



City of Port Orchard Council Meeting Agenda

March 14, 2023

6:30 p.m.

Mayor:

Rob Putaansuu
Administrative Official

Councilmembers:

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

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

Department Directors:

Nicholas Bond, AICP
Development Director

Tony Lang
Public Works Director

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@portorchardwa.gov

Pursuant to the Open Public Meetings Act, the City Council is conducting its public meeting in the Council Chambers at City Hall. Members of the public may view and provide public comment during the meeting in person at City Hall, via the online platform zoom (link below), or via telephone (number below). The public may also view the meeting live on the City's YouTube channel.

Remote access

Link: <https://us02web.zoom.us/j/87839929599>

Zoom Webinar ID: 878 3992 9599

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.** [Adoption of a Resolution Authorizing the Purchase of Twenty-Five Patrol Rifle Systems via PCA Contract No. OD-337-21 \(M. Brown\) Page 3](#)
- D.** [Adoption of a Resolution Approving the Purchase of a Kohler Generator for Upgrades to Eaglecrest Sewer Lift Station \(Lang\) Page 8](#)
- E.** [Adoption of a Resolution Rescinding a Fence Agreement and Requiring Removal of a Fence Located in City Right of Way for the Bay Street Pedestrian Pathway Project \(Lang\) Page 19](#)
- F.** [Adoption of Resolution Confirming the Appointment of a Code Enforcement Officer \(Archer\) Page 23](#)

5. PRESENTATION

6. PUBLIC HEARING

7. BUSINESS ITEMS

- A. Adoption of a Resolution Fixing the Date of a Public Hearing on a Petition to Vacate City Right of Way, Portion of an Alley Commonly Known as Mystery Lane and the Westerly Portion of Harrison Avenue (Wallace) Page 27
- B. Adoption of a Resolution Approving a Lease with Peninsula Feed for Use of Public Right of Way, Harrison Avenue (Wallace) Page 65
- C. Approval of the February 28, 2023, City Council Meeting Minutes Page 84

8. DISCUSSION ITEMS (No Action to be Taken)

- A. Strategic Planning Date (Mayor)

8. REPORTS OF COUNCIL COMMITTEES

9. REPORT OF MAYOR

10. REPORT OF DEPARTMENT HEADS

11. 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.)*

12. 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.

13. CITY COUNCIL GOOD OF THE ORDER

14. ADJOURNMENT

COMMITTEE MEETINGS

Date & Time

Location

Economic Development and Tourism	March 20, 2023; 9:30am	Remote Access
Utilities	March 28, 2023; 5:00pm	Remote Access
Finance	March 21, 2023; 5:00pm	Remote Access
Transportation	March 14, 2023; 4:30pm	Remote Access
Festival of Chimes & Lights	March 20, 2023; 3:30pm	Remote Access
Land Use	March 22, 2023; 4:30pm	Remote Access
Lodging Tax Advisory	TBD, 2023	Remote Access
Sewer Advisory	March 22, 2023; 5:00pm	Remote Access
Council Retreat	TBD	Council Chambers
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.portorchardwa.gov or by contacting the City Clerk's office at (360) 876-4407.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4C
Subject: Adoption of a Resolution Authorizing the
Purchase of Twenty-Five Patrol Rifle
Systems via PCA Contract No. OD-337-21

Meeting Date: March 14, 2023
Prepared by: Matt Brown
Chief of Police
Atty Routing No.: 366922-0012
Atty Review Date: March 8, 2023

Summary: In 2022, the Police Department recognized the need to replace its aging inventory of patrol rifle systems. The replacement would include rifles, optics, and the addition of a sound suppression system to provide auditory protection to employees.

Staff conducted research and identified a patrol rifle system that met the requirements of the department. The Police Department identified ProForce Law Enforcement as an approved vendor for the desired patrol rifle system, along with a corresponding Purchasing Cooperative of America (PCA) Contract No. OD-337-21. As a member of the Purchasing Cooperative of America, the City may utilize contracts procured and hosted by PCA as long as they are consistent with applicable procurement requirements. Consistent with the City’s Procurement Policies and Procedures, staff reviewed the procurement process utilized by PCA for this contract to confirm the City’s procurement requirements were met and obtained necessary documentation from PCA and the vendor regarding procurement. On January 24, 2023, Police Department staff requested a quote from ProForce Law Enforcement consistent with PCA Contract No. OD-0337-21. On January 24, 2023, ProForce Law Enforcement provided a quote of \$59,958.71 (applicable tax and shipping included), which is consistent with PCA contract rates.

Recommendation: Staff recommends that the City Council adopt a Resolution authorizing the purchase of twenty-five (25) patrol rifle systems from ProForce Law Enforcement through PCA Contract No. for a total purchase price of \$59,958.71 (applicable tax and shipping included).

Relationship to Comprehensive Plan: N/A.

Motion for consideration: I move to adopt a resolution authorizing the purchase of twenty-five (25) patrol rifle systems from ProForce Law Enforcement for a total purchase price of \$59,958.71 (applicable tax and shipping included).

Fiscal Impact: Costs for the replacement of patrol rifle systems are budgeted in the 2023-2024 Biennial Budget.

Alternatives: Not authorize the Resolution and provide further guidance.

Attachments: Resolution, Vendor Quote

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE PURCHASE OF PATROL RIFLE SYSTEMS FOR THE POLICE DEPARTMENT AND DOCUMENTING PROCUREMENT PROCEDURES.

WHEREAS, the Police Department identified the need for ballistic helmets; and

WHEREAS, the City has an agreement with the Purchasing Cooperative of America (PCA) which allows the City to utilize the contracts hosted by PCA for services and purchases, so long as the City confirms the contract complies with all applicable statutory procurement requirements for the particular purchase or service, per RCW 39.34.030; and

WHEREAS, the Police Department identified ProForce Law Enforcement as an approved vendor for the desired patrol rifled systems, awarded via PCA Contract No. OD-337-21 (the "PCA Contract"); and

WHEREAS, Staff reviewed the procurement process utilized by PCA for the PCA Contract to confirm the procurement requirements were met and obtained necessary documentation from PCA and the vendor regarding procurement; and

WHEREAS, on January 24, 2023, Police Department staff requested a quote from ProForce Law Enforcement, and on January 24, 2023, ProForce Law Enforcement provided a quote of \$59,958.71 (applicable tax and shipping included), which is consistent with the PCA Contract rates; and

WHEREAS, on February 8, 2023, the City's Police Department completed the Interlocal Agreement Purchase Checklist for the selected vendor; and

WHEREAS, the City Council's authorized the amount of \$63,000 in the 2023-2024 Biennial Budget for this purchase; and

WHEREAS, the City Council has approved procurement policies which require City Council authorization for purchasing items that cost \$35,000 or more; and

WHEREAS, the ProForce Law Enforcement quote attached as Exhibit A is for the purchase of patrol rifle systems in an amount that exceeds the \$35,000 authorization limit; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their selection/procurement process as described herein for this purchase by Resolution; 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 approves the purchase of twenty-five (25) patrol rifle systems, from ProForce Law Enforcement in the amount of \$59,958.71 (applicable tax and shipping included). The Mayor or his designee is authorized to take all actions necessary to effectuate the purchase, consistent with this authorization.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of March 2023.

Robert Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

PROFORCE LAW ENFORCEMENT

2625 Stearman Drive. Prescott AZ, 86301
 Tel: 928-776-7192 Fax: 928-445-3468
 email: sales@proforceonline.com www.proforceonline.com

O R D E R	QUOTE#	PAGE
	633408	1
Q U O T E	SHIP DATE	
	A.S.A.P.	

**SOLD
TO**

PORT ORCHARD POLICE DEPARTMENT
 ACCOUNTS PAYABLE
 216 PROSPECT STREET
 PORT ORCHARD WA 98366

**SHIP
TO**

PORT ORCHARD POLICE DEPARTMENT
 ATTN: ANDY BRANDON
 546 BAY STREET
 PORT ORCHARD WA 98366

360-876-5546

JOB #	ORD. DATE	CUST.#	LOC.	SALESMAN	SHIP VIA	FRT.
NA	01/24/23	009342	A	MIKE RUSSELL	FX G-FOB ORIGIN	

QTY. ORDER	ITEM NO./DESC.	UNIT PRICE	UOM DISC.	NET PRICE
25	36-100624-XFET FNM LE FN15 SRP G2 556 SBR BUIS 30RD 10.5" D/S ONLY	905.41	EA .00	22,635.25
25	200759 AIM DUTY RDS RED DOT REFLX SGT 2MOA 39MM 1-PC TORSION NUT MNT	449.10	EA .00	11,227.50
25	2138H-DS OSS HX-QD 556 FLSH CAP SUP KIT W/FLASH HIDER 556 1/2X28	839.77	EA .00	20,994.25
<p>IMPORTANT NOTICES: This quotation is based on the issuance of a department purchase order and F.E.T. form. ATF or the manufacturer may require additional forms. Sample forms may be found at: http://www.ProForceonline.com/forms.html</p> <p>Standard Terms are Net 30 days. If department policy does not allow for partial shipments and payments, separate purchase orders for each item will be necessary.</p> <p>Standard manufacturer's warranty applies to all department</p> <p>This quote is valid for 45 days from date of issue, pending credit approval, and is subject to manufacturer's</p>				

COMMENT

TERMS

PROFORCE LAW ENFORCEMENT

2625 Stearman Drive. Prescott AZ, 86301
 Tel: 928-776-7192 Fax: 928-445-3468
 email: sales@proforceonline.com www.proforceonline.com

O R D E R	QUOTE#	PAGE
	633408	2
Q U O T E	SHIP DATE	
	A.S.A.P.	

SOLD
TO

PORT ORCHARD POLICE DEPARTMENT
 ACCOUNTS PAYABLE
 216 PROSPECT STREET
 PORT ORCHARD WA 98366

SHIP
TO

PORT ORCHARD POLICE DEPARTMENT
 ATTN: ANDY BRANDON
 546 BAY STREET
 PORT ORCHARD WA 98366

360-876-5546

JOB #	ORD. DATE	CUST.#	LOC.	SALESMAN	SHIP VIA	FRT.
NA	01/24/23	009342	A	MIKE RUSSELL	FX G-FOB ORIGIN	

QTY. ORDER	ITEM NO./DESC.	UNIT PRICE	UOM DISC.	NET PRICE
	<p>availability and price change. Please call (800) 367-5855 if this bid is still pending on the expiration date for updated pricing.</p> <p>ProForce Law Enforcement agrees to defend, indemnify and hold harmless its customers from claims for personal injury or property damages, to the extent arising from the negligent acts or omissions of ProForce Law Enforcement or its employees, agents or independent contractors.</p> <p>ORDERING INSTRUCTIONS: Please reply to your sales representative in writing to process this order or send an email to danny.gonzales@proforceonline.com. For orders over \$5,000, a PO or signed quote is required to process the order.</p> <p>Returned items are subject to 20% restocking fee. All sales are final on non-stocked/special order items</p> <p>IMPORTANT: To order from this quotation, please sign below.</p> <p>Printed Name: _____</p> <p>-</p> <p>Date: _____ P.O.: _____</p> <p>-</p> <p>Signature: _____</p>			

<p>COMMENT</p> <p>PCA-OD-337-21 FN 43% OFF MSRP, AIM 10% OFF MSRP BY: DANNY GONZALES</p> <p>TERMS DUE NET 30 DAYS</p>	SALES AMOUNT	54,857.00
	9.300% SALES TAX	5,101.71
	SUB TOTAL	59,958.71



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
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Agenda Staff Report

Agenda Item No.: Consent Agenda 4D
Subject: Adoption of a Resolution Approving the
Purchase of a Kohler Generator for
Upgrades to Eaglecrest Sewer Lift Station

Meeting Date: March 14, 2023
Prepared by: Tony Lang
Public Works Director
Atty Routing No.: 366922-0009
Atty Review Date: March 8, 2023

Summary: The Eaglecrest Sewer Lift Station requires necessary upgrades as part of the upcoming Sewer Lift Station Controls Upgrade Project, set to start later this year. One of the necessary upgrades included in the Project is the installation of a permanent generator to prevent sewage overflows in the event of a power outage. Currently the Station relies on a portable generator that public works staff must tow to the site during a power outage. The generator must meet the design specifications for the project and the City's Design Standards and Specifications for Construction. As part of the Project's development, the City's Public Works Department determined that a Kohler Generator would best serve the Eaglecrest lift station due to necessary integration with existing space and components. Due to current supply chain issues, the approximate lead time to receive the generator is currently 15 months. To avoid delays during the construction phase of the project, the generator needs to be purchased now and the Project will include its installation. Note that the cost of the generator will be considered as part of the aggregate cost of the Project for purposes of compliance with RCW 35.23.352.

The City has an interlocal agreement with purchasing cooperative Sourcewell (City Contract No. C075-14), which allows the City to utilize the contracts procured by Sourcewell for services and purchases, so long as the City confirms the contract complies with all applicable statutory procurement requirements for the purchase or service, per RCW 39.34.030. Consistent with City Contract No. C075-14 and the City's Procurement Procedures Policies, adopted as Resolution No. 036-22, as amended, Public Works staff identified Power Systems West as an authorized Kohler dealer and as an approved vendor for the desired generator, awarded via Sourcewell Contract No. 092222-KOH (Sourcewell Contract). Staff reviewed the procurement process utilized by Sourcewell for the Sourcewell Contract, confirmed the procurement requirements were met and obtained all necessary documentation from Sourcewell and the vendor regarding procurement.

On February 28, 2023, Public Works staff requested and received a quote from Power Systems West of \$39,691.62 (plus applicable tax), for a total purchase price of \$43,382.94. On March 1, 2023, the City's Public Works Department completed the Interlocal Agreement Purchase Checklist for the selected vendor and confirmed the quote was consistent with the Sourcewell Contract.

The City's Procurement Policies require City Council approval for purchases costing \$35,000 or more and for unbudgeted purchases.

The proposed Resolution is to provide the City Council's approval of the equipment purchase in accordance with the procurement procedures established by the City Council.

Recommendation: Staff recommends approving a Resolution, providing City Council approval for the purchase of a Kohler Generator in accordance with the City's procurement policies.

Relationship to Comprehensive Plan: Chapter 7 - Utilities

Motion for consideration: I move to adopt a Resolution, authorizing the purchase of a Kohler generator for the Eaglecrest Lift Station.

Fiscal Impact: The City received a Washington State Public Works Board Loan of \$800,000 for the Sewer Lift Station Controls Upgrade Project. The cost of this generator is included in this project. The project is budgeted in the 2023-2024 Budget (GL Code: 433.05.594.35.60)

Alternatives: Do not approve and provide alternative guidance.

Attachment: Resolution
Kohler Quote
Interlocal Agreement Checklist

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING THE PURCHASE OF A GENERATOR AND DOCUMENTING PROCUREMENT PROCEDURES.

WHEREAS, the City received a Washington State Public Works Board Loan of \$800,000 for the Sewer Lift Station Controls Upgrade Project to improve the City's sewer lift facilities; and

WHEREAS, upgrades to the Eaglecrest Sewer Lift Station are a part of the Sewer Lift Station Controls Upgrade Project; and

WHEREAS, the upgrades to this lift station require the installation of a permanent generator to prevent sewage overflows in the event of a power outage; and

WHEREAS, Public Works staff determined that a Kohler Generator fits the design specifications and meets the City's Design Standards and Specifications for Construction; and

WHEREAS, the City has an interlocal agreement with purchasing cooperative Sourcewell (City Contract No. C075-14) which allows the City to utilize the contracts procured by Sourcewell for services and purchases, so long as the City confirms the contract complies with all applicable statutory procurement requirements for the purchase or service, per RCW 39.34.030; and

WHEREAS; consistent with City Contract No. C075-14 and the City's Procurement Procedures Policies, adopted as Resolution No. 036-22, as amended, the City's Public Works Department identified Power Systems West as an authorized Kohler Dealer and as an approved vendor for the desired generator, awarded via Sourcewell Contract No. 092222-KOH (Sourcewell Contract); and

WHEREAS, Staff reviewed the procurement process utilized by Sourcewell for the Sourcewell Contract, confirmed the procurement requirements were met, and obtained all necessary documentation from Sourcewell and the vendor regarding procurement; and

WHEREAS, on February 28, 2023, Public Works staff requested and received a quote for the generator from Power Systems West of \$39,691.62 (plus applicable tax), for a total purchase price of \$43,382.94; and

WHEREAS, on March 1, 2023, the City's Public Works Department completed the Interlocal Agreement Purchase Checklist for the selected vendor and confirmed the quote was consistent with the Sourcewell Contract; and

WHEREAS, the City's Procurement Policies require City Council authorization for purchasing budgeted items that cost \$35,000 or more, and for unbudgeted purchases; and

WHEREAS, the Power Systems West quote, attached as Exhibit A, is for the purchase of Equipment in an amount that exceeds the \$35,000 authorization limit; and

WHEREAS, the cost of the generator shall be considered as part of the aggregate cost of the Project for purposes of compliance with RCW 35.23.352; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their selection/procurement process as described herein for this purchase by Resolution; 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 approves the purchase from Power Systems West in the amount of \$43,382.94 (applicable tax included). The Mayor or his designee is authorized to take all actions necessary to effectuate the purchase, consistent with this authorization.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of March 2023.

Robert Putansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

February 28, 2023

City of Port Orchard

Attn: Estimator

Power Systems West is pleased to submit the following proposal for:
Eaglecrest Sewer LS

Sourcewell Quotation # 26960141

KOHLER Awarded Contract: 092222-KOH

KOHLER Contract Maturity Date: 11/22/2026

BILL OF INCLUDED MATERIALS

Qty-1 Kohler Standby Generator Model Number: 30REOZK

Generator Configuration:

UL2200 Listed
Engine: Kohler, 2.5L, 4-Cyl, Turbocharged, EPA Certified, Operating at 1800rev/min
Fuel Type: Diesel
Output: 29kW/36kVA, 60-Hz
Nameplate Rating: Standby 130C Rise
Alternator Frame Size: 4D5.6
Volts: 208/120, 3-Ph, 4-W, 0.8-PF
Set Mounted Radiator (50 Deg C ambient)
Heavy Duty air cleaner w/restriction indicator
Engine Block Heater: 600W, 120-Volt
IBC Seismic Certification
Initial Fill of Coolant & Lube oil

Controller Configuration:

APM402 Controller with digital meters and gauges, NFPA 110 compliant
Engine Run Relay
Dry Contacts: 2-input/5-Output
Modbus/Ethernet Convertor

Electrical System Configuration:

Starting Battery: 1/12V with Rack and cables
Battery Charger: 10-Amp
Battery Charger Temperature Compensation Sensor
Mainline Breaker: 100-Amp, Electronic LI, 100% with Aux contact + Shunt trip

Enclosure & Fuel System Configuration:

Sound Attenuated Weather Protected Enclosure, Steel construction, St Steel Hardware,
(Sound Level: 65.4dBA@23-ft)
Internally mounted muffler, flex connector, rain cap
Base Tank UL142, double wall fuel tank, 87-gal, 24-hr at full rated load, WA Code compliant
Leak alarm; high/low alarms; normal/emergency vents; 12' normal vent extension
5-gallon fill/spill containment w/95% Shutoff OFPV
Flexible fuel lines

Qty-1 Kohler Automatic Transfer Switch Model: KCS-ACTC-0104S

ATS Configuration:

UL1008 Listed
Amperage: 104-Amp, 60-Hz
Volts: 208, 4-Wire
Poles #: 3 (Solid Neutral)
Enclosure Rating: NEMA3R (Outside Installation)
MPAC-1200 Controller
Standard Open Transition
Current Sensing
User Interface Cover
Cabinet Heater: 100W, 120-Volt
Modbus/Ethernet Convertor
IBC Certification

Additional Items

- Kohler Factory standard testing at 0.8PF
- 1-Set, Electronic Operation and Maintenance Manuals
- 2-Year Factory Standard Warranty
- Factory Freight Delivery from WI to Port Orchard, WA (Off-loading by others)
- Start Up, includes testing, with 2-hour resistive load bank
- Owner Training at time of startup

Approximate Factory Lead Times:

- Generator (60-62 weeks)
- ATS (24-26 weeks)

Project Specific Exceptions and Clarifications

Based on initial provisional information. No formal specifications

E-C to review BOM for correctness

Note: Factory Enclosure sound level is [65.4dBA@23-ft](#)

General Exceptions and Clarifications

1. Off-loading and placement at the job site is excluded.
2. All fuel, fuel piping and connections are excluded.
3. No retainage is allowed.
4. Start-up testing and warranty validation includes one trip to jobsite during normal working hours. If equipment is not ready for start-up when we arrive at the jobsite, there may be additional charges for a return trip.
5. Kohler factory recommended field testing provided. NETA ATS testing, or any other 3rd party testing not included unless otherwise noted.
6. Training to be performed at start-up or subject to additional charges.
7. Hardcopy O & M's will be \$150.00 net each.
8. All piping, wiring, anchoring, anchor bolts and permits are by others.
9. Equipment is shipped FOB factory, with freight prepaid and allowed to the job site unless otherwise noted.
10. Compliance with National Electrical Code, NFPA, IFC, and state and local fire codes is the responsibility of the installing contractor. Special fuel tank labeling and venting/filling equipment may be required but is excluded unless otherwise noted.
11. Breaker coordination studies excluded. Alternate breakers required because of a coordination study are the responsibility of others.
12. Local codes may require outdoor generators to have a Service Rated disconnect. We are not providing a Service Rated disconnect unless it is specifically noted in this quotation.
13. TVSS devices for the generator or transfer switch(es) are excluded unless otherwise noted.
14. IBC seismic certification excluded unless otherwise noted.
15. Prices do not include any applicable taxes.
16. All orders are subject to Power Systems West Terms and Conditions.
17. Shipments are subject to manufacturer's lead times and transit times. Power Systems West assumes no responsibility for delays that are beyond our control and will not pay for liquidated damages.

Power Systems West (PSW) – Terms & Conditions

1. WARRANTIES. To the extent that the Goods may be covered by manufacturers' warranty, PSW hereby assigns all rights & benefits under such to Buyer, if assignable, and undertakes to assist Buyer in the coordination of any claims under such warranties. Seller makes no further warranty of any kind with respect to the Goods. PSW DISCLAIMS ANY AND ALL WARRANTIES. THERE ARE NO EXPRESS WARRANTIES AND THERE ARE NO IMPLIED WARRANTIES INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND THERE ARE NO OTHER IMPLIED OR EXPRESS WARRANTIES OF ANY NATURE WHATSOEVER.

2. LIMITATION OF PSW'S LIABILITY. Other than the remedy set forth in this paragraph, Customer agrees that no damages, direct, consequential, liquidated, incidental, or other damages or remedy of any kind arising by reason of or related to this Equipment whether arising out of contract, warranty, late or non-delivery, negligence, strict liability, or tort shall now or any time in the future be recoverable from PSW or any of its agents. Customer assumes all risks inherent in the possession or operation of the Equipment. Customer's right, now existing or arising at any time in the future, to recover such damages is hereby fully, finally, irrevocably and unconditionally waived, released and discharged. **Notice of any defect in the Work or Equipment shall be made within 24 hours of the act or omission giving rise to the defect.** The sole and exclusive remedy is replacement of the nonconforming goods or refund of that portion of Customer's payment attributable to such goods at PSW's sole option.

3. Payment Terms. Upon credit approval, full payment is due 30 days from invoice date, unless otherwise agreed to by both parties in writing. **There shall be NO retainage.** Payments not made on their due date shall accrue interest at the rate of 18% per annum. A cancellation charge of 20% of the price will be imposed if customer cancels order without prior written consent of PSW. **PSW must receive 100% payment before start-up services will be performed** (failure to complete proper, authorized startup procedures may void any manufacturer warranty). Terms may not be changed except by written agreement of the parties.

4. Shipping and Delivery. All Equipment shall be shipped F.O.B. manufacturer's factory unless otherwise agreed in writing by PSW and Customer. PSW is not responsible for goods lost or damaged in transit. In the event PSW agrees to delay shipment at Customer's request, Customer is responsible for payment of any storage costs. PSW does not agree, will not agree to and is not obligated to provide any specific goods or any delivery dates or times for any goods. All orders are subject to availability to PSW at its then existing locations, sources, suppliers and costs. All delivery dates and times which may be provided, if any, are estimates only and do not establish agreed delivery date(s).

5. Indemnity and Hold harmless. To the fullest extent permitted by law, Customer shall fully and forever indemnify, defend (with counsel reasonably acceptable to PSW) and hold PSW's employees, directors, successors and assigns harmless from any damage, claim, loss, expense and attorney fees (including those prior to any action, in an action and on any appeal) related to the performance or non-performance of Customer's obligations under this Agreement; the ownership, performance or operation of the Equipment; or PSW's liability, if any, under CERCLA, RCRA, or any other federal or state statute related to toxic, hazardous or other dangerous substances.

Thank you for the opportunity to offer quality Kohler products and our service. For over 75 years, Kohler has been recognized as a leader in the manufacture of standby generator systems. By choosing a Kohler generator provided by Power Systems West, you can be assured you will receive the highest quality standby power system available. Power Systems West has specialized in providing and servicing generator systems in the Northwest for over 50 years. Power Systems West – your best choice for power. If you have any questions, please feel free to call or e-mail.

Ray Bishop

(253) 878-2444 – Cell

(253) 517-1721 - Office

ray.bishop@powersystemswest.com

Sourcewell Quote#: 2696

30REOZK – Kohler List Price	\$40,044.00	
Sourcewell Member Discount: 32%	<\$12,814.08>	\$27,229.92
KCS-0104S – Kohler List Price	\$8,506.00	
Sourcewell Member Discount: 30%.....	<\$2,551.80>	\$5,954.20
Sourcewell Member Price FOB Factory, WI		\$33,184.12
Freight to Port Orchard, WA Location		\$4,100.00
Less 5% Member Discount		<\$205.00>
PSW Start-Up Services		\$2,750.00
Less 5% Member Discount		<\$137.50>
Total Net Price		\$39,691.62
Local Sales Tax @ 9.3%		\$ 3,691.32
Total Customer Price		\$43,382.94

**This quote is valid for 30 days*

Offer Acceptance

I hereby authorize Power Systems West to use this form as a bona fide purchase order of the equipment listed on **QUOTATION # 26960141**, which establishes price and Bill of Materials. Acceptance of this offer is expressly limited to Power Systems West terms and conditions.

Proposed by:

Company: Power Systems West

Sales Professional: Ray Bishop

Signature: *Ray Bishop*

Date: February 28, 2023

Accepted by:

Company: _____

Print Name: _____

Signature: _____

Date: ___ / ___ / _____

CITY OF PORT ORCHARD
PURCHASES THROUGH INTERLOCAL AGREEMENTS

City Contract No.: C075-14

Interlocal Agreement with the Host Agency (government agency or Purchasing Co-Op name): Sourcewell

Item Description: Kohler Standby Generator Moder#30REOZK & Kohler Automatic Transfer Switch

Do you have an Interlocal agreement signed with the Contract (host) Agency?

- If yes, where is it filed: City Clerk
- If no, get a mutually signed Agreement in place before you continue.

Sourcewell Contract No.: 092222

If you have an Office of State Procurement (OSP) contract number you may skip the remainder of this test because the OSP contracts comply with remaining requirements and retain the documentation on hand for SAO to review in the OSP offices.

Is this a technology contract?

- If yes, do your own rules allow for technology contracts to be negotiated?
- If your own rules allow for negotiated IT contracts, you can skip this test.

Is this a services contract?

- If yes, do your own rules allow services to be negotiated?
- If your own rules allow for negotiated services, you can skip the remainder of the test.

Are you using this as only one of multiple quotes, for a small purchase?

- If yes, you can skip the remainder of the test. Your purchase will not mandate the sealed bid rules.

Checklist for Required Compliance

Is the Host agency a public agency ¹ ?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, what state laws apply to Host Agency: <u>Minnesota</u>
Does the host agency have a requirement to run a newspaper ad in their local paper and did they comply	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Federal and State contract rules usually don't require a newspaper ad. For others, attach the ad or place into the file
Did they list on the public agency's website?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, state when and the address, and proof of date, address shall be attached or placed into the file. If No, you cannot use the bid.
Did the bid & award comply with the Host agency's state procurement laws?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, obtain documentation to support answer from Host Agency. If No, you cannot use the bid.

¹ RCW 39.34.020 (1), "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4E
Subject: Adoption of a Resolution Rescinding a
Fence Agreement and Requiring Removal
of a Fence Located in City Right of Way for
the Bay Street Pedestrian Pathway Project

Meeting Date: March 14, 2023
Prepared by: Tony Lang
Public Works Director
Atty Routing No.: 366922-0009
Atty Review Date: March 8, 2023

Summary: The City prohibits the construction and maintenance of residential walls or fences within the public right-of-way in its development regulations, currently codified at POMC Chapter 20.139. However, in limited circumstances the City may issue a Right of Way Permit or other form of approval to allow a limited encroachment, subject to a requirement that the encroachment be removed at the direction of the City. On September 23, 1991, the City Council authorized the owners of real property identified as Kitsap County Tax Parcel No. 4027-034-001-00, to construct a fence that encroached on adjacent Bay Street, subject to a number of conditions. Key among the conditions was a requirement that the owners would remove the fence at the direction of the City Council.

The fence is located in an area of Bay Street that will be improved as part of the ongoing Bay Street Pedestrian Pathway project, a pedestrian transportation project that will provide public benefit. Removal of the fence is required for certification that the City has ownership over the necessary portions of right of way for construction of the project. Staff recommends the City Council rescind the aforementioned Fence Agreement in order to allow for the construction of the Bay Street Pedestrian Pathway.

Recommendation: Staff recommends that the City Council adopt a Resolution rescinding the Fence Agreement recorded under Kitsap County Auditors File No. 9110030213.

Relationship to Comprehensive Plan: Chapter 8 - Transportation.

Motion for consideration: I move to adopt a Resolution rescinding the Fence Agreement recorded under Kitsap County Auditors File No. 9110030213.

Fiscal Impact: None (the property owner shall be responsible for the removal of the fence).

Alternatives: Do not authorize the Resolution and provide further guidance.

Attachments: Resolution
Fence Agreement (Kitsap County Auditors File No. 9110030213)
Meeting minutes from 1991 reflecting authorization

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, RESCINDING A FENCE AGREEMENT PERTAINING TO KITSAP COUNTY TAX PARCEL NO. 4027-034-001-00.

WHEREAS, the City prohibits the construction and maintenance of residential walls or fences within the public right-of-way in its development regulations, currently codified at POMC Chapter 20.139; and

WHEREAS, on September 23, 1991, the City Council authorized a “Fence Agreement”, thereby permitting the owners of Kitsap County Tax Parcel No. 4027-034-001-00 (the “Property) to construct and maintain a fence in the Bay Street right of way, subject to specific conditions, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, one condition of approval provided that “[t]he fence shall be removed when directed by the City Council”; and

WHEREAS, the fence at issue is encroaching on the portion of Bay Street right of way that will be improved as part of the Bay Street Pedestrian Pathway Project, a pedestrian transportation project that will provide public benefit; and

WHEREAS, the City Council finds it is necessary and in the best interest of the residents of Port Orchard to rescind the Fence Agreement and direct the owners of the Property to remove the fence to allow for the Bay Street Pedestrian Pathway Project to move forward to completion; 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 directs that the Fence Agreement, attached hereto as Exhibit A and incorporated herein by this reference, is hereby rescinded. The Mayor is directed to terminate the Agreement and take all action necessary to direct the Property’s owners to remove the encroaching fence.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of March 2023.

Robert Putansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

EXCISE TAX EXEMPT

OCT 3 1991

KITSAP COUNTY
TREASURER

30 September 1991

KITSAP COUNTY
\$7.00 CHCK
FILED-BY: PORT ORCHARD CITY OF
OCT 3 1991 2:05 PM
MONTFLYNN, AUDITOR
CLERK: MILLER

FENCE AGREEMENT

A.F. #: 9110030213
REEL 0610 FR 1347

RE: 1803 Bay Street
Kitsap County Tax Parcel: 4027-034-001-00

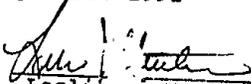
DESCRIPTION: Situated in Section 25, Township 24 North, Range 1 East, Kitsap County: Lot 1, Block 34, Annapolis and Lots 1,2,3 4, Block 33, Annapolis, as per plat recorded in Volume 1 of plats, pages 64 and 65, together with the adjoining vacated North Bay Street and vacated Perry Street.

The City Council of the City of Port Orchard shall allow the construction of a fence in the Bay Street right of way, subject to the following conditions:

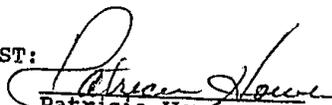
1. The fence shall not interfere with the public use of the right of way.
2. The fence shall be maintained and repaired in a timely and prompt manner by the property owner of 1803 Bay Street.
3. The fence shall extend no farther westward than to within three feet of the east end of the guardrail.
4. The fence design and construction shall be approved by the City Engineer.
5. No signs shall be allowed on the fence.
6. The fence shall be removed when directed by the City Council.

These conditions shall be recorded with the title to the property.

Approved by the City Council: 23 September 1991


Leslie J. Weatherill
Mayor

ATTEST:


Patricia Howér
City Clerk



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>Consent Agenda 4F</u>	Meeting Date:	<u>March 14, 2023</u>
Subject:	<u>Adoption of a Resolution Confirming the</u> <u>Appointment of a Code Enforcement</u> <u>Officer</u>	Prepared by:	<u>Nicholas Bond, AICP</u> <u>DCD Director</u>
		Atty Routing No.:	<u>N/A</u>
		Atty Review Date:	<u>N/A</u>

Summary: The City has hired Taylor Guyton to be the City's new code enforcement officer I, effective March 1, 2023. POMC Section 2.64.010 requires that the City Council appoint code enforcement officers by resolution. Staff has prepared a resolution for the Mayor's signature to appoint Ms. Guyton to the code enforcement officer I position.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends that the City Council authorize the Mayor to sign a resolution appointing Taylor Guyton as a City of Port Orchard code enforcement officer.

Motion for consideration: "I move to authorize the Mayor to sign a resolution appointing Taylor Guyton as a Port Orchard code enforcement officer."

Fiscal Impact: None

Alternatives: None

Attachments: Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPOINTING TAYLOR GUYTON AS A PORT ORCHARD CODE ENFORCEMENT OFFICER, AND AS AUTHORIZED TO PERFORM CODE ENFORCEMENT RESPONSIBILITIES AS ESTABLISHED IN CHAPTER 2.64 OF THE PORT ORCHARD MUNICIPAL CODE.

WHEREAS, the City of Port Orchard has an obligation to protect the health, safety and welfare of the community; and

WHEREAS, the City has established the position of code enforcement officer I, whose duties include investigating and taking action to ensure compliance with certain City regulations, as enumerated in POMC 2.64.030; and

WHEREAS, POMC Section 2.64.010 requires that the City Council appoint code enforcement officers by Resolution; and

WHEREAS, the City of Port Orchard has hired Taylor Guyton as the City's new code enforcement officer I; and

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: Taylor Guyton is hereby appointed as the City's code enforcement officer pursuant to POMC 2.64.010, and is designated to perform code enforcement duties as specified in the Port Orchard Municipal Code and any subsequent amending ordinances and/or regulations thereto.

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 14th day of March 2023.

Robert Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

Port Orchard, Washington
August 12, 1991

Council of the City of Port Orchard, Washington, called to regular session by Mayor Leslie J. Weatherill at 7:30 PM. Councilmembers present: Clauson, Childress, Morrison, Geiger, Powers, Smith and Grable. Staff present: City Attorney McCluskey, Deputy Clerk Thomas, Police Chief Mathews, City Engineer Curles, Fire Chief Snow and City Clerk Hower.

Councilman Morrison led the audience and Council in the Pledge of Allegiance.

On motion by Councilman Grable, seconded by Councilman Geiger, Council approved the minutes of the July 22, 1991 regular meeting with the following correction: page 1, paragraph 1, add Councilmembers present: Councilman Clauson

Bryan Petro, Director of Fathoms O' Fun, thanked the city and staff for their support during the 1991 Fathoms O' Fun Festival. Mr. Petro also introduced the 1991 Fathoms O' Fun Royalty Court.

On motion by Councilman Clauson, seconded by Councilman Smith, Council approved issuance of a Fireworks Display Permit for the Puget Sound Naval Shipyard Centennial on Saturday, September 14, 1991.

On motion by Councilman Smith, seconded by Councilman Grable, Council approved agreement between the City and R.V. Associates to construct a road and watermain on the city property near 1265 Old Clifton Road.

City Engineer Curles reported on price quotes received for the Prospect Street Stormwater Culvert. City Engineer recommended Council award project to R.V. Associates, who submitted the lowest quote, in the amount of \$9,275.00.

On motion by Councilman Geiger, seconded by Councilman Smith, Council accepted the three price quotes and awarded the Prospect Street Stormwater Culvert project to R.V. Associates in the amount of \$9,275.00.

Bob Turk spoke concerning the proposed relocation of the San Mateo. Mr Turk assured Council he was not seeking monetary support only a vote of confidence for the project. Jack Koontz gave a brief review of the condition of the San Mateo. Howard Minor, 1400 Bay Street, stated this attraction could be a tremendous drawing card for Port Orchard but expressed concern of insufficient parking facilities at this time.

Councilman Morrison, Chairman of Street/Alley Committee, moved to approve request from Debra and Chris Michak, 1803/1805 Bay Street, and grant permission to leave fence on city right-of-way with the following 4 conditions: 1) A letter be provided to the property owner and recorded on the title which allows the fence to be placed on right of way as long as it does not interfere with the public use of the land and is maintained. The fence can be removed as directed by the City Council; 2) The fence shall extend no farther westward than within 3 feet of the east end of the guardrail; 3) The fence height shall be shortened to match the height of the fence in front of 1803 Bay Street which is approximately four feet and shall be constructed to be similar in appearance to that residential fence and a wood cap shall be placed on the length of the new fence; 4) No signs shall be permitted on the fence; seconded by Councilman Clauson and carried. Motion passed with 4 ayes and 3 nays. Councilmen Smith, Powers and Geiger voting nay.

On motion by Councilman Clauson, seconded by Councilman Geiger, Council approved the 1991-1992 Tactical Response Van Operational Cost Agreement.

Councilman Geiger presented a plaque to the City of Port Orchard, on behalf of the 1991 Cruz in recognition of the City's continued support of this event.

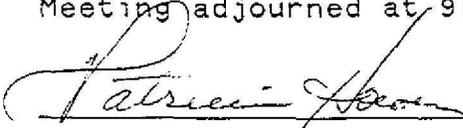
On motion by Councilman Geiger, seconded by Councilman Grable, Council unanimously approved payment of vouchers as follows: Claims Warrant No. 15451-15562 in the amount of \$110,615.08.

Chris Reilly, 725 Prospect Street, petitioned Council for reimbursement of tow charges which were incurred when his vehicle was towed from the 700 block of Prospect on August 11, 1991 by Cruz 1991 personnel. Mayor Weatherill noted this section of Prospect was not included in streets authorized for closure to facilitate the 1991 Cruz event and directed Chief Mathews, Howard Minor and Van Vlist, to research this incident and reimburse Mr. Reilly

Fire Chief Snow announced the annual Hazardous Waste Roundup will be held on August 25 - 26 at South Kitsap Mall.

Council set September 11, 1991, 7:30 PM as date and time of a Study Session to discuss the proposed amendments to the City of Port Orchard Emergency Operations Plan.

Meeting adjourned at 9:00 PM.

 CITY CLERK  MAYOR



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> Subject: <u>Adoption of a Resolution Fixing the Date of a Public Hearing on a Petition to Vacate City Right of Way, Portion of an Alley Commonly known as Mystery Lane and the Westerly Portion of Harrison Avenue</u>	Meeting Date: <u>March 14, 2023</u> Prepared by: <u>Brandy Wallace, MMC City Clerk</u> Atty Routing No.: <u>N/A</u> Atty Review Date: <u>N/A</u>
--	---

Summary: Petitioners William C. and Virginia Anderson, owners of 812 Mystery Lane Street, Kitsap County Tax Parcel No. 4060-008-022-0105 and Macailla Barden, owner of 1145 Sidney Avenue, Kitsap County Tax Parcel No. 352401-1-004-2000, submitted a petition to vacate City rights-of-way (ROW). The ROW's are unopened portions of an alley commonly known as Mystery Lane, of approximately 8,585 square feet and unopened Westerly portion of Harrison Avenue, of approximately 3,787 square feet; for a total square feet requested to be vacated of 12,372

The Clerk received a complete application conforming with the requirements of Port Orchard Municipal Code chapter 12.08, including Section 12.08.010. The Public Works Director and Community Development Director support the vacation, as the City has no current or future plans to open them.

Chapter 35.79 RCW requires the City to adopt a resolution setting the date and time of a Public Hearing to hear and determine the petition to vacate the City's right-of-way. Staff is seeking direction from the Council as to when they want to hold a public hearing to vacate the proposed City right-of-way. The proposed Resolution would set the hearing in person and via Zoom for April 11, 2023, which is at least 20 days from the date of this Resolution if adopted tonight, March 14, 2023.

Upon adoption of this resolution, staff will post proper notices of the date and time of the hearing and provide notice to adjacent property owners.

Recommendation: Staff recommends the Council adopt a Resolution setting the date and time of hearing on the petition to vacate a portion of the City's right-of-way, Mystery Lane as described above. The hearing is to be held on Tuesday, April 11, 2023, at the regular Council meeting held at 6:30 PM and directing the proper posting of notices of the hearing.

Relationship to Comprehensive Plan: N/A

Motion for consideration: I move to adopt a Resolution setting a Public Hearing for April 11, 2023, at 6:30 PM, on a petition from William C. and Virginia Anderson and Macailla Barden to vacate a portion of

unopened right-of-way, commonly known as Mystery Lane and the Westerly portion of Harrison Avenue.

Fiscal Impact: TBD, upon approval of the Council a property appraisal may be needed.

Alternatives: Do not pass the Resolution and reject the Petition.

Attachments: Resolution, Street Vacation Petition with adjacent property owners' signatures, Letter from Kitsap Law Group, and legal description

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, FIXING THE DATE OF PUBLIC HEARING ON A PETITION TO VACATE A PORTION OF AN ALLEY COMMONLY KNOWN AS MYSTERY LANE AND THE WESTERLY PORTION OF HARRISON AVENUE, UNOPENED CITY RIGHT-OF-WAY.

WHEREAS, the petitioners, William C. and Virginia Anderson, owners of 812 Mystery Lane Street, Kitsap County Tax Parcel No. 4060-008-022-0105 and Macailla Barden, owner of 1145 Sidney Avenue, Kitsap County Tax Parcel No. 352401-1-004-2000, submitted a petition to vacate City rights-of-way (ROW); and

WHEREAS, the petition is to vacate unopened portions of an alley commonly known as Mystery Lane, of approximately 8,585 square feet and unopened Westerly portion of Harrison Avenue, of approximately 3,787 square feet; and

WHEREAS, the petitioners have submitted an application, copy attached hereto as Exhibit A and incorporated herein by this reference, which meets the requirements set out in Port Orchard Municipal Code (POMC) 12.08.010, and have paid the applicable fees required by the City; and

WHEREAS, the petitioners constitute the owners of more than two-thirds (2/3) of the property abutting the area proposed for vacation pursuant to RCW 35.79.010; and

WHEREAS, the petitioners have requested that proceedings be had hereon for the vacation of said portion of the city right-of-way in the manner prescribed by RCW 35.79; and

WHEREAS, the total proposed area for vacation is approximately 12,372 square feet, legally described as follows and depicted in the survey contained in Exhibit B hereto:

PORTION OF ALLEY TO BE VACATED

ALL OF THE ALLEY LYING WITHIN BLOCK 8, SWEANEY'S SECOND ADDITION TO SIDNEY, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON.

SAID ALLEY IS 17 FEET IN WIDTH, PER PLAT, AND ADJOINS LOTS 1-22 AND LOTS 42-23.

NOTE: THIS VACATION SUPERCEDES AND REPLACES THE PREVIOUS VACATION OF ALLEY, AND IS TO CORRECT THE ALLEY WIDTH AS PREVIOUSLY NOTED IN CITY ORDINANCE 010-08, PER AFN 200804040131, WHICH IS IN ERROR.

PORTION OF HARRISON AVENUE TO BE VACATED

THE WEST 7.50 FEET OF THAT PORTION OF HARRISON AVENUE WHICH IS ADJOINING BLOCK 7 AND BLOCK 8 OF SWEANEY'S SECOND ADDITION TO SIDNEY, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON.

WHEREAS, the street vacation is requested to reflect existing structures in the unopened right of way as private property; 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: A Public Hearing upon said proposed street vacation shall be held in person and via the online platform Zoom on Tuesday, April 11, 2023, at 6:30 p.m., at which hearing all persons interested in said street vacation are invited to appear in person or via the Zoom platform. Access information for Zoom shall be included in the notices required herein.

THAT: The City Clerk is directed to post notice of the petition in three of the most public places in the city and a like notice in a conspicuous place on the street sought to be vacated, pursuant to RCW 35.79.020. The Clerk shall also post the notice on the City's website.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of March 2023.

Robert Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

3. Provide a map of the proposed right-of-way area to be vacated with the following information:

- a. Approximate width of the area to be vacated
- b. Approximate length of the area to be vacated
- c. Approximate total square footage of the area to be vacated

I/We declare under penalty of perjury under the laws of the State of Washington that the foregoing information and attached documentation is true and correct, and that I/We are the true and correct owner(s) of real property abutting the requested vacation of City right-of-way.

Willie L. Anderson
Signature of Applicant

3/18/22
Date

Signature of Applicant

Date

When submitting this application, please make sure the following requirements are completed and documents are submitted:

- Support for Vacation of City Right-of-Way Petition form(s) signed by the owners of real property abutting upon the part of the street or alley sought to be vacated (these owners must, along with the Petitioner, constitute the owners of at least two-thirds of the real property abutting such area);
- New legal description to include the requested right-of-way;
- Documentation supporting the fair market value of the street or alley sought to be vacated, if applicable;
- Documentation supporting the application of the Non-User Statute, if applicable;
- Dimensions of area proposed to be vacated;
- Map of the proposed right-of-way to be vacated outlined or highlighted;
- Application processing fee of \$120; and
- \$500 appraisal fee refundable deposit (Petitioner shall pay the actual cost of the appraisal, upon Council approval).

FOR CITY CLERK'S OFFICE USE ONLY

\$120 Vacation Fee Received Yes No Receipt No.: _____

\$500 Vacation Appraisal Fee (Refundable Deposit) Received Yes No Receipt No.: _____

Support for Vacation Petition By Abutting Property Owners form(s) Received Yes No

Public Hearing Date: _____

Notices Posted by: _____ Date of Noticing: _____

Approved by the City Council Yes No



City of Port Orchard

City Clerk's Office

216 Prospect Street, Port Orchard, WA 98366

(360) 876-4407 • FAX (360) 895-9029 • cityhall@cityofportorchard.us

www.cityofportorchard.us

SUPPORT FOR VACATION OF RIGHT-OF-WAY
PETITION BY ABUTTING PROPERTY OWNERS

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): WILLIAM ANDERSON
First and Last Name

Contact Information: 360 698 2618 MR GILLOA1943@msd.com
Phone Email

Street or Nearest Cross Street of Requested Vacation: 812 MYSTERY LN PO

Parcel Number of Requested Vacation:

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest must sign this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

WILLIAM ANDERSON

First and Last Name (Printed) of Property Owner/Corporate Officer Managing Member No. 1 Name of Corporation (if applicable)

William C. Anderson
(Signature and/or Title)

First and Last Name (Printed) of Property Owner/Corporate Officer Managing Member No. 2 Name of Corporation (if applicable)

(Signature and/or Title)

Property Address Tax Parcel Number

Mailing Address: Street City State Zip

Contact Information: Phone Email



City of Port Orchard
 City Clerk's Office
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 www.cityofportorchard.us

**SUPPORT FOR VACATION OF RIGHT-OF-WAY
 PETITION BY ABUTTING PROPERTY OWNERS**

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): Macaula Barden Bullion
 First and Last Name

Contact Information: 253 732 1227 MFBUILLION@gmail.com
 Phone Email

Street or Nearest Cross Street of Requested Vacation: 1145 Sidney Ave

Parcel Number of Requested Vacation: _____

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest must sign this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
- I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
- I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

Macaula Barden Bullion
 First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
 Managing Member No. 1

Macaula Barden Bullion
 (Signature and/or Title)

 First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
 Managing Member No. 2

 (Signature and/or Title)

Property Address _____ Tax Parcel Number _____
 Mailing Address: 1145 Sidney Ave PO WA 98366
 Street City State Zip
 Contact Information: 253 732 1227 MFBUILLION@gmail.com
 Phone Email



City of Port Orchard
 City Clerk's Office
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 www.cityofportorchard.us

**SUPPORT FOR VACATION OF RIGHT-OF-WAY
 PETITION BY ABUTTING PROPERTY OWNERS**

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): Abigail Wardle
 First and Last Name

Contact Information: 360-900-7348 abagoo.w@gmail.com
 Phone Email

Street or Nearest Cross Street of Requested Vacation: Harrison Ave & Alley (Mystery Lane / ^{SEAWAY ST.} SO)

Parcel Number of Requested Vacation: ADDDIMS LOTS 1-22 & LOTS 42-23

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest **must sign** this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
- I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
- I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

Abigail Karen Wardle N/A
 First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
 Managing Member No. 1
[Signature]
 (Signature and/or Title)

 First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
 Managing Member No. 2

 (Signature and/or Title)
854 Mystery Lane Port Orchard, WA 4060-008-033-0003
 Property Address Tax Parcel Number
98366 Block B J. (4060-008-033-

Mailing Address: 10799 Horizon Lane East SE PORT ORCHARD, WA 98367
 Street City State Zip

Contact Information: 360-900-7348 abagoo.w@gmail.com
 Phone Email



City of Port Orchard

City Clerk's Office

216 Prospect Street, Port Orchard, WA 98366

(360) 876-4407 • FAX (360) 895-9029 • cityhall@cityofportorchard.us

www.cityofportorchard.us

Email JANIS.white@FNFC.com

SUPPORT FOR VACATION OF RIGHT-OF-WAY
PETITION BY ABUTTING PROPERTY OWNERS

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): DONALD M. RYAN
First and Last Name

Contact Information: 360-876-6354 Phone donmryan@gmail.com Email

Street or Nearest Cross Street of Requested Vacation: I own 1111 & 1113 SIDNEY

Parcel Number of Requested Vacation: 4060-008-004-0008

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest must sign this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

DONALD M. RYAN
First and Last Name (Printed) of Property Owner/Corporate Officer
Managing Member No. 1

RYAN PROPERTIES
Name of Corporation (if applicable)

(Signature and/or Title) [Signature] Pres.

First and Last Name (Printed) of Property Owner/Corporate Officer
Managing Member No. 2

Name of Corporation (if applicable)

(Signature and/or Title)

Property Address

Tax Parcel Number

Mailing Address:

Street City State Zip

Contact Information: Phone Email



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**SUPPORT FOR VACATION OF RIGHT-OF-WAY
 PETITION BY ABUTTING PROPERTY OWNERS**

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): Phillip Squier
 First and Last Name

Contact Information: (253) 970-7113 squierpa@gmail.com
 Phone Email

Street or Nearest Cross Street of Requested Vacation: 826 Mystery Lane, Port Orchard, WA 98366

Parcel Number of Requested Vacation: 4060-008-027-0001

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest **must sign** this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
- I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
- I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

Phillip Squier
 First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
 Managing Member No. 1

Phillip Squier
 (Signature and/or Title)

First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
 Managing Member No. 2

(Signature and/or Title)

826 Mystery Lane 4060-008-027-0001
 Property Address Tax Parcel Number

Mailing Address: 826 Mystery Lane Port Orchard WA 98366
 Street City State Zip

Contact Information: (253) 970-7113 squierpa@gmail.com
 Phone Email



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**SUPPORT FOR VACATION OF RIGHT-OF-WAY
 PETITION BY ABUTTING PROPERTY OWNERS**

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): JOSHUA ~~MAH~~ GOUCHER
 First and Last Name

Contact Information: 870-208-5167 Phone jgoucher95@live.com Email

Street or Nearest Cross Street of Requested Vacation: SROUFE ST & HARRISON AVE.

Parcel Number of Requested Vacation: _____

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest **must sign** this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
- I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
- I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

MR. JOSHUA GOUCHER
 First and Last Name (Printed) of Property Owner/Corporate Officer
 Managing Member No. 1

N/A
 Name of Corporation (if applicable)

[Signature]
 (Signature and/or Title)

MR. JOSE DE JESUS ATKINSON JR.
 First and Last Name (Printed) of Property Owner/Corporate Officer
 Managing Member No. 2

N/A
 Name of Corporation (if applicable)

[Signature]
 (Signature and/or Title)

840 MYSTERY LANE
 Property Address

4060-008-030-006
 Tax Parcel Number

Mailing Address: 840 MYSTERY LANE
 Street

PORT ORCHARD WA 98366
 City State Zip

Contact Information: 870-208-5167
 Phone

jgoucher95@live.com
 Email



City of Port Orchard

City Clerk's Office

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SUPPORT FOR VACATION OF RIGHT-OF-WAY
PETITION BY ABUTTING PROPERTY OWNERS

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): Nicole Fischer
First and Last Name

Contact Information: 360-402-1171 Phone megan.fischerrental@gmail.com Email

Street or Nearest Cross Street of Requested Vacation: Sidney Ave

Parcel Number of Requested Vacation: 4040-008-017-0102

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest must sign this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

Nicole Fischer
First and Last Name (Printed) of Property Owner/Corporate Officer
Managing Member No. 1

Fischer Rental Properties
Name of Corporation (if applicable)

[Signature]
(Signature and/or Title)

Megan Fischer
First and Last Name (Printed) of Property Owner/Corporate Officer
Managing Member No. 2

Fischer Rental Properties
Name of Corporation (if applicable)

[Signature]
(Signature and/or Title)

1135 Sidney Ave
Property Address

4040-008-017-0102
Tax Parcel Number

PO Box 132
Mailing Address: Street

Olalla WA 98359
City State Zip

360-402-1171
Contact Information: Phone

megan.fischerrental@gmail.com
Email



City of Port Orchard

City Clerk's Office

216 Prospect Street, Port Orchard, WA 98366

(360) 876-4407 • FAX (360) 895-9029 • cityhall@cityofportorchard.us

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SUPPORT FOR VACATION OF RIGHT-OF-WAY
PETITION BY ABUTTING PROPERTY OWNERS

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner Seeking Vacation (Petitioner): William C. Anderson & Virginia Anderson
First and Last Name

Contact Information: (206) 615-3104 MRBILLOA1943@MSN.COM
Phone Email

Street or Nearest Cross Street of Requested Vacation: 812 Mystery Lane

Parcel Number of Requested Vacation: 4060-008-022-0105

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest must sign this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

Troy Selland Edge Elite consulting LLC member

First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
Managing Member No. 1

[Signature] Member
(Signature and/or Title)

First and Last Name (Printed) of Property Owner/Corporate Officer Name of Corporation (if applicable)
Managing Member No. 2

(Signature and/or Title)

1133 Sidney Avenue, Port Orchard 4060-008-015-0005
Property Address Tax Parcel Number

Mailing Address: 8035 15th Avenue Seattle WA 98115-4337
Street City State Zip

Contact Information: Troy Selland tragotroy@gmail.com
Phone Email



City of Port Orchard

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PETITION TO VACATE CITY RIGHT-OF-WAY APPLICATION

(POMC 12.08 / Resolution No. 030-17)

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

Property Owner's Name(s): GERALD E. ALEXANDER & KAZUKO ALEXANDER

Mailing Address: 1129 SIDNEY AVE PORT ORCHARD WA 98366

Contact Information: (360) 876-4543

Address of Requested Vacation: Street or nearest cross street

Parcel Number of Requested Vacation:

1. The undersigned, owner of real property abutting upon that public street/alley described below, does hereby petition the City of Port Orchard to vacate said street/alley, described as follows (you may attach a separate sheet containing the legal description):

Legal description of the requested right-of-way prepared by a licensed surveyor:

See Exhibit A

all situated in the City of Port Orchard, County of Kitsap, State of Washington; declares that this petition is supported by the signatures of the owners of more than two-thirds of the real property abutting the requested vacation area; and requests that said City Council by Resolution fix a time and place when this petition shall be heard and determined by that authority, which time shall not be more than sixty (60) days nor less than twenty (20) days after passage of such Resolution (RCW 35.79.010)

2. State the proposed use of the vacated right-of-way: The two vacated areas will accrue to neighboring ownerships for purposes of clearing certain title issues and set-back encroachments. The Washington Supreme Court recently acknowledged and approved a "resurvey to rediscover the boundaries according to the plat..." Rinehold v. Renne, 429 P.3d 154, 159 (Wa. 2021) (quoting Staaf v. Bilder, 68 Wn.2d 800, 803, 415 P.2d 650 (1966). The petitioners commissioned a resurvey of Block 8 to "retrace the boundary lines laid down in the plat." Id.

3. Provide a map of the proposed right-of-way area to be vacated with the following information:
 - a. Approximate width of the area to be vacated
 - b. Approximate length of the area to be vacated
 - c. Approximate total square footage of the area to be vacated

I/We declare under penalty of perjury under the laws of the State of Washington that the foregoing information and attached documentation is true and correct, and that I/We are the true and correct owner(s) of real property abutting the requested vacation of City right-of-way.

Herald S. McDonald
Signature of Applicant

MARCH 25, 2022
Date

Laura Aspinwall
Signature of Applicant

MARCH 25, 2022
Date

When submitting this application, please make sure the following requirements are completed and documents are submitted:

- Support for Vacation of City Right-of-Way Petition form(s) signed by the owners of real property abutting upon the part of the street or alley sought to be vacated (these owners must, along with the Petitioner, constitute the owners of at least two-thirds of the real property abutting such area);
- New legal description to include the requested right-of-way;
- Documentation supporting the fair market value of the street or alley sought to be vacated, if applicable;
- Documentation supporting the application of the Non-User Statute, if applicable;
- Dimensions of area proposed to be vacated;
- Map of the proposed right-of-way to be vacated outlined or highlighted;
- Application processing fee of \$120; and
- \$500 appraisal fee refundable deposit (Petitioner shall pay the actual cost of the appraisal, upon Council approval).

FOR CITY CLERK'S OFFICE USE ONLY

\$120 Vacation Fee Received Yes No Receipt No.: _____

\$500 Vacation Appraisal Fee (Refundable Deposit) Received Yes No Receipt No.: _____

Support for Vacation Petition By Abutting Property Owners form(s) Received Yes No

Public Hearing Date: _____

Notices Posted by: _____ Date of Noticing: _____

Approved by the City Council Yes No



KITSAP LAW GROUP

3212 NW Byron Street #101 • Silverdale, WA 98383
Telephone (360) 692-6415 • Fax (360) 692-1257
www.kitsaplawgroup.com

William H. Broughton
David P. Horton
David A. Weibel
John R. Brennan
Jay T. Dutcher
Ronald C. Templeton – *retired*

January 23, 2023

City Clerk
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366



*Re: Petition to Vacate City Right-of-Way Application
Block 8, Sweany's Second Addition*

Greetings:

On behalf of William C. Anderson, Virginia Anderson and Macailla Barden, we are submitting the enclosed Petition to Vacate City Right of Way, together with the following documents:

- Map of the area to be vacated, with dimensions and new legal descriptions;
- Summary Appraisal Report by Anthony Gibbons;
- Support for Vacation of Right-of-Way Petition by Abutting Property Owners;
- Application processing fee of \$120;
- The appraisal fee of \$500 is requested to be waived in light the Gibbons' Appraisal.

To give full consideration of the merits of this application, as well as the Petitioner's request that the City of Port Orchard not require payment of compensation in connection with this Petition, some background is in order.

The neighborhood subject to this Petition has long been known by local surveyors, the City of Port Orchard and the Kitsap County Assessor's office to have boundary line problems. A simple review of the Kitsap County Assessor's website depicts property lines running through many of these property owners' residences. Most recently, these problems manifested themselves in the lawsuit brought by Ms. Ann Wiggins under Kitsap County Superior Court Case No. 19-2-00985-18 to quiet title to the "use and occupancy lines" of her home, which deviated from the legal description of her property in her deed.

In this lawsuit, three neighbors to Ms. Wiggins and the City of Port Orchard were brought in as defendants. In addition to these neighbors and the City, three different title insurance companies, and several local surveyors, including Lyle "Reed" Mueller, Fred Kegel, Steve Ottmar and Dan Johnson have become involved to find a solution to this problem. In the Wiggins lawsuit, the parties worked together to resolve her boundary line problems by order entered in February 2020. But in doing so, all involved quickly became aware there was a larger problem that needed to be dealt with. Should this problem continue to be ignored, we would expect the City and these

neighbors to repeatedly be brought into further litigation in the years to come. Rather than waiting for the next lawsuit to be filed, First American Title Insurance Company, Fidelity National Title Insurance Company and the affected neighbors have chosen to proactively work together to resolve this problem by virtue of a boundary line agreement provided for under RCW 58.04.007. It is our sincere hope that the City both appreciates and will cooperate with this effort as well.

As part of this process, surveyors Reed Mueller, Fred Kegel and Steve Ottmar researched the underlying problem and then proceeded to mark out the “use and occupancy lines” for each affected property owner. Understanding the underlying boundary line problem necessarily begins in 1890, shortly after the establishment of Sidney (now the City of Port Orchard) when there were several subdivision plats established within Section 35, Township 24 North, Range 1 East, W.M., including the plat of Sweany’s Second Addition to Sidney (the “Plat”) that was recorded in 1891. From the early 1900s to the 1950s, surveys of this area were generally consistent. However, more recent surveys, i.e., 1980-2000s, have not honored the historic layout of the area. Rather, they have relied upon a section subdivision breakdown, dividing the section using measured dimensions to accepted existing perimeter section control monuments, resulting in the property line “chaos” that is readily apparent in the Kitsap County Assessor’s aerial photographs of these properties.

In February 2021, surveyor Fred Kegel with N.L. Olson & Associates, Inc. completed the necessary field and drafting work to complete a preliminary survey drawing of the affected properties. The “use and occupancy lines” were then staked so each owner could see where their proposed property lines would be located. However, this survey work also disclosed that there is an unopened alley and a portion of a street (Harrison Street) dedicated under the original 1891 Sweany’s Second Addition to Sidney Plat that are being used and occupied by these residences and garages of these properties. Consequently, to fully resolve this problem a petition to vacate is required.

In support of this Petition, we engaged the services of appraiser Anthony Gibbons, with RE-SOLVE, to complete an appraisal of the area to be vacated who determined its value to be \$16,900.

Port Orchard Municipal Code 12.08.050(1)(a) generally requires compensation be paid to the City for a vacated right of way in the amount of one-half of this value:

- (1) Ordinances vacating any street, alley, public place or portion thereof shall not be adopted by the city council until the owners of the property abutting such area shall compensate the city in the amount required by this section.
 - (a) If the street, alley, public place or portion thereof has not been part of a dedicated public right-of-way for 25 years or more, or if the subject property to be vacated was not acquired at public expense, the owners of property abutting the street shall compensate the city in an amount that does not exceed one-half of the appraised value of the street.

January 25, 2023

3 | Page

However, the compensation may be waived in the case of In-Lieu Transfers under POMC 12.08.050(2):

(2) *In-Lieu Transfers of Property.* Conveyances of other property acceptable to the city may be made in lieu of the payment required by this section, whether required to mitigate adverse impacts of the vacation or otherwise. When such a transfer is proposed for street purposes, the value of the property (as determined in subsections (1)(a) through (c) of this section) shall be credited to the required payment. When the value of the in-lieu parcel is less than the payment required by subsection (1)(a) through (c) of this section, the petitioners shall pay the difference to the city. When the value of the in-lieu parcel exceeds the payment required by subsections (1)(a) through (c) of this section, the city shall pay the difference to the petitioner. In addition, the petitioner shall be responsible for all costs associated with this transfer, in the same manner as a property purchase, including but not limited to, title insurance, attorney review of the title, hazardous materials/waste testing, etc.

If the Petition is approved, we will then take the final step in this process of completing a boundary line agreement and/or an agreed order to quiet title to these property line changes and to remove any cloud on title to these properties, which necessarily would include the City's ULID parcel no. 4060-008-037-0009. In the case of this parcel, Kitsap County Assessor's aerial photographs reflect that the property owner's home to the south is located within the City's parcel. Petitioners respectfully submit that this proposed neighborhood BLA essentially amounts to an in lieu transfer of property and so no compensation should be charged for the vacation. No compensation fee should be assessed also because, as a result of the considerable time, effort and resources already committed to this venture by Petitioners, the City stands to avoid repeated, expensive and time-consuming litigation over this issue for years to come.

We are available, as needed, to answer questions or provide any additional information needed to process this petition.

Very truly yours,

KITSAP LAW GROUP

FIDELITY NATIONAL LAW GROUP

/s/David A. Weibel

David A. Weibel
Attorney for William & Virginia
Anderson
3212 NW Byron St., Suite 101,
Silverdale, WA 98393
Office: 360-692-6415
Email: dweibel@kitsaplawgroup.com

/s/Janis G. White

Janis G. White
Attorney for Macailla Barden
Senior Trial Counsel, In-House
Litigation
701 5th Avenue, Suite 2710
Seattle, WA 98104
Office: (206) 224-6004
Email: Janis.White@fnf.com

Cc: Charlotte A. Archer, City Attorney

RE•SOLVE

GIBBONS & RIELY PLLC

Real Estate Appraisal, Counseling & Mediation

261 Madison Avenue South, Suite 102
Bainbridge, Washington 98110-2579

Anthony Gibbons, MAI
Direct Dial 206 909-1046
Email: agibbons@realestatesolve.com

September 23, 2021

Janis G. White
Senior Trial Counsel, In-House Litigation
Fidelity National Law Group
701 5th Avenue, Suite 2710
Seattle, WA 98104
Email: Janis.White@fnf.com

David A. Weibel
Attorney-at-law
Templeton Horton Weibel & Broughton, PLLC
3212 NW Byron St Ste 101
Silverdale, WA 98383-9154
Email: dweibel@kitsaplwg.com

RE: **Harrison & Alley Vacation**
South of Sroufe Street, in the vicinity of Mystery Lane
Port Orchard, WA

Dear Ms. White and Mr. Weibel:

At your request, we have prepared an appraisal of certain unused right-of-way, consisting of an unimproved 17' alley, and the west 7.5' of an unimproved section of Harrison Avenue, in Port Orchard, WA. The property is intended for vacation, and will accrue to neighboring ownerships, for purposes of clearing certain title issues and set-back encroachments. The property intended for vacation comprises 11,304sf.

This appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). It is presented as a summary *Appraisal Report* and complies with the reporting requirements of USPAP for such reports. The scope of our work is limited to the Sales Comparison Approach to value. Use of this report is limited to the client.

The property is appraised according to the value accrued to each property as a consequence of the vacation, with the use of a traditional Before & After methodology. Our conclusion reflects the market value of the property in question.

As a result of our investigation and analysis, we have concluded with the following market value for the subject property, as of the date of value, September 15th, 2021, the date of inspection:

Market Value (11,304sf @ \$1.50/sf) \$16,900

Respectfully submitted,

Anthony Gibbons, MAI

Ref: 21094

APPRAISAL ASSIGNMENT
Presented in a
SUMMARY APPRAISAL REPORT

Identity of Property

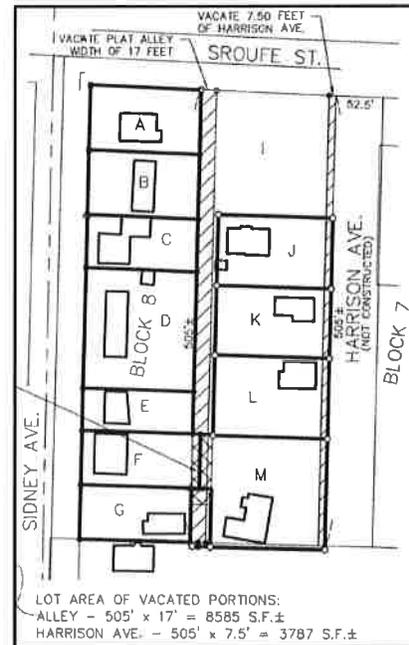
The subject of this report is certain right-of-way located adjacent to 12-properties (A through G, I through M), located south of Sroufe Street, in the vicinity of Mystery Lane, Port Orchard, WA 98366.

Client and Intended Users

The client and intended users are Janis White and David Weibel, as clients, as well as authorized associates, representatives or agents. There are no other intended users.

Intended Use

This appraisal is to be used for the purpose of arriving at a market value for purposes of street vacation. Please note that the concluded value is developed prior to any discounts as may be required by ordinance in the vacation of right-of-way.



Property Rights Appraised

Fee simple interest. The property is appraised based on the value that will accrue to it, when adjoined to each of the 12 neighboring parcels.

Type of Value

The purpose of this appraisal is to establish the market value of the subject property. The term "market value" is defined in The Dictionary of Real Estate Appraisal 6th Edition (2015) as follows:

"The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to the buyer under conditions whereby:

- a. Buyer and seller are typically motivated;*
- b. Both parties are well informed or well advised, and acting in what they consider their best interests;*
- c. A reasonable time is allowed for exposure in the open market;*
- d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*
- e. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*

Conditions of Appraisal

There are three Extraordinary Assumptions and one Hypothetical Condition, all required for reasonable analysis.

1. EA 1: Our appraisal assumes that the subject ROW would be approved for vacation.
2. EA 2: In our Before and After evaluation of the 12-parcels, we have not appraised improvements situated on the subject properties, considering only land in our valuation.
3. HC 1: A Before and After analysis, for a simple transition, is developed on the same day – that is the After condition assumes that the ROW is part of the individual properties. This condition is required for purposes of reasonable analysis.

Please note, that in our analysis of each property, our evaluation is limited to a determination of the reasonable value that would accrue through the incremental addition of acreage. The development of the Before and After values is only for the purposes of opining on the value of the property to be vacated.

The date of value is the date of inspection, September 15th, 2020.

Sales and Listing History

The subject property has been under city ownership for decades.

Scope of Work

The scope of work performed in this appraisal is in compliance with the specific guidelines of the Uniform Standards of Professional Appraisal Practice (USPAP).

The subject land area is based on survey, and excludes a small portion of the alley that was previously vacated.

The property appraised is not capable of individual development on account of shape and property condition (raw condition, lack of utilities, and slope). The highest and best use of the property is then determined to be assemblage, and the property is appraised on this basis, as though assembled by neighboring ownerships.

SUBJECT PHOTOGRAPHS



Assessor Plat Map



Drone view from south - note topography.



View from the north



Vertical view, west at top of photo.



View into Alley, from Mystery Lane



View south of alley, next to Mystery Lane cul-de-sac

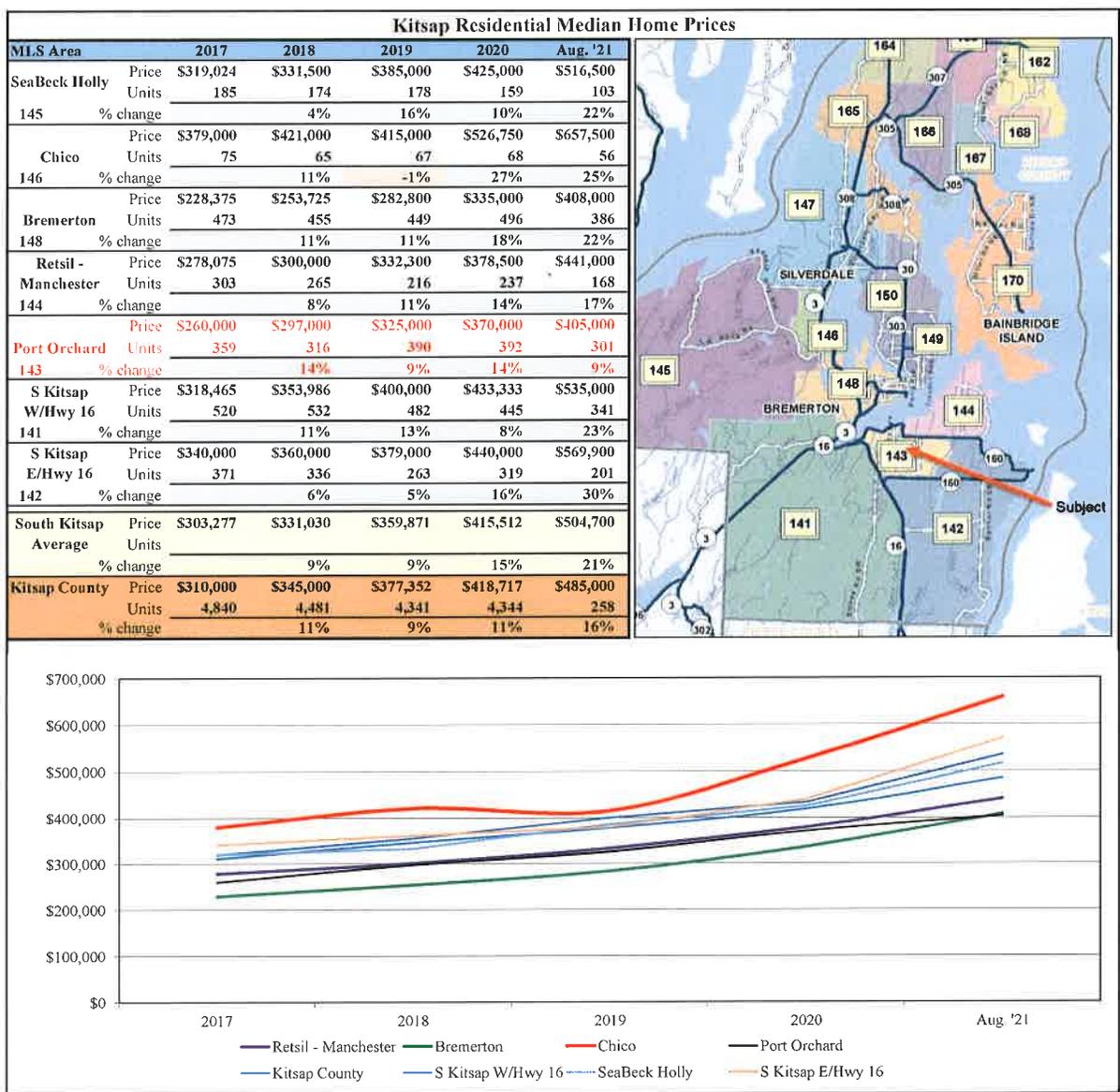


Harrison Strip, from north, bank to right of photo.

MARKET ANALYSIS

The subject property is located in Port Orchard, in an attractive residential neighborhood. Average home pricing in the Port Orchard neighborhood is around \$405,000, which is a little below the South Kitsap Average and that for the county as a whole. As with many other areas of Kitsap County, price increases have been relatively significant, particularly since the onset of the pandemic, representing a shift in activity away from urban living to more suburban and rural markets.

Within the specific neighborhood of the subject, average home pricing is close to the city average, with properties on the market for typically around a week. The housing stock is largely post-war, with the average for the latest set of sales coming in at a vintage of around 1960, with a home size of approximately 1,500sf. Most homes are on lots of under a quarter of an acre. Lot prices are typically around \$40,000 to \$50,000, but can get up to \$70,000-\$90,000 for larger lots with good utility, and few if any site constraints.



SUBJECT PROPERTY DESCRIPTION

Present Use

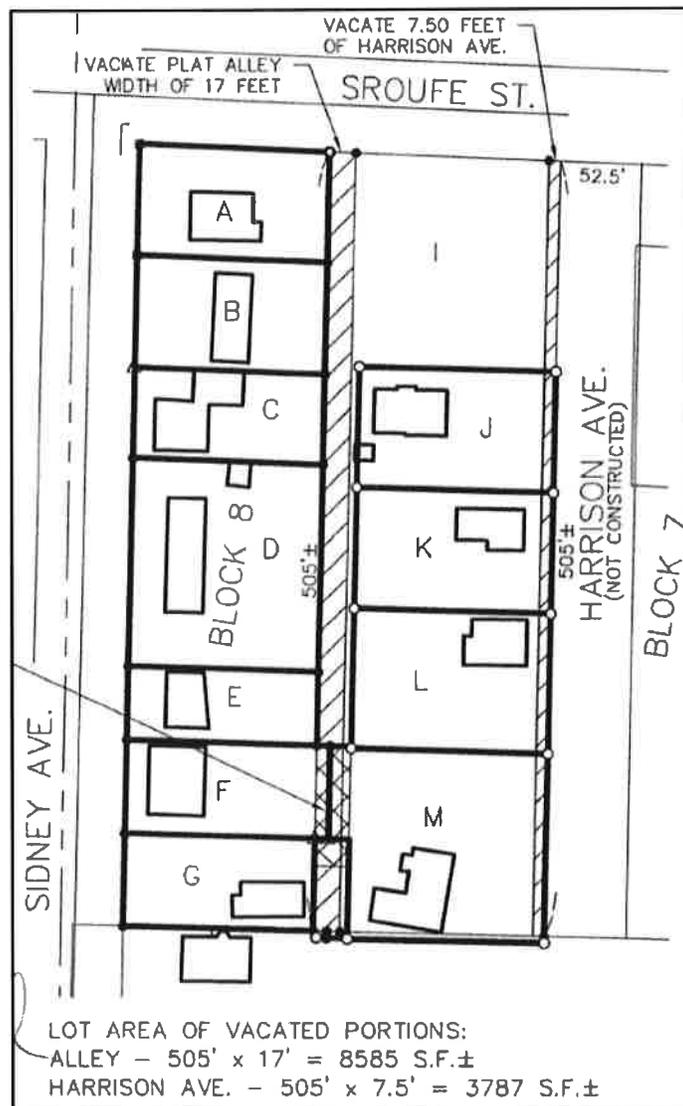
The subject right-of-way is raw, heavily treed, and sloped in most areas. It is largely undeveloped, although it runs into the back yard of some residences in a few instances.

Access and Location

The subject is accessed from Sroufe and Mystery Lane, and adjacent private property.

Land Area and Shape

The survey below provides the total area of the right-of-way, either vacated already, or intended for vacation. Below, that portion of the site that has already been vacated is subtracted, to provide for the current land that is the subject of the proposed vacation.



ROW to be vacated:			
	<u>Width</u>	<u>Length</u>	<u>Total</u>
Alley	17.0-lf	505-lf	8,585sf
Less prior vacation			<u>-1,068sf</u>
			7,517sf
Harrison	7.5-lf	505-lf	3,787sf
Total			11,304sf

This property may also be allocated according to the property to which it will be joined. Please see the calculation of allocation below.

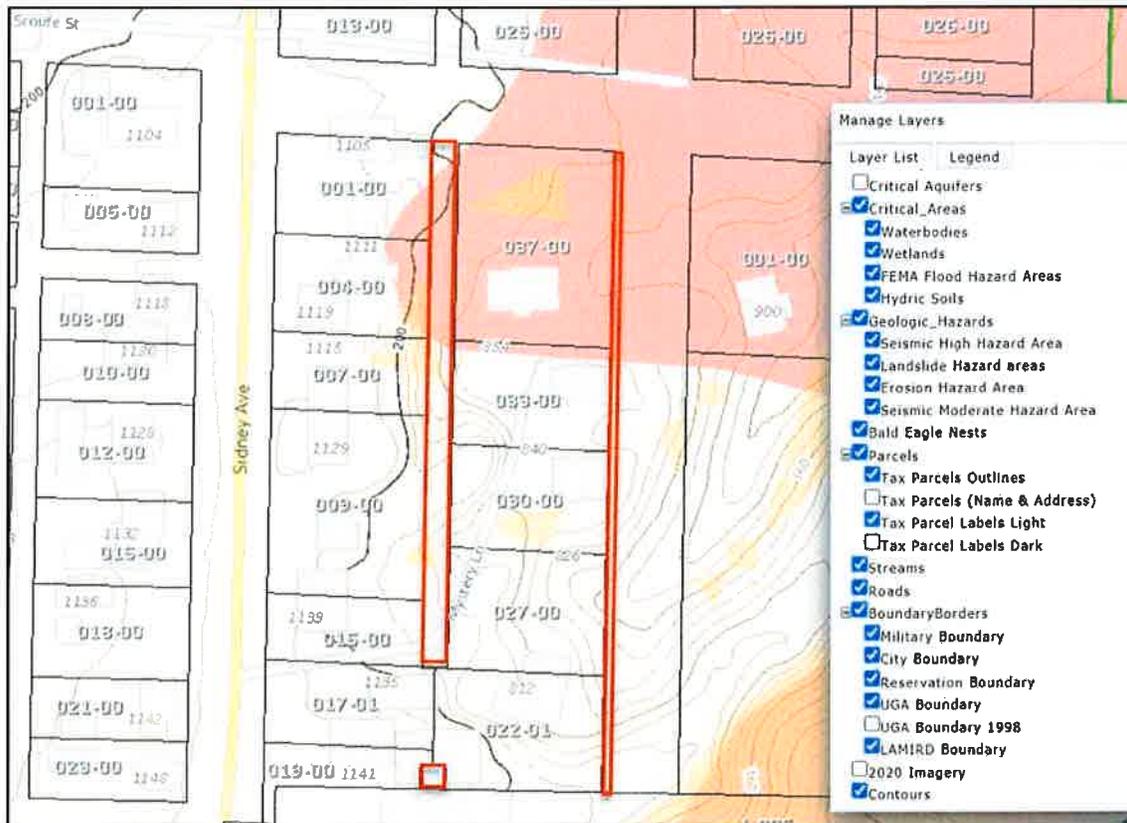
Property	Alley		Harrison	
	length	8.50'	length	7.50'
A	71.73'	610sf		0sf
B	71.73'	610sf		0sf
C	57.82'	491sf		0sf
D	133.45'	1,134sf		0sf
E	47.82'	406sf		0sf
F		0sf		0sf
G	59.78'	508sf		0sf
I	136.20'	1,158sf	135.90'	1,019sf
J	77.50'	659sf	77.50'	581sf
K	77.50'	659sf	77.50'	581sf
L	91.00'	774sf	91.00'	683sf
M	59.78'	508sf	123.00'	923sf
		7,517sf	504.9	3,787sf

Thus the following Before and After Land Areas are established:

Property	Land Area		
	Before	Added	After
A	9,583sf	610sf	10,193sf
B	9,583sf	610sf	10,193sf
C	7,405sf	491sf	7,896sf
D	17,860sf	1,134sf	18,994sf
E	6,534sf	406sf	6,940sf
F	8,712sf	0sf	8,712sf
G	4,356sf	508sf	4,864sf
I	18,731sf	2,177sf	20,908sf
J	10,019sf	1,240sf	11,259sf
K	10,019sf	1,240sf	11,259sf
L	11,761sf	1,456sf	13,217sf
M	12,197sf	1,431sf	13,628sf
		11,304sf	

Topography and Vegetation

The property is sloping with some critical areas Please see the County's critical area map presented below, which essentially duplicates that of the local jurisdiction, the city of Port Orchard.



Views

This is not view property.

Easements & Restrictions

The subject is Right-of-way, but is appraised in fee simple estate, which is the estate that will be conveyed with no retained city or public rights.

Utilities

Power, water and sewer are available through public utility.

Improvements

The subject is unimproved.

Zoning

The right-of-way is not zoned, but typically vacated property would take on the zoning of the adjacent parcels. The surrounding private ownerships are zoned Residential 2 (R2). According to the city code:

“The R2 district is primarily intended to accommodate detached house, duplex, and town house development with a minimum lot size that varies based on building type. The R2 district is intended to implement the residential medium density comprehensive plan designation. Additional building types that are allowed include backyard cottage (detached accessory dwelling unit), cottage court, duplex and attached house. Uses that would substantially interfere with the residential nature of the district are not allowed.”

The minimum lot size is 5,000sf if accessed from a primary street, and 3,000sf if accessed from an alley. Lot widths are 50’, with street access, and 30’ with alley access; duplex lots require an extra 10’ in each case.

Assessed Value & RE Taxes

The subject is not assessed, as publicly owned, and a property to which typically there is no attached value. For information purposes only, I have included the prevailing assessment of the surrounding properties, given the fact that, once vacated, the assessor would include the square footage with these holdings, and perhaps re-assess accordingly.

The current taxation rate is about \$10.55 mills – i.e. about 1.05% of assessed value.

Property	Assessed Values			
	Account #	Land	Improvement	Total
A	4060-008-001-0001	\$56,420	\$241,870	\$298,290
B	4060-008-004-0008	\$56,420	\$179,210	\$235,630
C	4060-008-007-0005	\$53,650	\$208,030	\$261,680
D	4060-008-009-0003	\$65,880	\$333,410	\$399,290
E	4060-008-015-0005	\$52,550	\$73,110	\$125,660
F	4060-008-017-0102	\$55,320	\$331,820	\$387,140
G	4060-008-019-0001	\$44,540	\$229,150	\$273,690
I	4060-008-037-0009	Port Orchard ULID No asmt		
J	4060-008-033-0003	\$50,970	\$330,430	\$381,400
K	4060-008-030-0006	\$50,970	\$297,040	\$348,010
L	4060-008-027-0001	\$52,840	\$300,700	\$353,540
M	4060-008-022-0105	\$53,270	\$380,950	\$434,220

OPINIONS AND CONCLUSIONS

Highest and Best Use

The subject property is essentially unusable as right-of-way, and its highest and best use, assuming the necessary approvals are obtained, is for assemblage with adjacent parcels. This conclusion comes with the reasonable expectation of the vacation being approved by city Council. This is of course an *Extraordinary Assumption*¹ of this appraisal. In the After case, the surrounding properties are appraised as though now owning the land adjacent, which would reflect a *Hypothetical Condition*², required for purposes of analysis.

Comparable Data

Valuation of the subject property is based on a series of lot sales in the neighborhood, this considered a reasonable measure of the value right-of-way intended for assemblage with such a lot. The data has been used to develop a relationship between lot value and size, such that the incremental value of additional square footage within a lot can be measured.

The data is presented below, together with our conclusion of **\$16,900** total, about \$1.50/sf. An explanation of the result follows on the following page.

Sales Analysis						
#	Address	Site Utility	Lot size	Price Date	5%/yr up to Sep-15-21	Land Value
1	1398 Canyon Lane 4056-011-015-00-05	Good location, but restricted w/slope	23,958sf	\$32,500 Feb-21	\$33,500 1.03	\$33,500 \$1.40/sf
2	E Williams Lane #x2 4536-004-012, -010	Resticted due to slope but with building pad	29,621sf	\$35,000 Jul-21	\$35,400 1.01	\$35,400 \$1.20/sf
3	Arnold Ave East Ave E 4536-004-012, -010	Water view, slope restriction	6,098sf	\$37,000 Jun-21	\$37,400 1.01	\$37,400 \$6.13/sf
4	1667 SE Crawford Rd 012301-3-038-20-07	Good utility, flat, rectangular	4,792sf	\$50,000 Apr-21	\$51,100 1.02	\$51,100 \$10.66/sf
5	601 Radey St 4047-001-012-04-07	Good utility, flat, rectangular	9,583sf	\$66,900 Jun-21	\$67,600 1.01	\$67,600 \$7.05/sf
6	Lot 10 SE Serenade Wy 4794-000-010-04-06	Nice quiet cul-de-sac, level, peekaboo view	9,148sf	\$67,000 Apr-21	\$68,300 1.02	\$68,300 \$7.47/sf
7	1783 Sidney Ave 352401-3-073-20-02	Gentle slope, good access, good utility	13,068sf	\$92,000 Sep-20	\$96,600 1.05	\$96,600 \$7.39/sf
8	Decatur Ave 4027-009-004-00-08	Steep slopes, limited access	30,056sf	\$15,000 Jun-21	\$15,200 1.01	\$15,200 \$0.51/sf
9	Arnold Ave E 4027-017-002-00-03	Small building pad at base of steep slope	6,098sf	\$17,000 Aug-21	\$17,100 1.00	\$17,100 \$2.80/sf
Subject			11,304sf	\$16,900 Sep-21	\$16,900 1.00	\$16,900 \$1.50/sf

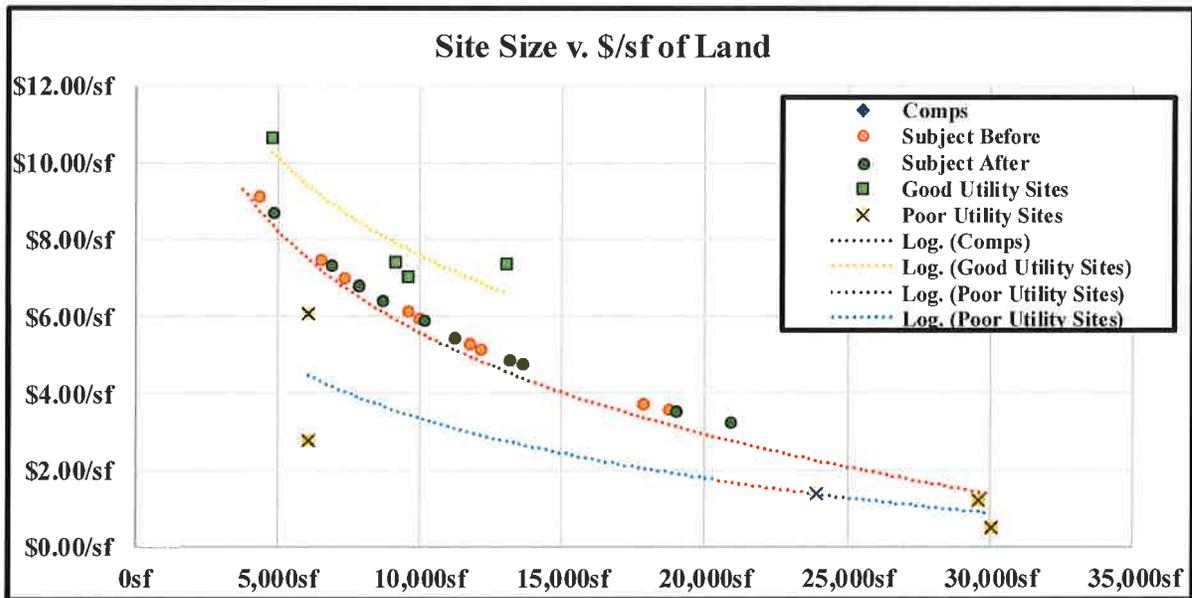
¹ Something not known to be true, but likely to be true.

² Something not presently true but a prospective future condition, and required for analysis purposes, in order to be able to value the subject parcels in the condition that they would be in, were the vacation approved.

Property Valuation

The comparisons have been divided into restricted sites (by virtue of topography or access) and unconstrained properties, with the value divide between these being quite significant: the former sell for between \$0.50/sf and \$3.00/sf, while the latter fall in a range of \$6 to \$10/sf. The data also reveals a clear issue of economies of scale, meaning that for a site of say 5,000sf, the incremental addition of 500sf is not likely to come at a pro-rata value of the lot as a whole, as the additional land does not materially alter the market for the property, it just provides additional yard or buffer. It is an axiom of real estate, that, all other things being equal, a larger site will sell for less on a square-footage basis than a smaller site.

The properties are graphed below, displaying this relationship, with the red dotted best fit line in the center of the graph representing the average of the two different data sets. Based on the sales, different before and after values for the surrounding lots A through M (but no G) are calculated, with the curve providing an indication of the probable lift in value generated by the addition of an increment of land in adjacent (and in this case) largely sloping topography.



Following the curve, the resulting values are calculated.

Property	Land Area			Valuation						Difference
	Before	Added	After	Before			After			
A	9,583sf	610sf	10,193sf	9,583sf	\$59,000	\$6.16/sf	10,193sf	\$60,500	\$5.94/sf	\$1,500
B	9,583sf	610sf	10,193sf	9,583sf	\$59,000	\$6.16/sf	10,193sf	\$60,500	\$5.94/sf	\$1,500
C	7,405sf	491sf	7,896sf	7,405sf	\$52,000	\$7.02/sf	7,896sf	\$54,000	\$6.84/sf	\$2,000
D	17,860sf	1,134sf	18,994sf	17,860sf	\$67,000	\$3.75/sf	18,994sf	\$67,400	\$3.55/sf	\$400
E	6,534sf	406sf	6,940sf	6,534sf	\$49,000	\$7.50/sf	6,940sf	\$50,900	\$7.33/sf	\$1,900
F	8,712sf	0sf	8,712sf	8,712sf	\$56,000	\$6.43/sf	8,712sf	\$56,000	\$6.43/sf	\$0
G	4,356sf	508sf	4,864sf	4,356sf	\$40,000	\$9.18/sf	4,864sf	\$42,400	\$8.72/sf	\$2,400
I	18,731sf	2,177sf	20,908sf	18,731sf	\$67,500	\$3.60/sf	20,908sf	\$67,700	\$3.24/sf	\$200
J	10,019sf	1,240sf	11,259sf	10,019sf	\$60,000	\$5.99/sf	11,259sf	\$61,500	\$5.46/sf	\$1,500
K	10,019sf	1,240sf	11,259sf	10,019sf	\$60,000	\$5.99/sf	11,259sf	\$61,500	\$5.46/sf	\$1,500
L	11,761sf	1,456sf	13,217sf	11,761sf	\$62,500	\$5.31/sf	13,217sf	\$64,500	\$4.88/sf	\$2,000
M	12,197sf	1,431sf	13,628sf	12,197sf	\$63,000	\$5.17/sf	13,628sf	\$65,000	\$4.77/sf	\$2,000
11,304sf			\$1.50/sf						\$16,900	

The conclusion of value for the right of way at around \$1.50/sf is reasonable as the value of incremental acreage, and in fact appropriately aligns with typical site values for sites of restricted utility, this of course quite representative of the nature of the right-of-way in this case – narrow, sloping, and access constrained.

Value Conclusion

As a result of this investigation and analysis, we have concluded with the following value for the property to be vacated:

Market Value – 11,304sf @ \$1.50/sf \$16,900

Effective Date of Value

September 15, 2021, date of inspection.

Exposure Time

This concept does not really apply to a right-of-way vacation. However, in application to lots adjacent, it is noted that the market is quite strong, and an exposure of less than a month would be anticipated.

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- ❖ The statements of fact contained in this report are true and correct;
- ❖ The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions;
- ❖ I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- ❖ I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- ❖ My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- ❖ My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- ❖ The appraisal was made, and the appraisal report prepared, in conformity with the Appraisal Foundation's Uniform Standards for Professional Appraisal Practice.
- ❖ I have made a personal inspection of the property that is the subject of this report.
- ❖ Persons providing significant professional assistance to the persons signing this report are identified herein.
- ❖ The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- ❖ This appraisal has been made in conformity with the appropriate State and Federal laws and requirements;
- ❖ I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment;
- ❖ As of the date of this report, Anthony Gibbons has completed the Standards and Ethics Education Requirement of the Appraisal Institute for Designated Members.

RESTRICTION UPON DISCLOSURE & USE:

Disclosure of the contents of this appraisal report is governed by the By-Laws & Regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which (s)he is connected, or any reference to the Appraisal Institute or to the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the undersigned. No part of this report or any of the conclusions may be included in any offering statement, memorandum, prospectus or registration without the prior written consent of the appraiser.

The property has been appraised for its fair market value as though owned in fee simple. The opinion of value expressed below is the result of, and is subject to, the data and conditions described in detail in this report.

Anthony Gibbons made a personal inspection of the subject property on September 15th, 2021.

The Date of Value for the subject of this appraisal is February 28th, 2020, per client instruction.

Per the MARKET VALUE definition herein, the concluded market value diminution for the property that is the subject of this appraisal is on a cash basis and is:

Market Value..... \$16,900

Name: **Anthony Gibbons, MAI**
 Certified General Real Estate Appraiser. Lic No 1100854

Signature: _____
 Date Signed: September 23, 2021

General Assumptions and Limiting Conditions

This appraisal report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description provided or for matters pertaining to legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable, but no warranty is given for its accuracy.
5. All engineering studies are assumed to be correct. The plot plans and illustrative material in this report are included only to help the reader visualize the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for obtaining the engineering studies that may be required to discover them.
7. It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless the lack of compliance is stated, described, and considered in the appraisal report.
8. It is assumed that the property conforms to all applicable zoning and use regulations and restrictions unless a non-conformity has been identified, described, and considered in this appraisal report.
9. It is assumed that all required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the opinion of value contained in this report is based.
10. It is assumed that the use of the land and improvements is confined within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.
11. Unless otherwise stated in this report, the existence of hazardous materials, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, and other potentially hazardous materials may affect the value of the property. The value estimated is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for such conditions or for any expertise or engineering knowledge required to discover them. The intended user is urged to retain an expert in this field, if desired.

This appraisal report has been made with the following general limiting conditions:

1. If the subject is improved: Any allocation of the total value estimated in this report between the land and the improvements applies only under the stated program of utilization. The separate values allocated to the land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication.
3. The appraiser, by reason of this appraisal, is not required to give further consultation or testimony or to be in attendance in court with reference to the property in question unless arrangements have been previously made.

4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent of the appraiser

The following assumptions and limiting conditions may apply to this assignment:

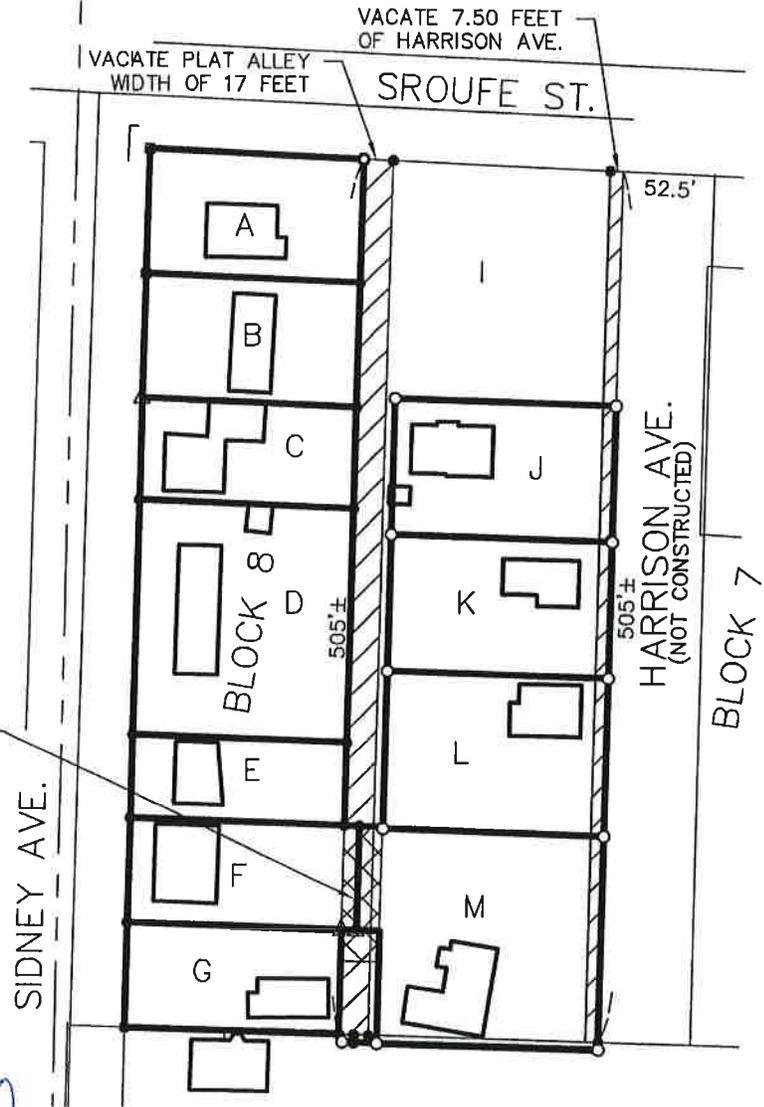
1. Any opinions of value provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the opinion of value, unless such proration or division of interests has been set forth in the report.
2. In the case of proposed developments: If only preliminary plans and specifications were available for use in the preparation of this appraisal; the analysis, therefore, is subject to a review of the final plans and specifications when available.
3. In the case of proposed developments, and the assignment of values to a property at the completion of construction, all proposed improvements are assumed to have been completed unless otherwise stipulated, so any construction is assumed to conform with the building plans referenced in the reports.
4. In the case of improved property: The appraiser assumes that the reader or user of this report has been provided with copies of available building plans and all leases and amendments, if any, that encumber the property.
5. If no legal description or survey was furnished, the appraiser used the county tax plat to ascertain the physical dimensions and acreage of the property. Should a survey prove this information to be inaccurate, it may be necessary for this appraisal to be adjusted. If a legal description has been provided, the appraiser is not responsible for the accuracy of the description. The property appraised is assumed to be as delineated on county maps, as noted in this appraisal.
6. The forecasts, projections, or operating estimates contained herein are based on current market conditions, anticipated short-term supply and demand factors, and a continued stable economy. These forecasts are, therefore, subject to changes with future conditions.
7. If the subject is improved: The Americans with Disabilities Act (ADA) became effective January 26, 1992. The appraiser has not made a specific compliance survey or analysis of any improvements on the property to determine whether or not it is in conformity with the various detailed requirements of ADA. It is possible that a compliance survey of the property and a detailed analysis of the requirements of the ADA would reveal that the property is not in compliance with one or more of the requirements of the act. If so, this fact could have a negative impact upon the value of the property. Since the appraiser has not direct evidence relating to this issue, possible noncompliance with the requirements of ADA was not considered in estimating the value of the property.

EXHIBIT A

SKETCH OF PROPOSED VACATION
OF ALLEY IN BLOCK 8 AND PORTION OF HARRISON AVE.



SCALE: 1" = 100'



PORTION OF ALLEY
VACATED BY ORDINANCE
NO. 010-08
AFN 200804040131

LOT AREA OF VACATED PORTIONS:
ALLEY - 505' x 17' = 8585 S.F.±
HARRISON AVE. - 505' x 7.5' = 3787 S.F.±



JOB NO.: 11367

N.L. Olson & Associates, Inc.

Engineering, Planning and Surveying

(360) 895-2350 or (360) 876-2284

2453 Bethel Avenue, P.O. Box 637, Port Orchard, WA 98366

EXHIBIT B

PORTION OF ALLEY TO BE VACATED

ALL OF THE ALLEY LYING WITHIN BLOCK 8, SWEANEY'S SECOND ADDITION TO SIDNEY, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON.

SAID ALLEY IS 17 FEET IN WIDTH , PER PLAT, AND ADJOINS LOTS 1-22 AND LOTS 42-23.

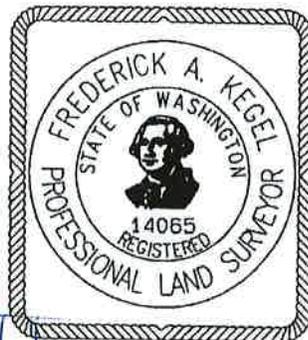
NOTE: THIS VACATION SUPERCEDES AND REPLACES THE PREVIOUS VACATION OF ALLEY, AND IS TO CORRECT THE ALLEY WIDTH AS PREVIOUSLY NOTED IN CITY ORDINANCE 010-08, PER AFN 200804040131, WHICH IS IN ERROR.

PORTION OF HARRISON AVENUE TO BE VACATED

THE WEST 7.50 FEET OF THAT PORTION OF HARRISON AVENUE WHICH IS ADJOINING BLOCK 7 AND BLOCK 8 OF SWEANEY'S SECOND ADDITION TO SIDNEY, ACCORDING TO PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON.

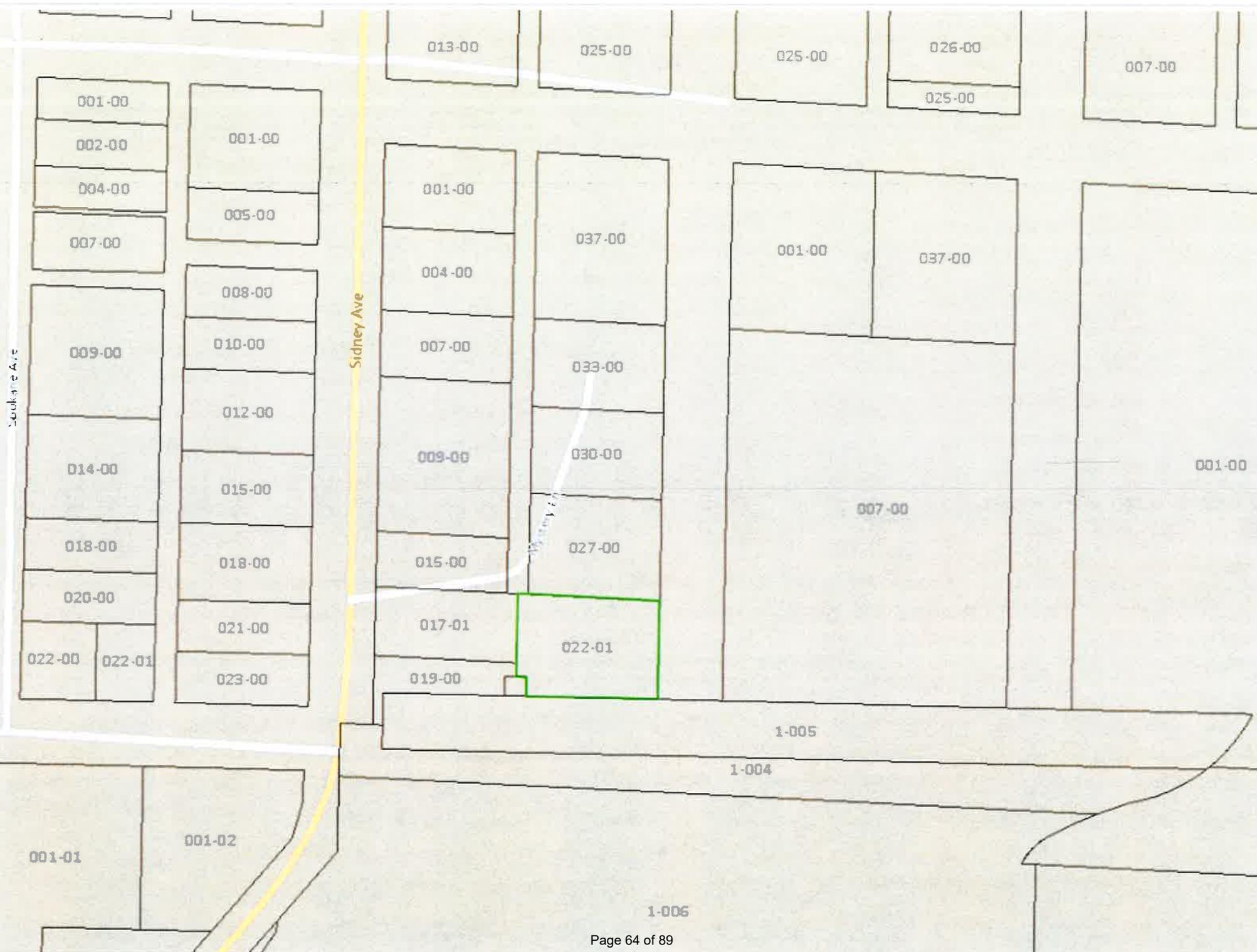


FREDERICK A. KEGEL, P.L.S.
WASHINGTON STATE REGISTRATION NO. 14065



9/3/21

PARCEL	OWNER	TAX PARCEL NO.	LEGAL DESCRIPTION
A	SUSANA MATIAS COUP	4060-008-001-0001	LOTS 1-3, INCLUSIVE, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
B	DONALD RYAN	4060-008-004-0008	LOTS 4-6, INCLUSIVE, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
C	DAVID NESSETH	4060-008-007-0005	LOTS 7 AND 8, AND THE NORTH 10 FEET OF LOT 9, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
D	GERALD ALEXANDER	4060-008-009-0003	LOT 9, EXCEPT THE NORTH 10 FEET THEREOF, AND LOTS 10-14, INCLUSIVE, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
E	ELITE EDGE CONSULTING, LLC	4060-008-015-0005	LOTS 15 AND 16, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
F	FISCHER RENTALS PROPERTIES, LLC	4060-008-017-0102	LOTS 17, 18 AND THE NORTH ONE-HALF OF LOT 19, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
G	GREGORY EBBERS	4060-008-019-0001	LOTS 20, 21 AND THE SOUTH ONE-HALF OF LOT 19, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
H	MACAILLA BARDEN	352401-1-004-2000	USE BLA/QCD FOR BARDEN/WIGGINS TBD
I	CITY OF PORT ORCHARD	4060-008-037-0009	LOTS 37-42, INCLUSIVE, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF HARRISON AVE. ADJACENT TO SAID BLOCK 8, THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____ ALSO TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
J	ABIGAIL WARDLE	4060-008-033-0003	LOTS 33-36, INCLUSIVE, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, EXCEPT THE SOUTH 20.90 FEET OF LOT 33, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ TOGETHER WITH THAT PORTION OF HARRISON AVE. ADJACENT TO SAID BLOCK 8, THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____ ALSO TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
K	JOSHUA GOUCHER	4060-008-030-0006	LOTS 30-32, INCLUSIVE, TOGETHER WITH THE SOUTH 20.90 FEET OF LOT 33, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, EXCEPT THE SOUTH 17.20 FEET OF LOT 30, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ BEING A REFERENCE TO PARCEL 3 ON SURVEYS IN VOLUME 66, PAGE 224, TOGETHER WITH THAT PORTION OF HARRISON AVE. ADJACENT TO SAID BLOCK 8, THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____ ALSO TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
L	PHILIP SQUIER	4060-008-027-0001	LOTS 27-29, INCLUSIVE, AND THE SOUTH 17.20 FEET OF LOT 30, BLOCK 8 OF SWEANY'S 2ND ADDITION TO SIDNEY, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 18, RECORDS OF KITSAP COUNTY, WASHINGTON, AS SURVEYED AND STAKED, AND AS SHOWN ON SURVEY RECORDED IN VOLUME _____, PAGES _____ OF SURVEYS, AFN _____ BEING A REFERENCE TO PARCEL 2 ON SURVEY IN VOLUME 66, PAGE 224, TOGETHER WITH THAT PORTION OF HARRISON AVE. ADJACENT TO SAID BLOCK 8, THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____ ALSO TOGETHER WITH THAT PORTION OF ALLEY WITHIN SAID BLOCK 8 THAT WAS VACATED PER CITY OF PORT ORCHARD RESOLUTION NO. _____
M	WILLIAM ANDERSON	4060-008-022-0105	USE RESULTANT PARCEL ANDERSON/BARDEN BLA/QCD TBD
N	ANN WIGGINS	352401-1-005-2009	USE SCC 19-2-00985 AND R.O.S. VOL.89, PAGE 141 TBD



Seakane Ave

Sidney Ave



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 7B</u>	Meeting Date:	<u>March 14, 2023</u>
Subject:	<u>Adoption of a Resolution Approving a</u>	Prepared by:	<u>Brandy Wallace, MMC</u>
	<u>Lease with Peninsula Feed for Use of</u>		<u>City Clerk</u>
	<u>Public Right of Way, Harrison Avenue</u>	Atty Routing No:	<u>366922-0005</u>
		Atty Review Date:	<u>March 10, 2023</u>

Summary: The City entered into a lease agreement with Peninsula Feed Company on September 1, 2012. The Finance Committee has been working with staff to determine the “full fair market rental value” of the leased property and a new valuation was provided to staff on February 13, 2023. Historically, the lease has been for 25 feet deep by 200 feet wide, portion of City right-of-way on Harrison Avenue. The purpose of the lease is to allow Peninsula Feed Company access, additional parking, merchandise storage, and direct access into the building.

Because parking is vital to downtown, we are reducing the leased portion from 25 feet by 200 feet to *29 feet by 129 feet*. The right-of-way abuts the parking lot and building located at 901 Bay Street. On Harrison Avenue, the first approximately 70 feet will be open to the public for 1 hour parking.

The lease originally commenced September 1, 2012, with the initial base rate of \$453.34 per month with annual adjustments based upon CPI-U factors. With the new valuation provided, staff is recommending the monthly lease rate at \$639.00, which includes annual rent escalation to keep up with anticipated market demand and pricing.

Recommendation: Staff recommends adoption of a resolution, approving the lease agreement with Peninsula Feed Company as presented.

Motion for consideration: “I move to adopt a resolution, approving a lease agreement with Peninsula Feed Company as presented.”

Fiscal Impact: The monthly lease shall increase on an annual basis, during the term of the contract according to the Seattle CPI-U factor as listed by the Department of Labor for the month of October.

Alternatives: Deny the lease agreement and provide direction to staff.

Attachments: Resolution, Lease Agreement, map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING A LEASE AGREEMENT WITH PENINSULA FEED COMPANY FOR A STRIP OF LAND, APPROXIMATELY 29 FEET DEEP AND 129 FEET WIDE FRONTING ON HARRISON AVENUE AT THE WEST BOUNDARY AND THE PENINSULA FEED PROPERTY TO THE EAST BOUNDARY.

WHEREAS, the City entered into a Lease Agreement with Peninsula Feed Company on May 1, 2007, which expired on April 30, 2012, and was extended by the parties; and

WHEREAS, the City has evaluated the area for potential public use and for potential other lessors; and

WHEREAS, the Finance Committee has been working with staff to determine the “full fair market rental value” of the leased property, with a new valuation provided to staff on February 13, 2023; and

WHEREAS, historically, the lease has been for 25 feet deep by 200 feet wide, portion of City right-of-way on Harrison Avenue, with its purpose to provide Peninsula Feed Company access, additional parking, merchandise storage, and direct access into the building; and

WHEREAS, because parking is vital to downtown, the City Council finds that it is necessary to reduce the leased portion from 25 feet by 200 feet to 29 feet by 129 feet, as the right-of-way abuts the parking lot and building located at 901 Bay Street and on Harrison Avenue, the first approximate 70 feet will be open to the public for 1 hour parking; and

WHEREAS, the lease originally commenced September 1, 2012, with the initial base rate of \$453.34 per month with annual adjustments based upon CPI-U factors and with the new valuation provided, staff is recommending the monthly lease rate at \$639.00, which includes annual rent escalation to keep up with anticipated market demand and pricing; now, therefore,

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

THAT: The City Council of the City of Port Orchard approves the lease agreement attached hereto as Exhibit A with Peninsula Feed Company for a strip of land approximately 29 feet deep and 129 feet wide fronting Harrison Avenue at the west boundary, and the Peninsula Feed property to the east boundary.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of March 2023.

Robert Putaansuu, Mayor

ATTEST:

Brandy Wallace, MMC, City Clerk

When recorded Return to:
City Clerk
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

Grantor (Lessor): City of Port Orchard, Washington
Grantee (Lessee): Peninsula Feed Company
Legal Description: SW ¼, SW ¼, Section 26 Township 24 N, Range 1 East. Complete
Legal Description set forth below.
Tax Parcel No.: Public Right-of-Way, no tax parcel assigned.

LEASE

This Lease is made and entered into this day by and between City of Port Orchard, a Washington municipal corporation, hereinafter called “Lessor,” and Peninsula Feed Company, a Washington corporation hereinafter called “Lessee”:

WITNESSETH:

1. **Premises and Term.** In consideration of the covenants and agreements hereinafter set forth and other good and valuable consideration, Lessor hereby leases unto Lessee, and Lessee hereby leases from Lessor, the following described property situated in Kitsap County, Washington (the “Premises”):

See Exhibit A.

The term of this Lease shall be for five (5) years commencing on April 1, 2023, and ending on March 31, 2028.

2. **Rent.** Lessee agrees to pay to Lessor the sum of six hundred thirty-nine Dollars (\$639) per month plus leasehold excise tax for the monthly rental, due and payable to the City of Port Orchard, located at 216 Prospect, Port Orchard, WA, on or before the first day of each month during the term of the Lease beginning April 1, 2023,

Peninsula Feed Lease No. _____

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and without prior notice or demand therefor (except where such prior demand is expressly provided for in this Lease), without any deductions, offsets or counterclaims whatsoever. The parties agree that the rent amount represents the true and fair market value of the leased Premises. In the event payment of the monthly rental is more than ten (10) days late, there shall be added to the rent the amount equal to 10% of the rental payment then due for each such delinquent payment. Late payments of rent and any other amount due hereunder shall further accrue interest at a rate of 12% per annum commencing on the first day that the applicable payment is past due and ending on the day the entire payment is received by Lessor.

3. **Rent Adjustments.** The monthly rent shall be adjusted on April 1st of each year during the term of this Lease to reflect the cost of inflation in the following manner. The Lessor shall use the Seattle CPI-U factor as listed by the Department of Labor for the month of March to adjust the monthly rent charged for the period from April 1 of that year until March 31 of the subsequent year.

4. **Formula Adjustment.** The rent is based upon the formula used by the Washington State Department of Natural Resources as it pertains to nonwater-dependent uses on property leased to the City of Port Orchard. If the Lease is renewed, the Lessor shall revisit the Lease formula and use the current assessed land values to calculate the adjusted rent.

5. **Option to Renew.** So long as Lessee is not in default hereunder, Lessee shall have the option to renew this Lease upon the terms and conditions set forth in Exhibit B.

6. **Taxes.** In addition to the rental amount, the Lessee will be responsible to pay before delinquency any personal property taxes, real estate taxes, real estate assessments, and leasehold excise taxes, if any, related to the Premises.

7. **Reservation of Lessor's Rights.** Lessor reserves the right, from time to time, to modify the Lease by reducing the size of the Premises upon no less than 90 days' prior written notice to Lessee if such portion of the Premises is required for street improvements, pedestrian access, parking, or other similar improvements. Rent shall be reduced in proportion to the reduced area of the Premises, but all other provisions of the Lease shall remain in full force and effect.

8. **Maintenance and Repair.** Lessee, at Lessee's sole expense, shall keep in good condition and repair all portions of the Premises. Lessee agrees to keep the Premises neat and clean and in a sanitary condition; and upon surrendering possession, to leave the Premises in condition equal to or better than as of the effective date of this Lease subject to ordinary wear and tear and damage caused solely by Lessor and Lessor's employees. The Lessee will not make any alterations, additions, or improvements without the prior written consent of the Lessor. No portion of the Premises shall be subject to liens for work performed or materials provided on the Premises made at the request of,

Peninsula Feed Lease No. _____

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or on order of or to discharge an obligation of, Lessee. This Section shall be construed so as to prohibit the interest of Lessor in the Premises or any part thereof from being subject to any lien for any improvements made by Lessee or any third party on Lessee's behalf (except Lessor) to the Premises. If any lien or notice of lien on account of an alleged debt of Lessee or any notice of lien by a party engaged by Lessee or Lessee's contractor or materialmen to work on the Premises shall be filed against the Premises or any part thereof, Lessee, within ten (10) days after notice of the filing thereof, will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Lessee shall fail to cause such lien or notice of lien to be discharged and released of record within the period aforesaid, then, in addition to any other right or remedy, Lessor may discharge the same either by paying the amounts claimed to be due or by procuring the discharge of such lien by deposit or by bonding procedures. Any amount so paid by Lessor and all costs and expenses, including reasonable attorneys' fees and court costs, incurred by Lessor in connection therewith, including interest at a rate of 12% per annum, shall constitute additional rent and shall be promptly paid by Lessee to Lessor on demand.

9. **Insurance.** Lessee agrees that, from and after the date of delivery of the Premises to Lessee, Lessee will carry at its sole cost and expense the following types of insurance, in the amounts specified and in the form hereinafter provided for:

(a) Commercial general liability and property damage insurance covering the Premises and Lessee's use thereof against claims for personal injury or death and property damage occurring upon, in or about the Premises, such insurance to afford protection to the limit of not less than \$1,000,000.00 with respect to injury or death of any number of persons and property damage arising out of any one occurrence and \$2,000,000.00 in the aggregate, such insurance against property damage to the Premises to afford protection to the limit of not less than \$1,000,000.00 with respect to any one occurrence; and auto liability insurance, such insurance to afford protection to the limit of not less than \$1,000,000.00 in respect of injury or death of any number of persons arising out of any one occurrence.

(b) All policies of insurance provided for in this Section shall be issued in a form acceptable to Lessor by sound and reputable insurance companies with a general policyholder rating of not less than A- and a financial rating of Class VII as rated in the most currently available "Best's Insurance Reports" and qualified to do business in Washington State. Each such policy shall be issued in the name of Lessee and name Lessor and any other parties in interest from time to time designated in writing by notice by Lessor to Lessee as additional insured(s) and/or loss payee(s), as applicable. Said policies shall be for the mutual and joint benefit and protection of Lessor and Lessee and a certificate of insurance shall be delivered to Lessor upon or prior to delivery of possession of the Premises to Lessee and thereafter within thirty (30) days prior to the expiration of each such policy. Policies shall be made available to Lessor for review within ten (10) days of Lessor's written request. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Lessee in

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like manner and to like extent. Lessee will give Lessor at least thirty (30) days' notice in writing in advance of any cancellation or lapse, or the effective date of any reduction in the amounts, of insurance. All such liability, property damage and other casualty policies shall be written as primary policies which do not contribute to any policies which may be carried by Lessor. All such liability and property damage policies shall contain a provision that Lessor, although named as an additional insured and/or loss payee, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its agents, contractors and employees by reason of the negligence of Lessee. Any insurance provided for in this Section may be effected by a policy of blanket insurance covering additional items or locations or insureds; provided, however, that (i) Lessor shall be named as an additional insured and/or loss payee thereunder as its interest may appear; (ii) the coverage afforded Lessor will not be reduced or diminished by reason of the use of such blanket policy of insurance; (iii) the requirements set forth herein are otherwise satisfied.

(c) In addition to the types of insurance set forth in subsection (a) above, Lessee shall carry workers' compensation insurance in compliance with applicable federal and state laws and with no less than statutory limits (providing a waiver of subrogation in favor of Lessor) and employer's liability insurance with limits of not less than \$500,000.00 per person or \$1,000,000.00 per accident or disease in the relevant jurisdiction.

10. **Indemnification and Liability.** Lessee agrees to save harmless and indemnify Lessor against and from all demands, claims, causes of action, or judgments, and all reasonable expenses incurred in investigating or resisting the same for injury to person, loss of life, or damage to property occurring on the Premises and arising out of Lessee's use and occupancy (unless due solely to Lessor's negligence or willful misconduct); and Lessee agrees to carry liability insurance to protect Lessor with insurance limits to be reasonable approved by Lessor. Solely for the purpose of effectuating Lessee's indemnification obligations under this Lease, and not for the benefit of any third parties (including but not limited to employees of Lessee), Lessee specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Furthermore, the indemnification obligations under this Lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under any Workers' Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts. The parties acknowledge that the foregoing provisions of this Section have been specifically and mutually negotiated between the parties.

11. **Waiver of Subrogation.** Notwithstanding anything to the contrary set forth in this Lease, in the event of loss or damage to the property of Lessor or Lessee, each party will look first to its own insurance required to be maintained by such party pursuant to this Lease before making any claim against the other. To the extent possible, each party shall obtain, for all policies of property insurance required by this Lease, provisions permitting waiver of subrogation against the other party, and each party, for itself and its

Peninsula Feed Lease No. _____

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insurers, hereby waives the right to make any claim against the other (or its agents, employees or insurers) for loss or damage covered by the property insurance requirements of this Lease.

12. **Holding Over.** If Lessee remains in possession of the Premises after the expiration of this Lease, such possession shall, if rent is accepted by Lessor, create a month-to-month tenancy on the terms herein specified, and said tenancy may be terminated at any time by either party by thirty (30) days notice to the other party of such termination.

13. **Assignment and Subletting.** Lessee shall not assign this Lease nor sublet the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole and absolute discretion. In addition to its ordinary meaning, assignment and/or subletting shall include but not be limited to the following transfers from Lessee of its entire or partial interest in the Premises to one or more of the following entities: (1) any entity resulting from a merger or consolidation with Lessee or any organization purchasing substantially all of Lessee's assets, (2) any entity succeeding to substantially all the business and assets of Lessee, (3) any subsidiary, affiliate or parent of Lessee, (4) any entity controlling, controlled by or under common control with Lessee, or (5) any entity resulting from the reorganization of Lessee outside of a bankruptcy organization.

14. **Insolvency.** In the event the Lessee is adjudicated bankrupt or insolvent, or a Receiver or Trustee is appointed for the Lessee, either voluntarily or involuntarily, or if the Lessee makes an assignment for the benefit of creditors, this Lease shall immediately terminate without further action on the part of Lessor or Lessee.

15. **Waivers.** One or more waivers of any covenants or conditions by Lessor shall not be construed as a waiver of a subsequent breach of the same covenant or condition or agreement.

16. **Use of Premises.** Lessee will use and occupy the Premises throughout the entire term hereof for purpose of vehicular and pedestrian ingress, egress, parking, merchandise display, and no other purpose. Lessee agrees not to violate any law, ordinance, rule or regulations of any governmental authority having jurisdiction of the Premises.

17. **Condition of Premises.** Lessor delivers possession of the Premises, and Lessee accepts the Premises, in its current condition "as is" and "with all faults". Lessor makes no representations or warranties, whether express or implied, regarding merchantability, marketability, fitness, or suitability of the Premises for a particular purpose, and any implied warranties are expressly disclaimed and excluded. Lessor shall not be responsible for any defects in the Premises during the term of the Lease, and Lessee hereby releases Lessor therefrom. Lessee hereby acknowledges that it has had full

opportunity to inspect the Premises and enters into this Lease in reliance solely on its own inspection and review of the Premises.

18. **Default.** In the event that Lessee shall abandon the Premises before the end of the term, or if any rent shall be due and unpaid and such failure continues for ten days after Lessee's receipt of notice regarding Lessee's failure to pay such rent when due, or if default is made of any of the covenants and agreements to be performed by Lessee as set forth herein and such failure continues for thirty days after Lessee's receipt of notice describing Lessee's failure, then the Lessor may, at its option, enter upon the Premises and re-let the same for such rent and upon such terms as Lessor may see fit; and if the full rental herein shall not be realized by Lessor over and above any expense to Lessor in such re-letting, Lessee will pay all deficiency promptly upon demand, or the Lessor may declare this Lease terminated and forfeited and take possession of the Premises, and Lessee agrees to pay a reasonable attorneys' fees and the costs incurred by Lessor to enforce any of Lessor's remedies under this Lease.

19. **Attorneys Fees and Court Costs.** In the event that any suit, action, or proceeding, including arbitration as hereinafter set forth, shall be instituted to enforce compliance with any of the terms or conditions of this Lease, there shall be paid to the substantially prevailing party in such suit, action or proceeding, such sums as the court or arbitrator may adjudge and determine to be a reasonable attorney's fee and reasonable costs, with the foregoing applicable to proceedings both in the trial and appellate court levels.

20. **Arbitration.** In the event that there is a dispute arising out of any of the terms or conditions or the amount of rent payable as provided in this Lease, said dispute shall be referred to arbitration. The Lessor shall appoint an arbitrator at its sole cost, and the Lessee shall appoint an arbitrator at its sole cost. The two arbitrators shall then select a third independent arbitrator. The costs of the third arbitrator shall be divided equally between the Lessor and the Lessee. The three arbitrators shall then resolve the dispute between the Lessor and the Lessee by a majority thereof, and the decision shall be reduced to writing. Said arbitration award may then be reduced to judgment by entry in the Kitsap County Superior Court.

21. **Compliance with Law.** Lessor shall be responsible for complying with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101-12213) and the Washington State Law Against Discrimination, Chapter 49.60 RCW, as well as regulations adopted thereunder, with respect to the Property and the Premises.

22. **Hazardous Substances.** The term "Hazardous Substances" as used in this Agreement shall mean pollutants, contaminants, toxic wastes, or any other substances, the removal of which is required or the use of which is restricted, regulated, prohibited or penalized by any "Environmental Law." The term "Environmental Law" or "Environmental Laws" shall mean any federal, state or local law or ordinance relating to pollution or protection of the environment or public health. Lessee agrees not to use,

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dispose, store or generate any asbestos or Hazardous Substances in violation of any applicable law, rule or regulation upon the Premises. In the event such laws, rules or regulations require remediation of any asbestos or Hazardous Substances discovered on the Premises, Lessee agrees to promptly remove or remedy the violation at its sole cost. Lessee agrees to indemnify and hold Lessor harmless against any losses, damages, costs, liabilities and claims suffered by Lessor in connection with a breach by Lessee of its obligations set forth in this Section.

23. **ANTI-TERRORISM AND MONEY LAUNDERING REPRESENTATION AND INDEMNIFICATION.** Lessee certifies that: (i) neither it nor its managers, members or controlling owners are acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order, the United States Department of Justice, or the United States Treasury Department as a terrorist, "Specially Designated National or Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control ("SDN"); (ii) neither it nor its managers, members, or controlling owners are engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation; and (iii) neither it nor its managers, members, or controlling owners are in violation of Presidential Executive Order 13224, the USA Patriot Act, the Bank Secrecy Act, the Money Laundering Control Act or any regulations promulgated pursuant thereto. Lessee hereby agrees to defend, indemnify, and hold harmless Lessor from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the foregoing certification. Should Lessee, during the term of this Lease, be designated an SDN, Lessor may, at its sole option, terminate this Lease.

24. **Broker.** Each party represents that it has worked with no broker with respect to the Lease. Lessee and Lessor (each an "**indemnitor**") agree to indemnify and hold harmless the other parties hereto, and their respective affiliates, successors and assigns, from and against claims, actions, judgments, liabilities, payments, losses, damages and expenses, including reasonable attorney's fees and court costs, suffered or incurred by reason of the indemnitor's breach of its respective representation in this Section.

25. **WAIVER.** Failure of either party to insist upon the strict performance of any provision of this Lease or to exercise any option or enforce any rules and regulations shall not be construed as a waiver in the future of any such provision, rule or option.

26. **ACCORD AND SATISFACTION.** No payment by Lessee or receipt by Lessor of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any such check or payment as rent be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to

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Lessor's right to recover the balance of such rent or pursue any other remedy provided for in this Lease or available at law or in equity.

(signature page follows)

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that
_____ 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
_____ of _____ to be the free and
voluntary act of such party for the uses and purposed mentioned in the instrument.

DATED: _____

Notary Public in and for the State of
Washington residing at _____
My commission expires _____

Exhibit A
Legal Description of Premises and Depiction of Leased Area

Section 26, Township 24, Range 1 East, that section of Harrison Avenue right of way described as follows: Beginning at the northeast corner of the intersection of Harrison Avenue and Bay Street; thence 129 feet northward along the east margin of Harrison Avenue; thence west 29 feet; thence south 200 feet along a line parallel to the east margin of the Harrison Avenue right of way; thence west 25 feet to the point of beginning.

Parcel#: 4650-009-001-0005

620 Bay St

Port Orchard, WA 98366

A Portion Of:

PARCEL I: LOTS 1 AND 2, BLOCK 9, S.M. STEVEN'S TOWN PLAT OF SIDNEY, ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 1 OF KITSAP COUNTY, WASHINGTON. PARCEL II: LOTS 3 AND 4, BLOCK 9, S.M., STEVEN'S TOWN PLAT OF SIDNEY, ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 1, RECORDS OF KITSAP COUNTY, WASHINGTON; EXCEPT THOSE PORTIONS OF SAID LOT 3 CONVEYED TO THE TOWN OF PORT ORCHARD FOR STATE ROAD NO. 14 BY DEEDS RECORDED IN VOLUME 149 OF DEEDS, PAGES 505 AND 558, UNDER AUDITOR'S FILE NOS. 147447 AND 147666, WHICH EXCEPTED PORTIONS ARE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT 3 A DISTANCE OF 45.0 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH ALONG SAID WEST LINE 29.87 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID LOT; THENCE EAST ALONG SAID SOUTH LINE 7.0 FEET; THENCE NORTH PARALLEL WITH SAID WEST LINE TO A POINT EAST OF THE POINT OF BEGINNING; THENCE EAST PARALLEL WITH SAID SOUTH LINE 0.5 FEET; THENCE NORTH PARALLEL WITH SAID WEST LINE 7.5 FEET; THENCE EAST PARALLEL WITH SAID SOUTH LINE 3.0 FEET; THENCE NORTHERLY ALONG THE ARC OF A CURVE, THE RADIUS OF WHICH BEARS EAST PARALLEL WITH SAID SOUTH LINE 105.8 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT, 13.17 FEET SOUTHWESTERLY FROM THE MOST NORTHERLY CORNER THEREOF; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE 29.0 FEET TO THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 45.0 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTED PORTIONS.

Peninsula Feed Lease No. _____

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Exhibit B
Option to Extend

EXHIBIT J

OPTION TO EXTEND

1. OPTION. Lessee is granted one option to extend the term of this Lease for an additional five year period ("**Option Period**"), upon the terms and conditions set forth herein; provided, that said right to extend for such Option Period ("**Option**") may be exercised only in the event Lessee is not in default either at the time said Option right is exercised nor at the time such Option Period is to commence, nor has ever been in default during the time of the Lease. The words "Lease Term" or "Term," as used in this Lease, shall mean the term of this Lease as extended by Lessee pursuant to this Section.

2. EXERCISE OF OPTION. To exercise the Option described in this Section above, Lessee shall notify Lessor in writing ("**Lessee's Election**") no later than ninety (90) calendar days prior to the expiration of the initial Lease term.

3. CONTINUING EFFECT. In the event Lessee properly exercises its Option right as provided herein and the term of this Lease is extended as provided herein, all of the terms and conditions of this Lease shall apply during the Option Period, (except the Option right then exercised), including but not limited to Lessee's obligation to pay rent and other charges and expenses provided for in the Lease and provided, that (1) no rental concession, reduced or free rent, tenant improvement allowance or other concessions shall be due or payable to Lessee during or with respect to such Option Period; (2) rent during the Option Period shall be determined in accordance with the terms and conditions set forth below, but in no event shall the rent for the first year of the Option Period be less than the rent payable in the last year of the previous Lease term.

4. RENT DURING OPTION PERIOD.

(a) In the event Lessee validly exercises its Option as herein provided, the rent shall be adjusted to the then current market rate for the Premises, determined as of the commencement date of the Option Period, as follows: Within thirty (30) days after Lessor receives Lessee's Election, Lessor shall provide Lessee with Lessor's determination of the fair market rent for the Option Period ("**Lessor's Determination**"). Lessee shall provide notice to Lessor within ten (10) days after receipt of such notice from Lessor as to whether Lessee accepts Lessor's Determination. In the event Lessee does not agree to Lessor's Determination, Lessor and Lessee shall attempt to agree upon rent for the Premises for the Option Period, such rent to be the fair market rental value of the Premises for the Option Period. If the parties are unable to agree upon the rent for the Option Period by the date forty five (45) days prior to the commencement of the Option,

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then within ten (10) days thereafter each party, at its own cost and by giving notice to the other party, shall appoint a real estate broker with at least ten (10) years full-time commercial real estate experience in Kitsap County to appraise and set rent for the Option Period. If a party does not appoint a broker within ten (10) days after the other party has given notice of the name of its broker, the single broker appointed shall be the sole broker and shall set rent for the Option Period. If each party shall have so appointed a broker, the two broker(s) shall meet promptly and attempt to set the rent for the Option Period. If the two broker(s) are unable to agree within thirty (30) days after the second broker has been appointed, they shall attempt to select a third broker meeting the qualifications herein stated within ten (10) days after the last day the two broker(s) are given to set rent. If the two broker(s) are unable to agree on the third broker within such ten (10) day period, either of the parties to this Lease, by giving five (5) days' notice to the other party, may apply to the then presiding judge of the Superior Court of the Kitsap County for the selection of a third broker meeting the qualifications stated in this Section. Each of the parties shall bear one-half (1/2) of the cost of appointing the third broker and of paying the third broker's fee. The third broker, however selected, shall be a person who has not previously acted in any capacity for either party.

(b) Within thirty (30) days after the selection of the third broker, a majority of the broker(s) shall set rent for the Option Period. If a majority of the broker(s) are unable to set rent within the stipulated period of time, the three appraisals shall be added together and their total divided by three (3). The resulting quotient shall be the rent for the Premises during the Option Period. If, however, the low appraisal and/or the high appraisal is/are more than ten percent (10%) lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one (1) appraisal is disregarded, the remaining two (2) appraisals shall be added together and their total divided by two (2), and the resulting quotient shall be rent for the Premises during the Option Period.

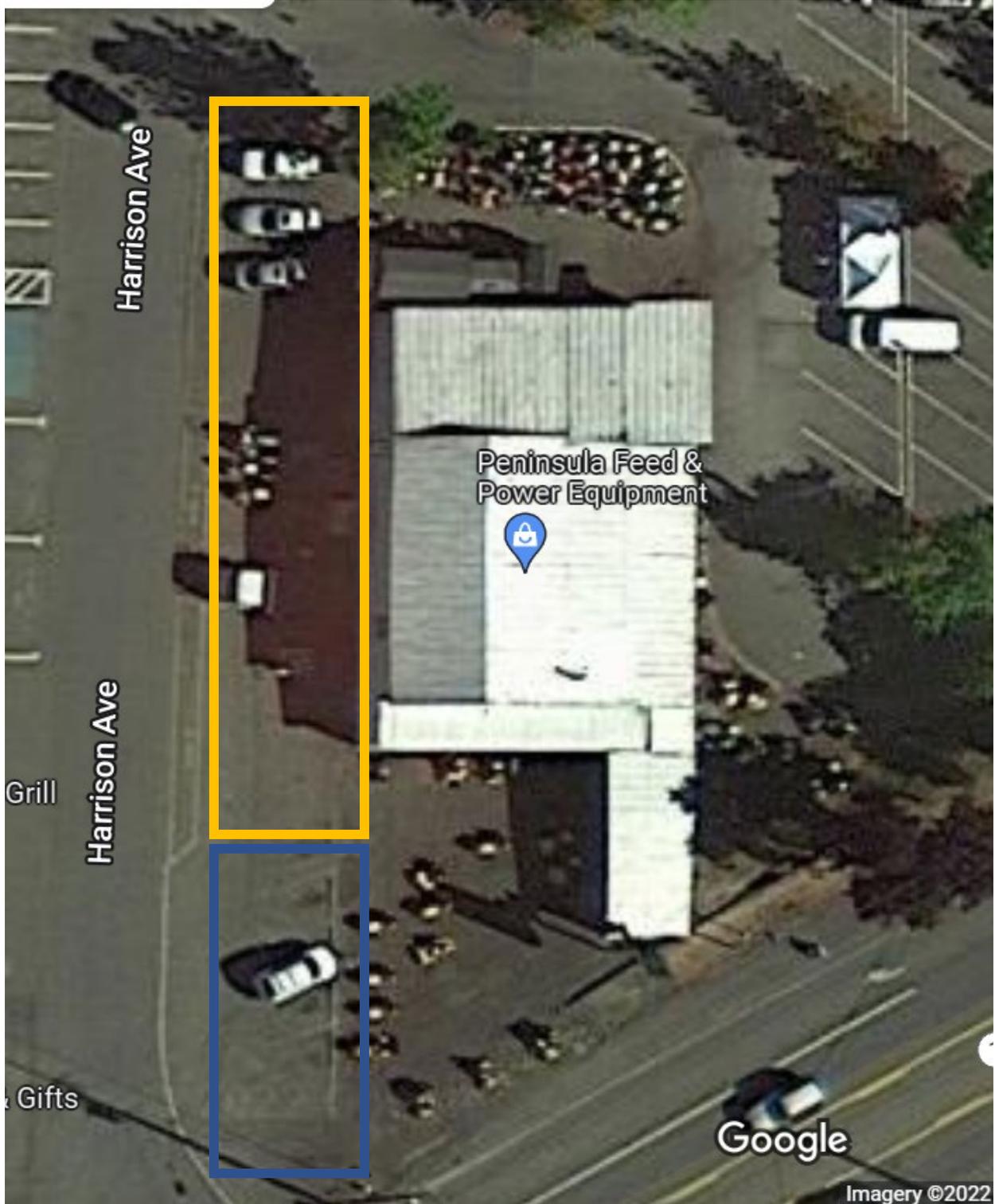
(c) For purposes of the appraisal, the term "fair market rental value" shall mean the price that a ready and willing tenant would pay, as of the commencement date of the Option Period, as rent to a ready and willing Lessor of premises comparable to the Premises in Kitsap County, if such premises were exposed for Lease on the open market for a reasonable period of time; including any rent increases over the Option Period to the extent normal under then current market conditions. In no event shall there be deducted from such fair market rental value, the value of any concessions, including without limitation tenant improvements, commissions, free rent and/or "downtime". In no event shall the fair market rental value for any applicable Option Period be less than the rent in effect during the month immediately preceding the commencement of such Option Period.

(d) Any delay or failure of Lessor in computing or billing for the rent adjustment hereinabove provided, shall not constitute a waiver of or in any way impair the Lessee's obligation to pay such rent adjustment hereunder. In the event of any such delay or failure

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of Lessor to notify Lessee of the rent adjustment, Lessee shall continue paying the rent due prior to the applicable adjustment until notified by Lessor of the rent adjustment.



Yellow rectangle-Leased

Blue rectangle-Open to Public Parking for anyone, limited to 1 hour



**City of Port Orchard
Council Meeting Minutes
Regular Meeting of February 28, 2023**

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 Trenary	Present
Councilmember Chang	Present
Councilmember Clauson	Present
Councilmember Cucciardi	Absent
Councilmember Diener	Present
Councilmember Lucarelli	Present
Councilmember Rosapepe	Present
Mayor Putaansuu	Present

Staff present: Public Works Director Lang, Finance Director Crocker, Development Director Bond, City Attorney Archer, HR Manager Lund, City Clerk Wallace, and Deputy City Clerk Floyd.

The meeting streamed live on YouTube.

A. PLEDGE OF ALLEGIANCE (Time Stamp 00:37)

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

2. APPROVAL OF AGENDA (Time Stamp: 00:56)

Councilmember Diener joined the meeting at 6:01 p.m.

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

The motion carried.

3. CITIZENS COMMENTS (Time Stamp: 01:28)

There were no citizen comments.

4. CONSENT AGENDA (Time Stamp: 01:56)

- A. Approval of Voucher Nos. 85575 through 85632 including bank drafts in the amount of \$168,110.34 and EFT's in the amount of \$148,188.01 totaling \$316,298.35.
- B. Approval of Payroll Check Nos. 85567 through 85574 including bank drafts and EFT's in the amount of \$234,075.84 and Direct Deposits in the amount of \$223,619.49 totaling \$457,695.33.
- C. Adoption of a Resolution Approving an Intergovernmental Cooperative Purchasing Agreement with National Purchasing Cooperative (BuyBoard) (**Resolution No. 019-23 and Contract No. 028-23**)
- D. Approval of Amendment No. 5 to Contract No. 028-21 with Transportation Solutions for On-Call Transportation/Traffic Engineering Services
- E. Approval of the February 14, 2023, City Council Meeting Minutes
- F. Excusal of Councilmember Cucciardi due to Work Obligations

MOTION: By Councilmember Rosapepe, seconded by Councilmember Trenary, to approve the consent agenda as presented.

The motion carried.

5. PRESENTATION

There were no presentations.

6. PUBLIC HEARING

There were no public hearings.

7. EXECUTIVE SESSION (Time Stamp: 02:23)

At 6:02 p.m., Mayor Putaansuu recessed the meeting for a 15-minute executive session pursuant to RCW 42.30.110(1)(i) to discuss the legal risks of a proposed action. Public Works Director Lang, Finance Director Crocker, and City Attorney Archer were invited to attend, and City Attorney Archer announced action will follow.

Mayor Putaansuu extended the executive session an additional 10-minutes.

At 6:27 p.m., Mayor Putaansuu, reconvened the meeting back into session.

8. BUSINESS ITEMS

- A. **Approval of Amendment No. 1 to Contract No. 075-22 with Ceccanti, Inc. for the McCormick Village Park Splash Pad Treatment Facility Installation Project (Time Stamp 03:04)**

MOTION: By Councilmember Clauson, seconded by Councilmember Diener, to authorize the Mayor to execute Change Order No. 1 to Contract No. C075-22 with Ceccanti, Inc. for the McCormick Village Park Splash Pad Treatment Facility Installation project.

Councilmembers Chang and Rosapepe voiced their concerns with the price of the project.

The motion moved. Councilmembers Chang and Rosapepe voted no.

B. Adoption of a Resolution Approving a Contract with CONSOR North America, Inc. for Construction Support and Management Services for the McCormick Village Park Splash Pad Construction Project (Time Stamp: 14:29)

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to adopt Resolution No. 001-23, thereby approving Contract No. C005-23 with Consor North America, Inc. for Construction Support and Management Services for the McCormick Village Park Splash Pad Construction Project in an amount not to exceed \$57,475.00.

The motion moved. Councilmember Chang voted no.

C. Adoption of a Resolution Amending Policies and Procedures for the City's Annual Spring Clean-up Program (Time Stamp 18:20)

MOTION: By Councilmember Chang, seconded by Councilmember Rosapepe, to adopt Resolution 016-23, thereby adopting the Revised City of Port Orchard Policy and Procedures for the City's Annual Spring Clean-up Program.

The motion carried.

D. Adoption of a Resolution Establishing an Employee Inclusion Commission to Focus on the City's Efforts Related to Diversity, Equity, and Inclusion Among City Employees (Time Stamp 21:06)

MOTION: By Councilmember Rosapepe, seconded by Councilmember Clauson, to adopt a resolution establishing an employee Inclusion Commission to focus on the City's efforts related to diversity, equity and inclusion among City employees

The motion carried.

(Resolution No. 020-23)

E. Adoption of a Resolution Approving a Contract with KPFF Consulting Engineers for the Bay Street Pathway West-Situational Study (Time Stamp 25:52)

MOTION: By Councilmember Diener, seconded by Councilmember Trenary to adopt Resolution No. 003-23, approving and authorizing the Mayor to execute Contract No. C010-23 with KPFF Consulting

Engineers for the Bay Street Pathway West – Situational Study in an amount of \$560,103.86 and documenting the Professional Services procurement procedures.

Councilmember Chang noted is an employee of WSDOT (Washington State Department of Transportation) and would recuse himself if anyone had any concerns.

No one voiced any concerns.

The motion carried.

F. Adoption of a Resolution Accepting Transportation Improvement Program Project #1.5C, Documenting Certified Construction Costs and Maximum Transportation Impact Fee Credits Granted Pursuant to Contract No. 035-21 (Time Stamp 30:33)

MOTION: By Councilmember Lucarelli, seconded by Councilmember Rosapepe, to adopt Resolution 002-23 accepting the Transportation Improvement Program Project #1.5C-Old Clifton McCormick Village Drive (formerly known as Campus Pkwy) Intersection, documenting Certified Construction Costs, and establishing maximum Transportation Impact Fee Credits.

The motion carried.

G. Approval of a Letter of Intent with Kitsap Public Facilities District to Fund Future Construction Costs for the Community Events Center (Time Stamp 35:53)

MOTION: By Councilmember Trenary, seconded by Councilmember Lucarelli, to authorize the Mayor to execute a Letter of Intent between the City of Port Orchard and the Kitsap Public Facilities District as presented.

The motion carried.

H. Approval of Amendment No. 9 to Contract No. 066-20 with Rice Fergus Miller, Inc. for the Design Development and Construction Drawings of the Port Orchard Community Events Center-LEED Feasibility (Time Stamp: 42:57)

MOTION: By Councilmember Trenary, seconded by Councilmember Rosapepe, to authorize the Mayor to execute Amendment No. 9 to Contract No. C066-20 with Rice Fergus Miller, Inc. for the South Kitsap Community Event Center Project in an amount of \$229,800.

The motion carried.

9. DISCUSSION ITEMS (No Action to be Taken)

A. Council Choice of RMSA Required Course for 2023 (Time Stamp 48:29)

HR Manager Lund pointed out this year's list of required training has been shortened from previous years. The training topics for this year include Anti-Harassment in the Workplace, Discipline and Termination, Sexual Harassment for Managers, Sexual Harassment in the Workplace, and Workplace Bullying.

HR Manager Lund said the reason we do this training is because of an \$1,000 deductible if an employment lawsuit should come against any member of the Council.

After a brief discussion, the City Council chose to take Workplace Bullying.

10. REPORTS OF COUNCIL COMMITTEES (Time Stamp: 51:30)

Mayor Putaansuu reported the Economic Development and Tourism Committee is scheduled to meet March 20th. The Utilities Committee is scheduled to meet March 28th. The Finance Committee is scheduled to meet March 21st. The Transportation Committee is scheduled to meet March 14th. The Land Use Committee is scheduled to meet March 15th, and the City Council Retreat is scheduled for March 10th.

Councilmember Lucarelli reported on the February 27th Festival of Chimes and Lights Committee meeting and reported on the February 14th Utilities Committee meeting. The next Utilities Committee meeting is scheduled for March 28th.

Mayor Putaansuu also reported on Housing Kitsap.

11. REPORT OF MAYOR (Time Stamp 56:16)

The Mayor reported on the following:

- City Action Days highlights
- Foster Pilot Program
- Zoning mandates
- Broadband utilities
- In accordance with Ordinance 008-20 "Delegating Authority to the Mayor for Creating and Modification of Job Descriptions," he reported his approval of the revised job descriptions for Accounting Assistant III/IT Specialist and Utility Manager
- City Council Retreat
- The March Work Study is scheduled.

12. REPORT OF DEPARTMENT HEADS (Time Stamp 1:01:18)

HR Manager Lund reported the City of Port Orchard has won the Well City Award, which is the City's 12th consecutive year.

City Attorney Archer reported the vehicular pursuit legislation is still alive.

Development Director Bond reported on development activity.

Public Works Director Lang reported on the Bay Street Pedestrian Pathway bus damage repairs.

13. CITIZEN COMMENTS (Time Stamp 1:04:40)

There were no citizen comments.

14. EXECUTIVE SESSION

The executive session was held earlier.

15. GOOD OF THE ORDER (Time Stamp **)

There was no good of the order.

16. ADJOURNMENT

The meeting was adjourned at 8:00 p.m. No other action was taken. Audio/Visual was successful.

Brandy Wallace, MMC, City Clerk

Robert Putaansuu, Mayor