

POULSBORO DISTRIBUTION SCHEDULE

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ORDINANCE NO. _____
RESOLUTION NO. _____
RESOLUTION OF INTENTION NO. _____
SUBJECT: Agreement w/WA State Dept. of Fish and Wildlife
for Maintenance & Operation of Coast Oyster Property

CONFORM AS TO DATES & SIGNATURES:

- () Filed with the City Clerk _____
- (X) Passed by the City Council 7/14/99
- (X) Signature of Mayor
- () Signature of City Clerk
- () Publication _____
- () Effective Date _____

DISTRIBUTE CONFORMED COPIES AS FOLLOWS:

- () Kitsap County Herald - Publish Summary
- () Ordinance or Resolution Book
- () Book Publishing File
- (X) City Attorney - Heather Goos
- () Civil Service Commission and/or Sec/Chief Examiner
- (X) Clerk's Department - Original
- () City Council
- (X) Finance
- () Engr/Bldg
- () Fire
- () Mayor
- () Municipal Court
- () Municipal Research
- () Planning
- () Police
- (X) Public Works
- (X) Parks/Recreation - has
- (X) Bookshelf Contracts Copy
- (X) File #1014.26
- () Indexing
- () City Clerk
- (X) WA State Fish and Wildlife - has
- ()
- ()
- ()
- ()

CERTIFIED COPIES:

()

City Clerk ey Date 7-16-99



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

July 15, 1999

Mary McCluskey, Director
Parks and Recreation
City of Poulsbo
Post Office Box 98
Poulsbo, WA. 98370-0098

Dear Ms. McCluskey:

Enclosed are two copies of the Operation & Maintenance Agreement. I have made one change in to the agreement due to a change in the Department's structure. Mr. Jim Lux will now be signing on behalf of the Department of Fish and Wildlife. All other elements of the agreement remain unchanged. Please sign both copies and return to my attention at:

Department of Fish and Wildlife
Attn: Randy Ellison
600 Capitol Way North
Olympia, WA. 98501-1091

If you have any questions or concerns please call me at (360) 753-4606. Thank You.

Sincerely,

Randy Ellison
Property Manager
Real Estate Services Division
Business Services Program

RE: jlm

Enclosures (2)

cc: Dan Budd
Pete Dietrichson

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

OPERATION/MAINTENANCE AGREEMENT
(Liberty Bay Property - Poulsbo)

THIS AGREEMENT, is between the **STATE OF WASHINGTON, DEPARTMENT OF FISH AND WILDLIFE**, hereinafter referred to as "**WDFW**" and the **CITY OF POULSBO** whose address is 19050 Jensen Way NE, Post Office Box 98, Poulsbo, WA. 98370-0098 hereinafter referred to as "**THE CITY**". WDFW hereby authorizes the City to operate and maintain WDFW property located within the City of Poulsbo described as follows;

TOWNSHIP 26 NORTH, RANGE 1 EAST W.M.

Section 23: That portion of Government Lot 1, and Second Class Tide Lands adjoining, and Tract 18, Poulsbo Tide Lands, described as follows;

Beginning at a point which is North 836.92 feet and West 2828.49 feet from the Southeast corner of Section 23; Thence South 89°34' West a distance of 40.20 feet to the Government meander line; Thence South 53°30' West 228.20 feet, more or less, to the inner harbor line; thence North 37°00' West along the inner harbor line 118.70 feet; Thence North 53°30' East 270.00 feet to the Government meander line; Thence North 89°34' East 19.50 feet to the Westerly right of way line to the point of beginning;

Situate in the City of Poulsbo, Kitsap County, Washington.

SUBJECT TO THE FOLLOWING MUTUALLY AGREED TERMS AND CONDITIONS:

1. **TERM:** The term of this agreement shall be twenty five (25) years commencing August 1, 1999 and terminating July 31, 2024.
2. **PURPOSE:** The intent and purpose of this agreement authorize the City to operate and maintain the above described property for public recreational purposes.
3. **ASSIGNMENT/SUBLEASING:** This agreement shall not be assigned or sublet in whole or in part without prior written approval from WDFW.
4. **OPERATION, MAINTENANCE AND DEVELOPMENT:** The City shall, at its sole cost and expense operate and maintain the site and post signs necessary to guide and direct public uses. Major alterations and improvements to the land shall be done with written approval by WDFW.
 - a. The City shall demolish the existing building and dock located on the above described property.
 - b. The City shall supply picnic tables, benches and bike rack and trash cans.
 - c. The City shall provide an area for launching of hand-carried boats.
 - d. The City shall improve the parking lot to accommodate vehicles.
 - e. The City shall not commence development work prior to review and approval by WDFW.

5. **COMPLIANCE - OTHER AGENCIES AND LAWS:** The City shall comply with all applicable laws, rules and regulations, made thereunder by other agencies and government jurisdictions. The City shall permit no unlawful acts or activities on the premises by their agents, employees, permittees, licensees or customers.
6. **ENFORCEMENT:** WDFW will retain primary responsibility insofar as wildlife and fisheries law enforcement is concerned.
7. **INFORMATIONAL SIGNS:** The City shall provide and maintain a sign at the site which shall read, "**This site is provided through the cooperative efforts of the Washington Department of Fish and Wildlife and City of Poulsbo**". Other informational or directional signs shall be provided and maintained by the City as deemed necessary.
8. **INDEMNITY:** The City shall indemnify, defend, and save harmless the WDFW, and its officers, agents, and other employees from any and all existing and future claims, damages, and causes of action of any nature including claims by the City's employees, or any other person, and all claims for damages arising out of, in connection with, or incident to the City's performance or failure to perform any maintenance activities as specified within this agreement.
9. **CANCELLATION:** If, at any time during the term of this agreement, WDFW or the City determines that there is evidence of noncompliance with any of the terms and conditions of this agreement, WDFW or the City, may at its option cancel this agreement. The City or WDFW shall be notified in writing and allowed a period of thirty (30) days to correct the condition of noncompliance. If correction is not effected within the thirty day period, WDFW or the City, may, at its option, notify the City or WDFW by certified mail of such cancellation. Upon cancellation, all rights conveyed by this agreement shall automatically revert to WDFW without the necessity of further legal action. **This Agreement may be temporarily suspended at the sole discretion of the Director of WDFW in emergency situations.**
10. **TERMINATION:** This agreement may be terminated at any time at either party's request by providing a 60 day written notice. Upon termination of the agreement all cooperative signs shall be removed within 60 days and remain the property of WDFW.
11. **SURRENDER OF PREMISES:** In the event of cancellation or at termination of this agreement, as provided herein, the City shall vacate and deliver up the premises in as good or better condition as at time of occupancy, reasonable wear and tear and damage by the elements specifically excepted. The City shall have the right for a period of sixty (60) days from the date of notice to remove all improvements constructed by the City, those improvements not removed shall become the property of WDFW without further process.
12. **AMENDMENTS/ALTERATIONS:** Any future amendments or alterations to this agreement must be made in writing and signed by authorized representatives from WDFW and the City.
13. **SEVERABILITY:** If any covenant or provision of this agreement shall be adjudged void, such adjudication shall not affect the validity, obligation or performance of any other covenant or provision, or part thereof, which in itself is valid if such remainder conforms to the terms and requirements of applicable law and the intent of this agreement.
14. **VENUE:** In the event of a lawsuit involving this agreement, jurisdiction and venue shall be proper only in the State of Washington, Thurston County Superior Court.

15. **ENTIRE AGREEMENT/INTEGRATION:** This document contains the entire agreement between the parties, and no statement, promise, representation, inducement or agreement made by WDFW or its agents or employees that is not contained in this written agreement shall be valid, binding or enforceable. By signature below, the parties warrant that they have read and understood the agreement and agree to be bound by its terms.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as below subscribed.

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

Date

Jim Lux, Acting Assistant Director

CITY OF POULSBO

7-19-99
Date

Bruce
Mayor

Approved _____ Date _____
Regional Director