



City of Port Orchard Council Meeting Agenda
February 9, 2021
6:30 p.m.

Mayor:

Rob Putaansuu
 Administrative Official

Councilmembers:

Bek Ashby (Mayor Pro-Tempore)
 Finance Committee
 Economic Development & Tourism Committee
 Transportation Committee, **Chair**
 KRCC/KRCC PlanPol-alt /KRCC TransPol
 PSRC-alt/PSRC TransPOL-Alt/PRTPO

Shawn Cucciardi
 Finance Committee
 E/D & Tourism Committee, **Chair**
 Kitsap Economic Development Alliance

Fred Chang
 Economic Development & Tourism Committee
 Land Use Committee

Jay Rosapepe
 Utilities/Sewer Advisory Committee
 Land Use Committee
 Transportation Committee
 Lodging Tax Advisory Committee, **Chair**
 KRCC-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
 Mark Dorsey, P.E.
 Director of Public Works/City Engineer

Tim Drury
 Municipal Court Judge
 Noah Crocker, M.B.A.
 Finance Director

Matt Brown
 Police Chief
 Brandy Rinearson, MMC, CPRO
 City Clerk

Meeting Location:

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

Contact us:

(360) 876-4407
 cityhall@cityofportorchard.us

The City is prohibited from conducting meetings unless the meeting is NOT conducted in-person and instead provides options for the public to attend through telephone, internet or other means of remote access, and also provides the ability for persons attending the meeting (not in-person) to hear each other at the same time. Therefore;

Remote access only

Link: <https://us02web.zoom.us/j/85812030839>

Zoom Meeting ID: 858 1203 0839

Zoom Call-In: 1 253 215 8782

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. When recognized by the Mayor, please state your name for the official record)*

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 an Ordinance Accepting Cash Donations from Kitsap Bank and Waterman Mitigation Partners (Crocker) Page 4**
- D. Adoption of a Resolution Approving an Emergency Access and Utility Easement with Northcamp Property Investments, LLC for the Final Plat of McCormick Village (Dorsey) Page 7**
- E. Adoption of a Resolution Approving the Purchase of Vehicles for the Equipment Rental Revolving Fund 500 (Crocker) Page 16**
- F. Approval of the January 26, 2021, City Council Meeting Minutes Page 33**

5. PRESENTATION

6. PUBLIC HEARING

- A. Ordinance to Adopt an Adjusted Traffic Impact Fee (Bond) Page 40**
- B. McCormick Woods Development Agreement for Transportation (Bond) Page 79**
- C. Ordinance Amending Port Orchard Municipal Code Chapter 13.04 Concerning Sewer General Facility Fee Credits (Bond) Page 142**

7. BUSINESS ITEMS

- A. Adoption of an Ordinance Approving the McCormick Woods Development Agreement for Transportation (Bond) **Page 144**
- B. Adoption of an Ordinance Adopting an Adjusted Traffic Impact Fee (Bond) **Page 173**
- C. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 13.04 Concerning Sewer General Facility Fee Credits (Bond) **Page 211**
- D. Adoption of an Ordinance Approving a Contract with the Washington State Department of Transportation for the Bethel and Lincoln Roundabout Project Construction Phase (Dorsey) **Page 228**
- E. Adoption of an Ordinance Approving a Contract with the Washington State Department of Transportation for the Citywide Street Lighting Study (Dorsey) **Page 237**
- F. Adoption of a Resolution Approving a Contract with Skillings, Inc. for the Bethel and Lincoln Intersection Roundabout Project Design Phase and Documenting Procurement Procedures (Dorsey) **Page 245**
- G. Adoption of a Resolution Approving a Contract with Transportation Solutions, Inc. for the Third-Party Transportation Concurrency Review Project and Documenting Procurement Procedures (Dorsey) **Page 278**
- H. Adoption of a Resolution Approving a Contract with Transportation Solutions, Inc. for On-Call Transportation Analysis Project and Documenting Procurement Procedures (Dorsey) **Page 297**
- I. Adoption of a Resolution Adopting the Final Plat of Stetson Heights Phase 1 (Bond) **Page 313**
- J. Adoption of a Resolution Adopting a Donation Policy (Mayor) **Page 416**
- K. Approval of the January 19, 2021, City Council Work Study Minutes **Page 437**

8. DISCUSSION ITEMS (No Action to be Taken)

- A. Gorst Memorandum of Understanding /Agreement (Mayor)

9. REPORTS OF COUNCIL COMMITTEES

10. REPORT OF MAYOR

11. REPORT OF DEPARTMENT HEADS

12. CITIZEN COMMENTS

*(Please limit your comments to **3 minutes** for any items not up for Public Hearing. When recognized by the Mayor, please state your name for the official record)*

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

14. ADJOURNMENT

COMMITTEE MEETINGS

	Date & Time	Location
Economic Development and Tourism	February 8; 2021; 9:30am – 2 nd Monday of each month	Remote Access
Utilities	February 9, 2021; 5:00pm – 2 nd Tuesday of each month	Remote Access
Finance	February 16, 2021; 5:00pm – 3 rd Tuesday of each month	Remote Access
Transportation	February 23, 2021; 5:00pm; 4 th Tuesday of each	Remote Access

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

	month	
Festival of Chimes & Lights	February 22, 2021; 3:30pm	Remote Access
Land Use	February 10, 2021; 4:30pm	Remote Access
Lodging Tax Advisory	March, 2021	Remote Access
Sewer Advisory	TBD, 2021	Remote Access
Outside Agency Committees	Varies	Varies

CITY COUNCIL GOOD OF THE ORDER

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



City of Port Orchard

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 an Ordinance Accepting Cash
Donations from Kitsap Bank and Waterman
Mitigation Partners

Meeting Date: February 9, 2021
Prepared by: Noah Crocker
Finance Director
Atty Routing No.: 366922.007 – Finance
Atty Review Date: February 3, 2021

Summary: Per RCW 35.21.100, the City Council may accept donations of money or property by ordinance and may acquiesce to any lawful terms or conditions imposed by the donor for the use of the money or property in the ordinance. Similarly, per Port Orchard Municipal Code 3.90.030, all monetary and nonmonetary donations with a current value greater than \$5,000 must be approved by the city council prior to acceptance.

The Kitsap Bank and Waterman Mitigation Partners both desire to make donations to the City in the amount of \$8,190, which each represent a one third share of the cost to update the conceptual plans for the draft Subarea Plan for downtown Port Orchard. The donors direct that these funds should be used for these purposes, and that this updated Subarea Plan by GGLO, LLC will provide much benefit to the City and our community.

Recommendation: Staff recommends the Council adopt the ordinance accepting the donations in the amount of \$8,190 from the Kitsap Bank, and \$8,190 from Waterman Mitigation Partners for the purposes of contributing to the update of the conceptual plans for the draft Subarea Plan for downtown Port Orchard.

Relationship to Comprehensive Plan: N/A

Motion for consideration: I move to adopt an ordinance, accepting donations in the amount of \$8,190 from the Kitsap Bank and \$8,190 from Waterman Mitigation Partners for the purposes of contributing to an update to the conceptual plans for Subarea plan for downtown Port Orchard.

Fiscal Impact: \$16,380

Alternatives: Do not approve ordinance and provide alternative guidance.

Attachments: Ordinance.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING A DONATION OF \$8,190 FROM KITSAP BANK, AND A DONATION OF \$8,190 FROM WATERMAN MITIGATION PARTNERS, FOR THE SUBAREA PLAN; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 35.21.100 and Port Orchard Municipal Code 3.90.030 authorizes the City Council to accept donations by ordinance and to acknowledge and accept any lawful terms or conditions associated therewith; and

WHEREAS, Kitsap Bank desires to donate \$8,190 to the City, earmarked to cover one third of the cost to update the conceptual plans for the draft Subarea Plan for downtown Port Orchard; and

WHEREAS, Waterman Mitigation Partners desires to donate \$8,190, earmarked to cover one third of the cost to update the conceptual plans for the draft Subarea Plan for downtown Port Orchard; and

WHEREAS, the Council desires to accept the donation, and accepts the terms and conditions the donors have placed on the City's use of the donation; now, therefore,

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

SECTION 1. Findings and Recitals. The recitals set forth above are hereby adopted and incorporated as findings in support of this Ordinance.

SECTION 2. Acceptance of Donation. The City Council hereby accepts the donations in the amount of \$8,190 Kitsap Bank and \$8,190 from Waterman Mitigation Partners and shall utilize these funds for the update of the conceptual plans for the draft Subarea Plan for downtown Port Orchard. The Mayor is instructed to take all necessary actions consistent with this authorization.

SECTION 3. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 5. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSORED BY:

Charlotte A. Archer, City Attorney

John Clauson, Councilmember

PUBLISHED:

EFFECTIVE DATE:



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Consent Agenda 4D</u>	Meeting Date:	<u>February 9, 2021</u>
Subject:	<u>Adoption of a Resolution Approving an</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Emergency Access and Utility Easement</u>		<u>Public Works Director</u>
	<u>with Northcamp Property Investments,</u>	Atty Routing No.:	<u>366922.0009 – PW</u>
	<u>LLC for the Final Plat of McCormick Village</u>	Atty Review Date:	<u>February 3, 2021</u>

Summary: On January 26, 2021, via Resolution No. 009-21, the Port Orchard City Council approved the 88-Lot Final Plat of McCormick Village. Prior to recording the Final Plat, an offsite Emergency Access and Utility Easement from Northcamp Property Investments, LLC must be granted to and accepted by the City, and recorded.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends adoption of Resolution No. 015-21, thereby authorizing the Mayor to execute an Emergency Access and Utility Easement from Northcamp Property Investments, LLC for the Final Plat of McCormick Village.

Motion for Consideration: I move to adopt Resolution No. 015-21, thereby accepting and authorizing the Mayor to execute an Emergency Access and Utility Easement from Northcamp Property Investments, LLC for the Final Plat of McCormick Village.

Alternatives: None.

Fiscal Impact: None.

Attachments: Resolution No. 015-21 and Emergency Access and Utility Easement.

RESOLUTION NO. 015-21

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN EMERGENCY ACCESS AND UTILITY EASEMENT FROM NORTHCAMP PROPERTY INVESTMENTS, LLC FOR THE FINAL PLAT KNOWN AS MCCORMICK VILLAGE PARK.

WHEREAS, on January 26, 2021, via Resolution No. 009-21, the Port Orchard City Council approved the Final Plat for McCormick Village; and

WHEREAS, prior to the recording of said Final Plat, an offsite Emergency Access and Utility Easement must be recorded, which requires authorization by the City Council; and

WHEREAS, the Grantor of the Easement is Northcamp Property Investments, LLC, and the Grantee is the City of Port Orchard; and

WHEREAS, the City Council finds that the receipt of the required easement is in the best interests of the residents of Port Orchard; 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 the Resolution.

THAT: The Port Orchard City Council accepts and authorizes the Mayor to execute an Emergency Access and Utility Easement from Northcamp Property Investments, LLC for the Final Plat of McCormick Village.

THAT: This 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 Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

RECEIVED
PERMIT CENTER

JAN 21 2021

CITY OF PORT ORCHARD
COMMUNITY DEVELOPMENT

After recording return document to:
City of Port Orchard
Permit Center
216 Prospect Street
Port Orchard, WA 98366

PLEASE MAKE NO MARK IN THE MARGIN SPACE - RESERVED FOR COUNTY RECORDER'S USE

Grantor(s): Northcamp Property Investments, LLC
Grantee(s): City of Port Orchard
Legal Description: Ptn of Revised Parcel C and E (BLA recording number 201912050259)
Assessor's Tax Parcel Numbers: 052301-4-025-2006, 052301-04-027-2004
Reference Number of Related Documents: N/A

EMERGENCY ACCESS and UTILITY EASEMENT

McCormick Village (FKA McCormick Woods North Phase III) Project

The Grantor(s), Northcamp Property Investments, LLC, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant and convey unto the **City of Port Orchard**, a municipal corporation, and its successors and assigns (the Grantee), from the property legally described on Exhibit "A" – Entire Parcel (the "Property"), attached hereto and incorporated by this reference, a permanent access and utility easement, for the purposes described below, over, in, on, along, across, through, below and upon, the portion of the Property legally described on Exhibit "B", (the "Utility Easement") and depicted on Exhibit "C", which are attached hereto and incorporated by this reference.

The Grantee and its agents, designees and/or assigns, shall have the right at such times as deemed necessary by Grantee, to enter upon, over, under and across the Access and Utility Easement in order to provide emergency medical services or to inspect, construct, reconstruct, grade and slope, operate, use, maintain, repair, replace and enlarge the utilities contained within the easement area for all public purposes, including but not limited to, grade and slope, street lights, utilities (including without limitation water, sewer, storm water, electric, gas, telecommunications, cable and fiber optics, either owned or operated by Grantee or those utilities which provide service to Grantee or its citizens and are operated by permission of Grantee through franchise or permit), together with the right of ingress and egress thereto without prior institution of any suit or proceedings and without incurring any legal obligation or liability therefore.

Parcel No. 052301-4-025-2006 and 052301-04-027-2004

Page 1 of (7) Pages

UTILITY EASEMENT

THIS EASEMENT is executed and delivered and said easement is granted upon the following conditions to wit:

1. Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after installation of the utilities and all subsequent alterations and repairs thereto, restore all property to the Grantor to a neat and presentable condition.
2. Grantor shall not interfere in any manner with the easement rights granted to Grantee and the public in this Easement Area. Unless approved by the Grantee, Grantor shall not (1) erect or maintain any buildings, structures, or improvements within the Easement Area; (2) disturb the lateral or subjacent support of the utilities and other improvements and uses of the Easement Area by Grantee, or undertake any form of construction or other activity that may disturb or damage the utilities, or other improvements or uses of the Easement Area by Grantee; or (3) plant trees, shrubs, or other vegetation having deep root patterns that may cause damage to or interfere with the use of the utilities.
3. The rights granted herein shall not be construed to interfere with or restrict the Grantor, its heirs, executors, administrators, successors and assigns from the use of the Property outside of the Easement Area for the construction and maintenance of property improvements outside of the Easement Area.
4. This Access and Utility Easement and the rights, obligations and covenants stated in this Access and Utility Easement shall run with the land and shall be binding upon and shall inure to the benefit of the Grantor and Grantee. This Access and Utility Easement shall be recorded with the Kitsap County Recorder's Office.
5. It is understood and agreed that delivery of this Access and Utility Easement is hereby tendered and that the terms and obligations hereof shall not become binding upon City of Port Orchard unless and until approved hereon in writing by the City of Port Orchard.

Dated: JANUARY 19TH, 2021.

Grantor: Northcamp Property Investments, LLC
By JAMES N. TOSTI
Its AUTHORIZED SIGNATORY

UTILITY EASEMENT

**Accepted and Approved
City of Port Orchard**

By _____

Its _____

Date _____

Parcel No. 052301-4-025-2006 and 052301-04-027-2004
Page 3 of (7) Pages

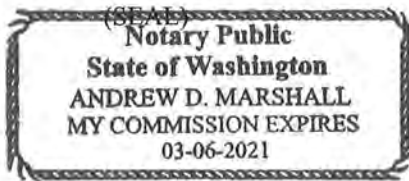
UTILITY EASEMENT

CORPORATE ACKNOWLEDGMENT

STATE OF WA }
COUNTY OF King } ss.

I certify that I know or have satisfactory evidence that James Tosti is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the authorized signatory of Northcamp Property Investments, to be their free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 19th day of Jan, 2021.



Andrew D Marshall
Notary Public

Andrew D Marshall
Printed Name

Residing at Kirkland

My appointment expires 03/06/21

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss.

On this day personally appeared before me _____, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

DATED this _____ day of _____, 20____.

(SEAL)

Notary Public

Printed Name

Residing at _____

My appointment expires _____

EXHIBIT A
LEGAL DESCRIPTION
PROPERTY

Revised Parcel C and Revised Parcel E of City Port Orchard Boundary Line Adjustment filed under Auditor's File Number 201912050259, in Volume 90 of Surveys, Pages 59 through 63, inclusive, Records of Kitsap County, Washington.

Project Name: McCormick Village
December 7, 2020

Parcel No. _052301-4-025-2006 and 052301-04-027-2004_

BY: TSL

Page 5 of (7) Pages

EXHIBIT B
LEGAL DESCRIPTION
UTILITY EASEMENT

That portion of Revised Parcel C and Revised Parcel E of City Port Orchard Boundary Line Adjustment filed under Auditor's File Number 201912050259, in Volume 90 of Surveys, Pages 59 through 63, inclusive, Records of Kitsap County, Washington, being more particularly described as follows;

BEGINNING at a point on the West line of said Revised Parcel C, point being 35.00 feet North of the Southwest corner of said Revised Parcel C and being on the arc of a curve, the radius of which bears South 02°35'15" West;
THENCE Easterly along the arc of curve concave to the South, having a radius of 1,010.00 feet, through a central angle of 27°56'44", and an arc length of 492.62 feet;
THENCE South 59°28'01" East, 205.99 feet;
THENCE South 30°31'40" West, 153.79 feet to a point of tangency;
THENCE Southwesterly along the arc of a curve to the right, having a radius of 515.00 feet, through a central angle of 16°15'51", and an arc length of 146.19 feet to a point of reverse curvature;
THENCE Southwesterly along the arc of a curve to the left, having a radius of 300.00 feet, through a central angle of 26°12'07", and an arc length of 137.19 feet;
THENCE South 20°35'24" West, 15.10 feet to a point of tangency;
THENCE Southerly along the arc of a curve to the left, having a radius of 400.00 feet, through a central angle of 06°31'08", and an arc length of 45.51 feet;
THENCE South 14°55'35" East, 100.90 feet to the North margin of Old Clifton Road;
THENCE North 87°02'01" West, 58.46 feet along said North margin;
THENCE North 02°51'58" East, 18.25 feet to a point of tangency;
THENCE Northerly along the arc of a curve to the right, having a radius of 420.00 feet, through a central angle of 17°43'26", and an arc length of 129.92 feet;
THENCE North 20°35'24" East, 15.10 feet to a point of tangency;
THENCE Northeasterly along the arc of a curve to the right, having a radius of 320.00 feet, through a central angle of 26°12'07", and an arc length of 146.34 feet to a point of reverse curvature;
THENCE Northeasterly along the arc of a curve to the left, having a radius of 495.00 feet, through a central angle of 16°15'51", and an arc length of 140.51 feet;
THENCE North 30°31'40" East, 98.80 feet to a point of tangency;
THENCE Northerly along the arc of a curve to the left, having a radius of 35.00 feet, through a central angle of 89°59'41", and an arc length of 54.97 feet;
THENCE North 59°28'01" West, 150.99 feet to a point of tangency;
THENCE Westerly along the arc of a curve to the left, having a radius of 990.00 feet, through a central angle of 27°57'01", and an arc length of 482.95 feet to the West line of said Revised Parcel C;
THENCE North 02°49'09" East, 20.00 feet along said West line to the POINT OF BEGINNING.

Parcel No. _052301-4-025-2006 and 052301-04-027-2004_

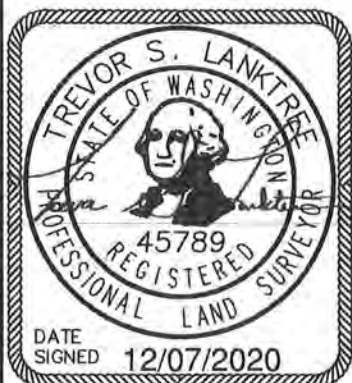
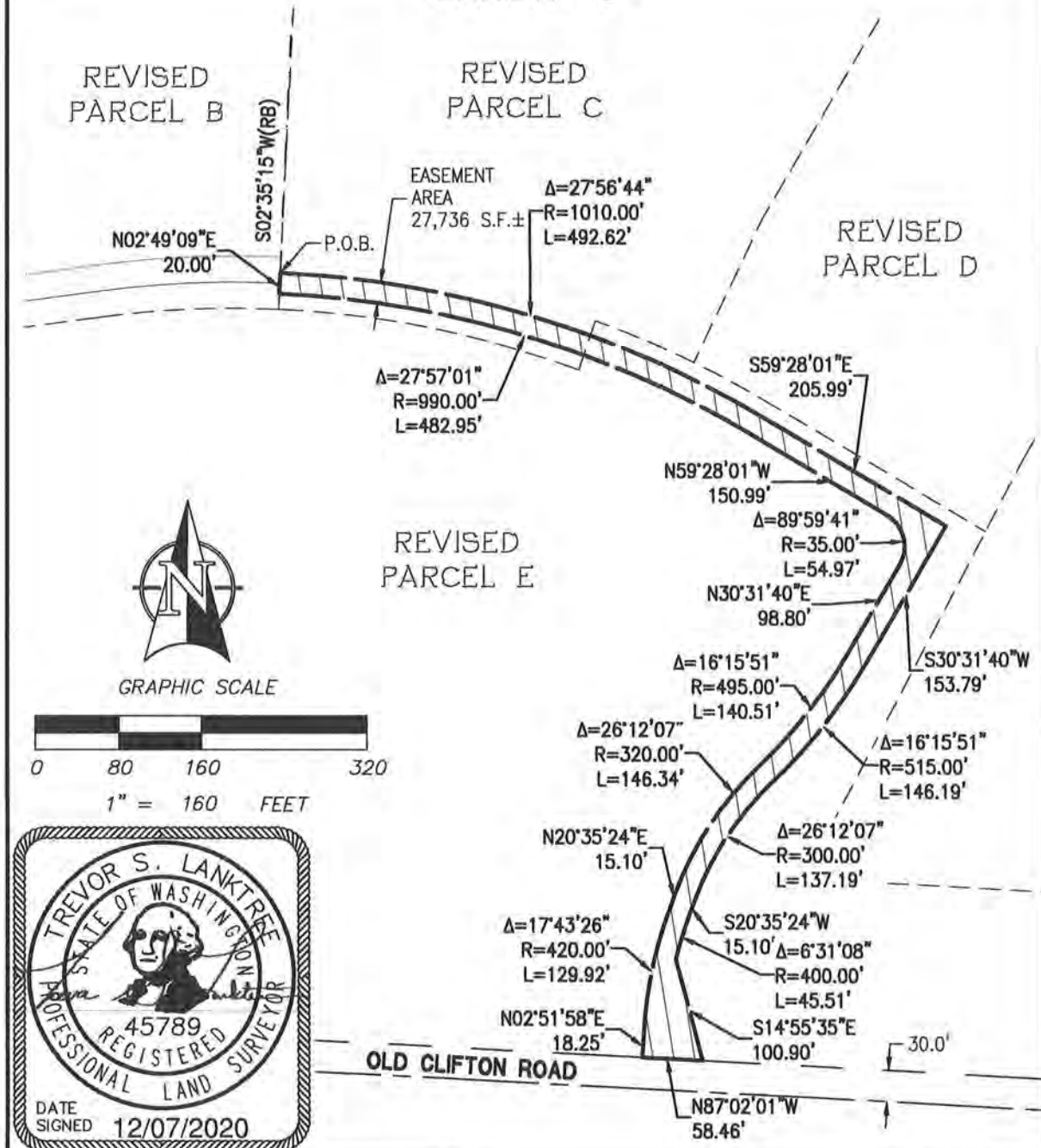
Project Name: McCormick Village
December 7, 2020

BY: TSL
Ref. DWG: 4350EXH01.dwg

Page 6 of (7) Pages



EXHIBIT 'C'



SCALE:
HORIZONTAL 1"=160' VERTICAL N/A

LANKTREE LAND SURVEYING, INC.
25510 74TH AVENUE SOUTH
KENT, WA 98032
PHONE: (253) 653-6423
FAX: (253) 793-1616
WWW.LANKTREELANDSURVEYING.COM

For: **MCCORMICK VILLAGE**

Title: **UTILITY EASEMENT**

JOB NUMBER
4350
4350L.002.DOC

SHEET
1 of 1



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 Approving the
Purchase of Vehicles for the Equipment
Rental Revolving Fund 500

Meeting Date: February 9, 2021
Prepared by: Noah Crocker
Finance Director
Atty Routing No.: 366922.007 - Finance
Atty Review Date: February 4, 2021

Summary: The City Council adopted the 2021-2022 Biennial Budget, which included \$709,000 for the purchase of vehicles for the Equipment Rental and Revolving Fund 500.

The City’s Procurement Policies require City Council approval for purchases that cost \$35,000 or more.

The vehicles listed in this proposed Resolution are: a 2022 Ford F350 4WD Maintenance vehicle with crane; a 2021 Ford F150 4WD pickup truck; and a 2021 Ford F250 4WD pickup truck. These items are included in the Biennial Budget and meets the City’s fleet standardization policies for fleet trucks. These items were procured through the Washington State Department of Enterprise Services master contract/purchasing consortium. The purchase of a crane truck is a like in-kind replacement approved by the ER&R manager.

By this Resolution, the City Council will approve of the vehicle purchases, in accordance with the procurement procedures established by the City Council.

Recommendation: Staff recommends approving the Resolution as proposed.

Relationship to Comprehensive Plan: N/A

Motion for consideration: “I move to adopt a Resolution, authorizing the purchase of vehicles in accordance with the City’s policies and the 2021-2022 Biennial Budget.”

Fiscal Impact: Estimate Cost: ~\$176,000

Alternatives: Do not approve resolution and provide alternative guidance.

Attachment: Resolution and Exhibit A.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING
THE PURCHASE OF VEHICLES FOR THE EQUIPMENT RENTAL REVOLVING FUND.**

WHEREAS, the City Council has approved Ordinance No. 035-20, approving the 2021-2022 Biennial Budget; and

WHEREAS, the 2021-2022 Biennial Budget includes \$709,000 for capital purchases of vehicles and equipment for the Equipment Rental and Revolving fund; and

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

WHEREAS, the purchase orders attached as Exhibit A are for the purchase of vehicles in an amount that exceeds the \$35,000 authorization limit; and

WHEREAS, the purchase orders are for vehicles that meet the fleet standardization policy as adopted by the City Council, or is a like in kind replacement, and are reflected with the 2021-2022 Biennial Budget; 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 all vehicles listed in the purchase orders attached hereto in Exhibit A. The Mayor or his designee is authorized to take action 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 this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



Equipment Rental & Revolving Fund Purchase Request Form

RCW 43.19.648 – Requires all local governments to convert their vehicle fleets to electricity or biofuel. Local governments are required to transition all vehicles to electricity or biofuels to the extent practicable. WAC 194-29-030 provides further guidance regarding this issue. If it is not practical for local governments to use electricity or biofuel for police, fire or emergency response vehicles, including utility vehicles frequently used for emergency response, it is encouraged to consider alternate fuels and vehicle technologies to displace gasoline and diesel fuel use.

Please attach the quote for vehicle / equipment.

Description of item: 2022 Ford F350 4WD Maintenance vehicle with crane							
Procurement method: Department of Enterprise Services (DES)							
Department							
Water	Sewer	Storm	Street	Public Works	DCD	Police	Admin
	X						
Addition or Replacement							
	Addition to Fleet						
X	Replacement Vehicle / Equipment being replaced: #1047- will be surplus and sold						
Fleet Standardization							
	Requested Vehicle / Equipment follows fleet standardization						
	Requested Vehicle / Equipment DOES NOT follow Standardization. List items that are not fleet standard and reason for addition.						
X	Requested Vehicle / Equipment does not have a standard						
Cost							
\$87,332.46	Fleet standard cost						
\$2,000.00	Additional cost for consideration (Radio, city logo, licensing)						
\$89,332.46	TOTAL						

STANDARDS FOR VEHICLES

Police Department Standard Vehicle

<u>Model</u>	<u>Chassis</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Ford	Sedans	Automatic	Black	City Decal	Lights
	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

Public Works and Planning Standard Truck

<u>Model</u>	<u>Chassis</u>	<u>Cab Size</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Ford	1/2 Ton	Regular	Automatic	White	City Logo	Lights
	3/4 Ton	Extended	2WD		Truck Number	Radios
	1 Ton	Crew Cab	4WD			Antennas
						Tool Boxes

Administration and Planning Standard Vehicle

<u>Type</u>	<u>Chassis</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Electric	Sedans	Automatic	White	City Logo	Lights
Biofuel	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

I have reviewed the vehicles / equipment listed above and request approval for purchase.


 Department Director _____ Date 1/20/2021

Approved for purchase by:


 ER&R Representative _____ Date 1/26/2021

Contract Automobile Request System Washington State Department of Enterprise Services

Organization Purchase Request Details

Organization Information

[Return to Org Requests](#)

Contract #: 05916 - Motor Vehicles	Quote #: 2021-1-272
Status: Submitted To Dealer	Submit Date: 01-11-2021
Organization: 21802 - PORT ORCHARD, CITY OF - 21802	Order Date:
Order Contact: Tim Johnson	Expected Delivery Date:
Contact Phone: 360-535-2473	Delivery Date:
Contact Email: tjohnson@cityofportorchard.us	Cancel Date:
	Organization Reference #: Electricians Truck
Dealer: Columbia Ford - W403	Organization PO #:
Dealer Address: 700 7th Avenue Longview WA 98632	Dealer Contact: Marie Tellinghusen
	Dealer Phone: (360) 423-4321 Ext: 187
	Dealer Email: orders@colford.com
Internal Notes: 1. 7-way round plug for 2021-0912-1561 option 2. Ctech tool box # 20192597 located in passenger front vertical compartment for 2021-0912-1252 option 3. Work light for item 2021-0912-1755 locate on cab guard passenger side. 4. Master manual lock system for service body desired. 5. One row of e-track near top of compartments on three walls just below roll top desired.	
Comments To Dealer: 1. 7-way round plug for 2021-0912-1561 option 2. C-tech tool box # 20192597 located in passenger front vertical compartment for 2021-0912-1252 option 3. Work light for item 2021-0912-1755 locate on cab guard passenger side. 4. Master manual lock system for service body desired. 5. One row of e-track near top of compartments on three walls just below roll top desired.	
Dealer Reference #: 21-0046 K958	
Dealer Comments: Please send a copy of your PO. 01/19/21 Revised to update Allied options to current 2021 calendar year pricing, add #0002, #0003 - info only, add #9007 Allied body modification. . 01/11/21 Forwarded order to Allied	

Color Options

Color Name	Quantity
Oxford White (Z1)	1

Tax Exempt: N

Vehicle Options

Order Code	Order Code Description	Qty	Unit Price	Ext. Price
2021-0912-0001	2021 Ford F350 4WD Cab and Chassis	1	\$31,356.00	\$31,356.00
2021-0912-0002	INFORMATION ONLY: Columbia Ford offers a \$300 Prompt Payment Discount if payment is received within 20 days of vehicle delivery.	1	\$0.00	\$0.00
2021-0912-0003	INFORMATION ONLY: Columbia Ford CARS Cancellation Fees: NO fee to cancel order if vehicle has not been scheduled for production and is able to be cancelled at factory. \$500 cancellation fee if vehicle has been serialized and is locked in for production by manufacturer. \$750 cancellation fee if vehicle has been delivered to customer and must be picked up by dealer and re-stocked into inventory. Absolutely NO cancellation if customer has licensed/registered vehicle. Upfits/Equipment ordered for vans, trucks, chassis cabs and police/fire vehicles will have a 10-30% re-stocking fee; custom bodies cannot be cancelled.	1	\$0.00	\$0.00
2021-0912-0010	2021 Ford F350 4WD Cab and Chassis, Regular Cab, Dual Rear Wheels (DRW), 14,000# GVWR, 145 Wheelbase (WB), 60in Cab-to-Axle (CA), 6.2L 2-Valve SOHC EFI NA V8 Gas Engine, TorqShift 10-Speed Automatic, 200 AMP Alternator, 650 CCA /72AH Battery, LT245/75Rx17E BSW All-Season PLU Tires with 17in Argent Painted Steel Wheels (NO spare tire unless ordered separately), 3.73 Rear Axle Ratio (Non-Limited Slip) (F3H/640A/996/44G/145WB/TD8/64K/X37/TTAS) -- THIS IS THE BASE VEHICLE, please refer to Vehicle Standard Specifications for complete description.	1	\$0.00	\$0.00
2021-0912-0011	Alternative Wheelbase, Regular Cab, Dual Rear Wheels, 169WB, 84CA, 14,000# GVWR (F3H/169WB)	1	\$170.00	\$170.00
2021-0912-0026	Dual Batteries (750 CCA 78AH, 1500 CCA total) (Available with 6.2L or 7.3L Gas Engines) (Standard with Diesel Engine) (86M)	1	\$200.00	\$200.00
2021-0912-0029	110V/400W Outlet (1) (includes one in-dash mounted outlet) (to be ordered w/ 40/20/40 seating) (If ordering w/ base 6.2L Gas Engine, includes 240-Amp Alternator #67E) (43C/67E)	1	\$249.00	\$249.00
2021-0912-0039	Limited Slip Rear Axle (4.30 RAR w/ gas, 4.10 RAR w/ diesel)(DRW Only) (X4L/X4N)	1	\$345.00	\$345.00
2021-0912-0043	Trailer Brake Controller (verified to be compatible with electronic actuated drum brakes only, includes Smart Trailer Tow Connector) (N/A with Trailer Brake Wiring Kit #531)(52B)	1	\$259.00	\$259.00
2021-0912-0053	Tires (DRW): LT245/75Rx17E BSW All-Terrain (to be ordered with DRW, retains 14,000# GVWR)(TBM)	1	\$158.00	\$158.00
2021-0912-0057	Spare tire with wheel (includes hydraulic jack) (512/61J)	1	\$335.00	\$335.00
2021-0912-0058	Front Wheel Well Liners (factory) (61L)	1	\$172.00	\$172.00
2021-0912-0059	Cab Steps, Regular Cab (6in Angular Black Running Boards)(18B)	1	\$307.00	\$307.00
2021-0912-0064	Backup Alarm (76C)	1	\$134.00	\$134.00
2021-0912-0066	XL Only - Power Equipment Group (Regular/Extended Cab) [Includes manual-folding, manually-telescoping trailer tow mirrors with power heated glass, power windows, power door locks, remote keyless entry]	1	\$1,110.00	\$1,110.00

	(Includes (4) RKE Fobs w/ Integrated Key) (deletes passenger door lock cylinder) (90L/546)			
2021-0912-0070	XL Value Package (Includes chrome front bumper, Cruise Control #525) (if ordered with SRW, also includes bright chrome hub covers and center ornaments) (96V)	1	\$379.00	\$379.00
2021-0912-0074	Rearview Camera and Prep Kit (includes loose camera and wiring bundle) (872) (Info: Upfitters offer rearview camera installation option with body orders)	1	\$396.00	\$396.00
2021-0912-0076	Center High-Mounted Stop Lamp (CHMSL)(59H)(No-charge)	1	\$0.00	\$0.00
2021-0912-0199	Warranty, Delayed Start (End-User submits request at www.fordwsd.com)	1	\$0.00	\$0.00
2021-0912-0206	Floor Mats, HD Rubber Molded, Front (Weather Tech)(DLR)	1	\$120.00	\$120.00
2021-0912-0209	Fire Extinguisher, 2.5# Dry Chemical ABC Rated w/ Mounting Bracket, uninstalled (DLR)	1	\$40.00	\$40.00
2021-0912-0210	Undercoating (wheel wells) (DLR)	1	\$125.00	\$125.00
2021-0912-0211	Service Manual, CD (DLR)	1	\$221.00	\$221.00
2021-0912-0212	Service Wiring Diagram, Paper (DLR)	1	\$87.00	\$87.00
2021-0912-0215	Spotlight, LED 6in Clear Lens, Pillar Mounted, Driver Side (Unity) (DLR)	1	\$560.00	\$560.00
2021-0912-1220	Knapheide 11ft Service Body Package (84CA, DRW) [inc. Solid tops, spray liner coated galva grip bumper, painted white, 14-gauge two-sided galvalume steel shell, Exclusive return-flange floor design for support, continuous corrosion resistant stainless steel pry-proof hinges, double-spring over center door retainer, double-shell 20 gauge two-sided A-40 galvalume steel compartment doors, automotive-quality rotary-style latches, interior latch covers, neoprene door seals, slam lock tailgate, LED light package meeting FMVSS standards including surface mounted LED stop/tail/turn and backup lights with built in LED strobe option with (9) selectable patterns, wired to switch in cab, and built in reflectivity for additional safety, 5in track on dash, with universal phone holder, and two grab handles at rear of body with track to accept phone holder or other accessories (other accessories not included) (6132D54) (ABW1220)	1	\$12,346.00	\$12,346.00
2021-0912-1242	Knapheide corner mounted crane reinforcement kit for curbside rear compartment and rated for cranes up to 4000 lbs. capacity, 16,000 ft-lbs. max. (requires DRW, and Knapheide service body package) (Does Not include crane see other options) (ALL SB-CRREIN) (ABW1242)	1	\$1,452.00	\$1,452.00
2021-0912-1246	Knapheide modular cab guard with center section, right and left wings (on non-flip top bodies), includes (1) strobe light mounting bracket (loose unless light is ordered), (1) spot light mounting bracket (loose), and (1) mini lightbar bracket (loose unless light is ordered) (Requires Knapheide service body upfit) (KNP MODCG) (ABW1246)	1	\$1,186.00	\$1,186.00
2021-0912-1250	LED Service Body Compartment Light Kit, installed into compartments and wired to switch in cab (requires Knapheide service body or enclosed service body upfit) (KNP LEDCOMP-KIT) (ABW1250)	1	\$1,693.00	\$1,693.00
2021-0912-1252	Ctech drawer unit (quantity 1) constructed from aluminum and have composite latches. Drawer fronts are powder coated red. Drawers are full extension on ball bearing slides and rated at 250 lbs. Specify desired compartment, available for either 1st vertical, horizontal, or rear vertical	1	\$1,216.00	\$1,216.00

	compartments and will either have (4-3in drawers; 3-3in drawers; 2-3in drawers; 2-3in, 2-5in, and 1-7in, covers one of model number 20192480, 20192498, 2019506, 2019522, 2019530, 20192555, 2012589, 20192597, 2019605, 20192613, 20192621, 2019639, 20192647, 20192654, 20192670, 20192704 depending on the body and compartment chosen, if desired compartment is not specified default will be driver side front vertical compartment) (Requires Knapheide standard service body upfit) (KNP CTECH1) (ABW1252)			
2021-0912-1261	Knapheide bolt on Mechanics Vise Bracket installed on rear step bumper, painted black. (requires service body or enclosed service body upfit) (KNP 20072732) (ABW1261)	1	\$455.00	\$455.00
2021-0912-1272	Line-X 11 Service body cargo area including floor, walls, bulkhead, and back of tailgate (requires Knapheide service body upfit) (LINEX-SB11) (ABW1272)	1	\$1,641.00	\$1,641.00
2021-0912-1305	Venturo 12,000 ft-lbs. electric service crane package including 3,500 lbs. lifting capacity, electric winch, elevation, rotation, power extension, manual out/crank down outriggers, and boom rest. (requires DRW, Knapheide service body upfit and crane reinforcement option) (VEN ET12KX) (ABW1305)	1	\$18,560.00	\$18,560.00
2021-0912-1561	Heavy Duty 2in Receiver Hitch with equal or greater than 20,000 GTWR includes/ 7-Way Flat RV Plug, Class V (7-Way or 6-Way Round plug available in lieu of 7-Way Flat for no additional cost, must specify at time of order) (Requires Body Order) (ALL-HDHITCH) (ABW1561)	1	\$1,034.00	\$1,034.00
2021-0912-1580	Installation of factory provided rearview camera (Must order Ford's Rearview Camera and Prep Kit, which is shipped loose from factory) (ABW1580)	1	\$116.00	\$116.00
2021-0912-1755	3500 Lumen work light, quantity (1), installed at customer specified location (defaults to cabguard or rear if no location given at time of order), wired to switch in cab. (requires body upfit) (FRC LED320-B03-W) (ABW1755)	1	\$437.00	\$437.00
2021-0912-1771	Federal Signal surface mounted Micropulse Ultra amber LED warning lights installed 2 in the front and two in the rear (total of 4) (ALL IPX300PKG) (ABW1771)	1	\$1,359.00	\$1,359.00
2021-0912-1777	Lighting - Whelen Responder LP Super-LED mini lightbar, aluminum base, amber color, clear dome installed wired to switch in cab. (WHE R2LPHPCA) (ABW1777)	1	\$1,224.00	\$1,224.00
2021-0912-9007	Body modifications: add masterlocking system, add E-track around perimeter of cargo area tops (DLR/ABW 48598RC0118) (Pt Orchard Q# 2021-1-272)	1	\$1,123.00	\$1,123.00

Request Totals

Total Vehicles:	1
Sub Total:	\$80,565.00
8.4 % Sales Tax:	\$6,767.46
Request Total:	\$87,332.46



© Copyright © 2021 - Department of Enterprise Services



Equipment Rental & Revolving Fund Purchase Request Form

RCW 43.19.648 – Requires all local governments to convert their vehicle fleets to electricity or biofuel. Local governments are required to transition all vehicles to electricity or biofuels to the extent practicable. WAC 194-29-030 provides further guidance regarding this issue. If it is not practical for local governments to use electricity or biofuel for police, fire or emergency response vehicles, including utility vehicles frequently used for emergency response, it is encouraged to consider alternate fuels and vehicle technologies to displace gasoline and diesel fuel use.

Please attach the quote for vehicle / equipment.

Description of item: 2021 Ford F150 Pickup, 4WD							
Procurement method: Department of Enterprise Services (DES)							
Department							
Water	Sewer	Storm	Street	Public Works General	DCD	Police	Admin
Addition or Replacement							
X	Addition to Fleet						
	Replacement Vehicle / Equipment being replaced:						
Fleet Standardization							
X	Requested Vehicle / Equipment follows fleet standardization						
	Requested Vehicle / Equipment DOES NOT follow Standardization. List items that are not fleet standard and reason for addition.						
	Requested Vehicle / Equipment does not have a standard						
Cost							
\$39,829.41	Fleet standard cost						
\$1,800.00	Additional cost for consideration (Radio, city logo, licensing)						
\$41,629.41	TOTAL						

STANDARDS FOR VEHICLES

Police Department Standard Vehicle

<u>Model</u>	<u>Chassis</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Ford	Sedans	Automatic	Black	City Decal	Lights
	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

Public Works and Planning Standard Truck

<u>Model</u>	<u>Chassis</u>	<u>Cab Size</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Ford	1/2 Ton	Regular	Automatic	White	City Logo	Lights
	3/4 Ton	Extended	2WD		Truck Number	Radios
	1 Ton	Crew Cab	4WD			Antennas
						Tool Boxes

Administration and Planning Standard Vehicle

<u>Type</u>	<u>Chassis</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Electric	Sedans	Automatic	White	City Logo	Lights
Biofuel	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

I have reviewed the vehicles / equipment listed above and request approval for purchase.

Department Director

Date

1/23/2021

Approved for purchase by:

ER&R Representative

Date

1/26/2021

Tony Lang

From: NOREPLY@des.wa.gov
Sent: Tuesday, January 5, 2021 3:33 PM
To: Tony Lang
Cc: noreply@des.wa.gov
Subject: Vehicle Quote - 2021-1-76 - PORT ORCHARD, CITY OF - 21802

Vehicle Quote Number: 2021-1-76 [Create Purchase Request](#) [View organization purchase requests](#)

This is a **quote** only. You must create a purchase request to order this vehicle(s)

Contract & Dealer Information

Contract #: 05916

Dealer: Columbla Ford (W403)
700 7th Avenue
Longview WA 98632

Dealer Contact: Marie Tellinghusen
Dealer Phone: (360) 423-4321 Ext: 187
Dealer Email: orders@colford.com

Organization Information

Organization: PORT ORCHARD, CITY OF - 21802

Email: tlang@cityofportorchard.us

Quote Notes:

Vehicle Location: PORT ORCHARD

Color Options & Qty

Oxford White (YZ) - 1

Tax Exempt: N

Vehicle Options

Order Code	Option Description	Qty	Unit Price	Ext. Price
2021-0830-001	2021 Ford F150 4WD	1	\$25,522.00	\$25,522.00
2021-0830-012	EXTENDED Cab, 4WD, 145WB, 6.5 ft Box, 3.3L V6 PFDI (290HP) (18/23/20 MPG) (FFV Capability) (6500# GVWR, 1770# Payload, 3.73 RAR) (X1E/100A/99B/44G/145WB/413)	1	\$543.00	\$543.00
2021-0830-036	XL - High Level Trim Upgrade #101A - Extended Cab [Includes XL Base Power Equipment Group #85A (manual-folding power glass sideview mirrors, illuminated entry, perimeter alarm, power locks with flip key/integrated keyless entry fob, power tailgate lock and power windows), cruise control and reverse sensing system] (Includes (4) RKE Fobs w/ Integrated Flip Keys) (Included with XLT Trim #300A) (Ext Cab/101A)	1	\$1,613.00	\$1,613.00
2021-0830-042	XL Only - SYNC4 Upgrade w/ Enhanced Voice Recognition (8in LCD capacitive touchscreen w/ swipe capability, wireless phone connection, Cloud connected, AppLink w/ App Catalog, 911 Assist, Apple CarPlay and Android Auto Compatibility, Digital Owners Manual, Conversational Voice Command Recognition, Connected Navigation) (524/582)	1	\$311.00	\$311.00
2021-0830-050	Daytime Running Lights (non-controllable) (942)	1	\$43.00	\$43.00
2021-0830-051	Fog Lamps (Included with XLT Trim #300A) (595)	1	\$135.00	\$135.00
2021-0830-052	Chrome front and rear bumpers (Must also order Fog Lamps #595) (Included with XLT Trim #300A) (17C)	1	\$138.00	\$138.00

2021-0830-060 Black Platform Running Boards (Available with all cabs and trim levels) (18B)	1	\$240.00	\$240.00
2021-0830-061 Tailgate Step (Includes Tailgate Work Surface) (63T)	1	\$412.00	\$412.00
2021-0830-070 LT265/70Rx17C BSW All-Terrain tires (Not available with 3.0L Diesel Engine) (T7C)	1	\$283.00	\$283.00
2021-0830-078 Trailer Tow Package (53A) - to be ordered w/ XL High Trim #101A only (includes Trailer Brake Controller, smart trailer tow connector (if BLIS is also ordered, includes trailer tow coverage), 4-pin/7-pin wiring, Class IV trailer hitch receiver #53B) (53A/101A)	1	\$1,042.00	\$1,042.00
2021-0830-209 Floor Mats, HD Rubber Molded, Front (Weather Tech) (DLR)	1	\$120.00	\$120.00
2021-0830-210 Floor Mats, HD Rubber Molded, Rear (Weather Tech) (Ext/Crew Cabs) (DLR)	1	\$100.00	\$100.00
2021-0830-211 Mud flaps, Front (DLR)	1	\$75.00	\$75.00
2021-0830-212 Mud Flaps, Rear (DLR)	1	\$75.00	\$75.00
2021-0830-214 Fire Extinguisher, 2.5# Dry Chemical ABC Rated w/ Mounting Bracket, uninstalled (DLR)	1	\$40.00	\$40.00
2021-0830-216 Undercoating (Wheel Wells Only) (DLR)	1	\$125.00	\$125.00
2021-0830-217 Service Manual, CD (DLR)	1	\$221.00	\$221.00
2021-0830-218 Service Wiring Diagram, Paper (DLR)	1	\$87.00	\$87.00
2021-0830-221 Spotlight, LED 6 inch, Clear Lens, Pillar Mounted, Driver Side (Unity) (DLR)	1	\$560.00	\$560.00
2021-0830-223 SPRAY-IN Bedliner (Line-X) (DLR)	1	\$468.00	\$468.00
2021-0830-330 Side rail box - topside lift-up door (46L x 12H x 9W) (DRIVER SIDE) (Compatible with Adrian Cross boxes on 6.5/6.75 or 8ft beds) (Adrian AD303-D) (TB330)	1	\$641.00	\$641.00
2021-0830-331 Side rail box - topside lift-up door (46L x 12H x 9W) (PASSENGER SIDE) (Compatible with Adrian Cross boxes on 6.5/6.75 or 8ft beds) (Adrian AD303-P) (TB331)	1	\$641.00	\$641.00
2021-0830-362 Cab Rack - flat perforated aluminum sheet screen insert (ALL CBGD) (TB362)	1	\$858.00	\$858.00
2021-0830-368 Cab Rack Option - Mini-Lightbar Mount, 10x15, installed centered on cab guard. (ALL CBGD-BP) (TB368)	1	\$75.00	\$75.00
2021-0830-421 AMBER: Basic Warning Package (All F150 Models): Installation of 2 amber grill lights, 2 amber led inserts in reverse lenses, and NROADS 17 inch amber lightbar mounted on roof or cabguard, and 6 button switch panel. Also includes single radio prewire (includes power and coax in roof). (DWS-F150-A-2) (DW421)	1	\$2,375.00	\$2,375.00

Quote Totals

Total Vehicles:	1
Sub Total:	\$36,743.00
8.4 % Sales Tax:	\$3,086.41
Quote Total:	\$39,829.41



Equipment Rental & Revolving Fund

Purchase Request Form

RCW 43.19.648 – Requires all local governments to convert their vehicle fleets to electricity or biofuel. Local governments are required to transition all vehicles to electricity or biofuels to the extent practicable. WAC 194-29-030 provides further guidance regarding this issue. If it is not practical for local governments to use electricity or biofuel for police, fire or emergency response vehicles, including utility vehicles frequently used for emergency response, it is encouraged to consider alternate fuels and vehicle technologies to displace gasoline and diesel fuel use.

Please attach the quote for vehicle / equipment.

Description of item: 2021 Ford F250 Pickup, 4WD							
Procurement method: Department of Enterprise Services (DES)							
Department							
Water	Sewer	Storm	Street	Public Works	DCD	Police	Admin
			X				
Addition or Replacement							
	Addition to Fleet						
X	Replacement Vehicle / Equipment being replaced: #1032- will move to a spare vehicle						
Fleet Standardization							
X	Requested Vehicle / Equipment follows fleet standardization						
	Requested Vehicle / Equipment DOES NOT follow Standardization. List items that are not fleet standard and reason for addition.						
	Requested Vehicle / Equipment does not have a standard						
Cost							
\$41,641.86	Fleet standard cost						
\$1,800.00	Additional cost for consideration (Radio, city logo, licensing)						
\$43,441.86	TOTAL						

STANDARDS FOR VEHICLES

Police Department Standard Vehicle

Model	Chassis	Drive Train	Color	Graphics	Accessories
Ford	Sedans	Automatic	Black	City Decal	Lights
	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			


Public Works and Planning Standard Truck

Model	Chassis	Cab Size	Drive Train	Color	Graphics	Accessories
Ford	1/2 Ton	Regular	Automatic	White	City Logo	Lights
	3/4 Ton	Extended	2WD		Truck Number	Radios
	1 Ton	Crew Cab	4WD			Antennas
						Tool Boxes

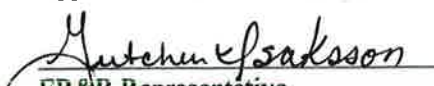
Administration and Planning Standard Vehicle

Type	Chassis	Drive Train	Color	Graphics	Accessories
Electric	Sedans	Automatic	White	City Logo	Lights
Biofuel	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

I have reviewed the vehicles / equipment listed above and request approval for purchase.


 Department Director _____ Date 1/24/2021

Approved for purchase by:


 ER&R Representative _____ Date 1/24/2021

Tony Lang

From: NOREPLY@des.wa.gov
Sent: Wednesday, December 23, 2020 2:43 PM
To: Tony Lang
Cc: noreply@des.wa.gov
Subject: Vehicle Quote - 2020-12-589 - PORT ORCHARD, CITY OF - 21802

Vehicle Quote Number: 2020-12-589 [Create Purchase Request](#) [View organization purchase requests](#)

This is a **quote** only. You must create a purchase request to order this vehicle(s)

Contract & Dealer Information

Contract #: 05916

Dealer: Columbia Ford (W403)
700 7th Avenue
Longview WA 98632

Dealer Contact: Marie Tellinghusen
Dealer Phone: (360) 423-4321 Ext: 187
Dealer Email: orders@colford.com

Organization Information

Organization: PORT ORCHARD, CITY OF - 21802

Email: tlang@cityofportorchard.us

Quote Notes:

Vehicle Location: PORT ORCHARD

Color Options & Qty

Oxford White (Z1) - 1

Tax Exempt: N

Vehicle Options

Order Code	Option Description	Qty	Unit Price	Ext. Price
2021-0821-0001	2021 Ford F250 Pickup, 4WD	1	\$27,079.00	\$27,079.00
2021-0821-0011	Alternative Cab/Wheelbase: Extended Cab, 148WB, 6.75ft box, 10000# GVWR, 3560# Payload (X2B/148WB)	1	\$2,218.00	\$2,218.00
2021-0821-0029	Dual Batteries, 78AH, 1500 CCA Total (Included with diesel) (86M)	1	\$201.00	\$201.00
2021-0821-0030	240 Amp Alternator (Only available with 6.2L Gas Engine) (67E)	1	\$82.00	\$82.00
2021-0821-0033	Power Equipment Group - Regular/Extended Cabs (includes power door locks and windows, manual-folding, manually-telescoping trailer tow mirrors with power heated glass, heated convex spotter mirror, power tailgate lock, Remote Keyless Entry, upgraded door-trim panel) (deletes passenger-side door lock cylinder) (Includes four (4) RKE Fobs w/ Integrated Keys) (90L/54R)	1	\$1,097.00	\$1,097.00
2021-0821-0035	LT245/75R17E BSW All-Terrain Tires (Not available w/ XLT Trim Upgrade) (TBM)	1	\$158.00	\$158.00
2021-0821-0039	Platform Running Boards (Extended/Crew Cabs)(18B)	1	\$426.00	\$426.00
2021-0821-0050	LED Box Lighting (Includes LED Center High-Mounted Stop Lamp CHMSL) (Not available with Pickup Box Delete #66D) (66L)	1	\$57.00	\$57.00

2021-0821-0052 Tailgate Step (includes step and handle) (85G)	1	\$360.00	\$360.00
2021-0821-0056 Wheel Well Liner Package, Front and Rear (Not available with Pickup Box Delete #66D) (61N)	1	\$311.00	\$311.00
2021-0821-0058 Splash Guards/Mud Flaps, Front and Rear (factory) (Not available with Pickup Box Delete #66D) (61S/62S)	1	\$125.00	\$125.00
2021-0821-0061 Daytime Running Lamps (DRL) Non-configurable (replaces standard on/off controllable DRLs) (942)	1	\$43.00	\$43.00
2021-0821-0068 SYNC3 - Voice Recognition Communications (hands-free cell phone) (Includes 8in LCD capacitive touchscreen in center stack with swipe capability, AppLink, 911 Assist, Apple CarPlay and Android Auto, (2) smart-charging USB-C ports, 110V/400W Outlet #43C) (Must also order Power Equipment Group #90L) (Included w/ XLT Trim Upgrade) (913)	1	\$431.00	\$431.00
2021-0821-0069 110V/400W Outlet (1) (includes one in-dash mounted outlet and 200-Amp Alternator) (to be ordered w/ 40/20/40 seating) (included w/ XLT Trim) (43C)	1	\$168.00	\$168.00
2021-0821-0210 Floor Mats, HD Rubber Molded, Front (Weather Tech)(DLR)	1	\$120.00	\$120.00
2021-0821-0211 Floor Mats, HD Rubber Molded, Rear (Weather Tech) (DLR)	1	\$100.00	\$100.00
2021-0821-0213 Fire Extinguisher, 2.5# Dry Chemical ABC Rated w/ Mounting Bracket, uninstalled (DLR)	1	\$40.00	\$40.00
2021-0821-0214 Spray-In Bedliner (Line-X) (DLR)	1	\$468.00	\$468.00
2021-0821-0216 Service Manual, CD (DLR)	1	\$221.00	\$221.00
2021-0821-0217 Service Wiring Diagram, Paper (DLR)	1	\$87.00	\$87.00
2021-0821-0220 Spotlight, LED 6in Clear Lens, Pillar Mounted, Driver Side (Unlty) (DLR)	1	\$560.00	\$560.00
2021-0821-0330 Side rail box - topside lift-up door (46L x 12H x 9W) (DRIVER SIDE) (Compatible with Adrian Cross boxes on 6.5/6.75 or 8ft beds) (Adrian AD303-D) (TB330)	1	\$630.00	\$630.00
2021-0821-0331 Side rail box - topside lift-up door (46L x 12H x 9W) (PASSENGER SIDE) (Compatible with Adrian Cross boxes on 6.5/6.75 or 8ft beds) (Adrian AD303-P) (TB331)	1	\$630.00	\$630.00
2021-0821-0362 Cab Rack - flat perforated aluminum sheet screen insert (MH EBY CBGD) (TB362)	1	\$822.00	\$822.00
2021-0821-0368 Cab Rack Option - Mini-Lightbar Mount, 10x15, installed centered on cab guard. (EBY CBGD-BP) (TB368)	1	\$61.00	\$61.00
2021-0821-0521 AMBER - Basic Amber Package, Installed [Includes two (2) amber grille lights; two (2) amber LED inserts in reverse lenses; and NROADS 17in amber lightbar mounted on roof or cabguard; and six (6) button switch panel. Also includes single radio prewire (includes power and coax in roof).] (DWS-SD-A-2) (DW521)	1	\$1,920.00	\$1,920.00

Quote Totals

Total Vehicles:	1
Sub Total:	\$38,415.00
8.4 % Sales Tax:	\$3,226.86
Quote Total:	\$41,641.86



**City of Port Orchard
Council Meeting Minutes
Regular Meeting of January 26, 2021**

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 Ashby	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Present via Remote Access
Councilmember Diener	Present via Remote Access
Councilmember Lucarelli	Present via Remote Access
Councilmember Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via Remote Access: Finance Director Crocker, Community Development Director Bond, Public Works Director Dorsey, HR Manager Lund, Deputy Police Chief Main, City Attorney Archer, and City Clerk Rinearson.

Mayor Putaansuu stated pursuant to the Governor’s Stay at Home, Stay Safe order, the City Council will be conducting the meeting via Zoom this evening.

A. PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF AGENDA

MOTION: By Councilmember Diener, seconded by Councilmember Cucciardi, to approve the agenda as presented.

The motion carried.

3. CITIZENS COMMENTS

There were no citizen comments.

4. CONSENT AGENDA

- A. Approval of Voucher Nos. 81264 through 81331 and 81338 through 81427, including bank drafts in the amount of \$1,719,196.63 and EFT's in the amount of \$237,866.58 totaling \$1,957,063.21.
- B. Approval of Payroll Check Nos. 81332 through 81337 including bank drafts and EFT's in the amount of \$243,196.69; and Direct Deposits in the amount of \$178,732.73 totaling \$421,929.42.
- C. Adoption of a Resolution Granting Final Plat Approval for McCormick Village (**Resolution No. 009-21**)
- D. Adoption of a Resolution Approving the Purchase of Equipment for the Equipment Rental Revolving Fund 500 (**Resolution No. 010-21**)
- E. Approval of Amendment No. 1 to Contract No. 046-20 with Summit Law Group for Legal Services Related to Labor Negotiations and Relations to Set 2021 Rates Retroactive to January 1, 2021
- F. Approval of Amendment No. 4 to Contract No. 023-17 with the Washington State Military Department for the Port Orchard Storage Building

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

The motion carried.

5. PRESENTATION

There were no presentations.

6. PUBLIC HEARING

There were no public hearings.

7. BUSINESS ITEMS

- A. **Adoption of an Ordinance Amending Port Orchard Municipal Code Chapters 20.200 and 20.204 Concerning 2018 Building Code and Fire Codes**

MOTION: By Councilmember Diener, seconded by Councilmember Rosapepe, to adopt an ordinance amending Port Orchard Municipal Code Chapters 20.200 and 20.204 to adopt the state updates to the City's building and fire codes.

The motion carried.

(Ordinance No. 004-21)

- B. **Adoption of a Resolution Approving a Contract with SH&H Valuation and Consulting for Appraisal Service at Parcel #4650-011-001-0001 and Documenting Procurement Procedures**

MOTION: By Councilmember Clauson, seconded by Councilmember Diener, to adopt Resolution No. 008-21, authorizing the Mayor to execute Contract No. C024-21 with SH&H Valuation and Consulting for the 3-Approach Appraisal of the Kitsap Bank Parcel in an amount of \$4,500, and documenting the Professional Services procurement procedures.

The motion carried.

C. Adoption of a Resolution Approving a Contract with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watershed Comprehensive Plan – Phase I and Documenting Procurement Procedures

MOTION: By Councilmember Lucarelli, seconded by Councilmember Clauson, to adopt Resolution No. 001-21, thereby approving Contract No. C001-21 with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watersheds Comprehensive Plan – Phase I in the amount of \$235,515.

The motion carried.

D. Adoption of a Resolution Approving an Agreement with the Department of Revenue for Business License Services

MOTION: By Councilmember Chang, seconded by Councilmember Cucciardi, to adopt a Resolution, authorizing the Mayor to enter into the Business Licenses Service Agreement with Department of Revenue.

The motion carried.

(Resolution No. 011-21 and Contract No. 025-21)

E. Approval of Change Order No. 1 to Contract No. 020-20 with GGLO, LLC for the Downtown County Subarea Plan

MOTION: By Councilmember Diener, seconded by Councilmember Rosapepe, to approve a change order and supplemental services agreement for Contract CO20-20 with GGLO, LLC.

The motion carried.

F. Approval of Memorandums of Understanding with the Guild Representing Patrol Officers and the Guild Representing Sergeants Regarding Annual Vacation Carryover

MOTION: By Councilmember Diener, seconded by Councilmember Cucciardi, to authorize the Mayor to sign a Memorandum of Understanding with the Police Guild representing Patrol Officers and a Memorandum of Understanding with the Police Guild representing Sergeants to provide for an increase in the annual vacation cap.

The motion carried.

(MOU's to Contracts No. 046-19 and 047-19)

G. Approval of the January 12, 2021, City Council Meeting Minutes

MOTION: By Councilmember Clauson, seconded by Councilmember Ashby, to approve the minutes as published.

The motion carried.

8. DISCUSSION ITEMS (No Action to be Taken)

A. Donation Policy for Public Spaces Accessories

Mayor Putaansuu explained we receive requests from people downtown wanting to donate memorial benches. We accepted one last summer with the Rotary Club and Councilmember Ashby said in the future, she would like to see a policy. Bainbridge Island has a policy and what is being presented tonight is similar to their policy. It is cost prohibitive and not a good use of our time to procure these 1 or 2 benches here and there.

Councilmember Clauson reported he is working with one of the service clubs to purchase a bench that would be donated to the City. He wanted to make sure Council was aware and asked if anyone had any objections.

No one voiced their objections.

Additional discussion was held regarding the policy, service clubs and benches, maps, Chimes and Lights, art pieces, and Bay Street Pedestrian Path donations.

Mayor Putaansuu said he is hoping to have this on an agenda in February for adoption.

B. Department of Emergency Management (DEM) Funding Related to COVID-19 Response

Mayor Putaansuu explained the Cares Act covered emergency operations, but it ran out. We are hopeful there is another funding package coming, but there is not one yet. The Department of Emergency Management is spending money and the County is covering those expenses. We know that these operational expenses are covered by FEMA at 75%. We currently have a population-based formula for our dues and the County is asking that we apply that population-based formula, which we represent about 6% of the County, for these additional operational expenses. He spoke to best and worst-case scenarios.

Additional discussion was held regarding funding capital improvements, existing County interlocal agreement, budget process, and maximum dollar amounts.

Mayor Putaansuu this will be back on the agenda in February.

C. Gorst Coalition Memorandum of Understanding

Mayor Putaansuu said this organization is still in its formation. The Transit Board agency has agreed to work with them. Overall, the agreement is pretty good, but he has some reservations regarding Section 5 [Fiduciary Responsibilities and Financing of Coalition].

City Attorney Archer said as the section is currently written, it calls for payment by the City of an amount within the range of \$20,000 to \$450,000. It is written in a way that the City has the option to choose what to pay within that range, and if it deviates from that range, the deviation has to be approved by the co-chair committee. This committee is not a committee the City would be a party to based upon the definitions listed. If Council would like to opt for an amount outside of that range, we can offer an amendment or another edit to this draft, without approval by the co-chair.

Additional discussion was held regarding Tiers 1 through 3 [Parties affected by Gorst], sharing costs, more clarification needed on portions of the memorandum, and annual budget.

Mayor Putaansuu said he hopes to have this for adoption or more discussion at the next City Council meeting and asked the City Attorney to provide a follow-up of the concerns and budget discussed tonight.

9. REPORTS OF COUNCIL COMMITTEES

Mayor Putaansuu reported the Finance Committee is scheduled to meet February 16th. The Economic Development and Tourism committee is scheduled to meet February 8th. The Utilities Committee is scheduled to meet February 9th. The Land Use Committee is scheduled to meet February 10th.

Councilmember Ashby reported on the January 26th Transportation Committee meeting.

A brief discussion was held regarding City roads and sidewalks.

Councilmember Rosapape reported the Lodging Tax Committee will be meeting sometime in March.

Councilmember Ashby reported on the PSRC [Puget Sound Regional Council] Transportation Policy Board, and KRCC [Kitsap Regional Coordinating Council].

Mayor Putaansuu reported on the Kitsap Public Health Board and COVID-19, Housing Kitsap and Cares funding, and his attendance at the AWC [Association of Washington Cities] Mayor's Exchange.

10. REPORT OF MAYOR

The Mayor reported on the following:

- South Kitsap Community Events Center interlocal agreement;
- \$1.2 million dollar request in the capital budget for the marina pump station;
- Kitsap Bank parcel appraisal and Master Plan; and
- In accordance with Ordinance No. 008-20, 'Delegating Authority to the Mayor for Creation and Modification of Job Descriptions', he reported on minor edits to the job description for the Civil Engineer I position.

11. REPORT OF DEPARTMENT HEADS

City Clerk Rinearson reported she is looking into a new platform of Zoom called 'Webinars' and also reported on Laserfiche progress.

Mayor Putaansuu provided social media updates.

Public Works Director Dorsey thanked Council for allocating \$24,000 for the study on the splash pad.

Finance Director Crocker reported on an app for the City's utility customers which will allow them to use their phone to manage their accounts and pay their bills.

City Attorney Archer reported the Open Public Meetings Act and the Public Records Act proclamations have been extended indefinitely for the life of the emergency.

GOOD OF THE ORDER

In response to Councilmember Cucciardi, City Attorney Archer noted the City took care of items that were expiring December 31st.

Councilmember's Rosapepe, Ashby, Clauson, and Lucarelli reported they received their COVID-19 vaccinations.

Councilmember Clauson said Kitsap Transit set up an arrangement with Peninsula Community Health Organization and provided them space for a community vaccination site.

12. CITIZEN COMMENTS

Greg Wall, Vice President of South Kitsap School supporters, spoke to the school levy election and asked for the City's support.

Jeff Dailey, voiced his concerns with the school levy and spoke to education and salaries.

Councilmember Clauson explained the Council cannot take a position on this issue unless we have an opportunity for the public to comment for, or against, the levy.

13. EXECUTIVE SESSION

At 8:01 p.m. Mayor Putaansuu recessed the meeting for a 20-minute executive session to discuss litigation that has been threatened to which an agency is likely to become a party, pursuant to RCW 42.30.110(1)(i). City Attorney Archer, Attorney Mr. Miller, Attorney Ms. Trivett, Community Development Director Bond, Public Works Director Dorsey, City Clerk Rinearson and Finance Director Crocker were invited to attend, and City Attorney Archer announced no action will follow.

At 8:21 p.m., Mayor Putaansuu extended the executive session an additional 10-minutes.

At 8:31 p.m., Mayor Putaansuu reconvened the meeting back into session.

14. ADJOURNMENT

The meeting adjourned at 8:31 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, 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.: Public Hearing 6A
Subject: Public Hearing on an Ordinance to Adopt
an Adjusted Traffic Impact Fee

Meeting Date: February 9, 2021
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: Development-Matter 11
Atty Review Date: January 12, 2021

Summary: In 2015, the City adopted an impact fee ordinance and adopted traffic impact fees for the first time. The impact fee study adopted at that time recommended that the City reevaluate the traffic impact fee amount every 3-4 years. In late 2019, the City started this process, but the preparation of the fee study was delayed by the McCormick Communities Development Agreement for Transportation negotiation. The public hearing and adoption of an ordinance for that development agreement are also on this meeting’s agenda (Agenda Items 6B and 7A).

Since 2015, the project cost estimates for the projects in the City’s capital facilities plan have risen significantly. These projects include the Tremont Street project, which was estimated at \$17,500,000 in 2015 and was completed at a cost of approximately \$24,000,000. Additionally, since 2015 the City has completed the Bethel/Sedgwick Corridor Study and developers have provided more refined cost estimates for these projects. In 2019, the City hired TSI to prepare an updated traffic impact fee study and fee schedule. This study was completed in December 2020 and identified a proposed fee of \$4,943 per peak pm trip. This is an increase from the current fee of \$2,552 per peak pm trip.

This fee increase will ensure that development pays its share of building out the transportation system in Port Orchard and will allow the City to deliver projects more quickly than at the currently adopted amount. With the approval of the McCormick Woods development agreement, the City can move to a citywide fee amount, rather than the current system whereby McCormick Woods impact fees are collected and accounted for separately, for use on a narrower project list.

Relationship to Comprehensive Plan: Traffic impact fees are used to fund the planning and construction of projects on the City’s 6-year and 20-year Transportation Improvement Program (TIP). The TIP is incorporated into the Comprehensive Plan by reference.

Recommendation: Staff recommends that the City Council hold a public hearing on an ordinance adopting an adjusted traffic impact fee.

Fiscal Impact: The proposed ordinance increases the City’s transportation impact fees while maintaining school and park impact fee schedules. The transportation fees will increase as follows:

	Old Traffic Impact Fee	New Traffic Impact Fee
Per Peak PM Trip	\$2,552	\$4,943
Per New Single-Family Home	\$2,552	\$4,894
Low-Rise Multi-family	\$1,582	\$2,768

This increase will raise transportation revenues for the city to help pay for completion of specified transportation projects as listed in the attached report.

Alternatives: Do not approve the ordinance; request changes to the ordinance.

Attachments: Ordinance; Appendix A Traffic Impact Fee Rate Update; Appendix B Park Impact Fees 2015 (for reference only); Appendix C School Impact Fee 2015 (for reference only).

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, REGARDING TRANSPORTATION IMPACT FEES; AMENDING SECTION 20.182.060 OF THE PORT ORCHARD MUNICIPAL CODE TO ADOPT A NEW TRANSPORTATION IMPACT FEE SCHEDULE, CLARIFYING ADOPTION PROCEDURES AND INDEXING TRANSPORTATION IMPACT FEES TO CPI-U; ADDING A NEW SECTION 20.182.125 TO THE PORT ORCHARD MUNICIPAL CODE TO DESIGNATE THE CITY'S 6 YEAR/20 YEAR TRANSPORTATION IMPROVEMENT PLAN AS THE CAPITAL FACILITIES PLAN FOR TRANSPORTATION; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Washington Growth Management Act, Chapter 36.70A RCW and related sections ("GMA") requires the City to adopt a Comprehensive Plan that provides adequate public facilities to serve development; and

WHEREAS, counties, cities, and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing or system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees; and

WHEREAS, RCW 82.02.050 -.110 and WAC 365-196-850 authorize counties, cities, and towns planning under the Growth Management Act (GMA) to impose impact fees for public streets and roads, publicly owned parks, open space, and recreation facilities, and school facilities, and fire protection facilities; and

WHEREAS, the City of Port Orchard has adopted transportation, school, and park impact fees, as codified in subsection 20.182.060 of the Port Orchard Municipal Code (POMC) and Appendices A-C in Exhibit 1 of Ordinance 019-17; and

WHEREAS, the City Council finds that new development activity in the City of Port Orchard will create additional demand and need for public facilities; and

WHEREAS, the City of Port Orchard has previously adopted a transportation impact fee program pursuant to the authority provided in Chapter 82.02 RCW; and

WHEREAS, in 2015 the City's current transportation impact fee rate was established at \$2,552 per new PM peak hour trip, with a separate impact fee rate of \$560 per new PM peak

hour trip applied to growth in the McCormick Woods PUD; and

WHEREAS, this year the City Council adopted the City's 6 Year/20 Year Transportation Improvement Plan (TIP) as part of the City's Comprehensive Plan (Ordinance 015-20); and

WHEREAS, the City Council desires to adopt an updated transportation impact fee schedule to ensure that all projects on the current TIP receive appropriate impact fee funding per RCW Section 82.02.050; and

WHEREAS, the City Council deems it in the best interests of the city of Port Orchard to formally designate the TIP as the "capital facilities plan" for the purpose of identifying the proposed transportation improvements reasonable and necessary to meet the future development needs of the service area consistent with the city's level of service policy, as required by RCW 82.02.050; and

WHEREAS, the City contracted with Transportation Solutions, Inc. to prepare an updated transportation impact fee rate study and recommended impact fee rate, which was provided to the City in December 2020 (Exhibit A); and

WHEREAS, the City has prepared an updated transportation impact fee schedule based on the findings and recommendations of the study prepared by Transportation Solutions, Inc., and

WHEREAS, on January 19, 2021, the City Council held a study session on the updated transportation impact fee schedule; and

WHEREAS, on February 9, 2021, at its regular meeting the City Council held a public hearing on this ordinance, considered the updated transportation impact fee schedule and the public testimony, and reviewed the ordinance proposed for its adoption; and

WHEREAS, the transportation, parks and school impact fees are currently adopted as appendices to Chapter 20.182 of the Port Orchard Municipal Code, and

WHEREAS, the City Council desires to directly adopt the transportation, parks, and school impact fees by ordinance, for ease of reference and use; and

WHEREAS, this ordinance is exempt from the requirements of the State Environmental Policy Act (SEPA), Chapter 43,21C RCW, and the City's environmental

regulations, Chapter 20.160 POMC; now, therefore,

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

SECTION 1. The City Council adopts all of the “Whereas” sections of this ordinance as findings in support of this ordinance.

SECTION 2. Subsection 20.182.060 of the Port Orchard Municipal Code is hereby amended to read as follows:

20.182.060 Fee schedules and establishment of service area.

(1) Impact fee schedules setting forth the amount of the impact fees to be paid by developers ~~are listed in the appendices attached to the ordinance adopting this chapter, shall be adopted by ordinance of the City Council~~ and incorporated herein by this reference. ~~The road or transportation impact fee schedule is in Appendix A, park impact fees are in Appendix B and school impact fees are in Appendix C. The impact fee schedules may be revised at any time the city council deems just and appropriate.~~

(2) For the purpose of road and park impact fees, the entire city shall be considered one service area.

(3) For the purpose of school impact fees, the entire boundary of the school district shall be considered one service area.

(4) Transportation impact fees adopted by the City shall automatically increase annually per CPI-U (All Urban Consumers Index) (1982-1984=100), not seasonally adjusted, for the Seattle-Tacoma-Bellevue area for that 12-month period from January 1st to December 31st Indexed as the Annual Average, as is specified by the Bureau of Labor Statistics, United States Department of Labor. Increases based on CPI-U shall take effect on March 1st of the following year.

SECTION 3. A new subsection 20.182.125 is hereby added to the Port Orchard Municipal Code to read as follows:

20.182.125 Designation of Capital Facilities Plan for Transportation.

The city designates the 6 Year/20 Year Transportation Improvement Plan (TIP) as the

City's comprehensive capital facilities plan for the purpose of identifying the proposed transportation improvements reasonable and necessary to meet the future development needs of the service area consistent with the city's level of service policy, as required by RCW 82.02.050. The TIP identifies the specific subset of transportation improvements in the impact fee project list that forms the basis for the transportation impact fee program.

SECTION 4. Adoption of Transportation Impact Fee Schedule. The City hereby adopts a new transportation impact fee schedule which is included as a part of Exhibit A to this ordinance, in accordance with POMC 20.182.060. This transportation impact fee schedule shall become effective on the effective date established in Section 9 below and shall replace and supersede any previously adopted transportation impact fee schedule.

SECTION 5. Park and School Impact Fees Unchanged. The park and school impact fee schedules that were previously adopted by the City Council shall remain in effect and are respectively shown on Exhibits B and C of this ordinance.

SECTION 6. Sections 4 and 5 of this Ordinance are deemed of special effect and shall not be codified.

SECTION 7. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause, or phrase of this ordinance.

SECTION 8. Corrections. Upon the approval of the city attorney, the city clerk, and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 9. Effective Date. This ordinance shall be in full force and effect five (5) days after publication as provided by law. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:

EFFECTIVE DATE:

- EXHIBIT A: TRANSPORTATION IMPACT FEE SCHEDULE WITH RATE STUDY (2021)**
- EXHIBIT B: PARKS IMPACT FEE SCHEDULE (EXISTING)**
- EXHIBIT C: SCHOOL IMPACT FEE SCHEDULE (EXISTING)**

TRANSPORTATION IMPACT FEE RATE STUDY
2020 UPDATE
FINAL REPORT

December 2020

Prepared for:
City of Port Orchard

Prepared by:
Transportation Solutions, Inc.
16932 Woodinville-Redmond Rd NE
Suite A206
Woodinville, WA 98072

Table of Contents

1. Introduction 1
 Definition of Impact Fees..... 1
 Statutory Basis for Impact Fees 1

2. Impact Fee Analysis 2
 Methodology 2
 Current Impact Fee Methodology 2
 Projects Eligible for Impact Fees..... 2
 Eligible Project Costs..... 3
 Impact Fee Calculation 3
 Sample Transportation Impact Fees..... 6

3. Additional Issues for Consideration 6
 Anticipated Annual Revenues from Impact Fees..... 6
 Anticipated Grant Revenue 6
 Anticipated Need for Other Public Funds..... 7

4. Transportation Impact Fee Rate Comparison 7

5. Credits and Adjustments 7
 Impact Fee Credits 7
 Independent Fee Calculation..... 8
 Construction Cost Index Adjustment..... 8

6. Conclusions 8

Appendices

- Appendix A. Transportation Impact Fee Project List
- Appendix B. Transportation Impact Fee Rate Schedule
- Appendix C. Comparison of 2019-2020 TIF Rates in Western Washington

List of Tables

Table 1. Impact Fee-Eligible Transportation Improvement Projects 5

Table 2. Transportation Impact Fee Comparison for Typical Land Uses..... 6

1. Introduction

This document summarizes the development of an updated transportation impact fee rate for the City of Port Orchard. It describes the existing impact fee rate, the basis for the fee, the rate methodology, the impact fee project list, and the recommended fee rate.

Definition of Impact Fees

Impact fees are a comprehensive grouping of charges based on new development within a local municipality. These fees are assessed to pay for capital facility improvement projects necessitated by new development growth (including but not limited to parks, schools, and streets/roads).

Transportation impact fees are collected to fund improvements that add capacity to the transportation system, accommodating the travel demand created by new development. The Revised Code of Washington (RCW) Section 82.02.050 identifies the intent of impact fees as the following:

- To ensure that adequate facilities are available to serve new growth and development;
- To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and
- To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

Statutory Basis for Impact Fees

Transportation impact fees are a financing mechanism authorized by the Growth Management Act (GMA) of Washington State (see RCW 36.70A.070 and 82.02.050). State law imposes strict limitations on impact fees. These limitations are intended to assure property owners that the fees collected are reasonably related to their actual impacts and will not be used for unrelated purposes.

If impact fees are imposed, the funds collected from developments can be expended only on transportation system improvements which are: (a) identified in the comprehensive plan as needed for growth, and (b) reasonably related to the impacts of the new development from which fees are collected.

Specifically, condition (a) requires that impact fees are not used on improvements needed to remedy existing deficiencies. Those needs must be entirely funded from public sector resources. Condition (b) is satisfied if the local government defines a reasonable service area, identifies the public facilities within the service area that require improvement during the designated planning period, and prepares a fee schedule taking into account the type and size of the development as well as the type of public facility being funded.

To achieve the goal of simplicity, impact fee calculations are applied on an average basis for the entire transportation system, rather than project-by-project. This is a key difference between impact fees and State Environmental Policy Act (SEPA) mitigation, whereby pro-rata shares of specific project improvements are collected.

Pre-calculated impact fees are easier to administer than traditional SEPA development mitigation, at the point of development review. However, more complex administrative procedures are necessary to track

the funds collected from each development. This is necessary to assure that the funds are expended only on eligible transportation system improvements and to assure that impact fee revenues are used within six years. Fees not expended within six years must be refunded with interest to the current owner of the property.

The methodology and results described below are consistent with the requirements of the GMA. The procedures and recommendations described herein can be formally enacted by an impact fee ordinance incorporating this memo by reference.

2. Impact Fee Analysis

Methodology

The conceptual basis for the transportation impact fee is that growth (i.e. new development) should pay a proportionate share of the cost to provide future transportation capacity. This proportionate share is calculated based on the estimated cost of growth-related transportation improvement projects identified in the Comprehensive Plan and on an estimate of growth's share of capacity utilization for each project. The impact fee analysis is limited to projects that provide capacity improvements needed for growth. Projects related to maintenance, such as pavement overlays and physical obsolescence, as well as improvements necessary to mitigate existing capacity deficiencies, are not eligible for impact fee funding. However, agencies have been encouraged by the Department of Commerce to consider multimodal transportation improvements and, to that end, shoulder widening, sidewalks, bike lanes and parallel trails are reasonable to include as both motorized and nonmotorized capacity enhancements.

Current Impact Fee Methodology

The Port Orchard transportation impact fee program was developed and adopted in 2015 as ordinance number 023-15 and later reorganized under ordinance number 019-17. The impact fee methodology is based on proportionate growth share of impact fee eligible project costs.

As of December 2020, the transportation impact fee rate is \$2,552 per new PM peak hour trip. A separate impact fee rate of \$560 per new PM peak hour trip is applied to growth in the McCormick Woods PUD. This rate represents the difference between the citywide rate and a GEM1 fee rate of \$1,992 per trip which was required per the McCormick Woods Development Agreement adopted in 2005.

Projects Eligible for Impact Fees

Not all planned transportation projects and programs are eligible for impact fees. Planned improvement project are divided below into the following categories in order to establish a list of qualifying projects that will form the basis for the Port Orchard impact fee rate:

- Project Improvements
- Planned Transportation Projects needed within 20 years
- Maintenance Projects

Project Improvements

Project improvements are transportation improvements necessary for a specific development that do not provide significant system benefits. These are typically low-volume local streets that serve driveways and parking areas. They may provide connections to other developments, but not for the purpose of

significant system capacity. Other project improvements include safety improvements and new access connections to existing arterials that serve only one development. Project improvements are typically required by other development regulations or as SEPA mitigation for specific development impacts not anticipated in the Comprehensive Plan. Project improvements are not eligible for impact fees. For the purpose of this rate analysis, roadway extensions that connected existing developments, but were not significant arterials, were considered project improvements that could be required under other City codes and regulations but would not be included in the impact fee calculation.

Planned Transportation Projects

The Port Orchard 2021-2040 Transportation Improvement Program (TIP) identifies transportation projects which are needed to serve traffic growth for the next twenty years. Projects with capacity benefits are eligible for impact fee funding. Capacity-related improvements may include adding turn lanes, lane widening or separating non-motorized modes, adding signals or roundabouts for intersection capacity, or other improvements. The methodology for roadway capacity calculation is described in the Transportation Element of the Comprehensive Plan. The proportional share of these projects reasonably related to growth are eligible for impact fees.

Maintenance Projects

Maintenance programs, general studies, and non-capital activities are generally not eligible for impact fees. A component of ongoing pavement preservation could be eligible for impact fees if it is demonstrated that growth increases the magnitude of pavement reconstruction requirements. For instance, if existing conditions require a two-inch asphalt overlay, but added traffic from growth requires a three-inch asphalt overlay to achieve the same pavement life, the cost of the additional inch of asphalt could be attributed to growth. If the overlay or reconstruction provides increased lane width, intersection improvements, or shoulder widening the cost of the expansion could be considered eligible.

Eligible Project Costs

Impact fee eligible projects and their estimated costs are identified in **Table 1**. These costs include various elements which are necessary for the construction of transportation improvements, including design, permitting, right-of-way, construction, and construction management. Ongoing or future maintenance is not an eligible impact fee cost. TIP projects which are not capacity-related, or which are considered maintenance projects/programs are not included in the TIF project list.

Impact Fee Calculation

The impact fee was calculated based on the increase in PM peak hour vehicle trips resulting from growth, the cost of improvements related to growth, and the City's transportation financing strategy, as defined in the 2016 Comprehensive Plan. The calculation methodology is described below.

Local Funding Responsibility

Roadway projects are generally eligible for state and federal grant funds. These funds are not predictable and vary in amount by grantor. Additionally, cost-sharing agreements with Washington State Department of Transportation (WSDOT) and Kitsap County are anticipated to reduce some of the City's project cost responsibility.

This analysis assumes the City will be responsible for 50 percent of total impact fee-eligible project costs over the 20-year planning horizon, with the other 50 percent anticipated to be funded by grant and intergovernmental revenue roadway projects.

Exceptions were applied to the following projects which are anticipated to be fully funded by the City of Port Orchard or by local development, with no grants or intergovernmental revenue:

- Bethel/Sedgwick Corridor Phase 1 Design (TIP #1.3)
- Old Clifton Rd Design – 60% (TIP #1.5A)
- Old Clifton Rd & Campus Parkway roundabout (TIP #1.5C)
- Old Clifton Rd & McCormick Woods Dr roundabout (TIP #2.08)
- Glenwood Connector Roadway (per development agreement)
- Feigley Rd improvements (per development agreement)

Proportionate Share of Project Cost

Growth’s proportionate share of each improvement project was calculated as the proportion of added capacity which will be used by new development trips, per the Port Orchard travel demand model.

The Port Orchard travel demand model was most recently updated and recalibrated in 2019. It incorporates trip generation data published in the *Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition* and calibrated to fit 2019 weekday PM peak hour traffic counts. The travel demand model trip distribution and traffic assignment procedures were calibrated based on regional and national guidance, including the Kitsap County travel demand model and Federal Highway Administration travel demand model calibration guidance, in addition to local engineering expertise and traffic counts.

To generate 2040 PM peak hour travel demand forecasts, the calibrated 2019 PM travel demand model was modified to include housing and employment growth forecasts identified in the Port Orchard Comprehensive Plan. A total of 7,352 new weekday PM peak hour trips are anticipated citywide between 2019 and 2040. These new trips were assigned to the transportation network, resulting in traffic growth forecasts for each intersection and roadway segment on the TIF project list.

The proportionate growth share of TIF project costs was calculated by dividing the 2019-2040 PM peak hour trip growth by the capacity contribution, in vehicles per hour, of each improvement project:

$$[Proportionate\ Share\ of\ Project\ Cost] = \frac{PM\ peak\ hr\ trip\ growth}{Added\ PM\ peak\ hr\ capacity}$$

The resulting proportionate share for each TIF project is identified in **Table 1**. Total project costs and growth share are summarized below:

Total TIF Project Cost	\$145,863,474
Anticipated Grant & Intergovernmental Revenue	\$78,597,474
Anticipated City & Developer (Non-Grant) Responsibility	\$67,266,000
Growth/Development Share of Project Cost	\$36,343,224

Table 1. Impact Fee-Eligible Transportation Improvement Projects

TIP ID ¹	Project Name	Cost Estimate (\$)	Local Share ² (\$)	Growth Share ³ (%)	Growth Share (\$)
DA	Glenwood Connector Roadway	2,000,000	2,000,000	100%	2,000,000
1.1	Tremont St Widening CN Phase	23,600,000	7,570,000	24%	1,851,656
1.3	Bethel/Sedgwick Corridor Ph. 1 Design	1,211,000	1,211,000	24%	293,489
1.4	Old Clifton Rd/Anderson Hill Rd Roundabout	2,420,000	968,000	81%	786,112
1.5A	Old Clifton Rd Design – 60%	562,000	562,000	100%	562,000
1.5C	Old Clifton Rd/Campus Pkwy Roundabout	1,600,000	1,600,000	100%	1,600,000
1.7	Vallair Ct Connector	2,498,000	1,249,000	8%	96,697
2.01	Sidney Ave (N) Widening	13,113,000	6,557,000	48%	3,144,444
2.02	Sedgwick Rd West Design/ROW	1,444,000	722,000	100%	722,000
2.03	Sedgwick Rd West Constr.	4,331,000	2,166,000	100%	2,165,500
2.04A	Bethel/Sedgwick Corridor Ph. 1 ROW/Constr.	14,360,000	7,180,000	24%	1,740,094
2.04B	Bethel/Sedgwick Corridor Ph. 2	17,498,000	5,249,000	28%	1,464,306
2.04C	Bethel/Sedgwick Corridor Ph. 3	6,111,000	1,833,000	5%	97,776
2.04D	Bethel/Sedgwick Corridor Ph. 4	9,179,000	4,590,000	45%	2,067,975
2.04E	Bethel/Sedgwick Corridor Ph. 5	11,059,000	5,530,000	100%	5,529,500
2.05	Sidney Rd (S) Widening	7,820,000	3,910,000	66%	2,593,367
2.06	Pottery Ave (N) Widening	1,998,000	999,000	28%	277,500
2.07	Old Clifton Rd Shoulder & Ped. Impr.	3,372,000	1,686,000	100%	1,686,000
2.08	Old Clifton Rd/McCormick Woods Dr Roundabout	1,600,000	1,600,000	100%	1,600,000
2.09	Melcher St Widening	749,000	375,000	7%	25,279
2.1	Fireweed Rd Widening	468,000	234,000	5%	11,700
2.12	Sherman Ave Widening	656,000	328,000	5%	16,400
2.13	Tremont St Widening Ph. 2 - PO Blvd	10,684,000	5,342,000	100%	5,342,000
2.14	Pottery Ave (S) Widening	5,245,000	2,623,000	16%	415,119
2.16	Blueberry Rd Widening	749,000	375,000	22%	80,518
2.17	Geiger Rd Widening	468,000	234,000	5%	11,700
2.18	Salmonberry Rd Widening	281,000	141,000	21%	28,803
2.19	Piperberry Way Extension	468,000	234,000	11%	25,665
2.21	Old Clifton Rd/Feigley Rd Roundabout	243,000	122,000	26%	31,150
DA	Feigley Rd Improvements	76,474	76,000	100%	76,474
Total		145,863,474	67,266,000	54%	36,343,224

¹Project ID number in Port Orchard 2021-2040 Transportation Improvement Program. DA = development agreement project

²Portion of project cost which is anticipated to be funded by City of Port Orchard and developer funds (i.e. not funded by grants or intergovernmental revenue)

³Portion of added capacity which is used by growth (i.e. new development). Developer-funded projects are assigned 100% growth share.

Impact Fee Rate

The citywide transportation impact fee rate was calculated by dividing the sum of the growth share of TIF project cost by the total citywide PM peak hour trip growth forecast, as shown:

$$\frac{\text{Development share of project costs}}{\text{Citywide PM trip growth}} = \frac{\$36,343,224}{7,352 \text{ new trips}} = \$4,943 / \text{PM peak hour trip}$$

Sample Transportation Impact Fees

Table 2 summarizes the fee rates which would be paid by several typical developments if the above calculated rate were adopted in an impact fee ordinance. A comprehensive transportation impact fee rate schedule is included in Appendix B.

Table 2. Transportation Impact Fee Comparison for Typical Land Uses

Land Use Type	ITE LUC ¹	Trip Rate	Per Unit	2015 TIF Rate (\$/unit)	2020 TIF Rate (\$/unit)
Single-Family Home	210	0.99	DU	2,552	4,894
Low-Rise Multifamily	220	0.56	DU	1,582	2,768
Senior Attached Housing	252	0.26	DU	638	1,285
General Office	710	1.15	1,000 ft ²	3,803	5,684
Shopping Center	820	2.51*	1,000 ft ²	6,406	12,110
Light Industrial	110	0.63	1,000 ft ²	2,476	3,114

¹Land Use Code and trip rates per Institute of Transportation Engineers *Trip Generation Manual 10th Edition*

*Includes 34% reduction for pass-by trips, per Institute of Transportation Engineers *Trip Generation Handbook*

3. Additional Issues for Consideration

Anticipated Annual Revenues from Impact Fees

The anticipated annual revenue from the proposed transportation impact fee, based on the travel demand growth forecast of 7,352 new trips by 2040, is shown below:

$$\frac{350 \text{ trips}}{\text{year}} * \frac{\$4,943}{\text{PM trip}} = \$1,730,050 / \text{year}$$

The transportation impact fee is anticipated to generate an average of \$1,730,050 per year. This represents a 20-year average and may be more or less in any given year.

Anticipated Grant Revenue

Transportation improvement projects are generally eligible for state and federal grant funds. These funds are not predictable and vary in amount by grantor. The financing plan in the Transportation Element identifies a 50 percent grant and intergovernmental funding goal for roadway projects. This assumption is applied in the impact fee rate calculation.

Anticipated Need for Other Public Funds

The anticipated impact fee revenue does not fully fund the non-grant share of TIF project costs. The anticipated need for other public funds is summarized below:

	Total TIF Project Cost	\$145,863,474
Anticipated Grant & Intergovernmental Revenue		\$78,597,474
Growth/Development Share of Project Cost		\$36,343,224
Remaining Unfunded Commitment (2019-2040)		\$30,922,776

The City will need to identify other revenue sources to fund the remaining unfunded revenue commitment of \$30,922,776 associated with the TIF projects. This represents an annual funding commitment of \$1,546,139.

4. Transportation Impact Fee Rate Comparison

The City of Bellingham Public Works Department has compiled a list of transportation impact fee rates for 79 public agencies in western Washington. The full comparison chart is included in Appendix B. Provided below are current transportation impact fee rates for several agencies which are located near Port Orchard. The updated impact fee rate of \$4,943 per PM trip would be just above the western Washington average rate, but far from the highest in western Washington.

Western WA Maximum Transportation Impact Fee:	\$14,064	(City of Sammamish)
City of Poulsbo Transportation Impact Fee:	\$5,397	
City of Gig Harbor Transportation Impact Fee:	\$5,020	
Proposed Port Orchard Transportation Impact Fee:	\$4,943	
Western WA Average Transportation Impact Fee:	\$4,363	
City of Bainbridge Island Transportation Impact Fee:	\$1,687	
Kitsap County Transportation Impact Fee:	\$700	
Western WA Minimum Transportation Impact Fee:	\$589	(City of Oak Harbor)

5. Credits and Adjustments

Impact Fee Credits

An applicant may request a credit for impact fees in the amount of the total value of system improvements, including dedications of land, improvements, and/or construction provided by the applicant. Credits should be considered on a case-by-case basis and shall not exceed the impact fee payable.

Claims for credit should be made before the payment of the impact fee. Credits for the construction should be provided only if the land, improvements, and/or the facility constructed are listed as planned transportation projects in the Rate Analysis and Impact Fee Ordinance. Credits are not generally given for code-based frontage improvements or right-of-way dedications, or direct access improvements to and/or within the subject development (project improvements) unless the improvement is part of a project listed in the Rate Analysis and Impact Fee Ordinance.

Independent Fee Calculation

An applicant may submit an independent fee calculation for a proposed development activity. The documentation submitted should be prepared by a traffic engineer licensed in Washington State and should be limited to adjustments in the trip generation rates used in the fee calculation.

Construction Cost Index Adjustment

Transportation impact fees should be adjusted yearly to account for inflation. Annual adjustments will be based on the All-Urban Consumers Index (CPI-U) for the Seattle-Tacoma-Bellevue area for the previous 12-month period from December to December as specified by the Bureau of Labor Statistics, United States Department of Labor. The CPI adjustment would take effect on March 1.

6. Conclusions

The recommended transportation impact fee rate is \$4,943 per new PM peak hour trip.

Appendix A. Transportation Impact Fee Project List

City of Port Orchard
Transportation Impact Fee Project List - 2020 Update

ID	Project Name	Cost Estimate (\$)	Local Share (\$)	Growth Share (%)	Growth Share (\$)
DA	Glenwood Connector Roadway	2,000,000	2,000,000	100%	2,000,000
1.1	Tremont St Widening CN Phase	23,600,000	7,570,000	24%	1,851,656
1.3	Bethel/Sedgwick Corridor Ph. 1 Design	1,211,000	1,211,000	24%	293,489
1.4	Old Clifton Rd/Anderson Hill Rd Roundabout	2,420,000	968,000	81%	786,112
1.5A	Old Clifton Rd Design - 60%	562,000	562,000	100%	562,000
1.5C	Old Clifton Rd/Campus Pkwy Roundabout	1,600,000	1,600,000	100%	1,600,000
1.7	Vallair Ct Connector	2,498,000	1,249,000	8%	96,697
2.01	Sidney Ave (N) Widening	13,113,000	6,557,000	48%	3,144,444
2.02	Sedgwick Rd West Design/ROW	1,444,000	722,000	100%	722,000
2.03	Sedgwick Rd West Constr.	4,331,000	2,166,000	100%	2,165,500
2.04A	Bethel/Sedgwick Corridor Ph. 1 ROW/Constr.	14,360,000	7,180,000	24%	1,740,094
2.04B	Bethel/Sedgwick Corridor Ph. 2	17,498,000	5,249,000	28%	1,464,306
2.04C	Bethel/Sedgwick Corridor Ph. 3	6,111,000	1,833,000	5%	97,776
2.04D	Bethel/Sedgwick Corridor Ph. 4	9,179,000	4,590,000	45%	2,067,975
2.04E	Bethel/Sedgwick Corridor Ph. 5	11,059,000	5,530,000	100%	5,529,500
2.05	Sidney Rd (S) Widening	7,820,000	3,910,000	66%	2,593,367
2.06	Pottery Ave (N) Widening	1,998,000	999,000	28%	277,500
2.07	Old Clifton Rd Shoulder & Ped. Impr.	3,372,000	1,686,000	100%	1,686,000
2.08	Old Clifton Rd/McCormick Woods Dr Roundabout	1,600,000	1,600,000	100%	1,600,000
2.09	Melcher St Widening	749,000	375,000	7%	25,279
2.1	Fireweed Rd Widening	468,000	234,000	5%	11,700
2.12	Sherman Ave Widening	656,000	328,000	5%	16,400
2.13	Tremont St Widening Ph. 2 - PO Blvd	10,684,000	5,342,000	100%	5,342,000
2.14	Pottery Ave (S) Widening	5,245,000	2,623,000	16%	415,119
2.16	Blueberry Rd Widening	749,000	375,000	22%	80,518
2.17	Geiger Rd Widening	468,000	234,000	5%	11,700
2.18	Salmonberry Rd Widening	281,000	141,000	21%	28,803
2.19	Piperberry Way Extension	468,000	234,000	11%	25,665
2.21	Old Clifton Rd/Feigley Rd Roundabout	243,000	122,000	26%	31,150
DA	Feigley Rd Improvements	76,474	76,000	100%	76,474
Total		145,863,474	67,266,000	54%	36,343,224

Total Project Cost	\$145,863,474
Local Share (Development + City) (%)	46%
Growth/Development Share (\$)	\$36,343,224
2019-2040 PM Peak Hour Trip Growth (vph)	7,352
2020 Transportation Impact Fee Rate (\$/trip)	\$4,943
Remaining Unfunded Commitment (\$)	\$30,922,776
Annual Funding Commitment (\$/yr)	\$1,546,139

Appendix B. Transportation Impact Fee Rate Schedule

City of Port Orchard Traffic Impact Fee Rate Schedule – Residential (2020 Update)

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Rate per Unit ³	Impact Fee per Unit
210	Single-Family Detached Housing	0.99	DU	\$4,894
220	Low-Rise Multifamily Housing (1-2 floors)	0.56	DU	\$2,768
221	Mid-Rise Multifamily Housing (3-10 floors)	0.44	DU	\$2,175
230	Mid-Rise Residential w/ 1st Floor Commercial	0.36	DU	\$1,779
240	Mobile Home Park	0.46	DU	\$2,274
251	Senior Housing Detached	0.30	DU	\$1,483
252	Senior Housing Attached	0.26	DU	\$1,285
253	Congregate Care Facility	0.18	DU	\$890
254	Assisted Living	0.26	bed	\$1,285
260	Recreational Home	0.28	DU	\$1,384
270	Residential PUD	0.69	DU	\$3,411
-	Accessory Dwelling Unit (≤ 450 sf)	0.56	DU	\$2,768
-	Accessory Dwelling Unit (> 450 sf)	0.28	DU	\$1,384

¹ Institute of Transportation Engineers, [Trip Generation Manual \(10th Edition\)](#)

² Trip generation rate per development unit for PM peak hour of the adjacent street traffic (4-6 PM)

³ DU = Dwelling Unit



City of Port Orchard Traffic Impact Fee Rate Schedule – Non-Residential LUC 1-799 (2020 Update)

ITE Code ¹	ITE Land Use Category ¹	Base Trip Rate ²	% Primary Trips	Net Trip Rate	Rate per Unit ³	Impact Fee per Unit
PORT AND TERMINAL						
30	Intermodal Truck Terminal	1.87	*	1.870	ksf	\$9,243
90	Park and Ride with Bus Service	0.43	*	0.430	space	\$2,125
INDUSTRIAL						
110	General Light Industrial	0.63	*	0.630	KSF	\$3,114
130	Industrial Park	0.40	*	0.400	KSF	\$1,977
140	Manufacturing	0.67	*	0.670	KSF	\$3,312
150	Warehousing	0.19	*	0.190	KSF	\$939
151	Mini Warehouse	0.17	*	0.170	KSF	\$840
170	Utilities	2.27	*	2.270	KSF	\$11,221
180	Specialty Trade Contractor	1.97	*	1.970	KSF	\$9,738
LODGING						
310	Hotel	0.60	*	0.600	room	\$2,966
311	All Suites Hotel	0.36	*	0.360	room	\$1,779
312	Business Hotel	0.32	*	0.320	room	\$1,582
320	Motel	0.38	*	0.380	room	\$1,878
RECREATIONAL						
411	Public Park	0.11	*	0.110	acre	\$544
416	Campground/RV Park	0.27	*	0.270	site	\$1,335
430	Golf Course	0.28	*	0.280	acre	\$1,384
432	Golf Driving Range	1.25	*	1.250	tee	\$6,179
433	Batting Cages	2.22	*	2.220	cage	\$10,973
434	Rock Climbing Gym	1.64	*	1.640	KSF	\$8,107
435	Multi-Purpose Recreational Facility	3.58	*	3.580	KSF	\$17,696
437	Bowling Alley	1.16	*	1.160	KSF	\$5,734
444	Movie Theater	14.60	*	14.600	screen	\$72,168
445	Multiplex Movie Theater	13.73	*	13.730	screen	\$67,867
488	Soccer Complex	16.43	*	16.430	field	\$81,213
490	Tennis Courts	4.21	*	4.210	court	\$20,810
491	Racquet/Tennis Club	3.82	*	3.820	court	\$18,882
492	Health Fitness Club	3.45	*	3.450	KSF	\$17,053
493	Athletic Club	6.29	*	6.290	KSF	\$31,091
495	Recreational Community Center	2.31	*	2.310	KSF	\$11,418
INSTITUTIONAL						
520	Public Elementary School	1.37	*	1.370	KSF	\$6,772
522	Public Middle/Junior High School	1.19	*	1.190	KSF	\$5,882
530	Public High School	0.97	*	0.970	KSF	\$4,795
537	Charter Elementary School	0.14	*	0.140	student	\$692
538	School District Office	2.04	*	2.040	KSF	\$10,084
540	Junior / Community College	1.86	*	1.860	KSF	\$9,194
560	Church	0.49	*	0.490	KSF	\$2,422
565	Day Care Center	11.12	44%	4.893	KSF	\$24,185
566	Cemetery	0.46	*	0.460	acre	\$2,274
571	Prison	0.05	*	0.050	bed	\$247
575	Fire & Rescue Station	0.48	*	0.480	KSF	\$2,373
590	Library	8.16	*	8.160	KSF	\$40,335
MEDICAL						
610	Hospital	0.97	*	0.970	KSF	\$4,795
620	Nursing Home	0.59	*	0.590	KSF	\$2,916
630	Clinic	3.28	*	3.280	KSF	\$16,213
640	Animal Hospital / Veterinary Clinic	3.53	*	3.530	KSF	\$17,449
650	Freestanding Emergency Room	1.52	*	1.520	KSF	\$7,513
OFFICE						
710	General Office	1.15	*	1.150	KSF	\$5,684
712	Single-Tenant Office (<5,000 sf)	2.45	*	2.450	KSF	\$12,110
715	Single Tenant Office (>5,000 sf)	1.71	*	1.710	KSF	\$8,453
720	Medical/Dental Office	3.46	*	3.460	KSF	\$17,103
730	Government Office Building	1.71	*	1.710	KSF	\$8,453
732	US Post Office	11.21	*	11.210	KSF	\$55,411
733	Government Office Complex	2.82	*	2.820	KSF	\$13,939
750	Office Park	1.07	*	1.070	KSF	\$5,289
760	Research and Development Center	0.49	*	0.490	KSF	\$2,422
770	Business Park	0.42	*	0.420	KSF	\$2,076

¹ Institute of Transportation Engineers, Trip Generation Manual (10th Edition)

² Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm).

³ DU = Dwelling Unit; KSF = 1,000 square feet; VSP = Vehicle servicing position

* Pass-by and diverted trip rate data not available. Primary trip rates may be applied based on local data, development context, and engineering judgment

City of Port Orchard Traffic Impact Fee Rate Schedule – Non-Residential LUC 800-999 (2020 Update)

ITE Code ¹	ITE Land Use Category ¹	Base Trip Rate ²	% Primary Trips ³	Net Trip Rate	Rate per Unit ⁴	Impact Fee per Unit
RETAIL						
810	Tractor Supply Store	1.40	66%	0.924	KSF	\$4,567
811	Construction Equipment Rental Store	0.99	74%	0.733	KSF	\$3,621
812	Building Materials and Lumber Store	2.06	74%	1.524	KSF	\$7,535
813	Free-Standing Discount Superstore (w/ Grocery)	4.33	71%	3.074	KSF	\$15,196
814	Variety Store	6.84	66%	4.514	KSF	\$22,315
815	Free Standing Discount Store (w/o Grocery)	4.83	83%	4.009	KSF	\$19,816
816	Hardware/Paint Store	2.68	74%	1.983	KSF	\$9,803
817	Nursery (Garden Center)	6.94	74%	5.136	KSF	\$25,385
818	Nursery (Wholesale)	5.18	74%	3.833	KSF	\$18,948
820	Shopping Center	3.81	66%	2.515	KSF	\$12,430
823	Factory Outlet Center	2.29	66%	1.511	KSF	\$7,471
840	Automobile Sales (New)	2.43	100%	2.430	KSF	\$12,011
841	Automobile Sales (Used)	3.75	100%	3.750	KSF	\$18,536
842	Recreational Vehicle Sales	0.77	100%	0.770	KSF	\$3,806
843	Automobile Parts Sales	4.91	44%	2.160	KSF	\$10,679
848	Tire Store	3.98	72%	2.866	KSF	\$14,165
849	Tire Superstore	2.11	72%	1.519	KSF	\$7,509
850	Supermarket	9.24	64%	5.914	KSF	\$29,231
851	Convenience Market	49.11	49%	24.064	KSF	\$118,948
853	Convenience Market w/Gas Pumps	49.23	17%	8.369	VFP	\$41,368
854	Discount Supermarket	8.38	51%	4.274	KSF	\$21,125
857	Discount Club	4.18	63%	2.633	KSF	\$13,017
861	Sporting Goods Superstore	2.02	66%	1.333	KSF	\$6,590
862	Home Improvement Superstore	2.33	58%	1.351	KSF	\$6,680
863	Electronics Superstore	4.26	60%	2.556	KSF	\$12,634
866	Pet Supply Superstore	3.55	66%	2.343	KSF	\$11,581
867	Office Supply Superstore	2.77	66%	1.828	KSF	\$9,037
875	Department Store	1.95	66%	1.287	KSF	\$6,362
876	Apparel Store	4.12	66%	2.719	KSF	\$13,441
879	Arts and Crafts Store	6.21	66%	4.099	KSF	\$20,259
880	Pharmacy/Drug Store w/o Drive-Thru	8.51	47%	4.000	KSF	\$19,771
881	Pharmacy/Drug Store w/ Drive-Thru	10.29	38%	3.910	KSF	\$19,328
882	Marijuana Dispensary	21.83	100%	21.830	KSF	\$107,906
890	Furniture Store	0.52	47%	0.244	KSF	\$1,208
899	Liquor Store	16.37	64%	10.477	KSF	\$51,787
SERVICES						
911	Walk-in Bank	12.13	65%	7.885	KSF	\$38,973
912	Drive-in Bank	20.45	65%	13.293	KSF	\$65,705
918	Hair Salon	1.45	65%	0.943	KSF	\$4,659
920	Copy, Print, and Express Ship Store	7.42	66%	4.897	KSF	\$24,207
925	Drinking Place	11.36	100%	11.360	KSF	\$56,152
930	Fast Casual Restaurant	14.13	57%	8.054	KSF	\$39,811
931	Quality Restaurant	7.80	56%	4.368	KSF	\$21,591
932	High Turnover (Sit-Down) Restaurant	9.77	57%	5.569	KSF	\$27,527
933	Fast Food w/o Drive-Thru	28.34	57%	16.154	KSF	\$79,848
934	Fast Food w/ Drive-Thru	32.67	50%	16.335	KSF	\$80,744
935	Fast Food Restaurant w/ Drive-Thru w/o Indoor Seating	42.65	50%	21.325	KSF	\$105,409
936	Coffee/Donut Shop w/o Drive-Thru	36.31	57%	20.697	KSF	\$102,304
937	Coffee/Donut Shop w/ Drive-Thru	43.38	50%	21.690	KSF	\$107,214
938	Coffee/Donut Shop w/ Drive-Thru w/o Indoor Seating (Espresso Stand)	83.33	11%	9.166	KSF	\$45,309
939	Bread/Donut/Bagel Shop w/o Drive-Thru	28.00	57%	15.960	KSF	\$78,890
940	Bread/Donut/Bagel Shop w/ Drive-Thru	19.02	50%	9.510	KSF	\$47,008
941	Quick Lubrication Vehicle Stop	4.85	72%	3.492	VSP	\$17,261
942	Automobile Care Center	3.11	72%	2.239	KSF	\$11,068
943	Automobile Parts and Service Center	2.26	72%	1.627	KSF	\$8,043
944	Gasoline/Service Station	14.03	58%	8.137	VFP	\$40,223
945	Gas Station w/Convenience Market	13.99	12%	1.679	VFP	\$8,298
947	Self-Serve Car Wash	5.54	58%	3.213	stall	\$15,883
948	Automated Car Wash	77.50	58%	44.950	stall	\$222,188
950	Truck Stop	22.73	58%	13.183	KSF	\$65,166
960	Super Convenience Market/ Gas Station	22.96	35%	8.036	VFP	\$39,722
970	Winery	7.31	100%	7.310	KSF	\$36,133

¹ Institute of Transportation Engineers, Trip Generation Manual (10th Edition)

² Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm).

³ Average primary trip rates, per Trip Generation Handbook (3rd Edition), 2017. Additional primary rates based on similar land use and engineering judgment.

Pass-by rates should be used with caution and refined using local data whenever possible. ⁴ DU = Dwelling Unit; KSF = 1,000 square feet; VSP = Vehicle servicing position

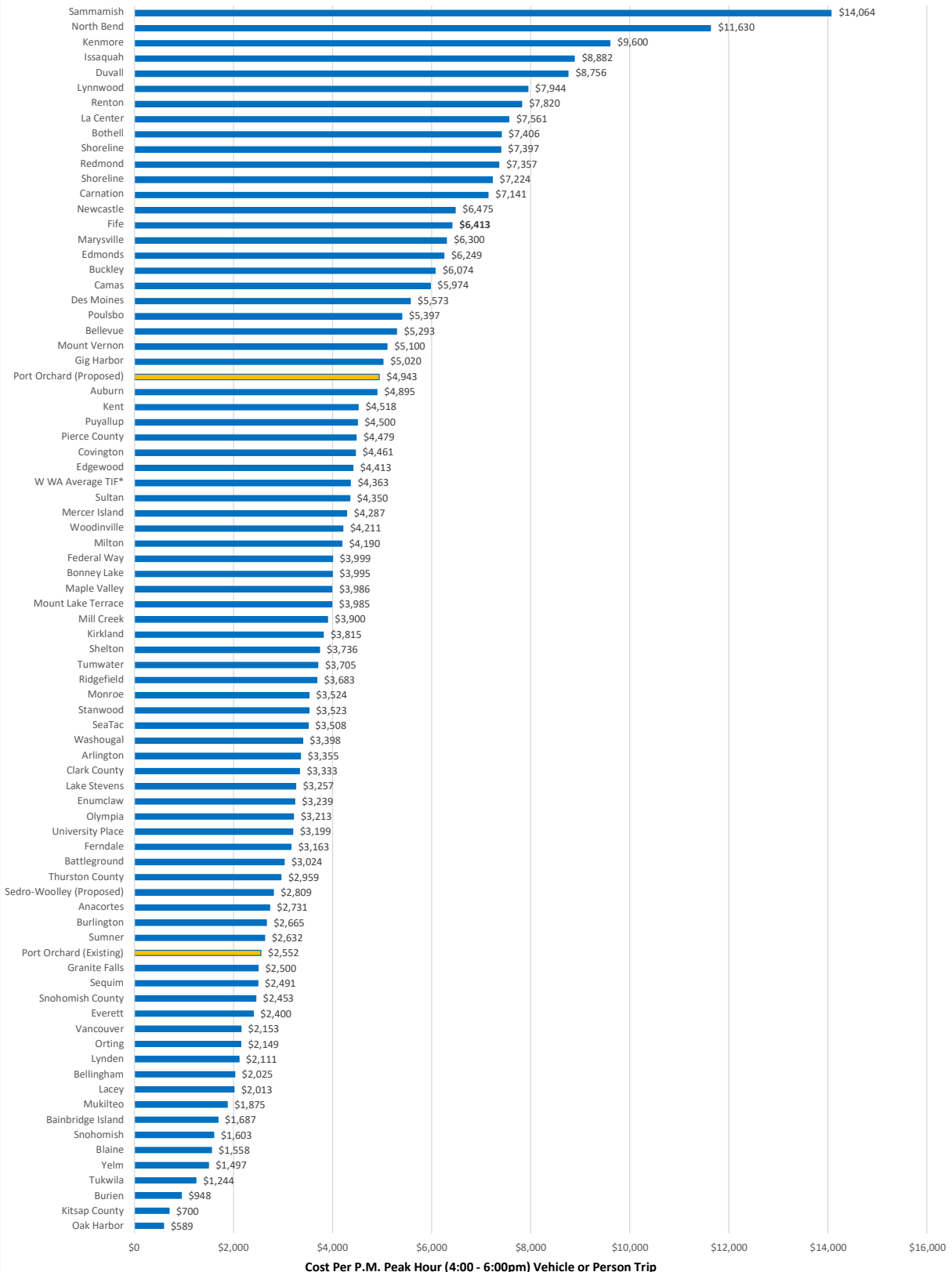
Appendix C. Comparison of 2019-2020 TIF Rates in Western Washington

**Comparison of 2019-2020 TIF Base Rates in 74 Cities and 5 Counties in Western Washington
With Bellingham and Whatcom County Cities Highlighted for Emphasis**

[Based on information available. Average includes both Cities and Counties. See TIF rate table on next page for additional details.]

Data compiled Nov. 2019 by Chris Comeau, AICP-CTP, Transportation Planner, Bellingham Public Works ccomeau@cob.org or (360) 778-7946

***Western WA State Average TIF**



PORT ORCHARD CITY PARKS PLAN



Appendix E: Impact Fee Calculations

E.1 Introduction

This study of impact fees for parks and recreational facilities for the City of Port Orchard presents the methodology, summarizes the data, and explains the calculation of the fees. The methodology is designed to comply with the requirements of Washington law. This introduction describes the basis for parks and recreational impact fees, including:

- Definition and Rationale of Impact Fees
- Statutory Basis For Impact Fees
- Methodology for Calculating Impact Fees
- Need for Additional Parks and Recreational Facilities
- Determining the Benefit of Parks and Recreational Facilities to Development
- Methodology and Relationship to Port Orchard City Parks Plan
- Level of Service and Calculations

E 1.1 Definition and Rationale of Impact Fees

Impact fees are charges paid by new development to reimburse local governments for the capital cost of public facilities that are needed to serve new development and the people who occupy the new development. New development is synonymous with "growth."

Local governments charge impact fees on either of two bases. First, as a matter of policy and legislative discretion, they may want new development to pay the full cost of its share of new public facilities because that portion of the facilities would not be needed except to serve the new development. In this case, the new development is required to pay for virtually all the cost of its share of new public facilities.

On the other hand, local governments may use other sources of revenue to pay for the new public facilities that are required to serve new development. If, RCW 82.02.050 (2) prohibits impact fees that charge 100% of the cost, but does not specify how much less than 100%, leaving that determination to local governments. However, such revenues are not sufficient to cover the entire costs of new facilities necessitated by new development; the new development may be required to pay an impact fee in an amount equal to the difference between the total cost and the other sources of revenue.

There are many kinds of "public facilities" that are needed by new development, including parks and recreational facilities, fire protection facilities, schools, roads, water and sewer plants, libraries, and other government facilities. This study covers parks and recreational facilities for the City of Port Orchard, Washington. Impact fees for parks and recreational facilities are charged to all residential development within the City of Port Orchard.

E1.2 Statutory Basis for Impact Fees

RCW 82.02.050 - 82.02.090 authorizes local governments in Washington to charge impact fees. The impact fees that are described in this study are not mitigation payments authorized by the State Environmental Policy Act (SEPA). There are several important differences between impact fees and SEPA mitigations. Two aspects of impact fees that are particularly noteworthy are: 1) the ability to charge for the cost of public facilities that are "system improvements" (i.e., that provide service to the community at large) as opposed to "project improvements" (which are "on-site" and provide service for a particular development), and 2) the ability to charge small-scale development their proportionate share, whereas SEPA exempts small developments. Four types of public facilities can be the subject of impact fees: 1) public streets and roads; 2) publicly owned parks, open space and recreational facilities; 3) school facilities; and 4) fire protection facilities (in jurisdictions that are not part of a fire district). RCW82.02.050 (2) and (4) and RCW82.02.090 (7)

Impact fees must be limited to system improvements that are reasonably related to, and which will benefit new development. RCW 82.02.050(3) (a) and (c). Local governments must establish reasonable service areas (one area, or more than one, as determined to be reasonable by the local government), and local governments must develop impact fee rate categories for various land uses. RCW 82.02.060(6) Impact fees cannot exceed the development's proportionate share of system improvements that are reasonably related to the new development. The impact fee amount shall be based on a formula (or other method of calculating the fee) that determines the proportionate share. RCW82.02.050(3)(b) and RCW82.02.060(1)

Impact fees can be charged for new public facilities (RCW 82.02.060(1)(a)) and for the unused capacity of existing public facilities (RCW 82.02.060(7)) subject to the

proportionate share limitation described above. Additionally, the local government must separate the impact fees from other monies, expend the money on CFP projects within 6 years, and prepare annual reports of collections and expenditures.
RCW82.02.070(1)-(3)

E 2 Methodology for Calculating Impact Fees

Prior to calculating impact fee rates, several issues must be addressed in order to determine the need for, and validity of such fees: responsibility for public facilities, the need for additional park and recreational facilities, the need for revenue for additional parks and recreational facilities, and the benefit of new parks and recreational facilities to new development.

In general, local governments that are authorized to charge impact fees are responsible for specific public facilities for which they may charge such fees. The City of Port Orchard is legally and financially responsible for the parks and recreational facilities it owns and operates within its jurisdiction. In no case may a local government charge impact fees for private facilities, but it may charge impact fees for some public facilities that it does not administer if such facilities are "owned or operated by government entities" (RCW 82.82.090(7)).

E 2.1 Need for Additional Park and Recreational Facilities

The need for additional parks and recreational facilities is determined by using standards for levels of service for park and recreational facilities to calculate the quantity of facilities that are required. For the purpose of quantifying the need for parks and recreational facilities, this study uses the City's value of investment in parks and recreational facilities per capita. As greater growth occurs, more investment is required, therefore more parks and recreational facilities are needed to maintain standards.

E 2.2 Determining the Benefit to Development

The Washington State law regarding Impact Fees imposes three provisions of the benefit provided to development by impact fees: 1) proportionate share, 2) reasonably related to need, and 3) reasonably related to expenditure (RCW 80.20.050(3)). First, the "proportionate share" requirement means that impact fees can be charged only for the portion of the cost of public facilities that is "reasonably related" to new development.

Second, fulfilling the requirement that impact fees be "reasonably related" to the development's need for public facilities, including personal use and use by others in the family (direct benefit), use by persons or organizations who provide goods or services to the fee-paying property (indirect benefit), and geographical proximity (presumed benefit). Impact fees for park and recreational facilities, however, are only charged to

residential development in the City because the majority of benefits are to the occupants and owners of dwelling units. As a matter of policy, the City of Port Orchard elects not to charge parks and recreational impact fees to non-residential properties because there is insufficient data to document the proportionate share of parks reasonably needed by non-residential development.

Lastly, the requirement that expenditures be "reasonably related" to the development that paid the impact fee includes that fee revenue must be earmarked for specific uses related to public facilities ensures that expenditures are on identifiable projects, the benefit of which can be demonstrated and that impact fee revenue must be expended within 6 years, thus requiring a timeliness to the benefit to the fee-payer.

E 2.3 Methodology and Relationship to the Port Orchard City Parks Plan

Impact fees for parks and recreational facilities in the City of Port Orchard are based on the value per capita of the City's existing investment in parks and recreational facilities for the population of the City. New development will be provided the same investment per capita, to be funded by a combination of general and capital improvement fund revenue and impact fees. The amount of the impact fee is determined by charging each new development for the average number of persons per dwelling unit multiplied times the amount of the investment per capita that is to be paid by growth.

E3. Level of Service Standard Calculations

The level of service, as defines as the capital investment per person, is calculated by multiplying the capacity of parks and recreational facilities times the average costs of those items. Within this calculation, there are two variables that benefit from further definition explanation: The value of parks and recreational inventory, and the Service population.

E 3.1 Value of Parks and Recreational Inventory

The value of the existing inventory of parks and recreational facilities is calculated by determining the value of each park as well as each recreational facility. The sum of all of the values equal the current value of the City's parks and recreational system

E 3.2 Service Population

The service population is the number of persons served by the inventory of parks and recreational facilities. Port Orchard's service population consists of the City's current 2011 population of 11,144 as provided by the Washington State of Financial Management. The forecast population for 2030 of is the projected population

estimated for Comprehensive Planning efforts and adopted by all Kitsap County jurisdictions, through the County Wide Planning Policies. This figure is provided to estimate future population growth within the existing City boundaries and is utilized in calculating the annual portion of that growth rate for the Impact Fee calculations.

E 3.3 Calculation of Park and Recreational Capital Investment per Person

The City of Port Orchard's capital value per person is the standard the City uses to ensure that each resident receives an equitable amount of parks and recreational facilities. The City provides this value by investment in parks and recreational facilities that are most appropriate for each site and which respond to changing needs and priorities as the City grows and the demographics and needs of the population changes.

Attachment E1 (at the end of this Appendix) lists the types of land and recreational facilities that make up the City of Port Orchard's existing park system. Each component is listed in the first column, along with the capital value of each type of park land or recreational facility in the final column. The capital value for all City owned parks & recreational facilities in the inventory comes to a total of \$7,228,929. This total value is divided by the service population of 11,144 for the City determines the current capital value per person of \$649. (Please reference Attachment E2: Figure E1)

E 4 PARKS AND RECREATIONAL FACILITY NEEDS

This section calculates the value of parks and recreational facilities that are needed to serve growth, reduced by the typical proportion of project values that are grant or otherwise funded. Impact fees are related to the needs of growth through calculating the total value of parks and recreational facilities that are needed for growth. The calculation is accomplished by multiplying the capital investment per person times the number of new persons that are forecast for the City's growth. (Please reference Attachment E2: Figure E2)

E 4.1 Calculation of Total Value Needed For Growth

The calculations for the total value of Parks and Recreation Facilities needed to accommodate the forecasted growth is a tabulation of the level of service standard for capital investment per person from Figure E1 times the total amount of population growth forecast for the six year Impact Fee planning period. The resulting calculation shows the total value of parks and recreational facilities that are needed to serve the growth that is forecast for Port Orchard (Please reference Attachment E2: Figure E2). The result of Figure E2 illustrates that Port Orchard needs parks and recreational facilities valued at \$1,928,434 in order to serve the growth of 2,973 additional people (forecast at an annual growth rate of 495 per year) who are expected to be added to the City's population during the six year Impact Fee planning period.

E 4.2 Total Investment to be Paid by Growth

The investment to be paid by growth is calculated by subtracting the amount of any revenues the City invests in infrastructure for growth from the total investment in parks and recreational facilities needed to serve growth. The previous calculation showed the total amount that is needed to invest in additional parks and recreation facilities in order to serve future growth. The proportionate share of that investment to be paid by growth is dependent upon the historic share of improvements provided by the City of Port Orchard through grants or other revenue streams. The proportionate share for development to pay for new facilities includes the City of Port Orchard historical use of local sources, such as real estate excise tax, grant funding, and other revenues to pay for part of the cost of parks and recreational facility capital costs. Revenues that are used for repair, maintenance or operating costs are not used to reduce impact fees because they are not used, earmarked or prorated for the system improvements that are the basis of the impact fees. The City's investment has averaged 50% of the cost of capital improvement projects for parks and recreational facilities (Please reference Attachment E2: Figure E3). The result of Figure E3 illustrates that Port Orchard expects to use \$964,217 in grants and other revenues to serve the total needs of additional parks and recreational facilities to maintain the City's standards for future growth, with the remaining \$964,217 to be paid by growth as a proportionate share.

E5 IMPACT FEE PER UNIT OF DEVELOPMENT

In this section the investment in additional parks and recreational facilities to be paid by growth is used to calculate the park and recreational facilities growth cost per person which is then used to calculate the impact fee per dwelling unit.

E 5.1 Growth Cost Per Person

The growth cost per person is calculated by dividing the investment in parks and recreational facilities that is to be paid by growth by the amount of population growth during the six year Impact Fee planning period (Please reference Attachment E2: Figure E4). The result of Figure E4 illustrates the calculation of the cost per person of parks and recreational facilities that needs to be paid by growth is \$324 per person. The amount to be paid by each new dwelling unit depends on the number of persons per dwelling unit.

E 5.2 Impact Fee per Dwelling Unit

The impact fee per dwelling unit is calculated by multiplying the growth cost per person by the number of persons per dwelling unit. The number of persons per dwelling unit is the factor used to convert the growth cost of parks and recreational facilities per

person into impact fees per dwelling unit. The number of persons per dwelling unit data is based on the adopted 2008 Port Orchard Comprehensive Plan, Chapter 3. Housing; which sets an population household size of 2.5 persons per single family unit and a calculation of 1.8 persons per Multi-family housing unit within the City of Port Orchard (Please reference Attachment E2: Figure E5 and E6 respectively).

The resulting calculations of Figure E5 shows the calculation of the parks and recreational facilities impact fee of \$811 per single family dwelling unit. The resulting calculations of Figure E6 show the calculation of the parks and recreational facilities impact fee of \$584 per multi-family dwelling unit. Impact Fee amounts, upon adoption by City Council, are to be implemented and collected subject to the provisions of Port Orchard Municipal Code Section 16.70.

E6. Summary

This study of impact fees for parks and recreational facilities for the City of Port Orchard summarizes the methodology, presents the data, and explains the calculation of the fees that result in the recommended amounts. Similar sized Cities within Kitsap County have chosen to utilize much higher impact fee amounts, for example the City of Poulsbo recently raised their Park Impact Fee from \$500 to \$1,195 per unit. The proposed Park Impact Fees for the City of Port Orchard of \$811 per single family dwelling unit and \$584 per multi-family dwelling unit, although consistent with the City of Port Orchard level of service, still are well below the Washington State average of \$ 2,849 per single family dwelling unit and \$2,147 per multi-family dwelling unit respectively. (Sourced from the National Impact Fee Survey 2009, prepared by Clancy Mullen, Duncan Associates, Austin, TX on December 20, 2009) The methodology utilized for arriving at the City of Port Orchard impact fee amounts has been a statewide standard incorporated for numerous Washington State cities and is designed to comply with the requirements of Washington law.

INTENTIONAL BLANK PAGE

CITY OF PORT ORCHARD COMPREHENSIVE PARKS PLAN

VII. DISTRICT FINANCE PLAN

The principal funding mechanism for school facility construction and modernization has traditionally been voter approved bonds. More recently, school districts have been turning to capital levies to support modernizations and elementary school new construction projects. Other funding sources can include state funding assistance and development impact (mitigation) fees.

General Obligation Bonds

Bonds are typically used to fund construction of new schools and other major capital improvement projects. A 60% voter approval is required for passage. Bonds are then retired over time through the collection of property taxes.

The South Kitsap School District had an assessed valuation of \$6,123,112,269 as of August 31, 2014. The limit for all outstanding bonds for SKSD is 5% of assessed value or \$306,155,613. The District had \$5,645,481 of debt as of August 31, 2014, and therefore has a current bonding capacity of \$300,510,132.

State Funding Assistance

The source of State Funding Assistance, formerly State Match Funds, is the Common School Construction Fund. Bonds are sold on behalf of the fund then retired with revenues accruing predominantly from the sale of renewable resources (i.e., timber) from state school lands set aside by the Enabling Act of 1889. If these sources are insufficient to meet the needs of the program, the Legislature can appropriate additional funding, or the State Board of Education can ration project funding on a priority basis.

School districts may qualify for state funding assistance for specific capital projects based on an eligibility system. Eligible projects are prioritized using seven different criteria. Funds are then disbursed to districts on a percentage basis that is based on a formula that compares each district's assessed valuation per pupil relative to the entire state assessed valuation per pupil. This percentage is known as the Funding Assistance Percentage, formerly State Match Ratio.

The base to which this percentage is applied is the cost of construction as determined by the "Construction Cost Allocation" multiplied by the "Eligible Area". The Construction Cost Allocation (CCA) is used by OSPI to help define or limit its level of financial support for school construction. It is a budget driven value that is not intended to fully reflect the actual cost of school construction in Washington State. The Eligible Area portrays either the square footage of new space required to address unhoused students for an enrollment project, or the building square footage approved for upgrade or replacement for a modernization project.

State funding assistance is available to assist districts with construction costs for enrollment and modernization related school construction projects but cannot be used for site acquisition, the purchase of portables or for normal building maintenance. Because the availability of state assistance funds may not always keep pace with the enrollment growth or modernization needs of all of Washington's school districts, assistance funds from the state may not be received by a school district until two or three years after a school project has begun. In such cases, a district may be required to "front fund" meaning it must be prepared to finance the entire project with local funds. The State's share of the project funding is then provided to the district later in the form of a reimbursement. In some cases projects may not receive any state assistance at all. State funding assistance is not guaranteed.

South Kitsap School District 2015 Capital Facilities Plan

New Development Mitigation/Impact Fees

The authority for local jurisdictions to condition new development on the mitigation of school impacts is provided for under the State Subdivision Act, Chapter 58.17 RCW, the State Environmental Policy Act, Chapter 43.21C RCW, and the Growth Management Act, Chapter 36.70A RCW. These state statutes seek to ensure that adequate public facilities are available to meet the demands of new growth by authorizing permitting jurisdictions to condition development approval on the implementation of mitigation measures that enable local jurisdictions to meet the infrastructure demands of new development.

- **Subdivision Act Mitigation** RCW 58.17.110 requires the permitting jurisdiction to find that proposed plats adequately provide for schools and school grounds. The proposed development must provide land sufficient to ensure that such facilities are provided for potential new students.
- **SEPA Mitigation.** SEPA provides that local jurisdictions may condition the approval of a new development to the mitigation of specific adverse environmental impacts which are identified in SEPA environmental documents. *See* RCW 43.21C.060. Under SEPA, the "built environment" includes public schools. *See* WAC 197-11-444(2) (d) (iii).
- **GMA Mitigation.** Development impact fees have been adopted by Kitsap County and the City of Port Orchard as a means of supplementing traditional funding sources for the construction of public facilities needed to accommodate new development. The City of Bremerton does not impose an impact fee on new development. The District participates in the permit review processes of jurisdictions within its boundaries to ensure that its interests are considered when new developments are proposed that will generate additional students.

Six-Year Finance Plans

The Six-Year Capital Finance Plan (Table 12) portrays how South Kitsap School District intends to fund improvements to school facilities for the years 2015 through 2020.

South Kitsap School District 2015 Capital Facilities Plan

**Table 12
Capital Finance Plan (2015-2020)**

Sources:		
CFP Balance/Impact Funds (Aug 2014)	\$ 1,000,164	
Impact Fee Collections 2015-2020 (est.)	\$ 1,438,680	
Transfer from General Funds	\$ 0	
State Matching Funds (est.)	\$ 0	
Sale of General Obligation Bonds	\$ 0	
Improvements to Existing Facilities	\$ <u>4,750,000</u>	\$7,188,844
 Uses:		
CFP Balance/Impact Funds (Aug 2020 est.)	\$ 378,769	
Improvements to Existing Facilities	\$ 4,750,000	
Construction for Enrollment Growth	\$ 0	
Site Acquisition	\$ 1,760,075	
Construction of Support Facilities	\$ 0	
Interim Classroom Space	\$ 300,000	
Program Changes	\$ <u>0</u>	\$ <u>7,188,844</u>
 Balance:		 \$ 0

South Kitsap School District 2015 Capital Facilities Plan

VIII. UNFUNDED NEED CALCULATION

The calculation of the South Kitsap School District unfunded need in support of jurisdictional school impact fee collection is provided on the spreadsheets that follow. This calculation recognizes projected costs anticipated over the life of the six-year plan including acquisition costs for interim housing and debt service payments on a 56 acre school site that was purchased in 2005.

The “Unfunded Need Total” on the last line of the SKSD Impact Fee Calculation document portrays the cost of addressing new home construction related enrollment growth identified within the six-year capital construction plan. This value is greater than the actual school impact fees specified and collected under respective Kitsap County and City of Port Orchard impact fee ordinances.

South Kitsap School District 2015 Capital Facilities Plan

<u>Description</u>	<u>Grade Span</u>	<u>Value</u>	<u>Units</u>	<u>Comments</u>
Student Generation Factor-SFH	Elementary	0.32	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-SFH	Jr. High	0.10	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-SFH	Sr. High	0.10	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-MFH	Elementary	0.18	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-MFH	Jr. High	0.09	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-MFH	Sr. High	0.09	Students/Residence	2007 Kendrick Demographic Study
Facility Acreage	Elementary	14.00	Acres	District Average
Facility Acreage	Jr. High	22.00	Acres	District Average
Facility Acreage	Sr. High	42.00	Acres	Plan for New High School
Cost per Acre	All	\$115,000	Cost/Acre	Market Estimate
Facility Size - New Construction	Elementary	550	Students/School	District Standard
Facility Size - New Construction	Jr. High	900	Students/School	District Standard
Facility Size - New Construction	Sr. High	1800	Students/School	Plan for New High School
Facility Size - Temporary Construction	Elementary	24	Student/Classroom	District LOS
Facility Size - Temporary Construction	Jr. High	26	Student/Classroom	District LOS
Facility Size - Temporary Construction	Sr. High	26	Student/Classroom	District LOS
Permanent Sq. Footage (Total)	Elementary	507894	Square Feet	State Study & Survey
Permanent Sq. Footage (Total)	Jr. High	286193	Square Feet	State Study & Survey
Permanent Sq. Footage (Total)	Sr. High	345474	Square Feet	State Study & Survey
Portable Sq. Footage (Total)	Elementary	45900	Square Feet	Portables Inventory
Portable Sq. Footage (Total)	Jr. High	18900	Square Feet	Portables Inventory
Portable Sq. Footage (Total)	Sr. High	10800	Square Feet	Portables Inventory
Facility Cost - New Construction	Elementary		Cost/School	
Facility Cost - New Construction	Jr. High		Cost/School	
Facility Cost - New Construction	Sr. High		Cost/School	
Facility Cost - Temporary Construction	Elementary	\$300,000	Cost/Portable	Standard Dbl Portable including Site Costs
Facility Cost - Temporary Construction	Jr. High	\$300,000	Cost/Portable	Standard Dbl Portable including Site Costs
Facility Cost - Temporary Construction	Sr. High	\$300,000	Cost/Portable	Standard Dbl Portable including Site Costs
Boeckh Index / Area Cost Allowance	All	\$206.70	Cost/sq. ft.	OSPI - 2015
SPI Footage	Elementary	90.0	Sq. Ft./Student	OSPI - 2015
SPI Footage	Jr. High	121.3	Sq. Ft./Student	OSPI - 2015
SPI Footage	Sr. High	130.0	Sq. Ft./Student	OSPI - 2015
State Match Ratio	All	59.98%	Percent	OSPI - 2015
Average Assessed Value - SFH	All	\$201,260	Cost/Unit	Kitsap County Assessor SFH 2015
Average Assessed Value - MFH	All	\$100,630	Cost/Unit	Kitsap County Assessor SFH 2015 @ 50%
Capital Bond Interest Rate	All	0.00%	Percent	
Years Amortized	All	10	Years	
Property Tax Levy Rate - Capital Construction	All	\$0.00	Cost/\$1000 A.V.	

South Kitsap School District 2015 Capital Facilities Plan

School Site Acquisition Cost:

((Acres X Cost per Acre)/Facility Capacity) X Student Generation Factor

CALCULATIONS

	Facility Acreage	Cost per Acre	Facility Capacity	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	14	\$115,000.00	550	0.32	0.18	\$936.73	\$526.91
Jr. High	22		900	0.10	0.09	\$0.00	\$0.00
Sr. High	42	\$115,000.00	1800	0.10	0.09	\$268.33	\$241.50
						\$1,205.06	\$768.41

School Construction Cost:

((Facility Cost/Facility Capacity) X Student Generation Factor) X Permanent/Total Sq. Ft.)

	% Perm/ Total Sq. Ft.	Facility Cost	Facility Size	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	92%		550	0.32	0.18	\$0.00	\$0.00
Jr. High	94%		900	0.10	0.09	\$0.00	\$0.00
Sr. High	97%		1800	0.10	0.09	\$0.00	\$0.00
						\$0.00	\$0.00

Temporary Facility Cost:

((Facility Cost/Facility Capacity) X Student Generation Factor) X (Temporary/Sq. Ft)

	% Temp/ Total Sq. Ft.	Facility Cost	Facility Size	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	8%	\$300,000.00	48	0.32	0.18	\$165.77	\$93.24
Jr. High	6%		52	0.10	0.09	\$0.00	\$0.00
Sr. High	3%		52	0.10	0.09	\$0.00	\$0.00
						\$165.77	\$93.24

State Match Credit

Area Cost Allowance X SPI Sq. Ft X State Match X Student Generation Factor

	Boeckh Index	SPI Footage	State Match %	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	\$206.70	90.00		0.32	0.18	\$0.00	\$0.00
Jr. High	\$206.70	121.30		0.10	0.09	\$0.00	\$0.00
Sr. High	\$206.70	130.00		0.10	0.09	\$0.00	\$0.00
						\$0.00	\$0.00

Tax Payment Credit

	SFH	MFH
Average Assessed Value		
Capital Bond Interest Rate	0.00%	0.00%
Net Present Value of Average Dwelling		
Years Amortized	10	10
Property Tax Levy Rate	\$0.00	\$0.00
Present Value of Revenue Stream	\$0.00	\$0.00

NEED SUMMARY

	SINGLE FAMILY	MULTI FAMILY
School Site Acquisition Cost	\$1,205.06	\$768.41
Permanent Facility Cost	\$0.00	\$0.00
Temporary Facility Cost	\$165.77	\$93.24
State Match Credit	\$0.00	\$0.00
Tax Payment Credit	\$0.00	\$0.00
UNFUNDED NEED TOTAL	\$1,370.83	\$861.65



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>Public Hearing 6B</u>	Meeting Date:	<u>February 9, 2021</u>
Subject:	<u>Public Hearing for the McCormick Woods Development Agreement for Transportation</u>	Prepared by:	<u>Nicholas Bond, AICP DCD Director</u>
		Atty Routing No.:	<u>Development-Matter 11</u>
		Atty Review Date:	<u>February 3, 2021</u>

Summary: The City has been negotiating a new development agreement for transportation with McCormick Communities for the past year. This new agreement, if approved, would repeal and replace the old 2005 Transportation Agreement that was made between the prior property owner and the County. An updated agreement is desired because the 2005 Transportation Agreement predates annexation, is cumbersome, makes the administration of the City's impact fee program unnecessarily complicated, restricts the City's spending of impact fees collected in the McCormick Development Area, and does not reflect the desired outcomes in the City's comprehensive plan. Some elements of the 2005 Transportation Agreement are proposed to be carried forward, including concurrency approvals, a reimbursement to the McCormick Land Company related to the Glenwood Connector Road and Feigley Road improvement projects, and agreement that right of way needed from the developer in the future will be provided as needed.

The major changes concern the term of the agreement which was unclear in the 2005 Transportation Agreement. Under the proposed Development Agreement, the term is more certain would be 20 years going forward with possible extensions. The new Development Agreement also will eliminate the impact fee specific to McCormick Communities in favor of one citywide impact fee which makes administrative more uniform. Another significant change is that the new Development Agreement provides that the developer will build two transportation projects (Campus Parkway Roundabout (Project ID #1.5C) and McCormick Woods Drive/Old Clifton Road Roundabout (Project ID #2.08)) and will receive impact fee credits, vs. the reimbursement model from the previous agreement. The benefit of a citywide impact fee would be that fees collected in McCormick Woods would help pay for a greater share of improvements outside of McCormick Woods, such as the Bethel Avenue project. Finally, the proposed Development Agreement gives the City greater latitude in spending the impact fees that were collected under the 2005 Transportation Agreement which currently amounts to \$772,097.79 (as of November 30, 2020).

POMC 20.26 (Development Agreements) outlines the process for development agreement approval. Developers seeking a development agreement, must submit an application. In this case, the application for the development agreement was filed on December 7, 2020, and per the applicant's request, was consolidated for review under POMC 20.22.020 (2) with permits PW20-031 and -032. These permits, a LDAP and SDP for the Campus Parkway Roundabout, were approved in a decision issued December 24, 2020. The proposed development agreement is related to these permits because a traffic impact fee credit is proposed for the construction of this roundabout by the developer. If the ordinance for the Development Agreement is

approved subsequent to the public hearing (Council Agenda Item 7A), the Council can then adopt an updated traffic impact fee at this meeting (Council Agenda Item 7B).

This item was discussed at the January 19, 2021 Council work-study meeting, and Council directed staff to put a public hearing on the February 9 Council meeting agenda, and bring an ordinance and amended traffic impact fee for approval at the same meeting.

Relationship to Comprehensive Plan: The Development Agreement includes two transportation projects (Campus Parkway Roundabout, and McCormick Woods Drive/Old Clifton Road Roundabout) on the City's adopted Transportation Improvement Program (TIP), which is incorporated into the Comprehensive Plan by reference. These projects are also included in Table 8.7.2 of the of the Comprehensive Plan's Transportation Element.

Recommendation: Staff recommends that the City Council hold a public hearing on the McCormick Woods development agreement for transportation.

Fiscal Impact: The proposed agreement will result in the developer constructing 2 projects that are listed on the City's Transportation Improvement Program saving the city money and staff resources. The agreement provides an offsetting traffic impact fee credit for these improvements which will reduce impact fee revenue by \$1,000 per house in the McCormick area until the credit is exhausted. The project also allows for the creation of a single citywide impact fee program which will allow impact fee funds to be used on any eligible project anywhere in the city regardless of where the development triggering the fee payment occurs.

Alternatives: Do not approve the Development Agreement; request changes to the Development Agreement.

Attachments: Ordinance; 2021 Development Agreement; Exhibits to 2021 Development Agreement; 2005 Development Agreement.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT WITH MCCORMICK COMMUNITIES, LLC; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 36.70B.170, the City Council has the authority to review and enter into development agreements that govern the development and use of real property within the City; and

WHEREAS, the City Council has adopted standards and procedures governing the City's use of development agreements, codified at Chapter 20.26 of the Port Orchard Municipal Code (POMC); and

WHEREAS, the City and McCormick Communities, LLC have prepared a Development Agreement to address the design, construction, and funding of certain transportation improvements within and near the McCormick Woods development in the vicinity of Old Clifton Road and Campus Parkway, as provided in "Exhibit A" of this Ordinance; and

WHEREAS, McCormick Land Company is also a party to this Agreement as the Agreement will replace a 2005 Transportation Development Agreement under which McCormick Land Company is continuing to receive reimbursement for completion of transportation improvements; and

WHEREAS, this Development Agreement was consolidated under POMC 20.22.020(2) with the following project permits: Land Disturbing Activity Permit (PW20-031) and Stormwater Drainage Permit (PW20-032); and

WHEREAS, in accordance with RCW 36.70B.200, when a development agreement is related to a project permit application, the provisions of chapter 36.70C RCW shall apply to any appeal on the development agreement; and

WHEREAS, on December 9, 2020, the City's SEPA official issued a determination of non-significance for the proposed development agreement and consolidated permits under the Optional DNS process, and there have been no appeals; and

WHEREAS, the Notice of Decision for these project permits was issued on December 24, 2020 and there have been no appeals; and

WHEREAS, on January 19, 2021, the City Council held a study session on the proposed

development agreement; and

WHEREAS, on February 9, 2021, the City Council held a public hearing on the proposed development agreement, and (comments received/not received, etc); and

WHEREAS, the City Council, after careful consideration of the development agreement and all public comments and testimony, finds that the development agreement is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City; now, therefore,

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

SECTION 1. The City Council adopts all of the "Whereas" sections of this ordinance and all "Whereas" sections of the Development Agreement as findings in support of this ordinance.

SECTION 2. The City Council approves of and authorizes the Mayor to execute a development agreement with McCormick Communities, LLC and McCormick Land Company, as provided in "Exhibit A" of this Ordinance.

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

SECTION 4. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this Ordinance, including but not limited to the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 5. Effective Date. This Ordinance shall be published in the official newspaper of the city and shall take full force and effect five(5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of publishing the entire Ordinance, as authorized by state law.

SECTION 6. Appeals. Since the Development Agreement is related to a project permit application, the provisions of chapter 36.70C RCW shall apply to the appeal of the decision of the

development agreement.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 26th day of January 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte A. Archer, City Attorney

Bek Ashby, Councilmember

PUBLISHED:

EFFECTIVE DATE:

EXHIBIT A: MCCORMICK COMMUNITIES, LLC, DEVELOPMENT AGREEMENT

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF PORT ORCHARD AND MCCORMICK FOR THE
DEVELOPMENT AND FUNDING OF
CERTAIN TRANSPORTATION IMPROVEMENTS**

THIS DEVELOPMENT AGREEMENT is made and entered into this ___ day February 2021, by and between the City of Port Orchard, a non-charter, optional code Washington municipal corporation, hereinafter the “City,” and McCormick Communities, LLC, a limited liability company organized under the laws of the State of Washington, together with McCormick Development Corporation, a Washington Corporation, hereinafter collectively the “Developer” or “McCormick” (together the “Parties”).

In addition, McCormick Land Company, a Washington corporation, hereafter “MLC,” is a Party for purposes of Sections 7, 15, and such other sections as specifically refer to MLC.

The Parties hereby agree as follows:

RECITALS

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)); and

WHEREAS, Port Orchard adopted Chapter 20.26 of the Port Orchard Municipal Code (“POMC”) which establishes the standards and procedures for Development Agreements in Port Orchard; and

WHEREAS, Chapter 20.26 POMC is consistent with State law; and

WHEREAS, the Developer has applied for a Development Agreement under Chapter 20.26 POMC and such Agreement has been processed consistently with the POMC and State law; and

WHEREAS, this Development Agreement by and between the City of Port Orchard and the Developer (hereinafter the “Development Agreement”), relates primarily to the development of property owned by Developer within and near McCormick Woods in the vicinity of Old Clifton Road and Campus Parkway and that is more particularly described on Exhibits A-1, A-2,

Development Agreement for Funding Transportation Improvements

Page 1 of 19

FG:54082696.4

B-1, and B-2 (hereinafter the “McCormick Property”); and

WHEREAS, in 2005 the City’s predecessor in interest entered into a Development Agreement with Developer’s predecessor in interest for the development of certain transportation improvements; and

WHEREAS, since that time, the City annexed the property and in accordance with RCW 36.70B.190 assumed jurisdiction and agreed to be bound by the 2005 Transportation Development Agreement; and

WHEREAS, as part of that 2005 Agreement, the predecessor to the Developer (GEM 1, LLC) constructed some projects and payments for those projects are still on-going and will continue until GEM 1, LLC’s successor is fully reimbursed; and

WHEREAS, since annexing this property, the City’s transportation plans have been updated; and

WHEREAS, the City is in the process of adopting updated transportation impact fees; and

WHEREAS, during this process, an in-depth look at the projects needed to meet the projected development by Developer and others in the City was performed; and

WHEREAS, the updated transportation impact fees are based, in part, on the 2005 Development Agreement with the Developer’s predecessor as well as on the updated project list; and

WHEREAS, the Developer did not acquire from GEM 1, LLC (“GEM 1”), and GEM 1 still retains, the right to reimbursement that accrued under the 2005 Transportation Agreement when GEM 1 constructed the Glenwood Connector Roadway and minor improvements to Feigley Road, the only projects identified in that 2005 agreement that have been constructed; and

WHEREAS, the City has been paying such reimbursement to GEM 1 and its successor since 2008, and nothing in this Agreement changes or is intended to change the City’s obligation to continue paying such reimbursement to GEM 1; and

WHEREAS, GEM 1 assigned its right to reimbursement to the McCormick Land Company in 2016, after which time, the City paid reimbursement to the McCormick Land Company (“MLC”); and

WHEREAS, MLC continues to own property in Port Orchard; and

WHEREAS, MLC has signed this Agreement to confirm that this Agreement will fully replace and supersede the 2005 Transportation Development Agreement (“2005 Transportation DA”); and

WHEREAS, the Developer now seeks to update the 2005 Transportation DA in conjunction with obtaining a permit to build the Campus Parkway Roundabout; and

WHEREAS, the purpose of this Agreement is to carry forward and better define the concurrency evaluation that was part of the 2005 Transportation DA, to carry forward the impact fee reimbursement for MLC, and to establish an impact fee credit system for Developer to recover its costs of building the McCormick Projects described below; and

WHEREAS, apart from concurrency and impact fee credits/reimbursement, this Agreement does not address development standards, vesting, or any other regulation that impacts how the McCormick Property will be developed; and

WHEREAS, the Parties agree that the 2005 Transportation DA, as set forth in the traffic study attached to that 2005 Transportation DA, anticipated the generation of 4,935 PM peak hour trips. Based on the development activity since 2005, some of these “trips” have been absorbed. The parties believe it is advantageous to set forth the remaining capacity that may be utilized in future development phases and have confirmed the concurrency numbers as of the date of this Agreement; and

WHEREAS, in consideration of the benefits conferred by this new Development Agreement, which reflect the current plans of both the City and the Developer and include confirmation of concurrency, a new project list, and a set impact fee credit calculation, the parties deem it in their best interests and the best interests of the community to repeal and replace the 2005 Transportation DA with this updated agreement; and

WHEREAS, there are two projects identified on both Exhibit A to the 2005 Transportation DA and also on the City’s new TIP. As described in the new TIP, these projects are ID #1.5C, “Old Clifton Rd – Campus Pkwy Intersection and ID #2.08 Old Clifton Rd & McCormick Woods Dr. Intersection Impr”. These two projects are collectively referred to herein as “the McCormick Projects”; and

WHEREAS, the McCormick Projects are eligible for credits under RCW 82.02.060(4); and

WHEREAS, the following events have occurred in the processing of the Developer’s application:

- a) The Developer applied for this Development Agreement on December 4, 2020; and
- b) The Development Agreement is related to and has been consolidated under POMC 20.22.020(2) with the following project permits:

Land Disturbing Activity Permit PW20-031
Stormwater Drainage Permit PW20-032

- c) The Developer is ready and willing to commence construction on the project known as Old Clifton Rd - Campus Parkway Intersection (a roundabout project) and has applied for a

Land Disturbing Activity permit and Stormwater Drainage Permit to perform this project;

d) The Old Clifton Rd – Campus Parkway Intersection is included in the City’s transportation plan upon which the updated impact fees are based and therefore the Developer may be reimbursed from the impact fees for that project;

e) The City Council held a public hearing on February 9, 2021 regarding this Development Agreement;

f) After a public hearing, by Ordinance No.____, the City Council authorized the Mayor to sign this Development Agreement with the Developer;

AGREEMENT

Section 1. The McCormick Projects. The two transportation projects described above as “the McCormick Projects” will serve the McCormick Property as well as provide connectivity and capacity for the City. The Campus Parkway Roundabout LDAP Permit #PW20-0031 and SDP Permit PW20-032 as well as the future development of the McCormick Woods Drive Roundabout, which will be permitted at a later date, are both subject to impact fee credit in accordance with this Agreement.

Section 2. The McCormick Property. The McCormick Property comprises McCormick North, McCormick West, and McCormick Woods, which are legally described by parcel number in Exhibit A-1 and depicted on A-2, attached hereto and incorporated herein by this reference. The McCormick Projects will serve the McCormick Property and the credits authorized by this Development Agreement are only applicable to lots for which building permits are applied for after the date of this Agreement within the boundaries of the McCormick Property as defined on Exhibit A-1 and as shown on the Map attached hereto as Exhibit A-2.

Section 3. Definitions. As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

a) “2005 Transportation Development Agreement” or “2005 Transportation DA” means the 2005 Development Agreement for Transportation which was executed between Kitsap County and Gem 1, LLC and dated April 25, 2005 and which was assumed by the City of Port Orchard upon annexation on May 27, 2009.

b) “Adopting Ordinance” means the Ordinance which approves this Development Agreement, as required by RCW 36.70B.200 and Chapter 20.26 POMC.’

c) “Commence construction” as to the McCormick Projects means that the required permit(s) have issued and there are “boots on the ground” at the construction site.

d) “Completion” as to the McCormick Projects means passing final inspection associated with the LDAP/SDP permits and providing the required 2-year warranty and

maintenance bond for the improvement(s).

“CPI-U” means the percentage rate change for the All Urban Consumers Index (CPI-U) (1982-1984=100), not seasonally adjusted, for the Seattle-Tacoma-Bellevue area for that 12 month period from January 1st to December 31st Indexed as the Annual Average, as is specified by the Bureau of Labor Statistics, United States Department of Labor. Increases based on CPI-U shall take effect on March 1st of the following year.

e) “Council” or “City Council” means the duly elected legislative body governing the City of Port Orchard.

f) “Director” means the City’s Community Development Director.

g) “Effective Date” means the effective date of the Adopting Ordinance.

h) “Maximum credit” or “maximum reimbursement” means the maximum amount that is eligible for projects subject to this Agreement, or for past projects done by GEM 1/MLC, for which reimbursement or impact fee credits will be provided by the City to the Developer or MLC.

i) “McCormick Project(s)” or “Project(s)” means the two transportation projects described above which serve both the McCormick Property and the greater community, as specified in Section 1 and as provided for in all associated permits/approvals, and all incorporated exhibits.

Section 4. Exhibits. Exhibits to this Agreement are as follows:

a) **Exhibit A-1** – Parcel numbers of the McCormick Property that are subject to impact fee credit.

b) **Exhibit A-2** – Map depicting the boundaries of the McCormick Property that are subject to the impact fee credit in this Agreement.

c) **Exhibit B-1** – Parcel numbers of the McCormick Property with vested concurrency.

d) **Exhibit B-2** Map depicting the boundaries of the McCormick Property with vested concurrency .

e) **Exhibit C** – Map showing the original boundaries for the 2005 Transportation DA which remains the reimbursement area for MLC

Section 5. Parties to Development Agreement. The parties to this Agreement are:

a) The “City” is the City of Port Orchard, 216 Prospect Street, Port Orchard, WA 98366.

b) The “Developer” or “Property Owner” or “McCormick” is a private enterprise which owns the McCormick Property in fee, and whose principal office is located at 12332 NE 115th Place, Kirkland, WA.

c) GEM 1, LLC is the prior owner of the property that was subject to the 2005 Transportation DA, and MLC is the successor to GEM 1 for purposes of reimbursement. MLC is located at 1869 McGilvra Blvd E, Seattle, WA 98112 and is still receiving reimbursement from the City for transportation projects done under the 2005 Transportation DA. These payments will continue in accordance with Section 15 of this Agreement.

Section 6. Projects are a Private Undertaking. It is agreed among the parties that the Projects are private improvements for which credits are required pursuant to RCW 82.02.060(4) and that the City has no interest in the improvements until such time as each Project is completed and dedicated to the City.

Section 7. Term of Agreement. This Agreement shall commence upon the effective date of the Adopting Ordinance approving this Agreement and shall continue in force for a period of twenty (20) years unless extended or terminated as provided herein, provided that reimbursement to MLC pursuant to Section 15 shall survive expiration until full reimbursement is received by MLC. Following the expiration of the term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect.

Section 8. Repeal and Replacement of 2005 Transportation DA. In consideration of the benefits to the Developer provided by the timely construction of the McCormick Projects, the confirmation of concurrency, the agreement on a credit calculation for transportation impact fees which will be charged to the McCormick Property, and the continuation of reimbursement from impact fees to MLC, the Developer, MLC, and the City agree to rescind, and by execution of this Agreement do rescind, the 2005 Transportation Agreement, and replace it with this Development Agreement.

Section 9. Concurrency. The Parties agree that City streets affected by development of the McCormick Property have the capacity to serve the McCormick Property in compliance with the City’s concurrency requirements so long as such development does not result in the generation of more than 3,806 PM peak hour trips, which is the number of remaining trips identified in Section 9 of the 2005 Transportation DA reserved for the McCormick Property identified on Exhibits B-1 and B-2. This remaining concurrency provided in the 2005 Transportation DA is being carried forward for the duration of this Agreement as set forth below. These trips are available as of December 15, 2020.

Area	Available PM Peak Trips	Lots/Units for Residential ¹	Map Designation on Ex. C
McCormick North			North
• Village local center	659	(See Note 1)	North

(residential + commercial			
• Single Family Residential	312	315	North
Total McCormick North	971		
McCormick West			West
• Multifamily	415	419	West
• Single Family Residential	1,530	1,545	West
Total McCormick West	1,945		
McCormick Woods	697	640	Wd
McCormick Woods Retail	63	N/A	Wd
McCormick Woods Conference (Golf Facilities)	122	N/A	GC
McCormick Woods legacy lots	8	8	Not depicted
Total McCormick Woods	890		
Grand Total	3,806		

¹ There are 659 PM Peak Trips available within the Village local center. Residential PM Peak Trips will be calculated per unit and commercial PM Peak trips will be calculated by use type and square footage.

The defined areas for the assigned concurrency numbers above are listed by parcel number on Exhibit B-1 and shown (except for the eight legacy lots, which are vacant lots in prior subdivisions) on Exhibit B-2, which Exhibits are attached hereto and incorporated herein by this reference as if set forth in full. Residential development shall be limited by either the PM peak hour trips or the number of units, whichever is more restrictive. Commercial development shall be limited only by the PM peak hour trips. To the extent that McCormick in the future proposes residential or commercial development within the McCormick Property that will generate more than the number of PM peak hour trips shown in the above table, the City will make a new concurrency determination regarding the capacity of its street system at that time.

Section 10. Project Schedule. The Developer will commence construction of the two McCormick Projects on the following schedule

- a) Work on the roundabout at the intersection of Old Clifton Road and Campus Parkway (Project ID #1.5C on the City’s TIP) (Permits #PW20-031 and PW20-032) shall commence no later than June 30, 2021, and Developer will complete construction in a timely and workmanlike manner. Such work shall be completed no later than September 30, 2022.
- b) Developer will submit a complete set of plans for a roundabout at the intersection of Old Clifton Road and McCormick Woods Drive (Project ID #2.08) no later than June 1, 2023

and will commence construction of said roundabout no later than June 1, 2024, provided that the City has before then acquired the additional land, not owned by Developer, that is needed for this roundabout; and Developer will complete construction in a timely and workmanlike manner. Such work shall be completed no later than September 30, 2025 so long as the City has acquired the land necessary for the roundabout before June 1, 2024. If the City has not acquired the land necessary for the roundabout before June 1, 2024, but does so more than 24 months before expiration of this Agreement, Developer shall construct the roundabout with 24 months of such acquisition.

Section 11. Project standards. Developer will finance, design, and construct these McCormick Projects to comply with City standards, including obtaining all necessary permits. The City will approve the plans before construction begins; and the City will accept responsibility for the operation of the Projects once construction is completed and a two-year warranty and maintenance bond is in place. A Project will be deemed completed when all of the following occurs: 1. The City deems it substantially complete; 2. All punch list items are finished; 3. The City releases the performance bond; 4. The Developer has put a 2-year warranty and maintenance bond in place; 5. The Developer has completed all property dedications; and 6. The Developer has provided the City with a Bill of Sale for the improvements containing the certified construction costs (stamped by licensed engineer) to the City for determination of the maximum credits available under this Agreement. The City will confirm completeness of the Project by issuing a Final Notice of Completeness to the Developer.

Section 12. Project costs. The maximum amount of the credit (or reimbursement) for project costs performed under this Agreement shall be limited to no greater than the engineer's estimate contained in the City's transportation impact fee calculation, plus an annual inflator per the CPI-U, or, the actual costs incurred by the Developer, whichever is less. The credits provided under Section 14 below are limited to this maximum credit/reimbursement amount and once the project cost maximum(s) have been achieved through credits or direct reimbursement to Developer, the credits will no longer be available and full impact fees will be due for further development.

Section 13. Applicable Impact Fees. The repeal and replacement of the 2005 Transportation DA results in all property owners both within and without the McCormick Property being subject to the City's established city-wide impact fees as these now exist or may be modified in the future by the City Council. This Agreement further confirms that impact fees, permit fees, capital facilities charges, and other similar fees which are adopted by the City as of the Effective Date of this Agreement may be increased by the City from time to time, and made applicable to permits and approvals for the McCormick Property, as long as such fees and charges apply to similar applications and projects elsewhere in the City. All impact fees shall be paid as set forth in the approved permit or approval, or as addressed in chapter 20.182 of the Port Orchard Municipal Code, except as modified by this Agreement. Nothing in this Agreement restricts or prohibits the City from raising its fees, including transportation impact fees, and the Developer agrees to pay the impact fees at the rates that are in effect at the time when payment is due minus any credits applicable according to this Agreement.

Section 14. Impact Fee Credits. The City hereby grants the Developer a credit against transportation impact fees for its costs to finance, design, and construct the McCormick Projects.

The credit is available to parcels located in the areas identified and shown on Exhibits A-1 and A-2. The credits will be calculated and applied as follows:

- a) Each parcel or lot that is developed within the McCormick Property credit area (Exhibits A-1 and A-2) will pay the City's adopted impact fees until Developer provides documentation to the City that Developer has expended a minimum of \$50,000 towards the design or construction of one of the McCormick Projects. At the time of this Agreement, the parties believe that Developer has already met this threshold, therefore, once Developer provides the documentation, the City will begin applying the credit described in this Agreement.
- b) Once McCormick provides documentation to the City of such \$50,000 expenditure, the City will grant a credit in the amount of \$1,000 per new home (or per peak pm trip for commercial/multifamily development) against its standard transportation impact fee for each application to develop a lot or parcel within the McCormick Property credit area (Exhibits A-1 and A-2) until such time as the credits granted by the City equal the amount of credit due to Developer under Section 12 above. This credit amount shall be adjusted as follows:
 - i. The \$1,000 credit shall be adjusted annually per the CPI-U, such adjustment to occur on March 1st of each year;
 - ii. If the amount outstanding for reimbursement of project costs is less than the credit, then the lesser amount shall be provided as a credit;
 - iii. If the City reimburses the Developer directly with SEPA mitigation funds received from another developer, then that amount shall be deducted dollar for dollar from the amount of project costs outstanding and the credits available will be reduced accordingly.
- c) Upon completion of each Project, Developer shall submit certified project costs to the City for review and acceptance by the City Engineer. Once these costs and executed Bill of Sale are reviewed and accepted by the City Engineer, the maximum credit due to Developer will be established and will equal the amount of the project costs as so certified in accordance with this subsection and Section 12. The City will grant the credits described in Subsection b) above against the transportation impacts fees that would otherwise be due for development of lots and parcels within the McCormick Property credit area as identified and shown on Exhibits A-1 and A-2. Such credits shall be provided until such time as the Developer receives full credit and/or reimbursement for its project costs or this Agreement terminates, whichever occurs first.

The City agrees that these credits are consistent with RCW 82.02.060(4); that they are appropriate in light of the unusual circumstances described in the Recitals above; that they are consistent with the intent of POMC 20.182.080; and that the City Council has legislatively approved this Agreement and exempted these credits for development of the McCormick Projects from the specific provisions of POMC 20.182.080.

Section 15. McCormick Land Company Reimbursement. This Agreement reaffirms the City's obligation to reimburse MLC for construction of the Glenwood Connector Roadway and minor improvements to Feigley Road. The maximum reimbursement amounts outstanding for these projects as of August 1, 2020 is \$1,542,239.64. Regardless of any fee credits provided for in this Agreement, the City's reimbursement for such project shall continue at the rate of \$720.80 for each unit of housing constructed or for each PM Peak trip, or fraction thereof, for which an impact fee is assessed in the MLC reimbursement area as depicted on Exhibit C until such time as MLC is fully reimbursed or this Agreement expires, whichever occurs first. This reimbursement amount shall be increased annually by CPI-U (Seattle/Tacoma/Bellevue) for the most recent twelve-month period (January 1st to December 31st) prior to the date of the adjustment. Such adjustment shall take effect on March 1st of each year, commencing on March 1, 2021. Disbursements shall be made annually in January of each year based on the collections from January 1st to December 31st in the prior year, however in 2021, such payment shall only be from collections from August 1 to December 31, 2020 as payment from collections through July 31, 2020 has already occurred. MLC agrees to the repeal of the 2005 Transportation DA and accepts the continued reimbursement under this new Agreement and agrees to be bound by this new Agreement as shown by its signature to this Agreement. This Section 15 shall survive expiration of this Agreement and shall remain in effect until such time as MLC has been fully reimbursed under the terms of this Agreement for construction of the Glenwood Connector Roadway and minor improvements to Feigley Road.

Section 16. Dedication of Public Lands. The Developer shall dedicate the land that it owns that is needed to construct the McCormick Projects prior to final completion of each Project. Neither Project shall be deemed completed until such dedications have occurred. In addition, consistent with Section 9 of the 2005 Transportation DA, to the extent that projects on the City's TIP including Old Clifton Widening and the Feigley Road Roundabout require additional dedications of right-of-way from within the McCormick Property, McCormick will dedicate that portion of the additional right-of-way. Such dedications shall occur within a mutually agreeable timeframe prior to the bid solicitation for the project requiring additional right-of-way.

Section 17. Default.

a) Subject to extensions of time by mutual consent in writing, failure or delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

b) After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Port Orchard Municipal Code for violations of this Development

Agreement and the Code.

Section 18. Termination. This Agreement shall terminate upon the expiration of the term identified in Section 7, which expiration date is February ____, 2041. Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. In addition, this Agreement shall automatically terminate and be of no further force and effect as to any single-family residence, any other residential dwelling unit or any non-residential building and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy and impact fees have been paid.

Section 19. Extension and Modification. Any request for extension or modification, if allowed under the City's code, shall be subject to the provisions contained in Chapter 20.26 POMC.

Section 20. Effect upon Termination on Developer and MLC. Termination of this Agreement as to the Developer or as to MLC shall not affect any of the Developer's or MLC's respective obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the McCormick Property or the MLC property, or any other conditions specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes. Furthermore, if the Agreement expires without the project costs being fully recovered by impact fee credit or mitigation funds, the Developer will no longer be eligible to receive such credits. Provided, however, that Section 15 of this Agreement will survive termination if MLC has not yet been fully reimbursed and this Agreement will only expire as to MLC after both termination and full reimbursement have occurred.

Section 21. Effects upon Termination on City. Upon any termination of this Agreement as to the McCormick Property, or any portion thereof, or as to MLC property, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to the then existing planning and zoning laws). The City will be under no obligation to provide any additional credits or reimbursement to Developer even if the project costs have not been fully recovered at the time of expiration or termination.

Section 22. Assignment and Assumption. The Developer shall have the right to sell, assign or transfer this Agreement with all rights, title, and interests therein to any person, firm or corporation at any time during the term of this Agreement with a sale of the underlying property. Developer shall provide the City with written notice of any intent to sell, assign, or transfer all or a portion of the McCormick Property, at least 30 days in advance of such action. A transfer by Developer will not impact the rights of MLC under this Agreement. This requirement for notice, however, does not apply to the sale by Developer of individual residential lots approved by the City for development of houses.

Section 23. Binding on Successors; Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the Parties. The Developer and every purchaser, assignee or transferee of an interest in the McCormick Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a Party thereto, but only with respect to the McCormick Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the McCormick Property sold, assigned or transferred to it.

Section 24. Amendment to Agreement; Effect of Agreement on Future Actions. No waiver, alteration, or modification to any of the provisions of this Agreement shall be binding unless in writing, signed by the duly authorized representatives of the Parties, be consistent with Chapter 20.26 POMC, and, where considered substantive as determined by the Director, follow the same procedures set forth in Chapter 20.26 POMC. However, nothing in this Agreement shall prevent the City Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations, or to impacts fees that affect the McCormick Property in the same manner as other properties, after the Effective Date of this Agreement.

Section 25. Releases.

a) General. Developer may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee or transferee expressly assumes the obligations under this Agreement as provided herein.

b) Previously collected impact fees. Developer expressly waives and forever releases City from any and all claims it may have with regards to the amount or usage of any transportation impact fees which the City collected from property that was subject to the 2005 Transportation DA prior to the effective date of this Agreement. Developer further agrees that City can utilize these previously collected funds on any project it deems appropriate and is not limited to the projects outlined in the 2005 Transportation DA. These projects include, but are not limited, to the Old Clifton Road/Anderson Hill Road Roundabout (Project 2.07), the Old Clifton Road non-motorized shoulder and pedestrian improvements (Project 1.5A), Old Clifton Widening Design (Project 1.5A), and Bethel Avenue (Project 1.3).

c) Obligations to Kitsap County Extinguished. This Agreement being a complete replacement to the 2005 Transportation DA, neither Party has any obligations to Kitsap County.

Section 26. Notices. Notices, demands, correspondence to the City, MLC, and/or Developer (as applicable) shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in “Written Notice” Section 38 below. Notice to the City shall be to the attention of both the City Clerk and the City Attorney. Notices to successors-in-interest of the Developer shall be required to be given by the City only for those successors-in-interest who have given the City written notice of their address for such notice. The parties

hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 27. Reimbursement for Agreement Expenses of the City. Developer agrees to reimburse the City for actual expenses incurred over and above fees paid by Developer as an applicant incurred by City directly relating to this Agreement, including recording fees, publishing fees and reasonable staff and consultant costs not otherwise included within application fees. This Agreement shall not take effect until the fees provided for in this section, as well as any processing fees owed to the City for the transportation project known as the Campus Parkway Roundabout are paid to the City. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall be paid, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to the Developer.

Section 28. Applicable Law, Resolution of Disputes, and Attorneys' Fees. If any dispute arises between the City and Developer under any of the provisions of this Agreement, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington or the U.S. District Court for Western Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing Party in any action brought to enforce this Agreement shall pay the other Parties' expenses and reasonable attorney's fees.

Section 29. No Third-Party Beneficiaries. Except as otherwise provided herein, this Agreement shall not create any rights enforceable by any party who is not a Party to this Agreement.

Section 30. City's right to breach. The parties agree that the City may, without incurring any liability, engage in action that would otherwise be a breach if the City makes a determination on the record that the action is necessary to avoid a serious threat to public health and safety, or if the action is required by federal or state law.

Section 31. Developer's Compliance. The City's duties under the agreement are expressly conditioned upon the Developer's or Property Owner's substantial compliance with each and every term, condition, provision and/or covenant in this Agreement, including all applicable federal, state, and local laws and regulations and the Developer's/Property Owner's obligations as identified in any approval or project permit for the property identified in this Agreement.

Section 32. Limitation on City's Liability for Breach. Any breach of this Agreement by the City shall give right only to damages under state contract law and shall not give rise to any liability under Chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S. Constitution, or similar state constitutional provisions.

Section 33. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a Party to challenge this Agreement or any provision herein, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer. In such event, Developer shall hold the City harmless from

and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation. The Developer shall not settle any lawsuit without the consent of the City. The City shall act in good faith and shall not unreasonably withhold consent to settle.

Section 34. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Development Agreement by any Party in default hereof.

Section 35. Recording. This Agreement shall be recorded against the property with the real property records of the Kitsap County Auditor. During the term of the Agreement, it is binding upon the owners of the property and any successors in interest to such property.

Section 36. Severability. If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the ordinance adopting this Development Agreement, and either Party in good faith determines that such provision or provisions are material to its entering into this Agreement, that Party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

Section 37. Non-Waiver of Breach. The failure of a Party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

Section 38. Written Notice. All written communications regarding enforcement or alleged breach of this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of both emailing and mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

McCORMICK:

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

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

CITY:

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

Copies shall also be transmitted to the City Clerk and City Attorney at the above address.

**GEM 1, LLC / McCORMICK
LAND COMPANY**

Doug Skrobut
1869 McGilvra Blvd E
Seattle, WA 98112
dskrobut@gmail.com

Section 39. Time is of the essence. All time limits set forth herein are of the essence. The Parties agree to perform all obligations under this Agreement with due diligence.

Section 40. Entire Agreement. The written provisions and terms of this Agreement, together with the Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the parties, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and exhibits thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of February 2021.

MCCORMICK COMMUNITIES, LLC

CITY OF PORT ORCHARD

By: _____
Its: _____

By: _____
Its: Mayor

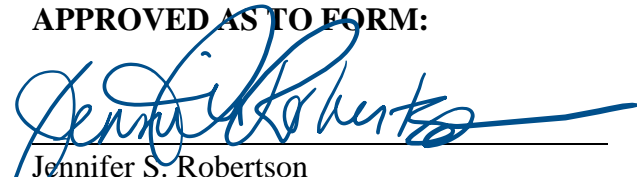
**GEM 1, LLC/McCORMICK LAND
COMPANY**

By: _____
Its: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Patrick Schneider
Attorney for McCormick



Jennifer S. Robertson
Attorney for Port Orchard

APPROVED AS TO FORM:

ATTEST:

Duana Kolouskova
Attorney for GEM 1, LLC/MLC

Brandy Rinearson
Port Orchard City Clerk

Exhibit A-1

McCormick Property

List of Parcels Subject to Impact Fee Credit

McCormick North

052301-4-023-2008
052301-4-027-2004
052301-4-024-2007
052301-4-025-2006
052301-4-026-2005
052301-4-013-2000
042301-3-011-2005

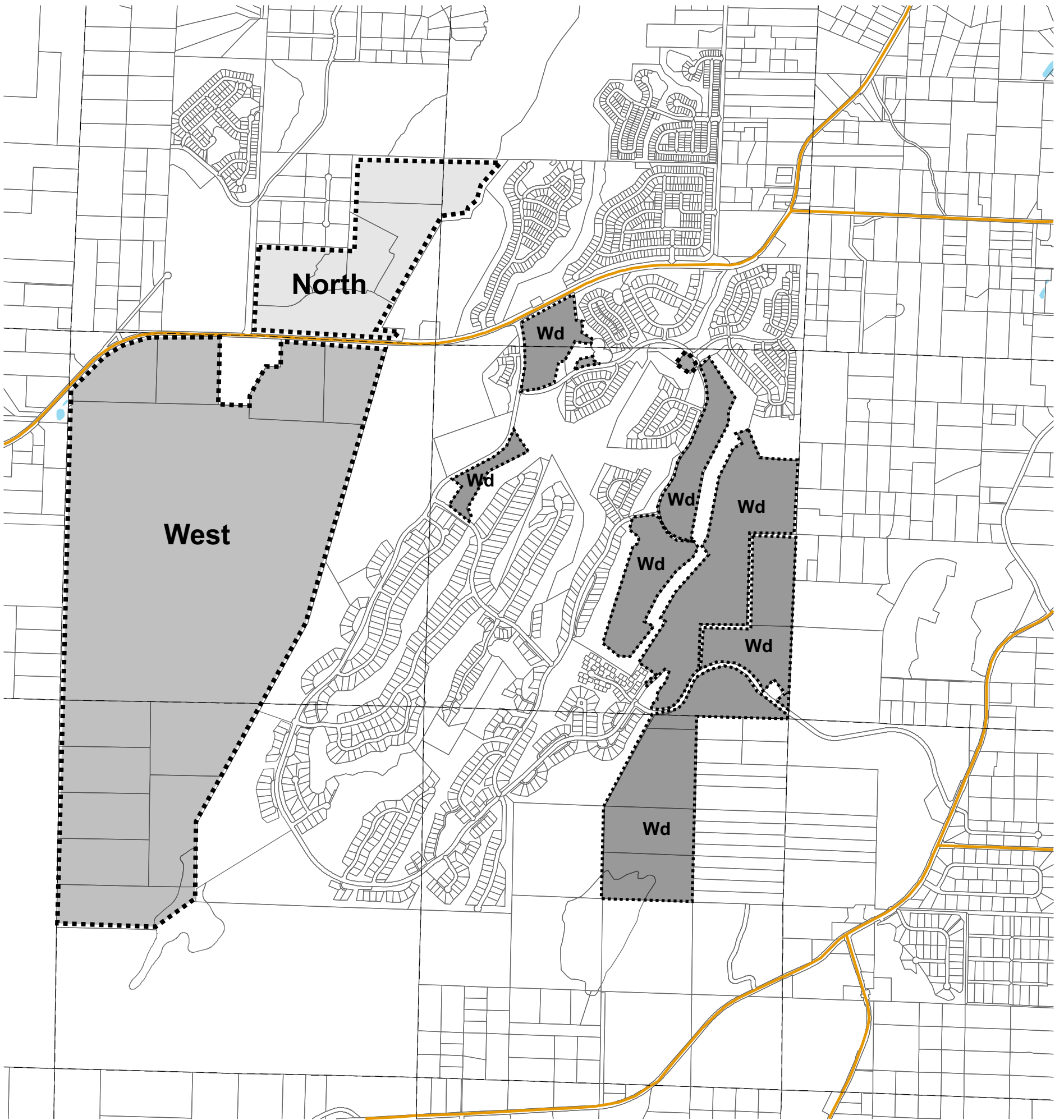
McCormick West

082301-2-002-2004
082301-2-003-2003
082301-1-013-2003
082301-2-004-2101
082301-1-010-2006
082301-1-014-2002
172301-2-002-2003
172301-2-004-2001
172301-2-003-2002
172301-2-006-2009
172301-2-005-2000
172301-2-007-2008
172301-3-004-2009

McCormick Woods

042301-3-010-2006
6031-000-131-0002
5552-000-045-0008
092301-1-005-2002
092301-4-004-2007
092301-1-009-2008
092301-4-005-2006
092301-4-003-2008
092301-4-002-2009
162301-1-021-2003
162301-1-020-2004
162301-1-019-2007

Exhibit A-2
McCormick Property
Maps of Parcels/Areas Subject to Impact Fee Credit



Legend

McCormick North



McCormick West



McCormick Woods



Exhibit B-1

List of Parcels with Vested Concurrency

McCormick North

052301-4-023-2008
052301-4-027-2004
052301-4-024-2007
052301-4-025-2006
052301-4-026-2005
052301-4-013-2000
042301-3-011-2005

McCormick West

082301-2-002-2004
082301-2-003-2003
082301-1-013-2003
082301-2-004-2101
082301-1-010-2006
082301-1-014-2002
172301-2-002-2003
172301-2-004-2001
172301-2-003-2002
172301-2-006-2009
172301-2-005-2000
172301-2-007-2008
172301-3-004-2009

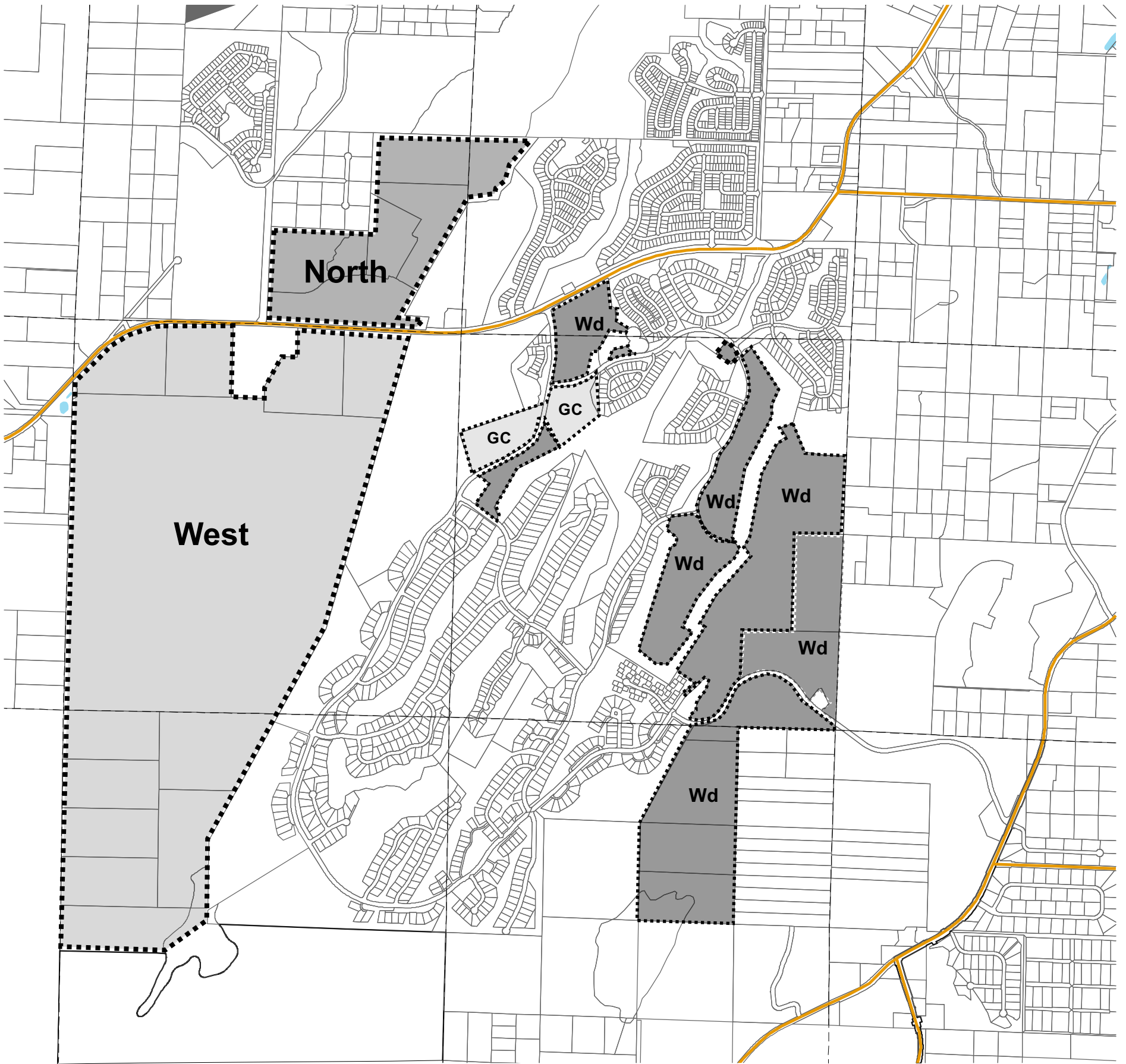
McCormick Woods

042301-3-010-2006
6031-000-131-0002
5552-000-045-0008
092301-1-005-2002
092301-4-004-2007
092301-1-009-2008
092301-4-005-2006
092301-4-003-2008
092301-4-002-2009
162301-1-021-2003
162301-1-020-2004
162301-1-019-2007

Legacy Lots

5190-000-018-0009
6031-000-032-0002
6031-000-025-0001
6031-000-063-0004
5161-000-021-0009
5145-000-023-0008
5139-000-013-0008
6031-000-074-0001

Exhibit B-2 Map of Parcels/Areas with Vested Concurrency



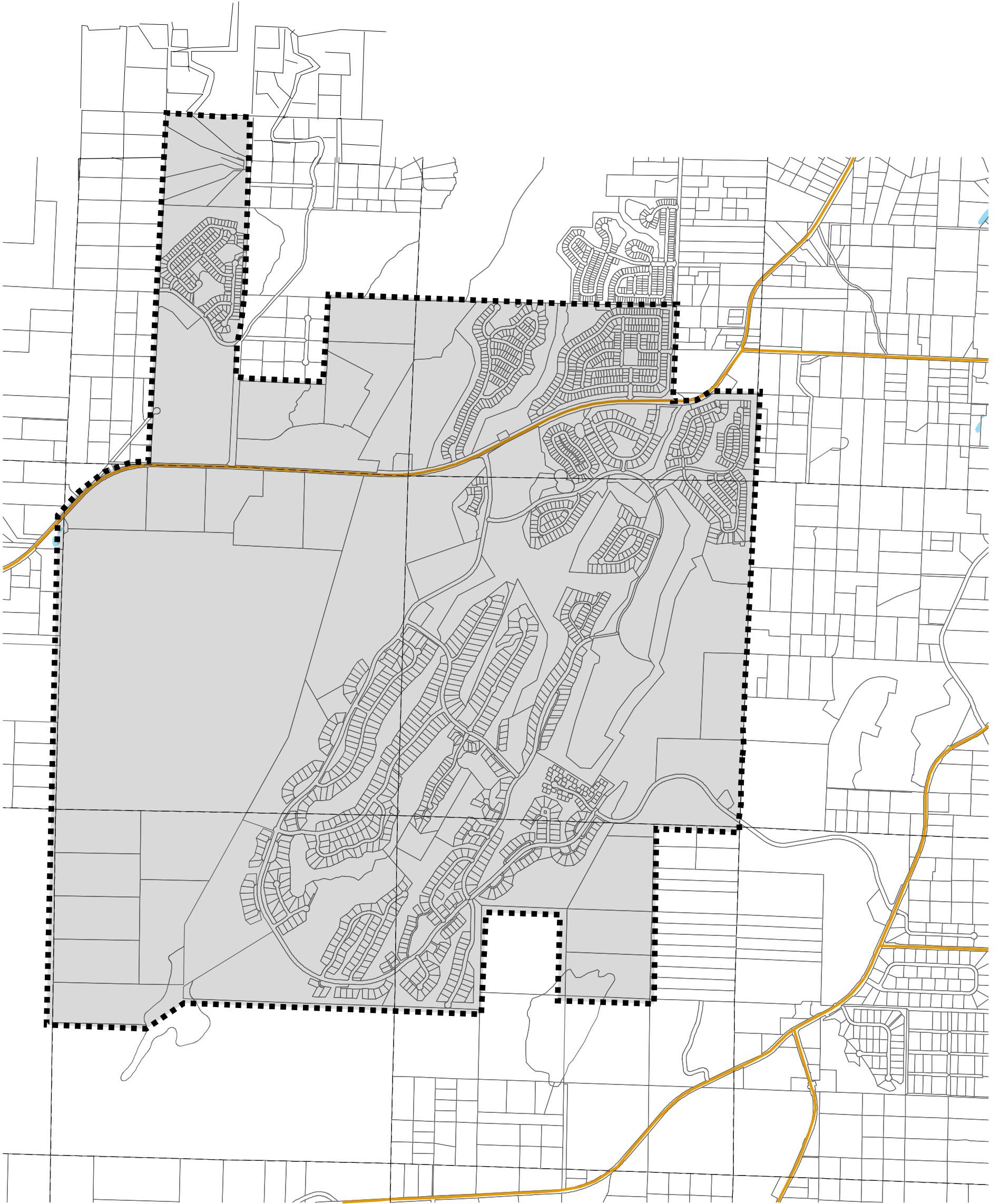
Legend

McCormick North	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block;">North</div>
McCormick West	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block;">West</div>
McCormick Woods	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block;">Wd</div>
Golf Facilities	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block;">GC</div>

See Exhibit B1 for legacy lots vested to concurrency with this agreement

Exhibit C

Boundary of 2005 Traffic Agreement





Return Address:

McCormick Land Company
4978 SW Lake Flora Rd
Port Orchard, WA 98367

AUDITOR/RECORDER'S INDEXING FORM

Document Title(s):	1. Development Agreement Traffic
Reference Number(s) of Documents assigned or released:	NA
Grantor(s)	1. Kitsap County
: Additional names on page of document.	
Grantee(s)	1. GEM1, LLC
: Additional names on page of document.	
Legal Description: (abbreviated)	Portions the NE and SE quarters of the NW quarter and portions of the NE and SE quarters of the SW quarter and portions of the NE, SE, and SW quarter all in Section 5 and portions of the NW, NE, SE, and SW quarters of the SW quarter of Section 4 and portions of the SW and SE quarters of the SE quarter of Section 4 and portions of all of Section 9 and portions of all of Section 8 and portions of the NW, NE, SE, and SW quarters of the NW quarter of Section 17 and a portion of the NW and NE quarters of the SW quarter of Section 17, All in Township 23 North, Range 1 East, Willamette Meridian, Kitsap County, Washington
: Additional legal is on pages of document.	
Assessor's Property Tax Parcel/Account Number:	052301-2-027-2008, 052301-2-026-2009, 052301-2-025-2000, 052301-3-037-2004, 052301-4-017-2006, 052301-4-018-2005, 052301-4-013-2000, 052301-4-014-2009, 052301-4-015-2008, 052301-4-016-2007, 042301-3-006-2002, 042301-3-005-2003, 092301-1-003-2004, 092301-1-004-2003, 5190-000-052-0006, 6031-000-146-0005, 6031-000-131-0002, 082301-2-003-2003, 082301-1-013-2003, 082301-1-010-2006, 082301-1-014-2002, 172301-2-002-2003, 172301-2-003-2002, 172301-2-004-2001, 172301-2-005-2000, 172301-2-006-2009, 172301-2-007-2008, 172301-3-004-2009

RESOLUTION 135 - 2005

A RESOLUTION RECOGNIZING THE ADOPTION OF DEVELOPMENT AGREEMENTS ASSOCIATED WITH THE MCCORMICK NORTH MASTER PLAN AND THE MCCORMICK URBAN VILLAGE

WHEREAS Kitsap County Code Section 21.04.110(D) authorized the Kitsap County Board of Commissioners to approve development agreements under RCW 36.70B.170 *et. seq.*; and

WHEREAS RCW 36.70B.170, *et. seq.*, authorizes counties to enter into development agreements with owners of real property"; and

WHEREAS RCW 36.70B.200 requires that a county approve a development agreement by ordinance or resolution after a public hearing and allows a hearing examiner to conduct that public hearing; and

WHEREAS GEM 1, LLC, by and through its agent, McCormick Land Company, requested approval of, *inter alia*, the McCormick North Master Plan, the McCormick Urban Village Open Space, Parks and Recreation Plan, and the McCormick Urban Village Transportation Plan, along with three associated development agreements described as follows:

- (1) Development Agreement for Stormwater (for McCormick North Master Plan Phase 2) to be executed between Kitsap County, GEM 1, and the South Kitsap School District, and
- (2) Development Agreement for Open Space, Parks and Recreation (for McCormick Urban Village) to be executed between Kitsap County and GEM 1, and
- (3) Development Agreement for Transportation (for McCormick Urban Village) to be executed between Kitsap County and GEM 1; and

WHEREAS the Kitsap County Hearing Examiner held open record public hearings on November 18, 2004 and on December 9, 2004, and the Kitsap County Board of Commissioners held closed record public hearings on March 14, 2005 and on April 25, 2005 regarding, *inter alia*, the approval of the plans and the development agreements; and

WHEREAS the Kitsap County Board of Commissioners issued a final written decision on May 9, 2005 (attached hereto as Exhibit A) formally approving all three development agreements (Exhibit B), as well as the plans and associated applications.

//

//

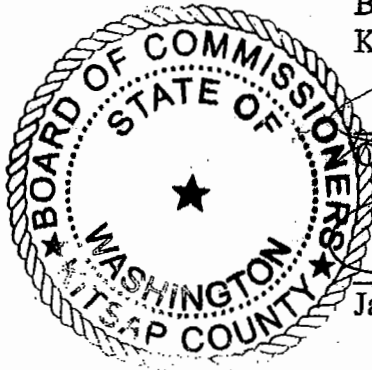


COPY

NOW THEREFORE, BE IT RESOLVED:

The Kitsap County Board of Commissioners recognizes the May 9, 2005 approvals of the Development Agreement for Stormwater, the Development Agreement for Open Space, Parks, and Recreation, and the Development Agreement for Transportation.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON



Chris Endresen
Chris Endresen, Chair

Jan Angel
Jan Angel, Commissioner

Patty Lent
Patty Lent, Commissioner

ATTEST:

Opal Robertson
Opal Robertson
Clerk of the Board



MCCORMICK LAND CO

AGMT \$64.00

200510210280
Page: 3 of 33
10/21/2005 02:58P
Kitsap Co, WA

out of McCormick Urban Village, estimates the costs of constructing the identified system improvements, and calculates the traffic impact fees that represent the development's proportionate share of these system improvements; and

I. WHEREAS Kitsap County has reviewed the McCormick Urban Village Transportation Plan for compliance with all adopted standards and requirements; and

J. WHEREAS, the Kitsap County Departments of Community Development ("DCD") and Public Works have reviewed the fee calculations submitted by GEM as part of the Transportation Plan and determined 1) that the traffic improvements identified in the Transportation Plan and listed here in Exhibit A mitigate the traffic impacts of the full build-out of the McCormick Urban Village; and 2) that the traffic impacts fees set forth in this Agreement fund 100% of the McCormick Urban Village's proportionate share of the estimated costs of the necessary transportation system improvements within the jurisdiction of Kitsap County, as well as contribute to the funding of the regional improvements which are the subject of the regional traffic impact fees already imposed pursuant to KCC Chapter 4.110; and

K. WHEREAS, the parties wish to assure that the traffic impact fees collected within the area of the McCormick Urban Village are expended to fund the required system improvements; and

L. WHEREAS, the parties anticipate that development of McCormick Urban Village will occur over a period of years and that they wish to implement a plan for funding and constructing the required Kitsap County transportation system improvements at such time as impacts occur and improvements are warranted; and

M. WHEREAS, the parties wish to have an assurance that the increase in impact fees provided by this Agreement satisfies Kitsap County's requirements to mitigate traffic impacts projected to occur to the County's transportation system as the result of the build-out of McCormick Urban Village, and

N. WHEREAS, GEM wishes assurance that it will receive impact fee reimbursements, as appropriate, from Kitsap County if and when GEM constructs certain transportation system improvements, which are listed in the Transportation Plan and would otherwise be constructed by Kitsap County; and

O. WHEREAS Kitsap County has jurisdiction over land within unincorporated Kitsap County and is authorized under RCW 82.02.050-.090 and KCC Chapter 4.110 to impose impact fees to pay for system improvements that are reasonably related to the new development; and

P. WHEREAS, RCW 36.70B.170, *et. seq.*, authorizes counties to enter into development agreements providing for, among other things, "development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development."



AGREEMENT

NOW, THEREFORE, the County and GEM agree as follows:

1. **Applicability.** This Agreement applies only to those parcels within the McCormick Urban Village, shown on the map attached as Exhibit C, that are owned by GEM as of the execution date of this Agreement and listed in Exhibit D, and to parcels within the McCormick Urban Village which are acquired by GEM after the date of this Agreement. GEM will notify the County of any such purchase so that the later-purchased parcels can be incorporated into the County's tracking system designed to carry out this Agreement. In accordance with section 19 below, subsequent sales of these parcels will not affect this Agreement's applicability. Any reference to ULID #6 or McCormick Urban Village for purposes of collecting or reimbursement of impact fees shall be limited to the applicable parcels.
2. **County Adoption of Alternative Fees.** Kitsap County hereby adopts, pursuant to KCC 4.110.230(C), the McCormick Urban Village Traffic Impact Fees attached hereto as Exhibit A. Funds generated by fees paid pursuant to Exhibit A shall be expended on transportation system improvement projects listed in Exhibit A, so long as the improvement has been listed on the County's Transportation Improvement Program (TIP) pursuant to Section 3 of this Agreement, provided the portion of the fee designated as the "regional per trip fee" is still to be expended on regional improvements within the applicable service area to the extent that those regional improvements are located outside the McCormick Urban Village, and provided the administrative fee specified in Exhibit A shall be retained by Kitsap County and placed in the general fund. In the event that the fee schedule in KCC 4.110.200 for regional improvements outside the McCormick Urban Village is adjusted in the future, the "regional per trip fee" set forth in Exhibit A shall be adjusted accordingly.
3. **County Inclusion of Projects in Six-Year TIP.** When appropriate, in its annual update of its Six-Year Transportation Improvement Program (TIP), Kitsap County shall include, as warranted, the appropriate transportation system projects from the McCormick Urban Village Transportation Plan. The Conceptual Improvement Phasing Plan in the McCormick Urban Village Transportation Plan shall be reviewed and modified as appropriate at the time of the TIP update, taking into consideration county resources and competing priorities, in order to assure that Kitsap County transportation system improvements anticipated for various portions of the McCormick Urban Village are developed reasonably concurrent with the residential and other uses of McCormick Urban Village and other developments which generate the need for such improvements.
4. **County Construction of Improvements.** As funding allows, Kitsap County (or GEM, pursuant to Section 5 of this Agreement) shall construct the transportation system improvements identified in Exhibit A, according to the McCormick Urban Village Transportation Plan. The County anticipates that GEM will construct the Glenwood Connector Roadway improvement as well as the Clifton Road \ Feigley Road intersection

Development Agreement - 3

improvement except for the traffic signal. The timing of construction of such improvements shall be reviewed and modified as appropriate at the time of specific land use approvals for development within McCormick Urban Village in order to assure that Kitsap County transportation system improvements anticipated for various portions of the McCormick Urban Village are developed reasonably concurrent with the residential and other uses of McCormick Urban Village and other developments which generate the need for such improvements.

5. **GEM Construction of Improvements.** With the County's prior approval, GEM may construct improvements that this Agreement anticipates will be constructed by Kitsap County under Section 4 above. In the event that GEM constructs projects pursuant to this Section, the design and construction thereof shall be coordinated with and approved by the Kitsap County Departments of Community Development and Public Works, shall be subject to Kitsap County permit requirements in effect at the date of application for construction permits, and shall be subject to the requirements of RCW Chapter 39.04 to the extent the improvement can be classified as a public work. As described below, for each such improvement so constructed, GEM may apply for an impact fee reimbursement.

6. **Reimbursement for Construction by GEM.** As allowed by KCC Chapter 4.110 and to the extent funds are available, the County shall reimburse GEM for the cost of construction. Such reimbursement shall be paid from non-regional impact fees actually collected by Kitsap County from development within the McCormick Urban Village pursuant to this Agreement, and other approved sources of funds for construction of County road improvements. The reimbursement from impact fees shall be equal to thirty-five percent (35%) of the sub-area impact fees collected pursuant to this Agreement. These funds shall be paid to GEM after GEM applies for reimbursement for the improvement GEM constructed and the reimbursement amount has been calculated and approved by Kitsap County, and then annually thereafter until the approved reimbursement amount for that project has been fully repaid. If GEM constructs multiple improvements, each reimbursement request will be evaluated separately, and will not increase the percentage reimbursed, but will be added to the total amount to be reimbursed. In the event that GEM constructs more than thirty-five percent of the improvements listed in Exhibit A, the parties will meet and modify, if necessary and as appropriate, the percentage of the sub-area impact fees to be paid to GEM as reimbursement.

In no event shall GEM be entitled to reimbursements pursuant to this Agreement which are in excess of amounts actually spent constructing improvements listed on Exhibit A and in no case shall GEM be reimbursed for improvements not listed on Exhibit A.

These provisions are intended to assure that GEM pays its proportionate share of the cost of the improvements subject to this Agreement through the payment of impact fees and that Kitsap County pays for the share of the cost of the improvements which are attributable to existing traffic and/or traffic generated by other development, consistent with KCC Chapter 4.110 relating to Roads Impact Fees.

7. **Limits on County Authority.** Nothing in this Agreement shall be construed as limiting Kitsap County's authority to assess fees or impose conditions requiring construction of traffic improvements on projects outside the area which is the subject of the McCormick Urban Village.
8. **Projects Outside Kitsap County Jurisdiction.** At such time as Kitsap County enters into a formal agreement regarding funding of transportation improvements with any other jurisdiction, such as WSDOT or the City of Port Orchard, and such agreement provides for the imposition of additional traffic impact fees for specific projects administered by such other jurisdictions, GEM and Kitsap County agree to amend this Agreement so that future development within McCormick Urban Village shall be subject to such additional fees.
9. **Dedication of Right-of-Way.** To the extent that road improvements which occur pursuant to this Agreement require additional right-of-way, GEM will dedicate that portion of the additional right-of-way which is to be located on property owned by GEM or its affiliates. Such dedications shall occur within a mutually agreeable timeframe prior to the bid solicitation for the project requiring the additional right-of-way.
10. **County Adoption of Special Non- Motorized Mitigation Payment.** Kitsap County shall adopt, as a SEPA mitigation measure, the McCormick Urban Village Non-Motorized Mitigation Fee in the amount of \$8.69 per trip as more specifically set forth in the McCormick Urban Village Transportation Plan. This fee is intended to represent a proportionate share payment to address the impacts of the McCormick Urban Village. The revenue from this fee shall be used in part for the design and construction of a regional bike lane along Old Clifton Road between Sunnyslope Drive and the Port Orchard City limits at SR-16, as identified in the Kitsap County Bicycle Facilities Plan (May 2001). The Non-Motorized Mitigation Fee shall be collected in accordance with KCC Chapter 4.110 and in addition to the Traffic Impact Fees described in Section 2 of this Agreement. The timing of the construction of the regional bike lane will be coordinated with other improvements to Old Clifton Road, the schedule for which shall be determined by Kitsap County as set forth in Sections 3 and 4, above.
11. **Concurrency.** Kitsap County agrees that adoption and implementation of this Development Agreement will provide adequate road system capacity for the full build-out of the McCormick Urban Village in accordance with the adopted ULID #6 Sub-Area Plan. A concurrency approval for full build-out of the McCormick Urban Village in accordance with the adopted ULID #6 Sub-Area Plan shall be issued by Kitsap County. No further concurrency applications will be required for future development applications which are consistent with the adopted ULID #6 Sub-Area Plan. Kitsap County reserves the right to require concurrency review and approval for future development within the McCormick Urban Village to the extent that such development exceeds the levels approved by that Sub-Area Plan.
12. **Annexation.** As provided by RCW 36.70B.190, while this Agreement is in effect, "the agreement is binding on . . . a city that assumes jurisdiction through incorporation or



annexation of the area covering the property covered by the development agreement." In the event McCormick Urban Village is annexed or incorporated into a municipality, and the municipality agrees that it is bound by this agreement, all impact fees collected by Kitsap County pursuant to this Agreement that represent the proportional share of the costs for system improvements reasonably related to the McCormick Urban Village regional system improvements that are listed in the Capital Facilities Plan and that are available at the time of annexation shall be conveyed to the municipality for use in funding construction of the necessary transportation system improvements which are the subject of this Agreement.

13. **Vesting Rules.** This Agreement shall remain in effect for all development within the McCormick Urban Village that is listed in the ULID #6 Sub-Area Plan for a period ending 15 years after the completion of construction of all of the improvements listed in Exhibit A. Kitsap County will not impose additional transportation impact fees against development that pays impact fees pursuant to this Agreement except to the extent that the fee for regional improvements outside the McCormick Urban Village is modified as set forth in Section 2. With respect to McCormick North Phase II, South Kitsap School District shall not be required to pay any impact fees now or later established under the provisions of this Agreement so long as the school site is used for school purposes.
14. **Application of KCC Chapter 4.110.** Except as provided under Paragraph 13, the provisions of KCC 4.110, as now or hereafter amended, shall apply to the fees collected pursuant to this Agreement, including but not limited to, establishing procedures for collection of impact fees, requirements regarding the point in time when fees must be paid, adjustments based on the Consumer Price Index, and exemptions from impact fee requirements for certain uses.
15. **Indemnification.** To the fullest extent permitted by law, GEM shall indemnify, defend, and hold harmless the County, its elected and appointed officials, officers, employees and agents from and against all claims, actions, suits, liability, loss, expenses, damages and judgments, including attorneys fees and costs, regarding the collection and/or reimbursement of impact fees pursuant to this Agreement. In the event that a court of competent jurisdiction determines that fees collected pursuant to this Agreement have been improperly collected, the party holding such fees (including any fees that have been paid to GEM as a reimbursement pursuant to this Agreement) shall be refunded to the original payor(s) of the impact fees. In the event that a court of competent jurisdiction determines that the collection of impact fees to pay for any of the road projects listed in Exhibit A is improper, the fee established by this Agreement shall be adjusted accordingly, and the SEPA review process for all subsequent land use approvals for development within McCormick Urban Village shall include an evaluation of the need for and allocation of responsibility for design and construction of the improvements that were originally intended to be constructed using the impact fees established by this Agreement.



16. **Severability.** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of the Agreement conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
17. **Amendments.** Except as otherwise provided in this Section, no change or modification of this Agreement shall be valid unless the same is in writing and is signed by the authorized representatives of Kitsap County and GEM. No purported or alleged waiver of any of the provisions of this Agreement shall be binding or effective unless in writing and signed by the party against whom it is sought to be enforced.
18. **Serious Threat to Public Health and Safety.** Pursuant to RCW 36.70B.170(4), the County reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
19. **Binding Effect.** This Agreement shall be recorded with the Kitsap County Auditor and shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto. Any city that assumes jurisdiction through incorporation or annexation of the area subject to this Agreement shall also be bound to this Agreement, pursuant to RCW 36.70B.190. A list of parcels subject to this Agreement as of the date of execution of this Agreement is attached hereto as Exhibit D.
20. **Relationship of the Parties.** Notwithstanding any other provision of this Agreement, or any other agreements, contracts, or obligations which may derive herefrom, nothing herein shall be construed to make the County or GEM partners or joint venturers, or to render any other parties liable for any of the debts or obligations of the other parties, it being the intention of this Agreement merely to create the agreements set forth herein with regard to transportation improvements to mitigate the traffic impacts of the McCormick Urban Village.
21. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any action with respect to this Agreement shall be brought in Kitsap County Superior Court, Port Orchard, Washington.
22. **Multiple Originals.** This Agreement may be executed in multiple copies, each of which shall be deemed an original.
23. **Construction.** The captions throughout this Agreement are for convenience and reference only and the words contained in them shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Agreement. All parties hereto have been represented by legal counsel and accordingly hereby waive the general rule of construction that an agreement shall be construed against its drafter.



EXECUTED by the parties on the dates hereinafter indicated.

DATED: 4/25/05

KITSAP COUNTY BOARD OF COMMISSIONERS



[Signature]
CHRIS ENDRESEN, Chair

ATTEST:

[Signature]
IAN ANGEL, Commissioner

[Signature]
Opal Robertson
Clerk of the Board

[Signature]
PATTY LENT, Commissioner

APPROVED AS TO FORM:

COPY

By: [Signature]
Deputy Prosecuting Attorney

Date: 4-25-05

GEM 1, LLC

By: [Signature]
Scott D. Wolcott
Managing Member

Date: 4-18-05

California PAO
STATE OF WASHINGTON)
Sacramento PAO
COUNTY OF KITSAP)

SS.

I certify that I know of have satisfactory evidence that Scott D. Wolcott 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 acknowledge it as the

Development Agreement - 8



200510210280

Page: 11 of 33
10/21/2005 02:58P

McCORMICK LAND CO

AGMT \$64.00

Kitsap Co, WA

Managing Member of GEM 1, LLC to be the fee and voluntary act of such party for the purposes mentioned in the instrument.

SUBSCRIBED AND SWORN to before me this 18th day of April 2005.



P. A. O'Halloran
NOTARY PUBLIC in and for the State of
California Washington, residing at Sacramento.
My appointment expires: 01/01/09.

APPROVED AS TO FORM:

By: [Signature]
Attorney for GEM 1, LLC
Date: 4-18-05

COPY



EXHIBIT A

	GEM's Proportionate Share ¹
Clifton \ Sunnyslope intersection	126,000
Clifton \ Feigley intersection	235,000
Clifton \ Campus Parkway intersection	371,000
Clifton \ McCormick Woods Drive intersection	110,000
Clifton \ Anderson Hill Road intersection	173,000
Clifton \ Berry Lake Road intersection	165,000
Glenwood Connector Roadway ²	2,000,000
Sunnyslope Road Widening	384,000
Clifton Road Widening	2,000,000
sub-total	5,564,000
Contingency @ 30%	1, 669,200
Total	7,233,200
# of Trips	50,380
Sub-area Per Trip Fee	\$143.57
County administrative fee (1% of sub-area per trip fee)	\$1.44
Regional Per Trip Fee	\$4.56
Total Per Trip Fee	\$149.57

* Does not include the Non-Motorized Fee established pursuant to Section 10.

¹ GEM's Proportionate Share has been calculated using the percent of the impacts on transportation created by the McCormick Village as set forth in the ULID #6 Environmental Impact Statement.

² The Glenwood Connector Roadway will be designated as a system improvement to support the full build-out of McCormick Village. The McCormick Village's fair share of the improvement is 100%. The Glenwood Connector Roadway is not a public work for purposes of RCW chapter 39.04.

EXHIBIT B

MCCORMICK URBAN VILLAGE TRANSPORTATION PLAN

Development Agreement - 11



200510210280

Page: 14 of 33

10/21/2005 02:58P

Kitsap Co, WA

MCCORMICK LAND CO

AGMT

\$64.00

McCormick Urban Village Transportation Plan

April 25, 2005

Introduction

This Transportation Plan defines transportation improvement needs and an implementation program to support full build out of McCormick Urban Village. The Transportation Plan was prepared pursuant to the requirements of KCC 17.428.060(6), and includes the following components:

- Transportation Analysis
- Transportation Phasing Program
- Independent Roads Impact Fee Calculation

The transportation analysis identifies project transportation impacts and the improvements that will be needed to support full build out of McCormick Urban Village, consistent with the *South Kitsap UGA/ULID#6 Sub-Area Plan*¹.

In addition to identifying transportation improvement needs, the Transportation Plan presents an initial program for phasing improvements based on a conceptual development phasing strategy. The transportation phasing program will be reevaluated and modified, if necessary, as the McCormick Urban Village plan is implemented through master planning and other public permitting processes, in order to assure that transportation improvements occur concurrently with the development which creates the need for the improvements.

The Transportation Plan also includes a proposed program for funding the needed transportation system improvements through modification of the County's Roads Impact Fee. The impact fee program is intended to provide a systematic process for funding transportation improvements to meet County requirements. Consistent with current Kitsap County policy, the proposed program for funding includes the required Kitsap County transportation system improvements.

A *Development Agreement for Transportation* has been drafted to implement this Transportation Plan.

Transportation Analysis

The transportation analysis for the McCormick Urban Village identifies the transportation system needed to support build out of the Sub-Area Plan. It is consistent with the overall transportation needs and strategies identified in the McCormick Urban Village Plan and EIS. This transportation analysis expands the analysis contained in the Plan and EIS to address the specific needs of the McCormick Urban Village. It differs from the analysis contained in the South Plan and EIS to the extent that it does not identify or plan for build out of other potential major developments such as the South Kitsap Industrial Area (SKIA) and the Northwest

¹ The *South Kitsap UGA/ULID#6 Sub-Area Plan*, now known as the *McCormick Urban Village Plan*, was adopted by Kitsap County on December 8, 2003.



Corporate Campus, which will be the subject of separate transportation analyses specific to the impacts of those developments.

The transportation analysis is presented as follows:

- Access and Circulation
- Roads Improvement Plans
- Non-motorized Transportation Facilities
- Transit Service Plan
- Transportation Demand Management Program

Access and Circulation

Old Clifton Road is and will continue to serve as the primary arterial connection between the McCormick Urban Village and the regional transportation system. Old Clifton Road is an east-west corridor, currently classified by the County as a minor arterial. It currently has two travel lanes, with turn lanes at some intersections. To the east of the project site it connects to Tremont Street, which provides access to/from the City of Port Orchard, and to SR-16, which is the state highway connecting Kitsap County to Pierce County, Tacoma and the I-5 corridor. To the west, Old Clifton Road connects Sunnyslope Road and SR-3, the state highway connecting south Kitsap County to central and north Kitsap County, and to Mason County.

A new collector road from the southeast portion of the existing McCormick Woods development to/from Glenwood Road and the SR-16 interchange at Sedgwick Road also is required and will be constructed by January 2006. This connection will serve as an additional access between the McCormick Urban Village and other parts of the Kitsap County road system.

Some of the Village development sites will access Old Clifton Road from existing streets. These include Anderson Hill Road, McCormick Woods Drive, and Feigley Road.

Anderson Hill Road is a north-south, minor arterial north of Old Clifton Road. It is located on the east side of the Master Plan. Only right-turn movements are allowed to/from Anderson Hill Road at SR 16. This route provides ingress to the Master Plan from Bremerton and other areas to the north. Traffic traveling north from the McCormick Urban Village will use Old Clifton Road to connect to SR-16 or will connect to SR-3 via Sunnyslope Road. Anderson Hill Road has two travel lanes and unpaved shoulders. A stop sign provides traffic control at the approach of Anderson Hill Road to Old Clifton Road. Traffic on Old Clifton Road is not presently controlled at this location.

McCormick Woods Drive is a two-lane roadway that provides access and circulation to the existing McCormick Woods residential and golf course development south of Old Clifton Road. At the intersection with Old Clifton Road, McCormick Woods Drive is stop sign controlled. Traffic on Old Clifton Road is not presently controlled at this location.

Feigley Road is a narrow, two-lane roadway with no shoulders. It is located north of Old Clifton Road and connects to Gorst and to the City of Bremerton. Only right-turn movements are allowed to and from Feigley Road at SR-16. A stop sign on Feigley Road controls traffic at its



intersection with Old Clifton Road. Traffic on Old Clifton Road is not presently controlled at this location.

The conceptual land use plan for the McCormick Urban Village identifies additional circulation and access roadways which will be needed to support the full development of the McCormick Urban Village. In order to create a usable parcel for a school site, the existing "old" Feigley Road will be cul-de-sac'd approximately 1,000 feet north of Old Clifton Road and a new extension of Feigley will be constructed along the east boundary of the school site, intersecting Old Clifton Road approximately 1,500 feet east of the existing intersection.

A new access and circulation road system will also be developed within the McCormick West area, including a connection between the new roads in McCormick West and existing McCormick Woods Drive. This connection would provide for local circulation within major areas of the Master Plan without requiring travel on Old Clifton Road. This will enhance connectivity between the residential areas and the village center, community center, parks, and golf course, provide a secondary access point to both McCormick Woods and McCormick West, and reduce potential impacts on Old Clifton Road.

Internal access and circulation roads will be developed as part of the application for each development area. These will include on-site circulation roads and new intersections with Old Clifton Road, Feigley Road, and Anderson Hill Road. The objective is to provide a limited number of new access points along Old Clifton Road to help maintain the capacity and safe operational status of the arterial while providing adequate accessibility for the development.

Roads Improvement Plan

Road improvements that will be required to accommodate the additional traffic generated by the Master Plan were identified based on the proposed development as shown in Table 1. The table identifies the number of vehicle trips that would be generated by each development component. Full build out of the McCormick Urban Village will generate an estimated total of 4,935 trips during the PM peak hour and 50,380 trips per day.

Table 1: Proposed Development and Trip Generation

Development Component	Amount (1)	PM Peak Hour Trips	Daily Trips
McCormick Woods Conference Center		122	1,630
Unbuilt McCormick Woods	471 du's	476	4,740
McCormick North Phase 1 (East)	500 du's	505	5,030
McCormick North Phase II (Feigley)	200 du's	202	2,010
McCormick Woods West	1750 du's	1768	17,610
Village Residential (Multi-Family)	680 du's	422	4,490
Village Business Park	40 Acres	674	5,990
Village Retail	6 Acres	244	2,810
McCormick Woods Retail	4 Acres	163	1,870
Jr High and High Schools	2,500 students	359	4,200
Total		4,935	50,380

(1) The maximum total number of units allowed in McCormick Urban Village (including existing units in McCormick Woods) is 4,162. A slightly higher number of units has been assumed for the purposes of this analysis only.



The development-generated traffic was distributed to the vicinity road system using the same distribution model that was used in the transportation analysis for the McCormick Urban Village Plan. Traffic operations at each affected intersection in the area were evaluated to identify the improvements which will be needed to accommodate the proposed development. Potential intersection improvements that resolve deficiencies are shown in Figure 1 and listed in Tables 2 and 2a. Also included are proposed road widenings for Sunnyslope Road and Old Clifton Road, consistent with the Plan and EIS. Table 2 lists the transportation system improvements within Kitsap County's jurisdiction; Table 2a lists the improvements outside the County's jurisdiction. Kitsap County may choose to require alternative designs for improvements. These could include use of roundabouts instead of traffic signals and channelization.

Table 2: Improvements Within Kitsap County's Jurisdiction

Location	Urban Village Pro-Rata Share (1)	Anticipated Construction Year
Clifton / Sunnyslope Intersection	\$126,000	2011
Clifton / Feigley Intersection	\$235,000	2005
Clifton / Campus Parkway Intersection	\$371,000	2006
Clifton / McCormick Woods Dr Intersection	\$110,000	2009
Clifton / Anderson Hill Rd Intersection	\$173,000	2006
Clifton / Berry Lake Rd Intersection	\$165,000	2006
Glenwood Connector Roadway (2)	\$2,000,000	2005
Sunnyslope Road Widening	\$384,000	2020
Clifton Road Widening	\$2,000,000	2020
	Subtotal	\$5,564,000
	Engineering & Contingency (30%)	\$1,669,200
	Total	\$7,233,200

(1) Costs are in 2004 dollars and are planning level estimates that do not include potential costs for right-of-way acquisition, utility relocation, major structural work, or major environmental mitigation. The inclusion of 30% for engineering plus contingency costs is to allow for right-of-way acquisition outside of GEM/MLC ownership, design, and environmental mitigation. Kitsap County may choose to require alternate designs for improvements, such as roundabouts.

(2) The Glenwood Collector Roadway (a new road) is an addition to the Kitsap County road system. With designation of the McCormick Urban Village within the South Kitsap Urban Growth Area in 2003, which is planned for a mixed-use community of over 4,000 housing units, village center, business park, and recreational uses, this "connector" should be designated as part of the Kitsap County road system. The entire (100%) estimated cost of construction, \$2,000,000, is included in the Urban Village Pro-Rata Share cost.



200510210280

Page: 18 of 33
10/21/2005 02:58P

MCCORMICK LAND CO

AGMT \$64.00 Kitsap Co, WA

Table 2a: Improvements Outside of Kitsap County's Jurisdiction

Location
SR-3 / Lake Flora Intersection
SR-3 / Sunnyslope Intersection
Clifton / SR-16 SB Intersection
Clifton / SR-16 NB Intersection
Treemont / Pottery Intersection
Sedgwick / SR-16 NB Intersection

Table 2 also includes estimated costs for the improvements within Kitsap County's jurisdiction. The pro-rata share is the ratio of Village-generated traffic to total traffic at the intersection during the PM peak hour. The pro-rata share ratio was applied to the total improvement cost to arrive at the share of the cost attributable to Village traffic. Total pro-rata share costs of the required transportation improvements within Kitsap County's jurisdiction are estimated at approximately \$7,233,200 to address impacts of the McCormick Urban Village.

Transportation Concurrency

An application for a Certificate of Concurrency is part of this Plan. Concurrency is included in the draft *Development Agreement for Transportation*.

The concurrency standard in Kitsap County is based on level of service (LOS) for road segments. The Kitsap County standard for urban road segments is LOS D or better. Level D means that the road segments must meet a volume-to-capacity ratio of less than 0.90. That is, the projected traffic must be less than ninety percent (90%) of the road capacity.

As applied to the McCormick Village, the concurrency test applies to Old Clifton Road. Capacity for Old Clifton Road is estimated to be 24,000 vehicles per day with the intersection improvements that to be constructed as part of this Plan. As shown in Table 3, the volume-to-capacity ratios along Old Clifton Road with the proposed improvements would be less than 0.90 and, therefore, would meet the County's Concurrency standard.

Kitsap County does not have level of services standards for intersections. Nevertheless, because this is a standard commonly used in other parts of the region, an analysis was conducted to confirm the adequacy of Old Clifton Road with the proposed intersection improvements.

The intersection level of standard commonly used elsewhere in urban areas in the region is Level E. In some places it is Level D. As shown in Table 2, all intersections would operate at LOS D or better with the proposed improvements at full build-out of McCormick Village. This further confirms the adequacy of Old Clifton Road with the proposed intersection improvements and full build-out of McCormick Village.

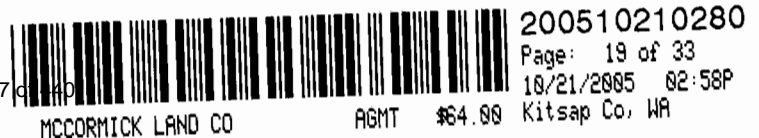


Table 3: Roadway Volume-to-Capacity Ratios

Location	Capacity	Average Daily Traffic (1)	Volume-to-Capacity (v/c)
Clifton west of SR-16 Ramps	24,000	16,100	0.67
Clifton west of Berry Lake	24,000	19,400	0.81
Clifton west of Anderson Hill	24,000	20,500	0.85
Clifton west of McCormick Woods Dr	24,000	18,800	0.78
Clifton west of Campus Pkwy	24,000	18,200	0.76
Clifton west of Felgley	24,000	16,000	0.67

(1) Average Daily Traffic with build out of McCormick Urban Village.

Non-Motorized Transportation Facilities

Pedestrian and bicycle facilities will be provided throughout the McCormick Urban Village. These improvements are identified in more detail in the McCormick Urban Village Parks, Open Space and Recreation Plan.

In addition to the on-site pedestrian and bicycle facilities, a regional bike lane has been proposed along Old Clifton Road between Sunnyslope Drive and the Port Orchard City limits at SR-16. The bike lane is identified in the Kitsap County Bicycle Facilities Plan (May 2001). To assist Kitsap County in funding and constructing this regional bike lane, the McCormick Urban Village has included the improvement in its transportation mitigation program. A voluntary "nonmotorized transportation mitigation payment" that would apply only to the McCormick Urban Village is proposed for adoption by the KCBOCC. Table 4 shows the estimated cost of this project.

Table 4: Non-Motorized Mitigation Payment

Non-Motorized Improvement	Total Cost (1)	Urban Village Pro-Rata Share (2)	Urban Village Pro-Rata Share Cost	Cost per Trip (3)	Cost per Single Family DU Equivalent (4)
Bike Lane (Old Clifton Rd)	\$875,000	50.0%	\$437,500	\$8.68	\$87.32

(1) Bike lane improvement per Bicycle Facility Plan (May 2001, Kitsap Co Public Works). Cost estimate based on the \$832,000 cost (2001 dollars) identified in the plan and inflated by approximately 5% to 2004 dollars.

(2) Pro-Rata share based on total length of bike lane of 3.6 miles, of which 1.8 miles (50%) will be within the Urban Village boundaries.

(3) Cost per trip is total cost divided by the 50,380 daily trips that would be generated by the Urban Village (see Table 1).

(4) Cost per Single-Family DU equivalent is based on 10.06 daily trips per DU, which is consistent with the existing and proposed impact fee methodology.

A major pedestrian/bicycle crossing of Old Clifton Road also will be developed as part of McCormick Urban Village. This crossing will provide a safe connection between residential, commercial, business park and recreational uses north of Old Clifton Road with those south of the arterial. The crossing will likely be developed at the intersection of McCormick Woods Drive and Old Clifton Road, although this may change depending on the timing of development of the various portions of the McCormick Urban Village. The specific location of the crossing will also depend on the final plan for pedestrian and bicycle trails, which will be identified during the review process for the pending Master Plan approval for McCormick North. The specific design for the crossing (e.g. crosswalk, in-pavement lighting, flashing beacons) will be also be determined at the time of the approval of the adjacent development parcels.

Transit Service Plan

Transit service for McCormick Urban Village will initially be limited due to the relatively low levels of development in the McCormick Urban Village area. As various phases of the Urban Village are developed, potential ridership will increase and transit service will become more viable to serve the residential, business park, and school components of the Plan. Transit service and facilities will be developed over time based on the type, location, and level of development. The following elements will be incorporated into the McCormick Urban Village Master Plan, in cooperation/coordination with Kitsap Transit:

- A major transit focal point or station will be defined for a central point within the Village. The Village Center or other similar type of location would be the most likely appropriate location for this facility. The size of the transit station would be phased based on the level of development and the amount/type of service provided by Kitsap Transit. Kitsap Transit has identified a potential need for at least six bus zones. The transit station would also have covered waiting areas and provide for "Kiss and Ride" drop-off locations.
- Neighborhood transit loops may be developed by Kitsap Transit as development warrants. This would also provide a feeder service to the transit station. These feeder routes would provide better access to transit for areas located beyond walking distance from the transit station and better service for people with mobility limitations that prevent them from accessing the transit station on foot or by bicycle.
- The on-site system of sidewalks trails will be defined to support access to the transit station and potential neighborhood feeder service.
- Kitsap Transit service to/from the McCormick Urban Village will likely initially connect with the Port Orchard Intermodal Terminal where connecting service would be available to the WSF passenger-only ferry, Puget Sound Naval Shipyard, and other transit destinations in Kitsap County. As other areas, such as the SKIA employment center, are developed, direct transit service to these areas may be initiated by Kitsap Transit to reduce overall travel demands in south Kitsap County. The proposed transit system improvements in McCormick Urban Village are designed to accommodate and facilitate this potential expansion of the regional transit system.
- Land uses in the vicinity of the transit station will take into consideration the availability of transit service and will provide pedestrian and bicycle connections to/from the station.

Transportation Demand Management Program

The Transportation Demand Management Program (TDMP) for the site will consist of elements for residential and business park uses. The TDMPs would be coordinated with Kitsap Transit commuter programs and transit service.

Residential TDMP

The residential TDMP will be based on Kitsap Transit's current commuter programs. A link from the McCormick Village homeowners' association website to the Kitsap Transit web page



will be provided to encourage use of the available services. The focus of the residential TDMP through Kitsap Transit will be:

- Carpool/Vanpool matching
- Transportation information centers in the transit station, village center, and community center.
- Promotional events coordinated between the McCormick Village homeowners association, as well as business owners in McCormick Village Center and Kitsap Transit

Employment TDMP

As the business park site and commercial component of the McCormick Village Center are developed, a specific TDMP will be implemented. The TDMP will be coordinated with Kitsap Transit and will consider the following elements, as applicable to each phase of the business park development:

- Establish a Transportation Coordinator for the business park that would coordinate programs with Kitsap Transit and other Transportation Management Associations.
- Providing preferential parking for carpools and vanpools.
- Providing bicycle parking areas/facilities and possible changing areas/showers.
- Commuter ride match programs.
- Alternative work schedules and/or flex time programs,
- Potential for subsidized transit fare or vanpool charges and/or parking incentive programs for employees that rideshare, bike, or walk.
- On-site amenities such as places to eat, ATM machines, daycare facility, or other items that can reduce overall travel demand.
- Guaranteed ride home program for employees who ride transit, carpool, vanpool or commute by other modes.



Transportation Phasing Program

A conceptual phasing plan for the proposed development within McCormick Urban Village has been prepared in order to coordinate a potential phasing plan for construction of the improvements that will be needed to support the development. The conceptual phasing plan is summarized in Table 5. For the purposes of the conceptual plan, proposed development for McCormick Urban Village has been separated into phases reflecting development levels that would generate approximately 5,000 daily trips per phase. Phases 1 and 2 are exceptions to this assumption because they reflect the actual plat application and site development application that are currently proposed for the McCormick North area and the level of potential development associated with those two phases has been established. Phase 1 also includes the unbuilt 471 units in the vested McCormick Woods development that has already received a Concurrency Certificate.

Table 5: Conceptual Development Phasing Plan

Phase	Component	Dwelling Units (1)	Other Uses	Total Daily Trips
1	McCormick Woods (unbuilt)	471		9,770
	McCormick North Phase 1	500		
2	McCormick North Phase 2	200		2,010
3	McCormick West	500		5,030
4	McCormick West	250	4 Acres	6,020
	McCormick Woods Retail Conference Center			
5	McCormick West	500		5,030
6	McCormick West	250	2,500 Students	6,710
	Jr High & High Schools			
7	Village Residential (multi-family)	340	3 Acres	5,150
	Village Retail		10 Acres	
	Village Business Park			
8	McCormick West	250	3 Acres	5,420
	Village Retail		10 Acres	
	Village Business Park			
9	Village Residential (multi-family)	340	20 Acres	5,240
	Village Business Park			
Total		3,601		50,380

(1) The maximum total number of units allowed in McCormick Urban Village (including existing units in McCormick Woods) is 4,162. A slightly higher number of units has been assumed for the purposes of this analysis only.

Table 6 lists the intersections where improvements will be needed and identifies the development phase when it is anticipated that the improvements will be required. The improvements shown in the table are consistent with those shown in Table 2. The specific development phase at which an improvement will be required may vary from that shown in the table depending on the actual size of each phase of development of McCormick Urban Village at the time of permit applications. Intersection improvements may be phased, provided that a preliminary conceptual engineering design for full build-out of an intersection will be completed in the first phase. Decisions about the extent of each improvement phase will be determined in cooperation between Kitsap County and the applicant. The decision on phasing will be based on the specific needs to mitigate the impacts of that project phase, other development, and cost effectiveness of constructing individual elements of the full improvement.

Table 6: Conceptual Improvement Phasing Plan

Improvement Location	Phase of Development Required	Anticipated Year
Improvements Within Kitsap County's Jurisdiction:		
Clifton / Sunnyslope	6	2011
Clifton / Feigley	6	2005
Clifton / Campus Pkwy	3	2006
Clifton / McCormick Woods Dr	4	2009
Clifton / Anderson Hill	1	2006
Clifton / Berry Lake	3	2006
Glenwood Connector Roadway	1	2005
Sunnyslope Widening	See Note (1)	2020
Clifton Widening	See Note (1)	2020
Improvements Outside Kitsap County's Jurisdiction:		
SR-3 / Lake Flora	8	2018
SR-3 / Sunnyslope	3	2006
Clifton / SR-16 SB Ramps	1	2006
Clifton / SR-16 NB Ramps	Existing Need	Existing Need
Treemont / Pottery	4	2009
Sedgwick / SR-16 NB Ramps	8	2018

(1) The needs for the Sunnyslope and Clifton widenings are dependent on development outside of the Urban Village. However, a pro-rata share of the widenings are included as part of the Urban Village Transportation Plan and the proposed independent fee calculation.

Independent Roads Impact Fee Calculation

The McCormick Urban Village Plan development regulations requires that the transportation plan identify potential methods for funding the design and construction of system improvements needed to serve the area (Section 17.428.060.B.6.c.i). The Plan also states that no development within the Village may be approved unless funding for required improvements is provided by the County's Transportation Improvement Program (TIP) or a commitment is in place that developers will provide the improvements within the timelines established by the County's Concurrency requirements (KCC. 20.04.020(8)).

For purposes of this Transportation Plan, an alternative mitigation fee schedule, adopted pursuant to the Kitsap County Road Impact Fee Ordinance (KCC 4.110.200), is proposed as the mechanism for funding the system improvements needed to serve the McCormick Urban Village development. Under KCC 4.110.200, if the County's current impact fee schedule would not "accurately describe or capture the impacts of a new development on roads", then an independent fee calculation may be submitted to the Kitsap County Director of Public Works for review (KCC 1.110.230). The independent fee calculation must be based on the formulas and methodologies as those used in the County's impact fee program.

This section of the Transportation Plan presents the proposed independent fee calculation for development of the McCormick Urban Village. It is organized as follows:

- Overview of County Roads Impact Fee Methodology.
- Independent Impact Fee Calculation
- Application of Fee for McCormick Urban Village
- Summary

Overview of County Roads Impact Fee Methodology

Kitsap County originally adopted impact fees for roads in 1992. The roads impact fee schedule was updated in May, 2004. The methodology for the updated fees is documented in Rate Study for Impact Fees for Roads, Henderson Young & Company, May 16, 2003. This document is referred to as the Roads Study in the County Code. The Roads Study results in a fee per new daily trip added to the road system and converts this fee to a cost per unit of development (e.g. per dwelling unit, or per 1,000 square feet of commercial or office space, or other measure) as applicable for various land use categories. A factor is applied to reduce the fee calculated in the Roads Study to arrive at the final fee. (KCC 4.110.200) The following provides an overview of the County's current fee calculation for the McCormick Urban Village. Table 7 presents the calculations in tabular form.



Table 7: Existing Fee Calculation (Per KCC 4.110.200)

Total McCormick Urban Village Improvement Costs	\$5,980,000
County Improvements - Lake Flora & Glenwood Rds	\$100,000
Total Improvement Costs	\$6,080,000
Less Existing Revenue	\$68,289
Less 20% Local Share	\$1,202,342
Unfunded Costs	\$4,809,369
Additional Trips	23,349
Cost per Trip - Roads Service Area 3	\$207
Cost per Trip - Regional Service Area	\$20
Total Cost Per Trip	\$227
Service Area 3 Factor	22.8%
Regional Service Area Factor	22.8%
Total Service Area 3 Fee	\$51.74
Fee per Single-Family DU Equivalent	\$520.50

Note: Values shown are taken from the Roads Study and the ordinance. They do not calculate directly due to rounding.

Service Areas

To calculate the standard impact fee for roads, the County has been divided into four geographic districts, or road service areas. The McCormick Urban Village development is located in Road Service Area 3, which covers South Kitsap County. In addition, a Regional Road Service Area is defined that covers two transportation improvements to the State Highway system. A portion of the regional service area improvement costs is allocated to development in each of the four Road Service Areas.

Improvement Projects

The Roads Study includes costs of the following three projects in Service Area 3 in the calculation of the impact fee:

- SW Old Clifton Road (SR16 to Sunnyslope Road) \$5,980,000
- SW Lake Flora Road (SR3 to Glenwood Road) \$50,000
- Glenwood Road SW (Lake Flora Road to City Limits) \$50,000

The improvement to Old Clifton Road and its costs were derived from the transportation analysis for the ULID #6 Subarea Plan and EIS. The project subject to the impact fee is a series of improvements at five intersections along Old Clifton Road. These improvements were identified based on a preliminary review of improvements that should be considered in the County's 2003-2008 Six-Year Transportation Improvement Program (TIP). (The specific intersection improvements are identified in Transpo's June 27, 2002 memorandum from Milton Lim to Randy Casteel)



The \$50,000 included for each of the other two improvements covers only the initial design and/or environmental analysis for the projects. As the projects become more defined the County will probably update the fee schedule to include the additional costs of construction of these projects.

Project Costs Included in Impact Fee

Kitsap County does not include the full costs of the identified projects in the standard impact fee program. The project costs were adjusted to account for existing deficiencies, secured or potential available revenues, and an allocation of local fuel tax revenues to support growth.

The three projects identified for Service Area 3 total \$6,080,000. Based on Kitsap County's analyses, there are no existing deficiencies for these projects that require adjustments to the costs. The County has identified \$68,289 in previously secured funding for Old Clifton Road. As part of the current impact fee program, the County has established a local funding allocation of 20 percent of the growth share of the improvement cost after subtracting secured or potential funding. The local funding allocation is essentially a County policy commitment to fund 20 percent of growth's share of project cost through fuel taxes.

After these adjustments, the growth share of costs for Service Area 3 is \$4,809,369.

Roads Impact Fee

The \$4,809,369 in growth's share of improvement costs for Service Area 3 was used to calculate the fee per new growth trip, which forms the basis for the roads impact fee. The County's model estimates that there would be 23,349 new daily trips generated in Service Area 3. The forecast is based on a 2012 horizon year and was developed prior to adoption of the ULID #6 Subarea Plan.

The \$4,809,369 was divided by the 23,349 new daily trips to arrive at a cost of \$207 per daily growth trip. An additional \$20 per growth trip is added to all service areas to cover the regional service area improvements. This results in a total of \$227 per growth trip for new development in Service Area 3.

The \$227 per growth trip is converted into a cost per unit of development using average trip generation rates. The trip generation rates are adjusted to account for "pass-by" trips, resulting in a fee per net new trip generated by growth.

In its impact fee ordinance, Kitsap County adjusted the fees by applying a factor to each of the service areas to reduce the fee per growth trip. For Road Service Area 3, the factor was 22.8 percent. The factor is applied to both the Service Area 3 and regional Service Area costs, resulting in a fee of \$51.74 per trip. This factor also carries through to the cost per unit of development.

Independent Fee Calculation

As required by County Ordinance, the Independent Fee Calculation for ULID #6/McCormick Urban Village is based on the same formula and methods used in the County's impact fee



calculation. The ULID #6 fee calculation varies from the County's program for Roads Service Area 3 in the following three ways:

- Revised Improvement Projects and Costs
- Number of Growth Trips Based on current projected McCormick Urban Village Land Uses
- Ordinance Reduction Factor

The following Table 8 identifies proposed Independent Fee Calculation.

Table 8: Proposed ULID #6 Independent Fee Calculation

Total Urban Village Pro-Rata Share Improvement Costs (1)	\$7,233,200
Additional Trips From Urban Village	50,380
Cost per Urban Village Trip	\$143.57
Regional Service Area Fee per Trip	\$4.56
Total Cost Per Urban Village Trip	\$148.13
Fee per Single-Family DU Equivalent	\$1,490.19

(1) Total Pro-Rata Improvement Costs are for required improvements within Kitsap County's jurisdiction and does not include potential improvements in the study area in WSDOT and Port Orchard jurisdictions.

Revised Improvement Projects and Costs

Kitsap County's adopted Road Impact Fee for Service Area 3 is based on a project list identified in the 2003-2008 TIP. Completion of the projects in the TIP list would not support full development of McCormick Urban Village. The ULID #6 Sub Area Plan and EIS identified improvement projects to serve the ULID #6 sub area in conjunction with potential development of other properties such as the South Kitsap Industrial Area (SKIA) and the Northwest Corporate Campus.

As previously shown, Table 2 summarized the improvement projects needed to serve full development of ULID #6. The planning level construction cost of these projects attributable to traffic that would be generated by the Urban Village Master Plan and that are within Kitsap County's jurisdiction is \$5,564,000 in 2004 dollars. The estimate is exclusive of costs for engineering and design, right-of-way acquisition, utility relocation, major structural work, and major environmental work. As shown in Table 2, allowances for engineering costs and a contingency to cover other potential project costs have been added to the planning level construction costs. This results in a total estimated cost of \$7,233,200 for the improvement projects, which is approximately 20 percent greater than the \$5,980,000 interim cost estimate used in the County's adopted Road Cost Impact Fee Calculation.

Number of Growth Trips Based on Currently Projected McCormick Urban Village Land Uses

The County's Road Impact Fee was based on land uses in South Kitsap County assumed prior to the adoption of the ULID #6 Subarea Plan. At full build out the ULID #6 Sub-Area Plan will



have a significantly higher trip generation rate than the County's previous forecasts for Service Area 3 due to the increase in population allocation to the sub area.

A summary of land use assumptions and resulting daily trip generation for the sub area was previously shown in Table 1. These land use and trip generation were used to determine the transportation improvements needed to complete development of the McCormick Urban Village. The McCormick Urban Village is projected to generate 50,380 additional daily trips. This is more than double the 23,349 growth trips used in the County's impact fee calculation for Service Area 3.

Independent Fee Calculations

Dividing the resulting growth share of the improvement costs by 50,380 growth trips results in a fee of \$143.57 per daily growth trip. The Regional Service Area fee of \$4.56 would be added to the proposed new impact fee, for a total McCormick Urban Village impact fee of \$148.13. This is almost triple the \$51.74 fee under the existing fee program. The proposed \$148.13 per trip fee would result in a fee of \$1,490.19 per single-family dwelling unit equivalent for the McCormick Urban Village.

Application of Fee to McCormick Urban Village

For each development within the McCormick Urban Village, the applicant would pay the County a roads impact fee to mitigate its impacts to the surrounding County road system. The fee would be based on the \$148.13 per new daily growth trip.

The \$148.13 fee per trip would be converted into a fee per development unit based on the trip generation rates and percentage of new trips used to calculate the impact fees used in the current ordinance.

Road impact fees will not be assessed against the public schools included in the pending Master Plan. Public schools are exempt from Kitsap County's impact fees (4.110.030). Kitsap County will be responsible for funding the share of improvements costs that would otherwise be collected for the public schools.

Kitsap County will include appropriate projects from the McCormick Urban Village improvement list (Table 2) in its annual update of its six-year Transportation Improvement Program (TIP). The County will identify appropriate projects for the TIP based on the preliminary phasing plan presented in this study (see Table 6) and subsequent traffic analyses that may be prepared for individual phases of the McCormick Urban Village and other relevant policies and data. Phasing of the improvements will be determined in cooperation between Kitsap County and the applicant and will be based on the specific needs to mitigate the impacts of that project phase, other development, and cost effectiveness of constructing individual elements of the full improvement. The County will apply the McCormick Urban Village impact fee funding to design and construct the improvements. Per KCC 4.110.070, the fees must be expended or encumbered within six years of receipt. If the County fails to expend or encumber the impact fees within six years of when the fees were paid, the applicant may receive a refund pursuant to KCC 4.110.090.



If funding from the McCormick Urban Village impact fee and other County funding sources (i.e., fuel taxes) is not sufficient to cover all improvements needed to support a current project phase, then the applicant could choose to construct the improvement itself or provide additional funding to enable the County construct the needed improvements. The County would credit or reimburse the applicant for funding provided by the applicant that is in excess of its proportionate share of the cost. All other provisions of KCC 4.110 related to Roads Impact fees, including fee escalation, will apply to development in the McCormick Urban Village.

Summary

The County's current roads impact fee program will not be adequate to fund transportation improvements in a timely manner which are needed to support development of McCormick Urban Village. Therefore, an independent fee calculation is proposed to cover additional improvement projects and increased levels of developments within the sub area. The resulting fee is almost three times higher than the County's current roads impact fee for South Kitsap County.


In addition to the road impact fee, a voluntary non-motorized transportation mitigation payment is proposed to fund the McCormick Urban Village proportionate share of the cost of the bike lane project on Old Clifton Road that is identified in the May 2001 Kitsap County Bicycle Facility Plan.

Fees and payments will be collected by Kitsap County for each development phase in the same method currently used by Kitsap County (i.e., at building permit issuance or building occupancy) and used to fund implementation of improvement projects which were included in the fee calculation. This will require Kitsap County to include the appropriate improvements in its annual TIP, as needed. If the collected fees and other County monies anticipated by the existing impact fee ordinance are not adequate to fund needed improvements within the required timeframe, the applicant will have options to either provide additional funding, construct the improvements, or postpone development. The applicant would receive a credit from Kitsap County for the value of improvements or funding in excess of the applicable impact fee.

All aspects of the roads mitigation program, except the actual fee calculation, are otherwise consistent with the County roads impact fee processes.

EXHIBIT C

MAP OF McCORMICK URBAN VILLAGE

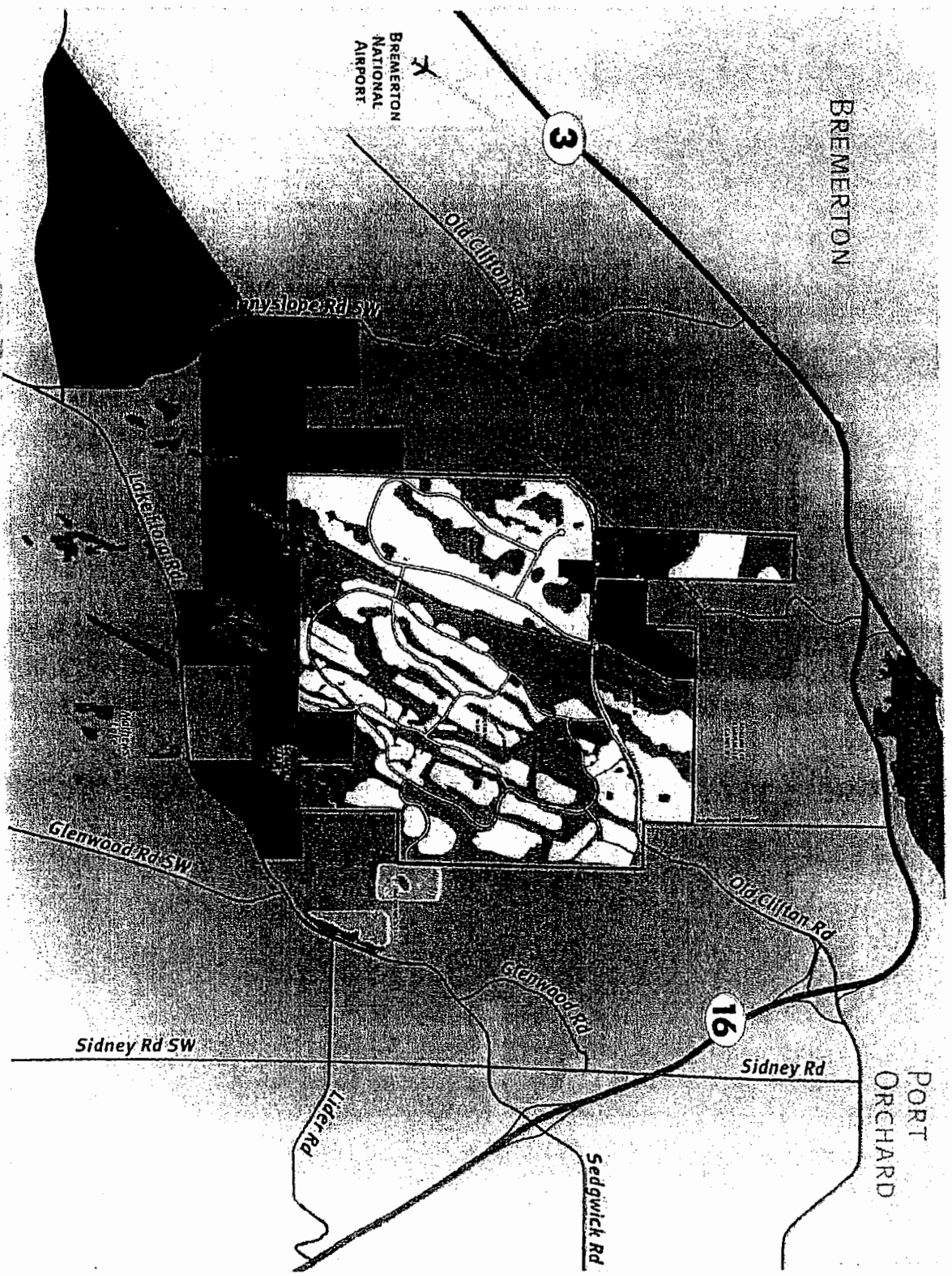


200510210280
Page: 31 of 33
10/21/2005 02:58P
Kitsap Co, WA

MCCORMICK LAND CO AGMT \$64.00

200510210280
 Page: 32 of 33
 10/21/2005 02:58P
 \$04.00 Kitsap Co. WA

**McCormick Urban Village
 Land Use Concept Plan**



- Urban Cluster
- Multi Family
- Office
- Village Center
- Open Space
- Parks
- Golf Course
- Proposed Low Density



Hackworth Group
 Architecture/Planning
 2004 4th 11th • Seattle, WA 98101
 206.441.1181 • Fax 206.441.8289

June 2004

EXHIBIT D

LIST OF SUBJECT PARCELS

Note: This list of tax parcel numbers is the list of properties which are subject to the terms and conditions of this Agreement and this list is accurate as of the date this Agreement was executed. The properties listed below shall be subject to the terms of this Agreement regardless of any future change in tax parcel number.

McCormick North	McCormick West	McCormick Woods
042301-4-025-2007	082301-2-003-2003	6031-000-146-0005
042301-3-003-2005	082301-1-013-2003	6031-000-131-0002
052301-4-013-2000	082301-1-010-2006	5190-000-052-0006
052301-4-014-2009	082301-1-014-2002	092301-1-003-2004
052301-4-015-2008	172301-2-002-2003	092301-1-004-2003
052301-4-016-2007	172301-2-003-2002	5356-000-076-0008
052301-4-017-2006	172301-2-006-2009	042301-4-028-2004
052301-4-018-2005	172301-2-007-2008	
052301-2-021-2004	172301-2-004-2001	
052301-2-022-2003	172301-2-005-2000	
052301-2-023-2002	172301-3-004-2009	
052301-2-024-2001		
052301-3-023-2000		
052301-3-024-2009		
052301-3-021-2002		
052301-3-022-2001		



20051021028
 Page: 33 of 33
 10/21/2005 02:58F
 Kitsap Co, WA

MCCORMICK LAND CO AGMT \$64.00



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Public Hearing 6C
Subject: Public Hearing on an Ordinance Amending
Port Orchard Municipal Code Chapter
13.04 Concerning Sewer General Facility
Fee Credits

Meeting Date: February 9, 2021
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: Development-Matter 11
Atty Review Date: February 4, 2021

Summary: Since November 2017, the City Council has been discussing the current Port Orchard Municipal Code (POMC) regarding water and sewer credits for capital facility charges. Most recently, at the December 8, 2020 and January 19, 2021 Council meetings, the Council reviewed and discussed the POMC regarding sewer credit for general facility fees. The Council agreed that the current code language does not provide a meaningful incentive for developers to build sewer infrastructure. Council requested that City staff evaluate credit options to provide an incentive without jeopardizing the City’s enterprise capital projects.

Staff has worked with the City Attorney to draft an ordinance that will provide a credit for additional capacity beyond the need of a development that is provided to the City from the completion of an infrastructure project. This will be referred to as the General Facility Fee (GFF) Credit for excess capacity. The attached ordinance outlines the requirements for credit and provides a process for seeking a credit. Specific revisions include:

1. Terminology has been clarified in POMC 13.04.025 and 13.04.040. The terms capital facility charge, general facility fee, general facility charge, and sewer wastewater treatment fee were not used consistently throughout these code sections. This has been fixed and credits are only available towards the general facility fee.
2. The ordinance describes the timing for requesting a credit – to be made with a new application submittal or with a pending application.
3. The ordinance requires that there be an agreement between the city and the developer that addresses the credit.
4. The ordinance details how the amount of credit is to be determined and provides an example of a credit calculation.
5. The ordinance provides a detailed process for approving a GFF credit. This process is modeled after the process created for and included in the McCormick Woods Development Agreement for Transportation.

The ordinance as presented allows credits to be granted at the discretion of the City Council. In the proposed revisions to POMC 13.04.040(6), the language does not require the City Council to enter into agreements but does provide the authority for credit agreements and a process, limitations, and

requirements if an agreement is reached. This ordinance will help incentivize development activity and the private construction of public sewer facilities.

Recommendation: Conduct a public hearing on the proposed ordinance.

Relationship to Comprehensive Plan: This ordinance helps to incentivize private construction of public facilities that are identified in the City's Comprehensive Plan.

Fiscal Impact: These amendments are likely to incentivize development that will generate a variety of City revenues. The amendment may reduce sewer general facility fee revenue in the near term, but in the long term the City will gain capacity and the ability to support additional development that will generate future GFF payments.

Alternatives: None.

Attachments: Ordinance; Redline Ordinance

*Both attachments can be found with the corresponding business item staff report in the City Council packet for 2/9.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Business Item 7A
Subject: Adoption of an Ordinance Approving the
McCormick Woods Development
Agreement for Transportation

Meeting Date: February 9, 2021
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: Development-Matter 11
Atty Review Date: February 3, 2021

Summary: See staff report for Public Hearing, agenda item 6B.

Relationship to Comprehensive Plan: See staff report for Public Hearing, agenda item 6B.

Recommendation: Staff recommends that the City Council vote to approve an ordinance approving the 2021 McCormick Woods development agreement for transportation.

Motion for Consideration: "I move to adopt an ordinance approving the 2021 McCormick Woods development agreement for transportation."

Fiscal Impact: See staff report for Public Hearing, agenda item 6B.

Alternatives: Do not approve the Development Agreement; request changes to the Development Agreement.

Attachments: Ordinance; 2021 Development Agreement; Exhibits to 2021 Development Agreement.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT WITH MCCORMICK COMMUNITIES, LLC; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 36.70B.170, the City Council has the authority to review and enter into development agreements that govern the development and use of real property within the City; and

WHEREAS, the City Council has adopted standards and procedures governing the City's use of development agreements, codified at Chapter 20.26 of the Port Orchard Municipal Code (POMC); and

WHEREAS, the City and McCormick Communities, LLC have prepared a Development Agreement to address the design, construction, and funding of certain transportation improvements within and near the McCormick Woods development in the vicinity of Old Clifton Road and Campus Parkway, as provided in "Exhibit A" of this Ordinance; and

WHEREAS, McCormick Land Company is also a party to this Agreement as the Agreement will replace a 2005 Transportation Development Agreement under which McCormick Land Company is continuing to receive reimbursement for completion of transportation improvements; and

WHEREAS, this Development Agreement was consolidated under POMC 20.22.020(2) with the following project permits: Land Disturbing Activity Permit (PW20-031) and Stormwater Drainage Permit (PW20-032); and

WHEREAS, in accordance with RCW 36.70B.200, when a development agreement is related to a project permit application, the provisions of chapter 36.70C RCW shall apply to any appeal on the development agreement; and

WHEREAS, on December 9, 2020, the City's SEPA official issued a determination of non-significance for the proposed development agreement and consolidated permits under the Optional DNS process, and there have been no appeals; and

WHEREAS, the Notice of Decision for these project permits was issued on December 24, 2020 and there have been no appeals; and

WHEREAS, on January 19, 2021, the City Council held a study session on the proposed development agreement; and

WHEREAS, on February 9, 2021, the City Council held a public hearing on the proposed development agreement, and (comments received/not received, etc); and

WHEREAS, the City Council, after careful consideration of the development agreement and all public comments and testimony, finds that the development agreement is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City; now, therefore,

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

SECTION 1. The City Council adopts all of the "Whereas" sections of this ordinance and all "Whereas" sections of the Development Agreement as findings in support of this ordinance.

SECTION 2. The City Council approves of and authorizes the Mayor to execute a development agreement with McCormick Communities, LLC and McCormick Land Company, as provided in "Exhibit A" of this Ordinance.

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

SECTION 4. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this Ordinance, including but not limited to the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 5. Effective Date. This Ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of publishing the entire Ordinance, as authorized by state law.

SECTION 6. Appeals. Since the Development Agreement is related to a project permit application, the provisions of chapter 36.70C RCW shall apply to the appeal of the decision of the development agreement.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Bek Ashby, Councilmember

PUBLISHED:

EFFECTIVE DATE:

EXHIBIT A: MCCORMICK COMMUNITIES, LLC, DEVELOPMENT AGREEMENT

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF PORT ORCHARD AND McCORMICK FOR THE
DEVELOPMENT AND FUNDING OF
CERTAIN TRANSPORTATION IMPROVEMENTS**

THIS DEVELOPMENT AGREEMENT is made and entered into this ___ day February, 2021, by and between the City of Port Orchard, a non-charter, optional code Washington municipal corporation, hereinafter the “City,” and McCormick Communities, LLC, a limited liability company organized under the laws of the State of Washington, together with McCormick Development Corporation, a Washington Corporation, hereinafter collectively the “Developer” or “McCormick” (together the “Parties”).

In addition, McCormick Land Company, a Washington corporation, hereafter “MLC,” is a Party for purposes of Sections 7, 15, and such other sections as specifically refer to MLC.

The Parties hereby agree as follows:

RECITALS

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)); and

WHEREAS, Port Orchard adopted Chapter 20.26 of the Port Orchard Municipal Code (“POMC”) which establishes the standards and procedures for Development Agreements in Port Orchard; and

WHEREAS, Chapter 20.26 POMC is consistent with State law; and

WHEREAS, the Developer has applied for a Development Agreement under Chapter 20.26 POMC and such Agreement has been processed consistently with the POMC and State law; and

WHEREAS, this Development Agreement by and between the City of Port Orchard and the Developer (hereinafter the “Development Agreement”), relates primarily to the development of property owned by Developer within and near McCormick Woods in the vicinity of Old Clifton Road and Campus Parkway and that is more particularly described on Exhibits A-1, A-2,

Development Agreement for Funding Transportation Improvements

Page 1 of 19

FG:54082696.4

B-1, and B-2 (hereinafter the “McCormick Property”); and

WHEREAS, in 2005 the City’s predecessor in interest entered into a Development Agreement with Developer’s predecessor in interest for the development of certain transportation improvements; and

WHEREAS, since that time, the City annexed the property and in accordance with RCW 36.70B.190 assumed jurisdiction and agreed to be bound by the 2005 Transportation Development Agreement; and

WHEREAS, as part of that 2005 Agreement, the predecessor to the Developer (GEM 1, LLC) constructed some projects and payments for those projects are still on-going and will continue until GEM 1, LLC’s successor is fully reimbursed; and

WHEREAS, since annexing this property, the City’s transportation plans have been updated; and

WHEREAS, the City is in the process of adopting updated transportation impact fees; and

WHEREAS, during this process, an in-depth look at the projects needed to meet the projected development by Developer and others in the City was performed; and

WHEREAS, the updated transportation impact fees are based, in part, on the 2005 Development Agreement with the Developer’s predecessor as well as on the updated project list; and

WHEREAS, the Developer did not acquire from GEM 1, LLC (“GEM 1”), and GEM 1 still retains, the right to reimbursement that accrued under the 2005 Transportation Agreement when GEM 1 constructed the Glenwood Connector Roadway and minor improvements to Feigley Road, the only projects identified in that 2005 agreement that have been constructed; and

WHEREAS, the City has been paying such reimbursement to GEM 1 and its successor since 2008, and nothing in this Agreement changes or is intended to change the City’s obligation to continue paying such reimbursement to GEM 1; and

WHEREAS, GEM 1 assigned its right to reimbursement to the McCormick Land Company in 2016, after which time, the City paid reimbursement to the McCormick Land Company (“MLC”); and

WHEREAS, MLC continues to own property in Port Orchard; and

WHEREAS, MLC has signed this Agreement to confirm that this Agreement will fully replace and supersede the 2005 Transportation Development Agreement (“2005 Transportation DA”); and

WHEREAS, the Developer now seeks to update the 2005 Transportation DA in conjunction with obtaining a permit to build the Campus Parkway Roundabout; and

WHEREAS, the purpose of this Agreement is to carry forward and better define the concurrency evaluation that was part of the 2005 Transportation DA, to carry forward the impact fee reimbursement for MLC, and to establish an impact fee credit system for Developer to recover its costs of building the McCormick Projects described below; and

WHEREAS, apart from concurrency and impact fee credits/reimbursement, this Agreement does not address development standards, vesting, or any other regulation that impacts how the McCormick Property will be developed; and

WHEREAS, the Parties agree that the 2005 Transportation DA, as set forth in the traffic study attached to that 2005 Transportation DA, anticipated the generation of 4,935 PM peak hour trips. Based on the development activity since 2005, some of these “trips” have been absorbed. The parties believe it is advantageous to set forth the remaining capacity that may be utilized in future development phases and have confirmed the concurrency numbers as of the date of this Agreement; and

WHEREAS, in consideration of the benefits conferred by this new Development Agreement, which reflect the current plans of both the City and the Developer and include confirmation of concurrency, a new project list, and a set impact fee credit calculation, the parties deem it in their best interests and the best interests of the community to repeal and replace the 2005 Transportation DA with this updated agreement; and

WHEREAS, there are two projects identified on both Exhibit A to the 2005 Transportation DA and also on the City’s new TIP. As described in the new TIP, these projects are ID #1.5C, “Old Clifton Rd – Campus Pkwy Intersection and ID #2.08 Old Clifton Rd & McCormick Woods Dr. Intersection Impr”. These two projects are collectively referred to herein as “the McCormick Projects”; and

WHEREAS, the McCormick Projects are eligible for credits under RCW 82.02.060(4); and

WHEREAS, the following events have occurred in the processing of the Developer’s application:

- a) The Developer applied for this Development Agreement on December 4, 2020; and
- b) The Development Agreement is related to and has been consolidated under POMC 20.22.020(2) with the following project permits:

Land Disturbing Activity Permit PW20-031
Stormwater Drainage Permit PW20-032

- c) The Developer is ready and willing to commence construction on the project known as Old Clifton Rd - Campus Parkway Intersection (a roundabout project) and has applied for a

Land Disturbing Activity permit and Stormwater Drainage Permit to perform this project;

d) The Old Clifton Rd – Campus Parkway Intersection is included in the City’s transportation plan upon which the updated impact fees are based and therefore the Developer may be reimbursed from the impact fees for that project;

e) The City Council held a public hearing on February 9, 2021 regarding this Development Agreement;

f) After a public hearing, by Ordinance No.____, the City Council authorized the Mayor to sign this Development Agreement with the Developer;

AGREEMENT

Section 1. The McCormick Projects. The two transportation projects described above as “the McCormick Projects” will serve the McCormick Property as well as provide connectivity and capacity for the City. The Campus Parkway Roundabout LDAP Permit #PW20-0031 and SDP Permit PW20-032 as well as the future development of the McCormick Woods Drive Roundabout, which will be permitted at a later date, are both subject to impact fee credit in accordance with this Agreement.

Section 2. The McCormick Property. The McCormick Property comprises McCormick North, McCormick West, and McCormick Woods, which are legally described by parcel number in Exhibit A-1 and depicted on A-2, attached hereto and incorporated herein by this reference. The McCormick Projects will serve the McCormick Property and the credits authorized by this Development Agreement are only applicable to lots for which building permits are applied for after the date of this Agreement within the boundaries of the McCormick Property as defined on Exhibit A-1 and as shown on the Map attached hereto as Exhibit A-2.

Section 3. Definitions. As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

a) “2005 Transportation Development Agreement” or “2005 Transportation DA” means the 2005 Development Agreement for Transportation which was executed between Kitsap County and Gem 1, LLC and dated April 25, 2005 and which was assumed by the City of Port Orchard upon annexation on May 27, 2009.

b) “Adopting Ordinance” means the Ordinance which approves this Development Agreement, as required by RCW 36.70B.200 and Chapter 20.26 POMC.’

c) “Commence construction” as to the McCormick Projects means that the required permit(s) have issued and there are “boots on the ground” at the construction site.

d) “Completion” as to the McCormick Projects means passing final inspection associated with the LDAP/SDP permits and providing the required 2-year warranty and

maintenance bond for the improvement(s).

“CPI-U” means the percentage rate change for the All Urban Consumers Index (CPI-U) (1982-1984=100), not seasonally adjusted, for the Seattle-Tacoma-Bellevue area for that 12 month period from January 1st to December 31st Indexed as the Annual Average, as is specified by the Bureau of Labor Statistics, United States Department of Labor. Increases based on CPI-U shall take effect on March 1st of the following year.

e) “Council” or “City Council” means the duly elected legislative body governing the City of Port Orchard.

f) “Director” means the City’s Community Development Director.

g) “Effective Date” means the effective date of the Adopting Ordinance.

h) “Maximum credit” or “maximum reimbursement” means the maximum amount that is eligible for projects subject to this Agreement, or for past projects done by GEM 1/MLC, for which reimbursement or impact fee credits will be provided by the City to the Developer or MLC.

i) “McCormick Project(s)” or “Project(s)” means the two transportation projects described above which serve both the McCormick Property and the greater community, as specified in Section 1 and as provided for in all associated permits/approvals, and all incorporated exhibits.

Section 4. Exhibits. Exhibits to this Agreement are as follows:

a) **Exhibit A-1** – Parcel numbers of the McCormick Property that are subject to impact fee credit.

b) **Exhibit A-2** – Map depicting the boundaries of the McCormick Property that are subject to the impact fee credit in this Agreement.

c) **Exhibit B-1** – Parcel numbers of the McCormick Property with vested concurrency.

d) **Exhibit B-2** Map depicting the boundaries of the McCormick Property with vested concurrency .

e) **Exhibit C** – Map showing the original boundaries for the 2005 Transportation DA which remains the reimbursement area for MLC

Section 5. Parties to Development Agreement. The parties to this Agreement are:

a) The “City” is the City of Port Orchard, 216 Prospect Street, Port Orchard, WA 98366.

b) The “Developer” or “Property Owner” or “McCormick” is a private enterprise which owns the McCormick Property in fee, and whose principal office is located at 12332 NE 115th Place, Kirkland, WA.

c) GEM 1, LLC is the prior owner of the property that was subject to the 2005 Transportation DA, and MLC is the successor to GEM 1 for purposes of reimbursement. MLC is located at 1869 McGilvra Blvd E, Seattle, WA 98112 and is still receiving reimbursement from the City for transportation projects done under the 2005 Transportation DA. These payments will continue in accordance with Section 15 of this Agreement.

Section 6. Projects are a Private Undertaking. It is agreed among the parties that the Projects are private improvements for which credits are required pursuant to RCW 82.02.060(4) and that the City has no interest in the improvements until such time as each Project is completed and dedicated to the City.

Section 7. Term of Agreement. This Agreement shall commence upon the effective date of the Adopting Ordinance approving this Agreement and shall continue in force for a period of twenty (20) years unless extended or terminated as provided herein, provided that reimbursement to MLC pursuant to Section 15 shall survive expiration until full reimbursement is received by MLC. Following the expiration of the term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect.

Section 8. Repeal and Replacement of 2005 Transportation DA. In consideration of the benefits to the Developer provided by the timely construction of the McCormick Projects, the confirmation of concurrency, the agreement on a credit calculation for transportation impact fees which will be charged to the McCormick Property, and the continuation of reimbursement from impact fees to MLC, the Developer, MLC, and the City agree to rescind, and by execution of this Agreement do rescind, the 2005 Transportation Agreement, and replace it with this Development Agreement.

Section 9. Concurrency. The Parties agree that City streets affected by development of the McCormick Property have the capacity to serve the McCormick Property in compliance with the City’s concurrency requirements so long as such development does not result in the generation of more than 3,806 PM peak hour trips, which is the number of remaining trips identified in Section 9 of the 2005 Transportation DA reserved for the McCormick Property identified on Exhibits B-1 and B-2. This remaining concurrency provided in the 2005 Transportation DA is being carried forward for the duration of this Agreement as set forth below. These trips are available as of December 15, 2020.

Area	Available PM Peak Trips	Lots/Units for Residential ¹	Map Designation on Ex. C
McCormick North			North
• Village local center	659	(See Note 1)	North

(residential + commercial			
• Single Family Residential	312	315	North
Total McCormick North	971		
McCormick West			West
• Multifamily	415	419	West
• Single Family Residential	1,530	1,545	West
Total McCormick West	1,945		
McCormick Woods	697	640	Wd
McCormick Woods Retail	63	N/A	Wd
McCormick Woods Conference (Golf Facilities)	122	N/A	GC
McCormick Woods legacy lots	8	8	Not depicted
Total McCormick Woods	890		
Grand Total	3,806		

¹ There are 659 PM Peak Trips available within the Village local center. Residential PM Peak Trips will be calculated per unit and commercial PM Peak trips will be calculated by use type and square footage.

The defined areas for the assigned concurrency numbers above are listed by parcel number on Exhibit B-1 and shown (except for the eight legacy lots, which are vacant lots in prior subdivisions) on Exhibit B-2, which Exhibits are attached hereto and incorporated herein by this reference as if set forth in full. Residential development shall be limited by either the PM peak hour trips or the number of units, whichever is more restrictive. Commercial development shall be limited only by the PM peak hour trips. To the extent that McCormick in the future proposes residential or commercial development within the McCormick Property that will generate more than the number of PM peak hour trips shown in the above table, the City will make a new concurrency determination regarding the capacity of its street system at that time.

Section 10. Project Schedule. The Developer will commence construction of the two McCormick Projects on the following schedule

- a) Work on the roundabout at the intersection of Old Clifton Road and Campus Parkway (Project ID #1.5C on the City’s TIP) (Permits #PW20-031 and PW20-032) shall commence no later than June 30, 2021, and Developer will complete construction in a timely and workmanlike manner. Such work shall be completed no later than September 30, 2022.
- b) Developer will submit a complete set of plans for a roundabout at the intersection of Old Clifton Road and McCormick Woods Drive (Project ID #2.08) no later than June 1, 2023

and will commence construction of said roundabout no later than June 1, 2024, provided that the City has before then acquired the additional land, not owned by Developer, that is needed for this roundabout; and Developer will complete construction in a timely and workmanlike manner. Such work shall be completed no later than September 30, 2025 so long as the City has acquired the land necessary for the roundabout before June 1, 2024. If the City has not acquired the land necessary for the roundabout before June 1, 2024, but does so more than 24 months before expiration of this Agreement, Developer shall construct the roundabout with 24 months of such acquisition.

Section 11. Project standards. Developer will finance, design, and construct these McCormick Projects to comply with City standards, including obtaining all necessary permits. The City will approve the plans before construction begins; and the City will accept responsibility for the operation of the Projects once construction is completed and a two-year warranty and maintenance bond is in place. A Project will be deemed completed when all of the following occurs: 1. The City deems it substantially complete; 2. All punch list items are finished; 3. The City releases the performance bond; 4. The Developer has put a 2-year warranty and maintenance bond in place; 5. The Developer has completed all property dedications; and 6. The Developer has provided the City with a Bill of Sale for the improvements containing the certified construction costs (stamped by licensed engineer) to the City for determination of the maximum credits available under this Agreement. The City will confirm completeness of the Project by issuing a Final Notice of Completeness to the Developer.

Section 12. Project costs. The maximum amount of the credit (or reimbursement) for project costs performed under this Agreement shall be limited to no greater than the engineer's estimate contained in the City's transportation impact fee calculation, plus an annual inflator per the CPI-U, or, the actual costs incurred by the Developer, whichever is less. The credits provided under Section 14 below are limited to this maximum credit/reimbursement amount and once the project cost maximum(s) have been achieved through credits or direct reimbursement to Developer, the credits will no longer be available and full impact fees will be due for further development.

Section 13. Applicable Impact Fees. The repeal and replacement of the 2005 Transportation DA results in all property owners both within and without the McCormick Property being subject to the City's established city-wide impact fees as these now exist or may be modified in the future by the City Council. This Agreement further confirms that impact fees, permit fees, capital facilities charges, and other similar fees which are adopted by the City as of the Effective Date of this Agreement may be increased by the City from time to time, and made applicable to permits and approvals for the McCormick Property, as long as such fees and charges apply to similar applications and projects elsewhere in the City. All impact fees shall be paid as set forth in the approved permit or approval, or as addressed in chapter 20.182 of the Port Orchard Municipal Code, except as modified by this Agreement. Nothing in this Agreement restricts or prohibits the City from raising its fees, including transportation impact fees, and the Developer agrees to pay the impact fees at the rates that are in effect at the time when payment is due minus any credits applicable according to this Agreement.

Section 14. Impact Fee Credits. The City hereby grants the Developer a credit against transportation impact fees for its costs to finance, design, and construct the McCormick Projects.

The credit is available to parcels located in the areas identified and shown on Exhibits A-1 and A-2. The credits will be calculated and applied as follows:

- a) Each parcel or lot that is developed within the McCormick Property credit area (Exhibits A-1 and A-2) will pay the City's adopted impact fees until Developer provides documentation to the City that Developer has expended a minimum of \$50,000 towards the design or construction of one of the McCormick Projects. At the time of this Agreement, the parties believe that Developer has already met this threshold, therefore, once Developer provides the documentation, the City will begin applying the credit described in this Agreement.
- b) Once McCormick provides documentation to the City of such \$50,000 expenditure, the City will grant a credit in the amount of \$1,000 per new home (or per peak pm trip for commercial/multifamily development) against its standard transportation impact fee for each application to develop a lot or parcel within the McCormick Property credit area (Exhibits A-1 and A-2) until such time as the credits granted by the City equal the amount of credit due to Developer under Section 12 above. This credit amount shall be adjusted as follows:
 - i. The \$1,000 credit shall be adjusted annually per the CPI-U, such adjustment to occur on March 1st of each year;
 - ii. If the amount outstanding for reimbursement of project costs is less than the credit, then the lesser amount shall be provided as a credit;
 - iii. If the City reimburses the Developer directly with SEPA mitigation funds received from another developer, then that amount shall be deducted dollar for dollar from the amount of project costs outstanding and the credits available will be reduced accordingly.
- c) Upon completion of each Project, Developer shall submit certified project costs to the City for review and acceptance by the City Engineer. Once these costs and executed Bill of Sale are reviewed and accepted by the City Engineer, the maximum credit due to Developer will be established and will equal the amount of the project costs as so certified in accordance with this subsection and Section 12. The City will grant the credits described in Subsection b) above against the transportation impacts fees that would otherwise be due for development of lots and parcels within the McCormick Property credit area as identified and shown on Exhibits A-1 and A-2. Such credits shall be provided until such time as the Developer receives full credit and/or reimbursement for its project costs or this Agreement terminates, whichever occurs first.

The City agrees that these credits are consistent with RCW 82.02.060(4); that they are appropriate in light of the unusual circumstances described in the Recitals above; that they are consistent with the intent of POMC 20.182.080; and that the City Council has legislatively approved this Agreement and exempted these credits for development of the McCormick Projects from the specific provisions of POMC 20.182.080.

Section 15. McCormick Land Company Reimbursement. This Agreement reaffirms the City's obligation to reimburse MLC for construction of the Glenwood Connector Roadway and minor improvements to Feigley Road. The maximum reimbursement amounts outstanding for these projects as of August 1, 2020 is \$1,542,239.64. Regardless of any fee credits provided for in this Agreement, the City's reimbursement for such project shall continue at the rate of \$720.80 for each unit of housing constructed or for each PM Peak trip, or fraction thereof, for which an impact fee is assessed in the MLC reimbursement area as depicted on Exhibit C until such time as MLC is fully reimbursed or this Agreement expires, whichever occurs first. This reimbursement amount shall be increased annually by CPI-U (Seattle/Tacoma/Bellevue) for the most recent twelve-month period (January 1st to December 31st) prior to the date of the adjustment. Such adjustment shall take effect on March 1st of each year, commencing on March 1, 2021. Disbursements shall be made annually in January of each year based on the collections from January 1st to December 31st in the prior year, however in 2021, such payment shall only be from collections from August 1 to December 31, 2020 as payment from collections through July 31, 2020 has already occurred. MLC agrees to the repeal of the 2005 Transportation DA and accepts the continued reimbursement under this new Agreement and agrees to be bound by this new Agreement as shown by its signature to this Agreement. This Section 15 shall survive expiration of this Agreement and shall remain in effect until such time as MLC has been fully reimbursed under the terms of this Agreement for construction of the Glenwood Connector Roadway and minor improvements to Feigley Road.

Section 16. Dedication of Public Lands. The Developer shall dedicate the land that it owns that is needed to construct the McCormick Projects prior to final completion of each Project. Neither Project shall be deemed completed until such dedications have occurred. In addition, consistent with Section 9 of the 2005 Transportation DA, to the extent that projects on the City's TIP including Old Clifton Widening and the Feigley Road Roundabout require additional dedications of right-of-way from within the McCormick Property, McCormick will dedicate that portion of the additional right-of-way. Such dedications shall occur within a mutually agreeable timeframe prior to the bid solicitation for the project requiring additional right-of-way.

Section 17. Default.

a) Subject to extensions of time by mutual consent in writing, failure or delay by either Party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

b) After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other Party to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Port Orchard Municipal Code for violations of this Development

Agreement and the Code.

Section 18. Termination. This Agreement shall terminate upon the expiration of the term identified in Section 7, which expiration date is February ____, 2041. Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. In addition, this Agreement shall automatically terminate and be of no further force and effect as to any single-family residence, any other residential dwelling unit or any non-residential building and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy and impact fees have been paid.

Section 19. Extension and Modification. Any request for extension or modification, if allowed under the City's code, shall be subject to the provisions contained in Chapter 20.26 POMC.

Section 20. Effect upon Termination on Developer and MLC. Termination of this Agreement as to the Developer or as to MLC shall not affect any of the Developer's or MLC's respective obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the McCormick Property or the MLC property, or any other conditions specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes. Furthermore, if the Agreement expires without the project costs being fully recovered by impact fee credit or mitigation funds, the Developer will no longer be eligible to receive such credits. Provided, however, that Section 15 of this Agreement will survive termination if MLC has not yet been fully reimbursed and this Agreement will only expire as to MLC after both termination and full reimbursement have occurred.

Section 21. Effects upon Termination on City. Upon any termination of this Agreement as to the McCormick Property, or any portion thereof, or as to MLC property, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination (provided that vesting of such entitlements, conditions or fees may then be established for such property pursuant to the then existing planning and zoning laws). The City will be under no obligation to provide any additional credits or reimbursement to Developer even if the project costs have not been fully recovered at the time of expiration or termination.

Section 22. Assignment and Assumption. The Developer shall have the right to sell, assign or transfer this Agreement with all rights, title, and interests therein to any person, firm or corporation at any time during the term of this Agreement with a sale of the underlying property. Developer shall provide the City with written notice of any intent to sell, assign, or transfer all or a portion of the McCormick Property, at least 30 days in advance of such action. A transfer by Developer will not impact the rights of MLC under this Agreement. This requirement for notice, however, does not apply to the sale by Developer of individual residential lots approved by the City for development of houses.

Section 23. Binding on Successors; Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the Parties. The Developer and every purchaser, assignee or transferee of an interest in the McCormick Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a Party thereto, but only with respect to the McCormick Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the McCormick Property sold, assigned or transferred to it.

Section 24. Amendment to Agreement; Effect of Agreement on Future Actions. No waiver, alteration, or modification to any of the provisions of this Agreement shall be binding unless in writing, signed by the duly authorized representatives of the Parties, be consistent with Chapter 20.26 POMC, and, where considered substantive as determined by the Director, follow the same procedures set forth in Chapter 20.26 POMC. However, nothing in this Agreement shall prevent the City Council from making any amendment to its Comprehensive Plan, Zoning Code, Official Zoning Map or development regulations, or to impacts fees that affect the McCormick Property in the same manner as other properties, after the Effective Date of this Agreement.

Section 25. Releases.

a) General. Developer may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee or transferee expressly assumes the obligations under this Agreement as provided herein.

b) Previously collected impact fees. Developer expressly waives and forever releases City from any and all claims it may have with regards to the amount or usage of any transportation impact fees which the City collected from property that was subject to the 2005 Transportation DA prior to the effective date of this Agreement. Developer further agrees that City can utilize these previously collected funds on any project it deems appropriate and is not limited to the projects outlined in the 2005 Transportation DA. These projects include, but are not limited, to the Old Clifton Road/Anderson Hill Road Roundabout (Project 2.07), the Old Clifton Road non-motorized shoulder and pedestrian improvements (Project 1.5A), Old Clifton Widening Design (Project 1.5A), and Bethel Avenue (Project 1.3).

c) Obligations to Kitsap County Extinguished. This Agreement being a complete replacement to the 2005 Transportation DA, neither Party has any obligations to Kitsap County.

Section 26. Notices. Notices, demands, correspondence to the City, MLC, and/or Developer (as applicable) shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in “Written Notice” Section 38 below. Notice to the City shall be to the attention of both the City Clerk and the City Attorney. Notices to successors-in-interest of the Developer shall be required to be given by the City only for those successors-in-interest who have given the City written notice of their address for such notice. The parties

hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 27. Reimbursement for Agreement Expenses of the City. Developer agrees to reimburse the City for actual expenses incurred over and above fees paid by Developer as an applicant incurred by City directly relating to this Agreement, including recording fees, publishing fees and reasonable staff and consultant costs not otherwise included within application fees. This Agreement shall not take effect until the fees provided for in this section, as well as any processing fees owed to the City for the transportation project known as the Campus Parkway Roundabout are paid to the City. Upon payment of all expenses, the Developer may request written acknowledgement of all fees. Such payment of all fees shall be paid, at the latest, within thirty (30) days from the City's presentation of a written statement of charges to the Developer.

Section 28. Applicable Law, Resolution of Disputes, and Attorneys' Fees. If any dispute arises between the City and Developer under any of the provisions of this Agreement, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington or the U.S. District Court for Western Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing Party in any action brought to enforce this Agreement shall pay the other Parties' expenses and reasonable attorney's fees.

Section 29. No Third-Party Beneficiaries. Except as otherwise provided herein, this Agreement shall not create any rights enforceable by any party who is not a Party to this Agreement.

Section 30. City's right to breach. The parties agree that the City may, without incurring any liability, engage in action that would otherwise be a breach if the City makes a determination on the record that the action is necessary to avoid a serious threat to public health and safety, or if the action is required by federal or state law.

Section 31. Developer's Compliance. The City's duties under the agreement are expressly conditioned upon the Developer's or Property Owner's substantial compliance with each and every term, condition, provision and/or covenant in this Agreement, including all applicable federal, state, and local laws and regulations and the Developer's/Property Owner's obligations as identified in any approval or project permit for the property identified in this Agreement.

Section 32. Limitation on City's Liability for Breach. Any breach of this Agreement by the City shall give right only to damages under state contract law and shall not give rise to any liability under Chapter 64.40 RCW, the Fifth and Fourteenth Amendments to the U.S. Constitution, or similar state constitutional provisions.

Section 33. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a Party to challenge this Agreement or any provision herein, the City may elect to tender the defense of such lawsuit or individual claims in the lawsuit to Developer. In such event, Developer shall hold the City harmless from

and defend the City from all costs and expenses incurred in the defense of such lawsuit or individual claims in the lawsuit, including but not limited to, attorneys' fees and expenses of litigation. The Developer shall not settle any lawsuit without the consent of the City. The City shall act in good faith and shall not unreasonably withhold consent to settle.

Section 34. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Development Agreement by any Party in default hereof.

Section 35. Recording. This Agreement shall be recorded against the property with the real property records of the Kitsap County Auditor. During the term of the Agreement, it is binding upon the owners of the property and any successors in interest to such property.

Section 36. Severability. If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the ordinance adopting this Development Agreement, and either Party in good faith determines that such provision or provisions are material to its entering into this Agreement, that Party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

Section 37. Non-Waiver of Breach. The failure of a Party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

Section 38. Written Notice. All written communications regarding enforcement or alleged breach of this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of both emailing and mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

McCORMICK:

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

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

CITY:

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

Copies shall also be transmitted to the City Clerk and City Attorney at the above address.

**GEM 1, LLC / McCORMICK
LAND COMPANY**

Doug Skrobut
1869 McGilvra Blvd E
Seattle, WA 98112
ds krobut@gmail.com

Section 39. Time is of the essence. All time limits set forth herein are of the essence. The Parties agree to perform all obligations under this Agreement with due diligence.

Section 40. Entire Agreement. The written provisions and terms of this Agreement, together with the Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the parties, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and exhibits thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of February, 2021.

MCCORMICK COMMUNITIES, LLC

CITY OF PORT ORCHARD

By: _____
Its: _____

By: _____
Its: Mayor

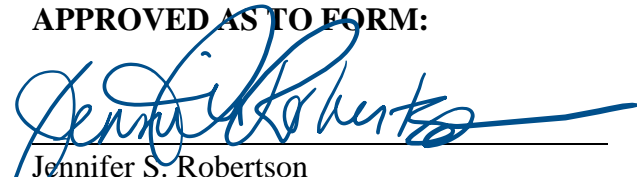
**GEM 1, LLC/McCORMICK LAND
COMPANY**

By: _____
Its: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Patrick Schneider
Attorney for McCormick



Jennifer S. Robertson
Attorney for Port Orchard

APPROVED AS TO FORM:

ATTEST:

Duana Kolouskova
Attorney for GEM 1, LLC/MLC

Brandy Rinearson
Port Orchard City Clerk

Exhibit A-1

McCormick Property

List of Parcels Subject to Impact Fee Credit

McCormick North

052301-4-023-2008
052301-4-027-2004
052301-4-024-2007
052301-4-025-2006
052301-4-026-2005
052301-4-013-2000
042301-3-011-2005

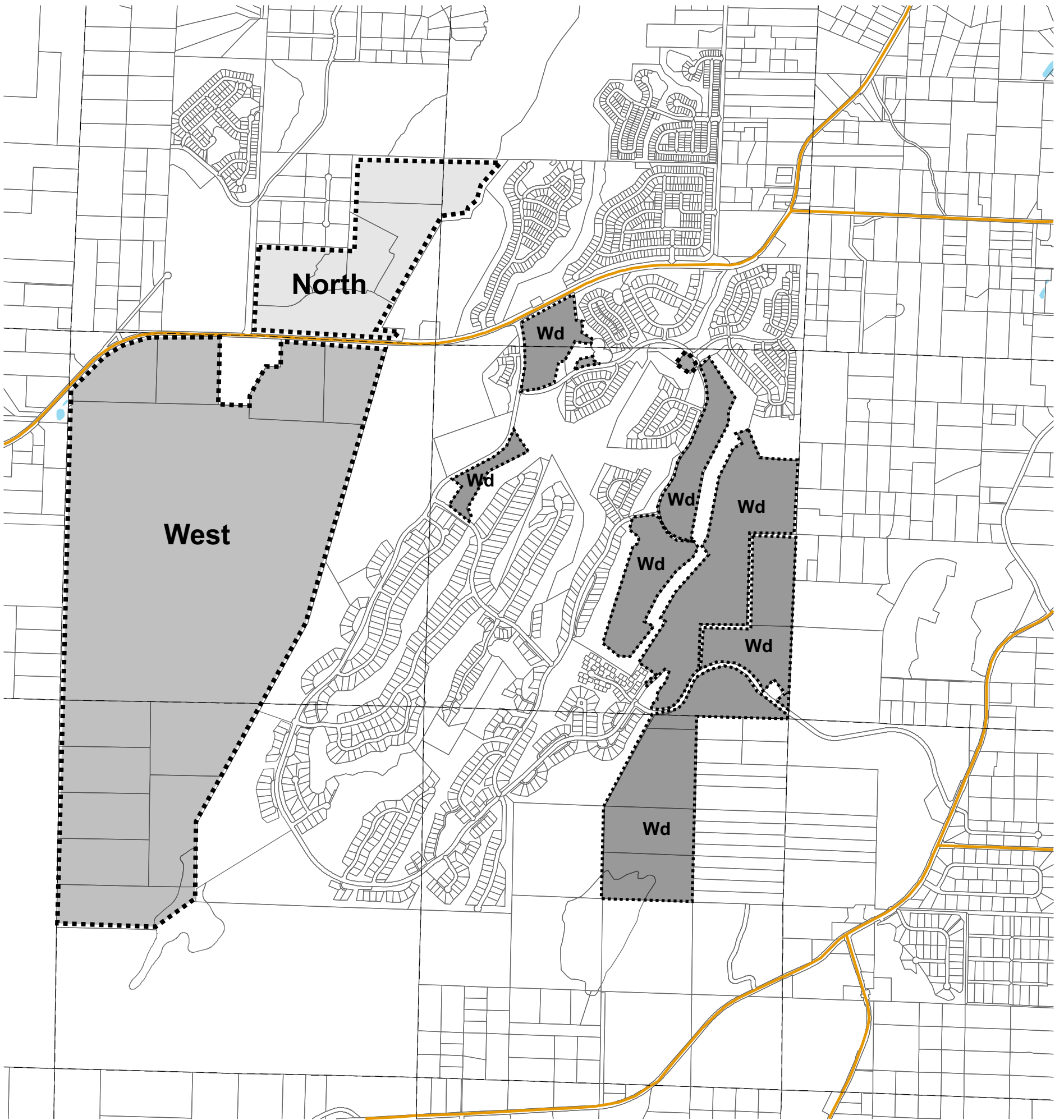
McCormick West

082301-2-002-2004
082301-2-003-2003
082301-1-013-2003
082301-2-004-2101
082301-1-010-2006
082301-1-014-2002
172301-2-002-2003
172301-2-004-2001
172301-2-003-2002
172301-2-006-2009
172301-2-005-2000
172301-2-007-2008
172301-3-004-2009

McCormick Woods

042301-3-010-2006
6031-000-131-0002
5552-000-045-0008
092301-1-005-2002
092301-4-004-2007
092301-1-009-2008
092301-4-005-2006
092301-4-003-2008
092301-4-002-2009
162301-1-021-2003
162301-1-020-2004
162301-1-019-2007

Exhibit A-2
McCormick Property
Maps of Parcels/Areas Subject to Impact Fee Credit



Legend

McCormick North



McCormick West



McCormick Woods



Exhibit B-1

List of Parcels with Vested Concurrency

McCormick North

052301-4-023-2008
052301-4-027-2004
052301-4-024-2007
052301-4-025-2006
052301-4-026-2005
052301-4-013-2000
042301-3-011-2005

McCormick West

082301-2-002-2004
082301-2-003-2003
082301-1-013-2003
082301-2-004-2101
082301-1-010-2006
082301-1-014-2002
172301-2-002-2003
172301-2-004-2001
172301-2-003-2002
172301-2-006-2009
172301-2-005-2000
172301-2-007-2008
172301-3-004-2009

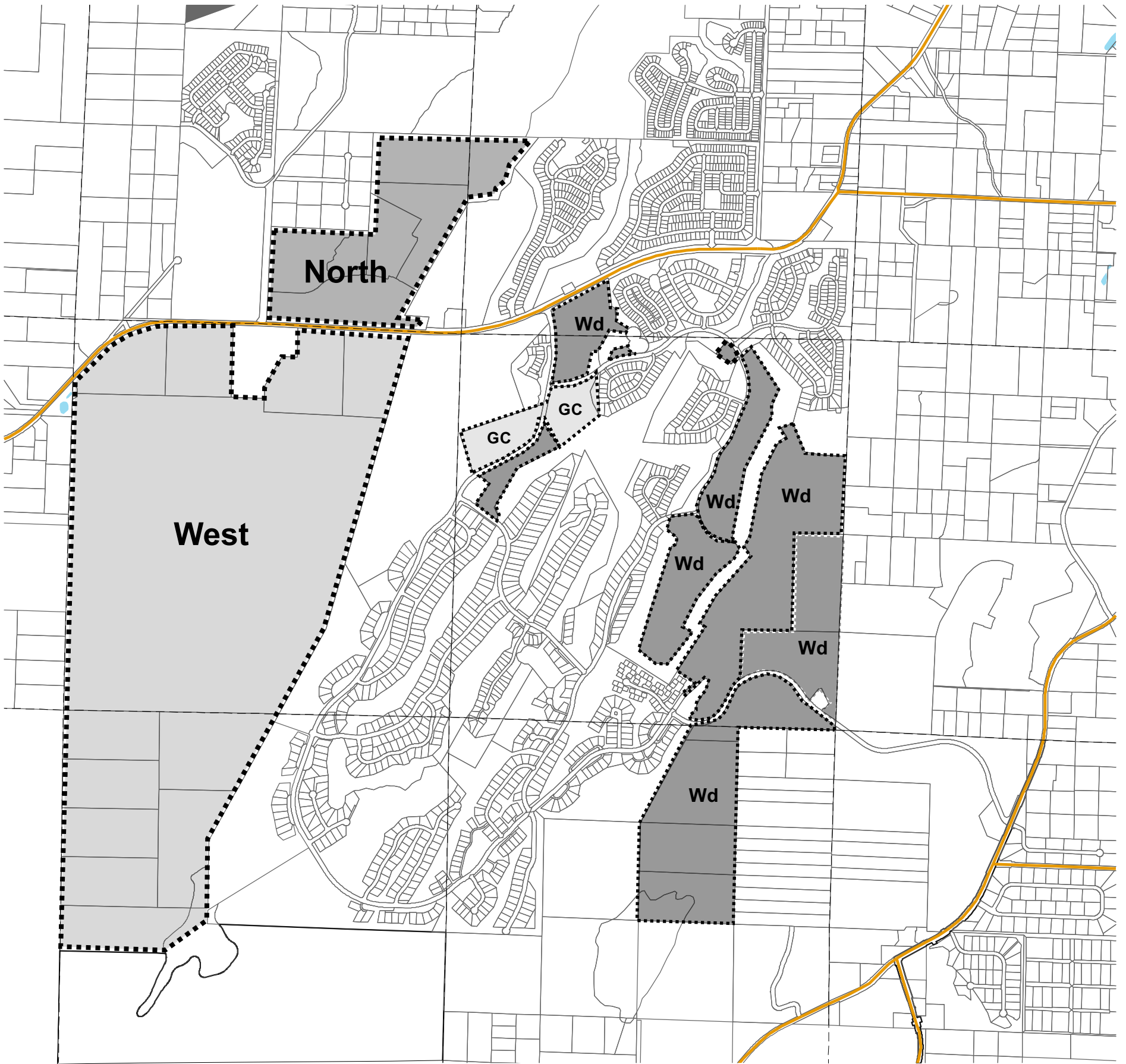
McCormick Woods

042301-3-010-2006
6031-000-131-0002
5552-000-045-0008
092301-1-005-2002
092301-4-004-2007
092301-1-009-2008
092301-4-005-2006
092301-4-003-2008
092301-4-002-2009
162301-1-021-2003
162301-1-020-2004
162301-1-019-2007

Legacy Lots

5190-000-018-0009
6031-000-032-0002
6031-000-025-0001
6031-000-063-0004
5161-000-021-0009
5145-000-023-0008
5139-000-013-0008
6031-000-074-0001

Exhibit B-2 Map of Parcels/Areas with Vested Concurrency



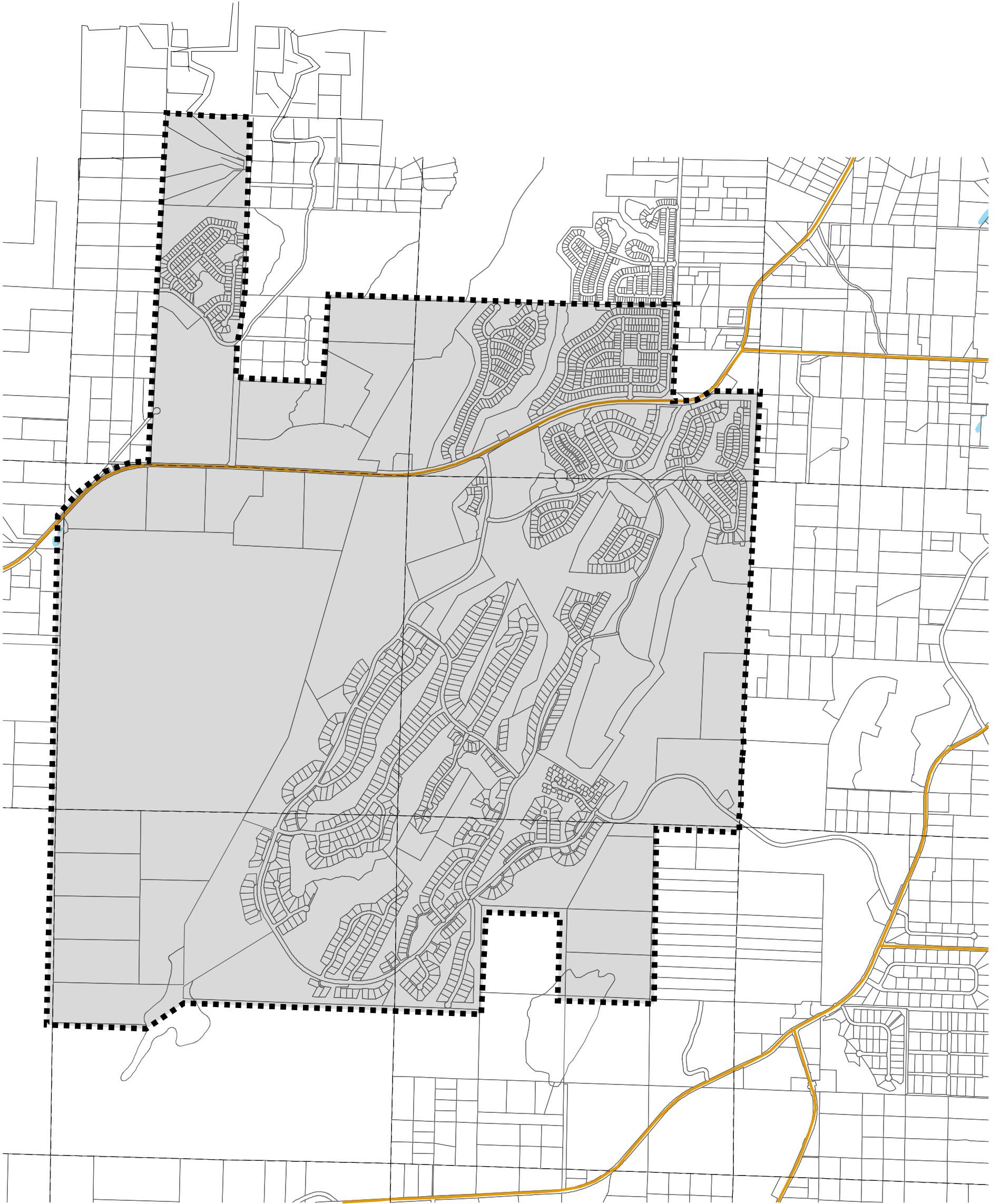
Legend

McCormick North	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block; background-color: #cccccc;">North</div>
McCormick West	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block; background-color: #cccccc;">West</div>
McCormick Woods	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block; background-color: #666666;">Wd</div>
Golf Facilities	—————	<div style="border: 1px dashed black; padding: 5px; display: inline-block; background-color: #cccccc;">GC</div>

See Exhibit B1 for legacy lots vested to concurrency with this agreement

Exhibit C

Boundary of 2005 Traffic Agreement



ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, REGARDING TRANSPORTATION IMPACT FEES; AMENDING SECTION 20.182.060 OF THE PORT ORCHARD MUNICIPAL CODE TO ADOPT A NEW TRANSPORTATION IMPACT FEE SCHEDULE, CLARIFYING ADOPTION PROCEDURES AND INDEXING TRANSPORTATION IMPACT FEES TO CPI-U; ADDING A NEW SECTION 20.182.125 TO THE PORT ORCHARD MUNICIPAL CODE TO DESIGNATE THE CITY'S 6 YEAR/20 YEAR TRANSPORTATION IMPROVEMENT PLAN AS THE CAPITAL FACILITIES PLAN FOR TRANSPORTATION; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Washington Growth Management Act, Chapter 36.70A RCW and related sections ("GMA") requires the City to adopt a Comprehensive Plan that provides adequate public facilities to serve development; and

WHEREAS, counties, cities, and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing or system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees; and

WHEREAS, RCW 82.02.050 -.110 and WAC 365-196-850 authorize counties, cities, and towns planning under the Growth Management Act (GMA) to impose impact fees for public streets and roads, publicly owned parks, open space, and recreation facilities, and school facilities, and fire protection facilities; and

WHEREAS, the City of Port Orchard has adopted transportation, school, and park impact fees, as codified in subsection 20.182.060 of the Port Orchard Municipal Code (POMC) and Appendices A-C in Exhibit 1 of Ordinance 019-17; and

WHEREAS, the City Council finds that new development activity in the City of Port Orchard will create additional demand and need for public facilities; and

WHEREAS, the City of Port Orchard has previously adopted a transportation impact fee program pursuant to the authority provided in Chapter 82.02 RCW; and

WHEREAS, in 2015 the City's current transportation impact fee rate was established at \$2,552 per new PM peak hour trip, with a separate impact fee rate of \$560 per new PM peak

hour trip applied to growth in the McCormick Woods PUD; and

WHEREAS, this year the City Council adopted the City's 6 Year/20 Year Transportation Improvement Plan (TIP) as part of the City's Comprehensive Plan (Ordinance 015-20); and

WHEREAS, the City Council desires to adopt an updated transportation impact fee schedule to ensure that all projects on the current TIP receive appropriate impact fee funding per RCW Section 82.02.050; and

WHEREAS, the City Council deems it in the best interests of the city of Port Orchard to formally designate the TIP as the "capital facilities plan" for the purpose of identifying the proposed transportation improvements reasonable and necessary to meet the future development needs of the service area consistent with the city's level of service policy, as required by RCW 82.02.050; and

WHEREAS, the City contracted with Transportation Solutions, Inc. to prepare an updated transportation impact fee rate study and recommended impact fee rate, which was provided to the City in December 2020 (Exhibit A); and

WHEREAS, the City has prepared an updated transportation impact fee schedule based on the findings and recommendations of the study prepared by Transportation Solutions, Inc., and

WHEREAS, on January 19, 2021, the City Council held a study session on the updated transportation impact fee schedule; and

WHEREAS, on February 9, 2021, at its regular meeting the City Council held a public hearing on this ordinance, considered the updated transportation impact fee schedule and the public testimony, and reviewed the ordinance proposed for its adoption; and

WHEREAS, the transportation, parks and school impact fees are currently adopted as appendices to Chapter 20.182 of the Port Orchard Municipal Code, and

WHEREAS, the City Council desires to directly adopt the transportation, parks, and school impact fees by ordinance, for ease of reference and use; and

WHEREAS, this ordinance is exempt from the requirements of the State Environmental Policy Act (SEPA), Chapter 43,21C RCW, and the City's environmental

regulations, Chapter 20.160 POMC; now, therefore,

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

SECTION 1. The City Council adopts all of the “Whereas” sections of this ordinance as findings in support of this ordinance.

SECTION 2. Subsection 20.182.060 of the Port Orchard Municipal Code is hereby amended to read as follows:

20.182.060 Fee schedules and establishment of service area.

(1) Impact fee schedules setting forth the amount of the impact fees to be paid by developers ~~are listed in the appendices attached to the ordinance adopting this chapter, shall be adopted by ordinance of the City Council~~ and incorporated herein by this reference. ~~The road or transportation impact fee schedule is in Appendix A, park impact fees are in Appendix B and school impact fees are in Appendix C. The impact fee schedules may be revised at any time the city council deems just and appropriate.~~

(2) For the purpose of road and park impact fees, the entire city shall be considered one service area.

(3) For the purpose of school impact fees, the entire boundary of the school district shall be considered one service area.

(4) Transportation impact fees adopted by the City shall automatically increase annually per CPI-U (All Urban Consumers Index) (1982-1984=100), not seasonally adjusted, for the Seattle-Tacoma-Bellevue area for that 12-month period from January 1st to December 31st Indexed as the Annual Average, as is specified by the Bureau of Labor Statistics, United States Department of Labor. Increases based on CPI-U shall take effect on March 1st of the following year.

SECTION 3. A new subsection 20.182.125 is hereby added to the Port Orchard Municipal Code to read as follows:

20.182.125 Designation of Capital Facilities Plan for Transportation.

The city designates the 6 Year/20 Year Transportation Improvement Plan (TIP) as the

City's comprehensive capital facilities plan for the purpose of identifying the proposed transportation improvements reasonable and necessary to meet the future development needs of the service area consistent with the city's level of service policy, as required by RCW 82.02.050. The TIP identifies the specific subset of transportation improvements in the impact fee project list that forms the basis for the transportation impact fee program.

SECTION 4. Adoption of Transportation Impact Fee Schedule. The City hereby adopts a new transportation impact fee schedule which is included as a part of Exhibit A to this ordinance, in accordance with POMC 20.182.060. This transportation impact fee schedule shall become effective on the effective date established in Section 9 below and shall replace and supersede any previously adopted transportation impact fee schedule.

SECTION 5. Park and School Impact Fees Unchanged. The park and school impact fee schedules that were previously adopted by the City Council shall remain in effect and are respectively shown on Exhibits B and C of this ordinance.

SECTION 6. Sections 4 and 5 of this Ordinance are deemed of special effect and shall not be codified.

SECTION 7. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause, or phrase of this ordinance.

SECTION 8. Corrections. Upon the approval of the city attorney, the city clerk, and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 9. Effective Date. This ordinance shall be in full force and effect five (5) days after publication as provided by law. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:

EFFECTIVE DATE:

- EXHIBIT A: TRANSPORTATION IMPACT FEE SCHEDULE WITH RATE STUDY (2021)**
- EXHIBIT B: PARKS IMPACT FEE SCHEDULE (EXISTING)**
- EXHIBIT C: SCHOOL IMPACT FEE SCHEDULE (EXISTING)**

TRANSPORTATION IMPACT FEE RATE STUDY
2020 UPDATE
FINAL REPORT

December 2020

Prepared for:
City of Port Orchard

Prepared by:
Transportation Solutions, Inc.
16932 Woodinville-Redmond Rd NE
Suite A206
Woodinville, WA 98072

Table of Contents

1. Introduction 1

 Definition of Impact Fees..... 1

 Statutory Basis for Impact Fees 1

2. Impact Fee Analysis 2

 Methodology 2

 Current Impact Fee Methodology 2

 Projects Eligible for Impact Fees..... 2

 Eligible Project Costs..... 3

 Impact Fee Calculation 3

 Sample Transportation Impact Fees..... 6

3. Additional Issues for Consideration 6

 Anticipated Annual Revenues from Impact Fees..... 6

 Anticipated Grant Revenue 6

 Anticipated Need for Other Public Funds..... 7

4. Transportation Impact Fee Rate Comparison 7

5. Credits and Adjustments 7

 Impact Fee Credits..... 7

 Independent Fee Calculation..... 8

 Construction Cost Index Adjustment..... 8

6. Conclusions 8

Appendices

- Appendix A. Transportation Impact Fee Project List
- Appendix B. Transportation Impact Fee Rate Schedule
- Appendix C. Comparison of 2019-2020 TIF Rates in Western Washington

List of Tables

Table 1. Impact Fee-Eligible Transportation Improvement Projects 5

Table 2. Transportation Impact Fee Comparison for Typical Land Uses..... 6

1. Introduction

This document summarizes the development of an updated transportation impact fee rate for the City of Port Orchard. It describes the existing impact fee rate, the basis for the fee, the rate methodology, the impact fee project list, and the recommended fee rate.

Definition of Impact Fees

Impact fees are a comprehensive grouping of charges based on new development within a local municipality. These fees are assessed to pay for capital facility improvement projects necessitated by new development growth (including but not limited to parks, schools, and streets/roads).

Transportation impact fees are collected to fund improvements that add capacity to the transportation system, accommodating the travel demand created by new development. The Revised Code of Washington (RCW) Section 82.02.050 identifies the intent of impact fees as the following:

- To ensure that adequate facilities are available to serve new growth and development;
- To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and
- To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

Statutory Basis for Impact Fees

Transportation impact fees are a financing mechanism authorized by the Growth Management Act (GMA) of Washington State (see RCW 36.70A.070 and 82.02.050). State law imposes strict limitations on impact fees. These limitations are intended to assure property owners that the fees collected are reasonably related to their actual impacts and will not be used for unrelated purposes.

If impact fees are imposed, the funds collected from developments can be expended only on transportation system improvements which are: (a) identified in the comprehensive plan as needed for growth, and (b) reasonably related to the impacts of the new development from which fees are collected.

Specifically, condition (a) requires that impact fees are not used on improvements needed to remedy existing deficiencies. Those needs must be entirely funded from public sector resources. Condition (b) is satisfied if the local government defines a reasonable service area, identifies the public facilities within the service area that require improvement during the designated planning period, and prepares a fee schedule taking into account the type and size of the development as well as the type of public facility being funded.

To achieve the goal of simplicity, impact fee calculations are applied on an average basis for the entire transportation system, rather than project-by-project. This is a key difference between impact fees and State Environmental Policy Act (SEPA) mitigation, whereby pro-rata shares of specific project improvements are collected.

Pre-calculated impact fees are easier to administer than traditional SEPA development mitigation, at the point of development review. However, more complex administrative procedures are necessary to track

the funds collected from each development. This is necessary to assure that the funds are expended only on eligible transportation system improvements and to assure that impact fee revenues are used within six years. Fees not expended within six years must be refunded with interest to the current owner of the property.

The methodology and results described below are consistent with the requirements of the GMA. The procedures and recommendations described herein can be formally enacted by an impact fee ordinance incorporating this memo by reference.

2. Impact Fee Analysis

Methodology

The conceptual basis for the transportation impact fee is that growth (i.e. new development) should pay a proportionate share of the cost to provide future transportation capacity. This proportionate share is calculated based on the estimated cost of growth-related transportation improvement projects identified in the Comprehensive Plan and on an estimate of growth's share of capacity utilization for each project. The impact fee analysis is limited to projects that provide capacity improvements needed for growth. Projects related to maintenance, such as pavement overlays and physical obsolescence, as well as improvements necessary to mitigate existing capacity deficiencies, are not eligible for impact fee funding. However, agencies have been encouraged by the Department of Commerce to consider multimodal transportation improvements and, to that end, shoulder widening, sidewalks, bike lanes and parallel trails are reasonable to include as both motorized and nonmotorized capacity enhancements.

Current Impact Fee Methodology

The Port Orchard transportation impact fee program was developed and adopted in 2015 as ordinance number 023-15 and later reorganized under ordinance number 019-17. The impact fee methodology is based on proportionate growth share of impact fee eligible project costs.

As of December 2020, the transportation impact fee rate is \$2,552 per new PM peak hour trip. A separate impact fee rate of \$560 per new PM peak hour trip is applied to growth in the McCormick Woods PUD. This rate represents the difference between the citywide rate and a GEM1 fee rate of \$1,992 per trip which was required per the McCormick Woods Development Agreement adopted in 2005.

Projects Eligible for Impact Fees

Not all planned transportation projects and programs are eligible for impact fees. Planned improvement project are divided below into the following categories in order to establish a list of qualifying projects that will form the basis for the Port Orchard impact fee rate:

- Project Improvements
- Planned Transportation Projects needed within 20 years
- Maintenance Projects

Project Improvements

Project improvements are transportation improvements necessary for a specific development that do not provide significant system benefits. These are typically low-volume local streets that serve driveways and parking areas. They may provide connections to other developments, but not for the purpose of

significant system capacity. Other project improvements include safety improvements and new access connections to existing arterials that serve only one development. Project improvements are typically required by other development regulations or as SEPA mitigation for specific development impacts not anticipated in the Comprehensive Plan. Project improvements are not eligible for impact fees. For the purpose of this rate analysis, roadway extensions that connected existing developments, but were not significant arterials, were considered project improvements that could be required under other City codes and regulations but would not be included in the impact fee calculation.

Planned Transportation Projects

The Port Orchard 2021-2040 Transportation Improvement Program (TIP) identifies transportation projects which are needed to serve traffic growth for the next twenty years. Projects with capacity benefits are eligible for impact fee funding. Capacity-related improvements may include adding turn lanes, lane widening or separating non-motorized modes, adding signals or roundabouts for intersection capacity, or other improvements. The methodology for roadway capacity calculation is described in the Transportation Element of the Comprehensive Plan. The proportional share of these projects reasonably related to growth are eligible for impact fees.

Maintenance Projects

Maintenance programs, general studies, and non-capital activities are generally not eligible for impact fees. A component of ongoing pavement preservation could be eligible for impact fees if it is demonstrated that growth increases the magnitude of pavement reconstruction requirements. For instance, if existing conditions require a two-inch asphalt overlay, but added traffic from growth requires a three-inch asphalt overlay to achieve the same pavement life, the cost of the additional inch of asphalt could be attributed to growth. If the overlay or reconstruction provides increased lane width, intersection improvements, or shoulder widening the cost of the expansion could be considered eligible.

Eligible Project Costs

Impact fee eligible projects and their estimated costs are identified in **Table 1**. These costs include various elements which are necessary for the construction of transportation improvements, including design, permitting, right-of-way, construction, and construction management. Ongoing or future maintenance is not an eligible impact fee cost. TIP projects which are not capacity-related, or which are considered maintenance projects/programs are not included in the TIF project list.

Impact Fee Calculation

The impact fee was calculated based on the increase in PM peak hour vehicle trips resulting from growth, the cost of improvements related to growth, and the City's transportation financing strategy, as defined in the 2016 Comprehensive Plan. The calculation methodology is described below.

Local Funding Responsibility

Roadway projects are generally eligible for state and federal grant funds. These funds are not predictable and vary in amount by grantor. Additionally, cost-sharing agreements with Washington State Department of Transportation (WSDOT) and Kitsap County are anticipated to reduce some of the City's project cost responsibility.

This analysis assumes the City will be responsible for 50 percent of total impact fee-eligible project costs over the 20-year planning horizon, with the other 50 percent anticipated to be funded by grant and intergovernmental revenue roadway projects.

Exceptions were applied to the following projects which are anticipated to be fully funded by the City of Port Orchard or by local development, with no grants or intergovernmental revenue:

- Bethel/Sedgwick Corridor Phase 1 Design (TIP #1.3)
- Old Clifton Rd Design – 60% (TIP #1.5A)
- Old Clifton Rd & Campus Parkway roundabout (TIP #1.5C)
- Old Clifton Rd & McCormick Woods Dr roundabout (TIP #2.08)
- Glenwood Connector Roadway (per development agreement)
- Feigley Rd improvements (per development agreement)

Proportionate Share of Project Cost

Growth’s proportionate share of each improvement project was calculated as the proportion of added capacity which will be used by new development trips, per the Port Orchard travel demand model.

The Port Orchard travel demand model was most recently updated and recalibrated in 2019. It incorporates trip generation data published in the *Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition* and calibrated to fit 2019 weekday PM peak hour traffic counts. The travel demand model trip distribution and traffic assignment procedures were calibrated based on regional and national guidance, including the Kitsap County travel demand model and Federal Highway Administration travel demand model calibration guidance, in addition to local engineering expertise and traffic counts.

To generate 2040 PM peak hour travel demand forecasts, the calibrated 2019 PM travel demand model was modified to include housing and employment growth forecasts identified in the Port Orchard Comprehensive Plan. A total of 7,352 new weekday PM peak hour trips are anticipated citywide between 2019 and 2040. These new trips were assigned to the transportation network, resulting in traffic growth forecasts for each intersection and roadway segment on the TIF project list.

The proportionate growth share of TIF project costs was calculated by dividing the 2019-2040 PM peak hour trip growth by the capacity contribution, in vehicles per hour, of each improvement project:

$$[Proportionate\ Share\ of\ Project\ Cost] = \frac{PM\ peak\ hr\ trip\ growth}{Added\ PM\ peak\ hr\ capacity}$$

The resulting proportionate share for each TIF project is identified in **Table 1**. Total project costs and growth share are summarized below:

Total TIF Project Cost	\$145,863,474
Anticipated Grant & Intergovernmental Revenue	\$78,597,474
Anticipated City & Developer (Non-Grant) Responsibility	\$67,266,000
Growth/Development Share of Project Cost	\$36,343,224

Table 1. Impact Fee-Eligible Transportation Improvement Projects

TIP ID ¹	Project Name	Cost Estimate (\$)	Local Share ² (\$)	Growth Share ³ (%)	Growth Share (\$)
DA	Glenwood Connector Roadway	2,000,000	2,000,000	100%	2,000,000
1.1	Tremont St Widening CN Phase	23,600,000	7,570,000	24%	1,851,656
1.3	Bethel/Sedgwick Corridor Ph. 1 Design	1,211,000	1,211,000	24%	293,489
1.4	Old Clifton Rd/Anderson Hill Rd Roundabout	2,420,000	968,000	81%	786,112
1.5A	Old Clifton Rd Design – 60%	562,000	562,000	100%	562,000
1.5C	Old Clifton Rd/Campus Pkwy Roundabout	1,600,000	1,600,000	100%	1,600,000
1.7	Vallair Ct Connector	2,498,000	1,249,000	8%	96,697
2.01	Sidney Ave (N) Widening	13,113,000	6,557,000	48%	3,144,444
2.02	Sedgwick Rd West Design/ROW	1,444,000	722,000	100%	722,000
2.03	Sedgwick Rd West Constr.	4,331,000	2,166,000	100%	2,165,500
2.04A	Bethel/Sedgwick Corridor Ph. 1 ROW/Constr.	14,360,000	7,180,000	24%	1,740,094
2.04B	Bethel/Sedgwick Corridor Ph. 2	17,498,000	5,249,000	28%	1,464,306
2.04C	Bethel/Sedgwick Corridor Ph. 3	6,111,000	1,833,000	5%	97,776
2.04D	Bethel/Sedgwick Corridor Ph. 4	9,179,000	4,590,000	45%	2,067,975
2.04E	Bethel/Sedgwick Corridor Ph. 5	11,059,000	5,530,000	100%	5,529,500
2.05	Sidney Rd (S) Widening	7,820,000	3,910,000	66%	2,593,367
2.06	Pottery Ave (N) Widening	1,998,000	999,000	28%	277,500
2.07	Old Clifton Rd Shoulder & Ped. Impr.	3,372,000	1,686,000	100%	1,686,000
2.08	Old Clifton Rd/McCormick Woods Dr Roundabout	1,600,000	1,600,000	100%	1,600,000
2.09	Melcher St Widening	749,000	375,000	7%	25,279
2.1	Fireweed Rd Widening	468,000	234,000	5%	11,700
2.12	Sherman Ave Widening	656,000	328,000	5%	16,400
2.13	Tremont St Widening Ph. 2 - PO Blvd	10,684,000	5,342,000	100%	5,342,000
2.14	Pottery Ave (S) Widening	5,245,000	2,623,000	16%	415,119
2.16	Blueberry Rd Widening	749,000	375,000	22%	80,518
2.17	Geiger Rd Widening	468,000	234,000	5%	11,700
2.18	Salmonberry Rd Widening	281,000	141,000	21%	28,803
2.19	Piperberry Way Extension	468,000	234,000	11%	25,665
2.21	Old Clifton Rd/Feigley Rd Roundabout	243,000	122,000	26%	31,150
DA	Feigley Rd Improvements	76,474	76,000	100%	76,474
Total		145,863,474	67,266,000	54%	36,343,224

¹Project ID number in Port Orchard 2021-2040 Transportation Improvement Program. DA = development agreement project

²Portion of project cost which is anticipated to be funded by City of Port Orchard and developer funds (i.e. not funded by grants or intergovernmental revenue)

³Portion of added capacity which is used by growth (i.e. new development). Developer-funded projects are assigned 100% growth share.

Impact Fee Rate

The citywide transportation impact fee rate was calculated by dividing the sum of the growth share of TIF project cost by the total citywide PM peak hour trip growth forecast, as shown:

$$\frac{\text{Development share of project costs}}{\text{Citywide PM trip growth}} = \frac{\$36,343,224}{7,352 \text{ new trips}} = \$4,943 / \text{PM peak hour trip}$$

Sample Transportation Impact Fees

Table 2 summarizes the fee rates which would be paid by several typical developments if the above calculated rate were adopted in an impact fee ordinance. A comprehensive transportation impact fee rate schedule is included in Appendix B.

Table 2. Transportation Impact Fee Comparison for Typical Land Uses

Land Use Type	ITE LUC ¹	Trip Rate	Per Unit	2015 TIF Rate (\$/unit)	2020 TIF Rate (\$/unit)
Single-Family Home	210	0.99	DU	2,552	4,894
Low-Rise Multifamily	220	0.56	DU	1,582	2,768
Senior Attached Housing	252	0.26	DU	638	1,285
General Office	710	1.15	1,000 ft ²	3,803	5,684
Shopping Center	820	2.51*	1,000 ft ²	6,406	12,110
Light Industrial	110	0.63	1,000 ft ²	2,476	3,114

¹Land Use Code and trip rates per Institute of Transportation Engineers *Trip Generation Manual 10th Edition*

*Includes 34% reduction for pass-by trips, per Institute of Transportation Engineers *Trip Generation Handbook*

3. Additional Issues for Consideration

Anticipated Annual Revenues from Impact Fees

The anticipated annual revenue from the proposed transportation impact fee, based on the travel demand growth forecast of 7,352 new trips by 2040, is shown below:

$$\frac{350 \text{ trips}}{\text{year}} * \frac{\$4,943}{\text{PM trip}} = \$1,730,050 / \text{year}$$

The transportation impact fee is anticipated to generate an average of \$1,730,050 per year. This represents a 20-year average and may be more or less in any given year.

Anticipated Grant Revenue

Transportation improvement projects are generally eligible for state and federal grant funds. These funds are not predictable and vary in amount by grantor. The financing plan in the Transportation Element identifies a 50 percent grant and intergovernmental funding goal for roadway projects. This assumption is applied in the impact fee rate calculation.

Anticipated Need for Other Public Funds

The anticipated impact fee revenue does not fully fund the non-grant share of TIF project costs. The anticipated need for other public funds is summarized below:

	Total TIF Project Cost	\$145,863,474
	Anticipated Grant & Intergovernmental Revenue	\$78,597,474
	Growth/Development Share of Project Cost	\$36,343,224
	Remaining Unfunded Commitment (2019-2040)	\$30,922,776

The City will need to identify other revenue sources to fund the remaining unfunded revenue commitment of \$30,922,776 associated with the TIF projects. This represents an annual funding commitment of \$1,546,139.

4. Transportation Impact Fee Rate Comparison

The City of Bellingham Public Works Department has compiled a list of transportation impact fee rates for 79 public agencies in western Washington. The full comparison chart is included in Appendix B. Provided below are current transportation impact fee rates for several agencies which are located near Port Orchard. The updated impact fee rate of \$4,943 per PM trip would be just above the western Washington average rate, but far from the highest in western Washington.

Western WA Maximum Transportation Impact Fee:	\$14,064	(City of Sammamish)
City of Poulsbo Transportation Impact Fee:	\$5,397	
City of Gig Harbor Transportation Impact Fee:	\$5,020	
Proposed Port Orchard Transportation Impact Fee:	\$4,943	
Western WA Average Transportation Impact Fee:	\$4,363	
City of Bainbridge Island Transportation Impact Fee:	\$1,687	
Kitsap County Transportation Impact Fee:	\$700	
Western WA Minimum Transportation Impact Fee:	\$589	(City of Oak Harbor)

5. Credits and Adjustments

Impact Fee Credits

An applicant may request a credit for impact fees in the amount of the total value of system improvements, including dedications of land, improvements, and/or construction provided by the applicant. Credits should be considered on a case-by-case basis and shall not exceed the impact fee payable.

Claims for credit should be made before the payment of the impact fee. Credits for the construction should be provided only if the land, improvements, and/or the facility constructed are listed as planned transportation projects in the Rate Analysis and Impact Fee Ordinance. Credits are not generally given for code-based frontage improvements or right-of-way dedications, or direct access improvements to and/or within the subject development (project improvements) unless the improvement is part of a project listed in the Rate Analysis and Impact Fee Ordinance.

Independent Fee Calculation

An applicant may submit an independent fee calculation for a proposed development activity. The documentation submitted should be prepared by a traffic engineer licensed in Washington State and should be limited to adjustments in the trip generation rates used in the fee calculation.

Construction Cost Index Adjustment

Transportation impact fees should be adjusted yearly to account for inflation. Annual adjustments will be based on the All-Urban Consumers Index (CPI-U) for the Seattle-Tacoma-Bellevue area for the previous 12-month period from December to December as specified by the Bureau of Labor Statistics, United States Department of Labor. The CPI adjustment would take effect on March 1.

6. Conclusions

The recommended transportation impact fee rate is \$4,943 per new PM peak hour trip.

Appendix A. Transportation Impact Fee Project List

City of Port Orchard
Transportation Impact Fee Project List - 2020 Update

ID	Project Name	Cost Estimate (\$)	Local Share (\$)	Growth Share (%)	Growth Share (\$)
DA	Glenwood Connector Roadway	2,000,000	2,000,000	100%	2,000,000
1.1	Tremont St Widening CN Phase	23,600,000	7,570,000	24%	1,851,656
1.3	Bethel/Sedgwick Corridor Ph. 1 Design	1,211,000	1,211,000	24%	293,489
1.4	Old Clifton Rd/Anderson Hill Rd Roundabout	2,420,000	968,000	81%	786,112
1.5A	Old Clifton Rd Design - 60%	562,000	562,000	100%	562,000
1.5C	Old Clifton Rd/Campus Pkwy Roundabout	1,600,000	1,600,000	100%	1,600,000
1.7	Vallair Ct Connector	2,498,000	1,249,000	8%	96,697
2.01	Sidney Ave (N) Widening	13,113,000	6,557,000	48%	3,144,444
2.02	Sedgwick Rd West Design/ROW	1,444,000	722,000	100%	722,000
2.03	Sedgwick Rd West Constr.	4,331,000	2,166,000	100%	2,165,500
2.04A	Bethel/Sedgwick Corridor Ph. 1 ROW/Constr.	14,360,000	7,180,000	24%	1,740,094
2.04B	Bethel/Sedgwick Corridor Ph. 2	17,498,000	5,249,000	28%	1,464,306
2.04C	Bethel/Sedgwick Corridor Ph. 3	6,111,000	1,833,000	5%	97,776
2.04D	Bethel/Sedgwick Corridor Ph. 4	9,179,000	4,590,000	45%	2,067,975
2.04E	Bethel/Sedgwick Corridor Ph. 5	11,059,000	5,530,000	100%	5,529,500
2.05	Sidney Rd (S) Widening	7,820,000	3,910,000	66%	2,593,367
2.06	Pottery Ave (N) Widening	1,998,000	999,000	28%	277,500
2.07	Old Clifton Rd Shoulder & Ped. Impr.	3,372,000	1,686,000	100%	1,686,000
2.08	Old Clifton Rd/McCormick Woods Dr Roundabout	1,600,000	1,600,000	100%	1,600,000
2.09	Melcher St Widening	749,000	375,000	7%	25,279
2.1	Fireweed Rd Widening	468,000	234,000	5%	11,700
2.12	Sherman Ave Widening	656,000	328,000	5%	16,400
2.13	Tremont St Widening Ph. 2 - PO Blvd	10,684,000	5,342,000	100%	5,342,000
2.14	Pottery Ave (S) Widening	5,245,000	2,623,000	16%	415,119
2.16	Blueberry Rd Widening	749,000	375,000	22%	80,518
2.17	Geiger Rd Widening	468,000	234,000	5%	11,700
2.18	Salmonberry Rd Widening	281,000	141,000	21%	28,803
2.19	Piperberry Way Extension	468,000	234,000	11%	25,665
2.21	Old Clifton Rd/Feigley Rd Roundabout	243,000	122,000	26%	31,150
DA	Feigley Rd Improvements	76,474	76,000	100%	76,474
Total		145,863,474	67,266,000	54%	36,343,224

Total Project Cost	\$145,863,474
Local Share (Development + City) (%)	46%
Growth/Development Share (\$)	\$36,343,224
2019-2040 PM Peak Hour Trip Growth (vph)	7,352
2020 Transportation Impact Fee Rate (\$/trip)	\$4,943
Remaining Unfunded Commitment (\$)	\$30,922,776
Annual Funding Commitment (\$/yr)	\$1,546,139

Appendix B. Transportation Impact Fee Rate Schedule

City of Port Orchard Traffic Impact Fee Rate Schedule – Residential (2020 Update)

ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	Rate per Unit ³	Impact Fee per Unit
210	Single-Family Detached Housing	0.99	DU	\$4,894
220	Low-Rise Multifamily Housing (1-2 floors)	0.56	DU	\$2,768
221	Mid-Rise Multifamily Housing (3-10 floors)	0.44	DU	\$2,175
230	Mid-Rise Residential w/ 1st Floor Commercial	0.36	DU	\$1,779
240	Mobile Home Park	0.46	DU	\$2,274
251	Senior Housing Detached	0.30	DU	\$1,483
252	Senior Housing Attached	0.26	DU	\$1,285
253	Congregate Care Facility	0.18	DU	\$890
254	Assisted Living	0.26	bed	\$1,285
260	Recreational Home	0.28	DU	\$1,384
270	Residential PUD	0.69	DU	\$3,411
-	Accessory Dwelling Unit (≤ 450 sf)	0.56	DU	\$2,768
-	Accessory Dwelling Unit (> 450 sf)	0.28	DU	\$1,384

¹ Institute of Transportation Engineers, [Trip Generation Manual \(10th Edition\)](#)

² Trip generation rate per development unit for PM peak hour of the adjacent street traffic (4-6 PM)

³ DU = Dwelling Unit



City of Port Orchard Traffic Impact Fee Rate Schedule – Non-Residential LUC 1-799 (2020 Update)

ITE Code ¹	ITE Land Use Category ¹	Base Trip Rate ²	% Primary Trips	Net Trip Rate	Rate per Unit ³	Impact Fee per Unit
PORT AND TERMINAL						
30	Intermodal Truck Terminal	1.87	*	1.870	ksf	\$9,243
90	Park and Ride with Bus Service	0.43	*	0.430	space	\$2,125
INDUSTRIAL						
110	General Light Industrial	0.63	*	0.630	KSF	\$3,114
130	Industrial Park	0.40	*	0.400	KSF	\$1,977
140	Manufacturing	0.67	*	0.670	KSF	\$3,312
150	Warehousing	0.19	*	0.190	KSF	\$939
151	Mini Warehouse	0.17	*	0.170	KSF	\$840
170	Utilities	2.27	*	2.270	KSF	\$11,221
180	Specialty Trade Contractor	1.97	*	1.970	KSF	\$9,738
LODGING						
310	Hotel	0.60	*	0.600	room	\$2,966
311	All Suites Hotel	0.36	*	0.360	room	\$1,779
312	Business Hotel	0.32	*	0.320	room	\$1,582
320	Motel	0.38	*	0.380	room	\$1,878
RECREATIONAL						
411	Public Park	0.11	*	0.110	acre	\$544
416	Campground/RV Park	0.27	*	0.270	site	\$1,335
430	Golf Course	0.28	*	0.280	acre	\$1,384
432	Golf Driving Range	1.25	*	1.250	tee	\$6,179
433	Batting Cages	2.22	*	2.220	cage	\$10,973
434	Rock Climbing Gym	1.64	*	1.640	KSF	\$8,107
435	Multi-Purpose Recreational Facility	3.58	*	3.580	KSF	\$17,696
437	Bowling Alley	1.16	*	1.160	KSF	\$5,734
444	Movie Theater	14.60	*	14.600	screen	\$72,168
445	Multiplex Movie Theater	13.73	*	13.730	screen	\$67,867
488	Soccer Complex	16.43	*	16.430	field	\$81,213
490	Tennis Courts	4.21	*	4.210	court	\$20,810
491	Racquet/Tennis Club	3.82	*	3.820	court	\$18,882
492	Health Fitness Club	3.45	*	3.450	KSF	\$17,053
493	Athletic Club	6.29	*	6.290	KSF	\$31,091
495	Recreational Community Center	2.31	*	2.310	KSF	\$11,418
INSTITUTIONAL						
520	Public Elementary School	1.37	*	1.370	KSF	\$6,772
522	Public Middle/Junior High School	1.19	*	1.190	KSF	\$5,882
530	Public High School	0.97	*	0.970	KSF	\$4,795
537	Charter Elementary School	0.14	*	0.140	student	\$692
538	School District Office	2.04	*	2.040	KSF	\$10,084
540	Junior / Community College	1.86	*	1.860	KSF	\$9,194
560	Church	0.49	*	0.490	KSF	\$2,422
565	Day Care Center	11.12	44%	4.893	KSF	\$24,185
566	Cemetery	0.46	*	0.460	acre	\$2,274
571	Prison	0.05	*	0.050	bed	\$247
575	Fire & Rescue Station	0.48	*	0.480	KSF	\$2,373
590	Library	8.16	*	8.160	KSF	\$40,335
MEDICAL						
610	Hospital	0.97	*	0.970	KSF	\$4,795
620	Nursing Home	0.59	*	0.590	KSF	\$2,916
630	Clinic	3.28	*	3.280	KSF	\$16,213
640	Animal Hospital / Veterinary Clinic	3.53	*	3.530	KSF	\$17,449
650	Freestanding Emergency Room	1.52	*	1.520	KSF	\$7,513
OFFICE						
710	General Office	1.15	*	1.150	KSF	\$5,684
712	Single-Tenant Office (<5,000 sf)	2.45	*	2.450	KSF	\$12,110
715	Single Tenant Office (>5,000 sf)	1.71	*	1.710	KSF	\$8,453
720	Medical/Dental Office	3.46	*	3.460	KSF	\$17,103
730	Government Office Building	1.71	*	1.710	KSF	\$8,453
732	US Post Office	11.21	*	11.210	KSF	\$55,411
733	Government Office Complex	2.82	*	2.820	KSF	\$13,939
750	Office Park	1.07	*	1.070	KSF	\$5,289
760	Research and Development Center	0.49	*	0.490	KSF	\$2,422
770	Business Park	0.42	*	0.420	KSF	\$2,076

¹ Institute of Transportation Engineers, Trip Generation Manual (10th Edition)

² Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm).

³ DU = Dwelling Unit; KSF = 1,000 square feet; VSP = Vehicle servicing position

* Pass-by and diverted trip rate data not available. Primary trip rates may be applied based on local data, development context, and engineering judgment

City of Port Orchard Traffic Impact Fee Rate Schedule – Non-Residential LUC 800-999 (2020 Update)

ITE Code ¹	ITE Land Use Category ¹	Base Trip Rate ²	% Primary Trips ³	Net Trip Rate	Rate per Unit ⁴	Impact Fee per Unit
RETAIL						
810	Tractor Supply Store	1.40	66%	0.924	KSF	\$4,567
811	Construction Equipment Rental Store	0.99	74%	0.733	KSF	\$3,621
812	Building Materials and Lumber Store	2.06	74%	1.524	KSF	\$7,535
813	Free-Standing Discount Superstore (w/ Grocery)	4.33	71%	3.074	KSF	\$15,196
814	Variety Store	6.84	66%	4.514	KSF	\$22,315
815	Free Standing Discount Store (w/o Grocery)	4.83	83%	4.009	KSF	\$19,816
816	Hardware/Paint Store	2.68	74%	1.983	KSF	\$9,803
817	Nursery (Garden Center)	6.94	74%	5.136	KSF	\$25,385
818	Nursery (Wholesale)	5.18	74%	3.833	KSF	\$18,948
820	Shopping Center	3.81	66%	2.515	KSF	\$12,430
823	Factory Outlet Center	2.29	66%	1.511	KSF	\$7,471
840	Automobile Sales (New)	2.43	100%	2.430	KSF	\$12,011
841	Automobile Sales (Used)	3.75	100%	3.750	KSF	\$18,536
842	Recreational Vehicle Sales	0.77	100%	0.770	KSF	\$3,806
843	Automobile Parts Sales	4.91	44%	2.160	KSF	\$10,679
848	Tire Store	3.98	72%	2.866	KSF	\$14,165
849	Tire Superstore	2.11	72%	1.519	KSF	\$7,509
850	Supermarket	9.24	64%	5.914	KSF	\$29,231
851	Convenience Market	49.11	49%	24.064	KSF	\$118,948
853	Convenience Market w/Gas Pumps	49.23	17%	8.369	VFP	\$41,368
854	Discount Supermarket	8.38	51%	4.274	KSF	\$21,125
857	Discount Club	4.18	63%	2.633	KSF	\$13,017
861	Sporting Goods Superstore	2.02	66%	1.333	KSF	\$6,590
862	Home Improvement Superstore	2.33	58%	1.351	KSF	\$6,680
863	Electronics Superstore	4.26	60%	2.556	KSF	\$12,634
866	Pet Supply Superstore	3.55	66%	2.343	KSF	\$11,581
867	Office Supply Superstore	2.77	66%	1.828	KSF	\$9,037
875	Department Store	1.95	66%	1.287	KSF	\$6,362
876	Apparel Store	4.12	66%	2.719	KSF	\$13,441
879	Arts and Crafts Store	6.21	66%	4.099	KSF	\$20,259
880	Pharmacy/Drug Store w/o Drive-Thru	8.51	47%	4.000	KSF	\$19,771
881	Pharmacy/Drug Store w/ Drive-Thru	10.29	38%	3.910	KSF	\$19,328
882	Marijuana Dispensary	21.83	100%	21.830	KSF	\$107,906
890	Furniture Store	0.52	47%	0.244	KSF	\$1,208
899	Liquor Store	16.37	64%	10.477	KSF	\$51,787
SERVICES						
911	Walk-in Bank	12.13	65%	7.885	KSF	\$38,973
912	Drive-in Bank	20.45	65%	13.293	KSF	\$65,705
918	Hair Salon	1.45	65%	0.943	KSF	\$4,659
920	Copy, Print, and Express Ship Store	7.42	66%	4.897	KSF	\$24,207
925	Drinking Place	11.36	100%	11.360	KSF	\$56,152
930	Fast Casual Restaurant	14.13	57%	8.054	KSF	\$39,811
931	Quality Restaurant	7.80	56%	4.368	KSF	\$21,591
932	High Turnover (Sit-Down) Restaurant	9.77	57%	5.569	KSF	\$27,527
933	Fast Food w/o Drive-Thru	28.34	57%	16.154	KSF	\$79,848
934	Fast Food w/ Drive-Thru	32.67	50%	16.335	KSF	\$80,744
935	Fast Food Restaurant w/ Drive-Thru w/o Indoor Seating	42.65	50%	21.325	KSF	\$105,409
936	Coffee/Donut Shop w/o Drive-Thru	36.31	57%	20.697	KSF	\$102,304
937	Coffee/Donut Shop w/ Drive-Thru	43.38	50%	21.690	KSF	\$107,214
938	Coffee/Donut Shop w/ Drive-Thru w/o Indoor Seating (Espresso Stand)	83.33	11%	9.166	KSF	\$45,309
939	Bread/Donut/Bagel Shop w/o Drive-Thru	28.00	57%	15.960	KSF	\$78,890
940	Bread/Donut/Bagel Shop w/ Drive-Thru	19.02	50%	9.510	KSF	\$47,008
941	Quick Lubrication Vehicle Stop	4.85	72%	3.492	VSP	\$17,261
942	Automobile Care Center	3.11	72%	2.239	KSF	\$11,068
943	Automobile Parts and Service Center	2.26	72%	1.627	KSF	\$8,043
944	Gasoline/Service Station	14.03	58%	8.137	VFP	\$40,223
945	Gas Station w/Convenience Market	13.99	12%	1.679	VFP	\$8,298
947	Self-Serve Car Wash	5.54	58%	3.213	stall	\$15,883
948	Automated Car Wash	77.50	58%	44.950	stall	\$222,188
950	Truck Stop	22.73	58%	13.183	KSF	\$65,166
960	Super Convenience Market/ Gas Station	22.96	35%	8.036	VFP	\$39,722
970	Winery	7.31	100%	7.310	KSF	\$36,133

¹ Institute of Transportation Engineers, Trip Generation Manual (10th Edition)

² Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm).

³ Average primary trip rates, per Trip Generation Handbook (3rd Edition), 2017. Additional primary rates based on similar land use and engineering judgment.

Pass-by rates should be used with caution and refined using local data whenever possible. ⁴ DU = Dwelling Unit; KSF = 1,000 square feet; VSP = Vehicle servicing position

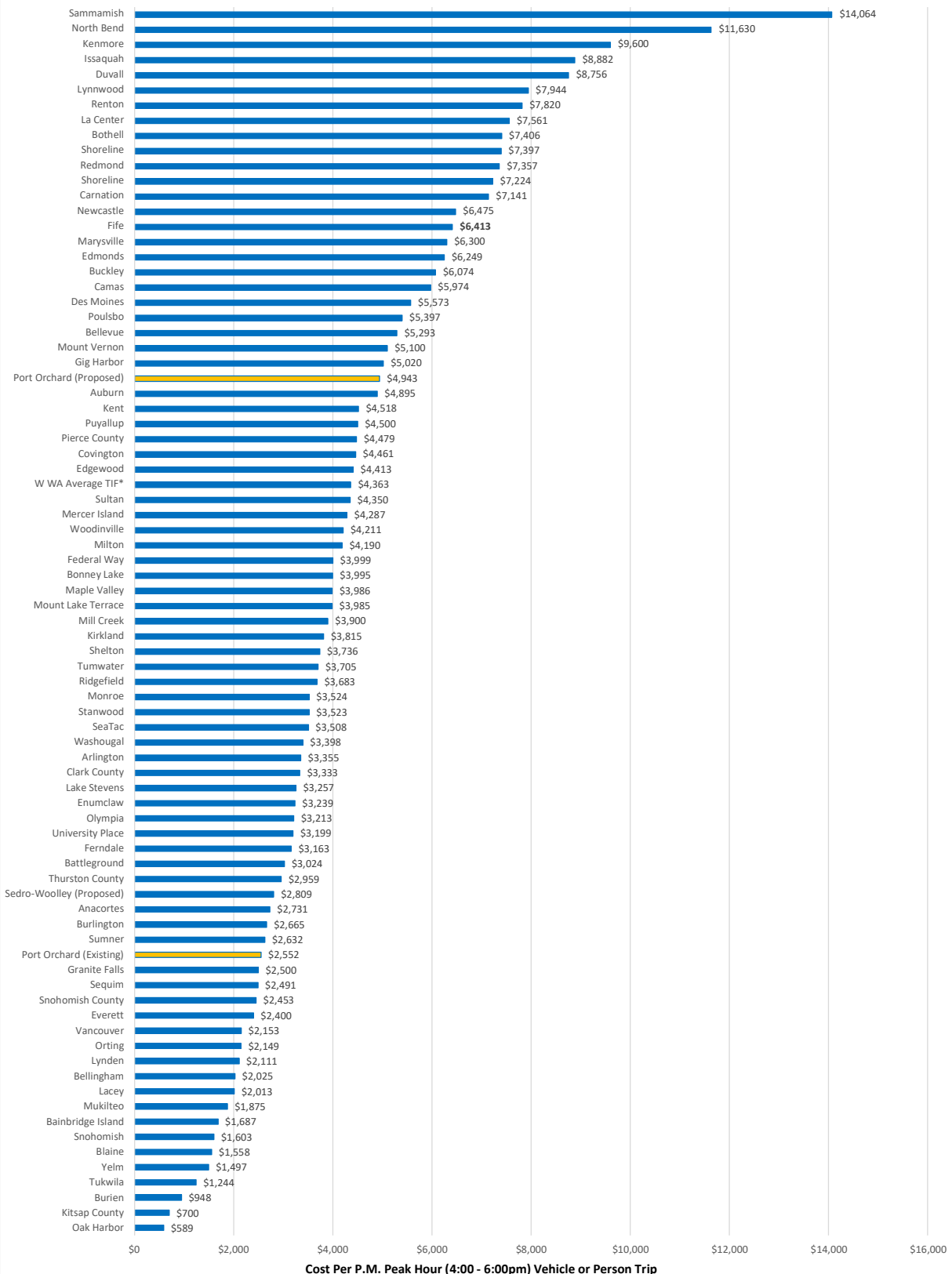
Appendix C. Comparison of 2019-2020 TIF Rates in Western Washington

**Comparison of 2019-2020 TIF Base Rates in 74 Cities and 5 Counties in Western Washington
With Bellingham and Whatcom County Cities Highlighted for Emphasis**

[Based on information available. Average includes both Cities and Counties. See TIF rate table on next page for additional details.]

Data compiled Nov. 2019 by Chris Comeau, AICP-CTP, Transportation Planner, Bellingham Public Works ccomeau@cob.org or (360) 778-7946

***Western WA State Average TIF**



PORT ORCHARD CITY PARKS PLAN



Appendix E: Impact Fee Calculations

E.1 Introduction

This study of impact fees for parks and recreational facilities for the City of Port Orchard presents the methodology, summarizes the data, and explains the calculation of the fees. The methodology is designed to comply with the requirements of Washington law. This introduction describes the basis for parks and recreational impact fees, including:

- Definition and Rationale of Impact Fees
- Statutory Basis For Impact Fees
- Methodology for Calculating Impact Fees
- Need for Additional Parks and Recreational Facilities
- Determining the Benefit of Parks and Recreational Facilities to Development
- Methodology and Relationship to Port Orchard City Parks Plan
- Level of Service and Calculations

E 1.1 Definition and Rationale of Impact Fees

Impact fees are charges paid by new development to reimburse local governments for the capital cost of public facilities that are needed to serve new development and the people who occupy the new development. New development is synonymous with "growth."

Local governments charge impact fees on either of two bases. First, as a matter of policy and legislative discretion, they may want new development to pay the full cost of its share of new public facilities because that portion of the facilities would not be needed except to serve the new development. In this case, the new development is required to pay for virtually all the cost of its share of new public facilities.

On the other hand, local governments may use other sources of revenue to pay for the new public facilities that are required to serve new development. If, RCW 82.02.050 (2) prohibits impact fees that charge 100% of the cost, but does not specify how much less than 100%, leaving that determination to local governments. However, such revenues are not sufficient to cover the entire costs of new facilities necessitated by new development; the new development may be required to pay an impact fee in an amount equal to the difference between the total cost and the other sources of revenue.

There are many kinds of "public facilities" that are needed by new development, including parks and recreational facilities, fire protection facilities, schools, roads, water and sewer plants, libraries, and other government facilities. This study covers parks and recreational facilities for the City of Port Orchard, Washington. Impact fees for parks and recreational facilities are charged to all residential development within the City of Port Orchard.

E1.2 Statutory Basis for Impact Fees

RCW 82.02.050 - 82.02.090 authorizes local governments in Washington to charge impact fees. The impact fees that are described in this study are not mitigation payments authorized by the State Environmental Policy Act (SEPA). There are several important differences between impact fees and SEPA mitigations. Two aspects of impact fees that are particularly noteworthy are: 1) the ability to charge for the cost of public facilities that are "system improvements" (i.e., that provide service to the community at large) as opposed to "project improvements" (which are "on-site" and provide service for a particular development), and 2) the ability to charge small-scale development their proportionate share, whereas SEPA exempts small developments. Four types of public facilities can be the subject of impact fees: 1) public streets and roads; 2) publicly owned parks, open space and recreational facilities; 3) school facilities; and 4) fire protection facilities (in jurisdictions that are not part of a fire district). RCW82.02.050 (2) and (4) and RCW82.02.090 (7)

Impact fees must be limited to system improvements that are reasonably related to, and which will benefit new development. RCW 82.02.050(3) (a) and (c). Local governments must establish reasonable service areas (one area, or more than one, as determined to be reasonable by the local government), and local governments must develop impact fee rate categories for various land uses. RCW 82.02.060(6) Impact fees cannot exceed the development's proportionate share of system improvements that are reasonably related to the new development. The impact fee amount shall be based on a formula (or other method of calculating the fee) that determines the proportionate share. RCW82.02.050(3)(b) and RCW82.02.060(1)

Impact fees can be charged for new public facilities (RCW 82.02.060(1)(a)) and for the unused capacity of existing public facilities (RCW 82.02.060(7)) subject to the

proportionate share limitation described above. Additionally, the local government must separate the impact fees from other monies, expend the money on CFP projects within 6 years, and prepare annual reports of collections and expenditures.
RCW82.02.070(1)-(3)

E 2 Methodology for Calculating Impact Fees

Prior to calculating impact fee rates, several issues must be addressed in order to determine the need for, and validity of such fees: responsibility for public facilities, the need for additional park and recreational facilities, the need for revenue for additional parks and recreational facilities, and the benefit of new parks and recreational facilities to new development.

In general, local governments that are authorized to charge impact fees are responsible for specific public facilities for which they may charge such fees. The City of Port Orchard is legally and financially responsible for the parks and recreational facilities it owns and operates within its jurisdiction. In no case may a local government charge impact fees for private facilities, but it may charge impact fees for some public facilities that it does not administer if such facilities are "owned or operated by government entities" (RCW 82.82.090(7)).

E 2.1 Need for Additional Park and Recreational Facilities

The need for additional parks and recreational facilities is determined by using standards for levels of service for park and recreational facilities to calculate the quantity of facilities that are required. For the purpose of quantifying the need for parks and recreational facilities, this study uses the City's value of investment in parks and recreational facilities per capita. As greater growth occurs, more investment is required, therefore more parks and recreational facilities are needed to maintain standards.

E 2.2 Determining the Benefit to Development

The Washington State law regarding Impact Fees imposes three provisions of the benefit provided to development by impact fees: 1) proportionate share, 2) reasonably related to need, and 3) reasonably related to expenditure (RCW 80.20.050(3)). First, the "proportionate share" requirement means that impact fees can be charged only for the portion of the cost of public facilities that is "reasonably related" to new development.

Second, fulfilling the requirement that impact fees be "reasonably related" to the development's need for public facilities, including personal use and use by others in the family (direct benefit), use by persons or organizations who provide goods or services to the fee-paying property (indirect benefit), and geographical proximity (presumed benefit). Impact fees for park and recreational facilities, however, are only charged to

residential development in the City because the majority of benefits are to the occupants and owners of dwelling units. As a matter of policy, the City of Port Orchard elects not to charge parks and recreational impact fees to non-residential properties because there is insufficient data to document the proportionate share of parks reasonably needed by non-residential development.

Lastly, the requirement that expenditures be "reasonably related" to the development that paid the impact fee includes that fee revenue must be earmarked for specific uses related to public facilities ensures that expenditures are on identifiable projects, the benefit of which can be demonstrated and that impact fee revenue must be expended within 6 years, thus requiring a timeliness to the benefit to the fee-payer.

E 2.3 Methodology and Relationship to the Port Orchard City Parks Plan

Impact fees for parks and recreational facilities in the City of Port Orchard are based on the value per capita of the City's existing investment in parks and recreational facilities for the population of the City. New development will be provided the same investment per capita, to be funded by a combination of general and capital improvement fund revenue and impact fees. The amount of the impact fee is determined by charging each new development for the average number of persons per dwelling unit multiplied times the amount of the investment per capita that is to be paid by growth.

E3. Level of Service Standard Calculations

The level of service, as defines as the capital investment per person, is calculated by multiplying the capacity of parks and recreational facilities times the average costs of those items. Within this calculation, there are two variables that benefit from further definition explanation: The value of parks and recreational inventory, and the Service population.

E 3.1 Value of Parks and Recreational Inventory

The value of the existing inventory of parks and recreational facilities is calculated by determining the value of each park as well as each recreational facility. The sum of all of the values equal the current value of the City's parks and recreational system

E 3.2 Service Population

The service population is the number of persons served by the inventory of parks and recreational facilities. Port Orchard's service population consists of the City's current 2011 population of 11,144 as provided by the Washington State of Financial Management. The forecast population for 2030 of is the projected population

estimated for Comprehensive Planning efforts and adopted by all Kitsap County jurisdictions, through the County Wide Planning Policies. This figure is provided to estimate future population growth within the existing City boundaries and is utilized in calculating the annual portion of that growth rate for the Impact Fee calculations.

E 3.3 Calculation of Park and Recreational Capital Investment per Person

The City of Port Orchard's capital value per person is the standard the City uses to ensure that each resident receives an equitable amount of parks and recreational facilities. The City provides this value by investment in parks and recreational facilities that are most appropriate for each site and which respond to changing needs and priorities as the City grows and the demographics and needs of the population changes.

Attachment E1 (at the end of this Appendix) lists the types of land and recreational facilities that make up the City of Port Orchard's existing park system. Each component is listed in the first column, along with the capital value of each type of park land or recreational facility in the final column. The capital value for all City owned parks & recreational facilities in the inventory comes to a total of \$7,228,929. This total value is divided by the service population of 11,144 for the City determines the current capital value per person of \$649. (Please reference Attachment E2: Figure E1)

E 4 PARKS AND RECREATIONAL FACILITY NEEDS

This section calculates the value of parks and recreational facilities that are needed to serve growth, reduced by the typical proportion of project values that are grant or otherwise funded. Impact fees are related to the needs of growth through calculating the total value of parks and recreational facilities that are needed for growth. The calculation is accomplished by multiplying the capital investment per person times the number of new persons that are forecast for the City's growth. (Please reference Attachment E2: Figure E2)

E 4.1 Calculation of Total Value Needed For Growth

The calculations for the total value of Parks and Recreation Facilities needed to accommodate the forecasted growth is a tabulation of the level of service standard for capital investment per person from Figure E1 times the total amount of population growth forecast for the six year Impact Fee planning period. The resulting calculation shows the total value of parks and recreational facilities that are needed to serve the growth that is forecast for Port Orchard (Please reference Attachment E2: Figure E2). The result of Figure E2 illustrates that Port Orchard needs parks and recreational facilities valued at \$1,928,434 in order to serve the growth of 2,973 additional people (forecast at an annual growth rate of 495 per year) who are expected to be added to the City's population during the six year Impact Fee planning period.

E 4.2 Total Investment to be Paid by Growth

The investment to be paid by growth is calculated by subtracting the amount of any revenues the City invests in infrastructure for growth from the total investment in parks and recreational facilities needed to serve growth. The previous calculation showed the total amount that is needed to invest in additional parks and recreation facilities in order to serve future growth. The proportionate share of that investment to be paid by growth is dependent upon the historic share of improvements provided by the City of Port Orchard through grants or other revenue streams. The proportionate share for development to pay for new facilities includes the City of Port Orchard historical use of local sources, such as real estate excise tax, grant funding, and other revenues to pay for part of the cost of parks and recreational facility capital costs. Revenues that are used for repair, maintenance or operating costs are not used to reduce impact fees because they are not used, earmarked or prorated for the system improvements that are the basis of the impact fees. The City's investment has averaged 50% of the cost of capital improvement projects for parks and recreational facilities (Please reference Attachment E2: Figure E3). The result of Figure E3 illustrates that Port Orchard expects to use \$964,217 in grants and other revenues to serve the total needs of additional parks and recreational facilities to maintain the City's standards for future growth, with the remaining \$964,217 to be paid by growth as a proportionate share.

E5 IMPACT FEE PER UNIT OF DEVELOPMENT

In this section the investment in additional parks and recreational facilities to be paid by growth is used to calculate the park and recreational facilities growth cost per person which is then used to calculate the impact fee per dwelling unit.

E 5.1 Growth Cost Per Person

The growth cost per person is calculated by dividing the investment in parks and recreational facilities that is to be paid by growth by the amount of population growth during the six year Impact Fee planning period (Please reference Attachment E2: Figure E4). The result of Figure E4 illustrates the calculation of the cost per person of parks and recreational facilities that needs to be paid by growth is \$324 per person. The amount to be paid by each new dwelling unit depends on the number of persons per dwelling unit.

E 5.2 Impact Fee per Dwelling Unit

The impact fee per dwelling unit is calculated by multiplying the growth cost per person by the number of persons per dwelling unit. The number of persons per dwelling unit is the factor used to convert the growth cost of parks and recreational facilities per

person into impact fees per dwelling unit. The number of persons per dwelling unit data is based on the adopted 2008 Port Orchard Comprehensive Plan, Chapter 3. Housing; which sets an population household size of 2.5 persons per single family unit and a calculation of 1.8 persons per Multi-family housing unit within the City of Port Orchard (Please reference Attachment E2: Figure E5 and E6 respectively).

The resulting calculations of Figure E5 shows the calculation of the parks and recreational facilities impact fee of \$811 per single family dwelling unit. The resulting calculations of Figure E6 show the calculation of the parks and recreational facilities impact fee of \$584 per multi-family dwelling unit. Impact Fee amounts, upon adoption by City Council, are to be implemented and collected subject to the provisions of Port Orchard Municipal Code Section 16.70.

E6. Summary

This study of impact fees for parks and recreational facilities for the City of Port Orchard summarizes the methodology, presents the data, and explains the calculation of the fees that result in the recommended amounts. Similar sized Cities within Kitsap County have chosen to utilize much higher impact fee amounts, for example the City of Poulsbo recently raised their Park Impact Fee from \$500 to \$1,195 per unit. The proposed Park Impact Fees for the City of Port Orchard of \$811 per single family dwelling unit and \$584 per multi-family dwelling unit, although consistent with the City of Port Orchard level of service, still are well below the Washington State average of \$ 2,849 per single family dwelling unit and \$2,147 per multi-family dwelling unit respectively. (Sourced from the National Impact Fee Survey 2009, prepared by Clancy Mullen, Duncan Associates, Austin, TX on December 20, 2009) The methodology utilized for arriving at the City of Port Orchard impact fee amounts has been a statewide standard incorporated for numerous Washington State cities and is designed to comply with the requirements of Washington law.

INTENTIONAL BLANK PAGE

CITY OF PORT ORCHARD COMPREHENSIVE PARKS PLAN

VII. DISTRICT FINANCE PLAN

The principal funding mechanism for school facility construction and modernization has traditionally been voter approved bonds. More recently, school districts have been turning to capital levies to support modernizations and elementary school new construction projects. Other funding sources can include state funding assistance and development impact (mitigation) fees.

General Obligation Bonds

Bonds are typically used to fund construction of new schools and other major capital improvement projects. A 60% voter approval is required for passage. Bonds are then retired over time through the collection of property taxes.

The South Kitsap School District had an assessed valuation of \$6,123,112,269 as of August 31, 2014. The limit for all outstanding bonds for SKSD is 5% of assessed value or \$306,155,613. The District had \$5,645,481 of debt as of August 31, 2014, and therefore has a current bonding capacity of \$300,510,132.

State Funding Assistance

The source of State Funding Assistance, formerly State Match Funds, is the Common School Construction Fund. Bonds are sold on behalf of the fund then retired with revenues accruing predominantly from the sale of renewable resources (i.e., timber) from state school lands set aside by the Enabling Act of 1889. If these sources are insufficient to meet the needs of the program, the Legislature can appropriate additional funding, or the State Board of Education can ration project funding on a priority basis.

School districts may qualify for state funding assistance for specific capital projects based on an eligibility system. Eligible projects are prioritized using seven different criteria. Funds are then disbursed to districts on a percentage basis that is based on a formula that compares each district's assessed valuation per pupil relative to the entire state assessed valuation per pupil. This percentage is known as the Funding Assistance Percentage, formerly State Match Ratio.

The base to which this percentage is applied is the cost of construction as determined by the "Construction Cost Allocation" multiplied by the "Eligible Area". The Construction Cost Allocation (CCA) is used by OSPI to help define or limit its level of financial support for school construction. It is a budget driven value that is not intended to fully reflect the actual cost of school construction in Washington State. The Eligible Area portrays either the square footage of new space required to address unhoused students for an enrollment project, or the building square footage approved for upgrade or replacement for a modernization project.

State funding assistance is available to assist districts with construction costs for enrollment and modernization related school construction projects but cannot be used for site acquisition, the purchase of portables or for normal building maintenance. Because the availability of state assistance funds may not always keep pace with the enrollment growth or modernization needs of all of Washington's school districts, assistance funds from the state may not be received by a school district until two or three years after a school project has begun. In such cases, a district may be required to "front fund" meaning it must be prepared to finance the entire project with local funds. The State's share of the project funding is then provided to the district later in the form of a reimbursement. In some cases projects may not receive any state assistance at all. State funding assistance is not guaranteed.

South Kitsap School District 2015 Capital Facilities Plan

New Development Mitigation/Impact Fees

The authority for local jurisdictions to condition new development on the mitigation of school impacts is provided for under the State Subdivision Act, Chapter 58.17 RCW, the State Environmental Policy Act, Chapter 43.21C RCW, and the Growth Management Act, Chapter 36.70A RCW. These state statutes seek to ensure that adequate public facilities are available to meet the demands of new growth by authorizing permitting jurisdictions to condition development approval on the implementation of mitigation measures that enable local jurisdictions to meet the infrastructure demands of new development.

- **Subdivision Act Mitigation** RCW 58.17.110 requires the permitting jurisdiction to find that proposed plats adequately provide for schools and school grounds. The proposed development must provide land sufficient to ensure that such facilities are provided for potential new students.
- **SEPA Mitigation.** SEPA provides that local jurisdictions may condition the approval of a new development to the mitigation of specific adverse environmental impacts which are identified in SEPA environmental documents. *See* RCW 43.21C.060. Under SEPA, the "built environment" includes public schools. *See* WAC 197-11-444(2) (d) (iii).
- **GMA Mitigation.** Development impact fees have been adopted by Kitsap County and the City of Port Orchard as a means of supplementing traditional funding sources for the construction of public facilities needed to accommodate new development. The City of Bremerton does not impose an impact fee on new development. The District participates in the permit review processes of jurisdictions within its boundaries to ensure that its interests are considered when new developments are proposed that will generate additional students.

Six-Year Finance Plans

The Six-Year Capital Finance Plan (Table 12) portrays how South Kitsap School District intends to fund improvements to school facilities for the years 2015 through 2020.

South Kitsap School District 2015 Capital Facilities Plan

Table 12
Capital Finance Plan (2015-2020)

Sources:		
CFP Balance/Impact Funds (Aug 2014)	\$ 1,000,164	
Impact Fee Collections 2015-2020 (est.)	\$ 1,438,680	
Transfer from General Funds	\$ 0	
State Matching Funds (est.)	\$ 0	
Sale of General Obligation Bonds	\$ 0	
Improvements to Existing Facilities	\$ <u>4,750,000</u>	\$7,188,844
Uses:		
CFP Balance/Impact Funds (Aug 2020 est.)	\$ 378,769	
Improvements to Existing Facilities	\$ 4,750,000	
Construction for Enrollment Growth	\$ 0	
Site Acquisition	\$ 1,760,075	
Construction of Support Facilities	\$ 0	
Interim Classroom Space	\$ 300,000	
Program Changes	\$ <u>0</u>	\$ <u>7,188,844</u>
Balance:		\$ 0

South Kitsap School District 2015 Capital Facilities Plan

VIII. UNFUNDED NEED CALCULATION

The calculation of the South Kitsap School District unfunded need in support of jurisdictional school impact fee collection is provided on the spreadsheets that follow. This calculation recognizes projected costs anticipated over the life of the six-year plan including acquisition costs for interim housing and debt service payments on a 56 acre school site that was purchased in 2005.

The “Unfunded Need Total” on the last line of the SKSD Impact Fee Calculation document portrays the cost of addressing new home construction related enrollment growth identified within the six-year capital construction plan. This value is greater than the actual school impact fees specified and collected under respective Kitsap County and City of Port Orchard impact fee ordinances.

South Kitsap School District 2015 Capital Facilities Plan

<u>Description</u>	<u>Grade Span</u>	<u>Value</u>	<u>Units</u>	<u>Comments</u>
Student Generation Factor-SFH	Elementary	0.32	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-SFH	Jr. High	0.10	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-SFH	Sr. High	0.10	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-MFH	Elementary	0.18	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-MFH	Jr. High	0.09	Students/Residence	2007 Kendrick Demographic Study
Student Generation Factor-MFH	Sr. High	0.09	Students/Residence	2007 Kendrick Demographic Study
Facility Acreage	Elementary	14.00	Acres	District Average
Facility Acreage	Jr. High	22.00	Acres	District Average
Facility Acreage	Sr. High	42.00	Acres	Plan for New High School
Cost per Acre	All	\$115,000	Cost/Acre	Market Estimate
Facility Size - New Construction	Elementary	550	Students/School	District Standard
Facility Size - New Construction	Jr. High	900	Students/School	District Standard
Facility Size - New Construction	Sr. High	1800	Students/School	Plan for New High School
Facility Size - Temporary Construction	Elementary	24	Student/Classroom	District LOS
Facility Size - Temporary Construction	Jr. High	26	Student/Classroom	District LOS
Facility Size - Temporary Construction	Sr. High	26	Student/Classroom	District LOS
Permanent Sq. Footage (Total)	Elementary	507894	Square Feet	State Study & Survey
Permanent Sq. Footage (Total)	Jr. High	286193	Square Feet	State Study & Survey
Permanent Sq. Footage (Total)	Sr. High	345474	Square Feet	State Study & Survey
Portable Sq. Footage (Total)	Elementary	45900	Square Feet	Portables Inventory
Portable Sq. Footage (Total)	Jr. High	18900	Square Feet	Portables Inventory
Portable Sq. Footage (Total)	Sr. High	10800	Square Feet	Portables Inventory
Facility Cost - New Construction	Elementary		Cost/School	
Facility Cost - New Construction	Jr. High		Cost/School	
Facility Cost - New Construction	Sr. High		Cost/School	
Facility Cost - Temporary Construction	Elementary	\$300,000	Cost/Portable	Standard Dbl Portable including Site Costs
Facility Cost - Temporary Construction	Jr. High	\$300,000	Cost/Portable	Standard Dbl Portable including Site Costs
Facility Cost - Temporary Construction	Sr. High	\$300,000	Cost/Portable	Standard Dbl Portable including Site Costs
Boeckh Index / Area Cost Allowance	All	\$206.70	Cost/sq. ft.	OSPI - 2015
SPI Footage	Elementary	90.0	Sq. Ft./Student	OSPI - 2015
SPI Footage	Jr. High	121.3	Sq. Ft./Student	OSPI - 2015
SPI Footage	Sr. High	130.0	Sq. Ft./Student	OSPI - 2015
State Match Ratio	All	59.98%	Percent	OSPI - 2015
Average Assessed Value - SFH	All	\$201,260	Cost/Unit	Kitsap County Assessor SFH 2015
Average Assessed Value - MFH	All	\$100,630	Cost/Unit	Kitsap County Assessor SFH 2015 @ 50%
Capital Bond Interest Rate	All	0.00%	Percent	
Years Amortized	All	10	Years	
Property Tax Levy Rate - Capital Construction	All	\$0.00	Cost/\$1000 A.V.	

South Kitsap School District 2015 Capital Facilities Plan

School Site Acquisition Cost:

((Acres X Cost per Acre)/Facility Capacity) X Student Generation Factor

CALCULATIONS

	Facility Acreage	Cost per Acre	Facility Capacity	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	14	\$115,000.00	550	0.32	0.18	\$936.73	\$526.91
Jr. High	22		900	0.10	0.09	\$0.00	\$0.00
Sr. High	42	\$115,000.00	1800	0.10	0.09	\$268.33	\$241.50
						\$1,205.06	\$768.41

School Construction Cost:

((Facility Cost/Facility Capacity) X Student Generation Factor) X Permanent/Total Sq. Ft.)

	% Perm/ Total Sq. Ft.	Facility Cost	Facility Size	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	92%		550	0.32	0.18	\$0.00	\$0.00
Jr. High	94%		900	0.10	0.09	\$0.00	\$0.00
Sr. High	97%		1800	0.10	0.09	\$0.00	\$0.00
						\$0.00	\$0.00

Temporary Facility Cost:

((Facility Cost/Facility Capacity) X Student Generation Factor) X (Temporary/Sq. Ft)

	% Temp/ Total Sq. Ft.	Facility Cost	Facility Size	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	8%	\$300,000.00	48	0.32	0.18	\$165.77	\$93.24
Jr. High	6%		52	0.10	0.09	\$0.00	\$0.00
Sr. High	3%		52	0.10	0.09	\$0.00	\$0.00
						\$165.77	\$93.24

State Match Credit

Area Cost Allowance X SPI Sq. Ft X State Match X Student Generation Factor

	Boeckh Index	SPI Footage	State Match %	SGF SFH	SGF MFH	Cost per SFH	Cost per MFH
Elementary	\$206.70	90.00		0.32	0.18	\$0.00	\$0.00
Jr. High	\$206.70	121.30		0.10	0.09	\$0.00	\$0.00
Sr. High	\$206.70	130.00		0.10	0.09	\$0.00	\$0.00
						\$0.00	\$0.00

Tax Payment Credit

	SFH	MFH
Average Assessed Value		
Capital Bond Interest Rate	0.00%	0.00%
Net Present Value of Average Dwelling		
Years Amortized	10	10
Property Tax Levy Rate	\$0.00	\$0.00
Present Value of Revenue Stream	\$0.00	\$0.00

NEED SUMMARY

	SINGLE FAMILY	MULTI FAMILY
School Site Acquisition Cost	\$1,205.06	\$768.41
Permanent Facility Cost	\$0.00	\$0.00
Temporary Facility Cost	\$165.77	\$93.24
State Match Credit	\$0.00	\$0.00
Tax Payment Credit	\$0.00	\$0.00
UNFUNDED NEED TOTAL	\$1,370.83	\$861.65



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Business Item 7C
Subject: Adoption of an Ordinance Amending
Port Orchard Municipal Code Chapter
13.04 Concerning Sewer General Facility
Fee Credits

Meeting Date: February 9, 2021
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: Development-Matter 11
Atty Review Date: February 4, 2021

Summary: Since November 2017, the City Council has been discussing the current Port Orchard Municipal Code (POMC) regarding water and sewer credits for capital facility charges. Most recently, at the December 8, 2020 and January 19, 2021 Council meetings, the Council reviewed and discussed the POMC regarding sewer credit for general facility fees. The Council agreed that the current code language does not provide a meaningful incentive for developers to build sewer infrastructure. Council requested that City staff evaluate credit options to provide an incentive without jeopardizing the City’s enterprise capital projects.

Staff has worked with the City Attorney to draft an ordinance that will provide a credit for additional capacity beyond the need of a development that is provided to the City from the completion of an infrastructure project. This will be referred to as the General Facility Fee (GFF) Credit for excess capacity. The attached ordinance outlines the requirements for credit and provides a process for seeking a credit. Specific revisions include:

1. Terminology has been clarified in POMC 13.04.025 and 13.04.040. The terms capital facility charge, general facility fee, general facility charge, and sewer wastewater treatment fee were not used consistently throughout these code sections. This has been fixed and credits are only available towards the general facility fee.
2. The ordinance describes the timing for requesting a credit – to be made with a new application submittal or with a pending application.
3. The ordinance requires that there be an agreement between the city and the developer that addresses the credit.
4. The ordinance details how the amount of credit is to be determined and provides an example of a credit calculation.
5. The ordinance provides a detailed process for approving a GFF credit. This process is modeled after the process created for and included in the McCormick Woods Development Agreement for Transportation.

The ordinance as presented allows credits to be granted at the discretion of the City Council. In the proposed revisions to POMC 13.04.040(6), the language does not require the City Council to enter into agreements but does provide the authority for credit agreements and a process, limitations, and

requirements if an agreement is reached. This ordinance will help incentivize development activity and the private construction of public sewer facilities.

Recommendation: Staff recommends approval of the ordinance as presented. These revisions are needed to support pending development projects in time to hit the summer 2021 construction window.

Relationship to Comprehensive Plan: This ordinance helps to incentivize private construction of public facilities that are identified in the City's Comprehensive Plan.

Motion for consideration: "I move to adopt an ordinance amending POMC Chapter 13.04 concerning sewer general facility fee credits."

Fiscal Impact: These amendments are likely to incentivize development that will generate a variety of City revenues. The amendment may reduce sewer general facility fee revenue in the near term, but in the long term the City will gain capacity and the ability to support additional development that will generate future GFF payments.

Alternatives: Do not adopt the proposed ordinance; revise the proposed ordinance.

Attachments: Ordinance; Redline Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO SEWER CAPITAL FACILITY CHARGES; AMENDING PORT ORCHARD MUNICIPAL CODE SECTIONS 13.04.025 AND 13.04.040; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, at Port Orchard Municipal Code 13.04.040, the City currently provides a means by which developers may obtain credit against the general facilities charges owed to the City for new development and connections to the City's sewerage system; and

WHEREAS, the City Council desires to amend the codified language to allow for a credit where development has resulted in an upsizing capacity outside that needed for the development; and

WHEREAS, at POMC 13.04.025, staff suggests an amendment to clarify the components of the sewer capital facility charge for consistency with POMC 13.04.040; and

WHEREAS, a public hearing before the City Council on the proposed amendments was held on February 9, 2021; and

WHEREAS, the City Council finds that the amendments herein to POMC 13.04.025 and 13.04.040 are consistent with goals and policies of the City's Comprehensive Plan and related regulations, and serve the public health, safety, and general welfare of the citizens of Port Orchard; now, therefore,

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

SECTION 1. Port Orchard Municipal Code 13.04.025 is hereby amended to read as attached at Exhibit A hereto.

SECTION 2. Port Orchard Municipal Code 13.04.040 is hereby amended to read as attached at Exhibit A hereto.

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

SECTION 3. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte A. Archer, City Attorney

Cindy Lucarelli, Councilmember

PUBLISHED:

EFFECTIVE DATE:

Exhibit A

13.04.025 Fee Schedule.

Sewer Capital Facility Charge, consisting of both:	POMC 13.04.040 (2)
<i>Sewer Wastewater Treatment Facility Fee</i>	<i>POMC 13.04.040 (2)</i>
Per ERU	\$3,597.37
McCormick Land Co. Div. 1-10 Per ERU	\$881.25
<i>General Facility Fee</i>	<i>POMC 13.04.040(2)</i>
Per ERU	\$8,525

13.04.040 Sewer capital facility charge – Extension of sewer.

(1) The sewer capital facility charge is designed to mitigate the impact of new demands on the existing sewer system and to require new users to pay their fair share of the value of the sanitary sewer system. The sewer capital facilities charge applies to new construction, changes in use, and building modifications that increase the total number of equivalent residential units (ERUs). An ERU is 180 gallons per day for nonresidential connections. An ERU for residential connections is one single-family dwelling unit, whether detached or attached and configured as an apartment unit, condominium unit, townhouse unit or any other configuration. The ERU consumption is based upon metered water consumption or comparison to similar accounts when metered water consumption data is not readily available.

(a) Sewer Capital Facility Charge – Exception. The following exception applies to the assessment of the sewer capital facility charge. All four elements of the below-listed requirements must be present to qualify for the exception:

- (i) A nonresidential account paid the sewer capital facility charge at the time the property connected to the city's sewer system;
- (ii) Sometime after the original connection, the property owner decides to

construct a new building, change the original use, or modify the original building;

(iii) After the building improvements are completed, the total sewer usage for the nonresidential account will be equal to or less than the usage at the time of the original connection; and

(iv) The new construction, change in use, or building modification has not resulted in additional direct connection to the city's sewer system or the establishment of an additional sewer account.

(2) The sewer capital facility charge consists of two components: the general facility fee (GFF) and the wastewater treatment facility fee (WTFF). The general facility fee and the wastewater treatment facility fees are set forth in POMC 13.04.025. The properties within Divisions 1 through 10, inclusively, of the McCormick Woods Land Company shall have a wastewater treatment fee which is set forth in POMC 13.04.025.

(3) The sewer capital facility charge shall be paid before connecting to the city sanitary sewer system, or before changing the use, or increasing the total ERU count above the amount for which a sewer capital facility charge has been paid, except where a sewer GFF agreement provides for a deferral of these fees. If work is to be done that requires a sewer capital facility charge, it shall be paid before a permit shall be issued.

(4) If, after connection of a nonresidential service, the actual sewer usage has increased or the property use expanded so that there are a greater number of ERUs being used on the property than for which the sewer capital facility charge was paid, the property owner shall pay to the city an additional sewer capital facility charge based upon the new or expanded use. The additional sewer capital facility charge shall be based upon the charge rate in effect at the time the increased use is requested and/or detected, whichever first occurs.

(5) A credit against the sewer capital facilities charge may be applied for those property owners that paid their assessments in full through a local improvement district formed by the city, where such local improvement district is formed to finance the construction of any of the improvements that are a basis for calculating the value of the sewer capital facilities charge. The credit shall be equal to the amount of the property owner's principal assessment, not including interest and penalties. The credit shall be applied at the time of payment of the sewer capital facilities charge and shall not be used to reduce any assessments in the local improvement district.

(6) Upon petition to the city engineer by the property owner or developer, a credit against the sewer general facility fee (GFF) may be applied for those developers that construct at their own expense and with the City's advance agreement any of the improvements that are a basis for calculating the value of the sewer general facilities charge and result in upsized capacity over that required to serve their development, or for those property owners that pay a latecomer's fee toward those same improvements. The credit shall be memorialized in

a GFF credit agreement approved by the City Council.

The value of the credit shall be determined by the city engineer and shall be based on (1) conformance of the work with the utility plan of the city, and (2) shall be proportional to the additional capacity provided by the planned capital improvement. The credit shall be limited to the development identified in the initial credit request that installed the upsized or additional infrastructure. The agreement may allow for phased projects.

Alternatively, the value of the credit shall be the amount paid as a latecomer fee towards the improvement(s).

The total credit, if any, as provided in this subsection shall not exceed the amount of the total general facility fee due and payable to the utility that applies to the property or development requiring service because of the improvements.

The full actual costs of drafting and processing the GFF agreement shall be reimbursed by the owner or applicant prior to final City Council action on the agreement, to such extent that the actual costs exceed the initial application fee.

The process for approving a GFF credit shall be as follows:

- (a) The developer shall request a credit in writing in conjunction with permit submittal or a pending permit application and include the following eligibility information in their request:
 - i. Identification of the project proposed for construction as listed in the City's sewer general facilities charge calculation.
 - ii. Identification of the size of the facility to be constructed in ERUs as well as share of the facility in ERUs to be used by the proposed development.
 - iii. Identification of the sizing requirements for the proposed facility based on the City's adopted sewer system plan.
- (b) The City may create an application form to accompany credit requests.
- (c) The Director shall verify the information provided under section (a) above and may seek peer review at the requestor's expense of any technical reports submitted to justify proposed credit amounts or proportionate shares.
- (d) Upon verification of eligibility, the Director shall prepare a GFF credit agreement for City Council consideration.
- (e) The GFF credit agreement may allow the deferral of GFF charges pending completion of the facility to be constructed by the developer in exchange for credit. In such cases, the agreement shall stipulate that no certificates of occupancy shall be

granted prior to substantial completion of the facility and/or payment of the GFF. This deferral is allowed because the total amount of GFFs owed to the City may not be known prior to project completion and verification of construction costs. Where credit amounts are anticipated to be less than the total GFFs owed to the city, the agreement shall stipulate that a partial payment be made towards the GFFs owed for a project. The City Council may require a performance bond if deferral is allowed.

- (f) Credit shall not be granted until the Director has deemed the capital project as completed.
- (g) Project completion shall not occur until:
- i. The City deems it substantially complete; and
 - ii. All punch list items are finished; and
 - iii. The facility passes final inspection; and
 - iv. The Developer has put a 2-year warranty and maintenance bond in place; and
 - v. The City releases the performance bond (if applicable); and
 - vi. The Developer has completed all property dedications; and
 - vii. The Developer has provided the City with a Bill of Sale for the improvements containing the certified construction costs (stamped by licensed engineer) to the City for determination of the maximum credits available under this Agreement. The Director shall have the authority to approve or reject project cost estimates and may request additional information in support of certified construction cost estimates.
- (h) The City will confirm completeness of the Project by issuing a Final Notice of Completeness to the Developer.
- (i) Upon certification of completeness, the developer shall pay any balance owed for GFFs within 90 days or prior to the city's issuance of a certificate of occupancy, whichever occurs first.

For illustrative purpose only, a GFF credit is calculated as depicted in the following tables:

Example #1 – Anticipated Developer's General Facility Fees Exceed Project Cost Eligible for Credit		
Certified Project Cost	\$ 1,000,000	
Developer's Engineer Certified ERU's	250	25%
Excess (Future) Engineer Certified ERU's	750	75%
Total Project ERU's	1,000	
Project Cost Attributed to Developer Connections	\$ 250,000	
Project Cost Attributed to Excess (Future) Connections	\$ 750,000	

Project Cost Eligible for Credit	\$ 750,000	
Sewer General Facility Fee's	\$ 8,525	
Anticipated Developer's General Facility Fee's	\$ 2,131,250	
Estimated Sewer General Facility Fee Credit	\$ 2,131,250	
Total Credit Available (based on GFF at time of permit issuance)	\$ 750,000	

Example #2 – Project Cost Eligible for Credit Exceeds Anticipated Developer's General Facility Fees		
Certified Project Cost	\$ 10,000,000	
Developer's Engineer Certified ERU's	250	25%
Excess (Future) Engineer Certified ERU's	750	75%
Total Project ERU's	1,000	
Project Cost Attributed to Developer Connections	\$ 2,500,000	
Project Cost Attributed to Excess (Future) Connections	\$ 7,500,000	
Project Cost Eligible for Credit	\$ 7,500,000	
Sewer General Facility Fee's	\$ 8,525	
Anticipated Developer's General Facility Fee's	\$ 2,131,250	
Estimated Sewer General Facility Fee Credit	\$ 2,131,250	
Total Credit Available (based on GFF at time of permit issuance)	\$ 2,131,250	

(7) The City Council may require the GFF credit agreement to prorate GFF credits across all lots or units in a development when the amount of GFFs owed by the developer exceeds the amount of credit requested.

(8) The above provisions notwithstanding, the amount of credit shall not exceed the amount of the sewer general facilities charge for the property to which the credit is being applied.

(9) At the time the sewer general facilities charge is paid, a sewer inspection fee shall be paid per lateral connection to the main. The sewer inspection fee is set forth in POMC 13.04.025.

(10) All materials shall comply with the requirements of the city. If the city supplies any materials, the cost of these plus overhead and sales tax will be paid by the customer.

(11) Extension of Sewer to Property Contiguous to the City Shall Annex – Exception. Property lying within the urban growth boundary and contiguous to the Port Orchard city limits shall annex to the city as a condition of sewer connection. In the alternative, the city may elect to defer annexation and require the owner to execute a utility extension agreement as described in subsection (11) of this section.

(12) Requirement for Utility Extension Agreement.

(a) Property lying within the urban growth area which is not contiguous to the Port Orchard city limits shall be permitted water and/or sewer connection only upon entering into an appropriate agreement with the city containing a waiver of protest to annexation/limited power of attorney authorizing annexation at such time as the city determines the property should be annexed to the city. Application for extension of utilities is subject to the following provisions:

(i) Application fees as established by the city council shall be paid upon the submittal of a signed utility extension agreement (UEA) requesting water and/or sewer for property outside the city, but located within the urban growth area;

(ii) The applicant will bear the entire cost of water and/or sewer connection pursuant to this chapter, as written or hereafter amended, subject to any provision in effect at the time of connection for latecomer reimbursement;

(iii) The applicant will be subject to all applicable provisions of this chapter, as written or hereafter amended, for extension of city utilities, the payment therefor, and all enforcement provisions therein; and

(iv) The UEA shall not be executed prior to the time formal application is made for approval of the project for which utilities are requested. The term of said agreement shall terminate at the time any project application or approval expires or is revoked for any reason. A new agreement shall also be required for any extension of project application or approvals or when the director of planning determines that a substantial change or addition has been made to the project.

(b) The city may disconnect the utilities for failure of the applicant or his/her successors or assigns, for violation of this chapter, or for violation of the terms and conditions of the UEA.

(c) Following execution, such agreement shall be recorded by the city clerk in the chain of

title for such property in the records of the Kitsap County auditor.

13.04.040 Sewer capital facility charge – Extension of sewer.

(1) The sewer capital facility charge is designed to mitigate the impact of new demands on the existing sewer system and to require new users to pay their fair share of the value of the sanitary sewer system. The sewer capital facilities charge applies to new construction, changes in use, and building modifications that increase the total number of equivalent residential units (ERUs). An ERU is 180 gallons per day for nonresidential connections. An ERU for residential connections is one single-family dwelling unit, whether detached or attached and configured as an apartment unit, condominium unit, townhouse unit or any other configuration. The ERU consumption is based upon metered water consumption or comparison to similar accounts when metered water consumption data is not readily available.

(a) Sewer Capital Facility Charge – Exception. The following exception applies to the assessment of the sewer capital facility charge. All four elements of the below-listed requirements must be present to qualify for the exception:

(i) A nonresidential account paid the sewer capital facility charge at the time the property connected to the city's sewer system;

(ii) Sometime after the original connection, the property owner decides to construct a new building, change the original use, or modify the original building;

(iii) After the building improvements are completed, the total sewer usage for the nonresidential account will be equal to or less than the usage at the time of the original connection; and

(iv) The new construction, change in use, or building modification has not resulted in additional direct connection to the city's sewer system or the establishment of an additional sewer account.

(2) The sewer capital facility charge consists of two components: the general facility fee **(GFF)** and the wastewater treatment facility fee **(WTF)**. The general facility fee and the wastewater treatment facility fees are set forth in POMC 13.04.025. The properties within Divisions 1 through 10, inclusively, of the McCormick Woods Land Company shall have a wastewater treatment fee which is set forth in POMC 13.04.025.

(3) The sewer capital facility charge shall be paid before connecting to the city sanitary sewer system, or before changing the use, or increasing the total ERU count above the amount for which a sewer capital facility charge has been paid. If work is to be done that requires a sewer capital facility charge, it shall be paid before a permit shall be issued.

(4) If, after connection of a nonresidential service, the actual sewer usage has increased or the property use expanded so that there are a greater number of ERUs being used on the property than for which the sewer capital facility charge was paid, the property owner shall pay to the city an additional sewer capital facility charge based upon the new or expanded use. The additional sewer capital facility charge shall be based upon the charge rate in effect at the time the increased use is requested and/or detected, whichever first occurs.

(5) A credit against the sewer capital facilities charge may be applied for those property owners that paid their assessments in full through a local improvement district formed by the city, where such local improvement district is formed to finance the construction of any of the improvements that are a basis for calculating the value of the sewer capital facilities charge. The credit shall be equal to the amount of the property owner's principal assessment, not including interest and penalties. The credit shall be applied at the time of payment of the sewer capital facilities charge and shall not be used to reduce any assessments in the local improvement district.

(6) Upon petition to the city engineer by the property owner or developer, Aa credit against the sewer ~~sewer capital facilities~~general facility fee-charge (GFF) may be applied for those ~~property owners~~developers that construct at their own expense and with the City's advance agreement any of the improvements that are a basis for calculating the value of the sewer ~~capital~~general facilities charge and result in upsized capacity over that required to serve their development, or for those property owners that pay a latecomer's fee toward those same improvements. The credit shall be the smaller of the following shall be memorialized in a ~~CFC~~GFF credit agreement approved by the City Council.:

The value of the credit shall be determined by the city engineer and shall be based on (1) conformance of the work with the utility plan of the city, and (2) shall be proportional to the additional capacity provided by the off-site planned capital improvement. The credit shall be limited to the development identified in the initial credit request that installed the upsized or additional infrastructure. The agreement may allow for phased projects.

Alternatively, the value of the credit shall be the amount paid as a latecomer fee towards the improvement(s).

(a)That portion of the design and construction costs of a latecomer's agreement that is directly applicable to the construction of the improvements that are a basis for the value of the sewer capital facilities charge; or

(b) That proportionate amount of the sewer capital facilities charge that is attributable to the sewer facilities either constructed by the property owner or paid through a latecomer's fee.

The total credit, if any, as provided in this subsection shall not exceed the amount of the

total general facility fee due and payable to the utility that applies to the property or development requiring service because of the improvements.

The full actual costs of drafting and processing the GFF agreement shall be reimbursed by the owner or applicant prior to final City Council action on the agreement, to such extent that the actual costs exceed the initial application fee.

The process for approving a GFF credit shall be as follows:

- (a) The developer shall request a credit in writing in conjunction with permit submittal or a pending permit application and include the following eligibility information in their request:
 - i. Identification of the project proposed for construction as listed in the City's sewer general facilities charge calculation.
 - ii. Identification of the size of the facility to be constructed in ERUs as well as share of the facility in ERUs to be used by the proposed development.
 - iii. Identification of the sizing requirements for the proposed facility based on the City's adopted sewer system plan.
- (b) The City may create an application form to accompany credit requests.
- (c) The Director shall verify the information provided under section (a) above and may seek peer review at the requestor's expense of any technical reports submitted to justify proposed credit amounts or proportionate shares.
- (d) Upon verification of eligibility, the Director shall prepare a GFF credit agreement for City Council consideration.
- (e) The GFF credit agreement may allow the deferral of GFF charges pending completion of the facility to be constructed by the developer in exchange for credit. In such cases, the agreement shall stipulate that no certificates of occupancy shall be granted prior to substantial completion of the facility and/or payment of the GFF. This deferral is allowed because the total amount of GFFs owed to the City may not be known prior to project completion and verification of construction costs. Where credit amounts are anticipated to be less than the total GFFs owed to the city, the agreement shall stipulate that a partial payment be made towards the GFFs owed for a project. The City Council may require a performance bond if deferral is allowed.
- (f) Credit shall not be granted until the Director has deemed the capital project as completed.
- (g) Project completion shall not occur until:
 - i. The City deems it substantially complete; and
 - ii. All punch list items are finished; and
 - iii. The facility passes final inspection; and
 - iv. The Developer has put a 2-year warranty and maintenance bond in place; and
 - v. The City releases the performance bond (if applicable); and

- vi. The Developer has completed all property dedications; and
- vii. The Developer has provided the City with a Bill of Sale for the improvements containing the certified construction costs (stamped by licensed engineer) to the City for determination of the maximum credits available under this Agreement. The Director shall have the authority to approve or reject project cost estimates and may request additional information in support of certified construction cost estimates.
- (h) The City will confirm completeness of the Project by issuing a Final Notice of Completeness to the Developer.
- (i) Upon certification of completeness, the developer shall pay any balance owed for GFFs within 90 days or prior to the city's issuance of a certificate of occupancy, whichever occurs first.

For illustrative purpose only, a GFF credit is calculated as follows:

<u>Example #1 – Anticipated Developer’s General Facility Fees Exceed Project Cost Eligible for Credit</u>		
<u>Certified Project Cost</u>	<u>\$ 1,000,000</u>	
<u>Developer's Engineer Certified ERU's</u>	<u>250</u>	<u>25%</u>
<u>Excess (Future) Engineer Certified ERU's</u>	<u>750</u>	<u>75%</u>
<u>Total Project ERU's</u>	<u>1,000</u>	
<u>Project Cost Attributed to Developer Connections</u>	<u>\$ 250,000</u>	
<u>Project Cost Attributed to Excess (Future) Connections</u>	<u>\$ 750,000</u>	
<u>Project Cost Eligible for Credit</u>	<u>\$ 750,000</u>	
<u>Sewer General Facility Fee's</u>	<u>\$ 8,525</u>	
<u>Anticipated Developer's General Facility Fee's</u>	<u>\$ 2,131,250</u>	
<u>Estimated Sewer General Facility Fee Credit</u>	<u>\$ 2,131,250</u>	
<u>Total Credit Available (based on GFF at time of permit issuance)</u>	<u>\$ 750,000</u>	

<u>Example #2 – Project Cost Eligible for Credit Exceeds Anticipated Developer’s General Facility Fees</u>		

<u>Certified Project Cost</u>	<u>\$ 10,000,000</u>	
<u>Developer's Engineer Certified ERU's</u>	<u>250</u>	<u>25%</u>
<u>Excess (Future) Engineer Certified ERU's</u>	<u>750</u>	<u>75%</u>
<u>Total Project ERU's</u>	<u>1,000</u>	
<u>Project Cost Attributed to Developer Connections</u>	<u>\$ 2,500,000</u>	
<u>Project Cost Attributed to Excess (Future) Connections</u>	<u>\$ 7,500,000</u>	
<u>Project Cost Eligible for Credit</u>	<u>\$ 7,500,000</u>	
<u>Sewer General Facility Fee's</u>	<u>\$ 8,525</u>	
<u>Anticipated Developer's General Facility Fee's</u>	<u>\$ 2,131,250</u>	
<u>Estimated Sewer General Facility Fee Credit</u>	<u>\$ 2,131,250</u>	
<u>Total Credit Available (based on GFF at time of permit issuance)</u>	<u>\$ 2,131,250</u>	

(7) The City Council may require the GFF credit agreement to prorate GFF credits across all lots or units in a development when the amount of GFFs owed by the developer exceeds the amount of credit requested.

(8) The above provisions notwithstanding, the amount of credit shall not exceed the amount of the sewer ~~capital~~general facilities charge for the property to which the credit is being applied.

(9) At the time the sewer ~~general~~capital facilities charge is paid, a sewer inspection fee shall be paid per lateral connection to the main. The sewer inspection fee is set forth in POMC 13.04.025.

(10) All materials shall comply with the requirements of the city. If the city supplies any materials, the cost of these plus overhead and sales tax will be paid by the customer.

(11) Extension of Sewer to Property Contiguous to the City Shall Annex – Exception. Property lying within the urban growth boundary and contiguous to the Port Orchard city limits shall annex to the city as a condition of sewer connection. In the alternative, the city may elect to defer annexation and require the owner to execute a utility extension agreement as described in subsection (11) of this section.

(12) Requirement for Utility Extension Agreement.

(a) Property lying within the urban growth area which is not contiguous to the Port Orchard city limits shall be permitted water and/or sewer connection only upon entering

into an appropriate agreement with the city containing a waiver of protest to annexation/limited power of attorney authorizing annexation at such time as the city determines the property should be annexed to the city. Application for extension of utilities is subject to the following provisions:

(i) Application fees as established by the city council shall be paid upon the submittal of a signed utility extension agreement (UEA) requesting water and/or sewer for property outside the city, but located within the urban growth area;

(ii) The applicant will bear the entire cost of water and/or sewer connection pursuant to this chapter, as written or hereafter amended, subject to any provision in effect at the time of connection for latecomer reimbursement;

(iii) The applicant will be subject to all applicable provisions of this chapter, as written or hereafter amended, for extension of city utilities, the payment therefor, and all enforcement provisions therein; and

(iv) The UEA shall not be executed prior to the time formal application is made for approval of the project for which utilities are requested. The term of said agreement shall terminate at the time any project application or approval expires or is revoked for any reason. A new agreement shall also be required for any extension of project application or approvals or when the director of planning determines that a substantial change or addition has been made to the project.

(b) The city may disconnect the utilities for failure of the applicant or his/her successors or assigns, for violation of this chapter, or for violation of the terms and conditions of the UEA.

(c) Following execution, such agreement shall be recorded by the city clerk in the chain of title for such property in the records of the Kitsap County auditor.



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 7D</u>	Meeting Date:	<u>February 9, 2021</u>
Subject:	<u>Adoption of an Ordinance Approving a</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract with the Washington State</u>		<u>Public Works Director</u>
	<u>Department of Transportation for the</u>	Atty Routing No.:	<u>366922.0009 – PW</u>
	<u>Bethel and Lincoln Roundabout Project</u>	Atty Review Date:	<u>February 3, 2021</u>
	<u>Construction Phase</u>		

Summary: On March 5, 2020, the City of Port Orchard applied for and successfully received a federally funded grant of \$1.5M from the Highway Safety Improvement Program (HSIP) as managed by the Washington State Department of Transportation (WSDOT) under their 2020 City Safety Program for the Bethel and Lincoln Intersection Single-lane Roundabout Project. The grant funding is specifically for the Project’s Construction Phase, with the Engineering Design and Right-of-Way Phases locally funded. The grant does require a 10% match, \$166,667 unless the Project is obligated prior to April 30, 2023, which will trigger 100% funding and remove the match requirement. The anticipated locally funded portion of the Construction Phase will provide compliance with this match requirement if the obligation deadline is not met.

The Total Project Cost Estimate submitted by the Public Works Department is \$2,738,750, excluding city staff time. The Awarded Grant Amount of \$1,500,000 is specifically for the Construction Phase of this Project and requires a 10% match for all eligible federal expenditures. As this Project was not yet anticipated for work in the immediate future but included within the Tier 2 TIP 2.04 Bethel Corridor Phase 5A Project, the 2021-2022 Biennial Budget did not allocate funding for this project. Please see below for a summary of anticipated costs and the proposed funding strategy:

Engineering Design Phase:	\$461,250
Right-of-Way Acquisition Phase:	\$135,000
<u>Construction Phase:</u>	<u>\$2,142,000</u>
Total:	\$2,738,750

The anticipated locally funded portion of this Project is to be paid from Transportation Impact Fee’s and/or other eligible funding sources, if needed. The Public Works Department is proposing to re-allocate the \$500,000 identified within the 2021-2022 Biennial Budget from the Tier 1 TIP 1.3 Bethel/Sedgwick Phase 1 - Design 30% Project and pause that project. The Public Works Department is proposing to use the re-allocated local funds for the Engineering Design and Right-of-Way Phases of the Tier 2 TIP 2.04 Bethel Corridor Phase 5A Project. Additionally, the City will need to re-allocate or appropriate additional funding for this project in the amount of ~ \$38,000 to fully fund this effort during the mid-year review and/or the during the first biennial budget amendment for the biennium.

Relationship to Comprehensive Plan: Chapter 8 – Transportation (included as a portion of Tier 2 TIP 2.04 Bethel Corridor Phase 5A Project)

Recommendation: Staff recommends that the City Council adopt Ordinance No. 001-21, thereby approving and authorizing the Mayor to execute Contract No. C021-21 with the Washington State Department of Transportation, inclusive of the current WSDOT Project Administration Agreement and the WSDOT Local Agency Agreement, for the Bethel and Lincoln Intersection – Single Lane Roundabout Project Construction Phase from the Highway Safety Improvement Program in the amount of \$1,500,000.

Motion for Consideration: I move to adopt Ordinance No. 001-21, thereby approving and authorizing the Mayor to execute Contract No. C021-21 with the Washington State Department of Transportation, inclusive of the current WSDOT Project Administration Agreement and the WSDOT Local Agency Agreement, for the Bethel and Lincoln Intersection – Single Lane Roundabout Project Construction Phase from the Highway Safety Improvement Program in the amount of \$1,500,000.

Fiscal Impact: ~\$1.5 million Federal Grant
~\$1.3 million of local Transportation Impact Fee's

Alternative: Refuse Grant.

Attachment: Ordinance, WSDOT Award Letter (dated 12/23/2020), and WSDOT Project Administration Agreement.

ORDINANCE NO. 001-21

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING THE TERMS AND CONDITIONS ASSOCIATED WITH THE FEDERALLY FUNDED HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) AS MANAGED BY THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (WSDOT) UNDER THEIR 2020 CITY SAFETY GRANT PROGRAM, THEREBY APPROVING CONTRACT NO C021-21 WITH WSDOT FOR THE BETHEL AND LINCOLN ROUNDABOUT - CONSTRUCTION PHASE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, on March 5, 2020, the City's Public Works Department applied for Highway Safety Improvement Program (HSIP) grant funding through the Washington State Department of Transportation (WSDOT) 2020 City Safety Program for a portion of the Bethel Corridor Phase 5A Project, being the Bethel and Lincoln Intersection – Single Lane Roundabout Project (Project) - Construction Phase; and

WHEREAS, on December 23, 2020, the City of Port Orchard Public Works Department was notified by WSDOT that the Project was selected to receive \$1.5M in federal funding through the HSIP with a 10% Construction Phase match requirement (\$166,667); and

WHEREAS, it is the City of Port Orchard's Public Works Department intent to use local funding for the required Design and Right-of-Way Phases; and

WHEREAS, if the Project is obligated for the Construction Phase prior to April 30, 2023, then the Construction Phase is eligible for 100% funding (no local match), and if the obligation deadline is not met, local funding will be used for the Construction Phase match requirement; and

WHEREAS, the City Council has determined it to be in the best interests of the City to enter into Contract No. C021-21 with WSDOT for the Bethel and Lincoln Intersection – Single Lane Roundabout Project (Project) - Construction Phase; now, therefore,

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

SECTION 1. Contract No. C021-21 with the Washington State Department of Transportation (WSDOT) for the Bethel and Lincoln Intersection – Single Lane Roundabout Project (Project) - Construction Phase, inclusive of the current WSDOT Project Administration Agreement and the WSDOT Local Agency Agreement, is hereby approved and the City agrees to be bound by the terms and conditions thereof in their entirety.

SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 4. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Cindy Lucarelli, Councilmember

APPROVED AS TO FORM:

Charlotte Archer, City Attorney

PUBLISHED:

EFFECTIVE DATE:

December 23, 2020

Mr. Mark Dorsey
City Engineer
City of Port Orchard
216 Prospect Street
Port Orchard, Washington 98366

**Bethel and Lincoln Roundabout
2020 City Safety Selections
Federal Funding**

Dear Mr. Dorsey:

WSDOT is pleased to advise you that the above-mentioned safety project was recently selected to receive funding through the Highway Safety Improvement Program (HSIP). The federal funding is limited to the amount shown below:

Bethel and Lincoln Roundabout **\$1,500,000**

Scope: See attached Project Summary – delivered as one contract.

NOTE: Projects require a ten percent local match per phase (preliminary engineering/design, right-of-way, and construction) for all eligible federal expenditures. If the construction phase is authorized by April 30, 2023, then the construction phase is eligible for 100% funding (no local match required). Federal funds cannot be used as match for any phase. Scope and funding modifications are not allowed.

In order to meet state and federal requirements, the following are required:

- Project expenditures incurred before receiving notice from Local Programs of federal fund authorization are not eligible for reimbursement.
- Please refer to the Local Programs webpage for detailed information, including: (<http://www.wsdot.wa.gov/localprograms/>)
 - ✓ Local Agency Guidelines (LAG) manual for the requirements regarding programming, authorization, reimbursement, etc.;
 - ✓ Projects utilizing federal funds must be included in your current Transportation Improvement Program (TIP) as a complete programmed project. Once your TIP amendment is approved, WSDOT will amend the Statewide Transportation Improvement Program (STIP);
 - ✓ Funding and billing forms;
 - ✓ Quarterly Project Reporting is required to be completed by the end of March, June, September, and December each year. To access the database, you will need an account name and password. Your account name is **Port Orchard** and your password is **PorOr576**. The password is case sensitive.
- If the project is not actively pursued or becomes inactive (23 CFR 630), the project is at risk of being cancelled, funds repaid and reprogrammed.

Mark Dorsey
City Engineer
City of Port Orchard
Bethel and Lincoln Roundabout
December 23, 2020

- FHWA requires that all projects are ADA compliant upon completion or the federal funds must be repaid.

As a reminder, Local Programs requires all agencies to submit monthly progress billings to ensure timely reimbursement of eligible federal expenditures.

For assistance please contact Bryan Dias, your Region Local Programs Engineer, at 360.357.2631.

Sincerely,



Kyle R. McKeon
Interim Director
Local Programs

KRM:st:sas

cc: Kelly McGourty, Transportation Director, PSRC
Bryan Dias, Olympic Region Local Programs Engineer, MS 47440

Olympic Region Local Programs Project Administration Agreement

Port Orchard <small>City</small>	Bethel Lincoln Intersection - Round About <small>Project Title</small>
--	--

This Agreement is entered into between the Washington State Department of Transportation (STATE) and the above-named city (CITY).

The CITY is not currently certified as having staff with the knowledge and experience to manage a Federal Highway Administration (FHWA) federal aid project, therefore FHWA requires the above named project (Project) be administered under the supervision of the Washington State Department of Transportation Olympic Region Local Programs Office (Local Programs).

NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The CITY, operating under an extension of Local Programs Certification Acceptance (CA), agrees to administer this Project entirely in accordance with federal law, the Local Agency Guidelines (LAG), this Project Administration Agreement, and direction as provided by the Local Programs Engineer (LPE). Failure to comply with federal law, the LAG, this Project Administration Agreement, or the direction of the LPE may result in loss of federal funds.
2. The STATE and the CITY have designated CA Managers as shown below:

STATE:	City
Bryan Dias P.E. Local Programs Engineer WSDOT Olympic Region PO Box 47440 Olympia WA 98504 DiasB@wsdot.wa.gov 360-357-2631	City of Port Orchard Mark Dorsey, City Engineer 216 Prospect ST Port Orchard, WA 98366 mdorsey@cityofportorchard.us (360) 876-7034

The CITY CA Manager is the full time CITY employee that is in responsible charge of the Project. All formal submittals outlined herein, either from the STATE or the CITY, will be sent through the designated CA Manager.

3. The CITY shall obtain approval from the LPE of the consultant solicitation method, advertisement and selection process for using a consulting firm for PE, Right of Way and Construction Engineering services. In addition, the CITY shall obtain concurrence of Consulting Engineering Agreements and Supplements from the LPE before execution (see LAG chapter 31). The scope of the negotiated agreement for PE must complete the PE phase for the entire Project.
4. Contract Plans, Specifications and Estimates (PS&E) shall be prepared in accordance with the current State of Washington Standard Specifications for Road, Bridge and Municipal Construction and adopted design standards (see LAG chapter 42 and 44). The CITY shall submit the PS&E and contract to the LPE for review to ensure compliance with the LAG.
5. Any deviation to design standards (see LAG chapter 42) must be stamped by a Professional Engineer licensed in the State of Washington. The CITY shall submit the design deviation to the LPE for further processing and approval.

6. The CITY shall be responsible for all required environmental documentation (SEPA and NEPA) and shall submit all required NEPA documentation to the LPE for further processing and approval (see LAG chapter 24). The CITY shall be responsible for obtaining all required permits and approvals.

7. No Right of Way (R/W) action shall proceed without concurrence from the WSDOT Local Agency Right of Way Coordinator. The CITY shall follow current WSDOT approved R/W Procedures as described in the LAG (see LAG chapter 25). The LPE and WSDOT Local Agency Right of Way Coordinator shall be advised of all pre-R/W meetings. All acquisitions of R/W such as construction easements, donations, permits, etc. shall be certified by the CITY and the STATE.

8. The CITY shall forward the proposed advertisement for bids to the LPE for approval. Upon approval of the advertisement for bids and construction authorization from FHWA, the CITY may begin advertisement for bids (see LAG chapter 46). The CITY shall keep the LPE advised on any pre-award issues affecting the quality and timing of the contract. Any required addenda to the contract documents must be approved by the LPE before it is issued.

9. The CITY is required to utilize a Certified Acceptance agency or qualified CITY or consultant staff for construction management services. Experience and expertise administering and managing construction projects funded by FHWA in accordance with the Standard Specifications for Road, Bridge and Municipal Construction, the WSDOT Construction Manual, and the Local Agency Guidelines must be verifiable and acceptable.

Your Project that utilizes FHWA funds will require significant effort to manage and provide all the documentation required by FHWA. Typically, the following construction staffing is needed:

- Project Manager (8 to 12 hrs. / week throughout the construction phase)
- Field Engineer/ Inspector (50 hrs. / week; during working days; 10 to 20 hours per week 2 weeks prior to add through completion)
- Office Manager (8 to 16 hrs. / week throughout the construction phase)

This staffing does not include materials testing technicians, materials lab services, or additional project inspectors for larger projects. One person may fill multiple roles if qualified. Adequate experienced staffing will help assure a successful federal aid project. The CITY shall obtain approval of construction management staff, including Project Manager, Field Engineer, Office Manager and Lead Inspector, from the LPE before construction funds will be authorized.

10. The CITY shall notify the LPE of the Bid Opening date and time. The CITY shall transmit to the LPE, the Engineer's Estimate, Bid Tabulations, UDBE Utilization Certificate and the UDBE Written Confirmation of the apparent low bidder. Upon approval by the LPE, the CITY may Award the Contract to the lowest responsive bidder (see LAG chapter 46).

11. Upon the CITY execution of the contract for construction, the CITY shall administer and inspect the Project in accordance with the contract documents, WSDOT Standard Specifications for Road Bridge and Municipal Construction, the WSDOT Construction Manual, the Local Agency Guidelines and all applicable state and federal laws (see LAG chapter 52).

12. Changes to the contract will be documented by change order as defined in the current edition of the WSDOT Standard Specifications for Road, Bridge and Municipal Construction Section 1-04.4 and consistent with the WSDOT Construction Manual. The CITY shall negotiate, and document all change orders. Written authorization (email) by the LPE of proposed change order work, except for emergency work, must be received by the CITY prior to proceeding with the work. Any work performed before receiving said authorization may be deemed ineligible for federal participation.

Prior to obtaining the contractor's signature on any change order the CITY shall provide a copy of the change order to the LPE for review and concurrence, along with separate justification for the change and an independent estimate of price and working day impacts. A copy of all executed Change Orders shall be sent to the LPE.

13. The CITY shall schedule inspection of the Project by Local Programs and receive Local Programs comments prior to providing the final "punch list" to the Contractor (see LAG chapter 53).

14. If required by your grant, quarterly reports must be updated by the CITY before the 20th of March, June, September and December until the Project is complete and final bill is paid.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the party's date signed last below.

CITY OF PORT ORCHARD

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By: _____
Robert Putaansuu, Mayor

By: _____

Date: _____

Date: _____



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

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7E</u>	Meeting Date:	<u>February 9, 2021</u>
Subject:	<u>Adoption of an Ordinance Approving a</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract with the Washington State</u>		<u>Public Works Director</u>
	<u>Department of Transportation for the</u>	Atty Routing No.:	<u>366922.0009 – PW</u>
	<u>Citywide Street Lighting Study</u>	Atty Review Date:	<u>February 3, 2021</u>

Summary: On March 5, 2020, the City of Port Orchard applied for and successfully received a federally funded grant of \$36K from the Highway Safety Improvement Program (HSIP) as managed by the Washington State Department of Transportation (WSDOT) under their 2020 City Safety Program for the Citywide Street Lighting Study. The grant funding being accepted is only for a Study and requires a \$4,000 (10%) local match.

Recommendation: Staff recommends that the City Council adopt Ordinance No. 002-21, thereby approving and authorizing the Mayor to execute Contract No. C022-21 with the Washington State Department of Transportation, inclusive of the current WSDOT Project Administration Agreement attached and the WSDOT Local Agency Agreement, for the Citywide Street Lighting Study in the amount of \$36,000.

Relationship to Comprehensive Plan: Not Applicable.

Motion for Consideration: I move to adopt Ordinance No. 002-21, thereby approving and authorizing the Mayor to execute Contract No. C022-21 with the Washington State Department of Transportation, inclusive of the current WSDOT Project Administration Agreement attached and the WSDOT Local Agency Agreement, for the Citywide Street Lighting Study in the amount of \$36,000.

Fiscal Impact: A budget amendment will be required to allocate the \$4,000 local match requirement from the current 2021-2022 Biennial Budget.

Alternative: Refuse Grant.

Attachment: Ordinance No. 002-21, WSDOT Award Letter (dated 12/23/2020), and WSDOT Project Administration Agreement.

ORDINANCE NO. 002-21

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING THE TERMS AND CONDITIONS ASSOCIATED WITH THE FEDERALLY FUNDED HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) AS MANAGED BY THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (WSDOT) UNDER THEIR 2020 CITY SAFETY GRANT PROGRAM, APPROVING CONTRACT NO C022-21 WITH WSDOT FOR THE CITYWIDE STREET LIGHTING STUDY; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, on March 5, 2020, the City's Public Works Department applied for Highway Safety Improvement Program (HSIP) grant funding through the Washington State Department of Transportation (WSDOT) 2020 City Safety Program for a Citywide Street Lighting Study; and

WHEREAS, on December 23, 2020, the City of Port Orchard Public Works Department was notified by WSDOT that the Project was selected to receive \$36K in federal funding through the HSIP, with a \$4,000 local match requirement; and

WHEREAS, it is the City of Port Orchard's Public Works Department intent to use local funding for the local match requirement; and

WHEREAS, the City Council has determined it to be in the best interests of the City to enter into Contract No. C022-21 with WSDOT for the Citywide Street Lighting Study; now, therefore,

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

SECTION 1. The City Council authorizes the Mayor to execute Contract No. C022-21 with the Washington State Department of Transportation (WSDOT) for the Citywide Street Lighting Study, inclusive of both the current WSDOT Project Administration Agreement attached and the pending WSDOT Local Agency Agreement.

SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 4. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Cindy Lucarelli, Councilmember

APPROVED AS TO FORM:

Charlotte Archer, City Attorney

PUBLISHED:

EFFECTIVE DATE:

Olympic Region Local Programs Project Administration Agreement

Port Orchard <small>City</small>	Citywide Street Lighting Study <small>Project Title</small>
--	---

This Agreement is entered into between the Washington State Department of Transportation (STATE) and the above-named city (CITY).

The CITY is not currently certified as having staff with the knowledge and experience to manage a Federal Highway Administration (FHWA) federal aid project, therefore FHWA requires the above named project (Project) be administered under the supervision of the Washington State Department of Transportation Olympic Region Local Programs Office (Local Programs).

NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The CITY, operating under an extension of Local Programs Certification Acceptance (CA), agrees to administer this Project entirely in accordance with federal law, the Local Agency Guidelines (LAG), this Project Administration Agreement, and direction as provided by the Local Programs Engineer (LPE). Failure to comply with federal law, the LAG, this Project Administration Agreement, or the direction of the LPE may result in loss of federal funds.
2. The STATE and the CITY have designated CA Managers as shown below:

STATE:	City
Bryan Dias P.E. Local Programs Engineer WSDOT Olympic Region PO Box 47440 Olympia WA 98504 DiasB@wsdot.wa.gov 360-357-2631	City of Port Orchard Mark Dorsey, City Engineer 216 Prospect ST Port Orchard, WA 98366 mdorsey@cityofportorchard.us (360) 876-7034

The CITY CA Manager is the full time CITY employee that is in responsible charge of the Project. All formal submittals outlined herein, either from the STATE or the CITY, will be sent through the designated CA Manager.

3. The CITY shall obtain approval from the LPE of the consultant solicitation method, advertisement and selection process for using a consulting firm for PE, Right of Way and Construction Engineering services. In addition, the CITY shall obtain concurrence of Consulting Engineering Agreements and Supplements from the LPE before execution (see LAG chapter 31). The scope of the negotiated agreement for PE must complete the PE phase for the entire Project.
4. Contract Plans, Specifications and Estimates (PS&E) shall be prepared in accordance with the current State of Washington Standard Specifications for Road, Bridge and Municipal Construction and adopted design standards (see LAG chapter 42 and 44). The CITY shall submit the PS&E and contract to the LPE for review to ensure compliance with the LAG.
5. Any deviation to design standards (see LAG chapter 42) must be stamped by a Professional Engineer licensed in the State of Washington. The CITY shall submit the design deviation to the LPE for further processing and approval.

6. The CITY shall be responsible for all required environmental documentation (SEPA and NEPA) and shall submit all required NEPA documentation to the LPE for further processing and approval (see LAG chapter 24). The CITY shall be responsible for obtaining all required permits and approvals.

7. No Right of Way (R/W) action shall proceed without concurrence from the WSDOT Local Agency Right of Way Coordinator. The CITY shall follow current WSDOT approved R/W Procedures as described in the LAG (see LAG chapter 25). The LPE and WSDOT Local Agency Right of Way Coordinator shall be advised of all pre-R/W meetings. All acquisitions of R/W such as construction easements, donations, permits, etc. shall be certified by the CITY and the STATE.

8. The CITY shall forward the proposed advertisement for bids to the LPE for approval. Upon approval of the advertisement for bids and construction authorization from FHWA, the CITY may begin advertisement for bids (see LAG chapter 46). The CITY shall keep the LPE advised on any pre-award issues affecting the quality and timing of the contract. Any required addenda to the contract documents must be approved by the LPE before it is issued.

9. The CITY is required to utilize a Certified Acceptance agency or qualified CITY or consultant staff for construction management services. Experience and expertise administering and managing construction projects funded by FHWA in accordance with the Standard Specifications for Road, Bridge and Municipal Construction, the WSDOT Construction Manual, and the Local Agency Guidelines must be verifiable and acceptable.

Your Project that utilizes FHWA funds will require significant effort to manage and provide all the documentation required by FHWA. Typically, the following construction staffing is needed:

- Not Applicable

This staffing does not include materials testing technicians, materials lab services, or additional project inspectors for larger projects. One person may fill multiple roles if qualified. Adequate experienced staffing will help assure a successful federal aid project. The CITY shall obtain approval of construction management staff, including Project Manager, Field Engineer, Office Manager and Lead Inspector, from the LPE before construction funds will be authorized.

10. The CITY shall notify the LPE of the Bid Opening date and time. The CITY shall transmit to the LPE, the Engineer's Estimate, Bid Tabulations, UDBE Utilization Certificate and the UDBE Written Confirmation of the apparent low bidder. Upon approval by the LPE, the CITY may Award the Contract to the lowest responsive bidder (see LAG chapter 46).

11. Upon the CITY execution of the contract for construction, the CITY shall administer and inspect the Project in accordance with the contract documents, WSDOT Standard Specifications for Road Bridge and Municipal Construction, the WSDOT Construction Manual, the Local Agency Guidelines and all applicable state and federal laws (see LAG chapter 52).

12. Changes to the contract will be documented by change order as defined in the current edition of the WSDOT Standard Specifications for Road, Bridge and Municipal Construction Section 1-04.4

and consistent with the WSDOT Construction Manual. The CITY shall negotiate, and document all change orders. Written authorization (email) by the LPE of proposed change order work, except for emergency work, must be received by the CITY prior to proceeding with the work. Any work performed before receiving said authorization may be deemed ineligible for federal participation.

Prior to obtaining the contractor's signature on any change order the CITY shall provide a copy of the change order to the LPE for review and concurrence, along with separate justification for the change and an independent estimate of price and working day impacts. A copy of all executed Change Orders shall be sent to the LPE.

13. The CITY shall schedule inspection of the Project by Local Programs and receive Local Programs comments prior to providing the final "punch list" to the Contractor (see LAG chapter 53).

14. If required by your grant, quarterly reports must be updated by the CITY before the 20th of March, June, September and December until the Project is complete and final bill is paid.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the party's date signed last below.

CITY OF PORT ORCHARD

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By: _____
Robert Putaansuu, Mayor

By: _____

Date: _____

Date: _____

December 23, 2020

Mr. Mark Dorsey
City Engineer
City of Port Orchard
216 Prospect Street
Port Orchard, Washington 98366

**Citywide Street Lighting Study
2020 City Safety Selections
Federal Funding**

Dear Mr. Dorsey:

WSDOT is pleased to advise you that the above-mentioned safety project was recently selected to receive funding through the Highway Safety Improvement Program (HSIP). The federal funding is limited to the amount shown below:

Citywide Street Lighting Study **\$36,000**

Scope: See attached Project Summary – delivered as one contract.

NOTE: Projects require a ten percent local match per phase (preliminary engineering/design, right-of-way, and construction) for all eligible federal expenditures. If the construction phase is authorized by April 30, 2023, then the construction phase is eligible for 100% funding (no local match required). Federal funds cannot be used as match for any phase. Scope and funding modifications are not allowed.

In order to meet state and federal requirements, the following are required:

- Project expenditures incurred before receiving notice from Local Programs of federal fund authorization are not eligible for reimbursement.
- Please refer to the Local Programs webpage for detailed information, including: (<http://www.wsdot.wa.gov/localprograms/>)
 - ✓ Local Agency Guidelines (LAG) manual for the requirements regarding programming, authorization, reimbursement, etc.;
 - ✓ Projects utilizing federal funds must be included in your current Transportation Improvement Program (TIP) as a complete programmed project. Once your TIP amendment is approved, WSDOT will amend the Statewide Transportation Improvement Program (STIP);
 - ✓ Funding and billing forms;
 - ✓ Quarterly Project Reporting is required to be completed by the end of March, June, September, and December each year. To access the database, you will need an account name and password. Your account name is **Port Orchard** and your password is **PorOr576**. The password is case sensitive.
- If the project is not actively pursued or becomes inactive (23 CFR 630), the project is at risk of being cancelled, funds repaid and reprogrammed.

Mark Dorsey
City Engineer
City of Port Orchard
Citywide Street Lighting Study
December 23, 2020

- FHWA requires that all projects are ADA compliant upon completion or the federal funds must be repaid.

As a reminder, Local Programs requires all agencies to submit monthly progress billings to ensure timely reimbursement of eligible federal expenditures.

For assistance please contact Bryan Dias, your Region Local Programs Engineer, at 360.357.2631.

Sincerely,



Kyle R. McKeon
Interim Director
Local Programs

KRM:st:sas

cc: Kelly McGourty, Transportation Director, PSRC
Bryan Dias, Olympic Region Local Programs Engineer, MS 47440



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 7F</u>	Meeting Date:	<u>February 9, 2021</u>
Subject:	<u>Adoption of a Resolution Approving a</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract with Skillings, Inc. for the</u>		<u>Public Works Director</u>
	<u>Bethel and Lincoln Intersection</u>	Atty Routing No.:	<u>366922.0009 – PW</u>
	<u>Roundabout Project Design Phase and</u>	Atty Review Date:	<u>February 3, 2021</u>
	<u>Documenting Procurement Procedures</u>		

Summary: On December 7 and December 14, 2020, the City’s Public Works Department published a Request for Qualifications (RFQ) for the design of the Bethel & Lincoln Intersection Roundabout Project. By the December 28, 2020 deadline, the City received three (3) Statements of Qualification (SOQ). Upon review by staff of the SOQ received, all three (3) qualified firms were subsequently interviewed on January 5 and January 6, 2021, and based upon overall qualifications, including interview scoring, the Staff recommends the selection of Skillings, Inc. as the most qualified professional for the Project. Public Works Staff then met with Skillings, Inc. to negotiate the terms of an agreement for the Project. On February 1, 2021, upon completion of the Bidder’s Checklist, Skillings, Inc. provided a viable Scope of Work, Budget and Project Timeline for the Project, in an amount not to exceed \$537,454.00.

The Total Project Cost Estimate submitted by the Public Works Department is \$2,738,750, excluding city staff time. The Awarded Grant Amount of \$1,500,000 is specifically for the Construction Phase of this Project, and requires a 10% match for all eligible federal expenditures. As this Project was not yet anticipated for work in the immediate future but included within the Tier 2 TIP 2.04 Bethel Corridor Phase 5A Project, the 2021-2022 Biennial Budget did not allocate funding for this project. Please see below for a summary of anticipated costs and the proposed funding strategy:

Engineering Design Phase:	\$461,250
Right-of-Way Acquisition Phase:	\$135,000
<u>Construction Phase:</u>	<u>\$2,142,000</u>
Total:	\$2,738,750

The anticipated locally funded portion of this Project is to be paid from Transportation Impact Fee’s and/or other eligible funding sources, if needed. The Public Works Department is proposing to re-allocate the \$500,000 identified within the 2021-2022 Biennial Budget from the Tier 1 TIP 1.3 Bethel/Sedgwick Phase 1 - Design 30% Project and pause that project. The Public Works Department is proposing to use the re-allocated local funds for the Engineering Design and Right-of-Way Phases of the Tier 2 TIP 2.04 Bethel Corridor Phase 5A Project. Additionally, the City will need to re-allocate or appropriate additional funding for this project in the amount of ~ \$38,000 to fully fund this effort during the mid-year review and/or the during the first biennial budget amendment for the biennium.

Relationship to Comprehensive Plan: Chapter 8 – Transportation (included as a portion of Tier 2 TIP 2.04 Bethel Corridor Phase 5A Project)

Relationship to Comprehensive Plan: Chapter 8 – Transportation (being a portion of TIP 2.04 Bethel Corridor Phase 5A Project)

Recommendation: Staff recommends adoption of Resolution No. 014-21, thereby approving and authorizing the Mayor to execute Contract No. C029-21 with Skillings, Inc. for the Bethel & Lincoln Intersection Roundabout Project Design Phase in an amount of \$537,454 and documenting the Professional Services procurement procedures.

Motion for Consideration: I move to adopt Resolution No. 014-21, thereby approving and authorizing the Mayor to execute Contract No. C029-21 with Skillings, Inc. for the Bethel & Lincoln Intersection Roundabout Project Design Phase in an amount of \$537,454 and documenting the Professional Services procurement procedures.

Fiscal Impact: ~\$1.5 million Federal Grant
~\$1.3 million of local Transportation Impact Fee's

Attachments: Resolution No. 014-21, Contract No. C029-21, and Skillings, Inc. Proposal (dated 2/1/2021).

RESOLUTION NO. 014-21

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. C029-21 WITH SKILLINGS, INC. FOR ARCHITECTUAL AND ENGINEERING SERVICES FOR THE BETHEL & LINCOLN INTERSECTION ROUNDABOUT PROJECT AND DOCUMENTING PROCUREMENT PROCEDURES.

WHEREAS, on December 7 and December 14, 2020, the City of Port Orchard Public Works Department published a Request for Qualifications (RFQ) for Architectural and Engineering Services for the Bethel & Lincoln Intersection Roundabout Project; and

WHEREAS, by the December 28, 2020 deadline, the City's Public Works Department received three (3) Statements of Qualification (SOQ) from qualified firms; and

WHEREAS, after staff reviewed the SOQs received, the City's Public Works Department interviewed all three qualified (3) firms on January 5 and January 6, 2020; and

WHEREAS, based upon overall qualifications inclusive of interviewing scoring, the City's Public Works Department selected Skillings, Inc. for the Project award and then met to negotiate a contract and the Project Understanding (Scope, Budget and Timeline); and

WHEREAS, on February 1, 2021, Skillings, Inc. provided the City's Public Works Department with a viable Proposal; and

WHEREAS, upon completion of the Bidder's Checklist on February 1, 2021, the City's Public Works Department recommends the City Council approve of Skillings, Inc. for the Bethel & Lincoln Intersection Roundabout Project; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their consultant selection process as described above for this particular contract 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 of and authorizes the Mayor to execute Contract No. C029-14 with Skillings, Inc. for the Bethel & Lincoln Intersection Roundabout Project.

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 Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 9th day of February 2021, by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PORT ORCHARD, WASHINGTON (hereinafter the "CITY")
216 Prospect Street
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

and Skillings, Inc., a corporation, organized under the laws of the State of Washington, doing business at:

Skillings, Inc. (hereinafter the "CONSULTANT")
5016 Lacey Blvd. SE
Lacey, WA 98503

Contact: Michael Horton, P.E. Phone: 360-491-3399
Senior Project Manager Email: mhorton@skillings.com

for professional services in connection with the following Project:

Bethel & Lincoln Intersection Roundabout Design & Right-of-Way Phase

TERMS AND CONDITIONS

1. Services by Consultant.

A. The Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibits "D-1, D-2, G-1, G-4 & G-5." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City. In performing such services, the Consultant shall at all times comply with all Federal, State, and local laws and regulations applicable to the performance of such services. The Consultant shall perform the services diligently and completely in accordance with professional standards of conduct and performance for Consultant's profession.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. The Consultant shall perform the services described in the Scope of Work in accordance with the tasks identified within Exhibits "D-1, D-2, G-1, G-4 & G-5" and the terms of this Agreement. If delays beyond the Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. The Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on **February 9, 2021** (“Commencement Date”) and shall terminate **June 30, 2022** unless extended or terminated in writing as provided herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company’s services.**

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$ _____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed **\$537,454.00** without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____.”

TIME AND MATERIALS. Compensation for these services shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____.”

OTHER. _____

5. **Payment.**

A. The Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant’s business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, the Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

6. Discrimination and Compliance with Laws

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the term(s) of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. The Consultant shall obtain a City of Port Orchard business license prior to commencing work pursuant to a written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

7. **Relationship of Parties.** The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including but not limited to compensation, insurance, and unemployment insurance, are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. This Agreement may be terminated upon the default of the Consultant and the failure of the Consultant to cure such default within a reasonable time after receiving written notice of the default.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall

be submitted to the City, and the Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. The Consultant shall not be entitled to any reallocation of cost, profit or overhead. The Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. The Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained, by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to the Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. Standard of Care. The Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

10. Ownership of Work Product.

A. All data, materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. Upon termination of this Agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City. Any reuse or modification of such documents, reports or other material or work of the Consultant for purposes other than those intended by the Consultant in its scope of services under this Agreement shall be at the City's risk.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in the Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure,

inadvertent or otherwise. The Consultant is permitted to disclose any such information only to the extent required by law, subpoena or other court order.

11. Work Performed at the Consultant's Risk. The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

13. Insurance. The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Workers' Compensation Employer's Liability each accident \$1,000,000, Employer's Liability Disease each employee \$1,000,000, and Employer's Liability Disease – Policy Limit \$1,000,000.
4. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. The Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to the Consultant or by the Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Robert Putaansuu
Mayor
216 Prospect Street
Port Orchard, WA 98366

Phone: 360.876.4407
Fax: 360.895.9029

CONSULTANT
Patrick Skillings
Principal
5016 Lacey Blvd. SE
Lacey, WA 985098503
Phone: 360-491-3399
Email: mhorton@skillings.com

16. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, who shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or

unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. **Entire Agreement.** The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

18. Title VI

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Consultant will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Consultant of the Consultant's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and

instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the Consultant under the Agreement until the contractor complies; and/or
 2. cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the City to enter into any litigation to protect the interests of the City. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PORT ORCHARD,
WASHINGTON

CONSULTANT

By: _____
Robert Putaansuu, Mayor

By:  _____

Name: Patrick Skillings

Title: Vice President

ATTEST/AUTHENTICATE:

By: _____
Brandy Rinearson, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Charlotte A. Archer, City Attorney

APPENDIX A

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to -ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**EXHIBIT D-1
CONSULTANT COST COMPUTATION – MAN-HOURS**

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		TASK #	TASK DESCRIPTION	PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	STAFF SCIENTIST	TECHNICIAN	COMMUNICATIONS MANAGER	COMMUNICATIONS SPECIALIST	SURVEY MANAGER	SURVEYOR	SURVEY DRAFTER	1 MAN SURVEY CREW	2 MAN SURVEY CREW	INSPECTOR	PROJECT ADMINISTRATOR	
		100	PROJECT ADMINISTRATION AND MANAGEMENT																		
1	Prepared Project Management Plan.		6																		
2	Prepare project schedule with periodic updates showing critical milestones.		12																		
3	Prepare and maintain Project Work Plan with two-week lookaheads.		26																		
4	Weekly correspondence with City via emails, phone, or by video conferencing.		26																		
5	Provide Subconsultant coordination.		52																		
6	Prepare monthly billings with progress reports.		12																		12
200	SURVEYING SERVICES																				
1	Survey Project Management, Administration and QA/QC																				
1	Survey project management related to field survey and office mapping.														2						
2	Administration duties such as invoicing and progress reporting.													2							
3	QA/QC control checks by Professional Land Surveyor.													2							
2	Research																				
1	Research existing survey control and monuments related to the rights-of-way.														4	5					
2	Review right-of-way deeds provided by the City/County.														4	5					

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		TASK #	TASK DESCRIPTION	PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	STAFF SCIENTIST	TECHNICIAN	COMMUNICATIONS MANAGER	COMMUNICATIONS SPECIALIST	SURVEY MANAGER	SURVEYOR	SURVEY DRAFTER	1 MAN SURVEY CREW	2 MAN SURVEY CREW	INSPECTOR	PROJECT ADMINISTRATOR	
		3	Review title reports													4	5				
4	Compile and document determinations made from research.													4							
3	Survey Control																				
1	Perform a field survey to establish new horizontal and vertical survey control.													2				9			
2	Evaluate survey control and adjust in the office accordingly.													1	4						
3	Recover existing survey control relevant to the re-establishment of existing right of way lines and parcel lines.														9						
4	Calculate existing right of way lines and parcel lines in AutoCAD digital survey control map.													9							
4	Topographic Survey																				
1	Coordinate traffic control														10						
2	Field Topographic Survey depicting the following:																18				
a	Topographic Survey of City Parcel.																80				
b	Existing road centerlines.																				
c	Location and size of driveway cuts.																				
d	Sidewalk expansion joints at the project limits.																				
e	Sidewalk, curb, median, and shoulder locations.																				
f	Edge of Pavement and edge of gravel.																				
g	Grade breaks in pavement.																				
h	Channelization lines.																				
i	Buildings, structures, and improvements.																				

**PROJECT NO. 20155
CITY OF PORT ORCHARD
BETHEL AND LINCOLN ROUNDABOUT**

TASK #	TASK DESCRIPTION	PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	STAFF SCIENTIST	TECHNICIAN	COMMUNICATIONS MANAGER	COMMUNICATIONS SPECIALIST	SURVEY MANAGER	SURVEYOR	SURVEY DRAFTER	1 MAN SURVEY CREW	2 MAN SURVEY CREW	INSPECTOR	PROJECT ADMINISTRATOR
j	Retaining walls.																	
k	Fences, size, type, and height.																	
l	Signs and sign structures including description, size and post material.																	
m	Signal poles.																	
n	Light posts.																	
o	Top/toe of slopes.																	
p	Trees over 12-inch diameter.																	
q	Prominent landscape features (hedges, brush lines, boulders, etc.)																	
r	Storm drainage structures types, pipe sizes, invert elevations.																	
s	Sanitary Sewer structures types, pipe sizes, invert elevations.																	
t	Water line structures - identified water valves, meters, blow offs, hydrants, and fixtures.																	
u	Above ground power structures poles and anchor locations.																	
v	Identify signal controllers, service cabinets.																	
w	Survey Pot Holes												11					
x	Identify miscellaneous utility appurtenances.																	
3	Download and backup survey data daily.												10					
4	Compile survey data into digital AutoCAD base map.												36					
5	Draft topographic survey map at 1"=20' scale.																	44
6	Field check topographic survey map.												9					

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		PROJECT ADMINISTRATOR	INSPECTOR	2 MAN SURVEY CREW	1 MAN SURVEY CREW	SURVEY DRAFTER	SURVEYOR	SURVEY MANAGER	COMMUNICATIONS SPECIALIST	COMMUNICATIONS MANAGER	TECHNICIAN	STAFF SCIENTIST	PROJECT SCIENTIST	ENVIRONMENTAL MANAGER	ENGINEER	PROJECT ENGINEER	SENIOR PROJECT MANAGER	PRINCIPAL-IN-CHARGE
TASK #	TASK DESCRIPTION																	
7	Update topographic survey map based on field edits.		2			9												
5	Right-of-Way Plan																	
1	Draft right-of-way plan detailing existing right-of-way limits and parcel lines abutting the right-of-way.		9			27												
2	Update right-of-way plan based on engineering design for additional right-of-way.		2			9	9											
3	Prepare legal descriptions and exhibit maps for right-of-way takes.		2			9	9											
4	QA/QC right-of-plan, exhibits, and descriptions by PLS.		2															
300	ENVIRONMENTAL DOCUMENTS AND PERMIT APPLICATIONS																	
1	Wetland Delineation																	
1	Conduct Literature Review											9						
2	Conduct site visit and delineate wetland boundaries											9						
3	Prepare wetland flagging map for survey											2						
4	Prepare wetland rating											9						
5	Prepare Wetland Delineation Report											40						
2	Wetland Mitigation Plan																	
1	Conduct Site visit to identify mitigation site													9				
2	Develop Mitigation Strategy													2				
3	Prepare draft mitigation plan exhibits													1	4			
4	Prepare draft mitigation report													4	40			
5	Prepare Final mitigation report													2	9			

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		PROJECT ADMINISTRATOR	INSPECTOR	2 MAN SURVEY CREW	1 MAN SURVEY CREW	SURVEY DRAFTER	SURVEYOR	SURVEY MANAGER	COMMUNICATIONS SPECIALIST	COMMUNICATIONS MANAGER	TECHNICIAN	STAFF SCIENTIST	PROJECT SCIENTIST	ENVIRONMENTAL MANAGER	ENGINEER	PROJECT ENGINEER	SENIOR PROJECT MANAGER	PRINCIPAL-IN-CHARGE
TASK #	TASK DESCRIPTION																	
3	Joint Aquatic Resource Permit Application (JARPA)																	
1	Meet with regulatory permit staff													2				
2	Prepare JARPA Application											18		1				
3	Prepare USACE specific exhibits										24			2				
4	Submit JARPA application to regulatory agencies											2		2				
4	SEPA Checklist																	
1	Prepare draft SEPA Checklist											24		1				
2	Prepare final SEPA Checklist											9		1				
5	Biological Assessment																	
1	Document list species via IPaC and NOAA Fisheries												2					
2	Prepare species impact determination													2				
3	Prepare final Biological Assessment Report												50	4				
6	NEPA CE Document																	
1	Meet with WSDOT Local Programs													1				
2	Document public outreach efforts											1						
3	Prepare draft NEPA CE Document											40		2				
4	Prepare final NEPA CE Document											9		1				
400	PUBLIC INVOLVEMENT																	
1	Meeting Advertisment and Information Distribution																	
1	Attend public outreach planning meeting with Client.																1	1
2	Develop key messages and identify community benefits for the project.																2	2
3	Develop editorial calendar for project.																1	1

**PROJECT NO. 20155
CITY OF PORT ORCHARD
BETHEL AND LINCOLN ROUNDBABOUT**

TASK #	TASK DESCRIPTION	PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	STAFF SCIENTIST	TECHNICIAN	COMMUNICATIONS MANAGER	COMMUNICATIONS SPECIALIST	SURVEY MANAGER	SURVEYOR	SURVEY DRAFTER	1 MAN SURVEY CREW	2 MAN SURVEY CREW	INSPECTOR	PROJECT ADMINISTRATOR
4	Design and copywriting of Facebook and web content.									3	2							
5	Design and copywriting of print mail piece.									2	3							
6	Coordination with print shop for printing and mailing.										1							
2	Public Meetings																	
1	Develop Presentation Slides for public meetings									2	3							
2	Attend public meetings		2							2								
3	Council Meetings																	
1	Develop presentation slides for council meetings									2	2							
2	Attend council meetings		3															
4	Stakeholder Outreach																	
1	Identify stakeholder group									1								
2	Develop communication plan for stakeholder group									2								
3	Attend Stakeholder meeting		1							1								
4	Finalize meeting minutes									1								
500	Design																	
1	Utilities Coordination																	
1	Contact utility companies and request As-Builts.			2	8													
2	Review As-Builts and enter information into AutoCAD.			4	16				16									
3	Attend one site meeting with representatives of the utility companies.		4	4	4													
4	Review utility location information and assess potential impacts.			4	8													

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		PROJECT ADMINISTRATOR	INSPECTOR	2 MAN SURVEY CREW	1 MAN SURVEY CREW	SURVEY DRAFTER	SURVEYOR	SURVEY MANAGER	COMMUNICATIONS SPECIALIST	COMMUNICATIONS MANAGER	TECHNICIAN	STAFF SCIENTIST	PROJECT SCIENTIST	ENVIRONMENTAL MANAGER	ENGINEER	PROJECT ENGINEER	SENIOR PROJECT MANAGER	PRINCIPAL-IN-CHARGE	
TASK #	TASK DESCRIPTION										16								
5	Conduct and coordinate utility locates and potholing.			2	16														
6	Review utility locates and pothole information and add to the design base map.			4															
7	Contact utility companies to verify utility locations and depths.				2														
8	Review the concept designs and provide feedback on conflicts with utilities.			4	4	16													
2	15% Conceptual Design																		
1	Review Bethel Road roundabout configurations by TSI.			4	8														
2	Alternatives for Mitchell Rd including intersections at Bethel and Lincoln by TSI.			4	8														
3	Provide feedback and comments on configurations to TSI.			4	8														
3	30% Plans																		
1	Site visit to verify topographic survey and coordination with survey to address any concerns.			8	8														
2	Prepare Basis of Design Notebook.			1	2	8													
3	Prepare preliminary stormwater/water quality design:																		
a	Determine project limits and assess threshold discharge areas (TDA).			1	4														
b	Determine area totals for existing pervious and impervious areas, new and replaced surfaces.			1	4														

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT																					
		TASK #	TASK DESCRIPTION	PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	STAFF SCIENTIST	TECHNICIAN	COMMUNICATIONS MANAGER	COMMUNICATIONS SPECIALIST	SURVEY MANAGER	SURVEYOR	SURVEY DRAFTER	1 MAN SURVEY CREW	2 MAN SURVEY CREW	INSPECTOR	PROJECT ADMINISTRATOR	
c	Assess applicability of overall Minimum Requirements and individual thresholds for LID, water quality, and flow control.		2	4																	
d	Select and implement preliminary design of BMPs for LID, water quality, and flow control.		2	4																	
e	Determine design storm for conveyance calculations and sizing.					2															
f	Document findings in preliminary stormwater report.		4	12																	
g	Prepare design markups for preliminary stormwater plans.		4	8																	
4	Assess details of pedestrian access routes, ADA compliance, and driveway access locations.		4	8																	
5	Prepare preliminary plans as noted below.		10	20	40					60											
6	Prepare preliminary Quantities Notebook.			2	8																
7	Prepare 30% Engineer's Estimate of Probable Cost to Construct.		1	2	8																
8	Coordinate preparation of Right-of-Way Plans.		4																		
9	Assess potential Right-of-Way impacts. Assume preparation of preliminary Right of Way exhibits (2 exhibits for 2 properties).		2	2																	
10	Provide internal QA and QC and project coordination.		2	8																	

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		PROJECT ADMINISTRATOR	INSPECTOR	2 MAN SURVEY CREW	1 MAN SURVEY CREW	SURVEY DRAFTER	SURVEYOR	SURVEY MANAGER	COMMUNICATIONS SPECIALIST	COMMUNICATIONS MANAGER	TECHNICIAN	STAFF SCIENTIST	PROJECT SCIENTIST	ENVIRONMENTAL MANAGER	ENGINEER	PROJECT ENGINEER	SENIOR PROJECT MANAGER	PRINCIPAL-IN-CHARGE
TASK #	TASK DESCRIPTION																	
11	Subconsultant TSI will provide illumination plans and peer review. Comments to be addressed.										4							
12	Plan Submittal: The Consultant will submit the following anticipated plan sheets																	
4	100% PS&E																	
1	Phone conference with the City to discuss 30% PS&E and comments.																2	2
2	Incorporate 30% PS&E comments.																2	4
3	Prepare final stormwater drainage report:																	
a	Update stormwater drainage report to include changes made for the 100% PS&E.																	
b	Prepare SWPPP.																	
c	Prepare Final Maintenance Plan.																	
4	Prepare 100% level of plans.																	
5	Update Quantities Notebook.																	
6	Prepare 100% Engineer's Estimate of Probable Costs to Construct.																	
7	Prepare Draft Contract Bid Package:																	
a	Front end documents, draft invitation to bid, proposal sheets.																	
b	Required Federal-aid documents.																	
c	GSPs and Special Provisions.																	
d	State and Federal prevailing wage documents.																	
8	Complete Basis of Design Notebook.																	

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		PROJECT ADMINISTRATOR	INSPECTOR	2 MAN SURVEY CREW	1 MAN SURVEY CREW	SURVEY DRAFTER	SURVEYOR	SURVEY MANAGER	COMMUNICATIONS SPECIALIST	COMMUNICATIONS MANAGER	TECHNICIAN	STAFF SCIENTIST	PROJECT SCIENTIST	ENVIRONMENTAL MANAGER	ENGINEER	PROJECT ENGINEER	SENIOR PROJECT MANAGER	PRINCIPAL-IN-CHARGE	
TASK #	TASK DESCRIPTION		24																
9	Constructability review by our construction inspectors.	8																	
10	Provide internal QA and QC and project coordination.	4	16																
11	Subconsultant TSI will provide illumination plans and peer review. Comments will be addressed.	4	4																
12	Plan Submittal: The Consultant will submit the following anticipated plan sheets.	1	2	2															
5	Complete Bid Set																		
1	Phone conference with City to discuss 100% PS&E comments from City and WSDOT.	2	2																
2	Incorporate 100% PS&E comments.	2	4	16							16								
3	Prepare Complete Bid Set.	2	4	16							16								
4	Complete Contract Bid Package:																		
a	WSDOT Amendments and GSP "run list" and fill-ins.																		
b	Special Provisions.	1	4	8															
c	Required Federal-aid documents.																		
d	State and Federal prevailing wage documents.																		
5	Update Engineer's Estimate of Probable Costs to Construct.	1	4	8															
6	Submit package to City and WSDOT for their review and approval as necessary:																		
a	Complete Bid Set.	1	2	2															2
b	Environmental clearance.	1	1	2															

PROJECT NO. 20155 CITY OF PORT ORCHARD BETHEL AND LINCOLN ROUNDABOUT		PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	STAFF SCIENTIST	TECHNICIAN	COMMUNICATIONS MANAGER	COMMUNICATIONS SPECIALIST	SURVEY MANAGER	SURVEYOR	SURVEY DRAFTER	1 MAN SURVEY CREW	2 MAN SURVEY CREW	INSPECTOR	PROJECT ADMINISTRATOR
TASK #	TASK DESCRIPTION																	
7	Review City comments on Complete Bid Set.		2	4	4													
8	Make minor adjustments to Complete Bid Set as reviewed by the City up to one time.		1	4	8				8									
6	Bid Support Services																	
1	Consultant will provide assistance through bidding and award. This work is expected to include:			8														
a	Prepare draft Advertisement for the project.			1														
b	Prepare Advertisement for Bids.			1														
c	Provide Bid Documents and addenda to Builders Exchange for Distribution.			2														
d	Responding to bidder's questions.		2	8														
e	Prepare addenda up to the level of effort as shown in the fee estimate.		2	4	16				8									
f	Attend Bid Opening.		2															
g	Prepare and review Bid Tabulation.		2	2														
h	Prepare Notice of Award.		1	1														
	HOURS PER DISCIPLINE	8	276	281	660	49	105	172	442	20	14	51	122	98	80	27	24	12

**EXHIBIT D-2
CONSULTANT COST COMPUTATION – SUMMARY**

NEGOTIATED HOURLY RATE (NHR):					
<u>Classification</u>	<u>Man Hours</u>	<u>X</u>	<u>Rate</u>	<u>=</u>	<u>Cost</u>
PRINCIPAL-IN-CHARGE	8	x	\$265.00	=	\$2,120.00
SENIOR PROJECT MANAGER	276	x	\$256.00	=	\$70,656.00
PROJECT ENGINEER	281	x	\$217.00	=	\$60,977.00
ENGINEER	660	x	\$145.00	=	\$95,700.00
ENVIRONMENTAL MANAGER	49	x	\$152.00	=	\$7,448.00
PROJECT SCIENTIST	105	x	\$115.00	=	\$12,075.00
STAFF SCIENTIST	172	x	\$101.00	=	\$17,372.00
TECHNICIAN	442	x	\$121.00	=	\$53,482.00
COMMUNICATIONS MANAGER	20	x	\$226.00	=	\$4,520.00
COMMUNICATIONS SPECIALIST	14	x	\$168.00	=	\$2,352.00
SURVEY MANAGER	51	x	\$204.00	=	\$10,404.00
SURVEYOR	122	x	\$135.00	=	\$16,470.00
SURVEY DRAFTER	98	x	\$81.00	=	\$7,938.00
1 MAN SURVEY CREW	80	x	\$135.00	=	\$10,800.00
2 MAN SURVEY CREW	27	x	\$256.00	=	\$6,912.00
INSPECTOR	24	x	\$131.00	=	\$3,144.00
PROJECT ADMINISTRATOR	12	x	\$131.00	=	\$1,572.00
Total Hours =	2441				Total NHR = \$383,942.00
REIMBURSABLES:					
Mileage	2,600	x	\$0.560	=	\$1,456.00
Miscellaneous Expenses	\$5,550.00	x	10%	=	\$6,105.00
					Total Expenses= \$7,561.00
SUBCONSULTANT COST (See Exhibit E):					
Aspect	\$32,100.00	x	0%	=	\$32,100.00
TSI	\$65,601.00	x	0%	=	\$65,601.00
Tierra Row	\$26,365.00	x	0%	=	\$26,365.00
Tierra Cultural Resources	\$9,572.00	x	0%	=	\$9,572.00
APS, Inc.	\$12,313.00	x	0%	=	\$12,313.00
					Total Subconsultants = \$145,951.00
SUB-TOTAL (NHR + REIMBURSABLES + SUBCONSULTANTS):					
					Sub Total = \$537,454.00
MANAGEMENT RESERVE FUND:					
	SUB TOTAL =	\$537,454.00	x	=	MRF = \$0.00
GRAND TOTAL					
					GRAND TOTAL = \$537,454
PREPARED BY: _____ DATE: _____					
REVIEWED BY: Mike Horton, PE DATE: 1/29/2021					

**EXHIBIT D-3
CONSULTANT COST COMPUTATION - EXPENSES**

Item	Description	Basis	Quantity	Rate	Total
1	Telephone	Month			\$0.00
2	Auto Rental	Each			\$0.00
3	Lodging	Day			\$0.00
4	Per Diem-Meal	Day			\$0.00
5	Photo Copies - Blk & White	Each		\$0.10	\$0.00
6	Photo Copies - Color	Each		\$0.35	\$0.00
7	Half Sized Prints	Each		\$0.50	\$0.00
8	Full Sized Prints	Each		\$6.00	\$0.00
9	Postage	Month			\$0.00
10	Shipping	Month			\$0.00
11	FAXs	Each			\$0.00
12	Miscellaneous Project Costs	Month	12	\$175.00	\$2,100.00
13	Miscellaneous Survey Costs	Estimated	1	\$400.00	\$400.00
14	Traffic Control	Estimated			\$0.00
15	5 Title Reports	Estimated \$610 per report			\$3,050.00
	Total Miscellaneous Expenses				\$5,550.00
	Mileage	Per Mile	2600	0.560	\$1,456.00
	Total Expenses				\$7,006.00
Assumptions					
1	Telephone	Estimated			
2	Auto Rental	Estimated trips			
3	Mileage	Estimated miles	Total 26 roundtrips @ 100 mi/trip		
4	Lodging				
5	Per Diem-Meal				
6	Photo Copies - Blk & White	Estimated			
7	Photo Copies - Colored	Estimated			
8	Half Sized Prints				
9	Full Sized Prints				
10	Postage	Estimated			
11	Shipping	Estimated			
12	FAXs	Estimated			
13	Miscellaneous Project Costs	Estimated			
14	Miscellaneous Survey Costs	Estimated			
15	Purchase Order	Estimated			
Prepared by: Mike Horton, PE		1/29/2021			

**EXHIBIT G-1
SUBCONSULTANT COST COMPUTATION – SUMMARY**

ASPECT CONSULTING LLC

Task	Aspect Labor	Subs/ODC's	Total
Site and Geologic Reconnaissance	\$2,000	\$100	\$2,100
Drilled Soil Borings	\$5,000	\$14,000	\$19,000
Assign and Review Laboratory Testing	\$1,000	\$2,500	\$3,500
Geotechnical Analyses and Reporting	\$10,500	-	\$10,500
Geotechnical PS&E Coordination and Support	\$3,000	-	\$3,000
Project Management & Contract Administration	\$3,000	-	\$3,000
TOTALS:	\$24,500	\$16,600	\$41,100

Note: Subs and ODCs include drilling subcontractor, traffic control subcontractor, utility locating subcontractor, lab testing, vehicle, GPS

**EXHIBIT G-2
SUBCONSULTANT COST COMPUTATION – SUMMARY**

TIERRA RIGHT OF WAY LTD

Labor Classification	Direct Billing Rate	Estimated Hours		Total	Total Amount
<i>RFE Preparation, 2 TCE, Cert Prep</i>					
Division Director	\$ 175.00	1		\$ 175.00	
ROW Division Manager	\$ 160.00	10		\$ 1,600.00	
Project Manager	\$ 145.00	60		\$ 8,700.00	
Senior Right of Way Agent	\$ 125.00	80		\$ 10,000.00	
Right of Way Agent	\$ 110.00	0		\$ -	
Right of Way Technician	\$ 95.00	18		\$ 1,710.00	
Administration Project Coordinator	\$ 95.00	26		\$ 2,470.00	
Editor	\$ 85.00	0		\$ -	
		195			\$ 24,655.00
Direct Reimbursables					
Travel (Mileage)	Miles	\$ 0.56	250	\$ 140.00	
Travel (Lodging) Night	Night	\$ -	0	\$ -	
Travel (Meals)	Daily	\$ -	0	\$ -	
Postage	Total	\$ 7.50	8	\$ 60.00	
Toll	Each trip	\$ 7.00	0	\$ -	
Reproduction-8.5"x11"	Pages	\$ -	0	\$ -	
File Folders	Each	\$ 5.00	2	\$ 10.00	
Appraisal	2 AOS	\$ 750.00	2	\$ 1,500.00	
Appraisal Review					\$ 1,710.00

Total Direct Salary Cost Total	\$ 24,655.00
Direct Reimbursables Total	\$ 1,710.00
Total Maximum Amount Payable	\$ 26,365.00
Task Order Total Maximum-Rounded)	\$ 26,365.00

**EXHIBIT G-3
SUBCONSULTANT COST COMPUTATION – SUMMARY**

TRANSPORTATION SOLUTIONS, INC.

Bethel/Lincoln Roundabout		01/28/2021									
Transportation Solutions Inc	ENGR VIII VLS Victor Salemann	ENGR VIII KAH Kirk Harris	ENGR V ALB Andrew Bratlien	ENGR V MLM Michelle Mach	SR. TECH MJS Mike Schaefer	Engr 1 DBH Daniel Hodun	Admin V JAB Jill Berberich	Task Hours		Task Cost	
								Task Hours	Task Cost		
Anticipate Work Elements Task(s)	\$235.00	\$235.00	\$168.50	\$180.00	\$155.00	\$105.00	\$115.00				
TASK 1.0 PROJECT MANAGEMENT	32	0	0	0	0	0	18	50	\$	9,590.00	
Coordination	12						6				
Monthly Progress Reports and Invoices	12						12				
Public Involvement	8										
TASK 2.0 CONCEPTUAL DESIGN	18	8	26	78	36	0	0	166	\$	30,111.00	
Data Collection/Review			2	2							
Evaluate Bethel Road Roundabout Configurations	8		8	8							
Develop 2D Geometry for Bethel Rd Configuration	8			60	24						
Evaluate and Recommend Mitchell Rd Configuration	2	8	16	8	12						
30% PLANS	12	8	0	40	24	0	0	84	\$	15,620.00	
Review Roundabout Geometry	4			24							
Review Islands and Curbs	2			8							
Develop 30% Illumination Design	2	8			24						
Review Roundabout Details	2			4							
Peer Review Memo	2			4							

Bethel/Lincoln Roundabout

01/28/2021

Transportation Solutions Inc		ENGR	ENGR VIII	ENGR V	ENGR V	ENGR V	SR. TECH	Engr 1	Admin V
		VLS Victor Salemman	KAH Kirk Harris	ALB Andrew Bratlien	MLM Michelle Mach	MJS Mike Schaefer	DBH Daniel Hodun	JAB Jill Berberich	
		\$235.00	\$ 235.00	\$ 168.50	\$ 180.00	\$ 155.00	\$ 105.00	\$ 115.00	
100% PLANS									
Review Roundabout Geometry		1	4	0	18	16	0	0	39
Review Islands and Curbs					8				\$ 6,895.00
Develop 60% Illumination Design			4		4	16			
Review Details					2				
Peer Review Memo		1			4				
COMPLETE BID SET									
Review Roundabout Geometry		1	2	0	8	8	0	0	19
Review Islands and Curbs					2				\$ 3,385.00
100% Illumination Plans			2		2	8			
Review Details					2				
Peer Review Memo		1			2				
Labor Estimate		64	22	26	144	84	0	18	358
Expense Estimate									\$ 65,601.00
Travel				0	miles				\$ -
Traffic Counts				0	counts				\$ -
Display Boards				0	each				\$ -
								Expenses	\$ -
								Grand Total	\$ 65,601.00

**EXHIBIT G-4
SUBCONSULTANT COST COMPUTATION – SUMMARY**

Work Element	PM	PI	Project Archaeologist	Tech	Editor	GIS Analyst	Total Task Cost
Hourly Rate	\$125.00	\$105.00	\$95.00	\$65.00	\$85.00	\$85.00	
Task 1: Cultural Survey							
1.1 PM, APE	6	2	\$ 210.00	0	\$ -	0	\$ -
1.2 Background Review	0	0	\$ -	0	\$ -	2	\$170.00
1.3 Field Survey	2	4	420.00	12	\$780.00	0	\$ -
1.4 Post Field (Analysis, etc.)	0	0	\$ -	0	\$ -	4	\$340.00
1.5 Report Writing	2	8	840.00	0	\$ -	0	\$ -
Grand Total	10	14	\$1,470.00	12	\$780.00	6	\$510.00
							\$9,460.00

Direct Expenses	Rate	Units	Total
Mileage	\$0.56	200	\$112.00
Lodging			\$0.00
Per Diem			\$0.00
Ferry			\$0.00
Total Director Expenses			\$112.00
Total Estimate			\$9,572.00

**EXHIBIT G-5
SUBCONSULTANT COST COMPUTATION – SUMMARY**

**APS, INC.
POT-HOLING**

SERVICE PROVIDED	COST / UNIT	EST. HRS/UNITS	TOTAL COST
VACCUM TRUCK (portal to portal)	\$ 295.00	18	\$ 5,310.00
PROJECT COORDINATION	\$ 100.00	10	\$ 1,000.00
TRAFFIC CONTROL PLANS	\$ 125.00	1	\$ 125.00
PER DIEM	\$ 300.00	1	\$ 300.00
SEWER LOCATES	\$ 205.00	8	\$ 1,640.00
PERMIT FEE (plus 10%)	\$ 250.00	1	\$ 275.00
FLAGGING & TC (plus 10%)	\$ 185.00	18	\$ 3,663.00
TOTAL PROJECT ESTIMATE			\$ 12,313.00



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 7G</u>	Meeting Date:	<u>February 9, 2021</u>
Subject:	<u>Adoption of a Resolution Approving a</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract with Transportation Solutions,</u>		<u>Public Works Director</u>
	<u>Inc. for the Third-Party Transportation</u>	Atty Routing No:	<u>N/A</u>
	<u>Concurrency Review Project and</u>	Atty Review Date:	<u>N/A</u>
	<u>Documenting Procurement Procedures</u>		

Summary: on January 8, 2021 pursuant to RCW 39.04.155, the City’s Public Works Department established a list of qualified contractors from the 2021 Consultant Roster for the Main Category – Design & Planning, Engineering Services and Sub-Category – Design Guidelines, Development Regulation, Codes, & Zoning, Land Use Planning, Multi-modal Transportation Planning and Analysis, Roadway, Bikeway and Walkway Design, Traffic Counts/Data Collection, Traffic Operations Simulation Modeling, Travel Demand Modeling, Pedestrian Path/Facilities Planning and Design, Roundabouts Planning and Design, Transportation/Traffic. After staff reviewed, scored, and ranked the qualifications of 5 consultants (Fehr & Peers, Gray & Osbourne, Lochner, Parametrix and Transportation Solutions Inc.) selected from the roster, the City’s Public Works Department awarded the contract to the highest-ranking firm, Transportation Solutions Inc. Public Works Staff then met with Transportation Solutions Inc. to discuss, clarify, and develop the Project Understanding. On January 27, 2021 the City received a defined Scope of Work, Budget and Project Timeline for the Project, in an amount not to exceed \$75,000.00.

Recommendation: Staff recommends adoption of Resolution No. 012-21, thereby approving Contract No. C026-21 with Transportation Solutions Inc. for the Third-Party Transportation Concurrency Review Project in an amount not to exceed \$75,000.00 and documenting the Professional Services procurement procedures.

Relationship to Comprehensive Plan: N/A

Motion for Consideration: I move to adopt Resolution No. 012-21, thereby approving Contract No. C026-21 with Transportation Solutions Inc. for the Third-Party Transportation Concurrency Review Project in an amount not to exceed \$75,000.00 and documenting the Professional Services procurement procedures.

Fiscal Impact: N/A

Attachments: Resolution No. 012-21, Contract No. C026-21, and Transportation Solutions Inc. Proposal (dated 01/27/2021).

RESOLUTION NO. 012-21

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. C026-21 WITH TRANSPORTATION SOLUTIONS INC FOR THIRD PARTY TRANSPORTATION CONCURRENCY REVIEW AND DOCUMENTING PROFESIONAL SERVICES PROCUREMENT PROCEDURES.

WHEREAS, on January 8, 2021, pursuant to RCW 39.04.155, the City's Public Works Department established a list of qualified contractors from the 2021 Consultant Roster (see Resolution Exhibit A attached) for the Main Category – Design & Planning, Engineering Services and Sub-Category – Design Guidelines, Development Regulation, Codes, & Zoning, Land Use Planning, Multi-modal Transportation Planning and Analysis, Roadway, Bikeway and Walkway Design, Traffic Counts/Data Collection, Traffic Operations Simulation Modeling, Travel Demand Modeling, Pedestrian Path/Facilities Planning and Design, Roundabouts Planning and Design, Transportation/Traffic; and

WHEREAS, after staff reviewed, scored, and ranked the qualifications of consultants selected from the roster, the City's Public Works Department awarded the contract to the highest-ranking firm, Transportation Solutions Inc.; and

WHEREAS, upon completion of the Bidder's Checklist, the City's Public Works Department awarded the contract to the firm, Transportation Solutions Inc.; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their consultant selection process as described above for this particular contract 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 and authorizes the Mayor to execute Contract No. C026-21 with Transportation Solutions Inc. for the Third-Party Transportation Concurrency Review.

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 Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

City Clerk, Brandy Rinearson, MMC

CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 9th day of February 2021, by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PORT ORCHARD, WASHINGTON (hereinafter the “CITY”)
216 Prospect Street
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

And Transportation Solutions, a corporation, organized under the laws of the State of Washington, doing business at:

16392 Woodinville Redmond Rd NE, Suite A206 (hereinafter the “CONSULTANT”)
Woodinville, WA 98072

Contact: Andrew Bratlien, PE Phone: 425-833-4134 Fax: 425-867-0898

for professional services in connection with the following Project:

Third party transportation concurrency review, reimbursed by development fees.

TERMS AND CONDITIONS

1. Services by Consultant.

A. The Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City. In performing such services, the Consultant shall at all times comply with all Federal, State, and local laws and regulations applicable to the performance of such services. The Consultant shall perform the services diligently and completely in accordance with professional standards of conduct and performance for Consultant’s profession.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. The Consultant shall perform the services described in the Scope of Work in accordance with the tasks identified within Exhibit “A” and the terms of this Agreement. If delays beyond the Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. The Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on February 9, 2020 (“Commencement Date”) and shall terminate February 12, 2021, unless extended or terminated in writing as provided herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company’s services.**

4. **Compensation.**

- LUMP SUM. Compensation for these services shall be a Lump Sum of \$_____.
- TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$_____ without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____.”
- TIME AND MATERIALS. Compensation for these services shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____.”
- OTHER. Per Fee Schedule in attached scope of work. Not to exceed \$75,000.00

5. **Payment.**

A. The Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant’s business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, the Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination and Compliance with Laws**

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color,

national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the term(s) of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. The Consultant shall obtain a City of Port Orchard business license prior to commencing work pursuant to a written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

7. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including but not limited to compensation, insurance, and unemployment insurance, are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. This Agreement may be terminated upon the default of the Consultant and the failure of the Consultant to cure such default within a reasonable time after receiving written notice of the default.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. The Consultant shall not be entitled to any reallocation of cost,

profit or overhead. The Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. The Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained, by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to the Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. Standard of Care. The Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

10. Ownership of Work Product.

A. All data, materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. Upon termination of this Agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City. Any reuse or modification of such documents, reports or other material or work of the Consultant for purposes other than those intended by the Consultant in its scope of services under this Agreement shall be at the City's risk.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in the Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise. The Consultant is permitted to disclose any such information only to the extent required by law, subpoena or other court order.

11. Work Performed at the Consultant's Risk. The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

13. Insurance. The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Workers' Compensation Employer's Liability each accident \$1,000,000, Employer's Liability Disease each employee \$1,000,000, and Employer's Liability Disease – Policy Limit \$1,000,000.
4. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. The Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to the Consultant or by the Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Robert Putaansuu
Mayor
216 Prospect Street
Port Orchard, WA 98366

Phone: 360.876.4407
Fax: 360.895.9029

Victor Salemann, PE - Principle
Transportation Solutions, Inc.
16932 Woodinville Redmond Rd. NE, Suite
A206, Woodinville, WA 98072

Phone: 425-833-4134
Fax: 425-867-0898

16. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, who shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

18. Title VI

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Consultant will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Consultant of the Consultant's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the Consultant under the Agreement until the contractor complies; and/or
 2. cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the City to enter into any litigation to protect the interests of the City. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PORT ORCHARD,
WASHINGTON

CONSULTANT

By: _____
Robert Putaansuu, Mayor

By: _____

ATTEST/AUTHENTICATE:

Name: Victor Salemann, PE
Title: Principle

By: _____
Brandy Rinearson, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Charlotte A. Archer, City Attorney

APPENDIX A

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

January 27, 2021

TO: K. Chris Hammer, PE, PMP
City of Port Orchard

FROM: Andrew L. Bratlien, PE

SUBJECT: Transportation Concurrency Management Scope of Services

This memorandum documents the scope of services for transportation concurrency management and traffic study peer review services for the City of Port Orchard.

SCOPE OF SERVICES

Transportation Solutions proposes a two-tier transportation concurrency management system which will provide permit applicants the option of using Transportation Solutions (“Full Review”) or their own traffic engineer (“Limited Review”) for concurrency analysis. Work tasks associated with each proposed transportation review tier are summarized below.

Tier 1: Transportation Concurrency Review (“Limited Review”)

1. **Confirm project understanding.** Applicants will submit a transportation concurrency application which will contain the following information:
 - a. Preliminary site plan, including proposed site access locations, off-street parking, frontage improvements, and on-site circulation, as applicable.
 - b. Project description, including parcel numbers, zoning, existing uses, proposed uses, proposed quantity (number of dwelling units or gross square feet), construction phasing, and proposed off-site improvements, as applicable.
 - c. Project trip generation forecast, including AM peak hour, PM peak hour, and daily trips, prepared by a licensed Professional Engineer. Transportation Solutions will review submitted trip generation forecast.
2. **Input proposed use and trips to travel demand model.** Project-generated PM peak hour trips will be input to the Port Orchard travel demand (Visum) model. The calculated trip assignment forecast will be used to develop the TIA scope described in the following step.
3. **Provide TIA scope to applicant.** Transportation Solutions will prepare a scoping memorandum which includes:
 - a. Project trip assignment figure/s generated by Visum model. These figures will identify project trips at all concurrency intersections with greater than 5 PM project trips.
 - b. Pipeline “Without Project” intersection LOS models for all intersections with greater than 5 PM project trips. This forecast will include the cumulative growth associated with all permitted development excluding the project. The applicant’s engineer will calculate

“With Project” traffic forecast by adding project-generated trips based on the trip assignment figures provided in the preceding step.

- c. Description of any project-specific analysis requirements.

The applicant’s traffic engineer will prepare a TIA report based on the scoping memorandum and material provided by Transportation Solutions. The impact analysis will consider safety impacts (including review of five-year crash history in study area), site access operations, off-street parking, circulation, and queuing, as necessary.

The TIA report should document the actions needed to achieve concurrency using the data provided by Transportation Solutions.

4. **Review applicant-submitted TIA report.** Transportation Solutions will provide a peer review of the applicant-submitted TIA report, reviewing analysis methods, assumptions, findings, and recommendations. Transportation Solutions will issue a concurrency approval letter or denial letter based on the findings of this review.

Tier 2: Transportation Concurrency (“Full Review”)

1. **Confirm project understanding.** Applicants will submit a transportation concurrency application which will contain the following information:
 - a. Preliminary site plan, including proposed site access locations, off-street parking, frontage improvements, and on-site circulation, as applicable.
 - b. Project description, including parcel numbers, zoning, existing uses, proposed uses, proposed quantity (number of dwelling units or gross square feet), construction phasing, and proposed off-site improvements, as applicable.
2. **Gather traffic data** necessary for review, including turning movement counts, parking demand data, queueing data, or trip generation data, as necessary. Data collection expenses will be charged directly, in addition to the transportation concurrency review fee.
3. **Calculate project trip generation forecast** based on Institute of Transportation Engineers *Trip Generation Manual 10th Edition* or other available data, as necessary.
4. **Input proposed use and trips to travel demand model.** Project-generated PM peak hour trips will be input to the Port Orchard travel demand (Visum) model.
5. **Analyze transportation concurrency (GMA) impacts**, analyzing all concurrency intersections citywide to identify cumulative impacts of new development trips. Identify intersection LOS deficiencies and mitigation projects which may be required to maintain systemwide concurrency.
6. **Analyze localized (SEPA) traffic impacts.** The impact analysis will consider safety impacts (including review of five-year crash history in study area), site access operations, off-street parking, circulation, and queuing, as necessary. Sight distance analysis will not be included in the SEPA review.

The SEPA analysis will identify any potentially significant adverse impacts and will provide mitigation recommendations, as necessary.

7. **Summarize findings and recommendations in technical memorandum** and issue a transportation concurrency approval letter or denial letter based on the findings of the review.

REVIEW FEES

Transportation concurrency review fees will be assessed on a fixed-fee basis according to the attached two-tier fee schedule. Developments which do not fit any of the categories in the attached fee schedule will be assessed a review fee based on the project's PM peak hour trip generation forecast.

In some circumstances, it may not be possible to quickly develop a reliable project trip generation forecast for the purposes of developing a fee estimate (e.g. unique uses for which local trip data must be collected). In these circumstances, the transportation concurrency review fee will be assessed as a not-to-exceed task order. Services will then be billed on a time and materials basis. The City of Port Orchard will return any unspent budget to the applicant after completion of the concurrency review.

SCHEDULE

For Tier 1 concurrency reviews, Transportation Solutions will strive to maintain the following schedule:

- Provide TIA scoping memorandum to applicant within 1 week of receiving transportation concurrency application.
- Provide concurrency approval/denial letter to City staff within 2 weeks of receiving applicant's TIA report.

For Tier 2 concurrency reviews, Transportation Solutions will strive to maintain the following schedule:

- Provide concurrency/TIA report and concurrency approval/denial letter within 3 weeks of receiving transportation concurrency application.

Occasionally, staff availability and workload (including data collection vendor availability) may require a longer schedule. We will confirm our response time for each review at the time each application is received.

Attachment 1. Transportation Concurrency Review Fee Schedule

Port Orchard Transportation Concurrency Review Fee Schedule -- Tier 1 "Limited Review"
Formula 1 - SMALL Developments

Formula: Total Fee = Base Fee + Rate per Unit * Development Units
 If calculated fee is **MORE** than \$2,925, use formula for Large Developments instead

Land Use Category	Typical examples or indicators	Dev. Unit	(a) Base Fee	(b) Rate per Unit	(c) Development Size	(a)+(b)+(c) Total Fee	MAXIMUM No. of Units for this formula
-------------------	--------------------------------	-----------	--------------	-------------------	----------------------	-----------------------	---------------------------------------

RESIDENTIAL

Residential - independent living	Single family, apartments, townhomes, condos	DU	\$675	\$22.50			100
Assisted living facilities	Residents don't drive; caregivers are employed	bed	\$675	\$5.60			400

RETAIL BUSINESS

Small Retail (<10KSF)	Restaurants, banks, mini-mart ¹	1000 sf	\$675	\$224.70			10
General Retail (10KSF-200KSF)	Most stores, small shopping centers	1000 sf	\$675	\$56.20			40
Large Retail (>200KSF)	Most shopping centers, superstores				use other table	use other table	N/A
Day care	Child-care facilities	1000 sf	\$675	\$56.20			40
Medical facilities	Clinic, hospital, dental, veterinary	1000 sf	\$675	\$56.20			40
Hotel, motel by size	All types of room for rent	1000 sf	\$675	\$22.50			100
Automotive services	Gas station, car wash, quick lube, tire store ¹	vehicle servicing position	\$675	\$56.20			40

¹ If vehicle servicing is secondary to convenience market or fast food business, use small retail rate above for building space only

NONRETAIL BUSINESS

Office	Workers at desks	1000 sf	\$675	\$28.10			80
Industrial	Workers on shop floor	1000 sf	\$675	\$28.10			80
Education	Schools, colleges	1000 sf	\$675	\$28.10			80
Warehouse	Storage with minimal employment	1000 sf	\$675	\$5.60			400

OTHER

Church, theater	Large space used in off-hours	1000 sf	\$675	\$16.90			133
Recreation bldg	Health club, community center	1000 sf	\$675	\$22.50			100
Movie theater	Single- or multi-screen	1000 sf	\$675	\$22.50			100
Recreation land	Golf course, park	acre	\$675	\$5.60			400
Marina	Moorage for boats	slip	\$675	\$3.35			667
Park & Ride	Transit related car parking	stall	\$675	\$16.90			133

SPECIAL CASES

Not specified above	Use rate per peak hr trip	pk hr trip	\$675	\$22.50			100
---------------------	---------------------------	------------	-------	---------	--	--	-----

Fee schedule is based on typical trip generation rates, standardized across groups of similar land use categories

Port Orchard Transportation Concurrency Review Fee Schedule -- Tier 1 "Limited Review"
Formula 2 - LARGE Developments

Formula: Total Fee - Base Fee + Rate per Unit * Development Units
 If calculated fee is **LESS** than \$2,925, use formula for Small Developments instead

Land Use Category	Typical examples or indicators	Dev. Unit	(a) Base Fee	(b) Rate per Unit	(c) Development Size	(a)+(b)+(c) Total Fee	MINIMUM No. of Units for this formula
-------------------	--------------------------------	-----------	--------------	-------------------	----------------------	-----------------------	---------------------------------------

RESIDENTIAL

Residential - independent living	Single family, apartments, townhomes, condos	DU	\$1,800	\$11.25			101
Assisted living facilities	Residents don't drive; caregivers are employed	bed	\$1,800	\$2.80			401

RETAIL BUSINESS

Small Retail (<10KSF)	Restaurants, banks, mini-mart ¹	1000 sf			use other table	use other table	N/A
General Retail (10KSF-200KSF)	Most stores, small shopping centers	1000 sf	\$1,800	\$28.10			41
Large Retail (>200KSF)	Most shopping centers, superstores		\$1,800	\$5.60			200
Day care	Child-care facilities	1000 sf	\$1,800	\$28.10			41
Medical facilities	Clinic, hospital, dental, veterinary	1000 sf	\$1,800	\$28.10			41
Hotel, motel by size	All types of room for rent	1000 sf	\$1,800	\$11.25			101
Automotive services	Gas station, car wash, quick lube, tire store ¹	vehicle servicing position	\$1,800	\$28.10			41

¹ If vehicle servicing is secondary to convenience market or fast food business, use small retail rate above for building space only

NONRETAIL BUSINESS

Office	Workers at desks	1000 sf	\$1,800	\$14.05			81
Industrial	Workers on shop floor	1000 sf	\$1,800	\$14.05			81
Education	Schools, colleges	1000 sf	\$1,800	\$14.05			81
Warehouse	Storage with minimal employment	1000 sf	\$1,800	\$2.80			401

OTHER

Church, theater	Large space used in off-hours	1000 sf	\$1,800	\$8.45			134
Recreation bldg	Health club, community center	1000 sf	\$1,800	\$11.25			101
Movie theater	Single- or multi-screen	1000 sf	\$1,800	\$11.25			101
Recreation land	Golf course, park	acre	\$1,800	\$2.80			401
Marina	Moorage for boats	slip	\$1,800	\$1.70			668
Park & Ride	Transit related car parking	stall	\$1,800	\$8.45			134

SPECIAL CASES

Not specified above	Use rate per peak hr trip	pk hr trip	\$1,800	\$11.35			101
---------------------	---------------------------	------------	---------	---------	--	--	-----

Fee schedule is based on typical trip generation rates, standardized across groups of similar land use categories

Port Orchard Transportation Concurrency Review Fee Schedule -- Tier 2 "Full Review"
Formula 1 - SMALL Developments

Formula: Total Fee = Base Fee + Rate per Unit * Development Units
 If calculated fee is **MORE** than \$5,845, use formula for Large Developments instead

Land Use Category	Typical examples or indicators	Dev. Unit	(a) Base Fee	(b) Rate per Unit	(c) Development Size	(a)+(b)+(c) Total Fee	MAXIMUM No. of Units for this formula
RESIDENTIAL							
Residential - independent living	Single family, apartments, townhomes, condos	DU	\$1,350	\$44.95			100
Assisted living facilities	Residents don't drive; caregivers are employed	bed	\$1,350	\$11.25			400
RETAIL BUSINESS							
Small Retail (<10KSF)	Restaurants, banks, mini-mart ¹	1000 sf	\$1,350	\$449.40			10
General Retail (10KSF-200KSF)	Most stores, small shopping centers	1000 sf	\$1,350	\$112.35			40
Large Retail (>200KSF)	Most shopping centers, superstores				use other table	use other table	N/A
Day care	Child-care facilities	1000 sf	\$1,350	\$112.35			40
Medical facilities	Clinic, hospital, dental, veterinary	1000 sf	\$1,350	\$112.35			40
Hotel, motel by size	All types of room for rent	1000 sf	\$1,350	\$44.95			100
Automotive services	Gas station, car wash, quick lube, tire store ¹	vehicle servicing position	\$1,350	\$112.35			40
¹ If vehicle servicing is secondary to convenience market or fast food business, use small retail rate above for building space only							
NONRETAIL BUSINESS							
Office	Workers at desks	1000 sf	\$1,350	\$56.20			80
Industrial	Workers on shop floor	1000 sf	\$1,350	\$56.20			80
Education	Schools, colleges	1000 sf	\$1,350	\$56.20			80
Warehouse	Storage with minimal employment	1000 sf	\$1,350	\$11.25			400
OTHER							
Church, theater	Large space used in off-hours	1000 sf	\$1,350	\$33.80			133
Recreation bldg	Health club, community center	1000 sf	\$1,350	\$44.95			100
Movie theater	Single- or multi-screen	1000 sf	\$1,350	\$44.95			100
Recreation land	Golf course, park	acre	\$1,350	\$11.25			400
Marina	Moorage for boats	slip	\$1,350	\$6.75			667
Park & Ride	Transit related car parking	stall	\$1,350	\$33.80			133
SPECIAL CASES							
Not specified above	Use rate per peak hr trip	pk hr trip	\$1,350	\$44.95			100

Fee schedule is based on typical trip generation rates, standardized across groups of similar land use categories

Port Orchard Transportation Concurrency Review Fee Schedule -- Tier 2 "Full Review"
Formula 2 - LARGE Developments

Formula: Total Fee - Base Fee + Rate per Unit * Development Units
 If calculated fee is **LESS** than \$5,845, use formula for Small Developments instead

Land Use Category	Typical examples or indicators	Dev. Unit	(a) Base Fee	(b) Rate per Unit	(c) Development Size	(a)+(b)+(c) Total Fee	MINIMUM No. of Units for this formula
-------------------	--------------------------------	-----------	--------------	-------------------	----------------------	-----------------------	---------------------------------------

RESIDENTIAL

Residential - independent living	Single family, apartments, townhomes, condos	DU	\$3,595	\$22.50			101
Assisted living facilities	Residents don't drive; caregivers are employed	bed	\$3,595	\$5.60			401

RETAIL BUSINESS

Small Retail (<10KSF)	Restaurants, banks, mini-mart ¹	1000 sf			use other table	use other table	N/A
General Retail (10KSF-200KSF)	Most stores, small shopping centers	1000 sf	\$3,595	\$56.20			41
Large Retail (>200KSF)	Most shopping centers, superstores		\$3,595	\$11.25			200
Day care	Child-care facilities	1000 sf	\$3,595	\$56.20			41
Medical facilities	Clinic, hospital, dental, veterinary	1000 sf	\$3,595	\$56.20			41
Hotel, motel by size	All types of room for rent	1000 sf	\$3,595	\$22.50			101
Automotive services	Gas station, car wash, quick lube, tire store ¹	vehicle servicing position	\$3,595	\$56.20			41

¹ If vehicle servicing is secondary to convenience market or fast food business, use small retail rate above for building space only

NONRETAIL BUSINESS

Office	Workers at desks	1000 sf	\$3,595	\$28.10			81
Industrial	Workers on shop floor	1000 sf	\$3,595	\$28.10			81
Education	Schools, colleges	1000 sf	\$3,595	\$28.10			81
Warehouse	Storage with minimal employment	1000 sf	\$3,595	\$5.60			401

OTHER

Church, theater	Large space used in off-hours	1000 sf	\$3,595	\$16.90			134
Recreation bldg	Health club, community center	1000 sf	\$3,595	\$22.50			101
Movie theater	Single- or multi-screen	1000 sf	\$3,595	\$22.50			101
Recreation land	Golf course, park	acre	\$3,595	\$5.60			401
Marina	Moorage for boats	slip	\$3,595	\$3.35			668
Park & Ride	Transit related car parking	stall	\$3,595	\$16.90			134

SPECIAL CASES

Not specified above	Use rate per peak hr trip	pk hr trip	\$3,595	\$22.70			101
---------------------	---------------------------	------------	---------	---------	--	--	-----

Fee schedule is based on typical trip generation rates, standardized across groups of similar land use categories



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 7H</u> Subject: <u>Adoption of a Resolution Approving a</u> <u>Contract with Transportation Solutions,</u> <u>Inc. for the On-Call Transportation</u> <u>Analysis Project and Documenting</u> <u>Procurement Procedures</u>	Meeting Date: <u>February 9, 2021</u> Prepared by: <u>Mark Dorsey, P.E.</u> <u>Public Works Director</u> Atty Routing No.: <u>366922.0009 – PW</u> Atty Review Date: <u>February 3, 2021</u>
--	--

Summary: On January 8, 2021, pursuant to RCW 39.04.155, the City’s Public Works Department utilized the MRSC small works rosters to establish a list of qualified consultants from the 2021 Consultant Roster for the Main Category – Design & Planning, Engineering Services and Sub-Category – Community Planning, Comprehensive Planning, Design Guidelines, Development Regulation, Codes & Zoning, Feasibility Studies, Multi-modal Transportation Planning and Analysis, Parking Analysis and Design, Roadway, Bikeway and Walkway Design, Traffic Counts/Data Collection, Traffic Operations Simulation Modeling, Travel Demand Modeling, Pedestrian Path/Facilities Planning and Design, Roundabouts Planning and Design, Transportation/Traffic. After staff reviewed, scored, and ranked the qualifications of the five qualified consultants selected from the roster (Fehr & Peers, David Evans & Associates, Lochner, Parametrix and Transportation Solutions Inc.), the City’s Public Works Department recommended the award of the contract to the highest-ranking firm: Transportation Solutions Inc. Public Works Staff then met with Transportation Solutions Inc. to negotiate the Project Understanding and contract. On January 20, 2021, the City received a proposal for a Scope of Work, Budget and Project Timeline for the Project, in an amount of \$20,000.

Recommendation: Staff recommends adoption of Resolution No. 013-21, thereby approving and authorizing the Mayor to execute Contract No. C028-21 with Transportation Solutions Inc. for the On-Call Transportation Analysis Project in the amount of \$20,000 and documenting the Professional Services procurement procedures.

Relationship to Comprehensive Plan: Chapter 8 – Transportation.

Motion for Consideration: I move to adopt Resolution No. 013-21, thereby approving Contract No. C028-21 with Transportation Solutions Inc. for the On-Call Transportation Analysis Project in the amount of \$20,000 and documenting the Professional Services procurement procedures.

Fiscal Impact: Approved Biennial Budget (002.05.543.30.40)

Attachments: Resolution No. 013-21, Contract No. C029-21, Transportation Solutions Inc. Proposal (dated 01/20/2021).

RESOLUTION NO. 013-21

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. C028-21 WITH TRANSPORTATION SOLUTIONS INC FOR ON-CALL TRANSPORTATION ANALYSIS AND DOCUMENTING PROFESSIONAL SERVICES PROCUREMENT PROCEDURES.

WHEREAS, on January 8, 2021, pursuant to RCW 39.04.155, the City's Public Works Department established a list of qualified contractors from the 2021 Consultant Roster for the Main Category – Design & Planning, Engineering Services and Sub-Category – Design Guidelines, Development Regulation, Codes, & Zoning, Land Use Planning, Multi-modal Transportation Planning and Analysis, Roadway, Bikeway and Walkway Design, Traffic Counts/Data Collection, Traffic Operations Simulation Modeling, Travel Demand Modeling, Pedestrian Path/Facilities Planning and Design, Roundabouts Planning and Design, Transportation/Traffic; and

WHEREAS, after staff reviewed, scored, and ranked the qualifications of the consultants selected from the roster, the City's Public Works Department recommended the award of the contract to the highest-ranking firm, Transportation Solutions Inc.; and

WHEREAS, upon completion of the Bidder's Checklist, the City's Public Works Department received an acceptable Scope of Work and Budget from Transportation Solutions Inc., and negotiated a contract for the Project; and

WHEREAS, the Port Orchard City Council desires to award the contract to Transportation Solutions Inc., and at the 2015 recommendation of the State Auditor's Office, wishes to document their consultant selection process as described above for this particular contract 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 of and authorizes the Mayor to execute Contract No. C026-21 with Transportation Solutions Inc. for the On-Call Transportation Analysis.

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 Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 9th day of February 2021, by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PORT ORCHARD, WASHINGTON (hereinafter the "CITY")
216 Prospect Street
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

And Transportation Solutions, a corporation, organized under the laws of the State of Washington, doing business at:

16392 Woodinville Redmond Rd NE, Suite A206 (hereinafter the "CONSULTANT")
Woodinville, WA 98072

Contact: Andrew Bratlien, PE Phone: 425-833-4134 Fax: 425-867-0898

for professional services in connection with the following Project:

On Call transportation/traffic engineering services.

TERMS AND CONDITIONS

1. Services by Consultant.

A. The Consultant shall perform the on-call professional services described in the Scope of Work attached to this Agreement as Exhibit A. The services performed by the Consultant shall be on an on-call, task order basis, and shall not exceed the Scope of Work without prior written authorization from the City. In performing such services, the Consultant shall at all times comply with all Federal, State, and local laws and regulations applicable to the performance of such services. The Consultant shall perform the services diligently and completely in accordance with professional standards of conduct and performance for Consultant's profession.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement. The services must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof.

2. Schedule of Work.

A. The Consultant shall perform the services described in the Scope of Work in accordance with task orders issued by the City, utilizing the task order form at Exhibit "A", and in accordance with the procedures set out in Exhibit A and the terms of this Agreement, provided that if the terms of the Agreement conflict with the terms of Exhibit A, the Agreement shall control. If delays beyond the Consultant's

reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. The Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on February 9, 2021 ("Commencement Date") and shall terminate February 12, 2022, unless extended or terminated in writing as provided herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company's services.**

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$_____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed **\$20,000.00** without advance written authorization, and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit "B."

TIME AND MATERIALS. Compensation for these services shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "_____" OTHER.

5. **Payment.**

A. The Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, the Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

6. Discrimination and Compliance with Laws

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the term(s) of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. The Consultant shall obtain a City of Port Orchard business license prior to commencing work pursuant to a written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

7. **Relationship of Parties.** The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including but not limited to compensation, insurance, and unemployment insurance, are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. This Agreement may be terminated upon the default of the Consultant and the failure of the Consultant to cure such default within a reasonable time after receiving written notice of the default.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. The Consultant shall not be entitled to any reallocation of cost, profit or overhead. The Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. The Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained, by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to the Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. Standard of Care. The Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

10. Ownership of Work Product.

A. All data, materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. Upon termination of this Agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City. Any reuse or modification of such documents, reports or other material or work of the Consultant for purposes other than those intended by the Consultant in its scope of services under this Agreement shall be at the City's risk.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in the Consultant's possession or known to it, or is rightfully

obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise. The Consultant is permitted to disclose any such information only to the extent required by law, subpoena or other court order.

11. Work Performed at the Consultant's Risk. The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

13. Insurance. The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Workers' Compensation Employer's Liability each accident \$1,000,000, Employer's Liability Disease each employee \$1,000,000, and Employer's Liability Disease – Policy Limit \$1,000,000.
4. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. The Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to the Consultant or by the Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Robert Putaansuu
Mayor
216 Prospect Street
Port Orchard, WA 98366

Phone: 360.876.4407
Fax: 360.895.9029

Victor Salemann, PE - Principle
Transportation Solutions, Inc.
16932 Woodinville Redmond Rd. NE, Suite
A206, Woodinville, WA 98072

Phone: 425-833-4134
Fax: 425-867-0898

16. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, who shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

18. Title VI

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Consultant will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Consultant of the Consultant's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by

the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the Consultant under the Agreement until the contractor complies; and/or
 2. cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the City to enter into any litigation to protect the interests of the City. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PORT ORCHARD,
WASHINGTON

By: _____
Robert Putaansuu, Mayor

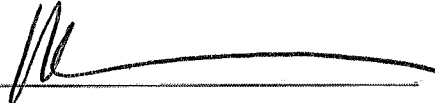
ATTEST/AUTHENTICATE:

By: _____
Brandy Rinearson, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Charlotte A. Archer, City Attorney

CONSULTANT

By:  _____

Name: Victor Salemann. PE
Title: Principle

APPENDIX A

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to -ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



January 20, 2021

TO: K. Chris Hammer, PE, PMP
City of Port Orchard

FROM: Andrew Bratlien, PE

SUBJECT: On-Call Transportation Analysis Scope of Services

This memorandum documents the scope of services for on-call transportation modeling, analysis, and traffic-related consulting for the City of Port Orchard.

SCOPE OF SERVICES

Each item of work under this Agreement will be provided by task assignment. Each assignment will be individually negotiated with the Consultant. The amount established for each assignment will be the maximum amount payable for that assignment unless modified in writing by Port Orchard. Port Orchard is not obligated to assign any specific number of tasks to the Consultant, and Port Orchard's and the Consultant's obligations hereunder are limited to tasks assigned in writing.

Task assignments made by Port Orchard shall be issued in writing by a Task Order Document similar in format to Attachment 1. Task assignments using Federal Funding will require a full Local Agency Standard Consultant Agreement as outlined in the Washington State Department of Transportation Local Agency Guidelines.

An assignment shall become effective when a Task Order is signed by the Consultant and Port Orchard, except that emergency actions requiring a 24-hour or less response can be handled by an oral authorization. Such oral authorizations shall be followed up with a Task Order Document within four working days, and any billing rates agreed to orally (for individuals, subconsultants, or organizations whose rates were not previously established in the Agreement) shall be provisional and subject to final negotiation and acceptance by Port Orchard.

BILLING RATES

Services will be billed on a time and material basis according to the billing rates provided in Attachment 2. Transportation Solutions will provide a not-to-exceed fee estimate with each submitted Task Order.

SCHEDULE

Transportation Solutions will propose a schedule in each submitted Task Order.

Attachment 1. Task Order Document

Attachment 2. Transportation Solutions Inc. Staff Billing Rates



CITY OF PORT ORCHARD

216 Prospect Street
Port Orchard, WA 98366
(360) 874-5533

**TASK ORDER:
ON-CALL SERVICES**

CITY'S PROPOSAL	
City Task Order No.:	Date:
City Information:	
City Contact:	
Department:	
Phone Number:	Email:
Consultant Information:	
Contract Number:	
Company Name:	
Contact Name:	
Phone Number:	Email:
On-Call Services Project:	
Task Name:	
Site Address / Location:	
Related Permit Number:	
Company Name:	
Company Contact Name:	
Contact Email Address:	
Task Order Description / Scope of Work:	
The scope of work is described below:	

CONSULTANT'S RESPONSE

Consultant's Project Number:

Work Tasks <i>(Labor, Materials, Supplies, Equipment, Incidentals)</i>	Estimated Hours	Estimated Budget
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

Anticipated Completion Date:

Total Estimated Budget:

APPROVALS

Scope of work tasks, time and budget estimates

Approved by Consultant:	Authorization to Proceed - City of Port Orchard:
By:	By:
Signature:	Signature:
Title:	Title:
Date:	Date:

**Bill to: City of Port Orchard, Accounts Payable, 216 Prospect St., Port Orchard, WA 98366
ap@cityofportorchard.us**



Transportation Solutions

INNOVATIVE | PRACTICAL | EQUITABLE

Transportation Solutions, Inc.

2021 HOURLY BILLING RATES

Name	Title	Classification	Hourly Billing Rate
Victor L. Salemann	President	Engineer VIII	\$235.00
Kirk Harris	Principal	Engineer VIII	\$235.00
David D. Markley	Principal Engineer	Engineer VII	\$235.00
Jeffrey P.K. Hee	Sr. Trans Engineer	Engineer V	\$168.50
Andrew L. Bratlien	Sr. Trans Engineer	Engineer V	\$168.50
Michelle L. Mach	Sr. Trans Engineer	Engineer V	\$180.00
Mike Schaefer	Sr. Engineering Tech	Drafting Technician 3	\$155.00
Sam Garcia	Engineer II	Engineer II	\$105.00
Daniel Hodun	Engineer I	Engineer I	\$100.00
Phil McDonald	Sr. Engineering Tech	Drafting Technician 3	\$145.00
Jennifer Salemann	Planner III	Trans. Planning Specialist 3	\$105.00
Jill Berberich	Office Manager	Administrative Assistant 5	\$115.00

EXPENSES

Reimbursable Expenses	No Markup
Sub-consultant invoices	No Markup

Billing rates are subject to change during the year to reflect staff changes.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Business Item 7I
Subject: Adoption of a Resolution Adopting the
Final Plat of Stetson Heights Phase 1

Meeting Date: February 9, 2021
Prepared by: Nick Bond, AICP
DCD Director
Atty Routing No.: 366922.0011 – Dev
Atty Review Date: February 4, 2021

Summary: The site is identified as Stetson Heights Phase 1 and is one phase of a subdivision granted approval with conditions by the City of Port Orchard Hearing Examiner on September 1, 2016. A SEPA Mitigated Determination of Non-Significance was issued for the Stetson Heights Subdivision on June 24, 2016. The Plat of Stetson Heights Phase 1 creates 103 single-family residential lots, five future development tracts, two stormwater tracts, and two passive recreation tracts. Infrastructure associated with this final plat is being dedicated to the City of Port Orchard or is bonded under one of several performance bonds submitted with this final plat application. The applicant has installed or bonded for roadway illumination, roads, sidewalks, landscaping, water and sewer, storm drainage improvements, wetland mitigation and enhancement, offsite improvements, signage, and other required improvements as described in the attached bonds and bond estimates. Streets within this final plat are for public use and will be accepted into the City’s road system. Stormwater ponds within the final plat are private and will be owned and maintained by the HOA.

Recommendation: Adoption of a resolution, granting approval of the final plat of Stetson Heights Phase 1 Final Plat.

Relationship to Comprehensive Plan: N/A

Motion for consideration: I move to adopt a resolution, as presented, granting final plat approval for Stetson Heights Phase 1 Final Plat.

Fiscal Impact: Revenue generated by construction activity, building permit fees, capital facility charges, impact fees, sales tax, increased property valuation, utility tax. Expenditures related to ongoing maintenance of public infrastructure and provision of services to new residents.

Alternatives: Approval with added conditions.

Attachments: Resolution, Off-Site Sewer Easement, Plat map, DCD Approval Letter, PW Approval Letter, SKFR Approval Letter, and Bond Agreements.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, GRANTING FINAL PLAT APPROVAL FOR A 103-LOT, 9-TRACT PLAT KNOWN AS STETSON HEIGHTS PHASE 1.

WHEREAS, on September 1, 2016, the City's Hearing Examiner approved the Preliminary Plat known as Stetson Heights; and

WHEREAS, on June 24, 2016, the City issued a SEPA Mitigated Determination of Non-Significance for the Stetson Heights Plat; and

WHEREAS, on June 13, 2018, the City approved a minor plat amendment for the Stetson Heights plat; and

WHEREAS, on September 28, 2020, an application was submitted for the final plat of a portion of the Stetson Heights preliminary plat, now named Stetson Heights Phase 1, for the subdivision of 103 single-family residential lots, five future development tracts, two stormwater tracts, and two passive recreation tracts; and

WHEREAS, on January 25, 2021, the City determined that the final plat application was complete; and

WHEREAS, Stetson Heights has provided performance bonds in lieu of construction for certain improvements associated with the Stetson Heights Phase 1 final plat, as authorized under PMC 20.98.030; and

WHEREAS, the extension of sanitary sewer services to serve Stetson Heights Phase 1 final plat crossed private property and required the acquisition of a private easement from that property owner, and the developer wishes to dedicate that easement to the City of Port Orchard for future access and maintenance of the sewer line (attached hereto as Exhibit A); and

WHEREAS, the Director of Public Works has determined that the proposed means of sewage disposal and water supply are adequate as constructed or bonded, and recommends approval of the final plat; and

WHEREAS, the South Kitsap Fire and Rescue (District) Fire Marshall has provided a letter documenting that the Stetson Heights Phase 1 final plat has satisfied the District's requirements; and

WHEREAS, the City Engineer recommends approval of the final plat; and

WHEREAS, the City Community Development Director recommends approval of the final plat; and

WHEREAS, the City Council finds that the Stetson Heights Phase 1 final plat conforms to all terms and conditions of the preliminary plat approval and that said subdivision meets the

requirements of Chapter 58.17 RCW and other applicable state laws and local ordinances; and

WHEREAS, the City Council finds that Plat of Stetson Heights Phase 1 conforms to the Port Orchard municipal code, applicable zoning requirements and Port Orchard's Comprehensive Plan; 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 Port Orchard City Council approves the final plat for Plat of Stetson Heights Phase 1, as illustrated and as legally described in Exhibit B, attached hereto.

THAT: The Plat of Stetson Heights Phase 1 subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval for a period of five years after final plat approval unless the City Council finds that a change in conditions has created a serious threat to the public health or safety in the subdivision.

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 Clerk in authentication of such passage this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

JAN 08, 2021

City of Port Orchard
Community Development

After recording return document to:
City of Port Orchard
Permit Center
216 Prospect Street
Port Orchard, WA 98366

PLEASE MAKE NO MARK IN THE MARGIN SPACE - RESERVED FOR COUNTY RECORDER'S USE ONLY.

Grantor(s): Russer Group, LLC
Grantee(s): City of Port Orchard
Legal Description: See Exhibit "A"
Assessor's Tax Parcel Number: 102301-4-047-2003
Reference Number of Related Documents: N/A

SANITARY SEWER EASEMENT

Grantor Russer Group, LLC, a Washington limited liability company, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant and convey unto **Grantee the City of Port Orchard**, a Washington municipal corporation, and its successors and assigns, a permanent Sanitary Sewer Easement, for the purposes described below, over, in, on, along, across, through, below and upon the real property legally described in **Exhibit "A"** (the "Grantor's Property") in the area legally described in **Exhibit "B"** (the "Sanitary Sewer Easement") and depicted in **Exhibit "C"**, each of which exhibits are attached hereto and incorporated by this reference.

The Grantee and its agents, designees and/or assigns, including but not limited to designee Stetson Heights, LLC and its contractors, shall have the right at such times as deemed necessary by Grantee, to enter upon, over, under and across the Sanitary Sewer Easement area to inspect, construct, reconstruct, grade and slope, operate, use, maintain, repair, replace and enlarge a sanitary sewer utility, including but not limited to associated manholes, stubs and connections, for all public purposes, together with the right of ingress and egress thereto, without prior institution of any suit or proceedings and without incurring any legal obligation or liability therefore.

THIS SANITARY SEWER EASEMENT is executed and delivered and said Sanitary Sewer Easement is granted upon the following conditions to wit:

Parcel No. 102301-4-047-2003

Page 1 of (7) Pages

LU20-PLAT FINAL-02

SANITARY SEWER EASEMENT

1. Grantee, its agents and employees, assigns and successors may utilize this easement for the installation, repair, replacement and maintenance of sanitary sewer utilities, including but not limited to the installation of an eight-inch (8") sewer line with five (5) manholes in the Sanitary Sewer Easement in the approximate locations depicted in **Exhibit "C"** (the "Sewer Installation"). All work shall be done in a professional manner consistent with applicable rules, codes, standards and laws and plans approved by the City of Port Orchard. Upon completion of the Sewer Installation, Grantor shall have the right to connect to any or all of the five (5) manholes in conjunction with the development and use of Grantor's Property, subject to and consistent with the City of Port Orchard's adopted rules, codes, standards and laws at the time of connection.
2. Grantee, its agents and employees, assigns and successors shall, as soon as practicable after the Sewer Installation and after any and all subsequent maintenance, alterations and repairs thereto, restore all affected areas of Grantor's Property to a neat and presentable condition.
3. Except as stated herein, Grantor may use the Sanitary Sewer Easement area for any purpose that does not unreasonably interfere with Grantee's installation, maintenance or use of the Sanitary Sewer Easement area for the purposes set forth herein. Notwithstanding the foregoing, Grantor shall not (a) erect or maintain any buildings, structures, or improvements within the Sanitary Sewer Easement that may cause damage to or interfere with the maintenance or use of the sewer line, manholes and related improvements; (b) disturb the lateral or subjacent support of the sewer line, manholes and related improvements and uses of the Sanitary Sewer Easement by Grantee; (c) undertake any form of construction or other activity that may disturb or damage the the sewer line, manholes and related improvements or uses of the Sanitary Sewer Easement by Grantee; or (d) plant trees, shrubs, or other vegetation having deep root patterns that may cause damage to or interfere with the use of the sewer line, manholes and related improvements.
4. Grantor reserves the right to install, maintain, repair and use other utilities over, on, within and across the Sanitary Sewer Easement area, including but not limited to electricity, natural gas, sewer, water, cable, and/or telephone; PROVIDED, however, that the location and installation of any other such utilities within the Sanitary Sewer Easement area shall be approved by the City of Port Orchard consistent with adopted rules, codes, standards and laws, which approval shall not be unreasonably withheld, conditioned or delayed. Any additional utility benefitting the general public shall be installed by a licensed utility franchised provider and shall be included within and subject to the obligations, terms and conditions of the City of Port Orchard's franchise agreements with that utility provider, if any.

Parcel No. 102301-4-047-2003

Page 2 of (7) Pages

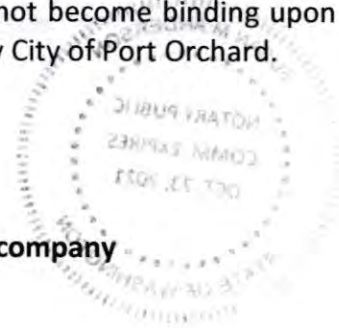
SANITARY SEWER EASEMENT

5. The rights granted herein shall not be construed to interfere with or restrict Grantor or its heirs, executors, administrators, successors and assigns from the use of Grantor's Property outside of the Sanitary Sewer Easement area for the construction, repair, replacment and/or maintenance of improvements outside of the Sanitary Sewer Easement area.

6. This Sanitary Sewer Easement and the rights, obligations and covenants stated in this Sanitraty Sewer Easement shall run with the land and shall be binding upon and shall inure to the benefit of Grantor and Grantee. This Sanitary Sewer Easement shall be recorded with the Kitsap County Recorder's Office.

7. It is understood and agreed that delivery of this Sanitaty Sewer Easement is hereby tendered and that the terms and obligations hereof shall not become binding upon City of Port Orchard unless and until approved hereon in writing by City of Port Orchard.

Dated: September 22, 2020.



Grantor: Russer Group, LLC, a Washington limited liability company

By *Luigi Tarnu*

Its *Managing Partner*

**Accepted and Approved
City of Port Orchard**

By _____

Its _____

Date _____

Parcel No. 102301-4-047-2003

SANITARY SEWER EASEMENT

CORPORATE ACKNOWLEDGMENT

STATE OF Washington }
COUNTY OF Pierce } ss.

I certify that I know or have satisfactory evidence that Lise D. Tanner is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Managing Member of Ruser Group LLC, to be their free and voluntary act of such party for the uses and purposes mentioned in the instrument.



DATED this 14th day of September, 2020.

Susan M. Anderson
Notary Public

Susan M. Anderson
Printed Name

Residing at Gig Harbor

My appointment expires Oct. 23, 2021

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss.

On this day personally appeared before me _____, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

DATED this _____ day of _____, 20____.

(SEAL) _____
Notary Public

Printed Name

Residing at _____

My appointment expires _____

Parcel No. 102301-4-047-2003

SANITARY SEWER EASEMENT

EXHIBIT "A" - GRANTOR'S PROPERTY (APN 102301-4-047-2003) LEGAL DESCRIPTION

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST, W.M., LYING NORTHEASTERLY OF OLD GLENWOOD ROAD AND THE NEW EXTENSION OF GLENWOOD ROAD PER AUDITOR'S FILE NO. 9103050137, AND NORTHWESTERLY OF SEDGWICK ROAD.

Parcel No. 102301-4-047-2003

Page 5 of (7) Pages

SANITARY SEWER EASEMENT

EXHIBIT "B" - SANITARY SEWER EASEMENT LEGAL DESCRIPTION

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE W.M., IN KITSAP COUNTY, WASHINGTON, BEING A 20.00 FOOT WIDE STRIP OF LAND, LYING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 10, THE SOUTHEAST QUARTER CORNER OF SAID SECTION BEARS SOUTH 87°48'24" EAST, A DISTANCE OF 2,608.57 FEET;

THENCE SOUTH 87°48'24" EAST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 757.62 FEET;

THENCE NORTH 02°11'36" EAST, A DISTANCE OF 2,292.36 FEET TO THE NORTHEASTERLY MARGIN OF GLENWOOD ROAD SW AND THE **POINT OF BEGINNING** OF THIS CENTERLINE DESCRIPTION;

THENCE NORTH 60°19'46" EAST, A DISTANCE OF 189.31 FEET;

THENCE NORTH 72°25'55" EAST, A DISTANCE OF 113.56 FEET;

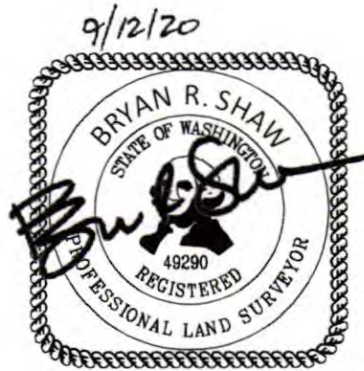
THENCE SOUTH 47°44'27" EAST, A DISTANCE OF 102.34 FEET;

THENCE SOUTH 24°09'10" EAST, A DISTANCE OF 244.77 FEET;

THENCE SOUTH 15°31'04" EAST, A DISTANCE OF 192.38 FEET;

THENCE SOUTH 45°47'27" EAST, A DISTANCE OF 31.99 FEET TO THE NORTHWESTERLY MARGIN OF SOUTHWEST SEDGWICK ROAD AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION;

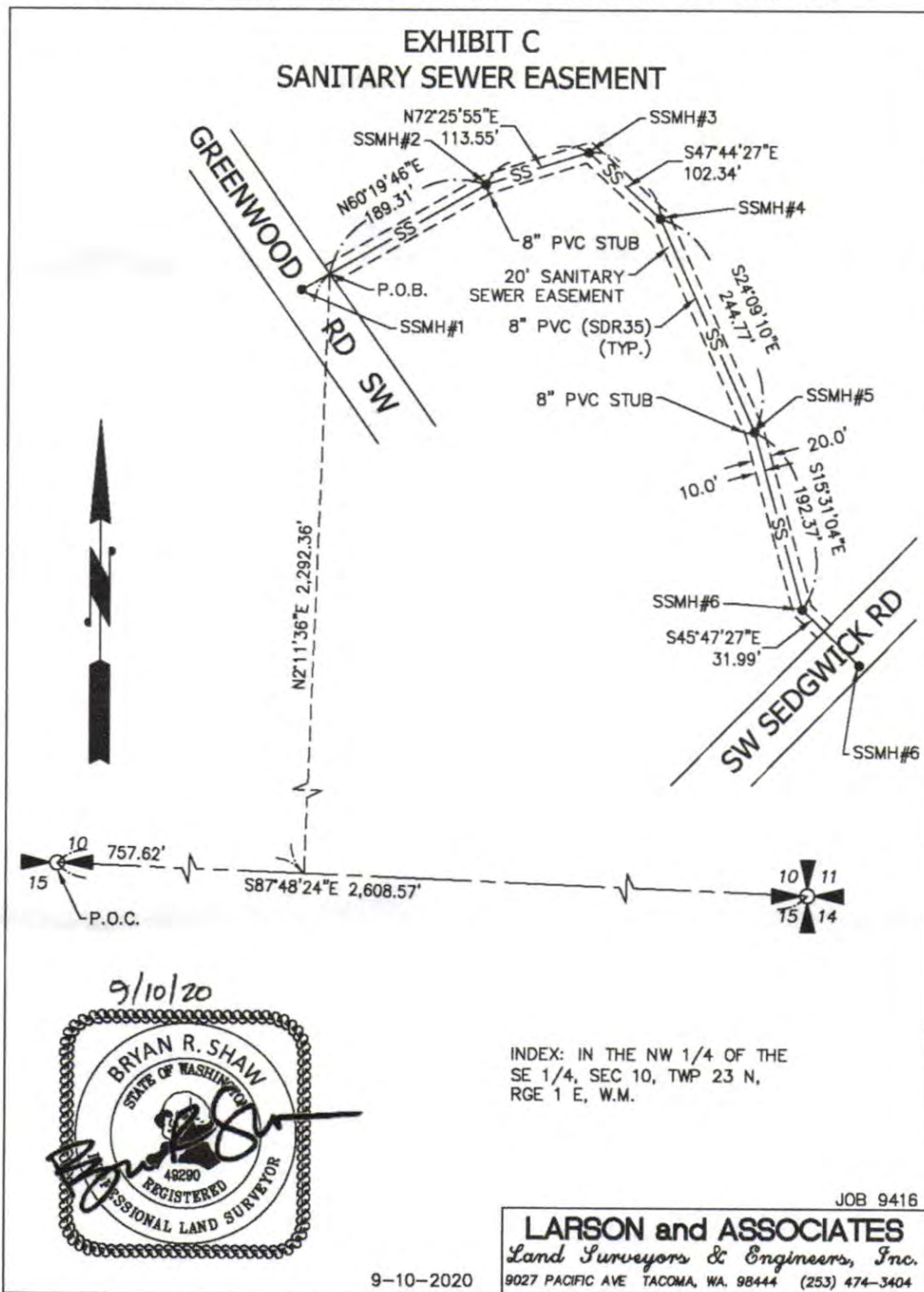
THE SIDELINES OF SAID STRIP ARE TO BE LENGTHENED OR SHORTENED TO THE SAID MARGIN'S OF GLENWOOD ROAD SOUTHWEST AND SOUTHWEST SEDGWICK ROAD.



Parcel No. 102301-4-047-2003

SANITARY SEWER EASEMENT

EXHIBIT "C" - SANITARY SEWER EASEMENT GRAPHIC DEPICTION



Parcel No. 102301-4-047-2003

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON

DEDICATION

KNOW ALL MEN BY THESE PRESENT THAT THE UNDERSIGNED: HEREBY DECLARE THIS LAND PLATTED AND DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ROADS, AND EASEMENTS SHOWN ON THE PLAT AND USE THEREOF FOR ANY AND ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES; ALSO THE RIGHT TO MAKE ALL NECESSARY CUTS AND FILLS FOR SLOPES UPON THE LOTS SHOWN ON THIS PLAT IN THE REASONABLE ORIGINAL GRADING OF ALL THE STREETS AND ROADS SHOWN HEREON; ALSO THE RIGHT TO DRAIN ALL STREETS, ROADS, AND EASEMENTS OVER AND ACROSS ANY LOT OR LOTS WHERE WATER MIGHT TAKE A NATURAL DRAINAGE COURSE AFTER THE STREET OR STREETS ARE GRADED. DIMENSIONS AND USE OF ALL LOTS EMBRACES IN THIS PLAT ARE SUBJECT TO AND SHALL BE IN CONFORMITY WITH THE CITY OF PORT ORCHARD ZONING REGULATIONS. THE OWNERS HEREOF, AND THEIR SUCCESSORS AND ASSIGNS, HEREBY WAIVE ALL CLAIMS FOR ANY DAMAGES AGAINST GOVERNMENTAL AUTHORITY ARISING FROM CONSTRUCTION, DRAINAGE, AND MAINTENANCE OF PUBLIC FACILITIES AND PUBLIC PROPERTY WITHIN THIS PLAT.

ALL STORM SEWER, SANITARY SEWER, WATER AND APPURTENANCES LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY DEDICATED TO THE CITY OF PORT ORCHARD ARE HEREBY GRANTED AND CONVEYED TO THE CITY OF PORT ORCHARD.

THIS SUBDIVISION, DEDICATION, RELEASE, INDEMNIFICATION OF CLAIMS AND AGREEMENT TO HOLD HARMLESS IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNERS.

FURTHERMORE, WE UNDERSIGNED OWNERS OF THE INTERESTS IN THE REAL ESTATE DESCRIBED HEREIN HEREBY DECLARE THIS MAP AND DEDICATES THE SAME FOR A COMMON INTEREST COMMUNITY NAMED STETSON HEIGHTS, A PLAT COMMUNITY AS THAT TERM IS DEFINED IN THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT, SOLELY TO MEET THE REQUIREMENTS OF THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT AND NOT FOR ANY PUBLIC PURPOSE. THIS MAP AND ANY PORTION THEREOF IS RESTRICTED BY LAW AND THE DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR STETSON HEIGHTS, RECORDED UNDER KITSAP COUNTY RECORDING

TRACTS A & E ARE STORM DRAINAGE FACILITY TRACTS AND ARE DEDICATED TO THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION. THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF SAID TRACTS.

TRACTS B, D, & I ARE RETAINED BY STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY COMPANY FOR FUTURE PHASES.

TRACTS C & F ARE RETAINED BY STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY COMPANY FOR FUTURE DEVELOPMENT.

TRACTS G & H ARE PASSIVE RECREATION TRACTS AND ARE DEDICATED TO THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION. THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION IS RESPONSIBLE FOR THE MAINTENANCE OF SAID TRACTS.

TRACT J IS A WATER FACILITIES TRACT AND IS RETAINED BY STETSON HEIGHTS, LLC A WASHINGTON LIMITED LIABILITY COMPANY. THIS TRACT WILL BE DEDICATED, IN THE FUTURE TO THE CITY OF PORT ORCHARD UPON COMPLETION OF A WATER BOOSTER STATION.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS THIS 3rd DAY OF February, 2021

STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY COMPANY

BY: [Signature] BY: [Signature]
IT'S: Managing Member IT'S: Managing Member

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
COUNTY OF Pierce)ss

ON THIS 3rd DAY OF February, 2021, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED Debra L. Noble, TO ME KNOWN TO BE THE Managing Member OF STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY CORPORATION, THE CORPORATION THAT EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT OF AND DEED OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT (HE/SHE/THEY) (IS/ARE) AUTHORIZED TO EXECUTE THE SAID INSTRUMENT.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 3rd DAY OF February, 2021

[Signature]
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
PRINTED NAME: Debra L. Noble
MY COMMISSION EXPIRES: 04/19/2023



STATE OF WASHINGTON)
COUNTY OF Pierce)ss

ON THIS 3rd DAY OF February, 2021, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED Jim Shaw II, TO ME KNOWN TO BE THE Managing Member OF STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY CORPORATION, THE CORPORATION THAT EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT OF AND DEED OF SAID CORPORATION, FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT (HE/SHE/THEY) (IS/ARE) AUTHORIZED TO EXECUTE THE SAID INSTRUMENT.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 3rd DAY OF February, 2021

[Signature]
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
PRINTED NAME: Debra L. Noble
MY COMMISSION EXPIRES: 04/19/2023



COUNTY TREASURER APPROVAL

THIS IS TO CERTIFY THAT ALL TAXES HERETOFORE LEVIED AND WHICH HAS BECOME A LIEN UPON THE LANDS HEREIN DESCRIBED, HAVE BEEN FULLY PAID AND DISCHARGED, ACCORDING TO THE RECORDS OF MY OFFICE, UP TO AND INCLUDING THE YEAR _____.

EXECUTED THIS ___ DAY OF _____ 20__.

COUNTY TREASURER

CITY COUNCIL APPROVAL

APPROVED BY THE CITY COUNCIL OF THE CITY OF PORT ORCHARD.

ATTEST:

CITY CLERK _____ DATE _____

MAYOR _____ DATE _____

CITY ENGINEER APPROVAL

I HEREBY CERTIFY THAT THIS FINAL PLAT IS CONSISTENT WITH ALL APPLICABLE CITY IMPROVEMENT STANDARDS AND REQUIREMENTS IN FORCE ON THE DATE OF PRELIMINARY PLAT APPROVAL. I HAVE APPROVED THIS FINAL PLAT AS TO THE STREETS, ALLEYS, AND OTHER RIGHT-OF-WAY, DESIGN OF BRIDGES, SEWAGE, AND WATER SYSTEMS, AND OTHER STRUCTURES.

EXAMINED AND APPROVED THIS ___ DAY OF _____ 20__.

CITY ENGINEER

CITY FINANCE DIRECTOR APPROVAL

I HEREBY CERTIFY THAT ALL TAXES AND DELINQUENT ASSESSMENTS FOR WHICH THAT PROPERTY MAY BE LIABLE AS OF THE DATE OF CERTIFICATION HAVE BEEN FULLY PAID, SATISFIED, OR DISCHARGED..

EXECUTED THIS ___ DAY OF _____ 20__.

FINANCE DIRECTOR _____ DATE _____

COUNTY AUDITOR

FILED AT THE REQUEST OF _____ THIS ___ DAY OF _____ 20__, AND RECORDED IN VOLUME _____ OF PLATS, PAGES _____, RECORDS OF KITSAP COUNTY, WASHINGTON.

COUNTY AUDITOR

COMMUNITY DEVELOPMENT DIRECTOR

I HEREBY CERTIFY THAT THIS FINAL/SHORT PLAT IS CONSISTENT WITH ALL APPLICABLE TOWN/CITY IMPROVEMENT STANDARDS AND REQUIREMENTS IN FORCE ON THE DATE OF PRELIMINARY/SHORT PLAT APPROVAL. I HAVE APPROVED THIS FINAL/SHORT PLAT AS TO THE LAYOUT OF STREETS, ALLEYS AND OTHER RIGHTS-OF-WAY, DESIGN OF BRIDGES, SEWAGE AND WATER SYSTEMS AND OTHER STRUCTURES.

EXAMINED AND APPROVED THIS ___ DAY OF _____, 20__.

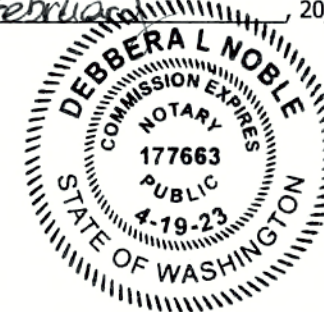
COMMUNITY DEVELOPMENT DIRECTOR

STATE OF WASHINGTON)
COUNTY OF Pierce)ss

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT BRYAN R. SHAW IS THE PERSON WHO APPEARED BEFORE ME, ACKNOWLEDGED THAT HE SIGNED THIS INSTRUMENT, AND ACKNOWLEDGED IT TO BE HIS FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES MENTIONED IN THIS INSTRUMENT.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 3rd DAY OF February, 2021

[Signature]
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
PRINTED NAME: Debra L. Noble
MY COMMISSION EXPIRES: 04-19-2023



SURVEYOR'S CERTIFICATE

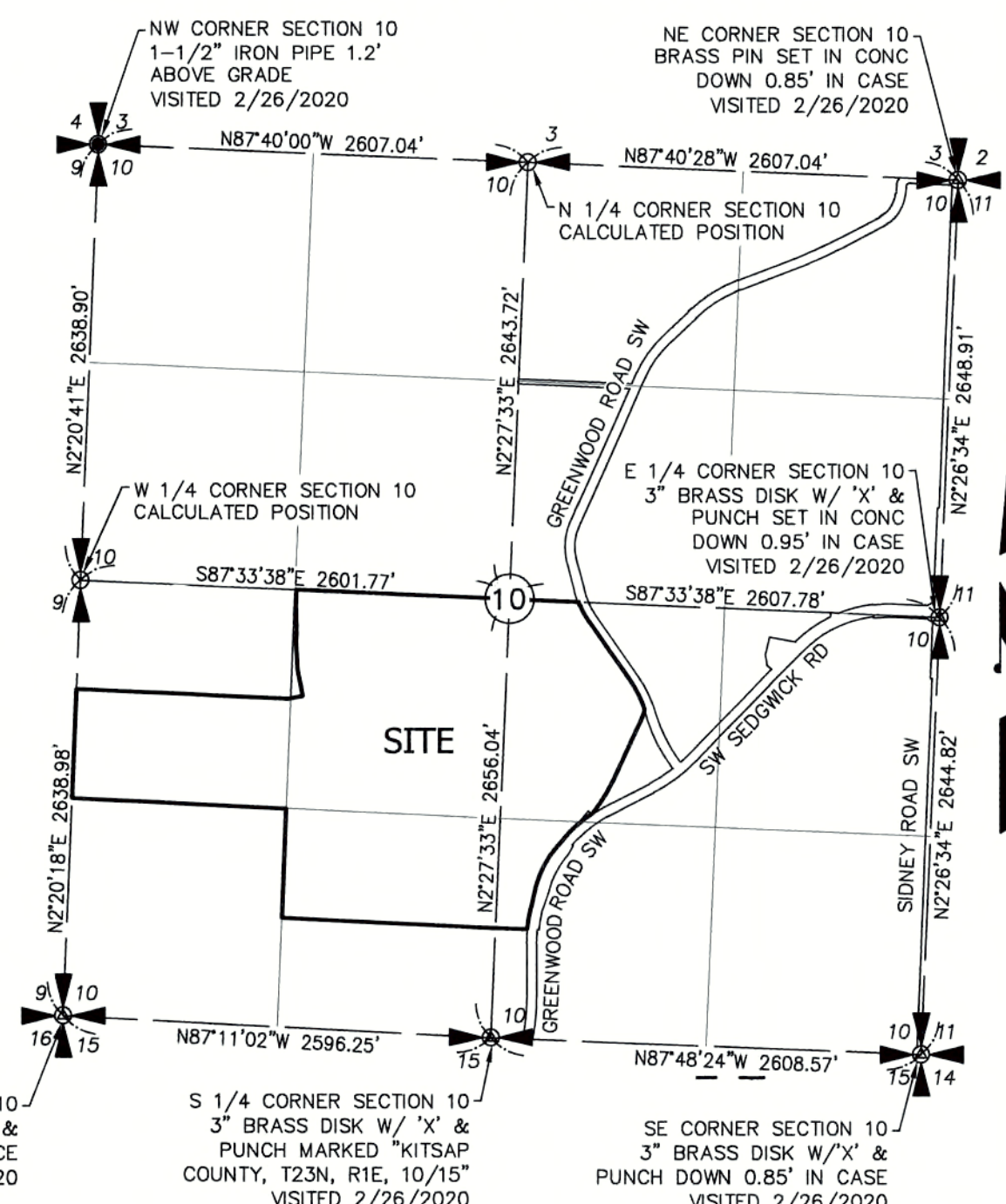
I, BRYAN R. SHAW, REGISTERED AS A LAND SURVEYOR BY THE STATE OF WASHINGTON, CERTIFY THAT THIS PLAT OF STETSON HEIGHTS, IS BASED UPON AN ACTUAL SURVEY OF THE LAND DESCRIBED HEREIN, CONDUCTED BY ME OR UNDER MY SUPERVISION IN MAY, 2020, THAT THE DISTANCES, COURSES, AND ANGLES ARE SHOWN THEREON CORRECTLY, AND THAT MONUMENTS AND LOT CORNERS OTHER THAN THOSE APPROVED FOR SETTING AT A LATER DATE, HAVING BEEN SET AS DEPICTED ON THE PLAT.

FURTHERMORE, THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, HEREBY CERTIFY THAT THIS MAP FOR STETSON HEIGHTS, PHASE I, IS BASED UPON AN ACTUAL SURVEY OF THE PROPERTY HEREIN DESCRIBED; THAT THE BEARINGS AND DISTANCES ARE CORRECTLY SHOWN; THAT ALL INFORMATION REQUIRED BY THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT IS SUPPLIED HEREIN; AND THAT ALL HORIZONTAL AND VERTICAL BOUNDARIES OF THE UNITS, (1) TO THE EXTENT DETERMINED BY THE WALLS, FLOORS, OR CEILINGS THEREOF, OR OTHER PHYSICAL MONUMENTS, ARE SUBSTANTIALLY COMPLETED IN ACCORDANCE WITH SAID MAP, OR (2) TO THE EXTENT SUCH BOUNDARIES ARE NOT DEFINED BY PHYSICAL MONUMENTS, SUCH BOUNDARIES ARE SHOWN ON THE MAP.

[Signature]
BRYAN R. SHAW
PROFESSIONAL LAND SURVEYOR
CERTIFICATE NUMBER 49290

2/3/21
DATE

SECTION SUBDIVISION



SCALE: 1" = 1,000'

SHEET 1 OF 10



LARSON
And Associates
Land Surveyors & Engineers, Inc.
9416 FP PH 1
2/3/2021
9027 PACIFIC AVENUE, SUITE 4
TACOMA, WASHINGTON 98444-6247
(253)474-3404 / FAX (253)472-7358

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON

NOTES

- ALL LOTS SHALL ACCESS FROM INTERIOR ROADS ONLY.
- THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL ROADWAY IMPROVEMENTS WITHIN ANY PRIVATE RIGHT-OF-WAY WITH THIS PLAT, INCLUDING TRAFFIC SIGNAGE.
- THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL STORM DRAINAGE FACILITIES & LANDSCAPING INSTALLED WITHIN THE BOUNDARIES OF THIS SUBDIVISION.
- NOTICE: THE WETLAND AND STREAM AREA BOUNDARIES WITHIN TRACT F WERE DELINEATED BY ENVIROVECTOR.
- REFERENCE TO LOT SHALL REFER TO UNIT AS THAT TERM IS DEFINED IN THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT.
- (a) THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE REPAIR, REPLACEMENT AND MAINTENANCE OF ALL FENCING AND SIGNAGE WITHIN STORM DRAINAGE AND SENSITIVE AREA TRACTS.

(b) PER POMC 20.162.044, "EASEMENT" OR "CRITICAL AREA PROTECTION EASEMENT" AS USED HEREIN FOR THE PROTECTION OF CRITICAL AREAS "MEANS AN AGREEMENT CONVEYED THROUGH A DEED, OR SHOWN ON THE FACE OF A PLAT OR SITE PLAN FOR THE PURPOSES OF PERPETUAL OR LONG-TERM CONSERVATION".

GENERAL UTILITY EASEMENT NOTES

- CITY OF PORT ORCHARD WILL NOT BE RESPONSIBLE FOR ANY DAMAGE TO ANY PRIVATE ROADS, TRACTS, AND/OR EASEMENT AREAS THAT MAY OCCUR DURING ROUTINE MAINTENANCE ACTIVITIES AND THAT IN CITY OF PORT ORCHARD'S JUDGMENT OCCUR, IN WHOLE OR IN PART, BECAUSE OF ANY CONSTRUCTION MATERIALS OR TECHNIQUES, OR ANY MAINTENANCE MATERIALS OR TECHNIQUES. THIS INCLUDES, BUT IS NOT LIMITED TO, DAMAGE TO PAVEMENT OR VEGETATED AREAS CAUSED BY MAINTENANCE TRUCKS.
- DECLARANT HEREBY RESERVES, GRANTS, AND CONVEYS TO UTILITY PROVIDERS, INCLUDING BUT NOT LIMITED TO PUGET SOUND ENERGY, CENTURYLINK, COMCAST, CASCADE NATURAL GAS, THE CITY OF PORT ORCHARD, WAVE BROADBAND CABLE, WASTE MANAGEMENT AND SOUTH KITSAP FIRE AND RESCUE, THEIR SUCCESSORS AND ASSIGNS, AND ANY OTHER PURVEYORS OF ELECTRICITY, TELEPHONE, INTERNET, WATER SEWER GARBAGE AND CABLE SERVICES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, PERPETUAL EASEMENTS UNDER AND UPON THE LOTS OF THE PROPERTY AS SHOWN AND/OR DESCRIBED ON THE FACE OF THE PLAT MAP, WHICH SHALL BE THE TEN FEET (10') OF ALL LOTS AND TRACTS WITHIN THE PLAT LYING PARALLEL WITH AND ADJOINING ALL ROADWAYS IN WHICH TO INSTALL, CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, AND ENLARGE UNDERGROUND PIPES, CONDUITS, CABLES AND WIRES WITH ALL NECESSARY OR CONVENIENT UNDERGROUND OR GROUND-MOUNTED APPURTENANCES THERETO FOR THE PURPOSE OF SERVING THE PLAT AND OTHER PROPERTY WITH ELECTRIC, GAS, TELEVISION, INTERNET, WATER AND OTHER UTILITY SERVICES, TOGETHER WITH THE RIGHT TO ENTER UPON THE ROADWAYS AND LOTS AT ALL TIMES FOR THE PURPOSES HEREIN STATED.
- NO PERMANENT STRUCTURES SHALL BE INSTALLED WITHIN UTILITY EASEMENTS.

PRIVATE STORM DRAINAGE EASEMENT NOTES

- ALL LOTS AND TRACTS WITHIN THIS PLAT ARE HEREBY SUBJECT TO A PRIVATE STORM DRAINAGE EASEMENT AS SHOWN HEREON WHICH SHALL BE LOCATED WITHIN THE TEN (10) TO THIRTEEN (13) FEET OF ALL LOTS AND TRACTS WITHIN THE PLAT LYING PARALLEL WITH AND ALL ADJOINING ROADWAYS. SAID PRIVATE STORM DRAINAGE EASEMENT IS FOR THE PURPOSES OF INSTALLING AND MAINTAINING PRIVATE STORM DRAINAGE FACILITIES WITHIN SAID EASEMENT. THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION (HOA) SHALL BE RESPONSIBLE FOR THE MAINTENANCE, REPAIRS OR RECONSTRUCTION OF THE PRIVATE DRAINAGE FACILITIES LOCATED WITHIN SAID EASEMENT.
- PRIVATE STORM DRAINAGE EASEMENTS ARE LOCATED OVER AND UPON LOTS 12-14, 22, 23, 26-29, 39, 40, 53, 54, 56, 98, 100, AND TRACTS D, F, G, AND H FOR THE BENEFIT OF STETSON HEIGHTS HOMEOWNERS ASSOCIATION AND IT SHALL BE THE ASSOCIATION'S RESPONSIBILITY TO REPAIR, REPLACEMENT AND MAINTAIN SUCH PRIVATE STORM DRAINAGE EASEMENTS.

TRACT NOTES

- TRACT'S A AND E ARE STORMWATER TRACT'S. THE MAINTENANCE OF SAID TRACT'S ARE THE RESPONSIBILITY OF THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION (HOA).
- TRACT'S B, D AND I ARE RETAINED BY STETSON HEIGHTS, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, FOR FUTURE PHASES UPON THE RECORDING OF THIS PLAT. THESE TRACTS SHALL BE PLATTED IN SUBSEQUENT PHASES OF THE DEVELOPMENT OF STETSON HEIGHTS THAT SUBSTANTIALLY COMPLIES WITH THE PRELIMINARY PLAT APPROVAL, SUBJECT TO THE APPLICANT'S RIGHT TO PROPOSE AND THE CITY OF PORT ORCHARD AUTHORITY TO APPROVE SUCH MODIFICATIONS AS MAY BE MADE CONSISTENT WITH APPLICABLE REQUIREMENTS OF THE SUBDIVISION STATUTE AND THE CITY OF PORT ORCHARD SUBDIVISION CODE.
- TRACT C AND THE PORTION OF TRACT F NOT CONVEYED TO THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION ARE RETAINED BY STETSON HEIGHTS, LLC A WASHINGTON LIMITED LIABILITY COMPANY, FOR FUTURE DEVELOPMENT.
- TRACT'S G AND H ARE PASSIVE RECREATION TRACT'S. THE MAINTENANCE OF SAID TRACT'S ARE THE RESPONSIBILITY OF THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION (HOA).

- USE OF THE PORTION OF TRACT F DESIGNATED AS THE CRITICAL AREAS BUFFER EASEMENT CONTAINING WETLANDS, STREAM AND ASSOCIATED BUFFERS (SENSITIVE AREA) IS SUBJECT TO POMC CHAPTER 20.162 CRITICAL AREAS REGULATIONS, AS SUCH REGULATIONS NOW EXIST OR HEREAFTER MAY BE AMENDED, THE DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR STETSON HEIGHTS AND ANY RULES OF THE STETSON HEIGHTS HOMEOWNERS ASSOCIATION. NO SITE-DISTURBING ACTIVITY IS PROPOSED TO OCCUR ON TRACT F AT THIS TIME. THE SENSITIVE AREA SHALL BE RE-EVALUATED AND EASEMENT MODIFIED IN ACCORDANCE WITH APPLICABLE REGULATIONS AT THE TIME DEVELOPMENT OF TRACT F IS PROPOSED, AND SUCH DEVELOPMENT SHALL COMPLY WITH THE THEN-APPLICABLE REGULATIONS AND RESTRICTIONS.
- TRACT J IS A WATER FACILITIES TRACT. THE MAINTENANCE OF SAID TRACT IS THE RESPONSIBILITY OF STETSON HEIGHTS, LLC, UNTIL THE TIME THE TRACT IS DEDICATED TO THE CITY OF PORT ORCHARD.

TITLE REPORT EXCEPTIONS

(PER FIDELITY NATIONAL TITLE COMPANY OF WASHINGTON COMMITMENT NO. 611186468, DATED DECEMBER 16, 2020)

- ASSESSMENTS, IF ANY, LEVIED BY THE CITY OF PORT ORCHARD.
- THIS ITEM INTENTIONALLY DELETED.
- THIS ITEM INTENTIONALLY DELETED.
- THIS ITEM INTENTIONALLY DELETED.
- THIS ITEM INTENTIONALLY DELETED.
- EASEMENT(S) FOR ELECTRIC TRANSMISSION AND/OR DISTRIBUTION LINE, TOGETHER WITH NECESSARY APPURTANCES IN DOCUMENT DATED SEPTEMBER 29, 1952 RECORDING NO. 564610.
- ANY RIGHTS, INTERESTS, OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING MATTERS DISCLOSED BY SURVEY RECORDED NOVEMBER 15, 1993, RECORDING NO. 9311150102. MATTERS SHOWN: POSSIBLE FENCE ENCROACHMENTS
- THIS ITEM INTENTIONALLY DELETED
- ORDINANCE NO. 024-07, IN DOCUMENT DATED AUGUST 17, 2007, RECORDING NO. 200708170008.
- DEVELOPERS AGREEMENT FOR REIMBURSEMENT FOR REGIONAL SANITARY PUMP STATION IN DOCUMENT DATED JUNE 8, 2009, RECORDING NO. 200906080085.
- ITEMS SHOWN ON BARGIN & SALES DEED RECORDED JULY 3, 2013 UNDER RECORDING NO. 201307030289, INCLUDING POSSIBLE RIGHTS OF POSSESSION BY ABUTTING OWNERS AS FOLLOWS: (1) EXISTING FENCE LINES AND GRAVEL ROAD MEANDERING OVER NORTH BOUNDARY AND INTO SAID PREMISES; (2) CEDAR HEDGE AND WIRE MESH FENCE SET INSIDE WEST BOUNDARY; AND (3) WIRE AND WOOD RAIL FENCE APPROXIMATELY ON SOUTH BOUNDARY.
- AGREEMENT BETWEEN CITY OF PORT ORCHARD AND STETSON RIDGE PARTNERS, LLC IN DOCUMENT DATED JANUARY 21, 2014, RECORDING NO. 201401210251.
- THIS ITEM INTENTIONALLY DELETED.
- COVENANTS, CONDITIONS, RESTRICTIONS, RECITALS, RESERVATIONS, EASEMENTS, EASEMENT PROVISIONS, DEDICATIONS, BUILDING SETBACK LINES, NOTES STATEMENTS, AND OTHER MATTERS, IF ANY, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH ON BOUNDARY LINE ADJUSTMENT RECORDED FEBRUARY 15, 2018, RECORDING NO. 201802150061. (AS SHOWN)
- EASEMENT(S) TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, IMPROVE, REMOVE, UPGRADE AND EXTEND ONE OR MORE UTILITY SYSTEMS IN DOCUMENT DATED MAY 31, 2018, RECORDING NO. 201805310104. (SHOWN AS E1 ON PLAT)
- ANY RIGHTS, INTERESTS, OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF MATTERS DISCLOSED IN SURVEY FOR BOUNDARY LINE ADJUSTMENT DATED OCTOBER 2, 2018, RECORDING NO. 201810020216. (ENCOMPASSES ENTIRE SITE)
- COVENANTS, CONDITIONS, RESTRICTIONS, RECITALS, RESERVATIONS, EASEMENTS, EASEMENT PROVISIONS, DEDICATIONS, BUILDING SETBACK LINES, NOTES, STATEMENTS, AND OTHER MATTERS, IF ANY, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS SET FORTH ON BOUNDARY LINE ADJUSTMENT IN DOCUMENT DATED OCTOBER 2, 2018, RECORDING NO. 201810020219. (ENCOMPASSES ENTIRE SITE)
- DECLARATION OF COVENANT ASSOCIATED WITH PERFORMANCE OF SITE STABILIZATION AND EROSION AND SEDIMENTATION CONTROL FACILITIES IN DOCUMENT DATED MAY 1, 2020, RECORDING NO. 202005010217.
- DECLARATION OF COVENANT ASSOCIATED WITH PERFORMANCE OF SITE STABILIZATION AND EROSION AND SEDIMENTATION CONTROL FACILITIES IN DOCUMENT DATED MAY 6, 2020, RECORDING NO. 202005060100.
- REAL ESTATE TAXES, IF REQUIRED. LAND IS SITUATED WITHIN THE BOUNDARIES OF LOCAL TAXING AUTHORITY OF KITSAP COUNTY.
- 21-24 GENERAL AND SPECIAL TAXES AND CHARGES.
- 25-34 NOT SURVEY RELATED

LEGAL DESCRIPTION

(PER FIDELITY NATIONAL TITLE COMPANY OF WASHINGTON COMMITMENT NO. 611186468, DATED NOVEMBER 18, 2020)
RESULTANT PARCELS A, B, C, & D OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 201810020219, BEING PORTIONS OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST, W.M., IN KITSAP COUNTY, WASHINGTON.

BUILDING SETBACKS

FRONT YARD: 15'
REAR YARD: 10'
SIDE YARD: 5'

NOTE: BUILDINGS PROPOSED AT THE TOP OF SLOPES GREATER THAN 30% SHALL HAVE A REAR YARD SETBACK OF TWENTY-FIVE (25) FEET FROM THE EDGE OF EXTERIOR FOOTINGS FOR BOTH NATURAL AND ENGINEERED FILL SLOPES UNLESS OTHERWISE APPROVED BY A GEOTECHNICAL ENGINEER (PER CONDITION OF APPROVAL B. LAND USE, 4.).

SHEET INDEX

SHEET 1	DEDICATION, SIGNATURES
SHEET 2	LEGAL DESCRIPTION, NOTES
SHEET 3	SECTION VIEW, SITE
SHEET 4	MAP
SHEET 5	MAP
SHEET 6	MAP
SHEET 7	MAP
SHEET 8	MAP
SHEET 9	LINE & CURVE TABLES
SHEET 10	LOT ADDRESS TABLE

HORIZONTAL DATUM

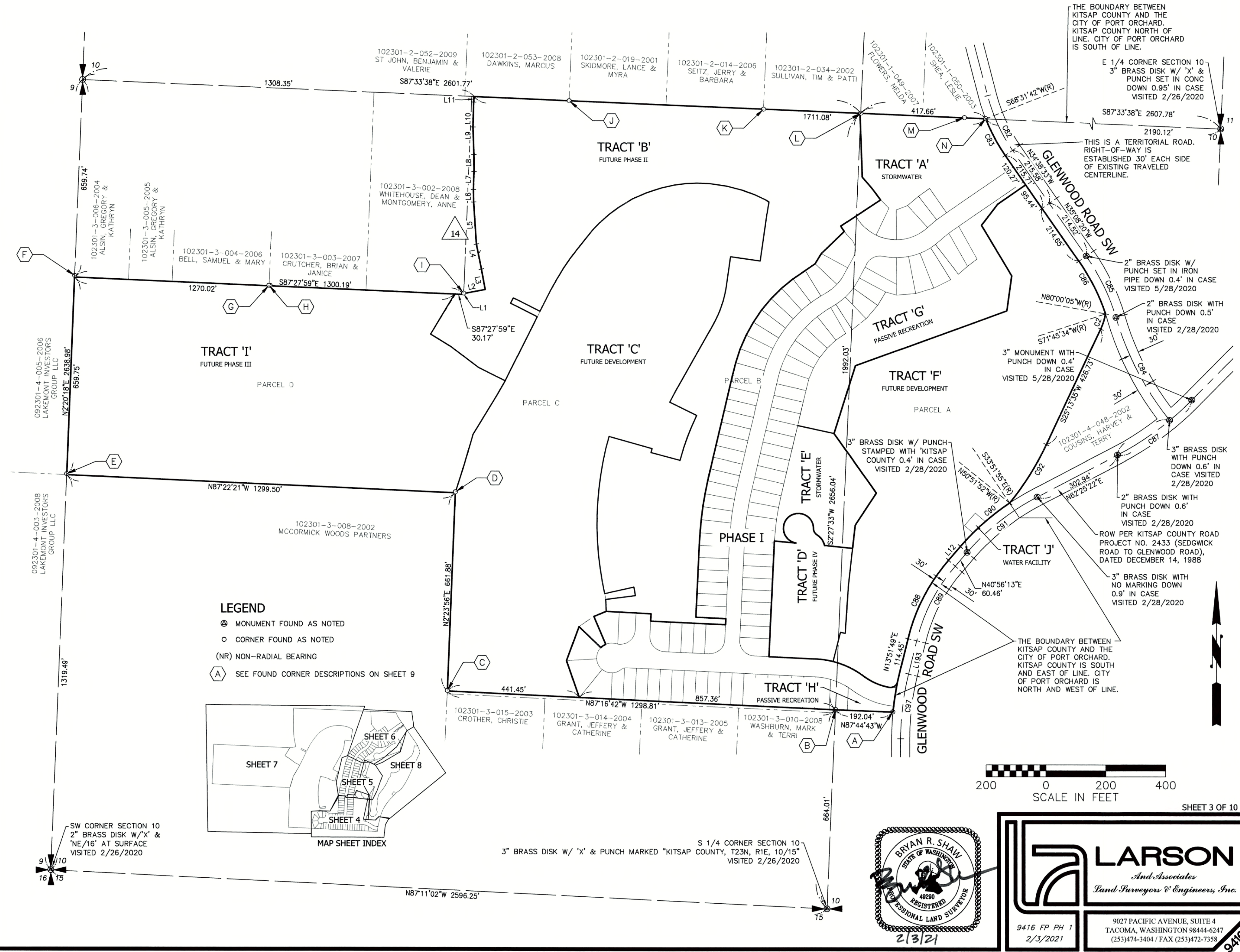
NAD 83/11 WASHINGTON NORTH ZONE
ESTABLISHED USING GPS RTK ROVER CONSTRAINED TO THE WASHINGTON STATE REFERENCE NETWORK (WSRN) STATIONS

SHEET 2 OF 10



STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON



LARSON
And Associates
 Land Surveyors & Engineers, Inc.

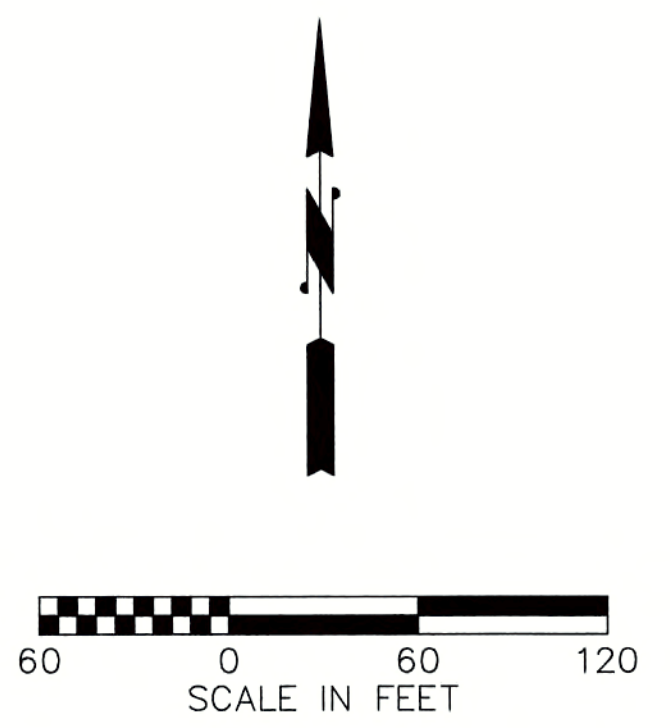
9416 FP PH 1
 2/3/2021

9027 PACIFIC AVENUE, SUITE 4
 TACOMA, WASHINGTON 98444-6247
 (253)474-3404 / FAX (253)472-7358

2/3/21

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON



TRACT 'C'
FUTURE DEVELOPMENT
904,804 SF

TRACT 'B'
FUTURE PHASE II
915,144 SF

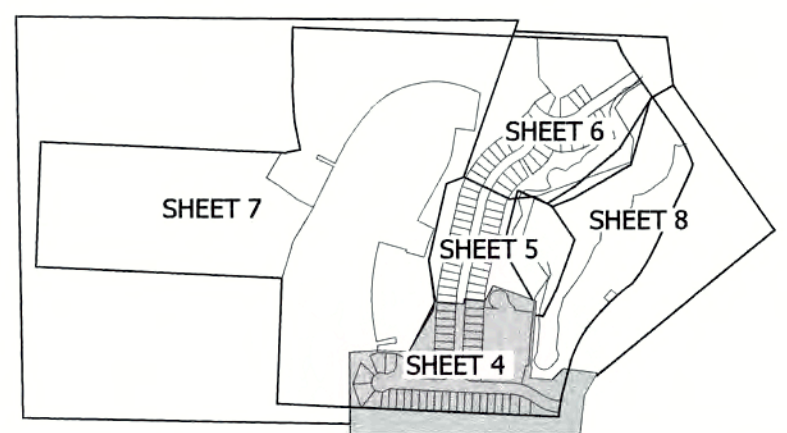
TRACT 'D'
FUTURE PHASE IV
104,200 SF

TRACT 'E'
STORM DRAINAGE
84,595 SF

TRACT 'F'
FUTURE DEVELOPMENT
668,402 SF

TRACT 'H'
PASSIVE RECREATION
6,093 SF

- LEGEND**
- ⊙ MONUMENT FOUND AS NOTED
 - ⊙ SET KITSAP COUNTY STANDARD ROAD MONUMENT
 - CORNER FOUND AS NOTED
 - SET REBAR & CAP, SHAW 49290
 - E1 10' UTILITY EASEMENT, SEE NOTE 8 ON SHEET 2
 - E2 PRIVATE STORM DRAINAGE EASEMENT, SEE NOTES 10 AND 11 ON SHEET 2
 - (NR) NON-RADIAL BEARING
 - (A) SEE FOUND CORNER DESCRIPTIONS ON SHEET 9



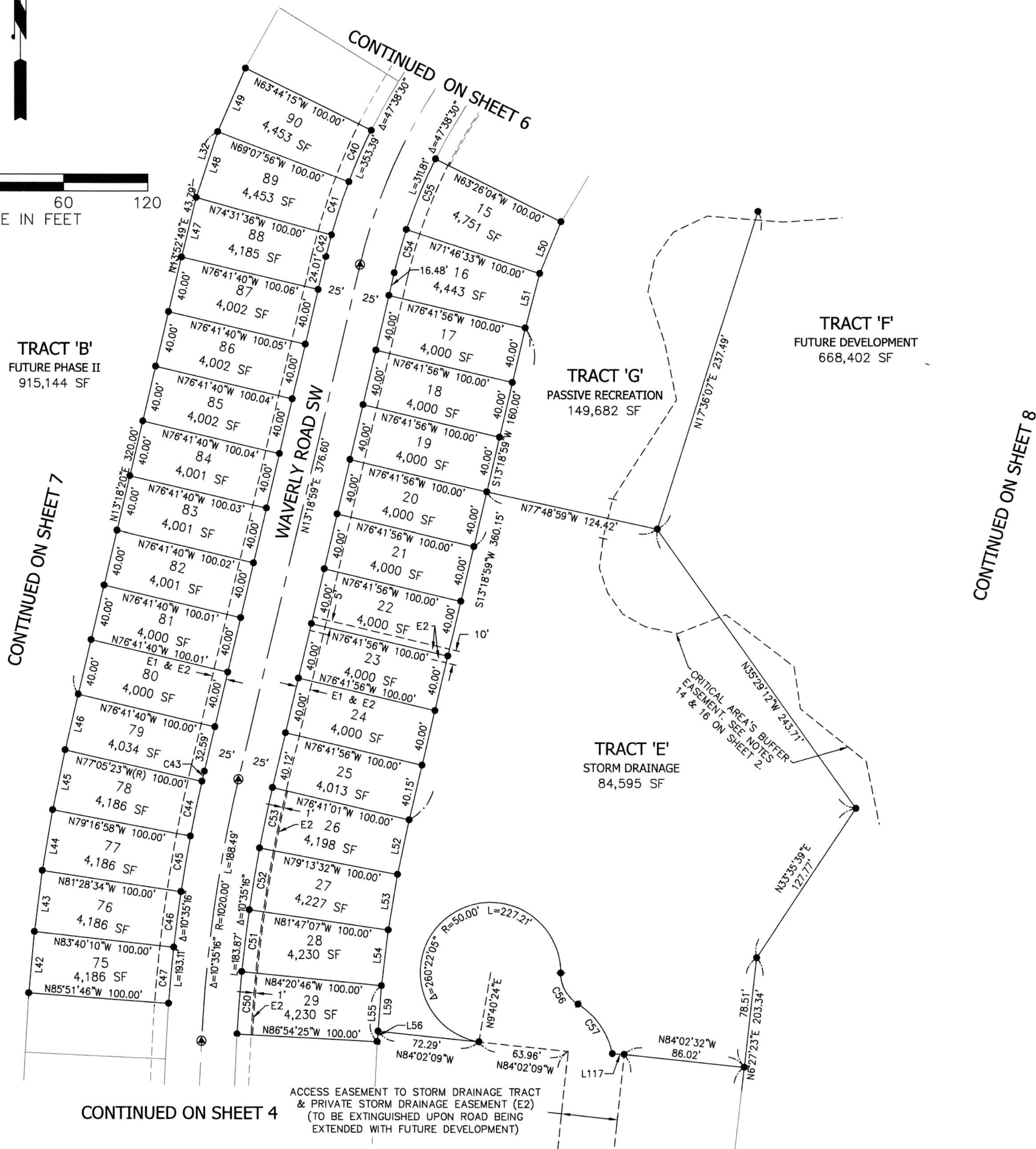
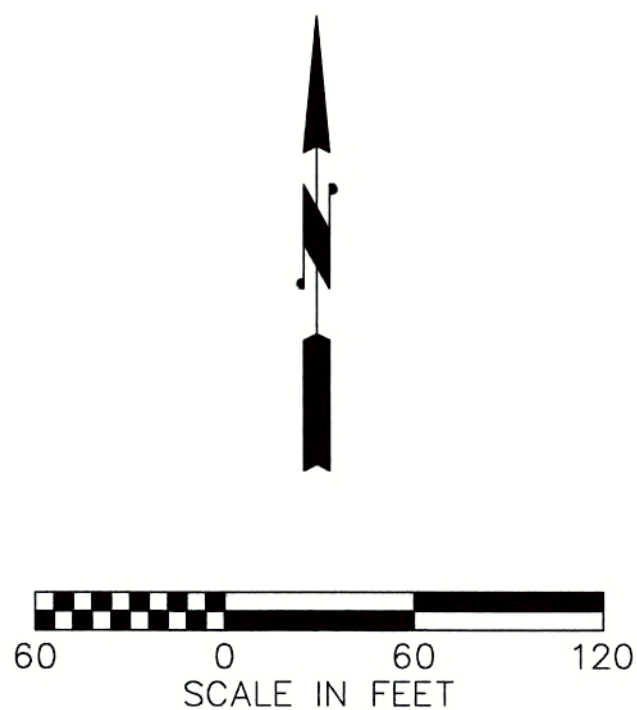
LARSON
And Associates
Land Surveyors & Engineers, Inc.

9416 FP PH 1
2/3/2021

9027 PACIFIC AVENUE, SUITE 4
TACOMA, WASHINGTON 98444-6247
(253)474-3404 / FAX (253)472-7358

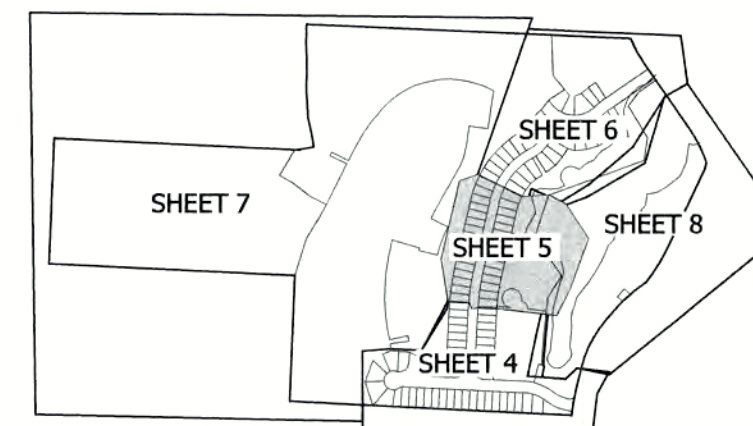
STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON



LEGEND

- ⊙ MONUMENT FOUND AS NOTED
- ⊙ SET KITSAP COUNTY STANDARD ROAD MONUMENT
- CORNER FOUND AS NOTED
- SET REBAR & CAP, SHAW 49290
- E1 10' UTILITY EASEMENT, SEE NOTE 8 ON SHEET 2
- E2 PRIVATE STORM DRAINAGE EASEMENT, SEE NOTES 10 AND 11 ON SHEET 2
- (NR) NON-RADIAL BEARING



SHEET 5 OF 10



2/3/21

LARSON
And Associates
Land Surveyors & Engineers, Inc.

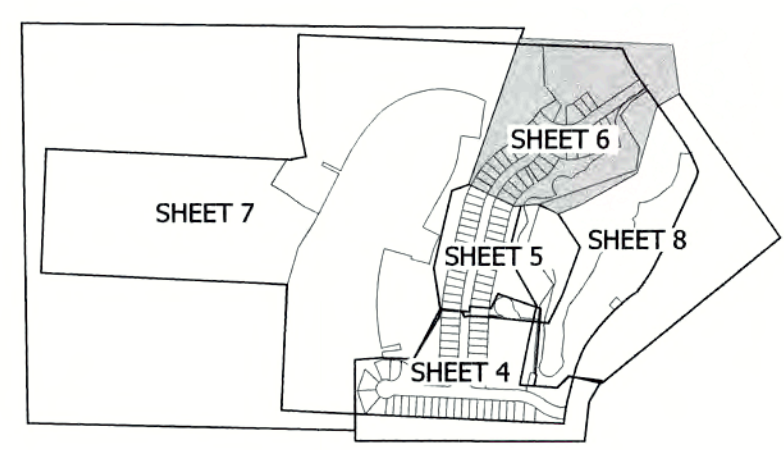
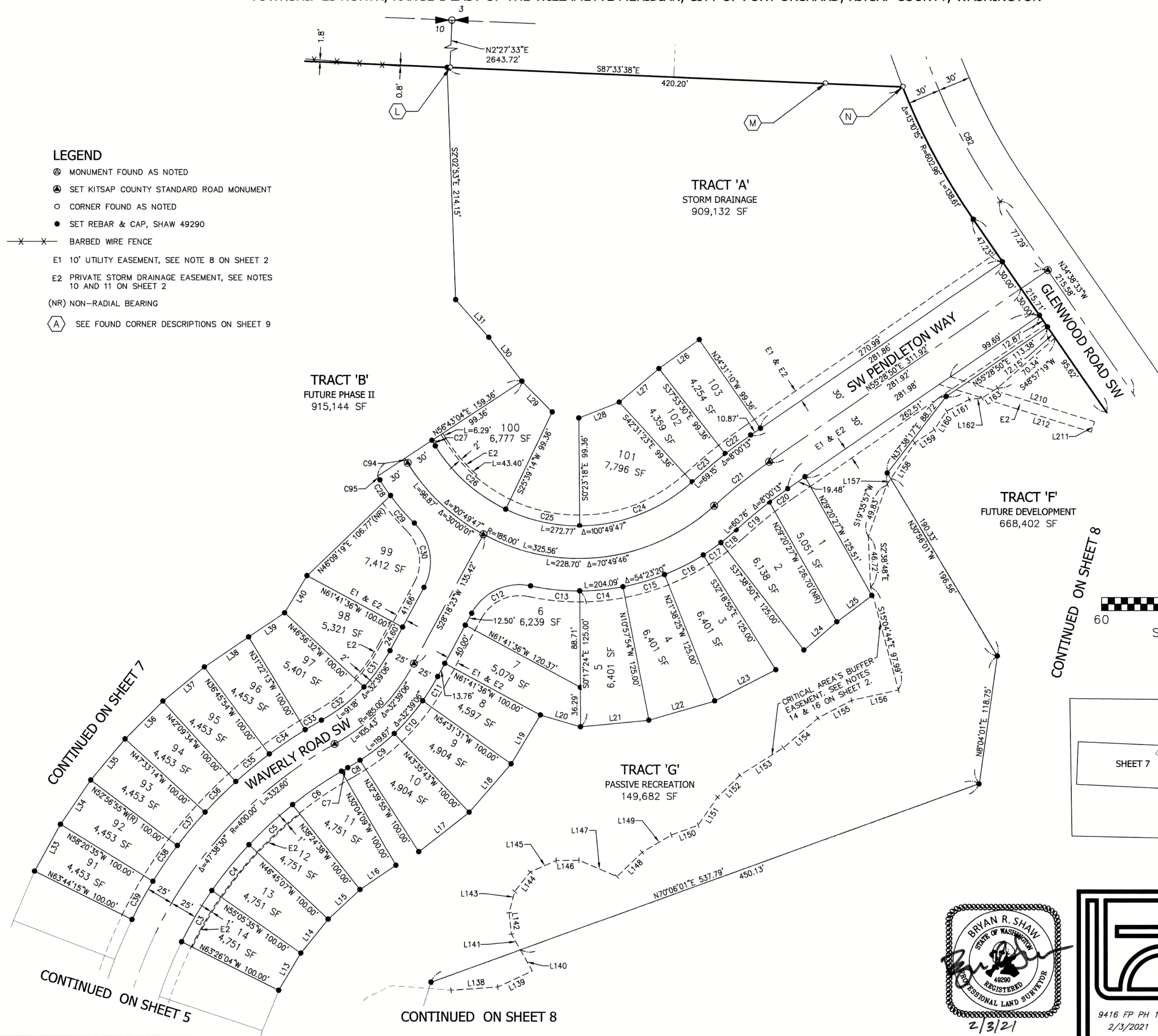
9416 FP PH 1
2/3/2021

9027 PACIFIC AVENUE, SUITE 4
TACOMA, WASHINGTON 98444-6247
(253)474-3404 / FAX (253)472-7358

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON

- LEGEND**
- ⊙ MONUMENT FOUND AS NOTED
 - ⊙ SET KITSAP COUNTY STANDARD ROAD MONUMENT
 - CORNER FOUND AS NOTED
 - SET REBAR & CAP, SHAW 49290
 - x—x—x— BARBED WIRE FENCE
 - E1 10' UTILITY EASEMENT, SEE NOTE 8 ON SHEET 2
 - E2 PRIVATE STORM DRAINAGE EASEMENT, SEE NOTES 10 AND 11 ON SHEET 2
 - (NR) NON-RADIAL BEARING
 - (A) SEE FOUND CORNER DESCRIPTIONS ON SHEET 9



LARSON
And Associates
 Land Surveyors & Engineers, Inc.

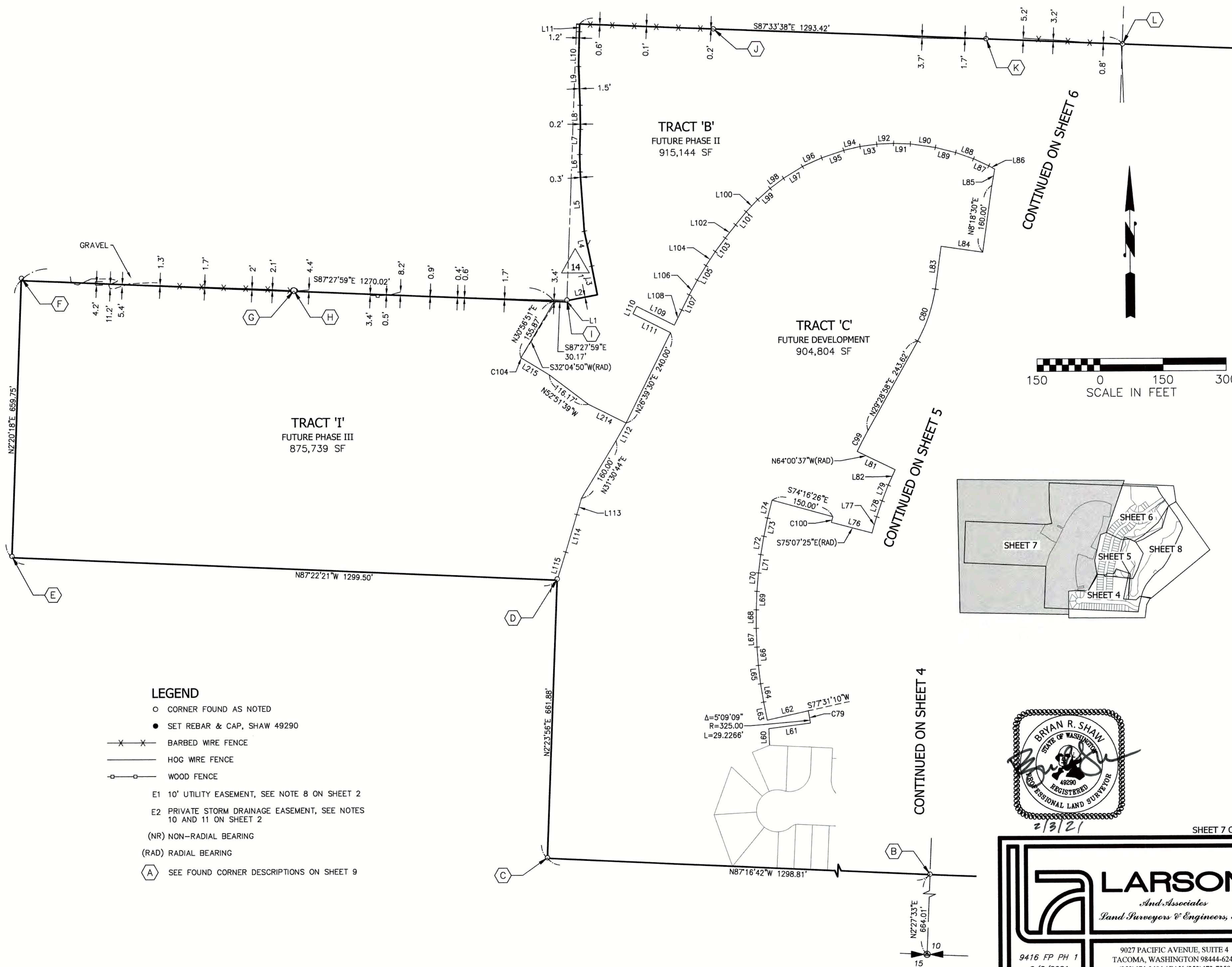
9416 FP PH 1
 2/3/2021

9027 PACIFIC AVENUE, SUITE 4
 TACOMA, WASHINGTON 98444-6247
 (253)474-3404 / FAX (253)472-7358

9416

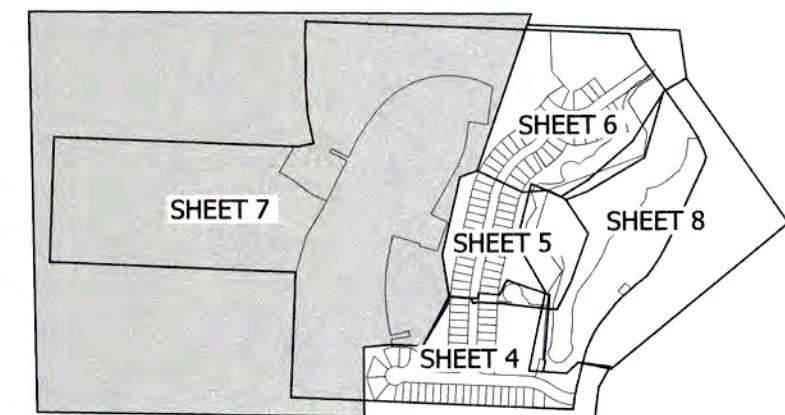
STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON



LEGEND

- CORNER FOUND AS NOTED
- SET REBAR & CAP, SHAW 49290
- x—x— BARBED WIRE FENCE
- — — HOG WIRE FENCE
- o—o— WOOD FENCE
- E1 10' UTILITY EASEMENT, SEE NOTE 8 ON SHEET 2
- E2 PRIVATE STORM DRAINAGE EASEMENT, SEE NOTES 10 AND 11 ON SHEET 2
- (NR) NON-RADIAL BEARING
- (RAD) RADIAL BEARING
- (A) SEE FOUND CORNER DESCRIPTIONS ON SHEET 9



2/3/21

SHEET 7 OF 10

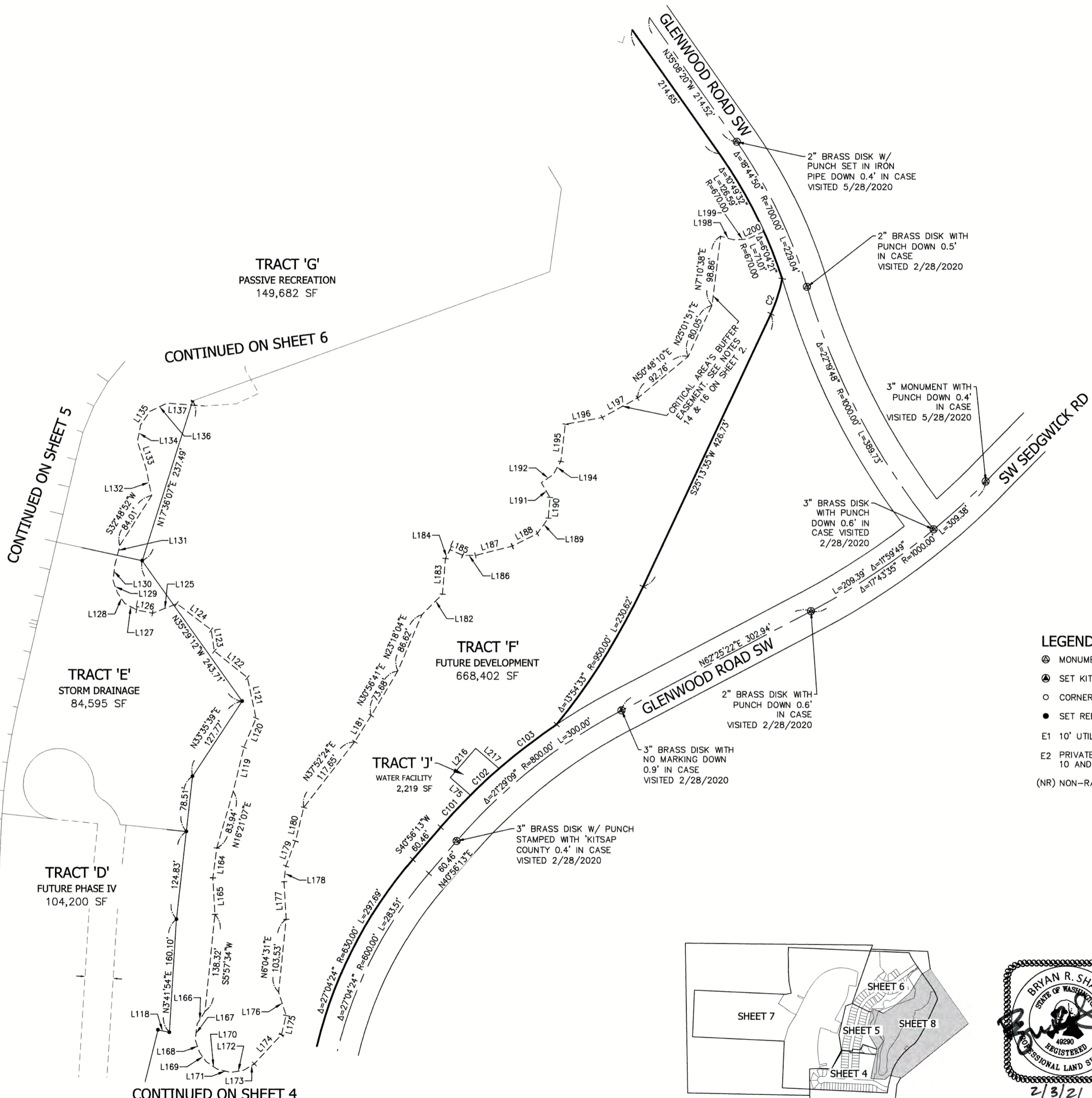
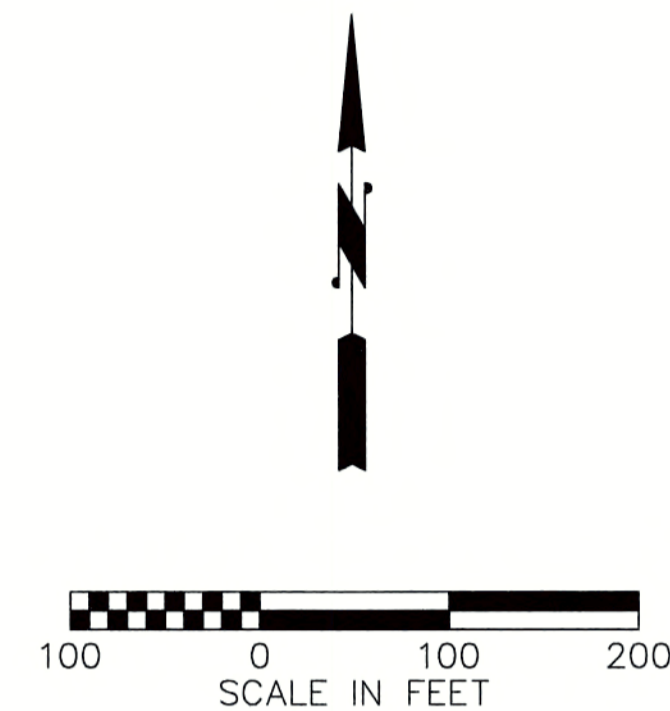
LARSON
And Associates
Land Surveyors & Engineers, Inc.

9416 FP PH 1
2/3/2021

9027 PACIFIC AVENUE, SUITE 4
TACOMA, WASHINGTON 98444-6247
(253)474-3404 / FAX (253)472-7358

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON



TRACT 'G'
PASSIVE RECREATION
149,682 SF

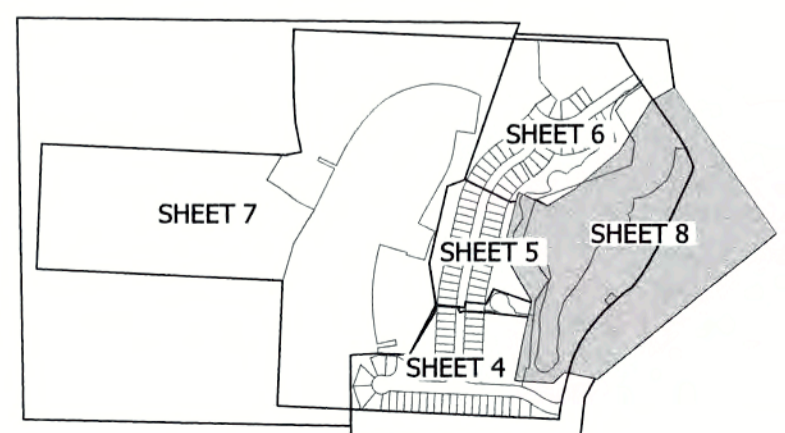
TRACT 'E'
STORM DRAINAGE
84,595 SF

TRACT 'D'
FUTURE PHASE IV
104,200 SF

TRACT 'F'
FUTURE DEVELOPMENT
668,402 SF

TRACT 'J'
WATER FACILITY
2,219 SF

- LEGEND**
- ⊙ MONUMENT FOUND AS NOTED
 - ⊙ SET KITSAP COUNTY STANDARD ROAD MONUMENT
 - CORNER FOUND AS NOTED
 - SET REBAR & CAP, SHAW 49290
 - E1 10' UTILITY EASEMENT, SEE NOTE 8 ON SHEET 2
 - E2 PRIVATE STORM DRAINAGE EASEMENT, SEE NOTES 10 AND 11 ON SHEET 2
 - (NR) NON-RADIAL BEARING



LARSON
And Associates
Land Surveyors & Engineers, Inc.

9416 FP PH 1
2/3/2021

9027 PACIFIC AVENUE, SUITE 4
TACOMA, WASHINGTON 98444-6247
(253)474-3404 / FAX (253)472-7358

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	3.38'	N2°23'56"E
L2	73.22'	N79°25'23"E
L3	69.22'	N10°37'23"W
L4	84.89'	N11°28'29"W
L5	140.98'	N3°37'28"W
L6	41.63'	N1°06'50"W
L7	59.45'	N1°50'14"E
L8	57.30'	N0°13'06"W
L9	92.49'	N1°48'47"W
L10	82.97'	N1°45'24"E
L11	18.55'	N3°25'29"E
L12	60.46'	S40°56'13"W
L13	40.00'	N30°44'12"E
L14	40.00'	N39°04'41"E
L15	40.00'	N47°25'09"E
L16	40.00'	N55°45'38"E
L17	59.05'	S51°52'08"W
L18	59.05'	S40°56'21"W
L19	52.50'	S30°57'05"W
L20	38.60'	N73°51'52"W
L21	63.26'	S84°22'22"W
L22	63.26'	S73°41'52"W
L23	63.26'	S63°01'22"W
L24	40.00'	N49°31'25"E
L25	40.35'	N53°06'12"E
L26	45.84'	S54°11'39"W
L27	48.03'	S49°47'37"W
L28	40.00'	S68°32'41"W
L29	39.75'	S44°39'10"E
L30	50.80'	S37°03'45"E
L31	46.07'	S41°15'43"E
L32	49.41'	N18°10'15"E
L33	49.41'	N28°57'36"E
L34	49.41'	N34°21'16"E
L35	49.41'	N39°44'56"E
L36	49.41'	N45°08'37"E
L37	49.41'	N50°32'17"E
L38	49.41'	N55°55'58"E
L39	39.91'	N56°09'32"E
L40	39.92'	N31°08'43"E
L41	42.46'	N3°11'44"E
L42	43.83'	N5°14'02"E
L43	43.83'	N7°25'37"E
L44	43.83'	N9°37'13"E
L45	43.83'	N11°48'49"E
L46	40.69'	N13°16'46"E
L47	43.79'	N13°52'49"E
L48	49.41'	N18°10'15"E
L49	49.41'	N23°33'55"E
L50	40.00'	N22°23'43"E
L51	39.99'	N14°45'35"E
L52	39.70'	N12°02'48"E
L53	39.98'	N9°29'42"E
L54	40.00'	N6°56'03"E
L55	40.00'	N4°22'24"E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L56	7.48'	N4°22'24"E
L57	44.56'	N68°08'53"E
L58	1.06'	N84°03'49"W
L59	32.52'	N4°22'24"E
L60	40.00'	N82°40'19"E
L61	100.00'	N82°40'19"E
L62	100.00'	S77°31'10"W
L63	44.10'	N11°18'19"W
L64	44.10'	N8°57'17"W
L65	44.10'	N6°36'15"W
L66	44.10'	N4°15'13"W
L67	44.10'	N1°54'11"W
L68	44.10'	N0°26'51"E
L69	44.10'	N2°47'53"E
L70	44.10'	N5°08'55"E
L71	44.10'	N7°29'57"E
L72	44.10'	N9°50'59"E
L73	44.10'	N12°12'01"E
L74	44.10'	N14°33'03"E
L75	37.62'	N49°10'35"W
L76	100.00'	S75°07'25"E
L77	40.00'	N16°15'56"E
L78	40.00'	N19°02'38"E
L79	40.00'	N21°49'20"E
L80	40.00'	N2°45'16"E
L81	100.00'	N64°00'37"W
L82	40.00'	N24°36'02"E
L83	101.93'	N8°18'30"E
L84	100.00'	S81°41'30"E
L85	39.60'	N10°10'57"E
L86	16.19'	N60°30'02"W
L87	40.00'	N65°07'55"W
L88	45.23'	N70°03'50"W
L89	50.00'	N75°34'46"W
L90	59.94'	N81°56'49"W
L91	40.07'	N87°46'27"W
L92	40.00'	S87°22'06"W
L93	40.00'	S82°29'27"W
L94	40.00'	S77°36'48"W
L95	55.35'	S71°20'57"W
L96	50.00'	S66°11'31"W
L97	53.34'	S58°45'56"W
L98	40.00'	S53°22'43"W
L99	40.00'	S48°30'03"W
L100	40.00'	S43°37'23"W
L101	40.00'	S39°06'50"W
L102	39.92'	S38°12'06"W
L103	40.08'	S36°50'03"W
L104	40.00'	S34°11'49"W
L105	40.00'	S31°33'44"W
L106	40.00'	S28°55'40"W
L107	40.00'	S26°49'49"W
L108	40.05'	S26°39'30"W
L109	100.00'	N63°20'30"W
L110	20.00'	S26°39'30"W

LINE TABLE		
LINE #	LENGTH	DIRECTION
L111	100.00'	S63°20'30"E
L112	48.48'	S29°51'00"W
L113	39.98'	S15°56'08"W
L114	92.84'	S16°49'37"W
L115	70.17'	S17°23'21"W
L117	8.44'	N87°10'25"W
L118	16.59'	S78°09'25"E
L119	63.79'	S13°50'43"W
L120	44.71'	S22°39'22"W
L121	58.75'	S11°53'25"E
L122	59.89'	S51°26'44"E
L123	30.18'	S8°25'36"E
L124	61.30'	S52°40'30"E
L125	36.91'	N68°32'10"E
L126	23.07'	S78°51'54"E
L127	18.79'	S60°52'40"E
L128	18.58'	S35°23'17"E
L129	18.93'	S18°56'04"E
L130	21.32'	S7°18'45"W
L131	28.60'	S13°48'17"W
L132	40.21'	S11°42'40"E
L133	39.42'	S18°00'24"E
L134	23.57'	S11°16'12"W
L135	23.81'	S34°32'32"W
L136	26.85'	S64°39'45"W
L137	54.80'	N85°39'45"W
L138	43.17'	S85°50'07"W
L139	35.20'	S65°11'10"W
L140	22.35'	S29°42'20"E
L141	16.53'	S29°42'20"E
L142	19.84'	S6°28'44"E
L143	20.06'	S15°10'56"W
L144	23.03'	S38°32'10"W
L145	26.11'	S66°08'33"W
L146	21.05'	S89°08'35"W
L147	38.06'	N66°48'30"W
L148	32.32'	S48°03'45"W
L149	31.25'	S59°27'18"W
L150	26.44'	S69°35'10"W
L151	31.41'	S34°43'48"W
L152	28.91'	S45°37'49"W
L153	47.41'	S57°38'39"W
L154	41.93'	S49°25'40"W
L155	35.07'	S62°16'11"W
L156	44.21'	S77°34'11"W
L157	7.73'	S33°36'22"W
L158	39.53'	S33°36'22"W
L159	21.90'	S56°23'59"W
L160	20.51'	S33°30'00"W
L161	23.51'	S62°21'50"W
L162	11.75'	S84°31'28"W
L163	17.14'	S56°23'59"W
L164	42.52'	S7°19'27"W
L165	51.43'	S3°04'15"E
L166	20.71'	S32°11'49"W

LINE TABLE		
LINE #	LENGTH	DIRECTION
L167	22.32'	S7°14'07"W
L168	18.55'	S19°11'29"E
L169	16.21'	S35°11'53"E
L170	18.67'	S55°46'27"E
L171	19.44'	S76°41'32"E
L172	18.99'	N81°09'12"E
L173	17.59'	N59°16'26"E
L174	56.00'	N43°13'40"E
L175	27.93'	N14°09'07"E
L176	34.69'	N17°58'04"W
L177	53.39'	N3°17'21"W
L178	22.39'	N7°05'01"E
L179	37.81'	N21°03'52"E
L180	48.90'	N14°06'43"E
L181	43.87'	N32°18'33"E
L182	41.01'	N45°05'26"E
L183	50.56'	N4°54'31"E
L184	14.01'	N27°02'39"E
L185	19.83'	S66°14'42"E
L186	17.85'	N89°48'58"E
L187	53.91'	N76°00'00"E
L188	39.84'	N63°14'21"E
L189	26.62'	N35°42'37"E
L190	29.46'	N4°44'19"E
L191	23.98'	N30°43'29"W
L192	20.12'	N55°26'11"E
L193	114.45'	N13°51'49"E
L194	21.69'	N30°39'24"E
L195	53.26'	N7°07'24"E
L196	53.04'	N79°38'41"E
L197	57.12'	N61°06'01"E
L198	18.81'	S74°03'54"E
L199	19.67'	N86°57'51"E
L200	25.84'	N65°41'13"E
L201	59.78'	S86°39'43"W
L202	71.40'	S44°06'07"W
L203	4.13'	S48°15'45"E
L204	10.00'	S41°44'15"W
L205	18.61'	N48°15'45"W
L206	10.00'	N41°44'15"E
L207	4.47'	S48°15'45"E
L208	72.55'	N44°06'07"E
L209	27.60'	N16°55'13"E
L210	139.03'	S72°38'57"E
L211	10.00'	N17°21'03"E
L212	146.88'	S72°38'57"E
L213	64.65'	N16°55'13"E
L214	100.00'	N63°20'30"W
L215	75.87'	N58°29'10"W
L216	55.00'	N40°49'25"E
L217	43.69'	S49°10'35"E

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	135.83'	930.00'	8°22'05"
C2	53.16'	200.00'	15°13'40"
C3	54.59'	375.00'	8°20'29"
C4	54.59'	375.00'	8°20'29"
C5	54.59'	375.00'	8°20'29"
C6	54.59'	375.00'	8°20'29"
C7	6.72'	375.00'	1°01'38"
C8	13.28'	210.00'	3°37'24"
C9	40.06'	210.00'	10°55'48"
C10	40.06'	210.00'	10°55'48"
C11	26.27'	210.00'	7°10'06"
C12	64.19'	50.00'	73°33'34"
C13	45.61'	215.00'	12°09'21"
C14	40.06'	215.00'	10°40'31"
C15	40.06'	215.00'	10°40'31"
C16	40.06'	215.00'	10°40'31"
C17	20.01'	215.00'	5°19'54"
C18	18.30'	215.00'	4°52'33"
C19	40.02'	435.00'	5°16'18"
C20	20.74'	435.00'	2°43'55"
C21	64.96'	465.00'	8°00'13"
C22	29.13'	495.00'	3°22'20"
C23	40.01'	495.00'	4°37'53"
C24	113.99'	155.00'	42°08'05"
C25	70.45'	155.00'	26°02'32"
C26	88.33'	155.00'	32°39'10"
C27	5.96'	215.00'	1°35'20"
C28	17.20'	215.00'	4°35'06"
C29	33.68'	215.00'	8°58'30"
C30	64.19'	50.00'	73°33'34"
C31	41.19'	160.00'	14°45'05"
C32	49.99'	160.00'	17°54'01"
C33	17.27'	425.00'	2°19'42"
C34	40.01'	425.00'	5°23'40"
C35	40.01'	425.00'	5°23'40"
C36	40.01'	425.00'	5°23'40"
C37	40.01'	425.00'	5°23'40"
C38	40.01'	425.00'	5°23'40"
C39	40.01'	425.00'	5°23'40"
C40	40.01'	425.00'	5°23'40"
C41	40.01'	425.00'	5°23'40"
C42	16.00'	425.00'	2°09'25"
C43	7.40'	1045.00'	0°24'22"
C44	40.00'	1045.00'	2°11'36"
C45	40.00'	1045.00'	2°11'36"
C46	40.00'	1045.00'	2°11'36"
C47	40.00'	1045.00'	2°11'36"
C48	25.69'	1045.00'	1°24'31"
C49	6.33'	995.00'	0°21'52"
C50	44.47'	995.00'	2°33'39"
C51	44.47'	995.00'	2°33'39"
C52	44.45'	995.00'	2°33'34"
C53	44.14'	995.00'	2°32'31"
C54	32.12'	375.00'	4°54'28"
C55	54.59'	375.00'	8°20'29"

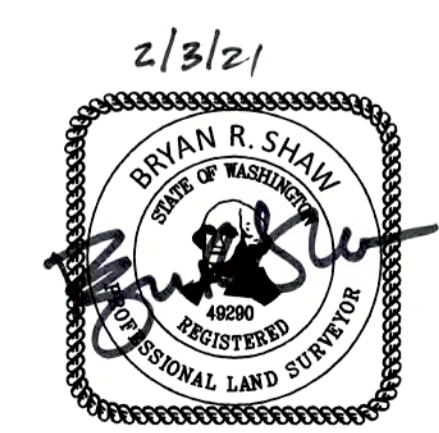
CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C56	26.42'	26.00'	58°13'51"
C57	44.23'	54.00'	46°55'44"
C58	78.54'	50.00'	90°00'00"
C59	78.66'	50.00'	90°08'35"
C60	84.87'	50.00'	97°15'09"
C61	5.99'	50.00'	6°51'36"
C62	34.94'	50.00'	40°02'02"
C63	20.14'	50.00'	23°04'26"
C64	41.15'	50.00'	47°09'23"
C65	41.15'	50.00'	47°09'23"
C66	36.66'	50.00'	42°00'41"
C67	32.86'	50.00'	37°39'25"
C68	12.13'	25.00'	27°48'24"
C69	6.56'	25.00'	15°01'37"
C70	18.69'	25.00'	42°50'00"
C71	50.44'	220.00'	13°08'12"
C72	64.76'	220.00'	16°51'52"
C73	14.97'	220.00'	3°53'59"
C74	135.83'	930.00'	8°22'05"
C75	30.01'	930.00'	1°50'57"
C76	52.53'	930.00'	3°14'12"
C77	37.46'	24.00'	89°25'35"
C78	78.54'	50.00'	90°00'00"
C79	29.23'	325.00'	5°09'09"
C80	131.20'	355.00'	21°10'28"
C82	201.45'	572.96'	20°08'43"
C83	138.61'	602.96'	13°10'15"
C84	389.73'	1000.00'	22°1

STETSON HEIGHTS, A PLAT COMMUNITY, PHASE I

A PORTION OF THE NW 1/4, NE 1/4, & SE 1/4 OF THE SW 1/4 AND OF THE NW 1/4 & SW 1/4 OF THE SE 1/4, ALL IN SECTION 10, TOWNSHIP 23 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CITY OF PORT ORCHARD, KITSAP COUNTY, WASHINGTON

LOT#	ADDRESS	PARCEL NUMBER
1	920 SW PENDLETON WAY	NOT YET ASSIGNED
2	930 " "	NOT YET ASSIGNED
3	940 " "	NOT YET ASSIGNED
4	950 " "	NOT YET ASSIGNED
5	960 " "	NOT YET ASSIGNED
6	5701 WAVERLY RD. SW	NOT YET ASSIGNED
7	5707 " "	NOT YET ASSIGNED
8	5715 " "	NOT YET ASSIGNED
9	5723 " "	NOT YET ASSIGNED
10	5731 " "	NOT YET ASSIGNED
11	5739 " "	NOT YET ASSIGNED
12	5801 " "	NOT YET ASSIGNED
13	5813 " "	NOT YET ASSIGNED
14	5821 " "	NOT YET ASSIGNED
15	5833 " "	NOT YET ASSIGNED
16	5845 " "	NOT YET ASSIGNED
17	5853 " "	NOT YET ASSIGNED
18	5861 " "	NOT YET ASSIGNED
19	5903 " "	NOT YET ASSIGNED
20	5909 " "	NOT YET ASSIGNED
21	5913 " "	NOT YET ASSIGNED
22	5921 " "	NOT YET ASSIGNED
23	5929 " "	NOT YET ASSIGNED
24	5937 " "	NOT YET ASSIGNED
25	5945 " "	NOT YET ASSIGNED
26	5953 " "	NOT YET ASSIGNED
27	5965 " "	NOT YET ASSIGNED
28	6007 " "	NOT YET ASSIGNED
29	6015 " "	NOT YET ASSIGNED
30	6027 " "	NOT YET ASSIGNED
31	6035 " "	NOT YET ASSIGNED
32	6043 " "	NOT YET ASSIGNED
33	6051 " "	NOT YET ASSIGNED
34	6059 " "	NOT YET ASSIGNED
35	6067 " "	NOT YET ASSIGNED
36	6075 " "	NOT YET ASSIGNED
37	6083 " "	NOT YET ASSIGNED
38	1053 SW SEDGE ST.	NOT YET ASSIGNED
39	1000 " "	NOT YET ASSIGNED
40	1008 " "	NOT YET ASSIGNED
41	1016 " "	NOT YET ASSIGNED
42	1024 " "	NOT YET ASSIGNED
43	1032 " "	NOT YET ASSIGNED
44	1040 " "	NOT YET ASSIGNED
45	1048 " "	NOT YET ASSIGNED
46	1056 " "	NOT YET ASSIGNED
47	1064 " "	NOT YET ASSIGNED
48	1072 " "	NOT YET ASSIGNED
49	1080 " "	NOT YET ASSIGNED
50	1102 " "	NOT YET ASSIGNED
51	1110 " "	NOT YET ASSIGNED
52	1118 " "	NOT YET ASSIGNED

LOT#	ADDRESS	PARCEL NUMBER
53	1126 " "	NOT YET ASSIGNED
54	1134 " "	NOT YET ASSIGNED
55	1142 " "	NOT YET ASSIGNED
56	1150 " "	NOT YET ASSIGNED
57	1158 " "	NOT YET ASSIGNED
58	1166 " "	NOT YET ASSIGNED
59	1174 " "	NOT YET ASSIGNED
60	1173 " "	NOT YET ASSIGNED
61	1165 " "	NOT YET ASSIGNED
62	1157 " "	NOT YET ASSIGNED
63	1131 " "	NOT YET ASSIGNED
64	1123 " "	NOT YET ASSIGNED
65	1115 " "	NOT YET ASSIGNED
66	1107 " "	NOT YET ASSIGNED
67	1101 " "	NOT YET ASSIGNED
68	6070 WAVERLY RD. SW	NOT YET ASSIGNED
69	6062 " "	NOT YET ASSIGNED
70	6054 " "	NOT YET ASSIGNED
71	6046 " "	NOT YET ASSIGNED
72	6038 " "	NOT YET ASSIGNED
73	6030 " "	NOT YET ASSIGNED
74	6022 " "	NOT YET ASSIGNED
75	6014 " "	NOT YET ASSIGNED
76	6006 " "	NOT YET ASSIGNED
77	5964 " "	NOT YET ASSIGNED
78	5956 " "	NOT YET ASSIGNED
79	5948 " "	NOT YET ASSIGNED
80	5940 " "	NOT YET ASSIGNED
81	5932 " "	NOT YET ASSIGNED
82	5924 " "	NOT YET ASSIGNED
83	5916 " "	NOT YET ASSIGNED
84	5908 " "	NOT YET ASSIGNED
85	5900 " "	NOT YET ASSIGNED
86	5864 " "	NOT YET ASSIGNED
87	5856 " "	NOT YET ASSIGNED
88	5848 " "	NOT YET ASSIGNED
89	5840 " "	NOT YET ASSIGNED
90	5832 " "	NOT YET ASSIGNED
91	5826 " "	NOT YET ASSIGNED
92	5818 " "	NOT YET ASSIGNED
93	5810 " "	NOT YET ASSIGNED
94	5802 " "	NOT YET ASSIGNED
95	5746 " "	NOT YET ASSIGNED
96	5738 " "	NOT YET ASSIGNED
97	5730 " "	NOT YET ASSIGNED
98	5716 " "	NOT YET ASSIGNED
99	1000 SW PENDLETON WAY	NOT YET ASSIGNED
100	1001 " "	NOT YET ASSIGNED
101	945 " "	NOT YET ASSIGNED
102	935 " "	NOT YET ASSIGNED
103	925 " "	NOT YET ASSIGNED



LARSON
And Associates
Land Surveyors & Engineers, Inc.

9027 PACIFIC AVENUE, SUITE 4
TACOMA, WASHINGTON 98444-6247
(253)474-3404 / FAX (253)472-7358

9416 FP PH 1
2/3/2021



CITY OF PORT ORCHARD

Development Director

216 Prospect Street, Port Orchard, WA 98366

Phone: (360) 874-5533 • Fax: (360) 876-4980

planning@cityofportorchard.us

www.cityofportorchard.us

February 4, 2021

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

Re: Recommendation of Approval of Final Plat for Stetson Heights Phase 1 LU20-PLAT FINAL-02

Dear City Council:

In accordance with RCW 58.17.150(2), I hereby state that I have reviewed the subdivision documents for conformance to applicable land use regulations and to the conditions in the City's Hearing Examiner decision dated September 1, 2016, the conditions of the SEPA MDNS dated June 24, 2016, and the minor plat amendment dated June 13, 2018. The subdivision complies with all terms and conditions of the approved preliminary plat that are within the authority of the Department of Community Development. I therefore recommend approval of the final plat.

Sincerely,

Nicholas Bond

Nicholas Bond, AICP
City Development Director



CITY OF PORT ORCHARD

Public Works Director

216 Prospect Street, Port Orchard, WA 98366

Phone: (360) 876-4991 • Fax: (360) 876-4980

mdorsey@cityofportorchard.us

www.cityofportorchard.us

February 2, 2021

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


Re: Recommendation of Approval of Final Plat for Stetson Heights – Phase I

Dear City Council:

In accordance with RCW 58.17.150(2), I hereby state that I have reviewed the subdivision documents for conformance to applicable land use regulations and to the Conditions and Mitigation Measures within the City of Port Orchard Hearing Examiner's Findings, Conclusions and Decision dated September 1, 2016 and Minor Amendment dated June 13, 2018. The subdivision as presented complies with all terms and conditions of the approved preliminary plat that are within the authority of the Department of Community Development.

I also state that the City of Port Orchard has confirmed that it has sufficient water and sewage disposal service, pursuant to the completion of the required onsite and offsite improvements. Finally, the final plat documents have been reviewed, and I have confirmed that all working drawings and specifications for the improvements have been prepared in conformance with City standards and that all required improvements are either complete and accepted, or that Performance Bonds have been established for all unfinished and/or unaccepted work. I therefore recommend approval of the final plat. If you should have any questions, or need additional information, please feel free to contact me at this office.

Sincerely,



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

MRD;mrd

Cc: Charlotte Archer – City Attorney
Nick Bond – Development Director
File



Fire Chief Jeff Faucett

City Council
City of Port Orchard
216 Prospect Street
Port Orchard WA 98366

January 21,2021

RE: Recommendation of Approval of Final Plat for Stetson Heights Phase 1

Dear City Council:

In accordance with RCW 58.17.150(2), I hereby state that I have reviewed the subdivision documents for conformance to applicable land use regulations and to the conditions in the City of Port Orchard Hearing Examiner decision and conditions. The subdivision complies with all terms and conditions of the approved preliminary plat that are within the authority of South Kitsap Fire and Rescue. I therefore recommend approval of the final plat.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bradley Wiggins - 328".

Bradley Wiggins
Deputy Fire Marshal
South Kitsap Fire and Rescue

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

(Note: City must receive the two years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216755
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
Off-site Improvements – OI 3, Water Booster Pump Station associated with Tax
Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and
Project Location: 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of One Million, Three Hundred and Forty One Thousand, and Four Hundred and Sixty Seven Dollars and No Cents (\$1,341,467.00), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owner Stetson Heights, LLC, has applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the design and construction of the Water Booster Pump Station, and associated work, as set out on Exhibit A hereto and incorporated herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2023, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a two (2) year Maintenance Bond, not to exceed the sum of Two Hundred and Sixty Eight Thousand, Two Hundred and Ninety Three Dollars and Forty Cents (\$268,293.40), 20% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY

(Signature must be notarized)

By: Holli Albers

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL

(Signature must be notarized)

By: Scott Morse

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature

print name

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

signature

Amanda G. Sampson
print name

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C Swanson
signature
Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No. 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

OI 3

COST ESTIMATE STATUS: WATER BOOSTER PUMP STATION
PROJECT: STETSON HEIGHTS OFFSITE IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	WATER BOOSTER PUMP				
	A. BUILDING*	1	LS	\$86,021.51	\$86,021.51
	B. CONCRETE PAD	1	LS	\$50,000.00	\$50,000.00
	C. GENERATOR & APPURTENANCES*	1	LS	\$256,758.06	\$256,758.06
	D. PUMPS & APPURTENANCES*	1	LS	\$338,878.82	\$338,878.82
	E. HARMONICS MITIGATION KIT*	1	LS	\$22,652.94	\$22,652.94
	F. PAD CLEAR & GRUB	1	LS	\$7,500.00	\$7,500.00
	G. PAD GRADING	11500	CY	\$10.00	\$115,000.00
	H. TESC & STABILIZATION	1	LS	\$2,500.00	\$2,500.00
	I. SURVEY & ENGINEERING SUPPORT	1	LS	\$10,000.00	\$10,000.00
	J. MOBILIZATION	1	LS	\$5,000.00	\$5,000.00
			TOTAL		\$894,311.33
	BOND AMOUNT @ 150%				\$1,341,467.00

*COST ESTIMATE FROM ACI

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS
FOR
ENVIRONMENTAL MITIGATION AND MONITORING**

(Note: City must receive the three years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216751
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
E1 – Environmental Bond, for Work Associated with Tax Parcel Nos. 102301-4-
Project Location: 062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Three Hundred Seventeen Thousand One Hundred and Fifteen Dollars (\$317,115.00), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-Plat Final-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal including the mitigation and monitoring for Wetlands "A" and "B" set out on **Exhibit A** hereto and adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2022, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a three (3) year Maintenance Bond, not to exceed the sum of Three Hundred Seventeen Thousand One Hundred and Fifteen Dollars (\$317,115.00), 150% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
 - D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
 - E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
 - F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY

(Signature must be notarized)

By: 

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL

(Signature must be notarized)

By: 

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature _____

print name _____

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

signature [Handwritten Signature]

print name Amanda G. Sampson

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 2, 2021

Karen C. Swanson
signature

Karen C. Swanson, Notary Public
print name



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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No. 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the 'Companies'), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrell, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn, Assistant Secretary

EXHIBIT A

E1

**COST ESTIMATE STATUS: PH. 1 ENVIRONMENTAL
PROJECT: STETSON HEIGHTS PH. 1 ONSITE IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.**

DATE: 1/26/2021

ITEM NO.	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	PH. 1 WETLAND "A", STREAM & BUFFER SEDIMENTATION MITIGATION PLAN*				
	A. PLANT STOCK	1	LS	\$3,500.00	\$3,500.00
	B. WELL MONITORING	1	LS	\$3,000.00	\$3,000.00
	C. WEED REMOVAL	1	LS	\$3,200.00	\$3,200.00
	D. PLANTING CREW	1	LS	\$2,000.00	\$2,000.00
	E. MONITORING & REPORTS	1	LS	\$5,000.00	\$5,000.00
	F. CONTINGENCY	1	LS	\$4,500.00	\$4,500.00
	G. MOBILIZATION	1	LS	\$2,500.00	\$2,500.00
				TOTAL	\$23,700.00
2	BUFFER SPLIT RAIL FENCING**	4,226	LS	\$10.00	\$42,260.00
3	ENGINEERING & SURVEY SUPPORT	1	LS	\$5,000.00	\$5,000.00
4	SEDIMENT REMOVAL & MITIGATION***	1	LS	\$50,000.00	\$50,000.00
5	WETLAND "B" MITIGATION*				
	A. PLAN PREPARATION/REVIEW RESPONSE & SITE VISIT WITH CITY	1	LS	\$14,250.00	\$14,250.00
	B. REMOVAL OF SEDIMENT AND INVASIVE PLANTS. (INCLUDES LABOR, MONITORING, AND CONTINGENCIES)	1	LS	\$19,700.00	\$19,700.00
				TOTAL	\$33,950.00
6	TEMPORARY WETLAND BUFFER** IRRIGATION	30	ZONE	\$1,800.00	\$54,000.00
7	MOBILIZATION	1	LS	\$2,500.00	\$2,500.00
TOTAL CONSTRUCTION COSTS					\$211,410.00
BOND AMOUNT @ 150%					\$317,115.00

*COST ESTIMATE FROM EVIROVECTOR
**COST ESTIMATE FROM NATURE BY DESIGN
***REQUIREMENT TO REMOVE SEDIMENT MAY
BE ALTERED WITH ALTERNATIVE MITIGATION

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

(Note: City must receive the two years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216756
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
Off-site Improvements – OI 4, Albertsons Sanitary Sewer Lift Station, to be located
Project Location: on Tax Parcel Nos. 102301-4-047-2003

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Two Hundred and Sixty Seven Thousand, and Seven Hundred and Fifty Dollars and No Cents (\$267,750.00), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owner Stetson Heights, LLC, has applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-047-2003; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include improvements to the Albertsons Sanitary Sewer Lift Station, and associated work, as set out on **Exhibit A** hereto and incorporated herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2023, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, materialmen and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a two (2) year Maintenance Bond, not to exceed the sum of Fifty Three Thousand, Five Hundred and Fifty Three Dollars and No Cents (\$53,550.00), 20% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY
(Signature must be notarized)

By: Holli Albers

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL
(Signature must be notarized)

By: Scott Morse

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature

print name

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the vice president of Active Construction, Inc that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Amanda G Sampson
signature

Amanda G. Sampson
print name

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson

signature

Karen C. Swanson, Notary Public

print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

OI 4

COST ESTIMATE STATUS: ALBERTSONS SANITARY SEWER LIFT STATION
PROJECT: STETSON HEIGHTS OFFSITE IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

ITEM NO.	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	ALBERTSONS SANITARY SEWER LIFT STATION				
	A. VAUGHN CHOPPER PUMP	1	LS	\$25,000.00	\$25,000.00
	B. TELEMETRY ASSEMBLY*	1	LS	\$151,000.00	\$151,000.00
	C. MOBILIZATION	1	LS	\$2,500.00	\$2,500.00
				TOTAL	\$178,500.00
	BOND AMOUNT @ 150%				\$267,750.00

*COST ESTIMATE FROM TSI

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

(Note: City must receive the two and three years Maintenance/Warranty Bonds, prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216753
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
Off-site Improvements – OI 1, Associated with Tax Parcel Nos. 102301-4-062-
Project Location: 2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Eighty-eight Thousand and Two Hundred and Fifteen Dollars and Seventy-Five Cents (\$88,215.75), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners, Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A Portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the construction and landscaping work set out on Exhibit A hereto, which is adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2023, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, materialmen and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City.
7. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with the following: (1) for the concrete sidewalk, and curb & gutter work, a two (2) year Maintenance Bond, not to exceed the sum of Seven Thousand and Three Hundred and Fifty Dollars and No Cents (\$7,350.00), 20% of the contract amount for these items; and (2) for the landscape strip, street trees, and installation thereof, a three (3) year Maintenance Bond, not to exceed the sum of Twenty Seven Thousand, Five Hundred and Seventy Five Dollars and No Cents (\$27,575.00), 125% of the contract amount for these items. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or

itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY
(Signature must be notarized)

By: *Holli Albers*

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL
(Signature must be notarized)

By: *Scott Morse*

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature _____

print name _____

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 2, 2021

Amanda G. Sampson
signature

Amanda G. Sampson
print name

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



My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson
signature
Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the 'Companies'), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

OI 1

COST ESTIMATE STATUS: OFFSITE COUNTY BOND AMOUNT
PROJECT: STETSON HEIGHTS OFFSITE IMPROVEMENTS
LOCATION: KITSAP COUNTY
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

ITEM NO.	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	CONCRETE SIDEWALK*	750	LF	\$33.00	\$24,750.00
2	CURB & GUTTER*	750	LF	\$16.00	\$12,000.00
3	LANDSCAPE STRIP	332	SY	\$30.00	\$9,960.00
4	TREES - 2.5" STREET TREES**	26	EA	\$425.00	\$11,050.00
5	INSTALLATION OF LANDSCAPE & TREES @ 5%**	1	0.05 X \$21,010		\$1,050.50
TOTAL CONSTRUCTION COSTS					\$58,810.50
BOND AMOUNT @ 150%					\$88,215.75

*COST ESTIMATE FROM ACI

**COST ESTIMATE FROM NATURE BY DESIGN

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

(Note: City must receive the two years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216754
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
Off-site Improvements – OI 2, Associated with Tax Parcel Nos. 102301-4-062-
Project Location: 2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Seven Hundred and Seventy Seven Thousand and Eight Hundred and Forty Dollars and Fifty Cents (\$772,840.50), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners, Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the work set out on Exhibit A hereto, which is adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2023 unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a two (2) year Maintenance Bond, not to exceed the sum of One Hundred and Fifty Four Thousand, Five Hundred and Sixty Eight Dollars and Ten Cents (\$154,568.10), 20% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY
(Signature must be notarized)

By: 

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL
(Signature must be notarized)

By: 

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature

print name

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

signature

Amanda G. Sampson
print name

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson
signature

Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

OI 2

COST ESTIMATE STATUS: OFFSITE CITY BOND AMOUNT
PROJECT: STETSON HEIGHTS OFFSITE IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	ASPHALT PATHWAY*	1929	LF	\$33.00	\$63,657.00
2	GRAVEL ACCESS ROADS	155	CY	\$30.00	\$4,650.00
3	MANHOLE BASE COATING*	26	EA	\$2,500.00	\$65,000.00
4	GUARDRAIL ALONG SEDGEWICK*	1	LS	\$36,300.00	\$36,300.00
5	OFFSITE WATER TEMP. AC PATCH*	1	LS	\$65,000.00	\$65,000.00
6	SHOULDER REPAIR	1	LS	\$50,000.00	\$50,000.00
7	REPLACE/REPAIR S.S. TRENCH MATERIAL*	580	LF	\$125.00	\$72,500.00
8	RUBY CREEK CULVERT REPLACEMENT*	1	LS	\$28,120.00	\$28,120.00
9	CHICANE*	1	LS	\$66,000.00	\$66,000.00
10	LITTLE GLENWOOD RD. IMPROVEMENT*	1	LS	\$64,000.00	\$64,000.00
TOTAL CONSTRUCTION COSTS					\$515,227.00
BOND AMOUNT @ 150%					\$772,840.50

*COST ESTIMATE FROM ACI

CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS

(Note: City must receive the three years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216757
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
Off-site Improvements – OI 5, Wetland Buffer Mitigation for Sewer Line,
Associated with Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004,
Project Location: 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Seventy Three Thousand, and Six Hundred and Forty Two Dollars and Fifty Cents (\$73,642.50), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owner, Stetson Heights, LLC, has applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase I located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include wetland buffer mitigation for sewer line and associated engineering, mitigation, monitoring and work, as set out on **Exhibit A** hereto and incorporated herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2023, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a three (3) year Maintenance Bond, not to exceed the sum of Seventy Three Thousand, and Six Hundred and Forty Two Dollars and Fifty Cents (\$73,642.50), 150% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY
(Signature must be notarized)
By: [Signature]
Its Attorney-in-Fact
Print Name: Holli Albers
Business Name: Liberty Mutual Insurance Company
Business Address: 1001 4th Avenue, Suite 3700
City/State/Zip Code: Seattle, WA 98154
Telephone Number: 206-473-3788

PRINCIPAL
(Signature must be notarized)
By: [Signature]
Its Vice President
Print Name: Scott Morse
Business Name: Active Construction, Inc.
Business Address: P. O. Box 430
City/State/Zip Code: Puyallup, WA 98371
Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____
BY: _____
PRINTED NAME: MARK DORSEY, P.E.
ITS: CITY ENGINEER
BUSINESS NAME: CITY OF PORT ORCHARD
ADDRESS: 216 PROSPECT STREET
CITY/STATE/ZIP: PORT ORCHARD, WA 98366
PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature _____

print name _____

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

signature [Handwritten Signature]

print name Amanda G. Sampson

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson
signature

Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the Companies), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Hollie Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: [Signature of David M. Carey]

David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: [Signature of Teresa Pastella]
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: [Signature of Renee C. Llewellyn]

Renee C. Llewellyn, Assistant Secretary

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

015

COST ESTIMATE STATUS: WETLAND BUFFER MITIGATION S.S. EASEMENT AREA
PROJECT: STETSON HEIGHTS OFFSITE IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	WETLAND BUFFER MITIGATION FOR SEWER LINE*				
	A. PLANT STOCK	1	LS	\$11,595.00	\$11,595.00
	B. CONSTRUCTION CREW	1	LS	\$5,000.00	\$5,000.00
	C. MONITORING	1	LS	\$5,000.00	\$5,000.00
	D. CONTINGENCY	1	LS	\$1,000.00	\$1,000.00
	E. MOBILIZATION	1	LS	\$2,500.00	\$2,500.00
				TOTAL	\$25,095.00
2	TEMP. IRRIGATION FOR WETLAND BUFFER MITIGATION	5	ZONE	\$1,800.00	\$9,000.00
3	ENGINEERING & SURVEY SUPPORT	1	LS	\$15,000.00	\$15,000.00
	TOTAL CONSTRUCTION COSTS				\$49,095.00
	BOND AMOUNT @ 150%				\$73,642.50

*COST ESTIMATE FROM EVIROVECTOR

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216750
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
On-site Improvements – C1, associated with Tax Parcel Nos. 102301-4-062-2003,
Project Location: 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Fifty Two Thousand, Five Hundred Dollars and No Cents (\$52,500), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners, Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the work associated with Pond 3, set out on Exhibit A hereto, which is adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2022, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.

- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY

(Signature must be notarized)

By: *Holli Albers*

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL

(Signature must be notarized)

By: *Scott Morse*

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature _____

print name _____

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 2, 2021

signature [Signature]

print name Amanda G. Sampson

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



My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson
signature

Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the 'Companies'), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, A liceon A. Keltner, Alyssa J. Lopez, Amelia G. Burmill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

C1

COST ESTIMATE STATUS: PUBLIC WORKS CONTINGENCY
PROJECT: STETSON HEIGHTS PH. 1 IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

ITEM NO.	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
	ON-SITE POND 3				
1	RELOCATE OUTFALL	1	LS	\$35,000.00	\$35,000.00
	TOTAL CONSTRUCTION COSTS				\$35,000.00
	BOND AMOUNT @ 150%				\$52,500.00

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

(Note: City must receive the two years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216752
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
On-site Improvements – L1, associated with Tax Parcel Nos. 102301-4-062-2003,
Project Location: 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Three Hundred Sixty Nine Thousand, Nine Hundred and Forty Nine Dollars and Twenty Three Cents (\$369,949.23), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners, Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the landscaping work set out on Exhibit A hereto, which is adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2022, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a two (2) year Maintenance Bond, not to exceed the sum of Three Hundred and Eight Thousand, Two Hundred and Ninety One Dollars and Three Cents (\$308,291.03), 125% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY

(Signature must be notarized)

By: 

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL

(Signature must be notarized)

By: 

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK
(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature

print name

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK
(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

[Signature]
signature

Amanda G. Sampson
print name

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson
signature

Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the 'Companies'), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, A liceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

INTESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn, Assistant Secretary

EXHIBIT A

L1

COST ESTIMATE STATUS: PH. 1 ONSITE LANDSCAPING
PROJECT: STETSON HEIGHTS PH. 1 ONSITE IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT MEAS.	UNIT PRICE	TOTAL COST
1	PLANTER TOPSOIL(TREE PITS AND 347987 SF OPEN SPACE HYDRO SEED AREAS 2" DEPTH)*	2,147	CY	\$50.00	\$107,350.00
2	MULCH CEDAR GROVE - (3" THICK) TREE PITS*	15	CY	\$50.00	\$750.00
3	PLANT MATERIAL - TREES - 2.5" STREET TREES PH 1 (INC 3 ARTERIAL TREES)*	70	EA	\$425.00	\$29,750.00
4	PLANT MATERIAL - TREES - 1.5" STREET TREES PH 1*	68	EA	\$300.00	\$20,400.00
5	PLANT MATERIAL - TREES - SEEDLINGS (ACM, PIC, ARB, PSM)*	28	EA	\$50.00	\$1,400.00
6	SITE FURNITURE - PICNIC TABLE AND 16 DIS. HOG FEUL AREA*	1	EA	\$4,000.00	\$4,000.00
7	SOFT TRAILS - HOG FUEL PATHWAY (3,659LF X 5'WIDE)*	9,220	SF	\$1.00	\$9,220.00
8	HYDROSEED LAWN*	347,987	SF	\$0.05	\$17,399.35
9	INVASIVE SPECIES REMOVAL*	1	LS	\$22,000.00	\$22,000.00
10	INVASIVE SPECIES REMOVAL (ANNUAL MAINTENANCE FOR 2-YEARS POST CONSTRUCTION)*	2	ANNUAL	\$7,500.00	\$15,000.00
11	EQUIPMENT, MATERIALS & INSTALLATION COST: OH (5%)*	5% OF ITEMS ABOVE			\$11,363.47
12	ENGINEERING & SURVEY SUPPORT	1	LS	\$5,000.00	\$5,000.00
13	MOBILIZATION	1	LS	\$3,000.00	\$3,000.00
TOTAL CONSTRUCTION COSTS					\$246,632.82
BOND AMOUNT @ 150%					\$369,949.23

*COST ESTIMATE FROM NATURE BY DESIGN

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

(Note: City must receive the two years Maintenance/Warranty Bond prior to releasing Performance Bond)

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216758
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
On-site Improvements – P1, associated with Tax Parcel Nos. 102301-4-062-2003,
Project Location: 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of One Million, One Hundred Fifty Eight Thousand, Nine Hundred and Seventy Six Dollars and Fifty Cents (\$1,158,976.50), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners, Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the work set out on Exhibit A hereto, which is adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2022, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City. Once the work has been completed and accepted by the City, and all other conditions of this Bond have been satisfied, this Performance bond will be released and replaced with a two (2) year Maintenance Bond, not to exceed the sum of One Hundred Fifty Four Thousand, Five Hundred and Thirty Dollars and Twenty Cents (\$154,530.20), 20% of the total contract amount. This hold harmless and indemnification agreement shall survive the expiration of this Bond.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021.

SURETY COMPANY
(Signature must be notarized)

By: *Holli Albers*

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL
(Signature must be notarized)

By: *Scott Morse*

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature _____

print name _____

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction, Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

signature _____

print name Amanda G. Sampson

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

My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C Swanson
signature
Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the Companies), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

P1

COST ESTIMATE STATUS: PUBLIC WORKS COMPLETION - GENERAL
PROJECT: STETSON HEIGHTS PH. 1 IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/21/2021

ITEM NO.	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	FINAL ASPHALT 2" OVERLAY*	2000	CY	\$85.00	\$170,000.00
2	STREET SIGNAGE	12	EA	\$1,000.00	\$12,000.00
3	PAVEMENT STRIPING	1	LS	\$15,000.00	\$15,000.00
4	WET POND PLANTINGS	4854	EA	\$6.50	\$31,551.00
5	MOBILIZATION	1	LS	\$5,000.00	\$5,000.00
6	NO PARKING/FIRE LANE SIGNS	90	EA	\$250.00	\$22,500.00
7	ONGONING MAINTENANCE OF EROSION CONTROL	1	LS	\$20,000.00	\$20,000.00
8	ENGINEERING & SURVEY SUPPORT	1	LS	\$7,500.00	\$7,500.00
9	BUS STOP	1	LS	\$300.00	\$300.00
10	STORMWATER TREATMENT FOR PONDS 1 & 4 (\$10,000 PER MONTH PER POND, 2 PONDS)	24	MTH	\$20,000.00	\$480,000.00
11	REPLACE BASE OF CONTROL STRUCTURE IN POND 4	1	LS	\$8,800.00	\$8,800.00
TOTAL CONSTRUCTION COSTS					\$772,651.00
BOND AMOUNT @ 150%					\$1,158,976.50

*COST ESTIMATE FROM ACI

**CITY OF PORT ORCHARD
PERFORMANCE BOND FOR PRIVATE SECTOR PROJECTS**

PROJECT or PERMIT # _____
CONTRACT # _____
SURETY BOND #: 023216780
DATE ACCEPTED: _____
PROJECT COMPLETION DATE: _____

RE: Project Name: Stetson Heights, Phase 1
Owner/Developer/Contractor: Active Construction Inc. (ACI)
On-site Improvements – S1, survey work associated with Tax Parcel Nos. 102301-
Project Location: 4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002

KNOW ALL PERSONS BY THESE PRESENTS: That we, Active Construction, Inc. (hereinafter called the "Principal"), and Liberty Mutual Insurance Company a corporation organized under the laws of the State of Massachusetts, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of Twenty Eight Thousand, Five Hundred Dollars and No Cents (\$28,500), 150% of the total construction amount for the items listed below for Private Developers, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal, in conjunction with the Owners, Stetson Heights, LLC, have applied for, or received, approval by the City of a Final Plat, pursuant to City File No. LU20-PLAT FINAL-02, for a project known as Stetson Heights, Phase 1 located at A portion of the NW ¼, NW ¼ & SE ¼ of the SW ¼ and of the NW ¼ & SW ¼ of the SE ¼, all in Section 10, Township 23 North, Range 1 East of the Willamette Meridian, City of Port Orchard, Kitsap County, Washington, Kitsap County Tax Parcel Nos. 102301-4-062-2003, 102301-3-022-2004, 102301-3-023-2003, and 102301-3-024-2002; and

WHEREAS, as a condition of such approval by the City, Principal is required to complete the following work and install certain improvements described herein; and

WHEREAS, the City's approval requires that these certain improvements be made as part of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications as required by the City; and

WHEREAS, the City's approval requires that the improvements are to be made or constructed by the date set out herein, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Port Orchard, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include the survey work set out on Exhibit A hereto, which is adopted herein by this reference.
2. The Principal must obtain all necessary access rights/permits, and construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced project. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.
3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file by October 1, 2022, unless an extension is granted by the City.
4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, material-men and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claim for such payment.
5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in Section A(3) above.
6. The Principal shall indemnify and hold harmless the City of Port Orchard, its officers, officials and agents from any claims relating to defect(s) in any of the workmanship entering into any part of the work or designated equipment covered by this Bond between the Principal and the City.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City's actual costs and the Bond limit applicable thereto shall be based on the total amount of the Bond and shall not be limited by the unit price or itemized costs shown on Exhibit A hereto. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.

- C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this Bond as described in Section B above.
- D. Extensions and Changes. No change, extension of time, alteration or addition to the terms of the contract or to the work to be performed by the Principal or the specifications accompanying the same shall in any way affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder. The Surety hereby agrees that modifications and changes may be made in the terms and provisions of the aforesaid contract without notice to Surety and any such modifications or changes increasing the total amount to be paid the Principal shall automatically increase the obligation on this Performance Bond in a like amount.
- E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Kitsap County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a Maintenance Bond as described in Section A(6) of this Bond has been submitted to the City, in a form suitable to the City and until released in writing by the City.

DATED this 2nd day of February, 2021

SURETY COMPANY

(Signature must be notarized)

By: Holli Albers

Its Attorney-in-Fact

Print Name: Holli Albers

Business Name: Liberty Mutual Insurance Company

Business Address: 1001 4th Avenue, Suite 3700

City/State/Zip Code: Seattle, WA 98154

Telephone Number: 206-473-3788

PRINCIPAL

(Signature must be notarized)

By: Scott Morse

Its Vice President

Print Name: Scott Morse

Business Name: Active Construction, Inc.

Business Address: P. O. Box 430

City/State/Zip Code: Puyallup, WA 98371

Telephone Number: 253-248-1091

CITY OF PORT ORCHARD

ACCEPTED DATE: _____

BY: _____

PRINTED NAME: MARK DORSEY, P.E.

ITS: CITY ENGINEER

BUSINESS NAME: CITY OF PORT ORCHARD

ADDRESS: 216 PROSPECT STREET

CITY/STATE/ZIP: PORT ORCHARD, WA 98366

PHONE NUMBER: 360-876-4991

FORM P-1 NOTARY BLOCK

(Use for Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

signature _____

print name _____

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

My Commission expires: _____

FORM P-2 NOTARY BLOCK

(Use for Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Scott Morse is the person who appeared before me, and said person acknowledged as the Vice President of Active Construction Inc. that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 2, 2021

signature _____

Amanda G. Sampson
print name

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



My Commission expires: _____

FORM P-3 NOTARY BLOCK

(Use for Surety Company Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Holli Albers is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Liberty Mutual Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.



Dated: February 2, 2021

Karen C. Swanson
signature
Karen C. Swanson, Notary Public
print name

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

My Commission expires: 11/20/2021



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8204061 - 023049

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the Companies), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aliceon A. Keltner, Alyssa J. Lopez, Amelia G. Burrill, Annelies M. Richie, Brandon K. Bush, Brent E. Heilesen, Carley Espiritu, Christopher Kinyon, Cynthia L. Jay, Diane M. Harding, Edward Sims, Eric A. Zimmerman, Erica E. Mosley, Heather L. Allen, Holli Albers, Jacob T. Haddock, James B. Binder, Jamie L. Marques, Katharine J. Snider, Kyle Joseph Howat, Terrie Conard

all of the city of Tacoma state of WA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of July, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 28th day of July, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 2nd day of February, 2021.



By: Renee C. Llewellyn, Assistant Secretary

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

EXHIBIT A

S1

COST ESTIMATE STATUS: SURVEY BOND AMOUNT
PROJECT: STETSON HEIGHTS PH. 1 IMPROVEMENTS
LOCATION: CITY OF PORT ORCHARD
ENGINEER: GRANT J. MIDDLETON, P.E.
DATE: 1/19/2021

ITEM NO.	<u>DESCRIPTION</u>	<u>EST. QTY.</u>	<u>UNIT MEAS.</u>	<u>UNIT PRICE</u>	<u>TOTAL COST</u>
1	PHASE 1 PLAT MONUMENTATION	1	LS	\$17,000.00	\$17,000.00
2	STAMP MONUMENTS	1	LS	\$2,000.00	\$2,000.00
TOTAL CONSTRUCTION COSTS					\$19,000.00
BOND AMOUNT @ 150%					\$28,500.00

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
SETTING POLICY FOR DONATIONS OF PUBLIC SPACE ACCESSORIES.**

WHEREAS, the City has received requests from citizens wanting to donate accessories, including benches, bike racks and similar items, for installation in public spaces; and

WHEREAS, the City Council desires to create a policy to standardize these types of donations, and a procedure for receiving donations for city public space accessories; now, therefore,

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

THAT: The Donation Policy for Public Spaces Accessories attached hereto as Exhibit A are hereby approved and adopted as the City's official donation policy for public spaces accessories.

THAT: This 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 this 9th day of February 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



CITY OF PORT ORCHARD DONATION POLICY FOR PUBLIC SPACES ACCESSORIES

The purpose of this policy is to establish guidelines, standards and procedures for the installation and care of donated public improvements for installation in the City's parks and other public spaces, either as a result of a cash or physical property donation. These donations may include, but are not limited to, benches, bicycle racks, picnic tables, drinking fountains, and other types of public space accessories. This policy does not apply to buildings, land, or naming rights. This policy does not apply to other forms of donations to the City not expressly set out in this policy. The City desires to encourage donations of accessories for the City's public spaces, while at the same time, manage aesthetic impacts and mitigate on-going maintenance costs.

The City strongly encourages donations that improve the public space ability to meet the varied recreational, social, wellness, and educational needs of users.

Guidelines established by this policy will apply to all donations of public space accessories made after the effective date of this policy. Donations of public space accessories made prior to the adoption of this policy shall be subject to applicable sections of this policy.

STANDARDS FOR DONATIONS

DEFINITIONS OF NEW DONATIONS: New donations are those made after the adoption date of this policy.

ACQUISITION OR PURCHASE: The City and the community have an interest in ensuring that public space elements that are purchased and installed be of high quality related to style, appearance, durability, and ease of maintenance. City staff will be responsible for coordinating purchases and installations of all public space elements unless a **mutual agreement for alternative coordination has been reached with the donor.**

APPEARANCE AND AESTHETICS: The City and the community have an interest in ensuring the best appearance and aesthetic quality of their public facilities. Public space elements should reflect the character of the space or facility. City staff shall review all proposed

donations against the City's public works standards and the standards set out in this policy prior to submitting the donation for approval by the Public Works Director or City Council (where applicable). All public space elements will be installed by City staff in such a manner that will not substantially change the character of a facility or its intended use.

MAINTENANCE: Donated public space elements will become City property once installed and/or permanently placed in the mutually agreed upon location. Accordingly, the City has the duty to provide only routine maintenance and repair of the donation for up to five years post signed donation policy agreement. Within the five-year period, the City is not obligated to replace the gift or public space improvement if it is stolen, vandalized, worn out, irreparably damaged, destroyed or expires.

PUBLIC SPACE ACCESSORIES: Donated public space accessories may include, but are not limited to, benches, bicycle racks, picnic tables, drinking fountains and similar public space accessories. The donated items must conform with the City's public works standards and the standards set out in this policy.

REPAIR: The community has an interest in ensuring that all public space elements remain in good repair. In addition, the community has an interest in ensuring that the short and long-term repair costs are reasonable. Repair parts and materials must be readily available. Donated public space elements must be of high quality to ensure longevity, be resistant to the elements, wear, and tear, and acts of vandalism.

COST: The City has an interest in ensuring that the donor covers the full cost for the purchase, ~~installation,~~ and maintenance during the expected life cycle of donated public space elements. The City also has an interest in ensuring that on-going maintenance costs do not negatively impact the resources available for maintenance of other City facilities. Consequently, the City may require, at the time of donation, an additional amount sufficient to cover anticipated on-going maintenance of donated public space elements during their anticipated life cycle.

PROCEDURE FOR MAKING DONATIONS

The City's Public Works Department, in conjunction with the Finance Department, will manage all donations located on City property.

The donor must contact the Public Works Director to determine whether a proposed donation of a public space accessory that is on the list of approved items ~~(Appendix B)~~ maintained by the Public Works department will be accepted, and any conditions of acceptance. If the donation is accepted, the donor will work with City staff to complete Donation Agreement ~~(Appendix A)~~.

Donations of public space accessories (benches, tables, bicycle racks, drinking fountains and similar amenities) that are not on the Public Works' list of approved amenities (~~Appendix B~~) are discouraged, and will be reviewed by the Public Works Director prior to acceptance of the donations.

Final approval will be granted by the City Council for the acceptance of all donations over \$5,000 in value.

CRITERIA FOR ACCEPTANCE

Below are general donation guidelines. These guidelines are intended to be general in nature and do not serve as formal acceptance criteria. The City reserves the right to accept or deny any/all donations.

GUIDELINES:

All determinations will be based upon, but not limited to, the following guidelines:

1. Flowers, shrubs, bushes

- a. Donated plants become the exclusive property and maintenance responsibility of the City.
- b. Only those plantings that require a maintenance effort consistent with other plantings will be considered.
- c. Site preparation, installation and site restoration may be the responsibility of the City.
- d. Only perennial flowering plants will be permitted and incorporated in existing beds.
- e. The placement of plants will be based on the variety, color, mature height, size etc. Compatibility with surrounding areas will be a strong consideration for planted materials and their location.

2. Trees

- a. Donated trees become the exclusive property and maintenance responsibility of the City.
- b. Site preparation, installation, and site restoration may be the responsibility of the City.
- c. Tree placement/location will be based upon variety of tree selected, mature height, size etc. Compatibility with surrounding areas will be a strong consideration for trees and their location.
- d. Accordingly, the size and species of tree or trees donated shall be limited to those determined by the City.

3. Signage

- a. Interpretive signs may be installed at sites that are appropriate for describing the history, geology, environment, and flora and fauna of a particular area. Interpretive signs shall be of a size that is in keeping with the character of the site. Interpretive signs shall be of a design that meets requirements for access to the disabled. Interpretive signs shall be designed in such a manner that is consistent with other interpretive signs on the site. Interpretive signs shall be constructed of materials that are of high quality, vandal resistant, and able to withstand harsh environmental conditions.
- b. ~~Donation Acknowledgements~~/Memorial Plaques: Donation acknowledgments will be determined by City staff.

4. Benches, Tables, Bicycle Racks, Drinking Fountains, and Other Amenities

- a. Donated benches become the exclusive property and maintenance responsibility of the City.
- b. Site preparation, installation, and site restoration will be the responsibility of the City.
- c. The amenity must be similar to or complement other amenities in the area.
- d. For McCormick Village Park and Downtown Waterfront locations, bench donations shall be located according to the map ~~provided in~~ Appendix C maintained by city staff.

5. Buildings, Structures, and Public Art

- a. Donated buildings, structures (including playgrounds) and public art are not considered as part of this policy.

To accept a donation for a specific facility, the donation must 1) meet a true need of the facility, 2) not interfere with the intended current or future use of the facility and 3) not require the relocation of other equipment or infrastructure to accommodate the donation. The City reserves the right to deem a space and/or facility fully developed and reject the donation.

CONDITIONS

INSTALLATION: Installation of donated public space elements, including any donor acknowledgement, will be completed by City personnel, unless mutual agreement for other arrangements has been reached. The installation will be scheduled at a time and

date as determined by Public Works ~~Operations and Maintenance~~Department, so as not to unnecessarily interfere with routine maintenance activities.

DONATION ACKNOWLEDGEMENTS/MEMORIAL PLAQUES: A donor may request a memorial plaque ~~or acknowledgment~~ be affixed to the donated public space accessory at the time the initial donation is submitted to the Public Works Director. ~~Donation acknowledgments/m~~Memorial plaques, including whether one will be affixed, the materials, the language of the acknowledgment/, and the location of the acknowledgment/ plaque, will be determined by City staff. The contents of the memorial plaque are government speech, and are subject to the City's sole discretion based on the City's evaluation of the honoree's service and/or relation to the community.

REMOVAL AND/OR RELOCATION: This section applies to both existing and new donations. The City reserves the right to remove and/or relocate donated public space elements and their associated signage, when they interfere with site safety, maintenance, or construction activities.

*Approved by the City Council on **(INSERT DATE)***

~~APPENDIX A~~

~~Agreement Between City of Port Orchard and [Donors' Name] for donation~~

~~THIS AGREEMENT~~, entered into this _____ day of _____, 202_, is by and between the City of Port Orchard (the "City"), a municipal corporation, and Donors' Name, (the "Donor"), Donors' Address.

~~WHEREAS~~, the Donor and the City recognize the importance of public facilities and amenities;

~~WHEREAS~~, the Donor has offered to donate (specify item – planting, park amenity, etc.);

~~NOW, THEREFORE~~, the City and the Donor, for the consideration and under the described conditions and obligations, hereinafter set forth and agree as follows:

~~Section 1. — The donation, known as *name of item*, as described below, is donated in its entirety to _____ the citizens of Port Orchard to be hereafter owned by the City of Port Orchard and _____ managed on behalf of the citizens by the Department of Public Works.~~

~~Section 2. — Description and Location: The item is: (*describe*)
_____ Space or Facility:
_____ Location:
_____ Additional Information: (*does it have a plaque, etc?*)~~

~~Section 3. — The City reserves the right to move/remove and/or retire the said donation following _____ cessation of a five-year period. The five-year period shall commence upon the date _____ entered into and indicated above.~~

~~Section 4. — **Maintenance.**
_____ The City shall be responsible for maintenance of the item, including any reasonable _____ repairs, and will have the discretion to not replace and/or not repair the donation, if it _____ is deemed damaged beyond reasonable repair and/or replacement, suffers repeated _____ vandalism, and/or expires prior to cessation of the five-year period. Maintenance or _____ replacement of the item will be at the City's sole discretion.~~

~~Section 5. — **Term.**
_____ The initial term of this Agreement shall be five years. Following cessation of the five-year _____ period, the City may treat the donation as it would any other City property similar in _____ nature.~~

~~IN WITNESS WHEREOF~~, the parties hereto have caused this Agreement to be executed by their duly authorized officials:

~~IN WITNESS WHEREOF~~, the parties have executed this Agreement on the date set forth above.

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

By,
Donor
Address

ATTEST:

Brandy Rinearson, MMC, City Clerk

Approved as to Form:

Charlotte A. Archer, City Attorney

Date:—

APPENDIX B

APPROVED PUBLIC SPACE AMENITIES BENCHES





TABLES



BICYCLE RACKS



WASTE RECEPTACLES

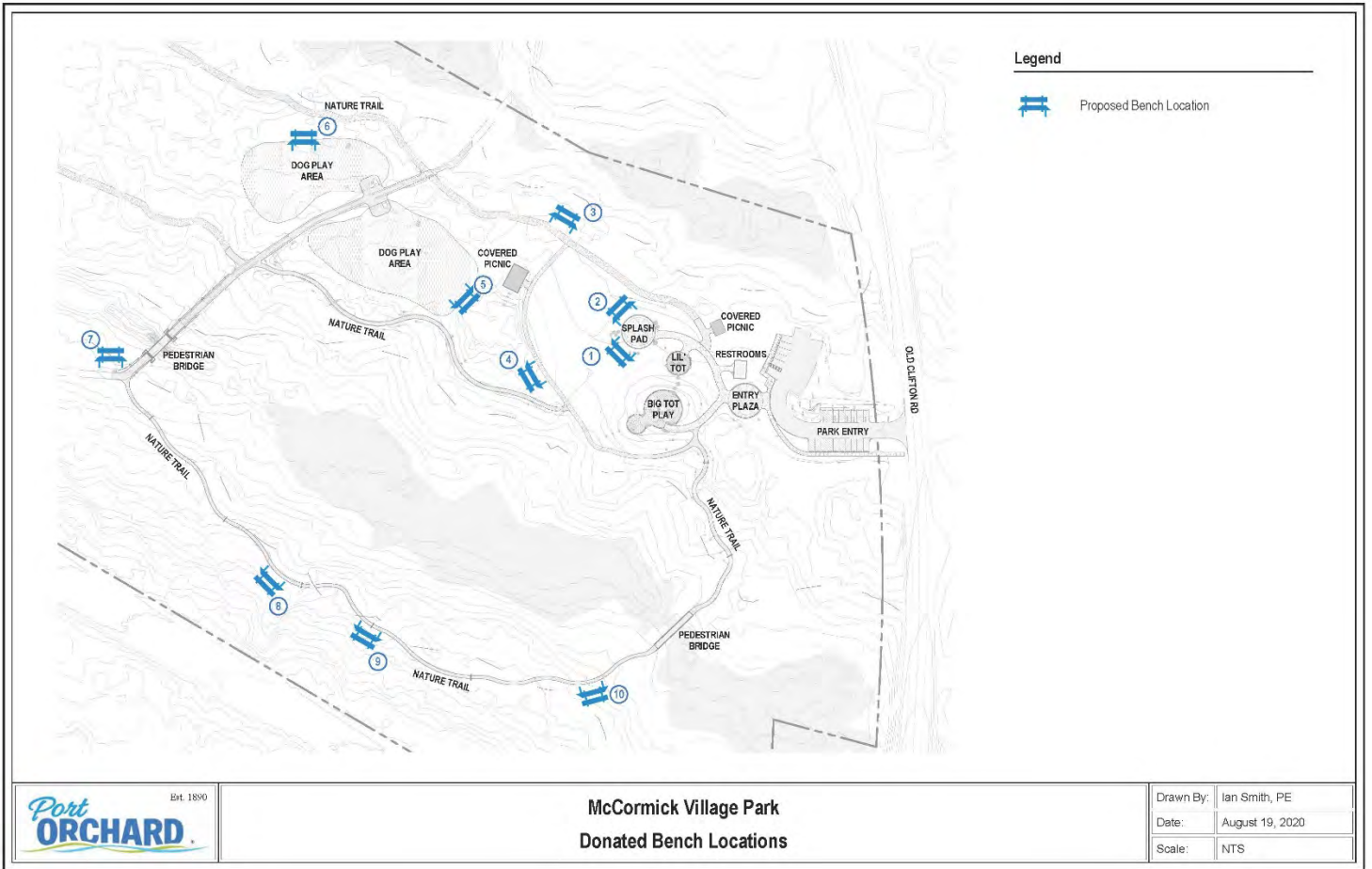


Big Belly Solar Trash Container
www.Bigbellysolar.com
85 Wells Avenue, Suite 305
Newton, MA 02459
Ph: 888-820-0300
info@bigbellysolar.com





APPENDIX C





CITY OF PORT ORCHARD DONATION POLICY FOR PUBLIC SPACES ACCESSORIES

The purpose of this policy is to establish guidelines, standards and procedures for the installation and care of donated public improvements for installation in the City's parks and other public spaces, either as a result of a cash or physical property donation. These donations may include, but are not limited to, benches, bicycle racks, picnic tables, drinking fountains, and other types of public space accessories. This policy does not apply to buildings, land, or naming rights. This policy does not apply to other forms of donations to the City not expressly set out in this policy. The City desires to encourage donations of accessories for the City's public spaces, while at the same time, manage aesthetic impacts and mitigate on-going maintenance costs.

The City strongly encourages donations that improve the public space ability to meet the varied recreational, social, wellness, and educational needs of users.

Guidelines established by this policy will apply to all donations of public space accessories made after the effective date of this policy. Donations of public space accessories made prior to the adoption of this policy shall be subject to applicable sections of this policy.

STANDARDS FOR DONATIONS

DEFINITIONS OF NEW DONATIONS: New donations are those made after the adoption date of this policy.

ACQUISITION OR PURCHASE: The City and the community have an interest in ensuring that public space elements that are purchased and installed be of high quality related to style, appearance, durability, and ease of maintenance. City staff will be responsible for coordinating purchases and installations of all public space elements unless a **mutual agreement for alternative coordination has been reached with the donor.**

APPEARANCE AND AESTHETICS: The City and the community have an interest in ensuring the best appearance and aesthetic quality of their public facilities. Public space elements should reflect the character of the space or facility. City staff shall review all proposed

donations against the City's public works standards and the standards set out in this policy prior to submitting the donation for approval by the Public Works Director or City Council (where applicable). All public space elements will be installed by City staff in such a manner that will not substantially change the character of a facility or its intended use.

MAINTENANCE: Donated public space elements will become City property once installed and/or permanently placed in the mutually agreed upon location. Accordingly, the City has the duty to provide only routine maintenance and repair of the donation for up to five years post signed donation policy agreement. Within the five-year period, the City is not obligated to replace the gift or public space improvement if it is stolen, vandalized, worn out, irreparably damaged, destroyed or expires.

PUBLIC SPACE ACCESSORIES: Donated public space accessories may include, but are not limited to, benches, bicycle racks, picnic tables, drinking fountains and similar public space accessories. The donated items must conform with the City's public works standards and the standards set out in this policy.

REPAIR: The community has an interest in ensuring that all public space elements remain in good repair. In addition, the community has an interest in ensuring that the short and long-term repair costs are reasonable. Repair parts and materials must be readily available. Donated public space elements must be of high quality to ensure longevity, be resistant to the elements, wear, and tear, and acts of vandalism.

COST: The City has an interest in ensuring that the donor covers the full cost for the purchase and maintenance during the expected life cycle of donated public space elements. The City also has an interest in ensuring that on-going maintenance costs do not negatively impact the resources available for maintenance of other City facilities. Consequently, the City may require, at the time of donation, an additional amount sufficient to cover anticipated on-going maintenance of donated public space elements during their anticipated life cycle.

PROCEDURE FOR MAKING DONATIONS

The City's Public Works Department, in conjunction with the Finance Department, will manage all donations located on City property.

The donor must contact the Public Works Director to determine whether a proposed donation of a public space accessory that is on the list of approved items maintained by the Public Works department will be accepted, and any conditions of acceptance. If the donation is accepted, the donor will work with City staff to complete Donation Agreement.

Donations of public space accessories (benches, tables, bicycle racks, drinking fountains and similar amenities) that are not on the Public Works' list of approved amenities are discouraged, and will be reviewed by the Public Works Director prior to acceptance of the donations.

Final approval will be granted by the City Council for the acceptance of all donations over \$5,000 in value.

CRITERIA FOR ACCEPTANCE

Below are general donation guidelines. These guidelines are intended to be general in nature and do not serve as formal acceptance criteria. The City reserves the right to accept or deny any/all donations.

GUIDELINES:

All determinations will be based upon, but not limited to, the following guidelines:

1. Flowers, shrubs, bushes

- a. Donated plants become the exclusive property and maintenance responsibility of the City.
- b. Only those plantings that require a maintenance effort consistent with other plantings will be considered.
- c. Site preparation, installation and site restoration may be the responsibility of the City.
- d. Only perennial flowering plants will be permitted and incorporated in existing beds.
- e. The placement of plants will be based on the variety, color, mature height, size etc. Compatibility with surrounding areas will be a strong consideration for planted materials and their location.

2. Trees

- a. Donated trees become the exclusive property and maintenance responsibility of the City.
- b. Site preparation, installation, and site restoration may be the responsibility of the City.
- c. Tree placement/location will be based upon variety of tree selected, mature height, size etc. Compatibility with surrounding areas will be a strong consideration for trees and their location.
- d. Accordingly, the size and species of tree or trees donated shall be limited to those determined by the City.

3. Signage

- a. Interpretive signs may be installed at sites that are appropriate for describing the history, geology, environment, and flora and fauna of a particular area. Interpretive signs shall be of a size that is in keeping with the character of the site. Interpretive signs shall be of a design that meets requirements for access to the disabled. Interpretive signs shall be designed in such a manner that is consistent with other interpretive signs on the site. Interpretive signs shall be constructed of materials that are of high quality, vandal resistant, and able to withstand harsh environmental conditions.
- b. Memorial Plaques: Donation acknowledgments will be determined by City staff.

4. Benches, Tables, Bicycle Racks, Drinking Fountains, and Other Amenities

- a. Donated benches become the exclusive property and maintenance responsibility of the City.
- b. Site preparation, installation, and site restoration will be the responsibility of the City.
- c. The amenity must be similar to or complement other amenities in the area.
- d. For McCormick Village Park and Downtown Waterfront locations, bench donations shall be located according to the map maintained by city staff.

5. Buildings, Structures, and Public Art

- a. Donated buildings, structures (including playgrounds) and public art are not considered as part of this policy.

To accept a donation for a specific facility, the donation must 1) meet a true need of the facility, 2) not interfere with the intended current or future use of the facility and 3) not require the relocation of other equipment or infrastructure to accommodate the donation. The City reserves the right to deem a space and/or facility fully developed and reject the donation.

CONDITIONS

INSTALLATION: Installation of donated public space elements, including any donor acknowledgement, will be completed by City personnel, unless mutual agreement for other arrangements has been reached. The installation will be scheduled at a time and

date as determined by Public Works Department, so as not to unnecessarily interfere with routine maintenance activities.

DONATION ACKNOWLEDGEMENTS/MEMORIAL PLAQUES: A donor may request a memorial plaque be affixed to the donated public space accessory at the time the initial donation is submitted to the Public Works Director. Memorial plaques, including whether one will be affixed, the materials, the language of the acknowledgment, and the location of the acknowledgement plaque, will be determined by City staff. The contents of the memorial plaque are government speech, and are subject to the City's sole discretion based on the City's evaluation of the honoree's service and/or relation to the community.

REMOVAL AND/OR RELOCATION: This section applies to both existing and new donations. The City reserves the right to remove and/or relocate donated public space elements and their associated signage, when they interfere with site safety, maintenance, or construction activities.

*Approved by the City Council on **(INSERT DATE)***



**City of Port Orchard
Council Meeting Minutes
Work Study Session Meeting of January 19, 2021**

CALL TO ORDER AND ROLL CALL

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

Roll call was taken by the Deputy City Clerk as follows:

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

Staff present via Remote Access: Community Development Director Bond, Public Works Director Dorsey, Assistant City Engineer Hammer, Finance Director Croker, Land Use Attorney Robertson, and Deputy City Clerk Floyd.

Mayor Putaansuu said Pursuant to the Governor’s “Stay Home - Stay Safe” Order, the City will conduct the meeting through Zoom.

Pledge of Allegiance

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

1. Impact Fee Ordinance – Traffic Impact Fee Adjustment

Development Director Bond noted the Impact Fee Ordinance has been held up while trying to finalize the McCormick Communities Development Agreement for Transportation. We have been working on this ordinance since late 2019. This ordinance is the first update to the Impact Fee Ordinance since its inception in 2015. In 2015, the City adopted Traffic Impact Fees for the first time, but the City has always had park and school impact fees, which we are not proposing to change. Back in 2015 when we adopted our Impact Fee Ordinance, we initially did a traffic impact fee study which then came back with a recommendation of \$4,000 per peak PM trip. We were just coming out of the recession and comparing ourselves to what development costs were in other jurisdictions, there was a desire to try to lower that fee to be more in line with our neighbors. Some of the projects that were the basis of that study were removed to lower the total traffic improvement program costs.

Now, 5 years later, the costs of projects have come up and there are several projects not eligible for impact fee expenditures, as they are not part of our impact fee study. We employed TSI who is our traffic consultant to develop a new traffic impact fee study. We added a lot of those projects back into the fee calculations including, Fireweed, Sidney Avenue south of Tremont, and Melcher on the west side of Port Orchard Boulevard. There are several areas of the City that we have substandard roads and do not have the capacity to support development. In addition, the Tremont project came in above our estimates from 2015.

Finally, the Bethel Sedgwick corridor study was developed. In 2015, we had rough estimates, and after identifying a phasing plan and figuring out other needs and constraints, the study came back significantly more expensive for all 5 phases of that development. With this, the current impact fee study came back with a recommendation of \$4,943 per peak PM trip.

Discussion was held regarding the current study, calculations of the grants, ordinance details, old impact fees, project name descriptions, cost sharing, unfunded commitment, tying fees to the CPIU, and a public hearing.

Council Direction: Council directed staff to hold a public hearing on this topic during the February 9, 2021, City Council meeting.

2. McCormick Communities Development Agreement for Transportation

Development Director Bond said this is a project they have been working on for over a year. We managed to reach an agreement between 3 parties: McCormick Land Company (formerly GEM1), McCormick Communities, and the City of Port Orchard. He also explained the background on the old agreement, noting in 2005, Kitsap County entered into a development agreement with GEM1. In 2009/2010, the City annexed this area and assumed the County's position on the agreement. This has been challenging due to having to administer two separate traffic impact fee areas. The existing agreement includes a reimbursement that gets paid to McCormick Land Company for projects that were built around 10 or 12 years ago. The Finance department is currently administering a complex reimbursement program under the old County agreement. He noted the old agreement is very cumbersome and spoke to capacity and development. Lastly, the City of Port Orchard did not annex all the transportation projects that are envisioned in the existing agreement. Some of the projects remain in the County.

There was a desire from the developer and the City to update the agreement and streamline our impact fee program, but also to focus on projects that our modeling shows are needed and to get them built as efficiently as possible.

Discussion was held regarding details of the new agreement which included more flexibility, 20-year term limit, reimbursements, projects to be built, impact fee credit to the developer, better quality exhibits, liability and hold harmless, residential, and commercial trips, project and right-of-way acquisition schedules, maximum project cost, and reimbursement of contract execution.

Mayor Putaansuu noted this item will be on the February 9th Council agenda.

Council Direction: No direction was given to staff.

3. Transportation Update

Assistant City Engineer Hammer shared a video by AWC 'Cities 101-Street and City Transportation System'. Additionally, he spoke to a presentation titled 'Transportation Update 2021-2022 Workplan' which included discussion on City roadway network, planning tools, 2020 committee work, challenges, 2021-2022 work plan, and transportation funding analysis.

Discussion was held regarding transportation and comprehensive plans, preservation, and House Transportation committee's proposal regarding increase in gas tax.

Council Direction: No direction was given to staff.

4. Water & Sewer Credit Discussion

Mayor Putaansuu noted it is important to remember that we cannot pay developers to build our capital projects directly. If someone builds a large project for us, they will get credit for the access capacity they create in our system.

Public Works Director Dorsey said most cities tend to lean on latecomers' agreements as their model. This is available in our City for the developers who want to employ a latecomer's agreement model, but this provides another alternative.

Finance Director Crocker shared a presentation and noted the overall concept is to provide a credit for when a developer is providing the City over and above capacity that they need. Additionally, he spoke to sewer CFC [Capital Facility Charge] and credit examples.

Additional discussion was held regarding credits and capacity, development, credit scenarios, ERU's, anomalies, implementation, and code language.

Council Direction: No direction was given.

NEW: GOOD OF THE ORDER

Committee Meeting Schedule

Mayor Putaansuu said there was discussion about shuffling around committee meeting dates, specifically for the Utilities and Finance Committees.

After a brief discussion, it was agreed that the Utilities Committee will meet the 2nd Tuesday of each month, and the Finance Committee will meet with 3rd Tuesday of each month.

Kitsap Bank Property and Appraisal

Mayor Putaansuu noted we signed the Letter of Intent and he reached out to the Public Facilities District (PFD). Public Works is now procuring an appraisal on the Kitsap Bank property which will take 6 weeks and \$4,500. It is a reimbursable expense through the PFD, but our real estate acquisition is not until after design. We could get reimbursed now, but we would get caught short at the end of the design period by that same \$4,500. He wants to bring a contract forward to get this process moving, but it may be cleaner for us to pay for the appraisal ourselves.

After discussion, it was agreed the City would pay for the appraisal.

Social Media Posts

Councilmember Chang spoke to a post he made on social media about a local business and said it was made on his personal page and did not reflect the Council as a whole. He apologized and noted it was his own lack of judgement and his alone.

Councilmember Ashby explained that it does not make any difference if you post under your personal name, we are City Council people 24 hours a day, 7 days a week. We do not get to do public comments as we are Council people, and our comments represent all of us.

Councilmembers Cucciardi, Rosapepe, Clauson, and Diener, thanked Councilmember Chang for his comments and apology, and spoke to their roles as Councilmembers and service to the City.

Adoption of 2018 Building Code

Development Director Bond noted on January 14th, we received what we thought was good news as the Governor issued an executive order delaying the implantation of the 2018 building codes. We removed this from the work study agenda and stopped working on it thinking we had until June to finish, but today, the Governor rescinded that order. We now have a January 31st deadline for adoption of the 2018 building codes. We were working with South Kitsap Fire and Rescue on substantial revisions to our local amendments and those will not be ready by next Monday. We will have to bring forward an ordinance that changes the 2015 code to the 2018 code, and then do a second step that will fix our local amendments further down the road, so we are consistent with State law. Next meeting you will see a very brief ordinance adopting the 2018 building codes.

ADJOURNMENT

The meeting adjourned at 8:13 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, Mayor