



## City Council Regular Meeting Agenda

Puyallup City Hall is open and accessible to the public. This City Council meeting will be held in person at the Council Chambers on the 5th floor of City Hall, 333 S. Meridian, and virtually via the Zoom platform. The meeting can be watched via livestream on the city website ([cityofpuyallup.org/meetings](http://cityofpuyallup.org/meetings)) or joined via Zoom using this link: <http://bit.ly/3EnIwqs>. To listen by phone, call 253-215-8782 and enter webinar ID 863 5932 0687 and passcode 106771.

Written comments will be accepted at [info@puyallupwa.gov](mailto:info@puyallupwa.gov) until 5:30 p.m. and be distributed to the City Council prior to the meeting.

\*\*\*\*\*

Tuesday, November 22, 2022  
6:30 PM

### PLEDGE OF ALLEGIANCE

### ROLL CALL

#### 1. APPROVAL OF AGENDA

#### 2. CITIZEN COMMENTS

#### 3. CONSENT AGENDA

- 3.a Accept reimbursement in the amount of \$113,425.61 from the Administrative Office of the Courts for audio-visual enhancements at the Puyallup Municipal Court
- 3.b Authorize the City Manager to sign an agreement with Avidex Industries for the upgrade of the audio-visual system in Puyallup Municipal Courtroom 1
- 3.c Accept a Therapeutic Court grant in the amount of \$24,516 from the Administrative Office of the Courts to support the Puyallup Community Court program
- 3.d Authorize the Chief of Police to enter into an agreement with Motorola Solutions for public safety radio system infrastructure support  
[Agreement](#)
- 3.e Authorize the City Manager to execute an agreement, in a form as approved by the City Attorney, with the City of Milton for the incarceration of inmates in the Puyallup City Jail  
[Agreement](#)
- 3.f Authorize the City Manager to finalize and execute the annual contracts pertaining to City employee healthcare plans
- 3.g Accept a grant in the amount of \$270,641 from the Association of Washington Cities to embed a Designated Crisis Responder (DCR) with the Puyallup Police Department  
[Grant Application](#)
- 3.h Authorize the City Manager to accept Pierce County Conservation Futures Grant funds in the

amount of \$800,000 for the acquisition of the LaBelle property and execute a purchase and sale agreement

- 3.i Accept reimbursement up to the amount of \$74,042.03 through the Administrative Office of the Courts for interpreter services

#### **4. ORDINANCES**

- 4.a Second reading of an ordinance determining and fixing the amount of funds to be raised by regular property taxes for 2023

[Ordinance](#)

- 4.b Second reading of an ordinance amending the Puyallup Municipal Code to adjust the business tax rate on private utility businesses

[Ordinance](#)

- 4.c Second reading of an ordinance for the City's 2023-2024 biennial budget

[Ordinance](#)

[Exhibit A](#)

[Exhibit B](#)

- 4.d Second reading of an ordinance amending Puyallup Municipal Code Section 9.20.225 to adjust park hours at Clarks Creek North

[Ordinance](#)

- 4.e Second reading of an ordinance for a proposed right of way vacation along Elm Place

[Ordinance](#)

[Site Plan](#)

[Legal Description](#)

[Petition to Vacate](#)

[Application to Vacate](#)

[Staff Report](#)

- 4.f First reading of an ordinance adopting the 2022 Utility and System Development Charges Study and the corresponding code changes

[Combined Bill Summary](#)

- 4.g First reading of an ordinance pertaining to routine 2022 quarterly budget adjustments

[Ordinance](#)

[Exhibit A](#)

[Exhibit B](#)

- 4.h First reading of an ordinance that grants a non-exclusive franchise to Crown Castle Fiber LLC

[Franchise Agreement](#)

#### **5. CONSIDERATIONS AND REQUESTS**

- 5.a City of Puyallup Policy Agenda and Capital Budget Requests for the 2023 Washington State Legislative Session

[City's Legislative Issues of Importance](#)

Puyallup Loop Trail Map  
Recreation Center Air Dome Concept  
Downtown Stormwater Map

5.b 2023 City Council meeting calendar  
2023 Council Calendar DRAFT

**6. OTHER BUSINESS**

**CITY MANAGER'S REPORT**

**COUNCIL REPORTS**

**MAYOR'S REPORT**

**EXECUTIVE SESSION**

**ADJOURNMENT**

**The City Council Chambers is wheelchair accessible. Those needing assistance with hearing devices should contact the City Clerk's Office (253-841-4321) the Friday preceding the meeting.**



## City Council Agenda Item Report

Submitted by: Ellen Attebery  
Submitting Department: Municipal Court  
Meeting Date: November 22, 2022

### **Subject:**

Accept reimbursement in the amount of \$113,425.61 from the Administrative Office of the Courts for audio-visual enhancements at the Puyallup Municipal Court

### **Presenter:**

Judge Andrea Beall

### **Recommendation:**

Authorize the City Manager to accept a \$113,425.61 reimbursement from the Administrative Office of the Courts for audio-visual enhancements at the Puyallup Municipal Court and amend the budget as appropriate.

### **Background:**

The Puyallup Municipal Court staff submitted an application for reimbursement and received \$113,425.61 in reimbursement costs from the Administrative Office of the Courts. The reimbursement will cover upgrades and enhancements of audio and visual equipment in two Puyallup courtrooms and will give the court the option to conduct hybrid court hearings.

### **ATTACHMENTS**



## City Council Agenda Item Report

Submitted by: Ellen Attebery  
Submitting Department: Municipal Court  
Meeting Date: November 22, 2022

### **Subject:**

Authorize the City Manager to sign an agreement with Avidex Industries for the upgrade of the audio-visual system in Puyallup Municipal Courtroom 1

### **Presenter:**

Ellen Attebery

### **Recommendation:**

Authorize the City Manager to sign an agreement, in a form as approved by the City Attorney, with Avidex Industries in the amount of \$103,308.70 for the upgrade of the audio-visual system in Puyallup Municipal Courtroom 1. This upgrade will allow the Court to accommodate hybrid court hearings.

### **Background:**

The Puyallup Municipal Court staff has received reimbursement of up to \$113,425.61 from the Administrative Office of the Courts for audio-visual upgrades and enhancements that will allow the option of conducting hybrid court hearings.

## **ATTACHMENTS**



## City Council Agenda Item Report

Submitted by: Ellen Attebery  
Submitting Department: Municipal Court  
Meeting Date: November 22, 2022

### **Subject:**

Accept a Therapeutic Court grant in the amount of \$24,516 from the Administrative Office of the Courts to support the Puyallup Community Court program

### **Presenter:**

Judge Andrea Beall

### **Recommendation:**

Authorize the City Manager to accept a Therapeutic Court grant in the amount of \$24,516 from the Administrative Office of the Courts to support the Puyallup Community Court program, and amend the budget as necessary.

### **Background:**

The Puyallup Municipal Court staff submitted an application to the Administrative Office of the Courts and has received \$24,516.00 in reimbursement for costs related to the Puyallup Community Court Program. The reimbursement will cover the costs of providing ORCA public transit cards, snacks and water to community court participants, as well as court security coverage while the court bailiff oversees the community service work crew. The reimbursement is for costs incurred from July 1, 2022 through June 30, 2023.

### **ATTACHMENTS**



## City Council Agenda Item Report

Submitted by: Nichole McNiven  
Submitting Department: Police Department  
Meeting Date: November 22, 2022

### **Subject:**

Authorize the Chief of Police to enter into an agreement with Motorola Solutions for public safety radio system infrastructure support

### **Presenter:**

Scott Engle, Chief of Police

### **Recommendation:**

Authorize the Chief of Police to enter into an agreement with Motorola Solutions for public safety radio system infrastructure support.

### **Background:**

The City owns and operates a public safety radio system which connects the radios used by police officers and public works employees to dispatch centers and allows for communication between radio users. The City's system has approximately five radio tower sites. The City's radio system also provides radio communication services to the cities of Sumner and Bonney Lake.

The City has contracted annually with Motorola Solutions for management and technical support of the city's public safety radio system since 2009.

The 2022-2023 service agreement was originally presented to the Council in March 2022. The updated agreement reflects an increase in the annual price.

### **ATTACHMENTS**

[Agreement](#)



# SERVICE AGREEMENT

500 W Monroe Street  
 Chicago, IL. 60661  
 (888) 325-9336

Quote Number : QUOTE-1776344  
 Contract Number: USC000007670  
 Contract Modifier: R02-JUN-22 22:50:01

Date:06/02/2022

Company Name: PUYALLUP COMMUNICATIONS, CITY OF
Attn:
Billing Address: 311 W PIONEER ST
City, State, Zip: PUYALLUP , WA, 98371
Customer Contact: SCOTT ENGLE
Phone: 253-841-5415

Required P.O. :  
 Customer # :1011796698  
 Bill to Tag # :  
 Contract Start Date :01-Oct-2022  
 Contract End Date :30-Sep-2023  
 Anniversary Day :Sep 30th  
 Payment Cycle :ANNUALLY  
 PO # :

Qty	Service Name	Service Description	Extended Amt
	SVC01SVC1104C	ASTRO TECHNICAL SUPPORT	\$7,576.51
	SVC01SVC1102C	ASTRO DISPATCH SERVICE	\$3,002.29
	SVC01SVC1411C	ONSITE INFRASTRUCTURE RESPONSE-LIMITED	\$57,671.20
		Subtotal - Recurring Services	\$5,687.50
		Subtotal - One-Time Event Services	\$0.00
		Total	\$5,687.50
		THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA	

**SPECIAL INSTRUCTIONS:**

1 Prime & 5 RF Sites.  
 Onsite Limited (8x5 M-F) Provider is: Day Wireless WA-Lacey



## City Council Agenda Item Report

Submitted by: Nichole McNiven  
Submitting Department: Police Department  
Meeting Date: November 22, 2022

### **Subject:**

Authorize the City Manager to execute an agreement, in a form as approved by the City Attorney, with the City of Milton for the incarceration of inmates in the Puyallup City Jail

### **Presenter:**

Scott Engle, Chief of Police

### **Recommendation:**

Authorize the City Manager to execute an agreement, in a form as approved by the City Attorney, with the City of Milton for the incarceration of inmates in the Puyallup City Jail.

### **Background:**

The City of Puyallup offers jail services to other jurisdictions on a limited basis for the mutual benefit of both parties. The agreements stipulate a daily rate of \$158.28 to confine inmates from other jurisdictions. This fee is consistent with current operating costs and will automatically increase each year in accordance with the Seattle-Tacoma-Bellevue CPI-U index, to a maximum of 2.25%.

Only those accused or convicted of misdemeanor or gross misdemeanor level crimes will be confined in Puyallup's jail. Puyallup will also offer administrative booking services at a cost of \$62.00 per booking and video arraignment services at a cost of \$55.00 per hour with a four-hour minimum charge.

Puyallup retains the right to refuse any inmate for confinement if the inmate has an illness or injury which may adversely affect the operations of Puyallup's jail, or has a history of serious medical problems, presents a substantial risk of escape, or presents a substantial risk of injury to other persons, property, or themselves. Puyallup may refuse to accept an inmate if the jail is at or near capacity or if accepting an inmate may create a risk to the safety of persons or property.

The agreement would commence on December 1, 2022. This agreement may be terminated at any time upon 90 days written notice.

### **ATTACHMENTS**

[Agreement](#)

**INTERAGENCY AGREEMENT BETWEEN THE CITY OF PUYALLUP,  
WASHINGTON AND CITY OF MILTON, WASHINGTON, FOR THE HOUSING  
OF INMATES IN THE PUYALLUP CITY JAIL**

This agreement (“Agreement”) is between the City of Puyallup, a municipal corporation of the State of Washington (hereinafter “Puyallup”) and the City of Milton, a municipal corporation of the State of Washington (hereinafter “Milton”).

**Recitals**

**WHEREAS**, RCW 39.34 and RCW 70.48, allows local governmental units to make the most efficient use of their powers by enabling them to cooperate and enter agreements with each other for providing jail services; and

**WHEREAS**, Milton wishes to designate the Puyallup Jail (“Puyallup Jail”), located at 311 West Pioneer Avenue, Puyallup, Washington 98371, as a place of confinement for inmates from the City of Milton; and

**WHEREAS**, in an effort to streamline administrative procedures and ensure that the daily rate of \$158.28 to house inmates at Puyallup’s jail is consistent with the current operating costs, it is necessary to enter into an updated interagency agreement; and

**WHEREAS**, the governing bodies of each of the parties hereto have decided to enter into this Agreement as authorized by RCW 39.34, RCW 70.48 and other Washington law, as may be amended;

**NOW, THEREFORE**, in consideration of the above and foregoing recitals, the payments to be made, the mutual promises and covenants herein contained, and for other good and valuable considerations, the parties hereto agree as follows:

**Agreement**

1. **GOVERNING LAW**

The parties hereto agree that, except where expressly otherwise provided, the applicable laws and administrative rules and regulations of the State of Washington shall control. Any actions, suit, or judicial or administrative proceeding for the enforcement of this agreement shall be brought and tried in the Federal or Superior Court for the State of Washington in Pierce County.

2. **EFFECTIVE DATE**

This Agreement shall commence on **December, 1 2022** and terminate one year from this date. The Agreement will be automatically renewed for successive one-year terms unless terminated by either party pursuant to section 3 of this Agreement.

3. TERMINATION

(a) By either party. This Agreement may be terminated at any time by written notice from either party to the other party delivered by regular mail to the contact person identified in §4, provided that termination shall become effective ninety (90) calendar days after receipt of such notice. Notice will be presumed received 3 working days after the notice is posted in the mail. Within said ninety (90) days, Milton agrees to remove its inmates(s) from the Puyallup Jail.

(b) In the event of termination of this Agreement for any reason, Milton shall compensate Puyallup for inmates housed by the Puyallup Jail after notice of termination until Milton retakes its inmates in the same manner and at the same rates as if this Agreement had not been terminated and the provisions of this Agreement, including by way of illustration and not limitation, §24 Indemnity, shall remain in force until such time as all inmates from Milton have been retaken.

4. MAILING ADDRESSES

All notices, reports, and correspondence to the respective parties of this Agreement shall be sent to the following:

City of Puyallup: Chief of Police  
Puyallup Police Department  
311 W Pioneer  
Puyallup, WA 98371

City of Milton: Chief of Police  
City of Milton  
1000 Laurel St  
Milton, WA 98354

5. COMPENSATION

a) Bed Rate. In consideration of Puyallup's commitment to house Milton inmates, Milton shall pay Puyallup one hundred fifty-eight dollars and 28/100 (\$158.28) per day for each Milton inmate housed in the Puyallup Jail.

b) Administrative Booking Rate. Puyallup will authorize Milton Police Officers to transport misdemeanor level suspects to the Puyallup Jail for administrative booking. Administrative booking shall include booking suspects into the jail pursuant to Puyallup Jail policies and standard operating procedures and detaining those suspects until booking information, including fingerprints and photographs, are obtained. Following the administrative booking process, suspects shall be transported by Milton Officers back to the City of Milton where they will be released. As compensation for the administrative booking services, Milton shall pay Puyallup sixty-two dollars (\$62.00) for each administratively booked Milton suspect. Any other cost associated with the administrative booking process shall be the sole responsibility of the City of Puyallup.

c) Bed Rate and Administrative Booking Rate will be increased at a rate of 100% of

the Seattle-Tacoma-Bellevue CPI-U first half index for the year prior with a minimum of 0% to a maximum of 2.25%. The rate increase will occur on January 1 of each year unless otherwise negotiated and agreed by the parties. (For example, the 2022 Seattle-Tacoma-Bellevue CPI-U first half index will set the amount of the January 1, 2023, increase to Bed Rate and Administrative Booking Rate.).

d) Billing and Payment. Puyallup agrees to provide Milton with an itemized bill listing all names of inmates who are administratively booked or housed, the number of days housed (including date of booking and date of releases), and the dollar amount due for each. Puyallup agrees to provide said bill by the last day of each following month. Milton agrees to make payment to Puyallup within 30 days of receipt of such bill for the amount billed for the previous calendar month.

#### 6. SERVICES PROVIDED

Puyallup agrees to provide jail services or administrative booking for gross misdemeanor/misdemeanor inmates for those offenses that have been committed by adults within Milton's jurisdiction.

#### 7. BOOKING

Inmates shall be booked pursuant Puyallup's booking policies and procedures. Inmates transported by Milton Officers that are not acceptable at booking, will be the responsibility of the Milton Officers to transport back to the City of Milton.

Pursuant to RCW 70.48.130, and as part of the booking procedure, Puyallup shall obtain general information concerning the inmate's ability to pay for medical care, including insurance or other medical benefits or resources to which the inmate is entitled. The information is to be used for third party billing.

#### 8. RESPONSIBILITY FOR OFFENDER'S CUSTODY

It shall be the responsibility of Puyallup to confine the inmate or inmates; to provide treatment, including the furnishing of subsistence and all necessary medical and hospital services and supplies; to provide for inmates' physical needs; to retain them in said custody; to supervise them; to maintain proper discipline and control; to make certain that they receive no special privileges and that the sentence and orders of the committing court in the State are faithfully executed; provided that nothing herein contained shall be construed to require Puyallup, or any of its agents, to provide treatment, facilities or programs for any inmates confined pursuant to this Agreement, which it does not provide for similar inmates not confined pursuant to this Agreement. Puyallup shall provide facilities for consultation and communication between inmates and their legal counsel. It shall also be the responsibility of Puyallup to calculate "good time" accrued in and subsequent release of the inmate in accordance with the Puyallup's standard practice and procedure. Milton agrees to be bound by Puyallup's standard practice and procedures related to inmates housed in the Puyallup Jail.

#### 9. RIGHT TO REFUSAL

To the greatest extent permitted by law, Puyallup shall have the right to refuse to accept Milton inmates or to return a Milton inmate to the City of Milton if in the judgment of Puyallup, the inmate has a current illness or injury which may adversely affect the operations of the Puyallup Jail, has history of serious medical problems, presents a substantial risk of escape, or presents a substantial risk of injury to other persons or property or themselves. Further, Puyallup may refuse to accept an inmate if the jail is at or near capacity or if in the judgement of Puyallup that accepting an inmate may create a risk to the safety of persons or property.

10. RETAKING OF INMATES

Upon request from Puyallup, Milton shall, at its expense, retake any Milton inmate within twelve (12) hours after receipt of such request. In the event the confinement of any Milton inmate is terminated for any reason, Milton, shall, at its expense, retake such inmate from Puyallup.

11. COPY OF ARREST WARRANT OR CITATION AND BAIL SCHEDULE

Milton law enforcement officers placing Milton misdemeanants in the Puyallup Jail shall, in every instance, first furnish an arrest warrant, citation, court order, or judgment and sentence, to the Puyallup Jail upon booking of an inmate. Milton is also responsible for providing Puyallup Jail with a complete bail schedule no later than January 1 of each year.

12. NON-ASSIGNABILITY.

This Agreement may not be assigned by either party.

13. TRANSPORTATION

Milton inmates incarcerated in Puyallup pursuant to this Agreement shall be transported to Puyallup by and at the expense of Milton and shall be returned, if necessary, to the City Milton by Milton personnel and at Milton's expense. Puyallup is not responsible for transportation of Milton inmates under this Agreement and shall be reimbursed by Milton for any actual expense incurred in transport of an inmate if, in fact, transportation of an inmate by Puyallup becomes necessary including if the transport was a result of a warrant, or medical appointment. Such transportation shall be calculated based upon the time required for transport at the correction officer over time rate of \$55.00 per hour.

14. RECORDS AND REPORTS

(a) Milton shall forward to Puyallup before or at the time of delivery of each inmate a copy of all inmate records pertaining to the inmate's present incarceration at other correctional facilities. If additional information is requested regarding a particular inmate, the parties shall mutually cooperate to provide any additional information.

(b) Puyallup shall keep all necessary and pertinent records concerning such inmates incarcerated in Puyallup Jail. During an inmate's confinement in Puyallup, Milton shall upon request, be entitled to receive and be furnished with copies of any report or record associated with said inmates(s) incarceration, as may be permitted by law.

15. MEDICAL TREATMENT

(a) Milton inmates shall receive medical, psychiatric and dental treatment when emergent and necessary to safeguard their health while housed in the Puyallup Jail. Puyallup shall also provide routine minor medical services for Milton inmates housed in the Puyallup Jail. Examples of medical services which may be provided in the Puyallup Jail, but which are not routine, and for which Milton shall be billed include, but are not necessarily limited to, HIV/AIDS treatment, chemotherapy, dialysis treatment, and hemophiliac treatment. Milton shall be responsible for any and all medical, dental or mental health costs incurred by or on behalf of a Milton prisoner including but not limited to prescriptions, appliances, supplies, emergency transport associated with the delivery of any emergency and/or medical service provided to Milton inmates.

(b) An adequate record of all such services shall be kept by Puyallup in accordance with HIPAA regulations for Milton's review at its request. Any medical or dental services of major consequence shall be reported to Milton as soon as time permits.

(c) Milton shall be responsible for any and all costs incurred by or on behalf of an Milton prisoner for hospitalization. If necessary, Milton shall reimburse Puyallup dollar for dollar any amount expended or cost incurred by Puyallup in providing the same; provided that, except in emergencies, Milton will be notified by contacting a duty Sergeant at the Milton Police Department prior to the inmate's transfer to a hospital and nothing herein shall preclude Milton from retaking the ill or injured inmate. In the event a Milton inmate is taken by emergency to a hospital, Puyallup shall notify Milton as soon as practicable following emergency transport. Milton is responsible for providing security during any period of hospitalization.

16. DISCIPLINE

Puyallup shall have physical control over and power to exercise disciplinary authority over all inmates of Milton. However, nothing contained herein shall be construed to authorize or permit the imposition of any type of discipline prohibited by the Constitution and laws of the State of Washington or the Constitution and laws of the United States.

17. STANDARD OF RELEASE

Milton shall adopt Administrative Order No. 2013-01 Puyallup Municipal Court Standards of Release.

18. VIDEO ARRAIGNMENT

Upon request, Puyallup will provide video arraignment services at the rate of \$55.00 per hours with a (4) four-hour minimum charge.

19. REMOVAL FROM THE JAIL

An inmate from Milton legally confined in Puyallup shall not be removed from there by any person except:

- a) When requested by Milton Police Department in writing authorizing such release; or
- b) Upon court order in those matters in which said court has jurisdiction over such inmate; or
- c) For appearance in the court in which a Milton inmate is charged; or
- d) In compliance with a Writ of Habeas Corpus; or
- e) If the prisoner has served his sentence, or the charge pending against said inmate has been dismissed, or bail or other recognizance has been posted as required by the courts; or
- f) For other scheduled court appearances, including those for which they are not being held, or
- g) Upon the execution of the Puyallup Municipal Court Standards of Release, Administrative Order No. 2013- 01, or
- h) For medical care (see §15) and court ordered evaluations.

20. ESCAPES

In the event any Milton inmate shall escape from Puyallup’s custody, Puyallup will use all reasonable means to recapture the inmate. The escape shall be reported immediately to Milton. Puyallup shall have the primary responsibility for and authority to direct the pursuit and retaking of the inmate or inmates within its own jurisdiction. Any cost in connection therewith shall be chargeable to and borne by Puyallup, however, Puyallup shall not be required to expend unreasonable amounts to pursue escaped inmates beyond its jurisdiction.

21. DEATH OF AN INMATE

a) In the event of the death of a Milton inmate, Puyallup shall notify the Pierce County Medical Examiner. Milton shall receive copies of any records made at or in connection with such notification, unless prohibited by law or court order. Reasonable copying costs for such copies shall be borne by Milton.

b) Puyallup shall immediately notify Milton of the death of a Milton inmate, furnish reasonable and necessary information as reasonably requested and follow reasonable instructions of Milton with regard to the disposition of the body. The body shall be released to the Medical Examiner. All expenses relative to any necessary preparation of the body and shipment charges shall be paid by Milton. The provisions of this paragraph shall govern only the relations between or among the parties hereto and shall not affect the responsibility or liability of any relative or other person for the disposition of the deceased or any expenses connected therewith.

22. DISPUTE BETWEEN MILTON AND PUYALLUP

Should a dispute arise as to the application, compensation, enforcement, or interpretation of this Agreement between Milton and Puyallup, the parties shall first attempt to resolve such disputes through good faith and reasonable negotiations. However, if a dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute

Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS. Following mediation, or upon mutual written agreement of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through binding arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or through JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally, however, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

## 23. INSURANCE

(a) Each party agrees to provide the other with evidence of insurance coverage, in the form of a certificate of insurance from a solvent insurance provider and/or a letter confirming coverage from a solvent insurance pool, which is sufficient to address the insurance and indemnification obligation set forth in the Agreement;

(b) Each party shall obtain and maintain coverage in minimum liability limits of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate for its liability exposures, including comprehensive general liability, errors and omissions, auto liability and police professional liability. The insurance policy shall provide coverage for those events that occur during the term of the policy, despite when the claim is made.

## 24. HOLD HARMLESS AND INDEMNIFICATION

a) Puyallup shall defend, indemnify and hold Milton, its officers, officials, employees and volunteers, harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Puyallup in performance of this Agreement.

b) Milton shall defend, indemnify and hold Puyallup, its officers, officials, employees and volunteers, harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Milton in performance of this Agreement.

c) Puyallup and Milton hereby waive, as to each other only, their immunity from suit under industrial insurance, title 51 RCW. This waiver of immunity was mutually negotiated by the parties hereto.

d) The waivers in this section have been mutually negotiated by the parties and this entire section shall survive the expiration or termination of this Agreement.

## 25. INDEPENDENT CONTRACTOR

In providing services under this Agreement, Puyallup is an independent contractor and neither it, nor its officers, officials, agents or employees are employees of Milton for any purpose, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of services under this agreement give rise to any claim or career service or civil service rights, which may accrue to employees of Milton or

Puyallup under any applicable law, rule or regulation.

26. PRISON RAPE ELIMINATION ACT

Puyallup acknowledges and is working toward compliance of the Prison Rape Elimination Act regarding custodial sexual misconduct.

27. MISCELLANEOUS

Concurrent Original. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

Real or Personal Property. It is not anticipated that any real or personal property will be acquired or purchased by the Parties solely because of this Agreement.

No Joint Venture or Partnership. No joint venture, separate administrative or governmental entity, or partnership is formed as a result of this Agreement.

28. ENTIRE AGREEMENT

The written provisions and terms of this Agreement, together with any attachments, supersede all prior written and verbal agreements and/or statements by any representative of the parties, and those statements shall not be construed as forming a part of or altering in any manner this Agreement. Any prior written and/or oral agreement between the parties pertaining to jail services is terminated and superseded by this Agreement. This Agreement and any attachments contain the entire Agreement between the parties. Should any language in any attachment conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

29. SEVERABILITY

Should any provision of this Agreement be determined to be unenforceable by a court of law, such provision shall be severed from the remainder of the Agreement, and such action shall not affect the enforceability of the remaining provisions herein.

**IN WITNESS WHEREOF, the parties below have executed this Agreement, and by doing so, acknowledge that they have read this Agreement understand its terms, and enter this Agreement in a knowing, intelligent, and voluntary manner.**

**CITY OF PUYALLUP:**

**CITY OF MILTON:**

\_\_\_\_\_

\_\_\_\_\_

By: Steve Kirkelie

By: Shannon Styron Sherrell

Its: City Manager

Its: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

**ATTEST:**

---

By: Tulika Makharia  
Its: Interim City Clerk  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

---

By: Shawn Arthur  
Its: Deputy City Attorney  
Date: \_\_\_\_\_

---

By: \_\_\_\_\_  
Its: City Clerk  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

---

By: \_\_\_\_\_  
Its: City Attorney  
Date: \_\_\_\_\_



## City Council Agenda Item Report

Submitted by: Katie Ortega  
Submitting Department: Human Resources  
Meeting Date: November 22, 2022

### **Subject:**

Authorize the City Manager to finalize and execute the annual contracts pertaining to City employee healthcare plans

### **Recommendation:**

Authorize the City Manager to Finalize and Execute the Annual Contracts Pertaining to City Employee Healthcare Plans for the 2023 calendar year in a form as approved by the City Attorney.

### **Background:**

The contracts listed below expire on December 31, 2022. With Council approval, contract negotiations for the listed services will be finalized following the November 22, 2022 Council meeting. The City's 2023 Recommended Budget includes appropriations sufficient to cover the anticipated costs. These agreements are presented to Council on an annual basis. Per State law, the City may not eliminate stop loss insurance without prior approval from the State Risk Manager and funding to the full actuarial liability.

1. Medical and prescription drug third-party administrative services performed by Healthcare Management Administrators, Inc. (HMA) in an amount not to exceed \$230,000, including a contingency; and claims to be paid by HMA consistent with benefit plans reflected in the budget; and
2. Brokerage services and benefits plan management performed by USI Insurance Services in an amount not to exceed \$55,000, including a contingency, consistent with benefit plans reflected in the budget; and
3. Dental third-party administrative services performed by Washington Dental Service (WDS) in an amount not to exceed \$65,000, including a contingency; and claims to be paid through WDS consistent with benefit plans reflected in the budget; and
4. Vision third-party administrative services performed by Vision Service Plan (VSP) in an amount not to exceed \$35,000, including a contingency; and claims to be paid through VSP consistent with benefit plans reflected in the budget; and
5. Long Term Disability (LTD), Supplemental Life and Basic Accidental Death and Dismemberment (AD&D) third-party administrative services performed by Lincoln Financial in an amount not to exceed \$90,000, including a contingency; and
6. Excess insurance coverage (stop loss) premium for the City's self-insured medical and prescription drug programs in 2022 by SunLife in an amount not to exceed \$950,000, including

contingency.

7. Excess insurance for workers compensation performed by Midwest Employers Casualty Company (MECC) in an amount not to exceed \$90,000, including contingency; and claims to be paid through the City's third party administrator, consistent with workers compensation information reflected in the budget.

## **ATTACHMENTS**



## City Council Agenda Item Report

Submitted by: Scott Engle  
Submitting Department: Police Department  
Meeting Date: November 22, 2022

### **Subject:**

Accept a grant in the amount of \$270,641 from the Association of Washington Cities to embed a Designated Crisis Responder (DCR) with the Puyallup Police Department

### **Presenter:**

Scott Engle, Chief of Police

### **Recommendation:**

Authorize the City Manager to accept a grant in the amount of \$270,641 from the Association of Washington Cities to embed a Designated Crisis Responder (DCR) with the Puyallup Police Department

### **Background:**

In response to meeting the needs of people in crisis, the City of Puyallup Police Department has a designated community resource officer, operates a hotel-based shelter with onsite services and contracts with Salvation Army for ongoing bed availability. While these efforts have been impactful, they are simply not enough to deal with the issues present in our community.

Police reform, emphasis on de-escalation and daily service calls related to mental health crisis have agencies seeking answers that allow a better response to those we serve. The use of a Co-Responder model has gained traction within law enforcement agencies. Puyallup Police Department has benefited from DCRs embedded with the Pierce County Sheriff's Department. Unfortunately, the high demand for their assistance leaves our officers responding without the benefit of their knowledge and skill set.

The City of Puyallup Police Department is working in collaboration with MultiCare to create a viable Co-Responder program. The MultiCare Behavioral Health Network is the largest provider of behavioral health services in Washington. The network includes MultiCare Behavioral Health and Greater Lakes Mental Healthcare.

MultiCare Behavioral Health provides care throughout Pierce County in an atmosphere of dignity and respect for patients facing serious mental health and Substance Use Disorders. Greater Lakes Mental Healthcare also provides care throughout Pierce County, offering mental health services for adults and children in Pierce County, as well as Substance Use Disorder treatment for adults, court and criminal justice programs, homeless support programs and integrated medical care.

MultiCare currently provides contracted DCR services to Pierce County Sheriff's Department, City of Tacoma Police Department and City of Lakewood Police Department.

MultiCare's knowledge and success with the Co-Responder model provides an excellent foundation on which to build our program goals, objectives and expected outcomes. The program goal is simple. The Co-Responder model seeks to reduce harm and facilitate alternatives to arrest by providing police-mental health professional co-response to calls for service involving persons in crisis.

Program objectives and outcomes are as follows:

- DCR will be present at calls for service that involve a persons in crises. The expected outcome is improved de-escalation without the use of force.
- On identified cases, the DCR will provide assessments prior to booking decisions. The expected outcome is reducing jail admissions for individuals experiencing a behavioral health crisis resulting in placement in a more appropriate setting.
- DCR will provide onsite preliminary diagnosis. The expected outcome is a better and faster access to treatment.
- The DCR will assess for individuals to see if they meet criteria for an ITAA. The expected outcome is to work with the individual to find them the least restrictive options.
- The DCR will provide assessments for “detain or dismiss” order evaluations. The outcome will be reduced jail time and quicker access to services. Current evaluations can take up to three days to occur and delay access to treatment.

**Fiscal Impacts:**

AWC grant of \$270,641 covers the first year of a two year program. \$125,00.00 has been set aside in the 2024 budget for the second year of the program. Staff will work to identify, in 2023, options for additional funding need in 2024 at approximately \$150,000.00.

**ATTACHMENTS**

[Grant Application](#)

## AWC Alternative Response Team Grant Application

Name of city or town applying for the grant; City of Puyallup Police Department

Point of Contact:

Keriann Cockrell

[Kcockerall@puyallupwa.gov](mailto:Kcockerall@puyallupwa.gov)

253-841-5531

Proposed program Type: Co-responder

Total Grant Funding Requested: \$270,641.00

Will your jurisdiction partner with neighboring cities, counties, regional fire districts, nonprofits, or other outside organizations for this program: Yes

You indicated you will be partnering with neighboring cities or outside organizations. List partnering jurisdictions or organizations with contact information and a list of roles and responsibilities for each party. Please note, you will be required to upload letters of commitment from these partners at the end of this application.

As cities and counties respond to police reform, greater emphasis placed on de-escalation and daily service calls related to mental health crisis, the need for a Co-Responder model becomes critical. The City of Puyallup Police Department is working in collaboration with MultiCare to create a viable Co-Responder program.

MultiCare's role will include hiring a DCR to respond to behavioral health calls initiated within city limits via South Sound 911 calls. The selected candidate will complete extensive training provided by MultiCare to ensure quality service provisions. The training is intended to train new DCRs in all areas of crisis work, crisis response, and to facilitate the understanding of the necessary tools and skills an employee must possess to become designated as a DCR. The prospective DCR must satisfactorily complete the training program and be approved for DCR status by MultiCare Health Systems as authorized by Beacon Options and the Pierce County Human Services Department.

Proficiency must be demonstrated in the following areas:

Danger to self

Danger to others

Managing violent/assaulting behavior: ART video; de-escalation tools/skills

Diagnosis/DSM-V

Relevant laws: RCW71.05, 71.34, 10.77 WAC 388-865

Crisis intervention

Interviewing skills

Investigative skills

Required training includes: DCR protocol training, assault reduction training, State approved SUD training, legal paperwork instruction, facility access training, DSM-V-TR training, discussion of relevant

laws and regulations, safety and transportation protocols, and 15 hours of direct field work with a mentor.

Performance proficiencies are required as well. Once training and performance proficiencies are completed, the DCR will continue to receive clinical oversight and supervision by a Clinical Supervisor. MultiCare will provide annual training and ensure the DCR is current with licensing requirements. All Co-Responders are Master Clinicians with a license for SW, LMFT, Agency Affiliated, Mental Health Counselor, and are designated by the mental health court system to assess individuals for involuntary psychiatric treatment.

MultiCare will oversee the program implementation and service delivery. The clinical supervisor will provide one-on-one supervision. A monthly meeting with other Co-Responders in Pierce County will occur. Co-Responders will be part of the Pierce County Mobile Outreach Team which has more resources the Co-Responder can utilize for continued follow up with clients that require additional support. It should be noted, the assigned DCR and clinical supervisor will also conduct meetings with Puyallup Police Department leadership to maximize the program offerings and impact.

MultiCare will meet the reporting requirements as outlined in the grant. All clinician documentation will be entered into the MultiCare electronic health record platform (EPCI) which will allow for the collection of data.

The Puyallup Police Department will be responsible for educating officers on the use of the embedded DCR. PPD leadership will provide the DCR with training on the department policies and process in place. Officers and correction officers will be educated on the DCR role in booking assessments and "detain or dismiss" order evaluations. The department will submit all required grant reporting.

City of Puyallup Police Department

Scott Engle  
Chief of Police  
Puyallup Police Department  
311 West Pioneer  
Puyallup, WA 98371  
Office 253.435.3659  
scotte@puyallupwa.gov

Deputy Chief Dave McDonald  
Puyallup Police Department  
311 W. Pioneer  
Puyallup, WA 98371  
(253) 770-3355  
davem@puyallupwa.gov

Captain Ryan Portmann  
Corrections Division/Public Information Officer  
Puyallup Police Department  
311 W. Pioneer  
Puyallup, WA 98371

(253) 435-3613  
ryanp@puyallupwa.gov

Captain Greg Massey  
Operations Division  
Puyallup Police Department  
311 W. Pioneer  
Puyallup, WA. 98371  
(253) 770-3354  
GMassey@PuyallupWA.gov

Keriann Cockrell  
Community Engagement Coordinator  
Puyallup Police Department  
d: (253) 841--5531  
kcockrell@PuyallupWA.gov

#### MultiCare

Silvia Riley | Director Crisis Services  
Behavioral Health | MultiCare Health System  
Phone: 253.301-5592 | Fax: 253.253.301.5209  
E-mail: silvia.riley@Multicare.org

Chantel Quintero, LMFTA, MHP, DCR | Supervisor, BH Crisis Intervention  
Pierce County Co-Responder Behavioral Health Crisis Services | MultiCare Health System  
Phone: 253.433.4567 | Email: Chantel.Quintero@multicare.org  
Address: 325 E Pioneer, Puyallup, WA 98372  
Schedule: Wednesday - Saturday 10 AM - 8 PM

Are there facility-based crisis triage and stabilization services located within your program boundaries? No

Does your city or one of your partners currently operate an alternative response program? Yes

Please provide a brief description of the program(s) your city or your partners currently operate.

The MultiCare Behavioral Health Network is the largest provider of behavioral health services in Washington. The network includes MultiCare Behavioral Health and Greater Lakes Mental Healthcare.

MultiCare Behavioral Health provides care throughout Pierce County in an atmosphere of dignity and respect for patients facing serious mental health and Substance Use Disorders. Greater Lakes Mental Healthcare also provides care throughout Pierce County, offering mental health services for adults and children in Pierce County, as well as Substance Use Disorder treatment for adults, court and criminal justice programs, homeless support programs and integrated medical care.

City of Puyallup Police Department selected MultiCare as our contracted partner for establishing a DCR program as they are a well-respected provider in Pierce County. MultiCare currently provides contracted DCR services to Pierce County Sheriff's Department, City of Tacoma Police Department and City of Lakewood Police Department.

MultiCare DCR embedded with officers/deputies provide a variety of services. They triage and respond to psychiatric crises in the communities served in the most effective, efficient, and safe manner. They perform crisis intervention to reduce hospitalizations, and effectively link consumers with ongoing mental support services: conduct involuntary commitment evaluations and revocations in accordance with department policies, procedures, State and Federal guidelines and protocols provided by the Department of Social and Health Services, Division of Behavioral Health and Recovery, file petitions for hearings; educate and provide information for families; collect data; keep records and provide testimony and/or advocacy, with courts and other agencies.

As a contracted provider, MultiCare hires, trains and provides ongoing clinical supervision of DCR embedded with Pierce County law enforcement agencies. MultiCare clinical supervisors are a vital part the DCR program. They have ongoing contact with the law enforcement agencies they service, conduct regular meetings with all area DCR to discuss issues and problem solve as a collective group and work directly with law enforcement leadership to maximize the program outcomes associated with an embedded DCR.

Provide a brief abstract of your proposed program. Include a brief summary of the need for funds, a brief overview of the program, and identified outcomes the program will address. Abstract is limited to 250 words.

The Puyallup Police Department (PPD) utilizes a Community Oriented Policing model. It is the foundation of our policing philosophy. Visionary leadership provides a climate and culture that nourishes proactive problem-solving initiatives.

Although, PPD can request DCR support through our county law enforcement agency, coverage is insufficient to meet the growing challenges our officer's encounter. It is for this reason; PPD is seeking \$270,641 in grant funding to contract with MultiCare to implement a Co-Responder program.

MultiCare is the largest provider of behavioral health services in Washington. Area law enforcement agencies have contracted with MultiCare creating robust Co-Responder programs. PPD will contract with MultiCare to hire, train, and supervise a DCR. The embedded DCR will partner with officers to bring effective, timely and compassionate crisis intervention, consultation, and involuntary treatment evaluations to individuals living with mental illness and or substance use disorders.

Expected program outcomes are as follows:

- Improved de-escalation without the use of force.
- Reduced Jail admissions for individuals experiencing a behavioral health crisis resulting in placement in a more appropriate setting.
- Preliminary diagnosis for better/ faster access to treatment.
- Find individuals meeting ITA criteria the least restrictive options.

- Individuals on “detain or dismiss” order will receive quicker access to services.

In 2021, officers responded to over 53,000 calls for service. Most calls involved mental health or substance use disorder issues. The need for officers to respond with a DCR is at a critical point. We are not able to meet the rising demands of those struggling with mental health.

Provide a narrative for your proposed program. In your narrative, include the following information:

- Program goals, objectives, and outcomes
- Local challenges and needs
- Challenges and roadblocks that may have stopped your agency from previously establishing a program
  - Target population for the program
  - Description of evidence-based practices that will be used in the program
  - Staffing and administration of the proposed program
  - Please include any training, certifications, or expertise city or partner staff have
  - Partnerships and structure for how the program will be managed
    - Describe the responsibilities of each agency
    - Describe how your city will manage partner agencies.

In response to meeting the needs of people in crisis, the City of Puyallup Police Department has a designated community resource officer, operates a hotel-based shelter with onsite services and contracts with Salvation Army for ongoing bed availability. While these efforts have been impactful, they are simply not enough to deal with the issues present in our community.

Police reform, emphasis on de-escalation and daily service calls related to mental health crisis have agencies seeking answers that allow a better response to those we serve. The use of a Co-Responder model has gained traction within law enforcement agencies. Puyallup Police Department has benefited from DCRs embedded with the Pierce County Sheriff's Department. Unfortunately, the high demand for their assistance leaves our officers responding without the benefit of their knowledge and skill set.

The City of Puyallup Police Department is working in collaboration with MultiCare to create a viable Co-Responder program. The MultiCare Behavioral Health Network is the largest provider of behavioral health services in Washington. The network includes MultiCare Behavioral Health and Greater Lakes Mental Healthcare.

MultiCare Behavioral Health provides care throughout Pierce County in an atmosphere of dignity and respect for patients facing serious mental health and Substance Use Disorders. Greater Lakes Mental Healthcare also provides care throughout Pierce County, offering mental health services for adults and children in Pierce County, as well as Substance Use Disorder treatment for adults, court and criminal justice programs, homeless support programs and integrated medical care.

MultiCare currently provides contracted DCR services to Pierce County Sheriff's Department, City of Tacoma Police Department and City of Lakewood Police Department.

MultiCare's knowledge and success with the Co-Responder model provides an excellent foundation on which to build our program goals, objectives and expected outcomes. The program goal is simple. The

Co-Responder model seeks to reduce harm and facilitate alternatives to arrest by providing police-mental health professional co-response to calls for service involving persons in crisis.

Program objectives and outcomes are as follows:

- DCR will be present at calls for service that involve a persons in crises. The expected outcome is improved de-escalation without the use of force.
- On identified cases, the DCR will provide assessments prior to booking decisions. The expected outcome is reducing jail admissions for individuals experiencing a behavioral health crisis resulting in placement in a more appropriate setting.
- DCR will provide onsite preliminary diagnosis. The expected outcome is a better and faster access to treatment.
- The DCR will assess for individuals to see if they meet criteria for an ITAA. The expected outcome is to work with the individual to find them the least restrictive options.\
- The DCR will provide assessments for “detain or dismiss” order evaluations. The outcome will be reduced jail time and quicker access to services. Current evaluations can take up to three days to occur and delay access to treatment.

The Puyallup Police Department is a growing, mid-sized law enforcement agency, which is committed to community-oriented policing. Our department structure includes a Chief, a Deputy Chief, 4 Captains, 11 Sergeants, and 53 Police Officers. The department is divided into four divisions: Patrol, Investigations, Professional Services and Administration. The department has achieved a high level of automation in recent years and continues to seek modern and innovative service enhancements. The city enjoys the advantage of operating its own 365-day misdemeanor correctional facility. The facility can house 52-prisoner (12 females and 40 males). In addition to Puyallup offenders, the facility is often used by other local law enforcement agencies. Current staffing includes a Corrections Captain, 4 Corrections Sergeants, and 12 Corrections Officers.

The City of Puyallup presents unique challenges for a small law enforcement agency. The City is situated 35 miles south of Seattle, 15 miles east of Tacoma with a population of 41,866. The region is home to Joint Base Lewis-McChord, the Boeing Company, Amazon, and Microsoft. Locally, the City of Puyallup hosts the Washington State Fair which is the largest single attraction held annually in Washington State. The Fair continually ranks in the top ten largest fairs in the world. Three major highways serve Puyallup: State Route 167, State Highway 512 and State Highway 410, with connections to I-5 just minutes away. Link Light Rail and Sounder Train service are available, connecting the Puget Sound Region from Lakewood to Seattle. The Puyallup Station is a major hub for commuters. In addition, Puyallup is home to a major medical center and large shopping mall, both serving east Pierce County. The volume of people present in the City can fluctuate from 80,000 to well over 150,000 on any given day. These factors are considered in staffing, training, programs, and delivery of services.

Puyallup experiences an influx of individuals suffering from mental health and/or Substance Use Disorders as homeless encampments are cleared in nearby cities. Puyallup’s low rate of violent crime, availability of public spaces and support from local churches and non-profits has been noted by many transients as the reason they have selected the city as their home. Increased drug use is prevalent in Puyallup with recent changes in Washington State laws. The bulk of calls for service involve these issues. In 2021, officers responded to over 53,000 calls for service. The need for officers to respond with a DCR

is at a critical point in our service delivery. We simply are not able to meet the rising demands of individuals and families struggling with mental health.

A DCR embedded with officers has been a long-time goal for the city and police leadership. Funding challenges impacted our ability to move forward with the initiative. The AWC Alternative Response Team Grant was announced as the city council began to plan for the budget cycle. The council and city manager understand the need for a Co-Responder program. MultiCare requires all DCR program contracts to be for the duration of two years. City Council members encouraged submission of the grant application and has supported placing subsequent funding for the DCR contract in the budget.

MultiCare's ability to provide a solid, well thought out approach to a Co-Responder model is evident. Their model doesn't unitize evidence-based practices. DCRs are not providing therapy when responding to calls for service rather they rely on a solution focused, client centered approach.

The partnership with MultiCare has well defined roles, responsibilities, training requirements and certification processes. MultiCare's role will include hiring a DCR to respond to behavioral health calls initiated within city limits via South Sound 911 calls. The selected candidate will complete extensive training provided by MultiCare to ensure quality service provisions. The training is intended to train new DCRs in all areas of crisis work, crisis response, and to facilitate the understanding of the necessary tools and skills an employee must possess to become designated as a DCR. The prospective DCR must satisfactorily complete the training program and be approved for DCR status by MultiCare Health Systems as authorized by Beacon Options and the Pierce County Human Services Department.

Proficiency must be demonstrated in the following areas:

Danger to self

Danger to others

Managing violent/assaulting behavior: ART video; de-escalation tools/skills

Diagnosis/DSM-V

Relevant laws: RCW71.05, 71.34, 10.77 WAC 388-865

Crisis intervention

Interviewing skills

Investigative skills

Required training includes: DCR protocol training, assault reduction training, State approved SUD training, legal paperwork instruction, facility access training, DSM-V-TR training, discussion of relevant laws and regulations, safety and transportation protocols, and 15 hours of direct field work with a mentor.

Performance proficiencies are required as well. Once training and performance proficiencies are completed, the DCR will continue to receive clinical oversight and supervision by a Clinical Supervisor. MultiCare will provide annual training and ensure the DCR is current with licensing requirements. All Co-Responders are Master Clinicians with a license for SW, LMFT, Agency Affiliated, Mental Health Counselor, and are designated by the mental health court system to assess individuals for involuntary psychiatric treatment.

MultiCare will oversee the program implementation and service delivery. The clinical supervisor will provide one-on-one supervision. A monthly meeting with other Co-Responders in Pierce County will

occur. Co-Responders will be part of the Pierce County Mobile Outreach Team which has more resources the Co-Responder can utilize for continued follow up with clients that require additional support. It should be noted, the assigned DCR and clinical supervisor will also conduct meetings with Puyallup Police Department leadership to maximize the program offerings and impact.

MultiCare will meet the reporting requirements as outlined in the grant. All clinician documentation will be entered into the MultiCare electronic health record platform (EPCI) which will allow for the collection of data.

The Puyallup Police Department will be responsible for educating officers on the use of the embedded DCR. The DCR will receive training on department policies and process in place. Officers and correction officers will be educated on the DCR role in booking assessments and "detain or dismiss" order evaluations. The department will submit all required grant reporting.

The City of Puyallup Police Department and MultiCare have a long-standing working relationship. Hospital and police leadership hold monthly meetings to discuss and act on public safety concerns. The addition of the DCR program is a natural progression of collaboration as both entities are committed to the betterment of Puyallup.

Please provide a timeline for the rollout of your program. Please factor in the time that it will take to sign and execute the contract.

Key dates:

- Contracts must be signed by December 31, 2022
- All expenses must be made by June 30, 2023

The following timeline was agreed upon by both parties:

Contract signed by City of Puyallup - December 31, 2022

Organizational implementation of the contracted position occurs at MultiCare - December 2022

Recruitment process begins- December 2022, through June 30, 2023

Candidate hired- It is the intention of all involved that the hire would take place during the six-month grant period. In an effort for full disclosure to the funding source, it is probable hiring could occur outside of the grant timeline. All parties are committed to the execution the DCR program and would continue such efforts after the grant period.

Grant funding is expended – June 30, 2023

Please describe any foreseen challenges your jurisdiction may face implementing your program. How do you plan to address these challenges?

Accessing behavioral health services is a challenge across the country. The shortage of providers is well documented. This has profound impact on the time and energy required to build Co-Responder teams embedded with law enforcement. The shortage coupled with the ability to retain Co-Responders is the greatest challenge faced in program implementation.

MultiCare has successfully recruited and trained DCR's for other area law enforcement agencies. They are keenly in tune with the need for aggressive recruitment and staffing incentives to ultimately hire the best providers available.

Along with MultiCare, Puyallup Police Department will actively participate in the recruitment process utilizing our large social media following. Built into the requested grant funding is a signing bonus, continuing education support and certification fees.

The department prides itself on our high employee retention rates. Puyallup Police Department is a sought-after agency for lateral and entry level officers. The department has a rich history of support from both residents as well as the city council. Investment in staff is a leadership priority. Working in law enforcement is challenging occupation fraught with high stress. The department works diligently to promote staff health and wellness, team building, inclusion of family and operational transparency. The DCR would be embraced and welcomed as department staff. Belonging, being valued, and supported are key to successful employee retention.

Provide a general program budget: Below are descriptions for each of the categories:

**Administrative:** Includes all costs necessary to administer a successful program. This could include the costs of software, staff dedicating less than 50% of their time to the program, use of copies or printers, etc.

**City Staffing:** Includes all costs (salary and benefits) for city staff directly involved in the approved program. This could include first responders, mental health professionals, contract manager, or other staff with more than 50% of their time dedicated to the program.

**Supplies & Equipment:** Supplies include consumables like food, clothing, first aid items, or other items that are used for a short duration. Equipment includes items that are used long term Page 6 of 8 such as vehicles, computers, radios, etc.

**Transportation:** Includes all program costs related to transportation including fuel and maintenance.

**Contracted Services:** Includes all costs necessary to contract with an outside group to provide program services. This would include contracting with an outside mental health professional, behavioral health services group, or other individuals or organizations providing mental health services.

**Professional Services:** Includes all costs necessary to administer your program. These costs include contracting with a consultant, software provider, or other administrative service. These groups will not be involved in the day-to-day operation of your program.

Other: Includes all other costs necessary for your program that do not fit in the above categories. Please provide a detailed description of these items.

Below is a detailed version of the proposed budget:

PERSONNEL		NOTES
0.2 Supervisor Salary & Benefits	\$ 30,431	Salary, FICA Benefits
1.0 DCR Salary & Benefits	140,857	Salary, FICA Benefits
Overtime	11,992	
Sign On Bonus	5,000	
NON-PERSONNEL		
Laptop	2,500	
Portable Printer	500	
Ink	2,000	
Cell phone	1,200	Start Up cost
Cell phone subscription	840	\$70.00 per month
Air card	250	Start Up Cost
Air card subscription	1,560	\$65.00 per month
Licenses	1,200	
Police Equipment	7,200	Vest, radio, boots, and clothing
Training/Education	2,750	National Conference
Milage	3,000	
Other supplies	5,000	
Professional Service Fees, Indirect Expenses	54,361	*see attached explanation
TOTAL	270,641	

- MultiCare Professional Services Fees include direct costs to this program for their internal behavioral health accounting billing, payroll, insurance, quality and compliance and clinical leadership (Manager, Director, Chief Operating Officer) support.
- MultiCare Indirect Expenses include allocations charged to this program for larger MultiCare Corporate Services including Legal, Human Resources, IS & T, contracting, credentialing and supply chain.
- MultiCare contracted services includes DCR salary and benefits, 0.2 Supervisor salary & benefits, overtime, sign-on bonus, license, training, and education.

The expenses outlined are real, fixed expenses for this program. The budget outlined shows MultiCare's actual cost and does not include a profit margin.

The clinical supervisor plays a large role in the proposed program. The clinical supervisors provide required clinical supervision., ongoing consultation, completes performance evaluations, completes new employee orientation and training. They review and sign timecards. They also do quality documentation reviews every month. Required clinical supervision is a Washington Administrative Code requirement.



## City Council Agenda Item Report

Submitted by: Ken Cook  
Submitting Department: Development Services  
Meeting Date: November 22, 2022

### **Subject:**

Authorize the City Manager to accept Pierce County Conservation Futures Grant funds in the amount of \$800,000 for the acquisition of the LaBelle property and execute a purchase and sale agreement

### **Presenter:**

Ken Cook, Development Engineering Manager

### **Recommendation:**

Authorize the City Manager to accept Pierce County Conservation Futures Grant funds in the amount of \$800,000 for the acquisition of the LaBelle property, amend the budget as necessary, and execute a purchase and sale agreement to acquire the LaBelle property.

### **Background:**

The LaBelle property is located near 12th Ave SE and 13th St SE. The property is comprised of five separate parcels totaling 20.12 acres.

Future potential City utilization of the LaBelle property includes the development of a neighborhood park and walking path, as identified in the City's Parks, Recreation, and Open Space Plan, as funding becomes available. The remainder of the LaBelle property will be preserved in accordance with the Conservation Futures Grant intent and protocol. Additionally, ownership of the LaBelle property will allow a pedestrian linkage through the recent purchase of the Minnich property to provide a trail connection from the valley to Wildwood Park.

### **Fiscal Impacts:**

There is no City match or funding required for the LaBelle property acquisition. The City budget will be adjusted as necessary to accept the purchase price funds of \$800,000 from the Conservation Futures Grant program and transfer them to the LaBelle property sellers as payment for the property.

### **ATTACHMENTS**



## City Council Agenda Item Report

Submitted by: Ellen Attebery  
Submitting Department: Municipal Court  
Meeting Date: November 22, 2022

### **Subject:**

Accept reimbursement up to the amount of \$74,042.03 through the Administrative Office of the Courts for interpreter services

### **Presenter:**

Andrea Beall

### **Recommendation:**

Authorize the City Manager to accept interpreter reimbursement through the Administrative Office of the Courts in the amount up to \$74,042.03, and amend the budget as necessary.

### **Background:**

The Puyallup Municipal Court applied for and received reimbursement up to \$74,042.03 from the Administrative Office of the Courts. These funds are intended to address financial need, need for court interpreters, need for language access in general such as translated forms, interpreting equipment, technology enabling remote interpreting, and more. The reimbursement is for costs incurred from July 1, 2022 through June 30, 2023.

### **ATTACHMENTS**



## City Council Agenda Item Report

Submitted by: Erin Thompson  
Submitting Department: Finance  
Meeting Date: November 22, 2022

### **Subject:**

Second reading of an ordinance determining and fixing the amount of funds to be raised by regular property taxes for 2023

### **Presenter:**

Barbara Lopez, Finance Director

### **Recommendation:**

Conduct second reading of an ordinance determining and fixing the amount of funds to be raised by regular property taxes for 2023.

### **Background:**

The City Council is required to annually determine and fix, by ordinance, the amount of funds to be raised through property taxes by November 30 of each year. Before passing the ordinance, the City must hold a public hearing on revenue sources for the following year's expense budget, and such hearing must include consideration of possible increase in property tax revenues.

In addition, state law requires that the City adopt a separate resolution that sets forth property tax revenues in terms of dollars and percentage.

The proposed property tax levy ordinance levies property taxes for the City's general fund. The estimated levy amount is \$9,888,096 which equals the amount of the City's levy last year plus, the addition of new construction and the Freeman Road annexation, any increase in the value of state-assessed property, and the refund levy. The County's preliminary estimates show the maximum amount the City can lawfully levy is \$13,357,045. The proposed property tax levy ordinance sets the general expenditure amount well below the maximum level.

### **ATTACHMENTS**

[Ordinance](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PUYALLUP, WASHINGTON** determining and fixing the amount of funds to be raised by regular property taxes for the year 2023 for general city expenditures.

**Whereas**, pursuant to RCW 35A.33.010, the City Council is required to determine and fix by ordinance the amount to be raised by ad valorem taxes; and

**Whereas**, the City Council and the City Manager of the City of Puyallup considered the City's total anticipated financial requirements for the ensuing fiscal year; and

**Whereas**, pursuant to RCW 35A.33.135, the City of Puyallup held a public hearing on revenue sources for the City's following year's current expense budget, and such hearing included consideration of possible increases in property tax revenues;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PUYALLUP HEREBY ORDAINS AS FOLLOWS:**

**Section 1. 2023 Property Tax Levy Amounts.** The following amounts are determined and fixed as the amounts of funds to be raised by regular property taxes for the fiscal year 2023 for general City expenditures:

The regular property tax levy in 2022 for the fiscal year 2023 in the City of Puyallup shall be equal to the 2021 property tax levy for fiscal year 2022, or \$9,535,345 plus 1% or \$95,353, plus an additional dollar amount resulting from the addition of new construction, increases in assessed value due to construction of electric generation wind turbine facilities classified as personal property, improvements to property and any increase in the value of state-assessed property, any annexations that have occurred and refunds made. Current estimates including those adjustments indicate a total regular property tax levy amount of \$9,888,096;

**Section 2. Direction to City Clerk.** Upon adoption, the City Clerk shall certify and forward a copy of this ordinance to the Pierce County Council and County Assessor for Pierce County, Washington.

**Section 3. Severability - Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance unless the purpose of this ordinance is substantially destroyed. If the provisions of this ordinance are found to be inconsistent with other provisions of the Puyallup Municipal Code, this ordinance is deemed to control.

**Section 4. Corrections.** The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5. Effective date.** This ordinance shall take effect in full force five (5) days after its passage, approval and publication according to law.

PASSED at an open public meeting by the City Council of the City of Puyallup on the 22<sup>nd</sup> day of November, 2022.

\_\_\_\_\_  
Dean Johnson  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Joseph N. Beck  
City Attorney

\_\_\_\_\_  
Tulika Makharia  
Interim City Clerk

Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_



## City Council Agenda Item Report

Submitted by: Erin Thompson  
Submitting Department: Finance  
Meeting Date: November 22, 2022

### **Subject:**

Second reading of an ordinance amending the Puyallup Municipal Code to adjust the business tax rate on private utility businesses

### **Presenter:**

Barbara Lopez, Finance Director

### **Recommendation:**

Approve the second reading of an ordinance amending Section 5.08.030 and 5.10.030 of the Puyallup Municipal Code to adjust rates for private utility taxes.

### **Background:**

As discussed during the October budget study sessions, General Fund revenue projections for the 2023-24 biennial budget are insufficient to cover the minimum expenditures necessary to maintain core services at or near current level. A combination of increasing revenues and decreasing expenditures was utilized to balance the budget, including a rate increase to the business tax on private utilities that operate within the public right of way.

The ordinance reflects a 1% increase in each year of the biennium, for a total rate of 3.2% in 2023 and a total rate of 4.2% in 2024, which is still below the regional average of 5.9%. These increases are expected to generate revenues of \$870,000 in 2023 and \$1,740,000 in 2024, providing necessary additional funding for core services to the community.

### **ATTACHMENTS**

[Ordinance](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE** of the City of Puyallup, Washington, amending Section 5.08.030 and 5.10.030 of the Puyallup Municipal Code to adjust rates for private utility and telephone taxes.

**Whereas**, the Puyallup City Council last amended tax rates on utility related charges under PMC 5.08.030 and 5.10.030 with the passage of Ordinance No. 2950 on February 9, 2010; and

**Whereas**, during the budget study session on October 11, 2022, the City Council reviewed the 2023-24 preliminary biennial budget, which includes a rate increase to the business tax on private utilities; and

**Whereas**, the rate increase is necessary to continue funding core services to the community at or near the current level; and

**Whereas**, the City Council deems it is in the best interests of the City and the community to adjust the rate applicable to all private utilities in support of core services;

**NOW THEREFORE, THE CITY COUNCIL FOR THE CITY OF PUYALLUP ORDAINS AS FOLLOWS:**

**Section 1.** Subsections (1), (2), (3), (5) and (6) of Section 5.08.030 of the Puyallup Municipal Code are hereby amended as follows.

**5.08.030 Tax designated.**

There shall be levied an annual tax as follows:

(1) From and after ~~April 1, 2010~~ January 1, 2023, there is levied upon, and there shall be collected from, every person, firm or corporation engaged in furnishing, for a monetary consideration, the city and the inhabitants thereof with electricity and electrical energy for lighting, heating, power and other public purposes, within or partly within the city limits, an annual tax for the privilege of so doing, such tax to be equal to ~~two and two-tenths~~ three and two tenths percent of the total gross subscribers' revenues from business and residential electrical power service in the city. From and after January 1, 2024, such tax will be four and two tenths percent.

(2) From and after ~~April 1, 2010~~ January 1, 2023, there is levied upon, and there shall be collected from, every person, firm or corporation engaged in furnishing, for a monetary consideration, the city and the inhabitants thereof with natural gas or manufactured gas for lighting, heating, power and other public purposes, within or partly within the city limits, an annual tax for the privilege of so doing, such tax to be equal to ~~two and two-~~

~~tenths three and two tenths~~ percent of the total gross subscribers' revenues from business and residential gas service, both natural and manufactured, in the city. From and after January 1, 2024, such tax will be four and two tenths percent.

(3) From and after ~~April 1, 2010~~ January 1, 2023, there is levied upon everyone engaged in the business of operating or conducting a cable television system (CATV), a fee or tax equal to ~~two and two tenths~~ three and two tenths percent of the total gross income from gross subscriber revenues. From and after January 1, 2024, such tax will be four and two tenths percent. For purposes of this chapter, "gross subscriber revenues" means and includes those receipts derived from the supplying of subscription service, that is, fees for regular cable benefits including the transmission of broadcast signals and access and origination channels and per-program and per-channel charges. Gross subscriber revenues do not include leased channel receipts, advertising receipts, or any other income derived from the system.

...

(5) From and after ~~April 1, 2010~~ January 1, 2023, there is levied upon, and there shall be collected from, every person, firm or private corporation engaged in furnishing garbage or solid waste collection services, as defined in Chapter 6.12 PMC, within or partly within the city limits, a fee or tax equal to ~~two and two tenths~~ three and two tenths percent of the total gross revenues, as defined by Chapter 6.12 PMC, from such business conducted within the city of Puyallup, as indicated by billing and/or charges to or for Puyallup customers. From and after January 1, 2024, such tax will be four and two tenths percent.

(6) From and after ~~April 1, 2010~~ January 1, 2023, there is levied upon, and there shall be collected from, every municipal corporation engaged in furnishing garbage or recycling service within or partly within the city limits, a fee or tax equal to ~~two and two tenths~~ three and two tenths percent of the total gross income from such business in the city. From and after January 1, 2024, such tax will be four and two tenths percent. "Total gross income" is defined as the total billing net of any state tax collected under RCW 82.18.030 and any amount paid to a person, firm, or private corporation for the collection and disposal of the garbage or recycled materials for which a tax is paid under the preceding subsection or is exempt from said tax in the preceding subsection.

...

**Section 2.** Section 5.10.030 of the Puyallup Municipal Code, which generally addresses the telephone business, is hereby amended as follows:

**5.10.030 Tax designated.**

From and after January 1, 2023, ~~There~~ shall be levied an annual tax equal to ~~two and two tenths~~ three and two tenths percent of the total gross income derived from the operation of a telephone business within the city. From and after January 1, 2024, such

tax will be four and two tenths percent.

**Section 3.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance unless the whole purpose and intent of this ordinance is destroyed. If the provisions of this ordinance are found to be inconsistent with the other provisions of the Puyallup Municipal Code, this ordinance is deemed to control.

**Section 4.** The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5.** This ordinance shall take effect on January 1, 2023 and shall be applied to the beginning of the billing cycle for the private utility.

**PASSED** at an open public meeting by the City Council for the City of Puyallup on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Dean Johnson  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Joseph N. Beck  
City Attorney

\_\_\_\_\_  
Tulika Makharia  
Interim City Clerk

Published: \_\_\_\_\_

Effective: \_\_\_\_\_



## City Council Agenda Item Report

Submitted by: Erin Thompson  
Submitting Department: Finance  
Meeting Date: November 22, 2022

**Subject:**

Second reading of an ordinance for the City's 2023-2024 biennial budget

**Presenter:**

Barbara Lopez, Finance Director

**Recommendation:**

Conduct second reading of an ordinance to approve the budget.

**Background:**

City Council held budget study sessions on October 11th and 12th regarding the preliminary 2023-2024 budget.

Based on Council direction during first reading of the ordinance on November 1st, changes for the final budget include \$100,000 for lighting enhancements at the City Civic Center Complex (Library, Pioneer Park Pavilion, and City Hall) to be paid from lodging tax funding, and \$65,000 for dog run installation at the Metro Animal Services facility off 39th Ave SE, and \$110,000 for paving City-owned public parking lots on W. Main and W. Meeker in the downtown core, to be paid from Tier 3 funding. Also, two City-initiated projects utilizing lodging tax funding are not included in the preliminary budget. \$25,000 has been added for art purchases associated with the outdoor art gallery in downtown and \$500,000 for acoustic and lighting improvements at the Pioneer Park Pavilion.

**ATTACHMENTS**

[Ordinance](#)

[Exhibit A](#)

[Exhibit B](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PUYALLUP, WASHINGTON**, adopting the budget of the City of Puyallup in its final form and content for the 2023-2024 biennium.

**Whereas**, pursuant to RCW 35A.33.075, the City Council shall adopt the final budget of the City in its final form and content after making such adjustments and changes as it deems necessary or proper and after determining the allowance in each item, department, classification and fund; and

**Whereas**, prior to adoption of the final budget, the City Council held preliminary budget hearings and a final budget hearing as required by law; and

**Whereas**, the City Council finds that the proposed appropriations are limited to the total estimated revenues contained in the preliminary budget including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal year; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PUYALLUP HEREBY ORDAINS AS FOLLOWS:**

**Section 1.** The final budget of the City of Puyallup for the 2023-2024 biennium, which is identified as the City of Puyallup, Washington, 2023-2024 Biennial Budget, is adopted and incorporated herein by this reference.

**Section 2.** A summary of the final budget totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined is set forth in Appendix A of this ordinance, with detailed changes from the 2023-2024 Preliminary Budget as listed in Appendix B of this ordinance.

**Section 3.** The budget includes a 5% COLA as applied to the 2023 salary schedule, and an estimated 3% COLA in the 2024 salary schedule for non-represented employees.

**Section 4.** The 2023-2028 Capital Facilities Plan for the City of Puyallup is hereby adopted and incorporated as part of the City's 2023-2024 budget.

**Section 5.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance unless the whole purpose and intent of this ordinance is destroyed. If the provisions of this ordinance are found to be inconsistent with the other provisions of the Puyallup Municipal Code, this ordinance is deemed to control.

**Section 6.** The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 7.** The City Clerk shall transmit a complete copy of the final budget as adopted to the State Auditor, and to the Association of Washington Cities.

**Section 8.** This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication in accordance with law.

PASSED at an open public meeting by the City Council of the City of Puyallup on the 22<sup>nd</sup> day of November, 2022.

---

Dean Johnson  
Mayor

Approved as to form:

Attest:

---

Joseph N. Beck  
City Attorney

---

Tulika Makharia  
Interim City Clerk

Published:  
Effective Date:

2023-2024 Summary by Fund  
Exhibit A

Fund Name	Projected Beginning Balance	Revenues	Expenditures	Ending Balance	Change in Balance
<b>General Funds</b>					
General Fund	13,901,300	113,658,190	118,408,190	9,151,300	(4,750,000)
Budget Stability Reserves Fund	1,567,600	4,754,120	1,972,520	4,349,200	2,781,600
Radio Replacement Fund	465,500	206,900	206,000	466,400	900
Donations to Puyallup	88,300	-	70,000	18,300	(70,000)
LEOFF I Retiree Benefits Fund	1,547,200	702,620	1,110,300	1,139,520	(407,680)
Firemen's Pension Fund	1,043,300	294,900	361,000	977,200	(66,100)
<b>Special Revenue Funds</b>					
Seizure & Forfeiture Fund	93,300	160,200	138,500	115,000	21,700
Motel Tax Fund	2,082,400	2,509,080	1,802,840	2,788,640	706,240
Trial Court Improvement Fund	10,900	43,060	40,000	13,960	3,060
LIFT Fund	123,800	2,007,300	1,900,000	231,100	107,300
First 1/4% REET	2,148,200	2,463,340	3,900,000	711,540	(1,436,660)
Second 1/4% REET	2,153,200	2,463,340	3,900,000	716,540	(1,436,660)
DUI Cost Recovery	135,600	136,800	36,700	235,700	100,100
American Rescue Plan Act	8,885,400	-	7,186,375	1,699,025	(7,186,375)
Affordable Housing Sales Tax	515,800	420,140	-	935,940	420,140
<b>Debt Service Funds</b>					
Voted Debt Service	-	-	-	-	-
Non Voted Debt Service	500,000	6,600,600	6,600,600	500,000	-
<b>Capital Projects Funds</b>					
Street Fund	501,700	27,736,929	27,066,998	1,171,631	669,931
Capital Improvement Fund	1,508,600	4,324,320	4,679,280	1,153,640	(354,960)
Facility Capital Projects	1,594,700	4,540	-	1,599,240	4,540
<b>Enterprise Funds</b>					
Sanitation	899,700	636,340	610,370	925,670	25,970
Water Fund	2,381,500	26,148,239	27,044,179	1,485,560	(895,940)
Sewer Fund	4,804,000	38,961,273	39,069,880	4,695,393	(108,607)
Stormwater Fund	2,111,000	20,783,725	22,002,355	892,370	(1,218,630)
Pavilion Fund	151,800	615,360	691,060	76,100	(75,700)
<b>Internal Service Funds</b>					
Equipment Rental	1,131,500	5,904,000	6,780,410	255,090	(876,410)
Insurance Fund	523,700	7,153,730	6,288,980	1,388,450	864,750
Info Tech And Communications	788,300	8,596,070	9,007,460	376,910	(411,390)
Healthcare Insurance Fund	3,849,200	17,425,000	17,668,760	3,605,440	(243,760)
Facility Maintenance Fund	145,400	6,037,420	6,177,080	5,740	(139,660)
<b>Total All Funds</b>	<b>55,652,900</b>	<b>300,747,536</b>	<b>314,719,837</b>	<b>41,680,599</b>	<b>(13,972,301)</b>
<b>Total Budget:</b>		<b>300,747,536</b>	<b>314,719,837</b>		
Less Transfers		(60,201,681)	(60,201,681)		
Less Internal Service Charges		(25,201,540)	(25,201,540)		
<b>Net Budget</b>		<b>215,344,315</b>	<b>229,316,616</b>		

\*The Net Budget removes all double counting from Internal Services and Transfers, reflecting the true revenues and expenditures.

2023-2024 Summary by Fund  
Exhibit B

Fund Name	Projected Beginning Balance	Revenues	Expenditures	Ending Balance	Change in Balance
<b>General Funds</b>					
General Fund	13,901,300	113,658,190	118,408,190	9,151,300	(4,750,000)
Budget Stability Reserves Fund	1,567,600	4,754,120	1,797,520	4,524,200	2,956,600
208 W Main Parking Lot			50,000	(50,000)	(50,000)
313 W Meeker Parking Lot			60,000	(60,000)	(60,000)
Metro Animal Services Upgrades			65,000	(65,000)	(65,000)
Subtotal Budget Stability Reserves	1,567,600	4,754,120	1,972,520	4,349,200	2,781,600
Radio Replacement Fund	465,500	206,900	206,000	466,400	900
Donations to Puyallup	88,300	-	70,000	18,300	(70,000)
LEOFF I Retiree Benefits Fund	1,547,200	702,620	1,110,300	1,139,520	(407,680)
Firemen's Pension Fund	1,043,300	294,900	361,000	977,200	(66,100)
<b>Special Revenue Funds</b>					
Seizure & Forfeiture Fund	93,300	160,200	138,500	115,000	21,700
Motel Tax Fund	2,082,400	2,509,080	1,177,840	3,413,640	1,331,240
Civic Complex Lighting			100,000	(100,000)	(100,000)
Permanent Outdoor Art Purchase			25,000	(25,000)	(25,000)
Pavilion Acoustic & Lighting Imprvmt			500,000	(500,000)	(500,000)
Subtotal Motel Tax Fund	2,082,400	2,509,080	1,802,840	2,788,640	706,240
Trial Court Improvement Fund	10,900	43,060	40,000	13,960	3,060
LIFT Fund	123,800	2,007,300	1,900,000	231,100	107,300
First 1/4% REET	2,148,200	2,463,340	3,900,000	711,540	(1,436,660)
Second 1/4% REET	2,153,200	2,463,340	3,900,000	716,540	(1,436,660)
DUI Cost Recovery	135,600	136,800	36,700	235,700	100,100
American Rescue Plan Act	8,885,400	-	7,186,375	1,699,025	(7,186,375)
Affordable Housing Sales Tax	515,800	420,140	-	935,940	420,140
<b>Debt Service Funds</b>					
Voted Debt Service	-	-	-	-	-
Non Voted Debt Service	500,000	6,600,600	6,600,600	500,000	-
<b>Capital Projects Funds</b>					
Street Fund	501,700	27,736,929	27,066,998	1,171,631	669,931
Capital Improvement Fund	1,508,600	4,324,320	4,679,280	1,153,640	(354,960)
Facility Capital Projects	1,594,700	4,540	-	1,599,240	4,540
<b>Enterprise Funds</b>					
Sanitation	899,700	636,340	610,370	925,670	25,970
Water Fund	2,381,500	26,148,239	27,044,179	1,485,560	(895,940)
Sewer Fund	4,804,000	38,961,273	39,069,880	4,695,393	(108,607)
Stormwater Fund	2,111,000	20,783,725	22,002,355	892,370	(1,218,630)
Pavilion Fund	151,800	615,360	691,060	76,100	(75,700)
<b>Internal Service Funds</b>					
Equipment Rental	1,131,500	5,904,000	6,780,410	255,090	(876,410)
Insurance Fund	523,700	7,153,730	6,288,980	1,388,450	864,750
Info Tech And Communications	788,300	8,596,070	9,007,460	376,910	(411,390)
Healthcare Insurance Fund	3,849,200	17,425,000	17,668,760	3,605,440	(243,760)
Facility Maintenance Fund	145,400	6,037,420	6,177,080	5,740	(139,660)
<b>Total All Funds</b>	<b>55,652,900</b>	<b>300,747,536</b>	<b>314,719,837</b>	<b>41,680,599</b>	<b>(13,972,301)</b>
<b>Total Budget:</b>		<b>300,747,536</b>	<b>314,719,837</b>		
Less Transfers		(60,201,681)	(60,201,681)		
Less Internal Service Charges		(25,201,540)	(25,201,540)		
<b>Net Budget</b>		<b>215,344,315</b>	<b>229,316,616</b>		

\*The Net Budget removes all double counting from Internal Services and Transfers, reflecting the true revenues and expenditures.



## City Council Agenda Item Report

Submitted by: Sarah Harris

Submitting Department: Parks, Recreation and Facilities

Meeting Date: November 22, 2022

### **Subject:**

Second reading of an ordinance amending Puyallup Municipal Code Section 9.20.225 to adjust park hours at Clarks Creek North

### **Presenter:**

Sarah Harris, Parks & Recreation Director

### **Recommendation:**

Approve the second reading of an ordinance amending Puyallup Municipal Code Section 9.20.225 to adjust park hours at Clarks Creek North.

### **Background:**

On March 28, 2022, Governor Jay Inslee signed Senate Bill 5615 declaring pickleball as the official state sport of Washington. The game was created in 1965 in the city of Bainbridge Island and is now the fastest-growing sport in America. There are currently about 4.8 million players nationwide, over a 40% increase since 2020.

The popularity of the game can be attributed to the fact that the game is easier to learn than tennis and is also slower-paced with less ground to cover. Due to the growing popularity of the sport, Puyallup Parks and Recreation has seen a dramatic increase in the number of requests for the use of pickleball courts. The four tennis courts at Clark's Creek North have lights installed and are lined for pickleball. Staff is receiving numerous requests from tennis and pickleball players to use these courts throughout the year, including the fall and winter months, and to utilize the lighting at the courts when weather permits.

The lights on the courts are currently on a timer. Staff is exploring options for on/off light switches at the courts so that players can turn them on and off during park hours. Meanwhile, staff will be able to schedule the courts to keep the lights turned on when they receive requests for nighttime play up to 9 p.m. The lights will not be on if the courts are not scheduled or if the weather does not allow the courts to be used safely due to inclement weather.

This request was reviewed by the Parks and Recreation Advisory Board at their meeting on September 12, 2022, and they voted unanimously to approve the recommended park hours for Clarks Creek North Park. The ballfield can also be scheduled up to 9:00 p.m. if field conditions allow.

### **ATTACHMENTS**

[Ordinance](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF  
PUYALLUP amending sections, 9.20.225 of the Puyallup Municipal Code  
pertaining to the hours City parks are open to the public.**

**WHEREAS**, the hours City parks are open to the public vary amongst the various parks;

**WHEREAS**, the sport of pickleball is now the official state sport of Washington and the demand for access to pickleball and tennis courts has increased dramatically

**WHEREAS**, the courts at Clarks Creek North have lights and could be used during the fall and winter months if park hours were extended,

**NOW THEREFORE**, the City Council of the City of Puyallup ordains as follows:

**Section 1.** Section 9.20.225 of the Puyallup Municipal Code is hereby amended to read as follows:

**9.20.225 Park hours.**

(1) The hours during which Puyallup city parks will be open to the public are as follows:

## 9.20.225 Park hours.

(1) The hours during which Puyallup city parks will be open to the public are as follows:

October 1st – March 31st	6:00 a.m. – 8:00 p.m. daily
April 1st – September 30th	6:00 a.m. – 10:00 p.m. daily
Provided, however, the following exceptions for the parks listed below:	
<b>Clark’s Creek North:</b>	
October 1st – February 28th or 29th	<del>Open 6:00 a.m.; close one-half hour after sunset</del> 6:00 a.m. – 9:00 p.m. daily
March 1st – September 30th	6:00 a.m. – 11:00 p.m. daily
<b>Clark’s Creek South:</b>	
Year-Round	Open 6:00 a.m.; close one-half hour after sunset
<b>DeCoursey Park:</b>	
Year-Round	Open 6:00 a.m.; close one-half hour after sunset
<b>Wildwood Park Baseball Fields:</b>	
March 1st – September 30th	Open 6:00 a.m. – 11:00 p.m. (baseball field)
<b>Puyallup Valley Sports Complex:</b>	
Year-Round	5:30 a.m. – 11:00 p.m.
<b>Riverwalk Trail and Veteran’s Park:</b>	
Year-Round	Open one-half hour before sunrise; close one-half hour after sunset
<b>Skate Park:</b>	
September 1st – June 15th	Sun. – Thur. 7:00 a.m. – 9:00 p.m.
	Fri. and Sat. 8:00 a.m. – 11:00 p.m.
June 16th – August 31st	8:00 a.m. – 11:00 p.m. daily

(2) Puyallup city parks shall be closed to the public at all other times without written authorization from the parks director.

**Section 2. Publication.** A summary of this ordinance shall be published as required by law.

**Section 3. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with the other provisions of the Puyallup Municipal Code, this Ordinance is deemed to control.

**Section 4. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after final passage, as provided by law.

Passed and approved by City Council of the City of Puyallup at regularly scheduled open public meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Dean Johnson  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Joseph N. Beck  
City Attorney

\_\_\_\_\_  
Tulika Makharia  
Interim City Clerk

Published:

Effective:



## City Council Agenda Item Report

Submitted by: Michelle Gehring  
Submitting Department: Engineering  
Meeting Date: November 22, 2022

### **Subject:**

Second reading of an ordinance for a proposed right of way vacation along Elm Place

### **Presenter:**

Hans Hunger, City Engineer

### **Recommendation:**

Approve a second reading of an ordinance for a proposed right of way vacation along Elm Place.

### **Background:**

The proposed right-of-way vacation is required to construct an addition to the west of the existing Pioneer Park Restroom structure. The vacation area primarily consists of parking stalls utilized for accessing Pioneer Park and the abutting restroom. Pioneer Park is currently zoned Public Facilities (PF). This land use designation requires a 20' front yard, side yard, and rear yard building setback unless otherwise established through a conditional use permit or master plan. No master plan or conditional use permit exist for Pioneer Park that would allow a deviation from the required zoning setbacks. The existing restroom is approximately 9.7' from the property boundary and is unable to meet the required setbacks. Therefore, a vacation of the City-owned southern half of Elm Place would allow conformance of the existing structure to the underlying zoning setbacks.

### **ATTACHMENTS**

[Ordinance](#)

[Site Plan](#)

[Legal Description](#)

[Petition to Vacate](#)

[Application to Vacate](#)

[Staff Report](#)

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF PUYALLUP VACATING A PORTION OF ELM PLACE  
BETWEEN 2<sup>ND</sup> STREET SW AND S. MERIDIAN**

**WHEREAS**, a proper petition for the vacation of a portion of Elm Place between 2<sup>nd</sup> Street SW and S. Meridian has been submitted to the city;

**WHEREAS**, the City Council directed that a notice of public hearing be published for a hearing on the petition; and

**WHEREAS**, a public hearing was held before the City Council on November 1, 2022;

**NOW, THEREFORE**, the City Council of the City of Puyallup, Washington, does hereby ordain as follows:

Section 1. The Council finds that the right-of-way described below is not useful as a part of the City road system, and the public will be benefited by vacation of the City's interest.

Section 2. The following described property is and the same is hereby vacated:

All those portions of Elm Place between 2<sup>nd</sup> Street SW and S. Meridian described as follows:

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 20 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN DESCRIBED AS FOLLOWS:

THE SOUTH HALF (30 FEET) OF ELM PLACE AS RECORDED IN THE PLAT OF MEEKER'S SECOND ADDITION TO THE TOWN OF PUYALLUP W.T. ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 93, RECORDS OF PIERCE COUNTY, WASHINGTON; LYING EASTERLY OF THE WESTERLY 127.5 FEET THEREOF AND LYING WESTERLY OF A LINE PARALLEL WITH AND 30 FEET WEST OF THE CENTERLINE OF MERIDIAN STREET.

Section 3. This vacation approval is subject to the following conditions:

1. Easements for the existing utilities shall be granted.

Section 4. This ordinance shall be in full force and effect five days after publication as required by law.

DATED this 1st day of November, 2022.

\_\_\_\_\_  
Dean Johnson  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Joseph N. Beck  
City Attorney

\_\_\_\_\_  
Tulika Makharia  
Interim City Clerk

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

# EXHIBIT 'A'

W. PIONEER AVE.

2ND ST. S.W. (WALNUT ST.) VACATED

S. MERIDIAN ST.

18

PLAT OF MEEKER'S  
2ND ADDITION  
BK. 2 PG. 93

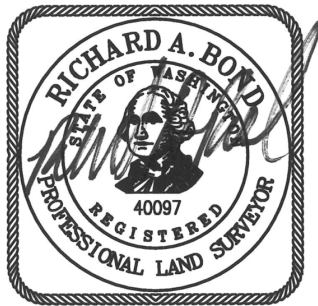
ELM PL. 30'

127.5'

R/W VACATED PER CITY  
ORDINANCE NO. 2682  
AFN 200107260118

30' PROPOSED  
R/W VACATION

CITY OF PUYALLUP  
TAX PARCEL No. 5745001680



10/28/2022

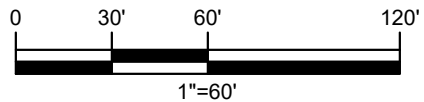
CITY OF PUYALLUP

ELM PLACE RIGHT OF WAY VACATION



**Gray & Osborne, Inc.**

CONSULTING ENGINEERS  
1130 RAINIER AVENUE SOUTH, SUITE 300  
SEATTLE, WASHINGTON 98144 (206) 284-0860





**GENERAL DESCRIPTION**

---

---

---

---

**LEGAL DESCRIPTION OF RIGHT OF WAY TO BE VACATED:**

---

That portion of the Northeast Quarter of the Southeast Quarter of Section 28,  
Township 20 North, Range 4 East, Willamette Meridian described as follows:  
The South half (30 feet) of Elm Place as recorded in the plat of Meeker's Second  
Addition to the town of Puyallup W.T. according to the plat thereof recorded in  
Volume 2 of Plats, Page 93, records of Pierce County, Washington; lying  
easterly of the westerly 127.5 feet thereof and lying westerly of a line parallel  
with and 30 feet west of the centerline of Meridian Street.

---

Situated in the City of Puyallup, County of Pierce, State of Washington.

---

Does the right of way abut any body of water?  Yes  No

If so, please describe: \_\_\_\_\_

---

Will the vacation result in any parcel of land being denied direct access?  Yes  No

If so, please describe: \_\_\_\_\_

---

Provide the dimensions of the right of way to be vacated (in square feet):

**129.5 x 30 = 3,885 SF**

---

City of Puyallup | Engineering Services  
333 S Meridian | Puyallup WA 98371  
253-841-5577



## CITY OF PUYALLUP PETITION TO VACATE RIGHT OF WAY INSTRUCTIONS AND INFORMATION

---

Following are instructions for completing your petition. If you have any questions, please contact Linda Lansing at 253-841-5577.

### **FILLING OUT THE APPLICATION**

- Petitioner:** Must be the owner of a property adjacent to the area in the vacation request. Note: if the petitioner is purchasing the property under a real estate contract, the signature of the contract seller is also required.
- Address:** Mailing address of the Petitioner.
- Phone:** Telephone number where Petitioner can be reached during normal business hours.
- Assessor’s Parcel No.** The Assessor’s Parcel Number identifying Petitioner’s property. This may be found on your tax statement and/or valuation notice, or on the internet at [www.co.pierce.wa.us/atr](http://www.co.pierce.wa.us/atr)
- Signature:** Petitioner must sign and date the form. If property is in joint ownership, all co-owners must sign the petition. By signing this document, Petitioner(s) acknowledge(s) the potential financial obligations and necessary conditions that may be required prior to City Council’s consideration of an authorizing ordinance.
- More than two-thirds of all property owners abutting the right of way to be vacated must sign the petition indicating that they are in agreement with the vacation request.
- Proposed Use:** How do you intend to use the right of way? Describe your plans in detail and submit development / site plans to aid City staff in understanding your request.
- Legal Description:** A legal description of the right of way to be vacated must be written and signed by a licensed surveyor or registered engineer.
- Site Plan:** Submit on an 8.5” X 11” or 11” X 17” sheet of paper only.



## INSTRUCTIONS AND INFORMATION *continued*

---

### **FILING FEE**

A fee of \$1,370.00 is required for all vacation requests.

### **OTHER COSTS**

The Petitioner(s) will be required to submit payment for the appraisal prior to the appraisal assignment being completed. The City reserves the right to select the appraiser for the assignment.

The Petitioner(s) will be required to submit a final processing fee of \$780.00 if the Council, by resolution, agrees to hold a public hearing.

State law states that, if the right of way has been part of a dedicated public right of way for twenty-five years or less, the City may be compensated at one half of the appraised value of the area to be vacated. (RCW 35.79.030) If the subject right of way has been in the inventory for more than 25 years, the City requires the owners of the abutting property to compensate the City in an amount not to exceed the full-appraised value of the area to be vacated.

### **NOTES**

1. All conditions must be met within ninety (90) days following the first reading of the ordinance, except when “good cause” is shown for the delay.
2. If the City Council grants the Vacation, it may require monetary compensation or land dedication. This monetary compensation or dedication must be fulfilled by the person filing the petition before the Ordinance granting the Vacation will be signed by the Mayor.
3. If any time prior to the public hearing, 50 percent or more of all the owners of properties adjacent to the street, alley or part thereof, to be vacated file a written objection to the vacation with the Department of Development Services, the City may not hold a public hearing or grant the vacation.
4. The City Council does not make the decision on allocation of the vacated land. Vacated streets are not always distributed equally to the abutting properties, but rather are returned to the property from which the land was originally dedicated.
5. In vacating a street, alley, or part thereof, the City will, usually, reserve an easement for both public and private utilities and their successors or the right to exercise and grant an easement, in the location of the vacation. If the petitioner requests that an easement not be reserved or that the easement be moved or reduced in area, the petitioner must:
  - A. Submit written approvals from all private utilities holding a City franchise within the area proposed to be vacated (see *Request for Private Utility Review* form attached).
  - B. When mailing out the request form, include a vicinity map, explanation of the vacation request, and the address and legal description of the area to be vacated.
  - C. The written approvals from all private utilities must be submitted before the vacation can be scheduled for a public hearing. It is the applicant’s responsibility to see that the public utilities submit the written approval.

City of Puyallup | Engineering Services  
333 S Meridian | Puyallup WA 98371  
253-841-5577



## INSTRUCTIONS AND INFORMATION continued

---

### CONDITIONS / CONSIDERATIONS

Advice will be solicited from various agencies with an interest in the right of way (City of Puyallup's Water Department, City of Puyallup's Sewer Department, City of Puyallup's Stormwater Department, City of Puyallup's Street Department, Fruitland Mutual Water Company, Comcast Cable, Puget Sound Energy, Qwest Communications, etc. The City of Puyallup will, usually, reserve an easement for public and private utilities. No permanent structures may be built over these easements (RCW 35.79.030). If the petitioner requests that an easement not be reserved or that the easement be moved or reduced in area, the petitioner must submit written approvals from those affected private utilities holding a franchise with the City of Puyallup.

City staff will consider the following criteria when making recommendation to Council:

1. Will the vacation provide a public benefit?
2. Will the vacation adversely affect the traffic pattern?
3. Will the greater public good be adversely affected by the vacation?
4. Will the right of way be needed for future public use?
5. Will any parcel become landlocked or denied direct access?
6. Is the right of way abutting bodies of water? (RCW35.79.035)



## RIGHT OF WAY VACATION APPLICATION

When preparing this application, please print or type the reply to each question. If you have any questions, please contact Engineering Services at (253) 841-5577. Plans, specifications and other documents pertaining to the application shall be submitted at the time of application.

### Petitioner Information:

Petitioner: City of Puyallup - PW Engineering

Address: 333 S Meridian Zoning: PF

City: Puyallup State: WA Zip: 98371

Day time Phone: 253-435-3641

Fax Number: 253-841-5484

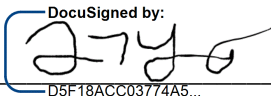
E-mail Address: DYoung@PuyallupWa.gov

### Describe the proposed use of right of way to be vacated (Please be specific and attach building or site plans where applicable)

The proposed use of the right of way vacation would be to continue to utilize the area as a Public Park, Pioneer Park. This proposed right-of-way vacation is necessary to correct current non-compliance with zoning setbacks established as part of the PF zone for the existing restroom.

### CERTIFICATION:

I hereby state that I am the applicant listed above, and certify that all information contained above and in exhibits attached hereto is true and correct to the best of my knowledge and belief and is submitted for consideration by the City of Puyallup. It is understood that the processing of this application may require additional supporting evidence, data or statements upon request of City staff.

Signature of Applicant:  Date 10/11/2022

Print Name: Drew Young

City of Puyallup | Engineering Services  
333 S Meridian | Puyallup WA 98371  
253-841-5577



**We, the undersigned, support this request, and represent two-thirds of the lineal frontage of the property abutting the portion of the right of way to be vacated:**

Signature	<small>DocuSigned by:</small> <i>Steve Kinkelie</i> <small>3E2B419FE1D84A5...</small>	Assessor's Parcel No.	5745001680
Name (Print)	City of Puyallup - City Manager	Phone	253-435-3640
Street	324 S Meridian	City	Puyallup Zip 98371

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

City of Puyallup | Engineering Services  
333 S Meridian | Puyallup WA 98371  
253-841-5577



## PAYMENT FOR APPRAISAL AGREEMENT

---

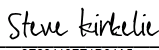
To Whom It May Concern:

I / we, the undersigned Applicant(s), hereby agree to pay the full cost of an appraisal and will submit payment prior to the appraisal being completed. Development Services is authorized to obtain an appraisal from a qualified, independent appraiser as part of the staff report of the vacation.


Dated at Puyallup, Washington, this 11th day of October, 2022

Applicant(s) Signature

Print Name

DocuSigned by:  
  
 3E28419FE1D84A5...

---

DocuSigned by:  
  
 2883F0FCC5374D2...

---



---



---



---

Steve Kirkelie - City Manager

---

Sarah Harris - Director of Parks and Recreation

---



---



---



---



**GENERAL DESCRIPTION**

---

---

---

**LEGAL DESCRIPTION OF RIGHT OF WAY TO BE VACATED:**

---

That portion of the Northeast Quarter of the Southeast Quarter of Section 28,  
Township 20 North, Range 4 East, Willamette Meridian described as follows:  
The South half (30 feet) of Elm Place as recorded in the plat of Meeker's Second  
Addition to the town of Puyallup W.T. according to the plat thereof recorded in  
Volume 2 of Plats, Page 93, records of Pierce County, Washington; lying  
easterly of the westerly 127.5 feet thereof and lying westerly of a line parallel  
with and 30 feet west of the centerline of Meridian Street.

---

Situated in the City of Puyallup, County of Pierce, State of Washington.

---

Does the right of way abut any body of water?  Yes  No

If so, please describe: \_\_\_\_\_

---

Will the vacation result in any parcel of land being denied direct access?  Yes  No

If so, please describe: \_\_\_\_\_

---

Provide the dimensions of the right of way to be vacated (in square feet):

**129.5 x 30 = 3,885 SF**

---

City of Puyallup | Engineering Services  
333 S Meridian | Puyallup WA 98371  
253-841-5577



**REQUEST FOR PRIVATE UTILITY REVIEW  
CITY OF PUYALLUP  
RIGHT OF WAY VACATION PROPOSAL**

\_\_\_\_\_ Comcast Cable  
Attn: Terry Britton  
410 Valley Ave NW, Suite 9  
Puyallup, WA 98371  
(253) 864-4293  
[Terry\\_Britton@cable.comcast.com](mailto:Terry_Britton@cable.comcast.com)

\_\_\_\_\_ Puget Sound Energy  
Attn: Steve Botts  
3130 S 38th St  
Tacoma, WA 98409  
(253) 476-6416  
[steve.botts@pse.com](mailto:steve.botts@pse.com)

\_\_\_\_\_ Fruitland Mutual Water  
Attn: Ted Hardiman  
PO Box 73759  
Puyallup, WA 98373-0759  
(253) 848-5519  
[Ted@fruitlandwater.com](mailto:Ted@fruitlandwater.com)

\_\_\_\_\_ QWEST Communications  
Attn: Marge Bailey  
2510 - 84th St. S., Suite 18  
Lakewood, WA 98499  
(253) 597-4024  
[Marge.bailey@qwest.com](mailto:Marge.bailey@qwest.com)

A petition for \_\_\_\_\_ vacation has been submitted  
(street or alley)

By \_\_\_\_\_ to the City of Puyallup.  
(name of applicant)

We request a statement within fourteen (14) days of receipt of this notice furnishing the following information in order to complete the City's review of the requested vacation:

1.      There is    is not an existing utility route within the area described.
2.      We have    have not an interest in a potential utility route being retained in the vacated right of way.
3.     For additional information call Linda Lansing, Engineering Services 253-841-5577.

Please address reply to:

City of Puyallup  
Attn: Linda Lansing  
Engineering Services  
333 S. Meridian  
Puyallup, WA 98371

Attachments: Address and Legal Description of Proposed Right of Way Vacation Request  
Vicinity Map

City of Puyallup | Engineering Services  
333 S Meridian | Puyallup WA 98371  
253-841-5577



## CITY OF PUYALLUP PETITION TO VACATE RIGHT OF WAY INSTRUCTIONS AND INFORMATION

---

Following are instructions for completing your petition. If you have any questions, please contact Linda Lansing at 253-841-5577.

### **FILLING OUT THE APPLICATION**

- Petitioner:** Must be the owner of a property adjacent to the area in the vacation request. Note: if the petitioner is purchasing the property under a real estate contract, the signature of the contract seller is also required.
- Address:** Mailing address of the Petitioner.
- Phone:** Telephone number where Petitioner can be reached during normal business hours.
- Assessor’s Parcel No.** The Assessor’s Parcel Number identifying Petitioner’s property. This may be found on your tax statement and/or valuation notice, or on the internet at [www.co.pierce.wa.us/atr](http://www.co.pierce.wa.us/atr)
- Signature:** Petitioner must sign and date the form. If property is in joint ownership, all co-owners must sign the petition. By signing this document, Petitioner(s) acknowledge(s) the potential financial obligations and necessary conditions that may be required prior to City Council’s consideration of an authorizing ordinance.
- More than two-thirds of all property owners abutting the right of way to be vacated must sign the petition indicating that they are in agreement with the vacation request.
- Proposed Use:** How do you intend to use the right of way? Describe your plans in detail and submit development / site plans to aid City staff in understanding your request.
- Legal Description:** A legal description of the right of way to be vacated must be written and signed by a licensed surveyor or registered engineer.
- Site Plan:** Submit on an 8.5” X 11” or 11” X 17” sheet of paper only.



## INSTRUCTIONS AND INFORMATION continued

---

### **FILING FEE**

A fee of \$1,370.00 is required for all vacation requests.

### **OTHER COSTS**

The Petitioner(s) will be required to submit payment for the appraisal prior to the appraisal assignment being completed. The City reserves the right to select the appraiser for the assignment.

The Petitioner(s) will be required to submit a final processing fee of \$780.00 if the Council, by resolution, agrees to hold a public hearing.

State law states that, if the right of way has been part of a dedicated public right of way for twenty-five years or less, the City may be compensated at one half of the appraised value of the area to be vacated. (RCW 35.79.030) If the subject right of way has been in the inventory for more than 25 years, the City requires the owners of the abutting property to compensate the City in an amount not to exceed the full-appraised value of the area to be vacated.

### **NOTES**

1. All conditions must be met within ninety (90) days following the first reading of the ordinance, except when “good cause” is shown for the delay.
2. If the City Council grants the Vacation, it may require monetary compensation or land dedication. This monetary compensation or dedication must be fulfilled by the person filing the petition before the Ordinance granting the Vacation will be signed by the Mayor.
3. If any time prior to the public hearing, 50 percent or more of all the owners of properties adjacent to the street, alley or part thereof, to be vacated file a written objection to the vacation with the Department of Development Services, the City may not hold a public hearing or grant the vacation.
4. The City Council does not make the decision on allocation of the vacated land. Vacated streets are not always distributed equally to the abutting properties, but rather are returned to the property from which the land was originally dedicated.
5. In vacating a street, alley, or part thereof, the City will, usually, reserve an easement for both public and private utilities and their successors or the right to exercise and grant an easement, in the location of the vacation. If the petitioner requests that an easement not be reserved or that the easement be moved or reduced in area, the petitioner must:
  - A. Submit written approvals from all private utilities holding a City franchise within the area proposed to be vacated (see *Request for Private Utility Review* form attached).
  - B. When mailing out the request form, include a vicinity map, explanation of the vacation request, and the address and legal description of the area to be vacated.
  - C. The written approvals from all private utilities must be submitted before the vacation can be scheduled for a public hearing. It is the applicant’s responsibility to see that the public utilities submit the written approval.

City of Puyallup | Engineering Services  
 333 S Meridian | Puyallup WA 98371  
 253-841-5577



## INSTRUCTIONS AND INFORMATION continued

---

### CONDITIONS / CONSIDERATIONS

Advice will be solicited from various agencies with an interest in the right of way (City of Puyallup's Water Department, City of Puyallup's Sewer Department, City of Puyallup's Stormwater Department, City of Puyallup's Street Department, Fruitland Mutual Water Company, Comcast Cable, Puget Sound Energy, Qwest Communications, etc. The City of Puyallup will, usually, reserve an easement for public and private utilities. No permanent structures may be built over these easements (RCW 35.79.030). If the petitioner requests that an easement not be reserved or that the easement be moved or reduced in area, the petitioner must submit written approvals from those affected private utilities holding a franchise with the City of Puyallup.

City staff will consider the following criteria when making recommendation to Council:

1. Will the vacation provide a public benefit?
2. Will the vacation adversely affect the traffic pattern?
3. Will the greater public good be adversely affected by the vacation?
4. Will the right of way be needed for future public use?
5. Will any parcel become landlocked or denied direct access?
6. Is the right of way abutting bodies of water? (RCW35.79.035)

# STAFF REPORT

## PREPARED FOR THE CITY COUNCIL BY ENGINEERING SERVICES

For the Hearing to be Held  
Tuesday November 22, 2022, at 6:30 p.m.

**PETITIONER:** The City of Puyallup

**A. SUMMARY OF REQUEST:**

The proposed right-of-way vacation is necessary to correct the current non-compliance with the zoning setbacks established as a part of the Public Facilities (PF) Zone

**B. GENERAL INFORMATION:**

**1. Legal Description of Vacation:**

That portion of the Northeast Quarter of the Southeast Quarter of Section 28, Township 20 North, range 4 East, Willamette Meridian described as follows: The South half (30 feet) of Elm Place as recorded in the plat of Meeker's Second Addition to the town of Puyallup W.T. according to the plat thereof recorded in Volume 2 of Plats, Page 93, records of Pierce County, Washington; lying easterly of the westerly 127.5 feet thereof and lying westerly of a line parallel with and 30 feet west of the centerline of Meridian Street.

Situated in the City of Puyallup, County of Pierce, State of Washington.

**2. Square footage of area to be vacated:**

$152.5 \times 30 = 4,575$  SF.

**3. Notice of Public Hearing:**

CIP Engineering Department provided a 20-day notice of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. The said notice contained the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such

property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

**C. PURPOSE OF REQUEST:**

The proposed right-of-way vacation is necessary to correct the current non-compliance of the required zoning setbacks that were established as a part of the PF Zoning. This will allow for the proposed new restroom at Pioneer Park to be constructed in the same location as the existing restroom. The vacated right-of-way would increase the size of Pioneer Park and would continue to be used for public parking.

**D. HISTORY:**

The City of Puyallup acquired the rights of way proposed to be vacated within the plat of Meeker's Second Addition, filed for record on the 14<sup>th</sup> day of January 1889, in Vol.2 of Plats, Page 93, records of Pierce County, Washington. Exhibit C

**E. PHYSICAL LAND CHARACTERISTICS:**

1. That the vacation will provide a public benefit and will be for a public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

**F. ADDITIONAL INFORMATION:**

1. The existing right-of-way is currently used for public right-of-way. The site lies within a PF – Public Facilities zone
2. The right-of-way has been determined to be unnecessary and is not specified within the Comprehensive Plan as a road of any significance.
3. As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies on October 13, 2022. These agencies, as noted, have

provided comments or recommended conditions to the Public Works Engineering Department. These comments, where appropriate, have been incorporated in the “Recommended Conditions of Approval” section of this preliminary report.

City of Puyallup Public Utility Department(s) – Exhibit D  
Private Utilities (Comcast, Lumen and PSE) – Exhibit E

## **G. PROJECT RECOMMENDATIONS:**

As part of the City’s review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Development Services Department. These comments, where appropriate, have been incorporated in the “Recommended Conditions of Approval” section of this report.

Legal Description – Exhibit A  
Site Plan – Exhibit B  
Dedication of Right-of-Way Meeker’s Second Addition – Exhibit C  
Puyallup Sewer /Stormwater Review – Exhibit D  
Puyallup Water Review – Exhibit D  
Puyallup Street and Traffic Review – Exhibit D  
Puget Sound Energy – Exhibit E  
Lumen Communications – Exhibit E  
Comcast Communications – Exhibit E

## **H. RECOMMENDED CONDITIONS OF APPROVAL:**

Should this street vacation request be approved, the CIP Engineering Department recommends that the following conditions be made conditions of approval for this street vacation petition.

1. The applicant shall comply with all City regulations for any future use of the subject site.

Please contact Drew Young at (253) 435-3641 for questions regarding the conditions of the pending right of way vacation.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.

Exhibit A: Legal Description  
Exhibit B: Site Map  
Exhibit C: Dedication  
Exhibit D: Public Utility Comments  
Exhibit E: Private Utility Comments

## **EXHIBIT A**

### Legal Description:

That portion of the Northeast Quarter of the Southeast Quarter of Section 28, Township 20 North, range 4 East, Willamette Meridian described as follows: The South half (30 feet) of Elm Place as recorded in the plat of Meeker's Second Addition to the town of Puyallup W.T. according to the plat thereof recorded in Volume 2 of Plats, Page 93, records of Pierce County, Washington; lying easterly of the westerly 127.5 feet thereof and lying westerly of a line parallel with and 30 feet west of the centerline of Meridian Street.

Situated in the City of Puyallup, County of Pierce, State of Washington.

EXHIBIT B



# City of Puyallup Engineering Division

## Proposed Right of Way Vacation - Elm



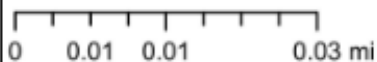
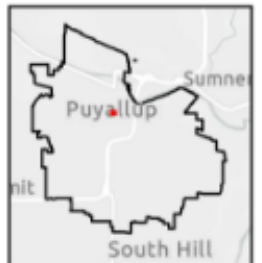
Legend

### Tax Parcels

Base Parcel

Right of Way Vacation Area

City Limits



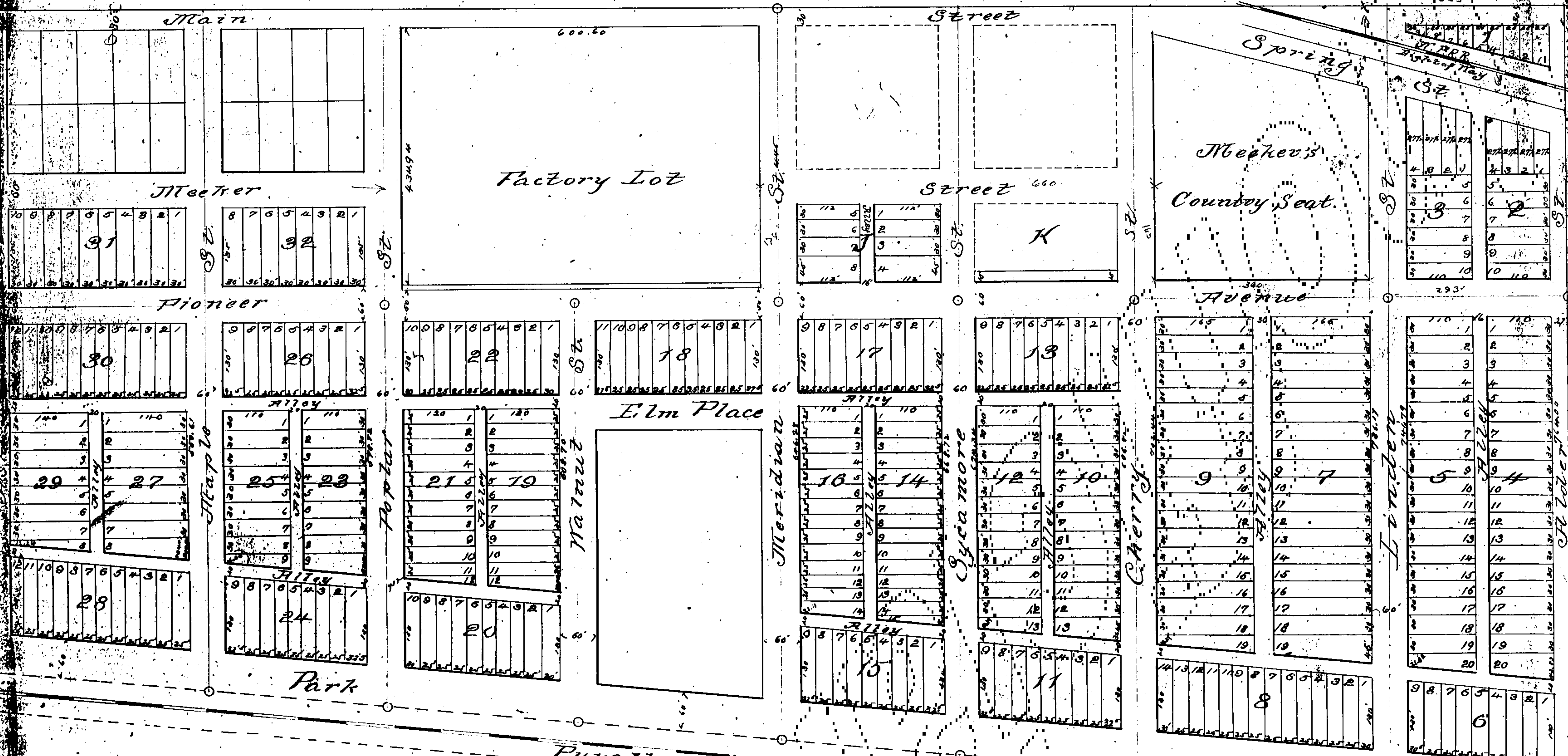
Scale: 1:1,128

Map produced using City of Puyallup GIS web apps.

Date: 10/6/2022

The printed information was derived from digital databases within the City of Puyallup GIS Portal. The City of Puyallup cannot accept responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

MEEKER'S [mirrored text] W. T.



Know all men by these presents  
 That Meeker's Second Addition to the town of Puyallup W. T.  
 comprises the following described tract of land viz: Beginning on the western boundary of the  
 E 1/2 of the S. E. 1/4 of Section 28, Township 20, North of Range 4 East (W. T.) at a point 300 feet South of the North Boundary of  
 the S. E. 1/4 of the aforesaid Section and running thence East to a point 630 1/2 feet west of the East Boundary of said Section 28, thence South 174 3/4 feet,  
 thence East 600 1/2 feet, thence North 174 3/4 feet, thence East 660 feet, thence South 165 feet, thence East 360 feet thence north to the north boundary of the  
 N. W. 1/4 of Section 27 of the above named Township; thence East 320 feet, thence South to a point 135 1/2 feet South of an East and West line passing  
 through the Place of Beginning thence West to a point on the West Boundary of the E 1/2 of the S. E. 1/4 of Section 28 aforesaid 1105 3/4 feet South of the  
 Place of Beginning, thence North 1105 3/4 feet to the place of beginning. The North and East Boundaries of the South E. 1/4 of the aforesaid Section  
 28 are herein respectively assumed as the parallel and meridian of reference. The foregoing includes blocks 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12 and  
 parts of Blocks J and K. of Meeker's first Addition to Puyallup W. T.

The annexed is a true Plat of the said "Meeker's second Addition to the Town of Puyallup" and we hereby dedicate to the use of the  
 Public forever all the Avenues, Streets and Alleys indicated upon said annexed plat.  
 Monuments of Survey consisting of Stones with a cross (+) cut in the Top thereof are buried at points indicated upon the annexed  
 Plat by small black circles.

In witness whereof We have hereunto set our hands and seals this 12th day of Jan. A. D. 1889.  
 Witnessed by  
 G. O. Bean  
 Frank O. Meeker

Ezra M. Meeker  
 Eliza J. Meeker

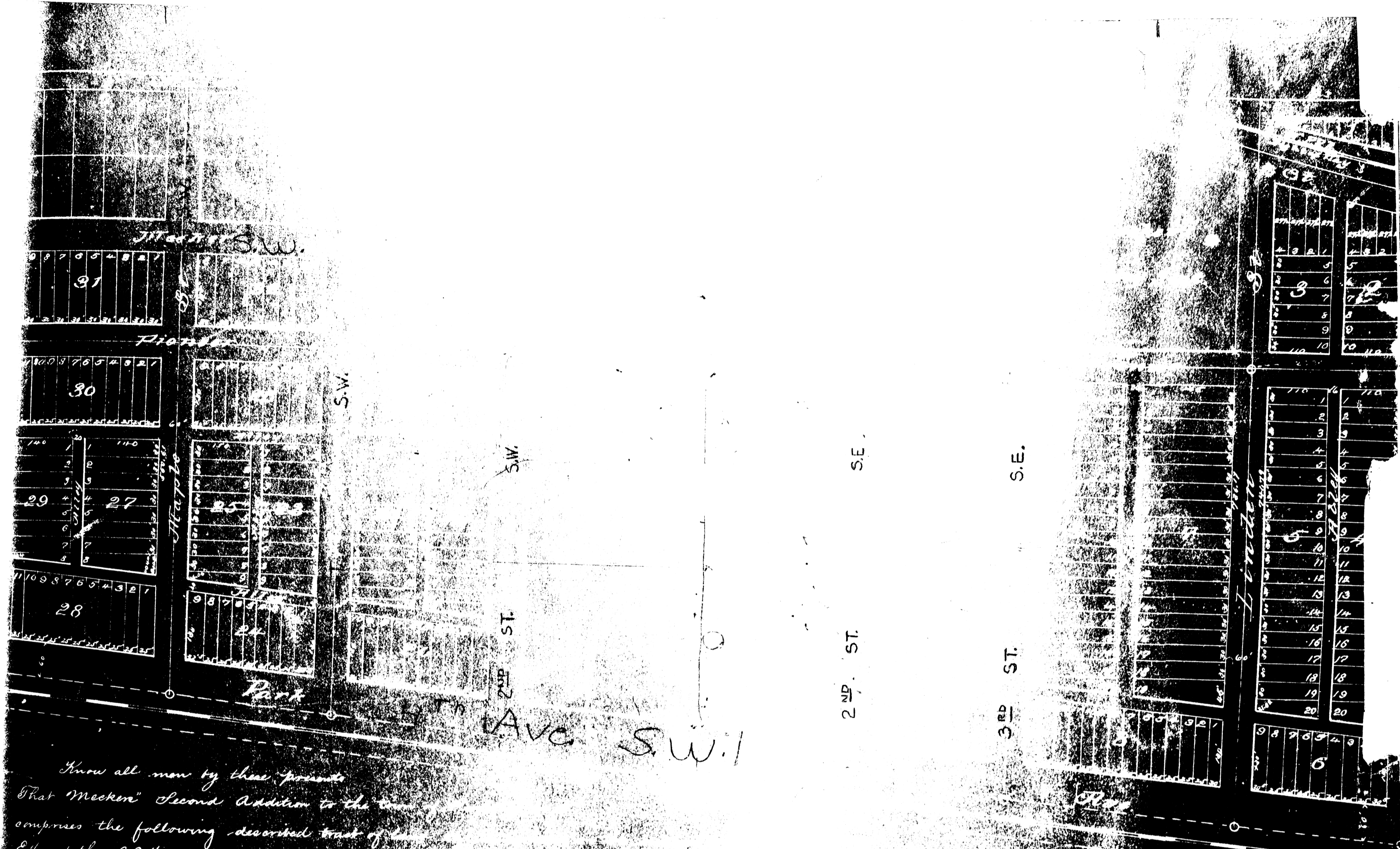
Territory of Washington  
 County of Pierce  
 This is to certify that on this 12th day of Jan. A. D. 1889 Ezra M. Meeker and Eliza J. Meeker his wife personally ap-  
 peared before me a Notary Public in and for Washington Territory known to me to be the Individuals who executed the foregoing instrument, and  
 who acknowledged to me that they executed the same freely and voluntarily for the uses and Purposes therein set forth.

In witness whereof I have hereunto set my hand and official seal the day and date first above written in this certificate  
 J. V. Meeker  
 Notary Public in and for  
 Washington Territory.



Filed this 14th day of January A. D. 1889 at 3.19 40 m. by Ezra M. Meeker.  
 Edward Higgins,  
 Auditor

BOUNDARY LINE REVISION  
 SEE AF# 8508270440



Know all men by these presents  
 That Meeker's Second Addition to the town of  
 comprises the following described tract of land  
 E 1/2 of the S.E. 1/4 of Section 26, Township 2 N., Range 10 E.,  
 the S.E. 1/4 of the aforesaid Section and running  
 thence East 600 00/100 feet, thence North 170 00/100 feet  
 S.W. 1/4 of Section 27 of the above named Township  
 through the Place of Beginning thence West 200 00/100 feet  
 Place of Beginning, Thence North 170 00/100 feet  
 26 are herein respectively assumed as the parallel  
 parts of Block 7 and 8 of Meeker's first addition.

The annexed is a true and correct list of the names of the  
 Public forever all the Avenues, streets and alleys  
 Monuments of Survey consisting of Galena  
 Marked by small black circles

In witness whereof We have hereunto set our hands and  
 Witnessed by  
 J. O. Beaman  
 Frank O. Meeker

Territory of Washington  
 County of Pierce  
 This is to certify that the above described tract of land  
 appeared before me a Notary Public in and for the County of Pierce  
 who acknowledged to me that they were the owners of the same  
 In witness whereof I have hereunto set my hand and the seal of my office  
 this 14th day of \_\_\_\_\_ 1857

Filed this 14th day of \_\_\_\_\_ 1857

**MEEKER'S 2ND ADDITION**

EXHIBIT D

**PUBLIC WORKS DIRECTOR:**

Hi Drew,

I have no concerns with the vacating of elm.

**Ken Davies**

Public Works Director

City of Puyallup | Public Works

1100 39<sup>th</sup> Ave SE | Puyallup, WA 98374

Tel: (253) 841-5507 | Fax: (253) 841-5437

---

**COLLECTIONS:**

Good Morning Linda,

Sorry for not getting back to you sooner, I was on jury duty the last two weeks.

I do not see any issues with this vacation.

Thank you,

Jonathan Wikander

253.770.3341

---

**STREETS:**

Drew,

I have no concerns with vacating this part of Elm....Thanks

Scott Hill

---

EXHIBIT D

**TRAFFIC:**

Drew,

I don't have any concerns either. The chances of Elm St or 2<sup>nd</sup> St SW re-opening as a two-way/thru street is very unlikely (and not necessary).

**Bryan Roberts, P.E.**

*Traffic Engineer*

**D** 253-841-5542

**M** 253-278-1156

**City of Puyallup**

333 S Meridian

Puyallup WA 98371

**WATER:**

No comments received

---

Good morning,

The City of Puyallup (CIP Engineering) has submitted an application for a right-of-way vacation. The proposed vacation is the most southerly 30' (ft) of Elm Place. For your use I have attached both the site plan and legal description that was submitted with the application. The dimension of the proposed vacation  $129.5 \times 30 = 3,885\text{SF}$ .

The area of vacation will increase the size of parcel 5745001680 and will serve as onsite parking for Pioneer Park.

In an effort to avoid future impacts to your existing utilities or roadway, within the proposed area of vacation, please take this opportunity to inform the city what they may be.

Thank you for a quick response to this email.

Sincerely,

Linda Lian

Engineer Technician IV

253-841-5577

[lindal@puyallupwa.gov](mailto:lindal@puyallupwa.gov) *Please note this is a new email address*

**EXHIBIT E**

**COMCAST**

Hi Linda,

Construction Supervisor Brian Hoback has confirmed there is no Comcast plant in the area provided.

**Sean Hensley**

Construction (Permitting) Supervisor  
Comcast Corporation | Pacific Northwest Region  
[Sean\\_Hensley@cable.comcast.com](mailto:Sean_Hensley@cable.comcast.com)



---

**LUMEN:**

Linda, good morning. Please see the attached approval letter, with the stipulation that when the city approves this vacation, an easement will be reserved for our existing facilities.

Thank you,



**Matt Reese**

Contractor – ROW Agent II- Network Infrastructure Services  
1025 Eldorado Blvd., Broomfield, CO 80021  
cell: 412.389.6977  
[matthew.reese@lumen.com](mailto:matthew.reese@lumen.com)

- Approval letter attached

---

**PSE:**

Hi Linda,

There are no PSE gas or electric facilities within the proposed vacate area. Please let me know if you have any questions or need additional information.

Thanks!

**Megan Tuche SR/WA**

EXHIBIT E



CenturyLink

11/7/2022

City of Puyallup- Engineering Services  
Attn: Linda Lian  
333 S Meridian  
Puyallup, WA 98371

No Reservations/No Objection

**SUBJECT: Request to Vacate/Abandon** The South half (30 feet) of Elm Place as recorded in the plat of Meeker's Second Addition to the town of Puyallup according to the plat thereof recorded in Volume 2 of Plats, Page 93, records of Pierce County, Washington; lying easterly of the westerly 127.5 feet thereof and lying westerly of a line parallel with and 30 feet west of the centerline of Meridian Street.

To Whom It May Concern:

Qwest Corporation d/b/a CENTURYLINK QC ("CenturyLink") has reviewed the request for the subject vacation and has determined that it has no objections with respect to the areas proposed for vacation as shown and/or described on Exhibit "A", said Exhibit "A" attached hereto and incorporated by this reference.

It is the intent and understanding of CenturyLink that this Vacation shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

This vacation response is submitted WITH THE STIPULATION that if CenturyLink facilities are found and/or damaged within the vacated area as described, the Applicant will bear the cost of relocation and repair of said facilities.

This vacation response is submitted WITH THE STIPULATION that upon the approval of the vacation by the city of Puyallup, an easement will be reserved to CenturyLink for the existing facilities located within the vacated area.

If you have any questions or would like to discuss this action further, please contact Matt Reese at [matthew.reese@lumen.com](mailto:matthew.reese@lumen.com).

Sincerely yours,

Mary Hutton  
Network Infrastructure Services  
CenturyLink  
P843616

EXHIBIT E

Sr. Real Estate Representative  
**Puget Sound Energy, Inc.**  
253-495-1427

---

**Sent:** Monday, October 24, 2022 7:51 AM

Good morning *utility name here*,

The City of Puyallup has received an application for a right-of-way vacation. The proposed vacation is the most southerly 30' (ft) of Elm Place. For your use I have attached both the site plan and legal description that was submitted with the application. The dimension of the proposed vacation 129.5 x 30 =3,885SF.

The area of vacation will increase the size of parcel 5745001680 and will serve as onsite parking for Pioneer Park.

If approved by the Puyallup City Council an easement for utility maintenance and construction will be granted to Lumen through the filing of the vacation ordinance.

In an effort to avoid future impacts to your existing utilities, within the proposed area of vacation, please take this opportunity to inform the city what they may be.

If by chance this notification should be sent to someone else at Lumen please let me know.

Thank you for a quick response to this email.

Sincerely,

Linda Lian  
Engineer Technician IV  
253-841-5577  
[lindal@puyallupwa.gov](mailto:lindal@puyallupwa.gov) **Please note this is a new email address**



## City Council Agenda Item Report

Submitted by: Hans Hunger  
Submitting Department: Engineering  
Meeting Date: November 22, 2022

### **Subject:**

First reading of an ordinance adopting the 2022 Utility and System Development Charges Study and the corresponding code changes

### **Presenter:**

Hans Hunger, City Engineer; Shawn Koorn, HDR Engineering

### **Recommendation:**

Approve first reading of the ordinance and provide direction on which of the two rate increase options should be brought back for the second reading.

### **Background:**

\* The ordinance and accompanying documents are still being drafted and finalized. The agenda item will be updated with the ordinance upon its completion and before the City Council meeting\*

Information from the 1) water, sewer, and stormwater rate study and the 2) water, sewer, and stormwater system development charges (SDC) study have been presented to Council at several meetings, most recently during the budget sessions on October 12th. There wasn't consensus at that meeting between two options that were presented which were:

- 1) Adjust utility rates to reflect both inflation, and increased O&M costs, and catch up to fully fund capital
- 2) Adjust utility rates to reflect inflation, and increased O&M costs, but delay the catch-up for capital for 2 years.

The system development charges would also be adjusted per the system development charges study.

The proposed ordinance also includes a reduction to the landfill utility rates from the current bi-monthly rate of \$3.63 to \$2.54, a reduction of \$1.09, and a reduction in container service bi-monthly rates from \$42.49 to \$29.74, a reduction of \$12.75.

### **ATTACHMENTS**

[Combined Bill Summary](#)

# Combined Bill Summary – Bi-Monthly Bill

- Inflation Updated Results

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Water	\$58.29	\$66.57	\$72.56	\$79.09	\$86.21	\$89.65	\$93.24	\$96.97	\$100.85	\$104.88	\$109.08
Sewer	130.90	146.87	157.15	168.15	179.93	192.52	198.30	204.25	210.38	216.69	223.19
Stormwater	27.90	34.38	40.57	46.25	51.80	54.39	56.02	57.70	59.43	61.21	63.05
Combined Bill	\$217.10	\$247.82	\$270.28	\$293.49	\$317.94	\$336.56	\$347.56	\$358.92	\$370.66	\$382.78	\$395.32

- Delay Capital for 2 Years

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Water	\$58.29	\$63.07	\$64.96	\$70.81	\$77.18	\$84.13	\$91.70	\$99.95	\$108.95	\$113.31	\$117.84
Sewer	130.90	141.63	145.88	156.09	167.02	178.71	191.22	204.61	210.75	217.07	223.58
Stormwater	27.90	32.70	36.62	41.75	46.76	51.44	54.01	55.63	57.30	59.02	60.79
Combined Bill	\$217.10	\$237.40	\$247.46	\$268.65	\$290.96	\$314.28	\$336.93	\$360.19	\$377.00	\$389.40	\$402.21



## City Council Agenda Item Report

Submitted by: Erin Thompson  
Submitting Department: Finance  
Meeting Date: November 22, 2022

**Subject:**

First reading of an ordinance pertaining to routine 2022 quarterly budget adjustments

**Presenter:**

Barbara Lopez, Finance Director

**Recommendation:**

Approve first reading of an ordinance amending the 2022 adopted budget.

**Background:**

This standard and routine ordinance reflects changes that have occurred since Council adopted the 2022 mid-biennium adjustment via ordinance 3242 and subsequently approved amendments as contained in ordinance 3250 and ordinance 3254. Budget amendments include adjustments previously approved by Council, as well as allocating \$22,500 for site preparation work for the lot at 313 E Meeker to be paved for a parking lot. Also there is a minor technical adjustment to move funds dedicated for the public safety building to the Public Safety Building facility fund, as outlined in Exhibit B.

**ATTACHMENTS**

[Ordinance](#)

[Exhibit A](#)

[Exhibit B](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE** of the City of Puyallup, Washington, relating to municipal finance, amending the 2022 Mid-Biennium Adjustment budget adopted by Ordinance No. 3242, and amended by Ordinance No. 3250 and Ordinance No. 3254, and authorizing certain expenditures in the amounts specified in this ordinance to conform with previous direction provided by the City Council

**Whereas**, the City Council is authorized to amend the City’s budget within the limitations set forth in RCW 35A.34.200; and

**Whereas**, the City Council finds that current revenue and expenditure reports for the City differ from forecasts used to create the 2022 Mid-Biennium Adjustment budget enacted by Ordinance No. 3242 and amended by Ordinance No. 3250 and Ordinance No. 3254; and

**Whereas**, the City Council finds that such differences justify certain adjustments regarding obligations incurred and expenditures of revenues for the 2022 Mid-Biennium Adjustment budget; and

**Whereas**, the City Council finds that any increases, decreases, revocations or recalls set forth herein are in the best interests of the City;

**NOW THEREFORE, THE CITY COUNCIL FOR THE CITY OF PUYALLUP ORDAINS AS FOLLOWS:**

**Section 1. Findings.** Each and every of the findings expressed in the recitals to this ordinance are hereby adopted and incorporated herein.

**Section 2. Amendments to 2022 Mid-Biennium Adjustment Budget.** The 2022 Mid-Biennium Adjustment Budget, originally approved by Ordinance No. 3242, passed on November 23, 2021, and amended by Ordinance No. 3250 passed on May 17, 2022, and Ordinance No. 3254 passed on August 23, 2022, is amended as summarized in Exhibit A reflecting detailed changes itemized in Exhibit B.

**Section 3. Ratification and Confirmation.** All acts taken by City officers and staff prior to the enactment of this ordinance that are consistent with and in furtherance of the purpose or intent of this ordinance are hereby ratified and confirmed by the City Council.

**Section 4. Severability – Construction.** If a section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Puyallup Municipal Code, this ordinance deems control.

**Section 5. Effective Date.** This ordinance shall take effect and be in full force, five (5) days after its passage, approval, and publication according to law.

**PASSED** at an open public meeting by the City Council for the City of Puyallup on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Dean A Johnson  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Joseph N. Beck  
City Attorney

\_\_\_\_\_  
Tulika Makharia  
Interim City Clerk

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

## Exhibit A - Summary for 2022 Third Budget Adjustment Ordinance

Fund Description	Expenditures	Transfers Out	Total
General Fund	1,159,969	-	1,159,969
DUI Cost Recovery Fund	83,840		83,840
American Rescue Plan Act Fund		807,459	807,459
Street Fund	1,268,291		1,268,291
Parks Capital Projects Fund	520,153		520,153
Facility Project Fund	75,400		75,400
Sewer Fund	387,484		387,484
Storm Fund	804,417		804,417
Info Tech & Communication	1,200,000		1,200,000
<b>Grand Total</b>	<b>5,499,554</b>	<b>807,459</b>	<b>6,307,013</b>

## Exhibit B - Details for 2022 Third Budget Adjustment Ordinance

Fund Description	Approval Date	Expenditures	Transfers Out	Total
<b>General Funds</b>				
General Fund				
<i>Approved</i>				
Byrne Grant for TNET	2022	145,711		145,711
DAHP Grant for Historical Register	2022	20,000		20,000
EMPG Grant for EOC Regional Agreement	2022	33,043		33,043
EMPG Grant for EOC Temporary Employees	2022	22,028		22,028
Grant for Culturally Responsive STEM Story Time	2022	5,000		5,000
Grant for Environmental Sustainability Action Plan	2022	80,000		80,000
Grant for LEO Mental Health Program	2022	60,000		60,000
Grant for Wellness Equipment	2022	36,458		36,458
JAG Grant for Night Vision	2022	11,618		11,618
Pierce County Human Services Grant for Hotel Pilot Project	2022	507,461		507,461
Pierce Transit Officer Agreement	2022	144,900		144,900
SEEK Grant for Day Camps	2022	18,750		18,750
WA Traffic Safety Commission Grant for Emphasis Patrol	2022	75,000		75,000
<b>Total General Funds</b>		1,159,969	-	1,159,969
<b>Special Revenue Funds</b>				
DUI Cost Recovery Fund				
<i>Approved</i>				
Axon Air for Drone Services	2022	55,840		55,840
Grant for Phlebotomy Training	2022	28,000		28,000
American Rescue Plan Act Fund				
<i>Approved</i>				
ARPA to 7th Ave Rd Settling Total	2022		29,250	29,250
ARPA to WSU Frontage Improvements Ph 2	2022		387,484	387,484
Toscanos Sinkhole Repair	2022		390,725	390,725
<b>Total Special Revenue Funds</b>		83,840	807,459	891,299
<b>Capital Project Funds</b>				
Streets Projects				
<i>Approved</i>				
DOE Grant - 8th Ave NW Retro	2022	517,754		517,754
Sound Transit ADA Access Improvements	2022	382,500		382,500
Sound Transit Station Access Improvements	2022	146,192		146,192
Sound Transit Stewart Ave Bike Lanes	2022	199,345		199,345
<i>Recommended Change</i>				
313 E Meeker Parking Lot	Pending	22,500		22,500
Parks Projects				
<i>Approved</i>				
Minnich Property Purchase	2022	520,153		520,153
Facilities Projects				

## Exhibit B - Details for 2022 Third Budget Adjustment Ordinance

Fund Description	Approval Date	Expenditures	Transfers Out	Total
<i>Technical Adjustment</i>				
Public Safety Building	2022	75,400		75,400
<b>Total Capital Project Funds</b>		1,863,844	-	1,863,844
<b>Enterprise Funds</b>				
Sewer Fund				
<i>Approved</i>				
ARPA to WSU Frontage Improvements Ph 2	2022	387,484		387,484
Storm Fund				
<i>Approved</i>				
ARPA to 7th Ave Rd Settling	2022	29,250		29,250
Dept of Ecology Grant for the Capacity Program	2022	50,000		50,000
Toscanos Sinkhole Repair	2022	725,167		725,167
<b>Enterprise Funds Total</b>		1,191,901	-	1,191,901
<b>Internal Service Funds</b>				
Info Tech & Communication				
<i>Approved</i>				
SS911 Funding Radio Microwave	2022	1,200,000		1,200,000
<b>Internal Service Funds Total</b>		1,200,000	-	1,200,000
<b>Grand Total</b>		<b>5,499,554</b>	<b>807,459</b>	<b>6,307,013</b>



## City Council Agenda Item Report

Submitted by: Hans Hunger  
Submitting Department: Engineering  
Meeting Date: November 22, 2022

### **Subject:**

First reading of an ordinance that grants a non-exclusive franchise to Crown Castle Fiber LLC

### **Presenter:**

Hans Hunger

### **Recommendation:**

Recommend Council conduct first reading of an Ordinance that grants a non-exclusive franchise to Crown Castle Fiber LLC for the purpose of installing and maintaining a telecommunication and small cell network in the City of Puyallup right-of-way and authorize the City Manager to approve the final form of the franchise agreement once it is in a form and substance that is acceptable to the City Attorney.

### **Background:**

In Washington, a utility that wishes to locate its facilities within a city right-of-way generally obtains a franchise or master permit from that city. The franchise sets forth the terms under which those facilities are constructed, operated, relocated, and eventually removed. Both state and federal law contain restrictions on a city's franchise authority, but these restrictions vary significantly, depending on the nature of the utility being regulated. The power to grant franchises is a sovereign power, resting with the state. It may be delegated by the state but it is not within the powers of the cities unless expressly delegated to them by the state. RCW 35A.47.040 contains the delegation of franchising authority from the state to the city relevant to this type of franchise. Currently the City of Puyallup has franchises with various utility providers.

Crown Castle Fiber LLC is seeking a new franchise that will allow both wireline services, which encompass wire or cable as the apparatus for transmission, and wireless, which encompass small cell wireless transmission, all of which will be authorized under this combined wireline/wireless franchise agreement. The city previously approved on Sept 13th, 2022 a Master Lease Permit which authorizes small cell facilities on city owned street lights within the City Right-of-Way.

### **ATTACHMENTS**

[Franchise Agreement](#)

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF PUYALLUP, WASHINGTON, GRANTING TO CROWN CASTLE FIBER LLC C/O CROWN CASTLE AND ITS AFFILIATES, SUCCESSORS, AND ASSIGNS THE RIGHT, PRIVILEGE, AUTHORITY, AND NONEXCLUSIVE FRANCHISE FOR FIVE YEARS TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE, AND REPAIR A TELECOMMUNICATIONS NETWORK IN, ACROSS, OVER, ALONG, UNDER, THROUGH, AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF PUYALLUP, WASHINGTON.

---

WHEREAS, Crown Castle Fiber LLC c/o Crown Castle (the "Franchisee") has requested that the City Council grant a nonexclusive franchise (this "Franchise") for purposes of operating and maintaining a telecommunications network; and

WHEREAS, the City Council has the authority to grant franchises for the use of its streets and other public properties pursuant to RCW 35A.47.040; and

WHEREAS, the Puyallup Municipal Code requires persons who are seeking to operate and maintain wireline telecommunications facilities in City rights-of-way to obtain a franchise to do so and those seeking to operate and maintain wireless telecommunications facilities in the City rights-of-way to obtain a master permit which can be rolled into an existing franchise; and

WHEREAS, the Puyallup Municipal Code allows an entity which requires a master permit but has already obtained a franchise to forego obtaining a master permit during the term of the franchise; and

WHEREAS, the City is willing to grant the rights requested by Franchisee for both wireline and wireless facilities through this franchise subject to certain terms and conditions, which are acceptable to both parties.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PUYALLUP, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. FRANCHISE GRANTED. Crown Castle Fiber LLC c/o Crown Castle is granted a non-exclusive franchise for the transmission of wireline and wireless telecommunications in, through, over, and under the rights-of-way of the City of Puyallup, in accordance with the terms and conditions of the franchise language detailed in Section 3 of this Ordinance.

Section 2. EFFECTIVE DATE. In compliance with RCW 35A.47.040, this Ordinance shall take effect five (5) days after its passage, approval, and publication of an approved summary thereof consisting of the title, all as required by law (“Effective Date”).

Section 3. TERMS AND CONDITIONS OF FRANCHISE. The following provisions establish the terms and conditions of the franchise granted herein:

## Table of Contents

	<u>Page</u>
Section 1 . Franchise Granted.....	<u>33</u>
Section 2 . Authority Limited to Occupation of Public Rights-of-Way for Services.....	<u>33</u>
Section 3 . Non-Exclusive Franchise Grant.....	<u>55</u>
Section 4 . Location of Telecommunications Network Facilities.....	<u>66</u>
Section 5 . Relocation of Telecommunications Network Facilities.....	<u>66</u>
Section 6 . Undergrounding of Facilities.....	<u>1141</u>
Section 7 . Maps and Records.....	<u>1313</u>
Section 8 . Work in the Rights-of-Way.....	<u>1515</u>
Section 9 . One Call Locator Service.....	<u>1818</u>
Section 10 . Safety Requirements.....	<u>1919</u>
Section 11 . Work of Contractors and Subcontractors.....	<u>2020</u>
Section 12 . Restoration after Construction.....	<u>2121</u>
Section 13 . Emergency Work/Dangerous Conditions.....	<u>2222</u>
Section 14 . Recovery of Costs, Taxes, and Fees.....	<u>2323</u>
Section 15 . Small Wireless Facilities.....	<u>2525</u>
Section 16 . Indemnification.....	<u>3030</u>
Section 17 . Insurance.....	<u>3333</u>
Section 18 . Abandonment of Franchisee's Telecommunications Network.....	<u>3636</u>
Section 19 . Bonds.....	<u>3838</u>
Section 20 . Remedies to Enforce Compliance.....	<u>4039</u>
Section 21 . Forfeiture and Revocation.....	<u>4140</u>
Section 22 . Non-Waiver.....	<u>4141</u>
Section 23 . City Ordinances and Regulations.....	<u>4141</u>

Section 24 . Cost of Publication.....	<a href="#">4241</a>
Section 25 . Survival.....	<a href="#">4241</a>
Section 26 . Assignment.....	<a href="#">4242</a>
Section 27 . Extension.....	<a href="#">4443</a>
Section 28 . Entire Agreement.....	<a href="#">4443</a>
Section 29 . Eminent Domain.....	<a href="#">4444</a>
Section 30 . Vacation.....	<a href="#">4444</a>
Section 31 . Notice.....	<a href="#">4444</a>
Section 32 . Severability.....	<a href="#">4545</a>
Section 33 . Compliance with All Applicable Laws.....	<a href="#">4545</a>
Section 34 . Amendment.....	<a href="#">4646</a>
Section 35 . Attorney Fees.....	<a href="#">4646</a>
Section 36 . Hazardous Substances.....	<a href="#">4746</a>
Section 37 . Licenses, Fees, and Taxes.....	<a href="#">4747</a>
Section 38 . Miscellaneous.....	<a href="#">4747</a>
Section 39 . Acceptance.....	<a href="#">4948</a>

This Franchise is entered into in Puyallup, Washington, by and between the City of Puyallup, a Washington municipal corporation (hereinafter “the City”), and Crown Castle Fiber LLC c/o Crown Castle (the “Franchisee”). The City and Franchisee are sometimes referred to hereinafter collectively as the “parties.”

**Section 1. Franchise Granted.**

Section 1.1 Pursuant to RCW 35A.47.040, the City hereby grants to the Franchisee, its affiliates, heirs, successors, legal representatives, and assigns, subject to the terms and conditions hereinafter set forth, a Franchise for a period of five (5) years, beginning on the Effective Date of this ordinance. This franchise will automatically renew for an additional five (5) year period, unless either party provides at least ninety (90) days’ written notice of its intent not to renew.

Section 1.2 This Franchise ordinance grants Franchisee the right, privilege, and authority to construct, operate, maintain, replace, relocate, repair, upgrade, remove, excavate, acquire, restore, and use the Small Wireless Facilities, as defined in Section 2.2, for its telecommunications network, in, under, on, across, over, through, along, or below the public Rights-of-Ways located in the City of Puyallup, as approved pursuant to City codes and permits issued pursuant to this Franchise. Public “Rights-of-Way” means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, bikeways and horse trails, whether improved or unimproved, including the air rights, sub-surface rights and easements related thereto. Rights-of-Way for the purpose of this Franchise do not include: buildings, other City-owned physical facilities, parks, poles, conduits, fixtures, real property or property rights owned by the City, or similar facilities or property owned by or leased to the City. Franchisee is required to obtain a lease or similar agreement for the usage of any City or third party owned poles, conduit, fixtures, or structures.

**Section 2. Authority Limited to Occupation of Public Rights-of-Way for Services.**

Section 2.1 The authority granted herein is a limited authorization to occupy and use the Rights-of-Way throughout the City (the “Franchise Area”). The Franchisee is authorized to place its Facilities in the Rights-of-Way only consistent with this Franchise, the Puyallup the Comprehensive Plan, the Standards for Public Works Engineering and Construction Manual, and the Puyallup Municipal Code (collectively, the “Codes”). Nothing contained herein shall be construed to grant or convey any right, title, or interest in the Rights-of-Way of the City to the Franchisee other than for the purpose of providing telecommunications services. The following “Services” are permitted under this Franchise: (i) high speed data and fiber optic services, internet protocol-based services, internet access services, conduit and dark fiber leasing, telephone, and data transport services conveyed using both wireline and wireless facilities and (ii) the infrastructure development to be used for Small Wireless Facilities. Services do not include the deployment of macro facilities.

Section 2.2 As used herein, “Small Wireless Facilities” means a small wireless facility as defined in 47 CFR § 1.6002. Small Wireless Facilities shall also include all necessary cables, transmitters, receivers, equipment boxes, backup power supplies, power transfer switches, electric meters, coaxial cables, wires, conduits, ducts, pedestals, antennas, electronics, and other necessary or convenient appurtenances used for the specific wireless communications facility. Equipment enclosures with equipment generating noise that exceeds the noise limits allowed in the Codes or associated permit are excluded from “Small Wireless Facilities.” Unless otherwise specifically stated in a section, “Facilities” shall encompass both Small Wireless Facilities and wireline or wireless services used to provide the Services.

Section 2.3 This Franchise does not grant the right to offer cable internet services or Cable Services as those terms are defined in 47 U.S.C. § 522(6) by wireline transmission.

Section 2.4 No right to install any facility, infrastructure, wires, lines, cables, or other equipment, on any City property other than a Right-of-Way, or upon private property without the owner’s consent, or upon any City, public, or privately-owned poles or

conduits is granted herein. Nothing contained within this Franchise shall be construed to grant or convey any right, title, or interest in the Rights-of-Way of the City to Franchisee other than for the purpose of providing the Services, or to subordinate the primary use of the Right-of-Way as a public thoroughfare. If Franchisee desires to expand the Services provided within the City, it shall request a written amendment to this Franchise. If Franchisee desires to use City-owned property, or to site new structures within the Rights-of-Way, it shall enter into a separate lease, site specific agreement, or license agreement with the City.

Section 2.5 Franchisee shall have the right, without prior City approval, to offer or provide capacity or bandwidth to its customers consistent with this Franchise provided:

(a) Franchisee at all times retains exclusive control over its telecommunications system, Facilities and Services and remains responsible for constructing, installing, and maintaining its Facilities pursuant to the terms and conditions of this Franchise;

(b) Franchisee may not grant rights to any customer or lessee that are greater than any rights Franchisee has pursuant to this Franchise;

(c) Such customer or lessee shall not be construed to be a third-party beneficiary under this Franchise; and

(d) No such customer or lessee may use the telecommunications system or Services for any purpose not authorized by this Franchise, nor to sell or offer for sale any service to the citizens of the City without all required business licenses, franchise or other form of state wide approval.

**Section 3. Non-Exclusive Franchise Grant.** This Franchise is a non-exclusive franchise and is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below, or across any said Rights-of-Way. This Franchise shall in no way prevent or prohibit the City from using any of said roads, streets, or other public properties or affect its jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, establishment, maintenance,

and improvement of all new Rights-of-Way, thoroughfares and other public properties of every type and description.

**Section 4. Location of Telecommunications Network Facilities.**

Section 4.1 Franchisee may locate its Facilities anywhere within the Franchise Area consistent with and subject to the City’s Puyallup Standards for Public Works Engineering and Construction Manual and applicable Code requirements in effect at the time of the specific Facility application is submitted as well as any requirements included in the facility permit. Franchisee shall not be required to amend this Franchise to construct or acquire Facilities within the Franchise Area, provided that Franchisee does not expand its Services beyond those described in Section 2.

Section 4.2 To the extent that any Rights-of-Way within the Franchise Area are part of the state highway system (“State Highways”), are considered managed access by the City and are governed by the provisions of Chapter 47.24 RCW and applicable Washington State Department of Transportation (WSDOT) regulations, Franchisee shall comply fully with said requirements in addition to local ordinances and other applicable regulations. Without limitation of the foregoing, Franchisee specifically agrees that:

- (a) any pavement trenching, and restoration performed by Franchisee within State Highways shall meet or exceed applicable WSDOT requirements;
- (b) any portion of a State Highway damaged or injured by Franchisee shall be restored, repaired and/or replaced by Franchisee to a condition that meets or exceeds applicable WSDOT requirements; and
- (c) without prejudice to any right or privilege of the City, WSDOT is authorized to enforce in an action brought in the name of the State of Washington any condition of this Franchise with respect to any portion of a State Highway.

**Section 5. Relocation of Telecommunications Network Facilities.**

Section 5.1 Relocation Requirement. Consistent with the requirements of PMC 11.05.170, the City may require Franchisee, and Franchisee covenants and agrees, to protect, support, relocate, remove, and/or temporarily disconnect or relocate its Facilities

within the Right-of-Way when required by the City; provided that Franchisee shall have the privilege to temporarily bypass in the authorized portion of the same Rights-of-Way upon approval by the City, which approval shall not unreasonably be withheld or delayed, any Facilities required to be temporarily disconnected or removed. For the avoidance of doubt, such projects shall include any Public 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. Collectively all such projects described in this Section 5.1 shall be considered a "Public Project." Except as otherwise provided by law, the costs and expenses associated with relocations or disconnections ordered pursuant to this Section 5.1 shall be completed by Franchisee at no charge or expense to the City.

Section 5.2 Relocation – Third-Party Structures. If the request for relocation from the City originates due to a Public Project, in which structures or poles are either replaced or removed, then Franchisee shall relocate or remove its Facilities as required by the City and at no cost to the City, subject to the procedure in Section 5.5. Franchisee acknowledges and agrees that the placement of Small Wireless Facilities on third party-owned structures does not convey an ownership interest in such structures. Franchisee acknowledges and agrees that to the extent Franchisee's Small Wireless Facilities are on poles owned by third parties, the City shall not be responsible for any costs associated with requests arising out of a Public Project.

Section 5.3 Relocation – Franchisee-Owned Structures. The cost of relocation of any Franchisee-owned poles or structures shall be determined in accordance with the requirements of RCW 35.99.060(3)(b) for aerial to underground relocations, provided, however, that the Franchisee may opt to pay for the cost of relocating its Small Wireless Facilities in order to provide consideration for the City's approval to site a Small Wireless Facility on Franchisee owned structures or poles in a portion of the Right-of-Way designated or proposed for a Public Project. For this Section 5.3, designation of the Right-of-Way for a Public Project shall be undertaken in the City's Comprehensive Plan in accordance with the requirements of Ch. 36.70A RCW. The Comprehensive Plan

includes, but is not limited to, the Transportation element or Transportation Improvement Plan (TIP), Capital Facilities element, utilities element and any other element authorized by RCW 36.70A.070 and RCW 36.70A.080. The parties acknowledge that this provision is mutually beneficial to the parties, as the City may otherwise deny the placement of the Small Wireless Facility at a particular site because of the cost impact of such relocation and the conflict with the City's Comprehensive Plan.

Section 5.4 Locate. Franchisee shall maintain accurate maps and improvement plans of said Fiber Optic Network Facilities located within CITY. Franchisee shall provide, upon demand of CITY's Public Works Director and deliver to the office of CITY's Public Works Department free of charge, and to other third parties interested in performing work within Public Right-of-Way for a reasonable charge upon request, within thirty (30) days after such demand, such maps and plans as may be required to show in detail the exact location, size, depth, and description of all Franchisee Fiber Optic Network Facilities installed within said Public Right-of-Way. If such maps and plans are not available for CITY requests, Franchisee shall, at Franchisee's sole cost and expense, expose by potholing to a depth of one foot (1') below the bottom of Franchisee's subsurface Fiber Optic Network Facilities, within thirty (30) days of receipt of a written request from CITY to do so

Section 5.5 Notice and Relocation Process. If the City determines that the project necessitates the relocation of Franchisee's existing Facilities, the City shall provide Franchisee in writing as soon as practicable with a date by which the relocation shall be completed (the "Relocation Date") consistent with RCW 35.99.060(2). In calculating the Relocation Date, the City shall consult with Franchisee and consider the extent of facilities to be relocated, the services requirements, and the construction sequence for the relocation, within the City's overall project construction sequence and constraints, to safely complete the relocation. Franchisee shall complete the relocation by the Relocation Date, unless the City or a reviewing court establishes a later date for completion, as described in RCW 35.99.060(2). To provide guidance on this notice process, the City will make reasonable efforts to engage in the following recommended

process, absent an emergency posing a threat to public safety or welfare or an emergency beyond the control of the City that will result in severe financial consequences to the City:

- (a) The City will consult with the Franchisee in the predesign phase of any Public Project in order to coordinate the project's design with Franchisee's Facilities within such project's area.
- (b) Franchisee shall participate in predesign meetings until such time as (i) both parties mutually determine that Franchisee's Facilities will not be affected by the Public Project or (ii) until the City provides Franchisee with written notice regarding the relocation as provided in subsection (d) below.
- (c) Franchisee shall, during the predesign phase, evaluate and provide comments to the City related to any alternatives to possible relocations. The City will give any alternatives proposed by the Franchisee full and fair consideration, but the final decision accepting or rejecting any specific alternative shall be within the City's sole discretion.
- (d) The City will provide Franchisee with its decision regarding the relocation of Franchisee's Facilities as soon as reasonably possible, endeavoring to provide no less than ninety (90) days prior to the commencement of the construction of such Public Project; provided, however, that in the event that the provisions of a state or federal grant require a different notification period or process than that outlined in Section 5.5, the City will notify the Franchisee during the predesign meetings and the process mandated by the grant funding will control.
- (e) After receipt of such written notice, Franchisee shall relocate such Facilities to accommodate the Public Project consistent with the timeline provided by the City and at no charge or expense to the City. Such timeline may be extended by a mutual agreement.

Section 5.6 Alternative Arrangements. The provisions of this Section 5 shall in no manner preclude or restrict Franchisee from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person or entity other than the City, where the facilities to be constructed by said person or entity

are not or will not become City-owned, operated, or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

Section 5.7 Contractor Delay Claims. Franchisee shall be solely responsible for the actual costs incurred by the City for delays in a Public Project to the extent the delay is caused by or arises out of Franchisee's failure to comply with the final schedule for the relocation (other than as a result of a Force Majeure Event or causes or conditions caused by the acts or omissions of the City or any third party unrelated to Franchisee. Franchisee vendors and contractors shall not be considered unrelated third parties). Such costs may include, but are not limited to, payment to the City's contractors and/or consultants for increased costs and associated court costs, interest, and attorney fees incurred by the City to the extent directly attributable to such Franchisee's caused delay in the Public Project.

Section 5.8 Indemnification. Franchisee will indemnify, hold harmless, and pay the costs of defending the City, in accordance with the provisions of Section 16, against any and all claims, suits, actions, damages, or liabilities for delays on City construction projects caused by or arising out of the failure of Franchisee to remove or relocate its Facilities as provided in this Section 5; provided, that Franchisee shall not be responsible for damages due to delays caused by circumstances beyond the control of Franchisee or the sole negligence, willful misconduct, or unreasonable delay of the City or any unrelated third party.

Section 5.9 Building Moving. Whenever any person shall have obtained permission from the City to use any Right-of-Way for the purpose of moving any building, Franchisee, upon thirty (30) days' written notice from the City, shall raise, remove, or relocate to another part of the Right-of-Way, at the expense of the person desiring to move the building, any of Franchisee's Facilities that may obstruct the removal of such building.

Section 5.10 City's Costs. If Franchisee fails, neglects, or refuses to remove or relocate its Facilities as directed by the City following the procedures outlined in Section 5.1 through Section 5.5, then upon at least ten (10) days' written notice to Franchisee,

the City may perform such work (including removal) or cause it to be done, and the City's costs shall be paid by Franchisee pursuant to Section 14.3 and Section 14.4, and the City shall not be responsible for any damage to the Facilities.

Section 5.11 Survival. The provisions of this Section 5 shall survive the expiration or termination of this Franchise during such time as Franchisee continues to have Facilities in the Rights-of-Way.

## **Section 6. Undergrounding of Facilities.**

### Section 6.1 Small Wireless Facilities.

(a) As it pertains to Franchisee's Small Wireless Facilities, Franchisee shall not be permitted to erect poles, unless permitted by the City for Small Wireless Facilities pursuant to Section 15.3 and the Codes. Franchisee acknowledges and agrees that if the City allows the placement of Small Wireless Facilities above ground the City may, at any time in the future, require the conversion of Franchisee's aerial facilities to an underground installation or relocated at Franchisee's expense if the existing poles on which Franchisee's Facilities are located are designated for removal due to a Public Project as described in Section 5 in a manner consistent with applicable law. This Franchise does not place an affirmative obligation on the City to allow the relocation of such Facilities on public property or in the Rights-of-Way, nor does it relieve Franchisee from any Code provision related to the siting of Small Wireless Facilities except as may be required by applicable law.

(b) Franchisee shall not be required to underground any portion of the Small Wireless Facility that must for technological reasons remain above-ground to operate or as may otherwise be required by applicable law. If the City requires undergrounding of wirelines (either telecommunications or electrical) and allows Franchisee's Small Wireless Facilities to remain above ground, then Franchisee shall cooperate with the City and modify the affected Small Wireless Facilities to incorporate the placement of wireline services underground and internal to the pole if the replacement pole is hollow (for example, placement of electrical and fiber lines) or otherwise consistent with a design plan agreed to between the City and Franchisee, at no cost to the City.

Section 6.2 Wireline Facilities.

(a) As it pertains to Franchisee's wireline Facilities, Franchisee shall not be permitted to erect poles or to run or suspend wires, cables or other facilities thereon, but shall lay such wires, cables or other facilities underground in the manner required by the City, except as prohibited by applicable law or unless specifically allowed pursuant to a permit. Franchisee acknowledges and agrees that if the City does not require the undergrounding of its wireline Facilities at the time of permit application, the City may, at any time in the future, require the conversion of Franchisee's aerial wireline Facilities to underground installation at Franchisee's expense, except as otherwise provided in RCW 35.99.060(4) or other applicable law. Unless otherwise permitted by the City, Franchisee shall underground its wireline Facilities in all new developments and subdivisions, and any development or subdivision where utilities, other than electrical utilities, are currently underground.

(b) Whenever the City may require the undergrounding of the aerial utilities (not including Small Wireless Facilities) in any area of the City, Franchisee shall underground its wireline Facilities in the manner specified by the City, concurrently with and in the area of the other affected utilities. The location of any such relocated and underground utilities shall be approved by the City. Where other utilities are present and involved in the undergrounding project, Franchisee shall only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Franchisee's own wireline Facilities. "Common costs" shall include necessary costs not specifically attributable to the undergrounding of any particular facility, such as costs for common trenching and utility vaults. "Fair share" shall be determined for a project on the basis of the number and size of Franchisee's wireline Facilities being undergrounded in comparison to the total number and size of all other utility facilities being undergrounded.

Section 6.3 To the extent Franchisee is providing wireline Facilities to Small Wireless Facilities either owned by Franchisee or a third party, Franchisee shall adhere to the design standards for such Small Wireless Facilities, and shall underground its wireline Facilities and/or place its wireline Facilities within the pole as may be required by such design standards. For the purposes of clarity, this Section 6.2(b) does not require

undergrounding or interior placement of wireline Facilities within the pole to the extent that the Small Wireless Facilities are located on utility poles that have pre-existing aerial telecommunications facilities and provided such construction of Franchisee's Facilities continue to comply with Section 6.2.

Section 6.4 Franchisee shall not remove any underground Facilities that require trenching or other opening of the Rights-of-Way, except as provided in this Section 6.2. Franchisee may remove any underground Facilities from the Right-of-Way that have been installed in such a manner that it can be removed without trenching or other opening of the Right-of-Way, or if otherwise permitted by the City. Franchisee may remove any underground cable from the Rights-of-Way where reasonably necessary to replace, upgrade, or enhance its Facilities, or pursuant to Section 5. When the City determines, in the City's reasonable discretion, that Franchisee's underground Facilities must be removed in order to eliminate or prevent a hazardous condition, Franchisee shall remove such Facilities at Franchisee's sole cost and expense. Franchisee must apply and receive a permit, pursuant to Section 8.2, prior to any such removal of underground Facilities from the Right-of-Way and must provide as-built plans and maps pursuant to Section 7.1.

Section 6.5 The provisions of this Section 6 shall survive the expiration, revocation, or termination of this Franchise. Nothing in this Section 6 shall be construed as requiring the City to pay any costs of undergrounding any of the Franchisee's Facilities.

## **Section 7. Maps and Records.**

Section 7.1 Following any construction, excluding modifications that meet the same or substantially similar dimensions of the Small Wireless Facility, Franchisee shall provide the City with accurate copies of as-built plans and maps prepared by Franchisee's design and installation contractors for all Facilities in the Franchise Area. Such plans and maps shall show all facilities including but not limited to power poles, guy poles and anchors, overhead transformers, pad-mounted transformers, submersible transformers, conduit, substation (with its name) pedestals, pad-mounted J boxes, vaults, switch cabinets, antennas, equipment boxes, switches, and meter boxes. These plans and maps shall be provided at no cost to the City and shall include hard copies and digital files in

Autocad or other industry standard readable formats that are acceptable to the City and delivered electronically. Further, Franchisee shall provide such maps within ten (10) days following a request from the City. Franchisee shall warrant the accuracy of all plans, maps, and as-builts provided to the City.

Section 7.2 Within thirty (30) days of a written request from the Public Works Director, the Franchisee shall furnish the City with information sufficient to reasonably demonstrate that the Franchisee has complied with all applicable requirements of this Franchise.

Section 7.3 All books, records, maps, and other documents maintained by Franchisee with respect to its Facilities within the Rights-of-Way shall be made available for inspection by the City at reasonable times and intervals; provided, however, that nothing in this Section 7.3 shall be construed to require Franchisee to violate state or federal law regarding customer privacy, nor shall this Section 7.3 be construed to require Franchisee to disclose proprietary or confidential information without adequate safeguards for its confidential or proprietary nature. Unless otherwise permitted or required by State or federal law, nothing in this Section 7.3 shall be construed as permission to withhold relevant customer data from the City that the City requests in conjunction with a tax audit or review; provided, however, Franchisee may redact identifying information including but not limited to names, street addresses (excluding City and zip code), Social Security Numbers, or Employer Identification Numbers related to any confidentiality agreements Franchisee has with third parties.

Section 7.4 Franchisee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature; provided, however, Franchisee shall disclose such information to comply with a utility tax audit. Franchisee shall be responsible for clearly and conspicuously identifying the work as confidential or proprietary and shall provide a brief written explanation as to why such information is confidential and how it may be treated as such under State or federal law. In the event that the City receives a public records request under Chapter 42.56 RCW or similar law for the disclosure of information Franchisee has designated as confidential, trade secret,

or proprietary, the City shall promptly provide written notice of such disclosure so that Franchisee can take appropriate steps to protect its interests.

Section 7.5 Nothing in Section 7.3 or Section 7.4 prohibits the City from complying with Chapter 42.56 RCW or any other applicable law or court order requiring the release of public records, and the City shall not be liable to Franchisee for compliance with any law or court order requiring the release of public records. The City shall comply with any injunction or court order obtained by Franchisee that prohibits the disclosure of any such confidential records; however, in the event a higher court overturns such injunction or court order and such higher court action is or has become final and non-appealable, Franchisee shall reimburse the City for any fines or penalties imposed for failure to disclose such records as required hereunder within sixty (60) days of a request from the City.

**Section 8. Work in the Rights-of-Way.**

Section 8.1 During any period of relocation, construction or maintenance, all work performed by Franchisee or its contractors shall be accomplished in a safe and workmanlike manner, so to minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private. Franchisee shall at all times post and maintain proper barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the State of Washington, including RCW 39.04.180 for the construction of trench safety systems. The provisions of this Section 8 shall survive the expiration or termination of this Franchise and during such time as Franchisee continues to have Facilities in the Rights-of-Way.

Section 8.2 Whenever Franchisee shall commence work in any Rights-of-Way for the purpose of excavation, installation, construction, repair, maintenance, or relocation of its Facilities, it shall apply to the City for a permit to do so and, in addition, shall give the City at least ten (10) working days prior notice (except in the case of an emergency) of its intent to commence work in the Rights-of-Way. During the progress of the work, the

Franchisee shall not unnecessarily obstruct the passage or proper use of the Rights-of-Way, and all work by the Franchisee in the area shall be performed in accordance with applicable City standards and specifications and warranted for a period of two (2) years. In no case shall any work commence within any Rights-of-Way without a permit, except as otherwise provided in this Franchise.

Section 8.3 The City reserves the right to limit or exclude Franchisee's access to a specific route, public Right-of-Way or other location when, in the judgment of the Public Works Director there is inadequate space (including but not limited to compliance with ADA clearance requirements and maintaining a clear and safe passage through the Rights-of-Way), a pavement cutting moratorium, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other lawful reason determined by the Public Works Director.

Section 8.4 New wireline Facilities shall not be installed on existing metal street light standards or traffic signal standards, however this restriction shall not apply to Small Wireless Facilities installed pursuant to a separate lease agreement with the City and the associated wireline facilities installed within the poles.

Section 8.5 If the Franchisee shall at any time plan to make excavations in any area covered by this Franchise, the Franchisee shall afford the City, upon receipt of a written request to do so, an opportunity to share such excavation, PROVIDED THAT:

- (a) Such joint use shall not unreasonably delay the work of the Franchisee causing the excavation to be made;
- (b) Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties;
- (c) To the extent reasonably possible, Franchisee, at the direction of the City, shall cooperate with the City and provide other private utility companies with the opportunity to utilize joint or shared excavations in order to minimize disruption and damage to the Right-of-Way, as well as to minimize traffic-related impacts; and
- (d) Franchisee may only charge the incremental costs to the City of installing facilities supplied by the City in such joint or shared excavations.

Section 8.6 If required by a permit, Franchisee shall give reasonable advance notice of intended construction to entities or persons adjacent to the affected area. Such notice shall contain the dates, contact number, nature and location of the work to be performed. Following performance of the work, Franchisee shall restore the Right-of-Way to City standards in effect at the time of construction except for any change in condition not caused by Franchisee. Any disturbance of landscaping, fencing, or other improvements on private property caused by Franchisee's work shall, at the sole expense of Franchisee, be promptly repaired and restored to the reasonable satisfaction of the property owner/resident. Notwithstanding the above, nothing herein shall give Franchisee the right to enter onto private property without the permission of such private property owner, or as otherwise authorized by applicable law.

Section 8.7 Franchisee may trim trees upon and overhanging on public ways, streets, alleys, sidewalks, and other public places of the City so as to prevent the branches of such trees from coming in contact with Franchisee's Facilities. The right to trim trees in this Section 8.7 shall only apply to the extent necessary to protect above ground Facilities. Franchisee shall ensure that its tree trimming activities protect the appearance, integrity, and health of the trees to the extent reasonably possible. Franchisee shall be responsible for all debris removal from such activities. All trimming, except in emergency situations, is to be done after the explicit prior written notification and approval of the City and at the expense of Franchisee. Franchisee may contract for such services, however, any firm or individual so retained must first receive City permit approval prior to commencing such trimming. Nothing herein grants Franchisee any authority to act on behalf of the City, to enter upon any private property, or to trim any tree or natural growth encroaching into the Public Rights-of-Way. Franchisee shall be solely responsible and liable for any damage to any third parties' trees or natural growth caused by Franchisee's actions. Franchisee shall indemnify, defend and hold harmless the City from third-party claims of any nature arising out of any act or negligence of Franchisee with regard to tree and/or natural growth trimming, damage, and/or removal. Franchisee shall reasonably compensate the City or the property owner for any damage caused by trimming, damage, or removal by Franchisee. Except in an emergency situation, all tree

trimming must be performed under the direction of an arborist certified by the International Society of Arboriculture, and in a manner consistent with the most recent issue of “Standards of Pruning for Certified Arborists” as developed by the International Society of Arboriculture or its industry accepted equivalent (ANSI A300), unless otherwise approved by the Public Works Director or his/her designee.

Section 8.8 Franchisee shall meet with the City and other franchise holders and users of the Rights-of-Way upon written notice to schedule and coordinate construction in the Rights-of-Way. All construction locations, activities, and schedules shall be coordinated, as ordered by the City to minimize public inconvenience, disruption or damages.

Section 8.9 Franchisee shall inform the City with at least thirty (30) days’ advance written notice that it is constructing, relocating, or placing ducts or conduits in the Rights-of-Way and provide the City with an opportunity to request that Franchisee provide the City with additional duct or conduit and related structures necessary to access the conduit pursuant to RCW 35.99.070.

Section 8.10 Franchisee shall maintain all above ground improvements that it places on City Rights-of-Way pursuant to this Franchise. In order to avoid interference with the City’s ability to maintain the Right-of-Way, Franchisee shall provide a clear zone of five (5) feet on all sides of such improvements. If Franchisee fails to comply with this provision, and by its failure, property is damaged, then Franchisee shall be responsible for all damages caused thereby, including restoration.

**Section 9. One Call Locator Service.** Prior to doing any work in the Rights-of-Way, the Franchisee shall follow established procedures, including contacting the Utility Notification Center in Washington and comply with all applicable State statutes regarding the One Call Locator Service pursuant to Chapter 19.122 RCW. Further, upon request, by the City or a third party, Franchisee shall locate its Facilities consistent with the requirements of Chapter 19.122 RCW. The City shall not be liable for any damages to Franchisee’s Facilities or for interruptions in service to Franchisee’s customers that are a direct result of Franchisee’s failure to locate its Facilities within the prescribed time limits

and guidelines established by the One Call Locator Service regardless of whether the City issued a permit.

#### **Section 10. Safety Requirements.**

Section 10.1 Franchisee shall, at all times, employ professional care and shall install and maintain and use industry-standard methods for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public. All structures and all lines, equipment, and connections in, over, under, and upon the Rights-of-Ways, wherever situated or located, shall at all times be kept and maintained in a safe condition. Franchisee shall comply with all federal, State, and City safety requirements, rules, regulations, laws, and practices, and employ all necessary devices as required by applicable law during the construction, operation, maintenance, upgrade, repair, or removal of its Facilities. Additionally, Franchisee shall keep its Facilities free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or any interference with City services. By way of illustration and not limitation, Franchisee shall also comply with the applicable provisions of the National Electric Code, National Electrical Safety Code, FCC regulations, and Occupational Safety and Health Administration (OSHA) Standards. Upon reasonable notice to Franchisee, the City reserves the general right to inspect the Facilities to evaluate if they are constructed and maintained in a safe condition.

Section 10.2 If an unsafe condition or a violation of Section 10.1 is found to exist, and becomes known to the City, the City agrees to give Franchisee written notice of such condition and afford Franchisee a reasonable opportunity to repair the same. If Franchisee fails to start to make the necessary repairs and alterations within the time frame specified in such notice (and pursue such cure to completion), then the City may make such repairs or contract for them to be made. All costs, including administrative costs, incurred by the City in repairing any unsafe conditions shall be borne by Franchisee and reimbursed to the City pursuant to Section 14.3 and Section 14.4.

Section 10.3 Additional standards include:

(a) Franchisee shall endeavor to maintain all equipment lines and facilities in an orderly manner, including, but not limited to, the removal of all bundles of unused cable on any aerial facilities and the placement of any cables connecting equipment in an orderly manner.

(b) All installations of equipment, lines, and ancillary facilities shall be installed in accordance with industry-standard engineering practices and shall comply with all federal, State, and local regulations, ordinances, and laws.

(c) Any opening or obstruction in the Rights-of-Way or other public places made by Franchisee in the course of its operations shall be protected by Franchisee at all times by the placement of adequate barriers, fences, or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly marked and visible.

Section 10.4 Stop Work Order. On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City. The stop work order shall:

- (a) Be in writing;
- (b) Be given to the person doing the work or posted on the work site;
- (c) Be sent to Franchisee by overnight delivery;
- (d) Indicate the nature of the alleged violation or unsafe condition; and
- (e) Establish conditions under which work may be resumed.

**Section 11. Work of Contractors and Subcontractors.** Franchisee's contractors and subcontractors shall be licensed and bonded in accordance with State law and the City's ordinances, regulations, and requirements. Work by contractors and subcontractors are subject to the same restrictions, limitations, and conditions as if the work were performed by Franchisee. Franchisee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by Franchisee and shall ensure that all such work is performed in compliance with this Franchise and applicable law.

## **Section 12. Restoration after Construction.**

Section 12.1 Franchisee shall, promptly after installation, construction, relocation, maintenance, or repair of its Facilities, or after abandonment approved pursuant to Section 18, promptly remove any obstructions from the Rights-of-Way and restore the surface of the Rights-of-Way as required by the City's Standards for Public Works Engineering and Construction Manual and applicable Puyallup Municipal Code provisions. The Public Works Director or his/her designee shall have final approval of the condition of such Rights-of-Way after restoration. All concrete encased survey monuments that have been disturbed or displaced by such work shall be restored pursuant to federal, state (such as Chapter 332-120 WAC), and local standards and specifications.

Section 12.2 Franchisee agrees to promptly complete all restoration work and to promptly repair any damage caused by work to the Franchise Area or other affected area at its sole cost and expense and according to the time and terms specified in the construction permit issued by the City. All work by Franchisee pursuant to this Franchise shall be performed in accordance with applicable City standards and warranted for a period of two (2) years and for undiscovered defects as is standard and customary for this type of work.

Section 12.3 If conditions (e.g. weather) make the complete restoration required under this Section 12 impracticable, Franchisee shall temporarily restore the affected Right-of-Way or property. Such temporary restoration shall be at Franchisee's sole cost and expense. Franchisee shall promptly undertake and complete the required permanent restoration when conditions no longer make such permanent restoration impracticable.

Section 12.4 In the event Franchisee does not repair or restore a Right-of-Way as required under this Section 12 or an improvement in or to a Right-of-Way, then upon fifteen (15) days' notice to Franchisee, the City may repair the damage and shall be reimbursed its actual cost within sixty (60) days of submitting an invoice to Franchisee in accordance with the provisions of Section 14.3 and Section 14.4. In addition, and pursuant to Section 14.3 and Section 14.4, the City may bill Franchisee for expenses

associated with the inspection of such restoration work. The failure by Franchisee to complete such repairs shall be considered a breach of this Franchise and is subject to remedies by the City including the imposition of damages consistent with Section 20.

Section 12.5 The provisions of this Section 12 shall survive the expiration or termination of this Franchise so long as Franchisee continues to have Facilities in the Rights-of-Way and has not completed all restoration to the City's standards.

### **Section 13. Emergency Work/Dangerous Conditions.**

Section 13.1 In the event of any emergency in which any of Franchisee's Facilities located in the Rights-of-Way breaks, falls, becomes damaged, or is otherwise in such a condition as to immediately endanger the property, life, health, or safety of any person, entity, or the City, Franchisee shall immediately take the proper emergency measures to repair its Facilities in order to cure or remedy the dangerous conditions for the protection of property, life, health, or safety of any person, entity, or the City without first applying for and obtaining a permit as required by this Franchise. However, this shall not relieve Franchisee from the requirement of obtaining any permits necessary for this purpose, and Franchisee shall apply for all such permits not later than the next succeeding day during which City Hall is open for business. The City retains the right and privilege to cut, move, or remove any Facilities located within the Rights-of-Way of the City, as the City may determine to be necessary, appropriate, or useful in response to any public health or safety emergency.

Section 13.2 The City shall not be liable for any damage to or loss of Facilities within the Rights-of-Way as a result of or in connection with any public works, public improvements, construction, grading, excavation, filling, or work of any kind in the Rights-of-Way by or on behalf of the City, except to the extent directly and proximately caused by the sole negligence, intentional misconduct, or criminal actions of the City, its employees, contractors, or agents. The City shall further not be liable to Franchisee for any direct, indirect, or any other such damages suffered by any person or entity of any type as a direct or indirect result of the City's actions under this Section 13 except to the

extent caused by the sole negligence, intentional misconduct, or criminal actions of the City, its employees, contractors, or agents.

Section 13.3 Whenever the construction, installation, or excavation of Facilities authorized by this Franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street, electrical or telecommunications utilities, or City property, the Public Works Director may direct Franchisee, at Franchisee's own expense, to take reasonable action to protect the public or such property, and such action may include compliance within a prescribed time. In the event that Franchisee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, before the City can timely contact Franchisee to request Franchisee effect the immediate repair, the City may access the Facilities and take such reasonable actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or reasonable actions regarded as necessary safety precautions, and Franchisee shall be liable to the City for the costs thereof.

**Section 14. Recovery of Costs, Taxes, and Fees.**

Section 14.1 Franchisee shall pay a fee for the actual and reasonable administrative expenses incurred by the City that are directly related to the receiving and approving this Franchise pursuant to RCW 35.21.860, including the costs associated with the City's legal costs incurred in drafting and processing this Franchise. Franchisee shall further be subject to all permit fees associated with activities undertaken through the authority granted in this Franchise or under the laws of the City. Where the City incurs costs and expenses for review, inspection, or supervision of activities, including but not limited to reasonable fees associated with attorneys, consultants, City staff, and City Attorney time, undertaken through the authority granted in this Franchise or any ordinances relating to the subject for which a permit fee is not established, Franchisee shall pay such costs and expenses directly to the City in accordance with the provisions of Section 14.3.

Section 14.2 Franchisee shall promptly reimburse the City in accordance with the provisions of Section 14.3 and Section 14.4 for any and all costs the City reasonably incurs in response to any emergency situation involving Franchisee's Facilities, to the extent said emergency is not the fault of the City. The City agrees to simultaneously seek reimbursement from any franchisee or permit holder who caused or contributed to the emergency situation.

Section 14.3 Franchisee shall reimburse the City within sixty (60) days of submittal by the City of an itemized billing for reasonably incurred costs, itemized by project, for Franchisee's proportionate share of all actual, identified expenses incurred by the City in planning, constructing, installing, repairing, altering, or maintaining any City facility as the result of the presence of Franchisee's Facilities in the Rights-of-Way. Such costs and expenses shall include but not be limited to Franchisee's proportionate cost of City personnel assigned to oversee or engage in any work in the Rights-of-Way as the result of the presence of Franchisee's Facilities in the Rights-of-Way. Such costs and expenses shall also include Franchisee's proportionate share of any time spent reviewing construction plans in order to either accomplish the relocation of Franchisee's Facilities or the routing or rerouting of any utilities so as not to interfere with Franchisee's Facilities.

Section 14.4 The time of City employees shall be charged at their respective rate of salary, including overtime if applicable, plus benefits and reasonable overhead. Any other costs will be billed proportionately on an actual cost basis. All billings will be itemized so as to specifically identify the costs and expenses for each project for which the City claims reimbursement. At the City's option, the billing may be on an annual basis, but the City shall provide the Franchisee with the City's itemization of costs, in writing, at the conclusion of each project for information purposes.

Section 14.5 Franchisee hereby warrants that its operations as authorized under this Franchise are those of a telephone business as defined in RCW 82.16.010 or a service provider as defined in RCW 35.21.860. As a result, the City will not impose a franchise fee under the terms of this Franchise, other than as described herein. The City hereby reserves its right to impose a franchise fee on Franchisee if Franchisee's

operations as authorized by this Franchise change such that the statutory prohibitions of RCW 35.21.860 no longer apply or if statutory prohibitions on the imposition of such fees are removed. In either instance, the City also reserves its right to require that Franchisee obtain a separate Franchise for its change in use. Nothing contained herein shall preclude Franchisee from challenging any such new fee or separate agreement under applicable federal, state, or local laws.

Section 14.6 Franchisee acknowledges that certain of its business activities may be subject to taxation as a telephone business and that Franchisee shall pay to the City the rate applicable to such taxable services under Title 5 of the Puyallup Municipal Code, and consistent with state and federal law. The parties agree that if there is a dispute regarding tax payments that the process in Title 5 of the Puyallup Municipal Code shall control. In that event, the City may not enforce remedies under Section 20 or commence a forfeiture or revocation process pursuant to Section 21 until the dispute is finally resolved either consistent with Title 5 of the Puyallup Municipal Code or by judicial action and then only if the Franchisee does not comply with such resolution. The parties agree, however, that nothing in this Franchise shall limit the City's power of taxation as may exist now or as later imposed by the City. This provision does not limit the City's power to amend the Puyallup Municipal Code as may be permitted by law.

**Section 15. Small Wireless Facilities.**

Section 15.1 *City Retains Approval Authority.* The City shall have the authority at all times to control by appropriately exercised police powers through ordinance or regulation, consistent with 47 U.S.C. § 253, 47 U.S.C. § 332(c)(7), and the laws of the State of Washington, the location, elevation, manner of construction, and maintenance of any Small Wireless Facilities by Franchisee, and Franchisee shall promptly conform with all such requirements, unless compliance would cause Franchisee to violate other requirements of law. This Franchise does not prohibit the City from exercising its rights under federal, state, or local law to deny or give conditional approval to an application for a permit to construct any individual Small Wireless Facility.

Section 15.2 City Approvals and Permits. The granting of this Franchise is not a substitute for any other City-required approvals to construct Franchisee's Facilities in the Rights-of-Way ("City Approvals"). The parties agree that such City Approvals (except Right-of-Way use permits as described in Section 8.2) are not considered use permits, as that term is defined in RCW 35.99.010. These City Approvals do not grant general authorization to enter and utilize the Rights-of-Way but rather grant Franchisee permission to build its specific Small Wireless Facilities. Therefore, City Approvals are not subject to the thirty (30) day issuance requirement described in RCW 35.99.030. The parties recognize that this provision is specifically negotiated as consideration for designating the entire City as the Franchise Area. Such City Approvals shall be issued consistent with the Codes and with state and federal laws governing wireless communication facility siting and may be in addition to any permits required under Section 8.2.

Section 15.3 Preference for Existing Infrastructure; Site Specific Agreements.

(a) Franchisee shall utilize existing infrastructure in the City whenever possible and consistent with the design, concealment, and siting regulations of the Codes. The erection of new poles or structures in the Right-of-Way may only be permitted if allowed by PMC 20.59.050(10). Pursuant to PMC 20.59.050(10)(d), Even if an alternative location is established pursuant to subsection PMC 20.59.050(10)(a)(i), the director may determine, pursuant to an administrative conditional use permit, that a new pole in the right-of-way is in fact a superior alternative based on the impact to the city, the concealment element design, the city's comprehensive plan and the added benefits to the community.

(b) Franchisee acknowledges and agrees that if Franchisee requests to place new structures or replacement structures that are higher than the replaced structure and the overall height of the replacement structure and the Facility are over 60 feet in the Rights-of-Way, then Franchisee may be required to enter into a site-specific agreement consistent with RCW 35.21.860 in order to construct such Facilities in the Right-of-Way. Such agreements may require a site-specific charge paid to the City. The approval of a

site-specific agreement is separate from this Franchise and must be approved and executed by the City Manager or his/her designee.

(c) Unless otherwise required by the Codes, replacement poles or structures which remain substantially similar to existing structures or deviate in height or design as permitted within the Codes are permissible, provided that Franchisee, or the pole owner at the Franchisee's request, removes the old pole or structure promptly, but no more than ninety (90) days after the installation of the replacement pole or structure.

(d) This Section 15.3 does not place an affirmative obligation on the City to allow the placement of new infrastructure on public property or in the Rights-of-Way, nor does it relieve Franchisee from any Code provision related to the siting or design of wireless facilities.

Section 15.4 Concealment. Franchisee shall construct its Facilities consistent with the concealment or stealth requirements as described in the Codes, as the same exist or are hereafter amended, or in the applicable permit(s), lease, site specific agreement, or license agreement, in order to minimize the visual impact of such Facilities.

Section 15.5 Eligible Facilities Requests. The parties acknowledge that it is the intent of this Franchise to provide general authorization to use the Rights-of-Way for Small Wireless Facilities.

Section 15.6 Inventory. Franchisee shall maintain a current inventory of Small Wireless Facilities throughout the Term of this Franchise. Franchisee shall provide to the City a copy of the inventory report no later than one hundred eighty (180) days after the Effective Date of this ordinance and shall provide the City an updated copy of the inventory report within thirty (30) days of a request by the City. The inventory report shall include GIS coordinates, date of installation, type of pole used for installation, description/type of installation for each Small Wireless Facility installation, and photographs taken before and after the installation of the Small Wireless Facility and taken from the public street. Small Wireless Facilities that are considered Deactivated Facilities, as described in Section 18.1, shall be included in the inventory report and Franchisee shall provide the same information as is provided for active installations as

well as the date the Facilities were deactivated and the date the Deactivated Facilities were removed from the Right-of-Way. The City shall compare the inventory report to its records to identify any discrepancies, and the parties will work together in good faith to resolve any discrepancies. Franchisee is not required to report on future inventory reports any Deactivated Facilities that were removed from the Right-of-Way since the last reported inventory and may thereafter omit reference to the Deactivated Facilities.

Section 15.7 Unauthorized Facilities. Any Small Wireless Facilities installations in the Right-of-Way that were not authorized under this Franchise or other required City Approval (“Unauthorized Facilities”) will be subject to the payment of an Unauthorized Facilities charge by Franchisee. The City shall provide written notice to Franchisee of any Unauthorized Facilities identified by City staff and Franchisee shall either (i) establish that the site was authorized, or (ii) submit a complete application to the City for approval of the Unauthorized Facilities. Upon notice of the Unauthorized Facility, Franchisee shall be charged Five Hundred and 00/100 Dollars (\$500.00) per day per Unauthorized Facility (“Unauthorized Facility Penalty”). The Unauthorized Facility Penalty shall be waived in its entirety if Franchisee can establish that the site was in fact authorized. The Unauthorized Facility Penalty shall be suspended upon the submission of a complete application to the City requesting approval of the Unauthorized Facility. If the application for such Unauthorized Facilities is denied as the final decision, then the Unauthorized Facility Penalty will resume until the Unauthorized Facilities are removed and Franchisee shall remove the Unauthorized Facilities from the City’s Right-of-Way within thirty (30) days after the expiration of all appeal periods for such denial. Upon the conclusion of any matter involving an Unauthorized Facility, City shall provide Franchisee an invoice detailing the total amount of the Unauthorized Facility Penalty, if any, which penalty Franchisee shall pay within thirty (30) days after receipt of notice thereof. This Franchise remedy is in addition to any other remedy available to the City at law or equity. Notwithstanding the foregoing, an Unauthorized Facility Penalty pursuant to this Franchise shall not be assessed if Franchisee received City Approval for the Small Wireless Facilities but such Small Wireless Facilities are technically inconsistent with the City Approval; provided, however, Franchisee is still required to fix any inconsistencies with the permit requirements and that this provision does not restrict the City’s other enforcement rights.

Section 15.8 Graffiti Abatement. As soon as practical, but not later than thirty (30) days from the date Franchisee receives notice or is otherwise aware, Franchisee shall remove all graffiti on any of its Small Wireless Facilities of which it is the owner of the pole or structure or on the Small Wireless Facilities themselves attached to a third-party pole (i.e., graffiti on the shrouding protecting the radios). The foregoing shall not relieve Franchisee from complying with any City graffiti or visual blight ordinance or regulation.

Section 15.9 Emissions Reports.

- (a) Franchisee is obligated to comply with all applicable laws relating to allowable presence of or human exposure to Radiofrequency Radiation (“RFs”) or Electromagnetic Fields (“EMFs”) on or off any poles or structures in the Rights-of-Way, including all applicable FCC standards. Franchisee shall comply with the RF emissions certification requirements under applicable law.
- (b) Nothing in this Franchise prohibits the City from requiring periodic testing of Franchisee’s Facilities, which the City may request no more than once per year unless as otherwise required by a permit due to a modification of the Facility. The City may inspect any of Franchisee’s Facilities and equipment located in the Rights-of-Way. If the City discovers, and the FCC confirms, that the emissions from a Facility exceeds the FCC standards, then the City may order Franchisee to immediately turn off the Facility or portion thereof committing the violation, until the emissions exposure is remedied. Franchisee is required to promptly turn off that portion of the Facility that is in violation, no later than forty-eight (48) hours after receipt notice. Franchisee shall reimburse the City for any costs incurred by the City for inspecting the Facility and providing notice as described in Section 14.3 and Section 14.4.

Section 15.10 Interference with Public Facilities. Franchisee’s Small Wireless Facilities shall not physically interfere or cause harmful interference, as defined in 47 CFR § 15.3(m), with any City operations (including, but not limited to, traffic lights, public safety

radio systems, or other City communications infrastructure) or with emergency communications operation or equipment. If the Small Wireless Facilities cause such harmful interference, Franchisee shall respond to the City's request to address the source of the interference as soon as practicable, but in no event later than forty-eight (48) hours after receipt of notice. The City may require, by written notice, that Franchisee power down the specific Small Wireless Facilities, or portion thereof, causing such interference if such interference is not remedied within forty-eight (48) hours after notice. If, within thirty (30) days after receipt of such written notice from the City of such interference, Franchisee has not abated such interference in a manner that is consistent with federal guidelines, such Small Wireless Facility may be deemed an Unauthorized Facility and subject to the provisions of Section 15.7 or removal by the City consistent with Section 13. The Small Wireless Facility, or interfering portion thereof, must remain powered down (except for testing purposes) during the abatement period; otherwise the City may take more immediate action consistent with Section 13 to protect the public health, safety, and welfare.

Section 15.11 Interference with Other Facilities. Franchisee is solely responsible for determining whether its Small Wireless Facilities interfere with telecommunications facilities of other utilities and franchisees within the Rights-of-Way. Franchisee shall comply with the rules and regulations of the Federal Communications Commission regarding radio frequency interference when siting its Small Wireless Facilities within the Franchise Area. Franchisee, in the performance and exercise of its rights and obligations under this Franchise shall not physically or technically interfere in any manner with the existence and operation of any and all existing utilities, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as expressly permitted by applicable law or this Franchise.

**Section 16. Indemnification.**

Section 16.1 Franchisee releases, covenants not to bring suit against, and agrees to indemnify, defend, and hold harmless the City, its officers, employees, agents, and representatives from any and all claims, costs, judgments, awards, or liability to any person, for injury or death of any person or damage to property caused by or arising out of any acts or omissions of Franchisee, its agents, servants, officers, or employees in the performance of this Franchise and any rights granted within this Franchise. This indemnification obligation shall extend to claims that are not reduced to a suit and any claims that may be compromised, with Franchisee's prior written consent, prior to the culmination of any litigation or the institution of any litigation.

Section 16.2 Inspection or acceptance by the City of any work performed by Franchisee at the time of completion of construction shall not be grounds for avoidance by Franchisee of any of its obligations under this Section 16.

Section 16.3 The City shall promptly notify Franchisee of any claim or suit and request in writing that Franchisee indemnify the City. Franchisee may choose counsel to defend the City subject to this Section 16.3. City's failure to so notify and request indemnification shall not relieve Franchisee of any liability that Franchisee might have, except to the extent that such failure prejudices Franchisee's ability to defend such claim or suit. In the event that Franchisee refuses the tender of defense in any suit or any claim, as required pursuant to the indemnification provisions within this Franchise, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Franchisee, Franchisee shall pay all of the City's reasonable costs for defense of the action, including all expert witness fees, costs, and attorney's fees, and including costs and fees incurred in recovering under this indemnification provision. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Franchisee to represent the City, then upon the prior written approval and consent of Franchisee, which shall not be unreasonably withheld, the City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and Franchisee shall pay the reasonable fees and expenses of such separate counsel, except

that Franchisee shall not be required to pay the fees and expenses of separate counsel on behalf of the City for the City to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order or injunction. The City's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the City but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Franchisee. Each party agrees to cooperate and to cause its employees and agents to cooperate with the other party in the defense of any such claim and the relevant records of each party shall be available to the other party with respect to any such defense.

Section 16.4 Except to the extent that damage or injury arises from the sole negligence or willful misconduct of the City, its officers, officials, employees, or agents, the obligations of Franchisee under the indemnification provisions of this Section 16 and any other indemnification provision herein shall apply regardless of whether liability for damages arising out of bodily injury to persons or damages to property were caused or contributed to by the concurrent negligence of the City, its officers, officials, employees, or agents and the Franchisee. Notwithstanding the proceeding sentence, to the extent the provisions of RCW 4.24.115 are applicable, the parties agree that the indemnity provisions hereunder shall be deemed amended to conform to said statute and liability shall be allocated as provided therein. It is further specifically and expressly understood that the indemnification provided constitutes Franchisee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification, relating solely to indemnity claims made by the City directly against the Franchisee for claims made against the City by Franchisee's employees. This waiver has been mutually negotiated by the parties.

Section 16.5 Notwithstanding any other provisions of this Section 16, Franchisee assumes the risk of damage to its Facilities located in the Rights-of-Way and upon City-owned property from activities conducted by the City, its officers, agents, employees, representatives, elected and appointed officials, and contractors, except to the extent any such damage or destruction is caused by or arises from any solely negligent, willful misconduct, or criminal actions on the part of the City, its officers, agents, employees,

representatives, elected or appointed officials, or contractors. In no event shall either Party be liable to the other Party for any indirect, incidental, special, consequential, exemplary, or punitive damages, including, by way of example and not limitation, lost profits, lost revenue, loss of goodwill, or loss of business opportunity in connection with its performance or failure to perform under this Franchise. Franchisee releases and waives any and all such claims against the City, its officers, agents, employees, representatives, elected or appointed officials, or contractors. Franchisee further agrees to indemnify, hold harmless, and defend the City against any third-party claims for damages, including, but not limited to, business interruption damages, lost profits, and consequential damages, brought by or under users of Franchisee's Facilities as the result of any interruption of service due to damage or destruction of Franchisee's Facilities caused by or arising out of activities conducted by the City, its officers, agents, employees, or contractors.

Section 16.6 The provisions of this Section 16 shall survive the expiration, revocation, or termination of this Franchise.

## **Section 17. Insurance.**

Section 17.1 Franchisee shall maintain for so long as Franchisee has Facilities in the Rights-of-Way, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the acts or omissions of Franchisee. The Franchisee shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Franchise-provided insurance as set forth herein, except the Franchisee shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Franchisee shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations. ~~Franchisee shall require that every subcontractor maintain substantially the same insurance coverage with substantially the same policy limits as required of Franchisee, except for pollution and/or umbrella insurance.~~ Franchisee shall maintain insurance from insurers with a current A.M.

**Commented [A1]:** The total limits of \$10M exceed standard requirements in our industry for contractors. Additionally, most contractors do not or are not required to carry pollution liability policies unless their work involves remediation.

**Commented [A2R1]:** After checking with Tanya Crites from WCIA the city is proposing to replace the 2<sup>nd</sup> sentence of section 17.1.

**Commented [A3R1]:** This is acceptable and match language in MLA.

Best rating of not less than A-. Franchisee shall provide a copy of a certificate of insurance and additional insured endorsement (except for workers compensation) to the City for its inspection at the time of acceptance of this Franchise, and such insurance certificate shall evidence a policy of insurance that includes:

- (a) Automobile Liability insurance with limits of no less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage.
- (b) Commercial General Liability insurance, written on an occurrence basis with limits of no less than \$5,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including personal and advertising injury, blanket contractual; premises; operations; independent contractors; products and completed operations; and broad form property damage; explosion, collapse and underground (XCU).
- (c) ~~Pollution liability shall be in effect throughout the entire Franchise term, with a limit of one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) in the aggregate~~
- (d) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability with a limit of \$1,000,000 each accident/disease/policy limit. Evidence of qualified self-insurance is acceptable.
- (e) Excess Umbrella liability policy with limits of no less than \$5,000,000 per occurrence and **\$10,000,000** in the aggregate. Franchisee may use any combination of primary and excess to meet required total limits.

**Commented [A4]:** Increased per call held on 9.23.22 to remove redacted language in 17.5.

Section 17.2 Payment of deductible or self-insured retention shall be the sole responsibility of Franchisee. Franchisee may utilize primary and umbrella liability insurance policies to satisfy the insurance policy limits required in this Section 17. Franchisee's umbrella liability insurance policy shall provide "follow form" coverage over its primary liability insurance policies or be at least as broad as such underlying policies.

Section 17.3 The required insurance policies, with the exception of Workers' Compensation, and Employer's Liability, ~~and Pollution Liability~~ obtained by Franchisee shall include the City, its officers, officials, employees, agents, and representatives ("Additional Insureds"), as an additional insured, with coverage at least as broad as ISO endorsement form CG 20 26, with regard to any work or operations performed under this Franchise or by or on behalf of the Franchisee. ~~—~~The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability. Franchisee shall provide to the City upon acceptance a certificate of insurance and additional insured endorsement. Receipt by the City of any certificate showing less coverage than required is not a waiver of Franchisee's obligations to fulfill the requirements. Franchisee's required commercial general and auto liability insurance shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of Franchisee's required insurance and shall not contribute with it.

Section 17.4 Upon receipt of notice from its insurer(s) Franchisee shall provide the City with thirty (30) days prior written notice of any cancellation of any insurance policy, except for non-payment, in which case a ten (10) day notice will be provided, required pursuant to this Section 17. Franchisee shall, prior to the effective date of such cancellation, obtain replacement insurance policies meeting the requirements of this Section 17. Failure to provide the insurance cancellation notice and to furnish to the City replacement insurance policies meeting the requirements of this Section 17 shall be considered a material breach of this Franchise and subject to the City's election of remedies described in Section 20 below. Notwithstanding the cure period described in Section 20.2, the City may pursue its remedies immediately upon a failure to furnish replacement insurance.

Section 17.5 Franchisee's maintenance of insurance as required by this Section 17 shall not be construed to limit the liability of Franchisee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or

**Commented [A5]:** Risk manager recommends the City IS an additional insured on the Contractors Pollution Liability policy.

**Commented [A6R5]:** This coverage was removed above. This is not a requirement in MLA.

equity. Further, Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Franchisee. ~~If Franchisee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess Umbrella liability maintained by the Franchisee, irrespective of whether such limits maintained by the Franchisee are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Franchisee.~~

**Section 17.6** The City may review all insurance limits once every three years during the Term may make reasonable adjustments in the limits upon thirty (30) days' prior written notice to and review by Franchisee. Franchisee shall then issue or provide a certificate of insurance to the City showing compliance with these adjustments. Upon request by the City, Franchisee shall make available for review copies of all required insurance policies, including endorsements, required in this Franchise and evidence of all contractors' coverage.

**Section 17.7** As of the Effective Date of this Franchise, Franchisee is not self-insured. Should Franchisee wish to become self-insured at the levels outlined in this Franchise at a later date, Franchisee or its affiliated parent entity shall comply with the following: (i) provide the City, upon request, a copy of Franchisee's or its parent company's most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) Franchisee or its parent company is responsible for all payments within the self-insurance program; and (iii) Franchisee assumes all defense and indemnity obligations as outlined in the indemnification section of this Franchise.

**Section 18. Abandonment of Franchisee's Telecommunications Network.**

**Section 18.1** Where any Facilities or portions of Facilities are no longer needed, and their use is to be discontinued, the Franchisee shall immediately report such Facilities in writing ("Deactivated Facilities") to the Public Works Director. This notification is in addition to the inventory revisions addressed in Section 15.6. Deactivated Facilities, or portions thereof, shall be completely removed within ninety (90) days and the site, pole

**Commented [A7]:** We have a very robust insurance program and as such will not agree to language of this nature.

**Commented [A8R7]:** The city wants to retain this language. If the franchisee has determined that they need more robust insurance coverage the city wants to have that same protection for anything related to occupancy of the city's right-of-way. It would be extremely staff intensive to renegotiate the insurance limits for existing contracts, as allowed in 17.6.

**Commented [A9R7]:** Per call with City rep (Joe Beck) on 9.23.22 okay to remove if limits increased above under 17.1 (e).

or infrastructure restored to its pre-existing condition. Franchisee must comply with all provisions of PMC 11.05.190 for facilities located within the right-of-way.

Section 18.2 If Franchisee leases a structure from a landlord and such landlord later abandons the structure, Franchisee shall remove its Facilities from the abandoned structure within the timeline provided by the landlord, but no more than ninety (90) days of such notification from the landlord, at no cost to the City and shall remove the pole if so required by the landlord. Notwithstanding the preceding sentence, the timelines determined by the City for relocation projects described in Section 5 above shall apply.

Section 18.3 Upon the expiration, termination, or revocation of the rights granted under this Franchise, Franchisee shall remove all of its Facilities from the Rights-of-Way within ninety (90) days of receiving written notice from the Public Works Director or his/her designee. The Facilities, in whole or in part, may not be abandoned by Franchisee without written approval by the City. Any plan for abandonment or removal of Franchisee's Facilities must be first approved by the Public Works Director or his/her designee, and all necessary permits must be obtained prior to such work. Franchisee shall restore the Rights-of-Way to at least the same condition the Rights-of-Way were in immediately prior to any such installation, construction, relocation, maintenance or repair, provided Franchisee shall not be responsible for any changes to the Rights-of-Way not caused by Franchisee or any person doing work for Franchisee. Franchisee shall be solely responsible for all costs associated with removing its Facilities.

Section 18.4 Notwithstanding Section 18.1 above, the City may permit Franchisee's Facilities to be abandoned in place in such a manner as the City may prescribe. Upon permanent abandonment, and Franchisee's agreement to transfer ownership of the Facilities to the City, Franchisee shall submit to the City a proposal and instruments for transferring ownership to the City.

Section 18.5 Any Facilities which are not removed within one hundred and eighty (180) days of either the date of termination or revocation of this Franchise or the date the City issued a permit authorizing removal, whichever is later, shall automatically become the property of the City. Any costs incurred by the City in safeguarding such Facilities or

removing the Facilities shall be reimbursed by Franchisee. Nothing contained within this Section 18 shall prevent the City from compelling Franchisee to remove any such Facilities through judicial action when the City has not permitted Franchisee to abandon said Facilities in place.

Section 18.6 The provisions of this Section 18 shall survive the expiration, revocation, or termination of this Franchise and for so long as Franchisee has Facilities in Rights-of-Way.

**Section 19. Bonds.**

Section 19.1 Franchisee shall furnish a performance bond (“Performance Bond”) written by a corporate surety reasonably acceptable to the City equal to at least 150% of the estimated cost of constructing Franchisee’s Facilities within the Rights-of-Way of the City prior to commencement of any such work or such other amount as deemed appropriate by the Public Works Director. The Performance Bond shall guarantee the following: (1) timely completion of construction; (2) construction in compliance with all applicable plans, permits, technical codes, and standards; (3) proper location of the Facilities as specified by the City; (4) restoration of the Rights-of-Way and other City properties affected by the construction; (5) submission of as-built drawings after completion of construction; and (6) timely payment and satisfaction of all claims, demands, or liens for labor, materials, or services provided in connection with the work which could be asserted against the City or City property. Said bond must remain in full force until the completion of construction, including final inspection, corrections, and final approval of the work, recording of all easements, provision of as-built drawings, and the posting of a Maintenance Bond as described in Section 19.2. Compliance with the Performance Bond requirement of the City’s current Standards for Public Works Engineering and Construction Manual shall satisfy the provisions of this Section 19. In lieu of a separate Performance Bond for individual projects involving work in the

Franchise Area, Franchisee may satisfy the City's bond requirements by posting a single on-going performance bond in an amount approved by City.

Section 19.2 Maintenance Bond. Franchisee shall furnish a two (2) year maintenance bond ("Maintenance Bond"), or other surety acceptable to the City, at the time of final acceptance of construction work on Facilities within the Rights-of-Way. The Maintenance Bond amount will be equal to ten percent (10%) of the documented final cost of the construction work. If the City identifies any repair work the financial guarantee will extend to either 1 year after the repair is accepted by the city or the end of the original 2-year time period, whichever is longer. The Maintenance Bond in this Section 19.2 must be in place prior to City's release of the bond required by Section 19. Compliance with the Maintenance Bond requirement of the City's current Standards for Public Works Engineering and Construction Manual shall satisfy the provisions of this Section 19.2. In lieu of a separate Maintenance Bond for individual projects involving work in the Franchise Area, Franchisee may satisfy the Maintenance Bond requirement by posting a single on-going Maintenance Bond in an amount approved by City.

Section 19.3 Franchise Bond. Franchisee shall provide City with a bond in the amount of Fifty Thousand Dollars (\$50,000.00) ("Franchise Bond") running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to City. In the event Franchisee shall fail to substantially comply with any one or more of the provisions of this Franchise following notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from Franchisee and the bond any actual damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Franchisee specifically agrees that its failure to comply with the terms of this Section 19 shall constitute a material breach of this Franchise. The amount of the bond shall not be construed to limit Franchisee's liability or to limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

## **Section 20. Remedies to Enforce Compliance.**

Section 20.1 The City may elect, without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling Franchisee to comply with the provisions of the Franchise and to recover damages and costs incurred by the City by reason of Franchisee's failure to comply. In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force Franchisee and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein. Provided, further, that by entering into this Franchise, it is not the intention of the City or Franchisee to waive any other rights, remedies, or obligations as otherwise provided by law equity, or otherwise, and nothing contained here shall be deemed or construed to affect any such waiver.

Section 20.2 If Franchisee shall violate, or fail to comply with any of the provisions of this Franchise, or should it fail to heed or comply with any notice given to Franchisee under the provisions of this Franchise, the City shall provide Franchisee with written notice specifying with reasonable particularity the nature of any such breach and Franchisee shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If the parties reasonably determine the breach cannot be cured within (30) thirty days, the City may specify a longer cure period, and condition the extension of time on Franchisee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or Franchisee does not comply with the specified conditions, the City may, at its discretion, (1) commence revocation proceedings, pursuant to Section 21, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the Franchise Bond set forth in Section 19.3, or (3) suspend the issuance of additional permits, or (4) pursue other remedies as described in Section 20.1 above.

**Section 21. Forfeiture and Revocation.** If Franchisee willfully violates or fails to comply with any material provisions of this Franchise beyond applicable notice and cure periods, then at the election of the Puyallup City Council after at least thirty (30) days written notice to Franchisee specifying the alleged violation or failure and an opportunity to cure, the City may revoke all rights conferred and this Franchise may be revoked by the City Council after a hearing held upon such notice to Franchisee. Such hearing shall be open to the public and Franchisee and other interested parties may offer written and/or oral evidence explaining or mitigating such alleged noncompliance. Within thirty (30) days after the hearing, the Puyallup City Council, on the basis of the record, will make the determination as to whether there is cause for revocation, whether the Franchise will be terminated, or whether lesser sanctions should otherwise be imposed. The Puyallup City Council may in its sole discretion fix an additional time period to cure violations. If the deficiency has not been cured at the expiration of any additional time period or if the Puyallup City Council does not grant any additional period, the Puyallup City Council may by resolution declare the Franchise to be revoked and forfeited or impose lesser sanctions. If Franchisee appeals revocation and termination, such revocation may be held in abeyance pending judicial review by a court of competent jurisdiction, provided Franchisee is otherwise in compliance with the Franchise.

**Section 22. Non-Waiver.** The failure of the City to insist upon strict performance of any of the covenants and agreements of this Franchise or to exercise any option herein conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such covenants, agreements, or option or of any other covenants, agreements, or option.

**Section 23. City Ordinances and Regulations.** Nothing herein shall be deemed to restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to reasonably control by appropriate regulations the location, elevation, manner of construction, and maintenance of Facilities by Franchisee, and Franchisee shall promptly conform with all

such regulations, unless compliance would cause Franchisee to violate other requirements of law. In the event of a conflict between the provisions of this Franchise and any other generally applicable ordinance(s) enacted under the City's police power authority, such other ordinances(s) shall take precedence over the provisions set forth herein.

**Section 24. Cost of Publication.** The cost of publication of this Franchise shall be borne by Franchisee.

**Section 25. Survival.** All of the provisions, conditions, and requirements of Section 5, Section 6, Section 8, Section 12, Section 16, Section 18, Section 25, Section 27, and Section 38.2 of this Franchise shall be in addition to any and all other obligations and liabilities Franchisee may have to the City at common law, by statute, or by contract, and shall survive the City's Franchise to Franchisee for the use of the Franchise Area and any renewals or extensions thereof. All of the provisions, conditions, regulations, and requirements contained in this Franchise shall further be binding upon the heirs, successors, executors, administrators, legal representatives, and assigns of Franchisee and all privileges, obligations, and liabilities of Franchisee shall inure to its heirs, successors, and assigns equally as if they were specifically mentioned where Franchisee is named herein.

**Section 26. Assignment.**

Section 26.1 This Franchise may not be directly or indirectly assigned, transferred, or disposed of by sale, lease, merger, consolidation, or other act of Franchisee, by operation of law or otherwise, unless prompt written notice is provided to the City within sixty (60) days following the assignment. Franchisee may freely assign this Franchise in whole or in part to a parent, subsidiary, or affiliated entity, unless there is a change of control as described in Section 26.2 below, or to an entity that acquires all or substantially all of Franchisee's assets located in the area defined by the Federal Communications Commission in which the Facilities are located, or for collateral security purposes. Franchisee shall provide prompt, written notice to the City of any such assignment. In the case of transfer or assignment as security by mortgage or other security instrument in

whole or in part to secure indebtedness, such notice shall not be required unless and until the secured party elects to realize upon the collateral. For purposes of this Section 26, no assignment or transfer of this Franchise shall be deemed to occur based on the public trading of Franchisee's stock; provided, however, any tender offer, merger, or similar transaction resulting in a change of control shall be subject to the provisions of this Franchise.

Section 26.2 Any transactions which singularly or collectively result in a change of 50% or more of the (i) ownership or working control (for example, management of Franchisee or its Telecommunications facilities) of the Franchisee; or (ii) ownership or working control of the Franchisee's Telecommunications facilities within the City; or (iii) control of the capacity or bandwidth of the Franchisee's Telecommunication facilities within the City, shall be considered an assignment or transfer requiring notice to the City pursuant to this Franchise. Such transactions between affiliated entities are not exempt from notice requirements. A Franchisee shall notify the City of any proposed change in, or transfer of, or acquisition by any other party of control of a Franchisee within sixty (60) days following the closing of the transaction.

Section 26.3 Franchisee may, without prior consent from the City: (i) lease the Facilities, or any portion, to another person; (ii) grant an indefeasible right of user interest in the Facilities, or any portion, to another person; or (iii) offer to provide capacity or bandwidth in its Facilities to another person, provided further, that Franchisee shall at all times retain exclusive control over its Facilities and remain fully responsible for compliance with the terms of this Franchise, and Franchisee shall furnish, upon request from the City, proof of any such lease or agreement, provided that Franchisee may redact the name, street address (except for City and zip code), Social Security Numbers, Employer Identification Numbers or similar identifying information, and other information considered confidential under applicable laws provided in such lease or agreement, and the lessee complies, to the extent applicable, with the requirements of this Franchise and applicable City codes. Franchisee's obligation to remain fully responsible for compliance with the terms under this Section 26.3 shall survive the expiration of this Franchise but

only if and to the extent and for so long as Franchisee is still the owner or has exclusive control over the Facilities used by a third party.

**Section 27. Extension.** If this Franchise expires without renewal or is otherwise lawfully terminated or revoked, the City may, subject to applicable law:

(a) Allow Franchisee to maintain and operate its Facilities on a month-to-month basis, provided that Franchisee maintains insurance for such Facilities during such period and continues to comply with this Franchise; or

(b) The City may order the removal of any and all Facilities at Franchisee's sole cost and expense consistent with Section 18.

**Section 28. Entire Agreement.** This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution of this Franchise.

**Section 29. Eminent Domain.** The existence of this Franchise shall not preclude the City from acquiring by condemnation in accordance with applicable law, all or a portion of the Franchisee's Facilities for the fair market value thereof. In determining the value of such Facilities, no value shall be attributed to the right to occupy the area conferred by this Franchise.

**Section 30. Vacation.** If at any time the City, by ordinance, vacates all or any portion of the area affected by this Franchise, the City shall not be liable for any damages or loss to the Franchisee by reason of such vacation. The City shall notify the Franchisee in writing not less than ninety (90) days before vacating all or any portion of any such area. The City may, after ninety (90) days written notice to the Franchisee, terminate this Franchise with respect to such vacated area.

**Section 31. Notice.** Any notice required or permitted under this Franchise shall be in writing, and shall be delivered personally, delivered by a nationally recognized overnight courier, or sent by registered or certified mail, return receipt requested, to the other party at the address listed below. If such notice, demand or other communication shall be

served personally, service shall be conclusively deemed made at the time of such personal service. If such notice, demand or other communication is given by overnight delivery, it shall be conclusively deemed given the day after it was sent to the party to whom such notice, demand or other communication is to be given. If such notice, demand or other communication is given by mail, it shall be conclusively deemed given three (3) days after it was deposited in the United States mail addressed to the party to whom such notice, demand or other communication is to be given.

CITY OF PUYALLUP  
Public Works Director  
333 S. Meridian  
Puyallup, WA 98371

Franchisee:  
Crown Castle Fiber LLC  
c/o Crown Castle  
2000 Corporate Drive  
Canonsburg, PA 15317  
Attn: Ken Simon, General  
Counsel

With a copy to:

Crown Castle Fiber LLC  
c/o Crown Castle  
2000 Corporate Drive  
Canonsburg, PA 15317  
Attn: SCN Contracts  
Management

**Section 32. Severability.** If any section, sentence, clause, or phrase of this Franchise is or should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Franchise unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations hereunder, in which event either party may request renegotiation of those remaining terms of this Franchise materially affected by such court ruling.

**Section 33. Compliance with All Applicable Laws.** Franchisee agrees to comply with all present and future federal and state laws, ordinances, rules and regulations. Nothing herein shall be deemed to restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise,

including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to reasonably control by appropriate regulations the location, elevation, manner of construction and maintenance of Facilities by Franchisee, and Franchisee shall promptly conform with all such regulations, unless compliance would cause Franchisee to violate other requirements of law. Franchisee further expressly acknowledges that following the approval of this Franchise, the City may modify its Codes to address Small Wireless deployment and such Code modifications shall apply to Franchisee's Facilities, except to the extent of a vested right or right under state or federal law. In the event of a conflict between the provisions of this Franchise and any other generally applicable ordinance(s) enacted under the City's police power authority, such other ordinances(s) shall take precedence over the provisions set forth herein. Notwithstanding the foregoing, Franchisee shall not be required to comply with any new ordinances to the extent that they impact existing Facilities authorized by the City in accordance to the ordinance applicable at the time of the Facilities' construction.

**Section 34. Amendment.** The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare; or relating to roadway regulation or relating to a City ordinance enacted pursuant to such federal or state statute or regulation; provided that the City provide Franchisee with ninety (90) days prior written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, Franchisee makes a written request for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within ninety (90) days of the call for negotiations, the parties shall submit the issue to non-binding mediation. If such mediation is unsuccessful, the parties may then submit the issue to a court of competent jurisdiction.

**Section 35. Attorney Fees.** If a suit or other action is instituted in connection with any controversy arising out of this Franchise, the prevailing party shall be entitled to recover

all of its costs, expenses, and attorney fees as the court finds reasonable, including those upon appeal of any judgment or ruling.

**Section 36. Hazardous Substances.** Franchisee shall not introduce or use any hazardous substances (chemical or waste) in violation of any applicable law or regulation, and Franchisee shall not allow any of its agents, contractors, or any person under its control to do the same. Franchisee will be solely responsible for and will defend, indemnify, and hold the City and its officers, officials, employees, agents, and representatives harmless from and against any and all claims, costs, and liabilities, including reasonable attorney fees and costs, arising out of or in connection with the cleanup or restoration of the property associated with Franchisee's use, storage, or disposal of hazardous substances, whether or not intentional, and/or with the use, storage or disposal of such substances by Franchisee's agents, contractors, or other persons acting under Franchisee's control, whether or not intentional.

**Section 37. Licenses, Fees, and Taxes.** Prior to constructing any improvements, Franchisee shall obtain a business or utility license from the City. Franchisee shall pay promptly, and before they become delinquent, all taxes on personal property and improvements owned or placed by Franchisee and shall pay all license fees and public utility charges relating to the conduct of its business, shall pay for all permits, licenses, and zoning approvals, shall pay any other applicable tax unless documentation of exemption is provided to the City, and shall pay utility taxes and license fees imposed by the City.

**Section 38. Miscellaneous.**

Section 38.1 City and Franchisee respectively represent that its signatory is duly authorized and has full right, power, and authority to execute this Franchise.

Section 38.2 This Franchise shall be construed in accordance with the laws of the State of Washington. Venue for any dispute related to this Franchise shall be the United States District Court for the Western District of Washington or Pierce County Superior Court.

Section 38.3 The section captions and headings herein are intended solely to facilitate the reading thereof. Such captions and headings shall not affect the meaning or interpretation of the text herein.

Section 38.4 Where the context so requires, the singular shall include the plural and the plural includes the singular.

Section 38.5 Franchisee shall be responsible for obtaining all other necessary approvals, authorizations, and agreements from any party or entity and it is acknowledged and agreed that the City is making no representation, warranty, or covenant whether any of the foregoing approvals, authorizations, or agreements are required or have been obtained by Franchisee by any person or entity.

Section 38.6 This Franchise may be enforced at both law and equity.

Section 38.7 Franchisee acknowledges that it, and not the City, shall be responsible for the premises and equipment's compliance with all marking and lighting requirements of the FAA and the FCC. Franchisee shall indemnify and hold the City harmless from any fines or other liabilities caused by Franchisee's failure to comply with such requirements. Should Franchisee or the City be cited by either the FCC or the FAA because the Facilities or the Franchisee's equipment is not in compliance and should Franchisee fail to cure the conditions of noncompliance within the timeframe allowed by the citing agency, the City may either terminate this Franchise immediately on notice to the Franchisee or proceed to cure the conditions of noncompliance at the Franchisee's expense.

Section 38.8 Neither party shall be required to perform any covenant or obligation in this Franchise, or be liable in damages to the other party, so long as the performance of the covenant or obligation is delayed, caused or prevented by a Force Majeure Event. A "Force Majeure Event" is defined for purposes of this Franchise as strikes, lockouts, sit-down strike, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including inclement weather which prevents

construction), acts of the public enemy, wars, terrorism, insurrections, and any other similar act of God event.

**Section 39. Acceptance.** The rights and privileges granted pursuant to this Franchise shall not become effective until its terms and conditions are accepted by Franchisee. Acceptance shall be accomplished by Franchisee's submission of a written instrument in the form attached hereto as Exhibit A, executed and sworn to by a corporate officer of the Franchisee before a Notary Public. Acceptance must be filed with the City within thirty (30) days after the effective date of this Ordinance. At the time that acceptance is submitted, Franchisee shall also submit necessary insurance documentation pursuant to Section 17; any Performance Bond, if applicable, pursuant to Section 19; and the Franchise Bond required pursuant to Section 19.3. The administrative fees owing pursuant to Section 14.1 are due within thirty (30) days of receipt of invoice from the City.

APPROVED:

\_\_\_\_\_  
DEAN JOHNSON  
MAYOR

ATTEST/AUTHENTICATED:

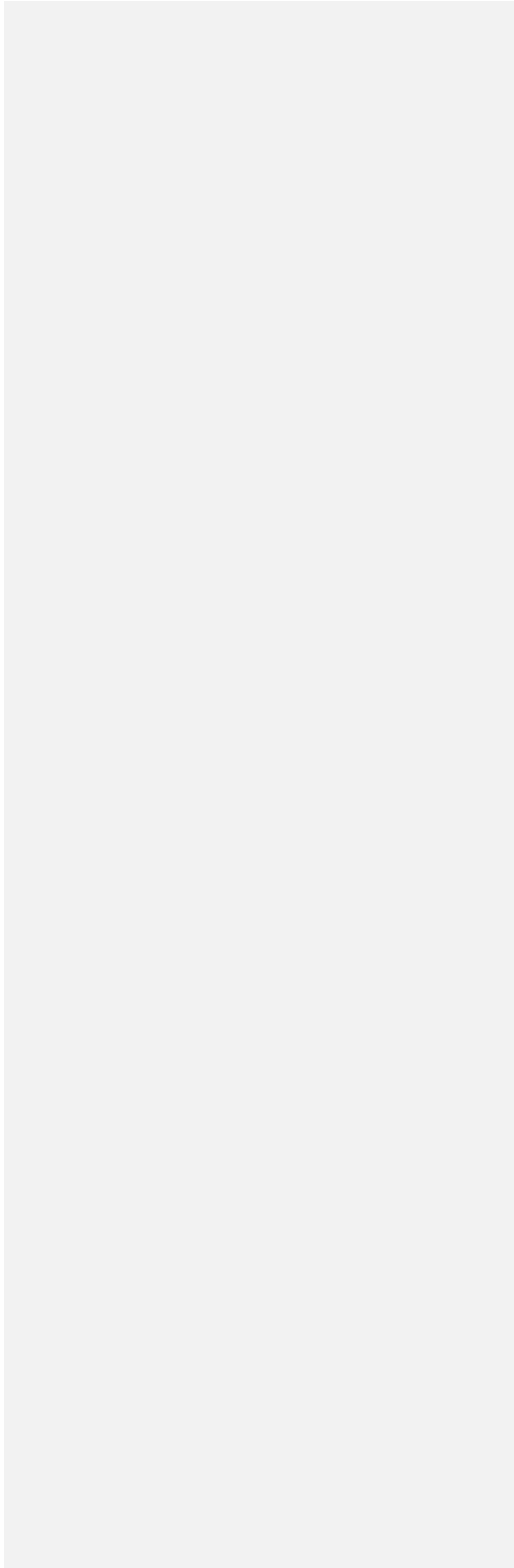
\_\_\_\_\_  
BRENDA FRITSVOLD  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
JOE BECK  
CITY ATTORNEY

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:

PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.:



**SUMMARY OF ORDINANCE NO. \_\_\_\_**

City of Puyallup, Washington

---

On the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, the City Council of the City of Puyallup passed Ordinance No. \_\_\_\_\_. A summary of the content of said Ordinance, consisting of the title, is provided as follows:

AN ORDINANCE OF THE CITY OF PUYALLUP, WASHINGTON, GRANTING TO CROWN CASTLE FIBER LLC C/O CROWN CASTLE AND ITS AFFILIATES, SUCCESSORS, AND ASSIGNS THE RIGHT, PRIVILEGE, AUTHORITY, AND NONEXCLUSIVE FRANCHISE FOR FIVE YEARS TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE, AND REPAIR A TELECOMMUNICATIONS NETWORK IN, ACROSS, OVER, ALONG, UNDER, THROUGH, AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF PUYALLUP, WASHINGTON.

The full text of this Ordinance will be mailed upon request.

---

BRENDA FRITSVOLD  
CITY CLERK

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.:

EXHIBIT A  
STATEMENT OF ACCEPTANCE

Crown Castle Fiber LLC c/o Crown Castle, for itself and its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions, and provisions of the Franchise attached hereto and incorporated herein by this reference.

CROWN CASTLE FIBER LLC C/O CROWN CASTLE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 202\_, before me the undersigned, a Notary Public in and for the State of \_\_\_\_\_, duly commissioned and sworn, personally appeared, \_\_\_\_\_ of \_\_\_\_\_, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of \_\_\_\_\_, residing at \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_



## City Council Agenda Item Report

Submitted by: Tulika Makharia  
Meeting Date: November 22, 2022

### **Subject:**

City of Puyallup Policy Agenda and Capital Budget Requests for the 2023 Washington State Legislative Session

### **Presenter:**

Steve Kirkelie, City Manager; Luke Esser, Consultant; Jim Hedrick, Consultant

### **Background:**

The Washington State Legislature convenes January 9, 2023 and will be in regular session through April 24, 2023. The City's government relations consultants, Luke Esser and Jim Hedrick, will provide the City Council with an overview of key issues for the upcoming legislative session. Accompanying this agenda bill is a preliminary draft of the City's "Legislative Issues of Importance" for City Council to consider and provide feedback.

In addition, every year the City identifies potential projects to submit to the 25<sup>th</sup> legislative district delegation for funding in the State Capital Budget. Staff will provide a brief overview of each of the projects identified below and then will ask City Council to rank the importance of the projects to be presented to the local legislative delegation.

#### Infrastructure for Downtown Economic Development – Stormwater Project (\$1,125,000)

One of the significant near-term projects for the City's stormwater system pertains to increasing the size of the stormwater pipes that serve the City's downtown core. The current system does not have enough capacity to facilitate all of the potential growth in the downtown core over the next decade. Without the upgraded capacity, some future projects in the downtown core and vicinity would have to build stormwater detention facilities on-site, which would increase the costs to develop and would decrease the size of residential and commercial developments. The project has four phases, as illustrated on the map attached to this agenda bill.

In the State's 2022 Supplemental Capital Budget, the City's request for \$800,000 from the last session was fully funded. These funds, along with a contribution from Sound Transit related to Sound Transit's parking garage, and the strong likelihood of the City receiving a \$1,000,000 grant from the Pierce County Flood Control Zone District, will fund the completion of Phase N-1. Phase N-1 provides an upgraded direct discharge stormwater pipe from the Sound Transit Parking garage on 5<sup>th</sup> St SW to the City's outfall at the Puyallup River.

The request for the 2023 State Capital Budget would be for \$1,125,000 to begin work on Phase N-2. This phase of the project is estimated to cost approximately \$4.5 million and upgrade approximately 1,500 feet of the stormwater system from the Sound Transit parking garage to the intersection of 5<sup>th</sup> Street SW and 4<sup>th</sup> Avenue SW.

Sidewalk Link Program – Puyallup Loop Trail Connection 23<sup>rd</sup> Avenue SW (\$500,000)

The City’s “Loop Trail” is an approximately 4-mile trail that consists primarily of a natural surface trail along with some portions consisting of City sidewalks. The Loop Trail has six trail connections: Clark’s Creek Trail, Meeker Creek Trail, Silver Creek Trail, Brown Trail, Hummingbird Hill Trail, and Dead Man’s Pond Trail. Please see the map attached to this agenda bill for an aerial view of the Loop Trail.

This request is for \$500,000 to construct 1,050 linear feet of new sidewalk on the south side of 23<sup>rd</sup> Avenue SW from 13<sup>th</sup> Street SW to 17<sup>th</sup> Street SW. This section of the trail currently utilizes an undeveloped gravel portion of the shoulder of a narrow portion of 23<sup>rd</sup> Avenue SW. The new sidewalk would provide a continuous pathway for trail users in this segment of the trail and would also provide for American with Disabilities Act (ADA) enhancements at the intersections on 13<sup>th</sup> Street SW and 17<sup>th</sup> Street SW. The total project cost is estimated to be \$1.9 million.

Puyallup Recreation Center – Air-dome over outdoor courts (\$1,000,000)

The Puyallup Recreation Center located at 808 Valley NW has two outdoor basketball courts and two outdoor tennis courts. Over the past decade, the City has invested in upgrading this sports complex. The three baseball and softball fields have been recently upgraded to artificial turf allowing for year-round use for baseball, softball, soccer, lacrosse, and flag football. In addition, the City just finished a remodel to the aging Recreation Center. All of these projects were funded through a combination of the City’s Parks Capital Improvement Project budget and Lodging Tax fund budget, and through State Capital Budget appropriations secured by our 25<sup>th</sup> legislative district delegation and State Recreation and Conservation Office grants.

This request would fund approximately 50% of the cost to build an air-dome over the outdoor basketball and tennis courts behind the Recreation Center. This would allow year-round use of these courts for tennis, pickleball, and indoor soccer. The total estimated project cost is \$2.1 million. Illustrations of the exterior and interior of the air-dome accompany this agenda bill.

**ATTACHMENTS**

[City's Legislative Issues of Importance](#)

[Puyallup Loop Trail Map](#)

[Recreation Center Air Dome Concept](#)

[Downtown Stormwater Map](#)



## **City of Puyallup – Legislative Issues of Importance**

*(2023 Legislative Session)*

### **Vehicle pursuits by police**

**Support “reasonable suspicion” as the standard rather than “probable cause” to allow police officers to engage in vehicle pursuits.** The law, as currently adopted, only allows police officers to engage in a vehicle pursuit of a suspect if the officer has developed probable cause for a very limited category of crimes: violent offenses, sex offense, or escape. Under the current “probable cause” standard officers rarely engage in pursuits of criminal suspects and allows suspects to flee in vehicles before officers have time to develop the necessary facts to meet the higher standard of probable cause.

### **Use of force – reasonable suspicion vs. probable cause**

**Support allowing officers to use force when they have “reasonable suspicion” that a crime has occurred as opposed to “probable cause.”** Under the current law, an officer cannot physically detain a criminal suspect unless they have developed probable cause. This creates a very challenging environment for officers as criminal suspects often flee a scene before an officer can investigate and develop the necessary factual basis to meet the probable cause standard. By using the “reasonable suspicion” standard, which was the standard used by officers for decades in Washington, it will allow officers to have more reasonable control over a crime scene and provide the necessary time to develop the necessary facts to dispel or confirm their suspicions of criminal activity.

### **Drug possession (i.e. Blake decision)**

**Support removing the requirement that an officer may only arrest a person for possession of narcotics upon the third time the person is detained for possession of narcotics and increase state funding for drug treatment programs.** Under the current law, officers must refer persons who possess narcotics to treatment rather than arrest them until the third time the person is apprehended with narcotics. This approach allows persons to continue to possess unlawful narcotics with no accountability.

### **Land use – Zoning Mandates**

**Oppose state legislation that would mandate highly prescriptive land use regulations on local governments.** Blanket mandates treat every neighborhood in every city exactly the same and fail to recognize that the suitability of higher density development can vary within a city depending upon the unique characteristics of

individual neighborhoods. Such a mandate would dramatically diminish the traditional role of city elected officials in determining where best to locate various housing densities in their local neighborhoods and it would also undermine the principle of local control. Instead, the state should look to provide incentives to cities that promote higher densities and leave local zoning decisions with city elected officials.

#### Funding for infrastructure systems

**Support a robust and flexible revenue package that will go towards critical infrastructure projects within the City.** Much like many cities across the nation, transportation, water, wastewater and stormwater systems are aging or lacking the capacity to keep up with the projected growth that will occur over the coming decades in the City. Increasing state revenues for cities to use in addressing this imminent need is critical. In addition, as federal infrastructure funds are distributed to the state, ensuring that the state allocates a significant amount of those funds to local jurisdictions and that the City has reasonable flexibility in using the funds for a broad array of critical infrastructure needs.

#### Condo liability and housing affordability

**Supports condominium liability reform aimed at lowering regulatory barriers associated with building affordable condos and improve the climate for condominium construction statewide.** Changes are needed to create more certainty for developers and insurers and remove disincentives to building affordable condominium projects while maintaining consumer protections. Also, support a proactive approach to create new tools/incentives/revenues for cities to use to support increasing housing supply and addressing affordability.

#### Behavioral and Mental Health Resources

**Supports creating greater access to behavioral and mental health services and establishing funding to support communities' efforts in establishing response programs like designated crisis responders who work alongside law enforcement.** People experiencing mental and behavioral health challenges continues to increase and the mental health system struggles to respond. Oftentimes it is police officers who are solely responding to people suffering mental health issues. The availability of mental health resources that people can be referred to in times of crisis and suffering is dwindling compared to the need for such services.

# PUYALLUP LOOP TRAIL ROUTE AND DETAILS

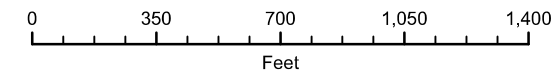
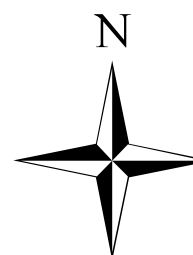


## PUYALLUP LOOP TRAIL

- 4 Miles Total (Appx.)
- Route is generally considered a "natural" trail (e.g. wood chip/hiking/soft surface trail); varied terrain and steepness
- Some connections between trails made using low volume streets and city sidewalks

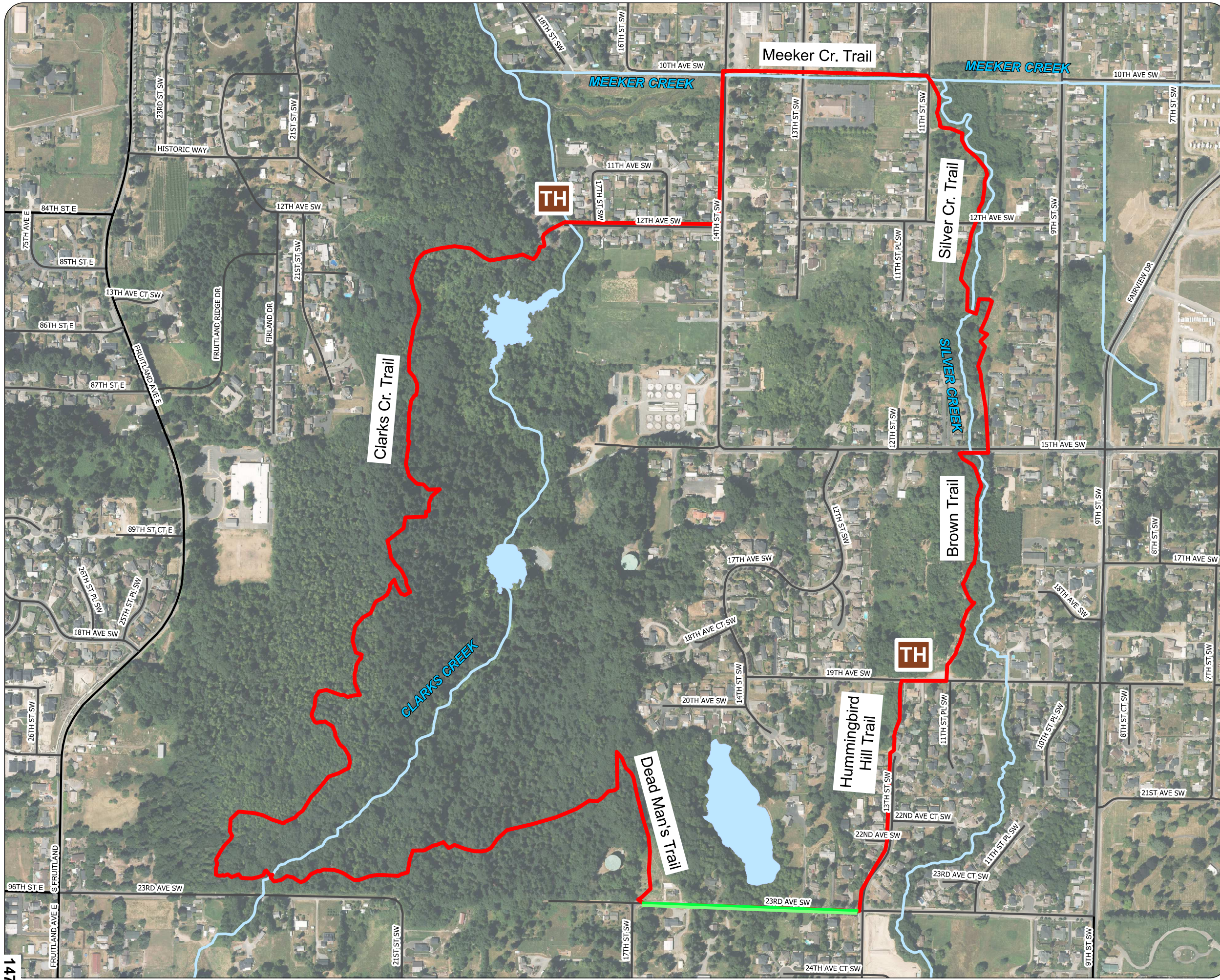
### LEGEND

- Trail
- Trailhead
- Pond
- Proposed Sidewalk

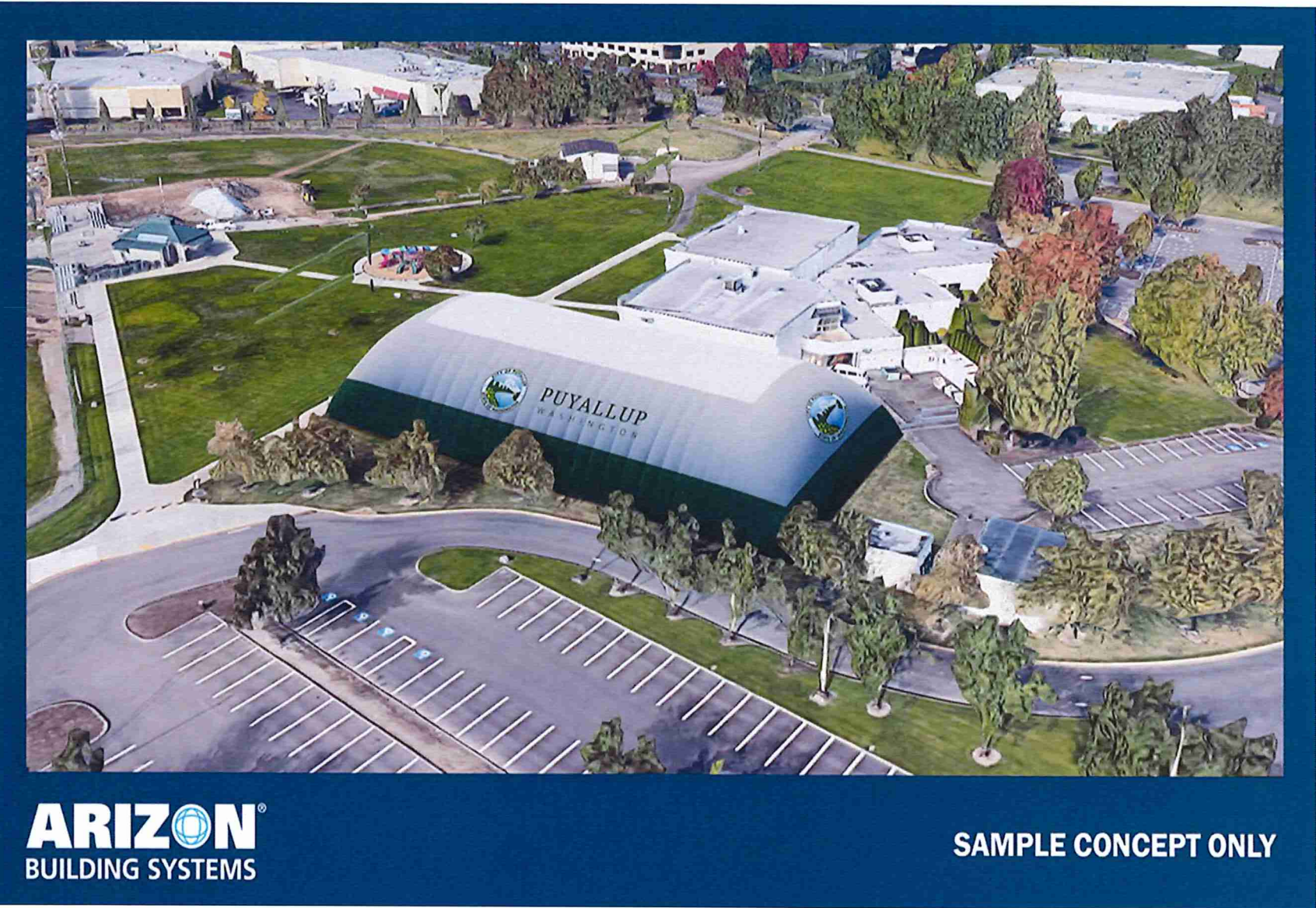


Path: H:\rtrtkos\Puyallup Loop Trail\Loop Trail Map reroute.mxd

The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. Orthophotos and other data may not align. The County and the City of Puyallup assumes no liability for variations ascertained by actual survey. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. The County and City of Puyallup makes no warranty of fitness for a particular purpose.



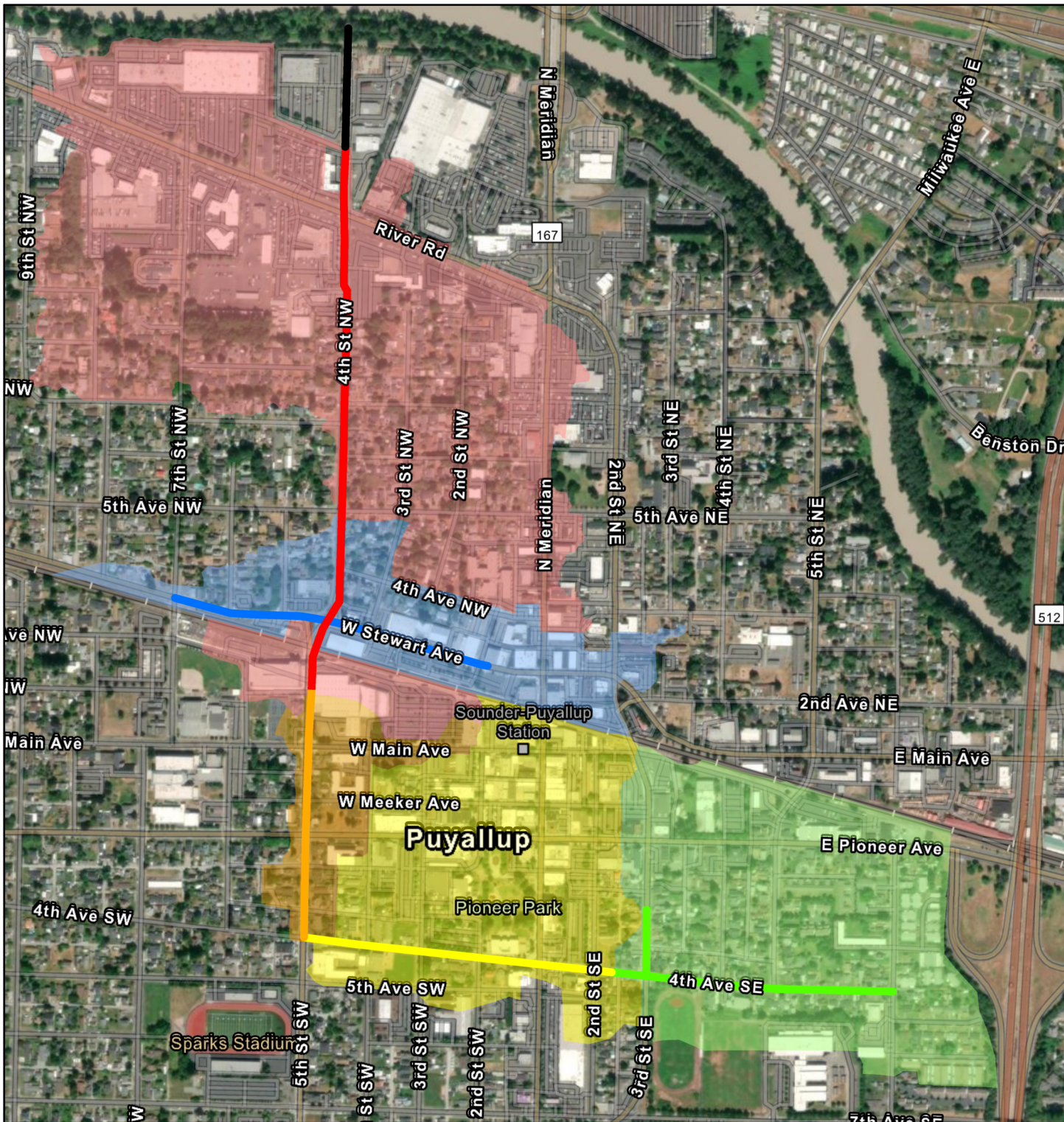
Arizon Building Systems – Option for Tennis courts (Estimated Cost \$2.1 million – 2025 construction)











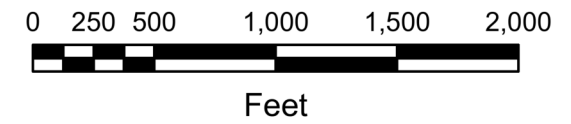
**ARIZON**<sup>®</sup>  
BUILDING SYSTEMS

**SAMPLE CONCEPT ONLY**

# 4th St NW Storm Project PHASE MAP



-  Existing Outfall
-  Phase N-1 Storm Main
-  Phase N-2 Storm Main
-  Phase N-3 Storm Main
-  Phase N-4 Storm Main
-  Phase N-5 Storm Main
-  Phase N-1 Basin
-  Phase N-2 Basin
-  Phase N-3 Basin
-  Phase N-4 Basin
-  Phase N-5 Basin





## City Council Agenda Item Report

Submitted by: Tulika Makharia  
Submitting Department: City Manager's Office  
Meeting Date: November 22, 2022

**Subject:**

2023 City Council meeting calendar

**Presenter:**

Steve Kirkelie, City Manager

**Recommendation:**

Approve a City Council meeting calendar for 2023.

**Background:**

A City Council meeting calendar for 2023 has been drafted for Council's consideration, any desired revisions, and adoption.

**ATTACHMENTS**

[2023 Council Calendar DRAFT](#)

## 2023 Puyallup City Council Meeting Calendar Draft

Jan	Mon	Tues	Wed	Thurs	Fri	Sat
1	2 New Years	3	4	5	6	7
8	9	10 Regular	11	12	13	14
15	16 MLK Day	17	18	19	20	21
22	23	24 Regular	25	26	27	28
29	30	31 Retreat/Study Session				

March	Mon	Tues	Wed	Thurs	Fri	Sat
			1	2	3	4
5	6	7 Regular	8	9	10	11
12	13	14	15	16	17	18
19	20	21 Regular	22	23	24	25
26	27	28 Study Session	29	30	31	

May	Mon	Tues	Wed	Thurs	Fri	Sat
	1	2 Regular	3	4	5	6
7	8	9	10	11	12	13
14	15	16 Study Session	17	18	19	20
21	22	23 Regular	24	25	26	27
28	29 Memorial Day	30	31			

Feb	Mon	Tues	Wed	Thurs	Fri	Sat
			1	2	3	4
5	6	7 Regular	8	9	10	11
12	13	14	15	16	17	18
19	20 Presidents' Day	21	22	23	24	25
26	27	28 Study Session				

April	Mon	Tues	Wed	Thurs	Fri	Sat
						1
2	3	4 Regular	5	6	7	8
9	10 PSD Spring Break	11	12	13	14	15
16	17	18 Regular	19	20	21	22
23	24	25	26	27	28	29
30						

June	Mon	Tues	Wed	Thurs	Fri	Sat
				1	2	3
4	5	6 Regular	7	8	9	10
11	12	13 Study Session	14	15	16	17
18	19 Juneteenth	20 AWC Conference	21	22	23	24
25	26	27 Regular	28	29	30	

## 2023 Puyallup City Council Meeting Calendar Draft

July	Mon	Tues	Wed	Thurs	Fri	Sat
						1
2	3	4 4 <sup>th</sup> of July	5	6	7	8
9	10	11 Regular	12	13	14	15
16	17	18 Regular	19	20	21	22
23	24	25	26	27	28	29
30	31					

Aug	Mon	Tues	Wed	Thurs	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22 Regular	23	24	25	26
27	28	29 Regular	30	30	31	

Sept	Mon	Tues	Wed	Thurs	Fri	Sat
					1	2
3	4 Labor Day	5	6	7	8	9
10	11	12 Regular	13	14	15	16
17	18	19 Study Session	20	21	22	23
24	25	26 Regular	27	28	29	30

Oct	Mon	Tues	Wed	Thurs	Fri	Sat
1	2	3	4	5	6	7
8	9	10 Budget	11 Budget	12 Budget	13	14
15	16	17	18	19	20	21
22	23	24 Regular	25	26	27	28
29	30	31				

Nov	Mon	Tues	Wed	Thurs	Fri	Sat
			1	2	3	4
5	6	7 Election Day	8	9	10 Veterans Day	11
12	13	14 Regular	15	16	17	18
19	20	21 Regular	22	23 Thanksgiving Day	24 Native American Heritage Day	25
26	27	28	29	30		

Dec	Mon	Tues	Wed	Thurs	Fri	Sat
					1	2
3	4	5 Regular	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25 Christmas Day	26	27	28	29	30
31						