

COUNCILMEMBERS

Position No.

1. Tod Gunther
2. John Kelly
3. Tony Belot
4. John Williams
5. Gregg Bradshaw
6. Greg Hogan
7. Scott Drennen



ORTING CITY COUNCIL
Study Session Meeting Agenda
Virtual, 104 Bridge St. S. Orting, WA
March 17th, 2021
6PM.

CHAIR, DEPUTY MAYOR GREG HOGAN

1. CALL MEETING TO ORDER, PLEDGE AND ROLL CALL.

REQUEST FOR ANY ADDITIONS OR MODIFICATIONS TO THE AGENDA.

***The City is utilizing remote attendance for Councilmembers and City employees. Please note: OPMA rules regarding provision for the public in a space have been suspended by proclamation of the Governor. The meeting is however, available for the public. To join the meeting on a computer or mobile phone: <https://bluejeans.com/563488791?src=calendarLink&flow=joinmeeting>
Phone Dial-in- +1.408.419.1715 or +1.408.915.6290 -Meeting ID: 563 488 791**

2. COMMITTEE REPORTS

Public Works

✚ **CM Drennen & CM Bradshaw**

Public Safety

✚ **CM Belot & CM Gunther**

Community and Government Affairs

✚ **CM Kelly & CM Williams**

3. STAFF REPORTS

4. AGENDA ITEMS

A. AB21-25- Parks Plan.

✚ **Emily Adams**

B. AB21-20- Comcast Franchise Agreement.

✚ **Scott Larson/Charlotte Archer**

C. AB21-26- Gratzner Ball Field, Construction and Donation Acceptance Ordinance No. 2021-1075.

✚ **CM Drennen / CM Bradshaw / JC Hungerford**

D. AB21-11- Well 1 Booster Pump Station VFD Integration -Scope and Budget.

✚ **CM Drennen / CM Bradshaw / JC Hungerford**

E. AB21-28- Orting Phase I Stormwater Management Program Plan Adoption.

✚ **CM Drennen / CM Bradshaw / JC Hungerford**

F. AB21-24- Visa Credit Card.

✚ **CM Kelly / CM Williams/ Gretchen Russo**

G. AB21-27 Reader Board.

✚ **CM Kelly/CM Williams / Scott Larson**

5. ADJOURNMENT

Motion: To Adjourn.

Upcoming Meeting: Next Regular Meeting: March 31st, 2021, 7pm, (Virtual)

Americans with Disabilities Act – reasonable accommodations provided upon request (360) 893-2219



**City Of Orting
Council Agenda Summary Sheet**

| | Agenda Bill # | Recommending Committee | Study Session Dates | Regular Meeting Dates |
|---|--|-------------------------------|----------------------------|------------------------------|
| Subject: Parks Plan Update | AB21-25 | N/A | 3.17.21 | |
| | | | | |
| | Department: | Planning | | |
| | Date Submitted: | 3.10.2021 | | |
| Cost of Item: | <u>\$NA</u> | | | |
| Amount Budgeted: | <u>\$NA</u> | | | |
| Unexpended Balance: | <u>\$NA</u> | | | |
| Bars #: | | | | |
| Timeline: | Adopt by December 2021/ Deadline 3.1.22 | | | |
| Submitted By: | Emily Adams (Planner) | | | |
| Fiscal Note: | | | | |
| Attachments: Parks Plan Update Process Memo, Current Parks Plan | | | | |
| SUMMARY STATEMENT: | | | | |
| <p>The City’s current plan expires in June 2021. The RCO awards grant funding each biennium (every two years even number years), with applications typically opening in February and due in early May. The deadline to establish RCO grant eligibility through a locally adopted plan is March 1. Staff recommends that the plan be adopted by December 2021; at the latest, the plan must be adopted by March 1, 2022, for the City to be eligible for RCO funding</p> | | | | |
| NEXT STEP: Future Briefings to follow. | | | | |



| | | | |
|--------------|--|----------------------|---|
| TO: | Mayor and City Councilmembers | DATE: | March 10, 2021 |
| FROM: | Emily Adams, AICP Contract City Planner | PROJECT TYPE: | Long Range Planning |
| | | SUBJECT: | Parks, Trails, and Open Space Plan Update |

RCO Requirements and Guidelines

The Washington State Recreation and Conservation Office (RCO) is the state agency that provides grant funds to local governments to fund the planning, design, and construction of parks, trails, and open space facilities. In order to qualify for RCO funding, the City needs a certified plan that documents goals and objectives; inventory; public involvement; demand and needs analysis; and planned capital improvements. The plan is then certified based on these elements for a period of six years.

Orting Parks Planning History

In March 2003, the City adopted the Parks, Trails & Open Space Plan (PTOS). In June 2010, the City adopted an update to the Plan. The update included a revised inventory. In 2015 the plan was updated again.

The Next PTOS Plan Update

The City’s current plan expires in June 2021. The RCO awards grant funding each biennium (every two years even number years), with applications typically opening in February and due in early May. The deadline to establish RCO grant eligibility through a locally adopted plan is March 1. We recommend that the plan be adopted by December 2021; at the latest, the plan must be adopted by March 1, 2022, for the City to be eligible for RCO funding.

Timeline and Process

There are six months between when Orting’s PTOS plan expires and an updated plan is recommended to be adopted to be eligible for funding. The recommended timeline aims to adopt an updated plan in late 2021 or early 2022. Given the difficulty of public involvement due to COVID and the effects of social distancing on parks and recreation, updating the plan after the expiration date is an understandable course of action and will not result in a loss of eligibility for grant funding. This timeline also allows for public outreach over the summer, which for parks plan is often beneficial as it is when people are using parks the most and in-person outreach methods can be employed.

The process to update the plan (and an anticipated timeline) would generally adhere to the following:

January - March

- Inform staff and Council about necessary update
- Plan intended process and timeline

March - April

- Data collection and existing conditions analysis
- Document the City’s existing parks, trails, open space, and programming

- Community profile – population size, age, gender, race, and income level

April - May

- Needs assessment and recommendation, updating LOS standards to customize to Orting (if needed). Compare the provision of parks, recreation, and open space resources and programs with other similarly sized communities using the latest published version of *NRPA Agency Performance Standards*.

May- August

- Public Outreach, survey, booth at Farmer's Market/fairs
- Goal and policy development

September – December

- Implementation, including the 6-year Capital Improvement Plan
- Draft PROS Plan
- Take plan through Parks Board, CGA, and Council
- Adopt 6-year PTOS Plan Update



CITY OF ORTING

Parks, Trails & Open Space Plan

2015 Update.

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PARKS, TRAILS & OPEN SPACE PLAN

City of Orting



CHAPTER 1: INTRODUCTION

The Orting *Parks, Trails & Open Space Plan* is intended to guide the acquisition of land and development of facilities for recreation and open space uses over the next 20 years. Goals, policies and capital facilities needs based on this plan are adopted into the City's Comprehensive Plan.

BACKGROUND

Orting is blessed with many natural features that support recreation. The rivers and gentle topography of the valley floor provide many opportunities for casual play. For years, residents were able to satisfy most recreation needs by using these natural resources, school facilities, and the surrounding area. However, the City grew considerably throughout the 90s, and growth continues. New households bring demand for more parks, recreation facilities, and recreation programs.

In March 2003, the City adopted the *Parks, Trails & Open Space Plan* (PTOS). The PTOS assessed how well parks and recreation facilities served Orting's population and also developed a vision for the future of the parks system. A number of specific actions followed the 2003 adoption of the plan:

- Language from the PTOS was adopted into Orting's Comprehensive Plan, including policies for capital facilities planning and policies which established Level of Service (LOS) standards for parks and trails.
- Orting's Development Regulations provide for the collection of impact fees for parks.
- Adopting a parks plan renders Orting eligible for a variety of funding sources for parks and recreation development.

In June 2010, the City adopted an update to the Plan. The update included a revised inventory with nearly double the 2003 park land and outlined ongoing parks planning activities. The results of these planning activities included increased river access with over 20 public access points now established.

This document represents an update to Orting's 2010 parks plan. It includes an updated inventory reflecting new parks and recreation spaces acquired by the City, and considers projected population growth out to 2040 to calculate future demand.

ISSUES

The Orting residential population nearly doubled in size from 2000 to 2010. The Level of Service standards established in the initial 2003 plan were essential in ensuring the parks inventory grew with the population, and that new development was paying for its share through a parks impact fee. However, growth is forecasted to occur at a significantly slower rate and the City is now challenged with planning for an aging demographic.

The 2014 public opinion survey revealed that the community is satisfied with the quantity of available parks and open space, but would like to see overall enhancements to the park system in the form of added features and improvements to existing facilities.

The Parks Plan continues to evaluate existing resources that the City feels should be included as part of the parks planning process, for example: incorporating potential river access points as identified in Orting's Shoreline Management Program into the Capital Facilities Element, or addressing community access to school recreational facilities.

Additionally, an effort has been made to reduce redundancies between the Parks Plan and other adopted City plans, therefore some text has been removed and replaced with references.

PLANNING

The Parks Commission, the Planning Commission, and the public have all contributed to the update of this plan. In keeping with past methodologies, this plan uses an equitable method of ensuring that all new growth addresses its proportionate share of the impacts on parks and recreation by collecting mitigation fees based on those impacts. This requires the following steps:

- 1) An updated assessment of current and future demand for open space and recreation facilities that balances numeric data with public opinion and participation;
- 2) An updated inventory of the "supply" of existing land and facilities that accommodates the demand;

- 3) Level of Service (LOS) standards for land and facilities meeting the community's needs and preferences for parks and recreation;
- 4) A plan for the location and phasing of new improvements over time; and
- 5) A financing plan.

This results in an updated PTOS that is incorporated into the Comprehensive Plan and also used to continue to secure outside funding. Since impact fees can only be used to fund projects resulting from new demand, the City must find other sources to fund projects that result from existing demand. This includes grants, bonds and levies.

The Washington State Recreation and Conservation Office (RCO) is the state agency that provides grant funds to local governments to fund the planning, design and construction of facilities. In order to qualify for RCO funding, the City needs a certified plan that documents the items listed above and shows that the public was involved in preparing the plan. The 2010 update ensured the City's eligibility through 2016, and the 2015 update maintains the City's eligibility for another six years through 2021. Other sources of grant opportunities include the federal Community Development Block Grant Program and the Pierce County Conservation Futures Program.

The following chart shows the relationships between the state requirements for planning for parks and recreation within the growth management comprehensive plan and an RCO certified plan. Public involvement is required in both cases. This document follows GMA requirements, which are more specific.

| GMA PARKS ELEMENT | RCO CERTIFIED PARKS PLAN |
|---|----------------------------|
| Goals and Policies | Goals and Objectives |
| Level of Service Standards | |
| Inventory of Existing Facilities and Capacities | Inventory |
| Forecast of Future Needs | Demand and Supply Analysis |
| Proposed Locations and Capacities of New Facilities | Capital Facilities Program |
| 6-Year (Minimum) Financing Plan | |

PUBLIC INVOLVEMENT

The PTOS has undergone multiple phases of public involvement. The first public involvement process in 2003 was designed to ensure that the community in Orting had the opportunity to shape the initial plan. After adopting the plan in March 2003, the City and the Parks Commission sustained continuous public outreach efforts to include significant public input in the development of Gratzner Park and North Park. Additional public outreach was conducted throughout the 2010 update process.

The most recent outreach effort was launched in the fall of 2014 to gather public input for the 2015 update. The outreach effort included a public open house and an online survey. The history of public involvement and more recent outreach efforts are described in detail in Appendix A: Public Outreach and Communication.

GOALS AND POLICIES

Parks, trails, open space and recreation goals and policies are consistent between the PTOS and the Orting Comprehensive Plan. Updated policy language was recommended to the Planning Commission and incorporated into the Comprehensive Plan during the 2015 GMA periodic update. Goals and policies listed below are labeled as they appear in the Comprehensive Plan.

The 2015 update changed policy language to more accurately reflect community values and incorporate input received during the public involvement process. For instance, value was expressed for open space and natural areas; therefore a level of service standard of 14 natural resource acres per 1,000 population was established. This standard will maintain the supply of Natural Resource Areas as Orting continues to grow and provides the City with a realistic LOS. This LOS provision is further supported by Comprehensive Plan Goal LU 1, which references the reservation of the City's "rich natural resources".

Capital Facilities

Goal CF 3 Ensure that the continued development and implementation of the Capital Improvement Program (CIP) reflects the policy priorities of the City Council.

Policy CF 3.3 *Policy CF 3.3 establishes the Level of Service (LOS) standards for City facilities and services including water supply, sanitary sewer, fire protection, police, and parks.*

Parks, Trails and Open Space LOS: The following level of service standards shall apply to land and facilities:

- Total Park Land – 8 acres per 1,000 population

- Mini-Parks – 1 acre per 1,000 population
- Neighborhood Parks – 2 acres per 1,000 population
- Community Parks – 5 acres per 1,000 population
- Fields and Courts – 1 per 1,000 population (located in parks)
- Trails – 1 mile per 1,000 population
- Natural Resource Areas – 14 acres per 1,000 population

Goal CF 6 Develop a system of parks and recreation facilities that is attractive, safe, and available to all segments of the population.

Policy CF 6.1 Mitigate impacts on parks, trails, and the recreation system from new growth based on impact fees, land dedication, and/or facility donations based on the level of service standards.

Policy CF 6.2 Cooperate and coordinate with the school district, other public agencies and private groups through the use of interlocal agreements and contracts to meet the recreation needs of the City.

Policy CF 6.3 Support continued development of the Foothills Trail and related links and parks for bicycles, pedestrians and equestrians, running through Pierce County to Mount Rainier National Park.

Policy CF 6.4 Develop a network of parks, open space and trails throughout the city for pedestrians, bicycles and equestrians, with priorities on:

- a. The dedication and development of lands which would link with the Foothills Trail, the downtown parks, the Puyallup and Carbon River waterfront corridors and a linkage across the Carbon River to the Cascadia trail system,
- b. Maintaining and improving the accessibility, usability, and safety of Orting’s parks and trails, and
- c. Sustaining community-wide efforts to improve public access to the Carbon and Puyallup Rivers at those points along the banks which best fulfill the criteria for education, accessibility and restoration as outlined in the 2009 Shoreline Master Program.

Land Use: Open Space and Recreation

Goal OS 1 The Recreation\Open Space Land Use Category is intended to acknowledge and protect the City's public parks and open spaces

through public and private initiatives including incentives, transfer of development rights, public land acquisition, greenways, conservation easements, and other techniques.

Policy OS 1.1 The Recreation/Open Space district is for areas devoted to public recreational facilities such as parks and trails and areas that have been preserved as open spaces through a variety of open space programs.

Policy OS 1.2 Recognize the important recreational and transportation roles played by regional bicycle trail systems, and support efforts to develop a coordinated system of greenway trails throughout the region.

Policy OS 1.3 Promote the use of property tax reductions as an incentive to preserve desirable lands as a public benefit and encourage and support the participation of community-based non-profit organizations offering options and alternatives to development in the interest of preserving desirable lands as a public benefit.

To learn more about the content of the Comprehensive Plan, please contact City Hall or view the full document online at the City's website.

PARKS, TRAILS & OPEN SPACE PLAN

City of Orting



CHAPTER 2: NEEDS ANALYSIS

DEFINITIONS

The following types of parks, trails and open space are here defined so that the existing inventory and future demand can be expressed in measurable terms. Park typologies serve as a planning tool to classify park usage and gauge neighborhood access. The parks and facilities are described qualitatively by objectives, and quantitatively by service area and size criteria. Existing examples of each park or facility are provided, as well as the public value. The public value is an expression of the results of local public opinion surveys conducted during the 2010 and 2015 update process (results summarized in Appendix A).

Mini-Park

- Smallest park classification.
- Meet recreational needs in areas of concentrated or limited populations, isolated developments, topographic or environmental constraints or in business districts.
- Examples include scenic viewpoints, plazas, gardens, historic places, “tot-lots,” sport courts, fountains or beautification areas.

Service Area: Less than ½ mile walking distance (about 7-8 city blocks)

Size Criteria: Less than 1 acre

Guidelines: Geographic spacing around City

Orting Examples: North Park; Williams Park; Triangle Park

Public Value: Well located, accessible, kid friendly and well maintained. North Park is specifically valued for its Saturday market and hometown feel.

Neighborhood Park

- Recreation and social hub serving multiple neighborhoods and accommodating a wide variety of user groups, including children, adults, seniors, and special populations.
- Developed for both active and passive recreation activities for residents living within safe walking or bicycling distance.
- Access by way of connector trails, sidewalks, or low-volume residential streets.
- Activities specific to neighborhood needs.
- Informal, non-programmed open multi-use playfield or open space, basketball courts, picnic areas, pickle ball, and volleyball courts. Natural areas may allow for park trails and nature study.

Service Area: About ½ mile walking distance

Size Criteria: 1 acre to 4.9 acres

Guidelines: Geographic spacing around service area

Orting Examples: Whitehawk Park; City Park; Calistoga Park

Public Value: Well located (City Park is valued for its proximity to downtown and the Foothills Trail; Whitehawk and Calistoga parks are valued for their proximity to residential areas, the rivers and natural areas), kid friendly, dog friendly and well maintained. City Park is also valued for the shade it provides in the summer and the annual public events and festivals hosted there.

Figure 1: Five Acre Neighborhood Park

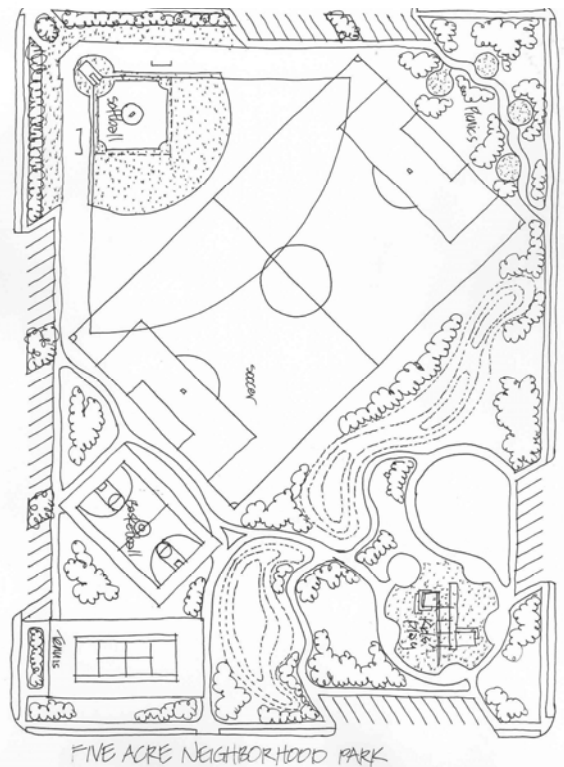
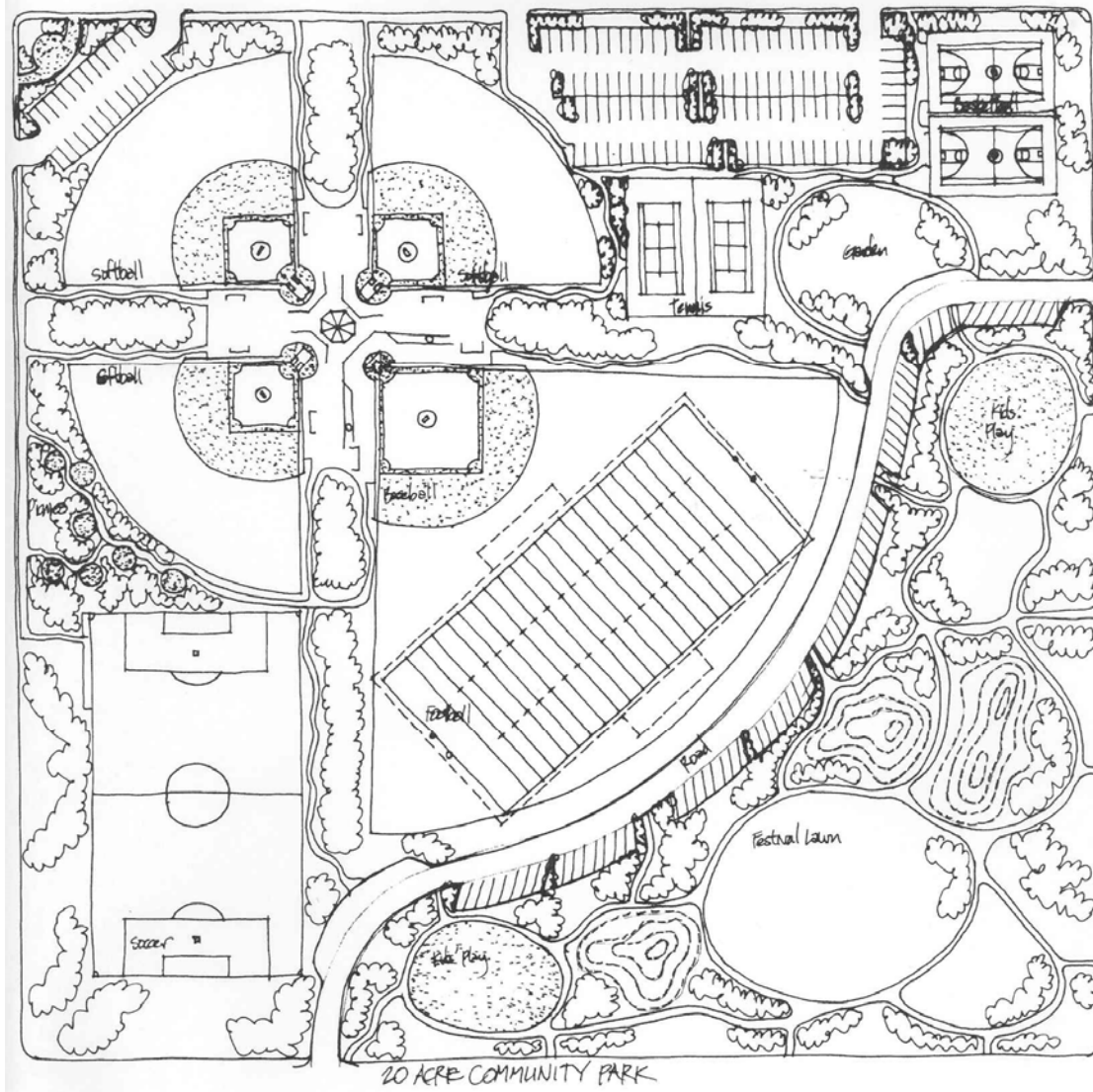


Figure 2: 20 Acre Community Park



Community Park

- Meet the needs of the entire community as well as preserve unique landscapes and open spaces.
- Allow for group activities and offer other recreational opportunities not feasible or desirable at the neighborhood level.
- Natural character of the some of the site could/ should play a key role in the design.
- Ideally adjacent to or part of a larger natural resource area and/or greenway.
- Facilities may include community centers, swimming pools, stadiums, lighted athletic fields, picnic shelters, restrooms and parking lots.

Service Area: City wide

Size Criteria: Greater than 5 acres or as needed to accommodate desired uses

Guidelines: Preserve unique natural features; Meet active recreation facility needs

Orting Example: Gratzner Park

Special Use

- A designation that describes a park and/or recreation facility oriented toward a single purpose.
- Range in size and location, and may serve neighborhoods or the entire community.
- Parks or facilities may include historical sites, botanical gardens, public art spaces, skate board parks, water parks, amusement parks, and other public spaces associated with indoor recreation facilities.

Service Area: Dependent on use and park type located within

Size Criteria: Variable, depends on function

Guidelines: Dependent on use

Orting Example: Charter Park skate park

Public Value: Fun place for kids to skate, ride bikes and hang out with friends; provides easy access to downtown; cited as a fun stop and destination along the Foothills Trail.

Community Garden

- Public or privately owned land gardened by a community group for food, plant or fiber production, either for personal or charitable uses.
- Provide access to fresh produce; encourage a connection to the environment; and support general health and wellbeing through outdoor activity.
- Gardens may be divided into separate plots for cultivation by one or more individuals, or may be farmed collectively by members of the group and may include common areas maintained or used by group members.

- Properly designed and managed, community gardens can greatly enhance a neighborhood's vitality and can be created on their own or in coordination with parks, playgrounds, or residential or mixed use developments.
- May depend on local governmental support in terms of ownership, access and management.

Service Area: Community-wide

Size Criteria: Variable

Guidelines: Community managed; Harvest Pierce County partnership encouraged

Public Value: Local residents stated an interest in centrally located community gardens; Serve as a gathering place for adults; Developed in conjunction with gardening club or society.

School-Parks

- Combines the resources of two public agencies.
- Allows for leveraging the recreation, social and educational opportunities available to the community.
- City may purchase additional property adjoining an elementary, junior high, or high school to provide for more open space.
- May incorporate park like elements into the school site
- Requires coordinating school and city programming.
- Works best where there is a clearly defined joint-use agreement in place.

Service Area: Determined by location of school district property

Size Criteria: Variable, depends on function

Guidelines: Joint agency plans can dictate school site location and park use

Orting Examples: Orting High School Campus; Orting Middle School

Public Value: Accessible, kid and dog friendly; young people enjoy these spaces for hanging out with their friends.

Natural Resource Areas

- Lands set aside for preservation and protection of significant natural resources, floodway, open space, sensitive areas, important vegetation, etc.
- Objective is to enhance the livability and character of a community through preservation and conservation strategies.
- Community parks and natural resource areas may be similar with the exception of development for active recreation uses.
- May provide some passive recreational opportunities such as nature viewing and trail use.

| | |
|------------------|---|
| Service Area: | Community-wide; extending beyond City boundaries |
| Size Criteria: | Variable |
| Guidelines: | Resource availability and opportunity |
| Orting Examples: | Carbon River Landing; Village Green Wetlands Park |
| Public Value: | Calm, peaceful, not crowded, provide access to river trails and allow for exploration of natural environments |

Greenways

- Preserve natural resources and mediate between larger habitat areas, open space, and corridors for wildlife, while emphasizing trails.
- Includes both “natural” greenways and “man-made” greenways, such as those built as part of developments, safe power line rights-of-way, river and stream corridors and roadway rights-of-way.
- Often holds greater regional significance due to connector trails extending beyond community borders.

| | |
|-----------------|---|
| Service Area: | City; Region |
| Size Criteria: | Resource based; width varies from 25 feet in subdivisions to 200 feet which is considered optimal |
| Guidelines: | Low-impacted user based; ties park system together |
| Orting Example: | Foothills Trail |
| Public Value: | Well located and easily accessible; provides access to Downtown Orting and to the rivers; is frequently used by adults and children for exercise, biking, walking, running, |

walking dogs and hanging out with friends; is cherished for being well maintained, long, flat, beautiful and peaceful; and cited as a favorite and well-used feature in Orting's park system.

Park Trails

- Multi-use trails located within a park-like setting, greenways, and natural resource areas.
- Emphasize harmony with the environment, allow for relatively uninterrupted movement.
- Heavy use patterns dictate separate paths for walkers, bicyclists, and equestrians. Separation of users is preferred, but may not be practical due to environmental or space considerations.
- Trails through sensitive areas are designed to have minimal impact in scale and use, most frequently in natural resource areas or wildlife preserves.

Service Area: City; Regional

Size: Varies in width, length, and location

Guidelines: WSDOT and other design standards

Connector Trails

- Generally located within existing road rights-of-way, utility easements, drainage ways, or on sidewalks, connector trails throughout greenways tie parks and facilities together into a greater park, recreation and open space system.
- Emphasizes safe transportation between linked public facilities, such as parks and natural areas.
- Included as a part of a community-wide transportation system with clearly defined routes and design standards.
- Potential for lane-separated multi-use activity, and to serve commuter needs.

Service Area: City; Region

Size: Varies in width, length, and location

Guidelines: WSDOT and other design standards

On-Street Bike Lanes

- Designated segments of paved roadways separating bicyclists from vehicular traffic and sidewalk pedestrian activity.
- Serves distinct user groups including commuters, fitness riders, and competitive athletes.
- Distinguished from multi-use park or connector trails by higher speeds traveled, typically 10-15 mph.

Service Area: Community
Size: Varies in width, length, and location
Guidelines: WASDOT and AASHTO

Equestrian Trails

- Land use decisions and environmental constraints may affect the feasibility of developing equestrian routes in the City.
- Loop trails usually are best for horseback riding and should be planned in larger parks and natural resource areas.
- Holds greater regional significance, drawing users from a larger service area.

Service Area: City; Region
Size: Varies in width, length, and location
Guidelines: United States Forest Service

PARKS, TRAILS AND OPEN SPACE INVENTORY

Table 1 summarizes the existing (2014) inventory of City and other public land and facilities. These resources are mapped in Figure 3.

Table 1: 2014 Inventory of Public Parks, Trails and Open Space

| | Park/Facility Name | Area (Acres) | Trail Length (Miles) | Features | # Fields | # Courts | |
|-----------------|------------------------------------|-----------------|----------------------|--|------------|------------|------------|
| PUBLIC | Mini-Parks | | | | | | |
| | Memorial Park | 0.6 | | Plantings, Bench; Memorial Rock | | | |
| | Triangle Park | 0.19 | | Plantings, Bench | | | |
| | Three Corners Park | 0.19 | | Bench, Plants, Walkway | | | |
| | Rainier Meadows | 0.92 | | Big Toy, Grassy Area, Half Court | | 0.5 | |
| | Williams Park | 0.23 | | Plantings, Picnic Table, Benches | | | |
| | | Subtotal | 2.13 | | | | 0.5 |
| | Neighborhood Parks | | | | | | |
| | Calistoga Park | 6.3 | | Baseball Field, Big Toy, Parking, Benches, Dog Park | 1.0 | | |
| | City Park | 7.2 | | Basketball Court, Gazebo, Big Toys, Restrooms, Shelter Area, Benches, Picnic Tables, Horseshoes Pits, Grassy Area, Parking | | 1.0 | |
| | Whitehawk Park | 4.0 | | Half Court, Big Toy, Picnic Tables, Grass T-Ball Field | 0.5 | 0.5 | |
| | North Park | 1.3 | | Brick Area, Bollards, Benches, Shelter Building | | | |
| | Special Use | | | | | | |
| | Charter Park | 7.6 | | Skateboard Area, BMX Area, Benches, Picnic Shelter | | | |
| | | Subtotal | 26.4 | | | 1.5 | 1.5 |
| | Community Parks | | | | | | |
| | Gratzer Park | 17.5 | | Ballfields, Parking, Wetlands | 2.0 | | |
| | | Subtotal | 17.5 | | | 2.0 | |
| | Natural Resource/Open Space | | | | | | |
| | Calistoga Levee Wetlands | 56.2 | | Wetlands, Open Space, River Access | | | |
| | Carbon River Landing | 27.2 | | Wetlands, Open Space, River Access | | | |
| | Rainier Meadows Wetlands | 3.2 | | Wetlands, Open Space | | | |
| | Village Green Wetlands Park | 40.2 | | Wetlands, Open Space, River Access | | | |
| | Subtotal | 126.6 | | | | | |
| Trails | | | | | | | |
| Foothills Trail | | | 2.3 | Greenway, Benches, Viewpoints | | | |
| | Subtotal | | 2.3 | | | | |
| | Total | 172.8 | 2.3 | | 3.5 | 2.0 | |

PRIVATE PARKS AND OPEN SPACE INVENTORY

This plan assesses Orting’s current and future needs for parks and recreation based on publicly owned land, provided in Table 1. However, citizens regularly use additional recreational facilities in and near Orting that are institutionally or privately owned, such as school recreational facilities and Lions Park. This plan does not include these resources in the needs analysis because their use is either primarily reserved for specific portions of the population or is not public. However, the public can arrange to access these facilities through fees or request forms.

Table 2 summarizes the existing (2014) inventory of privately owned park and recreation facilities, and descriptions of the facilities are provided below.

Table 2: 2014 Inventory of Private Parks and Open Space

| | Park/Facility Name | Area (Acres) | Trail Length (Miles) | Features | # Fields | # Courts |
|------------------------------|------------------------------------|--------------|----------------------|---|------------|------------|
| SCHOOL DISTRICT | School-Parks | | | | | |
| | Orting High School/OES | 48.95 | | Big Toys, Track, 3 Ball Fields, Football & Soccer Field, Restroom | 3.0 | |
| | Orting Middle School | 54.6 | | 2 Fields, Stadium (future) | 2.0 | |
| | Ptarmigan Ridge Elementary | 25.29 | | Grassy Area, Covered Paved Area | | |
| | Total | 128.8 | | | 5.0 | |
| PRIVATE | Mini-Parks | | | | | |
| | Village Green Crescent Park | 0.49 | | Big Toy, Half Court | | 0.5 |
| | Village Green Park | 2.19 | | BBQs, Picnic Tables, Grassy Area | | |
| | Hidden Lakes Parks (Multiple) | 4.48 | | Benches, Picnic Tables, Water Feature, Half Courts (2), Big Toy | | 1.0 |
| | Rivers Edge Parks (Multiple) | 1.17 | | Benches, Half Courts (2), Big Toy | | 1.0 |
| | Total | 8.33 | | | | 1.5 |
| | Community Parks | | | | | |
| | Orting Lions Community Park | 25.0 | | Ball fields | 4.0 | |
| | Total | 25.0 | | | 4.0 | |
| | Natural Resource/Open Space | | | | | |
| | Village Green North Entrance | 0.23 | | Plantings, Bench | | |
| Village Green South Entrance | 0.04 | | Plantings | | | |
| Total | 0.27 | | | | | |

Orting School District

The School District currently owns and operates outdoor play fields, play grounds and indoor recreation facilities (gymnasiums). Although these facilities are available for public use, school programming fills nearly all of the existing capacity.

However, access to these facilities is a priority for a portion of the community. In 2009, ten-percent of survey respondents listed the schools as among their favorite places in Orting's park system, citing kid friendliness, accessibility and fun places to hang out with friends as reasons for this preference.

Residential Developments

There are three residential developments within Orting with Home Owners' Associations that maintain private parks: Hidden Lakes, Rivers Edge, and Village Green.

The Hidden Lakes planned unit development includes multiple mini-parks offering a basketball court, play area, benches, and picnic area. Two of these parks include surface water detention ponds designed as year-round lakes. The Rivers Edge subdivision includes 2 mini-parks providing play areas, basketball courts, and benches.

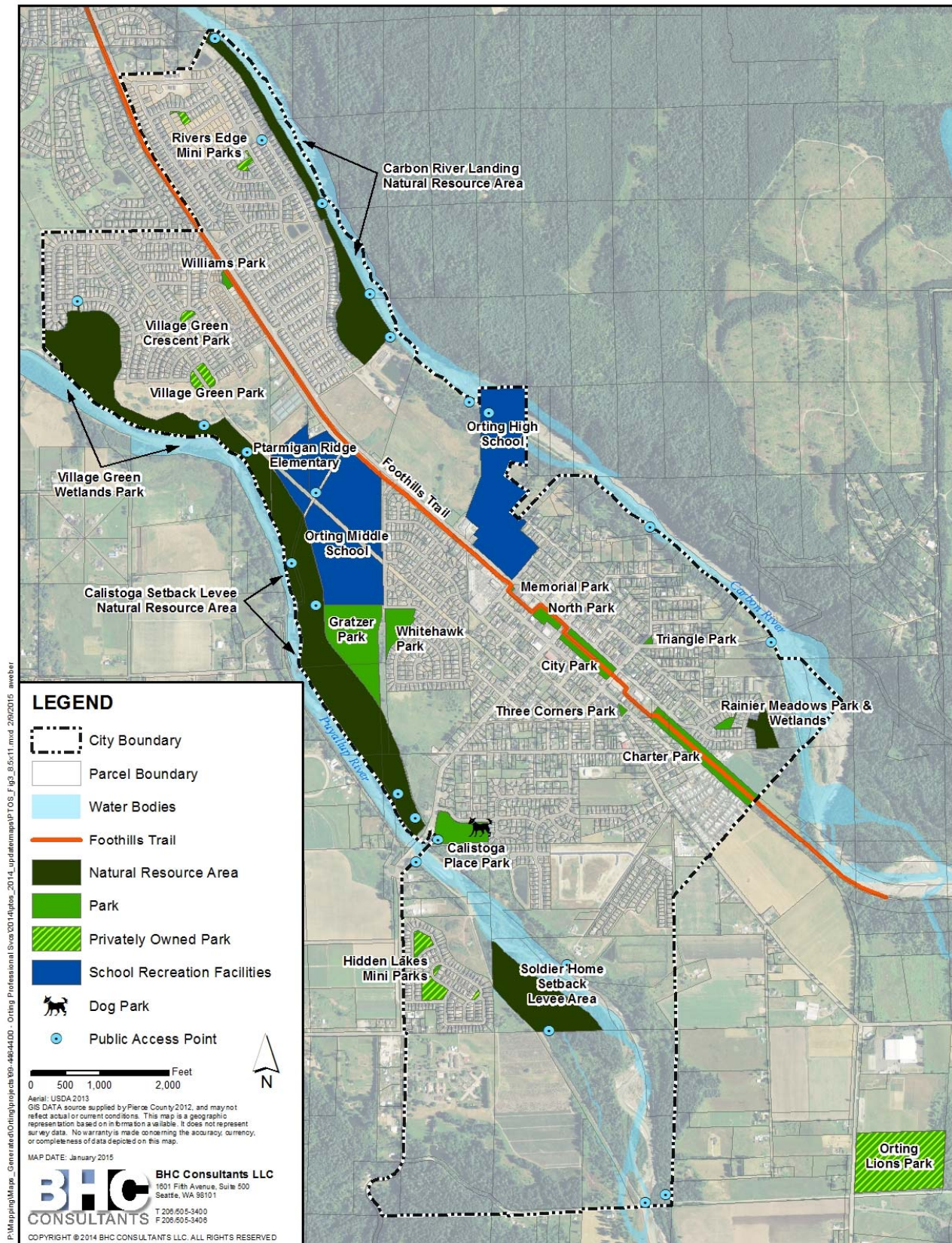
The Village Green planned unit development includes 2 mini-parks (Village Green Park and Crescent Park) in addition to small dedicated open spaces at either entrance. The planned unit development also included a trailside park which was dedicated to the City as Williams Park and is currently well-used by Foothills Trail users. The results from the 2009 local opinion survey indicate that the private Village Green parks are valued for their location and accessibility.

Lions Club

The Orting Lions Club owns and operates a 25-acre site called "Orting Lions Community Park" located southeast of the city limits. This site provides fields for organized "T-ball," baseball, softball and soccer activities, primarily programmed by leagues. The leagues take care of field preparation, and use is subject to a fee. The Lions Club plans to make several field improvements by the end of 2015, including a sprinkler system and new dirt. The installation of field lighting is a long range goal. Most field development is completed with volunteer labor. In the 2009 local public opinion survey, nearly 20% of the respondents listed this park as one of their favorites, stating that they appreciate it primarily for its accessibility and programming: for example, for adult and kid soccer.

Figure 3 on the following page shows the locations of all the existing sites, both public and private, within Orting.

Figure 3: 2014 Inventory of Parks, Trails & Open Space in Orting



CURRENT NEEDS

The US Census found the City population to be 6,746 in 2010. The State Office of Financial Management has estimated the population as of April 1, 2014 to be 7,065. Current Level of Service standards for Orting parks, trails and natural resources areas are:

- Total park land – 8 acres per 1,000
 - Mini-Parks – 1 acre per 1,000 population
 - Neighborhood Parks – 2 acres per 1,000 population
 - Community Parks – 5 acres per 1,000 population
- Natural Resource Areas – 14 acres per 1,000 population
- Fields and Courts – 1 per 1,000 population (located in parks)
- Trails – 1 mile per 1,000 population (some may be in parks)

Table 3 lists Orting’s current parks and recreation needs, presenting the 2014 Demand (1/1000 of the 2014 OFM population estimate multiplied by the Level of Service standard), the current supply (based on the 2014 inventory), and the resulting surplus or need.

Table 3: Current Needs 2014

| Park/Facility Type | LOS Standard | Demand | Total Supply | Surplus (Need) | Unit |
|-----------------------|----------------------------|--------------|--------------|----------------|---------------|
| Total Parks | 8 acres/1000 people | 56.52 | 46.03 | (10.49) | acres |
| Mini-Parks | 1 acres/1000 people | 7.07 | 2.13 | (4.94) | acres |
| Neighborhood Parks | 2 acres/1000 people | 14.13 | 26.40 | 12.27 | acres |
| Community Parks | 5 acres/1000 people | 35.33 | 17.50 | (17.83) | acres |
| Natural Resource Area | 14 acres/1000 people | 98.91 | 126.80 | 27.89 | acres |
| Trails | 1 mile/1000 people | 7.07 | 2.30 | (4.77) | miles |
| Field/Courts | 1 unit/1000 people | 7.07 | 5.50 | (1.57) | fields/courts |

Community “Wants”

The 2014 local public opinion survey was directed at identifying shortfalls within the existing inventory. Participants were asked to identify desired recreation

programs and facilities for children and adults. With the exception of fields/courts, these identified needs are not accounted for by LOS standards and the demand is not population-based. The following list was compiled from survey results and is not prioritized in any manner. The list highlights potential projects that the City should consider as funding becomes available or external funding sources, such as grant opportunities, become known.

- Children’s Splash Park
- Indoor Aquatic/Recreation Facility
- Community Garden
- Volleyball or Tennis Court
- Additional Dog Parks
- Obstacle/Frisbee Golf Course
- Exercise Stations Along Trails
- Year-Round Youth, Teen & Adult Programs
- Bathrooms & Lighting

PLANNING ACTIVITY

A number of parks and trails projects are currently being planned for, by both the City of Orting and citizen groups. When complete, these projects will either fulfill needs identified by this assessment or those needs which were expressed by the public through community outreach (summarized in Appendix A). Current planning activities include:

1. Improved River Access
2. Calistoga Setback Levee Access
3. Safe Routes to School – PSE Power Line Easement Trail
4. Orting’s Emergency Evacuation Bridge System
5. Pierce County Foothills Trail Extension
6. Gratzner Park Expansion & Improvements
7. Calistoga Park Improvements
8. Community Gardens Initiative
9. Splash Park Initiative

Table 4 summarizes the potential additional City-owned or public inventory upon completion of current planning projects. Figure 4 shows the location of current parks, trails, and open space planning activity within Orting.

Figure 4: Parks, Trails & Open Space Planning Activity in Orting

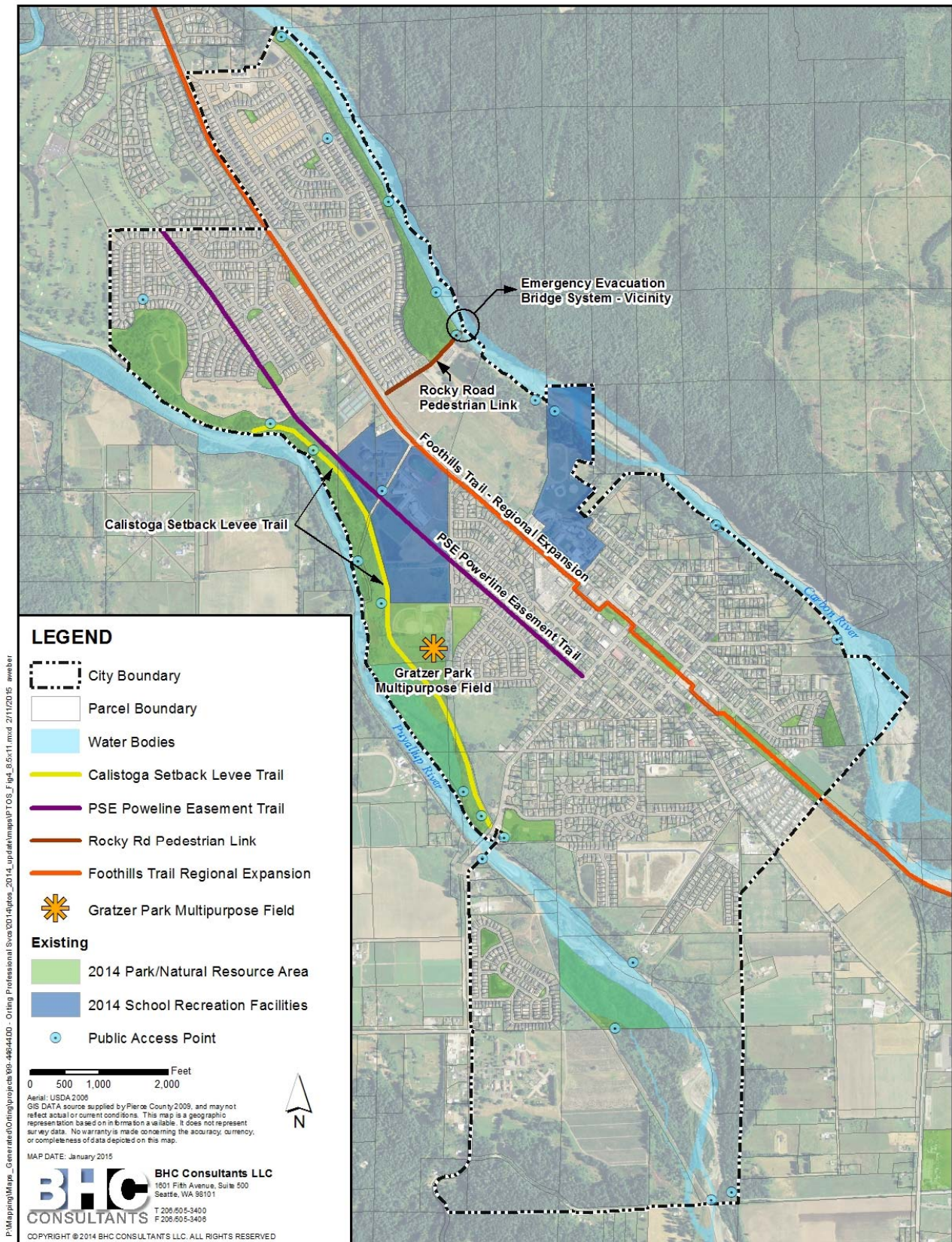


Table 4: Potential Additional Inventory

| Park/Facility Name | Area (Acres) | Trail Length (Miles) | Fields | Location | Features |
|-------------------------------|--------------|----------------------|----------|---|---------------------|
| Community Parks | | | | | |
| Gratzer Park Improvements | | | 1 | Within existing Gratzer Park | Multi-purpose field |
| Trails | | | | | |
| PSE Power Line Easement Trail | | 1.7 | | Calistoga St. W to northern City limits | Connector Trail |
| Calistoga Setback Levee Trail | | 1.5 | | Along Puyallup River | Park Trail |
| Total | | 3.2 | 1 | | |

1. Improved River Access

Improved access to the Puyallup River and Carbon River was the most frequently identified priority during the October 2009 public open house. Survey results further confirmed this as a community priority: when asked how they currently use parks and open space in Orting, 70% of respondents said they had walked along river levees, 60% said they had played in the rivers or along their banks, and 45% said they had fished the rivers. Overall, improved river access was listed in the survey as one of the respondents' top priorities for the Orting parks system within the next five years. This sentiment was repeated in the 2014 public opinion survey.

Fishing along the Puyallup and Carbon Rivers within Orting is a local as well as regional draw. The City has created several designated Fisherman Parking areas throughout Orting in order to support this activity. Increasing public access along the river would serve local fisherman needs, as well as enhance the experience of visiting fisherman and contribute to the City's attractiveness as a regional fishing destination.

The City of Orting has already engaged in extensive shoreline planning to identify ideal places along both the Puyallup and Carbon Rivers where public access could be improved. Orting's Shoreline Master Program (SMP) includes a *Shoreline Restoration and Public Access Action Plan* which establishes goals for both public access improvement and river restoration.

The SMP uses these goals to identify and rank privately and publically owned sites which could be considered for improved access to the Puyallup and Carbon Rivers. The City currently has 20 public access points. These locations have informally established access to the river. Existing access points should be improved upon in a manner consistent with SMP goals and in support of the PTOS.

The SMP provides background information on each of the sites and outlines a strategy for improvement. For more detailed information regarding “Restoration and Public Access Prescription” and “Implementation and Timing,” see Chapter 9 Shoreline Restoration and Public Access. The SMP is available to the public at City Hall, or online.

2. Calistoga Setback Levee Access

The Calistoga Setback Levee stretches approximately 6,500 feet along the right bank of the Puyallup River, and reconnects approximately 53 acres of floodplain and salmon habitat to the river. The levee is designed to be vegetated and could be equipped with trails and pedestrian facilities accessible to citizens.

Orting’s comprehensive flood hazard mitigation planning process identified levee improvements as a way to improve flood protection, and this project was chosen by Orting City Council as the preferred alternative. Orting will provide local funding as well as project management. Once complete, Pierce County will own and operate the levee. The City will maintain an easement for public trail use. The project could provide approximately 1.5 miles of park trails, connecting several existing parks.

3. Safe Routes to School – PSE Power Line Easement

Puget Sound Energy (PSE) owns a right-of-way through Orting under a major power line that could be improved to form an ideal connector trail between parks and Orting Middle and Elementary Schools (see the map in Figure 3). Trail improvements will be contingent on a liability agreement between PSE and the City of Orting. One possible funding source could be the Washington State Department of Transportation (WSDOT) through their Safe Routes to School program. The next call for grant proposals will likely be in the first quarter of 2016 to seek funds for the 2017-2019 grant cycle.

In the past, WSDOT has looked for proposals that include well-developed partnerships between City staff, teachers, school administrators, law enforcement, public health professionals, parents and citizens. These partnerships should be well-established and demonstrate that the community is committed not only to engineering the physical improvements along the trail, but to the long-term implementation of traffic safety enforcement, encouragement efforts, and education. For example, this could include long term plans for events, activities, or even adopted school curriculum to teach kids about walking and biking safely to school. Winning projects demonstrate that the necessary groundwork has been laid to complete the project within the two year grant cycle.

4. Orting’s Emergency Evacuation Bridge System

Orting’s Emergency Evacuation Bridge System, formerly “Bridge for Kids”, is a community-planned a pedestrian evacuation route, subject to state and federal grants or other funds. The project consists of a pedestrian overpass spanning State

Route 162, located near the intersection of Rocky Road, and a pedestrian bridge spanning the Carbon River, located east of the Orting Waste Water Treatment Plant. The overpass and bridge will be linked by a sidewalk along Rocky Road. The bridge would provide a link between the Cascadia trail system, on the east side of the River, and the Foothills Trail, Orting Schools, and the Orting parks system. The project is near completion of design, and construction is anticipated to begin in 2015 pending available funding for environmental review.

Pierce County is leading the project design and is coordinating with the Washington State Department of Commerce (formerly CTED), Orting Bridge for Kids Committee, Washington State Department of Transportation, City of Orting, Orting School District, and the US Federal Highway Administration (FHWA). A total of over 2.8 million dollars in funding has been secured from the State gas tax, FHWA, and the State Department of Commerce.

5. Pierce County Foothills Trail Extension

The Foothills Trail is a critical connector between parks and neighborhoods within the Orting. It is also a segment of a regionally significant non-motorized Rail-to-Trail project that Pierce County continues to maintain, extend, and plan for. The Foothills Trail currently provides 15 consecutive miles of paved 12-foot wide path from Meeker to South Prairie and a 2 mile section in Buckley.

Pierce County plans to continue the trail to Puyallup where it would connect with the Riverwalk Trail, then ultimately to Tacoma and Sumner where it would connect with the Interurban Trail. The trail in Buckley will eventually continue east to King County and Enumclaw. When complete, the trail will be more than 28 miles in length.

6. Gratzer Park Expansion & Improvements

Phase I of the Gratzler Park Master Plan was completed in 2011 thanks to outside contributions from Pierce County, the Recreation and Conservation Office (RCO), and donors. Phase I consisted of two ball fields and a parking area. Grant and funding opportunities are currently being pursued to complete Phase II of the Gratzler Park Master Plan. Phase II consists of a multipurpose field and play area.

Further Gratzler Park improvements and facility needs include lighting, restrooms, concessions, and parking lot paving. The 2014 PTOS survey asked participants to prioritize improvements they would like to see constructed at Gratzler Park. Listed below is the percentage of participants and the feature they would like to see constructed:

- 27% for Concessions
- 25% for More Parking

- 18% for Additional Ball Fields
- 17% for Field Lighting
- 13% for Restrooms

The City intends to pursue an RCO Youth and Community Athletic Facilities grant to begin to meet these needs. The grant is awarded to projects that increase or maintain the capacity of an existing youth and community outdoor athletic facility for purposes of competitive play. According to RCO, there are no funds available at this time. If funds are appropriated by the State Legislature, the City will submit a full application in the spring of 2015.

7. Calistoga Park Improvements

The City has completed Phase I of Calistoga Park improvements. Phase I included the development of a fenced-in dog park with a trail and benches, additional landscaping is to be conducted. Phase II will include a new big-toy and relocated play area, and potentially the addition of a separate dog park for small dogs. The existing big-toy has been the subject of safety concerns. The 2014 PTOS survey asked participants to indicate safety improvements they wished to see within the Park, improvements were prioritized as follows:

1. Improved paths connecting park features
2. Replace existing play area
3. Improved visibility of features
4. Construct small dog park

8. Community Gardens Initiative

The 2014 PTOS survey asked participants to rank features they would like to see added to the existing inventory, on average community gardens ranked second. As a result, the City is pursuing a partnership with Harvest Pierce County (Harvest), a program of Pierce Conservation District. Harvest partners with interested communities to establish community gardens. They organize interested gardeners, assist in identifying potential sites and resolving utility issues, such as water and waste, and provide ongoing capacity training.

8. Splash Park Initiative

Public input received during the 2015 update revealed a community interest in developing a children's splash park within an existing park. A splash park, or spray pad, is a recreation area for water play that has little to no standing water. The City and Parks Commission will begin to explore potential locations and external funding opportunities.

CAPITAL IMPROVEMENT PROGRAM

Table 5 lists capital facility and improvement projects for the next 6-years. Gratzer Park Phase II is included in City’s Comprehensive Plan Capital Facilities Element 20-year CIP.

Table 5: Capital Facility and Improvement Program

| | PROJECT | YEAR | COST | FUNDING SOURCES |
|---|--|-----------|-----------|--|
| 1 | Calistoga Park Improvements | 2015-2016 | \$8,000 | General Fund, REET |
| 2 | City Park Gazebo Renovation | 2015-2016 | \$25,000 | General Fund, REET |
| 3 | Lighting in the Parks | 2015-2016 | \$40,000 | General Fund, REET Impact Fees |
| 4 | Gratzer Park Wetland Mitigation | 2015-2016 | \$20,000 | General Fund, REET Impact Fees |
| 5 | Gratzer Park Phase II: Additional athletic fields and related facilities | 2016-2021 | \$625,000 | Grants, Impact Fees, Donations, General Fund, REET |
| 6 | Power Line Easement: Safe Routes to School | 2017-2021 | \$800,000 | Grants, Impact Fees, General Fund, REET |
| 7 | Splash Park | 2017-2021 | \$200,000 | General Fund, REET |

FUTURE DEMAND

According to Puget Sound Regional Council population forecast data, Orting’s population is expected to reach 8,442 by the year 2040, a forecasted increase of 1,377 residents. Table 6 presents the future demand associated with population growth based on the current Level of Service standards. These demand calculations assume the City has satisfied the current (2014) unmet demand as identified in Table 3.

Most of the future demand should be addressed through facility donations, impact fees, or other sources of funding. In planning for future demand, it is also important to consider how operations and maintenance of new facilities will be funded. Typically, this can be done through the general fund, or sometimes through levies and users’ fees. Here too, partnerships should be considered, such as using the resources of the school district to provide services, or requiring homeowners’ associations take care of facilities within their communities.

Table 6: 2040 Demand Associated with Forecasted Growth

| Park/Facility Type | LOS Standard | 2040 Demand: Total | 2040 Demand: Associated with Growth | Unit |
|---------------------------|----------------------------|---------------------------|--|---------------|
| Total Parks | 8 acres/1000 people | 67.54 | 11.02 | acres |
| Mini-Parks | 1 acres/1000 people | 8.44 | 1.38 | acres |
| Neighborhood Parks | 2 acres/1000 people | 16.88 | 2.75 | acres |
| Community Parks | 5 acres/1000 people | 42.21 | 6.89 | acres |
| Natural Resource Area | 14 acres/1000 people | 118.19 | 19.28 | acres |
| Trails | 1 mile/1000 people | 8.44 | 1.38 | miles |
| Field/Courts | 1 unit/1000 people | 8.44 | 1.38 | fields/courts |

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PARKS, TRAILS & OPEN SPACE PLAN

City of Orting



CHAPTER 3: FISCAL ANALYSIS

INTRODUCTION

This Chapter is intended to illustrate how the application of the Level of Service (LOS) standards for parks, trails and open space result in land acquisition and development costs. These costs are met by a combination of tax revenues in the general fund, grants, dedications, and impact fees.

- Under state law and city ordinance, developers of new residences are responsible for meeting the demand for facilities and services that are created by the growth that they generate. This may come in the form of impact fees, land dedication, or site improvements negotiated during the permit process.
- In the case of current shortfalls of park land, trails, or recreation facilities resulting from city growth, but not addressed by prior developer fees or contributions, public funds will be necessary to pay for land acquisition and facilities.

The *Parks, Trails, and Open Space Plan* (PTOS) establishes the basis for City policies and regulations aimed at creating a long-term funding program for these needs.

LEVEL OF SERVICE

The Level of Service (LOS) standards provide the means for assessing and monitoring the capacity of city land and facilities to meet the demand of the citizens. As updated, current LOS standards are:

- **Total Parks** *8 per 1,000 population*
 - **Mini Parks** *1 acre per 1,000 population*
 - **Neighborhood Parks** *2 acres per 1,000 population*

- **Community Parks** **5 acres per 1,000 population**
- **Natural Resource Areas** **14 acres per 1,000 population**
- **Fields and Courts** **1 per 1,000 population**
- **Trails** **1 mile per 1,000 population**

The characteristics of these categories of parks and facilities are described in Chapter 2.

EXISTING DEMAND

Based on these LOS standards, the estimate of 2014 needs includes:

- 3.64 acres of mini parks;
- 17.83 acres of community parks;
- Several play fields and/or sport courts; and
- 4.77 miles of trails.

Since there is a surplus in current neighborhood park acreage, **total park land** need is 10.49 acres.

The purpose of this chapter is to meet the impacts created by **new** growth. Recognizing this, the current needs and existing shortfalls are:

- A distribution of smaller parks which are accessible, either by trail connections or via parking access, to adjacent residential neighborhoods;
- Designated areas to be set aside for the preservation and protection of significant natural resources, floodways, and open space;
- Additional courts and fields either distributed to provide easy access to neighborhoods or within close proximity to Downtown Orting shops and activities;
- Trail connections linking the Foothills Trail, the “Powerline Trail,” the river Levees and the proposed Carbon River bridge; and
- Continued improvements and updates to parks, fields, courts, and children’s play areas and equipment.

COST ANALYSIS

The following indicates the range of costs that are associated with the current needs. These are based on the following assumptions:

- **Land** – Pierce County Assessor’s 2014 land values of 24 vacant parcels in and around Orting were investigated. In accordance with state law RCW 84.40.030, the land is valued at 100% of its true and fair market value taking

into consideration the highest and best use of the property. These parcels range in size from half an acre to over 50 acres. The assessed value in dollars per acre ranges from \$690 to nearly \$87,000. The average cost per acre is \$23,764. Site development costs vary considerably depending upon the types of facilities and finishes used.

- **Fields/Courts** – Field/ Court development costs vary based on activity, materials, and land acquisition. In looking at comparable estimates for other jurisdictions, we have assumed an average development cost of \$260,000 per field or court located within a park.
- **Trails** – Trail development costs vary based on surface materials used and land acquisition. In looking at comparable estimates for other jurisdictions, we have assumed that trails located outside of parks will cost about \$172,000 per mile including land and improvements.

Further and more detailed analysis of land values may be included in future code updates.

Table 8 lists the 2014 needs and associated costs for parks and facilities based on the current needs assessment and previous cost analysis.

Table 8: 2014 Needs & Associated Costs

| Park/Facility Type | Need | Cost |
|--------------------|--------------------|----------------|
| Land | 10.49 Acres | \$23,800/acre |
| Fields & Courts | 1.57 Fields/Courts | \$260,000/unit |
| Trail | 4.77 Miles | \$172,000/mile |

There are many variables such as actual land parcels configuration, location, etc. The important point illustrated here is the amount of land and associated costs that would be required to achieve the proposed LOS. Methods to finance would be the City general fund, bonds, levies, grants, or donations. In all cases except for grants and donations, the source of the funding would be taxes.

LONG TERM NEEDS

The City population is expected to reach approximately 8,500 by the year 2040, this equates to roughly 1,400 additional Orting residents. To achieve the same level of parks and recreation service, this population growth¹ would result in the following additional 2040 demand:

¹ Orting population growth is estimated to be 1,377 persons from 2014 to 2040. Growth is calculated as PSRC forecast minus OFM estimate; OFM estimates a 2014 population of 7,065 persons and PSRC Land Use Baseline forecast data estimates a 2040 population of 8,442 persons.

- 11.02 acres of total park land;
- 1.38 fields or courts; and
- 1.38 miles of trails.

These needs are only associated with forecasted growth and do not account for current unmet demand for parks and recreation facilities. Most of these future needs should be provided for by impact fees. The PTOS should identify locations for future parks, trails and facilities to be funded.

In planning for future needs, it is also important to consider how operations and maintenance of new facilities will be funded. Typically, this can be done through the general fund, or sometimes through levies and users' fees. Here too, partnerships should be considered, such as using the resources of the school district to provide services, or having homeowners' associations take care of facilities within their communities.

IMPACT FEES

For future growth to “pay its fair share,” impact fees must be based on the adopted LOS and a realistic estimate of the cost of land and facilities necessary to meet the demand. The fees are adopted by City ordinance into the development code and can be amended periodically to reflect cost escalation or other factors the change over time.

Using the cost assumptions described above, whereas the average dwelling unit (DU) size is approximately 3 persons² and there are approximately 333 DU per 1,000 population, an illustration of the potential impact fee for parks, trails and open space could be as follows:

- Park Land
 - Total LOS for park land = 8 acres per 1,000 population;
 - Proportional land requirement per DU = $8 \div 333 = 0.024$ acres; therefore
 - Proportional land cost per DU = $0.024 \times \$23,800 = \571 .
- Fields/Courts
 - Total LOS for fields/courts = 1 field/court per 1,000 population;
 - Proportional facility requirement per DU = $1 \div 333 = 0.003$ units; therefore
 - Proportional unit cost per DU = $0.003 \times \$260,000 = \780 .

² According to the 2010 US Census the average household size in the City of Orting is 3.01.

- Trail
 - Total LOS for trails = 1 mile per 1,000 population;
 - Proportional trail requirement per DU = $1 \div 333 = 0.003$ miles; therefore
 - Proportional trail cost per DU = $0.003 \times \$172,000 = \516 .

The cumulative sum, \$1,867 per dwelling unit, is further reduced by a 50-percent reduction factor to ensure capital facilities needs are met by a balance of impact fees and public funds. As a result, the potential impact fee is **\$934 per dwelling unit**.

This illustrative example will be further refined during the process of amending the development code during the 2015 Comprehensive Plan update process. A more updated estimate of land and facilities costs as well as associated City management costs may be necessary. The resulting impact fee ordinance may include provisions for other approaches to mitigation, such as credit for facility development.

OTHER FUNDING

In order to finance current land acquisition and facility development needs, the City must initiate fund-raising through debt financing such as bond issues or levies, federal, state, or county grants, and private contributions. Partnerships with the Orting School District and the Lion’s Club should also be pursued.

Orting is also fortunate in having dedicated volunteers who help with these responsibilities. This important contribution should be fostered in the future.

OPERATIONS AND MAINTENANCE COSTS

While this chapter deals with primarily with capital costs and revenues, annual budgeting must acknowledge the City’s responsibilities related to the operation and maintenance of parks and facilities, as well as to providing recreation programs. The City has budgeted \$160,000 for 2015 parks operations and maintenance expenditures. Given the current inventory of 46.2 acres of total park land, the anticipated average cost per acre is \$3,463.20. This value excludes capital expenditures. As total park acreage increases, the annual budget should increase proportionately.

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PARKS, TRAILS & OPEN SPACE PLAN

City of Orting



APPENDIX A: PUBLIC OUTREACH & COMMUNICATION

The Orting *Parks, Trails & Open Space Plan* (PTOS) has undergone multiple phases of public involvement. The first phase evolved from the initial GMA planning efforts of the 1990s and was designed to ensure the Orting community had the opportunity to influence the first parks plan, adopted in 2003. The City and the Parks Commission sustained ongoing public outreach efforts to include significant public input in the development of Gratzer Park and North Park, and an outreach effort was launched to gather public input to update the PTOS in 2010. The public was further engaged during the current update process.

Appendix A summarizes public involvement efforts from 2003 to 2015, and presents a record of the details of public involvement contributing to the current update.

2003: CREATING THE PTOS & PUBLIC OUTREACH

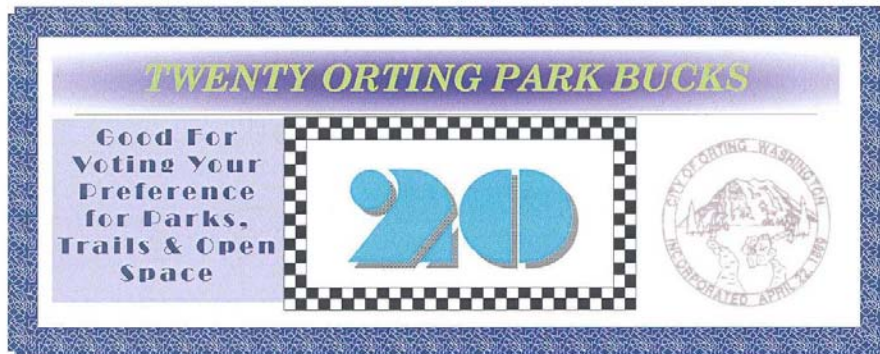
Parks planning was not acknowledged with urgency in the City of Orting until the late '90s. Orting experienced significant growth over the prior decade with a population nearly doubling in size, and additional growth forecasted. Orting's parks and recreational needs had previously been satisfied by an abundance of undeveloped lands and the development of the Foothills Trail, and the need for parks was viewed with less urgency than resolving transportation issues, regulating land development, and ensuring utility availability. These opinions were the result of the visioning process that launched early '90s GMA planning efforts, citizens participated in workshops, meetings and surveys.

Growth both changed the nature of the community and the attitudes of residents. As new neighborhoods were developed, additional park and open space land and recreation facilities were either dedicated to the City or maintained by homeowners'

associations. New residents brought new ideas about the need for, and function of, parks.

By 2000, the Orting Parks Commission, the Planning Commission and the City Council realized that planning for current and future demand was necessary. Public testimony at meetings highlighted concerns about the availability, location and design of parks and facilities. Commission members and the Mayor discussed recreation needs and potential projects with citizens leading to the scope of work for the planning. The existing network of parks volunteers and annual City Park volunteer events, were used as an opportunity for communication.

When the parks planning process was launched, the Parks and Planning Commissions sponsored workshops and held joint meetings where citizens were asked to provide suggestions for parks, trails, and recreation facilities. At the final workshop, citizens were invited to participate in an exercise aimed at defining parks preferences. “Orting Bucks” were distributed to all participants who could then spend them on any combination of desired parks and recreation facilities.



As the initial PTOS took shape, community outreach broadened to local media including two community-based newspapers, the Country Gazette, and the East County Sun. The Draft and presentation slides were also made accessible on the internet. The Parks Commission passed a motion endorsing the draft at its January public meeting. The Planning Commission held a public hearing on February 3, 2003 and passed a motion recommending adoption by the City Council (see Figure A-2 and Figure A-3). The Council held its hearing on March 13 and adopted the plan as recommended by the Commissions.

Orting's Parks, Trails and Open Space Plan to be examined

First public hearing set for February 3

by Cherie Kuranko

A considerable amount of growth occurred in the City of Orting during the 90s and Orting's population continues to rise each year. As the population spirals upward, a demand for more recreational facilities and programs climbs as well.

In the past, the City has relied on the Comprehensive Plan to continue adding to its parks, trails and other recreational facilities. The ten-year-old plan has helped gain property for parks and open space land from the developers that have been building houses in our valley, but the plan is now considered outdated and unable to keep pace with current growth.

In June of 2002, the City Council, Planning Commission and Parks Commission initiated the formal process for developing a new plan. The new plan, currently in the draft stage, is called the (Draft) Parks, Trails and Open Space Plan.

Mayor Jones stated, "The City of Orting is proud of the quality of life it offers to its residents and the attractions that bring visitors to our community. As our City grows with new families and businesses, we understand the critical importance of maintaining our lush valley setting, providing opportunities for recreation, and respecting our

traditions. This draft Parks, Trails and Open Space Plan is our first attempt at defining a long-range approach to meeting this vision."

Since June, a great deal has been accomplished. Several public meetings and an open house were held last year to allow citizens an opportunity to view and discuss the plan and to ask questions or make suggestions. It was during the course of these public meetings and through long hours spent fine-tuning the project at regular meetings that the draft plan was developed.

Before it could be decided what types of facilities Orting lacked, the group needed an inventory of the current ones already available in Orting. As seen in the graphic accompanying this article, an inventory of the existing parks, trails and other recreational facilities was completed and contains a blend of city, school, private and other public-owned properties.

With an inventory in place, the plan moved forward to address how many and what type of recreational facilities are still needed at the present time and in the future. To accomplish this, Orting's population and the Level of Service Standards, both current and projected figures, were used. The Level of Service Standards (LOS) provides the basis for assessing and monitoring the capacity of city land and facilities to meet the demand of the citizens:

Mini-Parks (tot lots), 2 acres per 1,000 population;

Neighborhood Parks, 2 acres per 1,000 population;

Community Parks, 5 acres per 1,000 population;

Fields and Courts, 1 acre per 1,000 population (located in parks);

Trails, 1 mile per 1,000 population (some may be in parks).

These are based on an analysis of similar standards used by other jurisdictions in Washington as well as national guidelines.

Based on these Level of Service Standards, it was determined that in year 2002 there was an existing demand for 6 acres of mini-parks, 20 acres of community parks, several play fields and sports courts and one mile of trail. The draft states that some of these unmet needs will be met by the completion of new facilities on land dedicated to the City or private parks included in recent projects approved by the City or by related actions. The City has come up with a couple of options to meet the remaining demands. Those options are as follows:

A community park of sufficient size to accommodate several play fields and courts suitable for junior and adult league play, along with passive recreation, children's play area(s), picnic facilities, restrooms and off-street parking that can be used for community events and activities. This option's estimated cost is \$270,000 - \$390,000, with the size listed as 20 acres.

The other option would be to provide a distribution of more intensive facilities within 2-3 parks that would be larger than neighborhood parks, somewhat similar to Calistoga Park, ideally located on an arterial for community access. This second option is estimated to cost between \$260,000 and \$450,000 and is listed as two "Super" Neighborhood Parks at 8-10 acres each.

Trail connections linking the Foot-hills Trail, the "Powerline Trail," and the

proposed Carbon River bridges are included with both of the above options. The trail portion is estimated at an additional \$25,000 to \$40,000.

The draft plan states the method to finance these costs for the current needs is through "the City general fund, bonds, levies, or grants. In all cases except for grants, the source of the funding would be taxes."

Over the next 15-20 years the City is expected to double in population and therefore would need to add 14 acres of mini-parks, 40 acres of community parks, 4+ play fields, 4+ sport courts and 4 miles of trail to stay current with the city's growth.

The expenses for these future recreational needs are to be addressed through developer dedications, facility donations or impact fees. Changes and additions are being made to the Comprehensive Plan that will allow the City to collect funds

for these projects as new housing developments are constructed in our area.

The City of Orting would like to encourage citizens to attend the first public hearing on February 3, 7 p.m. at Orting City Hall. It welcomes participation, questions and comments.

Working closely with the Parks Commission, Planning Commission and City Council, an excellent draft plan was written by City Planning Consultant Roger Wagener of Berryman & Henigar that explains the details in an easy-to-read format and provides graphics that help visualize what this plan is all about.

If anyone is interested in reading more about the plan before attending the public hearing, a copy of the Draft Parks, Trails and Open Space Plan can be obtained at City Hall or at the web site www.bh-seattle.xohost.com/client/orting/orting.htm.

| PARK/FACILITY TYPE | 2002 DEMAND | 2002 SUPPLY | 2017 DEMAND |
|------------------------|--------------------------|---|---------------------------|
| Mini-Parks | 8 Acres | 1.33 Acres | 16 Acres |
| Neighborhood Parks | 8 Acres | 21.64 Acres | 16 Acres |
| Community Parks | 20 Acres | 0 | 40 Acres |
| School-Parks | | (limited) | |
| Natural Resource Areas | N/A | 36.17 Acres | |
| Greenways | N/A | 18.92 Acres (14.28 Acres) | |
| Special Use Parks | 1 | 1 | |
| Fields & Courts | 4-5 Fields 4-5 Courts | 3 Half Courts; 1 Basketball Court 2 Ball Fields | ~10 Fields ~ 10 Courts |
| Trails | 4 Miles | 1.5 (+1.7) Miles | 8 Miles |

Comparison of Orting's supply and demand for parks last year and fifteen years from now.

Figure A-1: Article about the 2003 Orting Parks, Trails & Open Space Plan published in a local newspaper.

Page B-2, The SUN, January 29, 2003

News Next Door

News Next Door Policy: This space is for nonprofit events or organization

Parks, Trails and Open Space Plan

The first public hearing will be held on Monday, February 3 at 7 p.m. at Orting City Hall for the Parks, Trails and Open Space Draft Plan. Citizens are encouraged to attend the meeting and participate.

A copy of the draft plan can be obtained at City Hall or on the web at www.BH-Seattle.xohost.com/client/orting.htm.

Figure A-2: Announcement for a public hearing prior to the adoption of the 2003 Plan



The image shows a newspaper clipping from the "East County SUN". The masthead includes a logo of a sun over a mountain range and the text "East County SUN". Below the masthead, it says "NUMBER 7 • THE INDEPENDENT VOICE OF PIERCE COUNTY, WASHINGTON • February 12, 2003". The main article features a photograph of a young child, Annabelle Hall, sitting on a red slide at Orting City Park. The text of the article reads: "Annabelle Hall is too young to understand park plans but the smile on her face as she swoops down the slide at the Orting City Park speaks for itself. Her mother Renee Hall supports the idea of new parks in Orting and said, 'There's some days it's so crowded here the kids can't get on the toys.'" The byline for the article is "by Cherie Kuranko". The article title is "Parks, Trails and Open Space Plan moves forward". At the bottom of the clipping, there is a line of text: "The draft Parks, Trails and Open Space Plan was informed and the plan met no opposition."

Figure A-3: 2003 Publicity for the initial Orting Parks, Trails & Open Space Plan

2010 UPDATE

Public outreach for the PTOS update began the summer of 2009 after the Parks & Planning Commissions had reviewed an updated parks inventory and a population-based needs analysis. The outreach effort included a public open house and an online survey.

Public Open House

Members of both Commissions posted fliers about the public open house around town (see Figure A-5). The flier and a one-sheet responding to frequently asked questions about the parks plan update process (see Figure A-6) were on display at the City's table at the October Pumpkin Festival in downtown Orting. The open house was also announced on the City reader board at the intersection of Washington Avenue North and Williams Boulevard Northwest north of town several days before the event.

On Thursday, October 22nd, a dozen folks or so braved the road construction and dropping temperatures to stop by Orting Station, enjoy some free cookies and coffee, and talk about the future of Orting's park system. Each person was greeted with a stack of \$100 in Orting Park Bucks to spend as they pleased on options for the future of parks, trails and open space. In the end, people at the Open House spent a total of \$1,100 in Orting Park Bucks on five categories:

- | | | |
|---|-------|--------------|
| • Improved River Access | \$340 | 31% of total |
| • More Trails | \$260 | 24% |
| • More Fields, Courts & Facilities for Neighborhood Parks | \$200 | 18% |
| • More Ballfields in Gratzer Park | \$180 | 16% |
| • More Mini-Parks | \$120 | 11% |

Some people left additional comments, which included suggestions for:

- More open space for kids
- More toys in parks for toddlers
- Additional ½ courts & basket ball hoops (in Triangle Park)
- A sand volleyball court, smoother grass, & a year-round sani-can (Charter Park)
- More ballfields (Whitehawk Park)

Informational posters were available to help answer questions on the following topics:

- Where are all the parks in Orting? The poster, 2009 Inventory of Parks, used an aerial photo to show the locations of all the public and private parks, trails and open space in Orting.
- Where are all the facilities in Orting? The poster, 2009 Inventory of Facilities, used a street map to show where all the public park facilities are in Orting such as: fields, courts, play areas, the skate park, benches, picnic tables, restrooms, parking, etc. See Figure A-7.
- How do people access the rivers in Orting? A poster on River Access used an aerial map to show 18 potential public access points to reach the Carbon and Puyallup rivers. The access points were taken from Orting's 2006 Shoreline Master Program. The poster asked people if they thought improving river access was an important issue.
- What do the different types of parks mean? A poster about Definitions showed how the City currently distinguishes between types of parks based on size and the area they serve. See Figure A-8.
- Does Orting have enough parks, trails and facilities? The poster illustrated the result of a number-based analysis of Orting's current parks and recreation Level of Service. According to the numbers, Orting has enough medium and large sized parks, but does not have enough trails, fields, court or small parks (called Mini-Parks) to serve the City's current and future populations. However, the poster asked people what they thought based on their own experience: does Orting have enough? Too much? Not enough? See Figure A-9.
- What parts of the City have good walking-access to parks? A poster on Walking Distance illustrated all the parcels within Orting that are a half-mile walk or less from at least one small or medium sized park. This poster shows that homes in the northeastern and southwestern parts of town are more than half a mile walk from these parks. See Figure A-10.

Survey

A survey was used to gather additional public input. The survey was posted online and announced on the City's website, as well as on the City reader board at the intersection of Washington Avenue Northwest. Fliers for the public open house directed people to the online survey, and paper copies of the survey were made available at the City Hall and at the Public Safety Building. Additional respondents, including a number of teenagers, completed paper copies of the survey at the October Pumpkin Festival. A flier describing the parks plan update and directing community members to the online survey was included in Orting's February 2010 utility bill. Announcements about the survey were made at Planning Commission, Parks Commission, and Chamber of Commerce meetings in January and February 2010.

The survey was open from the end of September 2009 through the end of February 2010; it was taken by 63 people.

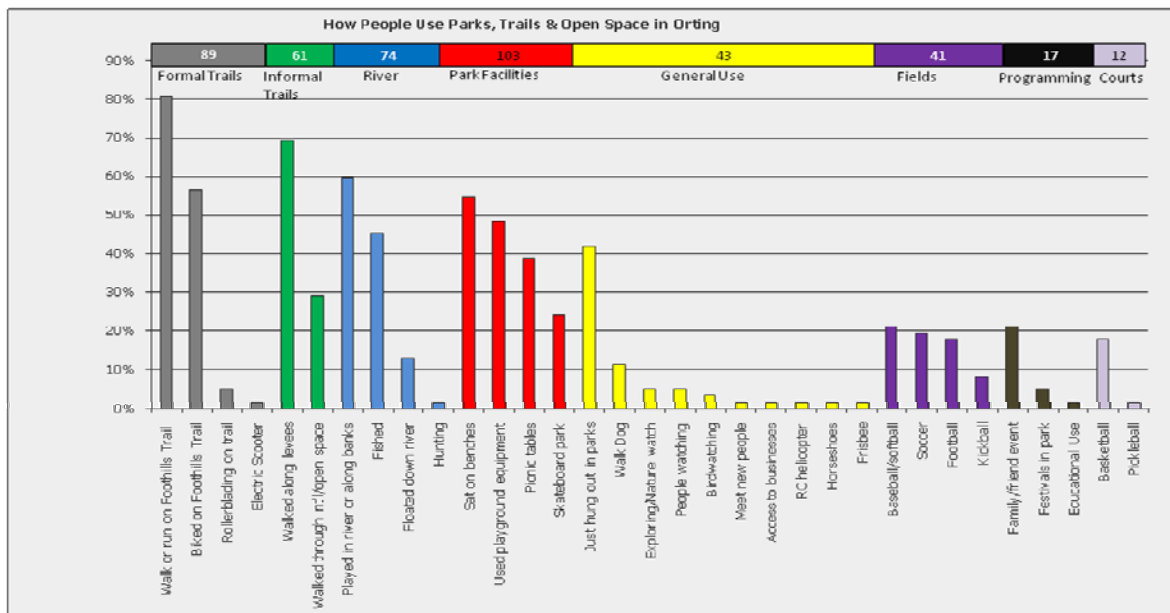
Respondents' use of the Orting parks system

98% say they use parks & trails in Orting. Respondents were asked to list all the activities they do in Orting on a regular basis.

Respondents who use the Foothills trail use it several times a week to several times a month:

- Daily 8.6%
- Several times a week 25.9%
- Several times a month 41.4%
- Several times a year 24.1%

Figure A-4: How respondents say they use parks, trails & open space in Orting



How respondents feel about the park system.

For their top three favorite spaces, survey respondents listed:

1. Foothills Trail
2. City Park
3. North Park

Activities that respondents LEAVE Orting to do (Top Ten Answers)

- | | |
|-------------|----------------------|
| 1. Hiking | 6. Tennis |
| 2. Fishing | 7. Nothing |
| 3. Swimming | 8. Skiing |
| 4. Beach | 9. Soccer |
| 5. Camping | 10. Horseback riding |

Respondents' favorite parks outside Orting (Top Five Answers)

1. Puyallup Park: wading pool
2. Point Defiance: zoo, scenery, variety of activities, open space, landscaping
3. Mount Rainier
4. Tacoma Waterfront
5. South Hill's Bradley Park: lake, lakeside trail, big toys, open, spacious, clean, convenient, safe

What respondents said the City should do to make parks and trails better within the next five years (Top Six Answers)

1. Improve access to rivers
2. Add more big toys in neighborhood parks and mini parks
3. Improve City Park (suggestions include updating big toys, replace the slide tunnel, wading pool, rock climbing wall)
4. Keep parks clean, maintained, and updated (such as adding garbage cans and restrooms)
5. Adult sports programming
6. Dog park and or dog baggie stations along trail

Respondents' dislikes and concerns about Orting's parks and trails (Top Five Answers)

1. Safety: along trail, from dogs, from injury on fields, for small children playing near roads
2. Dangerous & frequent road crossings
3. Teen behavior (vandalism, language, skating at Orting station) and the need for community center or recreation building
4. No concerns at all
5. Garbage not controlled

What respondents think is missing in Orting right now. (Top Five Answers)

1. Nothing is missing
2. A YMCA, teen center, or recreation building
3. Swimming pool, spray ground or wading pool
4. Dog Park
5. Basketball & other paved and/or covered courts

Additional comments were received addressing other ways participants utilize the parks and river access, people's favorite parks and why, improvements people would like to see in the next five years, dislikes, and additional general concerns. These comments informed the 2010 update, and the impact is apparent. Some concerns have still not been met due to funding constraints, but the primary issues have been addressed: river access has improved, adult sports programming has increased, City Park has been renovated, and the City has opened a dog park, to list a few. The results of this survey informed the 2015 update survey, which enabled the City to check its progress.

Figure A-5: Flier announcing the 2009 public open house, posted around town and on display at the City's booth at the Pumpkin Festival.

Public Open House

Do you walk fish
run play
exercise bike
skate

Updating the Orting Parks Plan

in the City of Orting?

Come tell us:

WHAT IS IMPORTANT FOR THE NEXT TEN YEARS?

HOW DO YOU USE PARKS IN ORTING?

What's Great?

What's Missing?

Orting Station

October 22, 4:30-7:30

Free cookies & coffee
Fill out a survey at www.cityoforting.org

The City of Orting is updating its parks plan, initially adopted in 2003, to set realistic short-term goals for city-owned parks, trails & open space. In addition, an updated plan will allow Orting to retain eligibility for the kinds of grants that have helped fund improvements to the park system in the past, such as the purchase and development of Gratzler Park. Public participation is a critical part of the update - we need to hear from you!

Figure A-6: Frequently Asked Questions – distributed to explain the process to the public and publicize the Open House.

Updating the Orting Parks Plan frequently asked questions

Why should we update the Orting parks plan?
The City of Orting is updating its parks plan, initially adopted in 2003, to set realistic short-term goals for city-owned parks, trails, and open space. In addition, an updated plan will allow Orting to retain eligibility for the kinds of grants that have helped fund improvements to the park system in the past, such as the purchase and development of Gratzler Park.

So having a parks plan can help Orting access grants and funding? How does that work?
The Washington State Recreation and Conservation Office (RCO) provides "funding for general parks and recreation, boating, trails, water access, habitat conservation, off-road vehicle recreation, and firearms and archery range recreation" to jurisdictions with up to date plans. This agency reviews parks plan prior to adoption, and then grants eligibility for up to six years. Updating Orting's parks plan now would make us eligible through 2010.

OK, we're updating our 2003 plan, but between 2003 and now, how did we use the old plan?
Orting received RCO funding for ball fields in Gratzler Park, the first of which are slated for construction this year. The City also purchased the property for Gratzler Park with the help of a Pierce County Conservation Futures Grant, thanks to the parks plan. Portions of the parks plan have been added to the Comprehensive Plan, and Orting adopted a Parks Impact Fee program, collecting over \$254,000 since 2005 for park improvements.

How do we go about updating the plan?
An updated inventory of all parks, trails, and open space in Orting is evaluated to assess how well these things are serving the needs of the current community and to estimate how well they will serve the needs for the community in the future. The analysis helps point out the gaps in the current system, and the update process gives the community and the City a chance to collaborate to set some realistic short-term goals. These goals, along with strategies for implementing them, are added to the updated plan before it is reviewed by the RCO, recommended by the Orting Parks and Planning Commissions, and approved by the City Council.

How can I be involved in updating the plan?
In order to evaluate the current system of parks, trails, and open space in Orting, we **need to hear from you!** Public participation is very important. We need to know how you use these kinds of spaces in Orting or how (and why) you don't. We would like to hear what your priorities are for the future of parks in this town. Tell us what your concerns are and what you think should be included in the City's plan for parks. There are many ways to participate and let us know what you think:

Fill out a survey on the City's website
www.cityoforting.org

Come to an Open House at Orting Station,
October 22nd, 2009
from 4:30-7:30

Or attend a Parks Commission Meeting, first Wednesdays of the month in the Public Safety Building, starting at 6:30 pm.



2009 Inventory of Orting Park and Recreation Facilities

Where does Orting go to play? This map shows the location of all the facilities in Orting's public parks, shown in green

The 2003 parks plan set standards for the number of ball fields and courts

In addition to public facilities, some members of the community may have access to facilities in private parks and on school property, shown in gray. However, since the public can not be guaranteed access to these private facilities at all times, they are not counted as part of the public park system.

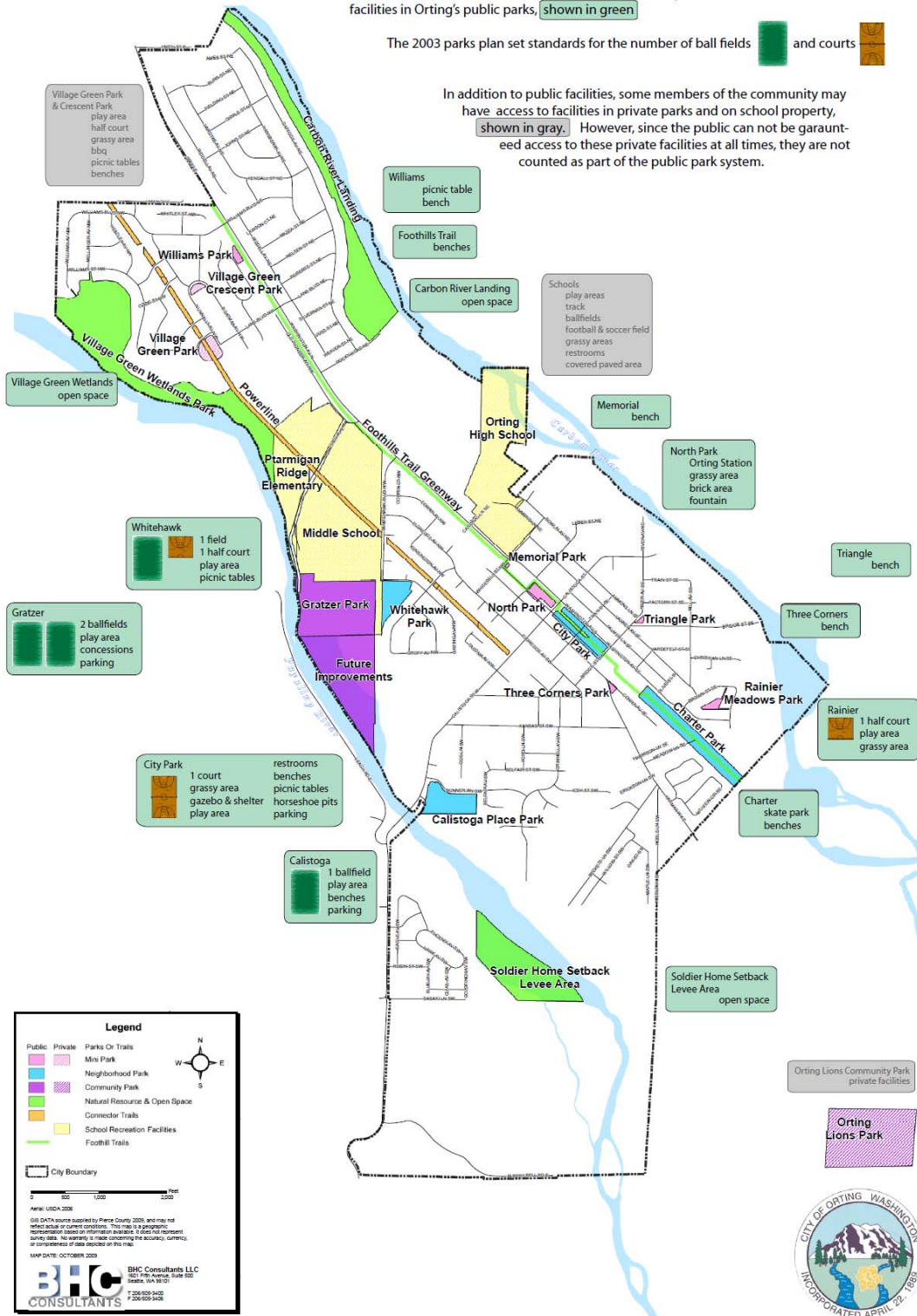


Figure A-7: Informational Poster from October 22, 2009 Public Open House



What's the Difference between a Neighborhood Park and a Community Park?

Orting's 2003 Parks Plan defines a range of park types:

| | | |
|---|--|---|
|  <p>Community Parks City wide 25-30 acres or as needed to accommodate desired uses Preserve unique natural features; meet active recreation facility needs Gratzer Park</p> <p>SAMPLE 20 ACRE COMMUNITY PARK</p> |  <p>Neighborhood Parks About 1/2 mile walking distance 5 acres minimum; 7-10 optimal Geographically spaced in service area Whitehawk Park City Park Callstoga Park</p> <p>SAMPLE 5 ACRE NEIGHBORHOOD PARK</p> | <p>Mini-Parks Service Area: Less than 1/2 mile walking distance (about 7-8 blocks) Size Criteria: One lot up to 1 acre Guidelines: Geographically spaced around City Orting Examples: Williams Park North Park Memorial Park Triangle Park Three Corners Park</p> <p>MINI-PARK Example Size: 1 Acre</p> |
|---|--|---|

Note: These examples are intended to illustrate the general types of facilities that are typically found in neighborhood and community parks. However, the specific size, configuration, and design of parks in the City of Orting should reflect the needs and vision of the community.

Additional Definitions

The existing parks plan also defines other types of trails and open space:

Natural Resource Areas: Land set aside for preservation & protection of floodways, open space, sensitive areas or important vegetation which may also provide some passive recreation opportunities. ORTING EXAMPLES - Carbon River Landing

Greenways: Corridors from 25 to over 200 feet wide for wildlife corridors and natural resource preservation. They also emphasize use (such as park trails) more than Natural Resource Areas, and can be used to tie park system together. ORTING EXAMPLE - Foothills Trail

Special Use Park: Parks, usually 2-5 acres, oriented towards a single purpose use. ORTING EXAMPLE - Charter Park Skatepark.

Park Trails: Variety of trails and multi-use paths located within parks, greenways, and natural-resource areas.

Connector Trails:

Trails that emphasize safe recreation and transportation to and from parks and natural resource areas. These are planned as part of the City transportation system, and are generally located within existing rights-of-way, utility easements, drainage ways and sidewalks.

On-Street Bikeways:

Bike lanes which are designated segments of paved roadways separating bicyclists from vehicular traffic. Different from connector trails because they serve commuters, fitness riders and competitive athletes who cycle at higher speeds.

Equestrian Trails:

Loop trails for horseback riding which could be planned for in larger parks and natural resource areas.



Figure A-8: Informational Poster from October 22, 2009 Public Open House

Figure A-9: Informational Poster from October 22, 2009 Public Open House



Level of Service Standards for Orting Parks & Facilities



A 2009 inventory counted all the public parks, trails and facilities in Orting. Private parks, school facilities, and parks outside the City (such as the Orting Lions Community Park) were not counted.

Orting's 2003 Parks Plan set these numbers, called Level of Service Standards, as goals for best serving the current and future community.

Does Orting Have Enough? According to the numbers, Orting has more than enough total acreage of parks to serve the community well, both now and through 2030, but it doesn't have enough of a specific kind of park (Mini-Parks) and it doesn't have enough facilities such as fields, courts, and trails. **But what do you think?**





Walking Distance to Orting's Mini-Parks and Neighborhood Parks

How far are people willing to walk to get to the park? The 2003 Orting Parks, Trails & Open Space Plan estimates that people would walk about half a mile to get to a medium sized Neighborhood Park and less than half a mile to reach a smaller Mini-Park.

On this poster, walking-distance means all the places* one could reach by starting at the park and walking half a mile in any direction by sticking to roads, sidewalks, and pedestrian paths (see the example blue shape in on the right). Notice how this area is smaller than the yellow circle, which shows half a mile as the crow flies.



The larger map on the left combines the walking-distance shapes for all of Orting's Mini-Parks, meaning that anywhere in within the blue, you could walk less than a half a mile to at least one Mini-Park. The red shape represents all the places where you could reach at least one Neighborhood Park. The purple is where the two overlap, meaning that you could reach at least one Mini-Park *and* one Neighborhood Park, and white spaces mean you would have to walk more than half a mile to reach either type of park.

How far would you walk?

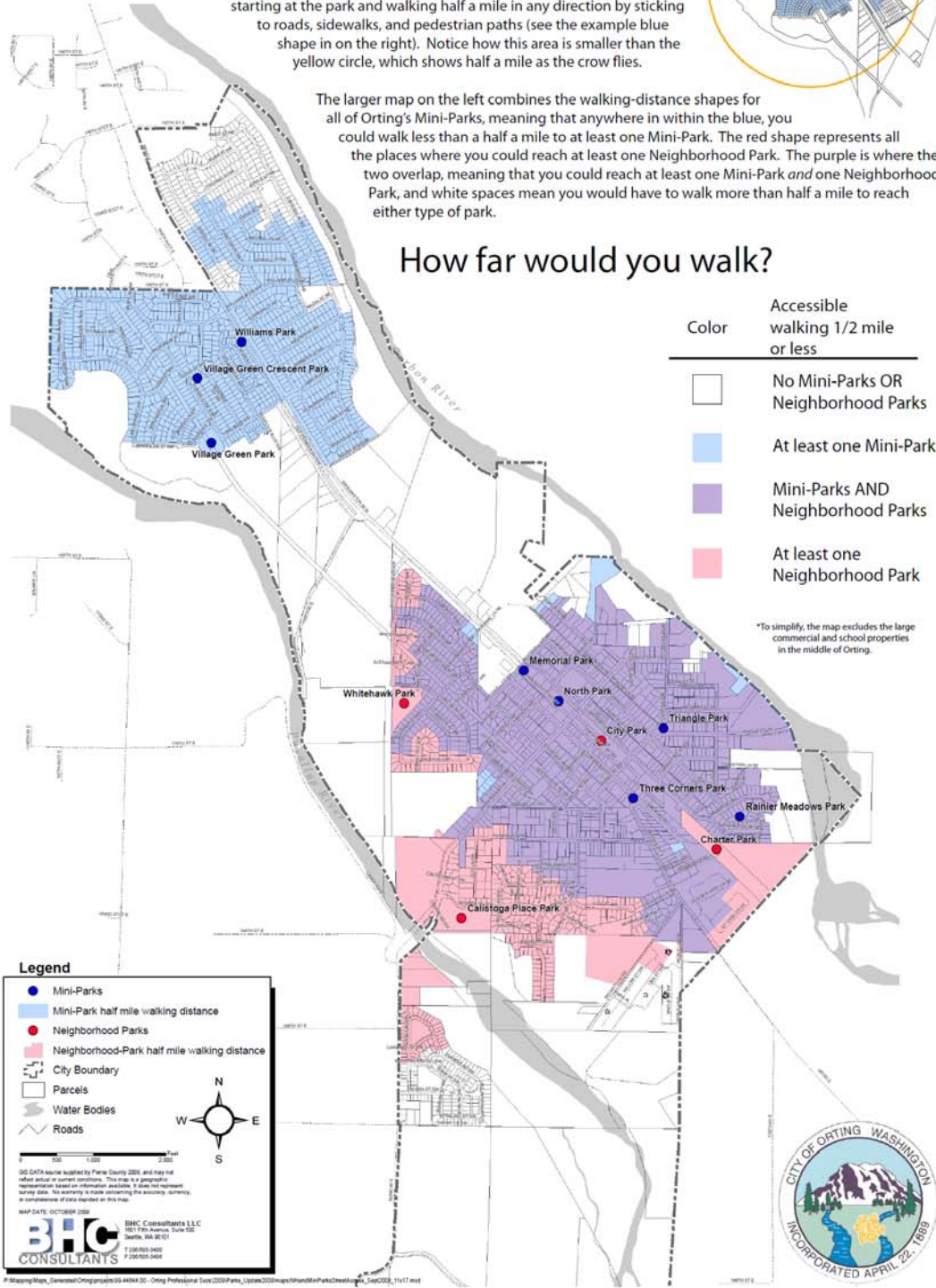


Figure A-10: Informational Poster from October 22, 2009 Public Open House

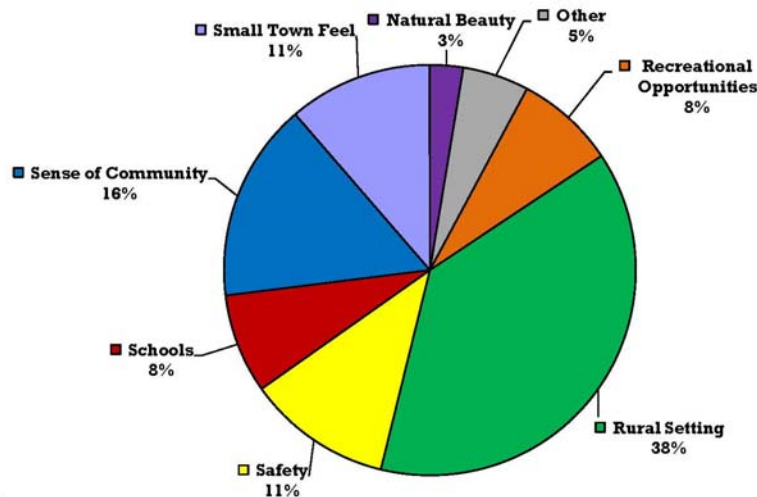
2015 UPDATE

The City sought to integrate and coordinate the PTOS update with the 2015 Comprehensive Plan update. The PTOS update engaged the public through an open house and several surveys, but also built upon the foundation of earlier public outreach undertaken for the Comprehensive Plan update. The findings of the PTOS public outreach and involvement reveal a community that is generally satisfied by the quantity of public parks and facilities, but would like to see improvements in quality and programs offered. As a result of the feedback, the City has surveyed the community to identify program improvements, the Parks Commission has initiated a relationship with a County community garden group, and will continue to pursue funding opportunities to support existing facilities, to name a few.

Comprehensive Plan Outreach

Public outreach for the 2015 PTOS update occurred in conjunction with the 2015 Comprehensive Plan update. Outreach began with the Comprehensive Plan online public opinion survey. The survey received 122 responses between November, 2013 and April, 2014. Survey results revealed that 8-percent of participants valued "recreational opportunities" and 44-percent valued the "rural setting" and "natural beauty" above all other aspects of Orting. When asked to rate how the City was doing in terms of parks, about 85-percent of participants indicated "good" or "excellent". In terms of recreation, about 70-percent of participants indicated "good" or "excellent".

What is the #1 thing that you value about Orting?



City of Orting Comprehensive Plan Survey - Draft Results - April 11, 2014



Figure A-11: Community Values Chart

This initial survey revealed that the community was largely satisfied with the provision of parks and recreational opportunities within the City, and the high value expressed for the "rural setting" inspired the creation of a new Level of Service standard for Natural Resource Areas. The preliminary results of the survey were presented at the Comprehensive Plan Community Open House on February 5, 2014.

Open House

On September 17, 2014 a joint open house was held for the PTOS update and Comprehensive Plan update at the Orting Station. This was the second open house for the Comprehensive Plan update. The open house attracted 40 visitors, from within and just outside Orting. Posters were displayed that depicted aspects of both plans, including parks, shoreline, economic development, land use, transportation, utilities, and the environment. The results of the Comprehensive Plan Survey were also graphically displayed. The visual aids created a comprehensive picture of Orting. The parks posters portrayed the updated inventory and current parks planning activities (see Figure 17), Gratzner Park improvements (see Figure 18), and shoreline public access. The PTOS was also available for review.

Visitors were asked to comment on the posters by writing on post-its and sticking them to the displays. Visitors were informally interviewed by City staff, planning consultants, and Parks Commissioners. Verbal parks-related comments received addressed the desire for community gardens in existing Community Parks, availability of parking as the City grows, and need for general improvements. Overall, visitors were pleased with the quantity of parks within the City. Visitors were encouraged to complete a paper copy of the Parks survey, or directed to complete the survey online.

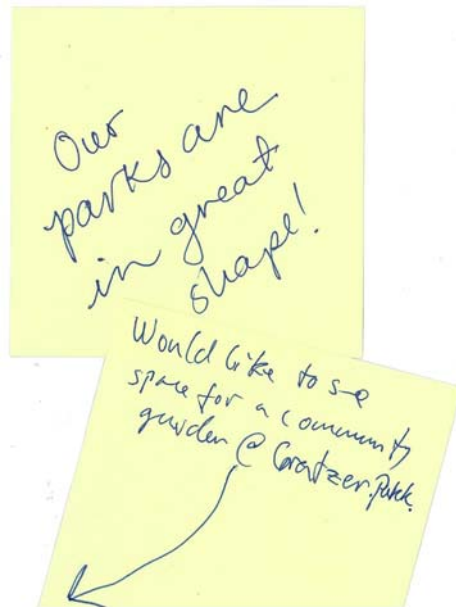


Figure A-12: Open House Comments

Parks Public Opinion Survey

The Parks, Trails and Open Space online public opinion survey was launched September 4, 2014 and open through the end of the month. Similar to the previous Comprehensive Plan survey, the survey was advertised on the City's official webpage, through social media, by word of mouth, and on the City's reader board. Paper copies of the survey were made available at City Hall and at the September Open House. Overall, participants appear to be generally satisfied with the quantity of parks, but would like to see general improvements and upgrades.

There were a total of 56 participants. Several demographic questions were asked to obtain a sense of who was participating. The average participant was 40-years old and has lived in Orting for 9 years. The average household size was 4.4. This demographic data is consistent with 2010 Census results, which found the median age in Orting to be 32.7 years old with a third of the population under the age of 19, and the average family size to be 3.34 persons. Orting is a community of small, young families.

The parks survey was informed by the results of the 2010 update survey, as well as the Comprehensive Plan survey. The idea was to build on earlier results.

Questions

Which of the following statements best represents how the City is meeting our parks, trails, and program needs?

- Meets all needs 21.15%
- Meets some needs 76.92%
- Does not meet any needs 1.92%

What parks and recreational features do you use? Rank most used to least used:

- | | |
|-----------------------------------|-------------------------|
| 1) Trails | 6) Orting Station |
| 2) Playgrounds | 7) Dog Park |
| 3) Parking | 8) Multi-Purpose Center |
| 4) Gazebo/Picnic Shelter/BBQ Area | 9) Skate Park |
| 5) Ball Fields | 10) Basketball Courts |
| | Other: Zumba |

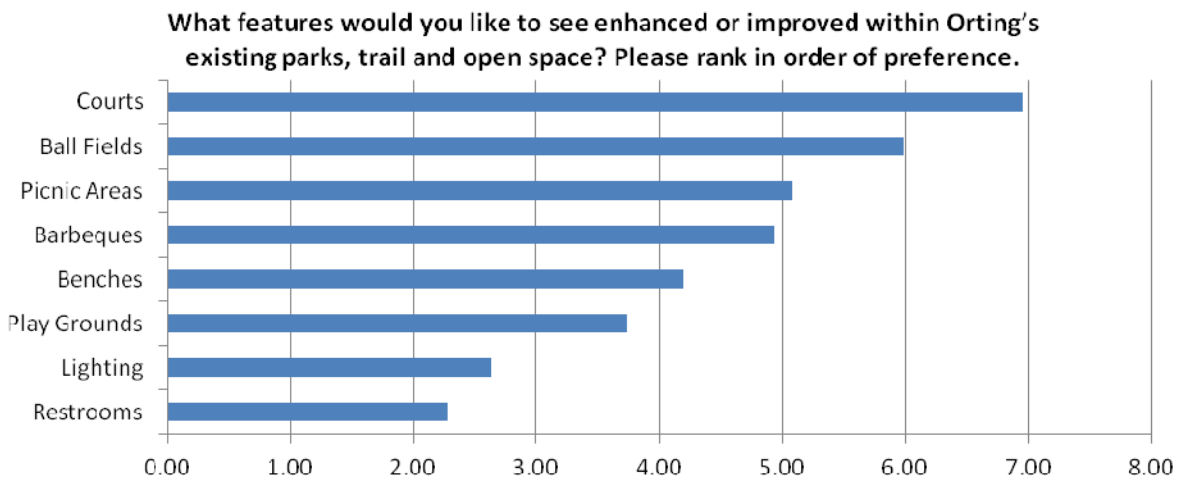


Figure A-13: Survey Question 8 Graph

What features would you like to see added to Orting's existing parks, trail and open space?

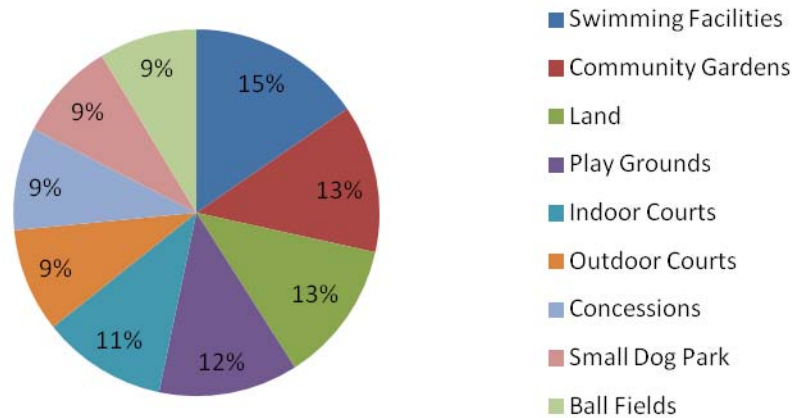


Figure A-14: Survey Question 9 Chart

Over the next 6 years, what YOUTH parks and recreation programs/facilities would you like to see developed in Orting's parks?

- None (3)
- Youth programs for all ages (soccer, baseball, volleyball, tumbling, special Olympics, drama, art) (9)
- Spray park (7)
- Tennis courts (5)
- Swimming pool (4)
- Indoor recreation or rental facilities (3)
- Teen spaces and activities (2)
- Movies in the park that are consistent and not cancelled unless for rain (2)
- More toddler friendly toys, toddler play area; play areas for younger children (2)
- More River access/open space (2)
- Update some of the older areas (2)
- More space for current activities/programs
- It would be nice to continue with the sports. Keep enhancing the programs we currently run.
- Would like to see more sponsored events such as fun runs, bike rides, fishing derbies.

- Lacrosse and Frisbee golf.
- Obstacle courses
- More playground equipment outside of the housing developments
- Partnerships with the schools.
- Equestrian/FHA space (Gratzer landing area?)
- Football field

Over the next 6 years, what ADULT or SENIOR parks and recreation programs/facilities would you like to see developed in Orting's parks?

- None (2)
- Year round programs (art, gardening society, canning, growing, mommy and me exercise, run club, water aerobics) (6)
- Swimming pool (4)
- Tennis courts (3)
- Community garden/Garden Club (2)
- Dog parks (2)
- Obstacle courses
- Trails
- Fishing access
- Better handicap trails with bathrooms.
- The parking lots could be paved to allow better access for those that are less able.
- Maybe a lovely garden area that can be walked through and provide beautiful backdrops for family photos.
- Volleyball areas, open space parks, organized softball.
- Exercise stations along the trail.
- Maybe a few of the small BBQ near the Puyallup river park.
- More free adult programs, residents should not have to pay for the facilities at the school.

What features would you most like to see constructed at Gratzer Park?

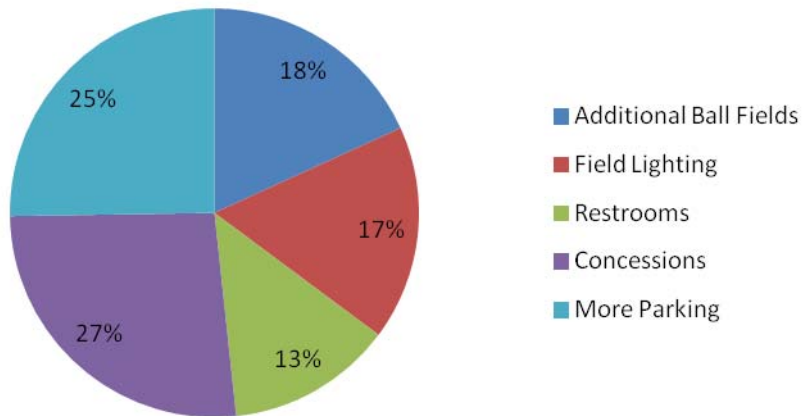


Figure A-15: Survey Question 10 Chart

Are you interested in safety improvements at Calistoga Park?

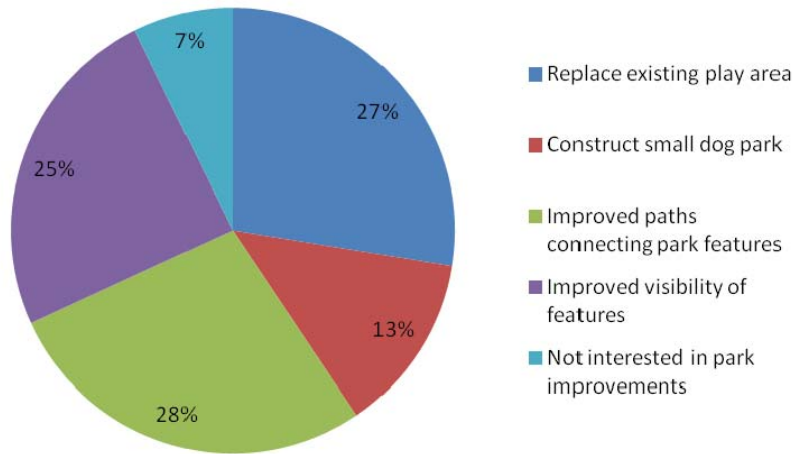


Figure A-16: Survey Question 11 Chart

Additional comments:

- With swimming pool or spray park would be a huge improvement.
- Picnic area
- Our town can do better.
- put in a bike lane on the trail

- Please add a slide or two to the play structure. A small dog park would be great as I have a terrier and he goes to insane when it comes to that huge field to run in.
- Dog park structures (such as agility)
- Lighting
- Obstacle Courses
- ADD Handicap Accessible features and swings....make it so that the public can't destroy it!
- This park is fantastic! It only needs more and cleaner facilities, like all parks
- Add a water feature kids can play in.
- Better parking
- Put a bike lane on the trail
- Bathroom
- Safe play equipment for toddlers.
- Thanks for working on ways to make Orting a better place to live!

Recreation Program Survey

The results of the 2014 public opinion survey revealed the community's interest in seeing increased youth and adult recreation program opportunities. The City followed up with a Recreation Program Survey. The survey was promoted through the City's website and through social media. The survey had 28 participants.

The 6-question survey asked participants which programs they have previously participated in, sought to identify other programs of interest, included questions related to program registration and communication, and even asked for requests for potential instructors.

Questions

Would you consider participating in any of these programs?

- | | |
|-------------------------|--------------------|
| • Summer Camp Sports | 13/28 participants |
| • Summer Activity Camps | 11/28 |
| • Kids Night Out | 11/28 |
| • Fitness Class | 11/28 |
| • Cooking Class | 9/28 |
| • Knitting | 8/28 |

- Daddy/Daughter Dance 5/28
- Adult Basketball 5/28
- Adult Soccer 4/28
- Card Making/Crafts 4/28
- Dodge Ball 3/28
- Kickball 2/28
- Health and Nutrition Class 2/28
- Write in's:
 - Adult Baseball (1)
 - Adult/Child Cooking Class (1)

What are the best ways that we can inform you about program registration?

- Facebook 23/28 participants
- Reader Board 15/28
- Website 13/28
- Email 12/28
- School Flyer 11/28

We have recently added online registration and payment. How do you prefer to register?

- Online 20/28 participants
- In the Office 9/28
- Over the Phone 3/28

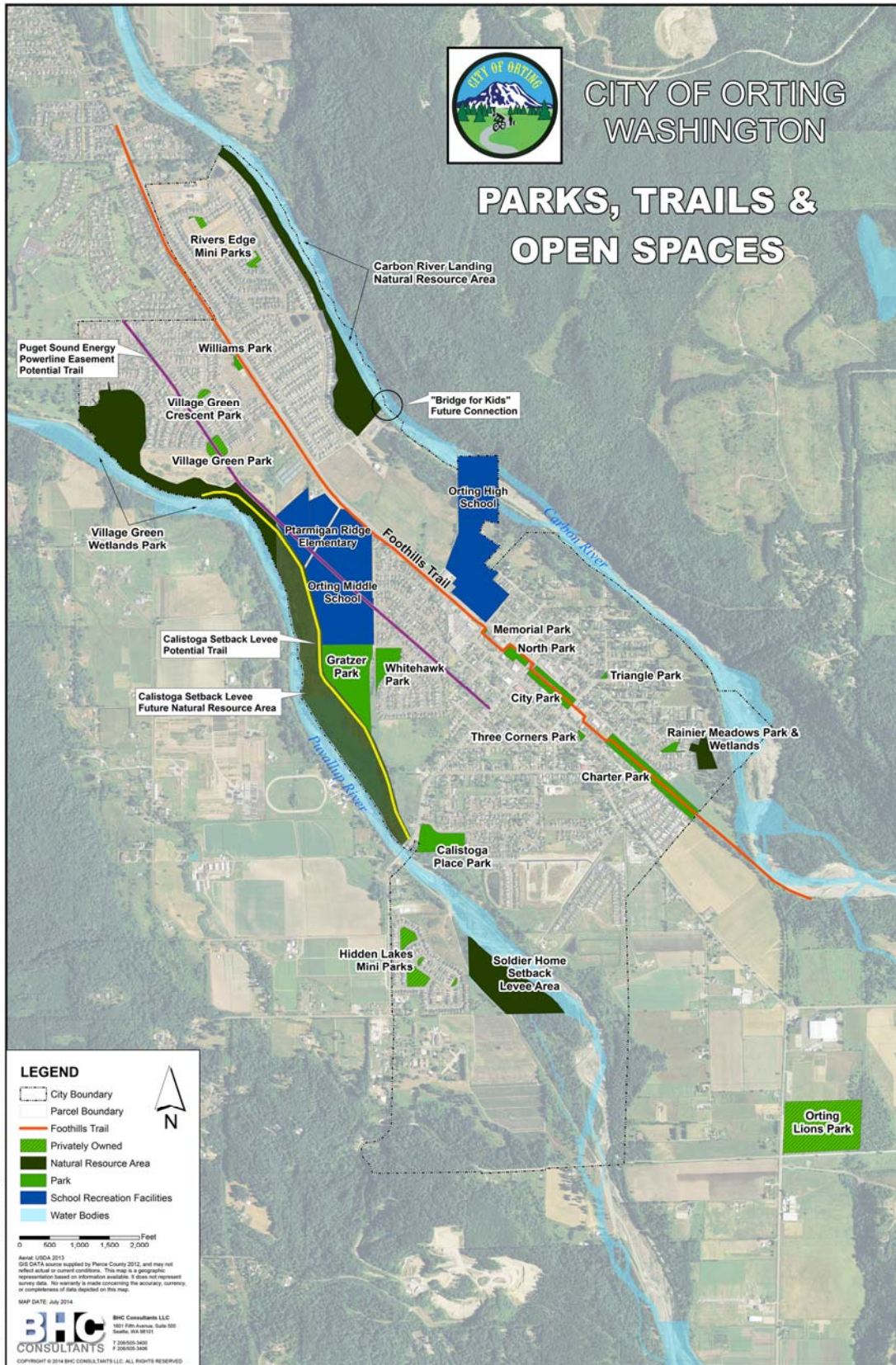


Figure A-17: Inventory & Planning Activities Poster

GRATZER PARK

MULTIPURPOSE FIELD & PLAY AREA



Figure A-18: Gratz Park Improvements Poster



**City Of Orting
Council Agenda Summary Sheet**

| | Agenda Bill # | Recommending Committee | Study Session Dates | Regular Meeting Dates |
|---|-------------------------------|----------------------------------|----------------------------|------------------------------|
| Subject: Comcast Franchise Agreement | AB21-20 | Public Works 3/3/2021 | 3/17/2021 | 3.17.21 |
| | Department: | Administration | | |
| | Date Submitted: | 3/11/2021 | | |
| Cost of Item: | <u>N/A</u> | | | |
| Amount Budgeted: | <u>N/A</u> | | | |
| Unexpended Balance: | <u>N/A</u> | | | |
| Bars #: | N/A | | | |
| Timeline: | None | | | |
| Submitted By: | Scott Larson/Charlotte Archer | | | |

Fiscal Note: None

Attachments: Franchise Agreement

SUMMARY STATEMENT: By this action, the City Council would authorize the Mayor to execute a non-exclusive cable television franchise agreement with Comcast Cable to govern the terms and fees for Comcast’s presence in the City’s rights of ways. The City of Orting maintains a non-exclusive cable television franchise with Comcast Cable; the existing franchise expired a number of years ago, with Comcast continuing to pay fees under that agreement on an on-going basis. City staff has been negotiating new terms and updated fee rates with Comcast for a number of years, to impasse.

In the past year, the City has utilized the services of the Rainier Communications Commission (RCC) to negotiate, collectively, with Comcast and achieve an updated franchise and increased fees. The City has been a member of RCC, an interagency commission that is comprised of Pierce County, City of Sumner, City of Orting, City of Puyallup, City of Fife, City of DuPont, City of University Place and the Town of Ruston. The Commission “gives each of its member jurisdictions the strength of many when dealing with the issues of local right-of-way authority and the ever-changing telecommunications industry. Formed by an inter-local agreement in 1992, the Commission provides its members with a large array of advisory, legal and television production services. Over the decades, the RCC has established a reputation as a strong and active organization, participating in local, state and national forums and regulatory activities. The RCC is positively received by local cable and telecommunications companies.”

With the assistance of RCC and its attorneys, a proposed franchise agreement with Comcast with updated terms and fees has been developed and is before the Council for adoption.

The term of the new franchise is 10 years from the date of mutual acceptance. The franchise includes updated terms regarding use of the City’s rights of way for related purposes (but still requires additional permits for those efforts – the franchise provides a framework and streamlines

the permitting process), as well as updated terms regarding level of service, public records, dispute resolution, and fees. A core element of the franchise is the shift from a flat rate franchise fee to fees in the form of a percentage of gross revenues.

The primary financial impact to Orting residents and Comcast customers of the new franchise agreement will be the change in the rate structure for Education and Government programming (i.e., public service channels). Currently Comcast Cable customer's pay a flat fee of \$0.25 per month to subsidize these public access channels. This agreement changes the fee structure to a percent of gross revenue model, and in this case the rate is 0.375%. Based on RCC's analysis the average cable customer currently has a bill of about \$88.00 per month. This would increase the PG portion of the bill from \$0.25 per month to approximately \$0.33 per month or a total of \$0.96 per year. These fees pay for the services of Pierce County Television, an arm of RCC. PCTV provides the City with livestreaming of its Council meetings, including the infrastructure for livestreaming (i.e., camera equipment), as well as other related media services. The City's fee to participate in PCTV has remained static since approximately 1997, and will increase as a result of this franchise adoption.

RECOMMENDED ACTION: Move forward to the next Council Meeting

FUTURE MOTION: To Authorize The Mayor To Negotiate And Sign A Franchise Agreement With Comcast Cable Communications For A Period Of 10 Years.

**COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC AND
THE CITY OF ORTING, WASHINGTON**

**CABLE FRANCHISE AGREEMENT
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SECTION 1. DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely discretionary. A list that follows the use of the word "including" is intended to illustrate examples, not be an exhaustive list, unless the context clearly indicates otherwise. The Grantor and Grantee may be collectively referred to as the "Parties."

1.1 "Access" means the availability for non-commercial use by various agencies, institutions, organizations, groups, and individuals in the community, including the Grantor and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:

a. "Educational Access" means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, "school" means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges, and universities.

b. "Government Access" means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 "Access Channel" means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 "Activated" means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.4 "Affiliate" when used in connection with Grantee, means any Person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 "Applicable Law" means any statute, ordinance, judicial decision, executive order, or regulation having the force and effect of law that determines the legal standing of a case or issue.

1.6 "Bad Debt" means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 “Basic Service” is the level of programming service which includes the retransmission of local television Broadcast Channels, all EG SD Access Channels required in this Franchise, and any additional programming designated by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local non-commercial educational television stations, as referenced under 47 USC § 534 and 535.

1.9 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes, or any other means.

1.10 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.

1.11 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.12 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.13 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.14 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is

defined by the FCC by regulation).

1.15 “City Administrator” means the chief administrative officer of the City or designee.

1.16 “City” is the City of Orting, Washington, a body politic and corporate under the laws of the State of Washington.

1.17 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.18 “Designated Access Provider” means the entity or entities designated now or in the future by the Grantor to manage or co-manage Access Channels and facilities. The Grantor may be a Designated Access Provider.

1.19 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.20 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.21 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation, and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units, unless the additional facilities are clearly accessory.

1.22 “FCC” means the Federal Communications Commission.

1.23 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.24 “Finance Director” means the director of the Grantor’s Finance Department or designee.

1.25 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Grantor and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements, and other related matters.

1.26 “Franchise Area” means the area within the jurisdictional boundaries of the Grantor, including any areas annexed by the Grantor during the term of this Franchise.

1.27 “Franchise Fee” means that fee payable to the Grantor described in subsection 3.1.

1.28 “Grantee” means Comcast Cable Communications Management, LLC or its lawful successor, transferee, or assignee.

1.29 “Grantor” means the City of Orting, Washington.

1.30 “Grantor Council” means the Orting City Council, or its successor, the governing body of the City of Orting, Washington.

1.31 “Gross Revenues” means, and shall be construed broadly, to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Franchise Area. Gross Revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade, or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Franchise Area;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees, and administrative fees, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Franchise Area;
- revenues from program guides;
- Franchise Fees;

- FCC Regulatory Fees;
- commissions from home shopping channels and other Cable Service revenue sharing arrangements, which shall be allocated on a pro rata basis using total Cable Service subscribers within the Franchise Area.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Franchise Area and shall be allocated on a pro rata basis using Grantee’s Cable System Subscribers within the Franchise Area in relation to the total number of Grantee’s Cable Service subscribers covered under the advertising arrangement. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, representative fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast EffectTV or their successors associated with sales of advertising on the Cable System within the Franchise Area allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual bad debt write-offs, except any portion that is subsequently collected, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Franchise Area;
- any taxes and/or fees on services furnished by Grantee imposed by a municipality, State, or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state, or other governmental unit on Grantee, including but not limited to Public, Educational and Governmental (hereinafter “EG”) Fees;
- launch fees and marketing co-op fees; and
- unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services that includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the

published rate card, except as required by specific federal, State, or local law. The allocations shall be done for each bundled package separately, and updated and revised within sixty (60) days, each time an element within the package has its rate card changed, including when an element is substituted for another element within the bundled package. It is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Franchise Area. The Grantor reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this subsection 1.31 in order to meet the standards required by governing accounting principles, as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF"), and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee shall notify Grantor of any changes in allocation methodologies in its next quarterly franchise fee reports delivered to Grantor.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP"), as promulgated and defined by the FASB, EITF, and/or the SEC. Notwithstanding the foregoing, the Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including the application of GAAP to Franchise Fees and the interpretation of GAAP as promulgated and defined by the FASB, EITF, and/or the SEC.

1.32 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks that are part of the Cable System, and all other related equipment and facilities.

1.33 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.34 "Municipal Code" means the Orting Municipal Code adopted for application and enforcement within the City of Orting, Washington.

1.35 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.36 "Premium Service" means programming choices (such as movie Channels, pay-per-view

programs, or video on demand) offered to Subscribers on a per-Channel, per-program, or per-event basis.

1.37 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding Persons residing in such Multiple Dwelling Units to the extent Cable Services are billed on a bulk-billing basis.

1.38 “Right(s)-of-Way” means land acquired or dedicated for public roads and streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, but does not include:

(a) State highways where the Grantor does not have authority to grant permits related to Cable Systems;

(b) Land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public, unless specifically used as a utility corridor;

(c) Structures, including poles and conduits, located within the right-of-way;

(d) Federally granted trust lands or forest board trust lands;

(e) Lands owned or managed by the state parks and recreation commission; or

(f) Federally granted railroad rights-of-way acquired under 43 U.S.C. Sec. 912 and related provisions of federal law that are not open for motor vehicle use.

“Right(s)-of-Way” also includes easements dedicated for compatible use and consistent with Section 621 of the Cable Act.

1.39 “State” means the State of Washington.

1.40 “Subscriber” means any Person who or which has entered into an agreement to receive Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who has not been disconnected for failure to adhere to Grantee's regular and non-discriminatory terms and conditions for receipt of service.

1.41 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.44 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.45 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.46 “Upstream” means carrying a transmission to the Headend from remote points on the Cable

System or from Interconnection points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The Grantor hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way consistent with the requirements of 47 U.S.C. § 541(a)(2), within the Franchise Area to construct, operate, maintain, reconstruct, and rebuild a Cable System and to provide Cable Service subject to the terms and conditions set forth in this Franchise and Applicable Law.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Grantor ordinance existing as of the Effective Date, as defined in subsection 2.3.

(C) Each and every term, provision, or condition herein is subject to the provisions of State law, federal law, and the generally applicable ordinances and regulations enacted by the Grantor Council pursuant thereto, portions of which may be codified in the Municipal Code. To the extent there is any conflict between this Franchise and any provision of the Grantor's Code as it exists on the Effective Date of this Franchise, the terms of this Franchise shall control. Subject to the Grantor's right to exercise its police power under subsection 2.5, the Grantor may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) If allowed under Applicable Law, this Franchise shall not be interpreted to prevent the Grantor from imposing additional lawful conditions, for use of the Rights-of-Way should Grantee provide service other than Cable Service, nor shall this Franchise be interpreted to either prevent or authorize Grantee from making any other lawful uses of the Cable System as permitted by Applicable Law related to Grantee's non-Cable Service operations.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Franchise Area that may be required by the

ordinances and laws of the Grantor;

(2) Any permit, agreement, or authorization required by the Grantor for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits and Right-of-Way use permits; or

(3) Any generally applicable permits or agreements for occupying any other property of the Grantor or private entities to which access is not specifically granted by this Franchise including, without limitation, permits, and agreements for placing devices on poles, in conduits, or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Grantor has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Rights-of-Way

(A) Subject to the Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Franchise Area such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Franchise Area.

(B) Grantee must follow Grantor's established non-discriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by the Grantor or others, including others that may be installing communications facilities. Within limits reasonably related to the Grantor's role in protecting public health, safety, and welfare, the Grantor may require that Cable System facilities be installed at a particular time, at a specific place, or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Grantor's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Grantor, or that is installed without prior Grantor approval of the time, place, or manner of installation, and charge Grantee for all the costs associated with removal and repair.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges, and authority granted hereunder shall take effect on _____, 2021 (the “Effective Date”), and shall terminate on _____, 2031, unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, or licenses granted by the Grantor to any Person to use any property, Right-of-Way, right, interest, or license for any purpose whatsoever, including the right of the Grantor to use the same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Grantor may at any time grant authorization to use the Rights-of-Way for such additional franchises for Cable Systems as the Grantor deems appropriate.

2.5 Police Powers

Grantee’s rights hereunder are subject to the police powers of the Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Grantor or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Grantor shall have the right to adopt, from time to time, such ordinances as it may deem necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Grantor's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to utilize the Rights-of-Way in order to provide Cable Services within the Franchise Area. If the Grantor grants such an additional franchise or other similar lawful authorization to utilize the Rights-of-Way for Cable Services containing material terms and conditions that differ from Grantee’s material obligations under this Franchise, or declines to require such franchise or other similar lawful authorization where it has the legal authority to do so, then the Grantor agrees that it shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant, following Grantee’s request as described in subsection 2.6(B), so as to ensure that the regulatory and financial burdens on each entity are materially equivalent. “Material terms and conditions” include, but are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Education and Government Access

Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The Parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent.

(B) The modification process of this Franchise as provided for in subsection 2.6(A) shall only be initiated by written notice by the Grantee to the Grantor regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the authorization granted in subsection 2.6(A) that are materially different from Grantee's obligations under this Franchise; (2) identifying the basis for Grantee's belief that certain provisions of the Franchise place Grantee at a competitive disadvantage; (3) identifying the Franchise terms and conditions for which Grantee is seeking amendments; and (4) providing text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent. Notwithstanding any modification of this Franchise pursuant to the provisions of this subsection 2.6, should any entity, whose authorization to provide Cable Services or similar video programming service resulted in a triggering of the amendments under this Section, fail or cease to provide such services within the Franchise Area, the Grantor may provide ninety (90) days' written notice to Grantee of such fact, and the Grantor and Grantee shall enter into good faith negotiations to determine the original terms, conditions, and obligations of this Franchise shall be reinstated and fully effective.

(C) Upon receipt of Grantee's written notice as provided in subsection 2.6(B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the Parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include the modifications.

(D) Notwithstanding anything contained in subsection 2.6(A) through (D) to the contrary, the Grantor shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar video programming service available for purchase by Subscribers or customers under its franchise or similar agreement with the Grantor.

(E) In the event that a wireline multichannel video programming distributor, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or wireline video services within the Franchise Area without a Cable Service franchise or other similar lawful authorization granted by the Grantor, then Grantee shall have a

right to request Franchise amendments that relieve the Grantee of regulatory burdens that create a competitive disadvantage to Grantee. In requesting amendments, Grantee shall file a petition seeking to amend this Franchise. Such petition shall: (1) indicate the presence of such wireline competitor; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide the text of all proposed Franchise amendments to the Grantor, and (4) identify all material terms or conditions in the applicable state or federal authorization that are substantially more favorable or less burdensome to the competitive entity. The Grantor shall not unreasonably withhold consent to Grantee's petition.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges, and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms, and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time, and consistent with all local, State, and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the Grantor's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Grantor's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the Grantor, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the Grantor shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each

quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee. The period of limitation for recovery of Franchise Fees payable hereunder shall be six (6) years from the date on which payment by Grantee was due or such shorter period if required by Applicable Law.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the Grantor, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount.

3.5 Annual Franchise Fee Reports

Grantee shall, within ninety (90) days after the end of each year, furnish to the Grantor a statement stating the total amount of Gross Revenues for the year and all payments, deductions, and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, the Grantor, including Grantor's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise for a period of time in accordance with state law (the "audit period"). Pursuant to subsection 1.31, as part of the Franchise Fee audit/review, the Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for the Grantor's subscribers during the audit period. To the extent that the Grantor does not believe that the relevant data supplied is sufficient for the Grantor to complete its audit/review, the Grantor may require other relevant data. For purposes of this subsection 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers), and (3) sample customer bills used by

Grantee to determine Gross Revenues for the Franchise Area that would allow the Grantor to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more, Grantee shall pay the actual and verifiable cost of the audit/review, such cost not to exceed seven thousand five hundred dollars (\$7,500.00) for each year of the audit period. The Grantor's right to audit/review and Grantee's obligation to retain records necessary to complete any audit under this subsection shall expire consistent with the applicable statute of limitations period under State law; provided, however, that this would not apply to a time period covered under a pending audit.

3.7 Late Payments

In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay interest on the amount due at the then current maximum rate set forth in RCW 19.52.020, calculated from the date the payment was originally due until the date the Grantor receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the then current maximum rate set forth in RCW 19.52.020, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Grantor.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the Grantor through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall comply with any other Applicable Law related to the right to occupy the Grantor's Rights-of-Way and compensation therefor.

3.10 Maximum Legal Compensation

The Parties acknowledge that, at present, applicable federal law limits the Grantor to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the Grantor is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the Grantor, by resolution of Grantor Council, to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the Grantor hereunder, provided that Grantee has received at least ninety (90) days' prior written notice from the Grantor of such amendment, so long as all cable operators in the Franchise Area are paying the same

Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

(A) The EG Capital Contribution pursuant to subsection 9.5, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Grantor and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments such as complimentary Cable Service, against Franchise Fees in accordance with Applicable Law, including any Orders resulting from the FCC's 621 proceeding, MB Docket No. 05-311, Grantee shall provide the Grantor with advance written notice. Such notice shall document the proposed offset or service charges so that the Grantor can make an informed decision as to its course of action. Upon receipt of such notice, Grantor shall have up to one hundred twenty (120) days to either (1) maintain the commitment with the understanding that the value shall be offset from Franchise Fees; (2) relieve Grantee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Grantee's regular and non-discriminatory terms and conditions.

(B) Grantee's notice pursuant to subsection 3.11(A) shall, at a minimum, address the following: (1) identify the specific cash or non-cash consideration or obligations that must be offset from Grantee's Franchise Fee obligations; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent with Applicable Law; (4) provide all information and documentation reasonably necessary to address how and why specific offsets are to be calculated and (5) if applicable, provide all information and documentation reasonably necessary to document how Franchise Fee offsets may be passed through to Subscribers in accordance with 47 U.S.C. 542(e). Nothing in this subsection 3.11(B) shall be construed to extend the one hundred twenty (120) day time period for Grantor to make its election under subsection 3.11(A); provided however, that any disagreements or disputes over whether sufficient information has been provided pursuant to this Paragraph (B) may be addressed under subsections 13.1 or 13.2 of this Franchise.

(C) Upon receipt of Grantee's written notice as provided in subsection 3.11(B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications and agree to what offsets, if any, are to be made to the Franchise Fee obligations. Such negotiation will proceed and conclude within a one hundred twenty (120) day time period, unless that time period is reduced or extended by mutual agreement of the Parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include those modifications.

(D) If the Parties are unable to reach agreement on any Franchise Fee offset issue within one hundred twenty (120) days or such other time as the Parties may mutually agree, each party reserves all rights it may have under Applicable Law to address such offset issues.

(E) The Grantor acknowledges that Grantee currently provides one outlet of Basic Service and Digital Starter Service and associated equipment to certain Grantor owned and occupied or leased and occupied buildings, schools, fire stations, and public libraries located in areas where Grantee provides Cable Service. For purposes of this Franchise, "school" means all State-accredited K-12 public and private schools. Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Grantee's commitment to provide this service is voluntary, and may be terminated by Grantee, at its sole discretion.

- (i) Grantee's termination of complimentary services provided shall be pursuant to the provisions of subsection 3.11(A) through (E) above. Grantor may make a separate election for each account or line of service identified in the notice (for example, Grantor may choose to accept certain services or accounts as offsets to Franchise Fees, and discontinue other services or accounts), so long as all elections are made within one hundred twenty (120) days. Grantee shall also provide written notice to each entity that is currently receiving complimentary services with copies of those notice(s) sent to the Grantor.
- (ii) Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law.

(F) The Parties understand and agree that offsets may be required and agreed to as a result of the FCC's Order in what is commonly known as the 621 Proceeding, MB Docket No. 05-311, and that this Order is on appeal. Should there be a final Order in the appeal of the 621

Proceeding, which would permit any cash or non-cash consideration or obligations to be required by this Franchise without being offset from Franchise Fees, or would change the scope of the Grantor's regulatory authority over the use of the Rights-of-Way by the Grantee, the Parties shall, within one hundred twenty (120) days of written notice from the Grantor, amend this Franchise to reinstate such consideration or obligations without offset from Franchise Fees, and to address the full scope of the Grantor's regulatory authority.

3.12 Tax Liability

Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax, or charge on the business, occupation, property, or income of Grantee that may be lawfully imposed by the Grantor. Any other license fees, taxes, or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the Grantor upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the Grantor deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, signed by a representative of Grantee under penalty of perjury under the laws of the State of Washington, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in the letter of credit or other security provided by the Grantee, or any other manner authorized by Applicable Law.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The Grantor shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under federal, State, and local law, to any agent in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the Grantor's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Grantor to the full extent authorized by Applicable Law.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, gender identity, marital, military or economic status, physical or mental disability, or, where consistent with any requirement of federal or State law, geographic location within the Franchise Area. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and non-discriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the

Grantor a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the Grantor, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.6 Reserved Authority

Both Grantee and the Grantor reserve all rights they may have under the Cable Act and any other relevant provisions of Applicable Law.

4.7 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise, and sufficient grounds for the Grantor to invoke any relevant remedy in accordance with subsection 13.1 of this Franchise.

4.8 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, or such other time as the Parties may agree, the Grantor and Grantee shall meet to discuss the proposed amendment(s). If the Parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the Grantor Council for its approval. If so approved by the Grantor Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.9 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee, or sum, however

characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with Applicable Law.

(B) Nothing in this subsection shall be deemed to create, limit, or otherwise affect the ability of the Grantee to impose other assessments, charges, fees, or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule, or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be non-discriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the Franchise Area without regard to the neighborhood or income level of the Subscriber.

4.10 Force Majeure

In the event either party is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of such party, the delayed party shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation. Those conditions that are not within the control of a party include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, pandemics and epidemics, and severe or unusual weather conditions, all of which have a direct and substantial impact on the party's ability to perform its commitments under this Franchise and were not caused and could not have been avoided by the party, who used its best efforts in its operations to avoid such results.

If a party believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, that party shall provide documentation as reasonably required by the other party to substantiate the claim. If the party claiming a force majeure condition has not yet cured the deficiency, it shall also provide the other party with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend, and hold the Grantor, its officers, officials, boards, commissions, agents, and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Grantor while conducting its defense of the Grantor. Grantee shall not be obligated to indemnify the Grantor to the extent of the Grantor's negligence or willful misconduct. The provisions of this section shall survive the expiration or termination of this Franchise.

(B) RCW 4.24.115. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee and the Grantor, its officers, officials, employees, and volunteers, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Franchise.

(C) Indemnification for Relocation. Grantee shall indemnify the Grantor for any damages, claims, additional costs, or reasonable expenses assessed against, or payable by, the Grantor resulting from, Grantee's failure to remove, adjust, or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by this Franchise.

(D) Additional Circumstances. Grantee shall also indemnify, defend, and hold the Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way resulting from:

(1) The lawful actions of the Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise.

(E) Procedures and Defense. If a claim or action arises, the Grantor or any other

indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Grantor's failure to so notify and request indemnification shall not relieve Grantee of any liability that Grantee might have, except to the extent that such failure prejudices Grantee's ability to defend such claim or suit. The Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses, or other costs the Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(G) is required. In that event, the provisions of Paragraph 5.1(G) shall govern Grantee's responsibility for Grantor's attorneys' fees, expenses, or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Grantor without the Grantor's approval.

(F) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(G) Expenses. If separate representation to fully protect the interests of both Parties is or becomes necessary, such as a conflict of interest between the Grantor and the counsel selected by Grantee to represent the Grantor, Grantee shall select separate counsel that does not have such a conflict to represent Grantor. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts, or consultants, such consent not to be unreasonably withheld. The Grantor's expenses shall include all reasonable out-of-pocket costs and expenses, such as consultants' fees and court costs, and shall also include the reasonable value of any services rendered by the Grantor's attorney or his/her assistants or any employees of the Grantor or its agents, but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided to the Grantor by Grantee.

(H) Inspection. Inspection or acceptance by the Grantor of any work performed by Grantee at the time of completion of construction or maintenance projects shall not be grounds for avoidance of any of these covenants of indemnification.

(I) Damage to Grantee Facilities. Notwithstanding any other provisions of this subsection 5.1, Grantee assumes the risk of damage to its Cable System facilities located in or upon the Rights-of-Way from activities conducted by the Grantor, and agrees to release and waive any and all such claims against the Grantor except to the extent any such damage or destruction is caused by or arises from the negligence or criminal actions of the Grantor.

(J) Survival. The indemnification, defense, and hold harmless obligations contained

in this subsection 5.1 shall survive the expiration, abandonment or termination of this Franchise.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability insurance with limits of no less than five million dollars (\$5,000,000.00) per occurrence and five million dollars (\$5,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by the current ISO CG 00 01 or its equivalent and include severability of interests with respect to each additional insured. Such insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse, or underground property damage. The Grantor shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect this Franchise Agreement using the current ISO endorsement CG 20 12 05 09.

(2) Commercial Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles, with a minimum combined single limit for bodily injury and property damage of five million dollars (\$5,000,000.00) per accident. The policy shall contain a severability of interests provision with respect to each additional insured.

(3) Excess or Umbrella Liability insurance shall be written with limits of not less than five million dollars (\$5,000,000.00) per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Grantee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits. Such insurance shall name Grantor, its officers, officials, and employees as additional insureds.

(B) The insurance shall provide for notice of cancellation in accordance with policy provisions. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide notice of such cancellation or material alteration within two (2) business days of its receipt of such notice. Grantee shall additionally provide evidence of a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

(C) The Grantee shall cause each of its subcontractors to provide insurance coverage reasonably appropriate to the scope of each such subcontractor's work.

(D) Failure on the part of the Grantee to maintain the insurance as required shall constitute a material breach of this Agreement.

(E) Endorsements.

(1) All commercial general, automobile, and umbrella excess liability policies required herein shall contain, or shall be endorsed so that:

(a) Grantor, its officers, officials, boards, commissions, and employees are to be covered as, and have the rights of, additional insureds with respect to liability for which the Grantee is responsible herein;

(b) Grantee's insurance coverage shall be primary insurance with respect to each additional insured. Any insurance or self-insurance maintained by the additional insured shall be in excess of the Grantee's insurance and shall not contribute to it with respect to liability for which the Grantee is responsible hereunder; and

(c) Grantee's insurance shall provide for severability of interest with respect to each additional insured.

(F) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A: VII."

(G) Verification of Coverage. The Grantee shall furnish Grantor with certificates of insurance, evidencing the required endorsements, including but not limited to blanket additional insured status. The certificates are to be on standard forms or such forms as are consistent with standard industry practices.

(H) Adequacy of Limits and Coverage. It is agreed that these insurance requirements shall not in any way act to reduce or otherwise alter the liability of Grantee herein. No representation is made that the minimum insurance requirements of this Franchise are sufficient to cover the obligations of Grantee hereunder.

5.3 Letter of Credit

(A) If there is a claim by the Grantor of an uncured breach by Grantee of a material

provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Grantor may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the Grantor, to the Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Grantor in the amount of twenty-five thousand dollars (\$25,000.00).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained at twenty-five thousand dollars (\$25,000.00) until the allegations of the uncured breach have been resolved. After all allegations have been resolved, the letter of credit may be withdrawn.

(C) After completion of the procedures set forth in subsection 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Grantor for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the Grantor sums due under the terms of this Franchise;

(2) Reimbursement of actual costs borne by the Grantor to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with any Customer Service Standards of the Grantor, as the same may be amended from time to time by the Grantor Council acting by ordinance or resolution.

(D) The Grantor shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within fifteen (15) business days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(E) Grantee shall have the right to appeal to the Grantor Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

5.4 Bonds

Grantee, at its expense, shall comply with all of the applicable bonding requirements provided for in the Grantor's Code or construction / development standards officially adopted by the Grantor.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with customer service standards as provided in FCC Standards 47 C.F.R. Sections 76.309, 76.1602, 76.1603 and 76.1619, as amended, and any local standards adopted in accordance with applicable law. Grantee acknowledges the Grantor's ability to enact customer service standards that exceed those enacted by the FCC and the Grantor acknowledges Grantee's right to recover the costs associated with complying with such standards. The Grantee shall not enter into a contract with any Subscriber that is in any way inconsistent with the terms of this Franchise, or the requirements of any applicable customer service standards. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in Applicable Law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the Grantor a sample of the Subscriber contract or service agreement then in use.

6.4 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the Grantor, Grantee shall place the Grantor's or Rainier Communications Commission's telephone number on its Subscriber bills.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its

documents and records open and accessible to the Grantor. The Grantor, or its authorized representative shall have access to, and the right to inspect, books and records of Grantee, its parent corporations and Affiliates that are reasonably necessary to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the Grantor access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate, or a third party. The Grantor may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the Grantor, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may, within ten (10) days of a request, require that the Grantor or its designee inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and are not made available in copies to the Grantor or its designee upon written request as set forth above, and if the Grantor determines that an examination of such records is necessary or appropriate for the performance of any of the Grantor's duties, administration, or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by the Grantee.

7.2 Confidentiality

The Grantor agrees to treat as confidential any books or records that constitute proprietary or confidential information under RCW 42.56, the Public Records Act ("PRA"), to the extent Grantee makes the Grantor aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information and shall provide a brief written explanation as to why such information is confidential under the PRA. As a public agency, records and information may be subject to a request submitted under the PRA. If the Grantor receives a request under the PRA to inspect or copy the information so identified by Grantee and the Grantor determines that release of the information is required by the PRA or otherwise appropriate, Grantor will use its best efforts to promptly provide Grantee with notice of the request in accordance with RCW 42.56.540, and a copy of any written request by the party demanding access to such information, in order to have a reasonable time (of no less than ten (10) business days) within which Grantee may seek an injunction to prohibit the Grantor's disclosure of the requested record. If the Grantee fails to timely obtain a court order enjoining disclosure, the Grantor will release the requested information on the date specified. Grantee shall join the Person requesting the documents to such an action. Grantee shall defend, indemnify, and hold the Grantor harmless from any claim or judgment.

The Grantor has, and by this Section assumes, no obligation on behalf of the Grantee to claim any exemption from disclosure under the PRA. The Grantor shall not be liable to the Grantee for releasing records. The Grantor shall not be liable to the Grantee for any records that the Grantor releases in compliance with this Section or in compliance with an order of a court of competent

jurisdiction.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall make available to the upon thirty (30) days prior written request and subject to Applicable Law:

(1) A complete set of maps showing the location of all Cable System equipment and facilities in the Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Grantor's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations, or Affiliates that relate to the operation of the Cable System in the Franchise Area;

(3) Number of current subscribers by Tier;

(4) A log of Cable Services added or dropped, Channel changes, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates, and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within ninety (90) days of the Grantor's written request, Grantee shall submit to the Grantor a written report, in a form acceptable to the Grantor, which shall include, but not necessarily be limited to, the following information for the Grantor:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter,

and Premium);

(C) The number of homes passed, beginning and ending plant miles, and any technological changes occurring in the Cable System;

(D) A statement of planned construction, if any, for the next year; and,

(E) A copy of the most recent annual report Grantee filed with the SEC or other governing body.

7.5 Copies of Federal and State Reports

Within sixty (60) days of a written request, Grantee shall submit to the Grantor copies of all regular reports maintained in the ordinary course of business submitted by Grantee or its parent corporation(s), to any federal, State, or local courts, regulatory agencies, and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Franchise Area. Grantee shall not claim confidential, privileged, or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System for the previous twelve (12) months, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints, and shall provide such information to Grantor within sixty (60) days of a written request.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

(A) Educational programming;

(B) Washington news, weather, and information;

(C) Sports;

- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture, and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather, and information; and,
- (J) Educational and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Grantor.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming that is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming that is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps, or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device

at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) The Grantor shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access purposes, to control and manage the use of any or all Access Channels provided by Grantee under this Franchise.

(B) Grantee shall cooperate with Grantor in Grantor's efforts to provide Access programming, but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

9.2 Channel Capacity and Use

(A) Grantee shall make available to the Grantor up to five (5) Downstream Channels for EG use as provided for in this Section. Subject to a change of Applicable Law that may occur during the Term of this Franchise, this requirement regarding the provision of Access Channels or the calculation and payment of Franchise Fees, shall be addressed pursuant to subsection 3.11 of this Franchise.

(B) Grantee shall have the right to temporarily use any Channel, or portion thereof, which is allocated under this Section for Educational or Governmental Access use, within sixty (60) days after a written request for such use is submitted to Grantor, if such Channel is not "fully

utilized" as defined herein. A Channel shall be considered fully utilized if substantially unduplicated programming is delivered over it more than an average of thirty-eight (38) hours per week over a six (6) month period. Programming that is repeated on an Access Channel up to two (2) times per day shall be considered "unduplicated programming." Character-generated programming shall be included for purposes of this subsection, with respect to the five (5) Channels provided to Grantor. If a Channel allocated for Educational or Governmental Access use will be used by Grantee in accordance with the terms of this subsection, the institution to which the Channel has been allocated shall have the right to require the return of the Channel or portion thereof. Grantor shall request return of such Channel space by delivering written notice to Grantee stating that the institution is prepared to fully utilize the Channel, or portion thereof, in accordance with this subsection. In such event, the Channel or portion thereof shall be returned to such institution within sixty (60) days after receipt by Grantee of such written notice.

(C) Standard Definition ("SD") Digital Access Channels.

(1) Grantee shall provide three (3) Activated Downstream Channels for EG Access use in a standard definition ("SD") digital format. Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning, stereo audio, and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the demarcation point. Grantee shall transport and distribute the SD Access Channels signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility and functionality, and to the application of any applicable FCC Rules & Regulations, including, without limitation, Subpart K Channel signal standards.

(2) With respect to signal quality, Grantee shall not be required to carry a SD Access Channel in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute the SD Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of subsection 9.2(C).

(3) Grantee shall be responsible for costs associated with the transmission of SD Access signals on its side of the demarcation point which, for the purposes of this subsection 9.2(C)(3), shall mean up to and including the receiver where the Grantor signal is transmitted over a fiber connection to Grantee. The Grantor or Designated Access Provider shall be responsible for costs associated with SD Access signal transmission on its side of the demarcation point.

(4) SD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which SD channels are made available. Grantee is not required to provide free SD equipment to Subscribers, nor modify its equipment or pricing policies in any manner.

(D) High Definition (“HD”) Digital Access Channels.

(1) After the Effective Date and within one hundred twenty (120) days’ written notice, Grantee shall activate two (2) HD Access Channels, for which the Grantor may provide Access Channel signals in HD format to the demarcation point. After the fourth (4th) anniversary of the Effective date, and with at least one hundred twenty (120) day written notice to Grantee, the Grantor may request, and Grantee shall provide on its Cable System, one (1) additional Activated Downstream Channel for EG Access use in a High Definition (“HD”) digital format (“HD Access Channel or Channels”). Activation of such HD Access Channels shall only occur after the following conditions are satisfied:

(a) The Grantor shall, in its written notice to Grantee as provided for in this Section, confirm that it or its Designated Access Provider has the capabilities to produce, has been producing, and will produce programming in an HD format for the newly activated HD Access Channel; and,

(b) There will be a minimum of five (5) hours per-day, five (5) days per-week of HD EG programming available for the HD Access Channel. For the purposes of this subsection, character-generated programming (i.e., community bulletin boards) shall not satisfy, in whole or in part, this programming requirement, unless the character generated programming includes a video window with EG full motion video/audio content playing.

(2) The Grantor shall be responsible for providing the HD Access Channel signal in an HD digital format to the demarcation point for the HD Access Channel(s). For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of 720p or 1080i, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) Grantee shall transport and distribute the HD Access Channel signal on its Cable System and shall not unreasonably discriminate against the HD Access Channel(s) with respect to accessibility, functionality, and to the application of any applicable Federal Communications Commission Rules & Regulations, including, without limitation, Subpart K Channel signal standards. With respect to signal quality, Grantee shall not be required to carry the HD Access Channel(s) in a higher quality format than that of the HD Access Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel signal without degradation. Grantee

shall carry all components of the HD Access Channel signal provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio, and other elements associated with the Programming. Upon reasonable written request by the Grantor, Grantee shall verify signal delivery to Subscribers with the Grantor, consistent with the requirements of subsection 9.2(D).

(4) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which the HD Channels are made available. Grantee is not required to provide free HD equipment to Subscribers, nor modify its equipment or pricing policies in any manner.

(5) The Grantor or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) The Designated Access Provider shall be responsible for providing the Access Channel signals in an HD format to the demarcation point. Grantee shall provide all necessary equipment on its side of the demarcation point, at its Headend and throughout its distribution system to deliver the Access Channel(s) in the HD format to Subscribers.

(7) At such time as Grantee determines that all Channels on the Cable System shall be delivered only in an HD format, with respect to any Access Channels simulcast in SD and HD, there shall be no further obligations to provide those Access Channels in SD. For any Access Channel that may at such time only be in SD, Grantee shall provide an additional Channel in HD in order that the content may continue to be available on the Cable System.

(E) Grantee shall simultaneously carry the first two (2) HD Access Channels provided for in subsection 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the three (3) SD Access Channels provided pursuant to subsection 9.2(C). At such time as the third HD Access Channel is activated pursuant to subsection 9.2(D), Grantee shall be required to only simulcast two (2) of the SD Access Channels in addition to the three (3) HD Access Channels.

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Grantee may implement HD carriage of the EG channel(s) in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event the Grantor believes that Grantee fails to meet this standard, Grantor will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

9.3 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of SD and HD Access Channel assignments. Grantee shall also use reasonable efforts to institute common SD and HD Access Channel assignments among the jurisdictions served by the same Headend as the Grantor for compatible Access programming, for example, assigning all Educational Access Channels programmed by higher education organizations to the same Channel number. In addition, Grantee will make reasonable efforts to locate HD Access Channels provided pursuant to subsection 9.2(D) in a location on its HD Channel line-up that is easily accessible to Subscribers.

9.4 Relocation of Access Channels

Grantee shall provide the Grantor a minimum of sixty (60) days' notice, and use its best efforts to provide one hundred and twenty (120) days' notice, prior to the time Educational and Governmental Access Channel designations are changed. Grantee, at Grantee's expense, will place the Grantor's notice of the Access Channel changes on or with its regular monthly billing, upon the Grantor's request. Such request shall be for one (1) notice per occurrence of Access Channel changes, whether one (1) or more channels are affected. The Grantor shall be responsible for the costs of printing its notice, which must conform to Grantee's reasonable mailing requirements and providing them to the Grantee. Grantee shall be provided an opportunity to review and approve all Access bill insertions.

9.5 Support for Access Costs

Within ninety (90) days of a written request, Grantee shall provide to the Grantor up to point three seven five percent (0.375%) of Grantee's Gross Revenues per month (the "EG Contribution") to be used solely for capital costs related to Educational and Governmental Access, or as may be permitted by Applicable Law. Grantee shall make EG Contribution payments quarterly, following the effective date of this Franchise Agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter. The Grantor shall have sole discretion to allocate the expenditure of such payments for any capital costs related to EG Access.

9.6 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to Grantor. Grantee agrees that although the sum of Franchise Fees plus the

payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, the additional commitments shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise and federal law.

9.7 Access Channels On Basic Service or Lowest Priced HD Service Tier

All SD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of Basic Service. All HD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.8 Change In Technology

In the event Grantee makes any change in the Cable System, related equipment, Facilities, or in Grantee's signal delivery technology, that directly or indirectly affects the signal quality or transmission of Access services or programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of Grantor's Access personnel, to ensure that the capabilities of Access services are not diminished or adversely affected by such change. If the Grantor implements a new video delivery technology that is not currently offered on and/or that cannot be accommodated by the Grantee's local Cable System, then the Grantor shall be responsible for acquiring all necessary equipment, facilities, technical assistance, and training to deliver the signal to the Grantee's Headend for distribution to subscribers.

9.9 Technical Quality

Grantee shall maintain all Access services and Channels on its side of the demarcation point at the same level of technical quality and reliability required by this Franchise Agreement and all other applicable laws, rules, and regulations for Residential Subscriber Channels. In no event shall the technical quality of any Access channels be lower than the quality of other commercial SD or HD channels carried on the Cable System.

9.10 Access Cooperation

Grantor may designate any Designated Access Provider to share in the use of any Access benefit due to Grantor hereunder. The purpose of this subsection shall be to allow cooperation in the use of Access benefits and the application of any provision under this Section as Grantor in its

sole discretion deems appropriate, and Grantee shall cooperate fully with, and in, any such arrangements by Grantor.

9.11 Return Lines/Access Origination

(A) As of the Effective Date of this Agreement, Grantor is not utilizing a dedicated Grantee return line or transport services to send Access programming from Grantor's location to Grantee's Headend.

(B) Grantee shall construct and maintain new Fiber Optic return lines to the Headend from production facilities of new or relocated Designated Access Providers delivering Access programming to Residential Subscribers as requested in writing by the Grantor. All actual construction costs incurred by Grantee from the nearest interconnection point to the Designated Access Provider shall be paid by the Grantor or the Designated Access Provider. New return lines shall be completed within one (1) year from the request of the Grantor or its Designated Access Provider, or as otherwise agreed to by the Parties. If an emergency situation necessitates movement of production facilities to a new location, the Parties shall work together to complete the new return line as soon as reasonably possible.

9.12 Promotion of EG Access Schedule

The Grantee shall include appropriate designation of the EG channels on channel cards and other channel listings provided to Subscribers in a manner comparable to commercial channels on the Cable System.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions, and ordinances of the Grantor and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Joint Trenching/Boring

Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the Franchise Area.

10.3 General Standard

(A) All work authorized and required hereunder shall be done in a safe, thorough, and workmanlike manner. All installations of equipment shall be permanent in nature, durable, and installed in accordance with good engineering practice and shall not interfere with the travel and use of public places by the public during the construction, repair, operation, or removal thereof, and shall not obstruct or impede traffic. Grantee shall endeavor to maintain all equipment lines and facilities in an orderly manner, including, but not limited to, the removal of bundles of unused cables.

(B) All construction shall be subject to the Grantor's permitting process.

(C) Grantee and Grantor shall meet, at the Grantor's request, to discuss the progress of the design plan and construction.

(D) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(E) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

10.4 Permits Required for Construction

Prior to doing any work in the Right-of-Way, Grantee shall apply for, and obtain, appropriate permits from the Grantor. As part of the permitting process, the Grantor may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite Grantor permits received by Grantee.

10.5 Emergency Permits

In the event that emergency repairs are necessary, Grantee may immediately initiate such emergency repairs, and shall notify Grantor prior, provided such emergency contact information has been provided. Grantee shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.6 Compliance with Applicable Codes

(A) Construction Codes. Grantee shall comply with all applicable industry, State and Grantor construction codes and standards.

(B) Safety Codes. Grantee shall comply with all federal, State, and Grantor safety requirements, rules, regulations, laws, and practices, and employ all necessary devices as required by Applicable Law during construction, operation, and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code, and Occupational Safety and Health Administration (OSHA) Standards.

10.7 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules, and regulations of the Grantor regarding geographic information mapping systems for users of the Rights-of-Way.

10.8 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Grantor, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the Grantor's authority. The Grantee's Cable System shall be located, erected, and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Grantor may deem proper to make, or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation, or removal thereof, and shall not obstruct or impede traffic.

10.9 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the Grantor's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change, and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of

adequate barriers, fences, or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.10 Hazardous Substances

(A) Grantee shall comply with all Applicable Laws, statutes, regulations, and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

(B) Upon reasonable notice to Grantee, the Grantor may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to defend, indemnify, and hold the Grantor harmless against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by or assessed against the Grantor arising out of a release of hazardous substances caused by Grantee's Cable System.

10.11 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the Grantor and to the notification association established in Ch. 19.122 RCW, as amended.

Within forty-eight (48) hours after any Grantor employee, contractor, franchisee, licensee, or permittee notifies Grantee of a proposed Right-of-Way excavation or the need for a design locate, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation or design;

(B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation or design; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation or design.

10.12 Notice to Private Property Owners

Grantee shall give reasonable notice to private property owners of work on or adjacent to private property, consistent with the requirements of the permit authorizing such work.

10.13 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations, or rules of Grantor or applicable State or federal law, or Grantor project, Grantee's Cable System shall be placed underground at no expense to Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with Grantor's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) The Grantee shall utilize existing poles wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of undergrounding an extension of the Cable System or for placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. Grantor will reasonably determine the most appropriate option between undergrounding and erecting new poles considering site specific details and availability of space in the Right-of-Way. If poles are used, all poles of Grantee shall be located as designated by the proper Grantor authorities. Grantor will determine if such poles and related facilities may be placed based on reasonable availability of space within the right of way.

(E) This Franchise does not grant, give, or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of Grantor or any other Person.

10.14 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with

applicable code requirements.

10.15 Prewiring

Any ordinance or resolution of the Grantor which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.16 Repair and Restoration of Property

(A) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(B) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the Grantor may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within sixty (60) days of receipt of an itemized list of those costs, including the costs of labor, materials, and equipment, the Grantee shall pay the Grantor.

(C) Private Property. Upon completion of the work that caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed.

10.17 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Grantor Right-of-Way, or upon the addition to the Grantor of any area in which Grantee owns or operates any such facility, Grantee shall, at the Grantor's request, submit to the Grantor a statement describing all such facilities involved, whether authorized by franchise, permit, license, or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.18 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the Grantor permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the Grantor may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the Grantor. Until such time as Grantee removes or modifies the facility as directed by the Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.19 Movement of Cable System Facilities For Grantor Purposes

(A) The Grantor shall have the right to require Grantee to, at the Grantor's request, locate (which may include potholing) and survey Grantee's facilities and equipment, relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Grantor for public purposes, in the event of an emergency; or when the public health, safety, or welfare requires such change. For example, without limitation, this movement of or the request to locate Grantee's facilities may be needed by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the Grantor for public purposes. For the avoidance of doubt, such projects shall include any Right-of-Way improvement project, even if the project entails, in part, related work funded and/or performed by or for a third party, provided that such work is performed for the public benefit, but shall not include, without limitation, any other improvements or repairs undertaken by or for the primary benefit of third-party private entities. Except as otherwise provided by law, the costs and expenses associated with relocations or disconnections ordered pursuant to this subsection 10.19 shall be borne by Grantee. Such work shall be performed at Grantee's expense.

(B) Except when a shorter time is necessitated due to an emergency, Grantee shall, within sixty (60) days' written notice by the Grantor, or such longer period as the Grantor may specify, complete all work to temporarily or permanently relocate, remove, replace, modify, or disconnect any of its facilities and equipment located in the Rights-of-Way or on any other property of the Grantor. In the event of any capital improvement project exceeding five hundred

thousand dollars (\$500,000.00) in expenditures by the Grantor, which requires the removal, replacement, modification, or disconnection of Grantee's facilities or equipment, the Grantor shall provide at least one hundred twenty (120) days' written notice to Grantee. Following notice by the Grantor, if other users of the Right-of-Way relocate aerial facilities underground as part of an undergrounding project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. If the Grantor requires Grantee to relocate its facilities located within the Rights-of-Way, the Grantor will work collaboratively with Grantee to identify available alternate locations within the Rights-of-Way for Grantee to relocate its facilities at Grantee's cost.

(C) If Grantee fails to complete this work within the time prescribed above and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the cost of the work to Grantee, including all costs and expenses incurred by the Grantor due to Grantee's delay. In such event, the Grantor shall not be liable for any damage to any portion of Grantee's Cable System. Within sixty (60) days of receipt of an itemized list of those costs, Grantee shall pay the Grantor. In any event, if Grantee fails to timely relocate, remove, replace, modify or disconnect Grantee's facilities and equipment, and that delay results in any delay damage accrued by or against the Grantor, Grantee will be liable for all documented costs of construction delays attributable to Grantee's failure to timely act. Grantee reserves the right to challenge any determination by the Grantor of costs for construction delays related to an alleged failure to act in accordance with this subsection 10.19.

10.20 Movement of Cable System Facilities for Other Entities

If any removal, replacement, modification, or disconnection of the Cable System is required to accommodate the construction, operation, or repair of the facilities or equipment of another entity with the rights to use the Rights-of-Way, Grantee shall, after at least sixty (60) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party.

10.21 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit (a "Permittee") and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the Permittee, and Grantee may require a reasonable deposit of the estimated payment in advance. The cost of such temporary change may be charged by the Grantee to the Permittee, and Grantee may require the estimated payment in advance. Such payment is an

exchange between the Grantee and the Permittee, and the Grantor will not be the administrator of these transactions.

10.22 Reservation of Grantor Use of Right-of-Way

Nothing in this Franchise shall prevent the Grantor or public utilities owned, maintained, or operated by public entities other than the Grantor from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure, or prevent the use and operation of Grantee's Cable System but insofar as the Cable System, or any portion thereof, is required to be relocated to accommodate the construction of the Grantor or public utility, Grantee shall be solely responsible for the costs associated with relocation, in accordance with State law.

10.23 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Grantor's Rights-of-Way that interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulation of the Grantor regarding tree trimming except in emergencies. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.24 Inspection of Construction and Facilities

The Grantor may inspect any of Grantee's facilities, equipment, or construction located in the Rights-of-Way at any time upon at least twenty-four (24) hours' notice, or, in case of emergency, upon demand without prior notice. If an unsafe condition is found to exist, the Grantor, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Grantor establishes. The Grantor has the right to correct, inspect, administer, and repair the unsafe condition if Grantee fails to do so, and to charge Grantee for its costs.

10.25 Stop Work

(A) On notice from the Grantor that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Grantor, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Grantor.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

Grantee shall be liable for all costs incurred by the Grantor and associated with Grantee's violation and the Grantor's issuance of the stop work order. Grantee reserves the right to challenge any Grantor determination of Grantee's obligations under this Section.

10.26 Removal of Facilities from Poles

If Grantee leases or otherwise utilizes a pole within the Rights-of-Way owned by a third party for attachment of Grantee's facilities, and such third party subsequently abandons the pole, for example by building a replacement pole, Grantee shall remove or relocate its facilities from such pole within ninety (90) days of notification from either the third party pole owner or the Grantor. If Grantee requires additional time to accomplish the removal and/or relocation, Grantee shall notify the Grantor in writing of the reasons for the additional time and its anticipated schedule.

10.27 Work of Contractors and Subcontractors

Grantee shall be responsible for all work performed by its contractors, subcontractors, and others performing work on its behalf, as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver no less than two hundred (200) Channels of digital video programming services to Subscribers,

provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

11.2 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Grantor no later than thirty (30) days following receipt of a request.

11.3 Emergency Alert Capability

Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the Grantor shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.4 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC) standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Grantor shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.5 Cable System Performance Testing

(A) Grantee shall provide to the Grantor a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscribers and shall provide the Grantor with any amendments or modifications to the process at such time as they are made.

(B) Grantee shall, at Grantee's expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the Franchise Area for a period of at least one (1) year, and individual Subscriber complaints from the Franchise Area for a period of at least three (3) years, and make such information available to the Grantor at Grantee's office upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests performed by or for Grantee. Copies of such test results will be provided to the Grantor upon reasonable request.

(D) Grantee shall perform any tests required by the FCC.

11.6 Additional Tests

Where there exists other evidence that in the judgment of the Grantor casts doubt upon the reliability or technical quality of Cable Service, the Grantor shall have the right and authority to require Grantee to test, analyze, and report on the performance of the Cable System. Grantee shall fully cooperate with the Grantor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem that precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis that may be required.

SECTION 12. SERVICE AVAILABILITY

(A) In General. Except as otherwise provided in herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the Franchise Area. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. The seven (7) day requirement shall be extended if necessary to comply with any underground construction permitting requirements. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement;

(2) At a non-discriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125) foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to the Grantor; and

(3) At non-discriminatory monthly rates for Residential Subscribers consistent with subsection 4.3 above.

(B) Service to Multiple Dwelling Units. The Grantee shall provide Cable Service to Multiple Dwelling Units in accordance with an agreement with the property owner or owners, this Franchise, and all applicable laws.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remediating Franchise Violations

(A) If the Grantor reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to the Grantor, contesting the Grantor's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify the Grantor that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the Grantor in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the Grantor may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the Grantor orders a meeting in accordance with subsection (A)(3), the Grantor shall set a meeting to investigate said issues or the existence of the alleged default. The Grantor shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the Grantor determines that a default exists, the Grantor shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the Grantor shall determine. In the event Grantee does not cure within such time to the Grantor's reasonable satisfaction, the Grantor may:

(1) Withdraw an amount from the letter of credit as monetary damages imposed under subsection 13.8;

(2) If a material violation, recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,

(3) Recommend any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the Grantor, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

(E) It shall not be a violation of this Franchise if Grantee decides, on a company-wide basis, to cease providing Cable Services. Grantee shall provide a minimum of one (1) year's written notice to Grantor of the termination date, and upon that date, all rights, duties, and obligations of this Franchise shall terminate except for those that by their nature, should survive termination.

13.2 Revocation

(A) In addition to revocation in accordance with other provisions of this Franchise, the Grantor may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

(1) If Grantee fails to perform any material obligation under this Franchise or

under any other agreement, ordinance, or document regarding the Grantor and Grantee;

(2) If Grantee fails to restore service to the Cable System after three (3) consecutive days of an outage or interruption in service; except in the case of an emergency or during a Force Majeure occurrence, or when approval of such outage or interruption is obtained from the Grantor, it being the intent that there shall be continuous operation of the Cable System;

(3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the Grantor or Subscribers;

(4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors; or

(5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property, and equipment of Grantee, the Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and provisions of this Franchise.

(D) Any proceeding under the paragraph above shall be conducted by the Grantor Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of

such proceeding and the cost shall be shared equally between the Parties. The Grantor Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the Grantor Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or, if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the Grantor Council determines are reasonable under the circumstances. If the Grantor determines that the Franchise is to be revoked, the Grantor shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the Grantor's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The Grantor Council may, at its sole discretion, take any lawful action that it deems appropriate to enforce Grantor's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Grantor may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Grantor's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4 below; or

(3) Upon written request of Grantee, permit the Franchise term to continue pursuant to subsection 14.1(C), or commence the transfer provisions of subsection 14.2(C).

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the Grantor may order the removal of the above-ground Cable System

facilities and such underground facilities from the Grantor at Grantee's sole expense within a reasonable period of time as determined by the Grantor. In removing its plant, structures, and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places, and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3(B) to the Grantor's satisfaction, after written notice to Grantee, the Grantor may cause the work to be done and Grantee shall reimburse the Grantor for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the Grantor may recover the costs through the letter of credit provided by Grantee.

(D) The Grantor may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the Grantor shall have the option to purchase the Cable System in accordance with Sect. 627 of the Cable Act.

13.5 Receivership and Foreclosure

(A) At the option of the Grantor, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision, and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property, and equipment of Grantee, the Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Franchise.

13.6 No Monetary Recourse Against the Grantor

Grantee shall not have any monetary recourse against the Grantor or its officers, officials, boards, commissions, agents, or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State, and local law. The rights of the Grantor under this Franchise are in addition to, and shall not be read to limit, any immunities the Grantor may enjoy under Applicable Law.

13.7 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the Grantor to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement, or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise, nor the exercise thereof, shall be deemed to bar or otherwise limit the right of the Grantor to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.8 Assessment of Monetary Damages

(A) The Grantor may assess against Grantee monetary damages of (i) up to five hundred dollars (\$500.00) per day for any general construction delays, (ii) up to two hundred fifty dollars (\$250.00) for failure to provide EG Channels, or (iii) up to one hundred dollars (\$100.00) per day for any other material breaches. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1(A), or such later date if approved by the Grantor in its sole discretion, but may not be assessed

until after the procedures in subsection 13.1 have been completed.

(B) The assessment does not constitute a waiver by Grantor of any other right or remedy it may have under the Franchise or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs, and expenses that are incurred by Grantor by reason of the breach of this Franchise.

13.9 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may: operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor, or until the Franchise is revoked and a new franchisee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses, and damages incurred.

13.10 What Constitutes Abandonment

The Grantor shall be entitled to exercise its options in subsection 13.9 if:

The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for three (3) consecutive days, unless in the case of Force Majeure event or if the Grantor authorizes a longer interruption of service.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake

and finalize negotiations regarding renewal of the then current Franchise and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement, and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Grantor shall continue to comply with all obligations and duties under the Franchise.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, or consolidation; nor shall title thereto, either legal or equitable, or any right, interest, or property therein pass to or vest in any Person or entity without the prior written consent of the Grantor, which consent shall be by the Grantor Council, acting by ordinance.

(B) The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the Grantor shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by Applicable Law.

(D) In seeking the Grantor's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State, or local law or regulations, or is currently under an indictment, investigation, or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data, including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the Grantor may reasonably require; and

(5) Has the financial, legal, and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The Grantor shall act by ordinance or resolution on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. Subject to the foregoing, if the Grantor fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the Grantor agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor a copy of the deed, agreement, lease, or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical, and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the Grantor shall not be required for any sale, assignment, or transfer of the Franchise or Cable System to an entity controlling, controlled by, or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term, or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court, legislative body or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term, or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State, and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the Grantor or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast Cable Communications Management, LLC
410 Valley Ave. NW, Suite 9
Puyallup, WA 98371
Attention: Franchise Director

With a copy to:
Comcast Cable Communications Management, LLC
900 132nd Street SW
Everett, WA 98204
Attention: Franchising Department

The Grantor's address shall be:

of _____
_____, WA _____
Attn: _____ Administrator

with a copy to:

of _____
_____, WA _____
Attn: _____ Attorney

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the Grantor for all costs incurred in publishing this Franchise.

16.5 Binding Effect

This Franchise shall be binding upon the Parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the Grantor at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Grantor hereafter to enforce the same. Nor shall the waiver by the Grantor of any breach of any provision hereof be taken or held to be a

waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the Parties.

16.10 Jurisdiction

Venue for any judicial dispute between the Grantor and Grantee arising under or out of this Franchise shall be in Pierce County Superior Court, Washington, or in the United States District Court for the Western District of Washington in Seattle.

16.11 No Third-Party Beneficiaries

Nothing in this Franchise is or was intended to confer third-party beneficiary status on any Person or any member of the public to enforce the terms of this Franchise.

16.12 Acceptance

Within sixty (60) days of receipt of an executed Franchise from the Grantor, this Franchise shall be executed by Grantee by filing with the Grantor Clerk. In addition to filing the executed Franchise, Grantee shall furnish the additional insured endorsements and certificates of insurance required pursuant to Section 5. The failure of Grantee to file the executed Franchise shall be deemed a rejection by Grantee and this Franchise shall then be voidable at the discretion of the Grantor.

16.13 Termination of Prior Franchise Grantee and the Grantor agree that this Franchise replaces and supersedes Ordinance ___ (the “Prior Franchise”) with respect to Grantee; provided, however, that the grant of this Franchise shall have no effect on Grantee’s obligations to indemnify or insure the Grantor against acts and omissions occurring during the period(s) that

the Prior Franchise was in effect, nor shall it have any effect upon liability to pay all Franchise Fees consistent with Washington State statute of limitations that were due and owed under a Prior Franchise.

IN WITNESS WHEREOF, this Franchise is signed in the name of the _____ of _____, Washington this ____ day of _____, 2021.

ATTEST: _____ OF _____, WASHINGTON:

Clerk

Title: _____

APPROVED AS TO FORM:

Attorney

Accepted and approved this _____ day of _____, 2021.

ATTEST: COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

Public Notary

Name/Title: _____



**City Of Orting
Council Agenda Bill Summary Sheet**

| | Agenda Bill # | Recommending Committee | Study Session Dates | Council |
|--|--|-------------------------------|----------------------------|----------------|
| Subject: Gratzer Ball Field, Construction and Donation Acceptance Ordinance No. 2021-1075 | AB21-26 | PW 3.3.21 | 3.17.21 | |
| | Department: | Public Works | | |
| | Date Submitted: | 3/11/2021 | | |
| Cost of Item: | <u>\$ TBD</u> | | | |
| Amount Budgeted: | <u>\$600,000</u> | | | |
| Unexpended Balance: | <u>TBD</u> | | | |
| Bars #: | 105-594-76-63-15 | | | |
| Timeline: | March 31, 2019 Approval | | | |
| Submitted By: | JC Hungerford, PE; Scott Larson, City Administrator | | | |
| Fiscal Note: This is funded by a \$200,000 Commerce Grant and Park Funds and an Anonymous Donation of Material. | | | | |
| Attachments: Ordinance No 2021-1075 | | | | |
| SUMMARY STATEMENT: | | | | |
| <p>The Gratzer Ball Field, a new mixed-use field, was advertised for the construction portion of the project on March 8, 2021 with a bid opening date scheduled for March 22, 2021. The project engineer’s opinion of probable cost for construction, excluding materials and material trucking is \$450,000 to \$475,000.</p> <p>The material for the ball field is being donated by an anonymous donor. The City is required by state law to accept donations by ordinance.</p> <p>The final component of this project is the trucking of the donated material. The trucking contract is being advertised to the small works roster. The estimated cost of trucking the material is \$50,000.</p> <p>The City received a grant for the ball field from the State which expires at the end of June. To meet the grant timeline, we will be bringing the low bid for construction to council on March 31, 2021 for consideration, and if the low bidder is approved we will be able to expend the grant by the deadline.</p> | | | | |
| RECOMMENDED ACTION: Allow staff to bring low bidder to the Council Meeting on March 31st as a stand-alone item. The ordinance accepting donation can go on the consent agenda. | | | | |
| FUTURE MOTION: TBD | | | | |

**CITY OF ORTING
WASHINGTON**

ORDINANCE NO. 2021-1075

**AN ORDINANCE OF THE CITY OF ORTING,
WASHINGTON, ACCEPTING A DONATION OF
MATERIAL FOR THE GRATZER BALL FIELD;
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, RCW 35.21.100 authorizes the City Council to accept donations by ordinance and to acknowledge and accept any lawful terms or conditions associated therewith; and

WHEREAS, a donor who wishes to remain anonymous desires to donate material to the City, earmarked for the Gratzer Ball Field; and

WHEREAS, the Council desires to accept the donation, and accepts the terms and conditions the donors have placed on the City's use of the donation;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON, DO ORDAIN AS FOLLOWS:

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

SECTION 2. Acceptance of Donation. The City Council hereby accepts the donation of material and shall utilize this donation for the Gratzer Ball Field. The Mayor is authorized to take all necessary actions consistent with this acceptance.

SECTION 3. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

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

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 31ST DAY OF MARCH, 2021.

CITY OF ORTING

Joshua Penner, Mayor

ATTEST/ AUTENTICATED:

Jane Montgomery, City Clerk, CMC

APPROVED AS TO FORM:

Charlotte A. Archer
Inslee, Best, Doezie & Ryder, P.S.
City Attorney

Filed with the City Clerk: 2.12.21
Passed by the City Council: 3.31.21
Ordinance No. 2021-1075
Date of Publication: 4.2.21
Effective Date: 4.7.21

THANK YOU for your legal submission!

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

ORDER DETAILS**Order Number:**

IPL0013777

Order Status:

Submitted

Classification:

Legals & Public Notices

Package:

TAC - Legal Ads

Final Cost:

1,188.21

Payment Type:

Account Billed

User ID:

IPL0019818

ACCOUNT INFORMATION

CITY OF ORTING IP

PO BOX 489

ORTING, WA 98360-0489

360-893-2219

fbingham@cityoforting.org

CITY OF ORTING

TRANSACTION REPORT**Date**

12:51 PM - Mon, Mar 8, 2021

Amount:

1,188.21

SCHEDULE FOR AD NUMBER IPL00137770

Tue Mar 9, 2021

The News Tribune (Tacoma)

Tue Mar 16, 2021

The News Tribune (Tacoma)

PREVIEW FOR AD NUMBER IPL00137770**Bid****DATE AND ADVERTISEMENT FOR BID**

Notice is hereby given that sealed Bids will be received at the City of Orting City Hall, 104 Bridge Street S, Orting, Washington, until **10:00 a.m., Monday, March 22, 2021**, as shown on the clock nearest to the desk of the City Clerk, for the **Gratzer Park – Phase 2** project. The bids will be tabulated by City staff and posted to the City's website and provided to every bidder via E-mail. No public bid opening will occur due to the Covid restrictions in place by the City. The Contractors shall clearly identify project name on all submitted bid packages. Proposals received after the time fixed for opening will not be considered.

The improvements for which bids will be received are described as follows:

1. Work associated shall consist of constructing a multipurpose field and appurtenances shown on the plan set. Owner-provided fill material shall be graded. The multipurpose field area will be drill seeded and other turf areas hydroseeded. A complete irrigation system and underdrain system for the multipurpose field, including a Type 1 Catch Basin, shall be installed as shown on the plans. A gravel walkway and playground will be included. Additionally, all landscaping, installation of goal posts, and all restoration work will be done in accordance with the plan set.

Washington State prevailing wage requirements are in effect.

Bid Proposals will be received only at the office of the City Clerk in the Orting City Hall, 104 Bridge Street S, Orting, Washington, 98360. Bids received after 10:00 a.m. will not be considered.

Plans will be available for download on Quest Construction Data Network, <https://www.questcdn.com/questcdn/action/questLogin>, eBidDoc#7629383. The cost will be \$20 per download.

Hard copy Bid Documents and Specifications may be purchased for a non-refundable charge of \$150. If you are making the purchase by mail or by person, you may do so at 1019 39th Avenue SE, Suite 100, Puyallup, Washington, 98374. The technical contact is Mr. JC Hungerford of Parametrix at 253.604.6600. Checks should be made payable to Parametrix. Return of the documents is not required.

The City of Orting reserves the right to reject any and all bids on any or all schedules or to waive any informalities in the bidding and shall determine which bid or bidders is the most satisfactory and responsible bidder and shall be the sole judge thereof.

The City of Orting hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, religion, age, marital status, disability, sexual orientation, or national origin in consideration for an award.

No bidder may withdraw his proposal after the hours set for opening thereof, or before Award of Contract, unless said award is delayed for a period exceeding 60 days.

Scott Larson, City Administrator

City of Orting

Published: Tacoma News Tribune, March 9, 2021 and March 16, 2021

W00000000

Publication Dates

[<< Click here to print a printer friendly version >>](#)



**City Of Orting
Council Agenda Bill Summary Sheet**

| | Agenda Bill # | Recommending Committee | Study Session Dates | Council |
|---|--------------------------|-------------------------------|----------------------------|----------------|
| Subject: Well 1 Booster Pump Station VFD Integration scope and budget | AB21-11 | PW 3.3.21 | 3.17.21 | |
| | Department: | Public Works | | |
| | Date Submitted: | 03/11/21 | | |
| | Cost of Item: | <u>\$50,500</u> | | |
| Amount Budgeted: | <u>\$53,000</u> | | | |
| Unexpended Balance: | <u>\$2,500</u> | | | |
| Bars #: | 401-594-34-63-62 | | | |
| Timeline: | | | | |
| Submitted By: | JC Hungerford, PE | | | |
| Fiscal Note | | | | |
| Attachments: Scope and budget for professional services | | | | |
| SUMMARY STATEMENT: | | | | |
| <p>The City of Orting has selected Northeast Electric to construct the improvements to Well 1 which includes the installation of new Variable Frequency Drives (VFDs). The attached Scope and Budget is for Parametrix to provide construction services, onsite observation, and programming/integration of the newly installed VFDs.</p> | | | | |
| RECOMMENDED ACTION: Move forward to the consent agenda for the March 31 st , 2021 Meeting. | | | | |
| FUTURE MOTION: <i>To Approve The Well 1 Booster Pump Station VFD Integration Scope And Budget As Prepared, And Provided By Parametrix; In The Amount Of \$50,500.</i> | | | | |

SCOPE OF WORK

City of Orting

Well 1 Booster Pump Station VFD Integration

The City of Orting (City) has requested that Parametrix provide startup and integration services for the Well 1 Control Improvements project. The Booster PS is equipped with a control panel that is managing three VFD-driven pumps, a reservoir with level instrumentation, and standby generator. The following Scope of Work (SOW) details the specific roles and responsibilities of Parametrix for the project. Parametrix will provide services on a time and materials basis limited to the authorized budget.

PROJECT ASSUMPTIONS

- This scope of work (SOW) is limited to integration of the Booster PS and related screens in the Wonderware SCADA system located at the Wastewater Treatment Plant (WWTP) only.
- City will provide M&O staff knowledgeable with the operation of the SCADA system during the onsite startup and functional testing.
- Parametrix will develop a written description of the desired control narrative for the pump station operation.
- City's electrical subcontractor on the project will be available to assist with I/O testing with reasonable notice.
- City's SCADA system will be made accessible to Parametrix for program installation with reasonable notice.
- Onsite support will not be required for more than 6 weeks.
- Project will be completed within 70 working days per the contract.

TASK 01 – PROJECT MANAGEMENT

Subtask 01– Project Management and QA/QC

Goal

Provide project team coordination to ensure the project is completed within scope, schedule, and budget.

Approach

The specific activities included under this task shall include the following:

- Project administration including project accounting, contract progress reports, and billing.
- Project coordination including correspondence and project task coordination.

- QA / QC review of project deliverables.

Deliverables

Deliverables will consist of the following:

- Monthly project progress reports and generation of invoices.
- Miscellaneous correspondence to document project management issues.

TASK 02 –CONTROL NARRATIVE DEVELOPMENT

Subtask 01 – Control Narrative

Goal

Develop a control narrative for the Booster PS to facilitate integration.

Approach

The specific activities included under this task shall include the following:

- Provide a maximum of 20 staff hours of in-office services to include:
 - Development of a draft control narrative for the Booster PS.
 - Review by the City to ensure efficient execution of integration work.
 - Finalization of a control narrative for integration and documentation purposes.

Deliverables

Deliverables will consist of the following:

- An electronic copy of the control narrative delivered via email to City for documentation.

TASK 03 –PROGRAMMING SERVICES

Subtask 01 – SCADA and Booster Station PLC Programming

Goal

Provide programming services to modify the existing PLC and HMI system based on the control narrative developed under Task 02.01.

Approach

The specific activities included under this task shall include the following:

- Provide a maximum of 20 staff hours of in-office services for:
 - The development of the Booster PS SCADA graphics.
 - The development of an I/O functional checkout form to facilitate a site acceptance test (SAT).

- Provide a maximum of 20 staff hours of in-office services to include:
 - The development of the Booster PS PLC program.
 - The development of an I/O functional checkout form to facilitate a site acceptance test (SAT).
- Provide a maximum of 40 staff hours of on-site services to include:
 - Create a backup of the existing SCADA system graphics in the WWTP.
 - Modification of existing SCADA application to incorporate the Booster PS.

TASK 04 – STARTUP AND TESTING

Subtask 01 – I/O Verification, Startup and Testing

Goal

Provide system startup and testing services to modify the existing control and SCADA system based on Parametrix provided control narrative.

Approach

The specific activities included under this task shall include the following:

- Provide a maximum of 16 staff hours of on-site services to include:
 - System PLC I/O end to end testing with electrical contractor / integrator.
- Provide a maximum of 24 staff hours of on-site services to include system function testing of:
 - Local PLC
 - SCADA system

Assumptions

- Parametrix is exempt from local configuration or troubleshooting of field equipment connected to the PLC (ex. Flow and pressure transmitters, VFDs, standby generator, telemetry radio). Configuration and troubleshooting of this equipment will be performed by Systems Interface, the manufacturer of the Motor Control Panel at the Booster PS.

Deliverables

- One copy of the I/O testing check off sheets.
- One copy of the PLC and SCADA system backup on DVD or USB Thumb Drive.

Subtask 02 – Training

Goal

Provide on-site construction support to mitigate startup issues as well as instructor-led training at the Booster PS.

Approach

The specific activities included under this task shall include the following:

- Provide a maximum of 16 staff hours over a maximum of four total trips of on-site services to include:
 - Observation of the control system's construction at the Booster PS and recommend changes as needed.
 - Staff training on-site on the operation of the Booster PS through local control and SCADA system.

Deliverables

- Email correspondence to City outlining field inspection findings and associated recommendations where applicable.

TASK 5 - OFFICE ENGINEERING AND DOCUMENTATION

Objectives

The objective of Task 5 is to provide construction administration and documentation services for the Well 1 Control Improvements Project. This task includes administering construction; monitoring construction costs and schedule; providing documentation of materials, submittals, and requests for information; preparing progress payments; and completing final construction contract documentation.

Subtask 01 - Construction Meetings

Parametrix will prepare the agenda and project documentation package for the biweekly construction meetings. Minutes will be prepared and distributed to all applicable parties. Up to 6 virtual meetings will be conducted. The purpose of the meetings is to observe, document, and facilitate resolution of any problems encountered during construction.

Subtask 02 - Construction Documentation

Parametrix will provide all required documentation for the project. Parametrix will maintain an accurate, up to date project file that will be copied to the City of Orting at the end of the project. Documentation in the project files will include the following items:

- Monitoring and calculating material quantities on monthly basis.
- Preparing monthly pay estimates (3 total).
- Reviewing and approving submittals (up to 15 total).
- Responding to requests for information (up to 5 total).
- Documenting contractor conformance with contract documents.
- Preparing one change order for the City's signature and approval.

Subtask 03 - Project Close-Out Documents

Parametrix staff will coordinate the final walk-through and acceptance of the project. This will include documentation of any outstanding issues and follow-up to resolution. Parametrix will provide and/or assist with the execution of all project and contract close-out documentation including:

- Verification of prevailing wages paid.
- Notice of substantial completion.
- Documentation of project punch list and completion thereof.
- Notice of final completion.
- Final payments and release of retainage.

TASK 6 – CONSTRUCTION OBSERVATION

Objectives

Construction observation will be provided on a part time basis is coordination with City Staff. A Parametrix construction observer will be onsite for 4 to 10 hours per week for up to 80 hours.

Subtask 01 - Construction Observation

The part construction observer will monitor the contractor during construction activities. Services provided under this task include, but are not limited to the following:

- Attendance at Preconstruction Meeting and weekly meetings.
- Review of daily on-site project progress. This will be documented in the inspector's daily reports (IDRs) and field note records (FNRs).
- Documentation of pay quantities using Field Note Records.
- Verification of the contractor's work for compliance with the contract and City standards.
- Coordination of sampling and testing for asphalt and concrete bid items. Review of subsequent test results and reports for correctness and compliance with the contract documents.
- Documentation of construction progress, potential problems, and identified problems with photos and/or videos.
- Upon substantial completion of the project, Parametrix staff along with appropriate City staff will perform a punch list walk-through of the entire project. The purpose is to itemize all miscellaneous uncompleted work items and/or faulty workmanship items that would need to be addressed before final acceptance of the project. Parametrix will document the list of outstanding items and coordinate with the contractor to expedite the completion.

Deliverables

- Daily observation reports.
- Field note records.
- Project photos.

Assumptions

- Total construction time will not exceed 70 working days.
- Any change orders that require additional contract time may require additional time or costs associated with this task.
- Workdays will not exceed 8 hrs. per day or 40 hours per week. Observation will be provided for 4 hours per day with 1 hour of travel time. Weekend observation beyond 40 hours per week is not included in this scope of work.

CYBERSECURITY DISCLAIMER

Parametrix has provided SCADA and PLC programming services consistent with this SOW. Parametrix has not and will not provide IT security services to protect City's networks and equipment from breaches or hacks from outside sources. As such the City should consider the following:

1. City is encouraged to proactively monitor their environment for security threats. Parametrix does not provide this service.
2. City is encouraged to engage a qualified, independent third party to perform an operational security assessment of the Industrial Control System (ICS) environment.
3. Where a firewall or other perimeter security device is provided in conjunction with the scope of work, we recommend that:
 - a. the configuration of these devices be evaluated by qualified personnel.
 - b. the devices are properly maintained with available threat and antivirus subscription services.
 - c. the firmware on the devices is kept reasonably up to date per manufacturer's recommendations.
4. Parametrix is not responsible for Windows or other operating system maintenance (patching, antivirus, etc.) associated with the implementation/design of the system.
5. Parametrix is not responsible for the maintenance/configuration of any remote access (i.e. VPN) capabilities. These should be configured in accordance with City's organization practices.
6. Parametrix encourages the use of multi-factor authentication for all remote access to the control environment.

Client: City of Orting
 Project: City of Orting On-call 2014-2017
 Project No: 2161711020

| | | | | | | | |
|------------------------|------------------------|-------------------------------|-------------------------|------------------------|------------------------|-------------------------|------------------------|
| | Glen E. Barcus | April D. Whittaker | Amanda B. Lucas | Marvin C. Casanova | Jeffrey W. Reinmuth | John C. Hungerford | Sarah A. Crackenberger |
| | Sr Electrical Designer | Sr Project Control Specialist | Publications Supervisor | Electrical Engineer IV | Electrical Designer IV | Water Solutions Div Mgr | Project Accountant |
| Burdened Rates: | \$170.00 | \$120.00 | \$115.00 | \$155.00 | \$115.00 | \$170.00 | \$95.00 |

| Task | SubTask | Description | Labor Dollars | | | | | | | |
|-------------|---------|--|--------------------|------------|-----------|----------|-----------|-----------|-----------|----------|
| 3006 | | Well 1 Booster PS VFD Integration | \$50,300.00 | 148 | 32 | 4 | 24 | 94 | 36 | 2 |
| | 01 | Project Management | \$1,830.00 | | 8 | | | | 4 | 2 |
| | 02 | Control Narrative Development | \$2,500.00 | 12 | | 4 | | | | |
| | 03 | Programming Services | \$13,600.00 | 80 | | | | | | |
| | 04 | Startup/Testing | \$9,520.00 | 56 | | | | | | |
| | 05 | Office Engineering | \$12,080.00 | | 24 | | 24 | 24 | 16 | |
| | 06 | Construction Observation | \$10,770.00 | | | | | 70 | 16 | |

| | | | | | | | | |
|----------------------|--------------------|--------------------|-------------------|-----------------|-------------------|--------------------|-------------------|-----------------|
| Labor Totals: | \$50,300.00 | 148 | 32 | 4 | 24 | 94 | 36 | 2 |
| Totals: | \$50,300.00 | \$25,160.00 | \$3,840.00 | \$460.00 | \$3,720.00 | \$10,810.00 | \$6,120.00 | \$190.00 |

Other Direct Expenses

| | |
|-------------------------------------|-----------------|
| Mileage - \$0.56/mile | \$200.00 |
| Other Direct Expenses Total: | \$200.00 |

Project Total \$50,500.00



**City Of Orting
Council Agenda Summary Sheet**

| | | | | |
|--|----------------------------|-------------------------------|---------------------------------|----------------|
| Subject: Orting Phase II Stormwater Management Program Plan Adoption | AB21--28 | Committee PW 3.3.21 | Study Session 3.17.21 | Council |
| | | | | |
| | Department: | Public Works | | |
| | Date Submitted: | 3/11/21 | | |
| | Cost of Item: | _\$0 | | |
| Amount Budgeted: | _\$0 | | | |
| Unexpended Balance: | _\$0 | | | |
| Bars #: | N/A | | | |
| Timeline: | | | | |
| Submitted By: | JC Hungerford, PE | | | |
| Fiscal Note: | | | | |
| Attachments: NPDES Phase II Municipal Stormwater Management Program Plan | | | | |
| SUMMARY STATEMENT: | | | | |
| <p>As a Phase II community under the Western Washington Municipal Stormwater Permit issued by the Washington Department of Ecology, Orting is required to review, revise and adopt updates to their Stormwater Management Program Plan to be in compliance with the Western Washington Phase II Municipal Stormwater Permit.</p> | | | | |
| RECOMMENDED ACTION: Move forward to the consent agenda for the March 31 st , 2021 Meeting. | | | | |
| FUTURE MOTION: <i>To Adopt The NPDES Phase II Municipal Stormwater Management Program Plan As Prepared By Parametrix.</i> | | | | |

NPDES Phase II Municipal Stormwater Management Program Plan

Prepared for



February 2021

Prepared by
Parametrix

NPDES Phase II Municipal Stormwater Management Program Plan

Prepared for

City of Orting
201 Rocky Road NE
Orting, WA 98360

Prepared by

Parametrix
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374
T. 253.604.6600 F. 1.855.542.6353
www.parametrix.com

CITATION

Parametrix. 2021. NPDES Phase II Municipal Stormwater Management Program Plan. Prepared by Parametrix, Puyallup, WA. February 2021.

CERTIFICATION

The technical material and data contained in this document were prepared under the supervision and direction of the undersigned, whose seal, as a professional engineer licensed to practice as such, is affixed below.



Prepared by Jeffrey L. Coop, P.E.

John Wright

Checked by John L. Wright, III, P.E.

John C. Hungerford

Approved by John Carl Hungerford, P.E.

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KEY TERMS

| | |
|----------------|--|
| AKART | all known, available and reasonable methods of treatment |
| Basin Plan | Mid-Puyallup Basin Plan |
| BMP | Best Management Practice |
| CAD | Computer Aided Design |
| CESCL | Certified Erosion and Sediment Control Lead |
| City | City of Orting |
| Ecology Manual | Stormwater Management Manual for Western Washington |
| Ecology | Washington State Department of Ecology |
| GIS | Geographic Information System |
| Group | Orting Stormwater Public Input Group |
| IDDE | Illicit Discharge Detection and Elimination |
| LID | Low-Impact Development |
| MEP | maximum extent practicable |
| MS4 | Municipal Separate Storm Sewer System |
| NOI | Notice of Intent |
| NPDES | National Pollutant Discharge Elimination System |
| OMC | Orting Municipal Code |
| PCD | Pierce Conservation District |
| Permit Plan | Western Washington Phase II Municipal Stormwater Permit SWMP Plan |
| SMAP | Stormwater Management Action Planning |
| SWPPPs | Stormwater Pollution Prevention Plans |
| TMDL | Total Maximum Daily Load |
| USGS | U.S. Geological Survey |
| WWTP | wastewater treatment plant |

1. INTRODUCTION

1.1 Overview and Background

The Western Washington Phase II Municipal Stormwater Permit (Permit) is issued by the Washington State Department of Ecology (Ecology) under the National Pollutant Discharge Elimination System (NPDES). Permit Section S5 requires permittees to develop and implement a Stormwater Management Program (SWMP). Section S5 also requires permittees to prepare written documentation of the SWMP, which is referred to as the SWMP Plan (Plan).

This document is an update to the previous version of the City of Orting (City) 2019 SWMP Plan. This document reflects requirements from the Western Washington Phase II Municipal Stormwater Permit (Permit) for the August 1, 2019 through July 31, 2024 Permit term. The elements required for the SWMP Plan are based on Permit Section S5, which is included in Appendix A. SWMP Plan requirements include Items 1 through 8 of listed below. Items 9 through 11 are also included as they are items to be addressed as part of the SWMP.

1. Stormwater Planning
2. Public Education and Outreach
3. Public Involvement and Participation
4. Municipal Separate Storm Sewer System (MS4) Mapping and Documentation
5. Illicit Discharge Detection and Elimination
6. Controlling Runoff from New Development, Redevelopment, and Construction Sites
7. Operations and Maintenance
8. Source Control for Existing Development
9. Applicable measures of Permit Section S4 – Compliance with Standards
10. Applicable requirements of Permit Section S7 – Compliance with Total Maximum Daily Load (TMDL) Requirements
11. Applicable requirements of Permit Section S8 – Monitoring and Assessment

The Permit requires the City to report annually (March 31 of each year) on progress in SWMP implementation for the prior year. The Permit also requires submittal of documentation that describes proposed SWMP activities for the coming year. Implementation of various conditions of the current Permit are being phased throughout the 5-year Permit term from July 1, 2019 through July 31, 2024.

This report updates the City's 2019 SWMP Plan through January 31, 2021, to comply with Section 5 of the Permit. This 2020 SWMP Plan update describes actions the City is taking to maintain permit compliance.

1.2 Phased Implementation of Permit Requirements

The current Permit was issued July 1, 2019 and effective August 1, 2019. The current Permit will expire on July 31, 2024.

Ecology is phasing in many of the Permit requirements over the Permit term. A table summarizing the implementation dates is included in Appendix B. The SWMP Plan is required to be updated at least annually and submitted with the annual reports, which are due on March 31st of each year. The annual SWMP Plan update is to describe:

1. Planned activities for each of the SWMP Plan components;
2. Any additional planned actions required by Permit Section S7 – Compliance with Total Maximum Daily Load Requirements; and
3. Any additional planned actions required by Permit Section S8 – Monitoring and Assessment.

As required by the Permit, the City must:

1. Submit an annual report documenting Permit compliance activities for the previous calendar year on March 31st of each year, including the updated, current SWMP Plan.
2. Keep all records related to the Permit and the SWMP Plan for at least 5 years in accordance with Permit Section S9.B.
3. Make all records related to the Permit and the SWMP Plan available to the public in accordance with the provisions of Permit Section S9.C.

Additional Permit information is located on Ecology’s website:

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits/Western-Washington-Phase-II-Municipal-Stormwater>

1.3 Document Organization

The content in this document is based upon Permit requirements and Ecology’s *Draft Guidance for City and County Annual Reports for Western Washington Phase II Municipal Stormwater Permits*. The remainder of the SWMP Plan is organized similarly to the Permit:

- Section 2 address Permit requirements for Stormwater Planning.
- Section 3 addresses Permit requirements for Public Education and Outreach.
- Section 4 addresses Permit requirements for Public Involvement and Participation.
- Section 5 addresses Permit requirements for MS4 Mapping and Documentation.
- Section 6 addresses Permit requirements for Illicit Discharge Detection and Elimination.
- Section 7 addresses Permit requirements for Controlling Runoff from New Development, Redevelopment, and Construction Sites.
- Section 8 addresses Permit requirements for Municipal Operations and Maintenance.
- Section 9 addresses Permit requirements for Source Control Program for Existing Development.
- Section 10 addresses Permit requirements for Permit Section S4 – Compliance with Standards.
- Section 11 addresses Permit requirements for Permit Section S7 – Compliance with TMDL Requirements.
- Section 12 addresses Permit requirements for Permit Section S8 – Monitoring and Assessment.

Each section includes a summary of the relevant Permit requirements and a description of actions in 2019 and 2020 and planned compliance activities.

This SWMP Plan is based on the following Permit terms:

- Permit with effective date of February 16, 2007, and expiration date of February 15, 2012 (2007 Permit);
- Permit with effective date of August 1, 2013, and expiration date of July 31, 2018 (2013 Permit);
- Current Permit with effective date of August 1, 2019, and expiration date of July 31, 2024.

2. STORMWATER PLANNING

Stormwater planning is required as part of the SWMP in accordance with Permit Section S5.C. The purpose of the stormwater planning is to “inform and assist in the development of policies and strategies as water quality management tools to protect receiving waters.” Key components of stormwater planning are summarized below. Excerpts from the Permit with the stormwater planning requirements are included in Appendix A.

2.1 Interdisciplinary Team

(Permit Section S5.C.1.a)

The Permit requires that an interdisciplinary team be formed to “inform and assist in the development, progress and influence of the SWMP. The team is to be identified by August 1, 2020. The team includes two City Council members, the City Administrator, the Public Works Director and the City Planner. The team meets once a month. The team has coordinated in the preparation of this SWMP.

2.2 Coordination with Long-Term Plans

(Permit Section S5.C.1.b)

The Permit requires that stormwater management needs and protection and/or improvement of receiving waters are being considered with long-term land use plans. The intent is for land use, growth, and transportation plans be developed that considers how such planning can support stormwater, water quality, and watershed issues.

There are two deadlines associated with the Permit-required coordination:

- By March 31, 2021, the City is to respond to the series of Stormwater Planning annual report questions to describe how anticipated stormwater impacts on water quality were addressed, if at all, during the current Permit term in updates to the City’s Comprehensive Plan or other applicable plans.
- By January 1, 2023, the City is to submit a report responding to the same questions from the March 31, 2021 annual report to describe how anticipated stormwater impacts on water quality were addressed, if at all, during the current Permit term in updates to the City’s Comprehensive Plan or other applicable plans.

The City’s current Comprehensive Plan and Shoreline Master Plan do consider stormwater and receiving water issues. The City will review those plans as it responds to the Stormwater Planning questions for the annual report due March 31, 2021. The City is planning to update its Comprehensive Plan in 2022 and Shoreline Management Plan when needed. Any changes to those plans based on further consideration of stormwater or receiving water issues will be addressed in the report due January 1, 2023.

2.3 Low-Impact Development Code-Related Requirements

(Permit Section S5.C.1.c)

The intent of this Permit section is to make Low-Impact Development (LID) the preferred and commonly used approach to site development through requiring the use of LID principles and LID Best Management Practice (BMP) when updating, revising, and developing development-related codes, rules, standards, or other enforceable documents. The City has updated its codes and standards to implement LID during prior Permit terms. In accordance with Permit Section S5.C.1.c(a), the City is to assess and document annually any newly identified administrative or regulatory barriers to the implementation of LID principles or LID BMPs.

There were no administrative or regulatory barriers to implementing LID principles or LID BMPs identified in the March 31, 2019 annual report. Barriers, if identified, will be documented in future annual reports.

2.4 Stormwater Management Action Planning

(Permit Section S5.C.1.d)

Stormwater Management Action Planning (SMAP) is a new requirement under the current Permit. SMAP is to be conducted based on the *Stormwater Management Action Planning Guidance* (Ecology, 2019; Publication 19-10-010). The intent is to identify a high-priority watershed within the permittee's jurisdiction and consider how long-range planning and potential projects may help improve stormwater quality and receiving water quality and habitat. The SMAP can be completed by the permittee or in conjunction with other agencies, provided that the SMAP includes a catchment area within the permittee's jurisdiction.

SMAP resources to be used in conjunction with Ecology's *Stormwater Management Action Planning Guidance* are listed below:

- *Building Cities in the Rain; Watershed Prioritization for Stormwater Retrofits* (Washington State Department of Commerce, Publication 006; September 2016).
- Puget Sound Watershed Characterization Project (Ecology).
- <https://ecology.wa.gov/Water-Shorelines/Puget-Sound/Watershed-characterization-project>.
- Washington Environmental Health Disparities Map (Washington State Department of Health).
- <https://www.doh.wa.gov/DataandStatisticalReports/WashingtonTrackingNetworkWTN/InformationbyLocation/WashingtonEnvironmentalHealthDisparitiesMap>.
- EJSscreen: Environmental Justice Screening and Mapping Tool (United States Environmental Protection Agency).
- <https://www.epa.gov/ejscreen>.

The City is included in the Mid-Puyallup Basin, which is part of the Puyallup-White River Basin. Pierce County leads the watershed planning for the Mid-Puyallup Basin. The Mid-Puyallup Basin Plan (Basin Plan) was adopted in 2005 and acts as a comprehensive guide to surface water management in areas in the Mid-Puyallup Basin. The City is an identified stakeholder in the Basin Plan. The Basin Plan will be one of the resources used for SMAP.

2.4.1 Receiving Water Assessment

(Permit Section S.5.C.1.d.i)

Receiving Water Assessment. Permittees shall document and assess existing information related to their local receiving waters and contributing area conditions to identify which receiving waters are most likely to benefit from SMAP.

By March 31, 2022, the City is to submit:

1. A watershed inventory and a brief description of the relative conditions of the receiving waters and the contributing areas. The watershed inventory is to be submitted as a table with each receiving water name, its total watershed area, the percent of the total watershed area that is in the City's jurisdiction.
2. The findings of the stormwater management influence assessment for each basin.
3. The receiving waters that will be included in the prioritization process if not all of the receiving waters will be included in the prioritization process.
4. A map of the delineated basins with references to the watershed inventory table.
5. The basins that are expected to have a relatively low stormwater management Influence for SMAP. Basins having relatively low-expected stormwater management influence do not need to be included in the prioritization process or the SMAP.

The City has not yet started the receiving water assessment but will do so by March 31, 2022.

2.4.2 Receiving Water Prioritization

(Permit Section S5.C.1.d.ii)

Based on the assessment and other relevant information, permittees are to develop and implement a prioritization method and process to determine which receiving waters will receive the most benefit from implementation of stormwater facility retrofits, tailored implementation of SWMP actions, and other land/development management actions. The retrofits and actions are to be designed to:

1. Conserve, protect, or restore receiving waters through stormwater and land management strategies that act as water quality management tools,
2. Reduce pollutant loading, and
3. Address hydrologic impacts from existing development as well as planned for and expected future buildout conditions.

By June 30, 2022, the City is to document the prioritized and ranked list of receiving waters. The City is also to document the process used to identify the high-priority receiving waters. Watershed management plans can be used as sources of information for the prioritization process. The ranking process is to identify the selected priority catchment area to be used for the SMAP.

The City has not yet started the receiving water prioritization but will do so by June 30, 2022.

2.4.3 SMAP

(Permit Section S5.C.1.d.iii)

By March 31, 2023, the City is to develop a SMAP for at least one high-priority catchment area selected above that includes the following:

1. A description of the stormwater facility retrofits needed for the catchment area, BMPs, and preferred locations.
2. Land management/development strategies and/or actions identified for water quality management.
3. Targeted, enhanced, or customized implementation of stormwater management actions from Permit Section S5, including the following. The identified actions can support the selected catchment area or the basin overall:
 - a. IDDE field screening,
 - b. Prioritization of Source Control inspections,
 - c. O&M inspections or enhanced maintenance, or
 - d. Public Education and Outreach behavior change programs.
4. Identification of changes needed, if applicable, to local long-range plans to address SMAP priorities.
5. A proposed implementation schedule and budget sources for:
 - a. Short-term actions to be accomplished within 6 years, and
 - b. Long-term actions to be accomplished within 7 to 20 years).
6. A process and schedule to provide future assessment and feedback to improve the planning process and implementation of procedures or projects.

The City has not started the SMAP process for a prioritized catchment area or established funding for short- or long-term actions but will do so by March 31, 2023.

3. PUBLIC EDUCATION AND OUTREACH

The 2007 Permit required permittees to develop a public education and outreach program by February 15, 2009. Per the 2007 Permit, the public education and outreach program must target the general public, businesses, homeowners and property managers, engineers, contractors, developers, review staff, and land use planners. Additionally, the City is required to track and maintain records of public education and outreach activities. This chapter summarizes the activities that the City is undertaking to meet the requirements of this portion of the Permit.

The City developed a public education and outreach program in conjunction with the 2010 SWMP Plan. The design of the education and outreach program is to reduce or eliminate behaviors that contribute to adverse stormwater impacts. It should also encourage the public to participate in stewardship programs. The subsections below include the 2010 public education and outreach program with 2019 updates to be in conformance with the current Permit.

3.1 Current Public Education and Outreach Program

(Permit Requirement S5.C.2)

The City has an ongoing public education and outreach program. This program is comprised of a variety of approaches, which includes providing educational literature, staffing outreach kiosks at community events, conducting talks and training, as well as partnerships with groups such as The Puyallup River Watershed Council. With regards to literature, the City has drafted outreach materials to educate both the general public and businesses. These materials deal with general BMPs for stormwater runoff and preventing illicit discharges into the stormwater system. The City maintains literature related to stormwater at the City's library that is available for check out by the general public.

The City regularly performs outreach at community events including fairs and festivals. City staff members work at information booths to provide public education regarding environmental matters including stormwater. The City regularly provides outreach at the following City events: Daffodil Parade, Summer Fest, Pumpkin Fest, the Emergency Preparedness Fair, and the Western Washington Fair. The City is a member of the Pierce Conservation District (PCD) and regularly participates with the PCD at the Western Washington Fair. The PCD booth informs people about work the PCD does including Farm Planning and Agricultural Assistance, Water Quality Improvement and Monitoring, Habitat Improvement and Environmental Education, and Harvest Pierce County. At events in August and October of 2008, the City used the information booth approach as a venue to issue its first stormwater management survey. The survey will be discussed in greater detail in the following section.

In the summer of 2019, the City mailed out a stormwater letter and questionnaire to all water utility customers in the City. The results of the 2019 survey are discussed in Section 3.3.2 below.

City staff members provide training and education to the community via both the telephone and on-site visits. City staff provide stormwater education during visits to homes, businesses, and construction sites. At construction sites, City staff instruct workers on proper erosion control and best management practices. Additionally, to further educate the general public and to prevent illicit discharges to storm drains, the City now requires that all new storm drains be stenciled "Dump No Waste, Drains to Stream."

The City is committed to community stormwater education at the student level as well. City staff give talks to students regarding erosion and other stormwater-related issues.

3.2 Creating Stewardship Opportunities

(Permit Requirement S5.c.2)

The City provides a means for the community to be involved in volunteer programs. This is important in fostering a sense of ownership so that the community actively participates in improving and maintaining the quality of the City's stormwater.

3.2.1 Volunteer Programs

Catch Basin/Curb Marking Program – The City has a catch basin/curb marking program in which volunteer groups mark catch basins and storm drains with signage indicating that the structure drains to a nearby surface water body. This program improves public awareness regarding stormwater pollution and its impact on surface waters and supplements the City's ongoing program of marking storm drains with "Dump No Waste, Drains to Stream."

Stream Clean-Ups – City staff members organize an annual Spring River Clean-Up. This event utilizes volunteers to clean up near-stream areas. Flyers are distributed to businesses and the high school, event details are published on the City website, and information is displayed on the reader-board to promote interest in the event. The river cleanup event not only improves the water quality and aquatic habitats of the Puyallup and Carbon Rivers, but it also serves as a useful tool in demonstrating to the community the connection between pollution and surface water quality. In 2018, a fisherman organization arranged their own river cleanup, so the City did not sponsor one.

Car Wash Program – The City has purchased an environmentally friendly carwash kit, which it provides to groups performing car washing events. The carwash kits have brochures about fish-friendly car washes. The kit includes a catch-basin insert to prevent wash water from entering storm drains. It also includes a pump to transport wash water to either nearby grassy areas or the sanitary sewer. The City also requires the use of non-toxic, biodegradable, or phosphate-free soaps.

3.2.2 Future Volunteer Programs

Rainfall Monitoring Program – Currently, the City's wastewater treatment plant (WWTP) has rainfall monitoring equipment. Additionally, the U.S. Geological Survey (USGS) has a rain gauge on the Carbon River. In the future, volunteers could be utilized to collect rainfall data at various locations within the city. By combining data from across the City, rainfall patterns could be analyzed and used to identify areas susceptible to erosion, as well as for flooding prediction and modeling.

Noxious Weed Control – The City is a member of the Pierce Conservation District, with the properties within the City being assessed yearly in property taxes. With this program, the citizens can participate in volunteer events to remove noxious/invasive vegetation from riparian areas. Removal of noxious vegetation improves riparian and aquatic habitat and improves overall water quality. Additionally, it teaches participants the benefits of healthy, native riparian vegetation in improving water quality.

3.3 Measuring Program Effectiveness

(Permit Requirement S5.C.2.a.ii(b))

The Permit requires that a permittee must assess the effectiveness of its public education and outreach program. In August of 2008, the City developed a survey to measure the baseline understanding of stormwater-related issues by various groups within the City. The survey collected demographic information and asked survey respondents a series of twelve questions related to stormwater issues. The survey was administered to a group of business owners at a Chamber of Commerce meeting in

August 2008, to the general public at community events in August and October 2008, and via the City’s annual Stormwater Letter in October 2008. Surveys were collected and scored using a rating system. Data from scored surveys was entered into an Excel spreadsheet for analysis and report generation. The City used the results to direct education and outreach sources most effectively and evaluate changes in adoption of the targeted behaviors.

The City performed the survey again in 2020. The results are discussed in Section 3.3.2 below.

3.3.1 Survey Results

Results from the 2008 stormwater survey are summarized in Table 3-1. The survey identified existing levels of knowledge for many stormwater-related matters. The findings of the survey have been used to identify current and future needs for stormwater education and outreach.

Table 3-1. 2008 City of Orting Stormwater Survey Results

| | | | | |
|--|-------------------------|--------------------------|--------------------|--------------------|
| Q1. Do you know if there is a river, creek or other waterbody near your home or business? | | | | |
| Yes | No | Not Sure | No Response | |
| 87% | 7% | 4% | 2% | |
| Q2. If you have a river, creek or other waterbody near your home or business, what term(s) best describe your opinion of its water quality? | | | | |
| Very Good | Somewhat Good | Bad | Not Sure | Not Sure |
| 26% | 37% | 9% | 17% | 11% |
| Q3. Have you used a pesticide or weed-killer in the last year at your home or business? | | | | |
| Yes | No | No Response | | |
| 56% | 43% | 2% | | |
| Q4. If you did use a pesticide or weed-killer within the last year, how did you dispose of the remainder of it? | | | | |
| None Left | Remainder Stored | Taken to Hazwaste | Other | No Response |
| 58% | 23% | 0% | 7% | 10% |
| Q5. Do you have a pet at home that you take for regular walks outside? | | | | |
| Yes | No | No Response | | |
| 43% | 54% | 4% | | |
| Q6. If you do have a pet at home you take for regular walks, how do you dispose of pet waste? | | | | |
| Bagged | Left in Place | No Response | | |
| 60% | 32% | 8% | | |
| Q7. Do you change your own vehicle oil at home? | | | | |
| Yes | No | No Response | | |
| 22% | 76% | 2% | | |
| Q8. If you do you change your own vehicle oil at home, how do you dispose of your used oil? | | | | |
| Household Waste Collection | Garbage | Ground | Other | No Response |
| 31% | 0% | 0% | 69% | 8% |

| | | | |
|--|-------------------------|---------------------------|--------------------|
| Q9. Do our community's storm drains and sewer system share the same underground pipe system? | | | |
| Yes | No | No Response | |
| 6% | 78% | 17% | |
| Q10. Do water and other substances that flow through storm drains go to a treatment plant to be processed to remove pollutants? | | | |
| Yes | No | No Response | |
| 33% | 50% | 17% | |
| Q11. Do you know of any stormwater detention ponds near your home or business? | | | |
| Yes | No | No Response | |
| 43% | 52% | 6% | |
| Q12. What type of treatment do you believe that stormwater receives after it leaves a stormwater detention pond? | | | |
| Treatment Plant | Direct Discharge | Natural Filtration | No Response |
| 20% | 11% | 48% | 19% |

In order to measure the effectiveness of the stormwater public education and stormwater program, the City issued its questionnaire again in the fall of 2009. Since 2009, the survey has been set out at many City events, but there is a lack of interest to take the time to complete it. The results of the 2009/2010 stormwater survey are summarized in Table 3-2. The results were compared to the 2008 results to identify if audience behaviors and/or understanding of stormwater-related issues have measurably improved since issuance of the 2008 survey. The results of this comparison were used to direct needs for future public education and outreach activities.

Table 3-2. 2009/2010 City of Orting Stormwater Survey Results

| | | | | |
|--|-------------------------|--------------------------|--------------------|--------------------|
| Q1. Do you know if there is a river, creek or other waterbody near your home or business? | | | | |
| Yes | No | Not Sure | No Response | |
| 79% | 11% | 11% | 0% | |
| Q2. If you have a river, creek or other waterbody near your home or business, what term(s) best describe your opinion of its water quality? | | | | |
| Very Good | Somewhat Good | Bad | Not Sure | No Response |
| 42% | 21% | 0% | 32% | 5% |
| Q3. Have you used a pesticide or weed-killer in the last year at your home or business? | | | | |
| Yes | No | No Response | | |
| 58% | 42% | 0% | | |
| Q4. If you did use a pesticide or weed-killer within the last year, how did you dispose of the remainder of it? | | | | |
| None Left | Remainder Stored | Taken to Hazwaste | Other | No Response |
| 21% | 26% | 21% | 5% | 26% |
| Q5. Do you have a pet at home that you take for regular walks outside? | | | | |
| Yes | No | No Response | | |
| 58% | 42% | 0% | | |

| | | | | |
|--|-------------------------|---------------------------|--------------------|--------------------|
| Q6. If you do have a pet at home you take for regular walks, how do you dispose of pet waste? | | | | |
| Bagged | Left in Place | No Response | | |
| 53% | 16% | 32% | | |
| Q7. Do you change your own vehicle oil at home? | | | | |
| Yes | No | No Response | | |
| 47% | 53% | 0% | | |
| Q8. If you do you change your own vehicle oil at home, how do you dispose of your used oil? | | | | |
| Household Waste Collection | Garbage | Ground | Other | No Response |
| 11% | 11% | 11% | 21% | 47% |
| Q9. Do our community's storm drains and sewer system share the same underground pipe system? | | | | |
| Yes | No | No Response | | |
| 21% | 88% | 21% | | |
| Q10. Do water and other substances that flow through storm drains go to a treatment plant to be processed to remove pollutants? | | | | |
| Yes | No | No Response | | |
| 42% | 32% | 26% | | |
| Q11. Do you know of any stormwater detention ponds near your home or business? | | | | |
| Yes | No | No Response | | |
| 53% | 42% | 5% | | |
| Q12. What type of treatment do you believe that stormwater receives after it leaves a stormwater detention pond? | | | | |
| Treatment Plant | Direct Discharge | Natural Filtration | No Response | |
| 26% | 11% | 53% | 11% | |

3.3.2 Future Program Measurement

The City issued its questionnaire again in the summer of 2019. The results of the 2020 stormwater survey are summarized in Table 3-3. The results will be used by the City to direct needs for future public education and outreach activities.

Table 3-3. 2020 City of Orting Stormwater Survey Results

| | | | | |
|--|----------------------|--------------------|--------------------|--------------------|
| Q1. Do you know if there is a river, creek or other waterbody near your home or business? | | | | |
| Yes | No | Not Sure | No Response | |
| 86% | 8% | 1% | 5% | |
| Q2. If you have a river, creek or other waterbody near your home or business, what term(s) best describe your opinion of its water quality? | | | | |
| Very Good | Somewhat Good | Bad | Not Sure | No Response |
| 40% | 27% | 3% | 30% | 0% |
| Q3. Have you used a pesticide or weed-killer in the last year at your home or business? | | | | |
| Yes | No | No Response | | |
| 53% | 43% | 4% | | |

| | | | | |
|--|-------------------------|---------------------------|--------------------|--------------------|
| Q4. If you did use a pesticide or weed-killer within the last year, how did you dispose of the remainder of it? | | | | |
| None Left | Remainder Stored | Taken to Hazwaste | Other | No Response |
| 24% | 27% | 3% | 33% | 14% |
| Q5. Do you have a pet at home that you take for regular walks outside? | | | | |
| Yes | No | No Response | | |
| 31% | 63% | 6% | | |
| Q6. If you do have a pet at home you take for regular walks, how do you dispose of pet waste? | | | | |
| Bagged | Left in Place | No Response | | |
| 36% | 1% | 63% | | |
| Q7. Do you change your own vehicle oil at home? | | | | |
| Yes | No | No Response | | |
| 14% | 77% | 9% | | |
| Q8. If you do you change your own vehicle oil at home, how do you dispose of your used oil? | | | | |
| Household Waste Collection | Garbage | Ground | Other | No Response |
| 4% | 0% | 0% | 65% | 31% |
| Q9. Do our community's storm drains and sewer system share the same underground pipe system? | | | | |
| Yes | No | Not sure | No Response | |
| 27% | 31% | 21% | 21% | |
| Q10. Do water and other substances that flow through storm drains go to a treatment plant to be processed to remove pollutants? | | | | |
| Yes | No | Not Sure | No Response | |
| 32% | 25% | 35% | 8% | |
| Q11. Do you know of any stormwater detention ponds near your home or business? | | | | |
| Yes | No | No Response | | |
| 51% | 34% | 15% | | |
| Q12. What type of treatment do you believe that stormwater receives after it leaves a stormwater detention pond? | | | | |
| Treatment Plant | Direct Discharge | Natural Filtration | Not Sure | No Response |
| 24% | 8% | 35% | 21% | 13% |

3.3.3 Future Public Education and Outreach

There has been an increase in the number of participants since the 2008 and 2009/2010 stormwater surveys. The increase in the number of participants illustrates that more citizens are becoming more interested in issues that can potentially impact stormwater and surface waters. However, the citizens may benefit from follow-up education on proper disposal of waste that can be detrimental to the local waterways, such as proper application, storage and disposal of pesticides, proper disposal of pet waste, and proper disposal of used oil. Also, additional follow-up education may be needed that informs citizens about storm sewers being separate from sanitary sewers and that stormwater is not routed to the wastewater treatment plant.

The public involvement section of this document lists several options that the City has used previously, and some that the City continues to implement to involve the public in stormwater-related matters.

Most of these public involvement options include a public education component. Public involvement in stormwater-related activities is an effective tool for educating the public regarding stormwater issues. The City attempts to conduct these types of education activities whenever practicable.

3.4 Recordkeeping

The City began to track and maintain records of public education and outreach activities in 2011 and continues to track these activities on an annual basis. A spreadsheet was developed for tracking and maintaining these records. Records of public education and outreach activities are maintained at the City's public works building.

3.5 New Effectiveness Evaluation

(Permit Section S5.C.2.a.ii(b))

The Permit requires that, by July 1, 2020, permittees conduct a new evaluation of the effectiveness of an ongoing behavior change campaign that was required under 2013 Permit Section S5.C.1.a.ii and S5.C.1.c. Permittees are to document lessons learned and recommendations for which option to select from the following:

1. Develop a strategy and schedule to more effectively implement the existing campaign; or
2. Develop a strategy and schedule to expand the existing campaign to a new target audience or BMPs; or
3. Develop a strategy and schedule for a new target audience and BMP behavior change campaign.

The City has identified residential vehicle maintenance as the target audience for outreach for the effectiveness evaluation and is preparing outreach tools.

Permit Section S5.C.2.a.ii(c) requires that, based on which option is selected, permittees are required, by February 1, 2021, to follow social marketing practices and methods, similar to community-based social marketing and develop a campaign that is tailored to the community, including development of a program evaluation plan. The strategy is to be implemented by April 1, 2021, based on Permit Section S5.C.2.a.ii(d). Permit Section S5.C.2.a.ii(e) requires that, by March 31, 2024, permittees are to evaluate and report on:

1. The changes in understanding and adoption of targeted behaviors resulting from the implementation of the strategy; and
2. Any planned or recommended changes to the campaign in order to be more effective; describe the strategies and process to achieve the results.

Permittees are to use the results of the evaluation to continue to direct effective methods and implementation of the ongoing behavior change program.

Theme ideas for the effectiveness evaluation could include catch basin dumping, spill reporting, car washing, leaf and sediment management, irrigation, and fertilizer application.

From the 2013 Permit, the City performs its own public education and outreach. The City will implement the social marketing strategy by April 1, 2021, and begin reporting by March 31, 2024, in accordance with the Permit timeline.

4. PUBLIC INVOLVEMENT AND PARTICIPATION

The Permit requires that permittees provide ongoing opportunities for public involvement using methods such as advisory councils, watershed committees, participation in developing rate structures, and other similar activities. The following section details the City's current and future efforts to involve the public in stormwater-related issues.

4.1 Current Public Involvement Activities

The City currently involves the public through participation in the development of the SWMP and other stormwater related policies. This method is important in fostering a sense of ownership so that the community actively participates in improving and maintaining the quality of the City's stormwater. The Permit also requires that permittees create opportunities of public involvement with the development, implementation and update of the SMAP.

4.1.1 Stormwater Policy Development

(Permit Requirements S5.C.3.a & b)

City Web Page – The City posted the 2010 SWMP Plan and Annual Report on its website and collected input from City residents in the form of written and email feedback. This input was reviewed and responded to with regards to incorporation into the City's 2010 SWMP Plan. The Permit requires the City to post their SWMP Plan and annual report no later than May 31 of each year. The City may choose to submit the updated SWMP Plan to Ecology to be posted on Ecology's website.

Orting Stormwater Public Input Group – In February 2008, the City had a public meeting and formed the Orting Stormwater Public Input Group (Group). The Group was comprised of City Council Members and members of the general public who have an interest in surface water issues. The Group reviewed and provided comments on the development and implementation of the City's SWMP. The Group was consulted regarding the development and implementation of stormwater-related issues. After completion of the 2010 SWMP Plan, the Group was no longer needed.

City Council Meetings – Residents are invited to the second and last Wednesday Council meetings each month. Those that attend can voice public comments at the Council meetings. Public hearings are also advertised. When the SWMP Plan was on the agenda for adoption by City Council, an advertisement was sent to residents prior to the meeting. The advertisement encouraged community members to voice their opinions and comments.

5. MS4 MAPPING AND DOCUMENTATION

Section S5.C.3 of the 2013 Permit required on-going mapping of the MS4 under Illicit Discharge Detection and Elimination.

Section S5.C.4.b.i of the current Permit requires that, by January 1, 2020, permittees begin to collect information regarding size and material for all known MS4 outfalls as that information is obtained during the normal course of business, such as during field screening, inspection, or maintenance. The information is to be used to update records.

Permit Section S5.C.4.b.ii requires that, by August 1, 2023, permittees complete mapping of all known connections from the MS4 to a privately-owned stormwater system.

Permit Section S5.C.4.c requires that, by August 1, 2021, permittees use an electronic format for mapping, such as Geographic Information System (GIS), Computer Aided Design (CAD) software, or other software that can map and store point, lines, polygons, and associated attributes.

The Stormwater Comprehensive Plan prepared for the City in May 2002, has a detailed stormwater system inventory for eight sub-basins delineated within the city, and a mapping system that accurately depicts the stormwater system inventory as it existed at that time.

The storm sewer system map has been updated to include detailed information regarding all stormwater infrastructure that has been added since 2002. Updates to the map include the location and labeling of all catch basins, stormwater treatment facilities, stormwater outfalls, and structural BMPs. Additionally, the City has updated the map to include information regarding the location of stormwater piping and what different type of pipe material is present. The City's mapping system also includes the location of its two receiving waters, as well as land use information. The City continues to update its stormwater map on a routine basis to ensure that it accurately depicts all known stormwater system infrastructure owned, operated, or maintained by the City. Recently, the City updated its stormwater map and implemented a GIS based mapping system. City mapping includes both public and private stormwater systems and continues to update the GIS mapping.

6. ILLICIT DISCHARGE DETECTION AND ELIMINATION

The Permit requires that the City has a program that addresses the prevention, detection, characterization, tracing, and elimination of illicit connections and discharges into its MS4. To that end, the City is required to meet several minimum performance measures related to Illicit Discharge Detection and Elimination (IDDE). The following section details the City's current and future efforts to comply with the IDDE portion of the Permit. The minimum performance measures for IDDE are summarized below:

- Current municipal storm sewer system maps.
- An ordinance or other regulatory mechanism that prohibits non-stormwater, illicit discharges to the City's storm sewer system.
- An ongoing IDDE program designed to detect and identify non-stormwater discharges and illicit connections to the City's storm sewer system.
- An ongoing program designed to address illicit discharges, including spills and illicit connections, to the City's storm sewer system.
- Training of City staff on IDDE-related subjects including identification, investigation, termination, cleanup, and reporting and responding of illicit discharges.
- Recordkeeping by the City to track and maintain records of the activities conducted to meet the IDDE requirements of this section.

6.1 IDDE Reporting and Correction

(Permit Requirement S5.C.5.a)

The Permit requires permittees to have a program with procedures to report and correct or remove IDDE sources when they are suspected or identified.

6.2 Public Education

(Permit Requirement S5.C.5.b)

The Permit requires that the City inform public employees, businesses, and the general public of the hazards associated with illicit discharges and improper disposal of waste to the City's MS4. This requirement includes distribution of appropriate information to target audiences, as well as the creation and maintenance of a public hotline for reporting spills and illicit discharges.

The City has an ongoing public education and outreach program. This program includes education regarding the hazards associated with illicit discharges and improper disposal of waste. The City issues its annual stormwater letter, which includes various stormwater educational topics such as illicit discharges and disposal of waste to the storm sewer system. Additionally, the City has created public education materials in a poster format regarding polluted stormwater runoff hazards, which is distributed to targeted audiences. The City will continue to create materials related to illicit discharges as a part of its public education and outreach program and distribute the materials as needed. The City annually attends several events in the community to promote BMPs. The City discusses the importance of maintaining the MS4s. Promotional items, such as coloring books that describe IDDEs to children, and flyers are handed out to the public. As described in the public outreach section of this plan, the City will document all public education and outreach activities.

6.3 IDDE Ordinance

(Permit Requirement S5.C.5.c)

As required by the 2007 - 2012 Permit, the City was required no later than August 16, 2009, to develop and implement an ordinance or other regulatory mechanism to effectively prohibit non-stormwater, illegal discharges, and/or dumping into the City's municipal separate storm sewer system to the maximum extent allowable under State and Federal law. The City has existing ordinances that prohibits illicit discharges to the City's storm sewer. Illicit connections and illicit discharges are defined in Orting Municipal Code (OMC) Title 9-5A-4, and OMC Titles 9-5A-9.H and -9.I prohibit illicit discharges. Inspection, enforcement, and penalties are currently regulated based on OMC Titles 9-5B-9, -10, -11, and -12.

6.4 IDDE Program Implementation

(Permit Requirements S5.C.5.d)

The Permit requires that the City develop and fully implement an ongoing program to detect, identify, and address non-stormwater discharges and illicit connections into the City's storm sewer system. The requirements for the program are multifaceted and have a range of deadlines. The following subsections detail the City's current and future efforts for complying with the IDDE program implementation portion of the Permit.

6.4.1 Field Screening Methodology

(Permit Requirement S5.C.5.d.i)

In accordance with the Permit, the City is required to implement a field screening methodology appropriate to the characteristics of the MS4. The City has developed a draft methodology for screening for illicit connections in accordance with the *Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments, Center for Watershed Protection, October 2004*. This methodology is detailed in the City's IDDE Inspection Field Manual.

The City's methodology includes completing site inspections, report writing, conducting containment and cleanup measures, and sending the report to Ecology. Public Works staff are trained and re-trained annually. Blank inspection records with Ecology contact information is kept in each public works vehicle in the event there is an IDDE to report.

Historically, the City has had an inspection program that included identification of, and response to, complaints of illicit discharges. The City has now expanded and formalized this program to include location of priority areas where potential illicit discharges may occur. Priority areas for consideration include fueling stations, auto repair facilities, restaurants, and other commercial facilities that have potential for spills and related stormwater impacts. The City has identified the area of the City-zoned mixed-use town center and the three outfalls (Outfalls 4, 5, and 6) that convey stormwater from the town center as priority areas for illicit discharge investigation. Outfall 4 discharges to the Puyallup River and is located at the Kansas Street Extension. Outfalls 5 and 6 discharge to the Carbon River. Outfall 5 is located near River Avenue NE and Outfall 6 is located near the Orting High School.

As specified in the 2007 – 2012 Permit, the City was required to prioritize receiving waters for visual inspection by February 16, 2010; and perform visual inspections of three high priority waterbodies by February 16, 2011. The City has only two receiving water bodies, the Puyallup River and the Carbon

River. These receiving waters are currently, and will continue to be, inspected visually at least annually. Additionally, while the City has only two receiving water bodies, the City will perform annual visual inspections at the three outfall locations along the Carbon River and the four outfall locations along the Puyallup River, for a total of at least seven visual inspections annually.

Note that although six additional outfall locations are present within the city limits along the Puyallup River near the Soldiers Home location. These outfalls are owned, operated, and maintained by Pierce County and will continue to be the County's responsibility with regards to Permit requirements.

Field screening for at least 40 percent of the MS4 had to be completed by December 31, 2017; and 12 percent each year thereafter. As of March 31, 2018, 100 percent of the MS4 coverage area has been screened.

6.4.2 Public Hotline

(Permit Requirement S5.C.5.d.ii)

The City maintains a hotline for reporting illicit discharges and spills. The City's public telephone number is (253) 377-0262. The hotline is connected to a City voice mailbox, which records complaints 24 hours per day, 7 days per week. The hotline is responded to during normal business hours Monday through Friday, excluding holidays. Messages left on weekends or holidays are answered on the following business day. The City maintains records of all calls received and the associated follow-up actions performed. The City will include a summary of these records in its annual report.

6.4.3 Training Program

(Permit Requirement S5.C.5.d.iii)

The Permit requires the City to have a training program for all municipal field staff who might come in to contact with an illicit discharge or connection to the MS4 during normal job activities. Public Works staff are trained on an annual basis.

6.4.4 Illicit Discharge Characterization

(Permit Requirement S5.C.5.e.i)

The City has an ongoing program of characterizing illicit discharges. This includes characterizing the potential public or environmental threat posed by any illicit discharge found by the City. The City's procedure to address the evaluation of whether the illicit discharge should be immediately contained, and steps taken for containment, are included below.

The City has an ongoing program of responding to illicit discharges which includes both complaint-based and City staff-initiated investigations. To ensure full compliance with the Permit, the City will respond within 7 days, on average, to any complaints, reports, or monitoring information that indicates a potential illicit discharge, spill, or illegal dumping to its storm sewer system. Additionally, the City will respond immediately to problems or violations that are determined to be emergencies, or otherwise characterized as urgent or severe.

6.4.5 Tracing Illicit Discharges

(Permit Requirement S5.C.5.e.ii)

The City's current program of illicit discharge investigation includes determination of illicit discharge sources. The City's program is being expanded to include the ability of camera investigation of storm sewer lines and collecting and analyzing water samples when necessary. The City will ensure that staff is trained in the usage of any new investigation and monitoring equipment that is implemented. Additionally, protocols for the usage of any new techniques will be summarized and included in the City's IDDE Inspection Field Manual.

6.4.6 Illicit Discharge Source Removal

(Permit Requirement S5.C.5.e.iii)

The City currently has procedures for removing illicit discharge sources. These procedures include notifying the responsible party and/or property owner, notification of any other authorities including Ecology, technical assistance for discharge elimination, performing follow-up inspections, and a process of escalating enforcement and legal actions if the discharge is not eliminated.

As discussed in the IDDE ordinance section above, the draft revisions to the City's ordinances give the City the legal authority to escalate enforcement actions against responsible parties. In the future, the City will initiate investigations no later than 21 days after a report or discovery of suspected illicit connections to the storm sewer system. The City will use its enforcement authority to ensure that any illicit connections are terminated within 180 days of an illicit connection being confirmed.

6.5 IDDE Training for Municipal Field Staff

(Permit Requirement S5.C.5.f)

Previous Permits required that, by August 16, 2009, permittees ensure that all field personnel responsible for identification, investigation, termination, cleanup, and reporting of IDDE-related incidents are properly trained to perform those duties. In addition, by February 16, 2010, previous Permit required that permittees develop and implement an ongoing training program for all municipal field staff that might come in to contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system. Follow-up training must be provided to address any changes in procedures, techniques, or requirements.

The City has conducted training for its field staff regarding its IDDE program and how to properly identify and address illicit discharges. The City will continue this training program for its new field personnel and continue to address updates to procedures, techniques, and requirements. The City documents and maintains records of the training provided and staff trained.

6.6 Recordkeeping

(Permit Requirement S5.C.5.g)

The City tracks and maintains records of the activities included in this section.

7. CONTROLLING RUNOFF FROM NEW DEVELOPMENT, REDEVELOPMENT, AND CONSTRUCTION SITES

The Permit has several requirements to address controlling runoff and reduce pollutants in stormwater runoff from new development, redevelopment, and construction site activities. These requirements are listed below. The following sections within this chapter detail the City's current and planned activities to comply fully with the Permit.

Requirements for controlling runoff from new development, redevelopment, and construction sites include:

- An ordinance that addresses the minimum requirements, technical thresholds, and definitions in Appendix 1 of the Permit; a site planning process and BMP selection, design, and infeasibility criteria that will protect water quality and reduce the discharge of pollutants to the maximum extent practicable (MEP) using all known, available and reasonable methods of treatment (AKART) and prevention and control; LID competing needs criteria, BMP limitations; and the legal authority to inspect and enforce maintenance standards for private stormwater facilities.
- A permitting process with plan review, inspection, and enforcement capability to meet the standards required by the Permit.
- Provisions to verify adequate long-term operation and maintenance of stormwater treatment and flow control BMPs and facilities.
- Make available all copies of the Notice of Intent (NOI) for both construction and industrial activities to representatives of proposed new development and redevelopment. The City will continue to enforce local ordinances controlling runoff from sites that are also covered by stormwater permits issued by Ecology.
- Verify that all staff responsible for implementing the program to control stormwater runoff from new development, redevelopment, and construction sites, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct those activities. Training shall be documented, and records of training maintained for staff trained.
- Incorporate and require LID principles and LID BMPs to meet LID code-related requirements.
- Identify a stormwater management strategy to result in hydrologic and water quality conditions that fully support "existing uses" and "designated uses" throughout the stream system, as defined in WAC 173-201A-020.

7.1 Stormwater Ordinances

(Permit Requirement S5.C.6.a)

The City has finalized revisions of its ordinances to incorporate requirements under the Permit with regards to controlling runoff. Title 9-5A-9 in the OMC addresses runoff from new development, redevelopment, and construction sites. Ordinance revisions have been completed for the following:

- Maintenance responsibility.
- Maintenance schedule.
- Enforcement.

- Adopting a manual equivalent to the Washington State Department of Ecology *2014 Stormwater Management Manual for Western Washington* (Ecology Manual). The 2014 Ecology Manual is currently in the process of being reviewed for adoption. The OMC is being updated to reflect LID implementation.
- Thresholds for stormwater management and stormwater site plan preparation and review.

7.2 Stormwater Permitting Process

(Permit Requirement S5.C.6.b)

The City's stormwater program contains a permitting process that includes plan review, inspection, and enforcement capability.

Plan review of stormwater site plans for proposed development activities is performed by the City's engineers. The City inspects all development and construction sites for compliance with BMPs, Stormwater Pollution Prevention Plans (SWPPPs), and stormwater rules.

Permitted development sites are inspected prior to, during, and after construction. All permitted development sites with a high potential for sediment transport are inspected prior to clearing and construction. All permitted development sites are inspected during construction to ensure proper installation and maintenance of required erosion and sediment controls. Additionally, permitted sites are inspected upon completion of construction to ensure that stormwater facilities and BMPs are in place. Any noncompliance discovered during inspections is addressed through enforcement activities as needed. Site inspection conditions are documented on a Site Inspection Checklist. Hard copies of inspection reports are maintained by the City. Notices of Intent (NOIs) are submitted by the applicant to Ecology, and copies of these NOIs are maintained by the City.

7.3 Verification of Long-Term Operation and Maintenance of Post-Construction Stormwater Facilities and BMPS

(Permit Requirement S5.C.6.c)

The City has adopted ordinances which include maintenance responsibility, maintenance schedules, and enforcement procedures related to post-construction stormwater facilities and BMPs. The City has adopted maintenance standards for stormwater facilities as specified in the Ecology Manual. Annual inspections are performed on all stormwater treatment and flow control facilities unless maintenance records are available that justify alternative inspection frequencies. Additionally, new flow control and water quality treatment facilities are conducted every 6 months during the period of heaviest house construction to determine maintenance needs and to enforce maintenance standards.

Per the requirements in the Permit, maintenance is performed after an inspection identifies an exceedance of the maintenance standard with the following timeframes: within 1 year for typical maintenance facilities, within 6 months for catch basins, and within 2 years for maintenance that requires capital construction of less than \$25,000.

City staff performs inspections at new development, redevelopment, and construction sites. Site inspection conditions are documented on a Site Inspection Checklist. Hard copies of inspection reports are maintained by the City. A sample Ecology Construction Stormwater Site Inspection Form is attached as Appendix C.

7.4 Notices for Stormwater-Related Activities

(Permit Requirement S5.C.6.d)

The City maintains copies of the “Notice of Intent for Construction Activities” and “Notice of Intent for Industrial Activities.” The City provides copies of NOIs to representatives of proposed new development and redevelopment activities.

7.5 Staff Training

(Permit Requirement S5.C.6.e)

The City maintains a Certified Erosion and Sediment Control Lead (CESCL) for conducting inspections of stormwater control facilities at new development, redevelopment, and construction sites. The City also employs trained contract construction observers during construction activities, who work under the oversight of City staff. All staff responsible for stormwater runoff control activities, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. The City documents and maintains records of the training provided and the staff trained.

8. POLLUTION PREVENTION AND OPERATION AND MAINTENANCE FOR MUNICIPAL OPERATIONS

The Permit requires the following to address pollution prevention and operation and maintenance for its municipal operations:

- Establish maintenance standards that are as protective, or more protective, of facility function than those specified in the *Stormwater Management Manual for Western Washington* or a stormwater manual for a Phase 1 permittee that has been approved by Ecology. Maintenance shall be performed within the timelines as described in S5.C.7.a.ii of the Permit.
- Annually inspect all municipally owned or operated permanent stormwater treatment and flow control facilities, other than catch basins, and facilities that were permitted by the City.
- Conduct spot checks of potentially damaged permanent treatment and flow control facilities after major storm events (greater than 24-hour, 10-year recurrence interval rainfall). If spot checks reveal widespread damage/maintenance needs, inspect all stormwater treatment and flow control facilities that may be affected.
- Inspect all catch basins and inlets owned or operated by the City every 2 years. Clean the catch basins, if needed, based on inspection to comply with the Ecology Manual maintenance standards.
- Inspect at least 95 percent of all sites where inspection is required (according to the above) either cyclically or storm event related as described above.
- Establish and implement practices to reduce stormwater impacts associated with runoff from all lands owned or maintained by the City and road maintenance activities conducted by the City. This includes streets, parking lots, roads, highways, buildings, parks, open space, road rights-of-way, maintenance yards, and stormwater treatment and flow control BMPs and facilities.
- Develop and implement an ongoing training program for employees of the City whose construction, operations, or maintenance job functions may impact stormwater quality. Follow-up training shall be provided as needed to address changes in procedures, techniques, or requirements.
- Develop and implement a SWPPP for all heavy equipment maintenance or storage yards, and material storage facilities owned or operated by the City in areas that are not required to have coverage under another authorizing NPDES permit.
- Records of inspections and maintenance or repair activities conducted by the City shall be documented.

The City has a proactive maintenance program, which involves periodic, routine maintenance of all stormwater treatment and conveyance structures including storm drains, catch basins, stormwater ponds, stormwater pipe, and outfalls. The following information details the City's current pollution prevention and operations and maintenance activities, as well as future actions that the City may implement to ensure continuance of effective stormwater treatment.

8.1 Maintenance Standards

(Permit Requirement S5.C.7.a.ii)

The City has adopted maintenance standards for stormwater treatment facilities through adoption and implementation of Volume V, Chapter 4 of the 2012 (amended 2014) Ecology Manual. These standards are followed for all routine operation and maintenance activities performed at City stormwater treatment facilities. Maintenance is performed per Permit requirements within 1 year for typical maintenance facilities, within 6 months for catch basins, and within 2 years for maintenance that requires less than \$25,000 in capital construction. The maintenance standards will be reviewed and updated as required as the City reviews the 2014 Ecology Manual or equivalent for adoption.

The Permit requires that, by June 30, 2022, permittees update their maintenance standards to meet the maintenance requirements of the Permit. Maintenance standards have been adopted by the City through adoption of the following standards in OMC 9-5A-9.A through D:

- The 2019 City of Orting Stormwater Management Manual Amendment;
- The 2012 *Stormwater Management Manual for Western Washington* as amended in 2014;
- The currently-adopted City of Orting Development Standards;
- The 2012 *Low Impact Development Technical Guidance Manual for Puget Sound*;
- The 2013 *Rain Garden Handbook for Western Washington*.

8.2 Annual Inspections

(Permit Requirement S5.C.7.b.i.(b))

All 23 City owned or operated stormwater treatment facilities, excluding catch basins, are inspected at least annually. All stormwater retention/detention ponds are inspected and maintained at least twice during the summer. Stormwater outfalls are inspected annually in the fall before the start of the wet season, and during and after major storm events. Photographs of the outfalls are taken on a regular basis. Site investigations at all stormwater facilities are documented on inspection forms and maintained at the public works building. The City has implemented an electronic database of inspection and maintenance or repair activities at City owned or maintained stormwater facilities. The use of a database aids in tracking past operation and maintenance activities, as well as helping to dictate future facility inspection schedules.

The Permit also requires provisions to verify maintenance and inspection of stormwater facilities that are permitted and constructed and that discharge into the City's MS4. The provisions are to include:

Implementation of an ordinance or other enforceable mechanism that:

- Clearly identifies the party responsible for maintenance in accordance with the required maintenance standards.
- Requires inspection of facilities in accordance with the Permit requirements in S5.C.7.b.i.(b).
- Establishes enforcement procedures.

The Permit requires annual inspection of the stormwater facilities for facilities that were permitted with requirements of the NPDES Phase II Permit beginning in 2007. The Permit includes provisions that can allow for a different inspection frequency. The inspection program is to achieve at least 80 percent of

the required inspections. The program is also to include a procedure for keeping records of inspections and enforcement actions. The City does have a program to inspect privately-owned facilities that are privately maintained and to send out notification of items to be addressed.

The City requires that property owners and those in control of property maintain private systems per OMC 9-5B-8.D. The City can perform inspection and enforcement through OMC 9-5B-10. However, the OMC does not appear to require that records be submitted to the City for inspection and maintenance by private property owners or those in control of property.

8.3 Spot Checks

(Permit Requirement S5.C.7.c)

The City performs spot checks on treatment and flow facilities after major storm events. Any problems noted with facilities after these events are addressed as quickly as possible. If the spot checks indicate widespread damage or maintenance needs, all the potentially affected facilities are inspected.

8.4 Catch Basin Inspections

(Permit Requirement S5.C.7.c.iii)

The City inspected all 1,547 catch basins as required by the prior Permit and will continue to monitor every 2 years. The City has updated its stormwater facilities map, which includes all catch basin locations. The updated map categorizes stormwater facilities by basin and the City is now performing inspections by drainage basin.

8.5 Inspection Requirement Compliance

(Permit Requirement S5.C.7.c.iv)

The City currently inspects at least 95 percent of its stormwater facilities annually. As mentioned in the previous subsection, the City now performs inspections by drainage basin, which improves inspection efficiency and further ensures that the 95-percent inspection goal is met annually.

8.6 Stormwater Impact Reduction Practices

(Permit Requirement S5.C.7.f)

The City has methods in place to reduce stormwater impacts associated with runoff from lands owned or maintained by the City including streets, parking lots, roads, and highways. These practices include periodic street cleaning, pipe cleaning, ditch maintenance, dust control, and cleaning of culverts that convey stormwater in ditch systems. Records of these types of activities are tracked and maintained at the public works building. In order to ensure full compliance with the Permit, the City will continue to assess the need for further stormwater impact reduction practices including, but not limited to, road repair and resurfacing, snow and ice control, utility installation, pavement striping maintenance, and roadside area maintenance.

The Permit requires that, by December 31, 2022, permittees document the practices, policies, and procedures. As noted above, the City has been compiling documentation related to stormwater impact reduction practices and will continue to do so as required by the Permit.

8.7 Ongoing Training Program Development and Implementation

(Permit Requirement S5.C.7.e)

City staff currently receives training regarding stormwater control via on-the-job training. The City has developed a formalized training program to educate workers who perform job functions that may impact stormwater quality and has conducted training for its staff. Additionally, the City will perform training as needed to address changes in procedures, techniques, or requirements. The City documents and maintains records of staff training.

8.8 Stormwater Pollution Prevention Plans (SWPPPS)

(Permit Requirement S5.C.7.f)

The City has developed and implemented SWPPPS for the City's maintenance yard, WWTP, City Shop, and City Hall. The SWPPPS will be followed by the City to ensure that activities conducted in these areas do not adversely impact stormwater quality.

8.9 Inspections and Maintenance/Repair Recordkeeping

(Permit Requirement S5.C.7.g)

The City maintains logs for all inspection and maintenance actions performed at City owned and operated stormwater facilities. The City maintains an electronic database of these activities. The use of the database aids in tracking past operation and maintenance activities, as well as helps dictate future facility inspection schedules.

9. SOURCE CONTROL PROGRAM FOR EXISTING DEVELOPMENT

9.1 Source Control Program Requirements

(Permit Section S5.C.8.a)

The Permit requires permittees to implement a program to prevent and reduce pollutants in runoff from areas that discharge into the MS4. Requirements of the source control program are summarized below:

- Operational source control BMPs, structural source control BMPs, and/or treatment BMPs as required to pollution generating sources associated with existing land uses and activities;
- Inspection of pollution generating sources for both publicly- and privately-owned institutional, commercial, and industrial sites to enforce implementation of the required BMPs;
- Application and enforcement of local ordinance at sites, identified as discussed below, including sites covered under a separate NPDES permit;
- Practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizers from the sites identified in the inventory.

9.2 Source Control Ordinance

(Permit Section S5.C.8.b.i)

By August 1, 2022, the City is required to adopt and make effective an ordinance or other enforceable document required source control BMPs for pollution-generating sources associated with existing land uses and activities. Businesses and activities within the City that may require source control BMPs are summarized in Table 9-1 below. See Appendix D for a full list from Permit Appendix 8 of existing land uses and activities that may require source control BMPs.

Table 9-1. Applicable Sites Potentially Requiring Source Control BMPs

| Activity | SIC ¹ Major Group | SIC Industry Group Number | NAICS ² Major Group |
|---|------------------------------|---------------------------|--------------------------------|
| Construction of Buildings | 15 | | 236 |
| Specialty Trade Contractors | 17 | | 238 |
| Beverage, Food, and Tobacco Manufacturing | 20 | | 311, 312 |
| Utilities | 49 | | 2211xx |
| Building Materials, Hardware, Garden Supplies Dealers | | 521, 523, 526 | 444 |
| Food and Beverage Stores | 54 | | 445 |
| Automotive Dealers and Gasoline Service Stations | 55 | | 441, 447 |
| Food Services and Drinking Places | 58 | | 722 |

| Activity | SIC ¹ Major Group | SIC Industry Group Number | NAICS ² Major Group |
|--|------------------------------|---------------------------|---|
| Repair and Maintenance | 75 | | 811192, 8111xx, 8112xx, 8113xx, 8114xx |
| Ambulatory Health Care Services and Hospitals | | 806, 807 | 621910 |
| Educational Services | 82 | | 6111xx, 6112xx, 6113xx, 6115xx |
| Museums, Historical Sites, and Similar Institutions | | 842 | 712 |

¹ SIC: Standard Industrial Classification

² NAICS: North American Industry Classification System

Source control BMPs can be found in Ecology’s Stormwater Management Manual for Western Washington Volume IV or in stormwater manuals developed by permittees that are covered under the NPDES Phase I Permit.

The City has not prepared the required source control ordinance yet but will do so by August 1, 2022.

9.3 Source Control Program Inventory

(Permit Section S5.C.8.b.ii)

The Permit requires that, by August 1, 2022, the City is to develop an inventory that identifies publicly and privately owned institutional, commercial, and industrial sites that could potentially discharge pollutants into the City’s MS4. The inventory is to include:

- Businesses and/or sites identified based on the presence of activities that are pollution generating as identified above;
- Other pollution generating sources, based on complaint response, such as home-based businesses and multi-family sites.

The City has prepared a source control inventory and will be developing a written source control inspection program by January 1, 2023. The City will update its codes for source control enforcement by January 1, 2023.

9.4 Source Control Inspection Program

(Permit Section S5.C.8.b.iii)

The Permit requires that, by January 1, 2023, the City is to implement an inspection program for the sited identified above. The City is to provide information about activities that may generate pollutants and the source control requirements applicable to those activities. See Permit Section S5.C in Appendix A for additional inspection requirements.

The City has not implemented a source control inspection program yet but will do so by January 1, 2023.

9.5 Source Control Enforcement

(Permit Section S5.C.8.b.iv)

The Permit requires that, by January 1, 2023, the City is required to implement a progressive enforcement policy that includes the following:

- If the City determines that a site has failed to adequately implement required BMPs, the City is to take appropriate follow-up action(s), which may include phone calls, reminder letters, emails, or follow-up inspections.
- If the City determines that a site has failed to adequately implement BMPs after a follow-up inspection(s), the City is to take enforcement action as established through authority in its municipal codes or ordinances, or through the judicial system.
- The City is to maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring sites into compliance. The City is also to maintain records of sites that are not inspected because the property owner denies entry.
- The City can also refer non-emergency violations of local ordinances to Ecology if the City has made a documented effort of progressive enforcement. The minimum progressive enforcement effort is to include documentation of inspections and warning letters or notices of violation.

The City has not yet implemented a progressive source control enforcement policy yet but will do so by January 1, 2023.

9.6 Source Control Training

(Permit Section S5.C.8.b.v)

The City is also required to implement an on-going training program for staff who are responsible for implementing the source control program. The training is to cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement procedures. Follow-up training is to be provided as needed to address changes, such as changes in procedures, techniques, requirements, or staff. The City is to document and maintain records of the training.

The City has not yet implemented the on-going source control program training but is planning to do.

10. PERMIT SECTION S4 – COMPLIANCE WITH STANDARDS

Permit Section S4.F identifies actions required by permittees if there is a discharge into waters of the state that would violate surface water quality standards, groundwater quality standards, sediment management standards, or human health-based criteria. If there is a prohibited discharge, permittees are to notify Ecology. After Ecology reviews the notification, Ecology may determine that an Adaptive Management Response is required. If an Adaptive Management Response is required, the permittee is required to review its SWMP and submit a report to Ecology in accordance with Permit Section S4.F.3. The report is to include the following:

- A description of the operational and/or structural BMPs that are currently being implemented to prevent or reduce any pollutants that are causing or contributing to the violation of Water Quality Standards, including a qualitative assessment of the effectiveness of each Best Management Practice (BMP).
- A description of potential additional operational and/or structural BMPs that will or may be implemented in order to apply AKART on a site-specific basis to prevent or reduce any pollutants that are causing or contributing to the violation of Water Quality Standards.
- A description of the potential monitoring or other assessment and evaluation efforts that will or may be implemented to monitor, assess, or evaluate the effectiveness of the additional BMPs.
- A schedule for implementing the additional BMPs including, as appropriate: funding, training, purchasing, construction, monitoring, and other assessment and evaluation components of implementation.

After the report is reviewed and finalized, each annual report is to summarize the status of implementing the Adaptive Management Response and the results of any monitoring, assessments or evaluations that were required to be performed.

There have been no discharges from the City's MS4 that have resulted in a violation requiring Ecology notification and an Adaptive Management Response.

11. PERMIT SECTION S7 – COMPLIANCE WITH TMDL REQUIREMENTS

Permit Appendix 2 identifies the waterbodies with TMDLs applicable to NPDES Phase II permittees. Although Permit Appendix 2 lists 20 TMDLs, including one for the Puyallup River, there are no TMDL requirements applicable to the City. The TMDL for the Puyallup River is for fecal coliform. The applicable MS4 permittees identified in the Permit are King and Pierce counties and the cities of Auburn, Edgewood, Enumclaw, Puyallup, and Sumner. The waterbodies identified for TMDL actions are downstream of Orting.

12. PERMIT SECTION S8 – MONITORING AND ASSESSMENT

12.1 Regional Status and Trends Monitoring

Regional Status and Trends Monitoring was a requirement in the prior Permit. Permittees had the option to either pay into a fund to support a regional monitoring program or to develop a monitoring plans specifically for the permittee’s Permit coverage area. The City chose to participate in the regional program and has notified Ecology. The City has submitted payments to Ecology. Required payments into the regional fund are summarized in Table 12-1 below.

Table 12-1. Required Payments Into the Regional Fund

| Permit | Permit Section | Purpose | Amount | Due |
|----------------|------------------------|---|---------|--|
| 2013 | S8.B.1 | Status and Trends Monitoring | \$1,525 | August 15, 2014, and annually thereafter |
| Current | S8.A.1 | Status and Trends Monitoring – one-time payment for small streams and marine nearshore areas monitoring | Unclear | December 1, 2019 |
| Current Permit | S8.A.2; Appendix 11 | Status and Trends Monitoring | \$1,296 | August 15, 2014, and annually thereafter |
| 2013 | S8.D | Source identification and diagnostic monitoring (RSMP SIDIR) | \$236 | August 15, 2014, and annually thereafter |

12.2 SWMP Effectiveness and Source Identification Studies

SWMP effectiveness and source identification studies in the prior permit also allowed for permittees to either pay into a fund to support regional studies or to develop a study specifically for the permittee’s Permit coverage area. The City chose to participate in the regional study and has notified Ecology. The City has been submitting payments to Ecology. Required payments into the SWMP effectiveness study are summarized in Table 12-2 below.

Table 12-2. Required Payments into the SWMP Effectiveness Study

| Permit | Permit Section | Purpose | Amount | Due |
|----------------|------------------------|--|---------|--|
| 2013 | S8.C.1 | Effectiveness Study | \$2,541 | August 15, 2014, and annually thereafter |
| Current permit | S8.B.1 | Effectiveness study – one-time payment | Unclear | 12/1/19 |
| Current permit | S8.B.2; Appendix 11 | Effectiveness study – annual payment | \$2,368 | 8/15/2020, and annually thereafter |

Based on Permit Section S8.3, records of SWMP activities and associated tracked data is to be submitted to Ecology upon request.

Appendix A

Permit Section S5



S5. STORMWATER MANAGEMENT PROGRAM FOR CITIES, TOWNS, AND COUNTIES

- A.** Each Permittee shall develop and implement a Stormwater Management Program (SWMP). A SWMP is a set of actions and activities comprising the components listed in S5 and any additional actions necessary, to meet the requirements of applicable TMDLs pursuant to S7 – *Compliance with Total Maximum Daily Load Requirements* and S8 – *Monitoring and Assessment*. This Section applies to all cities, towns, and counties covered under this Permit (termed as “Permittee,” including cities, towns, and counties that are Co-Permittees).

New Permittees subject to this Permit, as described in S1.D.1.b, shall fully meet the requirements in S5 as modified in footnotes below, or as specified in an alternate schedule as a condition of coverage by Ecology. Permittees obtaining coverage after the issuance date of this Permit shall fully meet the requirements in S5 as specified in an alternate schedule as a condition of coverage by Ecology.

- 1.** At a minimum, the Permittee’s SWMP shall be implemented throughout the geographic area subject to this Permit as described in S1.A.¹
- 2.** Each Permittee shall prepare written documentation of the SWMP, called the SWMP Plan. The SWMP Plan shall be organized according to the program components in S5.C or a

¹ New Permittees shall fully develop and implement the SWMP in accordance with the schedules contained in this Section no later than February 2, 2024.

format approved by Ecology, and shall be updated at least annually for submittal with the Permittee's annual reports to Ecology (see S9 – *Reporting Requirements*). The SWMP Plan shall be written to inform the public of the planned SWMP activities for the upcoming calendar year, and shall include a description of:

- a. Planned activities for each of the program components included in S5.C.
 - b. Any additional planned actions to meet the requirements of applicable TMDLs pursuant to S7– *Compliance with Total Maximum Daily Load Requirements*.
 - c. Any additional planned actions to meet the requirements of S8 – *Monitoring and Assessment*.
- 3.** The SWMP shall include an ongoing program for gathering, tracking, maintaining, and using information to evaluate SWMP development, implementation, and permit compliance and to set priorities.
- a. Each Permittee shall track the cost or estimated cost of development and implementation of each component of the SWMP.² This information shall be provided to Ecology upon request.
 - b. Each Permittee shall track the number of inspections, follow-up actions as a result of inspections, official enforcement actions and types of public education activities as required by the respective program component. This information shall be included in the annual report.
- 4.** Permittees shall continue implementation of existing stormwater management programs until they begin implementation of the updated stormwater management program in accordance with the terms of this Permit, including implementation schedules.
- 5.** Coordination among Permittees
- a. Coordination among entities covered under municipal stormwater NPDES permits may be necessary to comply with certain conditions of the SWMP. The SWMP shall include, when needed, coordination mechanisms among entities covered under a municipal stormwater NPDES permit to encourage coordinated stormwater-related policies, programs and projects within adjoining or shared areas, including:
 - i. Coordination mechanisms clarifying roles and responsibilities for the control of pollutants between physically interconnected MS4s covered by a municipal stormwater permit.
 - ii. Coordinating stormwater management activities for shared water bodies, or watersheds among Permittees to avoid conflicting plans, policies, and regulations.
 - b. The SWMP shall include coordination mechanisms among departments within each jurisdiction to eliminate barriers to compliance with the terms of this Permit. Permittees shall include a written description of internal coordination mechanisms in the Annual Report due no later than March 31, 2021.

² New Permittees shall begin implementing the requirements of S5.A.3.a, no later than August 1, 2021.

- B. The SWMP shall be designed to reduce the discharge of pollutants from regulated small MS4s to the MEP, meet state AKART requirements, and protect water quality.
- C. The SWMP shall include the components listed below. To the extent allowable under state or federal law, all components are mandatory for city, town, or county Permittees covered under this Permit.

1. Stormwater planning

Each Permittee shall implement a Stormwater Planning program to inform and assist in the development of policies and strategies as water quality management tools to protect receiving waters.

The minimum performance measures are:

- a. By **August 1, 2020**, each Permittee shall convene an inter-disciplinary team to inform and assist in the development, progress, and influence of this program.
- b. Coordination with long-range plan updates.
 - i. Each Permittee shall describe how stormwater management needs and protection/improvement of receiving water health are (or are not) informing the planning update processes and influencing policies and implementation strategies in their jurisdiction. The report shall describe the water quality and watershed protection policies, strategies, codes, and other measures intended to protect and improve local receiving water health through planning, or taking into account stormwater management needs or limitations.
 - (a) **On or before March 31, 2021**, the Permittee shall respond to the series of Stormwater Planning Annual Report questions to describe how anticipated stormwater impacts on water quality were addressed, if at all, during the 2013-2019 permit term in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated, long-range land use plans that are used to accommodate growth or transportation.
 - (b) On or before **January 1, 2023**, the Permittee shall submit a report responding to the same questions included in (a), above, to describe how water quality is being addressed, if at all, during this permit term in updates to the Comprehensive Plan (or equivalent) and in other locally initiated or state-mandated, long-range land use plans that are used to accommodate growth or transportation.
- c. Low impact development code-related requirements.
 - i. Permittees shall continue to require LID Principles and LID BMPs when updating, revising, and developing new local development-related codes, rules, standards, or other enforceable documents, as needed.

The intent shall be to make LID the preferred and commonly-used approach to site development. The local development-related codes, rules, standards, or other enforceable documents shall be designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations, where feasible.

- (a) Annually, each Permittee shall assess and document any newly identified administrative or regulatory barriers to implementation of LID Principles or LID BMPs since local codes were updated in accordance with the 2013 Permit, and the measures developed to address the barriers. If applicable, the report shall describe mechanisms adopted to encourage or require implementation of LID principles or LID BMPs.
- ii. By December 31, 2023, New Permittees shall review, revise, and make effective their local development-related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and LID BMPs. New Permittees shall conduct a similar review and revision process, and consider the range of issues, outlined in the following document: *Integrating LID into Local Codes: A Guidebook for Local Governments* (Puget Sound Partnership, 2012).

New Permittees shall submit a summary of the results of the review and revision process with the annual report due no later than March 31, 2024. This summary shall be in the required format described in Appendix 5 and include, at a minimum, a list of the participants (job title, brief job description, and department represented), the codes, rules, standards, and other enforceable documents reviewed, and the revisions made to those documents which incorporate and require LID principles and LID BMPs. The summary shall include existing requirements for LID principles and LID BMPs in development-related codes. The summary must be organized as follows:

- (a) Measures to minimize impervious surfaces.
- (b) Measures to minimize loss of native vegetation.
- (c) Other measures to minimize stormwater runoff.
- d. Stormwater Management Action Planning³ (SMAP). Permittees shall conduct a similar process and consider the range of issues outlined in the *Stormwater Management Action Planning Guidance* (Ecology, 2019; Publication 19-10-010). Permittees may rely on another jurisdiction to meet all or part of SMAP requirements at a watershed-scale, provided a SMAP is completed for at least one priority catchment located within the Permittee's jurisdiction.
 - i. *Receiving Water Assessment*. Permittees shall document and assess existing information related to their local receiving waters and contributing area conditions to identify which receiving waters are most likely to benefit from stormwater management planning.

By March 31, 2022, Permittees shall submit a watershed inventory and include a brief description of the relative conditions of the receiving waters and the contributing areas. The watershed inventory shall be submitted as a table with each receiving water name, its total watershed area, the percent of the total watershed area that is in the Permittee's jurisdiction, and the findings of the stormwater management influence assessment for each basin. Indicate which

³ New Permittees are exempt from S5.C.1.d. for this permit term.

receiving waters will be included in the S5.C.1.d.ii prioritization process. Include a map of the delineated basins with references to the watershed inventory table.

- (a) Identify which basins are expected to have a relatively low Stormwater Management Influence for SMAP. See the guidance document for definition and description of this assessment.

Basins having relatively low expected Stormwater Management Influence for SMAP do not need to be included in S5.C.1.d.ii-iii.

- ii. *Receiving Water Prioritization.* Informed by the assessment of receiving water conditions in (i), above, and other local and regional information, Permittees shall develop and implement a prioritization method and process to determine which receiving waters will receive the most benefit from implementation of stormwater facility retrofits, tailored implementation of SWMP actions, and other land/development management actions (different than the existing new and redevelopment requirements). The retrofits and actions shall be designed to: 1) conserve, protect, or restore receiving waters through stormwater and land management strategies that act as water quality management tools, 2) reduce pollutant loading, and 3) address hydrologic impacts from existing development as well as planned for and expected future buildout conditions.

No later than June 30, 2022, document the prioritized and ranked list of receiving waters.

- (a) The Permittee shall document the priority ranking process used to identify high priority receiving waters. The Permittee may reference existing local watershed management plan(s) as source(s) of information or rationale for the prioritization.
- (b) The ranking process shall include the identification of high priority catchment area(s) for focus of the Stormwater Management Action Plan (SMAP) in (iii), below.

- iii. Stormwater Management Action Plan (SMAP). No later than March 31, 2023, Permittees shall develop a SMAP for at least one high priority catchment area from (ii), above, that identifies all of the following:

- (a) A description of the stormwater facility retrofits needed for the area, including the BMP types and preferred locations.
- (b) Land management/development strategies and/or actions identified for water quality management.
- (c) Targeted, enhanced, or customized implementation of stormwater management actions related to permit sections within S5, including:
- IDDE field screening,
 - Prioritization of Source Control inspections,
 - O&M inspections or enhanced maintenance, or
 - Public Education and Outreach behavior change programs.

Identified actions shall support other specifically identified stormwater management strategies and actions for the basin overall, or for the catchment area in particular.

- (d) If applicable, identification of changes needed to local long-range plans, to address SMAP priorities.
- (e) A proposed implementation schedule and budget sources for:
 - Short-term actions (*i.e.*, actions to be accomplished within six years), and
 - Long-term actions (*i.e.*, actions to be accomplished within seven to 20 years).
- (f) A process and schedule to provide future assessment and feedback to improve the planning process and implementation of procedures or projects.

2. Public Education and Outreach

The SWMP shall include an education and outreach program designed to:

- Build general awareness about methods to address and reduce impacts from stormwater runoff.
- Effect behavior change to reduce or eliminate behaviors and practices that cause or contribute to adverse stormwater impacts.
- Create stewardship opportunities that encourages community engagement in addressing the impacts from stormwater runoff.

Permittees may choose to meet these requirements individually or as a member of a regional group. Regional collaboration on general awareness or behavior change programs, or both, includes Permittees developing a consistent message, determining best methods for communicating the message, and when appropriate, creating strategies to effect behavior change. If a Permittee chooses to adopt one or more elements of a regional program, the Permittee should participate in the regional group and shall implement the adopted element(s) of the regional program in the local jurisdiction.

The minimum performance measures are:

- a. Each Permittee shall implement an education and outreach program for the area served by the MS4. The program design shall be based on local water quality information and target audience characteristics to identify high priority target audiences, subject areas, and/or BMPs. Based on the target audience's demographic, the Permittee shall consider delivering its selected messages in language(s) other than English, as appropriate to the target audience. ⁴
 - i. **General awareness.** To build general awareness, Permittees shall annually select at a minimum one target audience and one subject area from either (a) or (b):
 - (a) *Target audiences:* General public (including overburdened communities, or school age children) or businesses (including home-based, or mobile businesses). Subject areas:

⁴ New Permittees shall begin implementing the requirements of S5.C.2 no later than August 1, 2021.

- General impacts of stormwater on surface waters, including impacts from impervious surfaces.
 - Low impact development (LID) principles and LID BMPs.
- (b) *Target audiences:* Engineers, contractors, developers, or land use planners.
Subject areas:
- Technical standards for stormwater site and erosion control plans.
 - LID principles and LID BMPs.
 - Stormwater treatment and flow control BMPs/facilities
- (c) Permittees shall provide subject area information to the target audience on an ongoing or strategic schedule.
- ii. **Behavior change.** To affect behavior change, Permittees shall select, at a minimum, one target audience and one BMP.
- (a) *Target Audiences:* Residents, landscapers, property managers/owners, developers, school age children, or businesses (including home-based or mobile businesses).
- BMPs:*
- Use and storage of: pesticides, fertilizers, and/or other household chemicals.
 - Use and storage of: automotive chemicals, hazardous cleaning supplies, carwash soaps, and/or other hazardous materials.
 - Prevention of illicit discharges.
 - Yard care techniques protective of water quality.
 - Carpet cleaning.
 - Repair and maintenance BMPs for: vehicles, equipment, and/or home/buildings.
 - Pet waste management and disposal.
 - LID Principles and LID BMPs.
 - Stormwater facility maintenance, including LID facilities.
 - Dumpster and trash compactor maintenance.
 - Litter and debris prevention.
 - Sediment and erosion control.
 - (Audience specific) Source control BMPs (refer to S5.C.8).
 - (Audience specific) Locally-important, municipal stormwater-related subject area.
- (b) No later than July 1, 2020, each Permittee shall conduct a new evaluation of the effectiveness of an ongoing behavior change campaign (required under S5.C.1.a.ii and S5.C.1.c of the 2013 Permit). Permittees shall document lessons learned and recommendations for which option to select from S5.C.2.a.ii.(c).

Permittees that select option S5.C.2.a.ii.(c)3, below, may forgo this evaluation if it will not add value to the overall behavior change program.

- (c) Based on the recommendation from S5.C.2.a.ii.(b), **by February 1, 2021**, each Permittee shall follow social marketing practices and methods, similar to community-based social marketing, and develop a campaign that is tailored to the community, including development of a program evaluation plan. Each Permittee shall:⁵
 - 1. Develop a strategy and schedule to more effectively implement the existing campaign; or
 - 2. Develop a strategy and schedule to expand the existing campaign to a new target audience or BMPs; or
 - 3. Develop a strategy and schedule for a new target audience and BMP behavior change campaign.
- (d) **No later than April 1, 2021**, begin to implement the strategy developed in S5.C.2.a.ii.(c).⁶
- (e) **No later than March 31, 2024**, evaluate and report on:
 - 1. The changes in understanding and adoption of targeted behaviors resulting from the implementation of the strategy; and
 - 2. Any planned or recommended changes to the campaign in order to be more effective; describe the strategies and process to achieve the results.
- (f) Permittees shall use results of the evaluation to continue to direct effective methods and implementation of the ongoing behavior change program.
- iii. Stewardship. Each Permittee shall provide and advertise stewardship opportunities and/or partner with existing organizations (including non-permittees) to encourage residents to participate in activities or events planned and organized within the community, such as: stream teams, storm drain marking, volunteer monitoring, riparian plantings, and education activities.

3. Public Involvement and Participation

Permittees shall provide ongoing opportunities for public involvement and participation through advisory councils, public hearings, watershed committees, participation in developing rate-structures or other similar activities. Each Permittee shall comply with applicable state and local public notice requirements when developing elements of the SWMP and SMAP.

The minimum performance measures are:

- a. Permittees shall create opportunities for the public, including overburdened communities, to participate in the decision-making processes involving the development, implementation and update of the Permittee's SMAP and SWMP.⁷

⁵ No later than August 1, 2021, new Permittees shall follow social marketing practices and methods, similar to Community-Based Social Marketing, to develop a behavior change program that is tailored to the community.

⁶ No later than October 1, 2021, New Permittees shall begin to implement the strategy developed in S5.C.2.a.ii.(c).

⁷ New Permittees shall develop and begin to implement requirements according to S5.C.3.a no later than August 1, 2020. New Permittees are exempt from SMAP this permit term.

- b. Each Permittee shall post on their website their SWMP Plan and the annual report, required under S9.A, no later than May 31 each year. All other submittals shall be available to the public upon request. To comply with the posting requirement, a Permittee that does not maintain a website may submit the updated SWMP in electronic format to Ecology for posting on Ecology's website.

4. MS4 Mapping and Documentation

The SWMP shall include an ongoing program for mapping and documenting the MS4.⁸

The minimum performance measures are:

- a. *Ongoing Mapping*: Each Permittee shall maintain mapping data for the features listed below:
 - i. Known MS4 outfalls and known MS4 discharge points.
 - ii. Receiving waters, other than groundwater.
 - iii. Stormwater treatment and flow control BMPs/facilities owned or operated by the Permittee.
 - iv. Geographic areas served by the Permittee's MS4 that do not discharge stormwater to surface waters.
 - v. Tributary conveyances to all known outfalls and discharge points with a 24 inch nominal diameter or larger, or an equivalent cross-sectional area for non-pipe systems. The following features or attributes (or both) shall be mapped:
 - (a) Tributary conveyance type, material, and size where known.
 - (b) Associated drainage areas.
 - (c) Land use.
 - vi. Connections between the MS4 owned or operated by the Permittee and other municipalities or public entities.
 - vii. All connections to the MS4 authorized or allowed by the Permittee after February 16, 2007.^{9,10}
- b. *New Mapping*: Each Permittee shall:
 - i. No later than **January 1, 2020**, begin to collect size and material for all known MS4 outfalls during normal course of business (e.g. during field screening, inspection, or maintenance) and update records.
 - ii. No later than **August 1, 2023**, complete mapping of all known connections from the MS4 to a privately owned stormwater system.

⁸ New Permittees shall meet the requirements to map the MS4 according to S5.C.4. no later than February 2, 2024, except where otherwise noted in this Section.

⁹ New Permittees shall meet the requirements of S5.C.4.a.vii after August 1, 2019, for all connections to the MS4 authorized after August 1, 2019.

¹⁰ Permittees do not need to map the following residential connections: individual driveways, sump pumps, or roof downspouts.

- c. No later than August 1, 2021, the required format for mapping is electronic (e.g. Geographic Information System, CAD drawings, or other software that can map and store points, lines, polygons, and associated attributes), with fully described mapping standards.
- d. To the extent consistent with national security laws and directives, each Permittee shall make available to Ecology, upon request, available maps depicting the information required in S5.C.4.a through c, above.
- e. Upon request, and to the extent appropriate, Permittees shall provide mapping information to federally recognized Indian Tribes, municipalities, and other Permittees. This Permit does not preclude Permittees from recovering reasonable costs associated with fulfilling mapping information requests by federally recognized Indian Tribes, municipalities, and other Permittees.

5. Illicit Discharge Detection and Elimination

The SWMP shall include an ongoing program designed to prevent, detect, characterize, trace, and eliminate illicit connections and illicit discharges into the MS4.¹¹

The minimum performance measures are:

- a. The program shall include procedures for reporting and correcting or removing illicit connections, spills and other illicit discharges when they are suspected or identified. The program shall also include procedures for addressing pollutants entering the MS4 from an interconnected, adjoining MS4.

Illicit connections and illicit discharges must be identified through, but not limited to: field screening, inspections, complaints/reports, construction inspections, maintenance inspections, source control inspections, and/or monitoring information, as appropriate.

- b. Permittees shall inform public employees, businesses, and the general public of hazards associated with illicit discharges and improper disposal of waste.
- c. Each Permittee shall implement an ordinance or other regulatory mechanism to effectively prohibit non-stormwater, illicit discharges into the Permittee's MS4 to the maximum extent allowable under state and federal law.
 - i. Allowable Discharges: The regulatory mechanism does **not** need to prohibit the following categories of non-stormwater discharges:
 - (a) Diverted stream flows
 - (b) Rising groundwaters
 - (c) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(b)(20))
 - (d) Uncontaminated pumped groundwater
 - (e) Foundation drains

¹¹ New Permittees shall meet the requirements of S5.C.5 no later than August 1, 2021 except where otherwise noted in this Section.

- (f) Air conditioning condensation
 - (g) Irrigation water from agricultural sources that is commingled with urban stormwater
 - (h) Springs
 - (i) Uncontaminated water from crawl space pumps
 - (j) Footing drains
 - (k) Flows from riparian habitats and wetlands
 - (l) Non-stormwater discharges authorized by another NPDES or state waste discharge permit
 - (m) Discharges from emergency firefighting activities in accordance with S2 Authorized Discharges
- ii. Conditionally Allowable Discharges: The regulatory mechanism may allow the following categories of non-stormwater discharges only if the stated conditions are met:
- (a) Discharges from potable water sources, including but not limited to water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4.
 - (b) Discharges from lawn watering and other irrigation runoff. These discharges shall be minimized through, at a minimum, public education activities and water conservation efforts.
 - (c) Dechlorinated swimming pool, spa and hot tub discharges. The discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.
 - (d) Street and sidewalk wash water, water used to control dust, and routine external building washdown that does not use detergents. The Permittee shall reduce these discharges through, at a minimum, public education activities and/or water conservation efforts. To avoid washing pollutants into the MS4, Permittees shall minimize the amount of street wash and dust control water used.
 - (e) Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a pollution prevention plan reviewed by the Permittee, which addresses control of such discharges.
- iii. The Permittee shall further address any category of discharges in (i) or (ii), above, if the discharges are identified as significant sources of pollutants to waters of the State.

- iv. The ordinance or other regulatory mechanism shall include escalating enforcement procedures and actions.
- d. Each Permittee shall implement an ongoing program designed to detect and identify non-stormwater discharges and illicit connections into the Permittee's MS4.¹² The program shall include the following components:
 - i. Procedures for conducting investigations of the Permittee's MS4, including field screening and methods for identifying potential sources. These procedures may also include source control inspections.

The Permittee shall implement a field screening methodology appropriate to the characteristics of the MS4 and water quality concerns. Screening for illicit connections may be conducted using *Illicit Connection and Illicit Discharge Field Screening and Source Tracing Guidance Manual* (Herrera Environmental Consultants, Inc.; May 2013), or another methodology of comparable or improved effectiveness. The Permittee shall document the field screening methodology in the Annual Report.

- (a) All Permittees shall complete field screening for an average of 12% of the MS4 each year.¹³ Permittees shall annually track total percentage of the MS4 screened beginning August 1, 2019.
- ii. A publicly listed and publicized hotline or other telephone number for public reporting of spills and other illicit discharges.
- iii. An ongoing training program for all municipal field staff, who, as part of their normal job responsibilities, might come into contact with or otherwise observe an illicit discharge and/or illicit connection to the MS4, on the identification of an illicit discharge and/or connection, and on the proper procedures for reporting and responding to the illicit discharge and/or connection. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staffing. Permittees shall document and maintain records of the trainings provided and the staff trained.¹⁴
- e. Each Permittee shall implement an ongoing program designed to address illicit discharges, including spills and illicit connections, into the Permittee's MS4.¹⁵ The program shall include:
 - i. Procedures for characterizing the nature of, and potential public or environmental threat posed by, any illicit discharges found by or reported to the Permittee. Procedures shall address the evaluation of whether the discharge must be immediately contained and steps to be taken for containment of the discharge.

¹² New Permittees shall fully implement the requirements of S5.C.5.d no later than August 1, 2023.

¹³ New Permittees shall complete S5.C.5.d.i requirements for field screening covering at least 12% of the MS4 within the Permittee's coverage area no later than December 31, 2023, and on average 12% each year thereafter.

¹⁴ New Permittees shall develop and begin implementing the ongoing training program described in S5.C.5.d.iii no later than February 2, 2021.

¹⁵ New Permittees shall fully develop and implement the requirements of S5.C.5.e no later than August 1, 2023.

- ii. Procedures for tracing the source of an illicit discharge; including visual inspections, and when necessary, opening manholes, using mobile cameras, collecting and analyzing water samples, and/or other detailed inspection procedures.
- iii. Procedures for eliminating the discharge, including notification of appropriate authorities (including owners or operators of interconnected MS4s); notification of the property owner; technical assistance; follow-up inspections; and use of the compliance strategy developed pursuant to S5.C.5.c.iv, including escalating enforcement and legal actions if the discharge is not eliminated.
- iv. Compliance with the provisions in (i), (ii), and (iii), above, shall be achieved by meeting the following timelines:
 - (a) Immediately respond to all illicit discharges, including spills, which are determined to constitute a threat to human health, welfare, or the environment, consistent with General Condition G3.
 - (b) Investigate (or refer to the appropriate agency with the authority to act) within 7 days, on average, any complaints, reports, or monitoring information that indicates a potential illicit discharge.
 - (c) Initiate an investigation within 21 days of any report or discovery of a suspected illicit connection to determine the source of the connection, the nature and volume of discharge through the connection, and the party responsible for the connection.
 - (d) Upon confirmation of an illicit connection, use the compliance strategy in a documented effort to eliminate the illicit connection within 6 months. All known illicit connections to the MS4 shall be eliminated.
- f. Permittees shall train staff who are responsible for identification, investigation, termination, cleanup, and reporting of illicit discharges, including spills, and illicit connections, to conduct these activities. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements or staffing. Permittees shall document and maintain records of the training provided and the staff trained.¹⁶
- g. Recordkeeping: Each Permittee shall track and maintain records of the activities conducted to meet the requirements of this Section. In the Annual Report, each Permittee shall submit data for the illicit discharges, spills and illicit connections including those that were found by, reported to, or investigated by the Permittee during the previous calendar year. The data shall include the information specified in Appendix 12 and WQWebIDDE. Each Permittee may either use their own system or WQWebIDDE for recording this data. Final submittals shall follow the instructions, timelines, and format as described in Appendix 12.

¹⁶ New Permittees shall meet the requirements of S5.C.5.f no later than February 2, 2021.

6. Controlling Runoff from New Development, Redevelopment, and Construction Sites

Each Permittee shall implement and enforce a program to reduce pollutants in stormwater runoff to a regulated small MS4 from new development, redevelopment and construction site activities. The program shall apply to private and public development, including transportation projects.¹⁷

The minimum performance measures are:

- a. Implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects.

Each Permittee shall adopt and make effective a local program, **no later than June 30, 2022**, that meets the requirements of S5.C.6.b(i) through (iii), below, and shall apply to all applications¹⁸ submitted:

- i. On or after July 1, 2022.
 - ii. Prior to January 1, 2017, that have not started construction¹⁹ by January 1, 2022.²⁰
 - iii. Prior to July 1, 2022, that have not started construction by July 1, 2027.
- b. The ordinance or other enforceable mechanism shall include, at a minimum:
 - i. The Minimum Requirements, thresholds, and definitions in Appendix 1, or the 2013 Appendix 1 amended to include the changes identified in Appendix 10, or Phase I program approved by Ecology and amended to include Appendix 10, for new development, redevelopment, and construction sites. Adjustment and variance criteria equivalent to those in Appendix 1 shall be included. More stringent requirements may be used, and/or certain requirements may be tailored to local circumstances through the use of Ecology-approved basin plans or other similar water quality and quantity planning efforts. Such local requirements and thresholds shall provide equal protection of receiving waters and equal levels of pollutant control to those provided in Appendix 1.
 - ii. The local requirements shall include the following requirements, limitations, and criteria that, when used to implement the minimum requirements in Appendix 1 (or program approved by Ecology under the 2019 Phase I Permit) will protect

¹⁷ For continuing Permittees, this means continuing to implement existing programs developed under previous permits until updates are made to meet the schedules defined. *New Permittees shall meet the requirements of S5.C.6 no later than December 31, 2022, except where otherwise specified in this Section.*

¹⁸ In this context, "application" means, at a minimum a complete project description, site plan, and, if applicable, SEPA checklist. Permittees may establish additional elements of a completed application.

¹⁹ In this context "started construction" means the site work associated with, and directly related to the approved project has begun. For example: grading the project site to final grade or utility installation. Simply clearing the project site does not constitute the start of construction. Permittees may establish additional requirements related to the start of construction.

²⁰ For Permittees in **Lewis and Cowlitz counties**: Prior to July 1, 2017, that have not started construction by June 30, 2022. **For Lynden, Snoqualmie**: Prior to January 1, 2018, that have not started construction by January 1, 2023. **For Aberdeen**: Prior to July 1, 2018, that have not started construction by June 30, 2023. **Shelton and Clallam County** shall adopt and make effective a local program that meets the requirements of S5.C.6.b(i) through (iii) no later than December 31, 2022. The local program shall apply to all applications submitted on or after January 1, 2023, and shall apply to applications submitted prior to January 1, 2023, which have not started construction by January 1, 2028.

water quality, reduce the discharge of pollutants to the MEP, and satisfy the State requirement under Chapter 90.48 RCW to apply AKART prior to discharge:

- (a) Site planning requirements
- (b) BMP selection criteria
- (c) BMP design criteria
- (d) BMP infeasibility criteria
- (e) LID competing needs criteria
- (f) BMP limitations

Permittees shall document how the criteria and requirements will protect water quality, reduce the discharge of pollutants to the MEP, and satisfy State AKART requirements.

Permittees who choose to use the requirements, limitations, and criteria, above, in the *Stormwater Management Manual for Western Washington*, or a Phase I program approved by Ecology, may cite this choice as their sole documentation to meet this requirement.

- iii. The legal authority, through the approval process for new development and redevelopment, to inspect and enforce maintenance standards for private stormwater facilities approved under the provisions of this Section that discharge to the Permittee's MS4.
- c. The program shall include a permitting process with site plan review, inspection and enforcement capability to meet the standards listed in (i) through (iv) below, for both private and public projects, using qualified personnel (as defined in *Definitions and Acronyms*). At a minimum, this program shall be applied to all sites that meet the minimum thresholds adopted pursuant to S5.C.6.b.i, above.
 - i. Review of all stormwater site plans for proposed development activities.
 - ii. Inspect, prior to clearing and construction, all permitted development sites that have a high potential for sediment transport as determined through plan review based on definitions and requirements in Appendix 7 – *Determining Construction Site Sediment Damage Potential*. As an alternative to evaluating each site according to Appendix 7, Permittees may choose to inspect all construction sites that meet the minimum thresholds adopted pursuant to S5.C.6.b.i, above.
 - iii. Inspect all permitted development sites during construction to verify proper installation and maintenance of required erosion and sediment controls. Enforce as necessary based on the inspection.
 - iv. Each Permittee shall manage maintenance activities to inspect all stormwater treatment and flow control BMPs/facilities, and catch basins, in new residential developments every six months, until 90% of the lots are constructed (or when construction has stopped and the site is fully stabilized), to identify maintenance needs and enforce compliance with maintenance standards as needed.
 - v. Inspect all permitted development sites upon completion of construction and prior to final approval or occupancy to ensure proper installation of permanent

stormwater facilities. Verify that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater treatment and flow control BMPs/facilities. Enforce as necessary based on the inspection.

- vi. Compliance with the inspection requirements in (ii) through (v), above, shall be determined by the presence and records of an established inspection program designed to inspect all sites. Compliance during this permit term shall be determined by achieving at least 80% of required inspections. The inspections may be combined with other inspections provided they are performed using qualified personnel.
- vii. The program shall include a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records. Records of maintenance inspections and maintenance activities shall be maintained.
- viii. An enforcement strategy shall be implemented to respond to issues of non-compliance.
- d. The program shall make available, as applicable, the link to the electronic *Construction Stormwater General Permit* Notice of Intent (NOI) form for construction activity and, as applicable, a link to the electronic *Industrial Stormwater General Permit* NOI form for industrial activity to representatives of proposed new development and redevelopment. Permittees shall continue to enforce local ordinances controlling runoff from sites that are also covered by stormwater permits issued by Ecology.²¹
- e. Each Permittee shall ensure that all staff whose primary job duties are implementing the program to control stormwater runoff from new development, redevelopment, and construction sites, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. Follow-up training must be provided as needed to address changes in procedures, techniques or staffing. Permittees shall document and maintain records of the training provided and the staff trained.²²

7. Operations and Maintenance

Each Permittee shall implement and document a program to regulate maintenance activities and to conduct maintenance activities by the Permittee to prevent or reduce stormwater impacts.²³

The minimum performance measures are:

- a. Each Permittee shall implement maintenance standards that are as protective, or more protective, of facility function than those specified in the *Stormwater Management Manual for Western Washington* or a Phase I program approved by Ecology. For facilities which do not have maintenance standards, the Permittee shall

²¹ New Permittees shall meet the requirements of S5.C.6.d beginning no later than August 1, 2019.

²² New Permittees shall meet the requirements of S5.C.6.e no later than December 31, 2022.

²³ New Permittees shall develop and implement the requirements of S5.C.7 no later than December 31, 2022 except where otherwise noted in this Section.

develop a maintenance standard. **No later than June 30, 2022**, Permittees shall update their maintenance standards as necessary to meet the requirements of this Section.

- i. The purpose of the maintenance standard is to determine if maintenance is required. The maintenance standard is not a measure of the facility's required condition at all times between inspections. Exceeding the maintenance standard between inspections and/or maintenance is not a permit violation.
- ii. Unless there are circumstances beyond the Permittee's control, when an inspection identifies an exceedance of the maintenance standard, maintenance shall be performed:
 - Within 1 year for typical maintenance of facilities, except catch basins.
 - Within 6 months for catch basins.
 - Within 2 years for maintenance that requires capital construction of less than \$25,000.

Circumstances beyond the Permittee's control include denial or delay of access by property owners, denial or delay of necessary permit approvals, and unexpected reallocations of maintenance staff to perform emergency work. For each exceedance of the required timeframe, the Permittee shall document the circumstances and how they were beyond their control.

b. Maintenance of stormwater facilities regulated by the Permittee

- i. The program shall include provisions to verify adequate long-term O&M of stormwater treatment and flow control BMPs/facilities that are permitted and constructed pursuant to S.5.C.6.c and shall be maintained in accordance with S5.C.7.a.

The provisions shall include:

- (a) Implementation of an ordinance or other enforceable mechanism that:
 - Clearly identifies the party responsible for maintenance in accordance with maintenance standards established under S5.C.7.a.
 - Requires inspection of facilities in accordance with the requirements in (b), below.
 - Establishes enforcement procedures.
- (b) Annual inspections of all stormwater treatment and flow control BMPs/facilities that discharge to the MS4 and were permitted by the Permittee according to S5.C.6.c, including those permitted in accordance with requirements adopted pursuant to the 2007-2019 Ecology municipal stormwater permits, unless there are maintenance records to justify a different frequency.

Permittees may reduce the inspection frequency based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the Permittee may substitute written statements to document a specific less frequent inspection schedule. Written statements shall be based on actual inspection and

maintenance experience and shall be certified in accordance with G19 – *Certification and Signature*.

- ii. Compliance with the inspection requirements in (b), above, shall be determined by the presence and records of an established inspection program designed to inspect all facilities, and achieving at least 80% of required inspections.
 - iii. The program shall include a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, warning letters, notices of violations, and other enforcement records. Records of maintenance inspections and maintenance activities shall be maintained.
- c. Maintenance of stormwater facilities owned or operated by the Permittee.
- i. Each Permittee shall implement a program to annually inspect all municipally owned or operated stormwater treatment and flow control BMPs/facilities, and taking appropriate maintenance actions in accordance with the adopted maintenance standards.

Permittees may reduce the inspection frequency based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the Permittee may substitute written statements to document a specific less frequent inspection schedule. Written statements shall be based on actual inspection and maintenance experience and shall be certified in accordance with G19 – *Certification and Signature*.

- ii. Each Permittee shall spot check potentially damaged stormwater treatment and flow control BMPs/facilities after major storm events (24 hour storm event with a 10 year or greater recurrence interval). If spot checks indicate widespread damage/maintenance needs, inspect all stormwater treatment and flow control BMPs/facilities that may be affected. Conduct repairs or take appropriate maintenance action in accordance with maintenance standards established above, based on the results of the inspections.
- iii. Each Permittee shall inspect all catch basins and inlets owned or operated by the Permittee every two years.²⁴ Clean catch basins if the inspection indicates cleaning is needed to comply with maintenance standards established in the *Stormwater Management Manual for Western Washington*. Decant water shall be disposed of in accordance with Appendix 6 – *Street Waste Disposal*.

The following alternatives to the standard approach of inspecting all catch basins every two years may be applied to all or portions of the system:

- (a) The catch basin inspection schedule of every two years may be changed as appropriate to meet the maintenance standards based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records for catch basins, the Permittee may substitute written statements to document a specific, less frequent inspection schedule. Written statements shall be based on actual inspection

²⁴ New Permittees shall inspect and, if needed, clean all catch basins and inlets owned or operated by the Permittee in accordance with the requirements of S5.C.7.c once during the permit term, to be completed no later than February 2, 2024.

and maintenance experiences and shall be certified in accordance with G19 – *Certification and Signature*.

- (b) Inspections every two years may be conducted on a “circuit basis” whereby 25% of catch basins and inlets within each circuit are inspected to identify maintenance needs. Include an inspection of the catch basin immediately upstream of any MS4 outfall, discharge point, or connections to public or private storm systems, if applicable. Clean all catch basins within a given circuit for which the inspection indicates cleaning is needed to comply with maintenance standards established under S5.C.7.a, above.
 - (c) The Permittee may clean all pipes, ditches, and catch basins and inlets within a circuit once during the permit term. Circuits selected for this alternative must drain to a single point.
- iv. Compliance with the inspection requirements in S5.C.7.c.i-iii, above, shall be determined by the presence of an established inspection program achieving at least 95% of required inspections.
- d. Implement practices, policies, and procedures to reduce stormwater impacts associated with runoff from all lands owned or maintained by the Permittee, and road maintenance activities under the functional control of the Permittee. No later than **December 31, 2022**, document the practices, policies, and procedures. Lands owned or maintained by the Permittee include, but are not limited to: streets, parking lots, roads, highways, buildings, parks, open space, road right-of-ways, maintenance yards, and stormwater treatment and flow control BMPs/facilities.

The following activities shall be addressed:

- i. Pipe cleaning
- ii. Cleaning of culverts that convey stormwater in ditch systems
- iii. Ditch maintenance
- iv. Street cleaning
- v. Road repair and resurfacing, including pavement grinding
- vi. Snow and ice control
- vii. Utility installation
- viii. Pavement striping maintenance
- ix. Maintaining roadside areas, including vegetation management
- x. Dust control
- xi. Application of fertilizers, pesticides, and herbicides according to the instructions for their use, including reducing nutrients and pesticides using alternatives that minimize environmental impacts
- xii. Sediment and erosion control
- xiii. Landscape maintenance and vegetation disposal
- xiv. Trash and pet waste management

- xv. Building exterior cleaning and maintenance
- e. Implement an ongoing training program for employees of the Permittee whose primary construction, operations, or maintenance job functions may impact stormwater quality. The training program shall address the importance of protecting water quality, operation and maintenance standards, inspection procedures, relevant SWPPPs, selecting appropriate BMPs, ways to perform their job activities to prevent or minimize impacts to water quality, and procedures for reporting water quality concerns. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staffing. Permittees shall document and maintain records of training provided. The staff training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.
- f. Implement a Stormwater Pollution Prevention Plan (SWPPP) for all heavy equipment maintenance or storage yards, and material storage facilities owned or operated by the Permittee in areas subject to this Permit that are not required to have coverage under the *Industrial Stormwater General Permit* or another NPDES permit that authorizes stormwater discharges associated with the activity. As necessary, update SWPPPs **no later than December 31, 2022**, to include the following information. At a minimum, the SWPPP shall include:
 - i. A detailed description of the operational and structural BMPs in use at the facility and a schedule for implementation of additional BMPs when needed. BMPs selected must be consistent with the *Stormwater Management Manual for Western Washington*, or a Phase I program approved by Ecology. The SWPPP must be updated as needed to maintain relevancy with the facility.
 - ii. At minimum, annual inspections of the facility, including visual observations of discharges, to evaluate the effectiveness of the BMPs, identify maintenance needs, and determine if additional or different BMPs are needed. The results of these inspections must be documented in an inspection report or check list.
 - iii. An inventory of the materials and equipment stored on-site, and the activities conducted at the facility which may be exposed to precipitation or runoff and could result in stormwater pollution.
 - iv. A site map showing the facility's stormwater drainage, discharge points, and areas of potential pollutant exposure.
 - v. A plan for preventing and responding to spills at the facility which could result in an illicit discharge.
- g. Maintain records of the activities conducted to meet the requirements of this Section.

8. Source Control Program for Existing Development

- a. The Permittee shall implement a program to prevent and reduce pollutants in runoff from areas that discharge to the MS4. The program shall include:
 - i. Application of operational source control BMPs, and if necessary, structural source control BMPs or treatment BMPs/facilities, or both, to pollution generating sources associated with existing land uses and activities.

- ii. Inspections of pollutant generating sources at publicly and privately owned institutional, commercial and industrial sites to enforce implementation of required BMPs to control pollution discharging into the MS4.
- iii. Application and enforcement of local ordinances at sites, identified pursuant to S5.C.8.b.ii, including sites with discharges authorized by a separate NPDES permit. Permittees that are in compliance with the terms of this Permit will not be held liable by Ecology for water quality standard violations or receiving water impacts caused by industries and other Permittees covered, or which should be covered under an NPDES permit issued by Ecology.
- iv. Practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizers from the sites identified in the inventory.

b. Minimum performance measures:

- i. No later than **August 1, 2022**, Permittees shall adopt and make effective an ordinance(s), or other enforceable documents, requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities (see Appendix 8 to identify pollutant generating sources).

The requirements of this subsection are met by using the source control BMPs in the SWMMWW, or a Phase I Program approved by Ecology. In cases where the manual(s) lack guidance for a specific source of pollutants, the Permittee shall work with the owner/operator to implement or adapt BMPs based on the best professional judgement of the Permittee.

Applicable operational source control BMPs shall be required for all pollutant generating sources. Structural source control BMPs, or treatment BMPs/facilities, or both, shall be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls. Implementation of source control requirements may be done through education and technical assistance programs, provided that formal enforcement authority is available to the Permittee and is used as determined necessary by the Permittee, in accordance with S5.C.8.b.iv, below.

- ii. **No later than August 1, 2022**, the Permittees shall establish an inventory that identifies publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the MS4. The inventory shall include:
 - (a) Businesses and/or sites identified based on the presence of activities that are pollutant generating (refer to Appendix 8).
 - (b) Other pollutant generating sources, based on complaint response, such as: home-based businesses and multi-family sites.
- iii. No later than **January 1, 2023**, Permittees shall implement an inspection program for sites identified pursuant to S5.C.8.b.ii, above.
 - (a) All identified sites with a business address shall be provided information about activities that may generate pollutants and the source control

requirements applicable to those activities. This information shall be provided by mail, telephone, electronic communications, or in person. This information may be provided all at one time or spread out over the permit term to allow for tailoring and distribution of the information during site inspections.

- (b) The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or sites listed in their source control inventory to assess BMP effectiveness and compliance with source control requirements. The Permittee may count follow-up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.
 - (c) Each Permittee shall inspect 100% of sites identified through credible complaints.
 - (d) Permittees may count inspections conducted based on complaints, or when the property owner denies entry, to the 20% inspection rate.
- iv. **No later than January 1, 2023**, each Permittee shall implement a progressive enforcement policy that requires sites to comply with stormwater requirements within a reasonable time period as specified below:
- (a) If the Permittee determines, through inspections or otherwise, that a site has failed to adequately implement required BMPs, the Permittee shall take appropriate follow-up action(s), which may include phone calls, reminder letters, emails, or follow-up inspections.
 - (b) When a Permittee determines that a site has failed to adequately implement BMPs after a follow-up inspection(s), the Permittee shall take enforcement action as established through authority in its municipal codes or ordinances, or through the judicial system.
 - (c) Each Permittee shall maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring sites into compliance. Each Permittee shall also maintain records of sites that are not inspected because the property owner denies entry.
 - (d) A Permittee may refer non-emergency violations of local ordinances to Ecology, provided, the Permittee also makes a documented effort of progressive enforcement. At a minimum, a Permittee's enforcement effort shall include documentation of inspections and warning letters or notices of violation.
- v. Permittees shall train staff who are responsible for implementing the source control program to conduct these activities. The ongoing training program shall cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement

procedures. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained.

Appendix B

Permit Requirements Implementation Table



2019-2024 NPDES PERMIT COMPLIANCE DUE DATES

| Permit Section | Description | 2020 | 2021 | 2022 | 2023 | 2024 |
|---------------------------------------|---|----------|-----------|------|----------|------|
| S5.A.5.b | Coordinate among departments within the jurisdiction to eliminate barriers to permit compliance | | 3/31/2021 | | | |
| S5.C1.a, Appendix 3 #5 | Stormwater planning coordination | 8/1/2020 | | | | |
| S5.C.1.b.i(a); Appendix 3, #6 | List the relevant land use planning efforts that have taken place in your jurisdiction (land use plans that are used to accommodate growth, stormwater management, or transportation) | | 3/31/2021 | | | |
| S5.C.1.b.i(a); Appendix 3, #6 | List the relevant land use planning efforts that have taken place in your jurisdiction (land use plans that are used to accommodate growth, stormwater management, or transportation) | | | | 1/1/2023 | |
| S5.C.1.b.i(a) and (b); Appendix 3, #7 | List of stormwater capital projects (currently in or slated for future design and construction) that resulted from this planning | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #7 | List of stormwater capital projects (currently in or slated for future design and construction) that resulted from this planning | | | | 1/1/2023 | |
| S5.C.1.b.i(a) and (b); Appendix 3, #8 | Describe of watershed protection measures associated with stormwater management and land use planning actions that resulted from this planning | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #8 | Describe of watershed protection measures associated with stormwater management and land use planning actions that resulted from this planning | | | | 1/1/2023 | |

2019-2024 NPDES PERMIT COMPLIANCE DUE DATES

| Permit Section | Description | 2020 | 2021 | 2022 | 2023 | 2024 |
|---|---|------|-----------|------|----------|------|
| S5.C.1.b.i(a) and (b); Appendix 3, #9 | Were land acquisitions identified (or are planning ahead for) that are useful for stormwater facilities to: accommodate growth or to better serve an existing developed area? If yes, for what purpose? | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #9 | Were land acquisitions identified (or are planning ahead for) that are useful for stormwater facilities to: accommodate growth or to better serve an existing developed area? If yes, for what purpose? | | | | 1/1/2023 | |
| S5.C.1.b.i(a) and (b); Appendix 3, #10 | Permits to control or treat municipal stormwater discharges that pollute waters of the State (e.g. Limits to impervious cover added to any zoning districts, regional facility planning, minimization of vegetation loss, etc.)? If yes, briefly describe and list relevant plan or code sections, if applicable. | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #10 | Permits to control or treat municipal stormwater discharges that pollute waters of the State (e.g. Limits to impervious cover added to any zoning districts, regional facility planning, minimization of vegetation loss, etc.)? If yes, briefly describe and list relevant plan or code sections, if applicable. | | | | 1/1/2023 | |
| S5.C.1.b.i(a) and (b); Appendix 3, #11 | Updates to goals and policies related to investment in stormwater management facilities/BMPs? If yes, briefly describe. | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #11 | Updates to goals and policies related to investment in stormwater management facilities/BMPs? If yes, briefly describe. | | | | 1/1/2023 | |

2019-2024 NPDES PERMIT COMPLIANCE DUE DATES

| Permit Section | Description | 2020 | 2021 | 2022 | 2023 | 2024 |
|---|---|------|-----------|------|----------|------|
| S5.C.1.b.i(a) and (b); Appendix 3, #12 | Does the long-range plan identify the location and existing capacity of the stormwater facilities owned or operated by the Permittee and show which of those stormwater facilities have unused capacity? Do these stormwater facility locations impact where housing, or other types of development, are projected to be located or influence the acquisition of land? (If yes, how?) Does the long-range plan identify a lack of facilities and the potential impacts of existing or new development to those areas and receiving waters? Any new proposed locations and capacities of stormwater facilities needed for the timeframe of the plan? | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #12 | Does the long-range plan identify the location and existing capacity of the stormwater facilities owned or operated by the Permittee and show which of those stormwater facilities have unused capacity? Do these stormwater facility locations impact where housing, or other types of development, are projected to be located or influence the acquisition of land? (If yes, how?) Does the long-range plan identify a lack of facilities and the potential impacts of existing or new development to those areas and receiving waters? Any new proposed locations and capacities of stormwater facilities needed for the timeframe of the plan? | | | | 1/1/2023 | |

2019-2024 NPDES PERMIT COMPLIANCE DUE DATES

| Permit Section | Description | 2020 | 2021 | 2022 | 2023 | 2024 |
|--|---|----------|-----------|-----------|-----------|------|
| S5.C.1.b.i(a) and (b); Appendix 3, #13 | Based on the projected population densities and distribution of growth over the planning period, describe how stormwater runoff impacts are forecasted. Does stormwater management information (including water quality) direct where growth is directed? | | 3/31/2021 | | | |
| S5.C.1.b.i(a) and (b); Appendix 3, #13 | Based on the projected population densities and distribution of growth over the planning period, describe how stormwater runoff impacts are forecasted. Does stormwater management information (including water quality) direct where growth is directed? | | | | 1/1/2023 | |
| S5.C.1.b.i(b); Appendix 3, #14 | Did you submit a report as described in S5.C.1.b.i(b)? | | | | 1/1/2023 | |
| S5.C.1.d.i; Appendix 3, #17 | Developed a watershed inventory as outlined in S5.C.1.d.i and attach | | | 3/31/2022 | | |
| S5.C.1.d.ii(a)-(c); Appendix 3, #18 | Developed a receiving water prioritization method and process as described in S.5.C.1.d.ii(a)-(c)? Attach | | | 6/30/2022 | | |
| S5.C.1.d.iii; Appendix 3, #19 | Developed a Stormwater Management Action Plan (SMAP) for at least one high priority area? Attach | | | | 3/31/2023 | |
| S5.C.2 | Did you choose to adopt one or more elements of a regional program | | | | | |
| S5.C2.a.ii (b); Appendix 3 #22 | Conducted an evaluation of the effectiveness of the ongoing behavior change program and documented recommendations as outlined in S.5.C.2.a.ii(b) | 7/1/2020 | | | | |
| S5.C2.a.ii (c); Appendix 3 #23 | Developed a behavior change campaign that is tailored to the community in accordance with S5.C.2.a.ii.(c)? Attach | | 2/1/2021 | | | |

2019-2024 NPDES PERMIT COMPLIANCE DUE DATES

| Permit Section | Description | 2020 | 2021 | 2022 | 2023 | 2024 |
|--------------------------------|--|-----------|----------|-----------|----------|-----------|
| S5.C2.a.ii (c); Appendix 3 #24 | Began implementing strategy outlined in S.5.C.2.a.ii(c) | | 4/1/2021 | | | |
| S5.C2.a.ii (e); Appendix 3 #25 | Attach the report developed in accordance with S5.C.2.a.ii.(e), which evaluated the changes in understanding and adoption of targeted behaviors resulting from the implementation of the strategy and any planned or recommended changes to the program in order to be more effective. | | | | | 3/31/2024 |
| S5.C.3. | Posted updated SWMP | 5/31/2020 | | | | |
| S5.C.5. | Mapping of outfall size/material | | | | 8/1/2023 | |
| S5.C.4.b.i; Appendix 3 #30 | Started mapping outfall size and material in accordance with S5.C.4.b.i? Attach spreadsheet. | 1/1/2020 | | | | |
| S5.C.4.b.ii; Appendix 3 #31 | Completed mapping connections to private storm sewers in accordance with S5.C.4.b.ii? | | | | 8/1/2023 | |
| S5.C.4.c.; Appendix 3 #32 | Developed electronic format of map | | 8/1/2021 | | | |
| S5.C.6.a | Implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects. (Implement the requirements of S5.C.6B(i) through (iii) based on dates listed.) | | | 6/30/2022 | | |
| S5.C.6.b.i-iii; Appendix 3 #44 | Revised ordinance or other enforceable mechanism to effectively address runoff from new development, redevelopment, and construction sites per the requirement of S5.C.6.b.i-iii | | | 6/30/2022 | | |
| S5.C.7.a; Appendix 3 #57 | Updated maintenance standards specified in Stormwater Management manual for Western Washington per S5.C.7.a | | | 6/30/2022 | | |

2019-2024 NPDES PERMIT COMPLIANCE DUE DATES

| Permit Section | Description | 2020 | 2021 | 2022 | 2023 | 2024 |
|------------------------------|--|-----------|-----------|------------|----------|------|
| S5.C.7.d; Appendix 3 #69 | Documented practices, polices, and procedures to reduce stormwater impacts associated with runoff from all lands owned or maintained by the Permittee, and road maintenance activities under the functional control of the Permittee | | | 12/31/2022 | | |
| S5.C.7.f; Appendix 3 #72 | Updated, if needed, SWPPPs according to S5.C.7.f | | | 12/31/2022 | | |
| S5.C.8.b.i.; Appendix 3 #73 | Adopt ordinance requiring application of source control BMPs for pollutant generating sources | | | 8/1/2022 | | |
| S5.C.8; Appendix 3 #74 | Established an inventory per S5.C.8.b.ii | | | 8/1/2022 | | |
| S5.C.8.b.iii; Appendix 3 #75 | Implemented an inspection program per S5.C.8.b.iii | | | | 1/1/2023 | |
| S5.C.8.b.iv; Appendix 3 #76 | implemented a progressive enforcement policy per S5.C.8.b.iv | | | | 1/1/2023 | |
| S5.C.8.b.iii | Attach list of inspections, organized by business category, noting the amount of times each business was inspected and if enforcement actions were taken | | | | 1/1/2023 | |
| S5.C.8.b.v. | Implemented an ongoing source control training program | | | | 1/1/2023 | |
| S9.A | Begin annual reporting | 3/31/2020 | | | | |
| S9.A, Appendix 12 | IDDE Reporting Data and Format - the form or equivalent electronic file is required to be used by 3/31/21 | | 3/31/2021 | | | |
| S9.A, Appendix 12 | IDDE Reporting Data and Format - the form or zipped file is required to be used by 3/31/22 | | | 3/31/2022 | | |

Appendix C

Construction Site Inspection Form



Construction Stormwater Site Inspection Form

Project Name _____ **Permit #** _____ **Inspection Date** _____ **Time** _____

Name of Certified Erosion Sediment Control Lead (CESCL) or qualified inspector if *less than one acre*
 Print Name: _____

Approximate rainfall amount since the last inspection (in inches): _____

Approximate rainfall amount in the last 24 hours (in inches): _____

Current Weather Clear Cloudy Mist Rain Wind Fog

A. Type of inspection: Weekly Post Storm Event Other

B. Phase of Active Construction (check all that apply):

| | | | | | |
|--|--------------------------|---------------------------------|--------------------------|----------------------------|--------------------------|
| Pre Construction/installation of erosion/sediment controls | <input type="checkbox"/> | Clearing/Demo/Grading | <input type="checkbox"/> | Infrastructure/storm/roads | <input type="checkbox"/> |
| Concrete pours | <input type="checkbox"/> | Vertical Construction/buildings | <input type="checkbox"/> | Utilities | <input type="checkbox"/> |
| Offsite improvements | <input type="checkbox"/> | Site temporary stabilized | <input type="checkbox"/> | Final stabilization | <input type="checkbox"/> |

C. Questions:

- | | | | |
|--|-----|----|--|
| 1. Were all areas of construction and discharge points inspected? | Yes | No | |
| 2. Did you observe the presence of suspended sediment, turbidity, discoloration, or oil sheen | Yes | No | |
| 3. Was a water quality sample taken during inspection? (<i>refer to permit conditions S4 & S5</i>) | Yes | No | |
| 4. Was there a turbid discharge 250 NTU or greater, or Transparency 6 cm or less?* | Yes | No | |
| 5. If yes to #4 was it reported to Ecology? | Yes | No | |
| 6. Is pH sampling required? pH range required is 6.5 to 8.5. | Yes | No | |

If answering yes to a discharge, describe the event. Include when, where, and why it happened; what action was taken, and when.

*If answering yes to # 4 record NTU/Transparency with continual sampling daily until turbidity is 25 NTU or less/ transparency is 33 cm or greater.

Sampling Results: _____ Date: _____

| Parameter | Method (circle one) | Result | | | Other/Note |
|-----------|-------------------------|--------|----|----|------------|
| | | NTU | cm | pH | |
| Turbidity | tube, meter, laboratory | | | | |
| pH | Paper, kit, meter | | | | |

Construction Stormwater Site Inspection Form

D. Check the observed status of all items. Provide "Action Required" details and dates.

| Element # | Inspection | BMPs Inspected | | | BMP needs maintenance | BMP failed | Action required (describe in section F) |
|--------------------------|--|----------------|----|-----|-----------------------|------------|---|
| | | yes | no | n/a | | | |
| 1 Clearing Limits | Before beginning land disturbing activities are all clearing limits, natural resource areas (streams, wetlands, buffers, trees) protected with barriers or similar BMPs? (high visibility recommended) | | | | | | |
| 2 Construction Access | Construction access is stabilized with quarry spalls or equivalent BMP to prevent sediment from being tracked onto roads? | | | | | | |
| | Sediment tracked onto the road way was cleaned thoroughly at the end of the day or more frequent as necessary. | | | | | | |
| 3 Control Flow Rates | Are flow control measures installed to control stormwater volumes and velocity during construction and do they protect downstream properties and waterways from erosion? | | | | | | |
| | If permanent infiltration ponds are used for flow control during construction, are they protected from siltation? | | | | | | |
| 4 Sediment Controls | All perimeter sediment controls (e.g. silt fence, wattles, compost socks, berms, etc.) installed, and maintained in accordance with the Stormwater Pollution Prevention Plan (SWPPP). | | | | | | |
| | Sediment control BMPs (sediment ponds, traps, filters etc.) have been constructed and functional as the first step of grading. | | | | | | |
| | Stormwater runoff from disturbed areas is directed to sediment removal BMP. | | | | | | |
| 5 Stabilize Soils | Have exposed un-worked soils been stabilized with effective BMP to prevent erosion and sediment deposition? | | | | | | |

Construction Stormwater Site Inspection Form

| Element # | Inspection | BMPs Inspected | | | BMP needs maintenance | BMP failed | Action required (describe in section F) |
|------------------------------------|---|----------------|----|-----|-----------------------|------------|---|
| | | yes | no | n/a | | | |
| 5 Stabilize Soils Cont. | Are stockpiles stabilized from erosion, protected with sediment trapping measures and located away from drain inlet, waterways, and drainage channels? | | | | | | |
| | Have soils been stabilized at the end of the shift, before a holiday or weekend if needed based on the weather forecast? | | | | | | |
| 6 Protect Slopes | Has stormwater and ground water been diverted away from slopes and disturbed areas with interceptor dikes, pipes and or swales? | | | | | | |
| | Is off-site storm water managed separately from stormwater generated on the site? | | | | | | |
| | Is excavated material placed on uphill side of trenches consistent with safety and space considerations? | | | | | | |
| | Have check dams been placed at regular intervals within constructed channels that are cut down a slope? | | | | | | |
| 7 Drain Inlets | Storm drain inlets made operable during construction are protected. | | | | | | |
| | Are existing storm drains within the influence of the project protected? | | | | | | |
| 8 Stabilize Channel and Outlets | Have all on-site conveyance channels been designed, constructed and stabilized to prevent erosion from expected peak flows? | | | | | | |
| | Is stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream conveyance systems? | | | | | | |
| 9 Control Pollutants | Are waste materials and demolition debris handled and disposed of to prevent contamination of stormwater? | | | | | | |
| | Has cover been provided for all chemicals, liquid products, petroleum products, and other material? | | | | | | |
| | Has secondary containment been provided capable of containing 110% of the volume? | | | | | | |
| | Were contaminated surfaces cleaned immediately after a spill incident? | | | | | | |
| | Were BMPs used to prevent contamination of stormwater by a pH modifying sources? | | | | | | |

Construction Stormwater Site Inspection Form

| Element # | Inspection | BMPs Inspected | | | BMP needs maintenance | BMP failed | Action required (describe in section F) |
|--------------------------|---|----------------|----|-----|-----------------------|------------|---|
| | | yes | no | n/a | | | |
| 9 Cont. | Wheel wash wastewater is handled and disposed of properly. | | | | | | |
| 10 Control Dewatering | Concrete washout in designated areas. No washout or excess concrete on the ground. | | | | | | |
| | Dewatering has been done to an approved source and in compliance with the SWPPP. | | | | | | |
| | Were there any clean non turbid dewatering discharges? | | | | | | |
| 11 Maintain BMP | Are all temporary and permanent erosion and sediment control BMPs maintained to perform as intended? | | | | | | |
| 12 Manage the Project | Has the project been phased to the maximum degree practicable? | | | | | | |
| | Has regular inspection, monitoring and maintenance been performed as required by the permit? | | | | | | |
| | Has the SWPPP been updated, implemented and records maintained? | | | | | | |
| 13 Protect LID | Is all Bioretention and Rain Garden Facilities protected from sedimentation with appropriate BMPs? | | | | | | |
| | Is the Bioretention and Rain Garden protected against over compaction of construction equipment and foot traffic to retain its infiltration capabilities? | | | | | | |
| | Permeable pavements are clean and free of sediment and sediment laden-water runoff. Muddy construction equipment has not been on the base material or pavement. | | | | | | |
| | Have soiled permeable pavements been cleaned of sediments and pass infiltration test as required by stormwater manual methodology? | | | | | | |
| | Heavy equipment has been kept off existing soils under LID facilities to retain infiltration rate. | | | | | | |

E. Check all areas that have been inspected. ✓

All in place BMPs All disturbed soils All concrete wash out area All material storage areas
 All discharge locations All equipment storage areas All construction entrances/exits

Construction Stormwater Site Inspection Form

F. Elements checked "Action Required" (section D) describe corrective action to be taken. List the element number; be specific on location and work needed. Document, initial, and date when the corrective action has been completed and inspected.

| Element # | Description and Location | Action Required | Completion Date | Initials |
|-----------|--------------------------|-----------------|-----------------|----------|
| | | | | |
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| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Attach additional page if needed

Sign the following certification:

"I certify that this report is true, accurate, and complete, to the best of my knowledge and belief"

Inspected by: (print) _____ (Signature) _____ Date: _____

Title/Qualification of Inspector: _____

Appendix D

Permit Appendix 8



APPENDIX 8 – Businesses and Activities that are Potential Sources of Pollutants

Use this appendix to help identify businesses and/or activities with potential outdoor pollutant-generating sources that discharge to the MS4 and should be included in the Permittee’s source control inventory, developed pursuant to S5.C.8.b.ii. The Standard Industrial Code (SIC), Major Group, and NAICS numbers are provided for reference. Permittees may include additional outdoor pollutant-generating sources that are located within their jurisdictions.

| Group Description | SIC Major Group | SIC Industry Group No. | NAICS Major Group |
|--|-----------------|------------------------|-------------------|
| Support Activities for Animal Production | | 074, 075 | 1152xx, |
| Construction of Buildings | 15 | | 236 |
| Heavy and Civil Engineering Construction | 16 | | 237 |
| Specialty Trade Contractors | 17 | | 238 |
| Beverage, Food, and Tobacco Manufacturing | 20 | | 311, 312 |
| Wood Product Manufacturing | 24 | | 321 |
| Paper Manufacturing | 26 | | 3221xx, 3222xx |
| Printing and Related Support Activities | 27 | | 323 |
| Chemical Manufacturing | 28 | | 325 |
| Petroleum and Coal Products Manufacturing | 29 | | 3241xx |
| Plastics and Rubber Product Manufacturing | 30 | | 326 |
| Leather and Allied Product Manufacturing | 31 | | 316 |
| Nonmetallic Mineral Product Manufacturing | 32 | | 327 |
| Primary Metal Manufacturing | 33 | | 331 |
| Fabricated Metal Product Manufacturing | 34 | | 332 |
| Machinery, Computer, and Electronic Product manufacturing | 35 | | 333, 334 |
| Electrical Equipment, Appliance, and Component Manufacturing | 36 | | 335 |
| Transportation Equipment Manufacturing | 37 | | 336 |
| Rail Transportation | 40 | | 482 |

| Group Description | SIC Major Group | SIC Industry Group No. | NAICS Major Group |
|---|-----------------|---------------------------------|---|
| Transit and Ground Passenger Transportation | 41 | | 485 |
| Truck Transportation and Warehousing | 42 | | 484, 493 |
| Support Activities for Transportation | | 473, 474, 478 | 4881xx, 4882xx, 4884xx, 4889xx, |
| Utilities | 49 | | 2211xx |
| Wholesale Trade – Durable Goods | | 501, 503, 505, 506, 507, 509 | 423140, 423930, 423110, 4233xx, 4237xx, 4238xx, |
| Wholesale Trade – Nondurable Goods | | 514, 515, 516, 517, 518, 519 | 424930, 4244xx, 4246xx, 4247xx, 4248xx, |
| Building Materials, Hardware, Garden Supplies Dealers | | 521, 523, 526 | 444 |
| Food and Beverage Stores | 54 | | 445 |
| Automotive Dealers and Gasoline Service Stations | 55 | | 441, 447 |
| Food Services and Drinking Places | 58 | | 722 |
| Rental and Leasing Services | | 735 | 5321xx, 5324xx |
| Repair and Maintenance | 75 | | 811192, 8111xx, 8112xx, 8113xx, 8114xx, |
| Ambulatory Health Care Services and Hospitals | | 806, 807 | 621910, |
| Educational Services | 82 | | 6111xx, 6112xx, 6113xx, 6115xx |
| Museums, Historical Sites, and Similar Institutions | | 842 | 712 |



**City Of Orting
Council Agenda Summary Sheet**

| | Agenda Bill # | Recommending Committee | Study Session Dates | Regular Meeting Dates |
|---|------------------------|----------------------------------|----------------------------|------------------------------|
| Subject: Visa Credit Card | AB21-24 | CGA 3.4.21 | 3.17.21 | |
| | | | | |
| | Department: | Finance | | |
| | Date Submitted: | 3/1/2021 | | |
| Cost of Item: | | <u>\$ 0.00</u> | | |
| Amount Budgeted: | | <u>\$ 0.00</u> | | |
| Unexpended Balance: | | <u>\$ 0.00</u> | | |
| Bars #: | | NA | | |
| Timeline: | | When approved | | |
| Submitted By: | | Gretchen Russo, Finance Director | | |
| Fiscal Note: | | | | |
| Attachments: CITI Credit Card Agreement | | | | |
| <p>SUMMARY STATEMENT:</p> <p>The City currently has a MasterCard credit agreement with Key Bank with a \$30,000 credit limit. Costco does not accept Mastercard payments. The Finance Director is recommending that the City signs an agreement with CITI for a VISA credit card which will be available to staff for sign out for Costco purchases. Credit limit will be set for no more than \$10,000 but will normally be kept at a lower amount. This credit card will enable the City to purchase Costco goods without the need for personal reimbursements and would increase our ability to track purchases with this vendor.</p> | | | | |
| <p>RECOMMENDED ACTION: Move Forward to the consent agenda for March 31, 2021.</p> | | | | |
| <p>FUTURE MOTION: <i>To Authorize The Mayor To Sign A Credit Card Agreement With CITI For A VISA Credit Card With A Not To Exceed \$2,000 Credit Limit.</i></p> | | | | |

Card Agreement Guide

This Guide will help you easily identify sections of the Card Agreement and give you a brief overview of the contents of each section. This is not intended to be a complete summary of the Card Agreement's contents, and we encourage you to read your entire Card Agreement, including the arbitration provision, before you use your Account.

1 DEFINITIONS

Lists the meanings of particular phrases and terms used in the Card Agreement.

2 YOUR ACCOUNT

Describes some of your responsibilities for using your Account.

3 ANNUAL PERCENTAGE RATES & INTEREST CHARGES

Shows how we calculate interest rates and how that affects your Account balance.

4 FEES & FOREIGN CURRENCY CONVERSION

Describes the fees that can be applied to your Account, including late fees, returned payment fees, as well as foreign transaction fees for Purchases not in U.S. dollars.

5 PAYMENTS

Shows how your monthly Minimum Payment Due is calculated, tells you how we apply your payments to balances, and gives you certain instructions for making payments (and tells you the possible consequences of not following those instructions).

6 AUTHORIZED USERS

Describes an Authorized User's rights and your responsibility for that user. Also describes what information we can share about you and your Authorized User.

7 DEFAULT, CLOSING OR SUSPENDING YOUR ACCOUNT

Tells you when we may require immediate payment of your total Account balance, and explains when we may close or suspend your Account, and when you may close your Account.

8 CREDIT REPORTING

Describes what information we provide about you to credit reporting agencies, and how to dispute items on your report. This section also explains how we use information we get about you from those agencies.

9 ACCOUNT INFORMATION, INFORMATION SHARING & COMMUNICATIONS

Explains that your personal information we use to manage your Account should always be up to date. Also notes that we share information about you and your Account. In addition, this section describes how we may contact you.

10 TRANSACTIONS

Provides important information about merchant credits, recurring Transactions and card refusals.

11 ARBITRATION

Explains that you cannot go to court, have a jury trial or initiate or participate in a class action if you have a dispute with us. Instead, this provision tells you that the dispute must be resolved by a professional arbitrator, not a judge or jury. This section also explains how arbitration works and some of the differences between resolving a dispute in arbitration and resolving one in court.

12 AGREEMENT & BENEFIT CHANGES

Explains that we can make changes to the Card Agreement and your card benefits and features.

13 MISCELLANEOUS

Explains subjects that aren't included in previous sections.

14 YOUR BILLING RIGHTS

Explains your billing rights, which include how to address possible statement mistakes and your rights if you're not satisfied with a Purchase.



Card Agreement

This Card Agreement (**Agreement**) is your contract with us.

The *Facts about Interest and Fees* document (**Fact Sheet**) is part of this Agreement. The **Fact Sheet** shows important information about your Account, such as your annual percentage rates and certain fees. Any amendments to this Agreement also are part of this Agreement.

Please read all parts of this Agreement, including the arbitration provision, and keep it for your records.

Note: Throughout the Agreement are examples, helpful tips and additional explanations that will make the Agreement easier to understand.

1

DEFINITIONS

Account – Your Costco Anywhere Visa® Card Account.

Adjusted New Balance – Your New Balance less any Citi Flex Plan balance.

Annual Percentage Rate (APR) – A rate, shown as a percentage, used to calculate interest on the balance on your Account.

Authorized User – Any person you allow to use your Account with a Card we provided with that person's name.

Balance Transfer – Use of a Balance Transfer offer, including use of a check that accesses your Account for any transaction, or the transfer of a balance from another credit account to your Account.

Billing Period – The period of time between each date when we create a statement for your Account. A Billing Period is usually 28 – 33 days. For each Billing Period, your statement will show any Transactions, other charges, payments and other credits posted during that Billing Period.

Business Day – Monday through Friday, excluding federal holidays.

Card – One or more cards or other devices (including an account number) used to access your Account to obtain credit.

Card Networks – Organizations, such as Mastercard, Visa and American Express, that facilitate the payment process between a cardmember, merchants and a card issuer.

Cash Advance – Use of your Card to get cash, including foreign currency, or for what we consider a cash-like transaction. Examples include using your Card for: ATM and teller withdrawals, wire transfers, money orders, traveler's checks, lottery tickets, gaming chips and other methods used for gambling, wagers and other betting transactions. A Citi Flex Loan is not a Cash Advance.

Citi Flex Loan – Funds provided to you by check or by direct deposit that you select to be charged to your Account and repaid under a Citi Flex Plan. Balance Transfers and Cash Advances are not Citi Flex Loans.

Citi Flex Pay – Eligible Transactions that you select to be paid under a Citi Flex Plan.

Citi Flex Plan – A feature on your Account to pay Citi Flex Loans or Citi Flex Pay amounts in fixed payments over a defined number of Billing Periods subject to a Citi Flex Plan APR.

Consumer Reporting Agency – An organization, such as Experian, Equifax and TransUnion, that compiles credit information for the purpose of generating consumer credit reports. It's also known as a "credit bureau" and a "credit reporting agency."

Include and including – These terms mean "include [or including] without limitation."

Late Payment – A payment is late if you don't pay at least an amount equal to the Minimum Payment Due minus any Overlimit Amount by the payment due date.

New Balance – The total amount you owe us at the end of each Billing Period. This amount is shown on each statement under the heading "New Balance." We explain how we calculate the New Balance below.

Overlimit Amount – The amount by which your Account balance exceeds your credit limit in any Billing Period.

Purchase – Use of your Card to buy goods and services. Balance Transfers and Cash Advances are not Purchases.

Returned Payment – A payment that isn't honored by your financial institution.

Transaction – A Balance Transfer, Cash Advance, Purchase or Citi Flex Plan, as applicable.

we, us and our – Citibank, N.A.

you and your – The cardmember who opened the Account.

You'll find definitions of other terms within this Agreement.



2

YOUR ACCOUNT

Your Account use is subject to this Agreement. You must pay us for all amounts due on your Account, including:

1. Transactions you make, even if you didn't present your Card or sign for the Transaction;
2. Transactions an Authorized User makes;
3. Transactions that other people make if you or an Authorized User let them use your Account; and
4. Any fees and interest charges on the Account.

Binding Agreement. This Agreement takes effect once you use your Card. Even if you don't use your Card, this Agreement will take effect unless you contact us to cancel your Account within 30 days after we sent you this Agreement.

Credit Limit. We assign a credit limit to your Account. Part of this credit limit may be available for Cash Advances, and there may be a limit on the amount of Cash Advances you can take in a given period. We may authorize Transactions that cause your balance to exceed your credit limit.

ACCOUNT USE

Consumer Purposes. You aren't permitted to use your Account for business purposes. If you do use your Account for business purposes, this Agreement still applies, and you must pay us for those Transactions. You have to pay us for any damages and/or expenses resulting from that use. In addition, we may also close your Account.

Citi Flex Plan. Your ability to create a Citi Flex Plan will depend on the amount of your available credit, creditworthiness, and other factors. We may limit the number of active Citi Flex Plans you can have and we may change this number at any time. There are two ways to create a Citi Flex Plan – Citi Flex Pay and Citi Flex Loan.

With **Citi Flex Pay**, you can pay for eligible Transactions under a Citi Flex Plan. An eligible Transaction for Citi Flex Pay must be a Purchase of at least a specified dollar amount and does not include a Purchase of cash or cash equivalent, a Purchase subject to Foreign Transaction Fees or any fee owed to us. Other exclusions may apply.

With **Citi Flex Loan**, you can use your Account's credit line to access funds and pay such funds under a Citi Flex Plan. You can only create a Citi Flex Loan if you receive an offer. The offer will tell you the terms, including the APR, that will apply to that Citi Flex Loan.

Unlawful Transactions. You aren't permitted to use your Account for unlawful Transactions. If you do use your Account for unlawful Transactions, this Agreement still applies and you must pay us for those Transactions. You also may have to pay the Card Network and/or us for any damages and expenses resulting from that use. In addition, we may close your Account.

Mobile Phone or Other Devices. Smart phones, tablets and other electronic devices can store your Card (such as through a mobile wallet). This means they can be used to make Purchases or other Transactions. Any such Transactions are covered by this Agreement. Apps that use your Card to make Transactions may have separate terms of use. We're not responsible if you violate those terms, or for any consequences resulting from any violation.

***Note:** It's important to protect your devices the same way you protect your Card. Anyone who can access your Card using your device also can make charges to your Account using that device.*

3

ANNUAL PERCENTAGE RATES & INTEREST CHARGES

The following sections explain how we calculate the interest you owe each Billing Period.

APRs. We use APRs to calculate interest charges on your Account. Different APRs may apply to different Transactions. See the listing of your APRs on the **Fact Sheet**.

Variable APRs. A variable APR is an APR that can change each Billing Period. We calculate each variable APR first by taking the U.S. Prime Rate from *The Wall Street Journal (WSJ)* two Business Days before the last day of each Billing Period. (If the *WSJ* doesn't publish the U.S. Prime Rate that day, then we'll use another publication.) Then we add to the U.S. Prime Rate a certain percentage amount, which we call the **Margin**. You can find the Margin we use for your Account in the Details About Your Interest Rate section of the **Fact Sheet**. Your variable APRs will increase if the U.S. Prime Rate increases and decrease if the U.S. Prime Rate decreases. If a variable APR increases, then your interest charges and Minimum Payment Due may increase.

How is a variable APR calculated?

If the U.S. Prime Rate published in the *WSJ* two Business Days before the end of a Billing Period is 5%; and
If the Margin is **13.99%**; then
Add the two together to calculate a variable APR:

$$5\% + 13.99\% = 18.99\%$$

If the U.S. Prime Rate changes, we'll apply the new variable APR starting from the first day of the Billing Period when we take the U.S. Prime Rate from the *WSJ*. The new APR will apply to existing balances, as well as balances added to your Account after the change.

Penalty APR. If you have a Late or a Returned Payment, we may apply a penalty APR to your Account. We determine your penalty APR based on your creditworthiness.



continued on next page

- **Penalty APR for new Transactions (less than 60 days late).** If you make a Late Payment and it's less than 60 days late or you have a Returned Payment, the penalty APR only will apply to new Transactions. We'll review your Account from time to time, to determine if any penalty APR should be reduced.
- **Penalty APR for existing balances and new Transactions (60 or more days late).** If we haven't received your Minimum Payment Due within 60 days after its due date, we may apply the penalty APR to both the existing balances and new Transactions. If you make your next 6 consecutive Minimum Payments Due on time, we'll stop applying the penalty APR to existing balances and new Transactions. If you don't make your next 6 consecutive Minimum Payments Due on time, the penalty APR may continue to apply indefinitely to existing balances and new Transactions.

Daily Balance

We calculate interest on your Account each Billing Period first by calculating your daily balances. The following explains how we do that.

Here's how and when Transactions, fees and credits are applied to the balances on your Account:

- We add the amount of a Purchase or Balance Transfer to the Purchase balance as of the post date on your statement.
- We add the amount of a Cash Advance to the Cash Advance balance as of the post date on your statement.
- We add a Balance Transfer fee to the Purchase balance as of the post date on your statement.
- We add the amount of any eligible Transaction under Citi Flex Pay or a Citi Flex Loan to a Citi Flex Plan balance as of the post date on your statement. If you moved an amount from another balance within your Account to a Citi Flex Plan, we will credit the other balance in the amount you added to a Citi Flex Plan in order to avoid double counting that amount.
- We add a Cash Advance fee to the Cash Advance balance as of the post date on your statement. We'll add any other fees to the balance of our choice. If you're charged interest in a Billing Period, but the amount calculated is less than \$0.50, we'll add additional interest to the balance(s) of our choice so that you'll be charged \$0.50 in interest for that Billing Period.
- We subtract credits and payments as of the post date shown on your statement.
- Each balance may have a different APR. Certain categories of Transactions in a balance may have multiple APRs. For example, you may make a Purchase or Balance Transfer, or create a Citi Flex Plan, that's subject to a promotional APR. Your balances, and their corresponding APRs, are shown on your statement.

Note: The post date shown on your statement will usually be the date of the Transaction, but it may be later.

Here's how we calculate each of the daily Purchase, Cash Advance and Citi Flex Plan balances on your Account:

- We start with the daily balance from the end of the previous day.
- We add any new Transactions, fees and other charges, including interest accrued on the previous day's balance. This means that interest is compounded daily.

- We subtract any credits or payments credited as of that day.
- We make additional adjustments as appropriate, subject to applicable law (as an example, for a disputed charge). This gives us the daily balance for that day.

| |
|---|
| Daily balance for purchases from the previous day + New purchases + Fees and interest accrued on the previous day's Purchase balance – Payments, credits and adjustments posted that day = New daily balance for Purchases |
|---|

Interest Calculation. Each daily balance may have a different APR. Certain categories of Transactions in a daily balance may have multiple APRs. For example, you may make a Purchase or Balance Transfer that's subject to a promotional APR. If a daily balance on your Account is subject to an APR, we'll charge interest on that daily balance. We use the daily balance method (which includes new Transactions). If interest applies to a balance, it will start applying on the day a charge is added to that balance and continue until that balance is paid in full. We consider a credit balance as a balance of zero when calculating interest on that balance.

- We multiply each daily balance by its applicable daily periodic rates (each applicable APR divided by 365).
- We do this for each day in the Billing Period. This gives us the daily interest amounts.
- Then we total all the daily interest amounts for all the daily balances. This gives us the total interest for the Billing Period.

Note: Your balances, and their corresponding APRs, are shown on your statement.

Calculating the New Balance. To calculate the New Balance at the end of each Billing Period, we begin with the total Account balance at the start of that Billing Period. Then we add any Transactions that are new to the Account during that Billing Period. Then we subtract any credits applied or payments made during that Billing Period. Then we add any interest charges or fees incurred during that Billing Period and make any other adjustments, as applicable (for example, if you have disputed a charge).

Grace Period on Purchases. You won't pay any interest on Purchases if you pay the Adjusted New Balance, including any Balance Transfers, plus any Citi Flex Plan Payment Amount, in full by the payment due date shown on your statement each Billing Period. We call this a **grace period on purchases**. If you don't pay your Adjusted New Balance in full, plus any Citi Flex Plan Payment Amount, by the payment due date in a Billing Period, you'll pay interest on your Purchases from the date they're posted to your Account. You also won't have a grace period on Purchases again until you pay the Adjusted New Balance in full, plus any Citi Flex Plan Payment Amount, by the payment due date 2 Billing Periods in a row.

There's no grace period on Balance Transfers and Cash Advances. This means you'll pay interest on Balance Transfers and Cash Advances from the date these Transactions post to your Account.



Important Information about Citi Flex Plans: We apply any amount you pay over your Minimum Payment Due first to the balance with the highest APR, then to the balance with the next highest APR, and so on, as described in Section 5, Application of Payments. This means that, if the APR for a Citi Flex Plan balance is higher than an APR that applies to another balance on your Account, we will apply the amount you pay above the Minimum Payment Due to that Citi Flex Plan balance prior to that other balance. This will cause you to pay off that Citi Flex Plan balance before the end of its repayment period and may result in an amount remaining due on your next billing statement for the other balance, increasing your Adjusted New Balance on your next billing statement.

You can see your balances and their corresponding APRs on your statement.

For example, in a sample Billing Period, an Account with no past due or Overlimit Amounts, has:

Citi Flex Plan: \$5,000 with a repayment period of 24 months at 16.99% APR

Citi Flex Plan statement balance in sample Billing Period: \$4,090

Citi Flex Plan interest charge in sample Billing Period: \$56.92

Citi Flex Plan Payment Amount per Billing Period: \$248

and

Purchase balance: \$5,000

Minimum Payment Due for Purchases: \$75

(Calculations are approximate and for illustrative purposes only.)

The New Balance for the Account: is **\$9,090**. The Adjusted New Balance is the New Balance (\$9,090) less the Citi Flex Plan Balance (\$4,090): **\$5,000**. Your Minimum Payment Due is **\$323** (\$75 + \$248). To retain your grace period on purchases, you must pay the Adjusted New Balance (\$5,000) plus your Citi Flex Plan Payment Amount (\$248): **\$5,248**.

If your Purchase APR is equal to or higher than your Citi Flex Plan APR and you make a payment to retain your grace period on purchases (\$5,248), your Purchase balance will be reduced to \$0. This means that, to retain your grace period on purchases in the next Billing Period, you will be required to pay \$248 (your Citi Flex Plan Payment Amount), assuming you do not make any new Transactions.

Grace Period for Citi Flex Plan balances. When you create a Citi Flex Plan, you will be charged interest on the Citi Flex Plan balance from the start of the Billing Period following the Billing Period when you created the Citi Flex Plan. This means that you will not be charged interest on the Citi Flex Plan balance during the Billing Period in which you created the Citi Flex Plan.



FEES & FOREIGN CURRENCY CONVERSION

| Fee | Amount | About the Fee |
|--|---|---|
| Annual Membership Fee | None | There is no annual membership fee for this credit card. We will close your Account if you do not maintain a Costco membership. |
| Late Fee | Up to \$40 | We have the right to charge you a late fee if you don't pay at least an amount equal to the Minimum Payment Due minus any Overlimit Amount by the payment due date. The late fee is \$29 and, if you make another Late Payment within the next 6 Billing Periods the late fee will be \$40. The amount of your late fee will never be higher than your Minimum Payment Due. |
| Returned Payment Fee | Up to \$40 | We have the right to charge you a Returned Payment fee of \$29 if your bank doesn't honor your payment. If that happens, we'll resubmit the payment request. If your bank doesn't honor another payment within 6 consecutive Billing Periods, the returned payment fee will go up to \$40. |
| Transaction Fee for Balance Transfers | Either \$5 or 3% of the amount of each transfer, whichever is greater. | We charge you a fee for each Balance Transfer. |
| Transaction Fee for Cash Advances | Either \$10 or 5% of the amount of each cash advance, whichever is greater. | We charge you a fee for each Cash Advance. |

FOREIGN CURRENCY CONVERSION

Foreign Currency Conversion – Purchases. A Card Network converts the amount of a Purchase in a foreign currency into U.S. dollars. Each Card Network follows its own procedures for conversion. These procedures include how the Card Network chooses an exchange rate and when to do the conversion. For example, Visa chooses either a government-mandated exchange rate or chooses from a range of rates available on wholesale currency markets (and, in either case, the exchange rate that it chooses may be less favorable than the rate that Visa itself, receives when it makes foreign currency transactions). Depending on the policies of each Card Network, the exchange rate chosen may be the one in effect on the day the Card Network does the conversion, or on the day before. The exchange rate that a Card Network uses to convert the Purchase to U.S. dollars may differ from the rate in effect on the date you made the Purchase or on the post date for that Purchase shown on your statement. The Card Network's procedures may change without notice.

If a third party, such as a merchant, converts the amount of a Purchase into U.S. dollars before sending the Purchase to a Card Network, the third party chooses the conversion rate instead of the Card Network.

Foreign Currency Conversion – Cash Advances. If you take a Cash Advance in a foreign currency at an ATM or branch of a financial institution, it may not be the Card Network in all instances that converts the Transaction into U.S. dollars. Instead, depending on where the Transaction takes place, another third party, such as a financial institution, ATM network or ATM operator, may do the conversion. We do not control this. However, if you use your Card for a Cash Advance at a Citibank ATM or branch, then we or our affiliates may do the conversion.

The party that converts a Cash Advance to U.S. dollars will choose the exchange rate and when to do the conversion. The exchange rate in effect on the date the Cash Advance is converted to U.S. dollars may differ from the rate in effect on the date you took the Cash Advance or the post date for that Transaction shown on your statement. The exchange rate may also differ from any rate quoted to you when you made the Transaction.



PAYMENTS

Minimum Payment Due. You may pay all or a part of your Account balance at any time. You must pay at least the Minimum Payment Due by the payment due date each Billing Period.

Your “**Minimum Payment Due**” equals:

- Any amount past due; plus
- Any Overlimit Amount; plus
- Any Citi Flex Plan Payment Amount; plus
- The greater of:
 1. The Adjusted New Balance, if it's less than \$35;
 2. \$35 if the Adjusted New Balance is at least \$35;
 3. 1% of the Adjusted New Balance (rounded to the nearest dollar), plus any billed interest or minimum interest charge, plus any late fee; or
 4. 1.5% of the Adjusted New Balance (rounded to the nearest dollar).

The Minimum Payment Due is never more than the New Balance.

Note: Your payment due date is typically the same day of the month every month. You may request a change to your monthly due date.

How is the Minimum Payment Due calculated?

For example, in a sample Billing Period, an Account with no past due, Overlimit or Citi Flex Plan Payment amount has:

New Balance: \$2,500

Interest: \$18.54

Since the New Balance is more than \$35, and there are no past due or Overlimit amounts, the Minimum Payment Due will be the greater of:

1% of the New Balance

(1.0% x \$2,500: **\$25.00**) + interest (\$18.54): **\$43.54**

or

1.5% of the New Balance (1.5% x \$2,500): **\$37.50**

Since 1% of the New Balance plus interest (\$43.54) is greater than 1.5% of the New Balance (\$37.50) the Minimum Payment Due is **\$43.54**.

Citi Flex Plan Payment Amount. The Minimum Payment Due will include any amount due on a Citi Flex Plan balance each Billing Period (the “**Citi Flex Plan Payment Amount**”). You must pay the Citi Flex Plan Payment Amount each Billing Period, calculated as described below, for so long as any balance remains in the Citi Flex Plan. The Citi Flex Plan Payment Amount will never be more than the amount of the Citi Flex Plan balance.

We determine the Citi Flex Plan Payment Amount for each Citi Flex Plan that you will pay in each Billing Period as follows:

- The Citi Flex Plan balance as of the date you create the Citi Flex Plan, plus
- The estimated interest charges for the Citi Flex Plan calculated on the daily balance from the start of the next Billing Period following the Billing Period in which you created the Citi Flex Plan through the end of the Citi Flex Plan repayment period (assuming that you pay the Minimum Payment Due on your Account each month on the due date), the sum of which is divided by:

- The number of months in the Citi Flex Plan repayment period.
- We then round the result up to the nearest dollar.

The formula we use for determining the amount described directly above is:

- The Citi Flex Plan balance, multiplied by
- $(IPAPR / 12) / (1 - (1 + IPAPR / 12)^{-N})$, rounded up to the nearest dollar. “IPAPR” equals the specific Citi Flex Plan APR applicable to the Citi Flex Plan balance. “N” equals the number of months in the Citi Flex Plan repayment period.

The actual interest charged on your Plan will be calculated as described in Section 3. Your first Citi Flex Plan Payment Amount will be due in the Billing Period following the Billing Period in which you created the Citi Flex Plan. If you do not pay your Minimum Payment Due in full by the due date, you may owe additional interest on your Citi Flex Plan balance. This will not increase the Citi Flex Plan Payment Amount for subsequent Billing Periods, but you may be required to make additional payments after the end of the Citi Flex Plan repayment period to pay your Citi Flex Plan balance (including any additional interest) in full.

If you have not paid your Minimum Payment Due for any three Billing Periods during the Citi Flex Plan, and the Minimum Payment Due for those three Billing Periods remains outstanding at the end of your current Billing Period, we may cancel any existing Citi Flex Plan from your Account, then add the balance of any canceled Citi Flex Plan to the Purchase balance, retaining the Citi Flex Plan APR that was in effect at time of cancellation. We may also do this if:

- You file for bankruptcy or some other insolvency proceeding is filed by or against you.
- You don't honor the terms of this Agreement.
- You're declared incompetent or mentally incapacitated or in the event of your death.
- You enter into a hardship assistance program.

If any of the above events occur, we will calculate the Minimum Payment Due as part of the Adjusted New Balance as described in Section 5 and you will no longer pay a monthly Citi Flex Plan Payment Amount. Any canceled Citi Flex Plan balance amount that was added to a Purchase balance will not be added back to a Citi Flex Plan balance, even if you pay your outstanding Minimum Payment Due in full. You will not be eligible to create another Citi Flex Plan until you pay your outstanding Minimum Payment Due in full, and then only if we offer you the opportunity to create another Citi Flex Plan.

Important Information about Citi Flex Plans and Promotional APRs:

If your Citi Flex Plan APR is higher than any other APR, such as a promotional Balance Transfer APR, we will apply any payment you make above the Minimum Payment Due to that Citi Flex Plan balance prior to the lower APR balances. **This means that if you want to pay off a balance with a lower promotional APR before the promotional period expires, you must first pay off all your other balances with higher APRs, including your Citi Flex Plan balance, before you can pay off that promotional balance.**



For example, in a sample Billing Period, an Account with no past due or Overlimit Amounts, has:

Citi Flex Plan: \$5,000 with a repayment period of 24 months at 16.99% APR

Citi Flex Plan statement balance in sample Billing Period: \$4,090

Citi Flex Plan interest charge in sample Billing Period: \$56.92

Citi Flex Plan Payment Amount per Billing Period: \$248

And

Balance Transfer amount: \$3,500

Balance Transfer promotional APR: 0.00% (increases to standard Purchase APR of 19.99% after the promotion period ends in the next Billing Period)

Minimum Payment Due for Balance Transfer amount: \$53

(Calculations are approximate and for illustrative purposes only.)

The New Balance for the Account is **\$7,590**. The Adjusted New Balance is the New Balance (\$7,590) less the Citi Flex Plan Balance (\$4,090): **\$3,500**. Your Minimum Payment Due is **\$301** (\$53 + \$248).

You make a payment of **\$3,748**, which includes the Minimum Payment Due (\$301) and an additional amount over your Minimum Payment Due (\$3,447). Because the Citi Flex Plan APR is higher than the Balance Transfer APR, the amount of your payment over the Minimum Payment Due will be applied to your Citi Flex Plan balance before the Balance Transfer amount, leaving a Balance Transfer amount of \$3,447. **In the next Billing Period when the Balance Transfer promotional period ends, you will owe interest on this Balance Transfer amount at a 19.99% APR.**

Application of Payments. We decide how to apply your payment, up to the Minimum Payment Due, to the balances on your Account. We may apply the Minimum Payment Due first to interest charges, then to the balance with the lowest APR and then to balances with higher APRs. If you pay more than the Minimum Payment Due, we'll apply the amount over the Minimum Payment Due first to the balance with the highest APR, then to the balance with the next highest APR, and so on, except as otherwise required by applicable law.

Payment Instructions. You must follow the instructions below when making a payment. If you do, we'll credit the payment to your Account as of the day we receive it.

1. You must pay in U.S. dollars.
2. You must use a check or electronic debit issued by a bank in the United States.
3. You must not send us a check dated after the date that we receive it.
4. You must not enclose more than one check per envelope.
5. You must not include any restrictive endorsements on the check.
6. You must follow the additional payment instructions shown on your statement.

If you don't pay in U.S. dollars and we accept your payment, we'll select the currency conversion rate, and you must pay our costs. If you don't follow our payment instructions, we may not accept your payment, or there may be a delay in crediting your Account. Either case may result in late fees and additional interest charges to your Account. If you don't follow the instructions in this Agreement or on your statement, we may accept your payment without losing our rights. We may reject a payment if it's more than the outstanding Account balance. We also may close your Account.



6

AUTHORIZED USERS

Adding and Removing Authorized Users. You can ask us to add one or more Authorized Users to your Account. If we approve, use of your Account by an Authorized User is subject to the terms of this Agreement. You must:

- Obtain permission from each Authorized User before naming him or her as an Authorized User on your Account.
- Make a copy of this Agreement available to each Authorized User.

You must notify us to remove an Authorized User from your Account. If we remove an Authorized User, in some cases we may close your Account, open a new Account and issue you a new Card.

Your Responsibility for Authorized Users. You must pay us for:

- Any Transactions made by an Authorized User on your Account.
- Any Transaction made by an Authorized User even if the post date shown on your statement for that Transaction occurs after the date you ask us to remove the Authorized User from your Account.
- Any Transactions made by others if an Authorized User allows them to use your Account.

Fees and charges resulting from any Transactions made by an Authorized User or others if an Authorized User allows them to use your Account.

Account Rights for Authorized Users. You agree that an Authorized User may use and receive information about the Account, such as the Authorized User Transaction information and history, Account Balance and Minimum Payment Due. You allow us to discuss your Account with an Authorized User. We may also provide you the option to give Authorized Users expanded access to your Account, such as permitting the Authorized Users to set up recurring payments or to obtain your Transaction history. If we provide this expanded access, we will explain the available options. An Authorized User won't be able to add other Authorized Users, adjust the credit limit or close the Account.

What can Authorized Users do? All Authorized Users can take certain actions with the Account, including:

- Report lost or stolen Cards
- Make payments
- Obtain certain information about the Account, such as the Authorized User Transaction history, the Account balance and Minimum Payment Due
- Initiate billing disputes
- Request refund checks

Information about Authorized Users. You agree to give us certain personal information about each Authorized User. You must let each one know that you'll give us that information and you must have his or her permission to do so. You must have permission from each one to allow us to share information about him or her as allowed by applicable law. This includes information we may get from you, any Authorized User and others. It also includes information about their Transactions on the Account.

Credit Reporting. We report information about this Account to Consumer Reporting Agencies in the Authorized User's name that may appear on their credit report. This could include information about:

- Late Payments;
- Overlimit Amounts;
- Returned Payments; and
- Other violations of this Agreement.

You must let each Authorized User know that we report Account information in his or her name. Also, see **Credit Reporting** in Section 8.

7

DEFAULT, CLOSING OR SUSPENDING YOUR ACCOUNT

Default. We may require immediate payment of your total Account balance, to the extent allowed by law, if any of the following occur:

1. You don't pay at least the Minimum Payment Due by the due date.
2. You have a Returned Payment.
3. You file for bankruptcy or some other insolvency proceeding is filed by or against you.
4. You don't honor the terms of this Agreement.
5. You default under any other card agreement you have with us.
6. You're declared incompetent or mentally incapacitated, or in the event of your death.

Closing or Suspending Your Account. We may close or suspend your Account if any of the events listed above occur, or for any reason, or for no reason. We may do this at any time, without notifying you, as allowed by law. We may cancel your current Card and issue you a substitute Card at any time. You also may close your Account at any time by notifying us by telephone or in writing. If we close or suspend your Account, or if you close your Account, you must pay us all amounts you owe on the Account (including any amount due on a Citi Flex Plan balance), even if they post to your Account after it's closed or suspended.

Note: We will close your Account if you do not maintain a Costco membership.



8

CREDIT REPORTING

You allow us to get information about you. We get it from Consumer Reporting Agencies and other sources that provide consumer financial information. You allow us to use it for:

- Renewal of your Account;
- Credit line increases or decreases;
- Administration or review of your Account, collection and any other servicing;
- All other credit-related purposes connected with this Agreement;
- Offers for other cards, insurance products and other services; and
- Other uses permitted by law.

We report Account information in your name, as well as information about you to Consumer Reporting Agencies, on a monthly basis.

The information we provide may appear on your credit reports. This can include information about:

- Late Payments;
- Overlimit Amounts;
- Returned Payments; and
- Other violations of this Agreement.

If you think we've given incorrect information to a Consumer Reporting Agency about you (or about an Authorized User), please write to us at the Customer Service address on your statement and we'll research it. We'll let you know if we agree or disagree with you. If we agree with you, we'll contact each Consumer Reporting Agency we reported to and request a correction.

9

ACCOUNT INFORMATION, INFORMATION SHARING & COMMUNICATIONS

Changes to Account Information. You provided certain personal information to us when you opened your Account. You agree to notify us if this information changes. If you don't, or if we ask you to verify your Account information and you cannot, we may suspend or close your Account.

Information Sharing. You agree to let us share information about you and your Account as allowed by law. This includes information we get from you and others. Our privacy notice, which is enclosed with your new Account materials, describes reasons Citi can share its customers' personal information.

COMMUNICATIONS

Contacting You. You agree that we (and/or our service providers or anyone we authorize) may contact you at any phone number, email address or mailing address you provide or we obtain in other ways.

This includes communications to mobile, cellular/wireless or similar devices. We may contact you by live operator, auto-dialer, recorded or artificial voice, text or email.

You agree to pay any charges from your plan provider for communications we send to you, as well as communications you send to us.

How We Capture and Use Voiceprints. We may use voice recognition technology to verify your identity when you call. We may capture and store your voiceprint for this purpose.

Call Monitoring. We may monitor and record any calls between you and us.

Notices. We send any notices to your billing address or, if you've agreed, by email to the address you gave us. We consider a notice sent as soon as we mail it. We consider an electronic notice sent as soon as we email it, unless we receive notification that the email was undeliverable.

10

TRANSACTIONS

Merchant Refunds. A merchant refund to your Account will post to your Account as a credit. We don't control when a merchant sends an Account credit. We'll choose how to apply the credit to your existing Account balances, including whether to apply a credit to a Citi Flex Plan or a different balance. If you believe a merchant credit has not been applied properly, please contact us. If a credit creates a credit balance on your Account, we'll mail you a check for the amount of the credit balance.

Note: Merchant Surcharges. *Some merchants, including merchants outside the U.S., may charge you a fee to use your Card for a Purchase. The fee will be either a percentage of the amount of your Purchase, or a flat fee, and will be added to the amount of your Purchase. Usually, a merchant will tell you about this fee before you use your Card, but not always. We don't control these fees, and can't prevent them.*

Recurring Authorized Transactions. If you authorize a merchant or any other person to charge your Account for recurring Transactions, you must notify the merchant if:

- You want to discontinue these Transactions;
- Your Account is closed;
- Your Account number changes;
- Your Card expiration date changes.

You're responsible for reinstating any recurring authorized Transactions.

Refusal of the Card. We don't guarantee approval of Transactions. We are not liable for those that aren't approved, even if you have enough available credit on your Account. We also may limit the number of Transactions approved in a single day. If we detect unusual or suspicious activity, we may suspend credit privileges on the Account or the impacted card.



ARBITRATION

PLEASE READ THIS PROVISION OF THE AGREEMENT CAREFULLY.

This section provides that disputes may be resolved by binding arbitration. Arbitration replaces the right to go to court, have a jury trial or initiate or participate in a class action. In arbitration, disputes are resolved by an arbitrator, not a judge or jury. Arbitration procedures are simpler and more limited than in court. This arbitration provision is governed by the Federal Arbitration Act (FAA), and shall be interpreted in the broadest way the law will allow.

Covered claims

- **You or we may arbitrate** any claim, dispute or controversy between you and us arising out of or related to your Account, a previous related Account or our relationship (called "Claims").
- **If arbitration is chosen by any party, neither you nor we will have the right to litigate that Claim in court or have a jury trial on that Claim.**

Except as stated below, all Claims are subject to arbitration, no matter what legal theory they're based on or what remedy (damages, or injunctive or declaratory relief) they seek, including Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; Claims made regarding past, present or future conduct; and Claims made independently or with other claims. This also includes Claims made by or against anyone connected with us or you or claiming through us or you, or by someone making a claim through us or you, such as a co-applicant, Authorized User, employee, agent, representative or an affiliated/parent/subsidiary company.

Arbitration limits

- Individual Claims filed in a small claims court are not subject to arbitration, as long as the matter stays in small claims court.
- We won't initiate arbitration to collect a debt from you unless you choose to arbitrate or assert a Claim against us. If you assert a Claim against us, we can choose to arbitrate, including actions to collect a debt from you. You may arbitrate on an individual basis Claims brought against you, including Claims to collect a debt.
- Claims brought as part of a class action, private attorney general or other representative action can be arbitrated only on an individual basis. The arbitrator has no authority to arbitrate any claim on a class or representative basis and may award relief only on an individual basis. If arbitration is chosen by any party, neither you nor we may pursue a Claim as part of a class action or other representative action. Claims of 2 or more persons may not be combined in the same arbitration. However, applicants, co-applicants, Authorized Users on a single Account and/or related Accounts or corporate affiliates are here considered as one person.

How arbitration works

- Arbitration shall be conducted by the American Arbitration Association

("AAA") according to this arbitration provision and the applicable AAA arbitration rules in effect when the claim is filed ("AAA Rules"), except where those rules conflict with this arbitration provision. You can obtain copies of the AAA Rules at the AAA's website (www.adr.org) or by calling 800-778-7879. You or we may choose to have a hearing, appear at any hearing by phone or other electronic means, and/or be represented by counsel. Any in-person hearing will be held in the same city as the U.S. District Court closest to your billing address.

- Arbitration may be requested at any time, even where there is a pending lawsuit, unless a trial has begun or a final judgment entered. Neither you nor we waive the right to arbitrate by filing or serving a complaint, answer, counterclaim, motion or discovery in a court lawsuit. To choose arbitration, a party may file a motion to compel arbitration in a pending matter and/or commence arbitration by submitting the required AAA forms and requisite filing fees to the AAA.
- The arbitration shall be conducted by a single arbitrator in accord with this arbitration provision and the AAA Rules, which may limit discovery. The arbitrator shall not apply any federal or state rules of civil procedure for discovery, but the arbitrator shall honor claims of privilege recognized at law and shall take reasonable steps to protect Account information and other confidential information of either party if requested to do so. The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statute of limitations, and may award damages or other relief under applicable law.
- The arbitrator shall make any award in writing and, if requested by you or us, may provide a brief statement of the reasons for the award. An arbitration award shall decide the rights and obligations only of the parties named in the arbitration, and shall not have any bearing on any other person or dispute.

Paying for arbitration fees

- We'll pay your share of the arbitration fee for an arbitration of Claims of \$75,000 or less if they are unrelated to debt collection. Otherwise, arbitration fees will be allocated according to the applicable AAA Rules. If we prevail, we may not recover our arbitration fees, unless the arbitrator decides your Claim was frivolous. All parties are responsible for their own attorney's fees, expert fees and any other expenses, unless the arbitrator awards such fees or expenses to you or us based on applicable law.

The final award

- Any award by an arbitrator is final unless a party appeals it in writing to the AAA within 30 days of notice of the award. The arbitration appeal shall be determined by a panel of 3 arbitrators. The panel will consider all facts and legal issues anew based on the same evidence presented in the prior arbitration, and will make decisions based on a majority vote. Arbitration fees for the arbitration appeal shall be allocated according to the applicable AAA Rules. An award by a panel on appeal is final. A final award is subject to judicial review as provided by applicable law.



Survival and Severability of Terms

This arbitration provision shall survive changes in this Agreement and termination of the Account or the relationship between you and us, including the bankruptcy of any party and any sale of your Account, or amounts owed on your Account, to another person or entity. If any part of this arbitration provision is deemed invalid or unenforceable, the other terms shall remain in force, except that there can be no arbitration of a class or representative Claim. This arbitration provision may not be amended, severed or waived, except as provided in this Agreement or in a written agreement between you and us.

Rules for rejecting this arbitration provision

You may reject this arbitration provision by sending a written rejection notice to us at: PO Box 790085, St. Louis, MO 63179-0085. Your rejection notice must be mailed within 45 days of Account opening. Your rejection notice must state that you reject the arbitration provision and include your name, address, Account number and personal signature. No one else may sign the rejection notice. Your rejection notice will not apply to the arbitration provision(s) governing any other account(s) that you have or had with us. Rejection of this arbitration provision won't affect your other rights or responsibilities under this Agreement, including use of the Account.

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AGREEMENT & BENEFIT CHANGES

Changes to this Agreement. We may change this Agreement for any reason and at any time, subject to applicable law. This means that we can change rates and fees that apply to your Account. It also means we can add, replace or remove provisions of this Agreement. If required by applicable law, we'll give you notice of the changes. If you have the right to reject a change, we'll notify you and tell you

how to reject. If we notify you of a change, we may do so on your statement or send you a separate written notice, either of which may be sent electronically if permitted by applicable law.

Changing Benefits. Any benefit, reward, service or feature offered may change or be discontinued at any time for any reason. Separate terms and conditions will describe any exceptions.

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MISCELLANEOUS

Assignment. We may assign any or all of our rights and obligations under this Agreement to a third party. You may not sell, assign or transfer your Account or any of your obligations under this Agreement.

Governing Law. Federal law and the law of South Dakota govern the terms and enforcement of this Agreement.

Enforcing this Agreement. We won't lose our rights under this Agreement because we delay in enforcing them or fail to enforce them. If any provision of this Agreement is found to be unenforceable, all other provisions of the Agreement will remain in effect.

Collection Costs. To the extent allowed by law, you're liable to us for our legal costs if we refer collection of your Account to a lawyer who isn't our salaried employee. These costs may include reasonable attorneys' fees, as well as costs and expenses of any legal action.

Unforeseen Circumstances. From time to time, our services might be unavailable due to circumstances beyond our control (such as fires, floods, natural disasters, system failures or other unpredictable events). When this happens, you might not be able to use your Card or obtain information about your Account. We're not responsible or liable if this happens.

Lost or Stolen Cards, Account Numbers or Account Checks. You must try to prevent the unauthorized use of your Account and any Card, including your Account number. You must call us if any Card is lost or stolen. Also, you must call us if you think someone has used or may use these items without permission.

Headings. The headings in this Agreement are included as a matter of convenience and don't define, limit or enlarge the scope of this Agreement or any of its provisions.



YOUR BILLING RIGHTS

This notice tells you about your rights and our responsibilities under the Fair Credit Billing Act. Keep this document for future use.

What to Do if You Find a Mistake on Your Statement

If you think there is an error on your statement, write to us at the address for billing inquiries and correspondence shown on the front of your statement.

In your letter, give us the following information:

- Account information: Your name and account number.
- Dollar amount: The dollar amount of the suspected error.
- Description of problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us:

- Within 60 days after the error appeared on your statement.
- At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You must notify us of any potential errors in writing. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.

What Will Happen After We Receive Your Letter

When we receive your letter, we must do 2 things:

1. Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
2. Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

While we investigate whether or not there has been an error:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The transaction in question may remain on your statement, and we may continue to charge you interest on that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.

We can apply any unpaid amount against your credit limit.

After we finish our investigation, one of two things will happen:

- If we made a mistake: You will not have to pay the amount in question or any interest or other fees related to that amount.
- If we do not believe there was a mistake: You will have to pay the amount in question, along with applicable interest and fees. We will send you a statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first \$50 of the amount you question even if your bill is correct.

Your Rights if You're Dissatisfied with Your Credit Card Purchases

If you are dissatisfied with the goods or services that you have purchased with your credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase.

To use this right, all of the following must be true:

1. The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than \$50. (**Note:** Neither of these is necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services.)
2. You must have used your credit card for the purchase. Purchases made with cash advances from an ATM or with an Account check do not qualify.
3. You must not yet have fully paid for the purchase.

If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at the address for billing inquiries and correspondence shown on the front of your statement.

While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe an amount and you do not pay, we may report you as delinquent.

For Further Information: Call the Customer Service number shown on the statement or on the back of your Card if you need more information.





**City Of Orting
Council Agenda Summary Sheet**

| | Agenda Bill # | Recommending Committee | Study Session Dates | Regular Meeting Dates |
|--|------------------------|-------------------------------|----------------------------|------------------------------|
| Subject: Reader Board | AB21-27 | CGA 3.4.21 | 3.17.21 | |
| | | | | |
| | Department: | Council | | |
| | Date Submitted: | 3.4.21 | | |
| Cost of Item: | <u>\$</u> | | | |
| Amount Budgeted: | <u>\$</u> | | | |
| Unexpended Balance: | <u>\$</u> | | | |
| Bars #: | | | | |
| Timeline: | TBD | | | |
| Submitted By: | Scott Larson | | | |
| Fiscal Note: | | | | |
| Attachments: Picture Soofa Signs, | | | | |
| SUMMARY STATEMENT: | | | | |
| <p>The current sign code exempts the City from the prohibition of the use of electronic signage.</p> <p>The CGA Committee would like to discuss with the whole council their opinion on revising the current sign code to allow everyone to be eligible to use electronic signage.</p> <p>Additional discussion at the Committee meeting by staff was about the possibility of holding off on revisions to the sign code until after staff can prepare an RFP. The RFP would help us to determine if there are any vendors who can provide signage that conforms to the current code. Staff anticipates issuing the RFP in June.</p> | | | | |
| RECOMMENDED ACTION: TBD | | | | |
| FUTURE MOTION: TBD | | | | |

