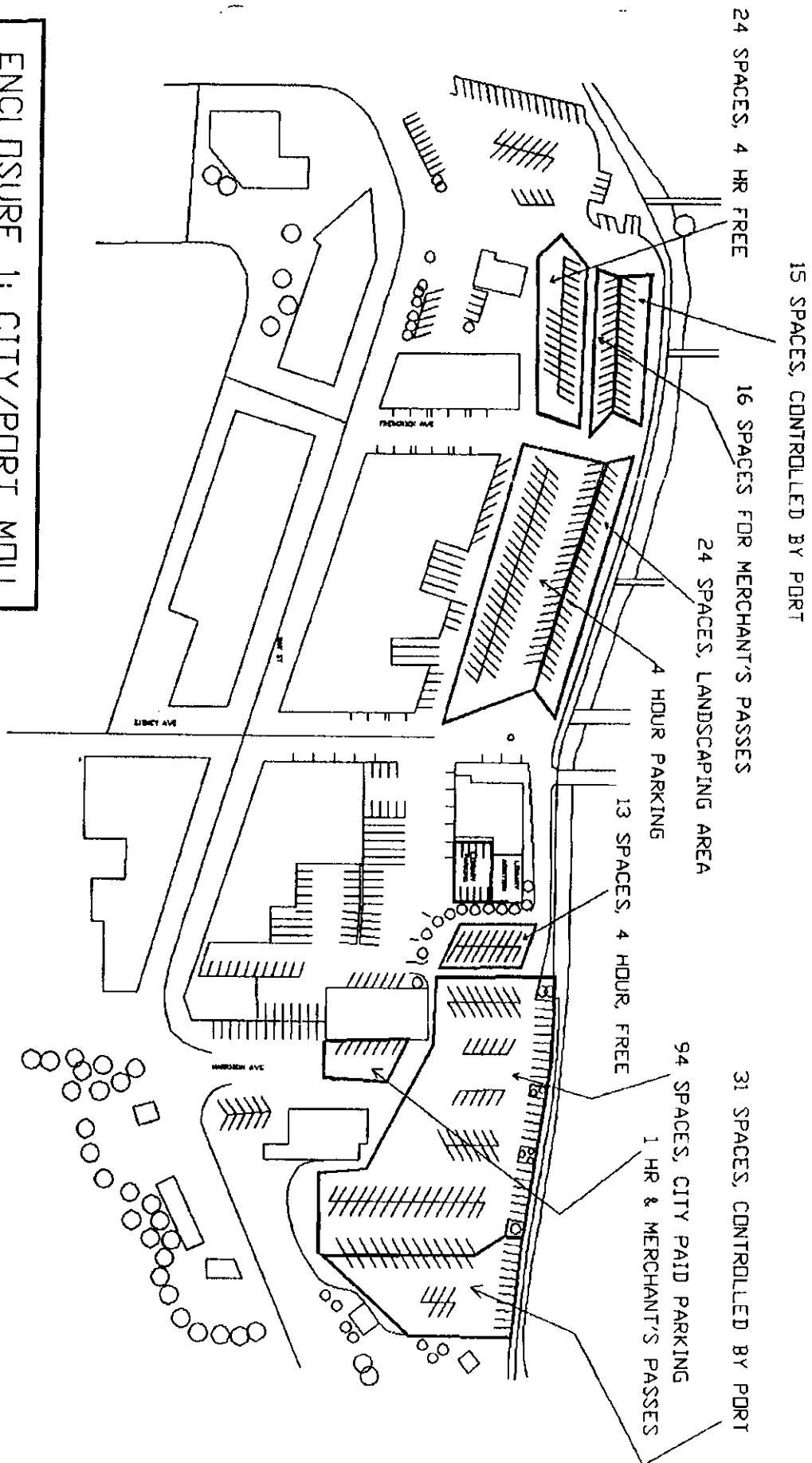
ATTESTED BY:


Patricia Parks
City Clerk

DATE OF DOCUMENT:

2/13/96

ENCLOSURE 1: CITY/PORT MDU



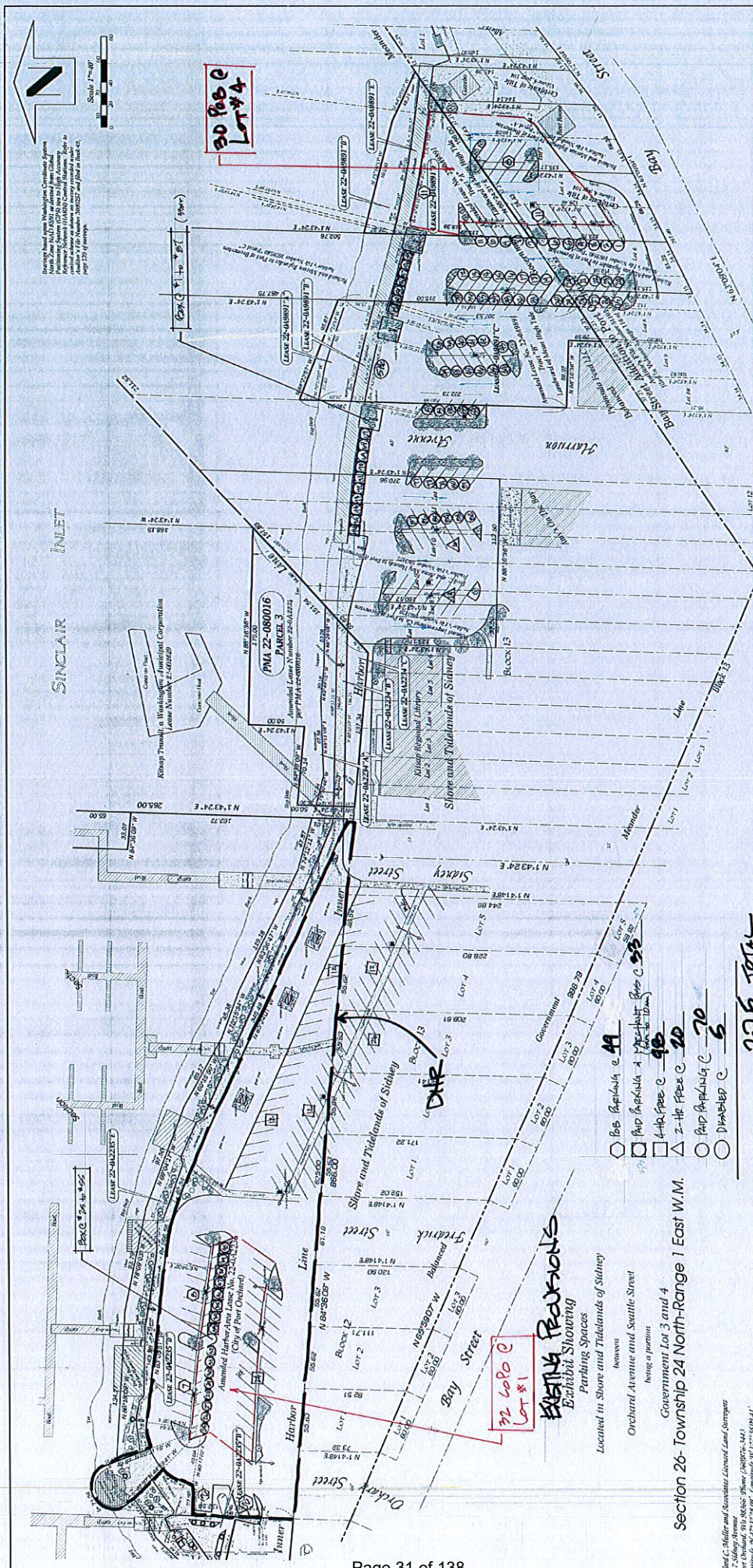
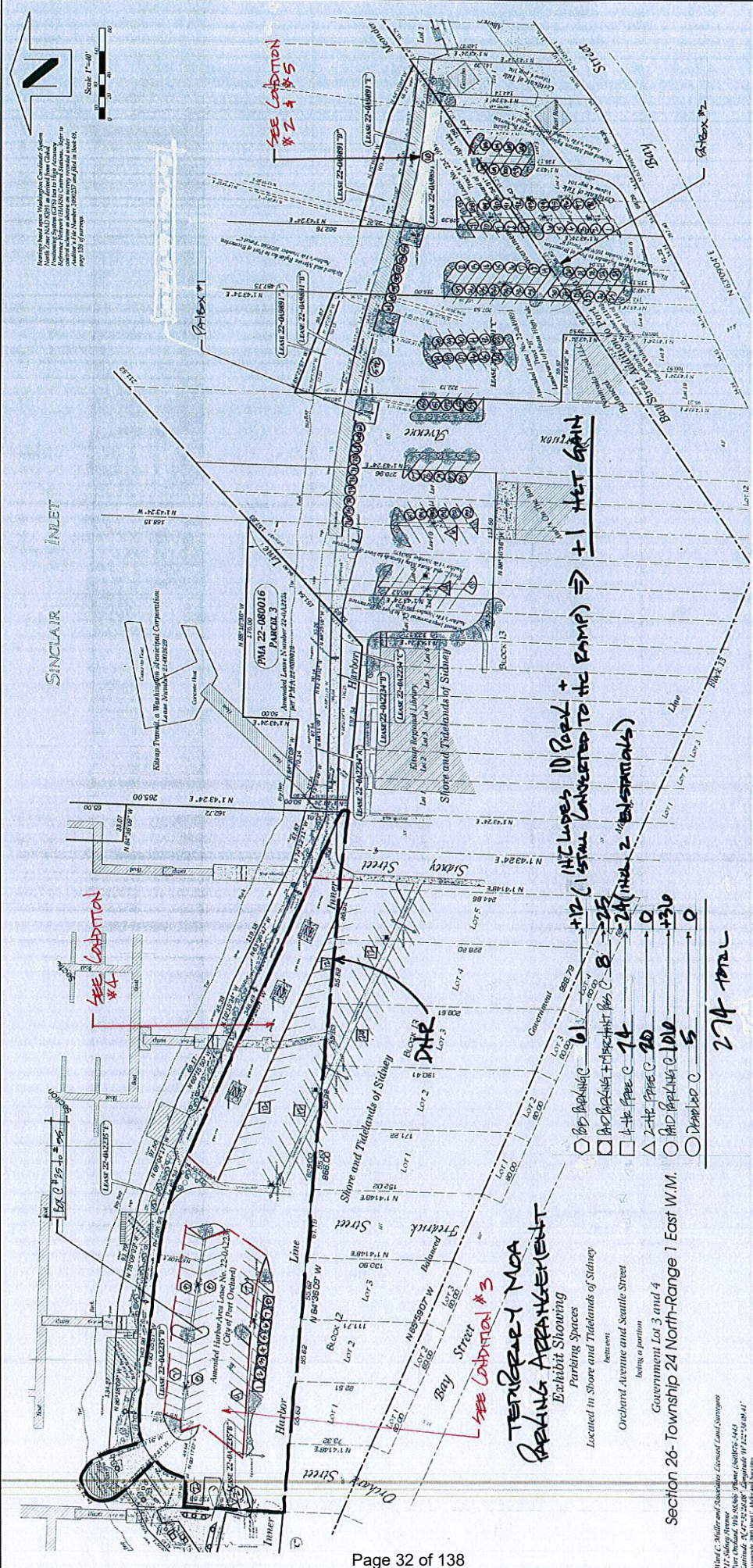


EXHIBIT B

Wendy C. Miller and Associates Licensed Land Surveyors
 1100 1st Avenue, Suite 1000, Seattle, WA 98101
 Phone: (206) 461-1100, Fax: (206) 461-1101
 E-mail: wcmiller@wcmiller.com, wcmiller@wcmiller.com
 Copyright 2008 Wendy C. Miller and Associates



**TEMPERARY MOA
PARKING ARRANGEMENT
EXHIBIT SHOWING**

Parking Spaces
Located in Shore and Tidelands of Sidney
between
Orchard Avenue and Seattle Street
being a portion
Government Lot 3 and 4
Section 26- Township 24 North-Range 1 East W.M.

Includes 10 Paved + 12 (15 ft) Unpaved to the Ramp) ⇒ +1 net gain

24 (incl. 2 materials)

- ☐ 105 Paved
- ☐ 120 Paved + 120 Unpaved
- ☐ 140 Paved
- ☐ 240 Paved
- ☐ 240 Paved
- ☐ 240 Paved

274 total

EXHIBIT C

Ward C. Miller and Associates, Licensed Land Surveyors
217 S. 1st Avenue, Suite 200, Anchorage, Alaska 99501
Phone: (907) 261-1111
Fax: (907) 261-1112
E-mail: wcmiller@wardcmiller.com
© copyright 2001 Ward C. Miller and Associates



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>Consent Agenda 4E</u>	Meeting Date:	<u>October 10, 2023</u>
Subject:	<u>Adoption of a Resolution Approving Two</u>	Prepared by:	<u>Jacki Brown</u>
	<u>Nonexclusive Perpetual Easements with</u>		<u>Interim Public Works</u>
	<u>Puget Sound Energy for a Portion of</u>		<u>Director</u>
	<u>City Owned Property</u>	Atty Routing No:	<u>366922-0009</u>
		Atty Review Date:	<u>October 4, 2023</u>

Summary: The City of Port Orchard owns two parcels of land parallel and adjacent to Old Clifton Road and Lloyd Parkway, Kitsap County Tax Parcel Nos. 342401-3-015-2004 (Parcel Address: 1292-1290 Lloyd Parkway) and 342401-3-035-2000 (Parcel Address: 1260, 1270 and 1272 Lloyd Parkway) (hereinafter the “Properties”). Puget Sound Energy (PSE) has requested from the City of Port Orchard a nonexclusive perpetual easement over, along, across and through an area of the Properties (known as the “Easement Area”) for utility purposes. For context, PSE's rights to the Properties will be limited to the following activities:

- to construct, operate, maintain, repair, replace, improve, remove or upgrade one or more guy wires, anchor poles and anchors together with any and all necessary or convenient appurtenances thereto; and
- to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area; and
- to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area; and
- to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for the purposes of transmission, distribution and sale of electricity, provided that following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional facilities as it may require for such systems.

The grant of easements over and across City-owned property requires authorization by the City Council. Staff recommends the grant of the requested Easement as serving the interests of the residents of Port Orchard.

Relationship to Comprehensive Plan: Chapter 7.3- Non-City Managed Utilities

Recommendation: Staff recommends that the City Council adopt a Resolution authorizing the Mayor to execute two Nonexclusive Perpetual Easements with Puget Sound Energy for portions of Kitsap County Parcel No. 342401-3-015-2004 and Parcel No. 342401-3-035-2000, lying parallel and adjacent to Old Clifton Road and Lloyd Parkway.

Motion for Consideration: I move to adopt a Resolution authorizing the Mayor to execute two Nonexclusive Perpetual Easements with Puget Sound Energy.

Fiscal Impact: The City will receive \$1,500 for each easement from PSE.

Alternatives: Do not approve and provide alternative guidance.

Attachments: Resolution
PSE Easements

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE TWO NONEXCLUSIVE PERPETUAL EASEMENTS WITH PUGET SOUND ENERGY (PSE) FOR A PORTION OF CITY-OWNED PROPERTY, KITSAP COUNTY TAX PARCEL NO. 342401-3-015-2004 AND KITSAP COUNTY TAX PARCEL NO. 342401-3-035-2000, LYING PARALLEL WITH AND ADJACENT TO OLD CLIFTON ROAD AND LLOYD PARKWAY

WHEREAS, the City of Port Orchard owns two parcels of land parallel and adjacent to Old Clifton Road and Lloyd Parkway, Kitsap County Tax Parcel Nos. 342401-3-015-2004 (Parcel Address: 1292-1290 Lloyd Parkway) and 342401-3-035-2000 (Parcel Address: 1260, 1270 and 1272 Lloyd Parkway) (hereinafter the "Properties"); and

WHEREAS, Puget Sound Energy has requested from the City of Port Orchard nonexclusive perpetual easements over, along, across and through that portion of the Properties as described in the proposed Easements, attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the Easements would provide Puget Sound Energy the right to use the identified area to construct, operate, maintain, repair, replace, improve, remove or upgrade one or more guy wires, anchor poles and anchors together with any and all necessary or convenient appurtenances thereto, construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for the purposes of transmission, distribution and sale of electricity; and

WHEREAS, the Easements are needed to ensure access to enable PSE to provide efficient power for the residents of the City of Port Orchard; and

WHEREAS, the grant of Easements over and across City-owned property requires authorization by the City Council; and

WHEREAS, the City Council desires to grant the Easements to Puget Sound Energy under the terms and conditions contained therein; and

WHEREAS, the City Council finds that the grant of the requested Easements are in the best interests of the residents of Port Orchard; 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 the Resolution.

THAT: The Port Orchard City Council approves of and authorizes the Mayor to execute two nonexclusive perpetual Easements with Puget Sound Energy for portions of Kitsap County Parcel No. 342401-3-015-2004 and Parcel No. 342401-3-035-2000, lying parallel and adjacent to Old Clifton Road and Lloyd Parkway, attached hereto as Exhibit A and in a form acceptable to the City Attorney.

THAT: This Resolution shall take full force and effect upon passage and signatures hereon.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor Pro-Tem and attested by the City Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

Brandy Wallace, MMC, City Clerk



August 22, 2023

Via Email: khammer@portorchardwa.gov

City of Port Orchard
Attn: Chris Hammer
216 Prospect Street
Port Orchard, WA 98366-5326

RE: Puget Sound Energy – EPO-12 CLIFTON RD RBLD FDR TW_ #101097687 / 153004468
Kitsap County Assessor's Tax Parcel No.: 342401-3-015-2004
Project No.: # 15 / **Parcel Address:** 1292 - 1290 Lloyd Pkwy, Port Orchard, WA

Dear Mr. Hammer,

Puget Sound Energy (PSE) has designed a system improvement project of the existing electrical facilities along SW Old Clifton Road. The purpose of this project is to improve electric system reliability by reducing power outages for PSE customers. The project will replace existing overhead wire with specially coated Tree Wire that repels tree branches and prevents shorts in the electric circuit, replace aging power poles that need to meet Kitsap County Clear Zone requirements and install down guy tension wires as needed. Tree Wire has reduced power outages by over 90% where already installed. Although PSE normally installs utility facilities within the public right-of-way, sometimes conditions along the project route make it necessary for electric facilities to be placed on private property within easements.

Enclosed please find a standard PSE easement for the portion of facilities affecting your private property. PSE will compensate you fair market value for the described easement area in the amount of \$500.00. PSE is offering an additional \$1,000.00 as an incentive bonus to sign and return the easement by October 6, 2023.

If you find this offer acceptable, please sign the documents in the presence of a Notary Public. Upon receipt and approval of the original fully executed easement, real property voucher and completed W-9 form (enclosed), PSE will provide compensation as follows:

- If signed easement is returned before October 6, 2023: \$1,500.00
- If signed easement is returned on or after October 6, 2023: \$500.00

If you have any questions, or would like to meet to discuss further, please contact me directly. If I do not hear from you, I plan to follow-up with a call in a few days. I appreciate your time and consideration of this easement offer and look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Pam Haukeli', is written over a light blue circular stamp.

Pam Haukeli - HDR Consultant
Real Estate Representative for PSE
425-616-5245 /pamela.haukeli@hdrinc.com

Enclosures: Easement, W-9 Form, Real Property Voucher, Work Sketch

Receipt of this letter is hereby acknowledged:

City of Port Orchard
(Signature above does not mean acceptance of offer.)

Date

Puget Sound Energy, Inc. Real Property Voucher Form

AGENCY NAME: Puget Sound Energy, Inc. Attn: Real Estate, R/W Dept. 3130 S. 38th Street Tacoma, WA 98409	City of Port Orchard, WA, a Political Subdivision of the State of Washington By: _____ Robert Putaansuu, Mayor Date _____ Phone: _____								
GRANTOR OR CLAIMANT: City of Port Orchard Attn: Robert Putaansuu, Mayor 216 Prospect Street Port Orchard, WA 98366-5326									
<table style="width: 100%;"> <tr> <td style="width: 35%;">PROJECT NAME:</td> <td>PUGET SOUND ENERGY – EPO-12 CLIFTON RD RBLD FDR TW</td> </tr> <tr> <td>WORK ORDER #:</td> <td>101097687 / 153004468</td> </tr> <tr> <td>ASSESSOR PARCEL NUMBER:</td> <td>342401-3-015-2004 / 1292-1290 Lloyd Parkway, Pt Orchard</td> </tr> <tr> <td>PSE PROJECT PARCEL:</td> <td>#15</td> </tr> </table>		PROJECT NAME:	PUGET SOUND ENERGY – EPO-12 CLIFTON RD RBLD FDR TW	WORK ORDER #:	101097687 / 153004468	ASSESSOR PARCEL NUMBER:	342401-3-015-2004 / 1292-1290 Lloyd Parkway, Pt Orchard	PSE PROJECT PARCEL:	#15
PROJECT NAME:	PUGET SOUND ENERGY – EPO-12 CLIFTON RD RBLD FDR TW								
WORK ORDER #:	101097687 / 153004468								
ASSESSOR PARCEL NUMBER:	342401-3-015-2004 / 1292-1290 Lloyd Parkway, Pt Orchard								
PSE PROJECT PARCEL:	#15								

In Full and Final Payment for the title or interest conveyed or released, as fully set forth in the attached document:		
Permanent Easement:		\$ 500.00
Incentive for signing before October 6, 2023		\$ 1,000.00
Total of Final Settlement:		\$ 1,500.00
Acquisition Agent:	_____ Pam Haukeli HDR, Inc.	_____ Date
Puget Sound Energy, Inc:	_____ Connie Corpuz, SR/WA Puget Sound Energy, Inc.	_____ Date

RETURN ADDRESS:

Puget Sound Energy, Inc.
Real Estate / ROW Department
Attn: Connie Corpuz
3130 South 38th Street
Tacoma, WA 98409



EASEMENT

REFERENCE #:

GRANTOR: CITY OF PORT ORCHARD
GRANTEE: PUGET SOUND ENERGY, INC.
SHORT LEGAL: LOT A, SP-1062 R-1, AF #9404240164; SW 34-24N-01E
ASSESSOR'S TAX #: 342401-3-015-2004

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **CITY OF PORT ORCHARD, WASHINGTON**, a Political Subdivision of the State of Washington ("Owner"), hereby grants and conveys to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("PSE"), for the purposes hereinafter set forth, a nonexclusive perpetual easement over, along, across and through the following described real property in **Kitsap** County, Washington (the "Property"):

LOT A OF CITY OF PORT ORCHARD SHORT PLAT NO. 1062R-1, RECORDED UNDER AUDITOR'S FILE NO. 9504240164, WHICH IS AN AMENDMENT OF AUDITOR'S FILE NO. 9108050015 (PO-56R-1).

SITUATE IN KITSAP COUNTY, STATE OF WASHINGTON.

Except as may be otherwise set forth herein, PSE's rights shall be exercised upon that portion of the Property the ("Easement Area") described as follows:

AN EASEMENT AREA TEN (10) FEET IN WIDTH HAVING FIVE (5) FEET ON EACH SIDE OF A CENTERLINE OF GRANTEE'S FACILITIES LOCATED AS CONSTRUCTED OR TO BE CONSTRUCTED, EXTENDED OR RELOCATED, LYING WITHIN THE SOUTH FIFTY (50) FEET OF THE HEREIN DESCRIBED REAL PROPERTY.

1. Purpose. PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove or upgrade one or more guy wires, anchor poles and anchors together with any and all necessary or convenient appurtenances thereto.

2. Access. PSE shall have a reasonable right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

3. Easement Area Clearing and Maintenance. PSE shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area.

4. Restoration. Following the initial installation, repair or extension of its facilities, PSE shall, to the extent reasonably practicable, restore landscaping and surfaces and portions of the Property affected by PSE's work to the condition existing immediately prior to such work. PSE shall use good faith efforts to perform its restoration obligations under this paragraph as soon as reasonably possible after the completion of PSE's work.

5. Owner's Use of Easement Area. Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not perform the following activities without PSE's prior written consent: (1) excavate within or otherwise change the grade of the Easement Area; (2) construct or maintain any buildings, structures or other objects on the Easement Area; and/or (3) conduct any blasting within 300 feet of PSE's facilities.

6. Indemnity. PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of PSE's negligence, or the negligence of PSE's employees, agents or contractors in the exercise of the rights herein granted to PSE, but nothing herein shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner, its employees, agents or contractors or the negligence of third parties.

7. Attorneys' Fees. The prevailing party in any lawsuit brought to enforce or interpret the terms of this Easement shall be entitled to recover its reasonable attorneys' fees and costs incurred in said suit, including on appeal.

8. Successors and Assigns. This Easement is binding upon and will inure to the benefit of the successors and permitted assigns of the parties. PSE may not assign or otherwise transfer any of its rights, obligations or interest under this Easement without the prior written consent of Owner, which consent may not be unreasonably withheld. Notwithstanding the foregoing, PSE may assign this Easement to an affiliate or in connection with a merger, acquisition, corporate reorganization, sale of assets or other change in control.

9. Complete Agreement; Amendment; Counterparts. This Easement contains the entire agreement of the parties with respect to this subject matter and supersedes all prior writings or discussions relating to the Easement. This Easement may not be amended except by a written document executed by the authorized representatives of Owner and PSE. This Easement may be executed in counterparts, each of which shall be treated as an original for all purposes and all executed counterparts shall constitute one agreement.

10. Warranty and Representation of Authority. The Owner represents to PSE that the person or persons executing this Easement have authority to do so and to bind the Owner hereunder. All consents, permissions and approvals related to this Easement, and the obligations hereunder, have been obtained. Owner further warrants to PSE that it has the necessary right, title and interests in the Property to grant the easement rights set forth herein.

11. Severability. Invalidation of any of the provisions contained in this Easement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions thereof or the application thereof to any other person and the same shall remain in full force and effect. If a provision is found to be unenforceable or invalid, that provision shall be modified or partially enforced to the maximum extent permitted by law to effectuate the purpose of this agreement.

12. Non-Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.



September 6, 2023

Via Email: khammer@portorchardwa.gov

City of Port Orchard
Attn: Chris Hammer
216 Prospect Street
Port Orchard, WA 98366-5326

RE: Puget Sound Energy – EPO-12 CLIFTON RD RBLD FDR TW #101097687 / 153004468
Kitsap County Assessor's Tax Parcel No.: 342401-3-035-2000
Project No.: # 16 / Parcel Address: 1260, 1270 & 1272 Lloyd Pkwy, Port Orchard, WA

Dear Mr. Hammer,

Puget Sound Energy (PSE) has designed a system improvement project of the existing electrical facilities along SW Old Clifton Road. The purpose of this project is to improve electric system reliability by reducing power outages for PSE customers. The project will replace existing overhead wire with specially coated Tree Wire that repels tree branches and prevents shorts in the electric circuit, replace aging power poles that need to meet Kitsap County Clear Zone requirements and install down guy tension wires as needed. Tree Wire has reduced power outages by over 90% where already installed. Although PSE normally installs utility facilities within the public right-of-way, sometimes conditions along the project route make it necessary for electric facilities to be placed on private property within easements.

Enclosed please find a standard PSE easement for the portion of facilities affecting your private property. PSE will compensate you fair market value for the described easement area in the amount of \$500.00. PSE is offering an additional \$1,000.00 as an incentive bonus to sign and return the easement by October 6, 2023.

If you find this offer acceptable, please sign the documents in the presence of a Notary Public. Upon receipt and approval of the original fully executed easement, real property voucher and completed W-9 form (enclosed), PSE will provide compensation as follows:

- If signed easement is returned before October 6, 2023: \$1,500.00
- If signed easement is returned on or after October 6, 2023: \$500.00

If you have any questions, or would like to meet to discuss further, please contact me directly. If I do not hear from you, I plan to follow-up with a call in a few days. I appreciate your time and consideration of this easement offer and look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Pamela Haukeli', is written over a light blue circular stamp.

Pam Haukeli - HDR Consultant
Real Estate Representative for PSE
425-616-5245 /pamela.haukeli@hdrinc.com

Enclosures: Easement, W-9 Form, Real Property Voucher, Work Sketch

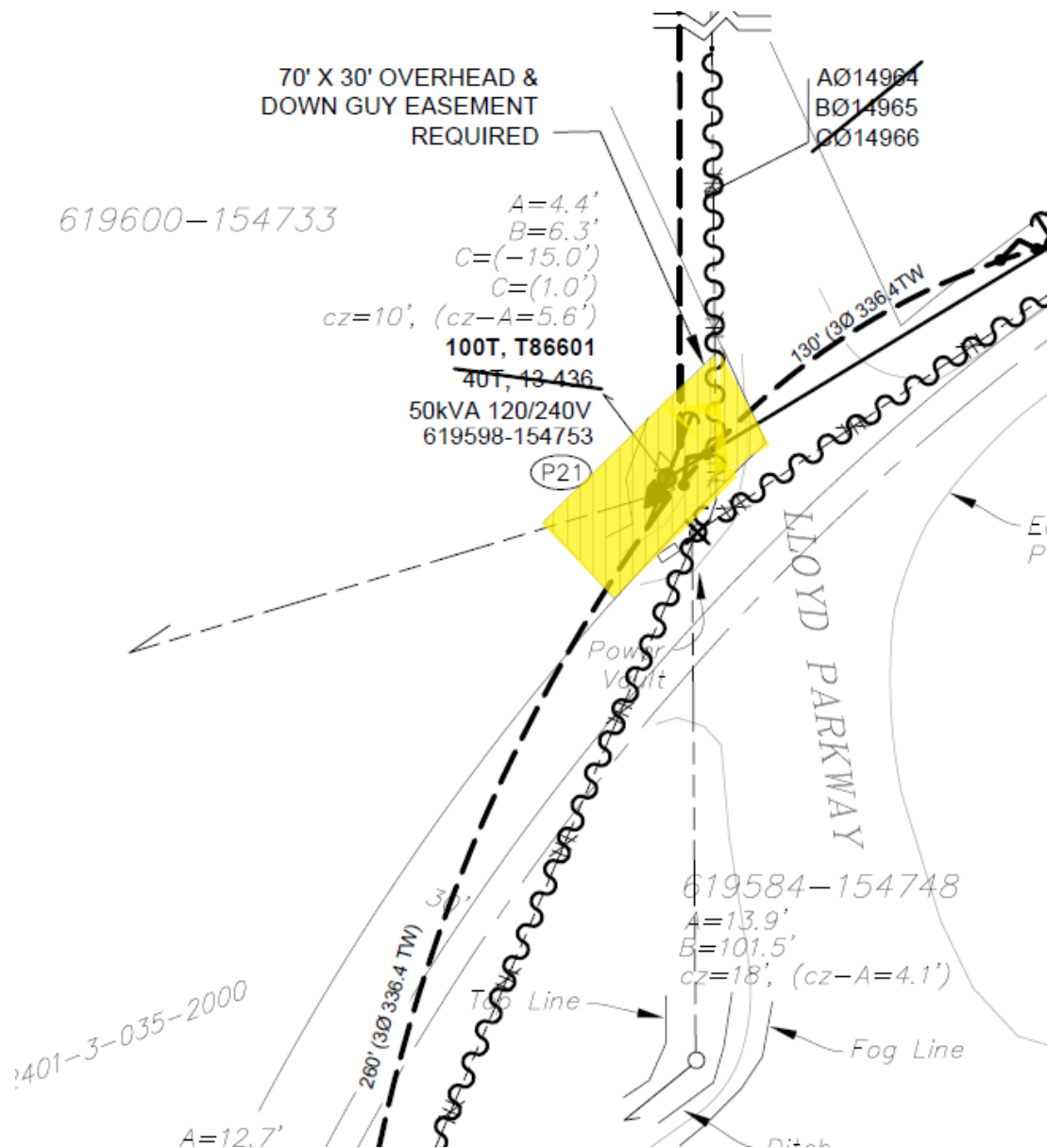
Receipt of this letter is hereby acknowledged:

City of Port Orchard
(Signature above does not mean acceptance of offer.)

Date



Parcel #342401-3-035-2000
Overhead, Pole and Anchor Easement Area



NOTE: This map is not intended to represent the precise location or the extent of Puget Sound Energy's present or future facilities.

EPO-12 CLIFTON RD RBLD FDR TW
Work Order #101097687 / 153004468

Puget Sound Energy, Inc. Real Property Voucher Form

AGENCY NAME: Puget Sound Energy, Inc. Attn: Real Estate, R/W Dept. 3130 S. 38th Street Tacoma, WA 98409	City of Port Orchard, Washington, a Political Subdivison of the State of Washington By: _____ Robert Putaansuu, Mayor
GRANTOR OR CLAIMANT: City of Port Orchard Attn: Robert Putaansuu, Mayor 216 Prospect Street Port Orchard, WA 98366-5326	Date _____ Phone: _____

PROJECT NAME:	PUGET SOUND ENERGY – EPO-12 CLIFTON RD RBLD FDR TW
WORK ORDER #:	#101097687 / 153004468
ASSESSOR PARCEL NUMBER:	342401-3-035-2000 / 1260, 1270 & 1272 Lloyd Parkway, Pt Orchard
PSE PARCEL NUMBER:	#16

In Full and Final Payment for the title or interest conveyed or released, as fully set forth in the attached document:		
Permanent Easement:		\$ 500.00
Incentive for signing before October 6, 2023		\$ 1,000.00
Total of Final Settlement:		\$ 1,500.00
Acquisition Agent:	_____ Pam Haukeli HDR, Inc.	_____ Date
Puget Sound Energy, Inc:	_____ Connie Corpuz, SR/WA Puget Sound Energy, Inc.	_____ Date

RETURN ADDRESS:

Puget Sound Energy, Inc.
Real Estate / ROW Department
Attn: Connie Corpuz
3130 South 38th Street
Tacoma, WA 98409



EASEMENT

REFERENCE #:

GRANTOR: CITY OF PORT ORCHARD
GRANTEE: PUGET SOUND ENERGY, INC.
SHORT LEGAL: LOT B, SP S-1062-R1, AF# 9504240164; SW 34-24N-01E
ASSESSOR'S TAX #: 342401-3-035-2000

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **CITY OF PORT ORCHARD, WASHINGTON**, a Political Subdivision of the State of Washington ("Owner"), hereby grants and conveys to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("PSE"), for the purposes hereinafter set forth, a nonexclusive perpetual easement over, along, across and through the following described real property in **Kitsap** County, Washington (the "Property"):

LOT B, CITY OF PORT ORCHARD SHORT PLAT S-1062-R1, RECORDED UNDER AUDITOR'S FILE NO. 9504240164, WHICH IS AN AMENDMENT OF KITSAP COUNTY AUDITOR'S FILE NO. 9108050015 (PO-56R-1), RECORDS OF KITSAP COUNTY, WASHINGTON,

EXCEPT THAT PORTION OF LYING NORTHERLY OF SW OLD CLIFTON ROAD, (FORMERLY KNOWN AS ALDER ROAD) AND LYING EASTERLY OF LLOYD PARKWAY AS DESCRIBED IN AN INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. 9306180103, RECORDS OF KITSAP COUNTY, WASHINGTON.

Except as may be otherwise set forth herein, PSE's rights shall be exercised upon that portion of the Property the ("Easement Area") described as follows:

COMMENCING AT THE INTERSECTION OF THE SOUTHWESTERLY RIGHT OF WAY MARGIN OF LLOYD PARKWAY AND THE NORTHWESTERLY RIGHT OF WAY MARGIN OF OLD CLIFTON ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE SOUTHWESTERLY SEVENTY (70) FEET ALONG THE NORTHWEST RIGHT OF WAY MARGIN OF OLD CLIFTON ROAD; THENCE NORTHWEST AT 90 DEGREES, THIRTY (30) FEET; THENCE NORTHEASTERLY TO A POINT ON THE WEST ROW MARGIN OF LLOYD PARKWAY, SAID POINT BEING 30 FEET NORTH OF THE POINT OF BEGINNING; THENCE SOUTH THIRTY (30) FEET TO TRUE POINT OF BEGINNING;

1. Purpose. PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend one or more utility systems for the purposes of transmission, distribution and sale of electricity. Such systems may include:

Overhead facilities. Poles and other support structures with crossarms, braces, guys and anchors; electric transmission and distribution lines; fiber optic cable and other lines, cables and

facilities for communications; transformers, street lights, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing.

Following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional facilities as it may require for such systems.

2. Access. PSE shall have a reasonable right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

3. Easement Area Clearing and Maintenance. PSE shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area.

4. Restoration. Following the initial installation, repair or extension of its facilities, PSE shall, to the extent reasonably practicable, restore landscaping and surfaces and portions of the Property affected by PSE's work to the condition existing immediately prior to such work. PSE shall use good faith efforts to perform its restoration obligations under this paragraph as soon as reasonably possible after the completion of PSE's work.

5. Owner's Use of Easement Area. Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not perform the following activities without PSE's prior written consent: (1) excavate within or otherwise change the grade of the Easement Area; (2) construct or maintain any buildings, structures or other objects on the Easement Area; and/or (3) conduct any blasting within 300 feet of PSE's facilities.

6. Indemnity. PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of PSE's negligence, or the negligence of PSE's employees, agents or contractors in the exercise of the rights herein granted to PSE, but nothing herein shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner, its employees, agents or contractors or the negligence of third parties.

7. Attorneys' Fees. The prevailing party in any lawsuit brought to enforce or interpret the terms of this Easement shall be entitled to recover its reasonable attorneys' fees and costs incurred in said suit, including on appeal.

8. Successors and Assigns. This Easement is binding upon and will inure to the benefit of the successors and permitted assigns of the parties. PSE may not assign or otherwise transfer any of its rights, obligations or interest under this Easement without the prior written consent of Owner, which consent may not be unreasonably withheld. Notwithstanding the foregoing, PSE may assign this Easement to an affiliate or in connection with a merger, acquisition, corporate reorganization, sale of assets or other change in control.

9. Complete Agreement; Amendment; Counterparts. This Easement contains the entire agreement of the parties with respect to this subject matter and supersedes all prior writings or discussions relating to the Easement. This Easement may not be amended except by a written document executed by the authorized representatives of Owner and PSE. This Easement may be executed in counterparts, each of which shall be treated as an original for all purposes and all executed counterparts shall constitute one agreement.

10. Warranty and Representation of Authority. The parties each represent to the other that the person or persons executing this Easement have authority to do so and to bind the parties hereunder. All consents, permissions and approvals related to this Easement, and the obligations hereunder, have been obtained. Owner further warrants to PSE that it has the necessary right, title and interests in the Property to grant the easement rights set forth herein.

12. Non-Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

OWNER:
CITY OF PORT ORCHARD, WASHINGTON, a Political Subdivision of the State of Washington

STATE OF WASHINGTON)
) ss
COUNTY OF)

Dated: _____, 2023

NOTARY PUBLIC in and for the State of Washington,
My Appointment Expires: _____

Page 50 of 138



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>Consent Agenda 4F</u>	Meeting Date:	<u>October 10, 2023</u>
	<u>Adoption of a Resolution Approving a</u>	Prepared by:	<u>Debbie Lund</u>
	<u>Contract with Public Safety Testing for</u>		<u>HR Director</u>
	<u>Entry Level Police Officer Testing</u>	Atty Routing No.:	<u>N/A</u>
		Atty Review Date:	<u>N/A</u>

Summary: The City of Port Orchard has utilized the services of Public Safety Testing since 2000 to conduct entry level police officer written and physical agility testing in accordance with Port Orchard's Civil Service Rules. The contract routinely expires and needs renewal and approval every one to three years. Public Safety Testing is moving to a continuous contract model, providing for established and known pricing for future services. The contract allows either party to terminate the contract upon 60 days written notice to the other party.

Due to the extended nature of this contract, it is possible that the total expenditure could exceed the limit the Mayor is authorized to expend without council approval. Therefore, staff is requesting that Council authorize the Mayor to sign the contract, which is provided as an exhibit to the attached resolution.

Recommendation: Staff recommends approval of the attached resolution.

Relationship to Comprehensive Plan: N/A

Motion for consideration: "I move to adopt a Resolution authorizing the Mayor to execute a contract with Public Safety Testing for entry level police officer testing as presented."

Fiscal Impact: Included in the 2023-24 budget.

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

Attachments: Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING
THE MAYOR TO EXECUTE A CONTRACT WITH PUBLIC SAFETY TESTING FOR ENTRY
LEVEL POLICE OFFICER TESTING.**

WHEREAS; the City of Port Orchard has utilized the services of Public Safety Testing since 2000 to conduct entry level police officer written and physical agility testing in accordance with Port Orchard's Civil Service Rules, and

WHEREAS; the City desires to renew its contract with Public Safety Testing after the current contract expires on December 31, 2023, and

WHEREAS; the new proposed contract would exist until terminated by either party per the provisions of the contract, and

WHEREAS, the total expenditure for a long term contract with Public Safety Testing may eventually exceed the amount the Mayor may authorize without council authorization; 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 approves the Contract attached hereto as Exhibit A and by this reference incorporated herein.

THAT: The Mayor is authorized to execute, on behalf of the City, the contract with Public Safety Testing for Entry-level Police Officer testing.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor Pro-Tem and attested by the City Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

Brandy Wallace, MMC, City Clerk

SUBSCRIBER AGREEMENT

WHEREAS, Public Safety Testing, Inc. is a skilled provider of pre-employment testing services to police, fire, and other public safety agencies, and

WHEREAS, the subscriber public agency, either directly or through a civil service commission, tests, evaluates, ranks and hires law enforcement and/or firefighters and/or other public safety positions in the performance of its public safety functions, and

WHEREAS, the subscribing public entity desires to join in a Subscriber Agreement, NOW, THEREFORE,

Public Safety Testing, Inc. (the “Contractor”) and the City of Port Orchard, a municipal corporation of the state of Washington (hereinafter “Subscriber”) do enter into this Subscriber Agreement under the terms and conditions set forth herein.

SUBSCRIBER: City of Port Orchard, WA

POSITIONS: The following positions are included in the fee structure in Attachment A (Subscriber may post any or all positions in a category at no additional charge):

- Law Enforcement Officer (entry-level and/or BLEA certified and/or lateral)

COMMENCEMENT DATE: January 1, 2024

PROFESSIONAL FEES: Professional fees are described in Attachment A, which are incorporated herein by this reference.

Each annual renewal beyond the initial term includes a 4% increase in fees described in Attachment A.

TERMINATION: This agreement is for an initial one-year term and will automatically renew annually unless either party provides a 60-day notice as outlined in Section 7.

1. Description of Basic Services. This Agreement begins on the date as noted on page one (1) of this Agreement. The Contractor will provide the following services to the Subscriber:

1.1 Outreach and recruitment support, application intake processing, and administration of pre-employment written examinations and/or physical ability tests for those positions noted on Page One (1) of this Agreement.

- 1.1.1 Written examinations are administered in-person at Contractor's test events, including those conducted by Subscribing agencies; remotely through a network of certified college testing facilities; and, through the Contractor's online, virtual in-home testing program.
 - 1.1.2 Physical ability tests for law enforcement and corrections applicants are administered at Contractor's test events, including those conducted by Subscribing agencies, through a network of partner gym and fitness facilities, and through the Contractor's online, virtual in-home testing program (V-PAT).
 - 1.2 Report to the Subscriber the scores of applicants, with all information necessary for the Subscriber to place passing applicants upon its eligibility list and rank them relative to other candidates on appropriately constituted continuous testing eligibility lists. Contractor will report "raw" test scores to the Subscriber – no preference points will be factored into applicant scores and it is the Subscriber's responsibility to factor veteran's preference points in accordance with applicable federal and state laws. Written examination scores will be reported to the Subscriber as a percentage score (based on 100%) and physical ability test scores will be reported as "Pass" or "Fail". The passing score for written examinations is set by the test developer at 70%.
 - 1.3 Appear in any administrative or civil service proceeding in order to testify to and provide any and all necessary information to document the validity of the testing process, to participate in the defense of any testing process conducted by the Contractor pursuant to this Agreement and to otherwise provide any information necessary to the Subscriber to evaluate challenges to or appeals from the testing process. The Contractor shall appear without additional charge. The Subscriber shall pay the reasonable cost of travel and appearance for any expert witness deemed necessary by the Subscriber to validate the testing process, including but not limited to, representatives of any company which holds the copyright to any testing material and whose testimony or appearance is deemed necessary to validate the process.

Provided, however, Contractor shall not be required to appear at its cost nor to defend in any administrative or court proceeding arising from or out of a claim or challenge relating to Subscriber's use of other testing process(es) or out of Subscriber's attempt to establish multiple or blended eligibility lists for the same position based in whole or in part on other testing process(es). "Other testing process(es)" means any test or testing process other than those provided by the Contractor under this Agreement.

- 1.4 Term & Fees. The term of this agreement and the related professional fees are noted on page one (1) of this Agreement.
 - 1.5 Payment. Subscriber shall pay an amount equal to twenty-five percent (25%) of the annual fee set forth above quarterly for services rendered in the previous quarter and for basic services including but not limited to, software relating to online application, advertising formats, previously advertised scheduling of test dates, model civil service rules, testing systems, as well as

ongoing testing and recruitment, and any and all other work developed at the cost of the Contractor prior to or contemporaneous with the execution of this Agreement. Payment due within 30 days of receipt of invoice.

1.5.1 Direct Deposit (ACH Enrollment). Subscribers are encouraged to set up direct deposit (ACH enrollment) for their payments. There will be no additional fee for payments made using direct deposit (ACH enrollment).

1.5.2 Credit Card. A three percent (3%) fee will be added at the time of payment to each payment made using a credit card. The purpose of such fee is to cover Contractor's credit card processing fees.

2. Additional Services. In addition to the services provided under this Agreement, the Subscriber may, at its sole discretion, elect to purchase additional services from the Contractor. Such services shall be requested by and contracted for pursuant to separate written agreement.

3. Acknowledgements of Subscriber. The Subscriber understands and acknowledges, and specifically consents to the following stipulations and provisions:

3.1 Because applicable civil service law prohibits having multiple eligibility lists for the same class of hire, this Agreement is an exclusive agreement for these services.

3.2 The written and physical agility scores of any applicant shall be valid for 18 months from the date of certification by the Contractor or 12 months from the date of placement upon the Subscriber's eligibility list, whichever first occurs, following the report of the Contractor, and rules compatible with continuous testing shall be adopted. The Subscriber shall review its applicable hiring processes, advertisements, personnel policies and civil service rules (as applicable) to ensure compliance with the provisions of this Agreement.

3.3 An applicant may, in addition to the Subscriber's eligibility list, elect to have his/her score reported to and subject to placement on the eligibility list of any other Subscriber. Nothing in this Agreement shall be interpreted to prohibit the use of an applicants' score for consideration in or processing through any other subscriber's hiring and/or civil service eligibility process. The Subscriber agrees that if an applicant is hired by another agency through this service, the applicant's name shall be removed from Subscriber's eligibility list.

3.4 The Subscriber specifically understands and acknowledges that the Contractor may charge a reasonable testing fee from any and all applicants.

3.5 The Subscriber is encouraged to conduct advertising as it deems necessary to support/enhance recruiting efforts. The Subscriber shall link PublicSafetyTesting.com on its agency's website, if it so maintains one.

3.6 Public Safety Testing views recruiting as a partnership with the Subscriber. The Subscriber agrees to actively participate in recruiting efforts for positions within the Subscriber agency.

- 3.7 The Subscriber agrees to keep the Contractor up-to-date as to the agency's hiring status, minimum and special requirements, all information appearing on the agency's PST website profile and the names of any candidates hired through these services.
- 3.8 Subscriber understands and acknowledges that a candidate's PST Personal History Statement (PHS) will be stored electronically by PST for 24 months from the date the candidate uploads the PHS to the PST website. Any PHS stored more than 24 months will automatically be deleted and will no longer be available to the Subscriber from the PST server.
4. Testing Standard and Warranty of Fitness for Use. All testing services conducted under this Agreement shall be undertaken in accordance with the provisions of the Washington State Civil Service Statutes, Chapter 41.08 and/or 41.12 and/or 41.14 RCW, or the terms of other applicable statute as the Subscriber shall notify the Contractor that the Subscriber must meet. Tests shall also be conducted in accordance with the general standards established by the Subscriber; the Subscriber shall be responsible for notifying the Contractor of any unusual or special process or limitation. The test utilized, the proctoring of the test and any and all other services attendant to or necessary to provide a valid passing or failing score to the Subscriber shall be conducted in accordance with generally accepted practice in the human resources, Civil Service and Public Safety Testing community. The Subscriber may monitor the actions and operations of the Contractor at any time. The Contractor shall maintain complete written records of its procedures and the Subscriber may, on reasonable request, review such records during regular business hours. The Contractor expressly agrees and warrants that all tests and written materials utilized have been acquired by the Contractor in accordance with the appropriate copyright agreements and laws and that it has a valid right to use and administer any written materials and tests in accordance with such agreements and laws. If Subscriber uses or authorizes the use of other testing process(es) this warranty shall be null and void.
5. Independent Contractor. The Contractor is an independent contractor. Any and all agents, employees or contractors of the Contractor, shall have such relation only with the Contractor. Nothing herein shall be interpreted to create an employment, agency or contractual relationship between the Subscriber and any employee, agent or sub-contractor of the Contractor.
6. Indemnity and Hold Harmless. The parties agree and hold harmless each other, their officers, agents and employees in accordance with the following provisions:
- 6.1 The Contractor shall indemnify and hold harmless the Subscriber, its employees and agents from any and all costs, claims or liability arising from:
- 6.1.1 Violation of any copyright agreement or statute relating to the use and administration of the tests or other written materials herein provided for;
- 6.1.2 Any cost, claim or liability arising from or out of the claims of an employee, agent or sub-contractor to the end that the Contractor shall be

an independent Contractor and the Subscriber shall be relieved of any and all claims arising from or relating to such employment relationships or contracts between the Contractor and third parties;

6.1.3 The alleged negligent or tortious act of the Contractor in the provision of services under this Agreement.

6.1.4 This indemnity shall not apply to any administrative or court proceeding arising from or out of any process in which the Subscriber has utilized or authorized other testing process(es).

6.2 The Subscriber shall indemnify and hold harmless the Contractor, its officers, agents and employees from any and all cost, claim or liability arising from or out of the alleged negligent or tortious act of the Subscriber in the provision of services hereunder.

7. Termination. This agreement is for an initial one-year term and will automatically renew annually unless either party provides a 60-day notice as described below.

The Contractor and/or the Subscriber may also withdraw from this Agreement at any time for any reason with 60 days written notice, provided, however, that the provisions of paragraphs 1.3, 4, 5 and 6 shall remain in full force and effect following the termination of this Agreement with respect to, and continuing for so long as any applicant tested by the Contractor remains on the eligibility list of the Subscriber.

8. Entire Agreement, Amendment. This is the entire Agreement between the parties. Any prior agreement, written or oral, shall be deemed merged with its provisions. This Agreement shall not be amended, except in writing, at the express written consent of the parties hereto.

This Agreement is dated this _____ day of _____, 2023.

CITY OF PORT ORCHARD, WA

By: _____

Print: _____

Its: _____

Contact: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____

Invoicing Preference (select one):

- ☐ US Postal Service Mail
☐ Electronic via Email @

Subscriber's Contact & Address for Billing:

(Please complete if different from contact information above)

Contact: _____

Title: _____

Agency: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____

PUBLIC SAFETY TESTING, INC.

By:  September 13, 2023

Print: Jon F. Walters, Jr.

Its: President

Jon Walters

20818 – 44th Ave. W., Suite 160

Lynnwood, WA 98036

425.776.9615

jon@publicsafetytesting.com

Agency Recruiter:

Name: _____

Title: _____

Email: _____

Agency Hiring Representative/Supervisor:

Name: _____

Title: _____

Email: _____

Chief or Agency Director:

Name: _____

Title: _____

Email: _____

ATTACHMENT -A-



PROFESSIONAL FEES

SERVICE	FEE	NOTE
PST Annual Agency Subscription: Law Enforcement Officer Testing	\$1,480	Base annual subscription rate. Subscription rate will increase at 4% annually beginning January 1, 2025.
Optional (select to request) <input type="checkbox"/> Recruiting at PST Written Exam Events (Department pays candidate's fee to add department to their list of agencies)	Current Rate Per candidate \$11	Includes those candidates that add agency to their candidate list following your recruitment effort at an in-person or virtual written exam session. For virtual exam events, Subscriber will submit a ~60-second video. Agency will be invoiced based on the rate for "New Agency Add-on Fee" listed in the current PST pricing chart .
Optional (select to request) <input type="checkbox"/> Subscriber will pay candidate test fees which are pre-approved and agreed to by the Subscriber: Law Enforcement written exam & Physical Ability Test (PAT) events that do not occur on the same day as the PST in-person written exam	Current Rates Per candidate \$55 (written) \$29 (PAT)	Subscriber agrees to pay candidate testing fees under circumstances such as a verifiable financial hardship, subscriber-requested coupons to distribute, discounts offered by the Subscriber, etc. Each will be pre-approved and agreed to by the Subscriber. When the Subscriber pays for a candidate's test fee, the Subscriber agency is removed from the candidate's pricing matrix so that the Subscriber is not subsidizing the candidate testing for other non-Subscriber agencies. The candidate will pay if they choose to test for any other agency besides the Subscriber. Agency will be invoiced amount based on the testing fees for a single agency listed in the current PST pricing chart .



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>Consent Agenda 4G</u>	Meeting Date:	<u>October 10, 2023</u>
Subject:	<u>Approval of Road Closures for a Special</u>	Prepared by:	<u>Brandy Wallace, MMC</u>
	<u>Event: 2023 Festival of Chimes and Lights</u>		<u>City Clerk</u>
	<u></u>	Atty Routing No:	<u>N/A</u>
	<u></u>	Atty Review Date:	<u>N/A</u>

Summary: Staff received a special event application for the Festival of Chimes and Lights, a festival scheduled for Saturday, December 2, 2023. The application states the following:

EVENT: 2023 Festival of Chimes and Lights
TYPE: Festival
DATE: Saturday, December 2, 2023
TIME: Setup starts at 2:45pm, open to public at 3:15pm until 7:30pm, cleanup to be completed by 8:00pm
LOCATION: Port of Bremerton Parking Lot Water Street Boat Launch and Kitsap Bank Drive-Thru located next to Orchard Avenue, and SR166/Bay Street
CLOSURE(S): SR166/Bay Street: Kitsap Street to Sidney Avenue, Frederick Avenue, Robert Geiger, and Orchard Street

The required notice, pursuant to POMC 5.94.050(3), allowing citizens to provide written comments regarding how allowing the special event will impact their property, business, or quality of life has been published and to-date, the City received no written comments addressing their concerns regarding this event taking place.

Staff and outside agencies have reviewed the application and are working towards ensuring public safety measures and traffic control are in place.

Pursuant to Port Orchard Municipal Code 5.94.050(4), staff shall bring forward the special event application to the City council for approval when the event requires a street or highway closure.

Staff are in support of the road closures, as presented, and will continue to ensure the event meets the safety and traffic control standards outlined in City, State, and Federal codes.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends the approval of the road closures, as presented.

Motion for consideration: I move to approve the road closures for the 2023 Festival of Chimes and Lights, scheduled for Saturday, December 2, 2023, as presented.

Fiscal Impact: None.

Alternatives: Deny the road closures and provide direction to staff.

Attachments: Application, including maps and traffic flow maps, and comments.



SPECIAL EVENT PERMIT APPLICATION

(PORT ORCHARD MUNICIPAL CODE 5.94 AND 5.96)

STANDARD PROCESSING FEE: \$50.00

REVISED



Event Overview

Name of event:	2023 Festival of Chimes and Lights
Location of event:	Port of Bremerton Parking Lot Water St Boat Launch, Kitsap Bank Drive-Thru
Type of Event:	<input checked="" type="checkbox"/> Festival <input type="checkbox"/> Walk/Run <input type="checkbox"/> Parade <input type="checkbox"/> Vendor Fair <input type="checkbox"/> Concert <input type="checkbox"/> Block Party <input type="checkbox"/> Other: _____
Event or Organization Website:	Website: https://portorchardwa.gov/festival-of-chimes-and-lights/ Facebook: https://www.facebook.com/profile.php?id=100083070324405
Description of event:	Annual kickoff to the holiday season. This will be a live, free event with choirs, marching band, non-profits offering food and beverages, photos with Santa, lighted boats, tree decorating contest, and coordination with local organizations with holiday lights and decorations.

Event Details

Set Up Starts:				Take Down Complete:		
Start Day:	Start Date:	Start Time:	End Day:	End Date:	End Time:	
Saturday	12/2/2023	2:45pm	Saturday	12/2/2023	8:00pm	
Event Dates/Times: Indicate Dates/Times OPEN to attendees				Expected Daily Attendance:		
				Participants	Spectators	volunteers/staff
Day:	Date:	Start Time:	End Time:	500	3,000	30
Sat.	12/2/2023	3:15pm	7:30pm			
Day:	Date:	Start Time:	End Time:			
Day:	Date:	Start Time:	End Time:			
Additional details: (attach additional pages as needed for additional days or details)						
Please see attached page for more information.						



SPECIAL EVENT PERMIT APPLICATION

(PORT ORCHARD MUNICIPAL CODE 5.94 AND 5.96)

STANDARD PROCESSING FEE: \$50.00



Event Overview

Name of event:	2023 Festival of Chimes and Lights
Location of event:	Bay St in front of City Hall, POB Parking lot, Waterfront Lot #2
Type of Event:	<input checked="" type="checkbox"/> Festival <input type="checkbox"/> Walk/Run <input type="checkbox"/> Parade <input type="checkbox"/> Vendor Fair <input type="checkbox"/> Concert <input type="checkbox"/> Block Party <input type="checkbox"/> Other: _____
Event or Organization Website:	Website: https://portorchardwa.gov/festival-of-chimes-and-lights/ Facebook: https://www.facebook.com/profile.php?id=100083070324405
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Event Dates/Times: Indicate Dates/Times OPEN to attendees				Expected Daily Attendance:		
				Participants	Spectators	volunteers/staff
Day:	Date:	Start Time:	End Time:	500	5,500	30
Sat.	12/2/2023	3:15pm	7:30pm			
Day:	Date:	Start Time:	End Time:			
Day:	Date:	Start Time:	End Time:			
Additional details: (attach additional pages as needed for additional days or details)						
Please see attached page for more information.						

REVISED

Admission Fees:

Does your event require a paid fee for participants and/or spectators?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does your event require minimum or suggested donation for participants and/or spectators?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Admission/participation fee/ suggest donations amount(s): N/A		

Organization Information*

Name of Organization: City of Port Orchard					
Do you have an active City Business License?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	What is your UBI number?	
Point of Contact Name: Brandy Wallace					
Street Address: 216 Prospect Street			Mailing Address: (if different from street address) N/A		
City: Port Orchard	State: WA	Zip: 98366	City:	State:	Zip:
Phone: 360.876.4407	Alternate Phone:		Email: cityhall@portorchardwa.gov		

**Please note the organization information provided may be shared for inquiries made on event details*

Insurance

The sponsoring organization must provide an insurance certificate, with endorsements, at least 30 days prior to the event with the City of Port Orchard shown as Additional Named Insured with minimum coverage to be as follows:

\$1,000,000 Liability; \$1,000,000 Bodily Injury

Special Event Insurance for events held at city-owned facilities can be purchased at eventinsure.hubinternational.com/.

Parking Impacts

Have parking impacts been coordinated with neighbors (residential/business)? ☐ Yes ☐ No ☒ Not Applicable

If yes, how will parking be provided for participants and visitors (including handicapped parking)? You may submit a map to show the available parking for this event in place of providing a written description below.

Parking is available in Lots 2,3,4 and 8 and on Sidney Avenue, Prospect Street, Kitsap Street

Admission Fees:

Does your event require a paid fee for participants and/or spectators?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does your event require minimum or suggested donation for participants and/or spectators?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Admission/participation fee/ suggest donations amount(s): N/A		

Organization Information*

Name of Organization: City of Port Orchard			
Do you have an active City Business License?		<input type="checkbox"/> Yes <input type="checkbox"/> No	What is your UBI number?
Point of Contact Name: Brandy Wallace			
Street Address: 216 Prospect Street		Mailing Address: (if different from street address) N/A	
City: Port Orchard	State: WA	Zip: 98366	City: State: Zip:
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\$1,000,000 Liability; \$1,000,000 Bodily Injury

Special Event Insurance for events held at city-owned facilities can be purchased at eventinsure.hubinternational.com/.

Parking Impacts

Have parking impacts been coordinated with neighbors (residential/business)? ☐ Yes ☐ No ☒ Not Applicable

If yes, how will parking be provided for participants and visitors (including handicapped parking)? You may submit a map to show the available parking for this event in place of providing a written description below.

Parking is available in Lots 3, 4, 8 and on Sidney Avenue, Prospect Street, Kitsap Street

Use of City Streets and/or State Highway

STATE HIGHWAY:

Will this event require closure of a State Highway (most common is Bay Street/SR166)? ☒ Yes ☐ No

If yes, which highway: ☒ Bay Street/SR 166 ☐ Sedgwick Road ☐ Mile Hill Drive

For State Highway Closures, the sponsoring organization must submit the application to the city at least 120 calendar days before the event date. Upon city approval of the event, the sponsoring organization shall seek permission from the Washington State Department of Transportation (WSDOT) by completing an online application. Once permission is granted from WSDOT, a copy of the Letter of Acknowledgment or an Agreement will need to be provided to the city 45 days prior to the event. WSDOT's online application is located at: <https://www.wsdot.wa.gov/contact/events/special-events>

CITY PROPERTY/STREETS (Right-of-way): Port Orchard Municipal Code 5.94.020(7) states "Right-of-way (ROW)" means any road, public parking lot, city street, highway, boulevard or place in the city open as a matter of right to public travel and shall include arterials, neighborhood streets, alleys, bicycle paths and pedestrian ways; including streets or portions thereof which are designated as portions of the state highway system."

Will this event require closure of any of the below public property/ right-of-way? ☒ Yes ☐ No

If yes, indicate what type of public property is requested to be closed and the location (select all that apply):

City Park(s):

☐ Van Zee Park
☐ Paul Powers Park

☐ McCormick Village Park
☐ Central Park

☐ Etta Turner Park
☐ Givens Park

☐ Rockwell Park

Parking Lot(s):

- ☒ Lot 1: between Orchard and Frederick streets on the north side of Bay Street
- ☐ Lot 2: between Frederick Street and Sidney Avenue, north of Bay St.
- ☐ Lot 3: five rows of parking west of Harrison Ave and east of and parallel to the library
- ☐ Lot 4: all parking east of Lot 3 and Harrison Ave and west of the Marina Park
- ☐ Lot 5: all parking on City Hall property in front of the Police department
- ☐ Lot 6: abutting the landscaped area at the SW corner of the Bay St and Dekalb St intersection
- ☐ Lot 7: all parking spaced located on the library property which is limited to library staff only
- ☐ Lot 8: employee parking lot east of City Hall adjacent to Prospect Alley which is between Kitsap Street and Prospect Street.

Sidewalk(s): N/A

Use of City Streets and/or State Highway

STATE HIGHWAY:

Will this event require closure of a State Highway (most common is Bay Street/SR166)?

☒ Yes ☐ No

If yes, which highway:

☒ Bay Street/SR 166

☐ Sedgwick Road

☐ Mile Hill Drive

For State Highway Closures, the sponsoring organization must submit the application to the city at least 120 calendar days before the event date. Upon city approval of the event, the sponsoring organization shall seek permission from the Washington State Department of Transportation (WSDOT) by completing an online application. Once permission is granted from WSDOT, a copy of the Letter of Acknowledgment or an Agreement will need to be provided to the city 45 days prior to the event. WSDOT's online application is located at: <https://www.wsdot.wa.gov/contact/events/special-events>

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If yes, indicate what type of public property is requested to be closed and the location (select all that apply):

City Park(s):

☐ Van Zee Park

☐ McCormick
Village Park

☐ Etta Turner
Park

☐ Rockwell Park

☐ Paul Powers
Park

☐ Central Park

☐ Glivens Park

Parking Lot(s):

☐

Lot 1: between Orchard and Frederick streets on the north side of Bay Street

☐

Lot 2: between Frederick Street and Sidney Avenue, north of Bay St.

☐

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☐

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☒

Lot 5: all parking on City Hall property in front of the Police department

☐

Lot 6: abutting the landscaped area at the SW corner of the Bay St and Dekalb St intersection

☐

Lot 7: all parking spaced located on the library property which is limited to library staff only

☐

Lot 8: employee parking lot east of City Hall adjacent to Prospect Alley which is between Kitsap Street and Prospect Street.

Sidewalk(s): N/A

Street(s): Bay Street from Kitsap Street to Sidney Avenue, Orchard Avenue, Frederick Ave

If requesting street or highway closure, fill out the "Details of Closure" section below and provide a traffic control plan of the area impacted.

Traffic Control Plan:

A traffic control plan is required for all street and highway closures and must be submitted with this application. See example Site Plan. The following is required to be on the plan(s):

- ☐ Detour route(s) ☐ Pedestrian and Bicycle routes ☐ Volunteers: how many, where, how long, etc.
- ☐ Signs/Barriers: How many, what kind of signs, where will they be located, who is putting them up, who will be taking them down, etc.
- ☐ Certified flaggers: how many will there be, where will they be stationed, what time will they be there, what time will they be gone, etc.

Should your event require traffic control and certified flaggers to manage the road closures, provide the following information:

Name of the Traffic Control company: Will be managed by Public Works		
Point of Contact Name: Public Works Director		
Phone: 360.876.4991	Alternate Phone: N/A	Email: publicworks@portorchardwa.gov

Details of Closure(s):

Street Name:	Between (cross street):	And (cross street):	Start Date:	Start Time:	End Date:	End Time:
Bay Street	Kitsap	Sidney Ave	12/2/2023	3:00pm	12/2/2023	7:30pm
Orchard St	Bay Street	N/A	12/2/2023	3:00pm	12/2/2023	7:30pm
Frederick Ave	Bay Street	N/A	12/2/2023	3:00pm	12/2/2023	7:30pm

Additional details: (attach additional pages as needed for more streets and/or more details about use.)
See attached maps

Alcohol Sales/Services

The sale, service and consumption of alcoholic beverages are subject to Washington State Liquor & Cannabis Board (WSLCB) regulations, licensing, and permit requirements. WSLCB Special Occasion and other Licenses and related fees for alcohol sales/service at events are not included in the City's Special Event Permit. Visit the WSLCB website, <https://lcb.wa.gov/> for additional information and to apply for the appropriate license / Permit.

Will alcohol be sold or consumed at your event? ☐ Yes* ☒ No

**If yes, you must contact the Washington State Liquor and Cannabis Board for a special liquor license.*

Food Sales/Service

You will need to reach out to the Kitsap Public Health District as they may require a temporary food establishment permit. Visit their website at https://kitsappublichealth.org/FoodSafety/food_vendors.php or call (360) 728-2235 for information.

Will your event have any food service and/or sales? ☒ Yes ☐ No If yes, how many: 4

Will your event have professional catering? ☐ Yes ☒ No If yes, how many: _____

Will your event have food truck(s)? ☐ Yes ☒ No If yes, how many: _____

Washington State Fire Code section 105.6.30 Mobile food preparation vehicles is defined as:

An operational permit is required for mobile food preparation vehicles equipped with appliances that produce smoke or grease-laden vapors or utilize LP-gas systems or CNG systems. Contact Community Development.

- [Food Truck Safety Handout](#)
- [Mobile Food Preparation Vehicle Permit Application](#)

Garbage and Recycling

Collection Stations: How many bins are you providing as collection containers at your event?	
Recycle <u>8</u>	Garbage <u>12</u>
Will you manage your own recycling and garbage collection or will it be managed by a vendor?	
Self-Haul <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	List vendor/company, if applicable: <u>N/A</u>
Detail your plan for waste management within the event area and surrounding neighborhood: City will provide this service as well as other businesses participating in the event.	

Restrooms

Prove the number of restrooms that will be available to the public for your event: 5 public restrooms and 13 portable toilets

Below is an example of the estimated amounts needed per the amount of users recommended in the *FEMA Special Events Contingency Planning: Job Aids Manual*.

No. of users (50% male and 50% female)	Minimum number of portable toilets
Up to 240	3
250 to 499	4
500 to 900	6
1,000 to 1,999	12
2,000 to 2,999	25
3,000 to 3,999	38
4,000 to 4,999	50

Master Multi-Vendor Event License

Will your event have vendors? ☒ Yes ☐ No

If so, how many anticipated exhibitors/vendors will be at your event? 3

If so, will they be selling merchandise and/ or food? ☐ Yes ☒ No - If you indicated Yes, please see the **Food** section on Page 4 of this application.

POMC 5.96, if your event has two or more vendors engaged in public property vending, you are required to have a Master Multi-Vendor Event License (MMVEL). The MMVEL fee is \$15.00 per day or \$200 per month. POMC 5.96.020(3)(a) states the sponsor of the master event shall provide a list of participating vendors, their business names, their addresses and their State Tax Revenue Identification Numbers to the city clerk within three working days after the first day of the operation.

- No public vending is allowed within twenty-five (25) feet of any municipal building, monument, or fountain, OR within ten (10) feet of intersection sidewalks.
- Vending devices must be removed from vending sites daily between the hours of 10:00 p.m. and 6:00 a.m.
- Vending devices and vending sites must always be clean and orderly. The vendor must furnish a suitable refuse container and is responsible for the daily disposal of refuse deposited therein. Refuse containers must be removed each day along with vending devices.
- Vendors may engage in public property vending only in the location specified in the public property license. The location shall be deemed the vending site.
- Utility service connections are not permitted, except electrical when provided with written permission from the adjacent property owner. Electrical lines are not allowed overhead or lying in the pedestrian portion of the sidewalk.
- No mechanical audio or noisemaking devices are allowed, and no hawking is allowed.
- A vinyl or canvas umbrella may be added to the vending device, but its open diameter may not exceed eight and one-half feet. Any part of the umbrella must have a minimum of seven feet of vertical clearance to the area on which the vending device stands.
- Individual vendor advertising signs may be placed only upon the vending device. Temporary master event advertising signs may be placed as approved by the city engineer; and
- No conduct shall be permitted which violates any other section of the Port Orchard Municipal Code.

Restrooms

Prove the number of restrooms that will be available to the public for your event: 6 public restrooms and 23 portable toilets

Below is an example of the estimated amounts needed per the amount of users recommended in the *FEMA Special Events Contingency Planning: Job Aids Manual*.

No. of users (50% male and 50% female)	Minimum number of portable toilets
Up to 240	3
250 to 499	4
500 to 900	6
1,000 to 1,999	12
2,000 to 2,999	25
3,000 to 3,999	38
4,000 to 4,999	50

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- Vending devices and vending sites must always be clean and orderly. The vendor must furnish a suitable refuse container and is responsible for the daily disposal of refuse deposited therein. Refuse containers must be removed each day along with vending devices.
- Vendors may engage in public property vending only in the location specified in the public property license. The location shall be deemed the vending site.
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- Individual vendor advertising signs may be placed only upon the vending device. Temporary master event advertising signs may be placed as approved by the city engineer; and
- No conduct shall be permitted which violates any other section of the Port Orchard Municipal Code.

Tents

Does your event include a tent or membrane structure? ☒ Yes ☐ No ☐ Not Applicable

If yes, what is the tent size: 20x20 Does the tent have sides? ☐ Yes ☒ No ☐ Not applicable

May be required to obtain a permit per POMC 20.200.016. Please contact Community Development (360) 874-5533.

Event Signage

Are you planning to put up temporary signs? ☐ Yes ☒ No

POMC 20.132.290 "Temporary sign" (which may include special event sign) means any sign that is used temporarily and is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster, banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than 20-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this chapter. Please contact the Community Development Department at (360) 874-5533 if you have questions or if you need to apply for a sign permit.

Amplified Sound

Does your event have any amplified sound? ☒ Yes ☐ No

Indicate dates/time of any amplified sound below:			
Day: Saturday	Date: December 2, 2023	Start Time: 3:30pm	End Time: 7:30pm
Day:	Date:	Start Time:	End Time:
Day:	Date:	Start Time:	End Time:
Describe what sound will be amplified, and at what hours (e.g., 7:00am announcements, 8:00am background music, etc.): Christmas music from Gordon Sound from 3:30pm to 7:30pm. Announcements in POB parking lot estimated around 5:00pm. Choirs singing POB parking lot estimated around 5:00pm.			
Describe what equipment will be used for amplified sound, and at what locations (show in maps): Sound system stage provided by Gordon Sound.			
Describe schematics and direction of amplified sound (show in maps, attach supporting documents as needed) Sound coming from POB parking lot on Bay Street towards Bay Street, Dekalb, Prospect.			

Noise levels generated shall not be in excess of allowable levels, consistent with POMC 9.24.050. For more information please contact the Port Orchard Police Department (360) 876-1700.

Tents

Does your event include a tent or membrane structure? ☒ Yes ☐ No ☐ Not Applicable

If yes, what is the tent size: 20x20 Does the tent have sides? ☐ Yes ☒ No ☐ Not applicable

May be required to obtain a permit per POMC 20.200.016. Please contact Community Development (360) 874-5533.

Event Signage

Are you planning to put up temporary signs? ☐ Yes ☒ No

POMC 20.132.290 "Temporary sign" (which may include special event sign) means any sign that is used temporarily and is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster, banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than 20-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this chapter. Please contact the Community Development Department at (360) 874-5533 if you have questions or if you need to apply for a sign permit.

Amplified Sound

Does your event have any amplified sound? ☒ Yes ☐ No

Indicate dates/time of any amplified sound below:			
Day: Saturday	Date: December 2, 2023	Start Time: 3:30pm	End Time: 7:30pm
Day:	Date:	Start Time:	End Time:
Day:	Date:	Start Time:	End Time:
Describe what sound will be amplified, and at what hours (e.g., 7:00am announcements, 8:00am background music, etc.): Christmas music from Gordon Sound from 3:30pm to 7:30pm. Announcements in front of City Hall estimated around 5:00pm. Choirs singing in front of City Hall estimated around 5:00pm.			
Describe what equipment will be used for amplified sound, and at what locations (show in maps): Sound system provided by Gordon Sound. Speakers, microphones, keyboard, and CD player.			
Describe schematics and direction of amplified sound (show in maps, attach supporting documents as needed) Sound coming from City Hall on Bay Street towards Bay Street and boat launch area.			

Noise levels generated shall not be in excess of allowable levels, consistent with POMC 9.24.050. For more information please contact the Port Orchard Police Department (360) 876-1700.

Site Map

A site map is required to be submitted which includes the following:

Vendors:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Beer Garden:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not applicable
Signage:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not applicable
Tents:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Public entrances and exits:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Road closures and detours:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Traffic patterns:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Fire Lanes:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Garbage/Recycling:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Barricades:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
First Aid:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Parking:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
Restrooms:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable

If event is a run/walk, list start and stop locations and water/rest stations:

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not applicable
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Release

I certify that the event for which this permit is to be used will not be in violation of any City of Port Orchard ordinance.

By applying for this special event permit, the organization or entity obtaining such permit agrees to defend, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from all claims, injuries, damages, losses, or suits, including attorney fees and costs, arising out of or in conjunction with the activities or operations performed by the applicant or on the applicant's behalf resulting from the issuance of this permit, except for injuries and damages caused by the sole negligence of the City.

The information on this form is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

I, as the President or Chair of my organization, agree to the terms and conditions listed above.


Signature of President/Chair of Organization

Brandy Wallace

Print Name

Date

7/12/23

FOR CITY CLERK'S OFFICE USE ONLY

Date Special Event Fee Paid (\$50): _____

Receipt No.: _____

Insurance Certificate(s) Received: _____

Does event require a Master Multi-Vendor License: ☐ Yes ☐ No

If Yes: ☐ \$15/day fee ☐ \$200/monthly fee

Number of days: _____ Total Amount: _____ Date paid: _____ Receipt No.: _____

Department/Agency Routing:

☐ Police ☐ Public Works ☐ Finance ☐ Community Development ☐ Kitsap Transit ☐ Clerk's Office ☐ Health District

Public Notice Dates: _____

Council Action Date: _____



Special Event Permit Application Checklist

Please use this list to ensure you have included all supporting documentation with your special event application.

- ☐ If your event coincides with another organizations event in the same location, please provide written approval from the event organizer that indicates their approval of your event.
- ☐ Reviewed Special Event Tool Kit
- ☐ Written approval from property owner If location is on non-City owned property (if applicable) (Page 2)
- ☐ Special Event Fee (Check, Cash, Credit Card) (Page 3)
- ☐ Insurance Certificate, with endorsement, provided at least 30 days prior to event date (Page 4)
- ☐ If there are road closures, have you attached a traffic control plan (Page 6)
- ☐ Special Liquor License (if applicable) (Page 7)
- ☐ Contact Department of Community Development for sign permit or food trucks (if applicable) (Page 7 and 9)
- ☐ Master Multi-Vendor Event License fee (if applicable) (Page 8)
- ☐ Contact Department of Community Development for tent permit (if applicable) (Page 9)
- ☐ Completed site map (Page 10)
- ☐ Special Event Application/Release is completed and signed by the President or Chair of organization (Page 10)
- ☐ Upon event approval, use of State Highway Letter of Acknowledgment or an Agreement that is received from the Department of Transportation if State Highway is requested to be closed (Page 5)

Tips for a successful event

- ❖ Contact the local media (Kitsap Sun, Port Orchard Independent, etc.).
- ❖ Post information on your social media site.
- ❖ Contact the Port Orchard Chamber of Commerce or Port Orchard Bay Street Association.
- ❖ Attend a City Council meeting to speak during citizen comments letting council and public know of your event.

REVISED

2023 Festival of Chimes and Lights

Additional details

The largest crowds are expected to be from 4:30pm to 6:00pm in the Port of Bremerton parking lot and on Bay Street in front of City Hall. Expected crowd to be 3,000. This is during the tree lighting ceremony, choirs, and public announcements.

Large crowds are expected to be from 5:45pm to 7:00pm near the Kitsap Bank drive-thru on Orchard Avenue for photos with Santa. Expected crowd to be 500.

Large crowds are also expected to be viewing the lighted boats at the Port of Bremerton Marina. Expected, staggered crowds estimated around 1,000 to be from around 4pm to 7:30pm.

Porta potties will be located in the Port of Bremerton boat launch parking lot and in the Kitsap Bank parking lot. There are 3 toilet stalls and one urinal at the Marina Park and 2 stalls at the boat launch.

Santa meets up with the firetruck in the boat launch parking lot, then pulls out. The band marches ahead of Santa. They will exit the POB parking lot by taking left on Bay Street to Frederick Avenue, take a left on Frederick Avenue, then left into the Kitsap Bank Drive-Thru location.

Due to construction, parking lots 1 and 5 will be closed and this event will not be utilizing those location.

2023 Festival of Chimes and Lights

Additional details

Due to construction downtown, including on City Hall which may utilize the parking lot in front of the police department on Bay Street, we understand we may need to find an alternative location for the choirs, stage and large tree.

The largest crowds are expected to be from 4:30pm to 6:00pm in front of City Hall on Bay Street and in the Port of Bremerton parking lot. Expected crowd to be 3,500. This is during the tree lighting ceremony, choirs, and public announcements.

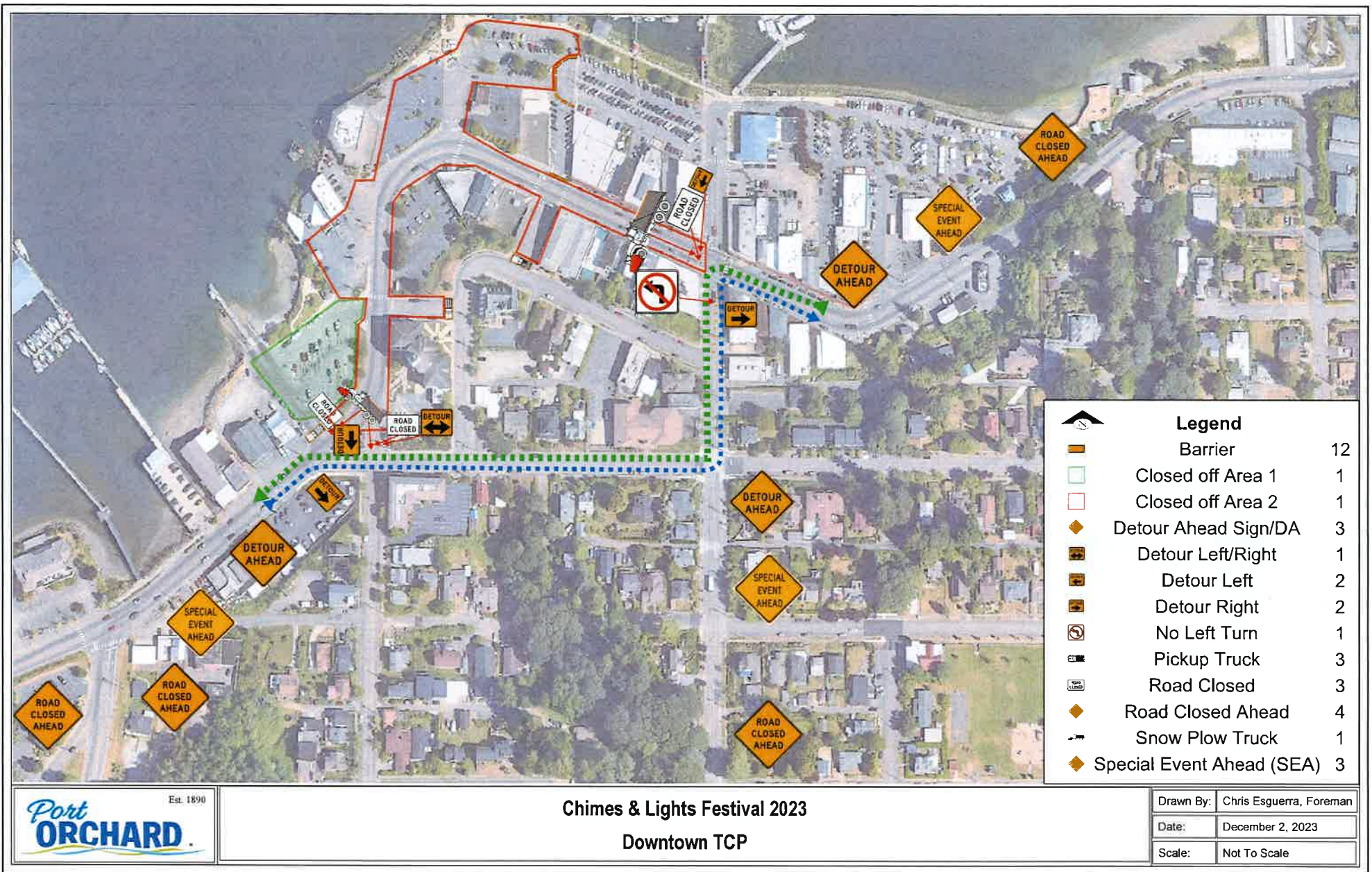
Large crowds are expected to be from 5:45pm to 7:00pm in lot 2. Expected crowd to be 500. This is for photos with Santa and Ms. Claus who will be located in the grassy area by the water in lot 2.

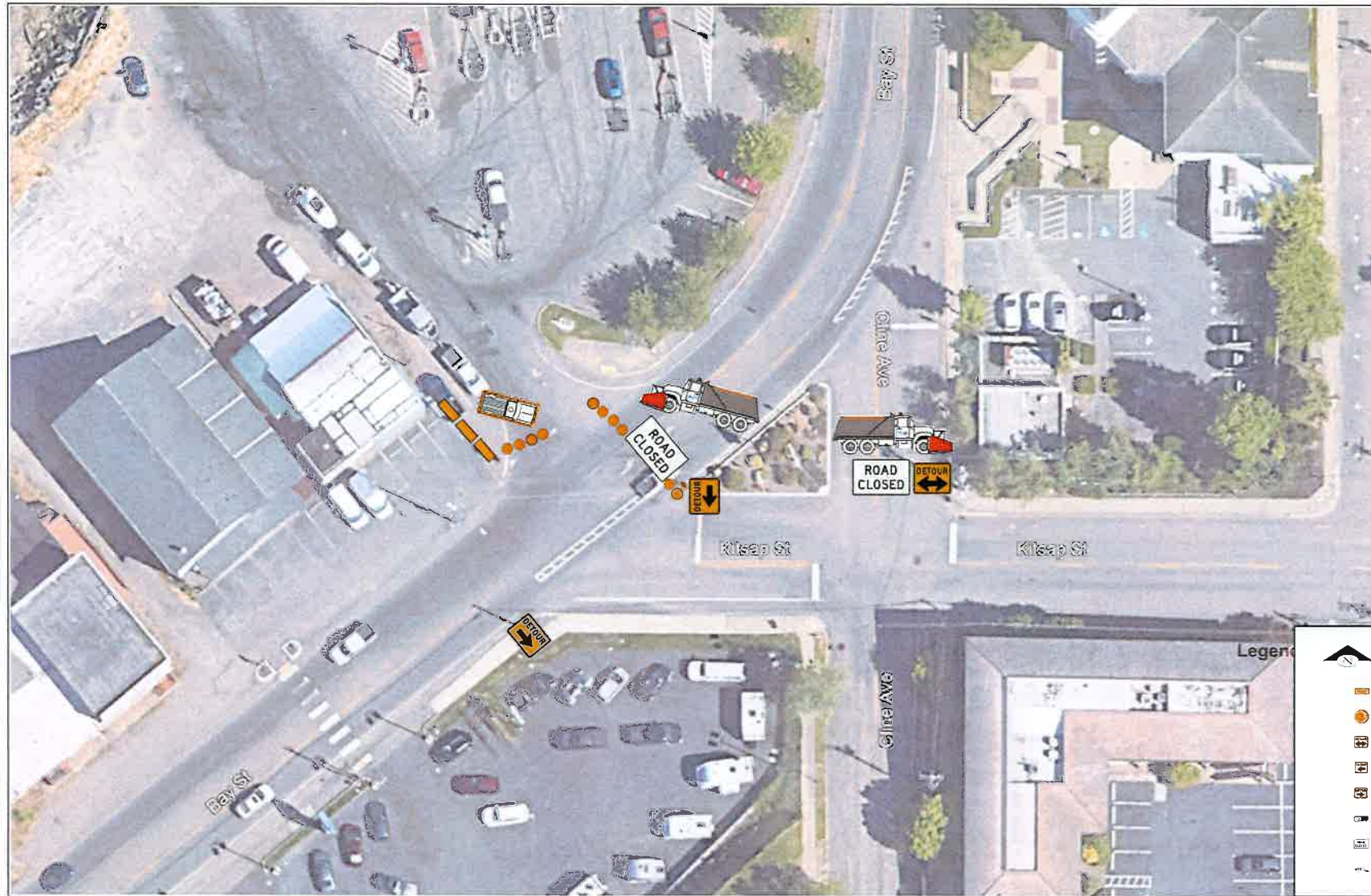
Large crowds are also expected to be viewing the lighted boats at the Port of Bremerton Marina. Expected, staggered crowds estimated around 1,000 to be from around 4pm to 7:30pm.

Porta potties will be located in the Port of Bremerton boat launch parking lot and in the Kitsap Bank parking lot. There are 3 toilet stalls and one urinal at the Marina Park and 2 stalls at the boat launch.

Santa meets up with the firetruck in the boat launch parking lot, then pulls out. The band marches ahead of Santa. They will go down Bay Street, turn left into Frederick and right into parking lot 2.

Due to construction, parking lot 1 will be closed and this event will not be utilizing that location.



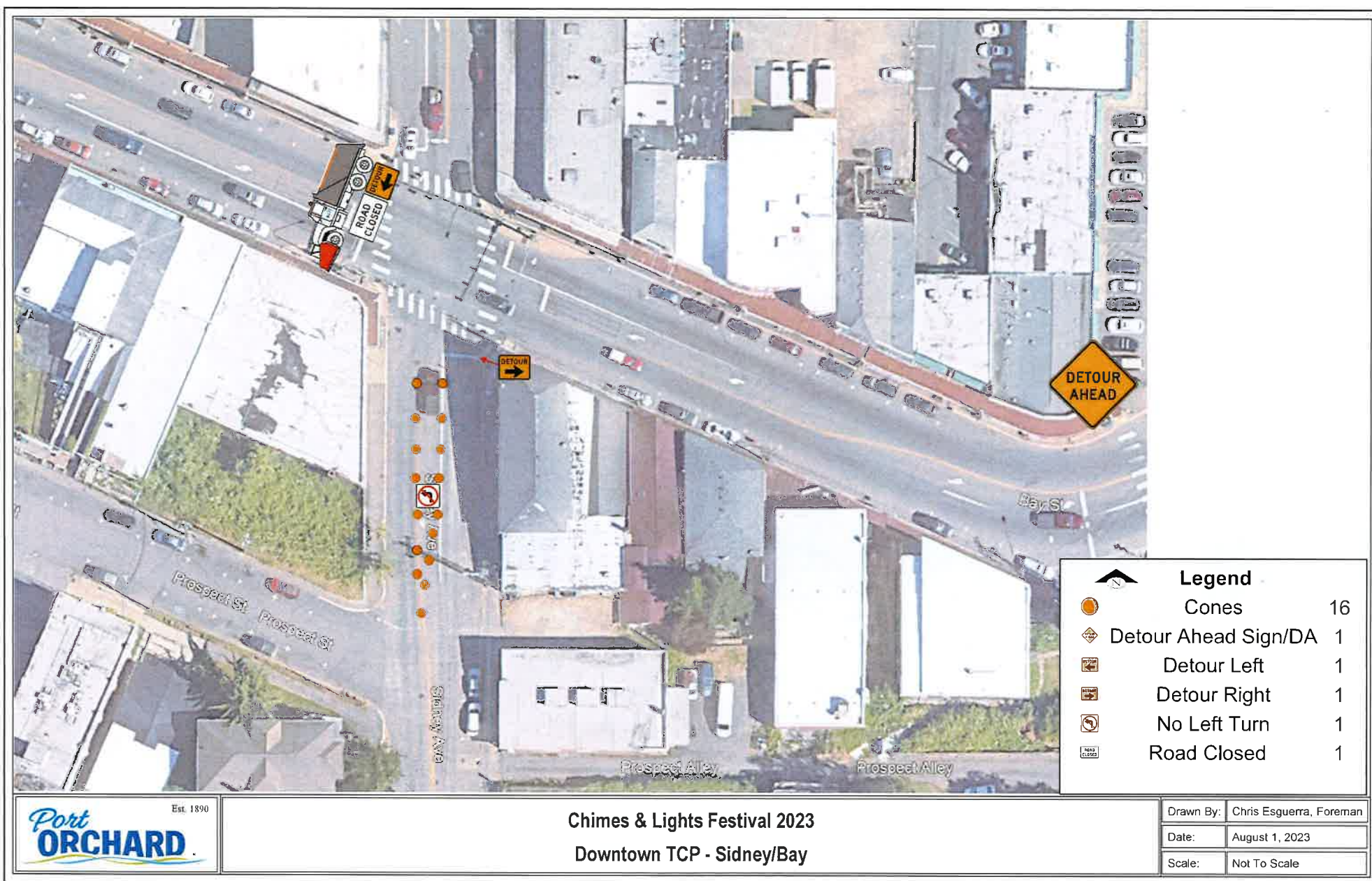


Legend		
	Barrier	3
	Cones	10
	Detour Left/Right	1
	Detour Left	1
	Detour Right	1
	Pickup Truck	1
	Road Closed	2
	Snow Plow Truck	2



Chimes & Lights Festival 2023
Downtown TCP - Bay/Kitsap/Cline

Drawn By:	Chris Esguerra, Foreman
Date:	August 1, 2023
Scale:	Not To Scale





**PORT OF BREMERTON
WATERFRONT PARKS
APPLICATION**

This is an application to conduct a Social Activity or Commercial Activity in one of the Port of Bremerton's Waterfront Parks:

- Port of Bremerton's Breakwater Park at Bremerton
- Port of Bremerton's Marina Park at Port Orchard
 - Gazebo Area
 - Soroptimist Overlook Pavilion
 - Grandstand Area
- Port of Bremerton's Water Street Boat Launch Park

PARK LOCATION: ☐ BREMERTON or ☒ PORT ORCHARD

WATERFRONT PARK NAME: Port of Bremerton's Water Street Boat Launch Park

DATES OF EVENT: 12/2/2023 TIME: 3:00pm to 7:30pm

EVENT NAME: Festival of Chimes and Lights

CONTACT NAME: Brandy Wallace PHONE: 360.876.7030

ORGANIZATION NAME (if applicable): City of Port Orchard

E-MAIL: bwallace@portorchardwa.gov # OF PEOPLE: 500

AREA REQUESTED: Port of Bremerton's Water Street Boat Launch Park Parking Lot

FACILITIES NEEDED: Restrooms

OTHER NEEDS (Electricity, awnings, etc.): N/A

DETAILED DESCRIPTION OF ACTIVITY/EVENT: Annual holiday kickoff. The event organizers would like the parking lot available for choir and band members, fire truck with Santa and staging for volunteers and participants.

PROPOSED LOCATION OF ANY TEMPORARY STRUCTURES TO BE ERECTED: N/A

I / We understand this application may require insurance coverage, cleaning deposit and/or a use fee. Filling out this application is not a guarantee that the event has been approved until it has been reviewed and signed by Marina Management. Applicant will be notified if there are any issues with the application or if additional information or payment is required.

Brandy Wallace
SIGNATURE

June 29, 2023
DATE



**PORT OF BREMERTON
WATERFRONT PARKS
HOLD HARMLESS AGREEMENT**

In consideration of the Port of Bremerton making available for use the undersigned,

the Port of Bremerton's Water Street Boat Launch Park

(Park Name)

located at Bay Street across from City Hall

on Saturday, December 2, 2023

(Date)

City of Port Orchard

agrees to indemnify and hold harmless

(User Name or Group)

The Port, its officers, employees and agents from any and all claims, suits or causes of

action arising from injury to persons or damage to property growing out of the use of the

said facility, including any expense of litigation.

Dated this 29th day of June, 2023.

Brian Valle
Signature

PORT USE ONLY:

Date Received: _____

- ☐ \$100.00 Refundable Cleaning Deposit Paid (we cannot accept cash deposits)
Check on File (Check #: _____) or CC Hard Copy on File
- ☐ Provide proof of liability insurance (event insurance) of at least \$1,000,000 and list the Port of Bremerton as an additional insured on the policy.
- ☐ Social Activity (No Fee)
- File paperwork at marina
 - Add to Marina Park Reservations
- Commercial Activity (\$100.00) ☐ Cash ☐ Check ☐ CC
- Set up AR account to take payment
 - File copy at marina
 - Send original paperwork to MA

☐

Manager Approved: _____ Date: _____



Agenda Staff Report

Agenda Item No.:	<u>Consent Agenda 4H</u>	Meeting Date:	<u>October 10, 2023</u>
	<u>Approval of a Memorandum of</u>	Prepared by:	<u>Debbie Lund</u>
	<u>Understanding with Teamsters Local 589</u>		<u>HR Director</u>
	<u>Representing Police Support Employees Re:</u>	Atty Routing No.:	<u>366922-0008</u>
	<u>Closure of City Hall</u>	Atty Review Date:	<u>October 4, 2023</u>

Summary: The COVID-19 pandemic brought teleworking to the forefront for many Port Orchard employees. Due to the sensitive nature of the information routinely accessed by members of the Police Support union, teleworking was not included as an option when the 2022-2025 collective bargaining agreement was negotiated with Teamster’s Local 589. Since that time, the Police Chief has worked to resolve the security and information concerns and has a solution that will meet the department’s security needs, not jeopardize the department’s accreditation status, and allow Police Support Employees to work remotely on occasion while still meeting the needs of the department and City.

The City and the union worked on the proposed language as part of the newly formed Labor Management Committee. The language is similar to that for other groups at the City addressing both teleworking and compensation for those employees required to be on site in the event of a City Hall closure to the public due to weather or state of emergency.

Recommendation: Staff recommends the City Council authorize the Mayor to sign a Memorandum of Understanding (MOU) with the Teamsters Local No. 589 representing Police Support Employees to modify language in the collective bargaining agreement in Article 8.7 related to work during a closure of City Hall to the public for inclement weather or state of emergency.

Relationship to Comprehensive Plan: N/A

Motion for consideration: “I move to authorize the Mayor to sign an MOU with the Teamsters Local No. 589 representing Police Support Employees to modify language in Article 8.7 of the collective bargaining agreement.”

Fiscal Impact: None.

Alternatives: Do not approve the MOU and provide alternative guidance.

Attachments: The MOU under consideration tonight is draft until approved by Council and signed by the parties. The draft MOU has been sent to Council by the City Attorney.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4I
Subject: Approval of Amendment No. 1 to Contract
No. 004-23 with Kitsap County
Prosecuting Attorney for Prosecution of
Municipal Criminal Complaints and Civil
Infractions

Meeting Date: October 10, 2023
Prepared by: Brandy Wallace, MMC
City Clerk
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: The City has contracted with Kitsap County for legal services for prosecution of municipal criminal complaints and civil infractions. The current contract was approved on December 16, 2022, setting the base rates for 2023 services at \$131,505.15. The amount is to be paid in equal monthly installments.

The contract also indicates the rates for 2024 will be reviewed during the 2023 budget process and any changes in base salary will not exceed the percentage increase in the Consumer Price Index-Urban (CPI-U) for Seattle/Tacoma as published by the U.S. Department of Labor, Bureau of Labor Statistics.

Upon their review, the base figure for 2024 services will be in the amount of \$135,811.59, being paid in equal monthly installments.

Recommendation: Staff recommends the approval of the amended contract, as presented.

Relationship to Comprehensive Plan: N/A.

Motion for consideration: “I move to approve the contract amendment and authorize the Mayor to sign the legal services agreement with Kitsap County Prosecuting Attorney for prosecution of municipal criminal complaints and civil infractions.”

Fiscal Impact: The amended contract reflects a cost increase to the City effective January 1, 2024, which has been incorporated into the 2023/2024 Biennial budget.

Alternatives: Not approve and provide direction to the Mayor.

Attachments: Cost allocation, amendment to contract, contract 004-23

	2024 FTE Cost		
DPA I, Step I	\$ 78,110.64		
Q01	\$ 1,952.77		2.50%
	\$ 80,063.41		
	\$ 6,124.85	Social Security at 7.65%	7.65%
	\$ 8,318.59	PERS at 10.39%	10.39%
	\$ 997.63	Workers Comp increase	
	\$ 15,070.00	4% increase Medical Benefits	
	\$ 174.47	WA Family Leave not included previous	0.2179%
	\$ 110,574.48		
Legal Assistant, Step 4	\$ 49,296.00		
AB1	\$ 1,232.40		2.50%
	\$ 50,528.40		
	\$ 3,865.42	Social Security at 7.65%	7.65%
	\$ 5,249.90	PERS at 10.25%	10.39%
	\$ 997.63	Workers Comp increase	
	\$ 15,070.00	4% increase Medical Benefits	
	\$ 110.11	WA Family Leave not included previous	0.2179%
	\$ 75,711.36		
	\$ 25,237.12	no change to allocation at 1/3	
	\$ 135,811.59		

AMENDMENT TO
LEGAL SERVICES AGREEMENT
Prosecution Services

This AMENDMENT to the Legal Services Agreement – Prosecution Services is made and entered into between the City of Port Orchard (the “City”) and the Kitsap County Prosecuting Attorney (the “Prosecutor”).

In consideration of the mutual benefits and covenants contained herein, the parties agree that the Legal Services Agreement – Prosecution Services (Agreement), fully executed on January 23, 2022, and designated as Kitsap County contract number KC-495-22, shall be amended as follows:

1. Effective January 1, 2024, Section V COMPENSATION is amended, increasing the annual cost for services to \$135,811.59 as described in Exhibit B – Compensation, “2024 Prosecution Contract – 2024 FTE Cost”, which Exhibit is incorporated into the Agreement.
2. Except as expressly provided in this Amendment, all other terms and conditions of the original Agreement, and subsequent amendments, addenda or modifications thereto, remain in full force and effect.

[Signatures appear on the next page]

DATED this ____ day of _____, 2023.

CITY OF PORT ORCHARD

ROBERT PUTAANSUU, Mayor

APPROVED AS TO FORM:

CHARLOTTE A. ARCHER, City Attorney

ATTEST:

BRANDY WALLACE, MMC, City Clerk

DATED this ____ day of _____, 2023.

KITSAP COUNTY PROSECUTING
ATTORNEY

CHAD M. ENRIGHT, Prosecuting Attorney

DATED this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

CHARLOTTE GARRIDO, Chair

KATHERINE T. WALTERS, Commissioner

CHRISTINE ROLFES, Commissioner

ATTEST:

DANA DANIELS, Clerk of the Board

KC-495-22

**LEGAL SERVICES AGREEMENT
Prosecution Services**

This Agreement (this “Agreement”) is entered into between the City of Port Orchard (the “City”) and the Kitsap County Prosecuting Attorney (the “Prosecutor”) pursuant to the provisions of Chapter 39.34 RCW (Interlocal Cooperation Act).

WHEREAS, the Interlocal Cooperation Act permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the City and the Prosecutor wish to mutually cooperate for the purposes described herein;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

**Section I
PURPOSE**

The purpose of this agreement is for the Prosecutor to provide legal services for the City for prosecution of municipal criminal complaints and civil infractions.

**Section II
SERVICES**

The Prosecutor will provide the full range of prosecution services (i.e., prosecution/case management, legal advisor and special projects as required) to the Police Department of the City as more fully described in Exhibit A: Scope of Work, which is incorporated herein.

**Section III
TERM OF AGREEMENT**

The term of this Agreement is January 1, 2023 through December 31, 2024.

**Section IV
TERMINATION OF AGREEMENT**

This Agreement may be terminated by either party, with or without cause, upon four months’ advance written notice to the other party.

Section V COMPENSATION

The City and the Prosecutor agree that compensation for services rendered under this Agreement shall be at an annual cost of \$131,505.15 beginning on January 1, 2023 and shall be paid in equal monthly installments. The compensation shall be reviewed during the budget process each year by the City Council and, with the agreement of both parties, may be renewed for an additional budget year. Commencing January 1, 2024, and each succeeding year thereafter that this Agreement remains in effect, compensation shall be adjusted for the coming year based on changes in the Base Starting Rate paid by the Prosecutor to a DPA I, Step I and Legal Assistant, Step 1, As described in Exhibit B - Compensation, "2023 Prosecution Contract - 2023 FTE Cost," which is incorporated herein. In no event, however, shall the changes in Base Salary exceed the percentage increase in the Consumer Price Index-Urban (CPI-U) for Seattle/Tacoma as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the immediately preceding calendar year. Upon Approval by the City Council and with the agreement of the Prosecutor, a written confirmation of budget shall be attached as an addendum to this Agreement and serve as an amendment to this section

Section VI OFFICE FACILITIES

The City will provide office space, furnishings, and office equipment for one attorney and one support staff member of the Prosecutor.

Section VII INSURANCE AND HOLD HARMLESS

A. Insurance. Prior to and during the performance of the work covered by this Agreement, the Prosecutor shall provide the Risk Manager for the Council with evidence that it has obtained and maintains in full force and effect during the term of this Agreement a policy of professional liability insurance, and/or errors and omissions insurance, providing coverage of at least \$1,000,000 for professional liability or errors and omissions in connection with the work to be performed by the Prosecutor under this Agreement. The Prosecutor shall furnish a certificate of insurance to the City for review by The City's Risk Manager. The Risk Manager shall be provided 30 days' written notice of any cancellation of such professional liability insurance.

B. Indemnification. Each party agrees to defend and indemnify the other party and its elected and appointed officials, officers, employees and agents against all claims, losses, damages, suits and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees and agents in connection with this Agreement. The indemnitor's duty to defend and indemnify extends to claims by the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor of indemnitor. The indemnitor waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington solely for the purposes of this provision and acknowledges that this waiver was mutually negotiated. This provision shall survive the termination of this Agreement.

Section VIII GENERAL PROVISIONS

A. Integration. This Agreement constitutes the entire agreement between the parties. No other understandings or representations, oral or written, regarding the subject matter of this Agreement will be deemed to exist or bind the parties.

B. Amendments. Except as provided in Section V (relating to changes in compensation), this Agreement may be modified or amended only by a writing duly executed by authorized representatives of both parties.

C. Coverage. The City contracts with the Prosecutor for prosecution assistance on an annual basis. The Prosecutor shall be responsible for providing backup and coverage in the event of any absence or conflict at costs within the annual budget. Such backup and coverage shall be provided only by duly appointed deputy prosecuting attorneys.

D. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and addressed as follows:

If to the City:

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

If to the Prosecutor:

Kitsap County Prosecuting Attorney
614 Division Street, MS-35
Port Orchard, WA 98366

With a copy to:

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

E. Files. All files and other documents maintained by the Prosecutor shall be the files of the City and accessible by the City through its City Attorney or other duly authorized representative during normal business hours. At the request of the City, any and all files maintained by the Prosecutor shall be tendered to the City.

E. Independent Contractor. Prosecutor and assistant(s) are professionals acting without direct supervision and are independent contractors. Prosecutor waives any claim in the nature of a tax, charge, cost or employee benefit which would attach if Prosecutor or assistant(s) were held to be employees of the City.

G. Non-Discrimination. Prosecutor 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, veteran's status or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide

occupational qualification. Prosecutor shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. Violation of this section shall be a material breach of this Agreement and grounds for cancellation, termination or suspension by the City, in whole or in part, any may result in ineligibility for further work from City.

H. Governing Law; Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a dispute, such dispute shall be litigated only in the Superior Court of Kitsap County, Washington.

I. Severability. The invalidity or unenforceability of any provision in this Agreement shall not affect the validity or enforceability of any other provisions that can be given effect without the offending provision.

J. No Waiver. Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

K. Administration. This Agreement will be jointly administered by the City and the Prosecutor. This Agreement does not create any separate legal or administrative entity.

L. Financing; Budget. This Agreement does not contemplate joint financing of the activities within its scope, nor does it contemplate a joint budget.

M. Property Acquisition and Disposition. This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party will remain the sole owner of its own property.

[Signatures appear on the next page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date stated above.

DATED this 16 day of December, 2022.

CITY OF PORT ORCHARD

DocuSigned by:
Rob Putaansuu
3B96492E3F5847D
ROBERT PUTAANSUU, Mayor

DATED this 27 day of December, 2022.

KITSAP COUNTY PROSECUTING
ATTORNEY

[Signature]
CHAD M. ENRIGHT, Prosecuting Attorney

APPROVED AS TO FORM:

DocuSigned by:
[Signature]
203701F25520457
City Attorney

ATTEST:

Brandy Wallace
BRANDY WALLACE, CMC, City Clerk

DATED this 23rd day of January, 2023

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

Charlotte Garrido
CHARLOTTE GARRIDO, Chair

Robert Gelder
ROBERT GELDER, Commissioner

Katherine T. Walters
KATHERINE T. WALTERS, Commissioner

ATTEST:

Dana Daniels
DANA DANIELS, Clerk of the Board

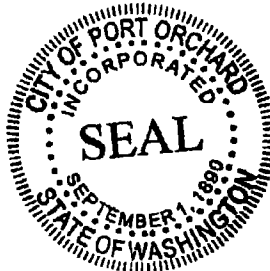


EXHIBIT A: SCOPE OF WORK

The Prosecutor will provide the full range of criminal prosecution and civil infraction enforcement (i.e., prosecution/case management, legal advisor and special projects as required) to the City's commissioned officers and other enforcement personnel as applicable.

I. MUNICIPAL COURT

A. Appearance and Preparation for All Regularly Scheduled Monthly Calendars as Follows:

1. Non-jury trials
2. Motion calendars
3. Jury readiness calendars
4. Contested infractions calendars, including administrative hearings and traffic hearings, but only in cases where a Notice of Appearance has been filed by a licensed attorney and/or as otherwise agreed by the parties
5. Jury trial calendars
6. Arraignments
7. Sentencings
8. Revocation hearings
9. Motions
10. Preliminary hearings (probable cause)
11. In-Custody hearings

B. Miscellaneous:

1. Review cases, make decisions and file complaints
2. Obtain search and arrest warrants
3. Day-to-day advice, as needed, by telephone or in-person contact with City Police Department officers

II. SUPERIOR COURT

Appeals (preparation and appearance):

1. Commencing (only after discussion and authorization from City Attorney)
2. Defending

III. MEETINGS

- A. Attend All Meetings with Police Department, City staff or City Council as Requested or Required to Address Current Issues
- B. Prepare Memoranda Addressing Legal Ramifications of Courses of Action Contemplated as Part of Those Meetings

- IV. PROVIDE LIAISON BETWEEN CITY POLICE DEPARTMENT AND COURT SYSTEM REGARDING PROCEDURES AND ENFORCEMENT**
- V. PREPARE, REVIEW AND RESPOND TO ISSUES AS REQUESTED BY CITY ATTORNEY, CHIEF OF POLICE OR DEPUTY CHIEF OF POLICE**
- VI. RECOMMEND NEEDED MUNICIPAL CODE AMENDMENTS TO CITY ATTORNEY**
- VII. PROVIDE QUARTERLY REPORTS TO CITY AND CITY ATTORNEY'S OFFICE IDENTIFYING TOTAL CASE FILINGS AND CASE DISPOSITIONS**

EXHIBIT B
2023 PROSECUTION SERVICES CONTRACT -2023 FTE COST

			2023 FTE Cost	
DPA I, Step I		\$ 76,205.50		
Q01		\$ 1,905.14		2.50%
		\$ 78,110.64		
		\$ 5,975.46	Social Security at 7.65%	7.65%
		\$ 8,006.34	PERS at 10.25%	10.25%
		\$ 997.63	Workers Comp increase	
		\$ 15,070.00	4% increase Medical Benefits	
		\$ 114.59	WA Family Leave not included previous	0.1467%
		\$ 108,160.07		
Legal Assistant, Step I		\$ 44,657.60		
AB1		\$ 1,116.44		2.50%
		\$ 45,774.04		
		\$ 3,501.71	Social Security at 7.65%	7.65%
		\$ 4,691.84	PERS at 10.25%	10.25%
		\$ 997.63	Workers Comp increase	
		\$ 15,070.00	4% increase Medical Benefits	
		\$ 67.15	WA Family Leave not included previous	0.1467%
		\$ 70,035.23		
		\$ 23,345.08		
		\$ 131,505.15		



**City of Port Orchard
Council Meeting Minutes
Work Study Session Meeting of September 19, 2023**

CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Trenary	Present
Councilmember Chang	Present
Councilmember Clauson	Present via Zoom
Councilmember Cucciardi	Present
Councilmember Diener	Present
Councilmember Lucarelli	Present
Councilmember Rosapepe	Present
Mayor Putaansuu	Present

Staff present: Community Development Director Bond, City Clerk Wallace, and Deputy City Clerk Floyd.

Staff present via Zoom: Finance Director Crocker

The meeting also streamed live on YouTube.

Pledge of Allegiance (Time Stamp 00:32)

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

Mayor Putaansuu noted Finance Director Crocker is attending a conference, so the 2nd item on the agenda will now be the 1st discussion item.

1. Limited Tax Exemption General Obligation (LTGO) Bond Delegation Ordinance (Time Stamp 01:16)

Finance Director Crocker explained Council adopted Resolution 059-23 on June 13, 2023, awarding a contract for construction improvements to the City Hall facility which included replacement of siding and windows, improvements to the HVAC system, minor interior renovations, and the acquisition and installation of solar power equipment and other related capital improvements and public amenities.

Council adopted Resolution No. 065-23 on June 27th, declaring its intent to be reimbursed from a future borrowing for capital expenditures in connection with the City Hall Construction Project. Council also adopted Ordinance No. 018-23 on June 27th, amending the 2023-2024 biennial budget

to provide funding for Contract No. 048-23 and to cashflow the City Hall Construction project until the future borrowing could be secured.

The City Hall project is expected to be an \$11 million dollar project and is currently under construction. He further explained the funding sources and amounts, debt proposal, fund allocation and annual payment range.

Additionally, he explained how the proposed ordinance authorizes the Mayor and/or Finance Director to proceed with finalizing the bond issuance within certain parameters set out in the ordinance; the bonds will be "limited tax general obligation" bonds; the maximum amount that may be issued is not more than \$11,120,000; the ordinance limits the borrowing cost; the maximum term of the financing will be 20 years; the ordinance assigns to the finance department certain administrative responsibilities; and schedule. This ordinance is scheduled to go before Council for adoption at the September 26th Council meeting.

Additional discussion was held regarding the bond delegation, and clarification on the bond.

Council Direction: No direction was given to staff.

2. Multi-Family Tax Exemption (Time Stamp 17:50)

Finance Director Crocker provided a presentation '2023 Multi-Family Tax Exemption Impact' which included 2019-2023 multi-family tax exemptions history, 2019-2038 forgone property tax levy collections, revenues collected, future multi-family tax exemptions anticipated, and what is the impact to the property owners of Port Orchard.

In response to Community Development Director Bond, Finance Director Crocker agreed it is partially a tax shift, but also partially a loss of revenue.

Community Development Director Bond provided background on the program. Council adopted the Multi-Family Tax Exemption in 2016 and was revised in 2019 to make it a more targeted program. 3 types of multi-family tax exemptions were created. Since 2016, the City has approved multi-family tax agreements for 442 residential apartments. Out of these, 97 units are reserved for affordable housing. In 2022, we finally saw rents go down for the first time. Housing supply is finally catching up with demand.

He also spoke about the link between the housing supply and homelessness.

Additionally, the City has been looking into this program for over a year trying to find a way to make the program work better, not cost as much or have better outcomes. We were waiting for the Housing Action Plan (HAP) to see the recommendations contained in that report. The Council should first decide whether it wants to continue with the program at all. If the Council wishes to retain the program, a discussion should occur about the purpose of the program and the types of tax exemptions that should be available. If certain exemptions are to continue, there needs to be a discussion of where the exemption should apply within the City.

Discussion was held regarding the benefits and downsides of the program, costs related to city and citizens, different exemptions, and benefits to either pausing or repealing the program.

Council Direction: Council directed staff to repeal the Multi-Family Tax Exemption program so they can investigate alternatives. Community Development Director Bond noted he could have the repealing ordinance available at the first meeting in October [October 10, 2023].

3. Council Policy Regarding Bond/Levy Endorsements (Time Stamp 1:16:54)

The Council desires to adopt a policy to provide clarity for the public on the Council's approach to endorsements or opposition of candidates/ballot measures.

Mayor Putaansuu said the Cities of Bremerton and Poulsbo have ordinances that do not allow Council to take action in support or opposition of ballot measures.

Council Direction: Council directed an ordinance be brought before them that prohibits action to be taken on a ballot measure or candidates.

4. Orchard Street Plaza Concepts (Time Stamp 1:18:11)

Mayor Putaansuu provided a presentation 'Orchard Plaza-Preliminary Concept Design' which included site context, plaza areas, private/public space, site circulation, site concept, pavement materials, bioretention and seating, seating and shade, parking lot and access, and small and large event layout examples.

Additional discussion was held regarding an over the water structure, reshaping the shoreline, community events center, timelines, stormwater elements and funding.

Council Direction: No direction was given to staff.

GOOD OF THE ORDER (Time Stamp 1:33:09)

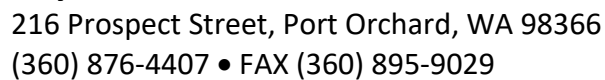
Mayor Putaansuu reported last week was Senior Appreciation Week and he had lunch with former Councilmember Carolyn Powers.

ADJOURNMENT

The meeting adjourned at 8:04 p.m. No other action was taken. Audio/Visual was successful.

Brandy Wallace, MMC, City Clerk

Robert Putaansuu, Mayor



Meeting Date:	October 10, 2023
Prepared by:	Nicholas Bond
	DCD Director
Atty Routing No.:	N/A
Atty Review Date:	N/A

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Recommendation: Staff recommends that the City Council hold a public hearing regarding a Development Agreement between the City of Port Orchard and Diaz Meadows, LLC. as presented.

Fiscal Impact: The City would receive a capital improvement worth at least \$324,000 and potentially as much as \$1,500,000 by providing a \$182,250 water CFC credit. The City will receive other revenues including sewer GFFs, impact fees, building permit fees, sales tax revenues, and other revenues if the project is constructed.

Alternatives: Do not approve the Development Agreement; request changes to the Development Agreement.

Attachments: All attachments associated with this public hearing may be found with the corresponding business item on the October 10, 2023 City Council meeting agenda. (Business Item 7A)



Agenda Staff Report

Meeting Date:	October 10, 2023
Prepared by:	Nicholas Bond
	DCD Director
atty Routing No.:	N/A
atty Review Date:	N/A

Summary: The City has negotiated a development agreement establishing the terms and conditions for the development of a multi-family project by Diaz Meadows, LLC at the properties addressed as 1375, 1385, 1391, 1395, 1405, and 1415 Old Clifton Road. The agreement encompasses water improvements, Capital Facility Charge (CFC) credits, and relief from certain design standards outlined in the Port Orchard Municipal Code (POMC). The project aims to provide 96 multifamily units within five buildings, along with necessary amenities and site improvements.

As part of the Diaz Meadows development, the developer is required to construct approximately 25% of the total length of the 580 to 390 Water Transmission Main as identified in Table 7-2 of the City of Port Orchard Comprehensive Plan Utility Element. The city expects to receive a water system improvement valued at \$324,000 based on the project cost estimates contain in the city's plans and will provide the developer with \$182,250 in water CFC credit pursuant to the credit formulas contained in POMC 13.04. The developer has asserted that the actual cost to construct this project is close to \$1,500,000. By either estimation, the value of the project to be constructed by the developer greatly exceeds the cost to the city in terms of the credit offered to the developer. The City's Public Works Director confirms the eligibility of this project for Water Capacity Fee (CFC) credits per POMC 13.04.030, as outlined in Section 10 of the Agreement.

The application for the development agreement was submitted in accordance with POMC 20.26 (Development Agreements) on August 17, 2023. The proposed development agreement is related to, but has not been consolidated with, the Diaz Meadows Land Disturbing Activity Permit (PW22-054).

This public hearing was noticed consistent with the requirements of POMC 20.25 on September 26, 2023. As of the date of this report, the Department of Community Development has not received comments regarding the Development Agreement. The City of Port Orchard SEPA Responsible Official issued a Mitigated Determination of Non-significance for the project on August 24, 2023. The SEPA Determination was not timely appealed.

Relationship to Comprehensive Plan: The Development Agreement aligns with the Port Orchard Comprehensive Plan, specifically addressing water improvements. The Developer's proposal includes the construction of a portion of Capital Improvement Project #8 as outlined in table 7-2 of the Comprehensive Plan.

Recommendation: Staff recommends approval of an ordinance authorizing the mayor to execute a Development Agreement between the City of Port Orchard and Diaz Meadows, LLC. as presented.

Motion for consideration: “I move to adopt an ordinance authorizing the Mayor to execute a Development Agreement with Diaz Meadows, LLC as presented.”

Fiscal Impact: The City would receive a capital improvement worth at least \$324,000 and potentially as much as \$1,500,000 by providing a \$182,250 water CFC credit. The City will receive other revenues including sewer GFFs, impact fees, building permit fees, sales tax revenues, and other revenues if the project is constructed.

Alternatives: Do not approve the Development Agreement; request changes to the Development Agreement.

Attachments: Ordinance, Diaz Meadows Development Agreement with Exhibits

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT WITH DIAZ MEADOWS, LLC FOR A MULTI-FAMILY DEVELOPMENT; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 36.70B.170, the City Council has the authority to review and enter into development agreements that govern the development and use of real property within the City; and

WHEREAS, the City Council has adopted standards and procedures governing the City's use of development agreements, codified at Chapter 20.26 of the Port Orchard Municipal Code (POMC); and

WHEREAS, Chapter 20.26 POMC is consistent with State law; and

WHEREAS, and Diaz Meadows, LLC, a Washington limited liability company organized under the law of the State of Washington ("Diaz Meadows"), applied for a Development Agreement under Chapter 20.26 POMC on August 17, 2023 and such Agreement has been processed consistently with the POMC and State law; and

WHEREAS, the Development Agreement by and between the City of Port Orchard and Diaz Meadows relates primarily to the development of property owned by Diaz Meadows, which is located at: 1375, 1385, 1391, 1395, 1405, and 1415 Old Clifton Road (Kitsap County Tax Parcels 032301-2-044-2009, 032301-2-043-2000, 032301-2-042-2001, 032301-2-025-2002); and

WHEREAS, in order to facilitate the Diaz Meadows Project having superior design principles, some flexibility on applicable code provisions is appropriate and is off set by the public benefit of having buildings with superior design; and

WHEREAS, the Developer proposes to construct at its expense, a portion of Capital Improvement Project #8 as shown in table 7-2 of the Port Orchard Comprehensive Plan; and

WHEREAS, Project #8 as shown in Table 7-2 of the Comprehensive Plan is estimated to cost \$1,325,000 and is shown as being 75% developer funded; and

WHEREAS, the Developer proposes to build 27% of the total project watermain length but not build the planned project Pressure Reducing Valve (PRV) station; and

WHEREAS, under POMC 20.26.020, the City Council has the authority to modify development standards as they deem appropriate; and

WHEREAS, in consideration of the benefits conferred by this new Agreement, which reflect the current plans of both the City and Diaz Meadows, the Parties deem it in their best interests to enter into this Agreement; and

WHEREAS, in consideration of the benefits conferred by this new Agreement, which reflect the current plans of both the City and Diaz Meadows and include capital facility charge credit calculation, the Parties deem it in their best interests to enter an Agreement and the City Council finds that approving the Agreement is in the public interest; and

WHEREAS, on August 24, 2023, the City's SEPA official issued a Mitigated Determination of Non-significance for the development and no appeals were filed in a timely manner; and

WHEREAS, the City Council held a public hearing on October 10, 2023 regarding this Agreement and (comments received/not received, etc); and

WHEREAS, the City Council, after careful consideration of the Development Agreement and all public comments and testimony, finds that the Development Agreement is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the Agreement in the best interests of the residents of the City; now, therefore,

WHEREAS, after a public hearing, by Ordinance No. [xxx], the City Council authorized the Mayor to sign this Agreement with Diaz Meadows.

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

SECTION 1. Findings. The City Council adopts all of the "Whereas" sections of this ordinance and all "Whereas" sections of the Development Agreement as findings in support of this ordinance.

SECTION 2. Authorization. The City Council approves of and authorizes the Mayor to execute a Development Agreement with Diaz Meadows substantially as provided in "Exhibit A" of this Ordinance.

SECTION 3. 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 4. 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 5. 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 posting and publication as required by law. A summary of this Ordinance may be published in lieu of publishing the entire Ordinance, as authorized by state law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor Pro-Tem and attested by the City Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Scott Diener, Council Member

PUBLISHED:
EFFECTIVE DATE:

EXHIBIT A: DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF PORT ORCHARD
 AND DIAZ MEADOWS

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF PORT ORCHARD AND DIAZ MEADOWS, LLC
FOR THE DEVELOPMENT WATER IMPROVEMENTS, CFC CREDITS, AND
RELIEF FROM DESIGN STANDARDS**

THIS DEVELOPMENT AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the City of Port Orchard, a non-charter, optional code Washington municipal corporation, hereinafter the “**City**,” and Diaz Meadows, LLC, a Washington limited liability company, hereinafter the “**Developer**” (individually, a “**Party**” and collectively, the “**Parties**”). The Parties hereby agree as follows:

RECITALS

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)); and

WHEREAS, Port Orchard adopted Chapter 20.26 of the Port Orchard Municipal Code (“POMC” or “Code”) which establishes the standards and procedures for Development Agreements in Port Orchard; and

WHEREAS, Chapter 20.26 POMC is consistent with State law; and

WHEREAS, the Developer has applied for a Development Agreement under Chapter 20.26 POMC on August 17, 2023 and such Agreement has been processed consistently with the POMC and State law; and

WHEREAS, this Development Agreement by and between the City of Port Orchard and the Developer (hereinafter the “Development Agreement” or “Agreement”), relates primarily to the development of property owned by Developer at 1375, 1385, 1391, 1395, 1405, and 1415 Old Clifton Road, Washington (Kitsap County Tax Parcels 032301-2-044-2009, 032301-2-043-2000, 032301-2-042-2001, 032301-2-025-2002) (hereinafter, the “**Property**”); and

WHEREAS, the Developer proposes to develop the Property with a multi-family development consisting of 96 multifamily units within five (5) buildings, required off-street vehicle parking, landscaping, outdoor amenity areas, and associated site improvements

(collectively, the “Development Project” or City Permit Nos. No. 22-894, 22-895, 22-896, 22-897, and 22-898); and

WHEREAS, the City is undertaking review of the Development Project pursuant to the POMC and has undertaken State Environmental Policy Act (“SEPA”) review for the Development Proposal with the issuance of a Mitigated Determination of Non-significance issued on August 24, 2023 (“MDNS”). The MDNS for the Development Project was not timely appealed; and

WHEREAS, the Developer proposes to construct at its expense, a portion of Capital Improvement Project #8 as shown in table 7-2 of the Port Orchard Comprehensive Plan; and

WHEREAS, Project #8 as shown in Table 7-2 of the Comprehensive Plan is estimated to cost \$1,325,000 and is shown as being 75% developer funded; and

WHEREAS, the Developer proposes to build 27% of the total project watermain length but not build the planned project Pressure Reducing Valve (PRV) station; and

WHEREAS, POMC 13.04.030 provides a framework for a Water Capital Facility Charge Credit when a developer constructs an eligible project at their expense; and

WHEREAS, POMC 20.32.100 requires a minimum ground floor elevation of two feet for all “Apartment” building types within the first 20 feet of a lot when measured from the right of way line and this standard will be difficult to meet due to the site topography; and

WHEREAS, the Parties agree that, as proposed, the Development Project provides an equal or better ground floor privacy for residents and aesthetic screening than could be provided with strict adherence to the Code, therefore, the City has agreed that Developer may depart from the requirements of POMC 20.32.100 in the following manner: no minimum ground floor elevation shall be applied; and

WHEREAS, the Port Orchard Design standards at POMC 20.127.210(2) require at least one building entrance needs to be visible and directly accessible from the street for each building and where the buildings are setback from the street, pedestrian connections are required from the sidewalk; and

WHEREAS, the Parties agree that, as proposed, the Development Project provides an equal or better design and access which will include two access walkways being added to the design near the leasing office and between Buildings 3 and 4 to give access to Old Clifton Road which is a more convenient connection for the residents; and

WHEREAS, POMC 20.128.050(5) requires certain plant diversity be installed, POMC 20.128.070 requires a three-foot minimum height for planters or walls within landscape areas with a maximum height of five-feet, requires landscaping strips to be a minimum of five-feet wide, and allows landscaped screening of large walls to be integrated into the plan to screen walls that are more than five-feet tall; and

WHEREAS, due to the site topography larger retaining walls are required and the Parties agree that, as proposed, the Development Project provides an equal or better configuration for landscaping and therefore a departure from strict compliance with this section is appropriate; and

WHEREAS, except with regard to the water capital facility charge credit and the departures from POMC 20.32.100, 20.127.210(2), 20.128.050(5), and 20.128.070 as described herein, this Agreement does not establish or modify the standards or conditions for the underlying Development Project which is being undertaken in accordance with applicable code and regulations; and

WHEREAS, in consideration of the benefits conferred by this new Agreement, which reflect the current plans of both the City and the Developer and include a water capital facility charge credit calculation, the Parties deem it in their best interests to enter into this Agreement; and

WHEREAS, the City Council held a public hearing on **October 10, 2023** regarding this Agreement; and

WHEREAS, after a public hearing, by Ordinance No. [xxx], the City Council authorized the Mayor to sign this Agreement with the Developer.

AGREEMENT

Section 1. The Property. The Property comprises 1375, 1385, 1391, 1395, 1405, and 1415 Old Clifton Road, Washington (Kitsap County Tax Parcels 032301-2-044-2009, 032301-2-043-2000, 032301-2-042-2001, 032301-2-025-2002). The Property is described on **Exhibit A** which is attached hereto and incorporated herein by this reference as if set forth in full. A map of the Property is shown **Exhibit B** on which is attached hereto and incorporated herein by this reference as if set forth in full.

Section 2. Water Improvement Project. Developer shall construct a portion of the 580 to 390 Zone Transmission Main Project, which is designated as Project #8 within table 7-2 of the Port Orchard Comprehensive Plan as amended most recently by Ordinance 012-23 and is also sometimes referred to as the “Old Clifton Road 580-390 Intertie.” For purposes of this Agreement, the 580 to 390 Transmission Main Project is defined herein as the “Water Improvement Project” and as further defined in **Exhibit C**. The Water Improvement Project shall be constructed in conformance with **Exhibit D**. The Water Improvement Project shall serve the Diaz Meadows Property, amongst other properties the 580 and 390 water pressure zones, and shall provide connectivity and capacity for the City. The City’s Public Works Director has verified that the Water Improvement Project is eligible for Water CFC credits in accordance with POMC 13.04.030 as provided in Section 10 of this Agreement. The credits authorized by this Agreement are only applicable to pending Building Permit Applications No. 22-894, 22-895, 22-896, 22-897, and 22-898 for the properties identified on **Exhibit B**.

Section 3. Definitions. As used in this Agreement, the following terms, phrases, and words

shall have the meanings and be interpreted as set forth in this Section.

a) “Adopting Ordinance” means the Ordinance which approves this Agreement, as required by RCW 36.70B.200 and Chapter 20.26 POMC.

b) “Council” or “City Council” means the duly elected legislative body governing the City of Port Orchard.

c) “Development Project” means the development of the Property with approximately 96 units of housing within 5 buildings, all required off-street vehicle parking, landscaping, outdoor amenity areas, and associated site improvements, as shown in **Exhibit B** and approved by the City under Permit PW22-054 and associated with Building Permit No. 22-894, 22-895, 22-896, 22-897, and 22-898.

d) “Director” means the City’s Public Works Director.

e) “Effective Date” means the effective date of the Adopting Ordinance.

f) “Maximum credit” means the maximum amount of water CFC credits to be provided by the City to the Developer for the Water Improvement Project.

g) “Water Improvement Project” means the Water Improvement Project described above which serves both the Property and the greater community which partially completed by the developer.

Section 4. Exhibits. Exhibits to this Agreement are as follows:

a) **Exhibit A** – Legal Description of the Property.

b) **Exhibit B** – Map of the Property and the Development Project and with permits listed in Section 2 identified.

c) **Exhibit C** – Map of Water Improvement Project, including project components.

d) **Exhibit D** – Standards for development of Water Improvement Project.

e) **Exhibit E** – CFC Credit calculation estimation for this Development Project and Water Improvement Project.

f) **Exhibit F** – Site Plan showing code departures as set forth in Section 12.

Section 5. Parties to Development Agreement. The Parties to this Agreement are:

a) The “City” is the City of Port Orchard, whose office is located at 216 Prospect Street, Port Orchard, WA 98366.

b) The “Developer” is a private enterprise which owns the Property in fee, and whose principal office is located at 144 Brick Kiln Road, Fox Island WA 98333-9708.

Section 6. Water Improvement Project is a Private Undertaking. It is agreed among the Parties that the Water Improvement Project is a private improvement for which Water CFC credits are allowed pursuant to POMC 13.04.030 and that the City has no interest in the improvements until such time as the Water Project is completed, dedicated, and accepted by the City as provided in Section 9 of this Agreement.

Section 7. Term of Agreement. This Agreement shall commence upon the Effective Date and shall continue in force for a period of five (5) years unless extended or terminated as provided herein. Following the expiration of the term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect except for such sections which are specifically intended to survive expiration or termination.

Section 8. Project Schedule. Subject to the City’s issuance of all necessary permits and approvals, Developer will commence construction of the Water Improvement Project on the following schedule:

a) Developer has already submitted applications for the required approvals to develop the Water Improvement Project.

b) The City shall undertake good faith efforts to promptly review and make final determinations on all necessary permits and approvals for construction of the Water Improvement Project (“Water Improvement Permits”), including but not limited to using the City’s third-party reviewer to provide for prompt review. In the event that the City requires additional time beyond the 120-day window to review the Water Improvement Permits, or requests corrections of Developer, the timeline for Developer’s obligation to construct the Water Improvement Project is tolled until the date that the City makes its final determination on the Water Improvement Permits.

c) Upon issuance of the Water Improvement Permits, the Developer shall commence construction of the Water Improvement Project within 120 days and proceed in a timely and workmanlike fashion, provided however, the Developer shall be solely responsible for the means and methods for construction sequencing and phasing.

d) Developer understands that in accordance with POMC 13.04.030(8)(f)(iv) that the City will not issue any certificates of occupancy for the Development Project prior to substantial completion of the Water Improvement Project. Furthermore, the Developer shall fully complete the Water Improvement Project in accordance with POMC 13.04.030(8)(f)(v) and Section 9 below prior to the issuance of any Certificates of Occupancy, or sixty (60) calendar days prior to the Termination of this Agreement, whichever date occurs first.

Section 9. Water Improvement Project Standards.

a) General. Developer will finance, design, and construct the Water Improvement Project to comply with City standards, including obtaining all necessary permits, not to be unreasonably withheld or conditioned by the City. The City will approve the plans before construction begins; and the City may accept responsibility for the operation of the Water Improvement Project in accordance with POMC 13.04.030 provided construction is completed, the Water Improvement Project has been accepted, any transfer property documents are completed, accepted, and recorded, and a two-year warranty and maintenance bond is in place, such acceptance not to be unreasonably conditioned, withheld or denied. The Project will be deemed completed when the requirements set forth in POMC 13.03.030(8)(f), have been completed.

b) Water Improvement Project. The Water Improvement Project will include design, permitting, and construction, at Developer's sole expense of a new Water Main (Project #8, 580 to 390 Zone Transmission Project) that complies with the standards as set forth on Exhibits C and D which are attached hereto and incorporated herein by this reference as if set forth in full. Any and all work within the right of way shall fully satisfy the requirements in POMC Chapter 12.04 and the City's right of way use permit process. In accordance with RCW 35.91.020, the Water Improvement Project shall be constructed according to plans and specification approved by the City. In addition, POMC 13.04.030.12 requires the materials used to comply with the requirements of the City.

c) Bond Required. The Water Improvement Project construction work shall be secured by a Performance Bond at 150% of the estimated construction costs. Construction of the Water Improvement Project shall be inspected by the City, approval not to be unreasonably withheld. In addition to the requirements in Section 9(a) above, the City's final approval of Water Improvement Project shall be conditioned upon receipt from Developer of three (3) copies of as-builts, a copy of the DWG files for the Water Improvement Project, and a two (2) year Maintenance Bond at 20% of the construction costs, which shall be effective upon the City's release of the Performance Bond. Upon acceptance of the Bill of Sale, the City shall release the Performance Bond and shall accept full responsibility for the Water Improvement Project, except for those maintenance obligations of Developer secured by the two-year Maintenance Bond. Upon City's acceptance of the Water Improvement Project, Developer shall not be responsible for any further costs, maintenance, or liability for the Water Improvement Project except as provided in the maintenance bond. This provision survives the Termination of this Agreement.

Section 10. CFC Credits for Water Improvement Project.

a) Maximum Credit. In accordance with POMC 13.04.030(8), there is a maximum amount of the Water CFC credit for the Water Improvement Project to be built by Developer. There are three methods for calculating the credit as defined in POMC 13.04.030(8). The lowest of these three calculations shall serve as the Maximum Credit Amount for improvements. The three calculation methods are set forth on Exhibit E, which is attached hereto and incorporated herein by this reference as if set forth in full. The three credit calculations are described as follows:

1. **Water Capital Facility Charge Method.** The Water Improvement Project was identified in the CFC rate study adopted by the City as a \$1,325,000.00 project that is 75% funded by CFCs. The Developer is building twenty-seven percent (27%) of

the total project watermain length and not constructing the PRV Station. The PRV Station is estimated at \$125,000 which is removed from the total project costs prior to the calculation below. The Water Improvement Project is designed to be oversized to meet the needs of future growth. The percentage of the facilities to be used by the proposed Development Project is 25%, meaning that 75% of the added capacity will be for other customers. Therefore, under the Water Facility Fee method of (a) project cost of the project as defined in the Water CFC and reduced by 25% because the project is 75% CFC funded multiplied by (b) the percentage of the project being constructed by the developer (27%) by (c) the percentage of the project that is excess capacity of the Water Improvement Project (75%), the Developer would be credited **\$182,250** $((\$1,325,000 - \$125,000) \times .75 \times .27 \times .75)$. The Parties agree with the accuracy and methodology of the Water Capital Facility Charge method formula in Section 10(a)(1).

2. **Certified Project Cost Method.** The Certified Project Cost method is determined by (a) identifying the certified construction costs of the Water Improvement Project multiplied by (b) percentage of ERUs for excess capacity of the Water Improvement Project, which as defined above, was 75% of the added capacity. The Certified Project Cost method cannot be determined until the Parties certify the Water Improvement Project costs as provided in Section 10(d) of this Agreement. The Parties agree with the accuracy and methodology of the Certified Project Cost method formula in Section 10(a)(2).
3. **Total Water Capital Facility Charge owed by Developer Method.** The Total Water Capital Facility Fee Method is determined by (a) identifying the current CFC at the time of the Agreement (currently \$11,591) and multiplying by (b) number of ERUs for Developer needs of current Water Improvement Project. Based on the scope of the Development Project that is currently in development review, there are expected to be 5 new water connections serving 96 multifamily units and common areas. These connections are expected to use 25% of the Water Improvement Project capacity. Therefore, under the Total Water Capital Facility Charge Method, Developer would be required to pay a total of \$1,112,736 in CFC charges. Because this total is higher than the Water Capital Facility Charge Method in Section 10(a)(1), this option is unlikely to be used unless the Water CFC rate is reduced significantly at the time that the building permits for the project are issued. The Parties agree with the accuracy and methodology of the Certified Project Cost method formula in Section 10(a)(3).

The Code requires that the total CFC credit be the **lowest** of the three calculated methods as set forth above. Upon completion of the Certified Project Cost method as set forth in Section 10(d), the City shall confirm the potential CFC Credits for the Developer. The lowest of the three methodologies shall be the “Maximum Water CFC Credit” for the Developer, as authorized by Code. At this point, the Parties anticipate that the Water Capital Facility Charge Method will likely be the Maximum Water CFC Credit available to Developer, however, that is subject to confirmation and change based on the above stated methodology. Once the Maximum Water CFC Credit has been achieved through credits to Developer, Developer will be required to pay any

CFCs that exceed the Maximum Water CFC Credit and will be required to comply with Chapter 13.04 POMC for any further development of the Property.

b) Deferral of CFC for Development Project. It is expected that Developer would owe a total Water CFC payment of \$1,112,736 to the City for the Development but would receive Maximum Water CFC Credit of \$182,250 (or alternative lesser amount as calculated by Section 10(a)(2) and 10(d)). Thus, the remaining CFC balance which is anticipated to be due at the time of building permit issuance from the Developer to the City is \$930,486. The Parties acknowledge that this amount could change if the CFC fees are increased prior to permit issuance. **Exhibit E** contains the estimated credit calculations for the CFC credit under the Code as applied to this Development Project.

The City and Developer agree that these credits are consistent with RCW 82.02.060(4) and that they are consistent with POMC 13.04.030.

c) Payment of CFC; deferral. Unless the CFC rate changes or the Development Project scope changes between approval of this Agreement and issuance of building permits, the Developer will not be required to pay the full CFCs prior to building permit issuance.

The Developer shall pay the CFC charges as required as of the Effective Date of this Agreement, except as deferred herein. The amount of full CFC charge required may change if Developer changes the scope of the Development Project or if the timing of the building permits is such that the CFC is adjusted. The Parties anticipate that the Maximum Water CFC Credit for the Water Improvement Project as described in this Section and on **Exhibit E** will not cover more than \$182,250 of the Water CFC charge amount. The City agrees to defer \$182,250 of the Water CFC charge amount owing but will not issue certificates of occupancy until the certified projects costs are established and the maximum credit amount is confirmed as described in Section 10(d). If the maximum credit amount after establishing certified project costs is less than the deferred amount of \$182,250, then the Developer shall pay the difference prior to being granted certificates of occupancy on the Project.

d) Certification of Project Costs. Upon completion of the Water Improvement Project, Developer shall submit certified project costs to the City for review and acceptance by the City Engineer; provided however, City shall use its best efforts to review and reach a final determination within 30 calendar days of receipt, provided all information needed by the City to determine the correct certified costs is included in the submittal. Once these costs and the executed Bill of Sale are reviewed and accepted by the City Engineer, not to be unreasonably withheld, conditioned, or delayed, the Maximum Water CFC Credit due to Developer will be established and will equal the Maximum Water Project Credit as so certified in accordance with this Section 10. Certificates of occupancy for the final residential structure in the Development Project will be withheld by the City until the construction costs are certified and accepted by the City and any remaining Water CFC fee balance has been paid; provided, however, the City shall use best available efforts to review and certify the credits applicable to the CFC balance within 30 days of receipt.

Section 11. Permitted Design Modifications.

a) The Development Project is not subject to the minimum two-foot (2') ground floor elevation requirement that is set forth in POMC 20.32.100 as applicable to all "Apartment" building types, regardless of site topography or other design considerations. The Development Project provides equal or better ground floor privacy for residents and aesthetic screening than could be provided with strict adherence to the Code, therefore, the City has agreed that Developer may depart from the requirements of POMC 20.32.100 in the following manner: no minimum ground floor elevation shall be applied.

b) The Development Project may depart from strict compliance with to Port Orchard Design standards at POMC 20.127.210(2) which require at least one building entrance be visible and directly accessible from the street for each building and which require that where buildings are setback from the street, pedestrian connections are required from the sidewalk. The Development Project provides an equal or better design and access which will include two access walkways being added to the design near the leasing office and between Buildings 3 and 4 to give access to Old Clifton Road which is a more convenient connection for the residents. A Site Plan showing the departures as described in this subsection is attached hereto as Exhibit F and incorporated herein by this reference as if set forth in full.

c) The Development Project may depart from strict compliance with POMC 20.128.050(5) which requires certain plant diversity be installed, and POMC 20.128.070 which requires a three-foot minimum height for planters or walls within landscape areas with a maximum height of five-feet, requires landscaping strips to be a minimum of five-feet wide, and allows landscaped screening of large walls to be integrated into the plan to screen walls that are more than five-feet tall. Such departure is necessary due to the site topography which requires larger retaining walls. To make space available to meet parking requirements, large retaining walls up to 15-feet in height may be located along the northern property line along with a six-foot wall installed in a cut section along the southern property line. Adjacent properties on the north and south sides of the property are undeveloped with no access agreements from the property owners. In order to creatively screen the north wall for the neighbors without having to access their site, the Development Project by install a variety of native vines that will be planted at the top of the wall at the northernmost edge to make a primarily green wall which will be filled in within a three-to-five-year period. The wall will be screened per code but will be done from the top rather than the bottom of the retaining wall. This will ensure that there is no encroachment of either plants or maintenance access on the neighbor's property to the north. Additionally, diverse screening plantings per POMC 20.128.070 and POMC 20.128.050(5) along with a four-foot-high wrought iron fence shall be included in the planting area on top of the wall. This will provide a dense and varied, mostly native, screening of the site and from the site toward neighbors to the north. The southern property line is ten feet from the back of Building No.1 and the Leasing Office, up to six feet below the adjacent property elevation. This area for all practical purposes is blocked from the adjacent undeveloped property and proposed parking lot area. The Development Project shall meet, as close as feasible, the Type B landscape requirements near the dog park area and along the patio/playground area near the Leasing Office. These are visual areas that will benefit the project and provide screening from the adjacent property. As proposed, the landscaping departures for the Development Project provides an equal or better configuration for landscaping and therefore a departure from strict compliance with these sections is appropriate. A Site Plan showing the departures as described in this subsection is attached hereto as Exhibit F and incorporated herein

by this reference as if set forth in full.

Section 12. Default.

a) Subject to extensions of time by mutual consent in writing, failure, or delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

b) After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the POMC for violations of this Agreement and the Code.

Section 13. Termination. This Agreement shall terminate five (5) years after Effective Date. Upon termination and upon the request of the Developer, the City shall record a notice of such termination in a form satisfactory to the Parties that the Agreement has been terminated.

Section 14. Extension and Modification. Any request for extension or modification, if allowed under the City's code, shall be subject to the provisions contained in POMC Chapter 20.26 POMC.

Section 15. Effect upon Termination on Developer. Termination of this Agreement as to the Developer shall not affect any of the Developer's respective obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or other land use entitlements approved with respect to the Property, or obligations to pay assessments, liens, fees, or taxes. Furthermore, if the Agreement expires without the Water Improvement Project costs being fully recovered by impact fee credit or mitigation funds, the Developer will no longer be eligible to receive such credits.

Section 16. Effects upon Termination on City. Upon any termination of this Agreement as to the Property, or any portion thereof, the City will be under no obligation to provide any additional credits or reimbursement to Developer even if the Water Improvement Project costs have not been fully recovered at the time of expiration or termination.

Section 17. Assignment and Assumption. The Developer shall have the right to sell, assign or transfer this Agreement with all rights, title, and interests therein to any person, firm, or corporation at any time during the term of this Agreement with a sale of the underlying property. Developer shall provide the City with written notice of any intent to sell, assign, or transfer all or a portion of the Property, at least 30 calendar days in advance of such action; provided; however, failure to strictly comply with the 30-calendar day notice provision shall not be considered a breach

of this Agreement.

Section 18. Binding on Successors; Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the Parties. The Developer and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a Party thereto, but only with respect to the Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of the Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred to it.

Section 19. Amendment to Agreement; Effect of Agreement on Future Actions. No waiver, alteration, or modification to any of the provisions of this Agreement shall be binding unless in writing, signed by the duly authorized representatives of the Parties, be consistent with Chapter 20.26 POMC, and, where considered substantive as determined by the Director, follow the same procedures set forth in Chapter 20.26 POMC. Nothing in this Agreement shall prevent the City Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations after the Effective Date of this Agreement.

Section 20. General release. Developer may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee, or transferee expressly assumes the obligations under this Agreement as provided herein.

Section 21. Notices. Notices, demands, correspondence to the City and/or Developer (as applicable) shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the Parties as designated in “Written Notice” Section 33 below. Notice to the City shall be to the attention of both the City Clerk and the City Attorney. Notices to successors-in-interest of the Developer shall be required to be given by the City only for those successors-in-interest who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 22. Reimbursement for Agreement Expenses of the City. Developer agrees to reimburse the City for actual expenses incurred over and above fees paid by Developer as an applicant incurred by City directly relating to this Agreement, including recording fees, publishing fees, attorneys’ fees, and reasonable staff and consultant costs not otherwise included within application fees; provided however, the City shall provide written notice to Developer if the expenses to the City are anticipated to exceed Twenty-Five Thousand Dollars and No Cents (\$25,000.00) and the Parties shall meet and confer regarding the City’s anticipated costs. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall be remitted to the City, at the latest, within thirty (30) days from the City’s presentation of a written statement of charges to the Developer.

Section 23. Applicable Law, Resolution of Disputes, and Attorneys' Fees. It is the Parties' intent to work cooperatively and to resolve disputes in an efficient and cost-effective manner. All disputes arising out of or relating to this Agreement shall be resolved as follows:

a) **Settlement Meeting.** If any dispute arises between the Parties relating to this Agreement, then the Parties shall meet and seek to resolve the dispute, in good faith, within ten (10) working days after a Party's request for such a meeting. The City shall send the Mayor, Community Development Director, Public Works Director, and/or the Mayor's designee and any persons with information relating to the dispute, and Developer shall send an owner's representative and any consultant or other person with technical information or expertise related to the dispute.

b) **Court.** If the Parties cannot resolve the matter in a settlement meeting, then jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington, or the U.S. District Court for Western Washington, as applicable. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing Party in any action brought to enforce this Agreement shall pay the other Parties' expenses and reasonable attorney's fees.

Section 24. No Third-Party Beneficiaries. Except as otherwise provided herein, this Agreement shall not create any rights enforceable by any party who is not a Party to this Agreement.

Section 25. City's right to breach. The Parties agree that the City may, without incurring any liability, engage in action that would otherwise be a breach if the City makes a determination on the record that the action is necessary to avoid a serious threat to public health and safety, or if the action is required by federal or state law.

Section 26. Developer's Compliance. The City's duties under the Agreement are expressly conditioned upon the Developer's substantial compliance with each and every term, condition, provision, and/or covenant in this Agreement, including all applicable federal, state, and local laws and regulations and the Developer's obligations as identified in any approval or project permit for the property identified in this Agreement.

Section 27. Limitation on City's Liability for Breach. Any breach of this Agreement by the City shall give right only to damages under state contract law and shall not give rise to any liability under Chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S. Constitution, including but not limited to 42 U.S.C. §1983, or similar state constitutional provisions.

Section 28. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a Party to challenge this Agreement or any provision herein, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer. In such event, Developer shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation. The Developer shall not settle any lawsuit without the consent of the City. The City shall act in good

faith and shall not unreasonably withhold consent to settle.

Section 29. Specific Performance. The Parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the Parties are entitled to compel specific performance of all material terms of this Agreement by any Party in default hereof.

Section 30. Recording. This Agreement shall be recorded against the Property with the real property records of the Kitsap County Auditor. During the term of the Agreement, it is binding upon the owners of the property and any successors in interest to such property.

Section 31. Severability. This Agreement does not violate any federal or state statute, rule, regulation or common law known; but any provision which is found to be invalid or in violation of any statute, rule, regulation or common law shall be considered null and void, with the remaining provisions in the Agreement remaining viable and in effect.

Section 32. Non-Waiver of Breach. The failure of a Party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred 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 and remain in full force and effect.

Section 33. Written Notice. All written communications regarding enforcement or alleged breach of this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of both emailing and mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

NAME OF DEVELOPER:

Diaz Meadows, LLC
Attn. Kimberly Diaz
144 Brick Kiln Road
Fox Island WA 98333-9708
Email: mdiaz@windermere.com

CITY:

Mayor
City of Port Orchard
216 Prospect Street
Port Orchard WA 98366
rputaansuu@portorchardwa.gov

Copies shall also be transmitted to the City Clerk and City Attorney at the above address.

Section 34. Time is of the essence. All time limits set forth herein are of the essence. The Parties agree to perform all obligations under this Agreement with due diligence.

Section 35. Covenant of Good Faith and Cooperation. The Parties agree to take further actions and execute further documents, either jointly or within their respective power and authority, to implement the intent of this Agreement. Each Party covenants to use its best efforts and work cooperatively in order to secure the benefits and rights under this Agreement. The Parties shall not unreasonably withhold approvals or consents provided for in this Agreement. Each Party shall execute and deliver to the other all further documents as are reasonably necessary to carry

out this Agreement, including the Water Improvement Project, the property dedications (if any), and Development Project, as may be necessary to provide a Party with a full and complete enjoyment of its rights and privileges under this Agreement.

Section 36. Interpretation. This Agreement has been reviewed and revised by legal counsel for both Parties, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this Agreement.

Section 37. Counterparts. The Agreement may be signed in two or more counterpart copies with the same effect as if the signature of each counterpart copy were on a single instrument. Each counterpart shall be deemed as an original as to the Party whose signature it bears, and all such counterparts shall constitute one document.

Section 38. Entire Agreement. The written provisions and terms of this Agreement, together with the Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the Parties, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement. The entire agreement between the Parties with respect to the subject matter hereunder is contained in this Agreement and exhibits thereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement on this ____ day of _____, 2023.

DIAZ MEADOWS, LLC

CITY OF PORT ORCHARD

By: _____
Kimberly Diaz
Its:

By: _____
Rob Putaansuu
Its: Mayor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Jacob Potak
Attorney for Developer

Jennifer S. Robertson
Attorney for Port Orchard

ATTEST:

Brandy Wallace, CMC
Port Orchard City Clerk

EXHIBITS TO AGREEMENT:

- Exhibit A** – Legal Description of the Property being developed by Developer
- Exhibit B** – Map of the Property and the Development Project and with permits listed in Section 2 identified
- Exhibit C** – Map of Water Improvement Project, including project components.
- Exhibit D** – Standards for development of Water Improvement Project.
- Exhibit E** – CFC Credit calculation estimation for this Development Project and Water Improvement Project.
- Exhibit F -- Site Plan showing Section 12 departures.**

NOTARY BLOCK FOR PORT ORCHARD

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that **Robert Putaansuu** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor of Port Orchard** to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: _____, 2023.

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

NOTARY BLOCK FOR DIAZ MEADOWS, LLC

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that **Kimberly Diaz** is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Managing Member** of **Diaz Meadows, LLC**, a Washington limited liability company to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: _____, 2023.

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at: _____

My Commission expires: _____

AUG 17, 2023

City of Port Orchard
Community Development

EXHIBIT "A"

Legal Description

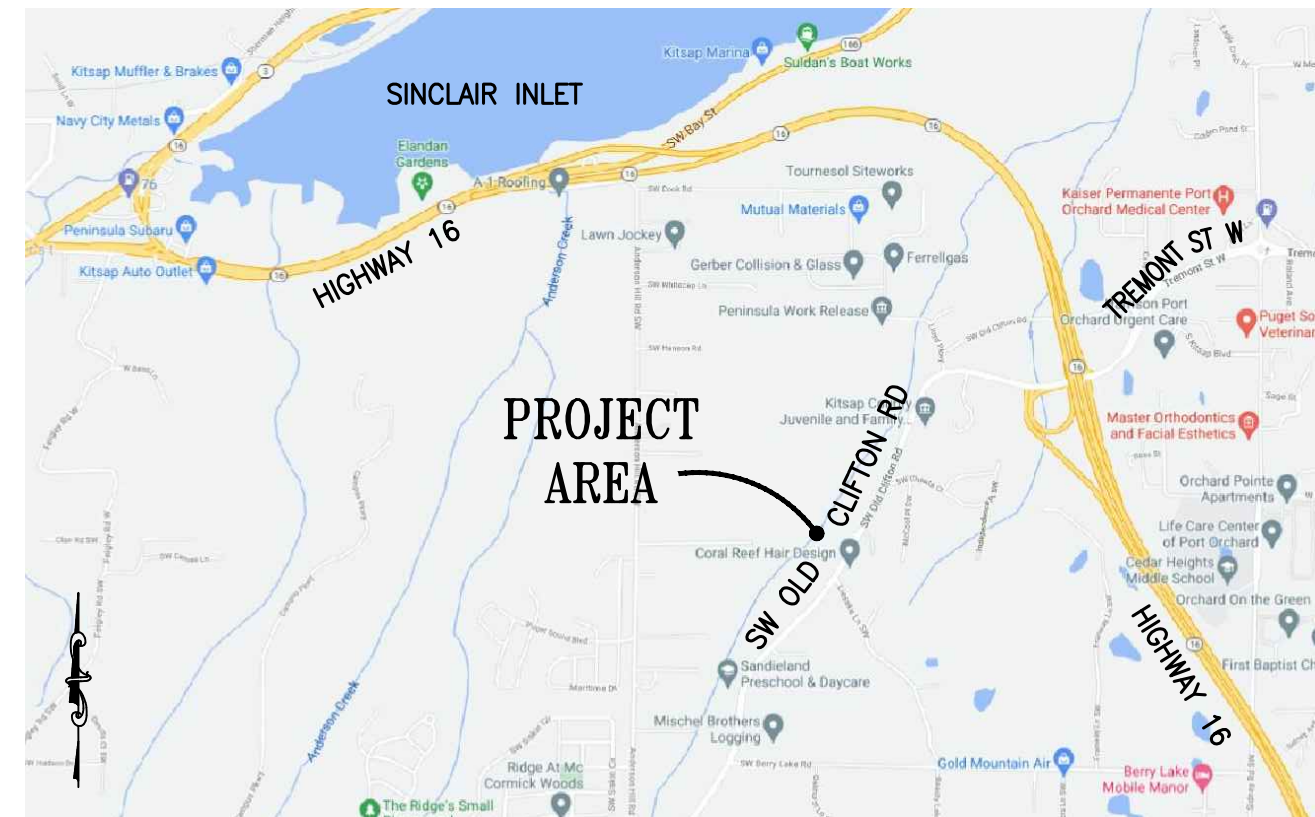
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032301-2-042-2001,

032301-2-043-2000, 032301-2-044-2009 and 032301-2-102-2008 Resultant Lots 2, 3
and 4 of Declaration of Partition recorded under Auditor's File No. 202301300063, in
Volume 97 of Surveys, Pages 146 and 147, records of Kitsap County, Washington,
being a portion of the Northwest quarter of the Northwest quarter , Section 3,
Township 23 North, Range 1 East, W.M., in Kitsap County, Washington.

LOT D OF SHORT PLAT NO. 3616 WAS RECORDED UNDER AUDITOR'S FILE NO. 8411020145, RECORDS OF KITSAP COUNTY, WASHINGTON, BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, SECTION 3, TOWNSHIP 23 NORTH, RANGE 1 EAST, W.M., KITSAP COUNTY, WASHINGTON; SUBJECT TO AND TOGETHER WITH EASEMENTS OF RECORD.

1. FOUR APARTMENT BUILDINGS, 24 UNITS IN EACH BUILDING (96 TOTAL ROOMS).
2. 179 TOTAL PARKING STALLS, 116 STANDARD STALLS @ 9'X20' & 63 COMPACT STALLS @ 9'X16' & 10 HANDICAP STALLS @ 8'X20'. DESIGN CRITERIA: 52 (1) BEDROOMS @ 1.75 PER BEDROOM AND 44 2 BEDROOMS @ 2 PER BEDROOM = 179; PARKING STALLS SHALL INCLUDE WHEEL STOPS.
3. HANDICAP STALLS = 10 TOTAL (8'X20').
4. DUAL PORT CHARGING STATIONS = 18 TOTAL.
5. STREAM BUFFER = 112.5' W/ 15' IMPERVIOUS SETBACK (SEE HABITAT MANAGEMENT PLAN).
6. TOP OF SLOPE SETBACK = 17' PER GEOTECHNICAL REPORT.
7. BACK YARD SETBACK = 10'.
8. SIDE YARD SETBACK = 15'
9. EACH BUILDING ENTRANCE SHALL INCLUDE 4 BICYCLE PARKING SPACES LOCATED UNDER THE STAIRS FOR A TOTAL OF 24 PARKING SPACES.
10. OPEN SPACE REQUIRED: 100 SF PER 1 BR & 150 SF PER 2&3 BR: TOTAL=11,800 SF. OPEN SPACE PROVIDED: OS#1=3,945 SF, #2=2,026 SF, #3=3,681 SF, #4=1,190 SF & #5=4,297 SF WITH A TOTAL = 15,139 SF >11,800 SF.

ARPA	AQUIFER RECHARGE	LT	LEFT
	PROTECTION AREA	MIN	MINIMUM
BRC L	BIORETENTION CELL	N	NORTH
	CENTERLINE	NVA	NATIVE VEGETATION AREA
CONC	CONCRETE	OHW	ORDINARY HIGH WATER
CSTC	CRUSHED SURFACING	PE	POLYETHYLENE
	TOP COURSE	PT	POINT
CSBC	CRUSHED SURFACING	RT	RIGHT
	BASE COURSE	S	SOUTH
EOP	EDGE OF PAVEMENT	SD	STORM DRAIN
ELEV	ELEVATION	STA	STATION
EXIST	EXISTING	STR	STRUCTURE
FG	FINISH GRADE	TOC	TOP OF CONCRETE
FF	FINISHED FLOOR	TP	TEST PIT NUMBERS
FLB	FLOWLINE	TYP	TYPICAL
GB	GRADE BREAK	W/	WITH
IE	INVERT	WQ	WATER QUALITY
LT	LINEAR FOOT		

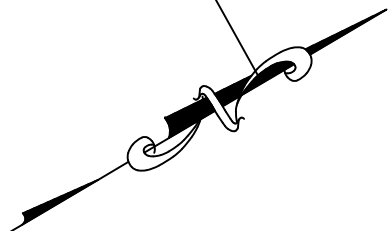
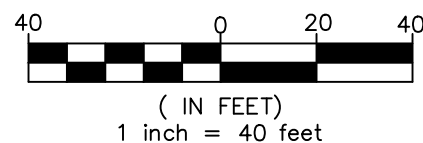
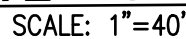


N.T.S

- C1 COVER DRAWING INDEX & VICINITY MAP
- C2 FIRE TRUCK CIRCULATION PLAN
- C12 TOPOGRAPHICAL SITE PLAN (CSI SURVEY)
- C3 ABUTTING PROPERTIES
- C4 TESP NOTES
- C5 TESP PLAN & DETAILS
- C6 OVERALL GRADING PLAN & PROFILE
- C6A BUILDING #1 WEST HANDICAP RAMP
PLAN, PROFILE & SECTIONS
- C6B BUILDING #1 EAST HANDICAP RAMP
PLAN, PROFILE & SECTIONS
- C6C BUILDING #2 HANDICAP RAMP
PLAN, PROFILE & SECTIONS
- C6D BUILDING #3 HANDICAP RAMP
PLAN, PROFILE & SECTIONS
- C6E BUILDING #4 HANDICAP RAMP
PLAN, PROFILE & SECTIONS
- C7 PARTIAL GRADING PLANS
- C8 SITE CROSS SECTIONS 1 OF 2
- C9 SITE CROSS SECTIONS 2 OF 2
- C10 OVERALL STORM DRAINAGE - PLAN
- C11 INFILTRATION TRENCH #1
STORM DRAINAGE PLAN & PROFILES
- C12 INFILTRATION TRENCH #2
STORM DRAINAGE PLAN & PROFILES
- C13 INFILTRATION TRENCH #3
STORM DRAINAGE PLAN & PROFILES
- C14 INFILTRATION TRENCH #4
STORM DRAINAGE PLAN & PROFILES
- C15 WATER & SANITARY SEWER - PLAN
- C16 ROAD SECTIONS 1 OF 2
- C17 ROAD SECTIONS 2 OF 2
- C18 GRADING DETAILS 1 OF 2
- C19 GRADING DETAILS 2 OF 2
- C20 STORM DRAINAGE DETAILS
- C20A STORM DRAINAGE WATER QUALITY DETAILS
- C20B CONTECH CHAMBER MAX HDPE INFILTRATOR
DETAILS
- C21 SEWER DETAILS
- C22 WATER DETAILS 1 OF 2
- C23 WATER DETAILS 2 OF 2
- C24 SOIL AMENDMENT NOTES
- L0 LANDSCAPE COVER
- L-1.0 LANDSCAPE PLAN
- L-2.0 LANDSCAPE PLAN A
- L-3.0 LANDSCAPE PLAN B
- L-4.0 SIGNIFICANT TREE PLAN
- L-5.0 LANDSCAPE NOTES
- L-6.0 LANDSCAPE DETAILS
- L-7.0 LANDSCAPE DETAILS
- L-8.0 LANDSCAPE DETAILS
- L-9.0 LANDSCAPE DETAILS
- L-10.0 IRRIGATION PLAN A
- L-11.0 IRRIGATION PLAN B
- L-12.0 IRRIGATION DETAILS
- A A01 DUMPSTER ENCLOSURE

ON PLAN

PW22-054 / PW22-055



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811
UTILITIES UNDERGROUND LOCATION CENTER**



DIAZ MEADOWS APARTMENT
PARCELS: 032301-2-102-2008, 032301-2-042-2001
032301-2-043-2000, & 032301-2-044-2009
(206) 200-7926

COVER, DRAWING INDEX & VICINITY MAP

DRAWING NO.

C1

Construction of this transmission main, along with the new 580 Zone tank (CIP 1), Wells 11 and 12 (CIP 3 and 9), and connection to the 390 Pressure Zone (CIP 8) are necessary to hydraulically separate the City's water system from the City of Bremerton's system.

Project 5 - 390 Zone Storage

- ❖ **Estimated Cost: \$3,000,000**
- ❖ **Priority: High**
- ❖ **Schedule: 2025**

Additional storage will be needed in the 390 Pressure Zone. Timing will depend on the rate of growth in the Sidney/Sedgwick area.

Project 6 - Telemetry Upgrades

- ❖ **Estimated Cost: \$100,000**
- ❖ **Priority: Medium**
- ❖ **Schedule: 2028**

This project includes addition of telemetry equipment at various water system facilities and connection to newly upgraded central telemetry equipment.

Project 7 - 390 to 580 Zone Booster Station (Old Clifton)

- ❖ **Estimated Cost: \$750,000**
- ❖ **Priority: High**
- ❖ **Schedule: 2022**

This project would allow water to be pumped up from the 390 zone to the 580 zone through the COPO-McCormick Woods intertie as the systems become one. This would allow for an alternate water supply in the event of a failure in the McCormick Woods system supply.

Project 8 - 580 to 390 Zone Transmission Main (580/390 PRV to Old Clifton Tank)

- ❖ **Estimated Cost: \$1,325,000**
- ❖ **Priority: Medium**
- ❖ **Schedule: 2024**

Connection of the 580 Zone to the 390 Zone through a transmission main along Old Clifton Road has been identified as a valuable addition to the long-term goal of interconnecting the McCormick and City systems. Construction of this transmission main, along with the new 580 Zone tank (CIP 1), Wells 11 and 12 (CIP 3 and 9), and connection to the 580 Pressure Zone (CIP 4) are necessary to hydraulically separate the City's water system from the City of Bremerton's system.

CIP 8 includes construction of a 10- to 12-inch transmission main along SW Old Clifton Rd between an existing 8-inch water main located near the intersection of SW Old Clifton Rd and Bantry Bay Loop SW and connecting to the Old Clifton 390 Pressure Zone tank. In combination with CIP 4, this new transmission main will provide a fundamental link between the 580 and 390 pressure zones through the McCormick Woods system.

The 12-inch main will be approximately 6,000 feet in length. A 580 to 390 PRV station will be required at the boundary between the two pressure zones.

Project 9 - Well 12 Development, Treatment, and Booster Pump Station

❖ **Estimated Cost: \$7,000,000**

❖ **Priority: High**

❖ **Schedule: 2024**

Significant growth is expected in the McCormick Woods area, which is served by the 580 and future 660 Pressure Zones. Improvements to the source supply are necessary to meet the growing water demand. Well 12 will be located on City-owned property in the northwest corner of the City, referenced in this Plan as the Well 12 Water Campus. An existing 450,000-gallon tank at the site currently provides storage for the 580 Zone.

The Well 12 improvements include:

- A new well with an approximate 1,000 gpm nominal capacity that is anticipated to be approximately 1,500 feet deep. Also associated with the new well is a small well house, well pump, and piping to convey well water to the new on-site booster pump station/water treatment building.
- Treatment systems will include:
 - Chlorination feed system
 - Filtration backwash system, if water quality analyses dictate
 - Provisions for backwash water disposal, if needed
 - Fluoridation feed system (possibly depending on citizen vote outcome)
- The City currently maintains and operates an existing 450,000-gallon water storage tank at the Well 12 Campus, which will be sold to the City of Bremerton once Well 12, the new 0.97 MG 580 Zone tank (CIP 1) and connection piping is online. A pipe connection from the booster pump station to the proposed 580 Zone tank and an emergency tie-in to the existing tank are proposed. Stub outs to a proposed 580 Zone transmission pipeline (CIP 4) and to a proposed 580 to 660 Zone Booster Pump Station and storage (CIP 14) are required.
- Site development including clearing, site grading, access roads, stormwater management, security, lighting, landscaping, sewer routing, fencing, and parking will be required.

Project 10 - Melcher Street Pump Station Upgrade

❖ **Estimated Cost: \$500,000**

❖ **Priority: Medium to High**

❖ **Schedule: 2022**

The Melcher Pump Station moves water, when required, from the 260 Zone to the 390 Zone. This project includes installing additional pumps and controls to accommodate added transfer of water from the 260 Zone to the 390 Zone. This will extend the useful life of the pump station but due to the age of the facility, upgrades are needed to maintain it in a fully functioning condition.

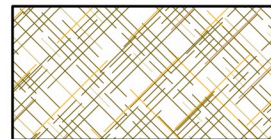
Exhibit D – Public Works Engineering Standards and Specifications

The City of Port Orchard Engineering Standards and Specifications are on file with the City of Port Orchard City Clerk.

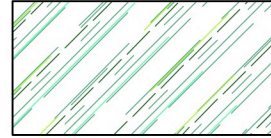
Exhibit E – CFC Credit calculation estimation for this Development Project and Water Improvement Project.

1. **Water Capital Facility Charge Method.** The Water Improvement Project was identified in the CFC rate study adopted by the City as a \$1,325,000.00 project that is 75% funded by CFCs. The Developer is building twenty-seven percent (27%) of the total project watermain length and not constructing the PRV Station. The PRV Station is estimated at \$125,000 which is removed from the total project costs prior to the calculation below. The Water Improvement Project is designed to be oversized to meet the needs of future growth. The percentage of the facilities to be used by the proposed Development Project is 25%, meaning that 75% of the added capacity will be for other customers. Therefore, under the Water Facility Fee method of (a) project cost of the project as defined in the Water CFC and reduced by 25% because the project is 75% CFC funded multiplied by (b) the percentage of the project being constructed by the developer (27%) by (c) the percentage of the project that is excess capacity of the Water Improvement Project (75%), the Developer would be credited **\$182,250** $((\$1,325,000 - \$125,000) \times .75 \times .27 \times .75)$. The Parties agree with the accuracy and methodology of the Water Capital Facility Charge method formula in Section 10(a)(1).
2. **Certified Project Cost Method.** The Certified Project Cost method is determined by (a) identifying the certified construction costs of the Water Improvement Project multiplied by (b) percentage of ERUs for excess capacity of the Water Improvement Project, which as defined above, was 75% of the added capacity. The Certified Project Cost method cannot be determined until the Parties certify the Water Improvement Project costs as provided in Section 10(d) of this Agreement. The Parties agree with the accuracy and methodology of the Certified Project Cost method formula in Section 10(a)(2).
3. **Total Water Capital Facility Charge owed by Developer Method.** The Total Water Capital Facility Fee Method is determined by (a) identifying the current CFC at the time of the Agreement (currently \$11,591) and multiplying by (b) number of ERUs for Developer needs of current Water Improvement Project. Based on the scope of the Development Project that is currently in development review, there are expected to be 5 new water connections serving 96 multifamily units and common areas. These connections are expected to use 25% of the Water Improvement Project capacity. Therefore, under the Total Water Capital Facility Charge Method, Developer would be required to pay a total of \$1,112,736 in CFC charges. Because this total is higher than the Water Capital Facility Charge Method in Section 10(a)(1), this option is unlikely to be used unless the Water CFC rate is reduced significantly at the time that the building permits for the project are issued. The Parties agree with the accuracy and methodology of the Certified Project Cost method formula in Section 10(a)(3).

Plant Legend: D: Decid, E: Evrgrn, SE: Semi Evrgrn, DT: Drought Tol, DR: Deer Resist, N: Native					
ID	Qty	Botanical Name	Common Name	Scheduled Size	Remarks
ACEC	2	Acer circinatum	Vine Maple	2" C.	D, N, small tree, fall color
ACEP-S	3	Acer palmatum 'Sangokaku'	Coral Bark Maple	2" C.	D, DT, small specimen tree, red bark
ACER-K	13	Acer rubrum 'Karpick'	Karpick Maple	2" C.	D, tall narrow tree to 40', fall color
AMEL	21	Amelanchier laevis	Allegheny Serviceberry	2" C.	D, DT, N, street tree, draws birds
ARBU-C	10	Arbutus unedo 'Compacta'	Compact Strawberry Bush	1 G.	E, red bark, red berries
ARCU	1438	Arctostaphylos uva-ursi	Kinnikinnick	1 G.	E, GC, White and pink flower, year round interest
CART	329	Carex testacea	Orange New Zealand Sedge	1 G.	PER, DT, low ornamental grass, bronze color
CISC	123	Cistus corbariensis	White Rock Rose	1 G.	E, DT, low evergreen shrub, white flowers in summer
CORK	11	Cornus kousa	Kousa Dogwood, Japanese Dogwood	2" C.	D, specimen tree, year round interest
CORS-K	101	Cornus sericea 'Kelsey'	Red Osier Dogwood	1 G.	D, N, DT, dwarf native shrub, year round interest
CUPL	12	Cupressus 'leylandii'	Levyland Cypress	6" H	E, conifer for screening, no flowers or blooms
FRAC	301	Fragaria chiloensis	Beach Strawberry	4" Pot	SE, GC, DT, N, low shrub, white flowers, green foliage
HAKM	608	Hakonechloa macra	Japanese Forest Grass	1 G.	PER, DT, yellow variegated ornamental grass
ILEC-SP	17	Ilex crenata 'Sky Pencil'	Sky Pencil Japanese Holly	5" H.	E, golden tiny leaves
JUNC-OG	12	Juniperus chinensis 'Old Gold'	Golden Juniper	1 G.	E, DT, DR, prostrate dwarf conifer, gold foliage
LH	17	Lonicera hispidula	Hairy Honeysuckle	4L	D, GC, DT, N, DR
MAHA	346	Maehonia aquifolium	Oregon Grape Holly	1 G.	E, DT, N, DR, upright, yellow fragrant flower
MAHN	190	Maehonia nervosa	Dwarf Oregon-grape	1 G.	E, DT, N, DR, low shrub, yellow fragrant flower, berries
MORELC	2	Morella californica	California Wax Myrtle	10 G.	E, DT, DR, Large screening shrub
NAND-F	364	Nandina domestica 'Firepower'	Firepower Heavenly Bamboo	1 G.	E, DT, DR, dwarf shrub, red foliage, year round interest
NAND-GS	170	Nandina domestica 'Gulf Stream'	Gulf Stream Heavenly Bamboo	1 G.	E, DT, DR, dwarf habit, year round interest
OPHJ	613	Ophiopogon japonicus	Mondo Grass	4" Pot	SE, DT, low ornamental grass, green foliage
PARP	38	Parrotia persica	Persian Ironwood, Persian Parrotia	2" C.	D, DT, medium tree, winter interest, colorful foliage, very hardy
PHIL	71	Philadelphus lewisii	Mock Orange	1 G.	D, N, large shrub, fragrant spring flowers
PHIL-C	9	Pinus contorta 'Contorta'	Shore Pine	6" H	E, N, DT, DR, native conifer
POLM	108	Polystichum munitum	Sword Fern	1 G.	PER, N, DT, dark green fern
PRUE	2	Prunus emarginata	Bitter Cherry	2" C.	D, N, small tree, large shrub
PSEM	3	Pseudotsuga menziesii	Douglas Fir	6" H	E, DT, N, DR, conifer
QUER	14	Quercus rubra	Red Oak	2" C.	D, DT, street tree, fall color
RUUR	41	Rubus ursinus	Pacific Blackberry	4"	E, GC, DT, N, DR, summer fruit
SAMR	3	Sambucus racemosa	Red Elderberry	1 G.	D, N, large shrub, edible red berries
SYMA	404	Symphoricarpos albus	Snowberry	1 G.	D, N, DT, upright shrub, white berries



CEDAR CHIP AREAS AND PLAY AREA



GROUNDCOVER: Microclover Seed (Pelleted)
<https://www.americanmeadows.com/grass-and-groundcover-seeds/clover-seeds/microclover-seed-pelleted>
Acreage
1 Acre = 43,000 sq.ft.
1/2 Acre = 21,500 sq. ft.
1/4 Acre = 10,750 sq. ft.
1/10 Acre = 4,300 sq. ft.
Tips For Larger Plantings: If you have a large site, from 1/2 acre to several acres, your planting rate may be affected by land conditions. If you have heavy weeds on the site now, some erosion, generally poor soil, or other land problems, additional seed is usually the most economical solution, since installation of a large planting usually costs more than the seed itself. If your site does have these problems and you want full coverage, use 1 pound per 1000 sq. ft.

PLANTING NOTE: SEE SHEET 4 - 5 OF HABITAT MANAGEMENT PLAN, AND BUFFER RESTORATION AND ENHANCEMENT PLAN FOR PLANTING IN BUFFER AREAS.

OPEN SPACE NOTE: SEE CIVIL FOR OPEN SPACE PLAN

SEE HABITAT MANAGEMENT PLAN, BUFFER RESTORATION FOR PLANTING

PLANTING BEDS THAT ARE UNDER THE MINIMUM OF 3'W. ARE OUTSIDE OF REQUIRED LANDSCAPE AREAS ONLY PER POMC 20.128.070

BENCHES (1 OF 9), SEE L-7.0

SEE HABITAT MANAGEMENT PLAN, BUFFER RESTORATION FOR PLANTING

PLANTING BEDS THAT ARE UNDER THE MINIMUM OF 3'W. ARE OUTSIDE OF REQUIRED LANDSCAPE AREAS ONLY PER POMC 20.128.070

ALUMINIUM FENCE. SEE L-7

PROPOSED OUTDOOR EXERCISE SPOT WITH OUTDOOR EXERCISE EQUIPMENT. SEE L-9.0, BENCH (1 OF 9), AND PICNIC AREA (1 OF 3), CEDAR CHIPS BELOW. SEE L-7.0

BENCHES (2 OF 9), SEE L-7.0

SEE HABITAT MANAGEMENT PLAN, BUFFER RESTORATION FOR PLANTING

BENCH (1 OF 9) AND PICNIC TABLE (1 OF 3) AT DOG PARK WITH CEDAR CHIPS BELOW. SEE L-7.0

SEE HABITAT MANAGEMENT PLAN, ENHANCEMENT PLAN FOR PLANTING.

ALUMINIUM FENCE. SEE L-7

DISCUSS CROWDED PLANTING BETWEEN RETAINING WALL AND REAR FACE OF BUILDING

DEPARTURE: SOUTHERN PROPERTY LINES MEET TYPE B LANDSCAPING REQUIREMENTS AS CLOSELY AS THE SITE ALLOWS. PROVIDED IS PLANT DIVERSITY AND TREE SIZE VARIETY REQUIRED PER POMC 20.128.050(5). PLANTING SPACING MEETS DENSITY REQUIREMENT. SPACING BASED ON INDIVIDUAL GROWTH HABIT OF PLANTING TO ALLOWS FOR TOUCH OR OVERLAP AT MATURITY.

SPACE IS LIMITED ALONG THE SOUTH PROPERTY LINE AND AFFECTED BY RETAINING WALLS REQUIRED FOR GRADING PURPOSES. PLANTING PLAN HAS BEEN UPDATED SINCE PREVIOUS SUBMITTAL TO ADHERE AS CLOSELY AS POSSIBLY TO THIS REQUIREMENT.

DEPARTURE: NORTHERN PROPERTY LINES MEET TYPE B LANDSCAPING REQUIREMENTS AS CLOSELY AS THE SITE ALLOWS. PROVIDED IS PLANT DIVERSITY AND TREE SIZE VARIETY REQUIRED PER POMC 20.128.050(5). PLANTING SPACING MEETS DENSITY REQUIREMENT. SPACING BASED ON INDIVIDUAL GROWTH HABIT OF PLANTING TO ALLOWS FOR TOUCH OR OVERLAP AT MATURITY.

STRUCTURES COVER TRASH AREAS AND ADJACENT BEDS ARE AT LEAST 5'D. TO HELP SCREEN TRASH ENCLOSURES PER POMC 20.127.360(3).

ONE TREE REQUIRED FOR EVERY 1,000 SQUARE FEET OF VEHICULAR USE AREA PROVIDED

SPLIT RAIL FENCE. SEE L-5

ALUMINIUM FENCE. SEE L-7

PROPOSED COMMUNITY GARDEN WITH 5 RAISED PLANTERS. CEDAR CHIPS BELOW. SEE L-7.0

BENCH (1 OF 9), SEE L-7.0

SPACE IS LIMITED ALONG THE NORTH PROPERTY LINE AND AFFECTED BY RETAINING WALLS REQUIRED FOR GRADING PURPOSES. PLANTING PLAN HAS BEEN UPDATED SINCE PREVIOUS SUBMITTAL TO ADHERE AS CLOSELY AS POSSIBLY TO THIS REQUIREMENT.

DEPARTURE: PROPOSED ARE NATIVE VINES PLANTED AT THE TOP OF THE RETAINING WALL AND WILL WIND THROUGH THE STEEL WIRE WALL STRUCTURE PROVIDING A PRIMARILY GREEN WALL IN 3-5 YEARS. THE WALL WILL BE SCREENED PER CODE, FROM THE TOP OF THE WALL, AVOIDING ENCROACHMENT OF PLANTS AND MAINTENANCE ACCESS ON THE NORTH PROPERTY LINE. ADDITIONAL DIVERSE SCREENING PLANTING PER 20.128.070. A 4'H. ALUMINUM FENCE WILL BE INCLUDED ON TOP OF THE WIRE WALL, PROVIDING DENSE AND VARIED, MOSTLY NATIVE SCREENING OF THE SITE AND FROM THE SITE TOWARD THE NORTH.

PICNIC TABLE (1 OF 3) WITH CEDAR CHIPS BELOW. SEE L-7.0

BENCHES (1 OF 9), SEE L-7.0

PLANTING BEDS THAT ARE UNDER THE MINIMUM OF 3'W. ARE OUTSIDE OF REQUIRED LANDSCAPE AREAS ONLY PER POMC 20.128.070

DEPARTURE- THIS AREA IS BELOW A 6' RETAINING WALL AND CANNOT BE SEEN OR ACCESSED

PRIVATE PATIO SPACES FOR GROUND LEVEL RESIDENCES THAT FACE OLD CLIFTON ROAD (POMC 20.127.210(2))

BENCHES (1 OF 9), SEE L-7.0

ENLARGED LANDSCAPE PLANS CUT LINE. SEE L-2.0 FOR A AND L-3.0 FOR B

PRIVATE PATIO SPACES FOR GROUND LEVEL RESIDENCES THAT FACE OLD CLIFTON ROAD (POMC 20.127.210(2))

TREES WITH IN THE RIGHT OF WAY ADHERE TO KITSAP COUNTY CODE ON LANDSCAPE REQUIREMENT FOR STREET TREES 1 PER 25 FEET OF ROAD FRONTAGE TO BE PROVIDED

BENCH (1 OF 9), SEE L-7.0

OUTDOOR KITCHEN WITH PAVILION ABOVE. SEE L-8.0

OUTDOOR SEATING. SEE L-8.0 AND L-9.0

PLAY AREA WITH CEDAR CHIPS BELOW. SEE L-7.0 AND L-8.0

RECREATION PATIO AREA WITH OUTDOOR FIREPLACE. SEE L-8.0

Scale 1" = 40'



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STATE OF
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LANDSCAPE ARCHITECT

Emily Russell
CERTIFICATE NO.1272

DIAZ MEADOWS APARTMENTS

MIKE DIAZ

CITY OF PORT ORCHARD, WA

Project Manager	ELR	Date	7.21.2023
Drawn By	KDC	Scale	AS INDICATED
Reviewed By	ELR	Sheet Title	LANDSCAPE PLAN
Project ID	DIAZ MEADOWS	Sheet Number	L-1.0
Sequence	1 of 12		



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 Repealing POMC
3.48 Concerning the City's Multifamily Tax
Exemption Policy

Meeting Date: October 10, 2023
Prepared by: Nicholas Bond
DCD Director
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: In 2016, the City adopted an ordinance to offer a multifamily tax incentive to developers of multifamily housing in Port Orchard. This ordinance was approved to encourage the construction of multifamily housing to address a lack of affordable housing supply. Since adoption in 2016, the city has seen a substantial increase in the amount of multifamily housing being constructed in the city and rents have stabilized or decreased. Some multifamily projects were built with this tax incentive while others were constructed without the incentive. For the past 18 months, the City Council and the Land Use Committee have been evaluating the program and were considering changes to the program. However, at the September 19, 2023, City Council Work Study meeting, the full City Council ultimately decided that the program should be paused and reevaluated in the coming years. As such, an ordinance repealing POMC 3.48 has been prepared for consideration. The proposed repeal of POMC 3.48 does not affect previously approved MFTE applications.

Relationship to Comprehensive Plan: For the past 2 years, the City of Port Orchard has seen growth rates surpassing the growth targets outlined in the Comprehensive Plan and the new targets from the Kitsap Countywide Planning Policies that apply to the 2024 Comprehensive Plan update. The City would need to grow at 2-3% annually to hit its 2044 growth target. In 2022-2023, the City grew by more than 6%. Repealing this incentive may lower growth rates to be more in line with the city's growth targets as included in the comprehensive plan.

Recommendation: In accordance with the direction provided to staff at the September 19, 2023, City Council Work Study meeting, staff recommend approval of an ordinance repealing POMC 3.48 as presented.

Motion for consideration: "I move to adopt an ordinance repealing POMC 3.48 concerning multifamily tax exemptions as presented."

Fiscal Impact: Removing this incentive may negatively impact some revenues (sales tax, connection fees, impact fees, permit fees, REET) while ensuring that the city does not forgo property tax revenue.

Alternatives: Various, see the staff report from the September 19, 2023, City Council Work Study meeting.

Attachments: Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
RELATING TO THE CITY'S MULTI-FAMILY TAX EXEMPTION; REPEALING
CHAPTER 3.48 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING
FOR SEVERABILITY, CORRECTIONS, AND PUBLICATION; AND SETTING AN
EFFECTIVE DATE.**

WHEREAS, the City Council original adopted the Multi-Family Tax Exemption in 2016 by passage of Ordinance No. 23-16 which was codified as Chapter 3.48 of the Port Orchard Municipal Code ("POMC"); and

WHEREAS, at the time Ordinance No. 23-16 was adopted there were not enough multi-family housing projects being built in Port Orchard and the City wanted to incentivize the development of this needed housing type; and

WHEREAS, the City Council has twice amended Chapter 3.48 POMC via adoption of Ordinance Nos. 003-19 and 029-20; and

WHEREAS, the City has granted the Multi-Family Tax Exemption to several projects since it was initially adopted; and

WHEREAS, for several years the City has been experiencing a development boom, including the development or planned development of 1,674 multi-family housing units; and

WHEREAS, many of these units were developed or are proposed to be developed without using the Multi-Family Tax Exemption; and

WHEREAS, given the level of housing being produced, many of which do not rely on the Multi-Family Tax Exemption for development, the City Council deems that offering this Tax Exemption is not necessary to incentivize the development of more multi-family housing; and

WHEREAS, in order to serve the housing being produced, the City needs revenues to provide the infrastructure and City services in order to serve the new residents who will occupy this housing; and

WHEREAS, this Ordinance is not intended to impact any previously approved and issued Multi-Family Tax Exemption applications, whether preliminarily approved or fully approved; and

WHEREAS, the City Council deems it in the best interests of the residents of the City and further advance the public health, safety, and welfare to repeal the Multi-Family Tax Exemption Chapter; now, therefore,

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

SECTION 1. Chapter 3.48 of the Port Orchard Municipal Code, entitled “Multi-Family Tax Exemption” is hereby repealed.

SECTION 2. Implementation. Any approved applications for use of the Multi-Family Tax Exemption under Chapter 3.48 POMC which are in process and/or have obtained preliminary or full approval as of the effective date of this Ordinance shall continue to be processed and may be finalized and approved. However, no new applications for use of the Multi-Family Tax Exemption shall be processed after the effective date of this Ordinance.

SECTION 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 4. 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 6. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor Pro-Tem and attested by the Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

SPONSOR:

Brandy Wallace, MMC, City Clerk

Jay Rosapepe, Councilmember

APPROVED AS TO FORM:

Charlotte A. Archer, City Attorney

PUBLISHED:

EFFECTIVE DATE:



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
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Agenda Staff Report

Agenda Item No.: Business Item 7C
Subject: Adoption of an Ordinance Adopting
POMC Section 2.04.235, Regarding
Endorsements by the City Council

Meeting Date: October 10, 2023
Prepared by: Charlotte Archer, Atty
Atty Routing No.: 366922-0005 – Clerk
Atty Review Date: October 4, 2023

Summary: Historically, prior City Councils have made collective statements to endorse certain ballot measures, including pending bonds or levies. RCW 42.17A.555 governs the ability of a legislative body to speak in favor of or opposition to a ballot measure or candidate and requires a duly noticed public hearing prior to the adoption of a resolution of support or opposition by the body (among other requirements). Recently, this City Council requested staff develop a policy to clarify that the Council will not speak on candidates/ballot measures, as doing so can interfere with the independent assessment of proposed candidates and legislation by the residents of Port Orchard. Staff reviewed similar policies utilized by neighboring jurisdictions and developed proposed language consistent with these concerns. To the extent the City Council desires to adopt such a policy, and as the City Council's rules of procedure are codified at Port Orchard Municipal Code Chapter 2.04 so that these rules and associated policies are preserved for historical record, Staff recommends placing the proposed policy in Chapter 2.04 POMC.

Recommendation: Staff takes no position as to the Council's decision to adopt a policy pertaining to endorsements.

Relationship to Comprehensive Plan: N/A

Motion for consideration: "I move to adopt an Ordinance establishing Port Orchard Municipal Code Section 2.04.235, pertaining to endorsements by the City Council."

Fiscal Impact: None

Alternatives: Do not approve and provide alternative guidance.

Attachments: Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING PORT ORCHARD MUNICIPAL CODE SECTION 2.04.235 REGARDING COUNCIL ENDORSEMENTS; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Port Orchard City Council has adopted rules pertaining to the conduct of the Council, including the conduct of public meetings, codified at Port Orchard Municipal Code ("POMC") Chapter 2.04; and

WHEREAS, the City Council desires to adopt a new rule to govern the City Council's communications with the public on pending ballot measures; and

WHEREAS, RCW 42.17A.555 limits the ability of a legislative body to speak in favor of or opposition to a ballot proposition as body, or to utilize their office or any public facilities for these purposes; and

WHEREAS, the City Council finds that endorsing or opposing a ballot measure can undermine voter autonomy and the electoral process; and

WHEREAS, accordingly, the City Council finds that it is in the best interests of transparency and the citizens of the City of Port Orchard to adopt new Section 2.04.235 POMC to state the Council does not endorse or otherwise collectively speak on pending ballot measures; now, therefore,

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

SECTION 1. Adoption. New Section 2.04.235 POMC, *Endorsements*, is hereby adopted to read as follows:

The City Council will not endorse or oppose a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition placed on a ballot for the vote of the people. Individual endorsement or opposition by individual Councilmembers shall only be made in compliance with RCW 42.17A.555, as amended, and shall be clearly identified as the statement of an individual citizen.

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

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

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

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor Pro-Tem and attested by the Clerk in authentication of such passage this 10th day of October 2023.

Mark Trenary, Mayor Pro-Tem

ATTEST:

SPONSOR:

Brandy Wallace, MMC, City Clerk

Jay Rosapepe, Councilmember

APPROVED AS TO FORM:

Charlotte A. Archer, City Attorney

PUBLISHED:
EFFECTIVE DATE: