

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 4. d.
Date: March 5, 2019
Subject: Clean Water Facility/Windjammer
Park – Puget Sound Energy
Electrical Easement

FROM: Cathy Rosen, Public Works Director and Jim Bridges, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

- ⊙ Bob Severns, Mayor
- ⊙ Blaine Oborn, City Administrator
- ⊙ Patricia Soule, Finance Director
- ⊙ Nikki Esparza, City Attorney, as to form

RECOMMENDED ACTION

Authorize the Mayor to sign the PSE Electrical Easement to provide electrical power service to the Windjammer Park.

BACKGROUND / SUMMARY INFORMATION

The City of Oak Harbor is reconstructing Windjammer Park. As part of this project, Puget Sound Energy (PSE) will be providing new commercial power sources at both the east and west ends of the park. As part of the service PSE requires an easement for access to the transformers and vaults. Attached is the easement document granting that access.

This easement covers the south portion of the SE City Beach Street Right of Way. The facilities were located in the right of way to minimize impacts to the park and in anticipation of vacating that right of way. The Windjammer Park Integration Plan anticipated vacating that right of way in the future. At that time a public utility easement will be placed over the right of way.

LEGAL AUTHORITY

FISCAL IMPACT

Funds Required: \$0.00

Appropriation Source: Wastewater Fund

PREVIOUS COUNCIL / BOARD / CITIZEN INPUT

July 7, 2015 – City Council authorized the Mayor to issue a notice to proceed with Schedule 74 design with Puget Sound Electric (PSE) in the not to exceed amount of \$6,900 to underground power lines along City Beach St.

February 15, 2016 –City Council authorized the Mayor to sign a Schedule 74 Construction Agreement with Puget Sound Energy in the not to exceed amount of \$81,900 to underground power lines along City Beach and to sign a temporary service agreement with Puget Sound Energy in the amount \$32,052.94.

March 7, 2016 –City Council authorized the Mayor to sign Commercial Line Extension Agreement with Puget Sound Energy in the not to exceed amount of \$337,444.40 to provide industrial power service to the Clean Water Facility.

December 18, 2018 –City Council authorized the Mayor to sign the Commercial Line Extension Agreement with Puget Sound Energy in the amount of \$36,314.35 provide electrical power service to the Windjammer Park.

ATTACHMENTS

1. [PSE Easement](#)

RETURN ADDRESS:

**Puget Sound Energy, Inc.
Attn: Real Estate/Right of Way
1660 Park Lane
Burlington, WA 98233**



EASEMENT

REFERENCE: N/A
GRANTOR: CITY OF OAK HARBOR
GRANTEE: PUGET SOUND ENERGY, INC.
SHORT LEGAL: PTN SW ¼, SEC 2, TWN 32 N, RNG 1 E
ASSESSOR'S PROPERTY TAX PARCEL: R13202-106-0750

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **CITY OF OAK HARBOR**, a Washington municipal corporation ("Grantor" herein), insofar as Grantor has rights or title, or any hereafter acquired rights or title, hereby conveys and grants to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("Grantee" herein), for the purposes hereinafter set forth, a nonexclusive perpetual easement over, under, along across and through the following described real property ("Property" herein) in Island County, Washington:

THE ENTIRE SE CITY BEACH ST. (70TH SW ST) RIGHT OF WAY STARTING 252.37 FEET SOUTH OF THE INTERSECTION OF SE BAYSHORE DR AND SE CITY BEACH ST. (70TH SW ST) THEN SOUTH TO THE END OF SAID STREET AS SHOWN ON CITY OF OAK HARBOR BOUNDARY LINE ADJUSTMENT BND 15.02, RECORDED ON JANUARY 22, 2016 UNDER ISLAND COUNTY AUDITOR'S FILE No. 4392975.

A DIAGRAM IS ATTACHED HERETO AS EXHIBIT "A" AS A VISUAL AID ONLY.

1. Purpose. Grantee shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, and enlarge one or more utility systems for purposes of transmission, distribution and sale of electricity. Such systems may include, but are not limited to:

Underground facilities. Conduits, lines, cables, vaults, switches and transformers for electricity; fiber optic cable and other lines, cables and facilities for communications; semi-buried or ground-mounted facilities and pads, manholes, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing.

Following the initial construction of all or a portion of its systems, Grantee may, from time to time, construct such additional facilities as it may require for such systems. Grantee shall have the right of access to the Easement Area over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.

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

3. Trees Outside Easement Area. Grantee shall have the right to cut, trim, remove and dispose of any trees located on the Property outside the Easement Area that could, in Grantee's sole judgment, interfere with or create a hazard to Grantee's systems. Grantee shall, prior to the exercise of such right, identify such trees and make a reasonable effort to give Grantor prior notice that such trees will be cut, trimmed, removed or disposed of (except that Grantee shall have no obligation to identify such trees or give Grantor such prior notice when trees are cut, trimmed, removed or otherwise disposed of in response to emergency conditions). Grantor shall be entitled to no compensation for trees cut, trimmed, removed or disposed of except for the actual market value of merchantable timber (if any) cut and removed from the Property by Grantee.

4. Grantor's Use of Easement Area. Grantor reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Grantor shall not construct or maintain any buildings, structures or other objects on the Easement Area and Grantor shall do no blasting within 300 feet of Grantee's facilities without Grantee's prior written consent.

5. Indemnity. Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor or the negligence of others.

6. Abandonment. The rights herein granted shall continue until such time as Grantee ceases to use the Easement Area for a period of five (5) successive years, in which event, this easement shall terminate and all rights hereunder, and any improvements remaining in the Easement Area, shall revert to or otherwise become the property of Grantor; provided, however, that no abandonment shall be deemed to have occurred by reason of Grantee's failure to initially install its systems on the Easement Area within any period of time from the date hereof.

7. Successors and Assigns. Grantee shall have the right to assign, apportion or otherwise transfer any or all of its rights, benefits, privileges and interests arising in and under this easement. Without limiting the generality of the foregoing, the rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns.

DATED this _____ day of _____, 2019.

GRANTOR:

CITY OF OAK HARBOR

By: Robert Severns, Mayor

STATE OF WASHINGTON)
) ss
COUNTY OF ISLAND)

On this _____ day of _____, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Robert Severns**, to me known or proved by satisfactory evidence to be the person who signed as Mayor of the City of Oak Harbor, the Washington municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed and the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned; and on oath stated that he was authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington,
residing at _____

My Appointment Expires: _____

EXHIBIT "A"

