



City of Port Orchard Council Meeting Agenda
March 22, 2022
6:30 p.m.

Mayor:
 Rob Putaansuu
 Administrative Official

Councilmembers:
 Mark Trenary
 E/D & Tourism Committee, **Chair**
 Utilities/Sewer Advisory Committee
 Transportation Committee
 KRCC-alt

Shawn Cucciardi
 Finance Committee
 E/D & Tourism Committee
 Lodging Tax, **Chair**

Fred Chang
 Economic Development & Tourism Committee
 Land Use Committee
 Transportation Committee

Jay Rosapepe
 Finance Committee,
 Land Use Committee
 KRCC, PSRC-alt, PSRC Transpol-alt, KRCC Transpol-alt, KRCC Planpol-alt,

John Clauson
 Finance Committee, **Chair**
 Utilities/Sewer Advisory Committee
 Kitsap Public Health District-alt

Cindy Lucarelli (Mayor Pro-Tempore)
 Festival of Chimes & Lights Committee, **Chair**
 Utilities/Sewer Advisory Committee,
 Kitsap Economic Development Alliance

Scott Diener
 Land Use Committee, **Chair**
 Transportation Committee

Department Directors:
 Nicholas Bond, AICP
 Development Director

Mark Dorsey, P.E.
 Director of Public Works/City Engineer

Tim Drury
 Municipal Court Judge

Noah Crocker, M.B.A.
 Finance Director

Matt Brown
 Police Chief

Brandy Wallace, MMC, CPRO
 City Clerk

Meeting Location:
 Council Chambers, 3rd Floor
 216 Prospect Street
 Port Orchard, WA 98366

Contact us:
 (360) 876-4407
 cityhall@cityofportorchard.us

The City is conducting its public meetings remotely to prevent the spread of COVID. The City is providing options for the public to attend through telephone, internet or other means of remote access, and also provides the ability for persons attending the meeting (not in-person) to hear each other at the same time. Therefore;

Remote access only

Link: <https://us02web.zoom.us/j/88655295302>

Zoom Webinar ID: 886 5529 5302

Zoom Call-In: 1 253 215 8782

Guiding Principles

- Are we raising the bar?
- Are we honoring the past, but not living in the past?
- Are we building connections with outside partners?
- Is the decision-making process positively impacting diversity, equity, and inclusion?

1. CALL TO ORDER

- A. Pledge of Allegiance**

2. APPROVAL OF AGENDA

3. CITIZENS COMMENTS

*(Please limit your comments to **3 minutes** for items listed on the Agenda and that are not for a Public Hearing. Please keep your comments respectful and no personal attacks. This is a comment period and not a question-and-answer session. When recognized by the Mayor, please state your name for the official record. If you are attending remotely via telephone, enter *9 from your keypad to raise your hand.*

4. CONSENT AGENDA

(Approval of Consent Agenda passes all routine items listed below, which have been distributed to each Councilmember for reading and study. Consent Agenda items are not considered separately unless a Councilmember so requests. In the event of such a request, the item is returned to Business Items.)

- A. Approval of Vouchers and Electronic Payments**
- B. Approval of Payroll and Direct Deposits**
- C. Approval of the March 8, 2022, City Council Meeting Minutes *Page 3***

5. PRESENTATION

6. PUBLIC HEARING

- A. Draft Ordinance Amending Port Orchard Municipal Code Chapter 5.60 Fireworks (Bond) *Page 8***

7. BUSINESS ITEMS

- A. Adoption of an Ordinance Amending the 2021-2022 Biennial Budget (Crocker) **Page 20**
- B. Adoption of a Resolution Approving a Contract with McCormick Communities, LLC Regarding Credits for Water Capital Facility Charges (Bond) **Page 25**
- C. Adoption of a Resolution Authorizing the Purchase of Kitsap County Tax Parcel No. 4027-022-001-0004 for the Bay Street Pedestrian Pathway Project (Dorsey) **Page 42**
- D. Approval of Memorandums of Understanding with Teamsters Local 589 Representing Police Support Staff, Municipal Court Employees and Public Works Employees (Lund) **Page 72**

8. DISCUSSION ITEMS (No Action to be Taken)

- A. Continued: Veterans Park

9. REPORTS OF COUNCIL COMMITTEES

10. REPORT OF MAYOR

11. REPORT OF DEPARTMENT HEADS

12. CITIZEN COMMENTS

*(Please limit your comments to **3 minutes** for any items not up for Public Hearing. When recognized by the Mayor, please state your name for the official record. If you are attending remotely via telephone, enter *9 from your keypad to raise your hand.)*

13. EXECUTIVE SESSION: Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

14. CITY COUNCIL GOOD OF THE ORDER

15. ADJOURNMENT

COMMITTEE MEETINGS

Date & Time

Location

Economic Development and Tourism	April 18, 2022; 9:30am; 3 rd Monday of each month	Remote Access
Utilities	April 12, 2022; 5:00pm	Remote Access
Finance	April 19, 2022; 5:00pm; 3 rd Tuesday of each month	Remote Access
Transportation	March 22, 2022; 4:30pm; 4 th Tuesday of each month	Remote Access
Festival of Chimes & Lights	March 21, 2022; 3:30pm; 3 rd Monday of each month	Remote Access
Land Use	April 20, 2022; 4:30pm – 3 rd Wednesday of each month	Remote Access
Lodging Tax Advisory	TBD	Remote Access
Sewer Advisory	May 18, 2022; 6:30pm	Remote Access
Outside Agency Committees	Varies	Varies

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.
 The Council may consider other ordinances and matters not listed on the Agenda, unless specific notification period is required.
 Meeting materials are available on the City’s website at: www.cityofportorchard.us or by contacting the City Clerk’s office at (360) 876-4407.
 The City of Port Orchard does not discriminate on the basis of disability. Contact the City Clerk’s office should you need special accommodations.



**City of Port Orchard
Council Meeting Minutes
Regular Meeting of March 8, 2022**

1. CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Lucarelli	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Present via Remote Access
Councilmember Diener	Present via Remote Access
Councilmember Trenary	Present via Remote Access
Councilmember Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via remote access: Public Works Director Dorsey, Police Chief Brown, Senior Planner Fisk, City Attorney Archer, City Clerk Wallace and Deputy City Clerk Floyd.

The meeting also streamed live on YouTube.

A. PLEDGE OF ALLEGIANCE (Time Stamp: 0:00:29)

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

2. APPROVAL OF AGENDA (Time Stamp: 0:00:57)

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to approve the agenda as published.

The motion carried.

3. CITIZENS COMMENTS (Time Stamp: 0:01:37)

There were no citizen comments.

4. CONSENT AGENDA (Time Stamp: 0:02:22)

A. Approval of Voucher Nos. 83673 through 83681 including bank drafts in the amount of \$135,916.76 and EFT's in the amount of \$905.62 totaling \$136,822.38.

- B.** Approval of Payroll Check Nos. 83682 through 83687 including bank drafts and EFT's in the amount of \$218,222.75 and Direct Deposits in the amount of \$203,743.74 totaling \$421,966.49.

MOTION: By Councilmember Diener, seconded by Councilmember Clauson, to approve the consent agenda.

The motion carried.

5. PRESENTATION

6. PUBLIC HEARING (Time Stamp: 0:02:57)

A. Petition to Vacate City Right-of-way, the Southern Portion of Opened Bay Street

Mayor Putaansuu opened the public hearing at 6:36 p.m.

Roberta Huth thanked Council for considering this matter and noted she is available should anyone have any questions about a letter she submitted to the Council for consideration.

There being no more testimony, Mayor Putaansuu closed the public hearing at 6:38 p.m.

7. EXECUTIVE SESSION (Time Stamp: 0:08:10)

At 6:39, p.m., Mayor Putaansuu recessed the meeting for a 30-minute executive session pursuant to RCW 42.30.110(1)(i) relating to legal risks of a proposed action where public discussion may have adverse legal impacts to the City. City Attorney Archer and Public Works Director Dorsey were invited to attend, and City Attorney Archer noted action will follow.

At 7:09 p.m., Mayor Putaansuu extended the executive session an additional 10-minutes.

At 7:19 p.m., Mayor Putaansuu reconvened the meeting back into session.

8. BUSINESS ITEMS (Time Stamp: 0:09:25)

A. Adoption of an Ordinance Approving the Petition to Vacate City Right-of-Way, the Southern Portion of Opened Bay Street

City Attorney Archer explained the drafted ordinance does not reduce the appraised rate or waive the fee, so the motion would need to include the stated amount of compensation sought. An amendment would need to be made to add a section that states the Council agrees to waive the appraisal and review fee if Council chooses to do so.

MOTION: By Councilmember Clauson, seconded by Councilmember Rosapepe, to adopt an ordinance, vacating 200 square feet of City right-of-way, the Southern portion of opened Bay Street as presented, and adjusting Section 8 the appraisal vacation price to \$9,500 and add a section to waive the appraisal fee and review fee as requested.

**The motion carried.
(Ordinance No. 010-22)**

B. Approval of the 2022 Comprehensive Plan Amendment Docket

MOTION: By Councilmember Diener seconded by Councilmember Chang, to approve the 2022 Comprehensive Plan amendment agenda pursuant to POMC 20.04.060, as presented.

The motion carried.

C. Approval of Amendment No. 1 to Contract No. 001-22 with MurrySmith, Inc. for the 2022 On-Call/Modeling Update Services

MOTION: By Councilmember Lucarelli, seconded by Councilmember Clauson, to authorize the Mayor to execute Amendment No. 1 to Contract No. C001-22 with Murraysmith, Inc. for 2022 On-Call/Modeling Update Services for the City's Water Systems, thereby increasing the budget authority in the amount of \$100,000, for a total amended contract amount of \$180,000.

The motion carried.

D. Approval of the February 15, 2022, City Council Work Study Meeting Minutes

MOTION: By Councilmember Rosapepe, seconded by Councilmember Cucciardi, to approve the minutes as presented.

The motion carried. Councilmember Clauson abstained.

E. Approval of the February 22, 2022, City Council Meeting Minutes

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to approve the minutes from the regular meeting of February 22nd.

The motion carried. Councilmembers Cucciardi and Diener abstained.

9. DISCUSSION ITEMS (No Action to be Taken) (Time Stamp: 0:32:45)

A. Continued: Veterans Park

Mayor Putaansuu noted significant cleanup efforts by volunteers and a contract company within the past couple days. He addressed concerns with the RV parking near Mile Hill Drive.

Additional discussion was held regarding photos taken by the code enforcement officer, clean-up efforts, trash and garbage vendor, dumpsters, portable toilets, parked RV and expansion of items and outreach, public health and safety issues, violations and vehicles parking within the County right-of-way at north end of the park.

Council Direction: No direction was given to staff.

10. REPORTS OF COUNCIL COMMITTEES (Time Stamp: 0:42:12)

Mayor Putaansuu reported the Economic Development and Tourism Committee is scheduled to meet March 14th [March 21st]. The Utilities Committee is scheduled to meet April 12th. The Finance Committee was scheduled to meet March 15th, but the meeting will need to be rescheduled. The Transportation Committee is scheduled to meet March 22nd. The Land Use Committee is scheduled to meet March 16th. The Sewer Advisory Committee is scheduled to meet May 18th. The City Council Retreat is scheduled for March 11th.

Councilmember Lucarelli reported the Festival of Chimes and Lights Committee is scheduled to meet March 21st.

Councilmember Cucciardi reported the Lodging Tax Advisory Committee is scheduled to meet March 9th.

11. REPORT OF MAYOR (Time Stamp: 0:44:23)

The Mayor reported on the following:

- Fireworks survey;
- Community Events Center update and survey;
- Cancellation of the March 15th Work Study meeting due to lack of items; and
- In accordance with Ordinance 008-20 Delegating Authority to the Mayor for Creating and Modification of Job Descriptions, he reported on job description updates for the Finance Director.

12. REPORT OF DEPARTMENT HEADS (Time Stamp 0:46:22)

City Attorney Archer reported while she is out of the office, City Attorney Robertson will be available for any Council questions.

City Clerk Wallace reported on special event applications and digital signatures.

Police Chief Brown reported on new legislation related to police departments and awards to police employees.

13. CITIZEN COMMENTS (Time Stamp: 0:49:49)

There were no citizen comments.

14. GOOD OF THE ORDER (Time Stamp: 0:50:36)

Councilmember Rosapepe spoke to inflation impacts.

15. EXECUTIVE SESSION

The executive session was held earlier in the meeting.

16. ADJOURNMENT

The meeting adjourned at 8:05 p.m. No other action was taken. Audio/Visual was successful.

Brandy Wallace, MMC, City Clerk

Robert Putaansuu, Mayor

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO FIREWORKS; AMENDING CHAPTER 5.60 OF THE PORT ORCHARD MUNICIPAL CODE (“POMC”), AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Washington regulates the sale, discharge, and display of fireworks under Chapter 70.77 RCW; and

WHEREAS, for many years the City and its elected officials have received numerous complaints regarding the discharge of both legal and illegal fireworks; and

WHEREAS, the City Council believes that prohibiting fireworks, with a limited exception for large-scale display shows subject to a City-issued permit, would enhance the health, safety, and welfare of the public; and

[Insert additional findings once survey is complete]

WHEREAS, chapter 70.77 RCW authorizes cities to adopt fireworks ordinances that are more restrictive than state law, but such ordinances may only become effective one year after their adoption; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Port Orchard Municipal Code 5.60.010 is hereby amended to read as follows

5.60.010 ~~Permit and state license required – Fee Sales, possession, use, and discharge of fireworks unlawful.~~

It is unlawful for any ~~No~~ person, firm or corporation ~~shall to~~ import, manufacture, transport (except as a public carrier delivering to a licensee), possess, store, sell or offer to sell at retail or wholesale or discharge fireworks inside the city limits of the city of Port Orchard ; provided, that this prohibition shall not apply to duly authorized public displays. Any item of fireworks which does not meet the State of Washington Fire Marshal’s approval in conformity with RCW Chapter 70.77, as amended shall be deemed dangerous and is prohibited by this chapter. ~~without first obtaining a permit from the city and a license from the state of Washington. The fee for obtaining a city permit shall be \$100.00 per year payable in advance.~~

SECTION 2. Port Orchard Municipal Code 5.60.015 is hereby amended to read as follows

5.60.015 Public display of fireworks Fireworks permits required – Forms and deadlines.

(1) It is unlawful for any person to hold, conduct, or engage in any public display of fireworks within the city without first having obtained and being the holder of a valid permit under the provisions of this chapter.

~~(1)~~ (2) Applications for permits required by this chapter shall be submitted in such form and detail as prescribed by the Cityfire authority. A separate application shall be required for each site and activity. Applications shall include, at a minimum:

(a) The application fee;

(b) Copy of appropriate state licenses;

(c) A site or discharge plan;

(d) The names, addresses and telephone numbers of the applicant(s) and responsible party(ies); and

(e) When applicable, a description of the proposed activity detailing how it satisfies the conditions set forth under POMC 5.60.020.

~~(2)~~ (3) Permit applications shall be received by the DCD permit center for review by the Cityfire authority:

~~(a) No later than 4:30 p.m. on the last official city work day in May for retail sales;~~

~~(b) No~~ no later than 4:30 p.m. at least 40 business days prior to the date of an intended public display; and

~~(c) Prior to commencing a permitted activity for all other uses.~~

~~(3)~~ (4) Pursuant to RCW 70.77.280, the city council hereby designates the Director of the Department of Community Development ~~chief of the fire authority~~ or his or her designee as the person with the authority to grant or deny permits that are sought pursuant to this chapter.

~~(4)~~ (5) Permits issued pursuant to this chapter are nontransferable.

SECTION 3. Port Orchard Municipal Code 5.60.020 is hereby amended to read as follows

5.60.020 Conditions for sales of fireworks and public display – Permit issuance.

A permit for the ~~sale of fireworks or for~~ public display of fireworks shall be issued only upon the following terms and conditions:

(1) The applicant shall have a valid and subsisting license issued by the state of Washington authorizing the holder thereof to engage in the fireworks business, a copy of which shall be filed with the DCD permit center.

~~(2) For sales of fireworks, the applicant shall obtain a business license from the city.~~

~~(2)(3)~~ The applicant shall have and keep in full force and effect a policy of insurance approved by the city attorney saving the city harmless for any acts of the licensee in the following amounts: \$500,000 or more for injury to any one person in one accident or occurrence, \$1,000,000 for injury to more than one person for any one accident or occurrence, \$300,000 for injury to property in any one accident or occurrence. Proof of insurance coverage shall be included with the application for a permit and shall be filed with the DCD permit center.

~~(4) For sales of fireworks, the location of the proposed place of business shall comply with the zoning ordinances of the city.~~

~~(5) Applicant shall post a \$50.00 deposit conditioned upon the prompt removal of the temporary stand and/or the cleaning up of all debris from the site. If the applicant removes such temporary stand and cleans up all the debris before the tenth day of July each year, he shall be entitled to the return of his \$50.00 deposit.~~

~~(3)(6) Public displays of fireworks shall comply with the provisions of RCW 70.77.280 in that the fire authority shall determine whether the proposed display would pose a hazard to property or a danger to persons. The fire authority shall prepare a written report detailing the findings and recommendations for or against the issuance of the permit. The fire authority report shall be filed with the DCD permit center.~~

SECTION 4. New Section 5.60.025 of the Port Orchard Municipal Code is hereby enacted to read as follows

5.60.025 Permit Fees.

The annual fee for a “public display” permit for the public display of fireworks shall be \$100, payable in advance.

SECTION 5. Port Orchard Municipal Code 5.60.030 is hereby repealed.

SECTION 6. Port Orchard Municipal Code 5.60.040 is hereby repealed.

SECTION 7. Port Orchard Municipal Code 5.60.050 is hereby repealed.

SECTION 8. Port Orchard Municipal Code 5.60.055 is hereby amended to read as follows

5.60.055 Prohibition due to extreme fire danger.

The mayor, after consulting with ~~at~~ the fire authority, and other officials as may be deemed appropriate, may prohibit the discharge of all fireworks during periods of extreme fire danger. ~~In addition, the city council may, after conducting a public hearing, adopt by resolution emergency limitations or prohibitions on the sale of fireworks during periods of extreme fire danger.~~ Such emergency limitations or prohibitions shall be temporary and the reasons necessitating the emergency limitations or prohibitions shall be clearly defined in the resolution.

SECTION 9. Ratification. All acts taken pursuant to the authority of this Ordinance but prior to its effective date are hereby ratified.

SECTION 10. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 11. Savings Clause. Those portions of Chapter 5.60 of the Port Orchard Municipal Code which are repealed by this ordinance shall remain in force and effect until the effective date of this ordinance. Such repeals shall not be construed as affecting any existing right acquired under the laws repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder.

SECTION 12. Effective Date. This ordinance shall be in full force and effect twelve (12) months after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this ___ day of _____ 2022.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

SPONSORED BY:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

From: [cory holmberg](#)
To: [Planning Mailbox](#)
Subject: Fireworks
Date: Thursday, March 10, 2022 11:06:53 AM

Good morning/ afternoon/ evening,

The Banning of fireworks inside Port Orchard City limits

To whom it may concern on this topic.

Let's think and be logical and not think on this topic emotionally.

Limiting freedoms...

Is this something you, the City of Port Orchard really want to do? Something you want to do during a pandemic where people are already stressed, wanting more things to do? Do you really want to incite a ban on fireworks and not have it go through a vote of the people? (We have seen the public outrage on the tab fee ordinance, people voted and the state did the opposite.)

Public Safety...

Instead of banning fireworks in the City of Port Orchard, the city should put out public safety flyers and or have the stands put out flyers when selling to customers on how to do fireworks safely. The state has a firework safety program through the WSP. Maybe you could ask them how they do it. I have attended a meeting with the guy they have who is in charge of their firework safety program. He is very knowledgeable and would say that he too would be against a ban.

Provided below is a link to one of the WSP informational pages on safety.

<https://www.wsp.wa.gov/2021/07/01/fireworks-safety-tips-for-independence-day-celebrations/>

I understand that some years are dryer then others. And those years you could use the emergency temporary ban. But years where it's not an issue. I do not see why this should be enacted.

Sending revenue to other towns/cities...

Let's say you ban fireworks in Port Orchard. You, the City of Port Orchard are only hurting yourselves and its local businesses. You are now going to send all of those potential firework customers to other towns/city's or the tribe to buy there fireworks. I would say most of these people are going to not just go buy fireworks when they are going out to buy them in a different town. They will buy lunch or dinner out (loss of revenue), they may do there grocery shopping in that town for convince while buying there fireworks elsewhere (loss of revenue). Is the city really ok with losing revenue from the impact of banning fireworks in the city of Port Orchard? Yes it's only for a week, but that is a week of potential losses for the city of Port Orchard to take. Banning fireworks will cause a domino effect. Again, this will only hurt the City of Port Orchard and its businesses due to revenue losses.

Local groups and teams...

If you do ban them you are hurting local citizens. There are local citizens who go out on a limb to pre purchase these fireworks to sell to the community. You would be sticking them with a huge amount of debt

by doing this. Your stands like TNT, these stands are all ran by local youth groups to fundraise for their groups and teams. A portion of their proceeds go towards these groups to help raise funds for stuff like new gear, or fuel, etc. Stuff that they normally could not afford to do if they did not have this extra income. It is one of the quickest and easiest ways for these groups to raise money for their organization. Banning fireworks would be detrimental to these local groups.

They're going to do it anyways whether you ban the sale and discharge or not.

No matter if you ban them or not, people are going to go buy there fireworks and discharge them. You do not have a police force large enough to even police this. The state of WA has made sure of that. All that banning fireworks will do is piss off more and more people. The state is already trying to pass through new laws and or mandates restricting people's freedoms. Do you want to be a local government who does the same?

Here is an example for you. This is the state of California, in Los Angeles, where fireworks are also banned. <https://youtu.be/tIvdcdogC6k>

Here is another example for those of you who have kids, this will make sense.

Your kid asks you (Mom) can I have a cookie. Mom says no. what does the kid do in return? Do they listen to what Mom said? Probably not, what do they actually do? They go ask dad if they can have a cookie. Dad being dad, of course you can have a cookie.

See where I'm going with this? Same concept applies to adults. You tell them no you can't do that, they are going to do the opposite of what you say. Especially when it comes to one of their freedoms.

I believe if you ban fireworks you will be receiving the inverse reaction to what you want. You are going to make the dude who goes to the stand to buy 200\$ worth want to go buy 500\$ now. Just out of spite because you decided to take away one of their freedoms. When you have stands in your local community you also have more control over what fireworks come into your town. If you ban them, people are still going to do it, most likely even more people, and those people are going to spend even more money buying them. Now they will go to a different town to buy them or even the tribe (which carries some of the illegal fireworks in our state.) By allowing fireworks to be sold in our town you are also limiting the amount of people who go to the tribe to buy these fireworks. Most people don't want to be bothered to go from Port Orchard all the way to Tacoma or Suquamish to buy regular fireworks, but if you ban the sale of them in Port Orchard that feeling of not wanting to travel to those places might just happen.

If you do for some reason decide to stick with the banning of consumer fireworks in Port Orchard, then I would highly suggest making your 4th of July show on the waterfront a much bigger and extravagant show. The city will need to help supplement this show. People want to see a good show. Have a good time. Be with friends. By limiting yet another freedom that only happens once a year you are stripping away yet another part of the community. A vast majority of our citizens love fireworks. Not all of them are ones to set them off but most like to see them safely go off in the night sky and celebrate our nation's independence.

I sincerely hope that you really hear the community and get them involved on this topic not just barely put out any effort into notifying the community over it. Let's get people involved and have the end result be what's best for the majority of its citizens not the few.

Thank you for hearing me out,

Cory

From: [Rob Putaansuu](#)
To: [Nick Bond](#)
Cc: [Brandy Wallace](#)
Subject: FW: Fireworks Survey
Date: Sunday, March 13, 2022 10:15:16 AM

Nick, I believe you're collecting the comments for our public process? If not let me know.

[Rob Putaansuu](#)
City of Port Orchard Mayor

Please be aware that e-mails which pertain to City business may be considered public records and may be subject to public disclosure laws. If you think that you have received this e-mail message in error, please notify the sender via e-mail or telephone at 360.876.4407.

From: M Neiner <mneiner@gmail.com>
Sent: Friday, March 11, 2022 7:36 PM
To: Rob Putaansuu <rputaansuu@cityofportorchard.us>
Subject: Fireworks Survey

Dear Mayor,

I recently took the survey.

The first question is problematic

Do I support the City banning or restricting fireworks in the City?

The City already restricts / Bans the sale and use of fireworks to certain days and times of the year. I support those current City ordinances. So I answered Yes.

This bounced me to a second question which I answered and the survey was over.

The survey never got to my concerns nor did it really address the new Total Ban.

Honestly, I am not opposed to a new Ban on sales and use. My concern is the impact on non profits.

It's hard enough to raise money. Car washes , a once rather uncomplicated event, has evolved due to environmental concerns. Not worth the effort. I think a robust discussion and understanding of the impact to fund raising should be had before the city does the ban. If the City taketh away, what are they doing to mitigate the impact.

I recommend you take a look at that first survey question. It is posed as if the City doesn't restrict fireworks already.

Respectfully

Mike Neiner
PORT ORCHARD.

From: [Nick Bond](#)
To: [Jenine Floyd](#)
Subject: Fwd: Comments for Public Hearing on Fireworks Ordinance
Date: Wednesday, March 16, 2022 6:25:55 PM

Please add this comment to the packet on the fireworks issue.

Get [Outlook for iOS](#)

From: MARK BEECHER <markdbeecher@comcast.net>
Sent: Wednesday, March 16, 2022 6:25:00 PM
To: Planning Mailbox <Planning@cityofportorchard.us>; Shawn Cucciardi <SCucciardi@cityofportorchard.us>; Jay Rosapepe <jrosapepe@cityofportorchard.us>; Scott Diener <sdiener@cityofportorchard.us>; John Clauson <jclauson@cityofportorchard.us>; Cindy Lucarelli <clucarelli@cityofportorchard.us>; Fred Chang <fchang@cityofportorchard.us>; Mark Trenary <mtrenary@cityofportorchard.us>
Subject: Comments for Public Hearing on Fireworks Ordinance

To Port Orchard City Council,

I am writing regarding the upcoming city council meeting discussion about revisions to Port Orchard Municipal Code Section 5.60. I would like to voice opposition to any more restrictive laws regarding the sale and use of consumer fireworks. While I do not currently live within Port Orchard City Limits, I frequent the area, and purchase my fireworks from licensed retailers that operate within and around Port Orchard.

I support sensible and regulated use of all consumer fireworks. Restricting the sale and/or use of consumer fireworks will drive retailers out of City limits, into areas of Unincorporated Kitsap County or surrounding cities. This will have an obvious impact on seasonal employment, potential tax revenue, as well as permit fees. Additionally, a majority of the fireworks retailers are operated for non-profits and charity organizations for fundraising.

According to WSP State Fire Marshall's Office (latest data available):
Approximately 1.5% of fires in our region (Region 1) over five years were caused by explosives and fireworks (104 out of 6,627 total fires). This is less than the statewide average (approximately 2.4%). This category includes non-fireworks explosive devices, further reducing the number of firework-only fires.
Over 11% of the injuries last year were from illegal fireworks (27 of 237 total injuries). There was a 2.7% decrease of fireworks-related incidents over the last year, and a 12% decrease in fireworks related injuries.
Kitsap county only accounted for 30 of the 537 fireworks related incidents from last year (9 fires and 21 injuries, less than 6% of the statewide total).

This data reflects that the use of fireworks is generally safe, with a trend towards less injuries and fires than previous years. This is despite the fact that prior to the last year data was available, there were partial bans across much of our region due to dry/hazardous conditions. This shows that responsible and safe fireworks use is

obtainable without restricting the sale or use of consumer fireworks.

John Adam's suggested, of celebrating our nations independence, that "It ought to be commemorated, as the Day of Deliverance by solemn Acts of Devotion to God Almighty. It ought to be solemnized with Pomp and Parade, with Shews, Games, Sports, Guns, Bells, Bonfires and Illuminations from one End of this Continent to the other from this Time forward forever more." I support the sentiment of his writing. I would encourage enforcement of the current laws, and focusing on educating the public on safe fireworks use before any outright bans or restrictions were put into place.

I would request that you not vote to make any existing laws regarding the sale and use of consumer fireworks more restrictive than what the state currently allows.

Respectfully,
Mark Beecher



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7A</u>	Meeting Date:	<u>March 22, 2022</u>
Subject:	<u>Adoption of an Ordinance</u>	Prepared by:	<u>Noah D. Crocker</u>
	<u>Amending the 2021-2022</u>		<u>Finance Director</u>
	<u>Biennial Budget</u>	Atty Routing No:	<u>N/A</u>
		Atty Review Date:	<u>N/A</u>

Summary: The City Budget is written to capture revenue and expenses over the fiscal period. During the biennial period, changes to the budget in both revenue and expenditures need to be recognized by a Budget Amendment.

By this ordinance, the City Council would amend the 2021 – 2022 Biennial Budget, as adopted by Ordinance No. 035-20 and amended by Ordinance No.015-21, Ordinance No. 032-21, Ordinance No. 050-21, Ordinance No. 056-21, Ordinance No. 065-21, Ordinance No. 007-22.

The proposed budget amendment is intended to provide the following:

1) Fund 109: Real Estate Excise Tax Fund

- a. Increase transfer out to Fund 304 for the Bay Street Pedestrian Pathway ROW acquisition in the amount of \$125,000
- b. Reduction of 2022 ending fund balance by \$125,000 reflecting impact of the transfer

2) Fund 111: Impact Fee Fund

- a. Increase revenue by \$300,000 to account for school impact fee revenue estimated to be received
- b. Increase expenses by \$300,000 to account for school impact fee revenue to be remitted to the school district

3) Fund 304: Street Capital Projects

- a. Increase transfers in from Fund 109 for the Bay Street Pedestrian Pathway project in the amount of \$125,000
- b. Increase expenditure authority for the Bay Street Pedestrian Pathway ROW acquisition in the amount of approximately \$125,000

Recommendation: The Finance Director recommends adoption of an Ordinance amending the 2021–2022 Biennial Budget.

Relationship to Comprehensive Plan: 2020 Transportation Improvement Plan No. 1.2

Motion for consideration: I move to adopt an ordinance, amending the 2021-2022 Biennial Budget, as adopted by Ordinance No. 035-20 and as amended.

Fiscal Impact: See Table below

Alternatives: Do not authorize and provide alternative guidance

Attachments: Ordinance.

Governmental Funds (Operating, Stabilization, Special, Debt Service)			
Fund: 109 - Real Estate Excise Tax	2021-2022 Current (Amended Biennial Budget No. 007.22)	2021-2022 Budget Amendment	2021-2022 Amended Biennial Budget No. XXX-2022
Beginning Fund Balance	\$ 3,266,592	\$ -	\$ 3,266,592
Revenue	\$ 2,927,400	\$ -	\$ 2,927,400
Expense	\$ 2,427,200	\$ 125,000	\$ 2,552,200
Ending Fund Balance	\$ 3,766,792	\$ (125,000)	\$ 3,641,792
Fund: 111 - Impact Mitigation Fee	2021-2022 Current (Amended Biennial Budget No. 007.22)	2021-2022 Budget Amendment	2021-2022 Amended Biennial Budget No. XXX-2022
Beginning Fund Balance	\$ 2,311,467	\$ -	\$ 2,311,467
Revenue	\$ 1,695,000	\$ 300,000	\$ 1,995,000
Expense	\$ 2,500,000	\$ 300,000	\$ 2,800,000
Ending Fund Balance	\$ 1,506,467	\$ -	\$ 1,506,467
Governmental Capital Construction			
Fund: 304 - Street Capital Projects	2021-2022 Current (Amended Biennial Budget No. 007.22)	2021-2022 Budget Amendment	2021-2022 Amended Biennial Budget No. XXX-2022
Beginning Fund Balance	\$ 1,732,515	\$ -	\$ 1,732,515
Revenue	\$ 6,046,333	\$ 125,000	\$ 6,171,333
Expense	\$ 6,800,400	\$ 125,000	\$ 6,925,400
Ending Fund Balance	\$ 978,448	\$ -	\$ 978,448

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING THE 2021–2022 BIENNIAL BUDGET AS ADOPTED BY ORDINANCE NO. 035-20, AND AMENDED BY ORDINANCE NOS. 015-21, 032-21, 050-21, 056-21, 065-21 and 007-22 TO RECOGNIZE EXPENDITURES AND REVENUES NOT ANTICIPATED AT THE TIME OF THE ADOPTION OF THE 2021–2022 BIENNIAL BUDGET; PROVIDING FOR TRANSMITTAL TO STATE; PROVIDING FOR PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orchard adopted its 2021 – 2022 Biennial Budget via Ordinance No. 035-20, which was previously amended by Ordinance Nos. 015-21, 032-21, 050-21, 056-21, 065-21 and 007-22; and

WHEREAS, the City desires to keep current on budget amendments; and

WHEREAS, it is necessary to consider adjustments to accounts and/or funds by means of appropriation adjustments that could not have been anticipated at the time of passage of the 2021 – 2022 Biennial Budget; and

WHEREAS, by this Ordinance, the City Council amends the 2021-2022 Biennial Budget to accommodate necessary adjustments as set forth herein; and

WHEREAS, the City entered into a interlocal agreement with the South Kitsap School District No. CO35-22 to collect and remit impact fees to the school district of which additional revenue and expenditure authority will be required for fund 111; and

WHEREAS, the City will transfer up to \$125,000 from fund 109 to fund 304 for the Bay Street Pedestrian Pathway Project and will spend the \$125,000 additional funding on the Bay Street Pedestrian Pathway Project for ROW acquisition; and

WHEREAS, the City will purchase right of way property and pay for relocation and moving Benefit cost estimated at approximately \$920,000 from Fund 304 for the Bay Street Pedestrian Pathway Project; and

WHEREAS, the City Council has considered the proposed budget amendments and finds that amendments authorized by this Ordinance are consistent with applicable laws and financial policies, and further the public's health, safety and welfare; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 4. Corrections. Upon approval of the city attorney, the city clerk and the codifiers of this ordinance are authorized to make necessary technical corrections to this ordinance, including, without limitation, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

SECTION 5. This Ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 22nd day of March 2022.

Rob Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

John Clauson, Councilmember

PUBLISHED:

EFFECTIVE DATE:



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: Business Item 7B
Subject: Adoption of a Resolution Approving a
Contract with McCormick Communities,
LLC Regarding Credits for Water Capital
Facility Charges

Meeting Date: March 22, 2022
Prepared by: Nick Bond
DCD Director
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: The City of Port Orchard’s municipal water system serves a majority of the McCormick Woods and McCormick West areas, which are owned by McCormick Communities, LLC (“McCormick”). Due to a variety of reasons, including a state Department of Ecology decision regarding water rights, the City has been unable to provide water to these areas as agreed to in a 1998 contract according to the schedule desired by McCormick. Therefore, McCormick desires to construct the public water service facilities necessary to serve its future development in exchange for credits against the CFCs owed on future housing development as authorized in POMC 13.04.030.

In the proposed agreement, McCormick would build 5 projects as follows:

- a. CIP No. 9: Well 12 Development, Treatment, and Booster Pump Station (\$7,000,000)
- b. CIP No. 13: 390 to 580 Zone Booster Station, 2nd Lift (Glenwood) (\$725,000)
- c. CIP No. 14: 390 to 580 Zone Transmission Main (to Glenwood PS) (\$515,624)
- d. CIP No. 15: 580 to 660 Zone Booster Station; (\$750,000)
- e. CIP No. 16: 660 Zone Storage (\$2,850,000)

Pending certification of construction costs, McCormick would receive up to \$11,840,625 in total CFC credit on 2,000 lots with the per ERU credit totaling \$5,920. If the total spent on improvements is less than \$11,840,625, the credits would be extended to fewer lots. The per ERU credit is indexed to inflation as is the City’s CFC charge.

Importantly, the agreement also includes a release from the obligations made by the city in the 1998 purchase and sale agreement for the McCormick Water system. As part of the consideration to the city contained in this agreement, the city is considering two corresponding agreements to extend entitlements at McCormick Woods and West.

McCormick has commenced work on the five CIP projects and has already expended approximately \$500,000 towards design and construction. Upon receiving documentation of expenditures, the granting of CFC credits would commence, likely within 30 days after approval of the proposed agreement.

Relationship to Comprehensive Plan: All 5 projects proposed for construction are identified in the City's Comprehensive Plan (and Water System Plan).

Recommendation: Staff recommends that the City Council authorize the Mayor to sign an Agreement between the City of Port Orchard and McCormick Communities, LLC, regarding credits for capital facility charges.

Motion for consideration: "I move to adopt a resolution authorizing the Mayor to sign an Agreement between the City of Port Orchard and McCormick Communities, LLC, regarding credits for water capital facility charges."

Fiscal Impact: The proposed agreement will result in a private developer constructing 5 projects on the city's water CIP totaling approximately \$11.840,625. This will save the City money by reducing risk and removing construction management responsibilities for the 5 projects while allowing City staff to advance other projects. The City's existing CFC rates include the costs of the 5 projects and the City's CFC credit code allows the City to provide credits in circumstance such as these. If an agreement was not reached, it would be the City's responsibility to design and construct these 5 projects using CFC and other funds. If the City built these projects, it would carry the risk associated with cost overruns. Under the terms of the 1998 agreement, the City had made certain commitments to do work and is being released from these liabilities under the new CFC agreement.

Alternatives: Revise the proposed Agreement; do not enter into an Agreement.

Attachments: Resolution, Agreement, Exhibit A to Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD AUTHORIZING THE MAYOR TO EXECUTE A CAPITAL FACILITY FEE CREDIT AGREEMENT IN ACCORDANCE WITH POMC 13.04.030 WITH MCCORMICK COMMUNITIES, L.L.C.

WHEREAS, the City of Port Orchard owns and operates a municipal water system that services the area where McCormick Communities, LLC is developing a master planned housing project (“the Project”); and

WHEREAS, in order to serve the Project, water infrastructure improvements are needed; and

WHEREAS, these improvements consist of the following:

- i. CIP No. 9: Well 12 Development, Treatment, and Booster Pump Station (\$7,000,000)
- ii. CIP No. 13: 390 to 580 Zone Booster Station, 2nd Lift (Glenwood) (\$725,000)
- iii. CIP No. 14: 390 to 580 Zone Transmission Main (to Glenwood PS) (\$515,624)
- iv. CIP No. 15: 580 to 660 Zone Booster Station; (\$750,000)
- v. CIP No. 16: 660 Zone Storage (\$2,850,000); and

WHEREAS, the Developer of the Project is willing to install these water facilities which will serve both the Project and the general public in the McCormick area; and

WHEREAS, the Port Orchard Municipal Code Section 13.04.030 allows the City to provide a credit for Capital Facility Charges (CFC) for excess capacity provided when a developer builds water projects; and

WHEREAS, ordinance 058-21 provided that development in McCormick Woods and McCormick West would be eligible for credit regardless of whether excess capacity was provided by the improvement; and

WHEREAS, the Developer is eligible to obtain CFC credits as set forth in POMC 13.04.030 for the 5 projects to be constructed as described in the CFC Credit Agreement; and

WHEREAS, the City Council finds it in the public interest to authorize the Mayor to execute the proposed Capital Facility Charge Credit Agreement with McCormick Communities, L.L.C. which is attached to this Resolution as Exhibit “1”; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Agreement Authorized. The Mayor is hereby authorized to execute Capital Facility Charge Credit Agreement with McCormick Communities, L.L.C. in substantially the form attached hereto as Exhibit "1".

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 22nd day of March 2022.

Robert Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

CREDIT AGREEMENT FOR CAPITAL FACILITY CHARGES

This CREDIT AGREEMENT FOR CAPITAL FACILITY CHARGES (“Credit Agreement”) is entered into between the City of Port Orchard, a Washington municipal corporation (“City” or “Port Orchard”) and McCormick Communities, LLC, a Washington limited liability company (“McCormick”). City and McCormick are each a “Party” and together the “Parties” to this Credit Agreement.

RECITALS

- A. The City owns and operates a municipal water system that services the areas known as McCormick Woods and McCormick West, which together comprise hundreds of acres of land owned by McCormick as depicted in **Exhibit A** (the “McCormick Property”).
- B. Many acres of the McCormick Property have received preliminary plat approval, and other acres have received final plat approval, and McCormick has sold some of the resulting lots to builders.
- C. One area of the McCormick Property is served by the City of Bremerton water system, but the majority of the McCormick Property is served by the McCormick Woods water system which is owned and operated by the City of Port Orchard, and is within the area previously served by the McCormick Water Company, Inc. On September 1, 1998 the City purchased the assets of the McCormick Water Company, Inc. and undertook by contract the obligation to serve the McCormick Property (“1998 PSA”).
- D. On December 30, 2015 McCormick Communities, LLC purchased the assets of McCormick Land Company and GEM1, LLC and assumed their obligations with certain exceptions. These purchases included assignments of rights and interest to all entitlements, including water and water rights as well as all claims. Therefore, McCormick is the only remaining party (apart from the City) with an interest in the 1998 PSA.
- E. Due to a variety of reasons, including the *Foster v. Department of Ecology* decision regarding water rights, the City has been unable to provide water to the McCormick Property as agreed-to in the 1998 PSA on the schedule desired by McCormick. If the City could not timely provide these water services, then under the 1998 PSA McCormick has the right to select a different purveyor to provide water service for future development. Instead, McCormick desires to construct the additional public facilities needed to serve its future development and the City agrees to provide credits for water connection fees as reimbursement as authorized in POMC 13.04.030.
- F. On July 10, 2007, Port Orchard and the prior owner of the McCormick Property, GEM 1, LLC (“GEM”) entered into a REIMBURSEMENT AGREEMENT FOR UTILITY SYSTEM IMPROVEMENTS (“2007 Agreement”), in which the City and GEM agreed that the City was “unable to fund” the Water Facilities described and depicted in Exhibit A to this 2007 Agreement, which were needed to serve the McCormick Property, and the

CREDIT AGREEMENT FOR CAPITAL FACILITY CHARGES

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City and GEM agreed that if GEM constructed these Water Facilities, GEM would receive reimbursement as described in this 2007 Agreement.

- G. GEM chose not to construct these Water Facilities, but the 2007 Agreement remains in effect and McCormick as owner and developer of the McCormick Property is GEM's successor-in-interest to the 2007 Agreement.
- H. On February 9, 2021 the City Council approved the FIRST AMENDMENT TO 2007 REIMBURSEMENT AGREEMENT FOR UTILITY SYSTEM IMPROVEMENTS ("First Amendment") in which the City and McCormick agreed to amend the list of projects in the 2007 Agreement, and McCormick agreed to (1) improve the City's Well 12 water campus; (2) construct a new 580 zone reservoir up to 1.1 million gallons in size; (3) construct a second transmission main between the new 580 zone reservoir and the then-existing water system within McCormick Woods, in order to facilitate future separation of the Port Orchard and Bremerton water systems; and to (4) drill and make operational a pilot well at the proposed location of a new Well 12.
- I. Pursuant to the First Amendment, the Parties also agreed to negotiate in good faith to enter into subsequent agreements to (1) determine appropriate reimbursement for McCormick's Well 12 project; (2) address construction of a future 660 Zone reservoir and booster pump station; (3) address construction of traffic improvements; (4) extend existing entitlements; and (5) address full waiver of McCormick's claims against the City and the parties' agreement on satisfaction of performance under the 1998 PSA.
- J. Pursuant to this First Amendment, McCormick is constructing these improvements to the City's water system at a cost of approximately \$4 million, for which McCormick is receiving \$1,000 reimbursement per equivalent residential unit ("ERU") that connects to the City's water system within the Western Service Area depicted in the 2007 Agreement. McCormick expects to receive, over time, approximately \$2.4 million in reimbursement for up to 2,400 lots within the Western Service Area, resulting in a shortfall in reimbursement of at least \$1.6 million in addition to the shortfall from the time value of McCormick's \$2.8 million investment.
- K. At least five additional improvements to the City's water system are needed to enable the City to serve the McCormick Property. The City has included these five additional improvements in the current Capital Improvement Plan that the City Council adopted by Ordinance No. 022-21 on May 11, 2021. These improvements, hereinafter described as the "Five CIP Projects" are listed below, together with the estimated cost of the improvement to be funded by capital facility charges ("CFCs"):
 - a. CIP No. 9: Well 12 Development, Treatment, and Booster Pump Station (\$7,000,000)
 - b. CIP No. 13: 390 to 580 Zone Booster Station, 2nd Lift (Glenwood) (\$725,000)
 - c. CIP No. 14: 390 to 580 Zone Transmission Main (to Glenwood PS) (\$515,624)
 - d. CIP No. 15: 580 to 660 Zone Booster Station; (\$750,000)

CREDIT AGREEMENT FOR CAPITAL FACILITY CHARGES

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- e. CIP No. 16: 660 Zone Storage (\$2,850,000)
- L. The current CIP estimates the total CFC-funded cost of these Five CIP Projects to be \$11,840,625.
- M. The Five CIP Projects must be constructed in order for the City to supply water to the McCormick Property as agreed-to in the 1998 PSA between the City and the McCormick Water Company.
- N. In addition, approval of water rights for Well 12 and the City's Well 11 projects are needed in order to provide adequate water supplies for McCormick's development and the City at large. The City is working diligently as part of the *Foster* pilot program to secure these water rights. However, whether these water rights are ultimately secured and on what schedule will be determined by the Department of Ecology.
- O. These Five CIP Projects will enable the City to serve not only the McCormick Property, but also existing and future development outside the McCormick Property. The 660 Zone Storage (CIP No. 16), together with the 580 Zone Storage that McCormick is constructing pursuant to the First Amendment, will increase the City's total water storage capacity by 50% in all pressure zones. The 660 Zone Storage will be located at one of the highest elevations in the City, which will enable this storage, together with the transmission facilities being constructed by McCormick, to serve the entire City in the event of shortfalls in water supply or storage in other areas of the City.
- P. Both the 580 and the 660 zone water Storage being constructed by McCormick are sized to serve areas outside of the McCormick Property, and to serve all future growth in the 580 pressure zone. Without these improvements, only a limited number of new homes could be constructed in the McCormick Property or in any of the other properties in the 580-pressure zone unless Port Orchard and Bremerton enter into an updated agreement for Port Orchard to buy additional water supplies for an extended period.
- Q. The drilling and activation of Well 12 will provide added supply to the City's current 580 pressure zone so that Port Orchard will no longer need to purchase water from the City of Bremerton. This will enable Port Orchard, together with its activation of Well 11, to separate its water system from Bremerton's, so that Port Orchard can manage its water quality policy (e.g., provide fluoridation) independently.
- R. In anticipation of execution of this Credit Agreement, McCormick has commenced work on the Five CIP Projects and at the time of execution of this Credit Agreement has expended approximately \$400,000 towards design and construction and has provided certified project costs to establish these expenditures to the City prior to the effective date of this Agreement.

- S. In order for the City to fulfill its obligations to provide water to the McCormick Property under the 1998 PSA, and in order for McCormick to continue to develop its property, the City and McCormick agree as follows:

AGREEMENT

1. **Reaffirmation of Prior Agreements.** The City and McCormick affirm that the First Amendment to 2007 Reimbursement Agreement for Utility System Improvements remains in effect, as do the un-amended sections of the 2007 Reimbursement Agreement.
2. **McCormick Performance of Five CIP Projects.** McCormick will finance and construct the Five CIP Projects described in Recital K, as described in the Summary of Improvements attached to this Credit Agreement. The Parties recognize and agree that McCormick’s scope of work and this Summary of Improvements may change as these Projects are engineered, and such changes will be discussed with the City, and, if approved, will be reflected in future CIPs.

Water CFC Credit. As partial compensation, McCormick will receive credit against water CFCs for each ERU developed within the McCormick Property. This credit shall be a specific dollar amount which will reflect the CFC-funded costs of the Five CIP Projects, divided by the number of ERUs that McCormick is expected to develop within the McCormick Property (2,000). At the time of this Agreement, the current CIP estimates the total CFC-funded cost of these Five CIP Projects to be \$11,840,625, so the Water CFC Credit shall be \$5,920:

Maximum Eligible Project (Five CIP Project Total Costs)	\$ 11,840,625
Eligible ERU’s (McCormick Property)	2,000
Water Capital Facility Charge Credit per ERU	\$ 5,920

This credit per ERU of \$5,920 shall be adjusted each year in accordance with the CPI-U referenced in POMC 13.04.065, and also if the City amends its water capital facilities charge and adjusts the cost estimates for any of the 5 CIP Projects described in recital K above as part of that future capital facilities charge amendment.

Estimated Maximum Water CFC Credit. The maximum amount for the Water CFC Credit shall be the lesser of \$11,840,625, as adjusted per this Section 2, or the certified project cost established in Section 11, whichever is lower (hereinafter “Maximum Water CFC Credit”). In no case shall the Maximum Water CFC Credits granted by the City exceed \$11,840,625 as adjusted per this section.

Water CFC Credits per ERU will be applied up to the Maximum Water Credit Value for the 20-year terms described in Section 6 below, or until the Maximum Water Credit Value is fully exhausted, whichever occurs first. The final credit applicant may receive partial credit depending on the Maximum Water Credit Value remaining.

The Maximum Water CFC Credit hereunder is an estimate only based on the CIP project cost estimates. The Parties will determine the final Maximum Water CFC Credit in accordance with the certification procedures set forth in Section 11. If the certified costs are less than \$11,840,625, then the fixed credit will still be applied but only to the extent needed to capture the Maximum Water CFC Credit, i.e., the ERU water credits provided will never exceed the certified project costs. This means that some of the 2,000 estimated ERUs may receive partial or no Water CFC Credit so that the total credits do not exceed either the certified project costs or Maximum CFC Credit, whichever is less.

3. **Value of Projects.** McCormick and the City anticipate that McCormick will construct the Five CIP Projects within the next five years (although drilling of Well 12 may take longer because the City needs to first secure water rights under the *Foster* program), but McCormick will receive the anticipated credit per ERU over the next 20 years. When the \$11,840,625 invested by McCormick in the Five CIP Projects is adjusted for the time value of money over 20 years, the additional financing cost to McCormick is between \$1,933,991 and \$2,544,900, depending on the rate at which new ERUs are developed. While this financing cost is not reimbursable under this CFC Credit Agreement, it presents significant public benefit to the City and constitutes consideration both for the City entering into this Agreement, and for new or amended Development Agreements to extend the existing preliminary plat approvals within the McCormick Property, so that sufficient ERUs remain available to provide the credits needed to defray a meaningful percentage of the costs of financing and building the Five CIP Projects.
4. **Other Agreements.** The consideration for this Agreement includes the subsequent execution by the City and McCormick of amendments to the following agreements to extend for twenty years the periods of preliminary plat approval of two of the subdivisions within the McCormick Property that create the lots whose development will create the ERUs for which the City will charge CFCs:
 - a. Annexation Agreement No. 085-11, McCormick West, recording number 201112190136; and
 - b. Development Agreement for McCormick Woods Phases III, IV, and V Preliminary Plats, recording number 201309160217;
5. **Project Performance Standards.** McCormick will finance, design, and construct the Five CIP Projects to comply with City and other applicable standards, including obtaining all necessary permits. This includes, as applicable, review and approval by the Washington State Department of Health, Office of Drinking Water. The City will approve the plans before construction begins.
6. **Effective date; term; concurrency.** This Credit Agreement is effective immediately upon its execution and shall continue for the 20-year terms of the Annexation Agreement and the Development Agreement being amended pursuant to Section 4 above. The Water CFC Credits shall be applied to connections within the McCormick Property and such credits shall continue to be available up to the cumulative amount certified in the initial or annual report(s) plus the value of any posted bond, provided that McCormick continues to make

timely progress on the Five CIP Projects, including providing the City with the annual reports as set forth in Section 7 below. The development of 2,000 ERUs within the McCormick Property is expected to be concurrent with the City's water system so long as the Five CIP Projects are developed as set forth in this Agreement, including the City's obtaining additional adequate water supply along with the related water rights under *Foster* from Well 11, Well 12 and/or Well 13 to serve these ERUs. Assuming these conditions are met, the City will reserve water capacity for these 2,000 ERUs. Approval of this Agreement by the City Council is equivalent to issuance of a capacity reservation certificate (CRC) under POMC Chapter 20.180. The capacity reservation shall expire if this Agreement is not subsequently executed by the Mayor, and once executed, the capacity reservation will expire with this Agreement.

7. **Annual Reporting; Bonding.** McCormick shall by December of each year provide a report, signed, and stamped by a licensed engineer and accompanied by supporting documentation, to the City demonstrating the approximate ongoing total of its investment in the Five CIP Projects, together with the approximate total of credits per ERU received within the McCormick Property. In addition, at any time of the year, McCormick may submit project-specific reports, signed, and stamped by a licensed engineer and accompanied by supporting documentation, to the City at the conclusion of each of the Five CIP Projects in order to commence the completion process outlined in Section 9. As each of the Five Projects is commenced, McCormick's shall post a bond for completion of that project in order to secure its completion and transfer to the City. This shall be required in order to have Water CFC Credits apply in accordance with this Agreement. For purposes of this section, "commenced" means commencement of construction. However, the costs of such bond(s) may be included in the Maximum Water CFC Credit calculation, provided however, that the Maximum Water CFC Credit in no case may exceed \$11,840,625. Bonds may be released for each of the Five Projects in accordance with the requirements for project completion contained in POMC 13.04.030. At no time shall the total CFC credits being issued exceed the then balance of the certified project costs plus the value of any bond that is then in place.
8. **McCormick Shall Grant Property Rights to the City.** All intellectual data, including but not limited to engineering work, surveys, plan sets, and designs initiated by McCormick and its engineers and/or consultants for the Five CIP Projects shall be provided to the City upon request and McCormick will provide the City with ownership rights in the intellectual data so that if McCormick fails to complete any of the Projects, the City will have all of the rights necessary to utilize the intellectual data in order to complete the work. In addition, McCormick agrees that for any real property where any portion of any of the Five CIP Projects is located that is not in currently the City's ownership at the time this Agreement is executed, that McCormick will provide property rights to the City, in the form of an easement or dedication, that will provide the City all of the rights necessary to enter and utilize that property in perpetuity for the purposes of owning, operating, maintaining, improving, expanding, or constructing water facilities. These property rights shall be provided to the City no later than the time period described in Section 11 below, however, if McCormick fails to complete the Project(s) in accordance with this Agreement,

McCormick will be required to promptly transfer the property rights to the City upon its default or abandonment of work on the Project(s).

9. **Completion of Five CIP Projects.** With the exception of the Well 12 Project which may be delayed due to water rights issues, McCormick agrees that it will complete the Five CIP Projects within five (5) years of the execution date of this Agreement. The City shall diligently pursue water rights for Well 12, and McCormick shall complete Well 12 within this five-year performance period, or within twenty-four (24) months of the granting of the required water rights, whichever period is longer. Upon completion of each of the Five CIP Projects as outlined hereunder, the City may accept responsibility for the operation in accordance with POMC 13.04.030 provided construction is completed, the Project has been accepted, any transfer of property documents are completed, accepted, and recorded, and a two-year warranty and maintenance bond is in place, such acceptance not to be unreasonably conditioned, withheld or denied. In accordance with POMC 13.04.030(6), the Project will be deemed completed when all of the following occurs: 1. The City deems it substantially complete; 2. All punch list items are finished; 3. The improvement passes final inspection; 4. McCormick has put a two-year warranty and maintenance bond in place; 5. The City releases the performance bond (if applicable); 6. McCormick has completed all property dedications; 7. McCormick has provided the City with a Bill of Sale for the improvements containing the certified construction costs (stamped by licensed engineer) to the City for determination of the maximum credits available under this Agreement; and 8. The City Council accepts the project as public. The City will confirm completeness of the CIP Project by issuing a Final Notice of Completeness to McCormick.

10. **Force Majeure.** Notwithstanding anything to the contrary in this Agreement, any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorist acts, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, governmental laws, regulations or restrictions, civil commotions, Casualty, actual or threatened public health emergency (including, without limitation, epidemic, pandemic, famine, disease, plague, quarantine, and other significant public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including, without limitation, any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto, breaches in cybersecurity, and other causes beyond the reasonable control of the party obligated to perform, regardless of whether such other causes are (i) foreseeable or unforeseeable or (ii) related to the specifically enumerated events in this paragraph (collectively, a "**Force Majeure**"), shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage. To the extent this Agreement specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure. Provided however, that the current COVID-19 pandemic shall not be considered a Force Majeure unless constraints on a Party's performance that result from the pandemic become substantially more onerous after the effective date of this Agreement.

11. **Certification of Project Costs.** Upon completion of each of the Five CIP Projects as described in Section 11 above, McCormick shall submit certified project costs to the City for review and acceptance by the City Engineer. Once these costs and the executed Bill of Sale are reviewed and accepted by the City Engineer, not to be unreasonably withheld, conditioned, or delayed, the Maximum Water CFC Credit due to McCormick will be established and will equal the Maximum Water CFC Credit as so certified in accordance with this Section 11. If the Maximum Water CFC Credit due is less than the certified project costs of the Five CIP Projects, then the City will continue to apply the \$5,920 credit (as adjusted by CPI-U) until the Maximum Water CFC Credit is reached, or this Agreement expires, whichever occurs first. McCormick acknowledges that this may result in some of the 2,000 ERUs receiving no (or a partial) CFC credit as the full reimbursement is reached.
12. **Satisfaction of 1998 PSA.** The Parties recognize and agree that this Agreement substantially satisfies the City's obligations under the September 1, 1998 Agreement for Purchase and Sale of Assets of McCormick Water Company, Inc. The Parties further agree that at such time as the work described in Recital "K" is completed in accordance with the Agreement, whether Well 12 is completed or not, that the City's obligation under the 1998 will be fully satisfied, provided that the City continues to provide the CFC credits consistent with this Agreement. Furthermore, having assumed the position of MLC/GEM1 under the 1998 PSA, McCormick has the sole right to determine that the City's obligations have been satisfied. When the work in Recital K, excluding Well 12, is complete, McCormick agrees that it will have no remaining claim(s) against the City for failure to perform under the 1998 PSA. To the extent any such claim(s) remain, McCormick intentionally and irrevocably waives its rights to pursue such claim(s).
13. **Default.** Subject to extensions of time by mutual consent in writing, failure, or delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement.
14. **Reimbursement for Agreement Expenses of the City.** McCormick agrees to reimburse the City for actual expenses incurred over and above fees paid by McCormick as an applicant incurred by City directly relating to this Agreement, including recording fees, publishing fees, attorneys' fees, and reasonable staff and consultant costs not otherwise included within application fees. Such payment shall be made in full prior the Mayor executing the Agreement on behalf of the City. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall

be paid, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to McCormick.

15. **Non-Waiver of Breach.** The failure of a Party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.
16. **Conflict.** In the event of any conflict between this Agreement and POMC 13.04.030, this Agreement shall control.
17. **Resolution of Disputes and Governing Law.** If any dispute arises between the City and McCormick under any of the provisions of this Credit Agreement, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.
18. **Written Notice.** All written communications regarding enforcement or alleged breach of this Credit Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of both emailing and mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

McCORMICK:

Eric Campbell
12332 NE 115th Place
Kirkland, WA 98033
eric@mospgroupllc.com

Nick Tosti
805 Kirkland Avenue, Suite 200
Kirkland, WA 98033
nicktosti@gmail.com

CITY:

Rob Putaansuu, Mayor
City of Port Orchard
216 Prospect Street
Port Orchard WA 98366
rputaansuu@cityofportorchard.us

A copy shall also be transmitted to the City Clerk at the above address.

19. **Assignment.** Before completion of the Five CIP Projects, any assignment of this Credit Agreement by McCormick without the written consent of the City, which shall not unreasonably be withheld, shall be void. McCormick may assign this Credit Agreement after completion of the Five CIP Projects by giving written notice of assignment to the City.
20. **Modification.** No waiver, alteration, or modification of any of the provisions of this Credit Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and McCormick.


CREDIT AGREEMENT FOR CAPITAL FACILITY CHARGES

- 21. **Severability.** The provisions of this Credit Agreement are declared to be severable. If any provision of this Credit Agreement is for any reasons 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 provision.
- 22. **Good Faith and Due Diligence.** The Parties agree to perform all obligations under this Credit Agreement in good faith and with due diligence.

March IN WITNESS WHEREOF, the parties have executed this Agreement on this 14th day of , 2022.

MCCORMICK COMMUNITIES, LLC

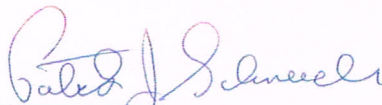
CITY OF PORT ORCHARD

By: 
 Its: Eric H. Campbell, Member.

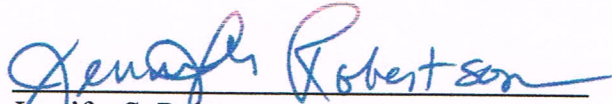
By: _____
 Its: Mayor

APPROVED AS TO FORM:

APPROVED AS TO FORM:



 Patrick Schneider
 Attorney for McCormick Communities



 Jennifer S. Robertson
 Attorney for Port Orchard

ATTEST:

 Brandy Wallace
 Port Orchard City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that Mr. Rob Putaansuu 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 Port Orchard to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____ 20____

(print or type name)

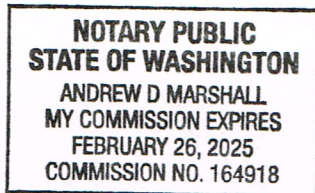
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

STATE OF WASHINGTON)
COUNTY OF King) ss.

I certify that I know or have satisfactory evidence that Mr. Eric Campbell is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Member of McCormick Communities, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: March 14th 2022



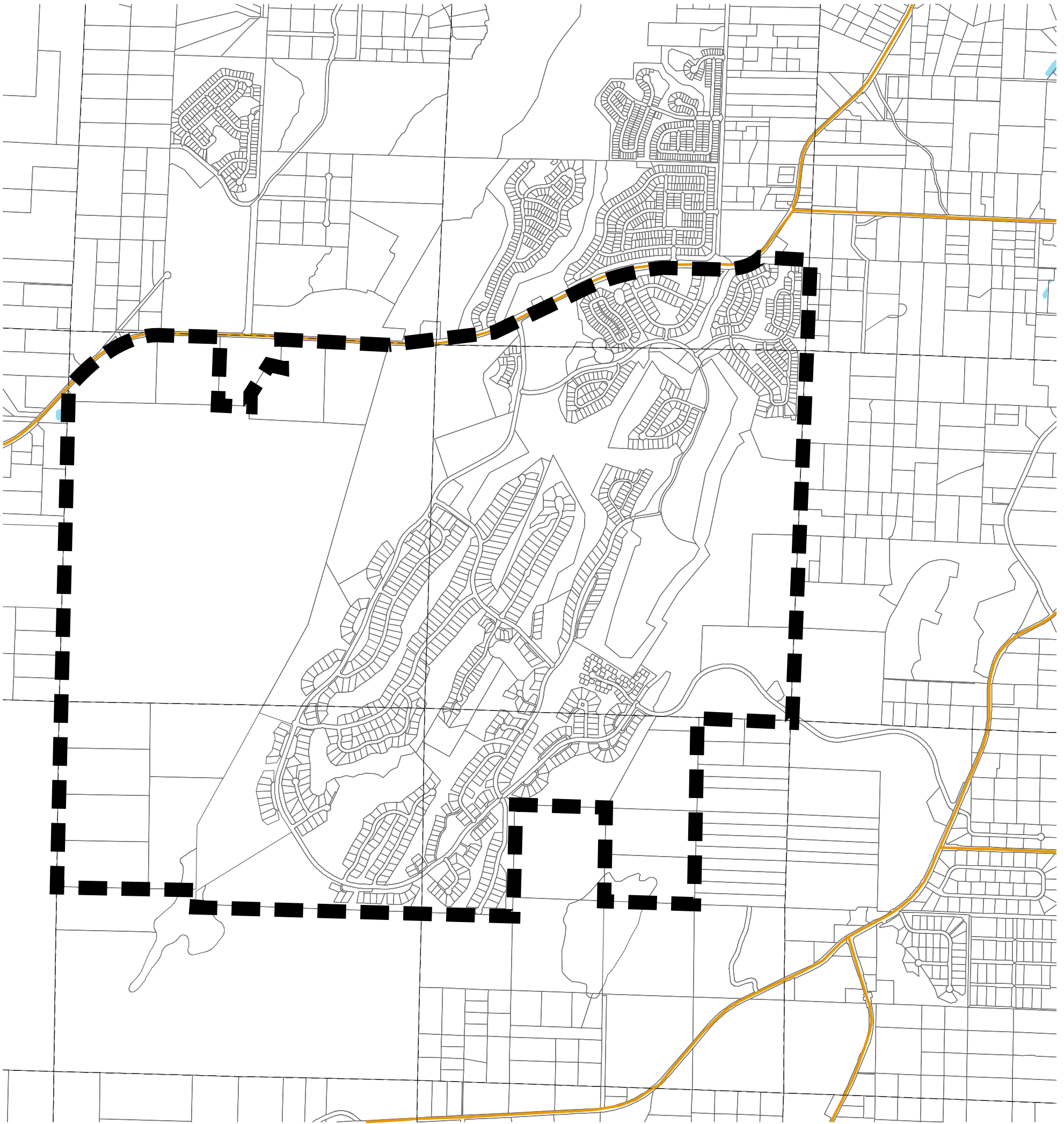
Andrew D Marshall
Andrew D Marshall
(print or type name)

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

Kirkland

My Commission expires: 02/26/25

EXHIBIT A



McCormick Properties



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7C</u>	Meeting Date:	<u>March 22, 2022</u>
Subject:	<u>Adoption of a Resolution Authorizing the</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Purchase of Kitsap County Tax Parcel No.</u>		<u>Public Works Director</u>
	<u>4027-022-001-0004 for the Bay Street</u>	Atty Routing No:	<u>366922-0009 – PW</u>
	<u>Pedestrian Pathway Project</u>	Atty Review Date:	<u>March 8, 2022</u>

Summary: The City’s Right of Way Acquisition and Relocation Consultant, Tierra Right of Way Services, Ltd., in conjunction with the City, identified Kitsap County Tax Parcel No. 4027-022-001-0004 (the “Property”) as a necessary acquisition for the Bay Street Pedestrian Pathway Project. Accordingly, the consultant has negotiated terms of a voluntary purchase of the Property, as well as associated relocation benefits in accordance with Resolution No. 028-16 (Right-of-Way Acquisition Procedures) and the City’s Relocation Assistance Program. On February 7, 2022, the Public Works Director executed the Concurrence and Authorized for Payments of Just Compensation for the purchase of Kitsap County Tax Parcel No. 4027-022-001-0004 (the “Property”) in the amount of \$516,000.00, subject to Council approval of the purchase. Additionally, on March 2, 2022, the Public Works Director executed the Price Differential Report and Relocation Assistance Voucher No. 1 in the total amount of \$386,118.03 (aka Relocation Housing Payment) and the Move Expense Agreement Residential and Relocation Assistance Voucher No. 2 in the amount of \$5,000.00 (aka Moving Benefit Payment.) Please note: all expenditures associated with the Bay Street Pedestrian Pathway Project have been identified within the Project Funding Estimate (PFE) and are Grant eligible.

Relationship to Comprehensive Plan: Chapter 8 – Transportation.

Recommendation: For the Haynes Property Acquisition and as needed for the Bay Street Pedestrian Pathway Project, Staff recommends that the City Council authorize the following:

1. The Mayor’s execution of a) the Real Estate Purchase and Sale Agreement in the amount of **\$516,000.00**, b) the Warranty Deed, c) the Real Property Voucher d) the Real Estate Excise Tax Affidavit form and e) payment of the additional associated closing costs-escrow fees in the amount of \$4,889.25 for a Total Acquisition Payment of **520,899.25**
2. Approve the Relocation Payment in the amount of \$ **386,118.03**
3. Approve the Moving Benefit Payment in the amount of **\$5,000.00**
4. Approve any additional associated closing costs-escrow fees as needed

Motion for Consideration: I move to adopt Resolution No. 028-22, authorizing the purchase of Kitsap County Tax Parcel No. 4027-022-001-0004 for the Bay Street Pedestrian Pathway Project in the Total Acquisition Payment of \$520,899.25 plus the Relocation Payment in the amount of \$386,118.03, the

Moving Benefit Payment in the amount of \$5,000.00 and any additional associated closing costs-escrow fees as needed, and authorizing the Mayor to execute all documents necessary to effectuate this acquisition and relocation.

Fiscal Impact: Grant and Local Match funding for this acquisition expenditure is allocated within the Project Funding Estimate (PFE) for the Project and the 2021-2022 Biennial Budget.

Alternatives: None.

Attachments: Resolution No. 028-22
Haynes – Tierra Transmittal
Haynes – Offer Letter
Pertinent Portions of the Right-of-Way Plan
Haynes - Real Estate Purchase and Sale Agreement
Haynes - Warranty Deed
Haynes - Real Property Voucher
Haynes - Escrow Agreement
Haynes – Utility Service Provider Contact Sheet
Haynes - Real Estate Excise Tax Affidavit
Haynes - Price Differential Report
Haynes - Relocation Assistance Voucher No. 1
Haynes - Move Expense Agreement - Residential
Haynes - Relocation Assistance Voucher No. 2

RESOLUTION NO. 028-22

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE PURCHASE OF KITSAP COUNTY TAX PARCEL NO. 4027-022-001-0004 FOR BAY STREET PEDESTRIAN PATHWAY PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS TO EFFECTUATE PURCHASE.

WHEREAS, the City has identified the need to acquire real property to support the construction of the Bay Street Pedestrian Pathway Project (the "Project"); and

WHEREAS, in accordance with the City's Relocation Assistance Program, the City's consulting Relocation Agent, Tierra Right of Way Services, Ltd., has negotiated the terms of purchase by the City of real property located at 1699 Bay Street, Kitsap County Tax Parcel No. 4027-022-001-0004 (the "Property"); and

WHEREAS, Tierra has identified the requisite relocation assistance benefits owing to the owner of the Property, and staff has reviewed and approved those determinations, in conjunction with the Washington State Department of Transportation, Local Programs, serving as Contract Administrator for the Project; and

WHEREAS, the Port Orchard City Council finds it is in the best interest of the City to authorize the acquisition of the Property for fair market value and authorize all associated relocation payments consistent with the City's Relocation Assistance Program; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council authorizes the acquisition of Kitsap County Tax Parcel 4027-022-001-0004 For Bay Street Pedestrian Pathway in the Total Acquisition Payment of \$520,899.25 and authorizes the Mayor to execute all necessary documents to effectuate the purchase, including but not limited to: a) the Real Estate Purchase and Sale Agreement, b) the Warranty Deed, c) the Real Property Voucher and d) the Real Estate Excise Tax Affidavit form.

THAT: The City Council authorizes and ratifies the Relocation Payment in the amount of \$386,118.03, pursuant to the Relocation Assistance Program; and

THAT: The City Council authorizes and ratifies the Moving Benefit Payment in the amount of \$5,000.00, pursuant to the Relocation Assistance Program; and

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 22nd day of March 2022.

Robert Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk



DATE: 3/4/2022

TO: Mark Dorsey

RE: Project Name: Bay Street Pedestrian Pathway
Property Owner: John Haynes
Project Parcel No. 4027-022-001-0004

DOCUMENTS TRANSMITTED:

Hand Delivered U.S. Mail Pick-up E-mail

Date	No.	Item
3/4/2022	1	Offer Letter
		<i>Supporting Documentation:</i>
		• Right of Way Plan
		• Mosquito Fleet Trail Station Geometry
		• Right of Way Plan-with highlighted parcel location
		Purchase and Sale Agreement
		Warranty Deed
		Real Property Voucher
		Escrow Agreement
		• Closing Details
		Utility Service Provider Contact Sheet
		IRS W-9 Form
		REETA

- | | |
|---|---|
| <input checked="" type="checkbox"/> For your Approval & Process | <input type="checkbox"/> For your Use |
| <input type="checkbox"/> For your Information | <input type="checkbox"/> For Review & Comment |
| <input type="checkbox"/> As Requested | <input type="checkbox"/> Other: |
| <input type="checkbox"/> For your Signature | |



February 14, 2022

John Haynes
1699 Bay St.
Port Orchard, WA 98366

Offer Letter

Project Title: City of Port Orchard Pedestrian Enhancement Project (Mosquito Fleet Trail)
Parcel No.: 4027-022-001-0004
Federal Aid No: STPE-STPUS-0166(008)

Dear John Haynes:

The City of Port Orchard (City) plans to proceed with the above-titled public project for a multi-modal (bike and pedestrian) pathway project.

The purpose of this letter is to notify you of the following:

- The City’s interest in acquiring your property and/or property rights for this project.
- The City’s determination of just compensation for your property and/or property rights.
- The basic protections afforded to you by law.

As outlined below, the City has established an amount it believes is Just Compensation based on the market value estimated for your property. The City’s offer is as follows:

Land and Improvements Conveyed in Fee:	\$516,000
Total Amount (Rounded)	\$516,000

Your property has been examined by a qualified appraiser and appraisal reviewer who has carefully considered all the elements which contribute to the market value of your property. You, or your designated representative, were provided with an opportunity to accompany the appraiser and appraisal reviewers on all inspections of your property. By law, the appraisers and appraisal reviewers must disregard any general increase or decrease in value caused by the project.

Owners and tenants of dwellings, businesses, farm operations, or nonprofit organizations being displaced cannot be required to move from the referenced property without being given a written assurance of at least 90 days prior to the date by which they will be required to vacate the property.



The City will provide this assurance as well as additional information regarding your eligibility in forthcoming relocation letter entitled, "Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance". Occupancy of the property beyond the date the City acquires possession will require that a rental agreement be signed, and rent be paid.

If a mutually agreeable settlement is not reached, the Agency, acting in the public interest, will use its right of eminent domain to acquire property for public use. In conformity with the Washington State Constitution and laws, the Agency's legal counsel will file a condemnation suit to obtain a "Court Order of Public Use and Necessity", and a trial will be arranged to determine the just compensation to be paid for the property. This action is taken to ensure your rights as an individual property owner are protected. If a condemnation action is filed, you should consider consulting with an attorney to ensure that you receive appropriate representation.

You may wish to employ professional services to evaluate the City's offer. If you do so, we suggest that you employ well-qualified evaluators so that the resulting evaluation report will be useful to you in deciding whether to accept the City's offer. The City will reimburse up to \$750.00 of your evaluation costs upon submission of the bills or paid receipts.

Payment for your property and/or property rights will be made available to you approximately 45 -60 days after you accept the City's offer, if there are no delays in closing the transaction. The date on which payment is made available to you is called the "payment date". On that date, the City becomes the owner of the property purchased and responsible for its control and management.

The Internal Revenue Service (IRS) requires that the City obtain your correct taxpayer identification number (TIN) or social security number (SSN) to report income paid to you as a result of this real estate transaction.

If you have personal property presently located on the property being acquired by the City that needs to be moved, the City will reimburse you for the cost of moving it through the Relocation Assistance program.

Enclosed please find the following:

- A plan sheet showing the property rights needing to be acquired
- The necessary legal documents for the transferring of the property or property rights
- Real Estate Excise Tax Affidavit
- Real Property Voucher
- W-9 per IRS requirements
- A copy of the valuation of your property
- Title Report
- Utility Service Provider Contact Sheet
- Escrow Agreement
- Transportation Needs and You Brochure (explaining the Right of Way acquisition process)

This letter has been sent to provide a concise statement of City's offer and summary of your rights. Please feel free to direct any questions you may have to the undersigned. Thank you for your time and consideration.

Sincerely,



Marge R. Bailey
Sr. Right of Way Agent
Tierra Right of Way Services, Ltd.
8685 Martin Way E., #203
Lacey, WA 98516
253-439-7143
mbailey@tierra-row.com

Enclosures

Acknowledgment of receipt of Offer Letter

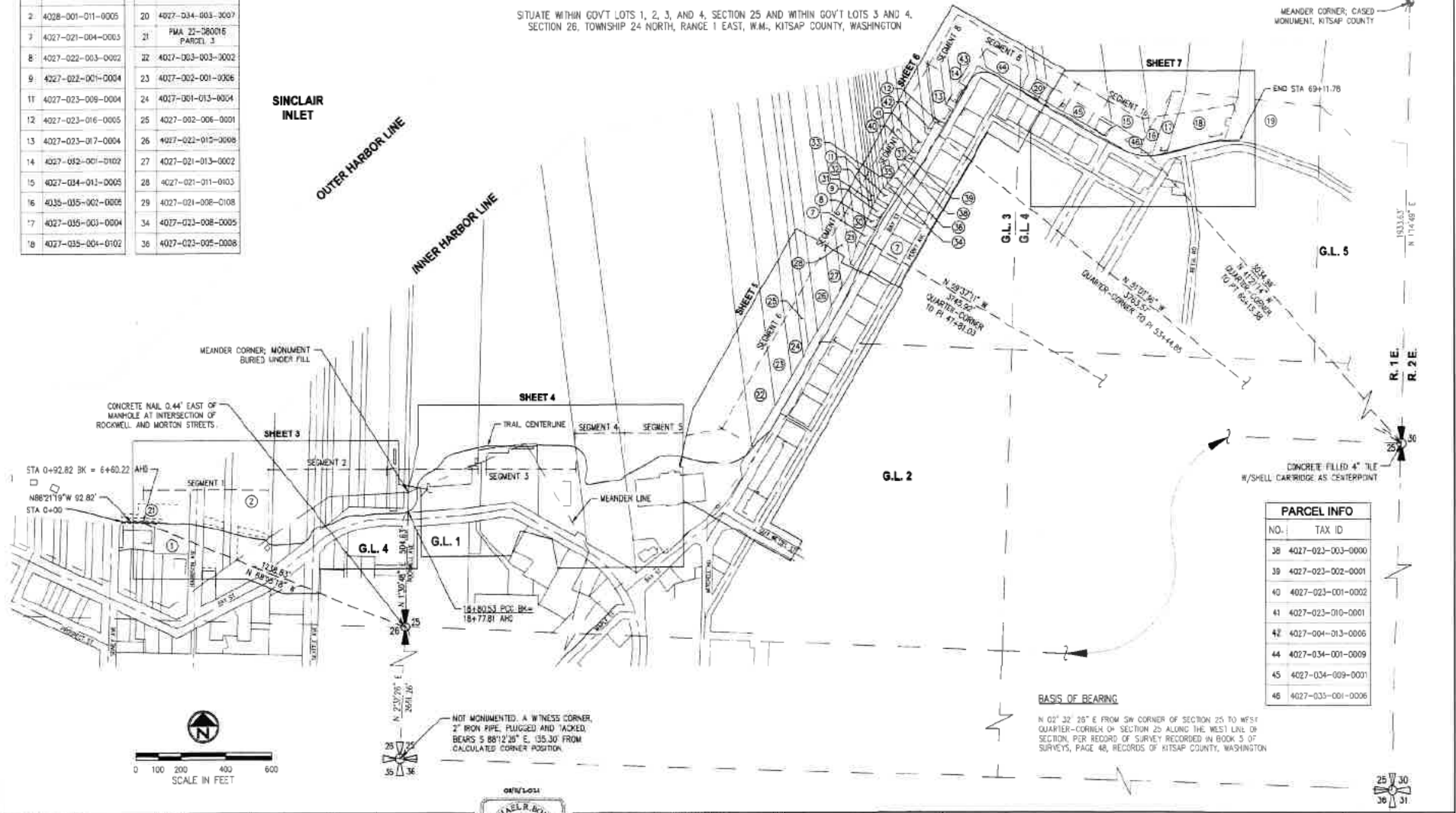
Signature:  Date: 2-14-2022
John Haynes

Signature above does not mean acceptance or rejection of offer.

CITY OF PORT ORCHARD PEDESTRIAN ENHANCEMENT PROJECT - MOSQUITO FLEET TRAIL

SITUATE WITHIN GOV'T LOTS 1, 2, 3, AND 4, SECTION 25 AND WITHIN GOV'T LOTS 3 AND 4, SECTION 26, TOWNSHIP 24 NORTH, RANGE 1 EAST, W.M., KITSAP COUNTY, WASHINGTON

PARCEL INFO		PARCEL INFO	
NO.	TAX ID	NO.	TAX ID
1	4053-013-007-0103	19	4689-004-004-0008
2	4028-001-011-0005	20	4027-034-003-3007
7	4027-021-004-0003	21	FMA 22-080016 PARCEL 3
8	4027-022-003-0002	22	4027-003-003-0002
9	4027-022-001-0004	23	4027-002-001-0006
11	4027-023-009-0004	24	4027-001-013-0004
12	4027-023-016-0005	25	4027-002-006-0001
13	4027-023-017-0004	26	4027-022-015-0008
14	4027-032-001-0102	27	4027-021-013-0002
15	4027-034-013-0005	28	4027-021-011-0103
16	4038-035-002-0006	29	4027-021-008-0108
17	4027-035-003-0004	34	4027-023-008-0005
18	4027-035-004-0102	36	4027-023-005-0008



NO.	TAX ID
38	4027-023-003-0000
39	4027-023-002-0001
40	4027-023-001-0002
41	4027-023-010-0001
42	4027-004-013-0006
44	4027-034-001-0009
45	4027-034-009-0001
46	4027-033-001-0006

NO.	DATE	BY	APPROV.	REVISIONS
1	1/15/19	MRB	MRB	CREATED & NUMBERED TABLE FOR PARCEL 3
2	3/29/19	KW	MRB	ADJUSTED BEARING & DISTANCE INFO TO MATCH LEGAL DESCRIPTIONS
3	3/16/19	MRB	MRB	ADDED SH-15 AND EQUATION STATION
4	7/07/20	KW	MRB	ADDED 615' STATION, ADJUSTED PARCELS AND UPDATED TABLES

Approved By		DESIGNED BY	DATE
PROJECT MANAGER		DRAWN BY	DATE
PROJECT ENGINEER		CHECKED BY	DATE

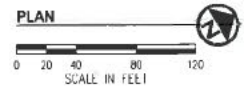
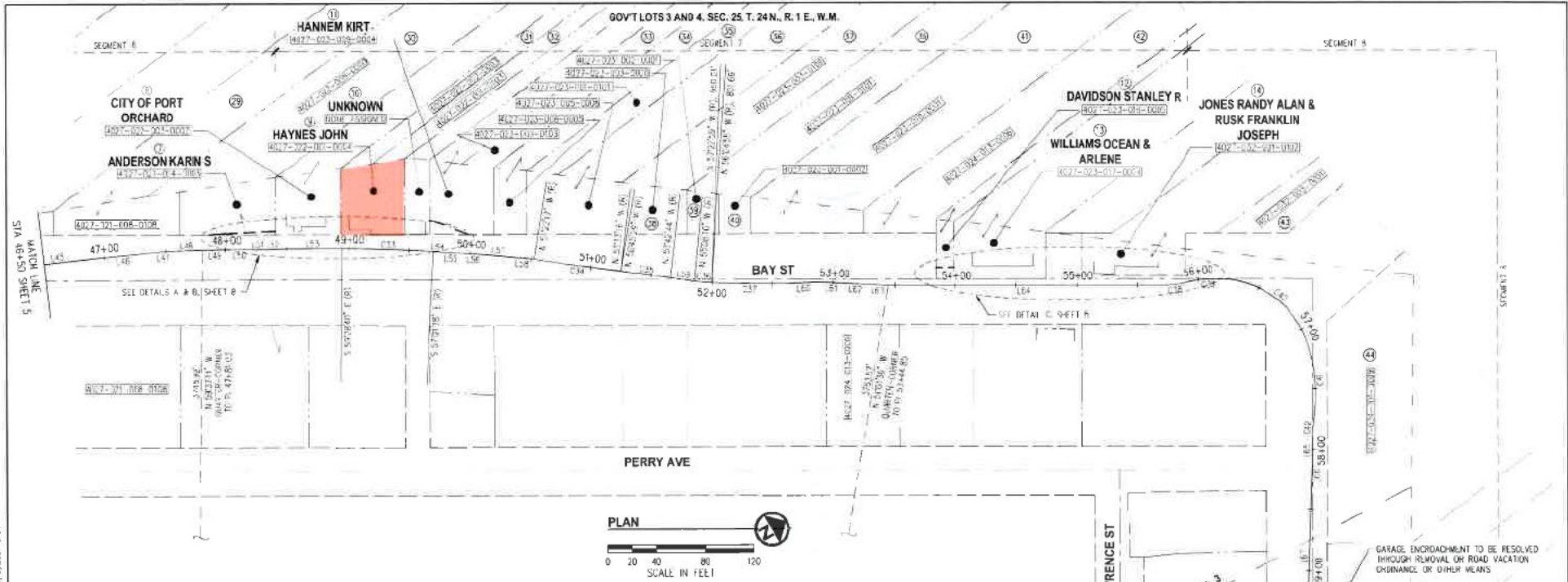


KPG
Interdisciplinary Design
701 2386 Ave
Suite 405
Seattle, WA 98101
(206) 286-1940
www.kpg.com

APPROVED: *[Signature]* 1/24/21
Port ORCHARD
MARK COOPER
DIRECTOR OF PUBLIC WORKS
CITY OF PORT ORCHARD

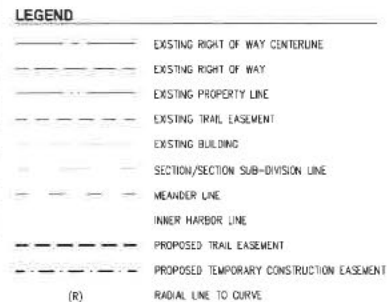
RIGHT OF WAY PLAN
STPE-STPUS-0106 (006) - BAY STREET ENHANCEMENT
CITY OF PORT ORCHARD PEDESTRIAN ENHANCEMENT PROJECT - MOSQUITO FLEET TRAIL
SITUATE WITHIN GOV'T LOTS 1, 2, 3, AND 4, SEC. 25 AND WITHIN GOV'T LOTS 3 AND 4, SEC. 26, T. 24 N., R. 1 E., W.M., KITSAP COUNTY, WASHINGTON

RW-1
KPG PROJECT No. 19001
SHT 1 OF 9



OWNERSHIPS AND AREAS (SQ. FT.)							
NO.	NAME	TAX ID	TOTAL AREA*	RIGHT OF WAY	REMAINDER	TRAIL ESMT	TEMP CONST ESMT
7	ANDERSON KARN S	4027-021-004-0003	10,454	0	10,454	B1	-
8	CITY OF PORT ORCHARD	4027-022-003-0002	4,356	0	4,356	-	-
9	HAYNES JOHN	4027-022-001-0004	4,356	4,356	0	-	-
10	UNKNOWN**	N/A	8,421	0	8,421	-	-
11	HANNEM KIRT SR	4027-023-009-0004	4,356	0	4,356	-	195
12	DAVIDSON STANLEY R & LORRAINE	4027-023-016-0005	3,447	0	3,447	143	-
13	WILLIAMS OCEAN & ARLENE	4027-023-017-0004	4,356	4,356	0	-	-
14	JONES RANDY A	4027-022-001-0102	4,356	4,356	0	-	-
20	HUTH WALTER & ROBERTA TRUSTEES	4027-034-003-0007	5,227	0	5,227	-	-

TIDELANDS OWNERSHIPS AND AREAS (SQ. FT.)			
NO.	NAME	DEEDED AREA*	TAX ID
29	STEVEN SWEENEY & LEE SWEENEY	10,454	4027-021-008-0108
30	KIRT HANNEM SR	NO DATA	4027-022-005-0000
31	HEIRS OF HERMAN COHEN	NO DATA	4027-022-002-0003
32	HEIRS OF HERMAN COHEN	NO DATA	4027-022-001-0103
33	FRANK D KUSTINA AND RICHARD R KUSTINA	NO DATA	4027-023-009-0103
34	ROXANE PATTERSON AND BEVERLY PATTERSON	NO DATA	4027-023-008-0005
35	KITSAP COUNTY (PARCEL 1) AND HEIRS OF EDNA A WAHLESTRA (PARCEL 2)	NO DATA	4027-023-001-0101
36	HEIRS OF INDYMA E MUNIE	NO DATA	4027-023-005-0008
37	ROXANE PATTERSON AND BEVERLY PATTERSON	NO DATA	4027-023-003-0109
38	MICHELLE F BELINGER & MARGUERITE BELINGER	NO DATA	4027-023-003-0000



TIDELANDS OWNERSHIPS AND AREAS (SQ. FT.)			
NO.	NAME	DEEDED AREA*	TAX ID
39	KIRT HANNEM SR	NO DATA	4027-023-002-0001
40	CAROL A BROUWER	NO DATA	4027-023-001-0002
41	KIRT HANNEM SR	NO DATA	4027-023-010-0001
42	MICHEL FAWN L & WILLIAM	6,098	4027-024-013-0006
43	CITY OF PORT ORCHARD	NO DATA	4027-032-003-0001
44	DANA HAWORTH & CONNIE HAWORTH	3,227	4027-034-001-0009

* PER KITSAP COUNTY ASSESSOR
 ** OWNERSHIP FOR THIS PROPERTY IS UNDETERMINED. KITSAP COUNTY DOES NOT PROVIDE AN ASSESSOR'S TAX PARCEL NUMBER OR OWNER INFORMATION FOR THIS PROPERTY. THIS PROPERTY IS SHOWN ON THE PLAT OF ANNAPOLIS AS RIGHT OF WAY; SAID PLAT WAS RECORDED JUNE 3, 1990.

NO.	DATE	BY	APPV	REVISION
1	7/27/20	MM	MM	ISSUE FOR PERMITS AND OTHER PARCELS
2	8/20/20	MM	MM	PERMITS ACQUISITION REVIEW AND TOP PARCELS 4, 10, 13 AND 14
3	8/20/20	MM	MM	WORKING TO OBTAIN TITLES
4	11/16/21	MM	MM	CORRECTED INFO IN 3A & 3B FOR PARCELS 7-14



KPG
 Interdisciplinary Design
 371 20th Ave SE
 Suite 400
 98104-3205
 206-286-9400
 www.kpg.com



RIGHT OF WAY PLAN
 STPE-STPUS-0166 (008) - BAY STREET ENHANCEMENT
 CITY OF PORT ORCHARD PEDESTRIAN ENHANCEMENT PROJECT - MOSQUITO LEE I TRAIL
 SITUATE WITHIN GOV1 LOTS 1, 2, 3, AND 4, SEC 25 AND WITHIN GOV1 LOTS 3
 AND 4, SEC 26, T 24 N, R 1 E, #M, KITSAP COUNTY, WASHINGTON

RW-6
 KPG PROJECT No. 19001
 SHT 6 OF 9

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter "Agreement") is entered into by and between **John Haynes** (hereinafter "Seller") and **The City of Port Orchard, hereinafter referred to as "AGENCY"**, a municipal corporation and political subdivision of the state of Washington (hereinafter "Purchaser"). Seller and Purchaser may hereinafter collectively be referred to as "Parties" or individually as a "Party."

AGREEMENT

FOR AND IN CONSIDERATION of the mutual promises and covenants contained herein, the sufficiency of which is unconditionally acknowledged by Seller and Purchaser, the Parties agree as follows:

- 1. The Property.** Seller is the sole owner in fee simple of certain real property located in Pierce County, Washington identified by parcel number 4027-022-001-0004 and legally described on the attached **Exhibit A (the Property)**.
- 2. Purchase and Sale.** Seller shall sell and convey to Purchaser, and Purchaser shall purchase and accept from Seller, upon the terms, covenants, and conditions set forth in this Agreement, all of Seller's right, title, and interest in and to the Property, including all after-acquired property. Seller warrants that Seller has full right, title, authority, and capacity to execute this Agreement and sell the Property. Purchaser warrants that Purchaser has full right, title, authority, and capacity to execute this Agreement and purchase the Property.
- 3. Purchase Price and Payment.** The total purchase price for the Property (hereinafter "Purchase Price") is Five Hundred Sixteen Thousand and NO/100 Dollars (\$516,000) and shall be paid by Purchaser to Seller by cashier's check, certified check, or wire transfer of immediately available funds to Seller at closing.
- 4. Conveyance of Title.** Seller shall convey title to the Property legally described on the attached Exhibit A to Purchaser by Statutory Warranty Deed (hereinafter "Deed").
- 5. Closing; Possession.** Closing shall occur upon payment of the Purchase Price to Seller from Purchaser and delivery of the executed Deed from Seller to Purchaser (hereinafter "Closing Date"), but in no event later than 3/29/2022. The Parties agree to execute any and all documents necessary to effectuate the intent of this Agreement. Purchaser shall be entitled to possession of the Property legally described on the attached Exhibit A as of the Closing Date.
- 6. Approval by the City of Port Orchard.** The Parties acknowledge that this Agreement shall not be deemed accepted by or binding on the Purchaser until approved by the **City of Port Orchard**, in an open public meeting.
- 7. Risk of Loss.** Risk of loss of or damage to the Property shall be borne by Seller until the Closing Date. Thereafter, Purchaser shall bear the risk of loss. In the event of material loss of or damage to the Property prior to the Closing Date, Seller shall promptly notify Purchaser in writing and Seller shall not be obligated to restore the Property nor pay damages to Purchaser by reason of such loss or damage. Upon receipt of written notice

pursuant to Section 10 below, Purchaser may within five (5) business days terminate this Agreement by giving written notice of such termination to Seller and such termination shall be effective immediately; provided, however, that Purchaser may elect to purchase the Property in the condition then existing; provided that, Purchaser delivers notice of such election pursuant to Section 10 below within five (5) business days of receipt of Seller's notice of a material loss of or damage to the Property as provided for in this Section 8.

8. Closing Costs & Prorations. Seller shall pay its own attorney fees. Purchaser shall pay the cost of recording the Deed, its own attorney fees, and all other costs and expenses allocated to Purchaser and Seller pursuant to the terms of this Agreement; excepting only the Seller's payment of its own attorney fees as provided for above in this Section 8 and any prorations for which it is responsible pursuant to the following sentence. Any taxes, liens, assessments, insurance, or charges imposed by law upon the Property shall be prorated as of the Closing Date, with such prorations to be a final settlement between the Parties.

9. Notices. Except as specifically set forth herein, any demand, request or notice which either Party desires or may be required to make or deliver to the other shall be in writing and shall be deemed given when personally delivered, or when delivered by private courier service (such as Federal Express), or three days after being deposited in the United States Mail first class, postage prepaid and addressed as follows:

PURCHASER	SELLER
<p style="text-align: center;">City of Port Orchard, Public Works Department 216 Prospect St Port Orchard, WA 98366</p>	<p style="text-align: center;">John Haynes 1699 Bay St. Port Orchard, WA 98366</p>

The foregoing addresses may be changed by written notices to the other party as provided herein.

10. Time. Time is of the essence in every provision herein contained.

11. Binding Agreement. This Agreement shall inure to the benefit of and be binding upon the heirs, personal representative, successors, and assigns of the Parties.

12. Attorneys' Fees. In the event of any litigation regarding the rights and obligations of the parties under this Agreement, the prevailing party shall recover its costs and attorneys' fees, including such costs and attorneys' fees for appeals.

13. Negotiation and Construction. This Agreement was negotiated by the Parties and shall be construed according to its fair meaning and not strictly for or against either Party.

14. Entire Agreement. This Agreement contains the entire understanding between the Parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof. There are no other representations, agreements, or understandings, oral or written, between the Parties relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the Parties.

15. Counterparts. This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete Agreement.

16. Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]

Exhibit A
Legal of Property

PARCEL: 4027-022-001-0004

LOT 1 AND 2, BLOCK 22, ANNAPOLIS, ACCORDING TO THE PLAT RECORDED
IN VOLUME 1 OF PLATS, PAGE 64, IN KITSAP COUNTY, WASHINGTON; EXCEPT
ANY PORTION LYING WITHIN FIRST CLASS TIDELANDS AS SHOWN BY
OFFICIAL MAP OF SIDNEY TIDELANDS

Situate in the City of Port Orchard, County of Kitsap, State of Washington.

After recording return document to:

City of Port Orchard,
Public Works Department
216 Prospect St
Port Orchard, WA 98366

Document Title: Warranty Deed
Reference Number of Related Document:
Grantors: John Haynes
Grantees: City of Port Orchard
Legal Description: Lts 1 & 2, Blk 22, Annapolis, V/P 1/64
Assessor's Tax Parcel Number: 4027-022-001-0004

WARRANTY DEED

City of Port Orchard Pedestrian Enhancement Project (Mosquito Fleet Trail)

The Grantors, **John Haynes, a single man**, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00), and other valuable consideration, hereby conveys and warrants to the **City of Port Orchard, Public Works Department**, Grantee, the following described real property situated in Kitsap County, in the State of Washington.

LOT 1 AND 2, BLOCK 22, ANNAPOLIS, ACCORDING TO THE PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 64, IN KITSAP COUNTY, WASHINGTON; EXCEPT ANY PORTION LYING WITHIN FIRST CLASS TIDELANDS AS SHOWN BY OFFICIAL MAP OF SIDNEY TIDELANDS.

Situate in the City of Port Orchard, County of Kitsap, State of Washington.

It is understood and agreed that delivery of this deed is hereby tendered and that the terms and obligations hereof shall not become binding upon the **City of Port Orchard**, unless and until accepted and approved hereon in writing for the **City of Port Orchard**, by its authorized agent.

WARRANTY DEED

Date: 3-2-2022

John Haynes
John Haynes

STATE OF WASHINGTON)
County of KITSAP): SS

On this 2nd day of March, 2022, before me personally appeared John Haynes, to me known to be the individual(s) described in and who executed the foregoing instrument and acknowledged that he signed and sealed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)



Paula Ferreira-Smith
Notary Public in and for the State of
Washington, residing at Lynnwood, WA
My commission expires 5/1/2025



Accepted and Approved City of Port Orchard:

Approved to as form:

By: _____
Printed Name: Robert Putaansuu
Title: City Mayor
Date: _____

By: _____
Printed Name: Charlotte Archer
Title: City Attorney
Date: _____

REAL PROPERTY VOUCHER

AGENCY NAME CITY OF PORT ORCHARD Public Works Department 216 Prospect Street Port Orchard, WA 98366-5226		I hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the Agency, that the same or any part thereof has not been paid, and that I am authorized to sign for the claimant.	
GRANTOR John Haynes 1699 Bay St Port Orchard, WA 98266		TIN/SSN: [REDACTED]	SIGNATURE (IN INK) FOR EACH CLAIMANT  John Haynes
PROJECT NO. AND TITLE C072-18 City of Port Orchard Pedestrian Enhancement Project (Mosquito Fleet Trail)		DATED	
FEDERAL AID NO. STPE-STPUS-0166(008)	PARCEL NO. 4027-022-001-0004	\$ AMOUNT	
In full, complete and final payment and settlement for the title or interest conveyed or released, as fully set forth in:		DATED	
LAND AND IMPROVEMENTS: Fee		\$516,000.00	
DAMAGES:		+	
Cost to Cure		+ \$0.00	
Proximity		+ \$0.00	
Other		+ \$0.00	
SPECIAL BENEFITS		+	
JC (Just Compensation) Amount		\$516,000.00	
REMAINDER:		+	
Uneconomic Remnant		+ \$0.00	
Excess Acquisition		+ \$0.00	
DEDUCTIONS:		+	
Amount Previously Paid		\$0.00	
Performance Bond		\$0.00	
Salvage Amount		\$0.00	
Pre Paid Rent		\$0.00	
Other		\$0.00	
ADMINISTRATIVE SETTLEMENT		+	
STATUTORY EVALUATION ALLOWANCE		+	
ESCROW FEE		+	
REAL ESTATE EXCISE TAX		+	
OTHER:		+	
ACQUISITION AGENT Marge Bailey 	DATE 3/2/22	Voucher No.	TOTAL AMOUNT PAID \$516,000.00
AUTHORIZED AGENT FOR AGENCY		DATE	

LPA-321 10/2014

ESCROW AGREEMENT

TO: Land Title Company of
Kitsap County
9657 Levin Rd NW
Silverdale, WA 98383-7619
(360) 692-2233
Order No.: E-255711

FROM: John Haynes
1699 Bay St
Port Orchard, WA 98366

DATE: 3-2-2022

City of Port Orchard, and the undersigned, mutually agree and direct you to close this escrow in accordance with the following instructions:

1. The undersigned grantors hereby authorize the issuance of a City of Port Orchard warrant payable solely to the above-named Escrow Agent, for our benefit.
2. Receive the Warranty Deed handed herewith from us as grantors to the City of Port Orchard as grantee, conveying (a portion of) the lands described in the above-referenced Preliminary Commitment.
3. Receive the sum of \$516,000.00 in the form of a City of Port Orchard warrant that you are instructed to distribute as follows:

Pay and eliminate of record all encumbrances on said premises shown in your Preliminary Commitment dated March 26, 2015, and Supplemental No. 1 dated January 29, 2019, together with any other encumbrances appearing of record against said premises, on statement of holder or holder's representative prior to closing.
4. Note: All escrow and recording fees shall be paid by City of Port Orchard.
5. City of Port Orchard, at its discretion, reserves the right to withdraw the funds for this transaction from escrow and close this transaction independently or deposit said funds with the Clerk of the Court if deemed necessary.
6. When ready to vest title in City of Port Orchard, record instrument shown in instruction 2 above (no recording fee or excise tax is to be charged) and prepare CLOSING DETAIL STATEMENT as explained on the reverse hereof.
7. Remit the balance by your check to: John Haynes, 1699 Bay St., Port Orchard, WA 98366 with your CLOSING DETAIL STATEMENT.
8. Issue standard form Owner's policy of title insurance in the sum of \$516,000.00 insuring City of Port Orchard as owner of the estate conveyed.
9. Upon closing, mail recorded instruments, title policy, and copy of CLOSING DETAIL STATEMENT to City of Port Orchard - Public Works Department, 216 Prospect St, Port Orchard, WA 98366

City of Port Orchard

Owner

By: _____
Charlotte Archer, City Attorney

By: John Haynes
John Haynes

CLOSING DETAIL STATEMENT

As indicated on the Escrow Instructions, the Escrow Agent shall furnish, upon the completion of the escrow transaction, a CLOSING DETAIL STATEMENT that will show thereon:

- (a) The date of receipt and total amount of escrowed funds.
- (b) The fee for escrow services and a statement that the entire escrow fee has been paid solely by the City of Port Orchard.
- (c) The date on which the City of Port Orchard's grantor is notified that the Escrow Agent is ready to disburse funds to the City of Port Orchard's grantor.
- (d) Date of closing of the escrow.
- (e) Detail of a mortgage payoff that includes:
 - Principal unpaid balance and date.
 - Accrued interest and dates for which interest is paid.
 - Prepayment penalty assessed, if any.
 - Offset of reserves held by mortgagee.
 - Net amount paid to mortgagee and date.
- (f) Sums, if any, withheld from distribution to City of Port Orchard's grantors at time of closing, and for what reason.
- (g) Endorsements to the effect that:
 - 1. The statement has been read by the City of Port Orchard's grantor, approved, and acknowledgment of receipt of the funds indicated as the net balance due from the Escrow Agent.
 - 2. The closing officer certifies that the statement is true and correct.

In case the Escrow Agent has withheld funds from distribution to the City of Port Orchard's grantors for any reason, the Escrow Agent shall furnish to the City of Port Orchard copies of correspondence transmitting such withheld funds at the time of their final disposition.

UTILITY SERVICE PROVIDER CONTACT SHEET

John Haynes
 1769 Bay St.
 Port Orchard, WA 98366

Water ACCT NO. 0001545-000-360 876 5139	Kitsap County Water District
	Name: City of Port Orchard
	Address: 216 Prospect Street
	City, State Zip: Port Orchard, WA 98366
	Phone Number: (360) 876-5139 Fax Number
Sewer ACCT NO. 001545-000 360-876 - 5139	City
	Name: City of Port Orchard
	Address: 216 Prospect Street
	City, State Zip: Port Orchard, WA 98366
	Phone Number Fax Number
Garbage acct no. 031-0000088-0029-4	Waste Management
	Name: Waste Management
	Address
	City, State Zip
	Phone Number: 1 (800) 592-9995 Fax Number
Electricity ACCT NO. 200 0222 66106	
	Name: Puget Sound Energy
	Address
	City, State Zip
	Phone Number: 1 (888) 225-5773 Fax Number

Gas	Name: Cascade Natural Gas N/A	
	Address:	
	City, State Zip:	
	Phone Number: (888) 522-1130	Fax Number
Internet: Wave Broadband Premier Clear Internet CenturyLink Comcast Xfinity	Name: ASTOUND Broadband	
	Address:	
	City, State Zip:	
	Phone Number	Fax Number:
Cable Howich Cable Services Xfinity Comcast acct no. 3401039561601	Name ASTOUND Broadband	
	Address: 4519 SE Hill Dr	
	City, State Zip POB ORCHARD, WA 98366	
	Phone Number	Fax Number
Leased Equipment	Name N/A	
	Address	
	City, State Zip	
	Phone Number	Fax Number

Real Estate Excise Tax Affidavit (RCW 82.45 WAC 458-61A)

Only for sales in a single location code on or after January 1, 2020.
This affidavit will not be accepted unless all areas on all pages are fully and accurately completed.
This form is your receipt when stamped by cashier. Please type or print.

Check box if partial sale, indicate % _____ sold.

List percentage of ownership acquired next to each name.

1 Seller/Grantor

Name John Haynes

Mailing address 1699 Bay St

City/state/zip Port Orchard, WA 98366

Phone (including area code) (360) 895-0146

2 Buyer/Grantee

Name City of Port Orchard-Public Works Department

Mailing address 216 Prospect St.

City/state/zip Port Orchard, WA 98366

Phone (including area code) _____

3 Send all property tax correspondence to: Same as Buyer/Grantee

Name _____

Mailing address _____

City/state/zip _____

List all real and personal property tax parcel account numbers	Personal property?	Assessed value(s)
<u>4027-022-001-0004</u>	<input type="checkbox"/>	<u>\$ 235,500.00</u>
_____	<input type="checkbox"/>	<u>\$ 0.00</u>
_____	<input type="checkbox"/>	<u>\$ 0.00</u>

4 Street address of property 1699 Bay St

This property is located in Port Orchard (for unincorporated locations please select your county)

Check box if any of the listed parcels are being segregated from another parcel, are part of a boundary line adjustment or parcels being merged.
Legal description of property (if you need more space, attach a separate sheet to each page of the affidavit).

LOT 1 AND 2, BLOCK 22, ANNAPOLIS, ACCORDING TO THE PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 64, IN KITSAP COUNTY, WASHINGTON; EXCEPT ANY PORTION LYING WITHIN FIRST CLASS TIDELANDS AS SHOWN BY OFFICIAL MAP OF SIDNEY TIDELANDS.

5 11 - Household, single family units

Enter any additional codes N/A
(see back of last page for instructions)

Was the seller receiving a property tax exemption or deferral under RCW 84.36, 84.37, or 84.38 (nonprofit org., senior citizen or disabled person, homeowner with limited income)? Yes No

Is this property predominately used for timber (as classified under RCW 84.34 and 84.33) or agriculture (as classified under RCW 84.34.020) and will continue in its current use? If yes and the transfer involves multiple parcels with different classifications, complete the predominate use calculator (see instructions) Yes No

6 Is this property designated as forest land per RCW 84.33? Yes No

Is this property classified as current use (open space, farm and agricultural, or timber) land per RCW 84.34? Yes No

Is this property receiving special valuation as historical property per RCW 84.26? Yes No

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)

NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale (RCW 84.33.140 or 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.

This land: does does not qualify for continuance.

Deputy assessor signature _____ Date _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)

NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) doesn't wish to continue, all additional tax calculated pursuant to RCW 84.26, shall be due and payable by the seller or transferor at the time of sale.

(3) NEW OWNER(S) SIGNATURE

Signature _____ Signature _____

Print name _____ Print name _____

8 I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT

Signature of grantor or agent John Haynes

Name (print) JOHN HAYNES

Date & city of signing 3-2-20 PORT ORCHARD

Signature of grantee or agent _____

Name (print) _____

Date & city of signing _____

Perjury in the second degree is a class C felony which is punishable by confinement in a state correctional institution for a maximum term of five years, or by a fine in an amount fixed by the court of not more than \$10,000, or by both such confinement and fine (RCW 9A.72.030 and RCW 9A.20.021(1)(c)).

To ask about the availability of this publication in an alternate format for the visually impaired, please call 360-705-6705. Teletype (TTY) users may use the WA Relay Service by calling 711.

Land and Improvements	
If claiming an exemption, list WAC number and reason for exemption.	
WAC number (section/subsection) <u>458-61A-206</u>	
Reason for exemption	
Threat of Eminent Domain	
Type of document <u>Warranty Deed</u>	
Date of document	
Gross selling price	<u>516,000.00</u>
*Personal property (deduct)	<u>0.00</u>
Exemption claimed (deduct)	<u>516,000.00</u>
Taxable selling price	<u>0.00</u>
Excise tax: state	
Less than \$500,000.01 at 1.1%	<u>0.00</u>
From \$500,000.01 to \$1,500,000 at 1.28%	<u>0.00</u>
From \$1,500,000.01 to \$3,000,000 at 2.75%	<u>0.00</u>
Above \$3,000,000 at 3%	<u>0.00</u>
Agricultural and timberland at 1.28%	<u>0.00</u>
Total excise tax: state	<u>0.00</u>
0.0050 Local	<u>0.00</u>
*Delinquent interest: state	<u>0.00</u>
Local	<u>0.00</u>
*Delinquent penalty	<u>0.00</u>
Subtotal	<u>0.00</u>
*State technology fee	<u>5.00</u>
Affidavit processing fee	<u>5.00</u>
Total due	<u>10.00</u>

A MINIMUM OF \$10.00 IS DUE IN FEE(S) AND/OR TAX
*SEE INSTRUCTIONS

Price Differential Report

Project Title: Bay Street Pedestrian Pathway	Parcel No.: 4017-022-001-0004 4027
Displaced Person(s): John Haynes	Displacee No.: 1

Total Take – Typical Residential Acquisition

1. Price of Comparable (from Housing Comparison Worksheet)	\$975,000
2. Appraised Value of subject to be acquired. Include value of uneconomic remnant, or “building lot remainder,” and/or damages as appropriate.	\$516,000
3. Maximum Price Differential (Subtract line 2 from line 1).	\$459,000
LRH Plan Payment (2.5% of line 1 = \$24,375)	\$483,375

Residential Carve Out

4. Price of Comparable (from Housing Comparable Worksheet).	
5. Appraised Value of land and improvements (dwelling, well, garage, etc.) to be acquired contributing to the residential use of the subject. For lots larger than typical, only include square footage typical of the subject area.	
6. Amount of damages to the residential portion of the remaining property from DV, (do not include if lot is larger than typical).	
7. Carve out residential value of subject (Add lines 5 and 6).	
8. Maximum Price Differential (Subtract lines 7 from line 4).	

Remarks:

Prepared By: Paula Ferreira-Smith, RW-RAC	Reviewed: Leslie Findlay, SR/WA, R/W-RAC	Date: 02/11/2022
City of Port Orchard Approval:	Amount: \$483,375	Date: 02/11/2022

Actual Price Differential Computation (*complete after above approval received*)

9. Purchase Price of Replacement Dwelling <u>or</u> Price of Comparable (lesser amount)	\$ 900,000
10. Residential value of acquired dwelling/site. Include inducements such as administrative settlements, free salvage, etc.	\$516,000
11. Subtract line 10 from line 9.	\$ 384,000
12. Maximum Price Differential (line 3 or 8).	\$483,375
13. Price Differential Payment (lesser of lines 11 or 12).	\$384,000

Remarks:

Prepared By: Paula Ferreira-Smith, R/W-RAC <i>Paula Ferreira</i>	Reviewed: Leslie Findlay <i>Leslie Findlay</i>	Date: 3/1/2022
City of Port Orchard Approval:	Amount: \$ 384,000.00	Date: <i>3/2/22</i>

Relocation Assistance Voucher No. 1

Agency Name: Mark R. Dorsey, P.E., Public Works Director City of Port Orchard 216 Prospect Street Port Orchard, WA 98366		I hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the Agency. That the same or any part thereof has not been paid, and that I am authorized to sign for the claimant. I further certify that I am a citizen of the United States of America or am an alien lawfully present in the United States of America.	
Displaced Person(s) or Claimant SEE Wiring Instructions:		Signature (Blue ink) for each claimant	Date
Land Title Company of Kitsap County C/O John Haynes Escrow No. E2022-418628		X John Haynes	
Project Title: Bay Street Pedestrian Pathway			
Parcel No.: 4027-022-001-0004	Displacee No.: 1	Displacee Name: John Haynes	Date Parcel Vacated: PENDING
Replacement Housing Payments			\$ Amounts
Price Differential – 90-day owner for amounts up to \$31,000			\$31,000.00
MIDP - Increased Mortgage Interest Payment			\$0.00
Incidentals			\$2,118.03
Last Resort Housing – owner for amounts over \$31,000			\$353,000.00
Rental Supplement – 90-day tenants and certain others amounts up to \$7,200			\$0.00
Down Payment Assistance – 90-day tenants and certain others			\$0.00
Last Resort Housing – tenants amount over \$7,200			\$0.00
Comments / other (describe): PPD \$384,000 (Best comparable \$975,000; replacement dwelling accepted offer, above asking price in the amount of \$900,000.00 with \$10,000 escalation cost above other offers). Eligible purchase price differential \$900,000-\$516,000 Acquisition price, plus \$2,118.03 to cover eligible closing costs equal \$386,118.03. Disbursement Instruction: \$386,118.03 to be wire to Land Title Escrow (see wiring instructions).			\$0.00
Moving Expense Payments			\$ Amounts
Self-Move / Schedule Payments – residential			\$0.00
Actual Expenses (Commercial Move/Actual Cost Self Move) – residential			\$0.00
Fixed Payment (in lieu of all other moving expenses) - Non-Residential			\$0.00
Actual Costs / Self Move / Commercial - Non-Residential			\$0.00
Reestablishment Costs - Non-Residential			\$0.00
Personal Property Only			\$0.00
Comments / Other (describe):			\$0.00
Deductions:			- \$0.00
TOTAL →			\$386,118.03

Invoice No.:		Date:		Amount: \$					
ACCOUNT CLASSIFICATION									
PARCEL	JOB NUMBER		WORK OP	ACCOUNT		CONTROL SECTION	ORG. NO.	NON-PART	TOTALS DOLLARS
	WORK ORDER	GRP		OBJ	SUB				
									\$
TOTAL → \$386,118.03									
RELOCATION SPECIALIST: Paula Ferreira-Smith			DATE: 3/1/2022		RELOCATION SUPERVISOR: Leslie Findlay		DATE: 3/1/2022		
<i>Paula Ferreira</i>					<i>Leslie Findlay</i>				
I, the undersigned, certify that the above information is correct, that the payment is necessary for the above relocation assistance, that it has been performed in accordance with prescribed procedures, and that this payment is not considered income or resources to a "DISPLACED PERSON" pursuant to Section 216 of Public Law 91-646 and RCW 8.26.115.:									
Mark R. Dorsey, P.E., Public Works Director				DATE <u>3/2/22</u>		Warrant Register No.:		Voucher No.:	

If you are unable to perform as instructed herein prior to March 21st, 2022, please return all Agency funds, less your escrow cancellation charge, if any, with your letter of explanation to the Agency at the address shown above.

Mark R. Dorsey, P.E.
Public Works Director
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366



Mark R. Dorsey, P.E.

Paula Ferreira

Paula Ferreira-Smith, RW-RAC

2-2-22

Date

3-1-2022

Date

Displaced Person(s)

John Haynes

Date

Move Expense Agreement Residential

Project Title: Bay Street Pedestrian Pathway	Parcel No.: 4027-022-001-0004
Displaced Person(s): John Haynes	Displacee No.: 1

I, the undersigned, hereby certify that I am the owner of certain personal property that is lawfully located upon real property acquired in connection with the foregoing public works project. As a result of the acquisition, said personal property must be moved from the acquired site.

By initialing below, I hereby select the following type(s) of moving option(s), authorized under the Washington State Relocation Assistance Program:

N/A

Commercial Move. I will select and contract with a commercial mover to move all personal property onsite. Upon request, the City of Port Orchard (Agency) may make direct payment on my behalf to a qualified commercial mover to relocate my personal property up to a maximum of 50 miles. I estimate the value of my personal property to be \$N/A. This amount will be used to determine the cost of my replacement value insurance (copy of insurance policy may be requested).

I may be required to move flammable materials/chemicals/open containers (refrigerator items, pantry items, under sink items) that the moving company cannot move. If I do, I will be reimbursed a total of \$N/A once the move is complete.

N/A

Self-Move Actual Cost. I will move all personal property owned by me using my own resources and be reimbursed the actual and reasonable moving cost as documented by paid receipts, invoices, or other reasonable evidence of expense.

Self-Move Scheduled Payment. I will move all personal property, owned by me, from the acquired site. Upon satisfactory completion of the move, I will claim the amount of **\$5,000.00** for **15** rooms.

NOTE: Failure to comply with the terms and conditions of this agreement may result in denial of all or part of your claim for moving expenses. In the event that all personal property is not removed, appropriate action will be taken by the Agency, and you will be responsible for the cost associated with removing personal property left at the displacement site. This cost will be deducted from your moving claim/payment.

Displaced Person: John Haynes

Paula Ferreira

Date

3-1-2022

Relocation Specialist: Paula Ferreira-Smith, RW-RAC

Date

3/2/22

Agency Authorization

Date

Relocation Assistance Voucher No. 2

Agency Name: Mark R. Dorsey, P.E., Public Works Director City of Port Orchard 216 Prospect Street Port Orchard, WA 98366		I hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the Agency. That the same or any part thereof has not been paid, and that I am authorized to sign for the claimant. I further certify that I am a citizen of the United States of America or an alien lawfully present in the United States of America.	
Displaced Person(s) or Claimant John Haynes 1699 Bay Street Port Orchard, WA 98366 DO NOT MAIL CHECK - HOLD FOR TIERRA'S AGENT TO PICK UP. CHECK TO BE DELIVER BY AGENT AT DISPLACEMENT SITE-MOVE-OUT INSPECTION.		Signature (Blue ink) for each claimant x John Haynes	Date
Project Title: National Avenues/Loxie Eagans Improvements Project			
Parcel No.: 4027-022-001-0004	Displacee No.: 1	Displacee Name: John Haynes	Date Parcel Vacated: PENDING
Replacement Housing Payments			\$ Amounts
Price Differential – 90-day owner for amounts up to \$31,000			\$0.00
MIDP - Increased Mortgage Interest Payment			\$0.00
Incidentals (JN75 / JN79)			\$0.00
Last Resort Housing – owner for amounts over \$31,000			\$0.00
Rental Supplement – 90-day tenants and certain others amounts up to \$7,200			\$0.00
Down Payment Assistance – 90-day tenants and certain others			\$0.00
Last Resort Housing – tenants amount over \$7,200			\$0.00
Comments / other (describe):			\$
Moving Expense Payments			\$ Amounts
Self-Move / Schedule Payments – residential			\$5,000.00
Actual Expenses (Commercial Move/Actual Cost Self Move) – residential			\$0.00
Fixed Payment (in lieu of all other moving expenses) - Non-Residential			\$0.00
Actual Costs / Self Move / Commercial - Non-Residential			\$0.00
Reestablishment Costs - Non-Residential			\$0.00
Personal Property Only			\$0.00
Comments / Other (describe): \$5,000.00 Check payable to John Haynes			\$
Deductions:			- \$0.00
TOTAL →			\$5,000.00

Invoice No.:	Date:	Amount: \$					
ACCOUNT CLASSIFICATION							
PARCEL	JOB NUMBER WORK ORDER GRP	WORK OP	ACCOUNT OBJ SUB	CONTROL SECTION	ORG. NO.	NON-PART	TOTALS DOLLARS
							\$
TOTAL → \$ 5,000.00							
RELOCATION SPECIALIST: Paula Ferreira-Smith <i>Paula Ferreira</i>		DATE: 3/1/2022	RELOCATION SUPERVISOR: Leslie Findlay <i>Leslie Findlay</i>		DATE: 3/1/2022		
I, the undersigned, certify that the above information is correct, that the payment is necessary for the above relocation assistance, that it has been performed in accordance with prescribed procedures, and that this payment is not considered income or resources to a "DISPLACED PERSON" pursuant to Section 216 of Public Law 91-646 and RCW 8.26.115.;							
Mark R. Dorsey, P.E., Public Works Director DATE: <u>3/2/22</u>				Warrant Register No.:	Voucher No.:		



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: Business Item 7D
Subject: Approval of Memorandums of
Understanding with Teamsters Local 589
Representing Police Support Staff,
Municipal Court Employees and Public
Works Employees

Meeting Date: March 22, 2022
Prepared by: Debbie Lund
HR Manager
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: The City pays its employees bi-weekly or 26 times a year. This means that twice a year City employees receive 3 paychecks in a single month. As part of the 2022-2025 contract negotiations, the parties agreed to move all payroll deductions to 2 times per month. Specifically, in Appendix B language was included that the deductions would occur in the 1st and last paychecks of each month. For the 3 paycheck months, payroll prefers deductions to be in the 2nd and 3rd paychecks of the month, rather than 1st and last paychecks. As this is a change to contract language already approved by the City Council, an MOU with the three bargaining units is required to make this correction.

Recommendation: Staff recommends the City Council authorize the Mayor to sign a Memorandum of Understanding (MOU) with each of the three bargaining units represented by Teamsters Local No. 589 to correct language in Appendix B of the collective bargaining agreements regarding payroll deductions in three paycheck months.

Relationship to Comprehensive Plan: N/A

Motion for consideration: “I move to authorize the Mayor to sign MOU’s with each of the three bargaining units represented by Teamsters Local No. 589 to correct language in Appendix B of the collective bargaining agreements regarding payroll deductions in three paycheck months.”

Fiscal Impact: None.

Alternatives: Do not approve the MOU and provide alternative guidance.

Attachments: The MOU’s under consideration tonight are not public documents until approved by Council and signed by the parties; it is, therefore, not attached.