



Anacortes City Council
Municipal Building Council Chambers
904 Sixth Street

November 28, 2016
6:00 p.m.

PRELIMINARY AGENDA

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. Planning Committee
4. **Public Comment**
5. **Consent Agenda (Action)**
 - a. Minutes of November 21, 2016
 - b. Approval of Claims in the amount of: \$267,821.35
 - c. Findings of Fact, Conclusions of Law and Decision: Mousel 2-story Building; 1st Floor Restroom serving the Marina; 2nd Floor Apartment; SSDP, & Land Use CUP (SDP-2016-1003)
 - d. Accept as Complete: Install VFDs at Pumps 3 and 4, Water Treatment Plant Intake Pump Station (15-054-WTR-002) – Dahl Electric
 - e. Accept as Complete: 2016 Overlay Project (15-005-TRN-006) - Lakeside Industries
 - f. DNR Lease Renewal
6. **Public Hearings**
 - a. * Closed-record Public Hearing: Proposed Veterinary Clinic; 1812 Commercial Avenue; CUP-2016-1001 (Discussion/Possible Action)
 - b. * Continued Public Hearing: Ordinance 2994: Adopting 2017-2022 Capital Facilities Plan (Discussion/Possible Action)
7. **Other Business**
 - a. * Library Strategic Plan (Discussion)
 - b. Ordinance 2993: Adopting 2017/2018 Biennial Budget (Discussion/Possible Action)
 - c. * Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer (Discussion/Possible Action)
 - d. * Ordinance 2991: New Standards for Stormwater Management (Discussion/Possible Action)
8. **Adjournment**

Per Resolution 1949, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk () may do so as those items are considered by Council during the course of the meeting. Citizens wishing to speak will please sign in at the back of the Council Chambers prior to the start of the meeting. The Mayor may limit comments to those who have signed in, and may limit the time allotted to each speaker to facilitate the orderly progress of the meeting.*

The City of Anacortes encourages people with disabilities to participate in public meetings.
For assistance with special needs, please contact Cherri Kahns at 360-299-1950 at least 48 hours prior to this meeting.



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning December 5, 2016

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes, vouchers and consent agenda items is not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

December 5, 2016

- Ordinance 2988: Amendments to AMC Title 2, Title 9, Title 18, and Creating a New Title 20 to Provide for a Fair and Efficient System of Civil Code Enforcement (Action)
- Proposed Draft Title 19, Land Use Permit Procedures (Discussion)

December 12, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Discussion)
- Resolution ____: Establishing Fees for the Water Utility (Discussion/Possible Action)
- Resolution ____: Establishing Fees for the Storm Water Utility and Ordinance 2979 Removing Storm Rates from AMC (Discussion/Possible Action)

December 19, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Action)
- Ordinance 2996: Amending the 2016 Budget (Year End) (Action)
- Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer (Discussion/Possible Action)

December 27, 2016

Special Meeting: MEETING IS CANCELLED

January 3, 2017

January 9, 2017

January 17, 2017

January 23, 2017

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Planning, Monday, Nov 28, 2016, 5:00 PM, Main Conference Room, City Hall
- Housing Affordability & Community Services, Thursday, Dec 1, 2016, 1:30 PM, City Hall
- Parks & Recreation, Thursday, Dec 1, 2016, 6:00 PM, Main Conference Room, City Hall
- Public Works, Monday, Dec 5, 2016, 4:30 PM, Mayor's Office, City Hall
- Planning, Monday, Dec 12, 2016, 3:00 PM, Main Conference Room, City Hall
- Public Safety, Tuesday, Dec 13, 2016, 4:30 PM, Main Conference Room, City Hall
- Finance, Wednesday, Dec 14, 2016, 5:00 PM, Johnny Picasso's, 501 Commercial Avenue
- Public Works, Monday, Dec 19, 2016, 4:30 PM, Mayor's Office, City Hall

Special Meeting

At 4:00 p.m. Mayor Laurie Gere called to order the advertised special meeting of the Anacortes City Council for the purpose of a site visit regarding the Mousel 2-story Building; 1st Floor Restroom serving the Marina; 2nd Floor Apartment; Shoreline Substantial Development Permit (SSDP) and Land Use Conditional Use Permit (CUP) (SDP-2016-1003). Council convened at the eastern terminus of Skyline Way, Anacortes. Councilmembers Eric Johnson, Erica Pickett and Matt Miller were present. No testimony was received and no action was taken. At approximately 4:03 p.m. the special meeting adjourned.

Special Meeting

Mayor Laurie Gere called to order an advertised special meeting of the Anacortes City Council on November 21, 2016 at 5:30 p.m. Councilmembers Eric Johnson, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Ryan Walters was absent.

Executive Session (30 Minutes) per RCW 42.30.110 (b, c, i)

Mayor Gere announced that City Council and the City Attorney would convene in Executive Session for no more than 30 minutes to discuss litigation, potential litigation, and a potential real estate transaction about which open discussion could result in terms unfavorable to the City and that following the executive session the meeting would adjourn with no action being taken.

There being no further business, at approximately 5:53 p.m. the advertised special meeting of the Anacortes City Council for November 21, 2016 was adjourned.

Regular Meeting

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of November 21, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Ryan Walters was absent. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor's Award of Merit Presentation to Jeff Vogel and Jeff Beltramini: Mayor Gere read letters recognizing Engineering Technician Jeff Beltramini and Librarian Jeff Vogel for their outstanding service to the city. She presented each of them with a gift certificate at a local restaurant and announced that their names would be added to the plaque on display at City Hall.

Outstanding Wastewater Treatment Plant Award – NPDES: Mayor Gere read a letter from the Washington State Department of Ecology awarding the Outstanding Wastewater Treatment Plant Award for the Anacortes Wastewater Treatment Plant under National Pollutant Discharge Elimination System (NPDES) Permit #WA0020257 for the fifth year in a row. The mayor presented a plaque from DOE to Plant Manager Becky Fox and Plant Supervisor Steve Doebler.

Lodging Tax Advisory Committee: Mr. Miller reported from the committee meeting the prior Thursday. He thanked the Tourism Promotion Strategic Planning ad hoc committee for developing the recently adopted strategic plan that would guide allocation of lodging tax funds. Mr. Miller advised that the LTAC would hold another meeting to consider applications, then final award recommendations would come back to Council for approval.

Ms. Lovelett reported from the Community Action Lunch and Learn event the prior Thursday which featured a respected panel addressing permanent supported housing for the chronically homeless. She reported that permanent supported housing lowers recidivism for incarceration, lowers jail nights, lowers hospital stays, and decreases other costs to communities. Ms. Lovelett reported the conclusion that it is far less expensive to provide permanent supported housing and advised that the Skagit County commissioners had signed a resolution supporting that model. She suggested that City Council adopt a resolution supporting the County's efforts.

Mayor Gere thanked the library staff for planning and hosting the immensely successful Harry Potter night at the Anacortes Public Library on November 17. Library Director Sheri Miklaski recognized her staff and the library's many community partners for organizing and producing the magical evening for families throughout Anacortes. Ms. Miklaski and Public Services Manager Diana Farnsworth shared photographs from the event which was attended by over 700 participants.

Public Comment

No one present wished to address Council on any topic not already on the agenda.

Consent Agenda

Mr. Johnson removed Item 5d, Acceptance of Easement for Similk Inc., from the Consent Agenda. Mr. Johnson moved, seconded by Mr. Adams, to approve the following Consent Agenda items. The motion passed unanimously by voice vote.

- a. Minutes of November 14, 2016
- b. Approval of Claims in the amount of: \$660,219.11
- c. Contract Modification: 100% Design Specifications & Bid Documents for 3MG Blue Heron Reservoir (HDR Engineering)

The following vouchers/checks were approved for payment:
Voucher (check) numbers: 82793 through 82886, total \$544,517.98
EFT numbers: 209717 through 210386, total \$118,806.98

- d. Acceptance of Easement for Similk, Inc.

In response to a question from Mr. Johnson, Public Works Director Fred Buckenmeyer reported that during a routine boundary survey of the Swinomish golf course it was discovered that the original Christianson Road was vacated in the 1940s and then reconstructed in its current location without the benefit of the dedication of new right of way. Most of the ROW lies within Skagit County but a small portion is in Anacortes city limits. Mr. Buckenmeyer explained that the Swinomish were offering an easement for public right of way over the western portion of that roadway. He added that staff would work with landowners of the eastern half of the road to obtain easements and would eventually seek dedication of a public right of way. Mr. Johnson moved, seconded by Ms. Lovelett, to authorize the mayor to accept the easement granted by Similk Inc. as presented on Consent Agenda Item 5d. The motion passed unanimously by voice vote.

PUBLIC HEARINGS

Closed-record Public Hearing: Mousel 2-story Building; 1st Floor Restroom serving the Marina; 2nd Floor Apartment; SSDP, & Land Use CUP (SDP-2016-1003)

Mr. Archibald disclosed that he owns property immediately west of the subject property and recused himself from consideration of the matter. He excused himself from the Council chambers.

Ms. Pickett disclosed that she had known the applicant since 1971 but ran into him only every year or two. She offered to recuse herself if anyone objected to her consideration of and action on the matter. No one present objected.

Planner Kevin Cricchio presented an application from Mousel Investments, LLC for a Shoreline Substantial Development Permit (SSDP) and land use type of Conditional Use Permit (CUP) to permit the construction of a 22' X 30' two-story building at the east terminus of Skyline Way (Parcel # P32370). Referring to his slide presentation in the packet materials for the meeting (Exhibit 14), Mr. Cricchio summarized the project proposal, noticing, critical areas review, agency and public comments received, and Shoreline Management Act and zoning code considerations. Mr. Cricchio advised that both staff and the Planning Commission recommended approval subject to staff's suggested conditions of approval along with Condition of Approval #11 added by the Planning Commission following its open record public hearing on October 26, 2016. Mayor Gere noted that City Council had conducted a site visit to the project site at 4:00 p.m. that day to view defining features of the project.

Mayor Gere invited parties of record to address the Council regarding items already in the record. No one present wished to address the Council.

Mayor Gere advised that no appeals had been filed relating to the subject application.

Mr. Miller asked about road maintenance in the area. Planning Director Don Measamer provided some history of that topic and advised that the applicant had been working with neighboring condominium associations on a maintenance agreement.

No one else wishing to speak on the matter, Mayor Gere closed the closed-record public hearing.

Mr. Johnson moved, seconded by Mr. Miller, approve the subject Shoreline Substantial Development Permit and land use type of Conditional Use Permit subject to staff's suggested conditions of approval and Condition of Approval #11 added by the Planning Commission. Vote: Ayes – Pickett, Adams, Lovelett, Miller and Johnson. Motion carried.

Mr. Archibald rejoined the meeting in the Council chambers.

Ordinance 2989: Prohibiting Medical Marijuana Cooperatives in All City Zones

City Attorney Darcy Swetnam summarized staff's briefing on this topic from the November 7, 2016 City Council meeting and reported that no public comments had been received by staff at that meeting or subsequently. Ms. Lovelett called for additional public education about the effects of the proposed ordinance and asked if cooperatives could possibly be permitted on March Point. Ms. Swetnam responded that Council could make that policy decision but said staff recommended prohibiting medical marijuana cooperatives in all city zones given ongoing state rule making and the need to put permanent rules in place. Mr. Archibald expressed concern that some patients would not be able to find another party to grow medical marijuana on their behalf. Mr. Adams confirmed with Ms. Swetnam that stakeholders had been contacted and provided ample opportunity to provide input.

Mayor Gere opened the public hearing on proposed Ordinance 2989. No one present wished to address the Council. Mayor Gere closed the public hearing.

Ms. Pickett moved, seconded by Mr. Johnson, to approve **Ordinance 2989** prohibiting medical marijuana cooperatives in all city zones as proposed. Vote: Ayes – Adams, Miller, Johnson and Pickett. Nays – Lovelett and Archibald. Motion carried 4 to 2.

Ordinance 2995: Adopting a Fund Balance Policy and Repealing Ordinance 2339

Senior Accountant Philip Steffen summarized the discussion of this topic from the November 14, 2016 City Council meeting. He reviewed a slide presentation describing the few changes incorporated into the draft policy subsequent to that meeting and responded to questions raised by councilmembers. Mr. Steffen's slide presentation was added to the packet materials for the evening. Councilmembers discussed the legislative means by which Council could deviate from an adopted fund balance policy in cases of emergency or significant economic shifts.

Mayor Gere opened the public hearing and invited members of the public to comment on the proposed policy. No one present wished to address the Council. Mayor Gere closed the public hearing.

Mr. Johnson moved, seconded by Mr. Archibald, to adopt **Ordinance 2995** repealing Ordinance 2339 and adopting a comprehensive fund balance policy. Vote: Ayes – Lovelett, Archibald, Adams, Miller, Johnson and Pickett. Motion carried.

Continued Public Hearing: Ordinance 2993: Adopting 2017/2018 Biennial Budget

Finance Director Steve Hoglund addressed Council's concern expressed at its November 14, 2016 meeting about increasing vehicle tab fees to make up the General Fund portion of the \$1.1M planned pavement management program funding. Mr. Hoglund said that he and Mayor Gere proposed to use an additional \$300K of real estate excise tax (REET) reserves instead. He displayed a worksheet forecasting available REET at year end of 2017 and 2018, noting healthy balances. Mr. Hoglund said that relying on REET for 2018 would allow Council to continue discussions prior to 2019 regarding the best means of funding the pavement management initiative long term. He encouraged future discussion of either increasing the vehicle tab fee to \$40 annually and/or asking the voters to consider a 0.1% sales tax increase, either of which would raise additional funds dedicated specifically to the pavement management program.

Mr. Miller urged first determining the level of expenditure required, then determining a funding method. Ms. Lovelett encouraged putting the question to the voters to establish the community's prioritization of pavement maintenance in relation to other programs. Mr. Johnson argued that significantly more funding would need to be secured just to maintain the streets at their current level.

In response to councilmember questions about increases in staffing expenditures, Mayor Gere asked Administrative Services Director Emily Schuh to recap the staff positions added since 2014. Ms. Schuh listed those positions including the public defender and his legal assistant (previously contracted) and the city attorney (previously contracted), one additional firefighter/EMT, one additional police officer (half paid by ASD 103), two Water Treatment Plant operators at the recommendation of the Department of Health, a laboratory technician at the Water Treatment Plant, an operator at the Wastewater Treatment Plant, a half time position for Channel 10 and public meeting filming (previously contracted), two street maintenance positions related to the new roll on roll off service, and an associate planner, all of which addressed identified needs.

Mayor Gere invited members of the public to address the Council as part of the continued public hearing on the 2017/2018 biennial budget.

Bill Perkins, a resident on S Avenue, concurred with Mr. Johnson that Anacortes was not spending enough on roads. Mr. Perkins quoted the list of transportation projects in the Capital Facilities Plan totaling over \$33M in six years and concluded that \$1.1M per year was not sufficient. Mr. Hoglund explained the other sources of funding for CFP projects including impact fees and grants. Mr. Perkins said the street condition index included on page 4 of the consultant's report did not add up. Mr. Hoglund said he would review that information with Mr. Perkins and Mr. Buckenmeyer to provide an explanation. In response to Mr. Perkins' question about sidewalk projects included in the CFP, Mr. Buckenmeyer outlined how separating pedestrians from motor vehicles actually increases the level of service for vehicles.

Dan Worra, Port of Anacortes Executive Director, read from his letter submitted to the mayor earlier in the day regarding stormwater fees. Mr. Worra's letter was added to the packet materials for the meeting. On behalf of the Port, its tenants, and its industrial neighbors, he asked that the City take a measured approach to increasing fees for business. He also asked that the City consider credit for businesses that are making efforts to reduce their impact to the City's stormwater system. Mr. Worra concluded that the Port has a deep understanding of the challenges and investment that permit compliance creates but asked that any increase in fees be incremental and phased-in over time so that businesses have appropriate time to budget and absorb the fees. Mayor Gere advised that the Finance and Public Works departments were developing a business friendly approach to rates.

Dennis Clark, 3805 M Avenue, urged the city to stay the course for the street improvement project it adopted in July 2014 with Resolution 1895. Mr. Clark asked rhetorically if the city doesn't make this important investment now when it has revenue available, when will it do it?

No one else wishing to address the Council, Mayor Gere closed the public hearing on the 2017/2018 biennial budget.

Addressing next steps for budget adoption, Mr. Hoglund advised that the only change Mayor Gere and staff currently proposed to make to the budget prior to adoption was replacing \$300K of TBD vehicle tab funding with REET reserves for 2018. He asked if Council wished to direct any other changes to the budget prior to adoption. In response to previous councilmember questions, Mr. Hoglund advised that the library carpet had become a safety concern and had already been patched to the extent possible so replacement was really required. Mr. Archibald asked if his colleagues had any other concerns that needed to be addressed before the budget could move forward. Mr. Johnson preferred to have the entire Council present for the vote and suggested voting the following week. Mayor Gere agreed to bring the budget back for possible action on November 28, 2016 with Mr. Walters in attendance.

Continued Public Hearing: Ordinance 2994: Adopting 2017-2022 Capital Facilities Plan

Mr. Hoglund advised that a revised CFP project listing had been distributed to Council earlier in the evening; the projects and amounts were unchanged, but several projects had been reassigned between departments. Mr. Hoglund confirmed that all 2017 and 2018 CFP projects were included in the proposed biennial budget. Ms. Lovelett reiterated for the public that the CFP included projects for which the City intended to seek grants so not all projects would be funded by locally generated dollars. Mr. Hoglund recommended approval of the CFP. Councilmembers questioned inclusion of the South Commercial Avenue pocket park for 2019, having understood that the park would be completed with current year funding. Mayor Gere asked Mr. Hoglund to investigate that project with Parks and Recreation Director Gary Robinson and report back.

Mayor Gere invited members of the public to address the Council as part of the continued public hearing on the capital facilities plan. No one present wished to address the Council. Mayor Gere left the public hearing open to the following week until all questions had been addressed.

OTHER BUSINESS

Proposed Draft Title 19, Land Use Permit Procedures – Introduction

City Attorney Darcy Swetnam shared a slide presentation introducing the proposed update to AMC Title 19, land use procedures. Her slide presentation was added to the packet materials for the evening. Ms. Swetnam summarized the timeline for code updates including the sections slated for adoption before year end and reminded Council that the LID requirements were driving the schedule. She then listed highlights of Ordinance 2992 and the structure of the new title, including input from consultant Makers.

Ms. Swetnam reviewed in detail the draft decision matrix, Table 19.20.030-1. She explained the types of decisions and noted that specific assignments, such as for decision maker, could be adopted differently but the matrix structure could remain the same. Ms. Swetnam responded to councilmember questions about current and proposed procedures and appellant bodies. In response to a question from Ms. Lovelett, Ms. Swetnam advised that the table as presented did not propose a local appeal of Planning Commission recommendations on Type 4 decisions; she added that other jurisdictions typically provide for such appeals before a hearing examiner but staff was not proposing that in the current draft. Several councilmembers asked that conditional use permits come before City Council rather than Planning Commission for approval. Councilmembers discussed fees for filing appeals, supporting some recovery of hard costs borne by the city but also fee levels that did not present a barrier to appellants. Ms. Swetnam said staff had conducted extensive research about fees charged by neighboring jurisdictions and had drafted a proposed fee schedule that would come before Council for consideration. Ms. Pickett supported refunding appeal fees if the appellant prevailed. Ms. Swetnam said she recommended that practice for appeal of code enforcement actions but that it was less logical for land use appeals.

Mayor Gere invited members of the audience to comment on this agenda item.

Marilyn Wells Derig, 1302 K Avenue, read from her prepared remarks which were added to the packet materials for the evening. Ms. Derig addressed the responsibilities of the proposed hearing examiner position and expressed her ongoing concern about installing that position, which would replace citizen boards, particularly before code revisions were complete. Ms. Derig also raised questions of staff responsibility for code enforcement (reference proposed AMC 19.02.070) and standing (reference proposed AMC 19.10.210). She questioned whether the proposed changes would actually provide for the health, welfare and safety of the general public and concluded that the proposed changes might actually suppress citizen input and impact.

Ms. Swetnam thanked Ms. Derig for her questions and responded in detail. She clarified that staff would still be performing code enforcement and a hearing examiner would only handle code enforcement appeals, that AMC 16.04.105 was not being repealed, and that proposed AMC 19.02.070 was a standard provision common to code in other cities. She agreed that staff had proposed eliminating AMC 17.08 but said that provisions describing the duty of the administrator could be added back into Title 19, where AMC 19.10.030 addressed the same topic. Finally, regarding concerns about standing, Ms. Swetnam said the proposed language was taken from the LUPA code which was the approach taken by most other jurisdictions.

Patrick O'Hearn, 11039 Post Drive, requested clarification on the process for reviewing and adopting Title 19. Mayor Gere confirmed that following Planning Commission consideration at its November 23, 2016 meeting and possibly at subsequent meetings, Title 19 would come back before Council for public input and consideration. Mr. O'Hearn advised that he would be presenting written comments at another time but said that the LUPA language introduced in the code regarding standing bothered him because unlike LUPA proceedings, at which standing is determined by an independent third party judge, it was unclear which independent, unbiased party would determine standing for a local hearing. He expressed concern about the appearance of a conflict of interest if staff or even Council were responsible for determining standing.

Corrine Salcedo, 4303 Kingsway, said she was skeptical about whole idea of a hearing examiner which she said was less democratic than citizen boards.

No one else present wished to address Council.

Mr. Measamer concluded that the Planning Commission would review the materials at its November 23, 2016 meeting and possibly the following week as well, then the Title 19 procedures would come back to Council for consideration and public hearing, ideally with a recommendation from the Planning Commission, for adoption by year end.

DNR Lease Renewal

Mr. Measamer introduced a discussion about renewing to January 2034 the city's aquatic lease from the Department of Natural Resources for property that includes Cap Sante Marine and the Fidalgo Marina sublease areas. He reviewed the history of the lease and explained why the city would like to reduce the area from 83 acres to 16.5 acres, reducing the annual lease payment to \$36,428.56 annually. Mr. Measamer displayed graphics showing the access easements included in the lease. He briefed Council on the city's responsibility to remove creosote piles, replace treated wood docks with 50% grated docks prior to January 2, 2026, and perform soil sampling and remediation in the north area of site C1 by October 1, 2017. Mr. Measamer thanked Mr. Dennis Clark of the DNR for his assistance in drawing up the lease document.

Mr. Measamer responded to councilmember questions about the estimated costs of the environmental cleanup, approximately \$130K in present day dollars. Ms. Pickett asked about Paragraph 7.2, Existing Improvements, which states that the improvements are Tenant-owned and pointed out that the city does not own the marina. Mr. Clark explained the boilerplate language and offered to re-word that section but advised that any revisions would have to be approved by the Attorney General which could take several

months. Mr. Measamer and Ms. Swetnam suggested that ownership of improvements could be addressed in the city's subleases with its tenants.

Mayor Gere summarized that the lease would come back to Council for consideration and action at its next regular meeting and asked councilmembers to forward any additional questions to Mr. Measamer in the interim. Mr. Johnson suggested bringing the matter back on the Consent Agenda.

Ordinance 2978: Creating AMC 6.04.035 Reducing License Fee for Young and Old Dogs

City Attorney Darcy Swetnam advised that the Animal Control Officer had pointed out that AMC Title 6 currently required licensing of dogs before they were old enough to be spayed or neutered and after such time as spaying or neutering might be unhealthy for a dog. This caused citizens to pay the intact dog license fee of \$50 rather than the \$10 fee for a spayed or neutered animal. In the interest of incentivizing licensing, staff had researched practices in other jurisdictions and recommended adjusting the fees based on the age of the dog as outlined in the ordinance.

Ms. Lovelett moved, seconded by Mr. Adams, to adopt Ordinance 2978 creating Section 6.04.035 AMC Regarding Dog Licensing. Vote: Ayes – Archibald, Miller, Johnson, Pickett, Adams and Lovelett. Motion carried.

There being no further business, at approximately 8:26 p.m. the Anacortes City Council meeting of November 21, 2016 was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the November 28, 2016 City Council meeting:

[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210490	1/19/2016	1600	03902	SKAGIT COUNTY EMS COMMISSION	EMT TRAINING FOR CHRISTENSON, LUCAS	\$500.00
210570	3/31/2016	10047261	10069	NAVIA BENEFIT SOLUTIONS	FLEXIBLE SPENDING ACCOUNT FEES - MARCH	\$112.05
210500	4/30/2016	10050387	10069	NAVIA BENEFIT SOLUTIONS	FLEXIBLE SPENDING ACCOUNT FEES APRIL	\$112.05
210549	7/15/2016	1014466	09723	DISA GLOBAL SOLUTIONS INC	HEARING TRAINING - CHRIS BYER, FIREFIGHTER	\$5.00
210517	8/10/2016	AR47646	09741	ELECTRONIC BUSINESS MACHINES	OPERATIONS COPY MACHINE MAY 14 - AUG	\$164.61
210335	8/15/2016	79027	00369	BLYTHE PLUMBING & HEATING INC	REPAIR LEAKING AIR CONDITION PAN	\$928.53
210573	8/31/2016	10058427	10069	NAVIA BENEFIT SOLUTIONS	FLEXIBLE SPENDING ACCOUNT FEES - AUGUST	\$112.05
210564	9/8/2016	DOTphysicalBrianS	07403	STRICKLAND, BRIAN	REIMBURSEMENT FOR ANNUAL CDL EXAMINATION	\$150.00
210446	9/9/2016	300071685	01443	KCDA PURCHASING COOPERATIVE	20# 8.5 X 11 COPY PAPER - WWTP	\$76.66
210504	9/15/2016	961183068	08896	WILSON DDS, NICHOLAS J	DODGE, RODNEY, DENTAL SERVICES, DOS: 09/15/16, LEOFF1	\$319.00
210476	9/23/2016	160923140323353	10414	ALLISON, KIMBERLY	REFUND CANCELLED GIRLS BASKETBALL	\$38.00
210513	10/4/2016	001988823465	06718	ARAMARK	WTP LAUNDRY SERVICE	\$41.95
210439	10/6/2016	4641388	00932	FERGUSON ENTERPRISES, INC	16 X 3 FS 3000# TOL FOR FIBER PROJECT	\$124.62
209225	10/13/2016	63498	09871	ELECTRO-CHEMICAL DEVICES	MEMBRANE REPLACEMENT KITS	\$628.08
210487	10/15/2016	32322	10419	SUNSET KENNEL	K9 T-BONE GROOMING;	\$50.00
210508	10/17/2016	33293	00914	EVERGREEN RURAL WATER OF WA	CLASS REGISTRATION FOR KARL FRANTZ - BASIC CONTROL VALVES	\$95.00
210507	10/17/2016	156780	01132	GREEN RIVER COMMUNITY COLLEGE	CLASS REGISTRATION FOR ALYSHA EARL - PUMPS 101	\$200.00
210540	10/17/2016	PSWO0118809	01858	N C POWER SYSTEMS CO	GENERATOR SWITCH GEAR REPAIRS	\$12,084.15
210509	10/17/2016	Alysha E/Gary S	00137	NW WA SUBSECTION PNWS-AWWA	CLASS REGISTRATION FOR ALYSHA EARL & GARY SPRAGUE - 2016 WT WORKSHOP	\$180.00
209312	10/17/2016	26547	07996	REICHHARDT & EBE ENGINEERING	MARCH PT RD SHOULDER - JULY 2016	\$5,761.81
210433	10/20/2016	16-25743	00850	EDGE ANALYTICAL INC	PLANT INFLUENT METALS TESTING	\$168.00
210432	10/21/2016	16-25723	00850	EDGE ANALYTICAL INC	FINAL EFFLUENT NUTRIENTS TESTING	\$126.00
210566	10/26/2016	IN115041	09582	HEPBURN SUPERIOR	CASKET LOWERING STRAP & CRANK	\$262.95
210029	10/26/2016	1202222030	08590	NEWEGG BUSINESS INC	COUNCIL CHAMBER - USB ADAPTOR	\$20.60
210026	10/28/2016	111-0550697-5706646	08811	AMAZON.COM	PUNCH DOWN TOOL & CABLE JACKET STRIPPER	\$72.53
210027	10/28/2016	630200010722	04308	COSTCO	BREAKROOM SUPPLIES	\$21.95

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210542	10/28/2016	360-293-3725-0501135	07909	FRONTIER	DEPOT PHONE SERVICE	\$55.85
210543	10/28/2016	360-293-4224-1011005	07909	FRONTIER	MUNICIPAL COURT FAX	\$90.88
209847	10/28/2016	10174068	01165	HACH COMPANY	NITRIFICATION INHIBITOR FOR BOD	\$230.99
209822	10/28/2016	315081	02896	VISA	DOOR CLOSERS FOR CITY HALL	\$243.04
210456	10/31/2016	2016-31-10	00424	BUBBA SUDZ CAR WASH, INC.	OCTOBER CAR WASHES - 3	\$151.62
210336	10/31/2016	10-2016	09816	FIRE SERVICE ENTERPRISE LLC	VOLUNTEER COORDINATION FOR OCTOBER	\$2,220.83
210337	10/31/2016	AFD 16	01364	ISLAND HOSPITAL	OCTOBER AMBULANCE SUPPLIES, LINENS & O2	\$2,529.43
210378	10/31/2016	010976	00930	SKIDMORE PHARMACY INC.	OCTOBER, LEOFF1 PHARMACY COPAYS	\$63.49
210515	10/31/2016	114-4636928	04834	UNITED SITE SERVICES	PORTA POTTY RENTAL AT PARK NEXT TO ROCKRIDGE PUMP STATION	\$119.11
210028	11/1/2016	111-9754095-5039428	08811	AMAZON.COM	17.5 INCH RED LED FLASHLIGHT - PARKS	\$21.00
210423	11/1/2016	OCTOBER 2016	10256	HUMANE SOCIET OF SKAGIT VALLEY	HUMANE SOCIETY CHARGES FOR OCT 2016; APD CASE 16-A08180 - CAT	\$60.00
210388	11/1/2016	6784969X	01835	NATIONAL FIRE PROTECTION ASSN.	NATIONAL FIRE CODE SUBSCRIPTION:	\$1,305.00
210481	11/1/2016	13532	02670	SUNLAND BARK & TOPSOILS	FINE RED BARK - COMMERCIAL AVE. PLANTAR	\$54.23
210382	11/1/2016	17002489	02930	WASHINGTON STATE PATROL	BACKGROUND CHECKS, MUSEUM	\$24.00
210030	11/2/2016	A1168354	02405	SEBO'S DO-IT CENTER	CORD FOR NEW DESK	\$21.57
210534	11/3/2016	11/03/16	00160	ANACORTES FAMILY MEDICINE	3 TB TESTS: QO, MM, ES	\$84.00
210085	11/3/2016	126144	09946	CASH & CARRY	3RD FLOOR BREAKROOM SUPPLIES	\$14.64
210353	11/3/2016	67649	00646	CONTERRA INC	RESCUE CARABINERS (10 LARGE)	\$406.00
210194	11/3/2016	8561 0002 16184	07231	HOME DEPOT	DRILL BITS & STORAGE TOTES FOR IT	\$275.73
210195	11/3/2016	494754	08879	PARTY CITY	SUPPLIES FOR WONDERLAND WALK	\$50.97
210498	11/3/2016	540296427	04013	SIGMA-ALDRICH INC	SEMI-ANNUAL WTP LAB PROFICIENCY TESTING	\$169.61
210537	11/4/2016	7800771	06624	EMD MILLIPORE CORPORATION	WTP LAB CONSUMABLES	\$1,094.45
210503	11/4/2016	10179625	01165	HACH COMPANY	INLINE RAW 1 & 2 AND DECANT TURBIDIMETER SERVICE	\$1,884.65
210449	11/4/2016	MTS226409	01801	MOTOR TRUCKS INC	REPAIRS FOR VEH #203	\$4,384.61
210334	11/7/2016	1452709	09961	CARDINAL HEALTH 411, INC.	PHARMACEUTICALS	\$363.27
210100	11/7/2016	AV KW SD MG	00780	DEPARTMENT OF ECOLOGY	HOME STUDY MANUAL FOR INCINERATOR	\$360.00
210352	11/7/2016	IN1079006	07823	MUNICIPAL EMERGENCY SERVICES	SCBA QUARTER TURN ADAPTER (GRANT)	\$58.17
210496	11/7/2016	540312992	04013	SIGMA-ALDRICH INC	SEMI-ANNUAL WTP LAB MICROBIOLOGY PROFICIENCY TESTING	\$491.26
209960	11/7/2016	16984	06562	WESTERN SYSTEMS REFUSE &	VIDEO CAMERA REPAIRS (SOLE SOURCE)	\$1,258.06
210403	11/8/2016	631787100	10236	B & H PHOTO	SPLITTERAVINAR SPITFIRE PRO 1X16 HDMI	\$176.40
210505	11/8/2016	10184831	01165	HACH COMPANY	HYDROCHLORIC ACID	\$19.63
210108	11/8/2016	015539	09169	LOU'S GLOVES, INC	LARGE NITRILE GLOVES	\$154.00

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210441	11/8/2016	IN1079272	07823	MUNICIPAL EMERGENCY SERVICES	SCOTT FIT TEST ADAPTER (GRANT)	\$61.42
210428	11/8/2016	0179003-IN	10418	QUALITY CHAIN CORP	CHAINS FOR VEH #90001 & SHOP	\$1,741.38
210358	11/9/2016	44790	10156	911 SUPPLY	NAMETAGS, INSERT FOR LUCAS	\$151.88
210360	11/9/2016	44803	10156	911 SUPPLY	12 NAMETAGS	\$104.16
210344	11/9/2016	1988878536	06718	ARAMARK	STA 3 MAT SERVICE: 11/9	\$21.70
210354	11/9/2016	9788000000	00494	CASCADE NATURAL GAS CORP.	STA 3: 10/13 - 11/8	\$22.80
210402	11/9/2016	500014703	04308	COSTCO	HOT BEVERAGE DISPENSER - PARKS	\$371.36
210541	11/9/2016	1074	10420	EMERALD CITY COATINGS	*FINAL INVOICE* PAINT THE INTERIOR OF THE INTAKE STATION	\$29,995.00
210485	11/9/2016	006386893	00368	GALLS LLC - DBA BLUMENTHAL UNI	UNIFORM SHIRT; SUPPORT OFFICER	\$61.79
210545	11/9/2016	006389025	00368	GALLS LLC - DBA BLUMENTHAL UNI	UNIFORM BOOTS; CORP MICHAEL	\$216.95
210419	11/10/2016	24289	00156	ANACORTES PRINTING	EVIDENCE/PROPERTY CARDS	\$271.25
210348	11/10/2016	1988880726	06718	ARAMARK	STA 2 MAT SERVICE: 11/10	\$16.28
210349	11/10/2016	1988880727	06718	ARAMARK	STA 1 MAT SERVICE: 11/10	\$21.70
209136	11/10/2016	16-25749	00850	EDGE ANALYTICAL INC	FINAL EFFLUENT ANNUAL MERCURY,	\$1,273.64
210483	11/10/2016	183248	07305	FIRECOM	REPAIR FIRECOM HEADSETS	\$9,689.53
210413	11/10/2016	A1170922	02405	SEBO'S DO-IT CENTER	FASTENERS	\$13.83
210531	11/10/2016	1137137	02681	SURETY PEST CONTROL	MONTHLY PEST CONTROL-OPERATIONS-OCTOBER	\$48.83
210539	11/10/2016	114-4662853	04834	UNITED SITE SERVICES	INTAKE STATION PORTA-POTTY SET-UP AND SERVICE	\$202.09
210436	11/11/2016	701927	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLY FOR OPS OFFICE	\$161.85
210488	11/11/2016	773603	01588	LIFE ASSIST INC	CASE OF MEGA-MOVERS	\$204.41
210495	11/11/2016	2016-11-06	10417	MUSSEN, JEFF	ENERGY EFFICIENT APPLIANCE REBATE FOR	\$50.00
210457	11/11/2016	1091535	02137	POLYDYNE INC	CLARIFLOC POLYMER FOR INCINERATOR	\$2,265.48
210471	11/14/2016	WAANA87104	00939	FASTENAL CO	BRUSH SERVICE KIT	\$42.78
210463	11/14/2016	58503	10415	LUCAS HOLDINGS, LLC	STUDENT LIBRARY CARDS	\$450.18
210511	11/14/2016	94812	01939	NORTHSTAR CHEMICAL	SODIUM HYDROXIDE	\$4,710.59
210568	11/14/2016	631920001366	02090	PETTY CASH FUND	COLLECTIONS SUPPLIES	\$28.19
210412	11/14/2016	K765055	02123	PLATT ELECTRIC SUPPLY INC	LED 24W LAMP	\$125.86
210323	11/14/2016	Ref000210323	10412	PORTALIS LLC	Refund for payment made on closed account	\$25.59
210465	11/14/2016	300000000343	02192	PUGET SOUND ENERGY	PARKS/CEM/WASH. PARK/FAC/DEPOT	\$3,444.83
210356	11/14/2016	3000000004923	02192	PUGET SOUND ENERGY	ALL STATIONS: 10/6 - 11/4	\$733.31
210489	11/14/2016	300000005235	02192	PUGET SOUND ENERGY	RESERVOIR & PUMP STATION ELECTRICITY	\$6,339.66
210497	11/14/2016	400001361981	02192	PUGET SOUND ENERGY	CHANGED OUT 53 WATT LED STREETLIGHT TO	\$136.44
210434	11/14/2016	B349532	02405	SEBO'S DO-IT CENTER	4 X 100 SOLID PIPE	\$88.36
210479	11/14/2016	C276221	02405	SEBO'S DO-IT CENTER	PAINT SPRAYER	\$26.04
210567	11/14/2016	E30207	02405	SEBO'S DO-IT CENTER	EXCAVATOR RENTAL - BALLFIELDS	\$200.73

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210444	11/14/2016	39557	06314	SIMPLY YARDS	STATION 2 IRRIGATION SYSTEM	\$4,252.12
210422	11/15/2016	2686	10416	ALL PHASE COMM LLC	FRIEGHT FOR PHONES	\$418.94
210486	11/15/2016	111416	00180	ANACORTES TOWING LLC	TOWING; APD CASE 16-A08775	\$162.75
210514	11/15/2016	1988887969	06718	ARAMARK	WTP LAUNDRY SERVICE	\$41.95
210340	11/15/2016	701526	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$332.88
210472	11/15/2016	ForestEdu2016	01021	FRIENDS OF THE FOREST	2016 FOREST EDUCATION PROGRAM	\$6,000.00
210437	11/15/2016	MV151568	01801	MOTOR TRUCKS INC	MIRROR FOR #601	\$43.46
210454	11/15/2016	MV151630	01801	MOTOR TRUCKS INC	PART FOR VEH #602	\$34.49
210424	11/15/2016	001-353576	02109	PISTON SERVICE OF ANACORTES	PARTS FOR SHOP	\$198.50
210342	11/15/2016	Pay Application 2	10357	ROOSENDAAL HONCOOP CONSTRUCTIO	STORVIK PARK SPRYPAD & RESTROOM	\$63,194.02
210435	11/15/2016	E30198	02405	SEBO'S DO-IT CENTER	THROTTLE CABLE #15906	\$24.72
210455	11/16/2016	300-10016255	05987	ALL BATTERY SALES & SERVICE	PART FOR SHOP	\$3.65
210493	11/16/2016	108-5117355-6637069	08811	AMAZON.COM	10 X 10 CANOPY TO BE USED AT CITY EVENTS	\$299.95
210556	11/16/2016	111-0541785-9684264	08811	AMAZON.COM	AVERY BLANK BUSINESS CARD STOCK	\$38.66
210555	11/16/2016	111-0924921-3729825	08811	AMAZON.COM	SAFETY DEPOT TRAFFIC WAND - PARKS	\$19.99
210415	11/16/2016	792107900	06718	ARAMARK	LAUNDRY SERVICE	\$73.05
210575	11/16/2016	702638	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$7.63
210574	11/16/2016	702759	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$2.43
210576	11/16/2016	C700156-0	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	(\$12.79)
210525	11/16/2016	82329449	09185	BOUND TREE MEDICAL, LLC	PHARMACEUTICALS	\$134.95
210533	11/16/2016	16594	00842	COUNTRYWIDE FENCE CENTER	INSTALL NEW FENCE AROUND BACK LOT AT	\$14,442.44
210430	11/16/2016	0111616	00955	FIDALGO CLEANING	CLEANING & SUPPLIES; 11/16/16-1130/16	\$576.00
210416	11/16/2016	NOV. 2016	01511	KORTERUD, WAYNE D	INDIGENT SERVICES CONTRACT - NOVEMBER 2016	\$375.00
210421	11/16/2016	CLASS REGIST FEE	01567	LEIRA	PUBLIC DISCLOSURE-ADVANCED; REC SUP INGRAM	\$50.00
210452	11/16/2016	MV151729	01801	MOTOR TRUCKS INC	PART FOR VEH #203	\$74.71
210587	11/16/2016	880071033001	01962	OFFICE DEPOT	MISC OFFICE SUPPLIES - FIRE DEPT	\$56.59
210589	11/16/2016	880526100001	01962	OFFICE DEPOT	BREAKROOM SUPPLIES, PENS - ENGR	\$47.94
210478	11/16/2016	B349672	02405	SEBO'S DO-IT CENTER	FOLDABLE EARMUFFS	\$23.42
210527	11/16/2016	1016867	02519	SKAGIT PUBLISHING	AA-1545599 NOTICE OF APPLICATION CUP-2016-1002	\$230.84
210475	11/16/2016	160915	04831	T-SHIRTS BY DESIGN	GIRLS BASKETBALL T-SHIRTS	\$26.04
210420	11/16/2016	2019	08957	WAPRO	WAPRO ACTIVE MEMBER RENEWAL; REC SUP INGRAM	\$25.00
210491	11/17/2016	1988891457	06718	ARAMARK	NYLON MATS CLEANED	\$164.28

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210451	11/17/2016	1988891465	06718	ARAMARK	LAUNDRY SVC FOR OPS & PARKS	\$73.06
210526	11/17/2016	101412	00244	ASSN OF WASHINGTON CITIES	DECEMBER, SUPPLEMENTAL LIFE INSURANCE	\$300.41
210484	11/17/2016	038 200 0000 2	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS	\$198.50
210464	11/17/2016	154 700 0000 9	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS 1220 10TH STREET	\$679.55
210535	11/17/2016	16940000009	00494	CASCADE NATURAL GAS CORP.	STA 2: 10/19 - 11/15	\$64.12
210578	11/17/2016	19980000004	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS - MHC/WTP	\$56.24
210467	11/17/2016	26003738821	00494	CASCADE NATURAL GAS CORP.	GAS SERVICE - DEPOT	\$99.39
210468	11/17/2016	53800000001	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS - CEMETERY	\$17.94
210469	11/17/2016	638000000000	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS SERVICE - CEMETERY	\$33.11
210536	11/17/2016	67440000007	00494	CASCADE NATURAL GAS CORP.	STA 1: 10/19 - 11/15	\$46.80
210460	11/17/2016	710 300 0000 5	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS 10/21/16 - 11/16-16 FOR SHOP	\$403.63
210580	11/17/2016	912 800 0000 0	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS - CARNEGIE	\$152.21
210470	11/17/2016	91760000009	00494	CASCADE NATURAL GAS CORP.	GAS SERVICE - VOL. PARK RESTROOM	\$16.50
210461	11/17/2016	98980000008	00494	CASCADE NATURAL GAS CORP.	NATURAL GAS FOR WWTP	\$11.45
210438	11/17/2016	007246	00763	DEPARTMENT OF HEALTH	WATERWORKS OPERATOR CERTIFICATION -	\$42.00
210431	11/17/2016	16-25744	00850	EDGE ANALYTICAL INC	FINAL EFFLUENT METALS TESTING	\$168.00
210516	11/17/2016	0180151	00950	FIDALGO BAY COFFEE COMPANY	COFFEE - WTP	\$93.00
210429	11/17/2016	0180152	00950	FIDALGO BAY COFFEE COMPANY	COFFEE - APD	\$93.00
210445	11/17/2016	0180154	00950	FIDALGO BAY COFFEE COMPANY	10 LBS. COFFEE: 11/17	\$93.00
210582	11/17/2016	11/17/2016	00955	FIDALGO CLEANING	CLEANING - CARNEGIE	\$100.00
210510	11/17/2016	111423	01022	FRONTIER FORD	PART FOR VEH #010A	\$552.43
210544	11/17/2016	300102996	01443	KCDA PURCHASING COOPERATIVE	20# 8.5 X 11 COPY PAPER - FINANCE	\$191.65
210546	11/17/2016	300102997	01443	KCDA PURCHASING COOPERATIVE	24# 8.5 X 11 COPY PAPER - 3RD FLOOR	\$237.45
210547	11/17/2016	300102999	01443	KCDA PURCHASING COOPERATIVE	20# 8.5 X 11 COPY PAPER - LIBRARY	\$114.99
210548	11/17/2016	300103000	01443	KCDA PURCHASING COOPERATIVE	#20 8.5 X 11 COPY PAPER - APD	\$191.65
210492	11/17/2016	768 2	01616	LOWE'S BUSINESS ACCOUNT/GEMB	OCTOBER/NOVEMBER WTP HARDWARE SUPPLIES	\$194.57
210453	11/17/2016	MV151860	01801	MOTOR TRUCKS INC	PART FOR VEH #203	\$74.71
210501	11/17/2016	732805	10294	PACIFIC LAMP & SUPPLY COMPANY	1 CASE OF LED LAMPS	\$227.58
210499	11/17/2016	734251	10294	PACIFIC LAMP & SUPPLY COMPANY	TWO UNDER DESK LED LAMPS	\$36.27
210448	11/17/2016	001-353696	02109	PISTON SERVICE OF ANACORTES	PART FOR VEH #511	\$51.26
210462	11/17/2016	A1173083	02405	SEBO'S DO-IT CENTER	FUSE HOLDERS	\$8.63
210477	11/17/2016	A1173218	02405	SEBO'S DO-IT CENTER	FASTENERS - MUSIC STAND REPAIR	\$1.09
210524	11/17/2016	20066-1 BLS	02666	SUMMIT LAW GROUP, PLLC	LEGAL SERVICES, TEAMSTER BARGAINING UNIT	\$833.00
210532	11/17/2016	1134856	02681	SURETY PEST CONTROL	NOVEMBER SERVICE STA 2	\$44.49
210512	11/18/2016	300-10016343	05987	ALL BATTERY SALES & SERVICE	PART FOR SHOP	\$64.02

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210559	11/18/2016	703033	00306	BAYSHORE OFFICE PRODUCTS INC	BANKERS STORAGE BOX LETTER SIZE - PLAN	\$26.00
210502	11/18/2016	26662.3281.13281.950	10367	LINN-BENTON COMMUNITY COLLEGE	AGA PROPANE CONVERSION SYSTEMS	\$47,600.00
210560	11/18/2016	A1173331	02405	SEBO'S DO-IT CENTER	WET SET, PRIMER - STORVIK	\$22.34
210474	11/19/2016	depositrefund	10413	GROUP HEALTH COOPERATIVE	REFUND DAMAGE DEPOSIT SENIOR CENTER	\$100.00
210466	11/19/2016	CDLOicles15	01362	ISLAND FAMILY PHYSICIANS	CDL EXAM - OICLES	\$200.00
210482	11/19/2016	00005W5A3476	02817	UNITED PARCEL SERVICE	UPS SHIPPING CHARGES; WEEK ENDING11-19-16 -PKG WEIGHT OVER	\$0.27
210530	11/21/2016	5003403	00145	ANACORTES AMERICAN	ANNUAL SUBSCRIPTION	\$43.00
210529	11/21/2016	703200	00306	BAYSHORE OFFICE PRODUCTS INC	CHAIRMAT FOR NEW FLOOR	\$74.85
210518	11/21/2016	85788688	10088	GOTOCITRIX.COM	GOTOCITRIX 11/21-12/20/16	\$53.17
210520	11/21/2016	1255576864	09923	GRAY, MATTHEW	ROSS, WILLIAM, DENTAL SERVICES, DOS: 11/9/16, LEOFF1	\$171.00
210519	11/21/2016	B4144	01132	GREEN RIVER COMMUNITY COLLEGE	BAT RENEWAL FOR TERRY NEMETH	\$42.00
210528	11/21/2016	20161117021587	02462	SISTER CITIES INTERNATIONAL	ANNUAL MEMBERSHIP DUES	\$425.00
210538	11/22/2016	1988898757	06718	ARAMARK	WTP LAUNDRY SERVICE	\$41.95
210572	11/22/2016	703393	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$1.76
210584	11/22/2016	delivery ticket	00007	CINTAS CORP	FIRST AID SUPPLIES - VARIOUS DEPTS	\$470.38
210550	11/22/2016	16601	00842	COUNTRYWIDE FENCE CENTER	*FINAL INVOICE* GATE REPLACEMENT AT CASTILLEJA BLUFF PUMP STATION	\$781.20
210583	11/22/2016	0180153	00950	FIDALGO BAY COFFEE COMPANY	ENG COFFEE	\$93.00
210569	11/22/2016	15-885	09370	GATEWAY INTERIORS	MAYOR'S RECEPTION & HALL FLOORING	\$2,430.50
210563	11/22/2016	16-886	09370	GATEWAY INTERIORS	MAYOR'S RECEPTION AREA & HALL FLOORING	\$3,067.27
210581	11/22/2016	141642	06246	H.B. JAEGER	4TH STREET WATERLINE PROJECT	\$92.85
210579	11/22/2016	141647	06246	H.B. JAEGER	SS IMPROVEMENT PROJECT	\$171.67
210577	11/22/2016	141991	06246	H.B. JAEGER	STITTWOOD SDHI #2981	\$161.71
210571	11/22/2016	7516	07474	MACLEOD RECKORD PLLC	GUEMES TRAIL PHASE VI DESIGN	\$901.56
210561	11/22/2016	Pay App 2	10393	PEOPLES BANK FOR, ROOSENDAAL-HONCOOP CONST	RETAINAGE DEPOSIT TO ESCROW ACCOUNT 6013009219	\$3,052.85
210565	11/22/2016	300000006951 No 2	02192	PUGET SOUND ENERGY	STREET LIGHTS - CORRECT AUTOPAY	\$6,895.01
210562	11/22/2016	B349866	02405	SEBO'S DO-IT CENTER	PICTURE HANGER - CITY HALL ARTWORK	\$3.81
210588	11/23/2016	880525976001	01962	OFFICE DEPOT	BREAK ROOM SUPPLIES - 3RD FLOOR	\$4.92

Total **\$267,821.35**



City Council Agenda Bill

Meeting Date: 11/28/2016 **Agenda Item:** 5C

Subject: Mousel SSDP & CUP, SDP-2016-1003

Staff Contact: Kevin Cricchio, AICP, Associate Planner

Approved for Submittal to Commission by	
X	Don Measamer, Planning Director

Action Type	
	Public Hearing
X	Discussion /Signature
X	Possible Action

Summary & Background:

At 6:00 PM on Monday, November 21, 2016, a closed-record public hearing was conducted concerning a Shoreline Substantial Development Permit (SSDP) and land use type of Conditional Use Permit (CUP) to permit the construction of a 22' X 30' two-story building onsite. The proposed building's first floor would contain a private restroom with showers, laundry facilities, and storage therein to serve Bayside Moorage, a private marina. The second floor of the proposed building would consist of a single-family residence / one bedroom apartment for use by the dock-master. Bayside Moorage is an existing private marina with fifty (50) boat slips. Following testimony, a motion was made to approve the subject application(s) subject to staff's suggested conditions of approval and condition #11 added by the Planning Commission. The motion was seconded. Following a 5-0 vote, the subject Shoreline Substantial Development Permit and land use type of Conditional Use Permit was approved by City Council. City Council directed staff to prepare the final Findings of Fact, Conclusions of Law, and Decision regarding this and to bring this back to City Council for final approval.

Recommended Motion:

The Planning, Community, & Economic Development recommends to City Council that they make a motion to approve the Findings of Fact, Conclusion of Law, and Decision for the subject Shoreline Substantial Development Permit and land use type of Conditional-Use Permit subject to staff's suggested conditions of approval and condition #11 added by the Planning Commission.

Attachments:

Findings of Fact, Conclusions of Law, and Decision

Exhibit #01 thru #14 can be [found here](#).

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**CITY COUNCIL'S
FINDINGS OF FACT, CONCLUSIONS OF LAW,
& DECISION:**

**CLOSED-RECORD
PUBLIC HEARING:** November 21, 2016, @ 6:00 PM with a 4:00 PM Site Visit

**OPEN-RECORD
PUBLIC HEARING:** October 26, 2016, @ 6:00 PM with a 4:00 PM Site Visit

FILE NUMBER: SDP-2016-1003

PROJECT LOCATION: East terminus of Skyline Way

The project site is located in a portion of Section 27; Township 35 North; Range 01 East; Willamette Meridian.

**APPLICANT/
LANDOWNER:** Mousel Investments, LLC
13827 Donnell Road
Anacortes, WA 98221

AGENT: John Hoxeng, PLS
Schemmer Consulting Group
301 30th Street, Suite C
Anacortes, WA 98221

SUBJECT PROPOSAL: The applicant has applied for a Shoreline Substantial Development Permit (SSDP) and land use type of Conditional Use Permit (CUP) to permit the construction of a 22' X 30' two-story building onsite. The proposed building's first floor would contain a private restroom with showers, laundry facilities, and storage therein to serve Bayside Moorage, a private marina. The second floor of the proposed building would consist of a single-family residence / one bedroom apartment for use by the dock-master. Bayside Moorage is an existing private marina with fifty (50) boat slips.

SUBJECT PARCEL: Parcel #: P32370

EXISTING LAND USE: The proposed two-story building would be located within a parking lot's landscape area that serves both an adjacent marina and condominium complex.

CURRENT ZONING & COMP.

PLAN DESIGNATION: Commercial Marine (CM) Zoning District

SURROUNDING ZONING & LAND USES:

Direction:	Zoning:	Present Land-Use:
North:	Commercial Marine	Marina
South:	Commercial Marine	Parking Lot & Condominiums
East:	Commercial Marine	Parking Lot & Condominiums
West:	Commercial Marine	Parking Lot

SHORELINE ENVIRONMENT/

DESIGNATION: Urban

FINDINGS OF FACT:

I. GENERAL BACKGROUND:

- A. The project site is located in the City of Anacortes' Commercial Marine (CM) Zoning District and Urban Shoreline Environment.
- B. In 2015, the applicant applied for both a Shoreline Substantial Development Permit and Shoreline Variance (SDP-2015-0004) to permit the construction of a single-story restroom on the subject property to serve Bayside Moorage in the approximate location where the existing portable toilet and garbage dumpster is located at today. The Planning Commission however denied the subject application as commissioner's determined it didn't meet the criteria of approval for a shoreline variance.
- C. On January 26, 2016, the applicant's agent met with city staff to discuss the subject proposal during a pre-application conference (PRE-2016-0002).
- D. The applicant /agent conducted a neighborhood meeting on April 11, 2016, concerning the subject proposal.
- E. On August 12, 2016, the applicant applied for a Shoreline Substantial Development Permit (SSDP) and land use type of Conditional Use Permit (CUP) to permit the construction of a 22' X 30' two-story building onsite. The proposed building's first floor would contain a restroom, showers, laundry facilities, and storage to serve Bayside Moorage, a private marina. The second floor of the proposed building would consist of a single-family residence / one bedroom apartment for use by the dock-master. No modifications to code are proposed.

- F. An existing portable toilet located onsite today serves the restroom needs of patrons of Bayside Moorage. As conditioned below, the portable toilet would be removed from the subject property before certificate of occupancy is issued.
- G. The subject application was reviewed by PCED and deemed complete on August 29, 2016.
- H. Bayside Moorage is an existing private marina with fifty (50) boat slips. Bayside Moorage is separated by a parking lot from Bayside East Condominiums, a 16 unit apartment complex consisting of four 3 bedroom units and twelve 2 bedroom units.
- I. The existing parking lot is not shared. Each property [Bayside Moorage & Bayside East Condominiums] is separately owned and is responsible for their own parking spaces.
- J. A mutual access and utilities easement straddles the boundary line separating the marina and condominium complex.
- K. Skyline Way is a public right-of-way from Sunset Avenue south until approximately Cabana Lane (**See Exhibit #9**).
- L. Cumulatively, the subject property is 2.92 acres or 127,223 square feet in area. This area includes the area of the marina and land landward of the shoreline. According to the Shoreline Functional Assessment prepared by AES, 23,344 square feet of the subject property consists of land landward as measured from the existing bulkhead.
- M. The thirty (30) day comment period ended at 5:00 PM on October 07, 2016, but comments were accepted up until the close of the public record at the open-record public hearing.
- N. The site plan associated with the proposed improvement is marked as **Exhibit #06**.

II. NOTICE OF APPLICATION (NOA) & NOTICE OF HEARING (NOH):

- A. A Notice of Application (NOA) and Notice of Hearing (NOH) was published in the Anacortes American Newspaper on September 7, 2016 (**See Exhibit #02**).
- B. On August 29, 2016, the NOA and NOH was also posted in two locations onsite.
- C. Additionally, on August 29, 2016, the NOA & NOH was posted on the city's website, at city hall, the library, and the local USPS office.
- D. On August 29, 2016, the NOA & NOH was mailed to owners of property within 300 feet of the subject property.
- E. Lastly, on August 29, 30, 2016, agencies and departments of jurisdiction were solicited for comment.

III. CRITICAL AREAS REVIEW:

- A. FISH & WILDLIFE CONSERVATION AREAS: As required by the City of Anacortes' Shoreline Master Program, the subject proposal was reviewed for proximity to Fish and Wildlife Conservation critical areas. However, according to a Shoreline Functional Assessment dated August 5, 2016, prepared by Advanced Environmental Solutions (AES), there will be no direct shoreline impacts associated with the project. The proposed two-story building will be 39.4 feet from the delineated ordinary high water mark (OHWM). Furthermore, AES stated that the existing shoreline buffer on the property and within its immediate vicinity although deemed stable, functionally is rated at low levels. No physical modifications to the shoreline's bulkhead or side banks are proposed. Since the shoreline buffer function is anticipated to remain unchanged at low levels post construction, the project is said to result in a "no net loss" in ecological function.
- B. PRIORITY HABITATS & SPECIES: Flounder Bay bounds the site to the north & east while Burrows Bay bounds the site to the south. Although marine waters may contain listed species & habitat, the project area is upland and meets the minimum twenty-five (25) foot "Urban" shoreline environment/ designation setback requirement as measured from the ordinary high water mark (OHWM).

The subject proposal is not anticipated to result in either direct or indirect effects to threatened or endangered terrestrial or marine species. The Washington State Department of Fish and Wildlife (WDFW) and the United States Fish and Wildlife (USFW) was also provided an opportunity to comment. No comment was received.
- C. FLOODPLAIN: The project site appears to lie within FEMA's "Zone X" (FIRM # 5303170060A; Panel 60 of 100) area. Zone X areas are areas that are determined to be outside the 0.2% annual chance floodplain.
- D. CULTURAL RESOURCES: During the 30-day comment period, comment was received (**See Exhibit #08**) from the Washington State Department of Archaeology and Historic Preservation (DAHP) requesting that an Inadvertent Discovery Plan (IDP) be prepared. This comment was forwarded to the applicant for action. Shortly thereafter, PCED received an IDP (**See Exhibit #08**) prepared by Drayton Archaeology of Bellingham, Washington. Staff forwarded this IDP to DAHP for review and on October 6, 2016, PCED received an email /letter from DAHP that they concurred with the plan.

IV. AGENCY & DEPARTMENT COMMENTS RECEIVED:

Several comments were received from both agencies and departments of jurisdiction (**See Exhibit #03**).

V. PUBLIC COMMENTS RECEIVED:

Several comments were received from neighboring landowners with concerns expressed therein. Please see **Exhibit #04**. The public comments received have been summarized below with analysis provided.

	SUMMARIZED CONCERN:	CITY COUNCIL ANALYSIS:
1.	Location of building and removal of landscape area concern	The proposed building will be within a landscaped area. Although vegetation will be removed associated with the construction of this building, the applicant will be required to resubmit a revised landscape plan show how they will be meet the minimum requirement of landscaping per AMC Chapter 17.41
2.	Quiet neighborhood concern	The proposed building will be accessory to and serve an existing private marina. No additional boat slips are proposed. Construction will result in an increase of two parking spaces to the existing parking lot.
3.	Condo-minimizing the marina concern	The proposed building does not involve a condominium project.
4.	Perceived increase in noise, traffic, and people concern	If approved, the two-story building would result in the construction of two additional parking spaces for the proposed single-family residence /apartment located on the 2 nd floor. The restroom located on the first floor would be accessory to and serve an existing private marina. The restroom would not result in any increased traffic, noise, or people as it would replace the existing portable toilet located onsite.
5.	Upstairs apartment concern	As is proposed, the upstairs single-family residence / apartment would serve as a residence to a dock-master who would oversee the existing private marina.
6.	Blockage of view concern	The proposed 22' X 30' two-story building could potentially block some views for those condos located within close proximity to it. However, both the Anacortes Municipal Code and Shoreline Master Program do not regulate or protect view corridors. Additionally, the maximum permitted height in the CM zone and "Urban" shoreline environment is 35 feet. The proposed building would be 22'-1".
7.	Off-street parking concern	As is discussed below, the existing private marina and proposed building meets the minimum number of off-street parking spaces required per AMC Chapter 17.46.
8.	Outdoor exterior lighting concern	As conditioned below, exterior lighting will be down-shielded.

	SUMMARIZED CONCERN:	CITY COUNCIL ANALYSIS:
9.	Location of garbage dumpster concern	The existing garbage dumpster will remain in place. However as conditioned below a new enclosure will be required.
10.	Aesthetics of new building concern	The applicant can voluntarily agree to build the proposed building in a similar architectural style as that of Bayside East Condos. The city however cannot require this.
11.	Private road concern	Skyline Way becomes a private road south of Cabana Lane. Access easements are provided across the subject property. Two additional parking spaces are required associated with the single-family residence /apartment on the 2 nd story of the proposed building. No additional off-street parking will be required or traffic will result from the construction of the restroom on the first story as it serves an existing 50 slip private marina.
12.	Perceived decrease in quality of life concern	The proposed building should not decrease the quality of life of any of the residents of the condominium complex. In fact, quality of life should increase with the removal of the portable toilet onsite, construction of a new restroom to serve the marina, and the addition of new landscaping provided associated with the project.
13.	Restroom odor concern	There should not be odors associated with the proposed restroom as it will be hooked up to the city's sanitary sewer system. The private restroom will have flushable toilets, will replace the existing portable toilet, and be constructed to current code requirements.

VI. STATE ENVIRONMENTAL POLICY ACT:

- A. The subject proposal is exempt from SEPA environmental review pursuant to AMC 18.04.120(A)(3).

VII. SHORELINE MANAGEMENT ACT & SHORELINE MASTER PROGRAM:

- A. The subject proposal lies within 200 feet of a shoreline of statewide significance and thus is subject to conformance with Washington State's Shoreline Management Act (RCW 90.58) and the City of Anacortes' 2010, Shoreline Master Program.
- B. The subject property is located in the "Urban" shoreline environment /designation of the 2010, Shoreline Master Program of the City of Anacortes. The

proposed two-story structure however is outside of the “Urban” shoreline environment /designation’s 25-foot setback requirement as measured from the Ordinary High Water Mark (OHWM).

- C. According to Table 5.1 of the City of Anacortes’ 2010 Shoreline Master Program, both marinas and single-family residences are permitted uses within the “Urban” Shoreline Environment /Designation.
- D. A bathroom serving an existing marina is considered accessory to the marina and thus permitted outright. Single-family residences however require an approved land use type of Conditional Use Permit (CUP) per AMC 17.21.040.
- E. The subject proposal however is not exempt from obtaining an approved Shoreline Substantial Development Permit (SSDP) per WAC § 173.27.040.
- F. According to AMC § 18.16.100(B)(2) “For each shoreline substantial development/conditional use/variance permit application an open-record public hearing shall be held before the Planning Commission. For project improvements valued at less than one million dollars on project sites less than three acres in size, the Planning Commission may approve, approve with conditions, or deny the permit unless an appeal of the planning commission’s action is filed.” The total cost or fair market value of the proposed project has been estimated to be \$50,000 in value and is on less than 3-acres. Therefore, the Planning Commission has decision-making authority for the subject shoreline permit application.

However, since a single-family residence /apartment is proposed above a restroom that would be accessory to and serve the adjacent marina, a land use type of Conditional Use Permit (CUP) is also required per AMC 17.21.040. The applicant has also requested that both permit applications (i.e., SSDP & CUP) be reviewed and processed concurrently per AMC 17.04.070(E). Therefore, since a Conditional Use Permit goes before both the Planning Commission and City Council, both permit applications in this case will do so.

- G. According to the Table 5.2 of the Shoreline Master Program (SMP), the maximum permitted height in the “Urban” shoreline environment/designation is thirty-five (35) feet above grade. The applicant however is proposing a height of twenty-two feet and one inch (22’-1”) above grade. Therefore, conformance with this requirement has been met.
- H. The setback requirement from the ordinary high water mark in the “Urban” shoreline environment /designation is twenty-five (25) per Table 5.2 of the SMP. The applicant however is proposing a setback of 39.4 feet from the OHWM. Therefore conformance with this requirement has been met.
- I. According to Table 5.2 of the SMP, the maximum permitted lot coverage in the “Urban” shoreline environment /designation is fifty (50) percent. The subject property cumulatively is 2.92 acres or 127,223 square feet in area. This area includes the area of the private marina and land landward of the shoreline. The

applicant is proposing constructing a 22' X 30' (1320 SQ') two-story building which is approximately 660 square feet in lot coverage. According to the Shoreline Functional Assessment prepared by AES, 23,344 square feet of the subject property consists of land landward as measured from the existing bulkhead. Therefore, conformance with this requirement has been met.

- J. There is no maximum permitted percentage of impervious surface in the "Urban" shoreline environment /designation per Section 5.10 of the SMP.
- K. The subject proposal is consistent with the Washington State's Shoreline Management Act and City of Anacortes' 2010, Shoreline Master Program and development regulations listed therein for developments within the "Urban" shoreline environment /designation.

VIII. ZONING ORDINANCE/CODE:

- A. The City's Zoning Map establishes zoning district boundaries and the City Zoning Ordinance establishes (1) the permitted use of land in the various zones, and (2) development standards.
- B. The subject property is located in the Commercial Marine (CM) Zoning District.
- C. Pursuant to AMC § 17.21.010, The Commercial Marine (CM) Zoning District is "established in recognition of the unique and irreplaceable nature of certain marine sites within Anacortes, and creates a special commercial district providing for the establishment of such uses as marinas, boat docking facilities, and other commercial enterprises where orientation to navigable waterways and tourism trade is of prime importance. Uses in this district are intended to serve the needs of marine oriented and tourist activity, and not to create large scape commercial centers providing basic goods and services to the entire community."
- D. According to AMC 17.21.040, in the CM Zoning District both public/private marinas and public/private parking land uses are permitted outright. A bathroom serving a marina is considered accessory to the marina and thus permitted in the zone. Single-family residences /apartment however require an approved land use type of Conditional Use Permit (CUP).
- E. Pursuant to AMC 17.46.020, boat moorage requires one (1) off-street parking space per 2 docking slips. The existing marina consists of fifty (50) moorage slips. Therefore, the required number of off-street parking spaces for the marina is twenty-five (25). The proposed bathroom serving the marina does not require any additional parking spaces. However, the single-family residence /apartment above does require two (2) additional spaces. So, cumulatively twenty-seven (27) parking spaces are required for the subject proposal and existing marina. Thirty-nine (39) parking spaces currently existing on the site. Therefore, conformance with the minimum number of off-street parking spaces per AMC 17.46.020 has been met.

- F. The subject parcel is 2.92 acres. There is no minimum lot size however in the CM Zone per AMC 17.21.050.
- G. Pursuant to AMC 17.21.060, there is no minimum setback requirement except ten (10) feet when the property line adjoins a different zone which has required setbacks or twenty (20) feet from a right of way. Conformance with this requirement has been met as the entire area is zoned CM and Skyline Way adjacent to the project site is private –not public.
- H. The maximum permitted land coverage in the CM Zone is fifty (50) percent. The subject property is 2.92 acres or 127,223 square feet in area. This area includes area of the private marina and land landward of the shoreline. The applicant is proposing constructing a 22' X 30' (1320 SQ') two-story building which is approximately 660 square feet in lot coverage. According to the Shoreline Functional Assessment prepared by AES, 23,344 square feet of the subject property consists of land landward as measured from the existing bulkhead. Therefore, conformance with this requirement has been met.
- I. According to AMC 17.21.090, the maximum permitted height in the CM Zone is thirty-five (35) feet. According to the applicant's plans, 22'-1" is proposed.
- J. Per AMC 17.21.070, the maximum permitted density in the CM Zone is twenty-eight (28) dwelling units per gross acre. One single-family residence /apartment is proposed above the bathroom. The subject property is 2.92 acres or 127,223 square feet in area. However, this area includes both the area of the private marina and land landward of the shoreline. According to the Shoreline Functional Assessment prepared by AES, 23,344 square feet of the subject property is landward of the existing bulkhead. The proposed density is 1.85 dwelling units per acres (1 DU /0.54 acre). Therefore, conformance with this requirement has been met.
- K. Anacortes Municipal Code Chapter 17.41 regulates landscaping within the city limits of the City of Anacortes. According to AMC 17.41.020(G), in the CM Zone the minimum percent to be landscaped is fifteen (15) percent. According to the Shoreline Functional Assessment prepared by AES, 23,344 square feet of the subject property consists of land landward as measured from the existing bulkhead. Fifteen (15) percent of the site equals 3,501.60 square feet. According to the Shoreline Functional Assessment prepared by AES, 3533 square feet or 15.1% of the site will be landscaped with vegetation native to Western Washington. Conformance with this requirement has been met.
- L. **According to AMC 17.10.100(B)(2), Conditional Use Permits shall be granted by the City only if the applicant can demonstrate the following:**
 - 1. The conditional use is designed in a manner which is compatible with the

character and appearance of the existing, or proposed, development in the vicinity of the subject property and is consistent with the purpose of the zone in which the subject property is located;

CITY COUNCIL ANALYSIS:

The proposed two-story building has been designed to be compatible with the character and appearance of the existing development. The proposed two-story building that would have a restroom on the first floor and a single family residence /apartment above it would sit within a landscape area in a parking lot surrounded by a two-story condominium complex and marina. The bathroom would be private and serve only patrons of the marina.

- 2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;**

CITY COUNCIL ANALYSIS:

The proposed two-story building will be located within a landscape area surrounding an existing parking lot. It will not hinder neighborhood circulation nor discourage permitted development or uses of neighboring properties. In fact, the proposed bathroom is a permitted use within both the underlying CM Zoning District and the SMP's Urban Shoreline Environment and associated regulations. The single-family residence /apartment above is the only use that requires a land use type of Conditional Use Permit. As conditioned below, additional landscaping will be required and the entrances to the bathroom screened.

- 3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;**

CITY COUNCIL ANALYSIS:

The proposed two-story building will be designed to be compatible with the adjacent and existing condominium complex.

- 4. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title or will not be detrimental to the surrounding neighborhood;**

CITY COUNCIL ANALYSIS:

No modifications to code are proposed. The construction of the proposed two-story building will not be detrimental to the surrounding neighborhood. In fact, the first story of the building will be a restroom with showers, laundry facilities, and storage therein to serve Bayside Moorage, a private marina. Currently, those

patrons of the marina utilize a portable toilet that is located east along the spit. The new restroom would replace the portable toilet and result in it being removed from the subject property.

5. The conditional use is not in conflict with the health and safety of the community;

CITY COUNCIL ANALYSIS:

The construction of one (1) single-family residential unit/condo above a bathroom accessory to and serving an existing marina does not create a conflict in the community /neighborhood health and safety. In fact the construction of a bathroom improves the community's health and safety by providing a sanitary place for patrons of the existing marina to use bathrooms and associated showers.

6. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood, and adequate pedestrian and vehicular connections to the arterials and adjacent areas as well as appropriate circulation within the project are provided consistent with city policies and standards for circulation patterns in the area;

CITY COUNCIL ANALYSIS:

The proposed two-story building will not impede either pedestrian or vehicular traffic. Additionally, except for the proposed single family residence /apartment above the bathroom, the use will not result in additional traffic as the bathroom will serve an existing marina with a fixed number of slips therein. Two (2) additional parking spaces will be required for the single-family residence /apartment. Additionally, the existing parking lot is not shared. Each property [Bayside Moorage & Bayside East Condominiums] is separately owned and is responsible for their own parking spaces.

7. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and

CITY COUNCIL ANALYSIS:

The proposed two-story building will be served by public facilities including city potable water and sanitary sewer.

8. The conditional use is in compliance with the Comprehensive Plan.

CITY COUNCIL ANALYSIS:

The subject conditional use permit will be in compliance with both the city's comprehensive plan and municipal code.

- M. The subject proposal is consistent with the above development regulations.

IX. CONCLUSIONS OF LAW:

- A. The public notice requirements for both the land use type of Conditional Use Permit and Shoreline Permit as required by AMC 17.10.100 and 18.16.050 respectively have been complied with.
- B. The project is consistent with both the Commercial Marine (CM) Zoning District; the "Urban" shoreline environment /designation; the general goals, policies and development regulations of the Anacortes Shoreline Master Program; the Shoreline Management Act; the general purposes of the City's Comprehensive Plan; the City's planning standards and specifications of the zoning ordinance; and other ordinances applicable to the proposal.
- C. The City Council bases its Findings of Fact, Conclusions of Law & Decision on the entire record, including all testimony and exhibits. Any finding which would be deemed a Conclusion of Law, and any Conclusion of Law which should be deemed a finding is hereby adopted as such.

X. STAFF RECOMMENDATION:

The Department of Planning, Community, and Economic Development recommend that the subject Shoreline Substantial Development Permit (SSDP) and land use type of Conditional-Use Permit be approved by City Council subject to staff's suggested conditions of approval listed below along with Condition of Approval #11 added by the Planning Commission.

XI. PLANNING COMMISSION RECOMMENDATION:

The Planning Commission conducted an open-record public hearing on October 26, 2016. Following public testimony, Planning Commission members deliberated on the matter. A motion was made and it was seconded. The Planning Commission voted 7-0 to recommend that City Council approve the subject Shoreline Substantial Development Permit and land use type of Conditional-Use Permit based on staff's suggested conditions of approval and condition of approval #11 added by the Planning Commission.

XII. DECISION:

Based on the foregoing information and analysis submitted by the applicant, and the City regulatory authority to implement the policies, standards, and the regulations of the Comprehensive Plan, and the Anacortes Municipal Code (AMC), the Anacortes City Council hereby approves the subject Shoreline Substantial Development Permit and land use type of Conditional Use Permit subject to the following conditions of approval:

1. The scope of the project shall not exceed that as set-out in the shoreline and conditional use permit applications (including attachments), and in accordance with the determinations made and conditions imposed. **Exhibit 6** shall be the approved site plan.
2. The project shall comply with all applicable Shoreline Master Program regulations, including but not limited to, Chapter 5, Shoreline Environments & Associated Policies and Regulations, Chapter 6, Environmental Protection General Regulations, Chapter 8, Specific Use Policies and Development Regulations, and Chapter 9 Specific Shoreline Modification Policies and Development Regulations.
3. A building permit(s) with the City of Anacortes' shall be secured prior to work.
4. The applicant shall be responsible for reimbursement to the City for the cost of posting, mailing and publication of the public hearing for this proposal. Payment shall be made prior to building permit application submittal or issuance.
5. Development shall comply with AMC § 18.16.130 regulating the time limit for shoreline permits as follows:
 - A. Construction, or substantial progress toward completion, must begin within two (2) years after approval of the permit. Substantial progress toward construction shall include, but not limited to, the letting of bids, making of contracts, purchasing of materials involved in development, but shall not include development or uses which are inconsistent with the Shoreline Management Act or the city's master program. In determining the running two-year period hereof, there shall not be included the time during which development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue; provided, that the city may, in its discretion, extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.
 - B. Five-Year Permit Authorization. If construction has not been completed within five years of approval by the City of Anacortes, the city will review the permit, with prior notice to parties of record, and, upon showing of good cause, either extend the permit for one additional year, or terminate the permit. Prior to the city authorizing any permit extensions, it shall notify any parties of record and the Department of Ecology. Note: Only one single extension is permitted.
6. If any artifacts or human remains are found upon excavation, the Samish Indian Nation; the City of Anacortes' Department of Planning, Community, & Economic Development; and the State of Washington's Department of Archaeology and Historic Preservation (DAHP) shall be immediately notified and the work in the immediate area cease. Pursuant to RCW § 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and § 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology and Historic Preservations before excavating, removing, or altering Native American human remains or archaeological resources in Washington.

7. Development shall comply with the Inadvertent Discovery Plan (IDP) dated September 23, 2016, prepared by Drayton Archaeology. A copy of the IDP shall be onsite during construction.
8. Development shall comply with the requirements of the City of Anacortes' Planning, Community, and Economic Development Department (PCED) including but not limited to as follows:
 - A. The proposed structure shall be setback a minimum of twenty-five (25) feet from the ordinary high water mark (OHWM) per the City's SMP.
 - B. Orange construction fencing shall be installed at the project boundary's clearing limits.
 - C. Before building permit application submittal or approval is given, a parking plan shall be submitted to the PCED that shows how conformance with AMC Chapter 17.46 is being met.
 - D. Any proposed outdoor or exterior building lighting shall be down-shielded preventing glare and light trespass.
 - E. The applicant shall construct a new enclosure for the garbage dumpster and recycling. The garbage dumpster and recycling shall remain in their existing location due to site constraints and garbage truck turning and backing-up limitations.
 - F. A certificate of occupancy (CO) shall not be issued for the two-story building until PCED has deemed that all required improvements (landscaping, etc.) are in place and meet minimum standards.
 - G. If applicable, the proposed two-story building shall meet basic design standards per AMC 17.21.110.
 - H. The new building will be required to obtain a new water meter from the city and tight-line storm-water drains to the city's storm-water system.
 - I. The existing portable toilet shall be removed prior to the certificate of occupancy being issued.
 - J. Landscaping shall comply with the landscape plan that was prepared by AES on August 5, 2016, as part of the Shoreline Functional Assessment.
9. Development shall comply with the requirements of the City of Anacortes' Public Works Department including but not limited to:
 - A. All public utilities will need easements for access and maintenance.
10. An erosion and sedimentation control plan /small parcel storm water plan shall be submitted to the City with a permit application for activities that involve the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion or siltation. Said program shall conform to the City of Anacortes' Engineering Design Standards and shall at a minimum, utilize Best Management Practices (BMPs) to prevent shoreline erosion and siltation.
11. The current drive aisle adjacent to the oversized stalls shall be striped and signed "No Parking" meeting Anacortes Fire Department access requirements.

CITY OF ANACORTES, WASHINGTON

LAURIE M. GERE, MAYOR

Date

Approved as to form and legality:

ATTEST:

Darcy Swetnam, WSBA# 40530
City Attorney

Steve D. Hoglund, City Clerk Treasurer

EXHIBITS:

EXHIBIT NUMBER:	NAME OF EXHIBIT:
Exhibit #01	Master Permit Application, JARPA, & Narrative
Exhibit #02	Notice of Application & Hearing
Exhibit #03	Agency & Department Comments Received
Exhibit #04	Public Comments Received
Exhibit #05	City of Anacortes' GIS & Assessor's Info
Exhibit #06	Site Plan & Elevations
Exhibit #07	Site Photos
Exhibit #08	Inadvertent Discovery Plan
Exhibit #09	Skyline Division #19, Skyline Way –Private /Public
Exhibit #10	Bayside Short Plat
Exhibit #11	PCED Presentation to Planning Commission
Exhibit #12	Planning Commission's Findings of Fact, Conclusions of Law, & Recommendation
Exhibit #13	Open-Record Public Hearing Minutes
Exhibit #14	PCED Presentation to City Council



Public Works
Engineering and Development
Services

NOTICE OF PHYSICAL COMPLETION

DATE: November 23, 2016

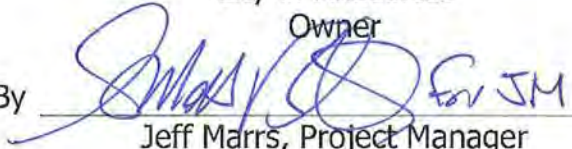
TO: Dahl Electric Inc.
Mr. Chris Dahl
521 E Victoria Avenue
Burlington, WA 98233

PROJECT: Install New VFDs Pumps 3 & 4 at WTP Intake Pump Station
Purchase Order No. 15-054-WTR-002

Upon final inspection, the City Engineer determined this work as physically complete on

November 4, 2016.

This does not imply acceptance of the work or that all contractor obligations under the contract have been fulfilled.

City of Anacortes
Owner
By  For JM
Jeff Marrs, Project Manager



Public **W**orks
**Engineering and Development
Services**

NOTICE OF PHYSICAL COMPLETION

DATE: November 23, 2016
TO: Lakeside Industries, Inc.
Mr. Justin Blouin
PO Box 729
Anacortes, WA 98221
PROJECT: 2016 Overlay Project
Contract No. 15-005-TRN-006

Upon final inspection, the City Engineer determined this work as physically complete on

November 18, 2016.

This does not imply acceptance of the work or that all contractor obligations under the contract have been fulfilled.

City of Anacortes
Owner
By 
Steve Lange, Project Manager



City Council Agenda Bill

Meeting Date: 11/28/2016

Agenda Item: 5f

Subject: Department of Natural Resources Lease Renewal

Staff Contact: Don Measamer

Approved for Submittal to Council by	
X	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney
X	Don Measamer, Director, PCED

Action Type	
	Ordinance No.
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: City staff have been working closely with the Department of Natural Resources and lease area tenants, stakeholders, over the past few years for a lease renewal that includes Cap Sante Marine and the Fidalgo Marina sublease areas. The area under the original lease has been reduced from 83 acres to 16.5 acres resulting in a lease rate reduction from approximately \$66,000 to \$36, 428.56 yearly. The lease area includes the Cap Sante and Fidalgo Marina areas up to and including the existing jetty, Survey C1 and C2. The original lease included area to the south of the jetty for a potential Marina which has not materialized and is unlikely given the complexity of permitting and dredging in the area of the Custom Plywood site cleanup. The lease includes an easement for ingress and egress to the north parcel and W Avenue with an area of 23,792 square feet and a onetime payment in the amount of \$48,200 for the easement through 2034. The term of the lease, when executed, begins January 3rd, 2017 and terminates January 2034. Over the period of the lease the City will be responsible to remove creosote piles, replace treated wood docks with 50 % grated docks that currently do not provide the grating prior to January 2, 2026, and soil sampling and remediation in the north area of site C1 by October 1, 2017. A public access element is provided for with the lease along W Avenue access and the North DNR site where Banana Belt Boat will be developing the site along with the waterfront trail.

Budget Impact	
Amount Budgeted	\$66,000
Budget Account (BARS)	001.240.558.60.45
Proposed Expenditure	\$84,628.56 (\$36,428.56 annual, \$48,200 one time for easement)
Budget Amendment Required?	N/A

Previous Council/Committee Action: The City Council reviewed and discussed the lease at their November 21st, 2016 meeting.

Competing Viewpoints Considered: Stakeholder, including tenants, viewpoints considered

Recommended Motion: I move to authorize the Mayor to enter into a lease with DNR as presented.

Alternative Actions: Continue work with DNR and stake holders as directed by City Council

Attachments (listed in order presented): See below

Attachment A. -- Aquatic Lands Lease and Easement

Attachment B. -- Site Aerial

Attachment C. -- Surveys



Attachment A

DEPARTMENT OF NATURAL RESOURCES

NORTHWEST REGION
919 NORTH TOWNSHIP STREET
SEDRO-WOLLEY, WA 98284-9384

360-856-3500
northwest.region@DNR.WA.GOV
WWW.DNR.WA.GOV

October 27, 2016

Don Measamer, Director of Planning,
Community and Economic Development
City of Anacortes
PO Box 547
Anacortes, WA 98221-0547

Subject: Aquatic Lands Lease Number 22-A02664 and Aquatic Lands Easement 51-092332

Dear Mr. Measamer:

Enclosed are two (2) identical originals of Aquatic Lands Lease Number 22-A02664 and two (2) identical originals of Aquatic Lands Easement 51-092332 for your review. If they meet with your approval, please sign and date all four (4) copies and notarize each document on the page with the certificate of acknowledgement and return them within sixty (60) days to:

Washington State Department of Natural Resources
Aquatics District
919 North Township Street
Sedro-Woolley, WA 98284

Before DNR can finalize your Lease and Easement, within sixty (60) days we must also receive:

Lease No. 22-A02664

1. A check for the Rent due for the period of January 3, 2017, to January 2, 2018, in the amount of \$36,428.56 pursuant to Section 4 of the Lease.
2. Financial security that will be in place at the commencement of the Lease term to ensure full performance of Lease terms in the amount of \$500.00, pursuant to Subsection 10.4 of the Lease. Acceptable forms of financial security include a surety bond, savings account assignment, or cash on account (cash bond) deposited with DNR.

Easement No. 51-092332

1. A check for the one-time fee for the term of January 3, 2017, to January 2, 2034, in the amount of \$48,200.00, pursuant to Section 4 of the Easement.

Mr. Don Measamer

October 27, 2016

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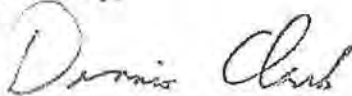
2. Evidence of insurance coverage that will be in place at the commencement of the Easement in accordance with Subsection 10.2 and 10.3.

Please submit two (2) separate checks for the rent/fee amounts listed above (\$36,428.56 and \$48,200.00) and reference the appropriate Agreement number on each check.

When we receive the items listed above and complete our final evaluation, we will submit them to DNR management for their review and, if appropriate, final execution of your Lease and Easement. Please be aware that until DNR management has reviewed all the items listed above and reviewed and finally executed your Lease and Easement, DNR may reconsider the terms of your Lease and Easement, whether it should be issued, and whether any other conditions must be met before DNR enters into the agreement.

Please call me if you have any questions.

Sincerely,



Dennis Clark
Assistant Division Manager
Orca-Straits District

Enclosures (Aquatic Lands Lease 22-A02664 and Aquatic Lands Easement 51-092332)

c: District File
TRO file



DEPARTMENT OF
NATURAL RESOURCES
NORTHWEST REGION
919 NORTH TOWNSHIP STREET
SEDRO-WOOLLEY, WA 98284-9384
360-856-3500
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WWW.DNR.WA.GOV

October 27, 2016

Don Measamer, Director of Planning,
Community and Economic Development
City of Anacortes
PO Box 547
Anacortes, WA 98221-0547

Subject: Extended Holdover Notification for Aquatic Lands Lease No. 22-002664 Through
January 2, 2017

Dear Mr. Measamer:

The Department of Natural Resources ("DNR") issued Aquatic Lands Lease No. 22-002664 ("Lease") to authorize City of Anacortes occupancy of the state-owned aquatic lands defined by the Lease as the "Property." The Lease expired on October 1, 2016. As you have continued to occupy the Property and your Improvements remain on the Property following the expiration date, you are a holdover tenant. By letter dated August 26, 2016, DNR granted the City "approved holdover" status per Lease Section 6.12 (per the Lease amendment signed February 18, 1997) for a two-month period ending December 1, 2016.

DNR has determined it is in the state's interest to extend "approved holdover" status from December 1, 2016, through January 2, 2017.

DNR's continued acceptance of your approved holdover status is temporary only. After January 2, 2017, DNR may:

- Continue your month-to-month tenancy in "approved holdover" status,
- Convert your month-to-month tenancy to "unapproved holdover" status per Section 6.11 (please note the option to increase rent), or
- Terminate your lease after you have had a reasonable amount of time to consider acceptance of a new lease that is being offered to the City at this time under separate cover.

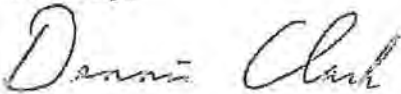
Consistent with the terms of the Lease and the law, as a holdover tenant you will remain subject to the terms and conditions of the Lease, except that you will be in a month-to-month periodic tenancy instead of a lease for term. Either you or DNR may terminate the holdover periodic tenancy by providing at least thirty (30) days notice to the other party. DNR's acceptance of your holdover status is not a waiver of any default nor is it a waiver of any obligation of the Tenant under the Lease.

Mr. Don Measamer
October 27, 2016
Page 2 of 2

Your rent will continue to be due and payable on the basis established by the Lease. DNR will continue to calculate your rent in accordance with the Lease. Collection of prepaid rent is a matter of administrative convenience and does not constitute the creation of more than a month-to-month tenancy. If the holdover tenancy terminates and you are not in default, DNR will refund the balance of any prepaid rent it received for any period after the date of termination.

If you have any questions or concerns, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis Clark".

Dennis Clark,
Assistant Division Manager
Orca-Straits District, Aquatics Resources Division

c: Field file, NRB file 22-002664

When recorded, return to:
City of Anacortes
PO Box 547
Anacortes, WA 98221



PETER GOLDMARK
COMMISSIONER OF PUBLIC LANDS

AQUATIC LANDS LEASE

Lease No. 22-A02664

Grantor: Washington State Department of Natural Resources
Grantee(s): City of Anacortes
Legal Description: Section 30, Township 35 North, Range 2 East, W.M.
Assessor's Property Tax Parcel or Account Number: P33185
Assessor's Property Tax Parcel or Account Number for Upland parcel used in conjunction with this lease: Various

THIS LEASE is between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and CITY OF ANACORTES, a government agency ("Tenant").

BACKGROUND

Tenant desires to lease the aquatic lands commonly known as Fidalgo Bay, which is a harbor area located in Skagit County, Washington, from State, and State desires to lease the property to Tenant pursuant to the terms and conditions of this Lease. State has authority to enter into this Lease under Chapter 43.12, Chapter 43.30 and Title 79 of the Revised Code of Washington (RCW).

THEREFORE, the Parties agree as follows:

SECTION 1 PROPERTY

1.1 Property Defined.

- (a) State leases to Tenant and Tenant leases from State the real property described in Exhibit A together with all the rights of State, if any, to improvements on and easements benefiting the Property, but subject to the exceptions and restrictions set forth in this Lease (collectively the "Property").
- (b) This Lease is subject to all valid interests of third parties noted in the records of Skagit County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes.
- (c) This Lease does not include a right to harvest, collect or damage natural resources, including aquatic life or living plants; water rights; mineral rights; or a right to excavate or withdraw sand, gravel, or other valuable materials.
- (d) State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not interfere unreasonably with the Permitted Use.

1.2 Survey and Property Descriptions.

- (a) Tenant prepared Exhibit A, which describes the Property. Tenant warrants that Exhibit A is a true and accurate description of the Lease boundaries and the improvements to be constructed or already existing in the Lease area. Tenant's obligation to provide a true and accurate description of the Property boundaries is a material term of this Lease.
- (b) State's acceptance of Exhibit A does not constitute agreement that Tenant's property description accurately reflects the actual amount of land used by Tenant. State reserves the right to retroactively adjust rent if at any time during the term of the Lease State discovers a discrepancy between Tenant's property description and the area actually used by Tenant.

1.3 Inspection. State makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Tenant's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Property, or the existence of hazardous substances on the Property. Tenant inspected the Property and accepts it "AS IS."

SECTION 2 USE

2.1 Permitted Use. Tenant shall use the Property for: a marina, boat launch facility, docks, concrete panel breakwater, rock jetty, fill with riprapped armoring, and boat yard (the "Permitted Use"), and for no other purpose. This is a water-dependent use. Exhibit B describes the Permitted Use in detail. The Permitted Use is subject to additional obligations in Exhibit B.

2.2 Restrictions on Permitted Use and Operations. The following limitations apply to the Property and adjacent state-owned aquatic land. Tenant's compliance with the following does not limit Tenant's liability under any other provision of this Lease.

- (a) Tenant shall not cause or permit:
 - (1) Damage to natural resources,
 - (2) Waste, or
 - (3) Deposit of material, unless approved by State in writing. This prohibition includes deposit of fill, rock, earth, ballast, wood waste, refuse, garbage, waste matter, pollutants of any type, or other matter.
- (b) Tenant shall not cause or permit scour or damage to aquatic land and vegetation. This prohibition includes the following limitations:
 - (1) Tenant shall not use or allow use of a pressure washer to clean underwater surfaces unless the water is deeper than seven (7) feet at the time.
 - (2) Tenant shall not allow moorage or anchorage of vessels in water more shallow than seven (7) feet.
- (c) Tenant shall not construct new bulkheads or place hard bank armoring.
- (d) Tenant shall not install fixed breakwaters.
- (e) Tenant shall not construct or install new covered moorage or boat houses.
- (f) Unless approved by State in writing, Tenant shall not cause or permit dredging on the Property. State will not approve dredging unless (1) required for flood control, maintenance of existing vessel traffic lanes, or maintenance of water intakes and (2) consistent with State's management plans, if any. Tenant shall maintain authorized dredge basins in a manner that prevents internal deeper pockets.
- (g) Floating houses, as defined by WAC 332-30-106 (23), are not allowed in Harbor Areas.
- (h) Tenant shall limit the number of residential slips, and shall manage residential uses on the Property, in accordance with the provisions of WAC 332-30-171 and as specified in Exhibit B.

2.3 Conformance with Laws. Tenant shall, at all times, keep current and comply with all conditions and terms of permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding Tenant's use or occupancy of the Property.

2.4 Liens and Encumbrances. Unless expressly authorized by State in writing, Tenant shall keep the Property free and clear of liens or encumbrances arising from the Permitted Use or Tenant's occupancy of the Property.

SECTION 3 TERM

3.1 Term Defined. The term of this Lease is seventeen (17) years (the "Term"), beginning on the 3rd day of January, 2017 (the "Commencement Date"), and ending on the 2nd day of January, 2034 (the "Termination Date"), unless terminated sooner under the terms of this Lease.

3.2 Renewal of the Lease. This Lease does not provide a right of renewal. Tenant may apply for a new lease, which State has discretion to grant. Tenant must apply for a new lease at least one (1) year prior to Termination Date. State will notify Tenant within ninety (90) days of its intent to approve or deny a new Lease.

3.3 End of Term.

- (a) Upon the expiration or termination of this Lease, Tenant shall remove Improvements in accordance with Section 7, Improvements, and surrender the Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.
- (b) Definition of Reasonable Wear and Tear.
 - (1) Reasonable wear and tear is deterioration resulting from the Permitted Use that has occurred without neglect, negligence, carelessness, accident, or abuse of the Property by Tenant or any other person on the premises with the permission of Tenant.
 - (2) Reasonable wear and tear does not include unauthorized deposit of material prohibited under Paragraph 2.2 regardless of whether the deposit is incidental to or the byproduct of the Permitted Use.
- (c) If Property is in worse condition, excepting for reasonable wear and tear, on the surrender date than on the Commencement Date, the following provisions apply.
 - (1) State shall provide Tenant a reasonable time to take all steps necessary to remedy the condition of the Property. State may require Tenant to enter into a right-of-entry or other use authorization prior to the Tenant entering the Property if the Lease has terminated.
 - (2) If Tenant fails to remedy the condition of the Property in a timely manner, State may take steps reasonably necessary to remedy Tenant's failure. Upon demand by State, Tenant shall pay all costs of State's remedy, including but not limited to the costs of removing and disposing of material deposited improperly on the Property, lost revenue resulting from the condition of the Property, and administrative costs associated with the State's remedy.

3.4 Holdover.

- (a) If Tenant remains in possession of the Property after the Termination Date, the occupancy will not be an extension or renewal of the Term. The occupancy will be a month-to-month tenancy, on terms identical to the terms of this Lease, which either Party may terminate on thirty (30) days' written notice.
 - (1) The monthly rent during the holdover will be the same rent that would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms.
 - (2) Payment of more than the monthly rent will not be construed to create a periodic tenancy longer than month-to-month. If Tenant pays more than the monthly rent and State provides notice to vacate the property, State

shall refund the amount of excess payment remaining after the Tenant ceases occupation of the Property.

- (b) If State notifies Tenant to vacate the Property and Tenant fails to do so within the time set forth in the notice, Tenant will be a trespasser and shall owe the State all amounts due under RCW 79.02.300 or other applicable law.

SECTION 4 RENT

4.1 Annual Rent.

- (a) Until adjusted as set forth below, Tenant shall pay to State an annual rent of Thirty-six Thousand, Four Hundred, Twenty-eight Dollars and 56 Cents (\$36,428.56).
- (b) The annual rent, as it currently exists or as adjusted or modified (the "Annual Rent"), is due and payable in full on or before the Commencement Date and on or before the same date of each year thereafter. Any payment not paid by State's close of business on the date due is past due.

4.2 Payment Place. Tenant shall make payment to Financial Management Division, 1111 Washington St SE, PO Box 47041, Olympia, WA 98504-7041.

4.3 Adjustment Based on Use. Annual Rent is based on Tenant's Permitted Use of the Property, as described in Section 2 above. If Tenant's Permitted Use changes, the Annual Rent shall be adjusted as appropriate for the changed use.

4.4 Rent Adjustment Procedures.

- (a) Notice of Rent Adjustment. State shall provide notice of adjustments to the Annual Rent allowed under Paragraphs 4.5(b) and 4.6(b) to Tenant in writing no later than ninety (90) days after the anniversary date of the Lease.
- (b) Procedures on Failure to make Timely Adjustment. If the State fails to provide the notice required in Paragraph 4.4(a), State shall not collect the adjustment amount for the year in which State failed to provide notice. Upon providing notice of adjustment, State may adjust and prospectively bill Annual Rent as if missed or waived adjustments had been implemented at the proper interval. This includes the implementation of any inflation adjustment.

4.5 Rent Adjustments for Water-Dependent Uses.

- (a) Inflation Adjustment. State shall adjust water-dependent rent annually pursuant to RCW 79.105.200-.360, except in those years in which State revalues the rent under Paragraph 4.5(b) below. This adjustment will be effective on the anniversary of the Commencement Date.
- (b) Revaluation of Rent. At the end of the first four-year period of the Term, and at the end of each subsequent four-year period, State shall revalue the water-dependent Annual Rent in accordance with RCW 79.105.200-.360.

- (c) **Rent Cap.** State shall increase rent incrementally in compliance with RCW 79.105.260 as follows: If application of the statutory rent formula for water-dependent uses would result in an increase in the rent attributable to such uses of more than fifty percent (50%) in any one year, State shall limit the actual increase implemented in such year to fifty percent (50%) of the then-existing rent. In subsequent, successive years, State shall increase the rental amount incrementally until the State implements the full amount of increase as determined by the statutory rent formula.

4.6 Rent Adjustments for Nonwater-Dependent Uses.

- (a) **Inflation Adjustment.** Except in those years in which State revalues the rent under Paragraph 4.5(b) above, State shall adjust nonwater-dependent rent annually on the Commencement Date. Adjustment is based on the percentage rate of change in the previous calendar year's Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Commerce, for the Seattle-Tacoma-Bremerton CMSA, All Urban Consumers, all items 1982-84 = 100. If publication of the Consumer Price Index is discontinued, State shall use a reliable governmental or other nonpartisan publication evaluating the information used in determining the Consumer Price Index.
- (b) **Revaluation of Rent.**
 - (1) At the end of the first four-year period of the Term, and at the end of each subsequent four-year period, State shall revalue the nonwater-dependent Annual Rent to reflect the then-current fair market rent.
 - (2) If State and Tenant cannot reach agreement on the fair market rental value, the Parties shall submit the valuation to a review board of appraisers. The board must consist of three members, one selected by and at the cost of Tenant; a second member selected by and at the cost of State; and a third member selected by the other two members with the cost shared equally by State and Tenant. The decision of the majority of the board binds the Parties. Until the Parties agree to, or the review board establishes, the new rent, Tenant shall pay rent in the same amount established for the preceding year. If the board determines additional rent is required, Tenant shall pay the additional rent within ten (10) days of the board's decision. If the board determines a refund is required, State shall pay the refund within ten (10) days of the board's decision.

SECTION 5 OTHER EXPENSES

5.1 Utilities. Tenant shall pay all fees charged for utilities required or needed by the Permitted Use.

5.2 Taxes and Assessments. Tenant shall pay all taxes (including leasehold excise taxes), assessments, and other governmental charges applicable or attributable to the Property, Tenant's leasehold interest, the improvements, or Tenant's use and enjoyment of the Property.

5.3 Right to Contest. If in good faith, Tenant may contest any tax or assessment at its sole cost and expense. At the request of State, Tenant shall furnish reasonable protection in the form of a bond or other security, satisfactory to State, against loss or liability resulting from such contest.

5.4 Proof of Payment. If required by State, Tenant shall furnish to State receipts or other appropriate evidence establishing the payment of amounts this Lease requires Tenant to pay.

5.5 Failure to Pay. If Tenant fails to pay amounts due under this Lease, State may pay the amount due, and recover its cost in accordance with Section 6.

SECTION 6 LATE PAYMENTS AND OTHER CHARGES

6.1 Failure to Pay Rent. Failure to pay rent is a default by the Tenant. State may seek remedies under Section 14 as well as late charges and interest as provided in this Section 6.

6.2 Late Charge. If State does not receive full rent payment within ten (10) days of the date due, Tenant shall pay to State a late charge equal to four percent (4%) of the unpaid amount or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

6.3 Interest Penalty for Past Due Rent and Other Sums Owed.

- (a) Tenant shall pay interest on the past due rent at the rate of one percent (1%) per month until paid, in addition to paying the late charges determined under Paragraph 6.2. Rent not paid by the close of business on the due date will begin accruing interest the day after the due date.
- (b) If State pays or advances any amounts for or on behalf of Tenant, Tenant shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Tenant of the payment or advance. This includes, but is not limited to, State's payment of taxes of any kind, assessments, insurance premiums, costs of removal and disposal of materials or Improvements under any provision of this Lease, or other amounts not paid when due.

6.4 Referral to Collection Agency and Collection Agency Fees. If State does not receive full payment within thirty (30) days of the due date, State may refer the unpaid amount to a collection agency as provided by RCW 19.16.500 or other applicable law. Upon referral, Tenant shall pay collection agency fees in addition to the unpaid amount.

6.5 No Accord and Satisfaction. If Tenant pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. State may accept payment in any amount without prejudice to State's right to recover the balance of the rent or

pursue any other right or remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment constitutes accord and satisfaction.

6.6 No Counterclaim, Setoff, or Abatement of Rent. Except as expressly set forth elsewhere in this Lease, Tenant shall pay rent and all other sums payable by Tenant without the requirement that State provide prior notice or demand. Tenant's payment is not subject to counterclaim, setoff, deduction, defense or abatement.

SECTION 7 IMPROVEMENTS

7.1 Improvements Defined.

- (a) "Improvements," consistent with RCW 79.105 through 79.145, are additions within, upon, or attached to the land. This includes, but is not limited to, fill, structures, bulkheads, docks, pilings, and other fixtures.
- (b) "Personal Property" means items that can be removed from the Property without (1) injury to the Property or Improvements or (2) diminishing the value or utility of the Property or Improvements.
- (c) "State-Owned Improvements" are Improvements made or owned by State. State-Owned Improvements includes any construction, alteration, or addition to State-Owned Improvements made by Tenant.
- (d) "Tenant-Owned Improvements" are Improvements authorized by State and (1) made by Tenant or (2) acquired by Tenant from the prior tenant.
- (e) "Unauthorized Improvements" are Improvements made on the Property without State's prior consent or Improvements made by Tenant that do not conform to plans submitted to and approved by the State.

7.2 Existing Improvements. On the Commencement Date, the following Improvements are located on the Property: a boat yard, a covered moorage marina, boat launch facility, docks, concrete panel breakwater, rock jetty, and fill with riprapped armoring. The Improvements are Tenant-owned.

7.3 Construction, Major Repair, Modification, and Demolition.

- (a) This Paragraph 7.3 governs construction, alteration, replacement, major repair, modification, demolition, and deconstruction of Improvements ("Work"). Section 11 governs routine maintenance and minor repair.
- (b) All Work must conform to requirements under Paragraph 7.4. Paragraph 11.3, which applies to routine maintenance and minor repair, also applies to all Work under this Paragraph 7.3.
- (c) Except in an emergency, Tenant shall not conduct Work, without State's prior written consent, as follows:
 - (1) State may deny consent if State determines that denial is in the best interests of the State or if proposed Work does not comply with Paragraphs 7.4 and 11.3. State may impose additional conditions

- reasonably intended to protect and preserve the Property. If Work is for removal of Improvements at End of Term, State may waive removal of some or all Improvements.
- (2) Except in an emergency, Tenant shall submit to State plans and specifications describing the proposed Work at least sixty (60) days before submitting permit applications to regulatory authorities unless Tenant and State otherwise agree to coordinate permit applications. At a minimum, or if no permits are necessary, Tenant shall submit plans and specifications at least ninety (90) days before commencement of Work.
 - (3) State waives the requirement for consent if State does not notify Tenant of its grant or denial of consent within sixty (60) days of submittal.
- (d) Tenant shall notify State of emergency Work within five (5) business days of the start of such Work. Upon State's request, Tenant shall provide State with plans and specifications or as-builts of emergency Work.
 - (e) Tenant shall not commence or authorize Work until Tenant or Tenant's contractor has:
 - (1) Obtained a performance and payment bond in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction. Tenant shall maintain the performance and payment bond until Tenant pays in full the costs of the Work, including all laborers and material persons.
 - (2) Obtained all required permits.
 - (f) Before completing Work, Tenant shall remove all debris and restore the Property to an orderly and safe condition. If Work is intended for removal of Improvements at End of Term, Tenant shall restore the Property in accordance with Paragraph 3.3, End of Term.
 - (g) Upon completing work, Tenant shall promptly provide State with as-built plans and specifications.
 - (h) State shall not charge rent for authorized Improvements installed by Tenant during this Term of this Lease, but State may charge rent for such Improvements when and if Tenant or successor obtains a subsequent use authorization for the Property and State has waived the requirement for Improvements to be removed as provided in Paragraph 7.5.

7.4 Standards for Work.

- (a) Applicability of Standards for Work.
 - (1) The standards for Work in Paragraph 7.4(b) apply to Work commenced in the five year period following the Commencement Date. Work has commenced if State has approved plans and specifications.
 - (2) If Tenant undertakes Work five years or more after the Commencement Date, Tenant shall comply with State's then current standards for Work.
 - (3) At Tenant's option, Tenant may ascertain State's current standards for Work as follows:

- (i) Before submitting plans and specifications for State's approval as required by Paragraph 7.3 of the Lease, Tenant shall request State to provide Tenant with then current standards for Work on State-owned Aquatic Lands.
 - (ii) Within thirty (30) days of receiving Tenant's request, State shall provide Tenant with current standards for Work, which will be effective for the purpose of State's approval of Tenant's proposed Work provided Tenant submits plans and specifications for State's approval within two (2) years of Tenant's request for standards.
 - (iii) If State does not timely provide current standards upon Tenant's request, the standards under Paragraph 7.4(b) apply to Tenant's Work provided Tenant submits plans and specifications as required by Paragraph 7.3 within two (2) years of Tenant's request for standards.
 - (iv) If Tenant fails to (1) make a request for current standards or (2) timely submit plans and specifications to State after receiving current standards, Tenant shall make changes in plans or Work necessary to conform to current standards for Work upon State's demand.
- (b) Standards for Work.
- (1) Tenant shall not install skirting on any overwater structure.
 - (2) Tenant shall not conduct in-water Work during time periods prohibited for such work under WAC 220-110-271, Prohibited Work Times in Saltwater, as amended, or as otherwise directed by the Washington Department of Fish and Wildlife (WDFW).
 - (3) Tenant shall not provide anchorage or moorage in water more shallow than seven (7) feet (2 meters) at the extreme low tide or water.
 - (4) Tenant shall orient navigation channels and entrances to facilities to avoid dredging.
 - (5) Tenant shall install unobstructed grating over at least 50 percent of the surface area of all new floats, piers, fingers, and docks; grating material must have at least 60 percent unobstructed open space. For gangways, Tenant shall install grating with 100 percent unobstructed open space on 100 percent of the surface area.
 - (6) Where Work is in or within 200 feet of spawning habitat for Surf Smelt (*Hypomesus pretiosus*), Tenant shall construct all new or expansions to existing Improvements to avoid (1) removal of shoreline vegetation within the Property that provides shading to the upper intertidal zone, (2) changes in typical spawning behavior, (3) destruction or disturbance of spawning substrate or aquatic vegetation used for spawning, and (4) interruption of existing sediment transport mechanisms such as longshore current or wave energy.
 - (7) For docks and marinas, Tenant shall submit for approval by State a written sewage management plan that identifies and explains the methods Tenant

will require vessels moored on the Property to use for disposing wastewater from vessel holding tanks and portable toilets and identifies available upland restroom facilities in accordance with the National Management Measures Guideline to Control Nonpoint Source Pollution from Marina and Recreational Boating, EPA 841-B-01-005 - http://water.epa.gov/polwaste/nps/marinas/mmssp_index.cfm.

- (8) Tenant shall site new or expanded Improvements to avoid impacts to eelgrass (*Zostera marina*).

7.5 Tenant-Owned Improvements at End of Lease.

(a) Disposition.

- (1) Tenant shall remove Tenant-Owned Improvements in accordance with Paragraph 7.3 upon the expiration, termination, or cancellation of the Lease unless State waives the requirement for removal.
- (2) Tenant-Owned Improvements remaining on the Property on the expiration, termination or cancellation date shall become State-Owned Improvements without payment by State, unless State elects otherwise. State may refuse or waive ownership. If RCW 79.125.300 or 79.130.040 apply at the time this Lease expires, Tenant could be entitled to payment by the new tenant for Tenant-Owned Improvements.
- (3) If Tenant-Owned Improvements remain on the Property after the expiration, termination, or cancellation date without State's consent, State may remove all Improvements and Tenant shall pay State's costs.

(b) Conditions Under Which State May Waive Removal of Tenant-Owned Improvements.

- (1) State may waive removal of some or all Tenant-Owned Improvements whenever State determines that it is in the best interests of the State and regardless of whether Tenant re-leases the Property.
- (2) If Tenant re-leases the Property, State may waive requirement to remove Tenant-Owned Improvements. State also may consent to Tenant's continued ownership of Tenant-Owned Improvements.
- (3) If Tenant does not re-lease the Property, State may waive requirement to remove Tenant-Owned Improvements upon consideration of a timely request from Tenant, as follows:
 - (i) Tenant must notify State at least one (1) year before the Termination Date of its request to leave Tenant-Owned Improvements.
 - (ii) State, within ninety (90) days of receiving Tenant's notification, will notify Tenant whether State consents to some or all Tenant-Owned Improvements remaining. State has no obligation to grant consent.
 - (iii) State's failure to respond to Tenant's request to leave Improvements within ninety (90) days is a denial of the request.

(c) Tenant's Obligations if State Waives Removal.

- (1) Tenant shall not remove Improvements if State waives the requirement for removal of some or all Tenant-Owned Improvements.
- (2) Tenant shall maintain such Improvements in accordance with this Lease until the expiration, termination, or cancellation date. Tenant is liable to State for cost of repair if Tenant causes or allows damage to Improvements State has designated to remain.

7.6 Disposition of Unauthorized Improvements.

- (a) Unauthorized Improvements belong to State, unless State elects otherwise.
- (b) State may either:
 - (1) Consent to Tenant ownership of the Improvements, or
 - (2) Charge rent for use of the Improvements from the time of installation or construction and
 - (i) Require Tenant to remove the Improvements in accordance with Paragraph 7.3, in which case Tenant shall pay rent for the Improvements until removal, or
 - (ii) Consent to Improvements remaining and Tenant shall pay rent for the use of the Improvements, or
 - (iii) Remove Improvements and Tenant shall pay for the cost of removal and disposal, in which case Tenant shall pay rent for use of the Improvements until removal and disposal.

7.7 Disposition of Personal Property.

- (a) Tenant retains ownership of Personal Property unless Tenant and State agree otherwise in writing.
- (b) Tenant shall remove Personal Property from the Property by the Termination Date. Tenant is liable for damage to the Property and Improvements resulting from removal of Personal Property.
- (c) State may sell or dispose of all Personal Property left on the Property after the Termination Date.
 - (1) If State conducts a sale of Personal Property, State shall apply proceeds first to the State's administrative costs in conducting the sale, second to payment of amount that then may be due from the Tenant to the State. State shall pay the remainder, if any, to the Tenant.
 - (2) If State disposes of Personal Property, Tenant shall pay for the cost of removal and disposal.

SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

8.1 Definitions.

- (a) "Hazardous Substance" means any substance that now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination, pollution, or cleanup.
- (b) "Release or threatened release of Hazardous Substance" means a release or threatened release as defined under any law described in Paragraph 8.1(a).
- (c) "Utmost care" means such a degree of care as would be exercised by a very careful, prudent, and competent person under the same or similar circumstances; the standard of care applicable under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105 RCW, as amended.
- (d) "Tenant and affiliates" when used in this Section 8 means Tenant or Tenant's subtenants, contractors, agents, employees, guests, invitees, licensees, affiliates, or any person on the Property with the Tenant's permission.
- (e) "Liabilities" as used in this Section 8 means any claims, demands, proceedings, lawsuits, damages, costs, expenses, fees (including attorneys' fees and disbursements), penalties, or judgments.

8.2 General Conditions.

- (a) Tenant's obligations under this Section 8 extend to the area in, on, under, or above
 - (1) The Property and
 - (2) Adjacent state-owned aquatic lands if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use.
- (b) Standard of Care.
 - (1) Tenant shall exercise the utmost care with respect to Hazardous Substances.
 - (2) Tenant shall exercise utmost care for the foreseeable acts or omissions of third parties with respect to Hazardous Substances, and the foreseeable consequences of those acts or omissions, to the extent required to establish a viable, third-party defense under the law.

8.3 Current Conditions and Duty to Investigate.

- (a) State makes no representation about the condition of the Property. Hazardous Substances may exist in, on, under, or above the Property.
- (b) This Lease does not impose a duty on State to conduct investigations or supply information to Tenant about Hazardous Substances.
- (c) Tenant is responsible for conducting all appropriate inquiry and gathering sufficient information about the existence, scope, and location of Hazardous Substances on or near the Property necessary for Tenant to meet Tenant's obligations under this Lease and utilize the Property for the Permitted Use.

8.4 Use of Hazardous Substances.

- (a) Tenant and affiliates shall not use, store, generate, process, transport, handle, release, or dispose of Hazardous Substances, except in accordance with all applicable laws.
- (b) Tenant shall not undertake, or allow others to undertake by Tenant's permission, acquiescence, or failure to act, activities that result in a release or threatened release of Hazardous Substances.
- (c) If use of Hazardous Substances related to Tenant's use or occupancy of the Property results in violation of law:
 - (1) Tenant shall submit to State any plans for remedying the violations, and
 - (2) Tenant shall implement any remedial measures to restore the Property or natural resources that State may require in addition to remedial measures required by regulatory authorities.
- (d) At a minimum, Tenant and affiliates shall observe the following Hazardous Substances operational standards. If the Washington Department of Ecology, U.S. Environmental Protection Agency or other regulatory agency establishes different standards applicable to Tenant's activities under the Permitted Use, Tenant shall meet the standard that provides greater protection to the environment.
 - (1) Tenant shall not allow work on overwater structures or vessels without protective measures to prevent discharge of toxins to the water, including:
 - (i) Tenant shall not cause or allow underwater hull scraping and other underwater removal of paints.
 - (ii) Tenant shall not cause or allow underwater refinishing work from boats or temporary floats unless permitted by an industrial National Pollution Discharge Elimination System (NPDES) permit.
 - (iii) Tenant shall not cause or allow above the waterline boat repairs or refinishing in-water except if limited to decks and superstructures and less than 25 percent of a boat is repaired or refinished in-water per year.
 - (iv) Tenant shall use and require others to use tarps and other dust, drip and spill containment measures when repairing or refinishing boats in water.
 - (2) Tenant shall not store or allow others to store fuel tanks, petroleum products, hydraulic fluid, machinery coolants, lubricants and chemicals not in use in locations above the water surface.
 - (3) Tenant shall inspect all equipment using petroleum products, hydraulic fluids, machinery coolants, chemicals, or other toxic or deleterious materials on a monthly basis and immediately make all repairs necessary to stop leakage. Tenant shall submit to State an annual report documenting inspections and repair.
 - (4) Tenant shall maintain a supply of oil spill containment materials adequate to contain a spill from the largest vessel in use on the Property.

- (5) Tenant shall not use or allow use of a pressure washer at any location above the water surface to clean any item that uses petroleum products.
- (e) Tenant shall incorporate best management practices to prevent the release of chemical contaminants, wastewater, garbage and other pollutants, as specified in Resource Manual for Pollution Prevention in Marinas published by the Washington Department of Ecology, publication number 98-11, available at <http://www.ecy.wa.gov/biblio/9811.html>. If the Department of Ecology or other regulatory agency establishes different standards, Tenant shall meet the most protective standard.

8.5 Management of Contamination, if any.

- (a) Tenant and affiliates shall not undertake activities that:
 - (1) Damage or interfere with the operation of remedial or restoration activities, if any;
 - (2) Result in human or environmental exposure to contaminated sediments, if any;
 - (3) Result in the mechanical or chemical disturbance of on-site habitat mitigation, if any.
- (b) If requested, Tenant shall allow reasonable access to:
 - (1) Employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, health department, or other similar environmental agencies; and
 - (2) Potentially liable or responsible parties who are the subject of an order or consent decree that requires access to the Property. Tenant may negotiate an access agreement with such parties, but Tenant may not unreasonably withhold such agreement.

8.6 Notification and Reporting.

- (a) Tenant shall immediately notify State if Tenant becomes aware of any of the following:
 - (1) A release or threatened release of Hazardous Substances;
 - (2) Any new discovery of or new information about a problem or liability related to, or derived from, the presence of Hazardous Substances;
 - (3) Any lien or action arising from Hazardous Substances;
 - (4) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances;
 - (5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.
- (b) Tenant's duty to report under Paragraph 8.6(a) extends to lands described in Paragraph 8.2(a) and to any other property used by Tenant in conjunction with the Property if a release of Hazardous Substances on the other property could affect the Property.

- (c) Tenant shall provide State with copies of all documents Tenant submits to any federal, state or local authorities concerning environmental impacts or proposals relative to the Property. Documents subject to this requirement include, but are not limited to, applications, reports, studies, or audits for National Pollution Discharge and Elimination System Permits; Army Corps of Engineers permits; State Hydraulic Project Approvals (HPA); State Water Quality certification; Substantial Development permit; and any reporting necessary for the existence, location, and storage of Hazardous Substances on the Property.

8.7 Indemnification.

- (a) Tenant shall fully indemnify, defend, and hold State harmless from and against Liabilities that arise out of, or relate to:
 - (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Tenant and affiliates occurring whenever Tenant occupies or has occupied the Property;
 - (2) The release or threatened release of any Hazardous Substance resulting from any act or omission of Tenant and affiliates occurring whenever Tenant occupies or has occupied the Property.
- (b) Tenant shall fully indemnify, defend, and hold State harmless for Liabilities that arise out of or relate to Tenant's breach of obligations under Paragraph 8.5.

8.8 Reservation of Rights.

- (a) For Liabilities not covered by the indemnification provisions of Paragraph 8.7, the Parties expressly reserve and do not waive any rights, claims, immunities, causes of action, or defenses relating to Hazardous Substances that either Party may have against the other under law.
- (b) The Parties expressly reserve all rights, claims, immunities, and defenses either Party may have against third parties. Nothing in this Section 8 benefits or creates rights for third parties.
- (c) The allocations of risks, Liabilities, and responsibilities set forth in this Section 8 do not release either Party from or affect the liability of either Party for Hazardous Substances claims or actions by regulatory agencies.

8.9 Cleanup.

- (a) If Tenant's act, omission, or breach of obligation under Paragraph 8.4 results in a release of Hazardous Substances that exceeds the threshold limits of any applicable regulatory standard, Tenant shall, at Tenant's sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances in accordance with applicable law.
- (b) Tenant may undertake a cleanup of the Property pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that Tenant cooperates with the Department of Natural Resources in development of cleanup plans. Tenant shall not proceed with Voluntary Cleanup without the Department of Natural Resources approval of final plans. Nothing in the operation of this

provision is an agreement by the Department of Natural Resources that the Voluntary Cleanup complies with any laws or with the provisions of this Lease. Tenant's completion of a Voluntary Cleanup is not a release from or waiver of any obligation for Hazardous Substances under this Lease.

8.10 Sampling by State, Reimbursement, and Split Samples.

- (a) State may enter the Property and conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Property at any time to determine the existence, scope, or effects of Hazardous Substances.
- (b) If such Tests, along with any other information, demonstrate a breach of Tenant's obligations regarding Hazardous Substances under this Lease, Tenant shall promptly reimburse State for all costs associated with the Tests, provided State gave Tenant thirty (30) calendar days advance notice in nonemergencies and reasonably practical notice in emergencies.
- (c) In nonemergencies, Tenant is entitled to obtain split samples of Test samples, provided Tenant gives State written notice requesting split samples at least ten (10) calendar days before State conducts Tests. Upon demand, Tenant shall promptly reimburse State for additional cost, if any, of split samples.
- (d) If either Party conducts Tests on the Property, the conducting Party shall provide the other with validated final data and quality assurance/quality control/chain of custody information about the Tests within sixty (60) calendar days of a written request by the other party, unless Tests are part of a submittal under Paragraph 8.6(c) in which case Tenant shall submit data and information to State without written request by State. Neither party is obligated to provide any analytical summaries or the work product of experts.

8.11 Closeout Assessment.

- (a) State may require Tenant to conduct a Closeout Environmental Assessment ("Closeout Assessment") prior to Termination of the Lease.
- (b) The purpose of the Closeout Assessment is to determine the existence, scope, or effects of Hazardous Substances on the Property and associated natural resources. The Closeout Assessment may include sediment sampling. Sediment sampling includes the sample locations and parameters reported in Attachment 1 as well as additional testing State may require.
- (c) No later than one hundred eighty (180) calendar days prior to the Termination Date, or within ninety (90) days of valid notice to early termination, State shall provide Tenant with written notice that State requires a Closeout Assessment.
- (d) Within sixty (60) days of State's notice that Closeout Assessment is required and before commencing assessment activities, Tenant shall submit a proposed plan for conducting the Closeout Assessment in writing for State's approval.
- (e) If State fails to approve or disapprove of the plan in writing within sixty (60) days of its receipt, State waives requirement for approval.
- (f) Tenant shall be responsible for all costs required to complete planning, sampling, analyzing, and reporting associated with the Closeout Assessment.

- (g) If the initial results of the Closeout Assessment disclose that Hazardous Substances may have migrated to other property, State may require additional Closeout Assessment work to determine the existence, scope, and effect of Hazardous Substances on adjacent property, any other property subject to use by Tenant in conjunction with its use of the Property, or on associated natural resources.
- (h) Tenant shall submit Closeout Assessment to State upon completion.
- (i) As required by law, Tenant shall report to the appropriate regulatory authorities if the Closeout Assessment discloses a release or threatened release of Hazardous Substances.

SECTION 9 ASSIGNMENT AND SUBLETTING

9.1 State Consent Required. Tenant shall not convey, transfer, or encumber any part of Tenant's interest in this Lease or the Property without State's prior written consent, which State shall not unreasonably condition or withhold.

- (a) In determining whether to consent, State may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. State may refuse its consent to any conveyance, transfer, or encumbrance if it will result in a subdivision of the leasehold. Tenant shall submit information regarding any proposed transferee to State at least thirty (30) days prior to the date of the proposed transfer.
- (b) State reserves the right to condition its consent upon:
 - (1) Changes in the terms and conditions of this Lease, including, but not limited to, the Annual Rent; and/or
 - (2) The agreement of Tenant or transferee to conduct Tests for Hazardous Substances on the Property or on other property owned or occupied by Tenant or the transferee.
- (c) Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge, or otherwise affect the liability of Tenant.
- (d) State's consent under this Paragraph 9.1 does not constitute a waiver of any claims against Tenant for the violation of any term of this Lease.
- (e) As of the Commencement Date, State has not consented to any conveyance, transfer, or encumbrance of any part of Tenant's interest in this Lease or the Property.

9.2 Rent Payments Following Assignment. The acceptance by State of the payment of rent following an assignment or other transfer does not constitute consent to any assignment or transfer.

9.3 Terms of Subleases.

- (a) Tenant shall submit the terms of all subleases to State for approval.
- (b) Tenant shall incorporate the following requirements in all subleases:
 - (1) The sublease must be consistent with and subject to all the terms and conditions of this Lease;
 - (2) The sublease must provide that this Lease controls if the terms of the sublease conflict with the terms of this Lease;
 - (3) The term of the sublease (including any period of time covered by a renewal option) must end before the Termination Date of the initial Term or any renewal term;
 - (4) The sublease must terminate if this Lease terminates for any reason;
 - (5) The subtenant must receive and acknowledge receipt of a copy of this Lease;
 - (6) The sublease must prohibit the prepayment to Tenant by the subtenant of more than the annual rent;
 - (7) The sublease must identify the rental amount subtenant is to pay to Tenant;
 - (8) The sublease must provide that there is no privity of contract between the subtenant and State;
 - (9) The sublease must require removal of the subtenant's Improvements and Personal Property upon termination of the sublease;
 - (10) The subtenant's permitted use must be within the scope of the Permitted Use; and
 - (11) The sublease must require the subtenant to meet all obligations of Tenant under Section 10, Indemnification, Financial Security, and Insurance.
- (c) In the event that a sublease provides for a condominium, the sublease and the condominium declaration shall also incorporate the following requirements:
 - (1) The condominium association must provide each condominium unit owner with a copy of the Lease and the sublease and require acknowledgment of receipt;
 - (2) The condominium association must be designated as the representative of the unit owners on all matters relating to the sublease;
 - (3) The condominium association shall have the sole responsibility for apportioning and collecting all rents paid on the sublease by individual unit owners;
 - (4) There is no privity of contract between the State and the condominium association or individual unit owners. Tenant is the sole representative on matters relating to the Lease;
 - (5) Before conveyance of any condominium ownership or security interest in the sublease, the condominium association shall give the notice provided in Exhibit C to the intended receiver of the interest. This Lease does not incorporate Exhibit C, which is only for providing pre-purchase information. Failure to provide such notice does not alter any rights or duties under this Lease;

- (6) No provision of the condominium declaration, its amendments, the by-laws, or any other document creating or defining condominium owners' relationships, rights, or obligations ("Condominium Documents") modifies the provisions of the Lease or the sublease;
 - (7) In case of conflict between the Lease and Condominium Documents, the terms and conditions of this Lease shall control on all matters concerning the Property;
 - (8) In case of conflict between the sublease and Condominium Documents, the terms and conditions of the sublease shall control on all matters concerning the Property;
 - (9) State is not a party to the Condominium Documents and is not charged with responsibilities imposed on declarants or unit owners under any state or local law;
 - (10) Condominium unit owners have no reversionary interest in the Property;
 - (11) Condominium unit owners have no right to re-lease any part of the Property upon termination or expiration of the Lease; and
 - (12) Condominium unit owners have no right to enter into a new sublease upon termination or expiration of the sublease.
- (d) In the event that a sublease provides for a condominium, Tenant shall submit the terms of the condominium declaration to State for approval.
 - (e) At Tenant's expense and no later than thirty (30) days after receiving a fully-executed sublease providing for a condominium, Tenant shall record the sublease in the county in which the Property is located. Tenant shall include the parcel number of the upland property used in conjunction with the Property, if any. Tenant shall provide State with recording information, including the date of recordation and file number.

9.4 Boat Yard and Marina Subleases. Tenant intends to sublease separately Tenant's interest in the Lease for operation of the boat yard and operation of the marina authorized under Section 2.1. State's consent to the proposed subleases and approval of the terms of each sublease is required under Section 9.1 and 9.3(a), respectively, and has not been provided. As soon as possible, but not later than 120 days following the Commencement Date, Tenant shall submit to State for approval a proposed sublease for the boat yard and a proposed sublease for the marina that meet the requirements of Section 9.3. State's approval of the proposed subleases shall not be unreasonably withheld, conditioned, or denied. Operation of the boat yard and marina on the Property prior to Tenant's submission of the proposed subleases to State for approval shall not constitute a waiver of Tenant's obligation to obtain State's consent pursuant to Section 9.1 and approval under Section 9.3. State shall be deemed to have consented to a proposed sublease and to have approved its terms, however, if State fails to approve or deny approval within 90 days of the date Tenant submits the proposed sublease to State.

9.5 Short-Term Subleases of Moorage Slips. Short-term subleasing of moorage slips for a term of one year or less does not require State's written consent or approval pursuant to

Paragraphs 9.1 or 9.3. Tenant shall conform moorage sublease agreements to the sublease requirements in Paragraph 9.3.

SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE

10.1 Indemnity.

- (a) Tenant shall indemnify, defend, and hold State, its employees, officers, and agents harmless from Claims arising out of the use, occupation, or control of the Property by Tenant, its subtenants, contractors, agents, invitees, guests, employees, affiliates, licensees, or permittees.
- (b) "Claim" as used in this Paragraph 10.1 means any financial loss, claim, suit, action, damages, expenses, fees (including attorneys' fees), penalties, or judgments attributable to bodily injury, sickness, disease, death, and damages to tangible property, including, but not limited to, land, aquatic life, and other natural resources. "Damages to tangible property" includes, but is not limited to, physical injury to the Property and damages resulting from loss of use of the Property.
- (c) State shall not require Tenant to indemnify, defend, and hold State harmless for claims that arise solely out of the willful or negligent act of State or State's elected officials, employees, or agents.
- (d) Tenant waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold State and its agencies, officials, agents, or employees harmless.
- (e) Section 8, Environmental Liability/Risk Allocation, exclusively shall govern Tenant's liability to State for Hazardous Substances and its obligation to indemnify, defend, and hold State harmless for Hazardous Substances.

10.2 Insurance Terms.

- (a) Insurance Required.
 - (1) At its own expense, Tenant shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in this Paragraph 10.2 and in Paragraph 10.3, Insurance Types and Limits. State may terminate this Lease if Tenant fails to maintain required insurance.
 - (2) Unless State agrees to an exception, Tenant shall provide insurance issued by an insurance company or companies admitted to do business in the State of Washington and have a rating of A- or better by the most recently published edition of Best's Reports. Tenant may submit a request to the risk manager for the Department of Natural Resources to approve an exception to this requirement. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies shall comply with Chapter 48.15 RCW and 284-15 WAC.
 - (3) All general liability, excess, umbrella, property, builder's risk, and pollution legal liability insurance policies must name the State of

- Washington, the Department of Natural Resources, its elected and appointed officials, agents, and employees as an additional insured.
- (4) All insurance provided in compliance with this Lease must be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- (b) Waiver.
 - (1) Tenant waives all rights against State for recovery of damages to the extent insurance maintained pursuant to this Lease covers these damages.
 - (2) Except as prohibited by law, Tenant waives all rights of subrogation against State for recovery of damages to the extent that they are covered by insurance maintained pursuant to this lease.
 - (c) Proof of Insurance.
 - (1) Tenant shall provide State with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with insurance requirements specified in this Lease and, if requested, copies of policies to State.
 - (2) The certificate(s) of insurance must reference additional insureds and the Lease number.
 - (3) Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies.
 - (d) State must receive written notice before cancellation or non-renewal of any insurance required by this Lease, as follows:
 - (1) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State forty-five (45) days' advance notice of cancellation or non-renewal.
 - (2) Insurers subject to RCW 48.15 (surplus lines): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State thirty (30) days' advance notice of cancellation or non-renewal.
 - (e) Adjustments in Insurance Coverage.
 - (1) State may impose changes in the limits of liability for all types of insurance as State deems necessary.
 - (2) Tenant shall secure new or modified insurance coverage within thirty (30) days after State requires changes in the limits of liability.
 - (f) If Tenant fails to procure and maintain the insurance described above within fifteen (15) days after Tenant receives a notice to comply from State, State may either:
 - (1) Deem the failure an Event of Default under Section 14, or
 - (2) Procure and maintain comparable substitute insurance and pay the premiums. Upon demand, Tenant shall pay to State the full amount paid by State, together with interest at the rate provided in Paragraph 6.2 from the date of State's notice of the expenditure until Tenant's repayment.

- (g) General Terms.
 - (1) State does not represent that coverage and limits required under this Lease are adequate to protect Tenant.
 - (2) Coverage and limits do not limit Tenant's liability for indemnification and reimbursements granted to State under this Lease.
 - (3) The Parties shall use any insurance proceeds payable by reason of damage or destruction to property first to restore the real property covered by this Lease, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Tenant.

10.3 Insurance Types and Limits.

- (a) General Liability Insurance.
 - (1) Tenant shall maintain commercial general liability insurance (CGL) or marine general liability (MGL) covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Tenant's use, occupation, or control of the Property and, if necessary, commercial umbrella insurance with a limit of not less than Two Million Dollars (\$2,000,000) per each occurrence. If such CGL or MGL insurance contains aggregate limits, the general aggregate limit must be at least twice the "each occurrence" limit. CGL or MGL insurance must have products-completed operations aggregate limit of at least two times the "each occurrence" limit.
 - (2) CGL insurance must be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 (or a substitute form providing equivalent coverage). All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.
 - (3) MGL insurance must have no exclusions for non-owned watercraft.
- (b) Workers' Compensation.
 - (1) State of Washington Workers' Compensation.
 - (i) Tenant shall comply with all State of Washington workers' compensation statutes and regulations. Tenant shall provide workers' compensation coverage for all employees of Tenant. Coverage must include bodily injury (including death) by accident or disease, which arises out of or in connection with Tenant's use, occupation, and control of the Property.
 - (ii) If Tenant fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Tenant shall indemnify State. Indemnity shall include all fines; payment of benefits to Tenant, employees, or their heirs

or legal representatives; and the cost of effecting coverage on behalf of such employees.

- (2) Longshore and Harbor Workers' and Jones Acts. Longshore and Harbor Workers' Act (33 U.S.C. Section 901 *et seq.*) and/or the Jones Act (46 U.S.C. Section 688) may require Tenant to provide insurance coverage in some circumstances. Tenant shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with law. Tenant is responsible for all civil and criminal liability arising from failure to maintain such coverage.
- (c) Employers' Liability Insurance. Tenant shall procure employers' liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident or One Million Dollars (\$1,000,000) each employee for bodily injury by disease.
- (d) Property Insurance.
 - (1) Tenant shall buy and maintain property insurance covering all real property and fixtures, equipment, tenant improvements and betterments (regardless of whether owned by Tenant or State). Such insurance must be written on an all risks basis and, at minimum, cover the perils insured under ISO Special Causes of Loss Form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles. Any coinsurance requirement in the policy must be waived. The policy must include State as an insured and a loss payee.
 - (2) Tenant shall buy and maintain boiler and machinery insurance required by contract documents or by law, covering all real property and fixtures, equipment, tenant improvements and betterments (regardless of whether owned by Tenant or State) from loss or damage caused by the explosion of boilers, fired or unfired vessels, electric or steam generators, or pipes.
 - (3) In the event of any loss, damage, or casualty which is covered by one or more of the types of insurance described above, the Parties to this Lease shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which State shall hold in trust, including interest earned by State on such proceeds, for use according to the terms of this Lease. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).
 - (4) When sufficient funds are available, using insurance proceeds described above, the Parties shall continue with reasonable diligence to prepare plans and specifications for, and thereafter carry out, all work necessary to:
 - (i) Repair and restore damaged building(s) and/or Improvements to their former condition, or
 - (ii) Replace and restore damaged building(s) and/or Improvements with a new building(s) and/or Improvements on the Property of a

quality and usefulness at least equivalent to or more suitable than, damaged building(s) and/or Improvements.

(e) Builder's Risk Insurance.

- (1) Tenant shall procure and maintain in force, or require its contractor(s) to procure and maintain in force, builder's risk insurance on the entire work during the period construction is in progress and until completion of the project and acceptance by State. Such insurance must be written on a completed form and in an amount equal to the value of the completed building and/or Improvements, subject to subsequent modifications to the sum. The insurance must be written on a replacement cost basis. The insurance must name Tenant, all contractors, and subcontractors in the work as insured. State must be named additional insured as required by Paragraph 10.2(a)(3).
- (2) Insurance described above must cover or include the following:
 - (i) All risks of physical loss except those specifically excluded in the policy, including loss or damage caused by collapse;
 - (ii) The entire work on the Property, including reasonable compensation for architect's services and expenses made necessary by an insured loss;
 - (iii) Portions of the work located away from the Property but intended for use at the Property, and portions of the work in transit;
 - (iv) Scaffolding, falsework, and temporary buildings located on the Property; and
 - (v) The cost of removing debris, including all demolition as made legally necessary by the operation of any law, ordinance, or regulation.
- (3) Tenant or Tenant's contractor(s) is responsible for paying any part of any loss not covered because of application of a deductible contained in the policy described above.
- (4) Tenant or Tenant's contractor shall buy and maintain boiler and machinery insurance required by contract documents or by law, covering insured objects during installation and until final acceptance by permitting authority. If testing is performed, such insurance must cover such operations. The insurance must name Tenant, all contractors, and subcontractors in the work as insured. State must be named additional insured as required by Paragraph 10.2(a)(3).

(f) Business Auto Policy Insurance.

- (1) Tenant shall maintain business auto liability insurance and, if necessary, commercial umbrella liability insurance with a limit not less than One Million Dollars (\$1,000,000) per accident. Such insurance must cover liability arising out of "Any Auto".
- (2) Business auto coverage must be written on ISO Form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy must be endorsed to provide contractual liability coverages and

cover a "covered pollution cost or expense" as provided in the 1990 or later editions of CA 00 01.

- (g) Protection and Indemnity Insurance (P&I). Tenant shall procure and maintain P&I insurance including hull coverage. This insurance must cover all claims with respect to injuries or damages to persons or property, including nets and fishing lines, sustained in, on, or about the Property, including while at a marina and in transit, with limits of liability not less than One Million Dollars (\$1,000,000). If necessary, Tenant shall procure and maintain commercial umbrella liability insurance covering claims for these risks.

10.4 Financial Security.

- (a) At its own expense, Tenant shall procure and maintain during the Term of this Lease a corporate security bond or provide other financial security that State, at its option, may approve ("Security"). Tenant shall provide Security in an amount equal to Five Hundred Dollars (\$500.00), which is consistent with RCW 79.105.330, and secures Tenant's performance of its obligations under this Lease, with the exception of the obligations under Section 8, Environmental Liability/Risk Allocation. Tenant's failure to maintain the Security in the required amount during the Term constitutes a breach of this Lease.
- (b) All Security must be in a form acceptable to the State.
 - (1) Bonds must be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better, in the most recently published edition of Best's Reports, unless State approves an exception. Tenant may submit a request to the risk manager for the Department of Natural Resources for an exception to this requirement.
 - (2) Letters of credit, if approved by State, must be irrevocable, allow State to draw funds at will, provide for automatic renewal, and comply with RCW 62A.5-101, *et. seq.*
 - (3) Savings account assignments, if approved by State, must allow State to draw funds at will.
- (c) Adjustment in Amount of Security.
 - (1) State may require an adjustment in the Security amount:
 - (i) At the same time as revaluation of the Annual Rent,
 - (ii) As a condition of approval of assignment or sublease of this Lease,
 - (iii) Upon a material change in the condition or disposition of any Improvements, or
 - (iv) Upon a change in the Permitted Use.
 - (2) Tenant shall deliver a new or modified form of Security to State within thirty (30) days after State has required adjustment of the amount of the Security.
- (d) Upon any default by Tenant in its obligations under this Lease, State may collect on the Security to offset the liability of Tenant to State. Collection on the Security does not (1) relieve Tenant of liability, (2) limit any of State's other

remedies, (3) reinstate or cure the default or (4) prevent termination of the Lease because of the default.

SECTION 11 MAINTENANCE AND REPAIR

11.1 State's Repairs. State shall not be required to make any alterations, maintenance, replacements, or repairs in, on, or about the Property, or any part thereof, during the Term.

11.2 Tenant's Repairs, Alteration, Maintenance and Replacement.

- (a) Tenant shall, at its sole cost and expense, keep and maintain the Property and all improvements (regardless of ownership) in good order and repair, in a clean, attractive, and safe condition.
- (b) Tenant shall, at its sole cost and expense, make any and all additions, repairs, alterations, maintenance, replacements, or changes to the Property or to any improvements on the Property which may be required by any public authority having jurisdiction over the Property and requiring it for public health, safety and welfare purposes.
- (c) Except as provided in Section 11.2(d), all additions, repairs, alterations, replacements or changes to the Property and to any improvements on the Property shall be made in accordance with, and ownership shall be governed by, Section 7, above.
- (d) Routine maintenance and repair are acts intended to prevent a decline, lapse or, cessation of the Permitted Use and associated Improvements. Routine maintenance or repair that does not require regulatory permits does not require authorization from State pursuant to Section 7.

11.3 Limitations. The following limitations apply whenever Tenant conducts maintenance, repair or replacement.

- (a) Tenant shall not use or install treated wood at any location above or below water, except that Tenant may use treated wood for above water structural framing.
- (b) Tenant shall not use or install tires (for example, floatation or fenders) at any location above or below water.
- (c) Tenant shall install only floatation material encapsulated in a shell resistant to ultraviolet radiation and abrasion. The shell must be capable of preventing breakup and loss of flotation material into the water.
- (d) Tenant shall orient night lighting to minimize the amount of light shining directly on the water.

SECTION 12 DAMAGE OR DESTRUCTION

12.1 Notice and Repair.

- (a) In the event of damage to or destruction of the Property or Improvements, Tenant shall promptly give written notice to State. State does not have actual knowledge of the damage or destruction without Tenant's written notice.
- (b) Unless otherwise agreed in writing, Tenant shall promptly reconstruct, repair, or replace the Property and Improvements as nearly as possible to its condition immediately prior to the damage or destruction in accordance with Paragraph 7.3, Construction, Major Repair, Modification, and Demolition and Tenant's additional obligations in Exhibit B, if any.

12.2 State's Waiver of Claim. State does not waive any claims for damage or destruction of the Property unless State provides written notice to Tenant of each specific claim waived.

12.3 Insurance Proceeds. Tenant's duty to reconstruct, repair, or replace any damage or destruction of the Property or any Improvements on the Property is not conditioned upon the availability of any insurance proceeds to Tenant from which the cost of repairs may be paid. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).

12.4 Rent in the Event of Damage or Destruction. Unless the Parties agree to terminate this Lease, there is no abatement or reduction in rent during such reconstruction, repair, and replacement.

12.5 Default at the Time of Damage or Destruction. If Tenant is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State then shall have the right to retain any insurance proceeds payable as a result of the damage or destruction.

SECTION 13 CONDEMNATION

13.1 Definitions.

- (a) "Taking" means that an entity authorized by law exercises the power of eminent domain, either by judgment, settlement in lieu of judgment, or voluntary conveyance in lieu of formal court proceedings, over all or any portion of the Property and Improvements. This includes any exercise of eminent domain on any portion of the Property and Improvements that, in the judgment of the State, prevents or renders impractical the Permitted Use.
- (b) "Date of Taking" means the date upon which title to the Property or a portion of the Property passes to and vests in the condemner or the effective date of any order for possession if issued prior to the date title vests in the condemner.

13.2 Effect of Taking. If there is a taking, the Lease terminates proportionate to the extent of the taking. If this Lease terminates in whole or in part, Tenant shall make all payments due and attributable to the taken Property up to the date of taking. If Tenant has pre-paid rent and Tenant is not in default of the Lease, State shall refund Tenant the pro rata share of the pre-paid rent attributable to the period after the date of taking.

13.3 Allocation of Award.

- (a) The Parties shall allocate the condemnation award based upon the ratio of the fair market value of (1) Tenant's leasehold estate and Tenant-Owned Improvements and (2) State's interest in the Property; the reversionary interest in Tenant-Owned Improvements, if any; and State-Owned Improvements, if any.
- (b) If Tenant and State are unable to agree on the allocation, the Parties shall submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association.

SECTION 14 DEFAULT AND REMEDIES

14.1 Default Defined. Tenant is in default of this Lease on the occurrence of any of the following:

- (a) Failure to pay rent or other expenses when due;
- (b) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
- (c) Failure to comply with any other provision of this Lease;
- (d) Commencement of bankruptcy proceedings by or against Tenant or the appointment of a trustee or receiver of Tenant's property.

14.2 Tenant's Right to Cure.

- (a) A default becomes an "Event of Default" if Tenant fails to cure the default within the applicable cure period following State's written notice of default. Upon an Event of Default, State may seek remedies under Paragraph 14.3.
- (b) Unless expressly provided elsewhere in this Lease, the cure period is sixty (60) days.
- (c) For nonmonetary defaults not capable of cure within sixty (60) days, State will not unreasonably withhold approval of a reasonable alternative cure schedule. Tenant must submit a cure schedule within thirty (30) days of a notice of default. The default is not an Event of Default if State approves the schedule and Tenant works diligently and in good faith to execute the cure. The default is an Event of Default if Tenant fails to timely submit a schedule or fails to cure in accordance with an approved schedule.

14.3 Remedies.

- (a) Upon an Event of Default, State may terminate this Lease and remove Tenant by summary proceedings or otherwise.

- (b) If the Event of Default (1) arises from Tenant's failure to comply with restrictions on Permitted Use and operations under Paragraph 2.2 or (2) results in damage to natural resources or the Property, State may enter the Property without terminating this Lease to (1) restore the natural resources or Property and charge Tenant restoration costs and/or (2) charge Tenant for damages. On demand by State, Tenant shall pay all costs and/or damages.
- (c) Without terminating this Lease, State may relet the Property on any terms and conditions as State may decide are appropriate.
 - (1) State shall apply rent received by reletting: (1) to the payment of any indebtedness other than rent due from Tenant to State; (2) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. State shall hold and apply any balance to Tenant's future rent as it becomes due.
 - (2) Tenant is responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly.
 - (3) At any time after reletting, State may elect to terminate this Lease for the previous Event of Default.
- (d) State's reentry or repossession of the Property under Paragraph 14.3 is not an election to terminate this Lease or cause a forfeiture of rents or other charges Tenant is obligated to pay during the balance of the Term, unless (1) State gives Tenant written notice of termination or (2) a legal proceeding decrees termination.
- (e) The remedies specified under this Paragraph 14.3 are not exclusive of any other remedies or means of redress to which the State is lawfully entitled for Tenant's breach or threatened breach of any provision of this Lease.

SECTION 15 ENTRY BY STATE

State may enter the Property at any reasonable hour to inspect for compliance with the terms of this Lease, to monitor impacts to habitat, or survey habitat and species. Tenant grants State permission to cross Tenant's upland and aquatic property to access the Property. State's failure to inspect the Property does not constitute a waiver of any rights or remedies under this Lease.

SECTION 16 DISCLAIMER OF QUIET ENJOYMENT

16.1 No Guaranty or Warranty.

- (a) State believes that this Lease is consistent with the Public Trust Doctrine and that none of the third-party interests identified in Paragraph 1.1(b) will materially or adversely affect Tenant's right of possession and use of the Property, but State makes no guaranty or warranty to that effect.
- (b) State disclaims and Tenant releases State from any claim for breach of any implied covenant of quiet enjoyment. This disclaimer and release includes, but is

- not limited to, interference arising from exercise of rights under the Public Trust Doctrine; Treaty rights held by Indian Tribes; and the general power and authority of State and the United States with respect to aquatic lands and navigable waters.
- (c) Tenant is responsible for determining the extent of Tenant's right to possession and for defending Tenant's leasehold interest.

16.2 Eviction by Third-Party. If a third-party evicts Tenant, this Lease terminates as of the date of the eviction. In the event of a partial eviction, Tenant's rent obligations abate as of the date of the partial eviction, in direct proportion to the extent of the eviction; this Lease shall remain in full force and effect in all other respects.

SECTION 17 NOTICE AND SUBMITTALS

Following are the locations for delivery of notice and submittals required or permitted under this Lease. Any Party may change the place of delivery upon ten (10) days written notice to the other.

State: DEPARTMENT OF NATURAL RESOURCES
Orca-Straits District
919 N. Township St.
Sedro-Woolley, WA 98284

Tenant: CITY OF ANACORTES
PO Box 547
Anacortes, WA 98221

The Parties may deliver any notice in person, by facsimile machine, or by certified mail. Depending on the method of delivery, notice is effective upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after mailing. All notices must identify the Lease number. On notices transmitted by facsimile machine, the Parties shall state the number of pages contained in the notice, including the transmittal page, if any.

SECTION 18 MISCELLANEOUS

18.1 Authority. Tenant and the person or persons executing this Lease on behalf of Tenant represent that Tenant is qualified to do business in the State of Washington, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon State's request, Tenant shall provide evidence satisfactory to State confirming these representations.

18.2 Successors and Assigns. This Lease binds and inures to the benefit of the Parties, their successors, and assigns.

18.3 Headings. The headings used in this Lease are for convenience only and in no way define, limit, or extend the scope of this Lease or the intent of any provision.

18.4 Entire Agreement. This Lease, including the exhibits and addenda, if any, contains the entire agreement of the Parties. This Lease merges all prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Property.

18.5 Waiver.

- (a) The waiver of any breach or default of any term, covenant, or condition of this Lease is not a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this Lease. State's acceptance of a rental payment is not a waiver of any preceding or existing breach other than the failure to pay the particular rental payment that was accepted.
- (b) The renewal of the Lease, extension of the Lease, or the issuance of a new lease to Tenant, does not waive State's ability to pursue any rights or remedies under the Lease.

18.6 Cumulative Remedies. The rights and remedies under this Lease are cumulative and in addition to all other rights and remedies afforded by law or equity or otherwise.

18.7 Time is of the Essence. TIME IS OF THE ESSENCE as to each and every provision of this Lease.

18.8 Language. The word "Tenant" as used in this Lease applies to one or more persons and regardless of gender, as the case may be. If there is more than one Tenant, their obligations are joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations. The word "Parties" means State and Tenant in the collective. The word "Party" means either or both State and Tenant, depending on the context.

18.9 Invalidity. The invalidity, voidness, or illegality of any provision of this Lease does not affect, impair, or invalidate any other provision of this Lease.

18.10 Applicable Law and Venue. This Lease is to be interpreted and construed in accordance with the laws of the State of Washington. Venue for any action arising out of or in connection with this Lease is in the Superior Court for Thurston County, Washington.

18.11 Statutory Reference. Any reference to a statute means that statute as presently enacted or hereafter amended or superseded.

18.12 Recordation. At Tenant's expense and no later than thirty (30) days after receiving the fully-executed Lease, Tenant shall record this Lease in the county in which the Property is located. Tenant shall include the parcel number of the upland property used in conjunction with the Property, if any. Tenant shall provide State with recording information, including the date of recordation and file number. If Tenant fails to record this Lease, State may record it and Tenant shall pay the costs of recording upon State's demand.

18.13 Modification. No modification of this Lease is effective unless in writing and signed by both Parties. Oral representations or statements do not bind either Party.

18.14 Survival. Any obligations of Tenant not fully performed upon termination of this Lease do not cease, but continue as obligations of the Tenant until fully performed.

18.15 Exhibits. All referenced exhibits are incorporated in the Lease unless expressly identified as unincorporated.

THIS AGREEMENT requires the signature of all Parties and is effective on the date of the last signature below.

CITY OF ANACORTES

Dated: _____, 20__

By: _____
Title: LAURIE GERE
Mayor
Address: PO Box 547
Anacortes, WA 98221
Phone: 360-293-1900

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20__

By: _____
Title: Peter Goldmark
Commissioner of Public Lands
Address: 1111 Washington St. SE
Olympia, WA 98504-7000

Approved as to form this
21 day of October 2016
Terry Pruitt, Assistant Attorney General
Aquatic Lands Lease

REPRESENTATIVE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
County of Skagit)

I certify that I know or have satisfactory evidence that LAURIE GERE is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor of the City of Anacortes to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at

My appointment expires _____

STATE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
County of Thurston)

I certify that I know or have satisfactory evidence that PETER GOLDMARK 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 Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at

My appointment expires _____

EXHIBIT A

Agreement Number 22-A02664

Recording number of final DNR approved survey in Skagit County: 201609300174

Legal description of the Property:

COMMENCING at the meander corner common to Sections 19 and 30, Township 35 North, Range 2 East of the Willamette Meridian;
thence South 88° 03' 11" East along the easterly projection of the line common to said Sections 19 and 30 for a distance of 606.69 feet to the Anacortes Inner Harbor Line, as depicted by that survey performed by the Washington State Department of Natural Resources and recorded under Skagit County Auditor's File No. 200110030106, and the POINT OF BEGINNING of this description;
thence South 28° 28' 51" East along said inner harbor line for a distance of 303.42 feet to the northeasterly corner of that property delineated as Tract 2 of Anacortes Short Plat No. 94-005, as approved January 26, 1995, and recorded February 16, 1995, in Volume 11 of Short Plats, pages 183 and 184, under Auditor's File No. 9502160015, records of Skagit County, Washington;
thence South 88° 08' 26" East 35.99 feet to the northerly projection of the westerly margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence North 14° 39' 21" East 102.80 feet;
thence North 3° 54' 55" West 134.29 feet;
thence North 8° 32' 52" West 67.38 feet;
thence North 88° 03' 11" West 208.92 feet to said inner harbor line;
thence South 28° 28' 51" East along said inner harbor line for a distance of 44.70 feet to the POINT OF BEGINNING.

Situate in the County of Skagit, State of Washington.

And

COMMENCING at the meander corner common to Sections 19 and 30, Township 35 North, Range 2 East of the Willamette Meridian;
thence South 88° 03' 11" East along the easterly projection of the line common to said Sections 19 and 30 for a distance of 606.69 feet to the Anacortes Inner Harbor Line, as depicted by that survey performed by the Washington State Department of Natural Resources and recorded under Skagit County Auditor's File No. 200110030106;
thence South 28° 28' 51" East along said inner harbor line for a distance of 584.39 feet to the easterly margin of "W" Avenue as delineated by Anacortes Short Plat No. 94-005, as approved January 26, 1995, and recorded February 16, 1995, in Volume 11 of Short Plats, pages 183 and 184, under Auditor's File No. 9502160015, records of Skagit County, Washington, and the POINT OF BEGINNING of this description;

thence North 4° 08' 37" West, along the northerly projection of said easterly margin, for a distance of 300.88 feet;
thence South 85° 51' 23" West 11.07 feet;
thence North 3° 54' 55" West 206.98 feet to the easterly projection of the line common to said Sections 19 and 30;
thence South 88° 03' 11" East 463.94 feet to the Anacortes Outer Harbor line, as depicted by that survey performed by the Washington State Department of Natural Resources and recorded under Skagit County Auditor's File No. 200110030106;
thence South 28° 28' 51" East along said outer harbor line for a distance of 1229.32 feet;
thence North 88° 03' 11" West, and parallel with the line common to said Sections 19 and 30, for a distance of 695.84 feet to the inner harbor line;
thence North 28° 28' 51" West along said inner harbor line for distance of 644.93 feet to the POINT OF BEGINNING.

Situate in the County of Skagit, State of Washington.

Acreage or Square footage of each of these Use classifications:

Water-dependent	<u>719,454 square feet</u>
Nonwater-dependent	<u>0</u>
Public Access	<u>0</u>
Total square feet	<u>719,454 square feet</u>

EXHIBIT B

1. DESCRIPTION OF PERMITTED USE.

A. Existing Facilities

The facilities include one marina consisting of a large area of covered moorage that uses concrete floats, an outer line of concrete floats, four small concrete floats, four treated wood floats with polytub floatation, and a fixed concrete breakwater. The covered moorage concrete floats are secured with concrete piles. Other floats are secured with steel or creosote piles. A 50-ton concrete traveling boatlift pier with two concrete boarding floats secured with creosote piles is present. A stone jetty is located in the southern portion of the leasehold and includes an extension constructed in 2013 as part of a sediment remediation.

In the marina, there are currently zero slips or moorage spaces out of 55 slips that have residential uses. In accordance with the marina rules, a maximum of zero slips or moorage spaces can have residential uses.

Fixed and mobile pumpout facilities are available at the leasehold with clear signage.

A portion of the leasehold includes fill placed in the mid-1970s and riprap armoring. At the northwest corner of the leasehold, on the filled land, is a boat yard.

B. Proposed Facilities.

Tenant proposes no new facilities.

2. ADDITIONAL OBLIGATIONS.

A. Tenant shall replace existing treated wood (decking, timbers, pilings, etc.) with non-toxic materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents leaching of contaminants into surface water. Tenant may use non-creosote treated wood to replace above water structural framing. Replacement may occur under an ordinary maintenance or repair schedule, but all treated wood must be replaced by January 2, 2026.

B. Tenant shall renovate or replace existing docks, rafts, floats, wharves and piers to provide 50 percent grated surface; grating material must have at least 60 percent functional open space. Tenant shall renovate or replace existing gangways to provide 100 percent unobstructed open space on 100 percent of the surface area. Replacement may occur under an ordinary maintenance or repair schedule, but replacement must be complete by:

- January 2, 2026 for all floats with treated wood decking;
- January 2, 2026 for all gangways; and

- January 2, 2034 for the marina maintenance float and the floats associated with the boatlift pier.
- C. Tenant shall renovate the existing covered moorage roofs to provide translucent material (providing at least 85% ambient light transmission) over at least 50 percent of the roof. Replacement may occur under an ordinary maintenance or repair schedule, but replacement must be complete by January 2, 2034.
- D. Tenant shall orient night lighting to minimize the amount of light shining directly on the water by January 2, 2021.
- E. By October 1, 2017, Tenant shall remediate minor soil contamination found at site/sample 2 as described in "Environmental Site Assessment: Phase II Baseline Soil Investigation, Banana Belt Boats Proposed Dry Storage Facility, DNR Lease Site Anacortes, WA" by the Stratum Group dated March 23, 2011. Remediation shall consist of characterization of nature and extent of contamination, which includes but may not be limited to cadmium, copper, and lead, from the ditch at Site 2. Full removal must be verified with confirmation samples taken from bottom and sides of the excavation. Dispose of contaminated material in an approved disposal facility off-site. Submit to DNR and Washington Department of Ecology a cleanup final report within three (3) months of completion of the remediation.
- F. Tenant shall sample sediments and submit sediment sampling reports as specified in Attachment 1 by January 2, 2018.

EXHIBIT C
NOTICE OF STATE-OWNED AQUATIC LANDS LEASE

A portion of the property occupied by the *[insert name of condominium association or marina]* is state-owned aquatic lands. The state owned aquatic lands are subject to a lease granted by the Washington State Department of Natural Resources ("DNR") to the City of Anacortes under DNR lease number 22-A02664 ("Lease") and a sublease granted by The City of Anacortes to *[insert name of condominium association]* ("Sublease"). Any interest you acquire in *[insert name of condominium association or marina]* is subject to the terms of the Lease and the Sublease.

You can inspect the Lease and the Sublease at *[insert Tenant location and time]*.

The Lease is scheduled to expire on January 2, 2034. The Sublease will expire on *[insert date, which is at least one day prior to expiration of the Lease]*. Expiration or termination of the Lease or Sublease will eliminate the state owned aquatic lands from the Condominium Property. Neither the the Lease nor the Sublease is subject to renewal. Solely at its discretion, DNR may issue a new Lease to the current tenant, the City of Anacortes, and consent to a new sublease between the City of Anacortes and *[insert name of condominium association]*. DNR has no obligation to re-lease the state owned aquatic lands to the City of Anacortes or to consent to a new sublease from the City to *[insert name of condominium association]*, its successors, or assigns. Unit owners, either individually or collectively, have no reversionary interest in the leasehold. Unit owners, either individually or collectively, have no right to lease the state owned aquatic lands upon termination or expiration of the Lease or to sublease any portion of the state owned aquatic lands under lease upon termination or expiration of the Sublease.

Attachment 1 Sediment Sampling

Tenant shall conduct sediment sampling at three locations within the marina's breakwater, preferably split between locations close to the shoreline, and in between the outer north-south breakwater and the covered moorage.

Samples shall be analyzed for the 47 Sediment Management Standard (SMS) chemical, dioxins/furans, and conventionals analytes.

Prior to any work being carried out, Tenant shall submit to State for approval a sampling and analysis plan (SAP). Attachment 2, which is not part of this Lease, provides a template for the SAP that Tenant may follow.

Attachment 2
Lease 22-A02664

State-Owned Aquatic Lands
Sediment Sampling and
Analysis Guide

Washington Department
of Natural Resources
1111 Washington Street SE
Olympia, WA 98502-4670

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ACRONYMS AND ABBREVIATIONS

CSL	cleanup screening level
COC	chain-of-custody
DNR	Department of Natural Resources
Ecology	Washington State Department of Ecology
EIMS	environmental information management system
PSEP	Puget Sound Estuary Program
QA/QC	quality assurance and quality control
SAP	sampling and analysis plan
SMS	Sediment Management Standards
SOAL	state-owned aquatic lands
SOP	standard operating procedures
SQS	sediment quality standard
SQV	sediment quality value
TOC	total organic carbon
VOC	volatile organic compounds

1 INTRODUCTION

This abbreviated guide covers the minimum requirements to ensure quality control and consistency of the field aspects of marine and freshwater sediment data collection, laboratory methods, and reporting. This document is intended solely as guidance, and does not contain any mandatory requirements (except where requirements found in administrative rules are referenced). The essential tasks in sediment sampling are to collect representative, undisturbed samples that meet the requirements of the aquatic sampling project, and to prevent deterioration and contamination of the samples before analyses. The essential analysis task is for an analytical laboratory to generate defensible data. The procedures outlined in this guide are oriented primarily toward qualified environmental consulting firms (see Section 3.1 below) that are assisting the applicant with their sediment sampling and analysis requirements. This guide does not address laboratory QA programs, permitting, or other major frameworks for sediment management, such as the Dredged Material Management Program or Washington Department of Ecology's (Ecology) Sediment Source Control Program or Sediment Cleanup Program.

Where needed, supporting resource websites are referenced at the end of each section. Attachment A contains a resource toolkit for sediment data collection, including a template for a sampling and analysis plan, tables of Washington State sediment standards, and a table of laboratory methods, approximate costs, holding times, preservation methods, and sample sizes.

1.1 WHAT ARE STATE-OWNED AQUATIC LANDS?

The Washington Department of Natural Resources (DNR) Aquatic Resources Program serves as the proprietary manager of 2.4 million acres of state-owned aquatic lands (SOAL). Aquatic land is the all-encompassing term used in Washington to describe submerged lands. Aquatic lands are subdivided into the following four categories: 1) *bedlands* (below the extreme low tide, submerged at all times within navigable fresh and salt water bodies), 2) *tidelands* (within navigable waters between the ordinary high tide line and the extreme low tide line, corresponding with the ebb and flow of tides), 3) *shorelands* (within navigable waters along the edge of rivers and lakes) and 4) *non-navigable waters* (small lakes and streams). As the boundary between state-owned and private aquatic lands varies depending on local history and several legal concepts, the DNR has developed a pamphlet, *Boundaries of State-owned Aquatic Lands*, to guide public understanding of this complex subject.¹

¹ The Boundaries of State-owned Aquatic Lands can be found at
http://www.dnr.wa.gov/Publications/aqr_aquatic_land_boundaries.pdf

1.2 DNR AQUATIC LANDS MANAGEMENT AND STEWARDSHIP

As the propriety manager, DNR acts as a trustee for aquatic land and not as a regulator. The agency authorizes a variety of aquatic land uses through mechanisms such as use authorizations, licenses, easements, and permits (RCW 79.90). The DNR strives to provide a balance of public benefits from its management of aquatic lands, such as encouraging direct public use and access, fostering navigation and commerce, ensuring environmental protection, utilizing renewable resources, and, in a manner consistent with these mandates, generating revenue.

DNR also has the proprietary authority to identify and withdraw lands from leasing when there are potentially conflicting uses (RCW 79.10.210). This could include instances such as choosing to withdraw a site from leasing and managing the site for the conservation of important native habitat and species.

Many other natural resource managers and citizens play important roles in the stewardship of aquatic resources in Washington State. The Aquatic Reserves Program works with landowners, citizens, stakeholder groups, tribes, and regulatory agencies to develop management plans for individual sites that maximize the benefits for the ecosystem.

1.3 WHY SHOULD WE CARE ABOUT SOAL USE AUTHORIZATION POLICIES?

Most of the SOAL use authorizations are located in the marine nearshore zone, which is the area from the top of the coastal bank or bluffs to a water depth of about 10 meters below mean lower low water. Also called the intertidal area, the nearshore zone supports a diverse habitat for species of biological and economic importance, including shellfish, salmon, groundfish, aquatic plants and birds, and marine mammals. Nearshore plants provide fish species with food, shelter, refuge from predators, and a safe place to mature. Plants create oxygen, recycle nutrients, and establish roots that hold the sediments in place.

This critical and sensitive habitat is the same area where most human activities occur including docks, marinas, mooring buoys, boat ramps, and shellfish farms. These structures and activities can seriously affect nearshore communities by:

- Blocking sunlight that plants and algae need to grow
- Disrupting the movement of water and sediment along the shore that provides nourishment, places for fish to spawn or plants to take root, and shelter for clams and insects
- Degrading the quality of the water through the release of human waste and contaminants

- Disrupting habitat when floating structures drag across the sediment or 'ground out'
- Creating noise that may cause species to avoid the area or abandon their nests.

As part of DNR's stewardship role for aquatic lands, land managers overseeing the leasing of SOALs will require stewardship measures and best management practices to reduce these potential impacts as part of the use authorization. Examples of these practices include observing work windows to minimize impacts to native species during vulnerable times of their life cycles, posting no-wake signs to reduce wave heights along the shore, and placing structures in deeper water where they will not shade aquatic vegetation.

2 RATIONALE FOR BOOKEND SEDIMENT SAMPLING

As part of the SOAL leasing application process, the applicant will be recommended by the DNR land manager to perform "bookend" sediment sampling of the proposed use authorization site. Bookend sampling establishes baseline sediment conditions at the initiation of the use authorization and assesses conditions at the termination of the use authorization. Agreements that are renewed will be evaluated for sampling requirements based on priority. Low and some medium risk sites under the current 12 year cycle may be requested to sample every other issuance of use authorization but should sample no less than once every thirty years. DNR recommends bookend sampling for two reasons: 1) to differentiate sediment conditions from impacts caused by the applicant, and 2) to evaluate long-term trends in sediment conditions over the use authorization period and introduce best management practices or other use authorization conditions to reverse any negative trends. By following the sampling procedures outlined in this guide, the applicant can be assured that representative samples are collected, that sample integrity is maintained, and that sampling is cost-effective, consistent, and efficient.

2.1 MARINE AND FRESHWATER SEDIMENT STANDARDS PRIMER

Fromulgated in 1991, the Washington State Sediment Management Standards (SMS) for marine sediment are found in Chapter 173-204 of the Washington Administrative Code. The purpose of the standards is to "reduce and ultimately eliminate adverse effects on biological resources and significant health threats to humans from surface sediment contamination." The SMS include two sets of chemical standards: a lower sediment quality standard (SQS), which provides for "no adverse effects" to marine organisms, and an upper cleanup screening level (CSL), which allows for "minor adverse effects" to marine organisms. This upper level is used as a regulatory guide for source control and cleanup decision making.

There are currently SQS and CSL numerical criteria for several chemicals, including metals, polycyclic aromatic hydrocarbons, chlorinated benzenes, phthalates, polychlorinated biphenyls,

and ionizable organic compounds; no standards exist for pesticides, volatile organic compounds, and dioxins or furans. These criteria are listed in Table B-1.

Sediment chemical data collected from a freshwater or brackish water SOAL leasing site will be addressed by DNR on a site-specific basis using best professional judgment. Chemical criteria for freshwater and brackish water sediment are reserved in the SMS rule and are currently being developed in a framework consistent with the SMS. Meanwhile, freshwater numerical sediment quality values (SQVs) proposed by Avocet Consulting (2011) are being used as guidelines. These guidelines, based on biological effects endpoints, are listed in Table B-2.

The SOAL applicant will compare the sediment data collected from the leasing site to either Table A-1 for marine sediment or to Table B-2 for freshwater sediment to determine if there are exceedances of numerical chemical criteria (see Section 8.2). If one or more sample results exceed the chemical concentrations listed in Tables B-1 or B-2, or the practical quantitation limit (i.e., the lowest concentration that can be measured by a laboratory) is above the SQS or SQS//SL1 criteria, then the applicant will need to consult with their DNR land manager.²

2.2 SELECTION OF CHEMICAL ANALYTES

The analyte list for bookend sampling will include those chemicals for which there are numerical criteria under the SMS or, in the case of freshwater, guidelines listed in Avocet Consulting (2011). Depending on the proposed use and historical use of the site, bookend marine sediment sampling may also include the measurement of conventional variables such as total organic carbon, sediment grain size, total solids, ammonia, and total sulfides. Bookend freshwater sediment sampling may include the measurement of percent fines and total organic carbon. Some sites may be required to analyze chemicals for which there are presently no known criteria. For example, a proposed use authorization of a former shipyard site or marina may require the analysis of the full suite of organotin complexes.

An applicant may opt out of the analysis of certain chemicals based on proposed site use or documented historical use, but they must provide sufficient rationale for excluding these chemicals to DNR Management. Keep in mind that most laboratories have a set price for various organic and inorganic analyte groups, and the exclusion of certain chemicals may not affect the cost.

² For further information, go to <http://apps.leg.wa.gov/wac/default.aspx?cite=173-204-320>

2.3 WOOD DEBRIS GUIDANCE

A large number of SOAL use authorizations are related to log storage and handling due to the prevalence of log exports and lumber, pulp, and paper industries in Puget Sound. Log rafting, bark stripping, and log handling can result in the deposition of wood debris on aquatic lands. Wood debris may include bark, branches, submerged logs, sawdust, wood chips, and woody fibrous materials. Wood debris may range from thin to thick deposits on the sediment surface and can have both physical and chemical adverse impacts on aquatic life. In small quantities, uncontaminated wood debris may actually benefit the aquatic environment by providing an influx of organics and physical shelter. However, large accumulations of wood debris, which can persist for years, can smother plants and benthic organisms and provide inappropriate substrate for benthic colonization or spawning habitat. In addition, an overabundance of wood debris can result in a reduced or nonexistent aerobic zone in sediments due to increased biological oxygen demand from wood decomposition. Compounds, such as sulfides, ammonia, and methane, can build up to toxic levels in anaerobic sediments. Wood debris degradation products (phenols, benzoic acid, benzyl alcohol, terpenes, and tropolones) can also be toxic to aquatic organisms (DMMP 1997).

For these reasons, wood debris is considered a deleterious substance under the SMS as defined in WAC 173-204-200(17). Ultimately, the severity of wood debris impacts on submerged lands depends on its physical form, its degree of incorporation into sediments, the volume and spatial coverage of wood debris present, the amount of local "flushing", the habitat, and the type of wood from which the debris is derived (DMMP 1997).

- Potential adverse impacts associated with wood debris vary considerably from site to site given the factors described above. Bookend sampling of SOAL use authorization areas used for log rafting and handling should involve both physical mapping methods as well as conventional and limited contaminant chemistry. A tiered approach is generally undertaken for the wood waste survey. For sites that are considered to be at risk for contamination, SMS chemical analysis would be required in addition to the wood waste survey. SMS review may be waived if sufficient evidence, meeting due diligence requirements, is presented to demonstrate that no potential for contamination exists. Any exceedence of SMS would be reported to Ecology.

Some general guidance follows:

- For the first tier of the wood waste survey, collect sufficient number of sediment core samples to spatially cover the use authorization area in order to determine the physical presence or absence of wood debris. A core sampler capable of penetrating wood debris is recommended. Type and depth of wood debris should be recorded. Excessive accumulations of wood waste would be considered waste or refuse material per the language of the individual lease. In addition, at large, industrial wood debris sites that

cover several acres, additional mapping tools may be utilized to delineate the area covered by wood debris. Some of these technologies include sediment profile imaging (SPI) cameras, diver- or remotely-deployed video cameras, and side-scan sonar.

- In cases where wood waste accumulation is excessive, removal of the wood waste may be required unless demonstrated to not impact habitat quality through second tier testing. The second tier, consisting of sediment conventional sampling including TVS, TOC, sulfides (pore water and bulk), ammonia, and grain size will be required to determine if the presence and decomposition of wood waste is impacting habitat quality. Additionally, if a determination of excessive accumulation cannot be made, conventional sediment sampling may be required. The results of these tests, together with physical observations, provide a second-tier level of investigation indicating potential negative adverse impacts associated with wood deposition. DNR is currently utilizing a scoring process to evaluate the analytical results (see Table BA-3). This scoring system is for DNR use authorization- related screening purposes only and does not establish whether a site is or is not in compliance with MTCA, SMS, or other applicable standards. Some parameters are used directly in the scoring process (total organic carbon, total volatile solids, total solids, ammonia, total sulfides, and phenol), while other parameters (grain size and porewater sulfides) provide additional information to aid in the evaluation process. For some sites, it may be necessary to conduct further testing in consultation with DNR. This third tier analysis typically consists of bioassays or benthic infaunal evaluations in line with SMS guidance.

2.4 SELECTION OF SAMPLING LOCATIONS, NUMBER OF SAMPLES, AND DEPTH OF SAMPLES

The selection of appropriate sampling locations at the proposed SOAL use authorization site will consider all available information on the site such as existing sediment sampling data, potential sources, and intended uses. Where there is no prior information available on sediment quality conditions, the location of sampling stations will depend on site characteristics. Refer to the following guidelines when selecting sampling locations:

- Place stations in depositional areas and avoid gravel or cobble substrate.
- Place stations in the vicinity of current or historic point source discharges such as wastewater outfalls, storm drain outfalls, loading docks, and fueling docks. If point sources are located in high-flow areas (e.g., rivers), then place the sampling stations in adjacent downstream areas where sediment deposition is more likely to occur.
- Place stations along the shoreline where boats were refueled, sandblasted, or maintained.

- Place stations in any areas where it is known or suspected that hazardous wastes were discharge or spilled.
- Place stations along use authorization site boundaries if general area-wide contamination is suspected.
- Do not place stations in areas that have been dredged or capped within the past 5 years.

The selection of station locations for baseline sediment sampling is site-specific and will depend on site characteristics, existing sediment quality data, and intended uses. The number of stations is not fixed, but DNR has found that three stations will generally characterize baseline conditions at most sites. Site-specific structures or point sources should be considered in the development of the sampling plan.

The depth of sediment to be sampled should be the uppermost 10 cm of sediment, which is generally considered the biologically active zone.

Finally, if the applicant feels that a portion or all of the use authorization area should be considered for cleanup or dredging, plans for sampling and testing should be coordinated with the appropriate regulatory agencies using appropriate guidance documents. The following agencies may need to be involved:

1) Dredged Material Characterization

- a) Seattle District for all of Washington State –
<http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=dmmo&pagename=home>
- b) Portland District for Washington ports on the Columbia River –
<http://www.nwp.usace.army.mil/environment/sediment.asp>

2) Voluntary Cleanup

- a) Washington State Department of Ecology –
<http://www.ecy.wa.gov/programs/tcp/smu/sediment.html>

2.5 TIMING OF SAMPLING

In most cases, the time of the year when sampling takes place is not a concern. However, tidal stage may be factored into the time when sampling is conducted. For coastal areas, it may be preferable and less expensive to sample during low spring and summer tides when sediments can be collected by personnel on foot rather than by boat.

3 ESTIMATED COST OF SAMPLING AND ANALYSIS

Many factors contribute to the overall cost of an aquatic sampling project, including number of samples, selection of analytes, field and analytical methods, water depth, quality assurance and quality control (QA/QC) requirements, and project personnel.

3.1 SELECTION OF QUALIFIED AQUATIC SAMPLING CONSULTANTS

The Washington State Department of General Administration maintains a master list of pre-qualified environmental consulting firms that meet the requirements for this type of work. These firms are established leaders in their field and have achieved a level of excellence to participate in the contract. Qualified consulting firms and contact information are provided in Table A-4. The state's master list changes yearly, and may not include all qualified firms. For firms not on the list, DNR requires a minimum of five years' experience in sediment sampling to be approved for this work.

Please contact Jeri Brown at the General Administration office (email: jbrown@ga.wa.gov; phone: 360-902-7404) for questions regarding this list.

3.2 SELECTION OF QUALIFIED ANALYTICAL LABORATORIES

Ecology maintains a list of analytical laboratories that have met the rigorous standards of accreditation in the state of Washington. By being on this list, these laboratories demonstrate that they have the personnel competence, performance standards, operational support, QA/QC oversight, and data management capabilities to generate accurate and defensible analytical data. Qualified, accredited analytical laboratories can be located on the Ecology website³.

4 DEVELOPMENT OF SAMPLING AND ANALYSIS PLAN

Before the initiation of sediment sampling at a SOAL use authorization site, the applicant must prepare a sampling and analysis plan (SAP) that describes the sample collection, handling, and analysis procedures to be used at the site. The level of detail required in the SAP may vary depending on the scope of the sampling activity, but it must contain certain basic elements. A template for a streamlined SAP, with cross-references to guidance in this document, is provided in Attachment A-1.

Basic elements of a SAP include a brief discussion of site history (bulleted list), objectives of the sampling activity (bulleted list), field sampling methods, sample handling procedures,

³ <http://www.ecy.wa.gov/programs/eap/labs/documents/AllAccreditedLabListInternet.pdf>

analytical methods, QA/QC procedures, and data analysis and reporting requirements. A health and safety plan covering field operations is recommended.

Background information on the site, including site history and potential contaminant sources, is an important component of the SAP because it helps determine the areas to sample and the types of analytes. Resources for obtaining this type of background information are provided in Attachment B-2.

5 RECOMMENDED SAMPLING PROTOCOLS

The importance of using standardized methods and reporting techniques in environmental sampling of marine and freshwater environments cannot be underestimated. In the late 1980s, the U.S. Environmental Protection Agency Region 10 developed standardized guidelines for marine environmental sampling, referred to as the Puget Sound Estuary Program (PSEP) guidelines. DNR encourages the use of the PSEP guidelines to ensure that the highest quality, most representative data are collected, and that these data are comparable to data collected by different programs that follow the same guidelines. Many consulting firms have incorporated the PSEP protocols into their standard operating procedures (SOPs).

These PSEP-based SOPs will dictate decontamination procedures, types of sampling equipment, sampling procedures, field QC, sample preservation, chain-of-custody requirements, documentation, and reporting, and are not discussed further here. Additional equipment may be required depending on specific project needs.

An introduction to the guidelines developed under this interagency effort can be found on the Puget Sound Partnership website⁴.

A synopsis of individual guidelines is provided below.

- Recommended Guidelines for Station Positioning in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/position.pdf
- Recommended Quality Assurance and Quality Control Guidelines for the Collection of Environmental Data in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/qaqc.pdf
- Recommended Protocols for Measuring Conventional Sediment Variables in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/sediment_variables.pdf
- Recommended Guidelines for Sampling Marine Sediment, Water Column, and Tissue in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/field.pdf
- Recommended Guidelines for Measuring Metals in Puget Sound Marine Water, Sediment, and Tissue Samples

⁴ http://www.psparchives.com/publications/our_work/science/protocols_guidelines/introduction.pdf

http://www.psparchives.com/publications/our_work/science/protocols_guidelines/metals.pdf

- Recommended Guidelines for Measuring Organic Compounds in Puget Sound Water, Sediment, and Tissue Samples
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/organics.pdf
- Recommended Protocols for Measuring Conventional Water Quality Variables and Metals in Fresh Water of the Puget Sound Region
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/fresh_water.pdf

6 MAINTAINING SAMPLE INTEGRITY

The PSEP protocols and respective company SOPs contain guidance on ensuring sample integrity between the time of field collection and the time of laboratory analysis. This includes making sure that samples are properly handled and prepared, holding times are adhered to, chain-of-custody (COC) procedures are used, and samples are delivered to the laboratory in a timely manner.

6.1 FIELD QA/QC

Field QC samples should be prepared at least once per sampling event. The DNR-recommended QC samples are an equipment rinsate blank, a field duplicate, and trip blanks if samples are to be analyzed for volatile organic compounds (VOCs). These QC samples, while recommended to improve the reliability of the data, are not required by DNR.

- **Field Duplicates (Split).** These samples are collected to assess the homogeneity of the samples collected in the field and the precision of the sampling process.
- **Rinsate Blanks.** Equipment rinsate blanks will be used to help identify possible contamination from the sampling environment and/or from decontaminated sampling equipment.
- **Trip Blanks.** Trip blanks will be used to help identify whether contaminants may have been introduced during the shipment of the sediment samples from the field to the laboratory for VOC analyses only.

Field duplicates and rinsate blanks can be archived for bookend sampling and only analyzed if QA issues arise.

6.2 CHAIN-OF-CUSTODY PROCEDURES

A stringent program of sample COC must be followed during sample storage and shipping activities to account for each sample collected in the field. The COC form is critical because it documents sample possession from the time of collection through processing and analysis to final disposition. The form also provides information to the laboratory regarding what analyses are to be performed on the samples that are shipped. COC also applies to sample packaging and shipping, field logbooks, and sample labeling, which are discussed further in the PSEP protocols.

7 ANALYTICAL METHODS

Table B-5 summarizes the analytical methods, typical per-sample costs, sample holding times, and sample sizes for both the standard suite of analyses and additional site-specific parameters that may be required based on-site history or usage. The per-sample costs listed in Table B-5 are typical costs for a standard turnaround of three weeks and include the generation of an environmental information management system (EIMS)-compatible electronic data deliverable and a fully validatable data package (faster turnaround times may be available at additional cost). Costs for analyses and deliverables should be negotiated with the laboratory prior to sampling. The laboratory should also be consulted for the necessary sample sizes and container types because containers for some analyses may be combined or require greater sample volumes. The recommended sample sizes listed in Table B-5 are generally the minimum required for analysis, and additional volume is recommended to provide a margin of error and to allow for re-analyses.

8 DATA VALIDATION

Data validation is the process of determining whether the data are of sufficient quality to be used in regulatory decision-making. Data review and validation is a systematic process that compares a group of data to the requirements in a set of documented acceptance criteria. Validation of data requires that appropriate QA/QC procedures are followed, and that adequate documentation is included for all data generated both in the laboratory and in the field.

A QA Level 1 Validation per U.S. Environmental Protection Agency's *Guidance on Environmental Data Verification and Data Validation*⁵ or PTI (1989) is recommended, at a minimum, for SOAL sediment data. This review evaluates the completeness, correctness, and

⁵ Further information on data validation can be found at <http://www.epa.gov/quality/qs-docs/g8-final.pdf>

conformance/adherence of a specific data set against the method or procedural requirements. Data qualifiers are assigned, when appropriate, and the usability of the data is determined.

Data validation can be performed by several different entities. The analytical laboratory that provides the data can do a limited scope data validation; however, data validation performed by a party independent of the laboratory is the preferred option because it ensures an unbiased review.

9 DATA REVIEW AND REPORTING

The data should be tabulated and include separate tables for dry-weight and total organic carbon (TOC) normalized concentrations. The TOC-normalized concentrations will allow direct comparison with the SMS criteria, whereas the dry-weight concentrations may be useful when TOC values are either very high or very low. Additional data to include in the table are station numbers, sample identification numbers, date of sample collection, appropriate sediment criteria, and the sediment sampling depth.

Validated data need to be compared to the numerical SQS and/or CSL criteria (or SQVs for freshwater) to determine if there are exceedances of criteria or exceedances of detection limits over chemical SQS and/or CSL criteria when the laboratory reports chemicals as undetected. If the data are below the SQS criteria, then the site can be considered clean. If the data are above the SQS and/or CSL, then the applicant should consult with DNR to determine next steps.

Final reporting for DNR includes, at a minimum, a letter report describing the sampling results, tables of all analytical data and identifying exceedances, and a map showing the locations of all samples with those exceeding SQS and/or CSL criteria identified uniquely.

10 SUBMITTING DATA TO THE EIMS DATABASE

The final step in this process is for the applicant to submit the chemical data electronically to EIMS database for environmental monitoring data. EIMS contains records on physical, chemical, and biological analyses and measurements. Supplementary information about the data (metadata) is also stored, including information about the specific study for which the data were collected, sampling locations, and data quality.

If your consultant does not have previous experience uploading data to EIMS they should attend a training session periodically offered by Ecology⁶.

⁶ The current contact at Ecology for training is Jenna Durkee (email: Jenna.Durkee@ecy.wa.gov; phone: 509-454-7865).

11 REFERENCES

Avocet Consulting. 2011. Development of Benthic SQVs for Freshwater Sediments in Washington, Oregon, and Idaho. Prepared for the Washington Department of Ecology, Olympia, WA and Oregon Department of Environmental Quality, Portland, OR. Avocet Consulting, Inc., Olympia, WA.

DMMP. 1997. Management of Wood Waste Under Dredged Material Management Programs (DMMP) and the Sediment Management Standards (SMS) Cleanup Program. DMMP Clarification Paper. SMS Technical Information Memorandum. Prepared by David Kendall, US Army Corps of Engineers, Seattle District and Teresa Michelsen, Washington Department of Ecology.

PTI. 1989. Data Validation Guidance Manual for Selected Sediment Variables. Prepared for the Washington Department of Ecology, Sediment Management Unit, Olympia, WA. PTI Environmental Services, Bellevue, WA.

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EXTEND AN OFFER. SUBJECT TO CHANGE. VERSION 9/9/16

- January 1, 2034 for the marina maintenance float and the floats associated with the boatlift pier.
- C. Tenant shall renovate the existing covered moorage roofs to provide translucent material (providing at least 85% ambient light transmission) over at least 50 percent of the roof. Replacement may occur under an ordinary maintenance or repair schedule, but replacement must be complete by January 1, 2034.
- D. Tenant shall orient night lighting to minimize the amount of light shining directly on the water by January 1, 2021.
- E. By October 1, 2017, Tenant shall remediate minor soil contamination found at site/sample 2 as described in "Environmental Site Assessment: Phase II Baseline Soil Investigation, Banana Belt Boats Proposed Dry Storage Facility, DNR Lease Site Anacortes, WA" by the Stratum Group dated March 23, 2011. Remediation shall consist of characterization of nature and extent of contamination, which includes but may not be limited to cadmium, copper, and lead, from the ditch at Site 2. Full removal must be verified with confirmation samples taken from bottom and sides of the excavation. Dispose of contaminated material in an approved disposal facility off-site. Submit to DNR and Washington Department of Ecology a cleanup final report within three (3) months of completion of the remediation.
- F. Tenant shall sample sediments and submit sediment sampling reports as specified in Attachment 1 by January 1, 2018.

THIS DRAFT DOES NOT CONSTITUTE AN OFFER NOR A COMMITMENT TO
EXTEND AN OFFER. SUBJECT TO CHANGE. VERSION 9/9/16

Attachment 1
Sediment Sampling

Tenant shall conduct sediment sampling at three locations within the marina's breakwater, preferably split between locations close to the shoreline, and in between the outer north-south breakwater and the covered moorage.

Samples shall be analyzed for the 47 Sediment Management Standard (SMS) chemical, dioxins/furans, and conventionals analytes.

Prior to any work being carried out, Tenant shall submit to State for approval a sampling and analysis plan (SAP). Attachment 2, which is not part of this Lease, provides a template for the SAP that Tenant may follow.

Attachment 2
Lease 22-A02664

State-Owned Aquatic Lands
Sediment Sampling and
Analysis Guide

Washington Department
of Natural Resources
1111 Washington Street SE
Olympia, WA 98502-4670

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ACRONYMS AND ABBREVIATIONS

CSL	cleanup screening level
COC	chain-of-custody
DNR	Department of Natural Resources
Ecology	Washington State Department of Ecology
EIMS	environmental information management system
PSEP	Puget Sound Estuary Program
QA/QC	quality assurance and quality control
SAP	sampling and analysis plan
SMS	Sediment Management Standards
SOAL	state-owned aquatic lands
SOP	standard operating procedures
SQS	sediment quality standard
SQV	sediment quality value
TOC	total organic carbon
VOC	volatile organic compounds

1 INTRODUCTION

This abbreviated guide covers the minimum requirements to ensure quality control and consistency of the field aspects of marine and freshwater sediment data collection, laboratory methods, and reporting. This document is intended solely as guidance, and does not contain any mandatory requirements (except where requirements found in administrative rules are referenced). The essential tasks in sediment sampling are to collect representative, undisturbed samples that meet the requirements of the aquatic sampling project, and to prevent deterioration and contamination of the samples before analyses. The essential analysis task is for an analytical laboratory to generate defensible data. The procedures outlined in this guide are oriented primarily toward qualified environmental consulting firms (see Section 3.1 below) that are assisting the applicant with their sediment sampling and analysis requirements. This guide does not address laboratory QA programs, permitting, or other major frameworks for sediment management, such as the Dredged Material Management Program or Washington Department of Ecology's (Ecology) Sediment Source Control Program or Sediment Cleanup Program.

Where needed, supporting resource websites are referenced at the end of each section.

Attachment A contains a resource toolkit for sediment data collection, including a template for a sampling and analysis plan, tables of Washington State sediment standards, and a table of laboratory methods, approximate costs, holding times, preservation methods, and sample sizes.

1.1 WHAT ARE STATE-OWNED AQUATIC LANDS?

The Washington Department of Natural Resources (DNR) Aquatic Resources Program serves as the proprietary manager of 2.4 million acres of state-owned aquatic lands (SOAL). Aquatic land is the all-encompassing term used in Washington to describe submerged lands. Aquatic lands are subdivided into the following four categories: 1) *bedlands* (below the extreme low tide, submerged at all times within navigable fresh and salt water bodies), 2) *tidelands* (within navigable waters between the ordinary high tide line and the extreme low tide line, corresponding with the ebb and flow of tides), 3) *shorelands* (within navigable waters along the edge of rivers and lakes) and 4) *non-navigable waters* (small lakes and streams). As the boundary between state-owned and private aquatic lands varies depending on local history and several legal concepts, the DNR has developed a pamphlet, *Boundaries of State-owned Aquatic Lands*, to guide public understanding of this complex subject.¹

¹ The Boundaries of State-owned Aquatic Lands can be found at http://www.dnr.wa.gov/Publications/aqr_aquatic_land_boundaries.pdf

1.2 DNR AQUATIC LANDS MANAGEMENT AND STEWARDSHIP

As the propriety manager, DNR acts as a trustee for aquatic land and not as a regulator. The agency authorizes a variety of aquatic land uses through mechanisms such as use authorizations, licenses, easements, and permits (RCW 79.90). The DNR strives to provide a balance of public benefits from its management of aquatic lands, such as encouraging direct public use and access, fostering navigation and commerce, ensuring environmental protection, utilizing renewable resources, and, in a manner consistent with these mandates, generating revenue.

DNR also has the proprietary authority to identify and withdraw lands from leasing when there are potentially conflicting uses (RCW 79.10.210). This could include instances such as choosing to withdraw a site from leasing and managing the site for the conservation of important native habitat and species.

Many other natural resource managers and citizens play important roles in the stewardship of aquatic resources in Washington State. The Aquatic Reserves Program works with landowners, citizens, stakeholder groups, tribes, and regulatory agencies to develop management plans for individual sites that maximize the benefits for the ecosystem.

1.3 WHY SHOULD WE CARE ABOUT SOAL USE AUTHORIZATION POLICIES?

Most of the SOAL use authorizations are located in the marine nearshore zone, which is the area from the top of the coastal bank or bluffs to a water depth of about 10 meters below mean lower low water. Also called the intertidal area, the nearshore zone supports a diverse habitat for species of biological and economic importance, including shellfish, salmon, groundfish, aquatic plants and birds, and marine mammals. Nearshore plants provide fish species with food, shelter, refuge from predators, and a safe place to mature. Plants create oxygen, recycle nutrients, and establish roots that hold the sediments in place.

This critical and sensitive habitat is the same area where most human activities occur including docks, marinas, mooring buoys, boat ramps, and shellfish farms. These structures and activities can seriously affect nearshore communities by:

- Blocking sunlight that plants and algae need to grow
- Disrupting the movement of water and sediment along the shore that provides nourishment, places for fish to spawn or plants to take root, and shelter for clams and insects
- Degrading the quality of the water through the release of human waste and contaminants

- Disrupting habitat when floating structures drag across the sediment or 'ground out'
- Creating noise that may cause species to avoid the area or abandon their nests.

As part of DNR's stewardship role for aquatic lands, land managers overseeing the leasing of SOALs will require stewardship measures and best management practices to reduce these potential impacts as part of the use authorization. Examples of these practices include observing work windows to minimize impacts to native species during vulnerable times of their life cycles, posting no-wake signs to reduce wave heights along the shore, and placing structures in deeper water where they will not shade aquatic vegetation.

2 RATIONALE FOR BOOKEND SEDIMENT SAMPLING

As part of the SOAL leasing application process, the applicant will be recommended by the DNR land manager to perform "bookend" sediment sampling of the proposed use authorization site. Bookend sampling establishes baseline sediment conditions at the initiation of the use authorization and assesses conditions at the termination of the use authorization. Agreements that are renewed will be evaluated for sampling requirements based on priority. Low and some medium risk sites under the current 12 year cycle may be requested to sample every other issuance of use authorization but should sample no less than once every thirty years. DNR recommends bookend sampling for two reasons: 1) to differentiate sediment conditions from impacts caused by the applicant, and 2) to evaluate long-term trends in sediment conditions over the use authorization period and introduce best management practices or other use authorization conditions to reverse any negative trends. By following the sampling procedures outlined in this guide, the applicant can be assured that representative samples are collected, that sample integrity is maintained, and that sampling is cost-effective, consistent, and efficient.

2.1 MARINE AND FRESHWATER SEDIMENT STANDARDS PRIMER

Promulgated in 1991, the Washington State Sediment Management Standards (SMS) for marine sediment are found in Chapter 173-204 of the Washington Administrative Code. The purpose of the standards is to "reduce and ultimately eliminate adverse effects on biological resources and significant health threats to humans from surface sediment contamination." The SMS include two sets of chemical standards: a lower sediment quality standard (SQS), which provides for "no adverse effects" to marine organisms, and an upper cleanup screening level (CSL), which allows for "minor adverse effects" to marine organisms. This upper level is used as a regulatory guide for source control and cleanup decision making.

There are currently SQS and CSL numerical criteria for several chemicals, including metals, polycyclic aromatic hydrocarbons, chlorinated benzenes, phthalates, polychlorinated biphenyls,

and ionizable organic compounds; no standards exist for pesticides, volatile organic compounds, and dioxins or furans. These criteria are listed in Table B-1.

Sediment chemical data collected from a freshwater or brackish water SOAL leasing site will be addressed by DNR on a site-specific basis using best professional judgment. Chemical criteria for freshwater and brackish water sediment are reserved in the SMS rule and are currently being developed in a framework consistent with the SMS. Meanwhile, freshwater numerical sediment quality values (SQVs) proposed by Avocet Consulting (2011) are being used as guidelines. These guidelines, based on biological effects endpoints, are listed in Table B-2.

The SOAL applicant will compare the sediment data collected from the leasing site to either Table A-1 for marine sediment or to Table B-2 for freshwater sediment to determine if there are exceedances of numerical chemical criteria (see Section 8.2). If one or more sample results exceed the chemical concentrations listed in Tables B-1 or B-2, or the practical quantitation limit (i.e., the lowest concentration that can be measured by a laboratory) is above the SQS or SQS//SL1 criteria, then the applicant will need to consult with their DNR land manager.²

2.2 SELECTION OF CHEMICAL ANALYTES

The analyte list for bookend sampling will include those chemicals for which there are numerical criteria under the SMS or, in the case of freshwater, guidelines listed in Avocet Consulting (2011). Depending on the proposed use and historical use of the site, bookend marine sediment sampling may also include the measurement of conventional variables such as total organic carbon, sediment grain size, total solids, ammonia, and total sulfides. Bookend freshwater sediment sampling may include the measurement of percent fines and total organic carbon. Some sites may be required to analyze chemicals for which there are presently no known criteria. For example, a proposed use authorization of a former shipyard site or marina may require the analysis of the full suite of organotin complexes.

An applicant may opt out of the analysis of certain chemicals based on proposed site use or documented historical use, but they must provide sufficient rationale for excluding these chemicals to DNR Management. Keep in mind that most laboratories have a set price for various organic and inorganic analyte groups, and the exclusion of certain chemicals may not affect the cost.

² For further information, go to <http://apps.leg.wa.gov/wac/default.aspx?cite=173-204-320>

2.3 WOOD DEBRIS GUIDANCE

A large number of SOAL use authorizations are related to log storage and handling due to the prevalence of log exports and lumber, pulp, and paper industries in Puget Sound. Log rafting, bark stripping, and log handling can result in the deposition of wood debris on aquatic lands. Wood debris may include bark, branches, submerged logs, sawdust, wood chips, and woody fibrous materials. Wood debris may range from thin to thick deposits on the sediment surface and can have both physical and chemical adverse impacts on aquatic life. In small quantities, uncontaminated wood debris may actually benefit the aquatic environment by providing an influx of organics and physical shelter. However, large accumulations of wood debris, which can persist for years, can smother plants and benthic organisms and provide inappropriate substrate for benthic colonization or spawning habitat. In addition, an overabundance of wood debris can result in a reduced or nonexistent aerobic zone in sediments due to increased biological oxygen demand from wood decomposition. Compounds, such as sulfides, ammonia, and methane, can build up to toxic levels in anaerobic sediments. Wood debris degradation products (phenols, benzoic acid, benzyl alcohol, terpenes, and tropolones) can also be toxic to aquatic organisms (DMMP 1997).

For these reasons, wood debris is considered a deleterious substance under the SMS as defined in WAC 173-204-200(17). Ultimately, the severity of wood debris impacts on submerged lands depends on its physical form, its degree of incorporation into sediments, the volume and spatial coverage of wood debris present, the amount of local "flushing", the habitat, and the type of wood from which the debris is derived (DMMP 1997).

- Potential adverse impacts associated with wood debris vary considerably from site to site given the factors described above. Bookend sampling of SOAL use authorization areas used for log rafting and handling should involve both physical mapping methods as well as conventional and limited contaminant chemistry. A tiered approach is generally undertaken for the wood waste survey. For sites that are considered to be at risk for contamination, SMS chemical analysis would be required in addition to the wood waste survey. SMS review may be waived if sufficient evidence, meeting due diligence requirements, is presented to demonstrate that no potential for contamination exists. Any exceedence of SMS would be reported to Ecology.

Some general guidance follows:

- For the first tier of the wood waste survey, collect sufficient number of sediment core samples to spatially cover the use authorization area in order to determine the physical presence or absence of wood debris. A core sampler capable of penetrating wood debris is recommended. Type and depth of wood debris should be recorded. Excessive accumulations of wood waste would be considered waste or refuse material per the language of the individual lease. In addition, at large, industrial wood debris sites that

cover several acres, additional mapping tools may be utilized to delineate the area covered by wood debris. Some of these technologies include sediment profile imaging (SPI) cameras, diver- or remotely-deployed video cameras, and side-scan sonar.

- In cases where wood waste accumulation is excessive, removal of the wood waste may be required unless demonstrated to not impact habitat quality through second tier testing. The second tier, consisting of sediment conventional sampling including TVS, TOC, sulfides (pore water and bulk), ammonia, and grain size will be required to determine if the presence and decomposition of wood waste is impacting habitat quality. Additionally, if a determination of excessive accumulation cannot be made, conventional sediment sampling may be required. The results of these tests, together with physical observations, provide a second-tier level of investigation indicating potential negative adverse impacts associated with wood deposition. DNR is currently utilizing a scoring process to evaluate the analytical results (see Table BA-3). This scoring system is for DNR use authorization- related screening purposes only and does not establish whether a site is or is not in compliance with MTCA, SMS, or other applicable standards. Some parameters are used directly in the scoring process (total organic carbon, total volatile solids, total solids, ammonia, total sulfides, and phenol), while other parameters (grain size and porewater sulfides) provide additional information to aid in the evaluation process. For some sites, it may be necessary to conduct further testing in consultation with DNR. This third tier analysis typically consists of bioassays or benthic infaunal evaluations in line with SMS guidance.

2.4 SELECTION OF SAMPLING LOCATIONS, NUMBER OF SAMPLES, AND DEPTH OF SAMPLES

The selection of appropriate sampling locations at the proposed SOAL use authorization site will consider all available information on the site such as existing sediment sampling data, potential sources, and intended uses. Where there is no prior information available on sediment quality conditions, the location of sampling stations will depend on site characteristics. Refer to the following guidelines when selecting sampling locations:

- Place stations in depositional areas and avoid gravel or cobble substrate.
- Place stations in the vicinity of current or historic point source discharges such as wastewater outfalls, storm drain outfalls, loading docks, and fueling docks. If point sources are located in high-flow areas (e.g., rivers), then place the sampling stations in adjacent downstream areas where sediment deposition is more likely to occur.
- Place stations along the shoreline where boats were refueled, sandblasted, or maintained.

- Place stations in any areas where it is known or suspected that hazardous wastes were discharge or spilled.
- Place stations along use authorization site boundaries if general area-wide contamination is suspected.
- Do not place stations in areas that have been dredged or capped within the past 5 years.

The selection of station locations for baseline sediment sampling is site-specific and will depend on site characteristics, existing sediment quality data, and intended uses. The number of stations is not fixed, but DNR has found that three stations will generally characterize baseline conditions at most sites. Site-specific structures or point sources should be considered in the development of the sampling plan.

The depth of sediment to be sampled should be the uppermost 10 cm of sediment, which is generally considered the biologically active zone.

Finally, if the applicant feels that a portion or all of the use authorization area should be considered for cleanup or dredging, plans for sampling and testing should be coordinated with the appropriate regulatory agencies using appropriate guidance documents. The following agencies may need to be involved;

1) Dredged Material Characterization

- a) Seattle District for all of Washington State —
<http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=dmno&pagename=home>
- b) Portland District for Washington ports on the Columbia River —
<http://www.nwp.usace.army.mil/environment/sediment.asp>

2) Voluntary Cleanup

- a) Washington State Department of Ecology —
<http://www.ecy.wa.gov/programs/tcp/smu/sediment.html>

2.5 TIMING OF SAMPLING

In most cases, the time of the year when sampling takes place is not a concern. However, tidal stage may be factored into the time when sampling is conducted. For coastal areas, it may be preferable and less expensive to sample during low spring and summer tides when sediments can be collected by personnel on foot rather than by boat.

3 ESTIMATED COST OF SAMPLING AND ANALYSIS

Many factors contribute to the overall cost of an aquatic sampling project, including number of samples, selection of analytes, field and analytical methods, water depth, quality assurance and quality control (QA/QC) requirements, and project personnel.

3.1 SELECTION OF QUALIFIED AQUATIC SAMPLING CONSULTANTS

The Washington State Department of General Administration maintains a master list of pre-qualified environmental consulting firms that meet the requirements for this type of work. These firms are established leaders in their field and have achieved a level of excellence to participate in the contract. Qualified consulting firms and contact information are provided in Table A-4. The state's master list changes yearly, and may not include all qualified firms. For firms not on the list, DNR requires a minimum of five years' experience in sediment sampling to be approved for this work.

Please contact Jeri Brown at the General Administration office (email: jbrown@ga.wa.gov; phone: 360-902-7404) for questions regarding this list.

3.2 SELECTION OF QUALIFIED ANALYTICAL LABORATORIES

Ecology maintains a list of analytical laboratories that have met the rigorous standards of accreditation in the state of Washington. By being on this list, these laboratories demonstrate that they have the personnel competence, performance standards, operational support, QA/QC oversight, and data management capabilities to generate accurate and defensible analytical data. Qualified, accredited analytical laboratories can be located on the Ecology website³.

4 DEVELOPMENT OF SAMPLING AND ANALYSIS PLAN

Before the initiation of sediment sampling at a SOAL use authorization site, the applicant must prepare a sampling and analysis plan (SAP) that describes the sample collection, handling, and analysis procedures to be used at the site. The level of detail required in the SAP may vary depending on the scope of the sampling activity, but it must contain certain basic elements. A template for a streamlined SAP, with cross-references to guidance in this document, is provided in Attachment A-1.

Basic elements of a SAP include a brief discussion of site history (bulleted list), objectives of the sampling activity (bulleted list), field sampling methods, sample handling procedures,

³ <http://www.ecy.wa.gov/programs/eap/labs/documents/AllAccreditedLabListInternet.pdf>

analytical methods, QA/QC procedures, and data analysis and reporting requirements. A health and safety plan covering field operations is recommended.

Background information on the site, including site history and potential contaminant sources, is an important component of the SAP because it helps determine the areas to sample and the types of analytes. Resources for obtaining this type of background information are provided in Attachment B-2.

5 RECOMMENDED SAMPLING PROTOCOLS

The importance of using standardized methods and reporting techniques in environmental sampling of marine and freshwater environments cannot be underestimated. In the late 1980s, the U.S. Environmental Protection Agency Region 10 developed standardized guidelines for marine environmental sampling, referred to as the Puget Sound Estuary Program (PSEP) guidelines. DNR encourages the use of the PSEP guidelines to ensure that the highest quality, most representative data are collected, and that these data are comparable to data collected by different programs that follow the same guidelines. Many consulting firms have incorporated the PSEP protocols into their standard operating procedures (SOPs).

These PSEP-based SOPs will dictate decontamination procedures, types of sampling equipment, sampling procedures, field QC, sample preservation, chain-of-custody requirements, documentation, and reporting, and are not discussed further here. Additional equipment may be required depending on specific project needs.

An introduction to the guidelines developed under this interagency effort can be found on the Puget Sound Partnership website⁴.

A synopsis of individual guidelines is provided below.

- Recommended Guidelines for Station Positioning in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/position.pdf
- Recommended Quality Assurance and Quality Control Guidelines for the Collection of Environmental Data in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/qaqc.pdf
- Recommended Protocols for Measuring Conventional Sediment Variables in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/sed_conventional.pdf
- Recommended Guidelines for Sampling Marine Sediment, Water Column, and Tissue in Puget Sound
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/field.pdf
- Recommended Guidelines for Measuring Metals in Puget Sound Marine Water, Sediment, and Tissue Samples

⁴ http://www.psparchives.com/publications/our_work/science/protocols_guidelines/introduction.pdf

http://www.psparchives.com/publications/our_work/science/protocols_guidelines/metals.pdf

- Recommended Guidelines for Measuring Organic Compounds in Puget Sound Water, Sediment, and Tissue Samples
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/organics.pdf
- Recommended Protocols for Measuring Conventional Water Quality Variables and Metals in Fresh Water of the Puget Sound Region
http://www.psparchives.com/publications/our_work/science/protocols_guidelines/fresh_water.pdf

6 MAINTAINING SAMPLE INTEGRITY

The PSEP protocols and respective company SOPs contain guidance on ensuring sample integrity between the time of field collection and the time of laboratory analysis. This includes making sure that samples are properly handled and prepared, holding times are adhered to, chain-of-custody (COC) procedures are used, and samples are delivered to the laboratory in a timely manner.

6.1 FIELD QA/QC

Field QC samples should be prepared at least once per sampling event. The DNR-recommended QC samples are an equipment rinsate blank, a field duplicate, and trip blanks if samples are to be analyzed for volatile organic compounds (VOCs). These QC samples, while recommended to improve the reliability of the data, are not required by DNR.

- **Field Duplicates (Split).** These samples are collected to assess the homogeneity of the samples collected in the field and the precision of the sampling process.
- **Rinsate Blanks.** Equipment rinsate blanks will be used to help identify possible contamination from the sampling environment and/or from decontaminated sampling equipment.
- **Trip Blanks.** Trip blanks will be used to help identify whether contaminants may have been introduced during the shipment of the sediment samples from the field to the laboratory for VOC analyses only.

Field duplicates and rinsate blanks can be archived for bookend sampling and only analyzed if QA issues arise.

6.2 CHAIN-OF-CUSTODY PROCEDURES

A stringent program of sample COC must be followed during sample storage and shipping activities to account for each sample collected in the field. The COC form is critical because it documents sample possession from the time of collection through processing and analysis to final disposition. The form also provides information to the laboratory regarding what analyses are to be performed on the samples that are shipped. COC also applies to sample packaging and shipping, field logbooks, and sample labeling, which are discussed further in the PSEP protocols.

7 ANALYTICAL METHODS

Table B-5 summarizes the analytical methods, typical per-sample costs, sample holding times, and sample sizes for both the standard suite of analyses and additional site-specific parameters that may be required based on-site history or usage. The per-sample costs listed in Table B-5 are typical costs for a standard turnaround of three weeks and include the generation of an environmental information management system (EIMS)-compatible electronic data deliverable and a fully validatable data package (faster turnaround times may be available at additional cost). Costs for analyses and deliverables should be negotiated with the laboratory prior to sampling. The laboratory should also be consulted for the necessary sample sizes and container types because containers for some analyses may be combined or require greater sample volumes. The recommended sample sizes listed in Table B-5 are generally the minimum required for analysis, and additional volume is recommended to provide a margin of error and to allow for re-analyses.

8 DATA VALIDATION

Data validation is the process of determining whether the data are of sufficient quality to be used in regulatory decision-making. Data review and validation is a systematic process that compares a group of data to the requirements in a set of documented acceptance criteria. Validation of data requires that appropriate QA/QC procedures are followed, and that adequate documentation is included for all data generated both in the laboratory and in the field.

A QA Level 1 Validation per U.S. Environmental Protection Agency's *Guidance on Environmental Data Verification and Data Validation*⁵ or PTI (1989) is recommended, at a minimum, for SOAL sediment data. This review evaluates the completeness, correctness, and

⁵ Further information on data validation can be found at <http://www.epa.gov/quality/qs-docs/g8-final.pdf>

conformance/adherence of a specific data set against the method or procedural requirements. Data qualifiers are assigned, when appropriate, and the usability of the data is determined.

Data validation can be performed by several different entities. The analytical laboratory that provides the data can do a limited scope data validation; however, data validation performed by a party independent of the laboratory is the preferred option because it ensures an unbiased review.

9 DATA REVIEW AND REPORTING

The data should be tabulated and include separate tables for dry-weight and total organic carbon (TOC) normalized concentrations. The TOC-normalized concentrations will allow direct comparison with the SMS criteria, whereas the dry-weight concentrations may be useful when TOC values are either very high or very low. Additional data to include in the table are station numbers, sample identification numbers, date of sample collection, appropriate sediment criteria, and the sediment sampling depth.

Validated data need to be compared to the numerical SQS and/or CSL criteria (or SQVs for freshwater) to determine if there are exceedances of criteria or exceedances of detection limits over chemical SQS and/or CSL criteria when the laboratory reports chemicals as undetected. If the data are below the SQS criteria, then the site can be considered clean. If the data are above the SQS and/or CSL, then the applicant should consult with DNR to determine next steps.

Final reporting for DNR includes, at a minimum, a letter report describing the sampling results, tables of all analytical data and identifying exceedances, and a map showing the locations of all samples with those exceeding SQS and/or CSL criteria identified uniquely.

10 SUBMITTING DATA TO THE EIMS DATABASE

The final step in this process is for the applicant to submit the chemical data electronically to EIMS database for environmental monitoring data. EIMS contains records on physical, chemical, and biological analyses and measurements. Supplementary information about the data (metadata) is also stored, including information about the specific study for which the data were collected, sampling locations, and data quality.

If your consultant does not have previous experience uploading data to EIMS they should attend a training session periodically offered by Ecology⁶.

⁶ The current contact at Ecology for training is Jenna Durkee (email: Jenna.Durkee@ecy.wa.gov; phone: 509-454-7865).

11 REFERENCES

Avocet Consulting. 2011. Development of Benthic SQVs for Freshwater Sediments in Washington, Oregon, and Idaho. Prepared for the Washington Department of Ecology, Olympia, WA and Oregon Department of Environmental Quality, Portland, OR. Avocet Consulting, Inc., Olympia, WA.

DMMP. 1997. Management of Wood Waste Under Dredged Material Management Programs (DMMP) and the Sediment Management Standards (SMS) Cleanup Program. DMMP Clarification Paper. SMS Technical Information Memorandum. Prepared by David Kendall, US Army Corps of Engineers, Seattle District and Teresa Michelsen, Washington Department of Ecology.

PTI. 1989. Data Validation Guidance Manual for Selected Sediment Variables. Prepared for the Washington Department of Ecology, Sediment Management Unit, Olympia, WA. PTI Environmental Services, Bellevue, WA.

When recorded, return to:
City of Anacortes
PO Box 547
Anacortes, WA 98221



PETER GOLDMARK
COMMISSIONER OF PUBLIC LANDS

AQUATIC LANDS EASEMENT

Easement No. 51-092332

Grantor: Washington State Department of Natural Resources
Grantee(s): City of Anacortes
Legal Description: Section 19, Township 35 North, Range 2 East, W.M.
Assessor's Property Tax Parcel or Account Number: P33185
Assessor's Property Tax Parcel or Account Number for Upland parcel used in conjunction with this Easement: Not Applicable

THIS AGREEMENT is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and CITY OF ANACORTES, a government agency ("Grantee"). State has authority to enter into this Easement under Chapter 43.12 RCW, Chapter 43.30 RCW, and Title 79 of the Revised Code of Washington (RCW).

THE Parties agree as follows:

SECTION 1 GRANT OF EASEMENT

1.1 Easement Defined.

- (a) State grants and conveys to Grantee a nonexclusive easement, subject to the terms and conditions of this agreement, over, upon, and under the real property at Fidalgo Bay; described in Exhibit A. In this agreement, the term "Easement"

means this agreement and the rights granted; the term "Easement Property" means the real property subject to the easement.

- (b) This Easement is subject to all valid interests of third parties noted in the records of Skagit County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes.
- (c) This Easement does not include any right to harvest, collect or damage any natural resource, including aquatic life or living plants, any water rights, or any mineral rights, including any right to excavate or withdraw sand, gravel, or other valuable materials, except to the extent expressly permitted in Exhibit B.
- (d) This Easement does not include the right to grant easements and franchises to third parties. State reserves the right to reasonably grant, condition, or approve all third party easements and franchises regardless of whether the third party's use is incidental to the Easement. State shall not unreasonably condition or deny third-party easements or franchises necessary for continuation of utilities, including communication systems.

1.2 Survey and Easement Property Descriptions.

- (a) Grantee prepared Exhibit A, which describes the Easement Property. Grantee represents that Exhibit A is a true and accurate description of the Easement boundaries and the improvements to be constructed or already existing in the Easement area. Grantee's obligation to provide a true and accurate description of the Easement Property boundaries is a material term of this Easement.
- (b) State's acceptance of Exhibit A does not constitute agreement that Grantee's property description accurately reflects the actual amount of land used by Grantee. State reserves the right to retroactively adjust fees if at any time during the Term State discovers a discrepancy between Grantee's property description and the area actually used by Grantee.

1.3 Condition of Easement Property. State makes no representation regarding the condition of the Easement Property, improvements located on the Easement Property, the suitability of the Easement Property for Grantee's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Easement Property, or the existence of hazardous substances on the Easement Property.

SECTION 2 USE

2.1 Permitted Use. Grantee shall use the Easement Property for:

construction, maintenance, repair, replacement, use of a road known as W Avenue; use of a road and utilities between the end of W Avenue and a leasehold defined in Aquatic Land Lease 22-A02664; and fill (the "Permitted Use"),

and for no other purpose, including utilities unless specifically identified as part of the Permitted Use. The Permitted Use is described or shown in detail in Exhibit B.

2.2 Restrictions on Use.

- (a) The limitations in this Paragraph 2.2 apply to the Property and adjacent state-owned aquatic land. Grantee's compliance with this Paragraph 2.2 does not limit Grantee's liability under any other provision of this Easement.
- (b) Grantee shall not cause or permit:
 - (1) Damage to natural resources,
 - (2) Waste, or
 - (3) Deposit of material, unless approved by State in writing and except to the extent expressly permitted in Exhibit B. This prohibition includes deposit of fill, rock, earth, ballast, wood waste, refuse, garbage, waste matter, pollutants of any type, or other matter.

2.3 Conformance with Laws. Grantee shall keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding Grantee's use of the Easement Property.

2.4 Liens and Encumbrances. Grantee shall keep the Easement Property free and clear of any liens and encumbrances arising out of or relating to its use of the Easement Property, unless expressly authorized by State in writing.

2.5 Interference with Other Uses.

- (a) Grantee shall exercise Grantee's rights under this Easement in a manner that minimizes or avoids interference with the rights of State, the public or others with valid right to use or occupy the Easement Property or surrounding lands and water.
- (b) To the fullest extent reasonably possible, Grantee shall place and construct Improvements in a manner that allows unobstructed movement in and on the waters above and around the Easement Property.
- (c) Except in an emergency, Grantee shall provide State with written notice of construction or other significant activity on Easement Property at least thirty (30) days in advance. "Significant Activity" means any activity that may affect use or enjoyment by the State, public, or others with valid rights to use or occupy the Easement Property or surrounding lands and water.
- (d) Grantee shall mark the location of any hazards associated with the Permitted Use and any Improvements in a manner that ensures reasonable notice to the public.

SECTION 3 TERM

3.1 Term Defined. The term of this Easement is seventeen (17) years (the "Term"), beginning on the 3rd day of January, 2017 (the "Commencement Date"), and ending on the

2nd day of January, 2034 (the "Termination Date"), unless terminated sooner under the terms of this Easement.

3.2 Renewal of the Easement. This Easement does not provide a right of renewal. Grantee may apply for a new Easement, which State has discretion to grant. Grantee must apply for a new Easement at least one (1) year prior to Termination Date. State shall notify Grantee within ninety (90) days of its intent to approve or deny a new Easement.

3.3 End of Term.

- (a) Upon the expiration or termination of this Easement, Grantee shall remove Improvements in accordance with Section 7, Improvements, and surrender the Easement Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.
- (b) Definition of Reasonable Wear and Tear.
 - (1) Reasonable wear and tear is deterioration resulting from the Permitted Use that has occurred without neglect, negligence, carelessness, accident, or abuse by Grantee or Grantee's contractors, agents, invitees, guests, employees, affiliates, licensees, or permittees.
 - (2) Reasonable wear and tear does not include any deposit of material prohibited under Paragraph 2.2(b) unless expressly permitted by State in writing and regardless of whether the deposit is incidental to or the byproduct of the Permitted Use.
- (c) If Easement Property is in worse condition, excepting for reasonable wear and tear, on the surrender date than on the Commencement Date, the following provisions apply.
 - (1) State shall provide Grantee a reasonable time to take all steps necessary to remedy the condition of the Easement Property. State may require Grantee to enter into a right-of-entry or other use authorization prior to the Grantee entering the Easement Property to remedy any breach of this Paragraph 3.3.
 - (2) If Grantee fails to remedy the condition of the Easement Property in a timely manner, State may take any steps reasonably necessary to remedy Grantee's failure. Upon demand by State, Grantee shall pay all costs of such remedial action, including but not limited to the costs of removing and disposing of any material deposited improperly on the Easement Property, lost revenue resulting from the condition of the Easement Property prior to and during remedial action, and any administrative costs associated with the remedial action.

SECTION 4 FEES

4.1 Fee. For the Term, Grantee shall pay to State a fee of Forty-Eight Thousand, Two Hundred Dollars (\$48,200.00), which is due and payable on or before the Commencement Date. Any payment not paid by State's close of business on the date due is past due.

4.2 Payment Place. Grantee shall make payment to Financial Management Division, 1111 Washington St SE, PO Box 47041, Olympia, WA 98504-7041.

SECTION 5 OTHER EXPENSES

5.1 Utilities. Grantee shall pay all fees charged for utilities required or needed by the Permitted Use.

5.2 Taxes and Assessments. Grantee shall pay all taxes, assessments, and other governmental charges, of any kind whatsoever, applicable or attributable to the Easement and the Permitted Use.

5.3 Failure to Pay. If Grantee fails to pay any of the amounts due under this Easement, State may pay the amount due, and recover its cost in accordance with Section 6.

SECTION 6 LATE PAYMENTS AND OTHER CHARGES

6.1 Failure to Pay. Failure to pay any fees or other expenses is a default by Grantee. State may seek remedies in Section 14 as well as late charges and interest as provided in this Section 6.

6.2 Late Charge. If State does not receive any payment within ten (10) days of the date due, Grantee shall pay to State a late charge equal to four percent (4%) of the unpaid or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

6.3 Interest Penalty for Past Due Fees and Other Sums Owed.

- (a) Grantee shall pay interest on the past due fee at the rate of one percent (1%) per month until paid, in addition to paying the late charges determined under Paragraph 6.2. Fee not paid by the close of business day on the due date will begin accruing interest the day after the due date.
- (b) If State pays or advances any amounts for or on behalf of Grantee, Grantee shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Grantee of the payment or advance. This includes, but is not limited to taxes, assessments, insurance premiums, costs of removal and disposal of unauthorized materials pursuant to Paragraph 2.2 above, costs of removal and disposal of improvements pursuant to Section 7 below, or other amounts not paid when due.

6.4 Referral to Collection Agency and Collection Agency Fees. If State does not receive payment within thirty (30) days of the due date, State may refer the unpaid amount to a collection agency as provided by RCW 19.16.500 or other applicable law. Upon referral, Grantee shall pay collection agency fees in addition to the unpaid amount.

6.5 No Accord and Satisfaction. If Grantee pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment constitutes accord and satisfaction.

SECTION 7 IMPROVEMENTS

7.1 Improvements Defined.

- (a) "Improvements," consistent with RCW 79.105 through 79.145, are additions within, upon, or attached to the land. This includes, but is not limited to, structures and fixtures.
- (b) "Personal Property" means items that can be removed from the Easement Property without (1) injury to the Easement Property, adjacent state-owned lands or Improvements or (2) diminishing the value or utility of the Easement Property, adjacent state-owned lands or Improvements.
- (c) "State-Owned Improvements" are Improvements made or owned by State. State-Owned Improvements includes any construction, alteration, or addition to State-Owned Improvements made by Grantee.
- (d) "Grantee-Owned Improvements" are Improvements made by Grantee with State's consent.
- (e) "Unauthorized Improvements" are Improvements made on the Easement Property without State's prior consent or Improvements made by Grantee that do not conform with plans submitted to and approved by the State.
- (f) "Improvements Owned by Others" are Improvements made by Others with a right to occupy or use the Easement Property or adjacent state-owned lands.

7.2 Existing Improvements. On the Commencement Date, the following Improvements are located on the Easement Property: fill, paved road, crushed-gravel-surface road, gate, and utilities. The Improvements are Grantee-Owned Improvements.

7.3 Construction, Major Repair, Modification, and Demolition.

- (a) This Paragraph 7.3 governs construction, alteration, replacement, major repair, modification alteration, demolition and deconstruction of Improvements ("Work"). Section 11 governs routine maintenance and minor repair of Improvements and Easement Property.
- (b) All Work must conform with State's standards for Improvements current at the time Grantee submits plans and specifications for State's approval.

- (c) Except in an emergency, Grantee shall not conduct any Work without State's prior written consent, as follows:
 - (1) State may deny consent if State determines that denial is in the best interests of the State. State may impose additional conditions reasonably intended to protect and preserve the Easement Property. If Work is for removal of Improvements at End of Term, State may waive removal of some or all Improvements.
 - (2) Except in an emergency, Grantee shall submit to State plans and specifications describing the proposed Work at least sixty (60) days before submitting permit applications to regulatory authorities unless Grantee and State otherwise agree to coordinate permit applications. At a minimum, or if no permits are necessary, Grantee shall submit plans and specifications at least ninety (90) days before commencement of Work.
 - (3) State waives the requirement for consent if State does not notify Grantee of its grant or denial of consent within sixty (60) days of submittal.
- (d) Grantee shall notify State of emergency Work within five (5) business days of the start of such Work. Upon State's request, Grantee shall provide State with plans and specifications or as-builts of emergency Work.
- (e) Grantee shall not commence or authorize Work until Grantee or Grantee's contractor has:
 - (1) Obtained a performance and payment bond in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of construction. Grantee shall maintain the performance and payment bond until Grantee pays in full the costs of the Work, including all laborers and material persons.
 - (2) Obtained all required permits.
 - (3) Provided notice of Significant Activity in accordance with Paragraph 2.5(c).
- (f) Grantee shall preserve and protect Improvements Owned by Others, if any.
- (g) Grantee shall preserve all legal land subdivision survey markers and witness objects ("Markers"). If disturbance of a Marker will be a necessary consequence of Grantee's construction, Grantee shall reference and/or replace the Marker in accordance with all applicable laws and regulations current at the time, including, but not limited to Chapter 58.24 RCW. At Grantee's expense, Grantee shall retain a registered professional engineer or licensed land surveyor to reestablish destroyed or disturbed Markers in accordance with U.S. General Land Office standards.
- (h) Before completing Work, Grantee shall remove all debris and restore the Easement Property, as nearly as possible, to the condition prior to the commencement of Work. If Work is intended for removal of Improvements at End of Term, Grantee shall restore the Easement Property in accordance with Paragraph 3.3, End of Term.
- (i) Upon completing work, Grantee shall promptly provide State with as-built plans and specifications.

- (j) State shall not charge rent for authorized Improvements installed by Grantee during this Term of this Easement, but State may charge rent for such Improvements when and if the Grantee or successor obtains a subsequent use authorization for the Easement Property and State has waived the requirement for Improvements to be removed as provided in Paragraph 7.4.

7.4 Grantee-Owned Improvements at End of Easement.

- (a) Disposition.
 - (1) Grantee shall remove Grantee-Owned Improvements in accordance with Paragraph 7.3 upon the expiration, termination, or cancellation of the Easement unless State waives the requirement for removal.
 - (2) Grantee-Owned Improvements remaining on the Easement Property on the expiration, termination, or cancellation date become State-Owned Improvements without payment by State, unless State elects otherwise. State may refuse or waive ownership.
 - (3) If Grantee-Owned Improvements remain on the Easement Property after the expiration, termination, or cancellation date without State's consent, State may remove all Improvements and Grantee shall pay the costs of removal and disposal.
- (b) Conditions Under Which State May Waive Removal of Grantee-Owned Improvements.
 - (1) State may waive removal of any or all Grantee-Owned Improvements whenever State determines that it is in the best interests of the State.
 - (2) If Grantee renews the Easement or enters into a new Easement, State may waive requirement to remove Grantee-Owned Improvements. State also may consent to Grantee's continued ownership of Grantee-Owned Improvements.
 - (3) If Grantee does not renew the Easement or enter into a new Easement, State may waive requirement to remove Grantee-Owned Improvements upon consideration of a timely request from Grantee, as follows:
 - (i) Grantee must notify State at least one (1) year before the Termination Date of its request to leave Grantee-Owned Improvements.
 - (ii) State, within ninety (90) days, will notify Grantee whether State consents to any or all Grantee-Owned Improvements remaining. State has no obligation to grant consent.
 - (iii) State's failure to respond to Grantee's request to leave Improvements within ninety (90) days is a denial of the request.
- (c) Grantee's Obligations if State Waives Removal.
 - (1) Grantee shall not remove Improvements if State waives the requirement for removal of any or all Grantee-Owned Improvements.
 - (2) Grantee shall maintain such Improvements in accordance with this Easement until the expiration, termination, or cancellation date. Grantee is liable to State for cost of repair if Grantee causes or allows damage to Improvements State has designated to remain.

7.5 Disposition of Unauthorized Improvements.

- (a) Unauthorized Improvements belong to State, unless State elects otherwise.
- (b) State may either:
 - (1) Consent to Grantee ownership of the Improvements, or
 - (2) Charge use and occupancy fee in accordance with RCW 79.105.200 of the Improvements from the time of installation or construction and
 - (i) Require Grantee to remove the Improvements in accordance with Paragraph 7.3, in which case Grantee shall pay use and occupancy fee for the Improvements until removal,
 - (ii) Consent to Improvements remaining and Grantee shall pay use and occupancy fee for the use of the Improvements, or
 - (iii) Remove Improvements and Grantee shall pay for the cost of removal and disposal, in which case Grantee shall pay use and occupancy fee for use of the Improvements until removal and disposal.

7.6 Disposition of Personal Property.

- (a) Grantee retains ownership of Personal Property unless Grantee and State agree otherwise in writing.
- (b) Grantee shall remove Personal Property from the Easement Property by the Termination Date. Grantee is liable for any damage to the Easement Property and to any Improvements that may result from removal of Personal Property.
- (c) State may sell or dispose of all Personal Property left on the Easement Property after the Termination Date.
 - (1) If State conducts a sale of Personal Property, State shall apply proceeds first to the State's administrative costs in conducting the sale, second to payment of amount that then may be due from the Grantee to the State, and State shall pay the remainder, if any, to the Grantee.
 - (2) If State disposes of Personal Property, Grantee shall pay for the cost of removal and disposal.

SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATIONS

8.1 Definitions.

- (a) "Hazardous Substance" means any substance that now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination, pollution, or cleanup.
- (b) "Release or threatened release of Hazardous Substance" means a release or threatened release as defined under any law described in Paragraph 8.1(a).
- (c) "Utmost care" means such a degree of care as would be exercised by a very careful, prudent, and competent person under the same or similar circumstances;

the standard of care applicable under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105 RCW, as amended.

- (d) "Grantee and affiliates" when used in this Section 8 means Grantee or Grantee's subgrantees, contractors, agents, employees, guests, invitees, licensees, affiliates, or any person on the Easement Property with the Grantee's permission.
- (e) "Liabilities" as used in this Section 8 means any claims, demands, proceedings, lawsuits, damages, costs, expenses, fees (including attorneys' fees and disbursements), penalties, or judgments.

8.2 General Conditions.

- (a) Grantee's obligations under this Section 8 extend to the area in, on, under, or above:
 - (1) The Easement Property and
 - (2) Adjacent state-owned aquatic lands if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use.
- (b) Standard of Care.
 - (1) Grantee shall exercise the utmost care with respect to Hazardous Substances.
 - (2) As relates to the Permitted Use, Grantee shall exercise utmost care for the foreseeable acts or omissions of third parties with respect to Hazardous Substances, and the foreseeable consequences of those acts or omissions, to the extent required to establish a viable, third-party defense under the law.

8.3 Current Conditions and Duty to Investigate.

- (a) State makes no representation about the condition of the Easement Property. Hazardous Substances may exist in, on, under, or above the Easement Property.
- (b) This Easement does not impose a duty on State to conduct investigations or supply information to Grantee about Hazardous Substances.
- (c) Grantee is responsible for conducting all appropriate inquiry and gathering sufficient information about the existence, scope, and location of Hazardous Substances on or near the Property necessary for Grantee to meet Grantee's obligations under this Easement and utilize the Property for the Permitted Use.

8.4 Use of Hazardous Substances.

- (a) Grantee and affiliates shall not use, store, generate, process, transport, handle, release, or dispose of Hazardous Substances, except in accordance with all applicable laws.
- (b) Grantee shall not undertake, or allow others to undertake by Grantee's permission, acquiescence, or failure to act, activities that result in a release or threatened release of Hazardous Substances.
- (c) If use of Hazardous Substances related to the Permitted Use results in a violation of law:
 - (1) Grantee shall submit to State any plans for remedying the violations, and

- (2) Grantee shall implement any measures to restore the Easement Property or natural resources that State may require in addition to remedial measures required by regulatory authorities.

8.5 Management of Contamination, if any.

- (a) Grantee and affiliates shall not undertake activities that:
 - (1) Damage or interfere with the operation of remedial or restoration activities, if any;
 - (2) Result in human or environmental exposure to contaminated sediments, if any;
 - (3) Result in the mechanical or chemical disturbance of on-site habitat mitigation, if any.
- (b) If requested, Grantee shall allow reasonable access to:
 - (1) Employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, health department, or other similar environmental agencies; and
 - (2) Potentially liable or responsible parties who are the subject of an order or consent decree that requires access to the Easement Property. Grantee may negotiate an access agreement with such parties, but Grantee may not unreasonably withhold such agreement.

8.6 Notification and Reporting.

- (a) Grantee shall immediately notify State if Grantee becomes aware of any of the following:
 - (1) A release or threatened release of Hazardous Substances;
 - (2) Any new discovery of or new information about a problem or liability related to, or derived from, the presence of Hazardous Substances;
 - (3) Any lien or action arising from Hazardous substances;
 - (4) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances;
 - (5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Easement Property.
- (b) Grantee's duty to report under Paragraph 8.6(a) extends to lands described in Paragraph 8.2(a) and to any other property used by Grantee in conjunction with the Easement Property if a release of Hazardous Substances on the other property could affect the Easement Property.
- (c) Grantee shall provide State with copies of all documents Grantee submits to any federal, state, or local authorities concerning environmental impacts or proposals relative to the Easement Property. Documents subject to this requirement include, but are not limited to, applications, reports, studies, or audits for National Pollution Discharge and Elimination System Permits; Army Corps of Engineers permits; State Hydraulic Project Approvals (HPA); State Water Quality

certification; Substantial Development permit; and any reporting necessary for the existence, location, and storage of Hazardous Substances on the Property.

8.7 Indemnification.

- (a) Grantee shall fully indemnify, defend, and hold State harmless from and against Liabilities that arise out of, or relate to:
 - (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Grantee and affiliates occurring whenever Grantee uses or has used the Easement Property;
 - (2) The release or threatened release of any Hazardous Substance resulting from any act or omission of Grantee and affiliates occurring whenever Grantee uses or has used the Easement Property.
- (b) Grantee shall fully indemnify, defend, and hold State harmless for any Liabilities that arise out of or relate to Grantee's breach of obligations under Paragraph 8.5.

8.8 Reservation of Rights.

- (a) For Liabilities not covered by the indemnification provisions of Paragraph 8.7, the Parties expressly reserve and do not waive any rights, claims, immunities, causes of action, or defenses relating to Hazardous Substances that either Party may have against the other under law.
- (b) The Parties expressly reserve all rights, claims, immunities, and defenses either Party may have against third parties. Nothing in this Section 8 benefits or creates rights for third parties.
- (c) The allocations of risks, Liabilities, and responsibilities set forth in this Section 8 do not release either Party from or affect the liability of either Party for Hazardous Substances claims or actions by regulatory agencies.

8.9 Cleanup.

- (a) If Grantee's act, omission, or breach of obligation under Paragraph 8.4 results in a release of Hazardous Substances that exceeds the threshold limits of any applicable regulatory standard, Grantee shall, at Grantee's sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances in accordance with applicable law.
- (b) Grantee may undertake a cleanup of the Property pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that Grantee cooperates with the Department of Natural Resources in development of cleanup plans. Grantee shall not proceed with Voluntary Cleanup without the Department of Natural Resources approval of final plans. Nothing in the operation of this provision is an agreement by the Department of Natural Resources that the Voluntary Cleanup complies with any laws or with the provisions of this Easement. Grantee's completion of a Voluntary Cleanup is not a release from or waiver of any obligation for Hazardous Substances under this Easement.

8.10 Sampling by State, Reimbursement, and Split Samples.

- (a) State may conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Easement Property at any time to determine the existence, scope, or effects of Hazardous Substances.
- (b) If such Tests, along with any other information, demonstrate a breach of Grantee's obligations regarding Hazardous Substances under this Easement, Grantee shall promptly reimburse State for all costs associated with the Tests, provided State gave Grantee thirty (30) calendar days advance notice in nonemergencies and reasonably practical notice in emergencies.
- (c) In nonemergencies, Grantee is entitled to obtain split samples of Test samples, provided Grantee gives State written notice requesting split samples at least ten (10) calendar days before State conducts Tests. Upon demand, Grantee shall promptly reimburse State for additional cost, if any, of split samples.
- (d) If either Party conducts Tests on the Property, the conducting Party shall provide the other with validated final data and quality assurance/quality control/chain of custody information about the Tests within sixty (60) calendar days of a written request by the other party, unless Tests are part of a submittal under Paragraph 8.6(c) in which case Grantee shall submit data and information to State without written request by State. Neither party is obligated to provide any analytical summaries or the work product of experts.

SECTION 9 ASSIGNMENT

Grantee shall not assign any part of Grantee's interest in this Easement or the Easement Property or grant any rights or franchises to third parties without State's prior written consent, which State shall not unreasonably condition or withhold. State reserves the right to reasonably change the terms and conditions of this Easement upon State's consent to assignment.

SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE

10.1 Indemnity.

- (a) Grantee shall indemnify, defend, and hold State, its employees, officers, and agents harmless from any Claims arising out of the Permitted Use or activities related to the Permitted Use by Grantee, its contractors, agents, invitees, guests, employees, affiliates, licensees, or permittees.
- (b) "Claim" as used in this Paragraph 10.1 means any financial loss, claim, suit, action, damages, expenses, fees (including attorneys' fees), penalties, or judgments attributable to bodily injury, sickness, disease, death, and damages to tangible property, including, but not limited to, land, aquatic life, and other natural resources. "Damages to tangible property" includes, but is not limited to, physical injury to the Easement Property and damages resulting from loss of use of the Easement Property.

- (c) State shall not require Grantee to indemnify, defend, and hold State harmless for claims that arise solely out of the willful or negligent act of State or State's elected officials, employees, or agents.
- (d) Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold State and its agencies, officials, agents, or employees harmless.
- (e) Section 8, Environmental Liability/Risk Allocation, exclusively governs Grantee's liability to State for Hazardous Substances and its obligation to indemnify, defend, and hold State harmless for Hazardous Substances.

10.2 Insurance Terms.

- (a) Insurance Required.
 - (1) At its own expense, Grantee shall procure and maintain during the Term of this Easement, the insurance coverages and limits described in this Paragraph 10.2 and in Paragraph 10.3, Insurance Types and Limits. State may terminate this Easement if Grantee fails to maintain required insurance.
 - (2) Unless State agrees to an exception, Grantee shall provide insurance issued by an insurance company or companies admitted to do business in the State of Washington and have a rating of A- or better by the most recently published edition of Best's Reports. Grantee may submit a request to the risk manager for the Department of Natural Resources to approve an exception to this requirement. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
 - (3) All general liability, excess, umbrella, property, builder's risk, and pollution legal liability insurance policies must name the State of Washington, the Department of Natural Resources, its elected and appointed officials, agents, and employees as an additional insured.
 - (4) All insurance provided in compliance with this Easement must be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- (b) Waiver.
 - (1) Grantee waives all rights against State for recovery of damages to the extent insurance maintained pursuant to this Easement covers these damages.
 - (2) Except as prohibited by law, Grantee waives all rights of subrogation against State for recovery of damages to the extent that they are covered by insurance maintained pursuant to this Easement.
- (c) Proof of Insurance.
 - (1) Grantee shall provide State with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with insurance requirements specified in this Easement and, if requested, copies of policies to State.

- (2) The certificate(s) of insurance must reference additional insureds and the Easement number.
 - (3) Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies.
- (d) State must receive written notice before cancellation or non-renewal of any insurance required by this Easement, as follows:
 - (1) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State forty-five (45) days' advance notice of cancellation or non-renewal.
 - (2) Insurers subject to RCW 48.15 (surplus lines): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State thirty (30) days' advance notice of cancellation or non-renewal.
- (e) Adjustments in Insurance Coverage.
 - (1) State may impose changes in the limits of liability for all types of insurance as State deems necessary.
 - (2) Grantee shall secure new or modified insurance coverage within thirty (30) days after State requires changes in the limits of liability.
- (f) If Grantee fails to procure and maintain the insurance described above within fifteen (15) days after Grantee receives a notice to comply from State, State may either:
 - (1) Deem the failure an Event of Default under Section 14, or
 - (2) Procure and maintain comparable substitute insurance and pay the premiums. Upon demand, Grantee shall pay to State the full amount paid by State, together with interest at the rate provided in Paragraph 6.2 from the date of State's notice of the expenditure until Grantee's repayment.
- (g) General Terms.
 - (1) State does not represent that coverage and limits required under this Easement are adequate to protect Grantee.
 - (2) Coverage and limits do not limit Grantee's liability for indemnification and reimbursements granted to State under this Easement.
 - (3) The Parties shall use any insurance proceeds payable by reason of damage or destruction to Easement Property first to restore the Easement Property, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Grantee.

10.3 Insurance Types and Limits.

- (a) General Liability Insurance.
 - (1) Grantee shall maintain commercial general liability insurance (CGL) or marine general liability (MGL) covering claims for bodily injury, personal injury, or property damage arising on the Easement Property and/or arising out of the Permitted Use and, if necessary, commercial umbrella insurance with a limit of not less than One Million Dollars (\$1,000,000)

- per each occurrence. If such CGL or MGL insurance contains aggregate limits, the general aggregate limit must be at least twice the "each occurrence" limit. CGL or MGL insurance must have products-completed operations aggregate limit of at least two times the "each occurrence" limit.
- (2) CGL insurance must be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 (or a substitute form providing equivalent coverage). All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.
 - (3) MGL insurance must have no exclusions for non-owned watercraft.
- (b) Workers' Compensation.
- (1) State of Washington Workers' Compensation.
 - (i) Grantee shall comply with all State of Washington workers' compensation statutes and regulations. Grantee shall provide workers' compensation coverage for all employees of Grantee. Coverage must include bodily injury (including death) by accident or disease, which arises out of or in connection with the Permitted Use or related activities.
 - (ii) If Grantee fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Grantee shall indemnify State. Indemnity includes all fines; payment of benefits to Grantee, employees, or their heirs or legal representatives; and the cost of effecting coverage on behalf of such employees.
 - (2) Longshore and Harbor Workers' and Jones Acts. Longshore and Harbor Workers' Act (33 U.S.C. Section 901 *et seq.*) and/or the Jones Act (46 U.S.C. Section 688) may require Grantee to provide insurance coverage in some circumstances. Grantee shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with law. Grantee is responsible for all civil and criminal liability arising from failure to maintain such coverage.
- (c) Employers' Liability Insurance. Grantee shall procure employers' liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident or One Million Dollars (\$1,000,000) each employee for bodily injury by disease.
- (d) Business Auto Policy Insurance.
- (1) Grantee shall maintain business auto liability insurance and, if necessary, commercial umbrella liability insurance with a limit not less than One

- Million Dollars (\$1,000,000) Dollars per accident. Such insurance must cover liability arising out of "Any Auto."
- (2) Business auto coverage must be written on ISO Form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy must be endorsed to provide contractual liability coverages and cover a "covered pollution cost or expense" as provided in the 1990 or later editions of CA 00 01.

10.4 Financial Security.

- (a) At its own expense, Grantee shall procure and maintain during the Term of this Easement a corporate security bond or provide other financial security that State may approve ("Security"). Grantee shall provide Security in an amount equal to Zero Dollars (\$0), which is consistent with RCW 79.105.330, and secures Grantee's performance of its obligations under this Easement, with the exception of the obligations under Section 8, Environmental Liability/Risk Allocation. Grantee's failure to maintain the Security in the required amount during the Term constitutes a breach of this Easement.
- (b) All Security must be in a form acceptable to the State.
 - (1) Bonds must be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better, in the most recently published edition of Best's Reports, unless State approves an exception. Grantee may submit a request to the Risk Manager for the Department of Natural Resources for an exception to this requirement.
 - (2) Letters of credit, if approved by State, must be irrevocable, allow State to draw funds at will, provide for automatic renewal, and comply with RCW 62A.5-101, *et. seq.*
 - (3) Savings account assignments, if approved by State, must allow State to draw funds at will.
- (c) Adjustment in Amount of Security.
 - (1) State may require an adjustment in the Security amount:
 - (i) At the same time as revaluation, if any,
 - (ii) As a condition of approval of assignment of this Easement,
 - (iii) Upon a material change in the condition or disposition of any Improvements, or
 - (iv) Upon a change in the Permitted Use.
 - (2) Grantee shall deliver a new or modified form of Security to State within thirty (30) days after State has required adjustment of the amount of the Security.
- (d) Upon any default by Grantee in its obligations under this Easement, State may collect on the Security to offset the liability of Grantee to State. Collection on the Security does not (1) relieve Grantee of liability, (2) limit any of State's other remedies, (3) reinstate or cure the default or (4) prevent termination of the Easement because of the default.

SECTION 11 MAINTENANCE AND REPAIR

11.1 State's Repairs. State shall not be required to make any alterations, maintenance, replacements, or repairs in, on, or about the Easement Property, or any part thereof, during the Term.

11.2 Grantee's Repairs and Maintenance.

- (a) Grantee shall, at its sole cost and expense, keep and maintain the Easement Property and all improvements (regardless of ownership) in good order and repair, in a clean, attractive, and safe condition.
- (b) Grantee shall, at its sole cost and expense, make any and all additions, repairs, alterations, maintenance, replacements, or changes to the Easement Property or to any improvements on the Easement Property which may be required by any public authority having jurisdiction over the Easement Property and requiring it for public health, safety and welfare purposes.
- (c) Except as provided in Section 11.2(d), all additions, repairs, alterations, replacements or changes to the Easement Property and to any improvements on the Easement Property shall be made in accordance with, and ownership shall be governed by, Section 7, above.
- (d) Routine maintenance and repair are acts intended to prevent a decline, lapse or, cessation of the Permitted Use and associated Improvements. Routine maintenance or repair that does not require regulatory permits does not require authorization from State pursuant to Section 7.

SECTION 12 DAMAGE OR DESTRUCTION

12.1 Notice and Repair.

- (a) In the event of any known damage to or destruction of the Easement Property or any Improvements, Grantee shall promptly give written notice to State. State does not have actual knowledge of the damage or destruction of the Easement Property or any Improvements without Grantee's written notice.
- (b) Unless otherwise agreed in writing, Grantee shall promptly reconstruct, repair, or replace any Improvements in accordance with Paragraph 7.3, Construction, Major Repair, Modification, and Demolition, as nearly as possible to its condition immediately prior to the damage or destruction. Where damage to state-owned aquatic land or natural resources is attributable to the Permitted Use or related activities, Grantee shall promptly restore the lands or resources to the condition preceding the damage in accordance with Paragraph 7.3 unless otherwise agreed in writing.

12.2 State's Waiver of Claim. State does not waive any claims for damage or destruction of the Easement Property unless State provides written notice to Grantee of each specific claim waived.

12.3 Insurance Proceeds. Grantee's duty to reconstruct, repair, or replace any damage or destruction of the Easement Property or any Improvements on the Easement Property is not conditioned upon the availability of any insurance proceeds to Grantee from which the cost of repairs may be paid. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).

SECTION 13 CONDEMNATION

In the event of condemnation, the Parties shall allocate the award between State and Grantee based upon the ratio of the fair market value of (1) Grantee's rights in the Easement Property and Grantee-Owned Improvements and (2) State's interest in the Easement Property; the reversionary interest in Grantee-Owned Improvements, if any; and State-Owned Improvements. In the event of a partial taking, the Parties shall compute the ratio based on the portion of Easement Property or Improvements taken. If Grantee and State are unable to agree on the allocation, the Parties shall submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association.

SECTION 14 REMEDIES AND TERMINATION

14.1 Breach.

- (a) State may terminate this Easement upon Grantee's failure to cure a breach of its terms within sixty (60) days of State's written notice of breach.
- (b) For nonmonetary breach not capable of cure within sixty (60) days, State will not unreasonably withhold approval of a reasonable alternative cure schedule. Grantee must submit a cure schedule within thirty (30) days of a notice of breach. State shall not terminate if State approves the schedule and Grantee works diligently and in good faith to execute the cure. State may terminate if Grantee fails to timely submit a schedule or fails to cure in accordance with an approved schedule.
- (c) If breach arises from Grantee's failure to comply with restrictions on Permitted use under Paragraph 2.2, State may, without terminating this Easement, restore the natural resources or Property and charge Grantee restoration costs and/or charge Grantee damages. On demand by State, Grantee shall pay all costs and/or damages.

14.2 Termination by Nonuse. If Grantee does not use the Easement Property for a period of three (3) successive years, this Easement terminates without further action by State. Grantee's rights revert to State upon Termination by Nonuse.

14.3 Termination by Grantee. Grantee may terminate this Easement upon providing State with sixty (60) days written notice of intent to terminate. Grantee shall comply with Paragraph 3.3, End of Term.

14.4 Remedies Not Exclusive. The remedies specified under this Section 14 are not exclusive of any other remedies or means of redress to which the State is lawfully entitled for Grantee's breach or threatened breach of any provision of this Easement.

SECTION 15 NOTICE AND SUBMITTALS

Following are the locations for delivery of notice and submittals required or permitted under this Easement. Any Party may change the place of delivery upon ten (10) days written notice to the other.

State: DEPARTMENT OF NATURAL RESOURCES
Orca-Straits District
919 N. Township St.
Sedro-Woolley, WA 98284

Grantee: CITY OF ANACORTES
PO Box 547
Anacortes, WA 98221

The Parties may deliver any notice in person, by facsimile machine, or by certified mail. Depending on the method of delivery, notice is effective upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after mailing. All notices must identify the Easement number. On notices transmitted by facsimile machine, the Parties shall state the number of pages contained in the notice, including the transmittal page, if any.

SECTION 16 MISCELLANEOUS

16.1 Authority. Grantee and the person or persons executing this Easement on behalf of Grantee represent that Grantee is qualified to do business in the State of Washington, that Grantee has full right and authority to enter into this Easement, and that each and every person signing on behalf of Grantee is authorized to do so. Upon State's request, Grantee shall provide evidence satisfactory to State confirming these representations.

16.2 Successors and Assigns. This Easement binds and inures to the benefit of the Parties, their successors, and assigns.

16.3 Headings. The headings used in this Easement are for convenience only and in no way define, limit, or extend the scope of this Easement or the intent of any provision.

16.4 Entire Agreement. This Easement, including the exhibits and addenda, if any, contains the entire agreement of the Parties. This Easement merges all prior and contemporaneous

agreements, promises, representations, and statements relating to this transaction or to the Easement Property.

16.5 Waiver.

- (a) The waiver of any breach or default of any term, covenant, or condition of this Easement is not a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this Easement. State's acceptance of payment is not a waiver of any preceding or existing breach other than the failure to pay the particular payment that was accepted.
- (b) The renewal of the Easement, extension of the Easement, or the issuance of a new Easement to Grantee, does not waive State's ability to pursue any rights or remedies under the Easement.

16.6 Cumulative Remedies. The rights and remedies of State under this Easement are cumulative and in addition to all other rights and remedies afforded by law or equity or otherwise.

16.7 Time is of the Essence. TIME IS OF THE ESSENCE as to each and every provision of this Easement.

16.8 Language. The word "Grantee" as used in this Easement applies to one or more persons, as the case may be. The singular includes the plural, and the neuter includes the masculine and feminine. If there is more than one Grantee, their obligations are joint and several. The word "persons," whenever used, includes individuals, firms, associations, and corporations. The word "Parties" means State and Grantee in the collective. The word "Party" means either or both State and Grantee, depending on context.

16.9 Invalidity. The invalidity, voidness, or illegality of any provision of this Easement does not affect, impair, or invalidate any other provision of this Easement.

16.10 Applicable Law and Venue. This Easement is to be interpreted and construed in accordance with the laws of the State of Washington. Any reference to a statute means that statute as presently enacted or hereafter amended or superseded. Venue for any action arising out of or in connection with this Easement is in the Superior Court for Thurston County, Washington.

16.11 Recordation. At Grantee's expense and no later than thirty (30) days after receiving the fully-executed Easement, Grantee shall record this Easement in the county in which the Property is located. Grantee shall include the parcel number of the upland property used in conjunction with the Property, if any. Grantee shall provide State with recording information, including the date of recordation and file number. If Grantee fails to record this Easement State may record the Easement and Grantee shall pay the costs of recording upon State's demand.

16.12 Modification. No modification of this Easement is effective unless in writing and signed by the Parties. Oral representations or statements do not bind either Party.

16.13 Survival. Any obligations of Grantee not fully performed upon termination of this Easement do not cease, but continue as obligations of the Grantee until fully performed.

16.14 Exhibits. All referenced exhibits are incorporated in this Easement unless expressly identified as unincorporated.

THIS AGREEMENT requires the signature of all Parties and is effective on the date of the last signature below.

CITY OF ANACORTES

Dated: _____, 20__

By: LAURIE GERE
Title: Mayor
Address: PO Box 547
Anacortes, WA 98221
Phone: 360-293-1900

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20__

By: Peter Goldmark
Title: Commissioner of Public Lands
Address: 1111 Washington St. SE
Olympia, WA 98504-7000

Approved as to form this
29 day of June 2015
Terry Pruitt, Assistant Attorney General

REPRESENTATIVE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
County of Skagit)

I certify that I know or have satisfactory evidence that LAURIE GERE is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor of the City of Anacortes to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____
(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at

My appointment expires

STATE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
County of Thurston)

I certify that I know or have satisfactory evidence that PETER GOLDMARK 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 Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

(Print Name)

Notary Public in and for the State of
Washington, residing at

My appointment expires

EXHIBIT A

Agreement Number 51-092332

Recording number of final DNR approved survey in Skagit County: 201609300175

Legal description of the Property:

COMMENCING at the meander corner common to Sections 19 and 30, Township 35 North, Range 2 East of the Willamette Meridian;
thence South 88° 03' 11" East along the easterly projection of the line common to said Sections 19 and 30 for a distance of 606.69 feet to the Anacortes Inner Harbor Line, as depicted by that survey performed by the Washington State Department of Natural Resources and recorded under Skagit County Auditor's File No. 200110030106;
thence South 28° 28' 51" East along said inner harbor line for a distance of 303.42 feet to the northeasterly corner of that property delineated as Tract 2 of Anacortes Short Plat No. 94-005, as approved January 26, 1995, and recorded February 16, 1995, in Volume 11 of Short Plats, pages 183 and 184, under Auditor's File No. 9502160015, records of Skagit County, Washington;
thence South 88° 08' 26" East 35.99 feet to the northerly projection of the westerly margin of "W" Avenue, as delineated by said Short Plat No. 94-005;
thence North 14° 39' 21" East 51.38 feet to the POINT OF BEGINNING of this description;
thence North 85° 51' 23" East 40.37 feet;
thence North 3° 54' 55" West 208.26 feet to the easterly projection of the line common to said Sections 19 and 30;
thence North 3° 06' 01" West 38.69 feet;
thence North 88° 03' 11" West 30.15 feet;
thence South 8° 32' 52" East 67.38 feet;
thence South 3° 54' 55" East 134.29 feet;
thence South 14° 39' 21" West 51.42 feet to the POINT OF BEGINNING.

Situate in the County of Skagit, State of Washington.

And

COMMENCING at the meander corner common to Sections 19 and 30, Township 35 North, Range 2 East of the Willamette Meridian;
thence South 88° 03' 11" East along the easterly projection of the line common to said Sections 19 and 30 for a distance of 606.69 feet to the Anacortes Inner Harbor Line, as depicted by that survey performed by the Washington State Department of Natural Resources and recorded under Skagit County Auditor's File No. 200110030106;
thence South 28° 28' 51" East along said inner harbor line for a distance of 303.42 feet to the northeasterly corner of that property delineated as Tract 2 of Anacortes Short Plat No. 94-005, as approved January 26, 1995, and recorded February 16, 1995, in Volume 11 of Short Plats, pages 183 and 184, under Auditor's File No. 9502160015, records of Skagit County, Washington;

thence South 88° 08' 26" East 35.99 feet to the northerly projection of the westerly margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence South 4° 08' 37" East along said projection for a distance of 2.01 feet to the POINT OF BEGINNING of this description;
thence North 85° 51' 23" East 80.00 feet to the northerly projection of the easterly margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence North 4° 08' 37" West along said projection for a distance of 50.64 feet;
thence South 85° 51' 23" West 63.44 feet;
thence South 14° 39' 21" West 51.38 feet to the northerly projection of the westerly margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence South 4° 08' 37" East along said projection for a distance of 2.01 feet to the POINT OF BEGINNING.

Situate in the County of Skagit, State of Washington.

And

COMMENCING at the meander corner common to Sections 19 and 30, Township 35 North, Range 2 East of the Willamette Meridian;
thence South 88° 03' 11" East along the easterly projection of the line common to said Sections 19 and 30 for a distance of 606.69 feet to the Anacortes Inner Harbor Line, as depicted by that survey performed by the Washington State Department of Natural Resources and recorded under Skagit County Auditor's File No. 200110030106;
thence South 28° 28' 51" East along said inner harbor line for a distance of 303.42 feet to the northeasterly corner of that property delineated as Tract 2 of Anacortes Short Plat No. 94-005, as approved January 26, 1995, and recorded February 16, 1995, in Volume 11 of Short Plats, pages 183 and 184, under Auditor's File No. 9502160015, records of Skagit County, Washington;
thence South 88° 08' 26" East 35.99 feet to the northerly projection of the westerly margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence South 4° 08' 37" East along said projection for a distance of 2.01 feet to the POINT OF BEGINNING of this description;
thence North 85° 51' 23" East 80.00 feet to the northerly projection of the easterly margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence South 4° 08' 37" East along said projection for a distance of 250.23 feet to said inner harbor line;
thence North 28° 28' 51" West along said inner harbor line for a distance of 97.06 feet to the right-of-way centerline of "W" Avenue;
thence continuing North 28° 28' 51" West along said inner harbor line for a distance of 97.06 feet to the westerly right-of-way margin of "W" Avenue as delineated by said Short Plat No. 94-005;
thence continuing North 28° 28' 51" West along said inner harbor line for a distance of 27.20 feet;
thence North 1° 20' 42" West 51.56 feet;
thence South 88° 08' 26" East 8.74 feet;
thence South 4° 08' 37" East 2.01 feet to the northerly projection of the westerly right-of-way margin of said "W" Avenue and the POINT OF BEGINNING.

Situate in the County of Skagit, State of Washington.

Acreage or Square footage:

Total square feet 23,792 square feet

EXHIBIT B

1. DESCRIPTION OF PERMITTED USE

- A. Existing Facilities. Fill, paved road, crushed-gravel-surface road, gate, and utilities.
- B. Proposed Facilities. None.

2. ADDITIONAL OBLIGATIONS

- A. Grantee shall adhere to the following protocols when engaging in construction, alteration, replacement, major repair, modification, demolition, and deconstruction of Improvements that excavate soil from below two (2) feet below ground surface as it exists or existed at the commencement of the Easement:
 - 1. Grantee shall characterize soil excavated from below two (2) feet below ground surface prior to using it to backfill and prior to offsite removal. This can be done prior to excavation or after excavation, with composite samples from stockpiles placed on plastic and covered in the case of rain. If clean, soil can be used to backfill excavations. If not clean, soil must be disposed offsite per regulations and clean material brought in for backfill.
 - 2. Grantee shall not mix or spread excavated soil from below two (2) feet below ground surface on or with surface soil or with gravel used to provide a firm foundation.
 - 3. Grantee shall inform contractors of the potential risk of soil contamination and conform to relevant OSHA requirements.
 - 4. At least sixty (60) days prior to beginning activities that involve excavation of soil from below two (2) feet below ground surface as it exists or existed at the commencement of the Easement, Grantee shall submit to State a soil management and sampling plan detailing how it will adhere to the protocols of this Paragraph A. State shall review and approve the soils management and sampling plan pursuant to Paragraph 7.3 of the Easement.

Attachment B

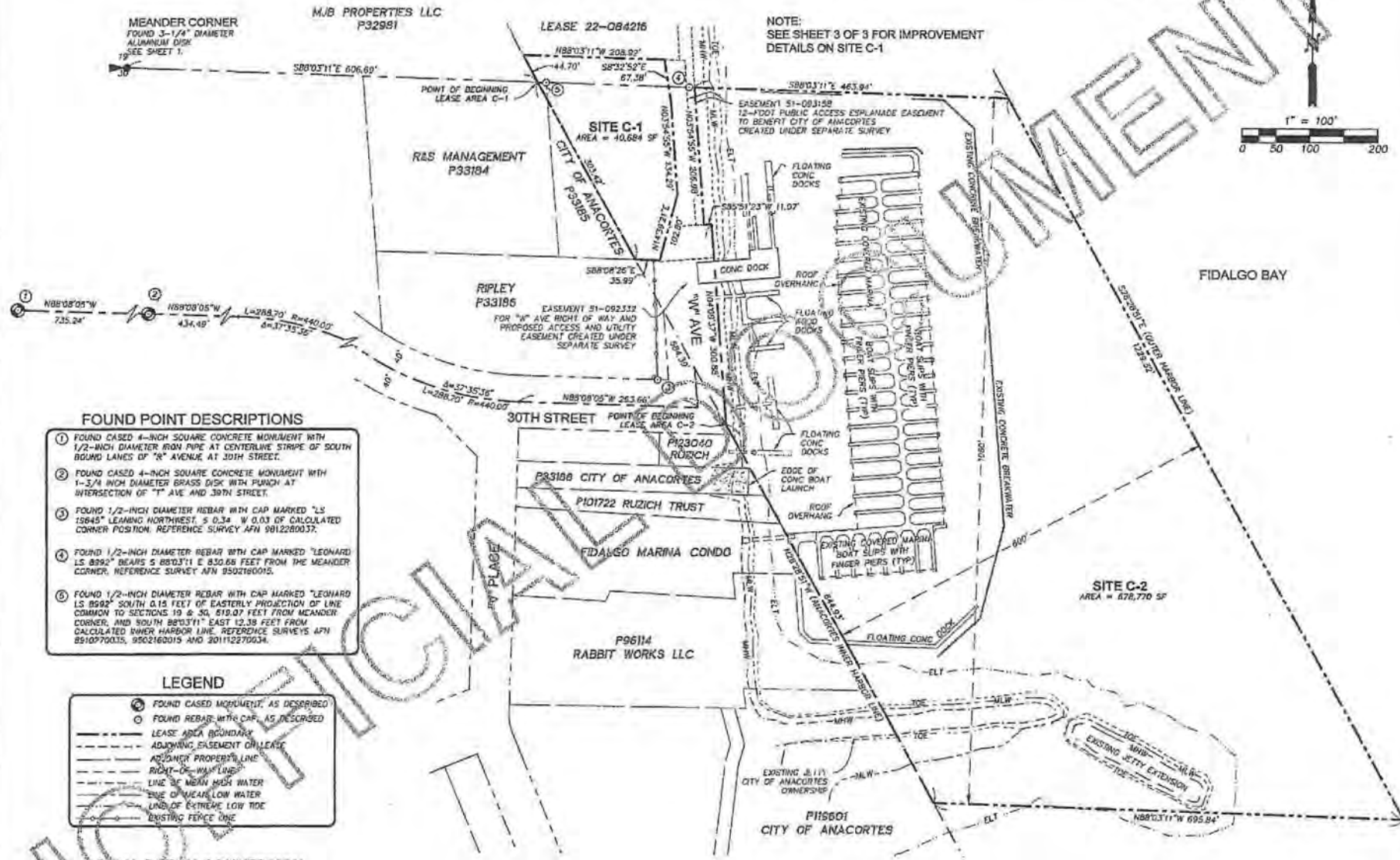


**SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19,
AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.**

201609300174

Seagirt County Auditor
9/30/2018 Page 2 of 3

316700
11/13/2018



FOUND POINT DESCRIPTIONS

- ① FOUND CASED 4-INCH SQUARE CONCRETE MONUMENT WITH 1/2-INCH DIAMETER IRON PIPE AT CENTERLINE STRIPE OF SOUTH BOUND LINES OF "A" AVENUE AT 30TH STREET.
- ② FOUND CASED 4-INCH SQUARE CONCRETE MONUMENT WITH 1-3/4 INCH DIAMETER BRASS DISK WITH PUNCH AT INTERSECTION OF "T" AVE AND 30TH STREET.
- ③ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LS 15845" LEVAND NORTHWEST, S 0.34 W 0.03 OF CALCULATED CORNER POSITION. REFERENCE SURVEY APN 9812260037.
- ④ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LEONARD LS 8592" BEARS S 850311 E 830.66 FEET FROM THE MEANDER CORNER. REFERENCE SURVEY APN 9502160015.
- ⑤ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LEONARD LS 8592" SOUTH 0.15 FEET OF EASTERLY PROJECTION OF LINE COMMON TO SECTIONS 19 & 30, 519.07 FEET FROM MEANDER CORNER, AND SOUTH 850311 EAST 12.38 FEET FROM CALCULATED BAY HARBOR LINE. REFERENCE SURVEYS APN 8510770035, 9502160015 AND 30112270034.

LEGEND

- ② FOUND CASED MONUMENT, AS DESCRIBED
- FOUND REBAR WITH CAP, AS DESCRIBED
- LEASE AREA BOUNDARY
- ADJOINING EASEMENT OR LEASE
- ADJOINER PROPERTY LINE
- RIGHT-OF-WAY LINE
- LINE OF MEAN HIGH WATER
- LINE OF MEAN LOW WATER
- LINE OF EXTREME LOW TIDE
- EXISTING FENCE LINE

TIDAL DATUM CONVERSION

TIDAL DATUM	ELEVATION IN NAVD83 DATUM
MEAN LOWER LOW WATER (MLLW) 0.00	-0.51
MEAN LOW WATER (MLW) 0.00	1.98
MEAN HIGH WATER (MHW) 0.00	5.99
MEAN HIGHER HIGH WATER (MHHW) 0.00	7.75
EXTREME LOW TIDE (ELT) 0.00	-3.02

TIDAL DATUM CONVERSIONS WERE DERIVED WITH DATUM SOFTWARE AS PROVIDED BY THE NATIONAL GEODETIC SURVEY.



CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL
RESOURCES AQUATIC LEASE NO. 22-A02664

SCALE: 1" = 100'	DRAWN BY: JTB	DATE: 9/15/18	SHEET: 2 OF 3
REVISED: 9/25/18	BY: JTB	DATE: 9/25/18	DATE: 9/25/18
F/B: 15-082	DATE: 15-082	DATE: 15-082	DATE: 15-082
603 SOUTH FIRST STREET MOUNT VERNON, WA 98273 TEL: (360) 336-9199			DATE: 15-082

**SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19,
AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.**

AUDITOR'S CERTIFICATE

201609300174
 Skagit County Auditor
 9/30/2016 Page 1 of 1
 1:43PM
 JEN & ASSOCIATES, INC.
 BY DEPUTY

LEASE NO. 22-A02664

1. NAME OF APPLICANT: CITY OF ANACORTES
2. PURPOSE OF THE LEASE AREA: A MARINA, BOAT LAUNCH FACILITY, DOCKS, CONCRETE PAVED BREAKWATER, ROCK GUTTY, FILL WITH RUMPPED ARMORING, AND BOAT YARD.

SURVEY NOTES

1. BASE OF BEARINGS: GRID NORTH, WASHINGTON COORDINATE SYSTEM NORTH ZONE BY GPS OBSERVATIONS: S 88° 03' 11" E ALONG THE SOUTH LINE OF SECTION 19, AS MONUMENTED AND SHOWN HEREON.
2. COORDINATES SHOWN HEREON ARE IN THE WASHINGTON COORDINATE SYSTEM OF 1983, 1991 ADJUSTMENT, NORTH ZONE (WCSN2 83/91) AND ARE DISPLAYED IN U.S. SURVEY FEET AND DECIMALS THEREOF.
3. VERTICAL DATUM UTILIZED FOR THIS SURVEY IS NAUD 1988, AS ESTABLISHED WITH GLOBAL POSITIONING SYSTEM DATA OBTAINED WITH THE WASHINGTON STATE REFERENCE NETWORK AND CONFIRMED WITH OBSERVATIONS AT HARN STATION "CAP SANTE".
4. THIS RECORD OF SURVEY IS PREPARED TO SUPERSEDE THAT SURVEY PREPARED FOR 22-A02664, RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NUMBER 20031100272.
5. THE HARBOR LINES SHOWN HEREON ARE CALCULATED BASED ON THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 20010030108, AND CONFIRMED BY GPS OBSERVATIONS AT MONUMENTS "CAP SANTE", "R-1" AND "R-2", REFERENCED THEREON.
6. GROUND DISTANCES DEPICTED HEREON WERE EXPANDED TO GRADE USING A COMBINED SCALE FACTOR OF 0.999564343 FROM THAT WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES SURVEY RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 20010030108.
7. THIS SURVEY WAS ACCOMPLISHED BY FIELD TRAVERSE WITH A 3-SECOND ELECTRONIC DIGITAL TOTAL STATION AND REAL-TIME KINEMATIC GLOBAL POSITIONING SYSTEM DATA OBTAINED WITH THE WASHINGTON STATE REFERENCE NETWORK.
8. THIS SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS SPECIFIED BY WAC 532-130-090.

LEASE AREA LEGAL DESCRIPTIONS

SITE C-1:

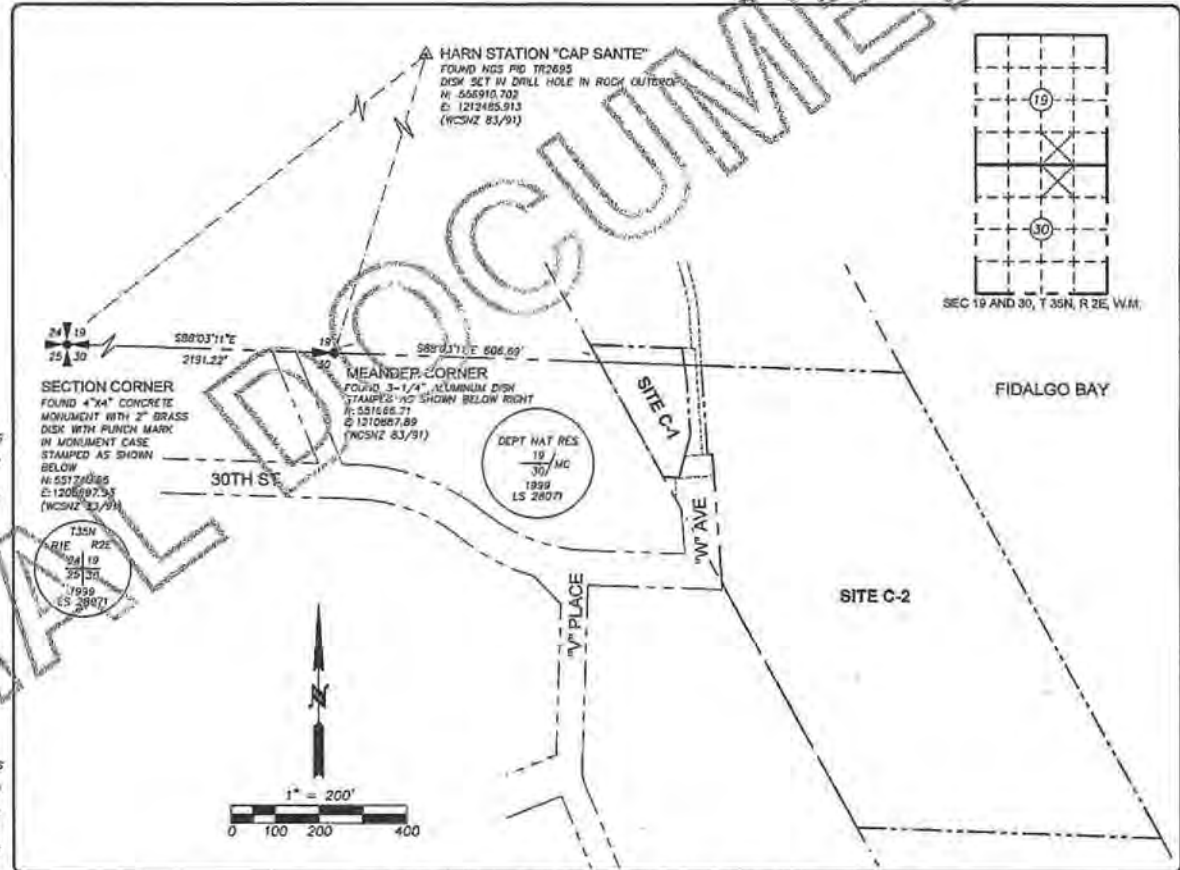
COMMENCING AT THE MEANDER CORNER COMMON TO SECTIONS 19 AND 30, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN;
 THENCE SOUTH 88° 03' 11" EAST ALONG THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30 FOR A DISTANCE OF 606.69 FEET TO THE ANACORTES INNER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 20010030106, AND THE POINT OF BEGINNING OF THIS DESCRIPTION;
 THENCE SOUTH 28° 28' 51" EAST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 303.42 FEET TO THE NORTHEASTERLY CORNER OF THAT PROPERTY DELINEATED AS TRACT 2 OF ANACORTES SHORT PLAT NO. 94-005, AS APPROVED JANUARY 28, 1995, AND RECORDED FEBRUARY 16, 1995, IN VOLUME 11 OF SHORT PLATS, PAGES 183 AND 184, UNDER AUDITOR'S FILE NO. 3502160015, RECORDS OF SKAGIT COUNTY, WASHINGTON;
 THENCE SOUTH 88° 03' 11" EAST 35.99 FEET TO THE NORTHERLY PROJECTION OF THE WESTERLY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE NORTH 14° 39' 21" EAST 102.80 FEET;
 THENCE NORTH 3° 54' 55" WEST 134.29 FEET;
 THENCE NORTH 8° 32' 52" WEST 87.38 FEET;
 THENCE NORTH 88° 03' 11" WEST 208.92 FEET TO SAID INNER HARBOR LINE;
 THENCE SOUTH 28° 28' 51" EAST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 44.70 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

SITE C-2:

COMMENCING AT THE MEANDER CORNER COMMON TO SECTIONS 19 AND 30, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN;
 THENCE SOUTH 88° 03' 11" EAST ALONG THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30 FOR A DISTANCE OF 606.69 FEET TO THE ANACORTES INNER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 20010030106;
 THENCE SOUTH 28° 28' 51" EAST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 384.39 FEET TO THE EASTERLY MARGIN OF "W" AVENUE AS DELINEATED BY ANACORTES SHORT PLAT NO. 94-005, AS APPROVED JANUARY 28, 1995, AND RECORDED FEBRUARY 16, 1995, IN VOLUME 11 OF SHORT PLATS, PAGES 183 AND 184, UNDER AUDITOR'S FILE NO. 3502160015, RECORDS OF SKAGIT COUNTY, WASHINGTON, AND THE POINT OF BEGINNING OF THIS DESCRIPTION;
 THENCE NORTH 4° 08' 37" WEST, ALONG THE NORTHERLY PROJECTION OF SAID EASTERLY MARGIN, FOR A DISTANCE OF 300.88 FEET;
 THENCE SOUTH 85° 51' 27" WEST 11.02 FEET;
 THENCE NORTH 3° 54' 55" WEST 224.98 FEET TO THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30;
 THENCE SOUTH 88° 03' 11" EAST 483.94 FEET TO THE ANACORTES OUTER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 20010030108;
 THENCE SOUTH 28° 28' 51" EAST ALONG SAID OUTER HARBOR LINE FOR A DISTANCE OF 1229.32 FEET;
 THENCE NORTH 88° 03' 11" WEST, AND PARALLEL WITH THE LINE COMMON TO SAID SECTIONS 19 AND 30, FOR A DISTANCE OF 635.64 FEET TO THE INNER HARBOR LINE;
 THENCE SOUTH 28° 28' 51" WEST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 544.93 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



SECTION AND GPS CONTROL DIAGRAM

SCALE 1"=200FT

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE WASHINGTON STATE SURVEY RECORDS ACT AT THE REQUEST OF THE CITY OF ANACORTES, IN JULY, 2015.

James B. Smith 9/29/16
 JAMES B. SMITH, PLS CF 005
 CERTIFICATE NO. 27327



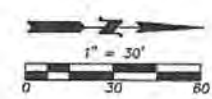
CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AQUATIC LEASE NO. 22-A02664

SCALE: 1" = 200'	DRAWN BY: JTF	DATE: 9/16/15	SHEET: 1 OF 3
REVISED: 3/25/16	Y/B: MA-101	15-082	
HARMSEN & ASSOCIATES, INC. 803 SOUTH FIRST STREET MOUNT VERNON, WA 98273 TEL: (360) 336-9199			S.T.B. INDEX 19 & 30 34N2E G.L. 5 & 10

201609300175
Skagit County Assessor
9/30/2016 Page 3 of 3 3:45 PM

NOTE: THE PURPOSE OF THIS MAP SHEET IS TO PROVIDE HORIZONTAL LOCATIONS OF EXISTING AND PROPOSED CONDITIONS WITHIN THE PROPOSED LEASE AREA BOUNDARIES. REFERENCE SHEET 1 AND 2 OF THIS SURVEY FOR LEASE DESCRIPTIONS AND GEOMETRY.



EXISTING FEATURES

- FENCE GATE POST
- WOOD PILING
- METAL PILING
- SIGN ON POST, AS NOTED
- DRAINAGE DRAINHOLE
- CATCH BASIN
- TELEPHONE REDESTAL
- FOUND REBAR (SEE SHEET)
- LIGHT POLE
- ELECTRICAL HOOK-UP
- POWER PEDESTAL
- POWER METER
- CULVERT
- WATER VALVE

-  WATER METER
-  FIRE HYDRANT
-  WATER FAUCET
-  MONITORING WELL
-  UNDERGROUND TELEPHONE LINE
-  UNDERGROUND POWER LINE
-  STORM DRAIN LINE
-  PARCEL BOUNDARY/OWNERSHIP LINE
-  RIGHT-OF-WAY LINE
-  RIGHT-OF-WAY CENTERLINE
-  DITCH/SWALE CENTERLINE
-  BARBED WIRE FENCE
-  WOOD FENCE
-  CHAIN-LINK FENCE/METAL RAILING

PROPOSED FEATURES

-  DOUBLE CHECK VALVE
 DETECTOR ASSEMBLY
 THRUST BLOCK
 WATER VALVE
 UTILITY JUNCTION BOX
 WATER METER
 BOLLARD
 B-BV FIRE LINE
 WATER SERVICE LINE
 UNDERGROUND POWER
 ACCESS ROAD

ABBREVIATIONS

- CONC - CONCRETE
CL - CENTERLINE
DIA - DIAMETER
DNR - DEPARTMENT OF NATURAL RESOURCES
EOG - EDGE OF GRAVEL
EX - EXISTING
IN - INCH
FT - FOOT
LS - LAND SURVEYOR
GOV'T - GOVERNMENT
W/- WITH
CMP - CORRUGATED METAL PIPE
CPP - CORRUGATED PLASTIC PIPE

WASHINGTON STATE DEPARTMENT OF NATURAL
RESOURCES AQUATIC EASEMENT NO. 51-092332

SCALE: 1" = 2'
DRAWN BY: JTB
6/1
REVISED: 3/2016

HARMSEN
A ASSOCIATES IN
603 SOUTH FIRST STREET
MOUNT VERNON, WA 98273
TEL: (360) 336-9199

SHEET
3 OF 3
S.I.R. INDEX
19 & 30-35N-2E
Q1 5210

SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19,
AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.

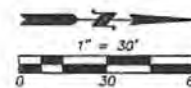
201609300175
King County Auditor
9/30/2016 Page 2 of 3 5:02 PM

FOUND POINT DESCRIPTIONS

- ① FOUND Cased 4-INCH SQUARE CONCRETE MONUMENT WITH 1/2-INCH DIAMETER IRON PIPE 0.9 FEET BELOW GRADE AT CENTERLINE STRIKE OF SOUTH BOUND LANES OF "W" AVENUE AT 30TH STREET.
- ② FOUND Cased 4-INCH SQUARE CONCRETE MONUMENT WITH 1-3/4 INCH DIAMETER BRASS DISK WITH PUNCH AT INTERSECTION OF "W" AVE AND 39TH STREET.
- ③ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LS 19645" LEANING NORTHWEST, S 0.34 W 0.03 OF CALCULATED CORNER POSITION, REFERENCE SURVEY APN 9812200037.
- ④ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LEONARD LS 8992" BEARS S 88°03'11" E 830.66 FEET FROM THE MEANDER CORNER REFERENCE SURVEY APN 9502160015.
- ⑤ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LEONARD LS 8992" SOUTH 0.15 FEET OF EASTERLY PROJECTION OF LINE COMMON TO SECTIONS 19 & 30, 918.07 FEET FROM MEANDER CORNER, AND SOUTH 88°03'11" EAST 12.38 FEET FROM CALCULATED INNER HARBOR LINE. REFERENCE SURVEYS APN 8910270035, 9502160015 AND 20112270034

LEGEND

- ① FOUND Cased MONUMENT, AS DESCRIBED
- FOUND REBAR WITH CAP, AS DESCRIBED
- LEASE AREA BOUNDARY
- ADJOINING EASEMENT OR LEASE
- ADJOINER PROPERTY LINE
- RIGHT-OF-WAY LINE
- EXISTING FENCE LINE
- EXISTING FENCE LINE



CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL
RESOURCES AQUATIC EASEMENT NO. 51-082332

SCALE: 1" = 30'	DRAWN BY: JTF	DATE: 9/10/15	SHEET: 2 OF 3
REVISED: 9/29/16	F/B: 10/101	DATE: 10-08	S.T.B. INDEX: 18 & 30-35N-3E
HARMSEN & ASSOCIATES INC. 603 SOUTH FIRST STREET MOUNT VERNON, WA 98273 TEL: (360) 336-9199			O.L. 5.8.16

**SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19
AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.**

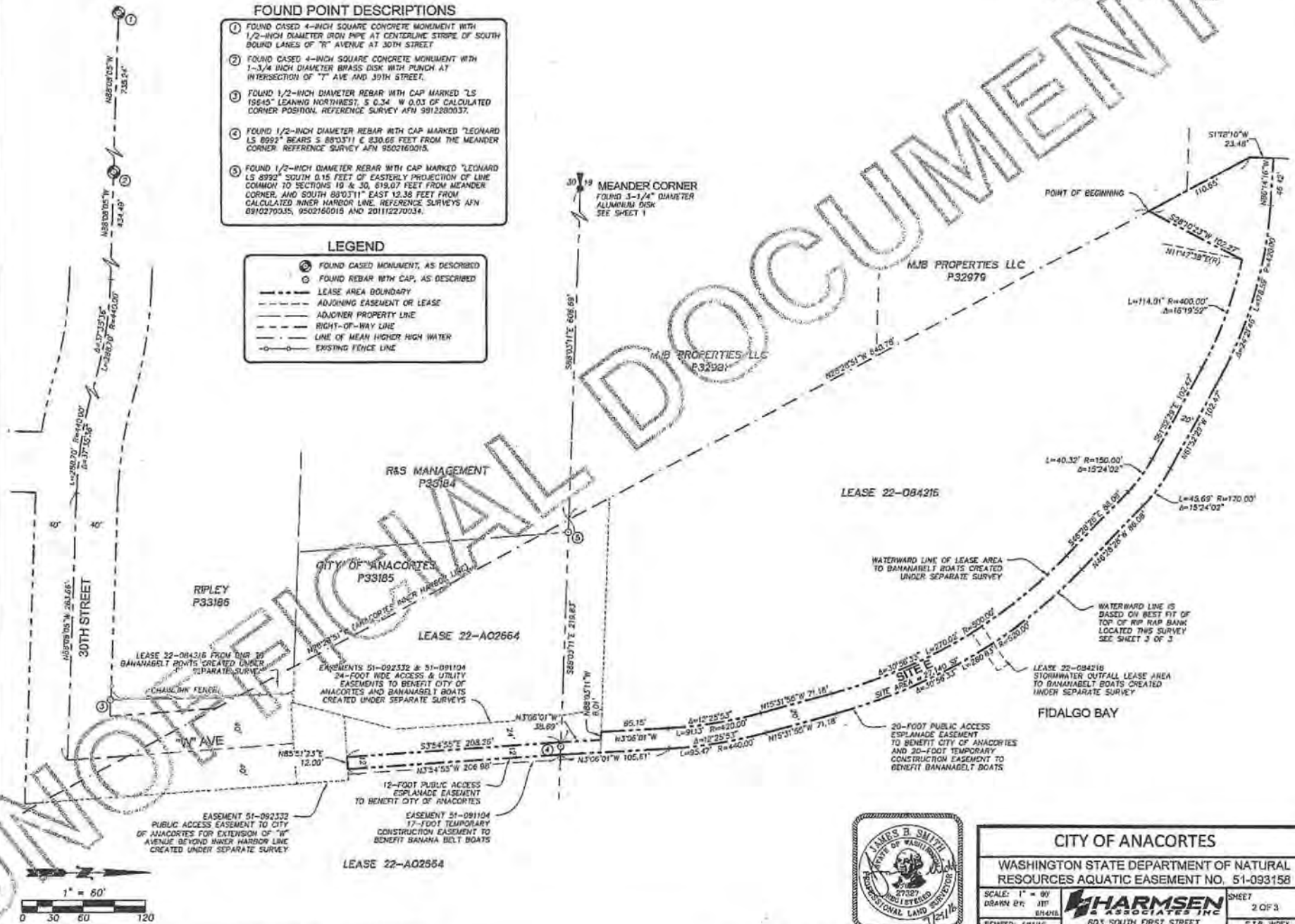
2016093001173
Brazos County Auditor
9/30/2016 Page 2 of 3 \$187.00
47PM

FOUND POINT DESCRIPTIONS

- ① FOUND CASED 4-INCH SQUARE CONCRETE MONUMENT WITH 1/2-INCH DIAMETER IRON PIPE AT CENTERLINE STROKE OF SOUTH BOUND LINES OF "R" AVENUE AT 30TH STREET
- ② FOUND CASED 4-INCH SQUARE CONCRETE MONUMENT WITH 1-3/4 INCH DIAMETER BRASS DISK WITH PUNCH AT INTERSECTION OF "T" AVE AND 30TH STREET
- ③ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LS 19645" LEANING NORTHWEST, S 0.34° W 0.03 OF CALCULATED CORNER POSITION, REFERENCE SURVEY APN 501200037
- ④ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LEONARD LS 8992" BEARS S 88°03'11" E 830.65 FEET FROM THE MEANDER CORNER, REFERENCE SURVEY APN 9502160015
- ⑤ FOUND 1/2-INCH DIAMETER REBAR WITH CAP MARKED "LEONARD LS 8992" SOUTH 0.15 FEET OF EASTERLY PROJECTION OF LINE COMMON TO SECTIONS 10 & 30, 619.07 FEET FROM MEANDER CORNER, AND SOUTH 88°03'11" EAST 12.38 FEET FROM CALCULATED INNER HARBOR LINE, REFERENCE SURVEYS APN 6910270035, 9502160015 AND 20115270034

LEGEND

- ② FOUND CASED MONUMENT, AS DESCRIBED
- FOUND REBAR WITH CAP, AS DESCRIBED
- LEASE AREA BOUNDARY
- ADJOINING EASEMENT OR LEASE
- ADJOINER PROPERTY LINE
- RIGHT-OF-WAY LINE
- LINE OF MEAN HIGHER HIGH WATER
- EXISTING FENCE LINE



CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL
RESOURCES AQUATIC EASEMENT NO. 51-093158

SCALE: 1" = 60'	HARMSEN SURVEYING & ENGINEERING 805 SOUTH FIRST STREET MOUNT VERNON, WA 98273 TEL: (360) 336-9199	SHEET 2 OF 3
DRAWN BY: JBT CHECKED: RJA/ALS REVISED: 6/11/16 P.D.: M/V/01 JOB#: 15-003		S.T.B. INDEX 19 & 20-34N-2E 6L 5 & 10

**SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19
AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.**

AUDITOR'S CERTIFICATE

201609300176
Skagit County Auditor
9/30/2016 Page 1 of 3 1:47PM
FILED FOR RECORD AT THE REQUEST OF HARMSEN & ASSOCIATES, INC.
SKAGIT COUNTY AUDITOR DEPUTY

EASEMENT NO. 51-093158

1. NAME OF APPLICANT: CITY OF ANACORTES
2. PURPOSE OF THE EASEMENT AREA: OPERATION AND MAINTENANCE OF A PUBLIC ACCESS TRAIL.

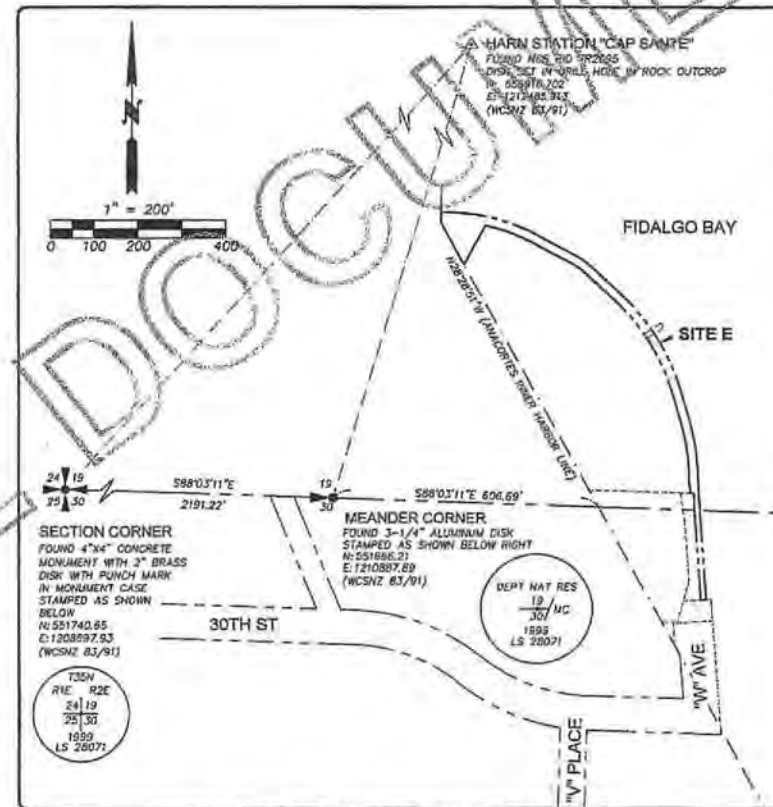
SURVEY NOTES

1. BASIS OF BEARINGS: GRID NORTH, WASHINGTON COORDINATE SYSTEM NORTH ZONE BY GPS OBSERVATIONS. 3 69° 03' 11" E ALONG THE SOUTH LINE OF SECTION 19, AS MONUMENTED AND SHOWN HEREON.
2. COORDINATES SHOWN HEREON ARE IN THE WASHINGTON COORDINATE SYSTEM OF 1983, 1991 ADJUSTMENT, NORTH ZONE (WGSN 83/91) AND ARE DISPLAYED IN U.S. SURVEY FEET AND DECIMALS THEREOF.
3. THE HARBOR LINES SHOWN HEREON ARE CALCULATED BASED ON THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106, AND CONFIRMED BY GPS OBSERVATIONS AT MONUMENTS "CAP SANTE", "R-1" AND "R2-3", REFERENCED THEREON.
4. GROUND DISTANCES DEPICTED HEREON WERE EXPANDED TO GRADE USING A COMBINED SCALE FACTOR OF 0.99864343 FROM THAT WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES SURVEY RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106.
5. THIS SURVEY WAS ACCOMPLISHED BY FIELD TRAVERSE WITH A 3-SECOND ELECTRONIC DIGITAL TOTAL STATION AND REAL-TIME KINEMATIC GLOBAL POSITIONING SYSTEM (GPS) DATA OBTAINED WITH THE WASHINGTON STATE REFERENCE NETWORK.
6. THIS SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS SPECIFIED BY WAC 332-130-090.

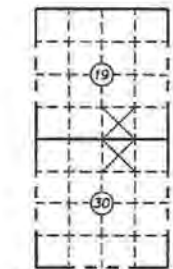
EASEMENT AREA LEGAL DESCRIPTION

SITE E:
COMMENCING AT THE MEANDER CORNER COMMON TO SECTIONS 19 AND 30, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN;
THENCE SOUTH 68° 03' 11" EAST ALONG THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30 FOR A DISTANCE OF 606.69 FEET TO THE ANACORTES INNER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106;
THENCE NORTH 26° 28' 31" WEST ALONG SAID ANACORTES INNER HARBOR LINE FOR A DISTANCE OF 140.78 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE NORTH 26° 10' 23" EAST 102.27 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 400.00 FEET, TO WHICH POINT A RADIAL LINE BEARS NORTH 11° 47' 38" EAST;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16° 19' 52" FOR A DISTANCE OF 117.01 FEET;
THENCE SOUTH 61° 52' 29" EAST 102.47 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 150.00 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12° 24' 02" FOR A DISTANCE OF 40.32 FEET;
THENCE SOUTH 46° 28' 28" EAST 85.08 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 500 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30° 56' 33" FOR A DISTANCE OF 270.02 FEET;
THENCE SOUTH 15° 31' 53" EAST 71.18 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 420.00 FEET;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12° 25' 53" FOR A DISTANCE OF 81.13 FEET;
THENCE SOUTH 3° 06' 01" EAST 85.15 FEET;
THENCE SOUTH 86° 03' 11" EAST 8.01 FEET;
THENCE SOUTH 3° 06' 01" EAST 38.59 FEET TO THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30;
THENCE SOUTH 03° 54' 55" EAST 208.26 FEET;
THENCE NORTH 85° 51' 23" EAST 12.00 FEET;
THENCE NORTH 31° 54' 55" WEST 206.98 FEET TO THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30;
THENCE NORTH 31° 06' 01" WEST 105.63 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 440.00 FEET;
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12° 25' 53" FOR A DISTANCE OF 95.47 FEET;
THENCE NORTH 15° 31' 53" WEST 171.18 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 520.00 FEET;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30° 56' 33" FOR A DISTANCE OF 280.83 FEET;
THENCE NORTH 46° 28' 28" WEST 85.08 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 170.00 FEET;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15° 34' 02" FOR A DISTANCE OF 45.69 FEET;
THENCE NORTH 03° 52' 29" WEST 102.47 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 420.00 FEET;
THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24° 21' 46" FOR A DISTANCE OF 178.59 FEET;
THENCE NORTH 85° 14' 16" WEST 18.42 FEET TO SAID INNER HARBOR LINE;
THENCE SOUTH 16° 10' 10" WEST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 23.48 FEET TO AN ANGLE POINT THEREON;
THENCE SOUTH 26° 28' 31" EAST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 110.65 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



SECTION AND GPS CONTROL DIAGRAM
SCALE 1"=200'



SEC 19 AND 30, T 35N, R 2E, W.M.

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE WASHINGTON STATE SURVEY RECORDING ACT AT THE REQUEST OF THE CITY OF ANACORTES, IN JULY, 2015.

James B. Smith 9/24/16
JAMES B. SMITH, PLS CEAS
CERTIFICATE NO. 27327



CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AQUATIC EASEMENT NO. 51-093158

SCALE: 1" = 200'
DRAWN BY: JIF
DATE: 8/14/15
REVIEWED: 8/11/16
F/B: M4-101
JRF: 10-082
HARMSEN & ASSOCIATES, INC.
603 SOUTH FIRST STREET
MOUNT VERNON, WA 98273
TEL: (360) 336-9199
SHEET 1 OF 3
STR INDEX 19 & 30-35N-2E
CL 5 & 10

SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19
AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.

201609300176

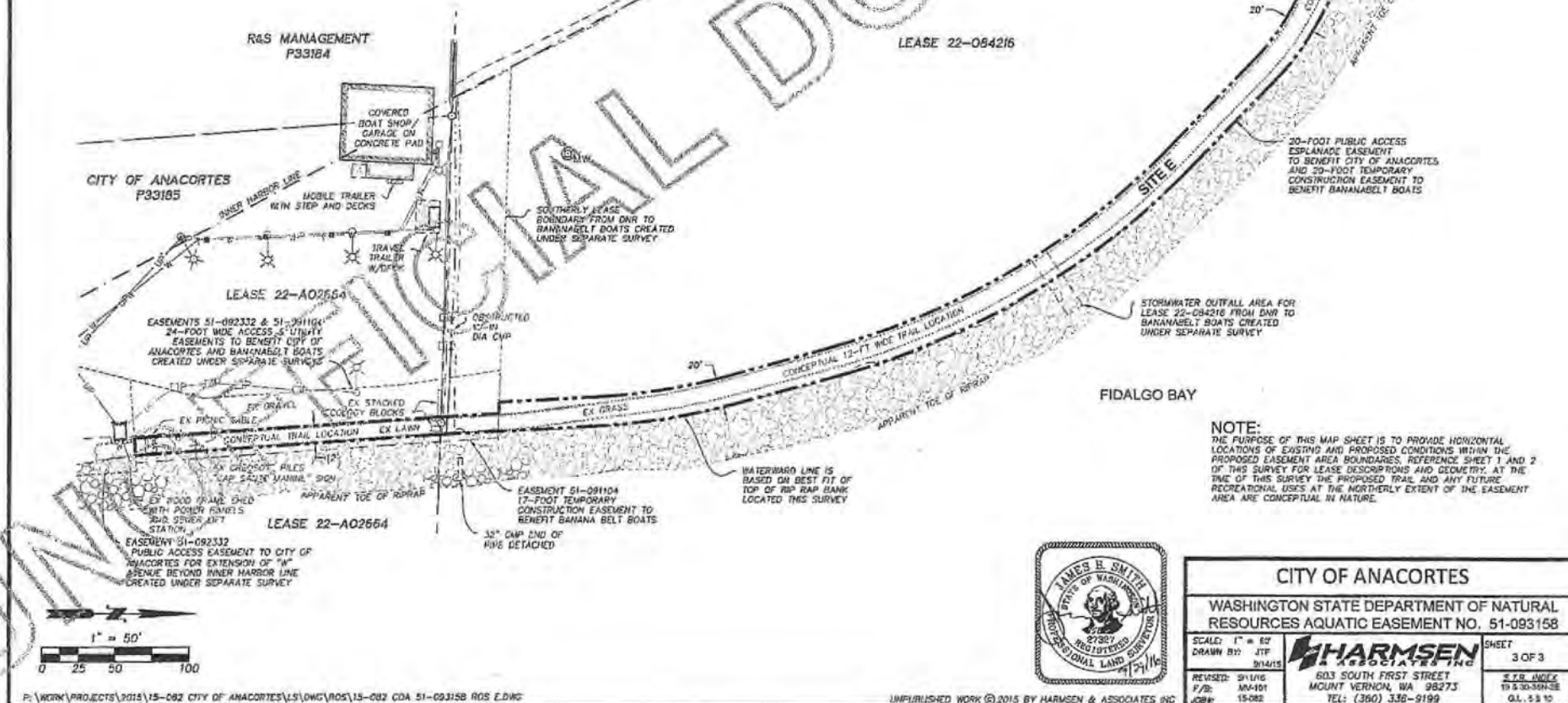
Shagb County Auditor
9/30/2016 Page 3 of 3 1:47PM

LEGEND AND ABBREVIATIONS

EXISTING FEATURES	PROPOSED FEATURES
FENCE GATE POST	RIGHT-OF-WAY CENTERLINE
SIGN ON POST, AS NOTED	DITCH/SWALE CENTERLINE
FOUND REBAR (SEE SHEET 2 OF 3)	BARBED WIRE FENCE
LIGHT POLE	WOOD FENCE
ELECTRICAL HOOK-UP	CHAINLINK FENCE/METAL RAILING
POWER PEDESTAL	
POWER METER	PROPOSED FEATURES
CULVERT	BOLLARD
WATER VALVE	CONCEPTUAL TRAIL
WATER METER	
FIRE HYDRANT	ABBREVIATIONS
WATER FAUCET	CONC - CONCRETE
MONITORING WELL	CL - CENTERLINE
UT - UNDERGROUND TELEPHONE LINE	DIA - DIAMETER
UP - UNDERGROUND POWER LINE	DNR - DEPARTMENT OF NATURAL RESOURCES
PARCEL BOUNDARY/OWNERSHIP LINE	EOG - EDGE OF GRAVEL
RIGHT-OF-WAY LINE	EX - EXISTING
	IN - INCH
	FT - FOOT
	LS - LAND SURVEYOR
	GOVT - GOVERNMENT
	W/ - WITH
	CMP - CORRUGATED METAL PIPE
	CPP - CORRUGATED PLASTIC PIPE

MJB PROPERTIES LLC
P32981

MJB PROPERTIES LLC
P32979



CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL
RESOURCES AQUATIC EASEMENT NO. 51-093158

SCALE: 1" = 50'	DRAWN BY: JTB	SHEET 3 OF 3
REVISED: 9/1/16	MA-101	278 INDEX
P/B: 15-082		19 & 30-30N-3E
		Q.L. 5.5 10

SURVEY IN PORTIONS OF HARBOR AREAS ADJACENT TO GOVERNMENT LOT 5, SECTION 19, AND GOVERNMENT LOT 10, SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.

AUDITOR'S CERTIFICATE

201609300175
 Skagit County Auditor 1/26/20
 9/30/2018 Page 1 of 1
 FILED FOR RECORD AT THE REQUEST OF HARMSEN & ASSOCIATES, INC.
 SKAGIT COUNTY AUDITOR BY DEPUTY

SURVEY NOTES

1. BASIS OF BEARINGS: GRID NORTH, WASHINGTON COORDINATE SYSTEM NORTH ZONE BY GPS OBSERVATIONS $\pm 85^{\circ} 03' 11''$ E ALONG THE SOUTH LINE OF SECTION 19, AS MONUMENTED AND SHOWN HEREON.
2. COORDINATES SHOWN HEREON ARE IN THE WASHINGTON COORDINATE SYSTEM OF 1983, 1991 ADJUSTMENT, NORTH ZONE (WGSN 83/91) AND ARE DISPLAYED IN U.S. SURVEY FEET AND DECIMALS THEREOF.
3. THE HARBOR LINES SHOWN HEREON WERE CALCULATED BASED ON THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES SURVEY, RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106 AND CONFIRMED BY GPS OBSERVATIONS AT MONUMENTS "CAP SANTE", "N-1" AND "N2-3", REFERENCED THEREON.
4. GROUND DISTANCES DEPICTED HEREON WERE EXPANDED TO GRADE USING A COMBINED SCALE FACTOR OF 0.999964343 FROM THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES SURVEY RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106.
5. THIS SURVEY WAS ACCOMPLISHED BY FIELD TRAVERSE WITH A 3-SECOND ELECTRONIC DIGITAL TOTAL STATION AND REAL-TIME KINEMATIC GLOBAL POSITIONING SYSTEM (GPS) DATA OBTAINED WITH THE WASHINGTON STATE REFERENCE NETWORK.
6. THIS SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS SPECIFIED BY WAC 332-130-090.

EASEMENT AREA LEGAL DESCRIPTIONS

SITE D-1:

COMMENCING AT THE MEANDER CORNER COMMON TO SECTIONS 19 AND 30, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN;
 THENCE SOUTH $85^{\circ} 03' 11''$ EAST ALONG THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30 FOR A DISTANCE OF 606.69 FEET TO THE ANACORTES INNER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106;
 THENCE SOUTH $28^{\circ} 28' 51''$ EAST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 303.42 FEET TO THE NORTHEASTERLY CORNER OF THAT PROPERTY DELINEATED AS TRACT 2 OF ANACORTES SHORT PLAT NO. 94-005, AS APPROVED JANUARY 26, 1995, AND RECORDED FEBRUARY 16, 1995, IN VOLUME 11 OF SHORT PLATS, PAGES 183 AND 184, UNDER AUDITOR'S FILE NO. 5502160015, RECORDS OF SKAGIT COUNTY, WASHINGTON;
 THENCE SOUTH $85^{\circ} 08' 26''$ EAST 35.99 FEET TO THE NORTHERLY PROJECTION OF THE WESTERLY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE SOUTH $4^{\circ} 08' 37''$ EAST ALONG SAID PROJECTION FOR A DISTANCE OF 2.01 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
 THENCE NORTH $85^{\circ} 51' 23''$ EAST 80.00 FEET TO THE NORTHERLY PROJECTION OF THE EASTERLY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE SOUTH $4^{\circ} 08' 37''$ EAST ALONG SAID PROJECTION FOR A DISTANCE OF 250.23 FEET TO SAID INNER HARBOR LINE;
 THENCE NORTH $28^{\circ} 28' 51''$ WEST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 97.06 FEET TO THE RIGHT-OF-WAY CENTERLINE OF "W" AVENUE;
 THENCE CONTINUING NORTH $28^{\circ} 28' 51''$ WEST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 97.06 FEET TO THE WESTERLY RIGHT-OF-WAY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE CONTINUING NORTH $28^{\circ} 28' 51''$ WEST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 27.20 FEET;
 THENCE NORTH $1^{\circ} 20' 42''$ WEST 51.56 FEET;
 THENCE SOUTH $85^{\circ} 08' 26''$ EAST 8.74 FEET;
 THENCE SOUTH $4^{\circ} 08' 37''$ EAST 2.01 FEET TO THE NORTHERLY PROJECTION OF THE WESTERLY RIGHT-OF-WAY MARGIN OF SAID "W" AVE AND THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

SITE D-2:

COMMENCING AT THE MEANDER CORNER COMMON TO SECTIONS 19 AND 30, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN;
 THENCE SOUTH $85^{\circ} 03' 11''$ EAST ALONG THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30 FOR A DISTANCE OF 606.69 FEET TO THE ANACORTES INNER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106;
 THENCE SOUTH $28^{\circ} 28' 51''$ EAST ALONG SAID INNER HARBOR LINE FOR A DISTANCE OF 303.42 FEET TO THE NORTHEASTERLY CORNER OF THAT PROPERTY DELINEATED AS TRACT 2 OF ANACORTES SHORT PLAT NO. 94-005, AS APPROVED JANUARY 26, 1995, AND RECORDED FEBRUARY 16, 1995, IN VOLUME 11 OF SHORT PLATS, PAGES 183 AND 184, UNDER AUDITOR'S FILE NO. 5502160015, RECORDS OF SKAGIT COUNTY, WASHINGTON;
 THENCE SOUTH $85^{\circ} 08' 26''$ EAST 35.99 FEET TO THE NORTHERLY PROJECTION OF THE WESTERLY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE SOUTH $4^{\circ} 08' 37''$ EAST ALONG SAID PROJECTION FOR A DISTANCE OF 2.01 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
 THENCE NORTH $85^{\circ} 51' 23''$ EAST 80.00 FEET TO THE NORTHERLY PROJECTION OF THE EASTERLY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE NORTH $4^{\circ} 08' 37''$ WEST ALONG SAID PROJECTION FOR A DISTANCE OF 50.64 FEET;
 THENCE SOUTH $15^{\circ} 51' 23''$ WEST 62.44 FEET;
 THENCE SOUTH $14^{\circ} 39' 21''$ WEST 51.38 FEET TO THE NORTHERLY PROJECTION OF THE WESTERLY MARGIN OF "W" AVENUE AS DELINEATED BY SAID SHORT PLAT NO. 94-005;
 THENCE SOUTH $4^{\circ} 08' 37''$ EAST ALONG SAID PROJECTION FOR A DISTANCE OF 2.01 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

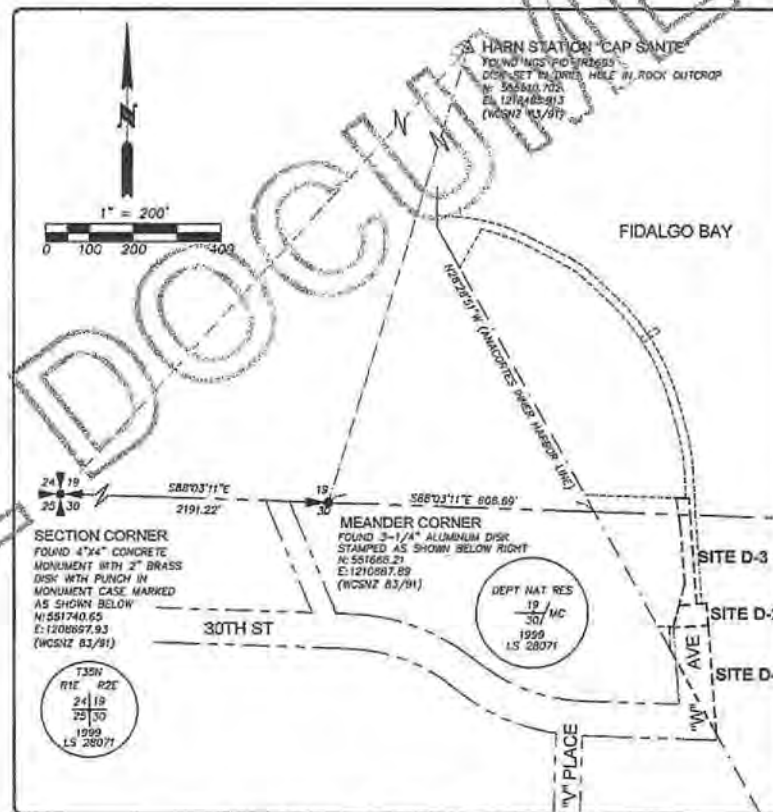
SITE D-3:

COMMENCING AT THE MEANDER CORNER COMMON TO SECTIONS 19 AND 30, TOWNSHIP 35 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN;
 THENCE SOUTH $85^{\circ} 03' 11''$ EAST ALONG THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30 FOR A DISTANCE OF 606.69 FEET TO THE ANACORTES INNER HARBOR LINE, AS DEPICTED BY THAT SURVEY PERFORMED BY THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AND RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200110030106;
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 THENCE NORTH $14^{\circ} 39' 21''$ EAST 51.38 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
 THENCE NORTH $85^{\circ} 51' 23''$ EAST 40.37 FEET;
 THENCE NORTH $1^{\circ} 54' 55''$ WEST 206.26 FEET TO THE EASTERLY PROJECTION OF THE LINE COMMON TO SAID SECTIONS 19 AND 30;
 THENCE NORTH $3^{\circ} 06' 01''$ WEST 38.69 FEET;
 THENCE NORTH $85^{\circ} 03' 11''$ WEST 20.15 FEET;
 THENCE SOUTH $8^{\circ} 32' 52''$ EAST 67.26 FEET;
 THENCE SOUTH $3^{\circ} 54' 55''$ EAST 134.29 FEET;
 THENCE SOUTH $14^{\circ} 39' 21''$ WEST 51.42 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

EASEMENT NO. 51-092332

1. NAME OF APPLICANT: CITY OF ANACORTES
2. PURPOSE OF THE EASEMENT AREA: CONSTRUCTION, MAINTENANCE, REPAIR, REPLACEMENT, AND USE OF ROAD KNOW AS "W" AVENUE, USE OF A ROAD AND UTILITIES BETWEEN THE END OF "H" AVENUE AND A LEASOLD DEFINED IN AQUATIC LAND LEASE 22-AC2684.



SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE WASHINGTON STATE SURVEY RECORDING ACT AT THE REQUEST OF THE CITY OF ANACORTES, IN SEPTEMBER, 2015.

James B. Smith 9/21/16
 JAMES B. SMITH, PLS. C.F.S.
 CERTIFICATE NO. 27327



SEC 19 AND 30, T35N, R2E, W.M.

CITY OF ANACORTES

WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES AQUATIC EASEMENT NO. 51-092332

SCALE: 1" = 200'
 DRAWN BY: JTR
 UNHS
 REVISION: 03/15
 1/16
 15-082
 SHEET
 1 OF 3
 S.T.P. INDEX
 19 & 30-UN-25
 G.L. 8 & 10



201509300174
 El Paso County Auditor \$167.00
 8/30/2016 Pmt 3 of 3 1:43PM

EXISTING FEATURES

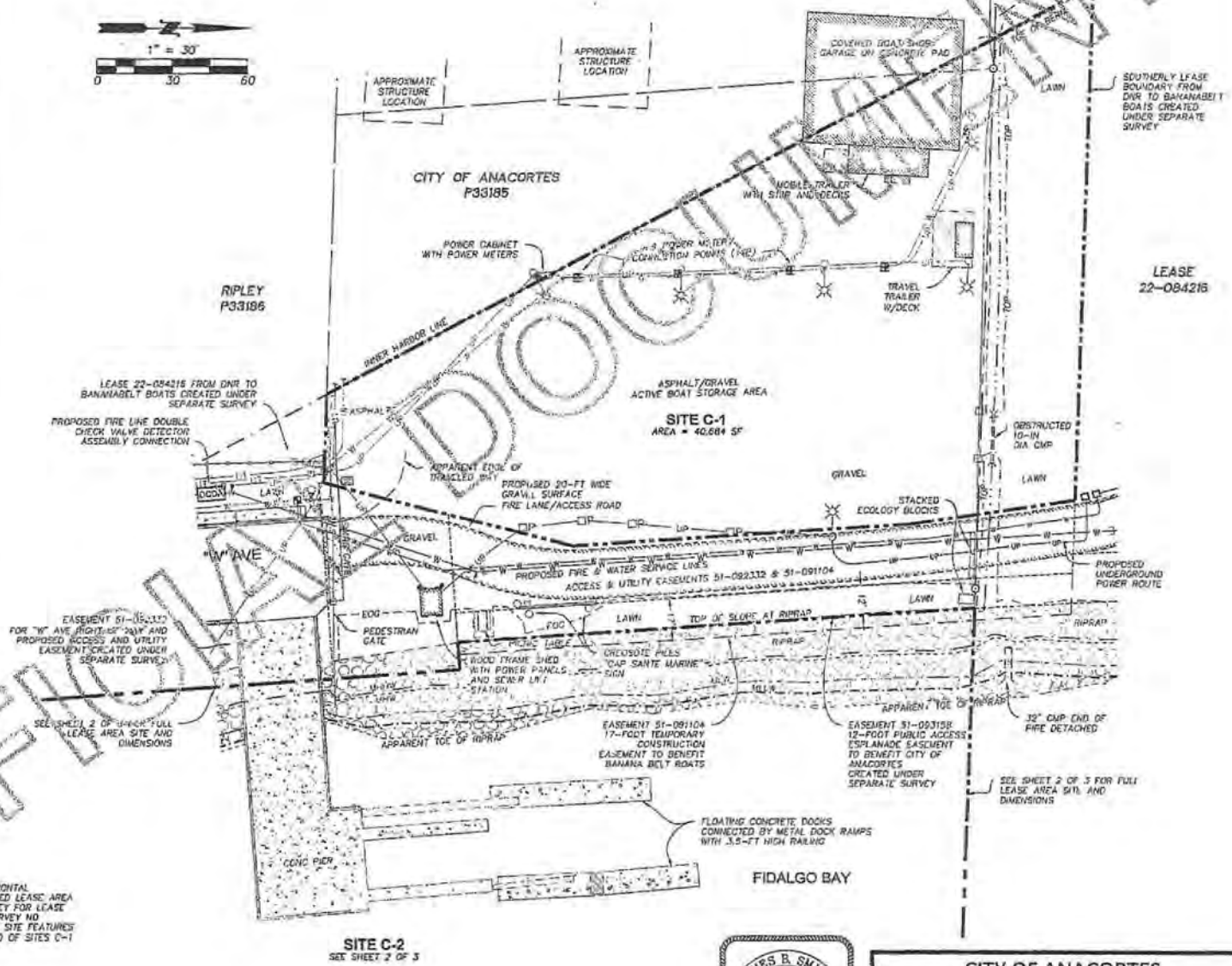
- FENCE GATE POST
- WOOD PILING
- METAL PILING
- SIGN ON POST, AS NOTED
- DRAINAGE MANHOLE
- CATCH BASIN
- TELEPHONE PEDESTAL
- FOUND REBAR (SEE SHEET 2 OF 3)
- LIGHT POLE
- ELECTRICAL HOOK-UP
- POWER PEDESTAL
- POWER METER
- CULVERT
- WATER VALVE
- WATER METER
- FIRE HYDRANT
- WATER FAUCET
- MONITORING WELL
- LEASE AREA BOUNDARY
- UNDERGROUND TELEPHONE LINE
- UNDERGROUND POWER LINE
- STORM DRAIN LINE
- PARCEL BOUNDARY/OWNERSHIP LINE
- RIGHT-OF-WAY LINE
- RIGHT-OF-WAY CENTERLINE
- DITCH/STREAM CENTERLINE
- BARBED WIRE FENCE
- WOOD FENCE
- CHAINLINK FENCE/METAL RAILING

PROPOSED FEATURES

- DOUBLE CHECK VALVE
- DETECTOR ASSEMBLY
- THRUST BLOCK
- WATER VALVE
- UTILITY JUNCTION BOX
- WATER METER
- DOLLARD
- 8-IN FIRE LINE
- WATER SERVICE LINE
- UNDERGROUND POWER ACCESS ROAD

ABBREVIATIONS

- CONC - CONCRETE
- CL - CENTERLINE
- DIA - DIAMETER
- DNR - DEPARTMENT OF NATURAL RESOURCES
- EOG - EDGE OF GRAVEL
- EXT - EXISTING
- IN - INCH
- FT - FOOT
- LS - LAND SURVEYOR
- GOVT - GOVERNMENT
- N/E - WITH
- CMP - CORRUGATED METAL PIPE
- CPP - CORRUGATED PLASTIC PIPE



NOTE:
THE PURPOSE OF THIS MAP SHEET IS TO PROVIDE HORIZONTAL
LOCATIONS OF EXISTING CONDITIONS WITHIN THE PROPOSED LEASE AREA
BOUNDARIES, REFERENCE SHEET 1 AND 2 OF THIS SURVEY FOR LEASE
DESCRIPTIONS AND QUANTITY AT THE TIME OF THIS SURVEY NO
PROPOSAL EXISTS TO CHANGE EXISTING CONDITIONS FOR SITE FEATURES
WITHIN THE BOUNDARIES OF THIS LEASE AREA COMPOSED OF SITES C-1
AND C-2.



WASHINGTON STATE DEPARTMENT OF NATURAL
RESOURCES AQUATIC LEASE NO. 22-A02664

SCALE: 1" = 160'	 HARMSEN ASSOCIATES INC. 603 SOUTH FIRST STREET MOUNT VERNON, WA 98273 TEL: (360) 336-8190	SHEET
DRAIN BY: JTF		3 OF 3
REVISED: 02/25/01		S.T.B. INDEX
F/24: MW-101		19 & 30-35A-20
JOB#: 15-002		GL 5 & 10



City Council Agenda Bill

Meeting Date: 11/28/2016 **Agenda Item:** 6A

Subject: Veterinary Clinic; 1812 Commercial Avenue; CUP-2016-1001

Staff Contact: Kaitlynn Nelson, Associate Planner

Approved for Submittal to Commission by	
X	Don Measamer, Planning Director

Action Type	
X	Public Hearing
X	Discussion /Signature
X	Possible Action

Summary & Background: At 6:00 PM on Monday, November 28, 2016, a closed-record public hearing will be conducted concerning a Conditional Use Permit to permit the use of a veterinary clinic in the Commercial Zone.

Recommendation: The Department of Planning, Community, and Economic Development recommends that the City Council approve the subject Conditional Use Permit subject to staff's suggested conditions of approval and condition #4, added by the Planning Commission.

Attachments:

Planning Commission's Final Findings of Fact, Conclusions of Law, & Recommendation

Exhibit 12: Draft Open-Record Public Hearing Minutes (November 9, 2016)



Anacortes Planning, Community, & Economic Development Dept.

Permit Center

P.O. Box 547, Anacortes, WA 98221-0547

Don Measamer, *Director of Planning, Community and Economic Development*

PH (360) 293-1901

FAX (360) 293-1938

Planning Commission's Final Findings of Fact, Conclusions of Law, & Recommendation

I) Background Information

Open Record Public

Hearing Date	November 9, 2016
File Number	CUP-2016-1001
Applicant	Mike Miranda, Freiheit & Ho Architects, 5209 Lake Washington Blvd Ste 200, Kirkland, WA 98033
Landowner	Challenge Investments LLC, PO Box 932, Coupeville, WA 98238
Subject Proposal	A conditional use permit to allow a veterinary clinic within an existing building complex.
Project Location	1812 Commercial Avenue, Anacortes, WA 98221
Subject Parcel	P55172
Zoning/Comprehensive Plan Designation	C/Commercial Zoning District
Site Area	Single Parcel ± 4,300 square feet; Total Area ± 12,600 square feet
Utilities	Drainage, sewage, and water will be provided by the City of Anacortes.
Lot Access	Commercial Avenue & 19 th Street

II) Findings of Fact

A) Nature of Application

- 1) A "veterinary clinic" use in the Commercial Zone is permitted via an approved Conditional Use Permit per AMC 17.24.040(F).
- 2) The veterinary clinic is approximately 1,800 square feet. The adjacent building which shares parking with the veterinary clinic includes a salon, a music studio, and a Verizon retail store. The surrounding buildings include restaurants, retail, and clinic space, consistent with the Commercial Zone.
- 3) On September 14, 2016, the City of Anacortes's Department of Planning, Community, & Economic Development received the subject Conditional Use Permit application. The application was deemed complete on October 12, 2016.
- 4) The legal notice was published in the Anacortes American on October 19, and the 15-day comment period ended at 5:00 p.m. on November 2, 2016. Comments were accepted up until the open-record public hearing. Comments are referenced in the attached exhibit list. The subject property was posted with Public Notice Signage along Commercial Avenue with one weighted A-board in front of the subject property.
- 5) An open record public hearing was held before the Planning Commission on November 9, 2016. The Planning, Community, & Economic Development Department was represented by Ms. Kait Nelson, Associate Planner. David Pure and Beth Scheenstra spoke as proponents of the application. In addition to the previously submitted comments, one (1) member of the public testified regarding the application.

B) Consistency with AMC Title 17.10, Board of Adjustment, Planning Commission, and Conditional Uses

- 1) A conditional use permit is used as a mechanism for consideration of certain uses, which because of their unusual size, infrequent occurrence, special requirements, possible safety hazards, or detrimental effects on surrounding properties are classified as conditional uses and so designated in the various use districts.
- 2) Certain uses may be allowed in those designated use districts by a conditional use permit granted by the City Council after Planning Commission recommendation provided such use is specified under the conditional use subsection of the appropriate use district and is clearly shown to the City by the applicant that it is not detrimental to the surrounding neighborhood. Prior to approval by the City Council of such a permit it must be shown that the use will not be a liability to the neighboring uses.

3) Pursuant to AMC 17.10.100(2), a conditional use permit shall be granted by the City only if the applicant demonstrates the following:

- a. The conditional use is designed in a manner which is compatible with the character and appearance of the existing, or proposed, development in the vicinity of the subject property and is consistent with the purpose of the zone in which the subject property is located;

Finding: The building is already existing and there will be interior renovations only.

- b. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

Finding: The building is already existing, there will be interior renovations only.

- c. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

Finding: Characteristics are compatible and there will be interior renovations only.

- d. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title or will not be detrimental to the surrounding neighborhood;

Finding: No modifications have been requested.

- e. The conditional use is not in conflict with the health and safety of the community;

Finding: The proposed use will not represent a health or safety concern to the community. The member of the public who testified on the application had safety concerns regarding; cremation, freezer use, disposal, number of animals held, size of animals, and other similar concerns. The applicant assured Commissioners at the hearing that there would be no health or safety concern, and that those concerns addressed are largely addressed by state regulations. There were also concerns from Commissioners in regards to providing space for pets to relieve themselves. With recommended condition number four (4), the use will provide adequate space.

- f. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood, and adequate pedestrian and vehicular connections to the arterials and adjacent areas as well as appropriate circulation within the project are provided consistent with city policies and standards for circulation patterns in the area;

Finding: No modifications are proposed to the site design or the existing site access, and the conditional use is not anticipated to significantly increase traffic flow in or around the site. There are no anticipated problems associated with pedestrian or vehicular traffic. Commissioners had some concern with the amount of parking proposed. The applicant assured Commissioners that there will be only one veterinarian on staff, and staff members are encouraged to find alternative transportation to work.

- g. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and

Finding: The proposed use does not require a significantly disproportionate demand of public facilities, including but not limited to water, sewer, and power, and will not adversely affect public services to the surrounding areas.

- h. The conditional use is in compliance with the comprehensive plan;

Findings: The purpose of the Commercial Zone is to provide for a wide variety of general service, retail, commercial, and mixed-uses that serves local and regional residents and the traveling public. The Economic Development Element of the Comprehensive Plan lists Goal ED-1 Balanced Economy, which includes several applicable policies of this use.

- 4) The City Council may impose conditions if it is deemed necessary for the protection of the surrounding properties and for the general welfare of the public per AMC 17.10.100(3).
- 5) The applicant has submitted all necessary application materials as outlined in AMC 17.10.100(C).

- 6) Fees were paid and proper notice was given pursuant to AMC 17.10.100(E).
- 7) The subject proposal is exempt from SEPA environmental review pursuant to WAC 197.11.800 & AMC 18.04.

C) Consistency with Chapter 17.24 Commercial District

- 1) The objective and intent of the Commercial District is to provide for establishments offering accommodations or services to motorists and tourists, and to provide areas for retail, whole sale, and repair activities outside the central business district.
- 2) The subject building shares an off-street parking area with the building immediately to its south (1816 Commercial Avenue), which currently houses a retail store, beauty salon, and a residence. This building's historic use has been retail, and until recently when the parking area to the west was constructed, the building was nonconforming with respect to off-street parking. Given its nonconforming status, it is not subject to off-street parking requirements for continued retail-type uses. The parking requirement for the veterinary clinic is calculated at 2.2 spaces based on approximately 552 net square feet (4 spaces required per 1,000 net square feet). The building owners have estimated 14 spaces in the shared parking area to the west. The veterinary clinic will have 4 spaces reserved within the shared parking area, which satisfies its parking requirement. There are also approximately 4 on-street parking spaces available on Commercial Avenue fronting the site.
- 3) Other design standards were addressed during construction of the existing building. Only interior renovations are proposed.

The subject proposal is consistent with the above development regulations and CUP criteria of approval. The proposed land use is permitted in the underlying zoning district.

Public Comments Received

During the 15-day comment period, Laurie Sherman submitted one comment letter to the PCED, referenced as exhibit 6. Applicant response to comments is referenced as exhibit 11. Comments were received from Public Works Department and the Fire Department, exhibit 7. No comments were received from agencies of jurisdiction at the time that this report was written. Vernon Lauridsen, 2219 32nd Street, testified at the Planning Commission, with concerns that have been taken into consideration.

III) Conclusions of Law

- 1) The Planning Commission bases its Findings of Fact, Conclusions of Law, & Recommendation on the entire record, including all testimony and exhibits. Any finding which would be deemed a Conclusion of Law, and any Conclusion of Law which should be deemed a finding is hereby adopted as such.
- 2) The proposed conditional use permit as conditioned conforms to the general purposes of the City's comprehensive Plan, the City's planning standards and specifications of the zoning ordinance, including Section 17.10.100 – Conditional Use Permits (except for bed and breakfast establishments), and other ordinances applicable to the proposal.

Staff Recommendation

The department of Planning, Community, and Economic Development recommended that the Planning Commission make a recommendation of approval to City Council regarding the subject Conditional Use Permit subject to the staff suggested conditions.

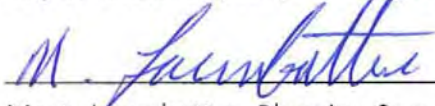
Planning Commission Recommendation

Based on the foregoing information and analysis submitted by the applicant; the City regulatory authority to implement the policies, standards, and the regulations of the Comprehensive Plan; and the Anacortes Municipal Code (AMC), the Planning Commission **recommends approval with conditions** to City Council of the subject conditional-use permit, subject to the following conditions of approval.

- 1) The scope of the project shall not exceed that as set-out in the conditional use permit application and in accordance with the determinations made and conditions imposed.
- 2) A building permit shall be secured for the proposed tenant improvements and the change of use prior to occupancy of the building.
- 3) The applicant shall be responsible for reimbursement to the City of Anacortes for the cost of posting, mailing, and publication of the public hearing for the subject CUP. Payment shall be made prior to building permit approval.
- 4) A location on site will be provided for use by pets to relieve themselves, at a minimum of 40 square feet, with appropriate signage.

These Findings of Fact, Conclusions of Law, and Recommendation were adopted by the Anacortes Planning Commission on November 9, 2016.

City of Anacortes, WA, Planning Commission



Marty Laumbattus, Planning Commission Chair

Appeals

Any aggrieved party shall have five (5) working days from date of the action to appeal the recommendation of the Planning Commission to the City Council. The appeal shall be in writing and is to be filed with the City clerk. If an appeal is filed by an aggrieved party, this appeal shall be a closed record appeal to the City Council who shall decide the matter. (AMC 17.10.100(E)(7)).

Exhibits

Exhibit #	Name of Exhibit
1	Draft Planning Commission Recommendation/Staff Report
2	Site Plan
3	Building Plan
4	Master Permit, Narrative, & Assessor's Info
5	Owner Authorization
6	Public Comments Received
7	Department Comments Received
8	Net Square Footage/Calculation
9	Oversized Site Plan (Provided at Planning Commission)
10	Applicant Responses to CUP Code Requirements (Provided at Planning Commission)
11	Applicant Responses to Public Comments (Provided at Planning Commission)

Exhibit 1

**Anacortes Planning, Community, & Economic Development Dept.**

Permit Center

P.O. Box 547, Anacortes, WA 98221-0547

Don Measamer, *Director of Planning, Community and Economic Development*

PH (360) 293-1901

FAX (360) 293-1938

Planning Commission's Draft Findings of Fact, Conclusions of Law, & Recommendation

I) Background Information

Open Record Public

Hearing Date November 9, 2016

File Number CUP-2016-1001

Applicant Mike Miranda, Freiheit & Ho Architects, 5209 Lake Washington Blvd Ste 200, Kirkland, WA 98033

Landowner Challenge Investments LLC, PO Box 932, Coupeville, WA 98238

Subject Proposal A conditional use permit to allow a veterinary clinic within an existing building complex.

Project Location 1812 Commercial Avenue, Anacortes, WA 98221

Subject Parcel P55172

Zoning/Comprehensive Plan Designation C/Commercial Zoning District

Site Area Single Parcel $\pm$ 4,300 square feet; Total Area $\pm$ 12,600 square feet

Utilities Drainage, sewage, and water will be provided by the City of Anacortes.

Lot Access Commercial Avenue & 19th Street

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Staff Analysis: The building is already existing and there will be interior renovations only.

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Staff Analysis: Characteristics are compatible and there will be interior renovations only.

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- 2) The subject building shares an off-street parking area with the building immediately to its south (1816 Commercial Avenue), which currently houses a retail store, beauty salon, and a residence. This building's historic use has been retail, and until recently when the parking area to the west was constructed, the building was nonconforming with respect to off-street parking. Given its nonconforming status, it is not subject to off-street parking requirements for continued retail-type uses. The parking requirement for the veterinary clinic is calculated at 2.2 spaces based on approximately 552 net square feet (4 spaces required per 1,000 net square feet). The building owners have estimated 14 spaces in the shared parking area to the west. The veterinary clinic will have 4 spaces reserved within the shared parking area, which satisfies its parking requirement. There are also approximately 4 on-street parking spaces available on Commercial Avenue fronting the site.
- 3) Other design standards were addressed during construction of the existing building. Only interior renovations are proposed.

The subject proposal is consistent with the above development regulations and CUP criteria of approval. The proposed land use is permitted in the underlying zoning district.

Public Comments Received

During the 15 day comment period, one comment was received from the public, referenced as exhibit 5. Comments were received from Public Works Department and the Fire Department, exhibit 6. No comments were received from agencies of jurisdiction at the time that this report was written.

III) Conclusions of Law

- 1) The Planning Commission bases its Findings of Fact, Conclusions of Law, & Recommendation on the entire record, including all testimony and exhibits. Any finding which would be deemed a Conclusion of Law, and any Conclusion of Law which should be deemed a finding is hereby adopted as such.
- 2) The proposed conditional use permit as conditioned conforms to the general purposes of the City's comprehensive Plan, the City's planning standards and specifications of the zoning ordinance, including Section 17.10.100 – Conditional Use Permits (except for bed and breakfast establishments), and other ordinances applicable to the proposal.

Staff Recommendation

The department of Planning, Community, and Economic Development recommends that the Planning Commission make a recommendation of approval to City Council regarding the subject Conditional Use Permit subject to the staff suggested conditions of approval listed below.

Planning Commission Recommendation

Based on the foregoing information and analysis submitted by the applicant; the City regulatory authority to implement the policies, standards, and the regulations of the Comprehensive Plan; and the Anacortes Municipal Code (AMC), the Planning Commission recommends approval/approval with conditions/or denial to City Council of the subject conditional-use permit, subject to the following conditions of approval.

- 1) The scope of the project shall not exceed that as set-out in the conditional use permit application and in accordance with the determinations made and conditions imposed.
- 2) A building permit shall be secured for the proposed tenant improvements and the change of use prior to occupancy of the building.
- 3) The applicant shall be responsible for reimbursement to the City of Anacortes for the cost of posting, mailing, and publication of the public hearing for the subject CUP. Payment shall be made prior to building permit approval.

These Findings of Fact, Conclusions of Law, and Recommendation were adopted by the Anacortes Planning Commission on _____.

City of Anacortes, WA, Planning Commission

Marty Laumbattus, Planning Commission Chair

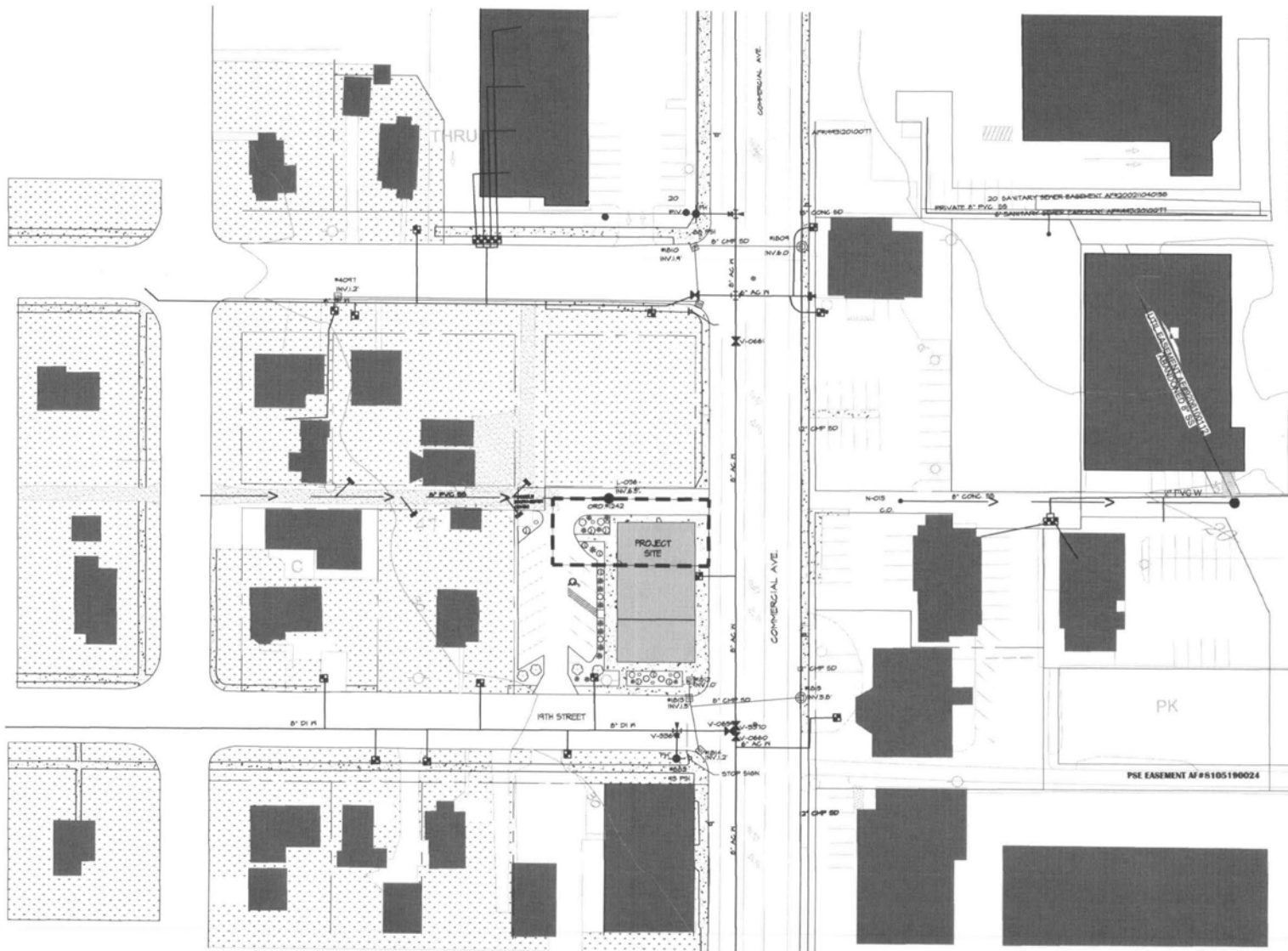
Appeals

Any aggrieved party shall have five (5) working days from date of the action to appeal the recommendation of the Planning Commission to the City Council. The appeal shall be in writing and is to be filed with the City clerk. If an appeal is filed by an aggrieved party, this appeal shall be a closed record appeal to the City Council who shall decide the matter. (AMC 17.10.100(E)(7)).

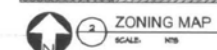
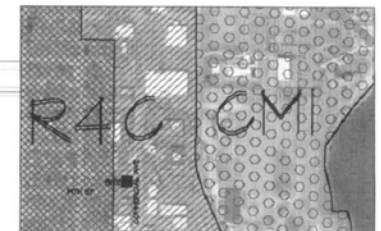
Exhibits

Exhibit #	Name of Exhibit
1	Site Plan
2	Building Plan
3	Master Permit, Narrative, & Assessor's Info
4	Owner Authorization
5	Public Comment Received
6	Department Comments Received
7	Net Square Footage

Exhibit 2



LEGEND	
	SIGN
	STREET LIGHT
	WATER METER
	SANITARY SEWER MANHOLE
	STORM DRAIN
	POWER POLE
	STORM DRAIN MANHOLE
	FIRE HYDRANT
	WATER VALVE
	CONCRETE
	GRASS
	GRAVEL



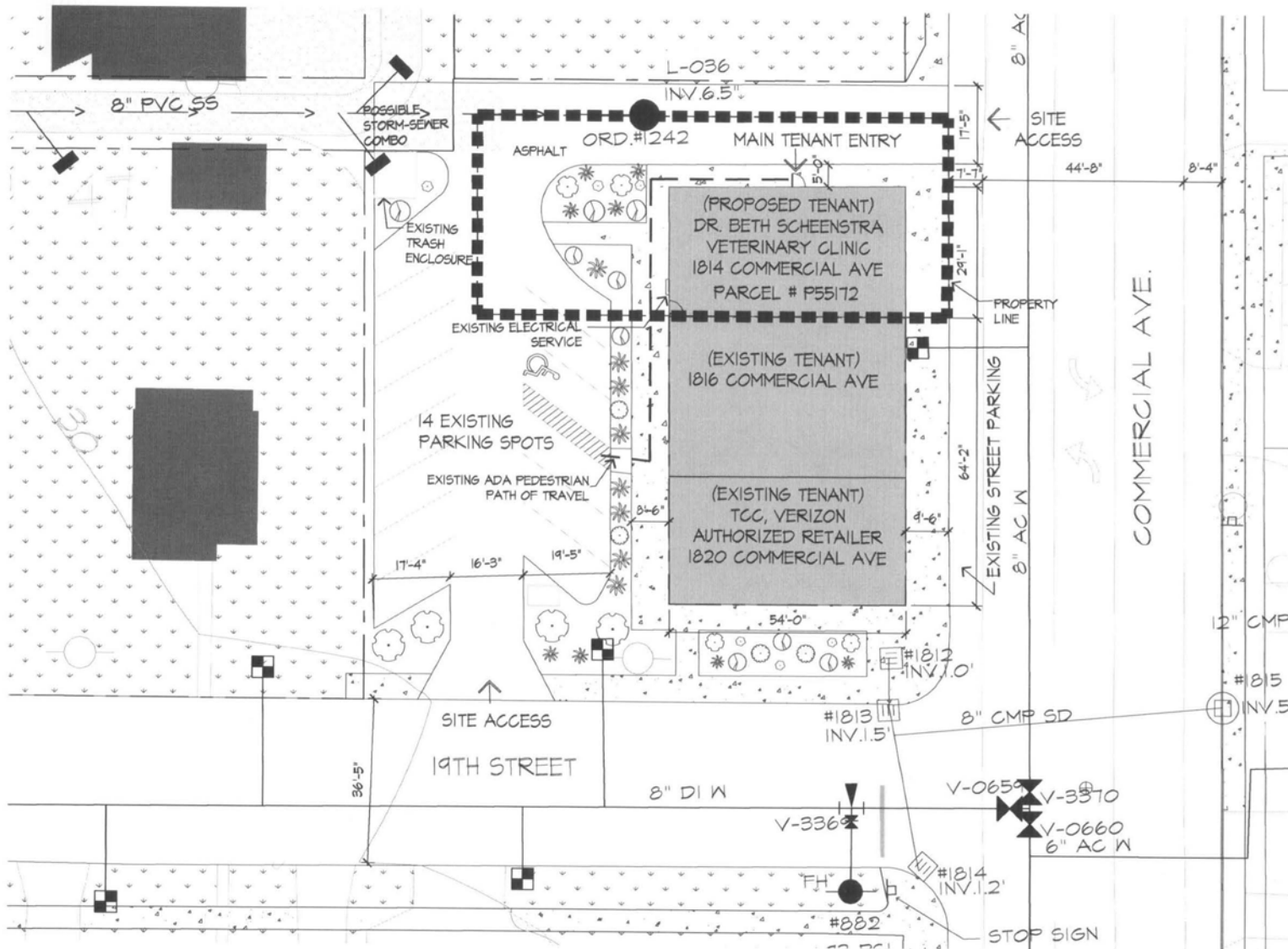
CONTEXT PLAN

SCALE: 1/32" = 1'-0"

AK-399

DR. BETH SCHEENSTRA, DVM VETERINARY CLINIC
CONDITIONAL USE APPLICATION | 1814 COMMERCIAL AVE ANACORTES, WA 09.05.2016

Freiheit & Ho
architects



LEGEND	
	SIGN
	STREET LIGHT
	WATER METER
	SANITARY SEWER MANHOLE
	STORM DRAIN
	POWER POLE
	STORM DRAIN MANHOLE
	FH FIRE HYDRANT
	WATER VALVE
	CONCRETE
	GRASS
	GRAVEL

PARCEL # P55172

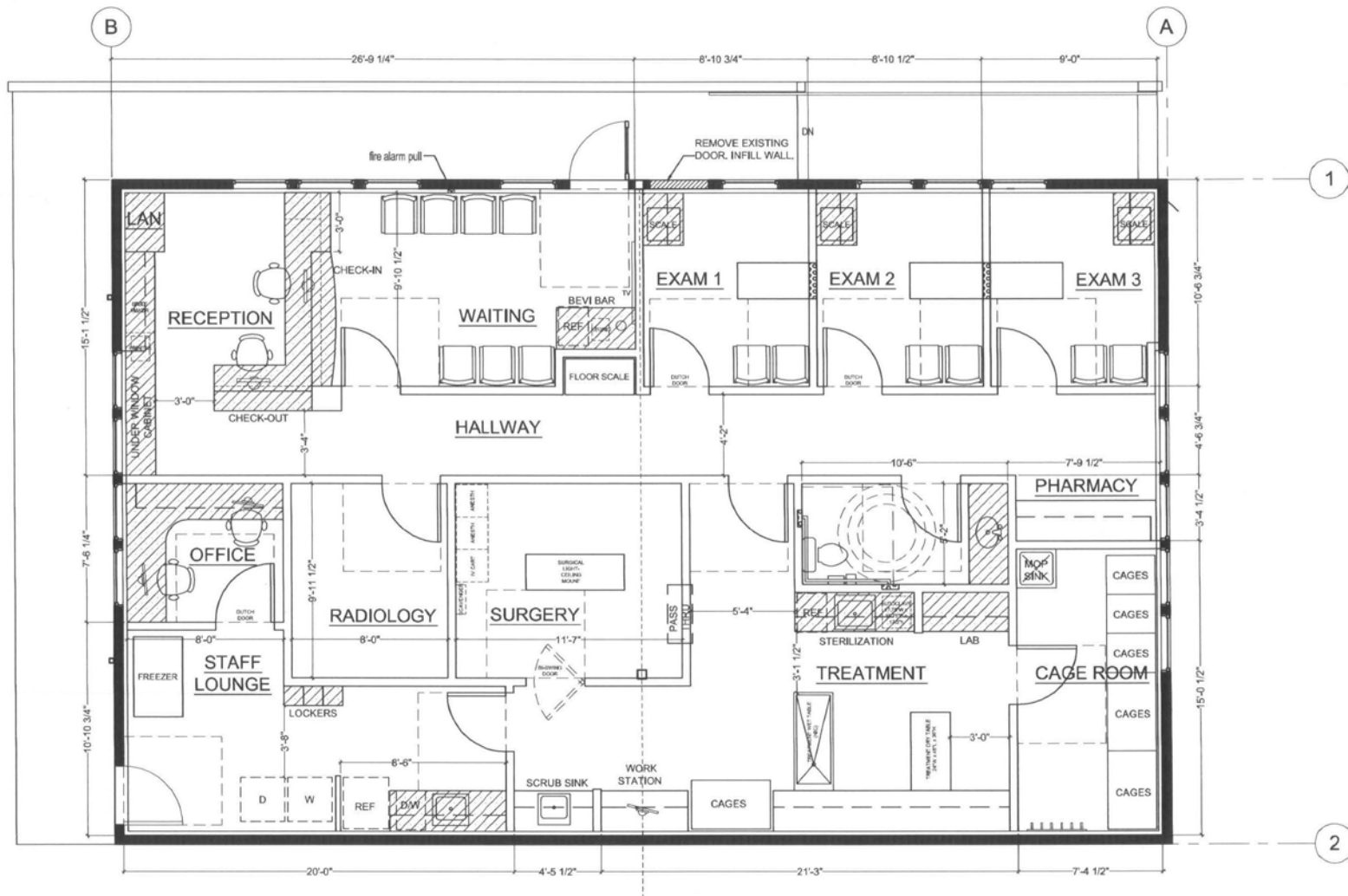
LEGAL DESCRIPTION: THE NORTH 35 FEET OF LOTS 18, 19 AND 20, AND THE NORTH 35 FEET OF THE EAST 5 FEET OF LOT 17, BLOCK 47, "MAP OF THE CITY OF ANACORTES", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON. TOGETHER WITH THE SOUTH 1/2 OF THE VACATED ALLEY ADJOINING AND ALSO TOGETHER WITH THE NORTH 1/2 OF THE EAST 100 FEET OF THE VACATED ALLEY IN BLOCK 47, "MAP OF THE CITY OF ANACORTES", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON.



SITE PLAN

SCALE: 3/32" = 1'-0"

Exhibit 3



SCHEMATIC SPACE PLAN
DR. SCHEENSTRA | SCALE: 3/16" = 1'-0" | USF 1835 | 08.30.2016

Exhibit 4

City of Anacortes – Planning, Community, and Economic Development

906 – 6th Street, P.O. Box 547, Anacortes, WA 98221-0547

MASTER PERMIT APPLICATION

1.

	Applicant	Contact Person (if different)
Name:	Mike Miranda - Freiheit & Ho Architects	
Mailing Address:	5209 Lake Washington Blvd NE - Suite 200	
City, State, Zip:	Kirkland, WA 98033	
Phone#:	425-827-2100	
Fax#:	425-828-6899	
E-mail:	mmiranda@fhoarch.com	
2. Applicant's Interest to Property (check one)
☐ Owner ☐ Contract Purchaser ☐ Lessee ☒ Other (specify) Architect
3. All Persons/Firms having an ownership interest in the property:
Name: Challenge Investmensts LLC Attn: Jerry Saia Phone#
Address: PO Box 932 Coupeville, WA 98238
Name: Phone#
Address:
Name: Phone#
Address:
4. Property Address 1814 Commercial Ave
General location of property (including nearest intersection): SEC: 19 TWP: 35 RNG: 02
19th St and Commercial Ave
- *By submittal of this application, the property owner/applicant grants permission for public officials at the City of Anacortes to enter the subject property, if necessary, for the purpose of site inspection.
5. Attach legal description of property. (If recording of legal description is required, the format MUST comply with Recording Requirements.) See Attached
6. List all Property Tax Account Numbers involved in this application (Attach separate pages if necessary):
See Attached
7. Approximate acreage: 1.0 AC 8. Present zoning: C-Commercial
9. Present use of property: Vacant

10. Source of water supply and sewer supply: Existing Infrastructure

11. Permits requested from City:

- | | |
|--|---|
| ☐ Annexation | ☐ Rezone |
| ☐ Boundary Line Adjustment | ☐ Shoreline Exemption |
| ☐ Binding Site Plan | ☐ Shoreline Management Conditional Use Permit |
| ☒ Conditional Use Permit | ☐ Shoreline Management Substantial Development |
| ☐ Comprehensive Plan Amendment | ☐ Shoreline Variance |
| ☐ Planned Unit Development | ☐ Short Plat |
| ☐ Plat Modification | ☐ Special Use |
| ☐ Preliminary Plat | ☐ Variance |

☐ Other: _____

12. Explain your request and ALL proposed uses included in this proposal: Veterinary Clinic

PLEASE FILL IN ALL APPLICABLE SECTIONS

FOR REZONES:

13. Requested zoning: _____

14. Comprehensive Plan designation: _____

15. Has anyone applied for a rezone of this property within the last five years? _____
If yes, who? _____ Year? _____

FOR SUBDIVISIONS (PLATS):

16. Plat Name: _____ 17. Number of Lots: _____

FOR SHORT SUBDIVISIONS (SHORT PLATS):

18. Number of Lots: _____ 19. Duplex Lots Proposed: _____

Details for Parcel: P55172



Jurisdiction:

Zoning Designation:

Parcel Number
P55172

XrefID
3772-047-020-0106

Quarter Section Township Range
19 35 02

Owner Information
CHALLENGE INVESTMENTS I LLC
ATTN JERRY SAIA
PO BOX 932
COUPEVILLE, WA 98238

Site Address(es)
1814 COMMERCIAL AVE
Anacortes, WA (Jurisdiction, State)
[Zip Code Lookup](#) | [Site Address Information](#)

Map Links
[Open in iMap](#)
Assessor's Parcel Map:
[PDF](#) | [DWF](#)

2015 Values for 2016 Taxes*

Building Market Value \$.00
Land Market Value +\$188,000.00
Total Market Value \$188,000.00
Assessed Value \$188,000.00
Taxable Value \$188,000.00

Sale Information

Deed Type QUIT CLAIM DEED
Sale Date 2014-03-12
Sale Price \$.00

2016 Property Tax Summary

2016 Taxable Value \$188,000.00
General Taxes \$1,862.06
Special Assessments/Fees
Total Taxes \$1,862.06

* Effective date of value is January 1 of the assessment year (2015)

Legal Description [Definitions](#)

THE NORTH 35 FEET LOTS 18, 19 AND 20, AND THE NORTH 35 FEET OF THE EAST 5 FEET OF LOT 17, BLOCK 47, "MAP OF THE CITY OF ANACORTES", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON. TOGETHER WITH THE SOUTH 1/2 OF THE VACATED ALLEY ADJOINING AND ALSO TOGETHER WITH THE NORTH 1/2 OF THE EAST 100 FEET OF THE VACATED ALLEY IN BLOCK 47, "MAP OF THE CITY OF ANACORTES", AS ER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 4, RECORDS OF SKAGIT COUNTY, WASHINGTON.

*Land Use	(690) MISCELLANEOUS SERVICES			WAC 458-53-030	
Neighborhood	(6R1ANA) ANACORTES GENERAL RETAIL				
Levy Code	0900		Fire District		
School District	SD103		Exemptions		
Utilities	SEW,WTR-P		Acres	0.00	
Improvement 1 Attributes Summary					
Building Style	COMMERCIAL REAL PROPERTY				
Year Built			Foundation		
Above Grade Living Area	1,836 Square Feet		Exterior Walls		
Finished Basement			Roof Covering		
*Total Living Area	1,836 Square Feet		Heat/Air Conditioning		
Unfinished Basement			Fireplace		
*Total Garage Area			Bedrooms		
Bathrooms					
For additional information on individual segments see Improvements tab					

* Land Use codes are for assessment administration purposes and do not represent jurisdictional zoning. Please contact the appropriate planning department in your jurisdiction for land use questions.

* Total living area includes above grade living area and finished basement area.

* Garage square footage includes all garage areas; basement garages, attached garages, detached garages, etc.

Assessment data for improvements is based on exterior inspections. Please contact the Assessor's office if the information does not accurately reflect the interior characteristics.

Exhibit 5

Challenge Developments

Jerald L. Zavalney

12062 Marine Drive
Anacortes, WA 98221

Phone: 360 202 6918
Fax: 360 293 7348
zavalney@aol.com

September 28, 2016

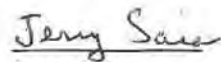
Don Measamer
Director of Planning, Community & Economic Development
904 6th Street
PO Box 547
Anacortes, WA 98221

Re: Landlord Authorization of CUP Application for 1814 Commercial Avenue, Anacortes, WA

Dear Don,

As the owners of the commercial building located at 1814 Commercial Avenue, we authorize the Conditional Use Permit application currently underway for our building in connection with a new veterinary practice and look forward to providing any information or assistance required for your review.

Thank you,


Jerry Saia

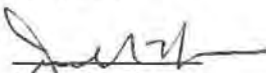

Jerry Zavalney

Exhibit 6

Nelson, Kaitlynn

From: Laurie Sherman <shermanpt@gmail.com>
Sent: Tuesday, October 25, 2016 9:46 AM
To: Nelson, Kaitlynn
Subject: CUP-2016-1001

RE: Vet Clinic 1814 Commercial/ P55172

My name is Laurie Sherman, co-owner with Paul Sherman of Sherman Physical Therapy and owners of adjacent properties on 1008 and 1020 19th St. We would like to see more details re the clinic:

1. parking for the pet owners, is there enough and is a green space included in the plan to accommodate pets' need to pee and poop before entering the clinic?
2. Does the clinic plan to keep pets overnight and if so, what steps that will be taken to contain the noise?
3. Does the clinic plan to euthanize pets, if so does the plan include space for cold storage until disposal.

Laurie and Paul Sherman
4596 Ginnett Rd
Anacortes WA 98221

Exhibit 7



Anacortes Planning, Community & Economic Development Dept.

Permit Center

P.O. Box 547, Anacortes, WA 98221-0547

Don Measamer, Director of Planning, Community and Economic Development

PH (360) 293-1901

FAX (360) 293-1938

DEPARTMENT / AGENCY COMMENT FORM:

September 19, 2016

Project Name: Veterinary Clinic CUP; CUP-2016-1001

From: Kait Nelson, Associate Planner; City of Anacortes; 904 6th Street; P.O. Box 547, Anacortes, WA 98221; Phone: (360) 299-1969; Email: kaitlynn@cityofanacortes.org

Description of Subject Proposal:

The applicant recently submitted for a conditional use permit to remodel the interior of an existing building to hold a veterinary clinic. The project is located at 1814 Commercial Avenue, in the Commercial Zoning District. **Please provide any comments /requirements to me by: 5:00 PM on September 23, 2016.** The DRG meeting is scheduled for **1:30 PM on September 27, 2016**, and will be held in city hall council chambers.

Applicant:

Mike Miranda
5209 Lake Washington Blvd NE
Suite 200
Kirkland, WA 98033

Conditions &/or Requirements:

- NO PUBLIC WORKS ENGINEERING ISSUES. ALL WORK PERFORMED UNDER PREVIOUS LAND USE ACTION.

Signature:

STEVEN LANGE

Date:

09.20.16

Dept. / Agency Name:

CITY OF ANACORTES ENGINEERING

Nelson, Kaitlynn

From: Nemeth, Terry
Sent: Tuesday, September 20, 2016 9:12 AM
To: Nelson, Kaitlynn
Subject: RE: Sep 27 DRG Meeting

Kait,
This unit would require an RPBA premise isolation per DOH table 9
thanks

From: Nelson, Kaitlynn
Sent: Monday, September 19, 2016 10:48 AM
To: Development Review Group <DevelopmentReviewGroup@cityofanacortes.org>
Subject: Sep 27 DRG Meeting

DRG,

There is a development review group meeting scheduled for September 27, at 1:30 pm. The applicant has applied for a conditional use permit to renovate the interior of an existing building for a veterinary office. The building is located at 1814 Commercial Avenue in the Commercial Zoning District. Please provide any comments to me by 5:00 p.m. on September 23.

Reminder: There are two meetings that have previously been scheduled on September 20 as well.

Thank you,
Kait Nelson

Exhibit 8

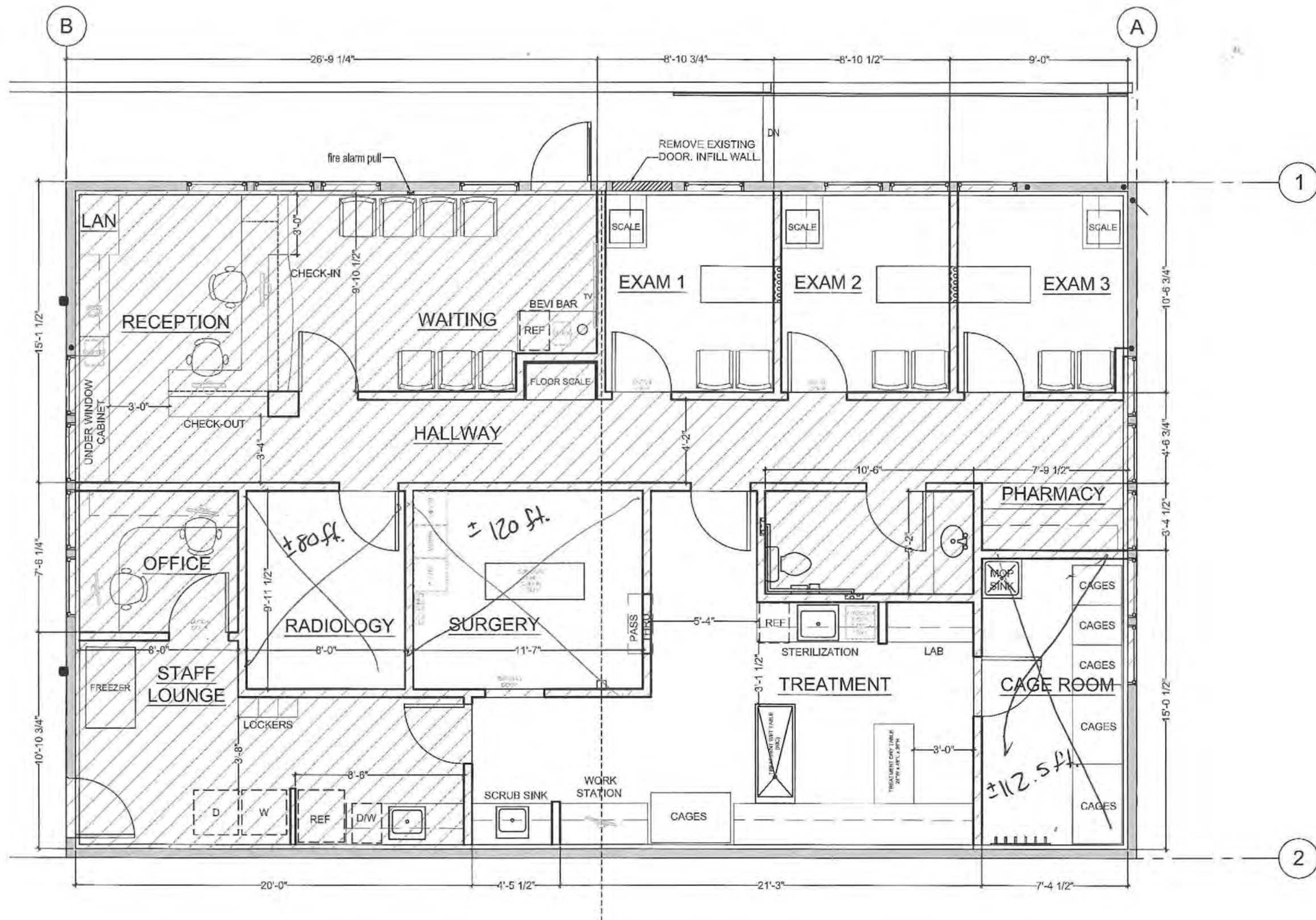


Exhibit 9

Exhibit 10

September 8, 2016

City of Anacortes Planning, Community & Economic Development
P.O. Box 547
904 6th Street
Anacortes, WA 98221

RE: Conditional Use Permit / 1814 Commercial Ave

Response to Conditional Use Criteria Per Section 17.10.100 AMC (Page 1 of 2)

Sec 17.10.100 B2. A conditional use permit shall be granted by the city only if the applicant demonstrates that:

a. The conditional use is designed in a manner which is compatible with the character and appearance of the existing, or proposed, development in the vicinity of the subject property and is consistent with the purpose of the zone in which the subject property is located;

N/A: Interior renovations only.

b. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

N/A: Interior renovations only.

c. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

N/A: Interior renovations only.

d. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title or will not be detrimental to the surrounding neighborhood;

N/A: All relevant standards will be met as they apply to the interior tenant renovations and change of use.

e. The conditional use is not in conflict with the health and safety of the community;

The proposed use does not represent a health or safety concern to the community.



September 8, 2016

City of Anacortes Planning, Community & Economic Development
P.O. Box 547
904 6th Street
Anacortes, WA 98221

RE: Conditional Use Permit / 1814 Commercial Ave

Response to Conditional Use Criteria Per Section 17.10.100 AMC (Page 2 of 2)

f. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood, and adequate pedestrian and vehicular connections to the arterials and adjacent areas as well as appropriate circulation within the project are provided consistent with city policies and standards for circulation patterns in the area;

No modifications are proposed to the site design or the existing site access, and the conditional use is not anticipated to significantly increase traffic flow in or around the site. No hazardous or conflicting traffic patterns should be associated with the proposed use.

g. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and

The proposed use does not require a significantly disproportionate demand of public facilities, including but not limited to water, sewer, and power, and will not adversely affect public services to the surrounding areas.

h. The conditional use is in compliance with the comprehensive plan.

The proposed use is included in section 17.21.040F of the Anacortes Municipal Code.



Exhibit 11

Nelson, Kaitlynn

From: David Pure <David.Pure@outlook.com>
Sent: Friday, November 04, 2016 3:08 PM
To: Nelson, Kaitlynn
Subject: RE: Vet Conditional Use Permit

Kait,

The building currently contains 14 off-street parking stalls. Four off-street stalls will be reserved for patients of the vet clinic. Our understanding is that parking will meet all applicable codes and should not reduce the amount of parking available in areas adjacent to the building. We anticipate most patients will park in the off-street stalls; however, there are approximately seven additional on-street stalls available. (Our understanding is that approval of parking will be part of the CUP).

We are looking into the idea of isolating a small portion of the building exterior area as a small fenced-in spot for pets that need to go. Staff would patrol the area on a daily basis to remove any pet waste.

Patients will not be boarded at the clinic and would only stay overnight on an exceedingly limited basis. Critical or anxious patients will be sent to the Pet Emergency Center for hospitalization. Although it is possible there may be an occasional sound, plans are to have sound-limiting infrastructure to reduce sound leakage including placement of acoustical sound barriers throughout the clinic space. The clinic space is simply not large enough for pets to stay overnight.

The clinic will not be doing any cremation services. Any euthanized pets would be temporarily stored and then picked up weekly or as needed by a professional service. Transportation of any euthanized pets will be handled discretely through the back door and will not be visible to the public or adjacent businesses. This will be handled in a very respectful way to both pets, owners and neighbors.

David Pure | Designated Broker | Pure Tenant
206.547.1023 direct | 206.349.7873 cell | David.Pure@Outlook.com
PO Box 31787 Seattle, WA 98103

From: Nelson, Kaitlynn [mailto:kaitlynn@cityofanacortes.org]
Sent: Thursday, November 03, 2016 8:36 AM
To: 'Immiranda@fhoarch.com'; 'David Pure'
Subject: Vet Conditional Use Permit

Hello,

The comment period for the veterinary clinic conditional use permit ended yesterday, and we received one comment from the public. I have attached a pdf. Please respond to each individual question and how it will be addressed, and return it to me ASAP.

Thank you,
Kait Nelson
Associate Planner
City of Anacortes

Exhibit 12



Planning Commission Meeting Minutes for – November 9, 2016

Chair Laumbattus called the Meeting of November 9, 2016 to order at approximately 6 p.m.

Roll Call

Members Present: Commissioners Laumbattus, Oppel, Moffitt, McNett, Mount, Cleland McGrath, and Doll.

Minutes

No minutes to approve.

Correspondence

None

Old Business

Public Discussion – Draft Unified Development Code, Title 19

Don Measamer, Director of Planning, Community, and Economic Development, presented changes in the draft and schedule for amendments. Mr. Measamer requested public comment.

Patrick O'Hearn, 11039 Post Drive. Mr. O'Hearn provided support and criticism for the updates. A copy of his written comments will be provided in the next commission packet.

Vernon Lauridsen, 2219 32nd Street. Mr. Lauridsen expressed concerns with the draft, including the difficulty of following changes and the reasoning of the changes.

Gene Derig, 1302 K Avenue. Mr. Derig expressed concern with clarifying changes.

Merilyn Derig, 1302 K Avenue. Ms. Derig expressed concern with transparency and public involvement.

Commissioner McNett requested clarification on boundary line adjustments. Mr. Measamer explained it as an administrative process of shifting underlying lot lines.

Commissioner Moffitt requested clarification on the timeline for addressing new code based on repealed code. Mr. Measamer explained that there will be more information provided and more discussion on this topic.

With no further comments, the hearing moved to new business

New Business

Public Hearing – CUP-2016-1001, 1812 Commercial Avenue, Veterinary Clinic

Kait Nelson, city planner, presented the CUP to allow a veterinary clinic in the Commercial Zoning District. Ms. Nelson addressed applicant responses to public comment received prior to the hearing including parking, green space, overnight usage, noise concerns, and euthanasia and disposal.

Beth Scheenstra, veterinarian and business owner, stated her availability to answer questions.

Commissioner Doll inquired on daily visits expected. Dr. Scheenstra stated she will be the only doctor, typically taking in 8 to 15 patients, if only appointments, versus procedures which would bring in less. Commissioner Doll inquired on the number of staff. Dr. Scheenstra stated there may be 2 to 3 support staff. Commissioner Doll expressed concern with the amount of parking provided. Dr. Scheenstra stated staff are encouraged to find alternative transportation.

Vernon Lauridsen, 2219 32nd Street. Mr. Lauridsen expressed concerns with the applicant listed as the architect, missing responses to code requirements, and ensuring that there is enough known about the proposed business.

Ms. Nelson clarified Mr. Lauridsen's concerns. The listed applicant is a representative, which doesn't make them the sole contact with the PCED Department. Code requirements were included with the application, and while they were not provided as a separate document in the PC Packet until the hearing, they were stated in the staff report. Details involving the clinic itself are mostly addressed in state requirements.

Chair Laumbattus asked the Commissioners if there are any interests in this proposal. Commissioner McNett stated that he has worked with the owner of the building. Chair Laumbattus stated that his physical therapist is Laurie Sherman, who wrote in comments. There were no objections.

David Pure, tenant representative, addressed Mr. Lauridsen's concerns by stating that he and the architect are experienced with vet clinic proposals and take concerns very seriously.

Commissioner Laumbattus inquired on storing animals after euthanasia. Dr. Scheenstra clarified that services come once a week or bi-weekly, the clinic has a freezer following state regulations, and special circumstances would be the duty of staff to take care of.

With no further comments, Chair Laumbattus closed the public hearing.

Commissioner Moffitt questioned the use of the clinic pharmacy. Dr. Scheenstra stated that pharmacy is a loose term for storing non-controlled substances, and there are not many controlled substances used in small animal practices, which this would be.

Commissioner Doll questioned the use of the empty lot to the north of the property. Dr. Scheenstra clarified that that lot is owned by Banner Bank and she would not encourage owners take pets there. Dr. Scheenstra stated that there is a pad on the lot that would allow for a space for pets to relieve themselves. Chair Laumbattus asked Mr. Measamer if landscaping on the lot could be converted to allow for use by pets. Mr. Measamer stated that it would be possible.

Commissioner Cleland-McGrath made a motion to add a condition which requires a minimum of 40 sq. ft. area designated for pets to relieve themselves. Commissioner McNett seconded the motion. Commissioner Doll suggested requiring signage on the designated area as an amendment to the motion. Commission Cleland-McGrath accepted the amendment. The motion passed unanimously.

Commissioner Oppel requested confirmation that neighboring property owners were contacted about the application. Mr. Measamer clarified that as required, all property owners within 300 feet have been notified, with comments received included.

Commissioner McNett made a motion to recommend approval of the conditional use permit with the subject conditions from staff and planning commission. Commissioner Cleland-McGrath seconded the motion. The motion passed unanimously.

Chair Laumbattus called the meeting to a close at approximately 7:10 p.m.

CUP-2016-1001

Veterinary Clinic: A conditional use permit in the Commercial Zoning District

Applicant: Mike Miranda

Landowner: Challenge Investments

Business Owner: Beth Scheenstra

Location: 1812 Commercial Avenue, P55172

Construction Proposal: Interior work only

Planning Commission: Recommended approval with conditions

Appeals: None

Comments: No new comments since Planning Commission Public Hearing (11/9)

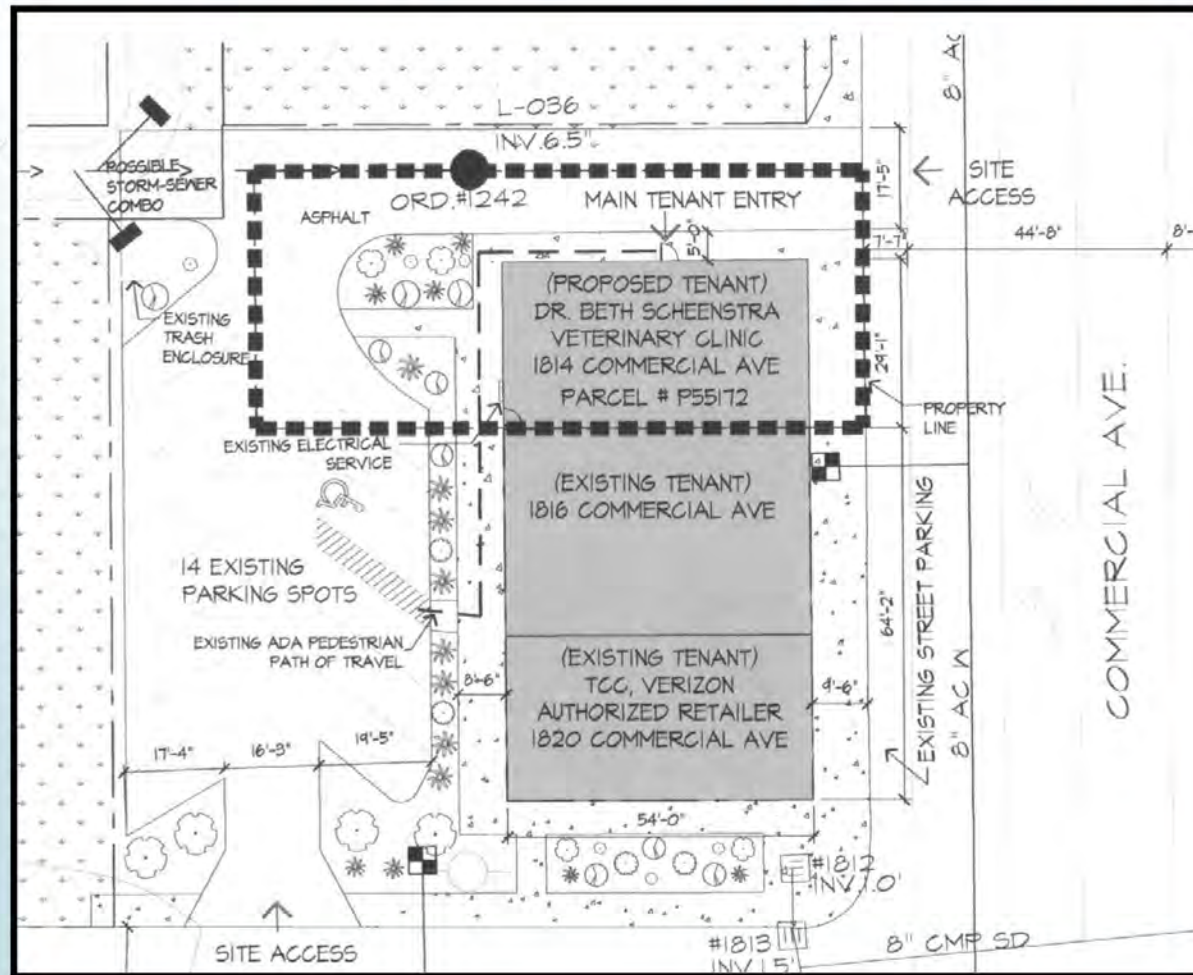
Public Parties of Record: Laurie & Paul Sherman, Vernon Lauridsen



Proposed Conditions

- 1) The scope of the project shall not exceed that as set-out in the conditional use permit application and in accordance with the determinations made and conditions imposed.
- 2) A building permit shall be secured for the proposed tenant improvements and the change of use prior to occupancy of the building.
- 3) The applicant shall be responsible for reimbursement to the City of Anacortes for the cost of posting, mailing, and publication of the public hearing for the subject CUP. Payment shall be made prior to building permit approval.
- 4) A location on site will be provided for use by pets to relieve themselves, at a minimum of 40 square feet, with appropriate signage.

CUP-2016-1001; 1812 Commercial Avenue





Parking Determination

- **Shared Parking Lot:** The veterinary clinic is a separate building from the adjacent uses. Parking requirements are based solely on the proposed use of this building.
- **Office type parking requirement:** 4 parking spaces per 1,000 net square feet.
- **Approximate Net Area:** 522 Net Sq. Ft.
- **Calculation:** $522/1000 = .522$; $.522 \times 4 = \mathbf{2.08}$ Required Parking Spaces
- **Proposed:** 4 reserved parking spaces; additional 4 on-street spaces fronting site
- **Total Shared Parking Lot Spaces:** 14 parking spaces, including those proposed to be reserved.



Applicant Response to Concerns

1) Green space for pets prior to entering:

“We are looking into the idea of isolating a small portion of the building exterior area as a small fenced-in spot for pets that need to go. Staff would patrol the area on a daily basis to remove any pet waste.”

2) Overnight Pets:

“Patients will not be boarded at the clinic and would only stay overnight on an exceedingly limited basis. Critical or anxious patients will be sent to the Pet Emergency Center for hospitalization. Although it is possible there may be an occasional sound, plans are to have sound-limiting infrastructure to reduce sound leakage including placement of acoustical sound barriers throughout the clinic space. The clinic space is simply not large enough for pets to stay overnight. “



Applicant Response to Concerns

3) Euthanizing, Storage, & Disposal:

"The clinic will not be doing any cremation services. Any euthanized pets would be temporarily stored and then picked up weekly or as needed by a professional service. Transportation of any euthanized pets will be handled discretely through the back door and will not be visible to the public or adjacent businesses. This will be handled in a very respectful way to both pets, owners and neighbors."

ORDINANCE NO. 2994

AN ORDINANCE ADOPTING THE CAPITAL FACILITIES PLAN (CFP)
FOR THE 6-YEAR PERIOD 2017-2022

Section 1. The Growth Management Act mandates development of a capital facilities element consisting of a six-year financing plan [RCW 36.70a.070-(3)].

Section 2. The 2017-2022 Capital Facilities Plan, as established by the City council and made available for distribution to the general public through the Office of the City Clerk-Treasurer, is hereby adopted, a copy of which is hereto adopted by reference.

Section 3. The total estimated expenditures/revenues for each major category and the aggregate total for all such categories combined are summarized and set forth as follows:

Equipment Rental	7,868,400
Facilities	1,320,000
General Government	465,500
Parks	16,995,000
Public Safety	1,809,769
Sewer	12,531,000
Solid Waste	428,695
Storm	2,909,500
Transportation	33,105,880
Water	23,657,500
Total	101,082,244

Section 4. The City Clerk-Treasurer of the City of Anacortes is hereby authorized to transmit a complete copy of the final CFP, as herein above adopted by reference, to appropriate authorized agencies.

Section 5. Effective date. This Ordinance shall take effect from and after five (5) days after its passage and publication, as required by law.

PASSED AND APPROVED this ____ day of November, 2016

CITY OF ANACORTES, WASHINGTON

BY: _____
Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk

Darcy J. Swetnam, WSBA # 40530
City Attorney

APPROVED AS TO FORM:

DeptName	Capital Project	Budget Line	2017 Cost	2018 Cost	2019 Cost	2020 Cost	2021 Cost	2022 Cost	TOTAL	Sources of Revenue
Equipment Rental	Parks/Depot	2300	\$ 92,000	\$ 45,000	\$ 225,000	\$ 163,000	\$ 77,000		\$ 602,000	Replacement reserves
Equipment Rental	Fire	2301	\$ 65,000	\$ -	\$ 338,400		\$ 1,500,000	\$ 550,000	\$ 2,453,400	50% Impact Fee 50% Gen Rev
Equipment Rental	Street	2302	\$ 34,000	\$ 170,000	\$ 405,000	\$ 36,000	\$ 420,000		\$ 1,065,000	Replacement reserves
Equipment Rental	Water Maint	2303	\$ 80,000	\$ 215,000	\$ 220,000	\$ 40,000		\$ 250,000	\$ 805,000	Replacement reserves
Equipment Rental	Solid Waste	2304	\$ 28,000			\$ 475,000	\$ 1,000,000		\$ 1,503,000	Replacement reserves
Equipment Rental	Police	2305	\$ 180,000	\$ 195,000	\$ 175,000	\$ 210,000	\$ 60,000	\$ 160,000	\$ 980,000	Replacement reserves
Equipment Rental	WWTP	2306	\$ 155,000	\$ 35,000					\$ 190,000	Replacement reserves
Equipment Rental	Fleet	2307	\$ 65,000		\$ 12,000	\$ 45,000			\$ 122,000	Replacement reserves
Equipment Rental	IT	2308	\$ -	\$ 30,000					\$ 30,000	Replacement reserves
Equipment Rental	ACFL	2309	\$ 6,000						\$ 6,000	Replacement reserves
Equipment Rental	Facilities							\$ 50,000	\$ 50,000	Replacement reserves
Equipment Rental	WTP	2310		\$ 47,000		\$ 15,000			\$ 62,000	Replacement reserves
									\$ 7,868,400	
Facilities	Operations Shop garage doors	869.5	\$ 25,000						\$ 25,000	REET
Facilities	City Hall windows	803	\$ 50,000	\$ 50,000					\$ 100,000	REET
Facilities	City Hall carpet	802	\$ 25,000	\$ 25,000					\$ 50,000	REET
Facilities	City Hall facility elevator upgrade	820	\$ 50,000						\$ 50,000	REET
Facilities	City Hall roof vents	821		\$ -	\$ 80,000				\$ 80,000	REET
Facilities	City Hall facility shop	822		\$ -		\$ 50,000			\$ 50,000	Operating revenues
Facilities	Senior Center roof	837	\$ 65,000						\$ 65,000	REET
Facilities	Senior Center floor	836		\$ 50,000					\$ 50,000	REET
Facilities	Senior Center paint	839		\$ 20,000					\$ 20,000	REET
Facilities	Police flooring	853	\$ 20,000	\$ 20,000					\$ 40,000	REET
Facilities	Police security cameras	852	\$ 40,000						\$ 40,000	Operating revenues
Facilities	Police paint & counter	854/855		\$ 85,000					\$ 85,000	REET
Facilities	Fire paint	865	\$ 25,000	\$ -					\$ 25,000	REET
Facilities	Fire flooring	866		\$ 25,000					\$ 25,000	REET
Facilities	Library carpet	863	\$ 50,000	\$ 50,000					\$ 100,000	REET
Facilities	Library paint	862			\$ 80,000				\$ 80,000	REET
Facilities	Operations restroom expansion	869	\$ 35,000						\$ 35,000	REET
Facilities	American Disabilities Act Transition plan	799/800	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 300,000	REET
Facilities	City Hall Structure Design	806	\$ 100,000	\$ -	\$ -	\$ -			\$ 100,000	REET
									\$ 1,320,000	
General Government	E-Record Management System	331		\$ 108,500	\$ -	\$ -			\$ 108,500	Operating revenues
General Government	Pile Removal and replacement	1474			\$ 130,000				\$ 130,000	Cash reserves
									\$ 238,500	
Parks	Parks improvements		\$ 60,000	\$ 95,000					\$ 155,000	REET
Parks	Cemetery Improvements/Expansion	1312	\$ 55,000	\$ 30,000	\$ 200,000				\$ 285,000	General rev, Lease rev, Bond
Parks	SHIP Wetland Interpretive Trail	1313			\$ 335,000				\$ 335,000	Grants, donations, impact fees
Parks	Heart Lake Improvements						\$ 30,000	\$ 300,000	\$ 330,000	Grants, private donations
Parks	H Ave Park Stream Restoration						\$ 15,000	\$ 275,000	\$ 290,000	Grants
Parks	Environmental Mitigation - Tommy Thompson Causeway							\$ 15,000,000	\$ 15,000,000	Grants
Parks	Washington Park Campground Improvements	1315			\$ 100,000				\$ 100,000	REET

DeptName	Capital Project	Budget Line	2017 Cost	2018 Cost	2019 Cost	2020 Cost	2021 Cost	2022 Cost	TOTAL	Sources of Revenue
Parks	Washington Park Day Use Areas Improvements	1315.1			\$ 400,000				\$ 400,000	REET
Parks	Commercial Ave Pocket Park	1315.2			\$ 100,000				\$ 100,000	REET
									\$ 16,995,000	
Public Safety	Construct March Point Fire Station	734			\$ 100,000	\$ 1,400,000			\$ 1,500,000	General Fund Reserves
Public Safety	Non-Motorized Equip Replace (SCBA + Radios)	618			\$ 28,090	\$ 29,775	\$ 42,237	\$ 44,771	\$ 144,873	50% Impact Fee 50% Gen Rev
Public Safety	Replace Radio Tower - Skyline	604		\$ 30,000					\$ 30,000	General revenues
Public Safety	Live Fire Training Water Retention	735	\$ 20,000						\$ 20,000	50% General rev 50% Live Fire Fund
Public Safety	Add Aerial Ladder Training Prop					\$ 28,000			\$ 28,000	Live Fire Fund
Public Safety	Replace/Update Extrication Equipment	737		\$ 86,896					\$ 86,896	General Fund Reserves
									\$ 1,809,769	
Storm	Storm System Restoration	2125	\$ 150,000	\$ 154,500	\$ 159,000	\$ 164,000	\$ 169,000	\$ 200,000	\$ 996,500	Capital reserve
Storm	Pond Restoration	2127	\$ 300,000	\$ 309,000	\$ 318,000	\$ 328,000	\$ 338,000	\$ 200,000	\$ 1,793,000	Capital reserve
Storm	Trash Racks	2126	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 120,000	Capital reserve
Storm	Clyde Creek Water Quality Enhancement Project	401					\$ 218,000		\$ 218,000	Grant, Cash reserves
									\$ 3,127,500	
Sewer	Collection System Maint/I and I Reduction	1922	\$ 618,000	\$ 737,000	\$ 759,000	\$ 1,000,000	\$ 1,030,000	\$ 1,061,000	\$ 5,205,000	Operating revenues
Sewer	Pump Station Upgrades	1927	\$ 300,000	\$ 309,000	\$ 218,000	\$ 225,000	\$ 231,000	\$ 238,000	\$ 1,521,000	Operating revenues
Sewer	Incinerator Offgas Scrubbing System	1929	\$ 650,000						\$ 650,000	Capital reserve
Sewer	Septic Handling Facility Upgrade					\$ 80,000			\$ 80,000	Operating revenues
Sewer	Replace Sewage Mechanical Bar						\$ 960,000		\$ 960,000	Capital reserve
Sewer	Outfall Maint& Rehab	1924	\$ 1,000,000						\$ 1,000,000	Capital reserve
Sewer	Fiber based telemetry system	1921	\$ 990,000	\$ 500,000					\$ 1,490,000	Capital reserve
Sewer	Admin building upgrade	1923	\$ 300,000						\$ 300,000	Operating revenues
Sewer	Dechlorination/Disinfection Upgrade	1930	\$ 100,000						\$ 100,000	Operating revenues
Sewer	Outlet Duct and Crossover Duct Rehab	1931	\$ 300,000						\$ 300,000	Capital reserve
Sewer	Influent Pumping Upgrade				\$ 210,000				\$ 210,000	Capital reserve
Sewer	Effluent Pump Station Upgrade					\$ 275,000			\$ 275,000	Capital reserve
Sewer	Nutrient Removal Upgrade						\$ 100,000		\$ 100,000	Capital reserve
Sewer	Basin Rehabilitation	1925		\$ 340,000					\$ 340,000	Capital reserve
									\$ 12,531,000	
Solid Waste	Solid Waste Containers	2204	\$ 28,000	\$ 28,000	\$ 33,000	\$ 33,000	\$ 33,000	\$ 33,000	\$ 188,000	Operating revenues
Solid Waste	Pickup Truck	2203	\$ 35,000						\$ 35,000	Cash reserves
Solid Waste	Reconstruct Parking Lot					\$ 205,695			\$ 205,695	Cash reserves
									\$ 428,695	
Transportation	Overlay program		\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 6,600,000	Operating revenues, REET
Transportation	ADA Ramps		\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 600,000	REET
Transportation	Sidewalk Repairs		\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 1,200,000	REET
Transportation	S. March Point Road Bike Lane		\$ 198,000						\$ 198,000	144360 grant, 53640 reet 2
Transportation	R Avenue Long Term Improvements				\$ 75,000	\$ 2,575,000	\$ 25,750	\$ 1,081,500	\$ 3,757,250	Impact Fees
Transportation	12th and K Avenue intersection						\$ 100,000	\$ 900,000	\$ 1,000,000	Impact Fees
Transportation	SR 20 spur sidewalk improvements							\$ 5,690,000	\$ 5,690,000	Impact Fees



Anacortes Public Library

Strategic Plan

2016 – 2020

Adopted by the Anacortes Public Library Board of Trustees on October 17, 2016

Prepared by Sheri Miklaski, Library Director, and Staff Advisory Group Members Diana Farnsworth, Cheri Noyes, Jeff Vogel and Pauline Zollinger

A Message from the Anacortes Public Library Director



I came to Anacortes three years ago with “The Library is at the Heart of the Community” as my motto. Our Strategic Planning process has reaffirmed what I have come to embrace as my revised motto, “The Community is at the Heart of our Library.”

The Anacortes Public Library has been both at the heart of the community and the community at the heart of the library for more than 100 years. Anacortes so loves their library that they wanted the new building to be on the existing site – to keep it close to the center of Anacortes and firmly established in the heart of Old Town.

Just as Anacortes has changed over the past ten, twenty, one hundred years, so have libraries changed and our library will continue to adapt to meet the needs of the Anacortes community. Feedback received from our strategic planning process confirmed that those who live and work in the Anacortes area would not only like broader access to our collections, they aspire for a greater sense of connection with one another, and see the Library as a vibrant civic focal point and resource hub for the Anacortes community. There is also a desire for the Library to firmly establish itself as a “third place” where everyone can come together and learn from one another. Another important outcome from the process is the identified need for us to use our limited library resources wisely, including staff, funding, and technology. We welcome community interest in our survey results located on our website, www.library.cityofanacortes.org.

Based on the information gathered, we have established a mission, vision, values, goals and objectives that are reflected in the pages that follow. It is APL’s underlying belief that we are here to do our best in making Anacortes a better place to live and work for all of its citizens, the people we serve.

Our Strategic Plan is just a beginning and I look forward to more conversations to help us achieve our goals, which can only be accomplished in partnership with all of you.

A handwritten signature in black ink that reads "Sheri Miklaski". The signature is written in a cursive, flowing style.

Sheri Miklaski

APL 2016-2020 STRATEGIC PLAN

Mission

The mission of the Anacortes Public Library is:

To empower a lifetime of discovery.

APL 2016-2020 STRATEGIC PLAN

Vision

The vision of the Anacortes Public Library is:

To enrich the present and inspire the future.

APL 2016-2020 STRATEGIC PLAN

VALUES

The values of the Anacortes Public Library are:

- We Promote Literacy and a Love of Reading
- We are Respectful and Mindful
- We are Knowledgeable about Information and Technology
- We Demonstrate Excellence
- We Act with Compassion
- We Prioritize Service to our Community
- We Support the Right of Library Users to Read, Seek and Speak Freely as Guaranteed by the First Amendment
- We Protect the Confidentiality of Information about Library Users and What They Access

APL 2016-2020 STRATEGIC PLAN

STRATEGIC FOCUS

APL began our strategic planning process by soliciting feedback from library users through a community survey and focus groups involving library users and non-users as well as key stakeholders. We received approximately 450 completed surveys containing a great deal of information on what library users currently value and what they would like to receive from the Library in the future. The majority of respondents let us know that they view the library environment as welcoming and helpful for library users.

Based on the results of the community survey and community focus groups, the Library seeks to:

- Support the love of reading and learning.

- Develop the Library as a place that is inclusive and encourages greater use of the Library by all, and especially for teens and young adults.
- Provide access to information and resources to introduce ideas, build skills, and support early literacy and lifelong learning.
- Promote discovery and creativity.
- Expand digital resources while ensuring that library users have access to materials in formats they want.
- Support a stronger Anacortes through participation in community-building activities by strengthening the Library's partnerships with the school district, service organizations, and city departments.

The Anacortes Public Library supports the American Library Association's *Libraries Transforming Communities* initiative, and intends to pursue the new tools and resources offered by ALA to enhance APL's presence in the Anacortes community. More information on this initiative may be found at <http://www.ilovelibraries.org/librariestransform/>.



APL 2016-2020 STRATEGIC PLAN

GOALS

The strategic focus outlined on the previous page will serve as the foundation for the planning that will take place over 2016-2020. In the short-term, four goals emerged from the strategic planning process that will guide our work over the next two years (2016-2018). These goals are:

1. **Library Programs and Services.** Assess and explore new and different library programs and services to enhance access and encourage discovery.
2. **Communications and Branding.** Identify and brand the Library to define who we are and what we do. We will be visible in the community and reach out to library users and non-users alike.
3. **Space Planning and Utilization.** Redesign library space in order to promote collaboration and be responsive to user priorities and citizen interests.
4. **Library Staffing and Professional Development.** Focus our use of library staff to meet current and future staffing needs, best practices in the library profession, and innovative staff development and training.



APL 2016-2020 STRATEGIC PLAN

OBJECTIVES

In order to achieve the Library's goals, the following objectives will be completed over the next two years (2016-2018):

Programs and Services and Improved Access

Objectives:

1. Expand digital offerings and online resources (such as Overdrive and other available software for access to books, music, films) to be more available to library users.
2. Evaluate open hours and identify impacts of options to expand/change hours.
3. Explore programs to satisfy unmet community needs and make library users more aware of current library services and offerings.
4. Enable access points and outreach opportunities for library users.

Communications and Branding

Objectives:

1. Adopt a new APL logo.
2. Create an improved library website integrated with a library app.
3. Enhance use of social media.
4. Improve communication to community about library activities.

Space Planning and Utilization

Objectives:

1. Evaluate current library space for redesign options to maximize more diverse and targeted use.
2. Wisely use remaining capital funds to re-envision/modernize the Library.
3. Involve the staff, board, and community in future space planning.
4. Plan for a future makerspace/computer lab and/or flexible meeting space.

Library Staffing and Professional Development

Objectives:

1. Determine the best way to allocate limited resources through a staffing analysis, classification/compensation study, and the use of other helpful data.
2. Identify specifically what we should start/stop doing in order to expand our available resources.
3. Look for additional resources to manage/expand on the use of volunteers.
4. Look for professional staff and team development opportunities targeted to APL's needs.

APL 2016-2020 STRATEGIC PLAN

OUR COMMITMENT

Anacortes Public Library is committed to providing excellent service to our library users. Our purpose is to provide information to all users about library resources and services; provide collections, services, and assistance that encourages exploration of the world of ideas and information; help users develop the knowledge and skills they need to live, learn, and work; and to guide users to appropriate materials in all formats. Our new Strategic Plan will guide how we approach the delivery of our services over the next five years.

We believe that transparency is critical to encouraging involvement in library activities and to keep us accountable to achieve results. Therefore, we are committed to reporting on our progress in implementing the plan. We encourage library users to check the public website for ongoing information and to continue to let us know how we are doing as we embark on this new Strategic Plan.

We continue to seek out new ways to communicate with our community in order to better understand their needs, now and in the future. In everything we do, we will listen to our users.





Strategic Plan 2016 – 2020

Primary Source

(Library consultants)

Lots of discussions with staff

Discussion with Library Board

Staff Advisory Group

Community Survey

Focus Groups

- *Stakeholders

- *Users and non-users

Follow up meetings with SAG

Mission

The mission of the Anacortes Public Library is:

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VALUES

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Strategic Focus

- Support the love of reading and learning.
- Develop the Library as a place that is inclusive and encourages greater use of the Library by all, and especially for teens and young adults.
- Provide access to information and resources to introduce ideas, build skills, and support early literacy and lifelong learning.
- Promote discovery and creativity.
- Expand digital resources while ensuring that library users have access to materials in formats they want.
- Support a stronger Anacortes through participation in community-building activities by strengthening the Library's partnerships with the school district, service organizations, and city departments.

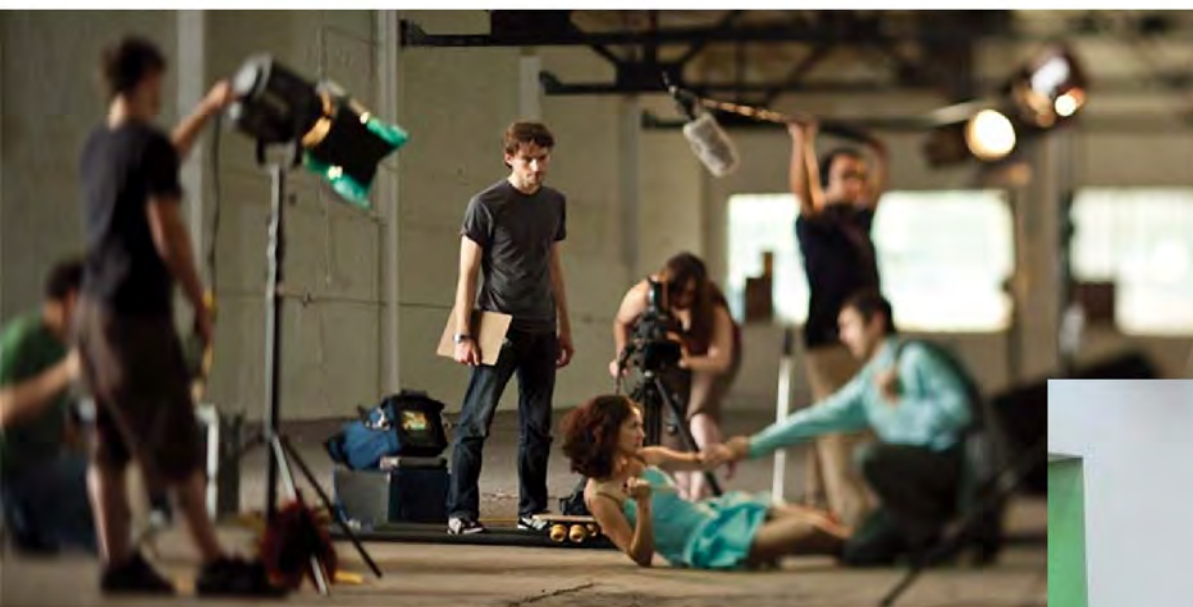
GOALS

1. **Library Programs and Services.** Assess and explore new and different library programs and services to enhance access and encourage discovery.
2. **Communications and Branding.** Identify and brand the Library to define who we are and what we do. We will be visible in the community and reach out to library users and non-users alike.
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4. **Library Staffing and Professional Development.** Focus our use of library staff to meet current and future staffing needs, best practices in the library profession, and innovative staff development and training.

Programs and Services and Improved Access

Objectives:

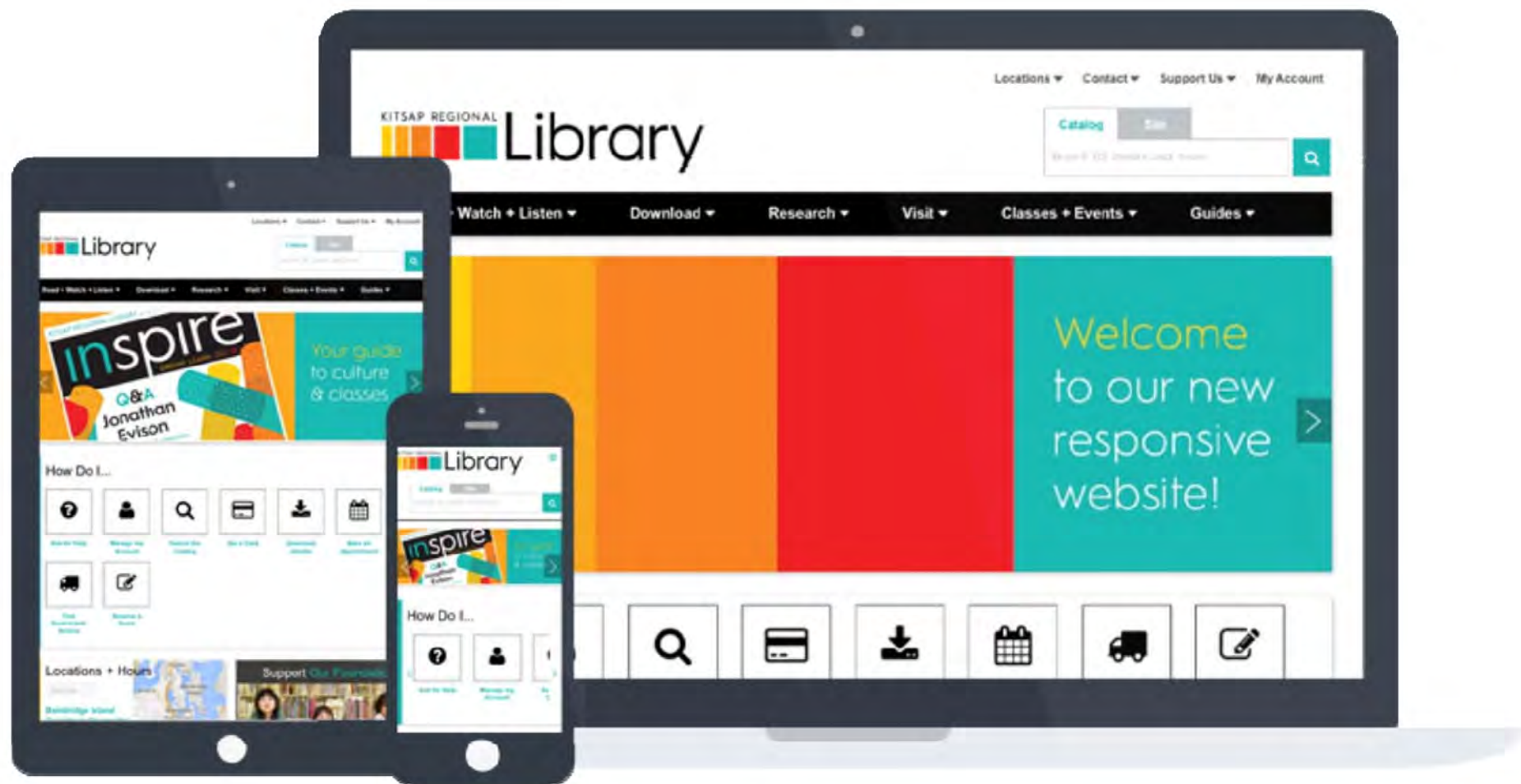
1. Expand digital offerings and online resources (such as Overdrive and other available software for access to books, music, films) to be more available to library users.
2. Evaluate open hours and identify impacts of options to expand/change hours.
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Communications and Branding

Objectives:

1. Adopt a new APL logo.
2. Create an improved library website integrated with a library app.
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Space Planning and Utilization

Objectives:

1. Evaluate current library space for redesign options to maximize more diverse and targeted use.
2. Wisely use remaining capital funds to re-envision/modernize the Library.
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4. Plan for a future makerspace/computer lab and/or flexible meeting space.



Library Staffing and Professional Development

Objectives:

1. Determine the best way to allocate limited resources through a staffing analysis, classification/compensation study, and the use of other helpful data.
2. Identify specifically what we should start/stop doing in order to expand our available resources.
3. Look for additional resources to manage/expand on the use of volunteers.
4. Look for professional staff and team development opportunities targeted to APL's needs.









City Council Agenda Bill

Meeting Date: 11/28/2016

Agenda Item: 7b

Subject: Assumptions incorporated into the 2017 / 2018 biennial budget

Staff Contact: Steve Hoglund

Approved for Submittal to Council by	
x	Laurie Gere, Mayor
x	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney

Action Type	
x	Ordinance No. 2993
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: Several assumptions used to build the budget have been discussed and debated over the past 2 months. The matrix outlining those is attached.

Background: A number of budget discussion points are attached, with a major change being incorporated regarding raising Transportation Benefit District fees. The proposed budget now does not incorporate an increase in TBD fees, but it does maintain a full \$1.1M in funding for the pavement management program through use of additional REET. The REET funding is projected to be strong enough to provide that additional funding for pavement, but still allow sufficient funding for other projects identified in the CFP.

Budget Impact	
Amount Budgeted	
Budget Account (BARS)	
Proposed Expenditure	
Budget Amendment Required?	
Revenue Source	

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

Previous Council/Committee Action: NA

Competing Viewpoints Considered: NA

Recommended Motion: NA

Alternative Actions: NA

Attachments (listed in order presented): Budget assumptions matrix.

Assumption/Decision	Effect	Change
1. 1% property tax increase for both years (Resolution of Substantial need for 2017, as IPD <1%)	If not taken, \$47,779 in cuts need to be made in 2017, and \$48,757 in 2018 to retain a balanced budget.	Intact, 1% Property tax increase authorized.
2. Adopt revised Storm Utility rates of at least \$1.35/ISU for 2017 to pay for basic operations. Cash reserves will be used to fund capital in 2017.	If no rate action is taken, 2017 capital spending will have to be reduced as reserves will be exhausted sooner.	Rate review in work, Public works is currently re-evaluating ISU definition and rate recommendation. Changes will be incorporated by Budget Amendment once rates are adopted
3. Adopt revised Storm Utility rates of more than \$1.35/ISU for 2018 and beyond or we will have to remove all storm projects from 2018 and later CFP. (Draft budget assumes no additional	A higher rate increase can be adopted at a later date, and a budget amendment can be used to adjust revenue and expenditure projections.	See 2 above.
4. Adopt revised Water Utility rates as recommended by FCS for both 2017 and 2018 in order to fund the proposed water projects (18% and 7% respectively, as outlined in council presentation 8/24/16, Option B)	Adjustments to water maintenance and capital expenditure projections will need to be adjusted if lower rate changes are adopted.	No change.
5. Ordinance 2990 amending 2016 budget to transfer \$2.2M to ER&R replacement fund. Budgeted ER&R charges are to maintain ERR resources, they don't make up any deficit.	Either increase ERR rates, with corresponding budget cuts elsewhere, to make up the deficit. Or, continue funding ERR purchases with cash reserves from General and Utility funds.	No change. Discussion continues, the ERR rates in the proposed budget will remain 'as is' regardless of future action on a transfer to ERR.
6. In 2018 increase TBD fee by additional \$20 per year. Overlay funding model per resolution 1895 calls for \$200K from General Fund annually, which is not sustainable as a long term plan. Additional TBD fee would generate approximately \$300K in additional revenue, to replace the General Fund infusion, and make up the difference in declining Prilled Sulfur revenues.	If TBD increase rejected, an alternate plan should be reviewed for the long term. Either the level of funding, or alternate sources of funding to keep the overlay program at \$1.1M annually.	Additional fee removed from budgeted TBD revenue projections. The \$1.1M pavement management program maintained through addition of REET funding in 2018.



City Council Agenda Bill

Meeting Date: 9/26/2016

Agenda Item: 7b

Subject: Budget amendment authorizing one time cash transfer from General Fund to ERR equipment replacement fund.

Staff Contact: Steve Hoglund

Approved for Submittal to Council by	
X	Laurie Gere, Mayor
X	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney

Action Type	
X	Ordinance No. 2990
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: The Equipment Replacement and Reserve (ERR) Fund collects replacement funds from the departments using the vehicles, for future replacement when the equipment fully depreciates and is surplus. Those replacement reserves have been under funded for a number of years, and a one-time transfer from the General Fund would bring those replacement reserves back to a healthy level. The amount requested does not include the Fire Department Ladder truck (whose replacement cost is over \$1.4 million alone), and includes non-utility fleet only.

Background: When the great recession set in, a variety of cost saving measures were implemented to maintain a balanced budget, and one of those was reducing the ERR replacement charges. This was a conscious decision by administration at the time to avoid layoffs, and retain as many City employees as possible. Now that the economy has recovered, and the City has been saving cash reserves in the General Fund every year since 2009, it makes sense to use some of that money to get ERR reserves to a healthy level. This transfer of cash will allow the operation of the ERR fund to be more consistent and predictable, rather than budgeting on a "pay as you go" basis for vehicles the way we have for the past 6 to 8 years. Fiscal Year 2015 General Cash Balance was 8.9M, or 72% of Expenditure budget. Projected 2016 year end balances, with this transfer, would put General fund cash at 50% of the 2016 expenditure budget, well above GFOA recommended levels of 16%.

Budget Impact	
Amount Budgeted	0
Budget Account (BARS)	001.210.597.00.00
Proposed Expenditure	2,218,358.28
Budget Amendment Required?	Yes
Revenue Source	Cash reserves

Previous Council/Committee Action: Budget Ordinance 2963 adopting 2016 annual budget.

Competing Viewpoints Considered: Budget should not be amended, transfer should not take place, keep cash reserves in the General Fund.

Recommended Motion: I move to adopt ordinance 2990 authorizing the one time ERR transfer.

Alternative Actions: Do not adopt budget amendment.

Attachments (listed in order presented): Ordinance 2990

ORDINANCE 2990

AN ORDINANCE AMENDING ORDINANCE NO. 2963 ADOPTED ON DECEMBER 07, 2015, ENTITLED "AN ORDINANCE ADOPTING THE BUDGET FOR ALL MUNICIPAL PURPOSES AND USES FOR THE YEAR 2016"

WHEREAS, The City of Anacortes has an Equipment Rental and Revolving Fund that owns, maintains, and replaces all of the City's fleet vehicles, and those vehicles are leased to the departments using them, and

WHEREAS, The leasing department's lease payments consist of a maintenance charge and a replacement charge for future vehicles, and

WHEREAS, When the great recession hit, the replacement charges were reduced in an effort to minimize staff reductions but continue to have a balanced budget, and

WHEREAS, The General fund has healthy cash reserves, exceeding 8 million dollars at fiscal year 2015 year end, and expected to be roughly that level at fiscal year 2016 year end, and

WHEREAS, The ERR cash reserve for replacement for non-utility vehicles is currently underfunded by \$2,218,358.28, and City Council desires to make a one-time operating transfer from the General Fund to the ERR fund to get the ERR replace reserve balance to 75% of its fully funded amount, which will provide sufficient funds to operate the ERR replacement fund consistently,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Anacortes, Washington, as follows:

Section 1. Ordinance No. 2963 dated December 7, 2015 adopting the Budget for 2016 is hereby amended to reflect the following revisions to expenditures and revenues in the following funds:

001.210.597.00.00	Transfers out	2,218,358.28	
001.000.308.90.00	Fund balance		2,218,358.28
501.151.10.00.00	Fund Balance	(2,218,358.28)	
501.000.397.00.00	Transfers in		2,218,358.28

Section 2. Effective date. This Ordinance shall take effect from and after five (5) days after its passage and publication, as required by law.

PASSED AND APPROVED THIS 26th day of September, 2016

CITY OF ANACORTES, WASHINGTON

BY: _____
Laurie Gere, Mayor

ATTEST:

(Corporate Seal)

Steven D. Hoglund, City Clerk

APPROVED AS TO FORM

Darcy Swetnam
City Attorney



City Council Agenda Bill

Meeting Date: 11/28/2016 **Agenda Item:** Municipal Code Update

Subject: Request for Council action on proposed Ordinance 2991 to adopt new standards for stormwater management and changes to the municipal code. A Public Hearing remains open on this matter from the 10/24/2016 council meeting.

Staff Contact: John Franz

Approved for Submittal to Council by	
	Don Measamer, Director

Action Type	
X	Public Hearing
X	Discussion
X	Action

Summary Statement: The stormwater permit issued to the City of Anacortes by the Department of Ecology requires that LID (Low Impact Development) practices shall be the preferred and commonly used approach for stormwater management. In order to comply with the LID requirement the municipal code must be updated no later than January 1, 2017.

Background: A public hearing on the proposed changes to the municipal code held during the 10/24/2016 Council meeting remains open. At the October 24 meeting there was considerable discussion of the proposed changes to the code. Several comments from a member of the audience as well as concerns from Council members centered on code enforcement. The code allows for action by city staff for code infractions beginning with providing technical advice and potentially escalating up to as much as \$1000 per day, per violation, and possibly referral to the city prosecuting attorney. The full range of the potential penalties are at the discretion of the Director of Planning and Community Development. Additional information on the matter of code enforcement and differences between the old stormwater requirements and what will be required under the new regulation are in the attached briefing paper.

Previous Council/Committee Action: The proposed changes to the municipal code were presented to the Council and the public on October 24, 2016. The public hearing on this matter was left open at the end of the discussion.

Competing Viewpoints Considered: The Samish Nation; the Swinomish Nation, the Port of Anacortes, engineering firms, developers, builders and contractors, the Fidalgo Bay Aquatic Reserve Citizens Advisory Committee, City Staff and the public have been invited to comment on the proposed changes.

Recommended Motion: At the close of the public hearing, move to adopt Ordinance 2991 - An Ordinance adopting, repealing and amending AMC Chapter 13.11; 13.36, Chapter 16.04, Sections 17.04.050 and 17.54.050 thru 17.54.090, Chapter 18.12 and 18.30 thru 18.40 and portions of Title 19, Adopting New Standards for Stormwater Management.

Alternative Actions: No alternative actions are permissible. The proposed changes to the municipal code represent the minimum required by the Department of Ecology. The deadline for acceptance is January 1, 2017.

Attachments (listed in order presented): [Click here to enter text.](#)

2016 Draft Municipal Code update version 11 clean

Briefing Memo

2016 Draft Municipal Code update version 11 with all remarks/comments



Briefing Memo

Date: November 22, 2016

To: City Council; Fred Buckenmeyer, Director of Public Works

From: John Franz

Re: Changes to stormwater municipal code, including civil enforcement of new stormwater code.

Background:

Ecology requires all Phase II municipalities to update the municipal code and engineering and design standards pertaining to new development. These changes must be in place and enforceable no later than January 1, 2017.

This matter has been before City Council previously. This paper is in response to a request from Council for a comparison from the old to the new requirements, and more detail on civil enforcement of the new code.

The public hearing on the changes to the municipal code were held open at the last council meeting.

Discussion:

The changes that are being proposed represent the minimum that is required of Phase II cities under the new stormwater regulations. The following list are things that are completely new, or will get attention by city staff that may be considered as new:

- Stormwater from all construction sites that disturb 7000 square feet or greater or include 2000 square feet or more new or replaced impervious surface must attempt to control stormwater on the site. This requirement used to be for sites greater than one acre.
- There are extensive requirements for all development or redevelopment, including single family residences that exceed the square footage described above. These new requirements include

eight inch minimum topsoil depths, four possible choices roof drains before a perforated stub out to the storm drain can be considered (no “conventional” direct connection to the storm drain for roof drain systems can be permitted) and permeable pavement must be considered. Many other requirements for new or re-development are also in the new Stormwater Manual.

- The BMPs for stormwater management must be selected from the new Stormwater Manual.
- Absolutely no water is allowed down the storm drain system that is any dirtier than storm water. This includes runoff from building cleaning, sidewalk or car washing. No pressure washing, hot water or detergents can be used during any cleaning operations; commercially, in new developments or at residences.
- Greater coordination with other jurisdictions, for example the Port of Anacortes or the Anacortes Housing Authority, is required.
- More recordkeeping will need to be done, all development BMPs must be inspected and the inspection must be recorded.

Car washing into the storm drain has pretty much always been against the permit. The city staff is working on public service announcements to provide public education about car washing.

Changes to civil code enforcement under the updated code will be only minor. Currently the Director of Planning and Community Development has discretion to levy a fine up to \$1000/day/violation. That is what is in the new code as well. The new Title 20 does however simplify the language around stormwater code enforcement. Some of the old code language has the appearance of being self-contradictory and staff found it difficult to enforce.

Recommendations:

The new stormwater code needs to be in place no later than January 1, 2017.

Impacts if Action Not Taken:

If the new code is not enforceable on January 1, 2017 Anacortes will be found in violation of the stormwater permit.

Ordinance No. 2991

An Ordinance adopting, repealing and amending AMC Chapter 13.11; 13.36, Chapter 16.04, Sections 17.04.050 and 17.54.050 thru 17.54.090, Chapter 18.12 and 18.30 thru 18.40 and portions of Title 19, Adopting New Standards for Stormwater Management

Whereas the National Pollutant Discharge Elimination System permit issued by the Washington State Department of Ecology to the City of Anacortes requires the implementation of an ordinance or other enforceable mechanisms to address stormwater runoff from new development, redevelopment and construction site projects;

Whereas the City Council of the City of Anacortes wishes to comply with this requirement;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

Section 1. The Anacortes Municipal Code is amended as described in Attachment A.

Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication, or on January 1, 2017, whichever is later.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy James Swetnam, City Attorney

Attachment A

AMC Chapter 13.11, Regulations for Privately Owned Stormwater Facilities, is repealed

AMC Chapter 13.36, Drainage Requirements and Regulations, is repealed.

AMC 17.54.050, Stormwater Management/Quality and Quantity, is repealed.

AMC 17.54.060, Land Clearing, is repealed.

AMC 17.54.070, Regulated Slopes, is repealed.

AMC 17.54.080, Geologically Hazardous Areas, is repealed.

AMC 17.54.090, Site Grading, is repealed.

AMC Chapter 18.12, Land Clearing and Grading, is repealed.

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TITLE 16 Subdivisions

16.04.020 - Policy.

- A. It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the comprehensive plan of the city.
- B. Land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for: drainage, water, sewage, and capital improvements such as schools, parks, recreational facilities, and transportation facilities and improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the proposal shown in the comprehensive plan and the city capital facility plan. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the state Building Code, the city zoning ordinance, the city comprehensive plan, and the city capital facility plan.
- D. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of the regulation(s) as identified in [Section 16.04.030](#).
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit ("the Permit") and all of the technical requirements, site planning, and design considerations contained in the Stormwater Management Manual for Western Washington ("the Manual"), including the provisions of the Permit and Manual that require Low-Impact Development ("LID") techniques when described in the Manual. In addition, the City integrates the specifications and guidance included in the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the Manual.

TITLE 17 Zoning

17.04.010 - Introduction.

No change

17.04.020 - Title and purpose.

No change

17.04.030 - Enacting clause.

No change

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

No change

17.04.050 - Conformity with this title required.

- A. No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with to the use provisions, dimensional and other standards, and procedures of this title and [Title 16](#), Subdivisions.
- C. All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between the title and other applicable regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit ("the Permit") and all of the technical requirements, site planning, and design considerations contained in the Stormwater Management Manual for Western Washington ("the Manual"), including the provisions of the Permit and Manual that require Low-Impact Development ("LID") techniques when described in the Manual. In addition, the City integrates the specifications and guidance included in the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the Manual.

Title 18 Environmental Protection

18.04 State Environmental Policy Act

No change.

18.08 Air Pollution Control District

No change.

18.12 Land Clearing and Grading

Repealed.

18.14 Nuisances

No change.

18.16 Shoreline Master Plan

No change.

18.20 Historic Properties

No change.

New Chapter 18.30 Illicit Discharges and Connections to the Stormwater Drainage System

18.30.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants and to ensure ongoing compliance with the City's NPDES permit.

18.30.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.30.030 Illicit discharges.

A. Illicit Discharges Prohibited.

1. No person may throw, drain, or otherwise discharge, or cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
2. Illicit discharges include, but are not limited to solid waste; yard waste; dirt; sand; gravel, cement; paint products; human and animal waste; soap; detergent; antifreeze, oil, gasoline,

grease, and all other automotive and petroleum products; pesticides; herbicides; fertilizers; flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers; drain cleaners; commercial and household cleaning materials; acids; alkalis; ink; steam-cleaning waste; laundry waste; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; plaster and dry-wall compound.

B. Allowable Discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising groundwater.
3. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
4. Uncontaminated pumped groundwater.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban stormwater.
8. Springs.
9. Water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.
12. Discharges from emergency firefighting activities.

C. Conditionally Allowed Discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a

concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.

2. Lawn watering and other irrigation runoff are permitted but must be minimized.
3. Dechlorinated swimming pool discharges. These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.
4. Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.
5. Other non-stormwater discharges that are in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.

D. Exemptions.

1. The following discharges are exempt from the provisions of this section:
 - a. the regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit;
 - b. acts of God or nature not compounded by human negligence;
 - c. properly operating on-site domestic sewage systems.
2. A person does not commit an illicit discharge if:
 - a. that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART, even if pollutants continue to enter surface and stormwater or groundwater; or
 - b. that person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.

E. Best Management Practices (BMPs).

1. Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.

2. BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Director must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Director may require implementation of treatment BMPs as set forth in AKART.

18.30.040 Illicit connections and uses.

- A. No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.
- B. Connections to the stormwater drainage system from the interiors of structures are prohibited.
- C. Connections to the stormwater drainage system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

18.30.050 Violations

- A. A violation of this Chapter is a class 1 civil infraction for each day it continues.
- B. The Director may impose a civil penalty of up to \$1,000 per day per violation.
- C. To abate a violation, the Director may:
 1. require implementation of stormwater BMPs described in the Stormwater Management Manual or AKART BMPs described in RCW 90.48.010 and 90.48.520.
 2. require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the Director, and provide that analysis to the Director.
 3. make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.
- D. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

New Chapter 18.40 Operations and Maintenance of Private and Municipal Stormwater Facilities.

18.40.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants, protect other properties from uncontrolled stormwater discharges, to ensure ongoing maintenance of stormwater facilities, and compliance with the City's NPDES permit.

18.40.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.40.040 Maintenance Required.

- A. Owners and operators of stormwater facilities must operate and maintain those facilities to ensure the performance achieves the intended purpose of the facility.
- B. Owners of property for which a stormwater BMP has been required by the City must continually maintain that BMP.
- C. Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:
 - 1. Within 12 months for typical maintenance of facilities, except catch basins;
 - 2. Within six months for catch basins;
 - 3. Within 24 months for maintenance that requires capital construction of less than \$25,000.

18.40.050 Protection.

- A. Owners and operators of stormwater facilities must protect their stormwater facilities from harm or degradation.
- B. All stormwater facilities and LID BMPs must be protected from all of the following:
 - 1. Cover by structures or impervious material;
 - 2. Soil compaction, for example by vehicular traffic or livestock;
 - 3. Damage by soil removal and grade alteration;
 - 4. Loss or degradation of amended soils;
 - 5. Damage or removal of approved vegetation;

6. Conversion to another use.

18.40.060 Inspections of Stormwater Facilities.

- A. The City must inspect stormwater facilities at least annually, or less frequently if allowed by the City's NPDES permit.
- B. Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City may inspect per AMC Title 20, Civil Enforcement and Penalties.

18.40.070 Enforcement.

- A. A violation of this Chapter is a public nuisance.
- B. The Director may impose a civil penalty of up to \$100 per day per violation.
- C. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

18.40.080 Liability

- A. Nothing contained in this chapter is intended to be nor may be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.
- B. Any city employee charged with the enforcement of this chapter, acting in good faith and without malice on behalf of the city in the discharge of his/her duties, may not be personally liable for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. Any suit brought against an employee because of such act or omission performed by him/her in the enforcement of any provision of this chapter shall be defended by the city.

New Title 19, Unified Development Code

New Chapter 19.12 Definitions and Interpretation

19.12.020 Definitions.

“AKART” means all known, available, and reasonable methods of prevention, control, and treatment.

“Adverse Impact” means an unwanted and unanticipated result of taking a particular action or a negative effect that goes against desired conditions.

“City’s NPDES Permit” means the 2013-1018 Phase II Western Washington Municipal Stormwater Permit issued by the Department of Ecology pursuant to the National Pollutant Discharge Elimination System.

“Department” means the “City of Anacortes Planning, Community, and Economic Development Department.”

“Director” means the director of the City of Anacortes Planning, Community, and Economic Development Department.

“Grading” means any excavating or filling or combination thereof, of land.

“Groundcover” means the small plants on a forest floor except young trees.

“Grubbing” means the removal of trees, shrubs, stumps and rubbish from the project site.

“Infiltration device or facility” means a drainage device or facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as a percolation, to dispose of surface and stormwater runoff.

“Land clearing” means the act of removing or destroying trees or groundcover.

“Minimum Requirement” means a technical Minimum Requirement described in Volume 1 of the Stormwater Management Manual for Western Washington (SWMMWW) and Appendix 1 of the City’s NPDES permit.

“Qualified Professional” means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience.

“Retaining wall” means a structure that retains (holds back) any material (usually earth) and prevents it from sliding or eroding away.

“Sediment basin (pond)” means a temporary sediment pond installed at a construction site.

“Significant tree” means deciduous and evergreen tree greater than six inches in diameter at five feet above grade.

“Stormwater Management Manual” means the City’s manual for design of stormwater facilities, as adopted in AMC 19.76.040.

“Street gutter” means a low area at the side of a road used to catch water and carry it away from the road.

“Surface water” means waters that flow over the land surface and frequently interact with groundwater.

“SWMMWW” means 2014 Stormwater Management Manual for Western Washington.

"Tree" means any living woody plant characterized by one main stem or trunk (or a group of trunks, in some species) and many branches, and having a diameter of eight inches or more measured at twenty-four inches above ground level when mature.

New Chapter 19.76 Stormwater

19.76.010 Policy.

- A. Purpose. Washington State law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, habitat protection, and water quality treatment. The City of Anacortes has adopted the requirements of this Chapter for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management.
- B. Goals of Low Impact Development (LID). LID is the preferred and commonly used approach to site development. LID is intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. (City’s NPDES Permit S5.C4.f.i) This Chapter accomplishes the following goals:
 - 1. Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
 - 2. Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;
 - 3. Reduce impervious surfaces; and
 - 4. Preserve or restore native vegetation.

19.76.020 Applicability.

- A. This Chapter applies to any land disturbing activity that requires a permit under this Title.
- B. Exemptions. The following activities are exempt from the requirements of this chapter:
 - 1. Landscape maintenance activities and gardening that does not adversely impact stormwater facilities or raingardens.
 - 2. The activities described in Appendix 1, Section 1 of the City's NPDES permit, including qualifying pavement maintenance and underground utility projects.

19.76.030 Application Requirements.

- A. All activity to which this Chapter applies requires review consistent with this Chapter.
- B. All applications requiring review under this Chapter must demonstrate compliance with AMC 19.76.040.
- C. The Director may require third party review of any stormwater site plan at the expense of the applicant.

19.76.040 Stormwater Management Manual.

- A. The City of Anacortes adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the City's Stormwater Management Manual.
- B. The City of Anacortes adopts the Thresholds, Definitions, Minimum Requirements, and Exceptions, Adjustment, and Variance Criteria found in Appendix 1 of the City's NPDES Permit.
- C. Any undefined terms in this chapter have the meanings established in the Stormwater Management Manual.
- D. The City of Anacortes utilizes the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual for information related to best management practices.
- E. The Director is the administrator authorized to determine feasibility and make decisions on adjustments and exceptions under the Stormwater Management Manual.
- F. Feasibility.
 - 1. The Director may determine infiltration is infeasible without the infiltration testing required by the Stormwater Management Manual Stormwater BMPs when infiltration is known to the City to be infeasible due to any of the following:

- a. soil conditions;
- b. presence of significant naturally occurring groundwater;
- c. significant tidal influence on groundwater;
- d. presence of geologically hazardous areas that would be made unstable by infiltration.

G. Adjustments and Exceptions.

- 1. The Director may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in the City's NPDES Permit Appendix 1 Section 5, Adjustments.
- 2. The Director may grant an exception from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in the City's NPDES Permit Appendix 1 Section 6, Exceptions and Variances.
- 3. The Director must retain records, including the written findings of fact, of all exceptions from the minimum requirements.
- 4. A request for an adjustment or exception must meet the criteria in the City's NPDES Permit (Appendix 1) and be submitted on a form provided by the department.

19.76.050 Low-Impact Development Techniques and Facilities.

- A. Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.
- B. General Design Techniques.
 - 1. Applicants must limit clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.
 - 2. Applicants must consider limiting lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.
 - 3. Applicants must consider clustering lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on adjacent critical areas and associated buffers.

- C. Projects subject to Minimum Requirements 1-9 must comply with the following:
1. After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Director.
 2. For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.
 3. For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.
- D. Where native vegetation is used to achieve Stormwater Management Manual Minimum Requirement 6 (Runoff Treatment) or Requirement 7 (Flow Control), the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:
1. a protective easement dedicated to the City on a form provided by the department;
 2. a separate nonbuilding tract owned in common by all lots within the subdivision;
 3. restrictions on the future use of the area recorded on the face of the final plat;
 4. an alternative permanent protective mechanism approved by the Director.
- E. Where an LID stormwater facility is required, the applicant may use that facility to satisfy landscaping requirements so long as the purpose and intent of required landscaping is satisfied and the landscaping does not disrupt the function of LID stormwater facilities.

19.76.060 Stormwater Facilities.

- A. Location.
1. A stormwater facility necessary for compliance with this Chapter must be located abutting a right of way. When the site is constrained by topography, soils, hydrology, or other factors, the Director may approve an alternative location that facilitates access by the City for inspection and maintenance.
 2. A stormwater facility may be located within a right of way at the discretion of the Director.
- B. Dedication. For a stormwater facility necessary for compliance with this Chapter, the Director may require any combination of the following as a condition of development:

1. that the applicant dedicate an easement to the City for access and inspection of the stormwater facility. The Director may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.
 2. that the stormwater facility be dedicated to the City, which the City may accept if:
 - a. the facility as designed and constructed conforms to the provisions of this Chapter;
 - b. all easements and tracts required under this Chapter necessary for the City to operate and maintain the facility have been conveyed to the City and have been recorded with the County Auditor;
 - c. a maintenance plan has been accepted per subsection D.
- C. Modification of facilities during construction. The City may require that the construction of drainage facilities and associated project designs be modified or redesigned if conditions occur or are discovered which were not considered or known at the time the permit or approval was issued, such as uncovering unexpected soil or water conditions, weather-generated problems, or undue materials shortages. Any such modifications made during the construction of drainage facilities must be recorded on the final approved drainage plan, a revised copy of which must be provided to the city.
- D. Maintenance plan required.
1. Prior to the use of a stormwater facility required by this Chapter, the owner must:
 - a. ensure a complete initial evaluation of engineered stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Director for approval;
 - b. provide a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;
 - c. obtain approval from the Director for a maintenance plan;
 - d. record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.
 2. The maintenance plan must:
 - a. address how all of the elements of the stormwater facility will be maintained;
 - b. include the schedule for ongoing maintenance;
 - c. identify the responsible party for ongoing maintenance;

- d. be consistent with Stormwater Management Manual, especially Volume V, Chapter 4.
- 3. The maintenance plan remains in force for the life of the development or until the City approves a new or amended maintenance plan for the development's stormwater facilities.
- E. Plat notes. For land divisions, the Director will require a plat note indicating that the property owner(s) must maintain the stormwater facility consistent with the recorded maintenance plan and that if the stormwater facility is not so maintained the City may perform the maintenance and charge the costs of such maintenance to the property owners.
- F. Establishment of regional facilities.
 - 1. In the event that public benefits would accrue due to modification of the stormwater plan for the subject property to better implement the recommendations of the city's surface water quality management plan, the Director may recommend that the city should assume some responsibility for the further design, construction, operation and maintenance of drainage facilities receiving runoff from the subject property. Such decision shall be made concurrently with review and approval of the stormwater plan as specified in this chapter.
 - 2. In the event the city decides to assume some responsibility for design, construction, operation and maintenance of the facilities, the developer will be required to contribute a pro rata share to the construction cost of the facilities. The applicant may be required to supply additional information at the request of the official to aid in the determination by the city. Guidelines for implementing this section will be defined by the official.

19.76.070 Conveyance

- A. Generally.
 - 1. All proposed development requiring stormwater conveyance must provide sufficient capacity to convey stormwater without flooding or otherwise damaging existing or proposed structures in a manner consistent with the City's engineering standards.
 - 2. Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use the rational method for estimating a hydrograph using a mathematical simulation.
 - 3. Runoff may not discharge directly onto the surface of a public street or road.
 - 4. Runoff and infiltration must be directed away from septic drain fields.
 - 5. Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.

6. Runoff from development may not cause a significant adverse impact to down-gradient properties.

B. Easements, Tracts, and Covenants.

1. All proposed development must provide easements for all stormwater conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage easements through non-drainage structures are prohibited.
2. Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.

19.76.080 Inspection of construction

- A. The City may inspect all activities regulated by this chapter at various stages of the work to ensure proper review of construction and facilities.
- B. Stages of work requiring inspection include, but are not limited to: preconstruction; installation of BMPs; land-disturbing activities; installation of utilities, landscaping, retaining walls; and completion of project.
- C. At the time of approval of the drainage plan for the subject property, a schedule for inspection will be established by the Director.

19.76.060 Bonds and liability

- A. The Director may require, as a condition of approval, any applicant proposing construction of retention/detention or other stormwater treatment/abatement facilities to post any of the following surety and cash bonds in the amount of 150% of the construction value.
 1. Construction Bond. A bond in an amount sufficient to cover the cost of conforming the construction with the approved stormwater management plans. After determination by the Director that all facilities are constructed in compliance with the approved plans, the Director must release the construction bond. Alternatively, the Director could require an equivalent cash deposit to an escrow account administered by a local bank designated by the city.
 2. Performance Bond. A bond to cover the cost of design defects or failures in workmanship of the facilities to be posted and maintained throughout the two-year maintenance period. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

3. Liability Bond. A liability policy in an amount established by the Director that names the city as an additional insured and which protects the city from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy must be maintained for the duration of the facility by the owner of the facility; except in the case of facilities formally assumed by the city for maintenance per this chapter, the liability policy may be terminated when and if the city maintenance responsibility commences.
- B. When the Director requires multiple bonds under this section, the bonds may be combined in a single bond of a value equal to the sum of the separate bonds. The combined bond must on its face clearly delineate those separate bonds which it is intended to replace.

New Chapter 19.78 Clearing, Grubbing, and Grading

19.78.010 Policy.

These regulations are adopted for the following purposes:

- A. To promote the public health, safety, and general welfare of the citizens of the city;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;
- C. To promote building and site planning practices that are consistent with the city's natural topographical and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;
- D. To minimize surface water and groundwater runoff and diversion, to reduce siltation of lakes and streams and to deter erosion due to removal of trees and ground cover and reduce the risk of slides;
- E. To minimize the need for additional storm drainage facilities;
- F. To retain clusters of trees for the abatement of noise and wind protection;
- G. To ensure prompt development, restoration, and replanting, and effective erosion control of property after land clearing;
- H. To implement the goals and objectives of the State Environmental Policy Act.

19.78.020 Applicability.

- A. This Chapter applies to all clearing, grubbing, and grading.
- B. Exemptions. This Chapter does not apply to:
 - 1. the installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
 - 2. removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 3. removal of dead or diseased trees or ground cover;
 - 4. removal of 6,000 square feet or less of trees or groundcover on a lot that contains an existing permitted building and is capable of being divided into two or more lots, for purposes of general property and utility maintenance or landscaping except that:
 - a. any land clearing that includes the use of a bulldozer or similar mechanical earthmoving equipment is not exempt; and
 - b. land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities or buildings is not exempt.

19.78.030 Application Requirements.

- A. All activity to which this chapter applies requires an application and permit consistent with this chapter. A separate permit is not required if an application has been approved for a building permit, preliminary plat, or a final planned unit development.
- B. Applications must be on forms provided by the Department and must include:
 - 1. a site plan showing location, type, and size of existing significant trees and native vegetation; designation of clearing limits; and other requirements identified by the Director;
 - 2. if excavated material is to be wasted off-site, a description of the location and the route to the disposal site;
 - 3. demonstration of compliance with AMC Chapter 19.76, Stormwater Management;
 - 4. a construction site sediment transport potential worksheet which will guide City staff on the need for a site inspection prior to permit issuance.

19.78.040 Development Standards

- A. All activity to which this chapter applies must comply, and the Director may condition a permit issued per this Chapter to ensure compliance, with all of the following:
1. AMC Chapter 17.70, Critical Areas Regulations;
 2. AMC Chapter 18.04, State Environmental Policy Act;
 3. AMC Chapter 19.76, Stormwater;
 4. the Anacortes Shoreline Master Program;
 5. the International Building Code provisions for "Excavation and Grading."
- B. Performance Bond. The Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the Director.
- C. When grading a site, whether a single lot or a larger tract, the owner of the site being graded must protect adjacent property from the effects of the grading. If a cut or excavation is made near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the adjacent property from sliding toward the cut. If fill such as soil, gravel, rock, or other material is placed near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the fill material from sliding onto the adjacent property.
- B. The Director may require cuts, fill, and retaining walls to be designed by a licensed structural engineer, due to slope steepness, soil types, geological stability, or other factors.
- C. If there are structures on the adjacent property at the time a cut is made, or if a building permit has been issued to build such structures, the effect of the weight of these structures must be taken into account when determining the support required for the cut, in order to avoid undermining or damaging the structures. If a structure is built after a permit for cut or fill has been issued, the structure must be designed so that it does not create additional stresses on a properly designed cut or fill or retaining wall which would be likely to cause it to fail, based on standard structural engineering principles.

19.78.050 Subdivision Prohibited After Clearing

No land division for a property may be approved within five years after clearing.

Hunt, Marcia

From: Swetnam, Darcy
Sent: Monday, November 28, 2016 7:39 PM
To: Hunt, Marcia; Johnson, Eric; Walters, Ryan (Anacortes City Council); Pickett, Erica; Adams, Brad; Lovelett, Liz; Archibald, John; Miller, Matt
Cc: davidhalinen@halinenlaw.com
Subject: Fwd: Proposed Ordinance 2991 -- CORRECTED version of my letter to the City Council on behalf of MJB Properties LLC
Attachments: ATT00001.htm; image004.jpg; ATT00002.htm; Mayor and Council LT1 (CORRECTED) (DLH 11-28-2016).pdf; ATT00003.htm

All,

Please see the updated comments from David Halinen on behalf of MJB Properties on the storm water update. Please include them in the record.

Thanks,
Darcy Swetnam

Sent from my iPhone

Begin forwarded message:

From: David Halinen <DavidHalinen@halinenlaw.com>
Date: November 28, 2016 at 7:35:19 PM PST
To: "Darcy Swetnam (darcys@cityofanacortes.org)" <darcys@cityofanacortes.org>
Subject: Proposed Ordinance 2991 -- CORRECTED version of my letter to the City Council on behalf of MJB Properties LLC

Darcy:

Attached is a corrected version of my letter. It resolves the glitch I discovered and sent you a text about a few minutes ago concerning my second request on page 2.

If possible, please have the corrected version entered into the public hearing record as well as my original version.

Thank you.

Dave Halinen



November 28, 2016 [with correction to second
request on page 2.]

VIA EMAIL (c/o darcys@cityofanacortes.org)

Mayor Laurie Gere and Anacortes City Council
PO Box 410
Anacortes, WA 98221

Re: MJB Properties LLC's Comments on Proposed Ordinance 2991 (Stormwater)
PUBLIC HEARING TESTIMONY

Dear Mayor Gere and Council Members:

I am writing on behalf of my client MJB Properties LLC ("MJB"), the owner of extensive properties in the City, to provide comments on and requested revisions to subsections A and B of proposed new Section 19.76.050 attached to Proposed Ordinance 2991. Subsection A and the portion of subsection B relevant to these comments and requested revisions state (*italics and underlining is added*):

19.76.050 Low-Impact Development Techniques and Facilities.

- A. Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements *to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.*
- B. General Design Techniques.
 1. Applicants must limit clearing and grading *to the minimum necessary* for construction of permitted uses and associated utilities.
 2. Applicants must consider limiting lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.
 3. Applicants must consider clustering lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on adjacent critical areas and associated buffers.

As currently drafted, Subsection A sounds like a policy statement because of the broad and vague assertions that all buildings, streets and pathways, parking areas, and utility easements be located and designed “*to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.*” These vague statements, which are subject to be held by a court as unconstitutionally “void for vagueness” if they are intended to be mandates rather than a policy statement, should not be written as absolute mandates, which on their face they might arguably be construed as in view of the word “must” used at the start of subsection A.

To address this issue (and do so in a manner consistent with the “must consider” language of currently proposed Subsection B.1 and B.2), MJB thus requests that Subsection A be revised to state as follows:

- A. Applicants must consider locating and designing all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.

For like reason, MJB hereby requests that subsection B.1 be revised to state as follows:

- 1. Applicants must consider limiting clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.

Thank you for your consideration.

Sincerely,

HALINEN LAW OFFICES, P.S.

David L. Halinen

David Halinen

Cc: MJB Properties LLC

Darcy J. Swetnam, Anacortes City Attorney



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning December 5, 2016

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes, vouchers and consent agenda items is not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

December 5, 2016

- Ordinance 2988: Amendments to AMC Title 2, Title 9, Title 18, and Creating a New Title 20 to Provide for a Fair and Efficient System of Civil Code Enforcement (Action)
- Proposed Draft Title 19, Land Use Permit Procedures (Discussion)

December 12, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Discussion)
- Resolution ____: Establishing Fees for the Water Utility (Discussion/Possible Action)
- Resolution ____: Establishing Fees for the Storm Water Utility and Ordinance 2979 Removing Storm Rates from AMC (Discussion/Possible Action)

December 19, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Action)
- Ordinance 2996: Amending the 2016 Budget (Year End) (Action)
- Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer (Discussion/Possible Action)

December 27, 2016

Special Meeting: MEETING IS CANCELLED

January 3, 2017

January 9, 2017

January 17, 2017

January 23, 2017

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Planning, Monday, Nov 28, 2016, 5:00 PM, Main Conference Room, City Hall
- Housing Affordability & Community Services, Thursday, Dec 1, 2016, 1:30 PM, City Hall
- Parks & Recreation, Thursday, Dec 1, 2016, 6:00 PM, Main Conference Room, City Hall
- Public Works, Monday, Dec 5, 2016, 4:30 PM, Mayor's Office, City Hall
- Planning, Monday, Dec 12, 2016, 3:00 PM, Main Conference Room, City Hall
- Public Safety, Tuesday, Dec 13, 2016, 4:30 PM, Main Conference Room, City Hall
- Finance, Wednesday, Dec 14, 2016, 5:00 PM, Johnny Picasso's, 501 Commercial Avenue
- Public Works, Monday, Dec 19, 2016, 4:30 PM, Mayor's Office, City Hall
