

After recording return document to:  
ROBERT A. CARMICHAEL  
CARMICHAEL CLARK, P.S.  
P.O. BOX 5226  
BELLINGHAM, WA 98227

**DOCUMENT TITLE:**  
SHARED PARKING AGREEMENT

**REFERENCE NUMBER OF RELATED DOCUMENT:**

**GRANTOR:**  
CITY OF LYNDEN, a Washington municipal corporation

**GRANTEE:**  
P2H, LLC, a Washington limited liability company

**ABBREVIATED LEGAL DESCRIPTION(S):**  
LOT 3, BLK 11, SUPPLEMENTAL AND CORRECTED PLAT OF LYNDEN  
LOT 1 & PTN LOT 2, BLOCK 9; PTNS LOTS 3-4, BLOCK 10; AND LOT 1 AND PTN LOT 2, BLOCK 12, ALL OF  
SUPPLMNTL & CORRECTED PLAT OF LYNDEN

***Full legal at page 11 & 12 hereto.***

**ASSESSOR'S TAX PARCEL NUMBER(S):**  
400320 303322 0000  
400320 322333 0000  
400320 202260 0000  
400320 240304 0000

## **AGREEMENT FOR SHARED PARKING**

This agreement for shared parking (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the City of Lynden, a municipal corporation organized under the laws of the state of Washington (“City” or “Lynden”) and P2H, LLC, a limited liability company, organized under the laws of the state of Washington.

**WHEREAS**, the Vision Policies within the City Comprehensive Plan promotes cooperation between business owners, citizens and city officials to encourage economic vitality in the City; and

**WHEREAS**, the City Downtown Development Plan calls for economic enhancement of the Historic Business District of Lynden by encouraging diversity and mixed uses, improving economics for business owners, encouraging joint public/private partnerships, making the Historic Business District attractive to visitors, and increasing the community’s tax base; and

**WHEREAS**, P2H, LLC is in the process of adding three (3) residential units in the downtown Historic Business District at the property legally described in Exhibit A (“Property”); and

**WHEREAS**, the Property is benefited by this Agreement; and

**WHEREAS**, the Property, per Lynden Municipal Code 19.51.160, is required to provide one on-site parking stall per residential unit; and

**WHEREAS**, the Property is dominated by the existing structure with no reasonable ability to provide on-site parking; and

**WHEREAS**, the City owns property currently used for parking in the vicinity of the Property, for which it has excess capacity; and

**WHEREAS**, City-owned properties currently used for parking within 300 feet of the Property and burdened by this agreement, are legally described in Exhibit B attached hereto and depicted in Exhibit C (“City Parking Properties”); and

**WHEREAS**, parking for retail and professional services during peak business hours and parking for the residences in off-peak hours can be complementary uses rather than competing uses; and

**WHEREAS**, current use patterns have demonstrated a capacity for additional parking use in off-peak hours; and

**WHEREAS**, the residential units within the Historic Business District will generate additional customers within walking distance of downtown business; and

**WHEREAS**, the City intends to issue to residents of the Property parking permits to manage and enforce the rights and privileges created by the license the City grants P2H, LLC herein; and

**WHEREAS**, in particular, the City intends to issue up to three (3) permits pursuant to the license (“License- Based Permits” or “Permits”); and

**WHEREAS**, each Permit shall allow its holder to park one (1) vehicle in one (1) parking space, consistent with the terms herein; and

**WHEREAS**, the foregoing recitals are a material part of this Agreement;

**NOW THEREFORE**, the Parties agree as follows:

## **AGREEMENT**

### **I. License**

- A. Grant of License: The City hereby grants P2H, LLC a license for ingress and egress over City Parking Properties, and non-exclusive possession for purposes of parking, of three (3) automobile parking stalls on City Parking Properties (“License”). The License shall be terminable or revocable only as set forth herein and shall be assigned by P2H, LLC only as set forth herein.
- B. Consideration: The consideration for this License shall be the annual Permit Fee described in Section II(C)(ii), which must be timely paid to maintain the Permits in good standing.
- C. Number of Permits: Up to a maximum of three (3) License-Based Permits shall be issued pursuant to this License.
- D. Termination of License and License-Based Permits. The City may, at its sole option, refuse to re-issue or renew some or all of the three (3) License-Based Permits, without cause, when said Permits become due for annual renewal. If the City intends to exercise this termination option, it shall inform P2H, LLC in writing at least one hundred eighty (180) days in advance. If the City refuses to re-issue or renew all three (3) License-Based permits, the License granted under subsection A herein shall be terminated.

## II. Additional Terms

- A. Scope. This Agreement allows residents of the Property in possession of a valid and unexpired Permit the right to park on the City Parking Properties, to accommodate up to three (3) residential units as described herein:
- i. Scope of Parking. The Permits will allow residents of the Property to park vehicles overnight and as needed on the City Parking Properties for residential use. The use of the City Parking Properties by residents is subordinate to the City's use of the City Parking Properties and may be temporarily suspended on an as-needed bases, such as to accommodate the City's special event permits which utilize City parking lots, and development, maintenance, repair, or snow clearing of the City Parking Properties. Neither this Agreement nor the Permits are intended to grant or assign any particular parking spot(s) on City Parking Properties or provide a right to park on a particular lot designated as one of the City Parking Properties. This Agreement and the Permits do not expand the privileges of the residents of the Property at any other parking location, including street parking.
  - ii. Nonexclusive Use. Subject to the terms herein, this Agreement grants P2H, LLC nonexclusive use of the City Parking Properties. The City reserves the right to use the City Parking Properties as it sees fit and reserves the right to grant other licenses, easements, and parking permits for the City Parking Properties without notice to P2H, LLC. This Agreement does not guarantee such parking will be available to Permit holders at the designated City Parking Properties at any given time, nor does it provide P2H, LLC or their residents with the right to remove or cause the removal of vehicles parked at the City Parking Properties.
  - iii. Lot at 324 Front Street (4<sup>th</sup> Street Parking Lot): The Lot located at 324 Front Street is to be the Primary Parking for residents of the Property with valid Permits. Other City Parking Properties described at Exhibit B

and depicted at Exhibit C shall be used only when this primary parking lot is in use or otherwise has limited availability. Parking availability may be limited when these parking lots accommodate the City's special event permits, development, maintenance, repair, or snow clearing of City Properties.

- iv. Applicability of Lynden Municipal Code and Additional Prohibitions. This Agreement and the Permits do not exempt Permit holders from conforming to the Lynden Municipal Code and any other City rules or restrictions on parking on City Parking Properties as they exist now or in the future, except as otherwise specifically stated in this Agreement. Permit holders are prohibited from conducting any type of vehicle cleaning, maintenance, or repair while parked in City Parking Properties.

- B. Addition or Removal of City Parking Properties from this Agreement. The City may permanently remove any one City Parking Property from this Agreement by notifying P2H, LLC in writing. No prior notice of such removal is required. The City may permanently remove a second City Parking Property from this Agreement within 180 days' prior written notice to P2H, LLC. The Parties anticipate that they may amend this Agreement to add additional city-owned parking lots to the City Parking Properties or to swap a city-owned parking lot not included in this Agreement for one of the City Parking Properties.

C. Parking Permits-Issuance, Use and Termination.

- i. Permits issued annually. Upon receipt of the annual fees due, the City shall annually issue the Permit to P2H, LLC to distribute to owners and/or renters of units with the Property. Prior to issuance of the Permits, P2H, LLC shall provide the City the name of each resident to be issued a License-Based Permit.
- ii. Fee for Permits: An annual fee for a Historic Business District residential parking permit, established by City ordinance and subject to annual review and adjustment, will be due at the time of issuance. The initial

annual fee will be two hundred and forty dollars (\$240.00) per License-Based Permit.

- iii. Permit Use: Valid Permits must be displayed in the vehicles parking overnight in the City Parking Properties. Permits shall only be used by the resident to which it was issued and shall not be used by third parties. Permits found to be used by third parties who are not residents of the Property shall be subject to City action under subsections (C)(iv) and (C)(v) herein. Vehicles displaying expired Permits or vehicles parking overnight in parking areas not included in this Agreement will be subject to parking enforcement.
  - iv. Suspension and Revocation of License-Based Permits and Termination of License for Cause. In the event that the City believes P2H, LLC or a License-Based Permit holder has improperly used any Permits issued under grant of the License, the City agrees to contact P2H, LLC. Should such Permit-related issues not be resolved to the City's satisfaction, the City may in its sole discretion temporarily suspend or permanently revoke the License-Based Permit(s) without issuing a refund of the Permit fee. In the event of such a Permit revocation, the City may in its discretion terminate the License upon which said Permit was granted, effective upon providing written notice thereof to P2H, LLC.
  - v. Termination of License-Based Permits Without Cause. The City may in its sole discretion decline to renew or re-issue up to all three (3) of the Permits issued pursuant to the grant of License, as set forth in Section I.D herein.
  - vi. Extinguishment of Recorded License. Upon termination of the License authorizing issuance of License-Based Permits, the City may record an extinguishment of the License with the County Auditor.
- D. Term. The term of this Agreement initiates upon issuance of the initial certificate of occupancy for residential use at the Property.
- E. Indemnification. P2H, LLC. shall fully indemnify and hold the City harmless for

any claims, losses, liabilities, damages, and expenses (including reasonable attorney's fees) arising out of the ingress, egress, use or occupation of one or more of the City Parking Properties by an owner, employee, resident, invitee of the resident, agent, contractor, or subcontractor of the owner or operation of the P2H, LLC. or by any person doing business with P2H and other commercial or non-profit tenants located at the Property.

F. Insurance. P2H, LLC shall maintain, at its own expense, for the benefit of itself and the City, insurance against liability for property damage or loss and against liability for personal injury or death, arising from acts or omissions of P2H, LLC, its owners, agents, subcontractors, employees, tenants, residents, and invitees or guests of tenants or residents. Prior to commencement of this Agreement, P2H, LLC, shall deliver to the City certificates or binders evidencing the existence of the insurance required herein. Such policy or policies shall name the City as an additional insured, and shall contain a provision whereby the City must receive at least thirty (30) days' prior written notice of any cancellation or reduction in P2H, LLC's insurance coverage. In addition, should P2H, LLC be notified or have reason to expect a termination or cancellation action by its insurance company, P2H, LLC will provide the City with at least thirty (30) days advance written notice. Any reduction or cancellation in the coverage or limits shown here, or any failure to provide proof of the required insurance or to timely provide the notice required herein shall constitute a material breach of this Agreement and be cause for immediate termination of this Agreement and the License granted herein, and immediate revocation of all Permits used.

P2H, LLC shall possess the following insurance with coverage amounts not less than as specified below:

General and Excess Liability	\$ One Million per occurrence/ \$ Two Million aggregate
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G. Notice: All notices or demands to be given by any Party to any other Party pursuant to this Agreement shall be deposited in the United States mail, postage prepaid, by first-class mail and addressed to:

P2H, LLC.  
7122 287<sup>th</sup> Pl. NW.  
Stanwood, WA 98292

CITY OF LYNDEN  
Attn: Public Works Director  
300 4<sup>th</sup> Street  
Lynden WA 98264

Notices and demands sent by mail shall be deemed to have been given and delivered when property mailed and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

- H. Non-Waiver of Breach. Failure of either party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.
- I. Governing Law and Venue. Any dispute arising out of this Agreement shall be governed by the laws of the State of Washington. The venue shall be in Whatcom County Superior Court.
- J. All Remedies at Law and Equity Available. In the event of a breach of this Agreement, all remedies in law and equity shall be available to the Parties, including the remedy of specific performance.
- K. Attorney's Fees and Costs. In the event of any cause of action or litigation arising out of an alleged breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs from the other Party.
- L. Complete Agreement; Modification in Writing. This Agreement constitutes the entire agreement as to the matters contained herein. No oral or written statements shall be considered a part of this License unless expressly incorporated herein in writing. This Agreement may not be modified or amended except by the written agreement of the Parties.



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date specified above.

**CITY OF LYNDEN**

**P2H, LLC:**

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By: Scott Korthuis  
Its: Mayor

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By: Robert Hicks  
Its: Managing Member

STATE OF WASHINGTON )

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COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that SCOTT KORTHUIS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the MAYOR of the CITY OF LYNDEN to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2023.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington. My Commission expires \_\_\_\_\_.

STATE OF WASHINGTON )

)§

COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that ROBERT HICKS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the MANAGING MEMBER of P2H, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2023.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington. My Commission expires \_\_\_\_\_.

**EXHIBIT A**  
**BENEFITTED PROPERTY**

Parcel Number 400320 303322 0000

The East half of the South half of Lot 3, Block 11, "Supplemental and Corrected Plat of Lynden," Whatcom County, Washington, as per the map thereof, recorded in Book 3 of Plats, page 48, in the Auditor's Office of said county and state, also the Westerly 15 feet of the Southerly 140 feet of Lot 4, Block 11, "Supplemental and Corrected Plat of Lynden," Whatcom County, Washington, as per the map thereof, recorded in Book 3 of Plats, page 48, in the Auditor's Office of said county and state.

Situate in Whatcom County, Washington

**EXHIBIT B**  
**CITY PARKING PROPERTIES**

**PRIMARY PARKING:**

324 Front Street (4<sup>th</sup> Street Parking Lot) – Parcel Number 400320 322333 0000

All of Lot 1 together with the west half of Lot 2 in Block 12 of the “Supplemental and Corrected Plat of Lynden,” as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor’s Office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

Situate in Whatcom County, Washington.

**SUPPLEMENTAL PARKING:**

618 Front Street (7<sup>th</sup> Street Parking Lot) – Parcel Number 400320 202260 0000

Lots 1 and 2 of Block 9, except the easterly 2 feet of said Lot 2 of the “Supplemental and Corrected Plat of Lynden,” as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor’s Office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M. Together with rights in a party wall agreement recorded in Volume 240 of Deeds, Page 79.

Situate in Whatcom County, Washington.

Parking Lot between 5<sup>th</sup> and 6<sup>th</sup> Streets – Parcel Number 400320 240304 0000

The East 25 feet of Lot 3 together with the west 25 feet of Lot 4 in Block 10 of the “Supplemental and Corrected Plat of Lynden,” as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor’s Office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

Situate in Whatcom County, Washington.

**EXHIBIT B  
CITY OWNED PARKING PROPERTIES**

