



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-20

For the meeting of: December 6, 2016

Date: October 26, 2016
To: Board of Supervisors
From: John Bartholomew, Treasurer-Tax Collector
Subject: RESOLUTION FOR CHAPTER 8 SALE OF TAX-DEFAULTED PROPERTIES TO THE SHELTER COVE RESORT IMPROVEMENT DISTRICT

RECOMMENDATION(S):

That the Board of Supervisors:

- 1. Approve Resolution # 16-134 for the sale of tax-defaulted property to the Shelter Cove Resort Improvement District No. 1 (Attachment 1).
2. Approve and sign the 'Agreement to Purchase Tax Defaulted Property' with the Shelter Cove Resort Improvement District No. 1 (Attachment 4).
3. Return all original documentation to the Treasurer-Tax Collector for sending to the State Controller's Office for approval and execution pursuant to Revenue and Taxation Codes 3795.

SOURCE OF FUNDING:

General Fund - All Costs for the Chapter 8 Agreement Sale will be reimbursed by the Shelter Cove Resort Improvement District.

DISCUSSION:

On August 9, 2016, your Board approved Resolution 16-93, approving the sale of properties tax-defaulted and subject to sale via sealed bid.

Prepared by: John Bartholomew

CAO Approval

[Handwritten signature]

REVIEW:

Auditor [Handwritten initials] County Counsel [Handwritten initials] Human Resources Other

TYPE OF ITEM:

- X Consent
Departmental
Public Hearing
Other

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell/Seconded by Supervisor Bass

Ayes Sundberg, Fennell, Lovelace, Bohn, Bass
Nays
Abstain
Absent

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: Dec. 6, 2016
By: [Handwritten signature]
Kathy Hayes, Clerk of the Board

Public agencies may purchase tax-defaulted property through a Chapter 8 Agreement Sale pursuant to Chapter 8, Part 6, Division 1, of the California Revenue and Taxation (R&T) code provided all required documentation is received in a timely manner and that the agency is qualified to make such a request.

The properties of this Chapter 8 Agreement Sale have been through the regular tax auction process at least twice without any minimum bids being received from potential bidders. The Tax Collectors office has therefore rendered these parcels as unusable by their size, location, or condition per Revenue and Taxation Code 3692(c) and has therefore reduced the minimum bid amounts to little more than the costs of taking them through the sealed bid process.

On September 15, 2016 The Tax Collector's office received Resolution 16-17 (Attachment 2) from the Shelter Cove Resort Improvement District (RID) which objects to the sale of property scheduled for the Sealed bid sale. Along with the objection to sale, the Tax Collector's office also received an Application to Purchase Tax Defaulted Property from the County (Attachment 3), and subsequently prepared an Agreement for the RID to Purchase Tax-Defaulted Property from the County (Attachment 4). These documents satisfy the requirements for a Chapter 8 Agreement Sale, pursuant to Chapter 8, Part 6, Division 1, of the R&T code.

The proposed agreement will allow the County to sell the following four properties to the RID for the minimum bid amounts listed:

<u>Assessor's Parcel Number (APN)</u>	<u>Minimum Bid</u>
1. 109-081-020-000	\$ 157.50
2. 109-081-027-000	\$ 142.50
3. 110-131-004-000	\$ 157.50
4. 110-221-013-000	\$ 142.50

The Tax Collector has confirmed that the documents submitted by the RID were in order, received timely, and that the RID is a qualifying entity per R&T codes §3695 and §3695.4. Exhibit A of the Agreement (Attachment 4) provides the physical address, intended public purpose of the properties, and the minimum bid amount to be paid for these properties.

Therefore, the Tax Collector recommends approval of the Resolution (Attachment 1) and the proposed Agreement (Attachment 4) to sell the above parcels to the RID. Once signed by your Board the proposed Agreement and all supporting documents will be sent to the California State Controller for final approval and execution pursuant to R&T code §3795.

FINANCIAL IMPACT:

All costs of the sale will be reimbursed from sale proceeds. The net effect, if all parcels are sold, is that the County will not collect \$20,339.43 in base taxes owed on these parcels; but the County in turn will realize significant cost savings by not having to assess or try to collect taxes on these unusable parcels which have been proven to be uncollectable in the past.

The proposed Agreement specifies that the RID will pay the minimum bid amounts previously approved by your Board for the auction properties. All additional costs of the sale including notification of parties of interest and publication costs will also be reimbursed by the RID.

OTHER AGENCY INVOLVEMENT:

Shelter Cove Resort Improvement District No. 1

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could decide not to approve the Resolution and Agreement to sell Tax-Defaulted Property to the RID. This alternative is not recommended because state law requires the Tax Collector to sell tax delinquent parcels at auction with Board of Supervisors approval and to follow statutory requirements when a Chapter 8 sale is requested by a qualified taxing agency.

ATTACHMENTS:

1. **Board Resolution authorizing Chapter 8 Agreement Sale**
2. **Resolution 16-17 from the Shelter Cove Resort Improvement District**
3. **Application to Purchase Tax Defaulted Property**
4. **Agreement to Purchase Tax Defaulted Property**

ATTACHMENT 1

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of December 6, 2016

RESOLUTION NO. 16-134

RESOLUTION AUTHORIZING THE CHAPTER 8 SALE OF TAX-DEFAULTED PROPERTIES TO THE SHELTER COVE RESORT IMPROVEMENT DISTRICT NO. 1

WHEREAS, the Humboldt County Tax Collector received Resolution 16-17 from the Shelter Cove Resort Improvement District No. 1 (RID) objecting to the sale of 4 tax-defaulted properties within the boundaries of their district;

WHEREAS, the RID submitted an 'Application to Purchase Tax Defaulted Property from County' for acquiring those 4 tax-defaulted properties within their jurisdiction and submitted the required mission statement and district map;


WHEREAS, the RID has been found to be a qualified public agency authorized to request the purchase of tax-defaulted properties within their jurisdiction per Revenue and Taxation (R&T) code 3695 and 3695.4;

WHEREAS, an 'Agreement to Purchase Tax-Defaulted Property' has been written, agreed to, and signed by the RID, and received back by the Tax Collector along with all required supportive documentation;

WHEREAS, all documentation once approved by the Board of Supervisors will be further submitted to the California State Controller's Office for final approval per R&T code 3795.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Humboldt County hereby approve and authorize the sale of the tax-defaulted properties to the Shelter Cove Resort Improvement District No. 1 and authorize the Board Chairperson to sign the 'Agreement to Purchase Tax Defaulted Property,' in accordance with the rules governing Chapter 8 sales to public agencies.

Dated: December 6, 2016



MARK LOVELACE, Chair
Humboldt County Board of Supervisors

Adopted on motion by Supervisor Fennell, seconded by Supervisor Bass, and the following vote:

AYES:	Supervisors	Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS:	Supervisors	--
ABSENT:	Supervisors	--
ABSTAIN:	Supervisors	--

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA


Certified copy of portion of proceedings, Meeting of December 6, 2016

RESOLUTION NO. 16-134

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California

ATTACHMENT 2

**RESOLUTION 16-17
OF
RESORT IMPROVEMENT DISTRICT NO. 1 AND SHELTER COVE
SEWER AND OTHER FACILITIES MAINTENANCE DISTRICT NO. 1,**

RESOLUTION OF INTENT TO PURCHASE TAX DEFAULTED PROPERTIES

WHEREAS, the Humboldt County Tax Collector will hold a sealed bid auction of tax-defaulted properties on October 31st, 2016; and

WHEREAS, the Resort Improvement District No. 1 (RID) have evaluated and considered Shelter Cove tax-defaulted properties; and

WHEREAS, the RID Board object to the sale of several of the tax-defaulted properties as listed below; and

WHEREAS, the RID Board have reached a consensus that the following properties are best suited for the public purpose of building public infrastructure and/or greenbelt use; and

WHEREAS, the RID Board approves a budget of up to \$5,000 to purchase the several tax-defaulted properties and cover any costs associated with conveyance;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Resort Improvement District No. 1 hereby:

1. Approves the RID acquire the following properties:
 1. 109-081-020-000
 2. 109-081-027-000
 3. 110-131-004-000
 4. 110-221-013-000
2. Appoints the General Manager as agent to submit all documents which may be necessary for the completion of the acquisitions.

APPROVED AND ADOPTED this 15th day of September, 2016 at a Regular Board Meeting of the Board of Directors of the RESORT IMPROVEMENT DISTRICT NO. 1, by the following vote:

AYES: Sommer, Caldwell, Corley Hargrave.
NOES: None.
ABSENT: Fox.
ABSTAIN: None.

RESORT IMPROVEMENT DISTRICT NO. 1

By: David Sommer
David Sommer, Vice President
Board of Directors

ATTEST:
Philip W. Young
Philip Young, Board Secretary

ATTACHMENT 3

* Application to Purchase Tax-Defaulted Property from County

This application must be completed by an eligible purchasing entity to commence purchase of tax-defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation. Completion of this application does not guarantee purchase approval.

A. Purchaser Information

1. Name of Organization: RESORT IMPROVEMENT DISTRICT NO. 1
2. Corporate Structure – check the appropriate box below and provide the corresponding information:
 - Nonprofit – provide Articles of Incorporation
 - Public Agency – provide mission statement (if redevelopment agency or special district, provide jurisdiction map)

B. Purchasing Information

Determine which category the parcel falls under and then check the appropriate box as it relates to the purchasing entity's corporate structure and the intended use of the parcel: (Note: From the six choices, check only one)

Category A: Parcel is currently scheduled for a Chapter 7 tax sale

- Purchase by tax agency/revenue district to preserve its lien
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

Category B: Parcel is not currently scheduled for a Chapter 7 tax sale

- Purchase by taxing agency for public purpose
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

C. Property Detail

Provide the following information. If you need more space for any of the criteria, consolidate the information into a separate "Exhibit" document and attach it to this application:

1. County where the parcel(s) is located: HUMBOLDT COUNTY
2. List each parcel by Assessor's Parcel Number: 109-081-020-000
3. State the purpose and intended use for each parcel: FUTURE UTILITY DEVELOPMENT FOR PUBLIC PURPOSE

D. Acknowledgement Detail

Provide the signature of the purchasing entity's authorized officer

Philip W. Young
Authorized Signature

GENERAL MANAGER
Title

9/26/16
Date

AGF-16 (SCO 8-16)

* Application to Purchase Tax-Defaulted Property from County

This application must be completed by an eligible purchasing entity to commence purchase of tax-defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation. Completion of this application does not guarantee purchase approval.

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 - Nonprofit – provide Articles of Incorporation
 - Public Agency – provide mission statement (if redevelopment agency or special district, provide jurisdiction map)

B. Purchasing Information

Determine which category the parcel falls under and then check the appropriate box as it relates to the purchasing entity's corporate structure and the intended use of the parcel: (Note: From the six choices, check only one)

Category A: Parcel is currently scheduled for a Chapter 7 tax sale

- Purchase by tax agency/revenue district to preserve its lien
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

Category B: Parcel is *not* currently scheduled for a Chapter 7 tax sale

- Purchase by taxing agency for public purpose
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

C. Property Detail

Provide the following information. If you need more space for any of the criteria, consolidate the information into a separate "Exhibit" document and attach it to this application:

1. County where the parcel(s) is located: HUMBOLDT COUNTY
2. List each parcel by Assessor's Parcel Number: 109-081-027-000
3. State the purpose and intended use for *each* parcel: FUTURE UTILITY DEVELOPMENT FOR PUBLIC PURPOSE

D. Acknowledgement Detail

Provide the signature of the purchasing entity's authorized officer


Authorized Signature

GENERAL MANAGER
Title

9/26/16
Date

AGF-16 (SCO 8-16)

* Application to Purchase Tax-Defaulted Property from County

This application must be completed by an eligible purchasing entity to commence purchase of tax-defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation. Completion of this application does not guarantee purchase approval.

A. Purchaser Information

1. Name of Organization: RESORT IMPROVEMENT DISTRICT NO. 1
2. Corporate Structure – check the appropriate box below and provide the corresponding information:
 - Nonprofit - provide Articles of Incorporation
 - Public Agency – provide mission statement (if redevelopment agency or special district, provide jurisdiction map)

B. Purchasing Information

Determine which category the parcel falls under and then check the appropriate box as it relates to the purchasing entity's corporate structure and the intended use of the parcel: (Note: From the six choices, check only one)

Category A: Parcel is currently scheduled for a Chapter 7 tax sale

- Purchase by tax agency/revenue district to preserve its lien
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

Category B: Parcel is *not* currently scheduled for a Chapter 7 tax sale

- Purchase by taxing agency for public purpose
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

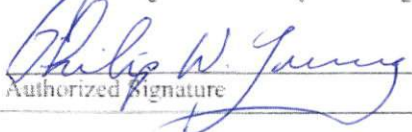
C. Property Detail

Provide the following information. If you need more space for any of the criteria, consolidate the information into a separate "Exhibit" document and attach it to this application:

1. County where the parcel(s) is located: HUMBOLDT COUNTY
2. List each parcel by Assessor's Parcel Number: 110-131-004-000
3. State the purpose and intended use for *each* parcel: FUTURE UTILITY DEVELOPMENT FOR PUBLIC PURPOSE

D. Acknowledgement Detail

Provide the signature of the purchasing entity's authorized officer


GENERAL MANAGER
9/26/16
 Authorized Signature Title Date

AGF-16 (SCO 8-16)

* Application to Purchase Tax-Defaulted Property from County

This application must be completed by an eligible purchasing entity to commence purchase of tax-defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation. Completion of this application does not guarantee purchase approval.

A. Purchaser Information

1. Name of Organization: RESORT IMPROVEMENT DISTRICT NO. 1
2. Corporate Structure – check the appropriate box below and provide the corresponding information:
 - Nonprofit – provide Articles of Incorporation
 - Public Agency – provide mission statement (if redevelopment agency or special district, provide jurisdiction map)

B. Purchasing Information

Determine which category the parcel falls under and then check the appropriate box as it relates to the purchasing entity's corporate structure and the intended use of the parcel: (Note: From the six choices, check only one)

Category A: Parcel is currently scheduled for a Chapter 7 tax sale

- Purchase by tax agency/revenue district to preserve its lien
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

Category B: Parcel is *not* currently scheduled for a Chapter 7 tax sale

- Purchase by taxing agency for public purpose
- Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- Purchase by nonprofit for low-income housing or to preserve open space

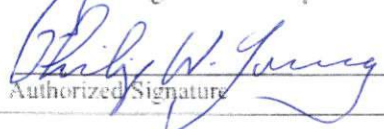
C. Property Detail

Provide the following information. If you need more space for any of the criteria, consolidate the information into a separate "Exhibit" document and attach it to this application:

1. County where the parcel(s) is located: HUMBOLDT COUNTY
2. List each parcel by Assessor's Parcel Number: 110-221-013-000
3. State the purpose and intended use for *each* parcel: ACCESS TO EXISTING RESORT IMPROVEMENT DISTRICT NO. 1 UTILITY INFRASTRUCTURE

D. Acknowledgement Detail

Provide the signature of the purchasing entity's authorized officer


GENERAL MANAGER
9/26/16
 Authorized Signature Title Date

AGF-16 (SCO 8-16)

ATTACHMENT 4

AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY

This Agreement is made this 6th day of December, 2016 by and between the **COUNTY OF HUMBOLDT**, a political subdivision of the State of California ("COUNTY"), and the **RESORT IMPROVEMENT DISTRICT AND OTHER FACILITIES MAINTENANCE DISTRICT NO. 1**, in accordance with provisions of California law ("PURCHASER") with reference to the following facts:

RECITALS

A. The real property situated within said county, hereinafter set forth and described in Exhibit "A" of this Agreement, is tax-defaulted and is subject to the power of sale by the tax collector of said county for the nonpayment of taxes, pursuant to provisions of law.

AGREEMENT

In consideration of the mutual promises herein set forth, the parties mutually agree as follows:

1. Payment for Notice. As provided by Section 3800 of the Revenue and Taxation Code, PURCHASER shall pay the cost of giving notice of this Agreement and the cost of publication or posting the Notice of Agreement.
2. Purchase and Evidence of Title. Within twenty-one (21) days from the effective date of this Agreement, PURCHASER also agrees to pay a sum sufficient to redeem the delinquent property taxes pursuant to Revenue and Taxation Code section 3793.1(a) or a reduced price in accordance with section 3793.1(b). The approval and notice process will determine the effective date of the sale and the final purchase price. PURCHASER agrees to pay the amount specified in Exhibit "A" for the property described in Exhibit "A": Payment shall be by Humboldt County Journal Voucher, cash or certified funds payable to the County Tax Collector. Upon receipt of said sums by the Tax Collector, the Tax Collector shall execute and record a deed conveying title to said property to PURCHASER and after recordation the deeds will be returned to the purchaser by the County Clerk/Recorder.
3. No Representation. COUNTY makes no representation concerning the condition of title to the subject property. Additionally, COUNTY makes no representation concerning the physical condition of the subject property and PURCHASER acknowledges that it is not relying upon any statements or representations of the COUNTY concerning the subject property and is purchasing the subject property in its "as is" condition.

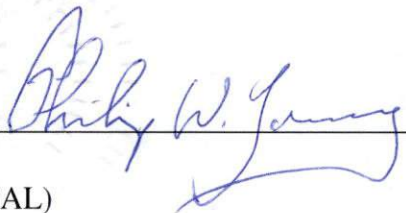
4. Other Expenses. PURCHASER shall pay the other expenses in addition to the purchase price of the property, including but not limited to the cost of proceeding to obtain a clear title to the property, and the expenses incurred in the payment, compromise or other method of removal of any liens or adverse claims against the property.
5. Treated as A Single Transaction. COUNTY shall sell the parcel listed in Exhibit "A" as a single transaction to the PURCHASER in consideration of the receipt of the payments in paragraphs 1 through 3.
6. Redemption. If the parcel listed in Exhibit "A" is redeemed prior to the effective date of this agreement, this Agreement shall be null and void as to that parcel. Notwithstanding the foregoing, the Agreement shall be binding and shall remain in full force and effect with respect to any remaining parcel(s).
7. Purchaser's Default. This Agreement shall become null and void and the right of redemption restored upon the PURCHASER'S failure to comply with the terms and conditions of this Agreement prior to the tax deed recordation. The PURCHASER will be required to reimburse the Tax Collector for the costs for providing notice, publication, and actual costs incurred for preparing and conducting the Chapter 8 Agreement Sale if these expenses have already been incurred.
8. Indemnity. The PURCHASER shall indemnify COUNTY from and against any and all liability, loss, costs, damages, fees of attorneys, and other expenses which COUNTY may sustain or incur by reason of a challenge to the validity of the tax-default sale of the property described in Exhibit "A". Pursuant to Section 3809 of the California Revenue and Taxation Code, a proceeding based on alleged invalidity or irregularity of any proceeding instituted can only be commenced within one year after the date of execution of the Tax Collector's deed. Therefore, PURCHASER may find it prudent to delay any improvement on the property for this one-year period.
9. Environmental Condition of Property. The parcel acquired pursuant to this Agreement may contain hazardous wastes, toxic substances, or other substances regulated by federal, state, and local agencies. COUNTY in no way whatsoever assumes any responsibility, implied or otherwise, and makes no representations that the parcel is in compliance with federal, state, or local laws governing such substances. COUNTY in no way assumes any responsibility, implied or otherwise, for any costs or liability of any kind imposed upon or voluntarily assumed by PURCHASER or any other owner to remediate, clean up, or otherwise bring into compliance according to federal, state, or local environmental laws any parcel purchased.
10. CERCLA. COUNTY and PURCHASER agree that, under 42 U.S.C. § 9601(20)(D), the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") expressly excludes local and state governments from clean up liability for properties they acquire as a result of tax delinquencies. Notwithstanding this provision, PURCHASER shall defend, indemnify, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, liabilities, losses, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of this Agreement, regardless of

whether caused in part by a party indemnified hereunder, including but not limited to allegations that COUNTY and/or COUNTY's officers, directors, agents, employees, or volunteers are liable for costs or other charges related to the remediation, clean up, or other work necessary to bring any parcel purchased under this Agreement into compliance with federal, state, or local environmental laws.

11. Approval by State Controller. Revenue and Taxation Code Section 3795 requires this Agreement to be submitted to and approved by the California State Controller before it becomes final. The Agreement is not in effect until State Controller authorization is received.

The undersigned hereby agree to the terms and conditions of this agreement and are duly authorized to sign for said agencies.

ATTEST:

By: 

(SEAL)

ATTEST:

By: 
Clerk of the Board of Supervisors

By: _____
Deputy

(SEAL)

RESORT IMPROVEMENT DISTRICT
NO. 1 AND SHELTER COVE SEWER
AND OTHER FACILITIES
MAINTENANCE DISTRICT NO.1

By: 

BOARD OF SUPERVISORS OF
HUMBOLDT COUNTY

By: 
Mark Lovelace - Chairman

Pursuant to the provisions of Section 3795 of the Revenue and Taxation Code, the Controller approves the foregoing agreement this _____ day of _____, _____.

Betty T. Yee,
CALIFORNIA STATE CONTROLLER

By: _____

Exhibit A

The Resort Improvement District No. 1 and Shelter Cove Sewer and Other Facilities Maintenance District No. 1 have objected to the sale of the following County of Humboldt tax defaulted properties scheduled for Chapter 7 public tax sale, and have made a purchase request for those same properties per their Resolution # 16-17:

<u>APN</u>	<u>ADDRESS</u>	<u>PUBLIC PURPOSE / INTENDED USE</u>	<u>MINIMUM BID</u>
109 081-020-000	462 Wolverine Way	Future utility infrastructure site	\$ 157.50
109-081-027-000	1042 Puma Drive	Future utility infrastructure site	\$ 142.50
110-131-004-000	60 Olsen Road	Future utility infrastructure site	\$ 157.50
110-221-013-000	1261 Hillside Drive	Utility infrastructure access	\$ 142.50
		<u>Total</u>	<u>\$ 600.00</u>