

## **AGENDA**

### **Bainbridge Island Metropolitan Park & Recreation District Regular Board Meeting 6:00 pm Thursday – April 17, 2025**

**Strawberry Hill Center**  
7666 High School Road NE  
Bainbridge Is, WA 98110  
206-842-0501

Remote access options for board meetings available at [www.biparks.org](http://www.biparks.org).

#### **10. CALL TO ORDER**

- 10.1** Roll Call
- 10.2** Adjustments to the Agenda
- 10.3** Conflict of Interest Disclosure
- 10.4** Mission Statement: The mission of the Bainbridge Island Metropolitan Park & Recreation District is to build a healthy community through effective, sustainable stewardship of the District's parks and open space, and through the development and delivery of innovative cultural and recreation opportunities.

#### **20. PUBLIC COMMENTS**

#### **30. BOARD CONSENT**

- 30.1** Minutes: Regular Board Meeting of April 3, 2025
- 30.2** Financial: Approval of vouchers and payroll.

#### **40. GENERAL BUSINESS**

- 40.1** Bainbridge Prepares Storage and Communications Tower Presentation  
**Action:** Information only. Hamlin (30 min)
- 40.2** Terry Lande Legacy Committee Update  
**Action:** Possible motion to approve recommendations for options to recognize Terry Lande's legacy. Hamlin (10 min)
- 40.3** Purchase and Sale Agreement with Bainbridge Island School District for their Property in Grand Forest East  
**Action:** Motion to approve and direct executive director to sign. Hamlin (10 min)
- 40.4** Restrictive Covenants and Grant of Deed of Right for Property in Grand Forest East  
**Action:** Motion to approve and direct executive director to sign. Hamlin (10 min)
- 40.5** Purchase and Sale Agreement for Restrictive Covenants and Grant of Deed of Right with Bainbridge Island Land Trust for the Property Being Purchased from the Bainbridge Island School District in Grand Forest East  
**Action:** Motion to approve and direct executive director to sign. Hamlin (10 min)
- 40.6** Comprehensive Plan Update  
**Action:** Information only. Keough (10 min)
- 40.7** Resolution 2025-07: ActiveNet Refund Account  
**Action:** Motion to adopt. Swenson (5 min)

- 40.8 Draft Text/Instant Message Policy Hamlin (10 min)  
**Action:** Information only.
- 40.9 Board Compensation Hamlin (10 min)  
**Action:** Information only.
50. STAFF REPORT
60. UPCOMING MEETINGS
- |          |                       |      |                        |
|----------|-----------------------|------|------------------------|
| 05/01/25 | Regular Board Meeting | 6 pm | Strawberry Hill Center |
| 05/15/25 | Regular Board Meeting | 6 pm | Strawberry Hill Center |
| 06/05/25 | Regular Board Meeting | 6 pm | Strawberry Hill Center |
| 06/26/25 | Special Board Meeting | 6 pm | Strawberry Hill Center |
| 07/17/25 | Regular Board Meeting | 6 pm | Strawberry Hill Center |
70. BOARD MEMBER REMARKS
80. ADJOURNMENT
90. ADJOURN TO EXECUTIVE SESSION IF NEEDED
100. EXECUTIVE SESSION
110. RECONVENE TO REGULAR SESSION
120. ADJOURNMENT

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#### **Board Committees**

Governance  
Capital Facilities  
Program  
Budget & Finance  
Personnel  
Ad Hoc Committee: Comprehensive Plan

#### **2025 Board Representatives**

Goodlin/Janow  
  
Kinney/DeWitt  
Goodlin/Swolgaard  
Janow/Kinney

#### **Board Liaisons**

Park District Committees:  
Trails Advisory Committee

DeWitt/Swolgaard

Community/Public Agencies:  
Bainbridge Island Parks & Trails Foundation  
Bainbridge Island School District  
City of Bainbridge Island

Kinney/Swolgaard

**BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT**  
**REGULAR BOARD MEETING April 3, 2025**  
**STRAWBERRY HILL CENTER**

**CALL TO ORDER:** A quorum being present, the meeting was called to order at 6:00 pm by Chair Goodlin.

**BOARD MEMBERS PRESENT:** Ken DeWitt, Tom Goodlin, Dawn Janow, Jay Kinney.

**ADJUSTMENTS TO AGENDA:** There will be no executive session.

**CONFLICT OF INTEREST DISCLOSURE:** None

**MISSION STATEMENT:** Chair Goodlin read the District's mission statement: The mission of the Bainbridge Island Metropolitan Park & Recreation District is to build a healthy community through effective, sustainable stewardship of the District's parks and open space, and through the development and delivery of innovative cultural and recreation opportunities.

**PUBLIC COMMENTS**

Loanne Harmeling presented a check from Bainbridge Community Tennis Association for \$25,000 towards their financial commitment for the new Sakai Park tennis courts.

**BOARD CONSENT**

**APPROVAL OF MINUTES:**

Upon hearing there were no corrections to the minutes of the March 20, 2025 regular board meeting, Chair Goodlin stated the minutes stand approved as submitted.

**APPROVAL OF PAYMENTS: MSC: Kinney/Janow:** I have reviewed the following vouchers, warrants and electronic payments and move that they be approved for payment.

Batch Date	Fund Number & Name	Warrant Numbers	Total Batch Amt	Pre-Approved
03/25/25	001 General Fund 300 Capital Improvement Fund	29641-29676	\$138,674.27	03/25/25
04/01/25	001 General Fund 300 Capital Improvement Fund	29677-29733	\$231,856.10	04/01/25
	001 General Fund (March Payroll)	EFT & 3419-3122	\$396,892.91	
	001 General Fund (March Payroll Benefits and Taxes)	EFT & 10071-10074	\$266,629.66	
	001 General Fund	Pre-approval	\$61,732.00	
	300 Capital Improvement Fund	Pre-approval	\$73,702.55	
	300 Capital Improvement Fund	Pre-approval	\$594,830.86	

**GENERAL BUSINESS**

**PURCHASE AND SALE AGREEMENT WITH BAINBRIDGE ISLAND SCHOOL DISTRICT FOR THEIR PROPERTY IN GRAND**

**FOREST EAST:** Executive Director Dan Hamlin presented an updated version of the purchase and sale agreement with the Bainbridge Island School District for their property in Grand Forest East including the statutory warranty deed which mentions the reserved easement for the School District to access the property for educational purposes. Section eight on page six has been edited to mention the restrictive covenants. Commissioner DeWitt asked about the cost of the statutory warranty deed. Dan Hamlin said the Park District is getting a bargain sale because the School District is keeping the value of

the easement. The School District will review and potentially approve these documents at their April 17 board meeting. The documents will also be brought back to the Park District's board meeting for potential approval that night. There will be an additional purchase and sale agreement with Bainbridge Island Land Trust for the purchase of the restrictive covenants and grant of deed of right.

**RESTRICTIVE COVENANTS AND GRANT OF DEED OF RIGHT FOR PROPERTY IN GRAND FOREST EAST:** Executive Director Dan Hamlin said the restrictive covenants and grant of deed of right with Bainbridge Island Land Trust for the property in the Grand Forest East does not need to be approved at this meeting and there are updates to the document. The Bainbridge Island Parks & Trails Foundation board and staff made some recommendations regarding the consultation and collaboration language in the document. There was an expectation at the launch of the fundraising campaign that the land would be protected in perpetuity which led to the development of the restrictive covenants as the mechanism. In section 6A of the document, consultation and collaboration have now been defined. Commissioner Kinney said he would like more time to think about the definitions of consultation and collaboration in the document. Commissioner Janow asked if the District would have to check with BILT if there was a desire to build a new trail on the property and Dan Hamlin said yes.

**MSC: Kinney/Janow: Move to table approval until the next meeting.**

Mary Meier, the executive director of the Bainbridge Island Parks & Trails Foundation, said they are grateful to BILT for leading the fundraising campaign with them and taking on the restrictive covenants. Their point was that collaboration is an ambiguous word, and they are thinking about perpetuity, not the current partnership.

**DRAFT SURVEY FOR COMPREHENSIVE PLAN UPDATE:** Senior Planner Matthew Keough said community input is needed at the beginning of the comprehensive plan update process. Preparations are underway to launch the public engagement portion of the process to learn about current community priorities and educate the public about the District. A scientifically valid survey will be run by a third party and is tentatively scheduled to go out at the end of April. After the controlled sample audience completes the survey, the survey will be made available to all members of the public. Executive Director Dan Hamlin noted that the controlled data set will be kept separate. There was some discussion and suggestions from commissioners regarding the draft survey questions, adding questions, and defining terms.

**RESOLUTION 2025-04: ADVERTISING AND SPONSORSHIP POLICY:** Executive Director Dan Hamlin said there has been a request for one edit prior to approval. The request is to edit the second bullet in section four which is at the top of page two, to read, "Promotion of classes, programs, events, or services not sponsored by the District," in place of the current language. **MSC: DeWitt/Kinney: Move to approve Resolution 2025-04 as revised.**

**RESOLUTION 2025-05: BULLETIN BOARD AND KIOSK POSTING POLICY:** Executive Director Dan Hamlin said there are no suggested changes to what was in the board packet. **MSC: DeWitt/Kinney: Motion to approve Resolution 2025-05 the kiosk policy.**

**RESOLUTION 2025-06: REMOTE WORK POLICY:** Executive Director Dan Hamlin said there has been a suggestion for an addition to the list on page two, under the expectations for remote work section. A new #5 would be inserted stating that the District will not pay for or reimburse for remote internet service or office equipment purchased for personal use. **MSC: Janow/Kinney: Motion to pass Resolution 2025-06 regarding adopting a remote work policy for the District's policy manual with the caveat of inserting between 4 and 5 under the expectations of remote work language that clarifies that the District will not compensate for home internet use or other office equipment.**

**BOARD STIPEND:** Executive Director Dan Hamlin reviewed information compiled by staff regarding compensation for board members. Some of the RCWs for special districts say "shall" and others say "may" regarding compensation and some prohibit compensation. Metro park districts fall into the category where compensation may be received. There is a

maximum amount of compensation allowed by RCW per day and per year. The current annual maximum compensation is \$161 a day and \$15,456 a year. It has been found to be common for similar agencies to allow compensation, but it is also common for board members to waive it. Currently the board policies allow for commissioners to be reimbursed for necessary expenses incurred for meetings of the board or when otherwise engaged in District business but prohibits compensation. Current board members would not be eligible to receive compensation, only those elected or reelected after a policy is put in place would be eligible, and compensation could be waived by individual commissioners. Commissioner Janow said the idea of compensation is to encourage or help facilitate people to serve on the board. She likes the idea of having compensation that could be waived. Commissioner DeWitt said when the current policy prohibiting compensation was established it was with the intention that the money could instead be put towards programs or maintenance. The compensation adds up and could potentially fund multiple part-time staff positions or even a full-time position. Commissioner Goodlin said he is not sure that compensation would broaden the pool of people interested in serving. He enjoys the fact that he volunteers for the public good and not to benefit himself and thinks there is merit in that. He does not know that a problem is being solved by offering to pay people. Commissioner Kinney said the option to be compensated would only apply to future or reelected commissioners and could be waived but it does give incentive and may even allow someone to participate who otherwise could not. Commissioner Goodlin said it is important to get the word out that this conversation is happening. Staff will compile more information to share at the next meeting.

#### **STAFF REPORT**

**Recreation Division:** Recreation Division Director Madison Collins said there was a joint developmental disability awareness event at Island Center Hall on March 19 with other community organizations. A youth outdoor pickleball tournament will be held in June in partnership with Bainbridge Island Pickleball. Staff are still waiting to hear back from the Washington State Department of Health about whether the Ray Williamson pool will be allowed to open between the two phases of the renovation. Staff have decided to migrate over to ActiveNet just the households with current passes and memberships, which is about 6,000. ActiveNet will not allow for a negative balance in the software and will therefore require District funds to hold in an account for days when the amount of refunds issued exceeds the amount of revenue collected. Recreation Superintendent Bryan Garoutte said the summer recreation catalog was posted on the website today.

**Park Services Division:** Park Services Division Director Lydia Roush said the wet weather is making it difficult for staff to prepare the ballfields for the season. The contractor for the Strawberry Hill bike park build will start work in April. Park Services Superintendent David Harry said staff are wrapping up their work on the softball batting cage tomorrow. The new heating, ventilation, and dehumidification system for the Ray Williamson pool renovation will be brought in with a 110-ton crane.

Executive Director Dan Hamlin said the committee honoring Terry Lande's legacy will be on the next agenda to present recommendations. Bainbridge Island Parks & Trails Foundation has offered to help the District with comprehensive plan process messaging circulation and to support in-person meetings potentially with refreshments or childcare opportunities for participants to boost attendance.

#### **BOARD MEMBER REMARKS:**

- Commissioner Kinney said a friend of his that swims laps every morning said they are having no trouble accessing a lane in the Don Nakata pool at the time they normally swim.
- Commissioner Kinney said some people have balked at the idea of serving on the board because the term length for a metro park district commissioner is six years. A request could be made to the legislature to change the length of the term.

- Commissioner DeWitt said he has been hearing positive feedback about how the Don Nakata pool schedule has been working out during the Ray Williamson pool renovation closure.
- Commissioner DeWitt said the softball community is grateful for all the work staff has done on the new batting cage at Strawberry Hill Park.
- Commissioner DeWitt attended the recent town hall meeting for the 23<sup>rd</sup> legislative district at Bainbridge High School. There were about 500 people in attendance and the conversation was mostly about school funding issues.
- Commissioner DeWitt said he participated in a recent walk-through of Eight Acre Wood.
- Commissioner Dewitt said he attended the commemoration for the 83<sup>rd</sup> anniversary of the day of forced removal at the Bainbridge Island Japanese American Memorial.
- Commissioner DeWitt said he has been working with staff to piece together District history by talking with former board commissioners.
- Commissioner DeWitt said the Bainbridge Island Police Department has been stepping up speed enforcement.
- Commissioner Janow acknowledged Executive Director Dan Hamlin for his work with the Grand Forest East.
- Commissioner Janow encouraged the board to look at the development of the comprehensive plan survey through the lens of incorporating history of the District and educating people about the District.
- Commissioner Goodlin said District staff are hosting the next Chamber of Commerce after-hour event at Fort Ward Hall.
- Commissioner Goodlin said he recalls discussions about improved trail head parking and there is interest from the community in continuing the conversation.
- Commissioner Goodlin said one of his neighbors captured footage of a cougar on their security camera this morning.

**MEETING ADJOURNED** at 7:37 pm.

Helen Stone  
Dan Hamlin  
BAINBRIDGE ISLAND METROPOLITAN  
PARK & RECREATION DISTRICT

BY: \_\_\_\_\_  
Tom Goodlin

BY: \_\_\_\_\_  
Dawn Janow

BY: \_\_\_\_\_  
Jay C. Kinney

BY: \_\_\_\_\_  
John Thomas Swolgaard

ATTEST: \_\_\_\_\_  
Kenneth R. DeWitt



**Building Community Resilience  
Strawberry Park Tower & Bainbridge Prepares  
Bainbridge Island Park District Board Presentation - April 2025**



***Building island resilience through disaster preparedness,  
community response, and sustainable recovery.***





## Bainbridge Island

Metro Park & Recreation District

- 50+ years, the Bainbridge Island Metro Park & Recreation District has served the community by stewardship of parks and providing recreational and cultural programs to Islanders of all ages.
- Committed to providing a wide variety of leisure programs for all ages and interest groups, including senior citizens and persons with disabilities.
- Works in partnership with non-profit agencies - Thank you for your existing partnership with Bainbridge Prepares!

# Introduction

Pascal Schuback, CEM

## **Bainbridge Prepares**

Program Director

TechOps Team Co Chair

[bainbridgeprepares.org](http://bainbridgeprepares.org)

[\*\*\*`schuback@bainbridgeprepares.org`\*\*\*](mailto:schuback@bainbridgeprepares.org)

## **CREW | Cascadia Region**

**Earthquake Workgroup**

Executive Director

[crew.org](http://crew.org)

[\*\*\*`schuback@crew.org`\*\*\*](mailto:schuback@crew.org)

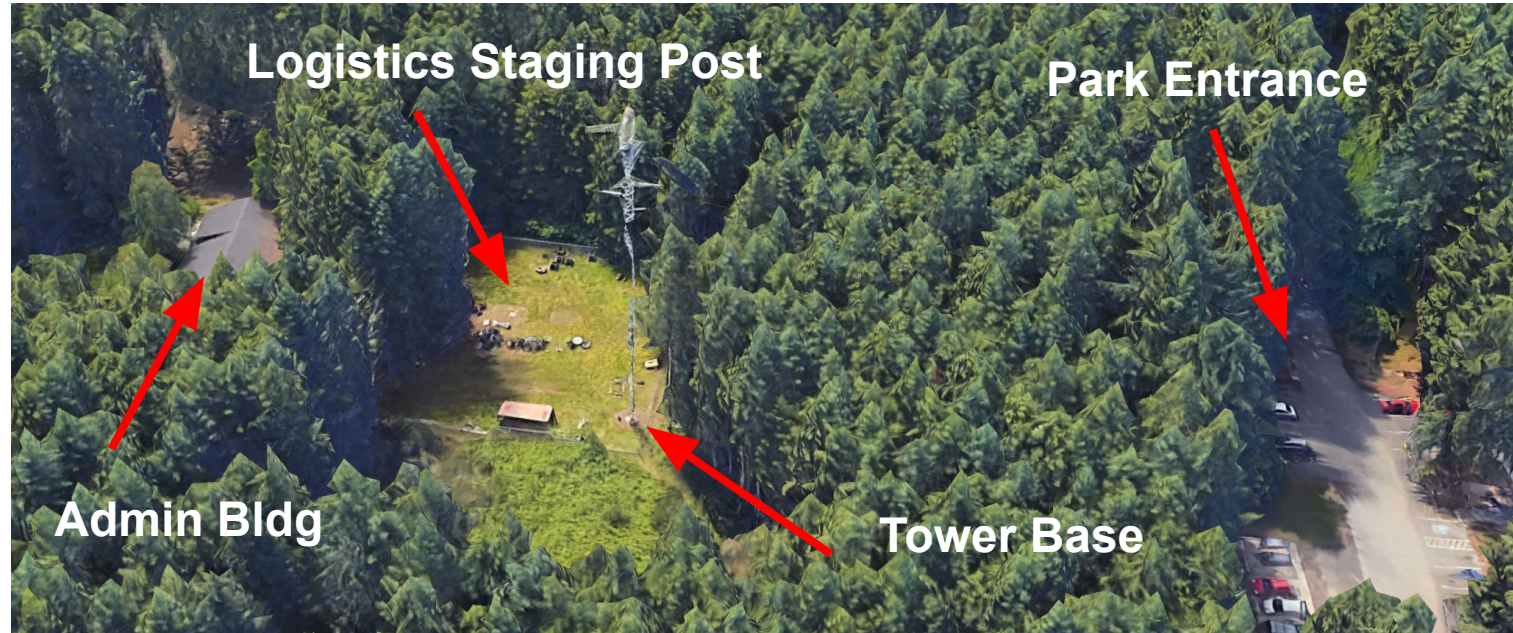
# Risk Examples for the Island

- Cascadia Subduction or Seattle Fault earthquake and tsunami
- Island wildland fire, including evacuation needs
- Storms (winter, wind, rain, flooding) with subsequent electrical, internet and cellular disruptions. (ie, Nixel alerts)
- Infrastructure thefts/vandalism disrupting services (example recent significant Comcast outages)
- Cybersecurity event
- Disruption to Kitsap County public emergency communications resources (911 radio services)

# Strawberry Park Logistics Post

- Existing agreement for BP to use fenced yard for storage
- Using shipping containers to store BP's resource cache supplies
- Minimizing infrastructure resources. Example includes maintaining one generator that supplies Parks Admin and Bainbridge Prepares.
- Location for BP to remove/adjust our current Parks provided cache locations. (BP is working on an immediate plan to build out the logistics post using alternative grant funds)

# Logistics Staging Post



# Islandwide Communications Needs Include

- Public messaging
- Emergency Operations Center
  - Critical infrastructure
  - To Hubs & Hub Zones
  - On/Off island
- Disaster Medical Center (Coms with BIFD, Harborview/UW Med, St Michaels, etc)
- Bainbridge Prepares Teams (18-20)
  - Floatilla; Wash; Family Reunification;
- Situational Awareness





# Strawberry Tower Details

- Existing 140' Guyed wire tower installed December 1989
- Tower base and one guyed wire point located within the fence logistic staging yard
- Remaining Guy points are already fenced off within close proximity of the fence logistics staging yard
- Existing underground electrical and antenna wire conduit options



# Strawberry Tower Options

- Replacement of the tower with a self standing tower at the **existing** locations would have an initial cost of \$275-350K.
- Building a new tower at another location would require significant planning and design review, permitting and community involvement
- If no other tower were erected, the cost for the type of communications capabilities provided by the existing tower would significantly increase and be challenging to raise in this current economic climate.
- Using the existing tower would support more than just the island, it be considered a valuable regional resource.



# Strawberry Tower Partnership

- Provide the tower for Bainbridge Prepares to expand its capabilities to support the ARES/RACES (Amateur Radio Emergency Services/Radio Amateur Civil Emergency Service) with COBI, BIFD for emergency communications resources to support all the residents, visitors and surrounding communities.
- Opportunity for the current 108 BEARS team members and new amateur radio operators to have a location to educate, train/exercise and promote the use of radio communications, similar to the Battle Point Astronomical Association.

# Strawberry Tower Partnership

- Bainbridge Prepares will work with the Parks District with regards to future Strawberry Park site improvements/projects surrounding the tower and logistic staging area.
- Bainbridge Prepares will promote this partnership in relationship to demonstrating
  - Effective, equitable and continuity of emergency communications
  - Climate conscious use of existing materials and reduction of environmental waste
  - The collaboration and support of the amateur radio community

# Questions / Discussions / Thank you

Pascal Schuback, CEM

## **Bainbridge Prepares**

Program Director

TechOps Team Co Chair

[bainbridgeprepares.org](http://bainbridgeprepares.org)

[schuback@bainbridgeprepares.org](mailto:schuback@bainbridgeprepares.org)

## **CREW | Cascadia Region**

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BAINBRIDGE ISLAND METROPOLITAN PARKS & RECREATION DISTRICT  
MEMORANDUM

TO: Board of Commissioners  
FROM: Ad Hoc Terry Lande Recognition Committee  
DATE: April 3, 2025  
SUBJECT: Committee Recommendation

Seven community members were selected to make a recommendation regarding recognition for Terry Lande's service as Executive Director from 2004-24. Members were Patricia Bell, David Harrison, Andy Maron, Tom McCloskey, Jim Parsons, Ryan Vancil, and Jack Visco.

The committee was tasked with developing a recommended list of 3-5 options to honor Terry's legacy. To be clear, the committee was not asked to conduct a public hearing or solicit public input, but rather to review the documentary record on this issue (which included previous public comment), and develop its own recommendation.

The committee has now completed its assigned task, and makes this recommendation.

Background

The committee first reviewed a summary of the accomplishments of BIMPRD during Terry's tenure (the summary likely has or will be provided to the Board and public), and various documents related to prior consideration by the staff, board, and public of an appropriate method of recognition. The committee also met on two occasions to discuss and develop its recommendation.

The committee would like to comment that it was impressed with the substantial and significant accomplishments of BIMPRD under Terry's leadership. It is fair to say that BIMPRD is a completely different organization than it was in 2004, as the activities, facilities, and financial resources of BIMPRD are dramatically improved. While the elected board of commissioners, staff, contractors, and volunteers all contributed to those improvements, a significant amount of credit must be given to Terry for those accomplishments.

Thus, the committee agreed that some form of community recognition be chosen to honor Terry's legacy. The committee discussed whether the form

would be a physical facility, an activity, or a program, and decided any and all might be appropriate and should be considered.

### Criteria

After reviewing the background documents, the committee then developed criteria to use while considering a form of recognition. They were:

- 1) Terry's personal involvement in a selected facility, activity or program;
- 2) Whether selection of a facility, activity or program is significant enough to appropriately recognize Terry's important contributions;
- 3) Whether the facility, activity or program will actually be used by the community;
- 4) The perceived support within the community for the selected recognition;
- 5) How visible the selected recognition will be to the community;
- 6) Whether BIMPRD can implement the selected recognition on its own, or whether the recognition requires approval from another entity;
- 7) The selected recognition should be long-term rather than short-term; and
- 8) The cost of implementing the recognition.

The above criteria are not a "checklist" or "matrix" used by the committee. Rather, the committee members individually and collectively considered these eight criteria as guidance during its discussion of proposed methods of recognition.

### Recommendation

The committee considered all suggestions submitted earlier by staff and others, and members suggested other possible types of recognition. After consideration and discussion, the following are the recommended three options in the order of the committee's priority, with a brief comment on the reasoning.

#### 1<sup>st</sup> Choice: Naming the new BIMPRD Administrative Building.

This was the overwhelming favorite of the committee members. It satisfies all of the above criteria, especially visibility to the community on High School Road, which

visibility will certainly increase as improvements occur in the future in the expanded Strawberry Hill Park. This recognition seems even more appropriate as Terry's physical office for almost all of his 20-year tenure as Exec. Director was just a few hundred yards west in a dilapidated 1950's excess military building.

2<sup>nd</sup> Choice: Naming the summer concert series and Battle Point "amphitheater".

Terry was the inspiration for the musical programs of BIMPRD, and created the very popular summer concert series. Thus, designating both the series and venue seems meaningful and appropriate.

3<sup>rd</sup> Choice: Naming the summer concert series.

If it is determined that the "amphitheater" is too closely aligned with the observatory and therefore should not be named after Terry, then the committee still suggests the concert series be named after him.

While the committee has made three distinct recommendations above, in order of preference, it is also possible to select all or two of them. For example, the board could name both the administrative building and the concert series after Terry – as one is a facility and the other is an activity. The committee is not making that type of recommendation, but it would not be opposed if that was the final decision.

The committee thanks BIMPRD for the opportunity to serve the community.

Patricia Bell  
David Harrison  
Andy Maron  
Tom McCloskey  
Jim Parsons  
Ryan Vancil  
Jack Visco

## REAL ESTATE PURCHASE AND SALE AGREEMENT

This REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made as of the Effective Date as defined herein by and between Bainbridge School District No. 303, a political subdivision of the State of Washington ("Seller"), and the Bainbridge Island Metropolitan Park & Recreation District, a municipal corporation ("Buyer"), with references to the following facts:

### RECITALS

A. Seller is the fee simple owner of that certain real property located in Kitsap County, Washington, a legal description of which is attached hereto as Exhibit A (the "Property"). The Property contains approximately 38.70 acres located adjacent to the Grand Forest East, east of Mandus Olson Road NE, on Bainbridge Island, Washington and having Kitsap County Tax Parcel No. 162502-1-041-2006.

B. Buyer wishes to acquire the Property in association with, and for the benefit of, Buyer's conservation and public recreational purposes.

A. The Parties are entering into this Agreement pursuant to the authority granted in the Intergovernmental Disposition of Property Act, RCW ch. 39.33.

### AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual covenants herein contained, Buyer and Seller hereby agree as follows:

1. Description of the Property. Seller shall sell and convey to Buyer, and Buyer shall purchase and acquire from Seller, upon and subject to the terms and conditions set forth in this Agreement, the Property, which shall include: the land, together with any buildings, structures, easements, appurtenances, rights, privileges, reversionary rights and improvements thereunto belonging or appurtenant to the Property; all timber and plants now in or on the Property; all right, title and interest of Seller in and to all alleys, strips, or gores of land, if any, lying adjacent to the Property; all utilities serving the Property; all right, title and interest of Seller in and to all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property.

2. Purchase Price. Subject to the Reserved Easement as defined herein, the purchase price to be paid by Buyer to Seller for the Property is TWO MILLION TWO HUNDRED THOUSAND DOLLARS and 00/100s (\$2,200,000.00) (the "Purchase Price"). Within five (5) days following the execution and delivery of this Agreement, Buyer shall open escrow with Pacific Northwest Title of Kitsap County, Attention: Rachel Snelson, Email: RachelS@pnwtkitsap.com (the "Escrow Agent"), by depositing with Escrow Agent a copy of this Agreement and TWENTY-FIVE THOUSAND DOLLARS and 00/100s (\$25,000.00) as an earnest money deposit (the "Deposit"). If Buyer terminates the Agreement prior to the expiration of the Due Diligence Period (defined below), the Deposit shall be refunded to Buyer. If Buyer does not terminate the Agreement prior to the expiration of the Due Diligence Period (defined below), the Deposit shall remain refundable until Closing, except as may be otherwise provided for in this Agreement, but shall be applied to the Purchase Price at Closing.

On the Closing Date (defined below), Buyer shall deposit with Escrow Agent the entire amount of the Purchase Price, as adjusted for any amounts to be charged or credited (including, but not limited to, the

Deposit) against the Purchase Price in accordance with this Agreement. All interest earned on the Deposit shall be applicable to the Purchase Price.

3. Closing Date.

(a) Subject to the Financing Contingency Extension Notice as defined herein, the closing of the purchase and sale of the Property (the "Closing") shall be held at the offices of the Escrow Agent, on a date chosen by Buyer but no later than ten (10) days following expiration of the Due Diligence Period as defined herein (the "Closing Date"). Buyer shall provide Seller with written notice of the Closing Date at least five (5) days' notice. "Closing" shall occur when the deed to Buyer is recorded and the Purchase Price is delivered to the Escrow Agent for delivery to Seller. Upon Closing, fee possession of the Property shall be delivered to the Buyer.

(b) In the event that Purchaser has not received financing approval prior to the expiration of the Due Diligence Period, Purchaser shall provide written notice ("Financing Contingency Extension Notice") thereof to Seller and the Closing Date shall be deemed to be automatically extended for thirty (30) days (the "Financing Contingency Extension Period") in order for Purchaser to obtain financing approval to acquire the Property on terms and conditions acceptable to Purchaser. In the event Purchaser exercises its extension right provided in this Section 3.1.2, then Purchaser shall be deemed to have provided its waiver of the Due Diligence Period and Purchaser shall have no right to terminate this Agreement in connection with its inspection of the Property. Prior to the expiration of the Financing Contingency Extension Period, Purchaser shall provide a notice of its receipt of financing approval (the "Financing Approval Notice"). If Purchaser provides a Financing Approval Notice, then the financing contingency shall be deemed satisfied and the parties shall proceed towards Closing as set forth in this Agreement. If Purchaser was unable to obtain financing approval, Purchaser may terminate this Agreement by giving to Seller and Escrow Agent written notice of termination. In such case, the Escrow Agent shall release the Deposit to Buyer and, thereafter, neither party shall have any further rights, liabilities or obligations hereunder except for those provisions which survive the termination of this Agreement.

4. Title and Survey Matters.

(a) Title Commitment. Buyer shall, within five (5) days of the date hereof, obtain a commitment for a current ALTA standard owner's title insurance policy issued by Pacific Northwest Title of Kitsap County (the "Title Company") describing the Property, showing all matters pertaining to the Property, listing Buyer as the prospective named insured and showing as the policy amount, the total Purchase Price (the "Title Commitment"). Without limiting the foregoing, Buyer may, at Buyer's option, request a commitment for a current ALTA extended title insurance policy. In such case, Seller agrees to provide an owner's affidavit as reasonably requested by the Title Company and Buyer agrees to pay for and provide an ALTA survey that meets Title Company's requirements. If Buyer so requests the extended policy, the extended policy shall be the Title Commitment. The Due Diligence Period shall be extended day-for-day by any delay by the Title Company in delivering the Title Commitment.

(b) Title Documents. At the same time as Buyer obtains the Title Commitment, the Title Company shall deliver to Buyer and Seller true, correct and legible copies of all documents (the "Title Documents") referred to in such Title Commitment as conditions or exceptions to title to the Property (the Title Commitment and Title Documents are collectively referred to herein as the "Title Documents").

(c) Title Review Period. Buyer shall review the Title Commitment and, on or before the expiration of the twentieth (20<sup>th</sup>) day within the Due Diligence Period, shall notify Seller what exceptions to title, if any, will be accepted by Buyer. Only those exceptions approved by Buyer in writing shall constitute "Approved Exceptions". Seller shall use diligent good faith efforts to remove all exceptions



that are not Approved Exceptions within ten (10) days of receipt of Buyer's notice of exceptions and in any event prior to Closing, but Seller shall not be required to institute any litigation or incur any cost to do so, except, however Seller agrees to pay any monetary liens (including all taxes) affecting title to the Property and thus eliminate any such title exception. If, within ten (10) days of receipt of Buyer's notice of Exceptions, Seller notifies Buyer that Seller will not be able to remove an exception (other than a monetary lien), then, within five (5) days of such notice from Seller, or prior to the Closing Date, whichever is earlier, Buyer shall notify Seller either that Buyer (i) waives the objection to such exception and accepts such title as Seller is willing to convey, or (ii) terminates this Agreement, in which event the Deposit shall be returned to Buyer and neither Party shall have any further rights or obligations under this Agreement.

Immediately upon discovering the need to amend or add any exception to the Title Commitment (including but not limited to exceptions raised by a survey), Title Company shall notify Buyer and Seller. Within five (5) business days after notice from Title Company together with a copy of such intervening lien or matter, Buyer shall notify Seller in writing of any objections thereto (the "Amendment Objections"). Seller shall attempt to satisfy the Amendment Objections prior to the Closing Date, but Seller shall not be required to institute any litigation or incur any cost to do so, except, however, Seller agrees to pay any monetary liens affecting title to the Property and thus eliminate any such title exception. If, prior to the Closing Date, Seller notifies Buyer that Seller will not remove any of the Amendment Objections (other than a monetary lien), then, within five (5) days of such notice from Seller, or prior to the Closing Date, whichever is earlier, Buyer shall notify Seller either that Buyer (i) waives the Amendment Objections and accepts such title as Seller is willing to convey (except with respect to monetary liens, which shall be deducted from the Purchase Price), or (ii) terminates this Agreement, in which event the Deposit shall be returned to Buyer and neither party shall have any further rights or obligations under this Agreement. The Approved Exceptions, and any other exceptions which Buyer approves in writing shall be referred to hereinafter as the "Permitted Exceptions."

(d) Title Policy. Buyer shall receive at Closing, either an Owner's Standard Coverage Title Insurance Policy (current ALTA Form) or, at Buyer's request, an Owner's Extended Coverage Title Insurance Policy (current ALTA Form) with such endorsements as Buyer may require, issued by the Title Company to be furnished to Buyer (the "Title Policy"). The Title Policy shall be issued in the amount of the total Purchase Price and shall insure fee simple, indefeasible title to the Property in Buyer, subject only to the Permitted Exceptions, if any. The Title Policy shall contain endorsements as Buyer may require. Buyer's obligation to close this transaction shall be contingent on Buyer's receipt of such Title Policy.

5. Due Diligence Investigation.

(a) Property Information; Investigation of the Property. Within five (5) days of the mutual execution of this Agreement, Seller shall provide or make available to Buyer for inspection and copying to the extent available or within Seller's possession or control all documents and information pertaining to the Property, including, but not limited to, all soils reports and environmental studies, any existing surveys, architectural drawings or renderings, plans and specifications with respect to the Property. Without limiting the foregoing, Buyer acknowledges previous receipt of the following three agreements with continuing terms on the Property: (1) Agreement dated May 1, 1980 by and between the Meadowmeer Water Service Association and the State of Washington for a right-of-way easement, with a term ending April 30, 2030; (2) Lease Agreement dated November 27, 1996 by and between the Bainbridge Island School District No. 303 and the Bainbridge Island Fire Department for a 10,000 square ft. portion of the Property, with a term of 99 years (the "BIFD Lease"); and (3) August 30, 2004 Sublease Agreement by and between the Bainbridge Island Fire Department, Kitsap County/Kitsap County Central Communications, and Bainbridge Island School District No. 303 related to the BIFD Lease. The three agreement set forth in this Section 5(a) shall be referred to collectively as the "Existing Agreements".

Buyer waives Seller's Real Property Disclosure Statement pursuant to RCW 64.06.010(7) (the "Seller Disclosure Statement"). Seller and Buyer acknowledge that Buyer cannot waive its right to receive the environmental section of the Seller Disclosure Statement (which is contained in Section 6 of the form) to the extent any of the answers in the environmental section would be "yes". To the extent any of the answers are "yes," Seller will provide the Seller Disclosure Statement, with only such environmental section completed by Seller, to Buyer within five (5) days after the Effective Date.

Buyer and its employees and agents shall have the right and permission from the date of this Agreement through the Closing Date (or earlier termination of this Agreement) to enter upon the Property or any part thereof at all reasonable times and from time to time for the purpose, at Buyer's cost and expense, of making all soil and other tests or studies under the provisions of this Agreement; provided, however, Buyer shall indemnify and hold harmless Seller from and against any mechanic's or other liens or claims that may be filed or asserted against the Property or Seller by any actions taken by Buyer in connection with the Property; and provided further, that Buyer shall provide Seller with at least twenty-four (24) hours' notice prior to any entrance on to the Property. Buyer's obligation to purchase the Property shall be subject to and contingent upon the satisfaction or waiver by Buyer of the conditions set forth below (collectively, the "Due Diligence Conditions"):

(i) Inspection of the Property. Buyer's inspection and approval, in its sole and absolute discretion, of the physical condition of the Property (the "Property Inspection"), including, without limitation, the conducting of soil tests (including borings), toxic and hazardous waste studies, surveys, engineering, historical use, traffic and access studies, structural studies and review of zoning, SEPA requests, fire, safety and other compliance matters. Buyer shall correct any damage to the Property caused by the Property Inspection and shall return the Property to its condition prior to the Property Inspection and further shall be responsible for all damages and/or injuries resulting from Buyer's Property Inspection activities except to the extent resulting from any negligence or intentional acts of Seller. If the Property Inspection indicates, in Buyer's sole and absolute discretion, that the Property is not suitable for Buyer's intended purposes, the provisions of Section 5(c) hereof shall apply; and

(ii) Satisfactory Performance. Buyer's approval, in its sole and absolute discretion, of the past performance and potential future performance of the Property for Buyer's intended purposes (the "Performance Inspection"), including, without limitation, the zoning and other codes, covenants and/or restrictions affecting the use and future development of the Property, the restrictions, if any, to demolishing any existing improvements on the Property, the certificates, leases and permits existing

with respect to the Property and likelihood and anticipated cost of obtaining additional certificates, leases and permits that Buyer desires to obtain with respect thereto, including, but not limited to rezoning, the availability and access to public roads, the availability of utilities and sewer capacity, the ability to provide an on-site septic system, the potential of a moratorium or moratoria on a part of the Property, the potential opportunity to acquire additional property adjacent to or contiguous with the Property, and the potential to finance the Property in a manner satisfactory to Buyer in all respects and demographic studies with respect to the neighborhood and region in which the Property is located.

(b) Due Diligence Period. As used herein, the term “Due Diligence Period” means the period ending forty-five (45) days after the Effective Date, except as extended by the terms herein or unless terminated earlier by written notice from Buyer to Seller.

(c) Buyer's Right to Terminate. If the conditions set forth in Section 5(a) herein are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right to terminate its rights and obligations with respect to the Property under this Agreement by sending written notice to Seller and Escrow Agent (such notice referred to as a “Termination Notice”), and the Deposit shall be returned to Buyer, and Buyer and Seller shall have no further obligations hereunder.

6. Buyer's Closing Conditions. Buyer's obligation to purchase the Property shall also be subject to the following conditions which must be satisfied as of Closing unless waived by Buyer at Closing:

(a) All representations and warranties of Seller contained herein shall be true, accurate and complete at the time of the Closing as if made again at such time;

(b) Seller shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance);

(c) At Closing, Seller shall deliver title to the Property in the condition required by Section 4 of this Agreement; and

(d) At Closing, the physical condition of the Property shall be the same as on the date hereof.

If the conditions set forth in this Section 6 are not satisfied as of Closing and Buyer does not waive the same, then notwithstanding anything contained herein to the contrary, Buyer is entitled to return of the Deposit, and neither Buyer nor Seller shall have any other liability to the other with respect to the Property under this Agreement except that the provisions of Section 16 shall nonetheless be operative if Seller defaults under this Agreement.

7. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties, which representations and warranties shall be deemed made by Seller to Buyer also as of the Closing Date:

(a) Parties in Possession. There are no parties or trespassers in possession or which have a right to possession of all or any portion of the Property, and there are no leases affecting the Property except those Existing Agreements as identified in writing by Seller to Buyer as set forth in Section 5(a) above, along with a copy of any such executed leases, prior to execution of this Agreement. No person or entity has any right of first refusal or option to acquire any interest in the Property or any part thereof, and Seller has not sold or contracted to sell the Property or any portion thereof or interest therein other than as set forth herein;

(b) Condemnation or Assessment; Access. There is no pending condemnation or similar proceeding affecting the Property, nor, to Seller's knowledge, is there any such proceeding or assessment contemplated by any governmental authority (other than this sale with Buyer). The Property has full and free access from any adjoining public highways, streets or roads, and there is no pending or threatened governmental proceeding which would impair or curtail such access;

(c) Compliance with Law. To the best of Seller's knowledge, Seller has complied with all applicable zoning, use, environmental, flood control, planning, building, fire, health, traffic, disabled persons or other laws, ordinances, regulations, statutes and rules relating to the Property, and every part thereof. Seller has not received nor is aware of any notification from any governmental authority requiring any work to be done on the Property or advising of any condition (including, without limitation, hazardous substances or wastes) which would render the Property unusable or affect the usability of the Property or any part thereof for the purposes of Buyer;

(d) Option to Acquire Premises. No person or entity has any right of first refusal or option to acquire any interest in the Property or any part thereof, and Seller has not sold or contracted to sell the Property or any portion thereof or interest therein other than as set forth herein;

(e) Foreign Person. Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code;

(f) Sole Legal Owner. Seller is the sole legal fee owner of the Property, and is not holding fee title as a nominee for any other person or entity;

(g) Mechanics' Liens. No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborers' or materialmen's liens or claims might arise;

(h) Assumption of Liabilities. Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Closing Date. Seller, after the Closing Date, will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Property prior to the Closing Date, and shall indemnify, defend and hold Buyer harmless therefrom; and

(i) Litigation. There is no litigation or threatened litigation which could now or in the future in any way constitute a lien, claim, or obligation of any kind on the Property, affect the use, ownership or operation of the Property or otherwise adversely affect the Property. For purposes of this clause, litigation includes lawsuits, actions, administrative proceedings, governmental investigations and all other proceedings before any tribunal having jurisdiction over the Property.

8. Seller's Reserved Easement. Seller hereby reserves, and Buyer hereby agrees to, a perpetual, non-exclusive easement in gross over the Property for passive use related to students and others participating in Seller's educational programming and activities that do not negatively affect the ecological values of the property (the "Reserved Easement"). The Reserved Easement does not permit Seller to construct any structures or improvements on the Property. The Reserved Easement does not permit Seller to remove any trees, other vegetation, or fauna from the property. The Reserved Easement shall be subject to future conservation easements, encumbrances, or covenants (the "Future Encumbrances") recorded on the Property provided that such Future Encumbrances reserve Seller's rights under the Reserved Easement.

9. Covenants of Seller. Seller covenants and agrees as follows:

(a) From the date of this Agreement to the Closing Date, Seller will not grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease (including the Existing Agreements identified in Section 5(a) above), option or other right affecting the Property or any part thereof without Buyer's written consent first having been obtained;

(b) From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof promptly upon learning of the occurrence of such event;

(c) Seller shall not enter into any new leases, trust deeds, mortgages, restrictions, encumbrances, liens, or other instruments or agreements affecting the Property without the prior written consent of Buyer from and after the date of this Agreement;

(d) From the date of this Agreement to the Closing Date, Seller will perform all of its monetary and non-monetary obligations under all indebtedness (whether for borrowed money or otherwise) and the liens securing same pertaining to the Property or any portion thereof, if any; and

(e) Seller shall cooperate with Buyer in its efforts to obtain access to water, sewer and all other utilities; provided, however, that said cooperation shall not require the conveyance or granting of easements or other valuable property rights.

In the event of a default by Seller in the performance of its obligations under this Section 9, Buyer (without any obligation to do so) may, upon five (5) days prior written notice to Seller and Seller's failure to cure said default prior to the expiration of said five (5) day period: (i) cure such default and may offset the cost of doing so against the Purchase Price payable at Closing; (ii) terminate the Agreement, in which case the Deposit shall be returned to Buyer, and Buyer and Seller shall have no further obligations hereunder; or (iii) if the default is discovered post-Closing, seek damages from Seller in addition to any and all other legal remedies available by law or in equity.

10. Closing.

(a) Time and Place. Provided that all the contingencies set forth in this Agreement have been previously fulfilled, the Closing shall take place at the place and time determined as set forth in Section 3 of this Agreement.

(b) Documents to be Delivered by Seller. For and in consideration of, and as a condition precedent to, the payment to Seller of any of the Purchase Price, Seller shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

(i) Warranty Deed. A statutory warranty deed ("Deed") in the form of Exhibit B attached hereto containing the legal description of the Land in such form as will convey to Buyer a good, marketable and indefeasible title in fee simple absolute to the Property, free and clear of all liens, encumbrances, conditions, easements, assignments, and restrictions, except for the Reserved Easement and Permitted Exceptions;

(ii) Title Documents. Such other documents, including, without limitation, lien waivers, indemnity bonds, and indemnification agreements as shall be reasonably required by the Title

Company as a condition to its insuring Buyer's good and marketable fee simple title to the Property free of any exceptions, other than the Permitted Exceptions;

(iii) Excise Tax Affidavit. An excise tax affidavit for filing with the Kitsap County Auditor at the time of recording the Deed;

(iv) FIRPTA Affidavit. The affidavit of non-foreign status described in Section 8(e) of this Agreement, as required by federal tax law; and

(v) Surveys. Such surveys, site plans and plans and specifications relating to the Property as are in the possession or control of Seller.

(c) Delivery by Buyer. Buyer shall deliver to Seller the Purchase Price, the tax affidavit referred to in (b)(iii) above, and shall seek from the Title Company the final Title Documents referred to in Section 4(b) of this Agreement.

(d) Payment of Costs. At Closing, Seller and Buyer shall pay their own respective costs incurred with respect to the consummation of the purchase and sale of the Property including, without limitation, their own respective attorneys' fees. Notwithstanding the foregoing:

(i) Seller shall pay any and all transfer, sales, gains and documentary stamp taxes or similar charges incident to the conveyance of title to the Property to Buyer;

(iii) Buyer shall pay the fee to record the Deed;

(iv) Buyer shall pay the escrow fee, if any, and Seller shall pay the real estate excise tax, if any; and

(v) Seller shall pay the costs of a standard owner's title policy and Buyer shall pay any additional costs of any extended owner's title policy and any endorsements requested by Buyer.

(e) Prorations. All charges and credits with respect to the Property, including without limitation real property taxes, utility charges, and other income and expenses, shall be prorated to the Closing Date.

(f) Monetary Liens. Seller shall pay or cause to be satisfied at or prior to Closing all monetary liens created by or arising through Seller on or with respect to all or any portion of the Property, including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements.

11. Condemnation. In the event of any commenced, to be commenced or consummated proceedings in eminent domain or condemnation (collectively, "Condemnation") by a governmental entity other than Buyer respecting the Property or any portion thereof, on or after the date of this Agreement and prior to Closing, Buyer may elect, by written notice to Seller at any time prior to Closing, to terminate its rights and obligations with respect to the Property under this Agreement. If Buyer makes such election, neither Buyer nor Seller shall have any further liability with respect to the Property under this Agreement and the Deposit shall be returned to Buyer. If Buyer fails to make such election prior to Closing Date, this Agreement shall continue in effect, there shall be no reduction in the Purchase Price, and Seller shall, prior to Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title and interest in and to any condemnation award or settlement made or to be made in

connection with such Condemnation proceeding. Buyer shall have the right at all times to participate in all negotiations and dealings with the condemning authority and approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

12. Casualty. If any fire, erosion, landslide, flood or casualty occurs and materially affects all or any portion of the Property on or after the date of this Agreement and prior to the Closing, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property.

13. Notices. Unless applicable law or a specific provision herein requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "notices") shall be in writing and must be sent by (i) electronic mail **and** (ii) either personal delivery or next day delivery by nationally recognized overnight delivery service that provides evidence of the date of delivery, in any case with all charges prepaid, and addressed to the appropriate party at its address listed below. Notwithstanding the foregoing, the party who is entitled to receive any notice under this Agreement may elect to accept delivery of such notice by electronic mail only, but the sending party shall not be entitled to forego sending by personal delivery or next day delivery unless the receiving party affirmatively waives such secondary delivery in writing.

To Buyer: Bainbridge Island Metropolitan Park & Recreation District  
7686 High School Rd NE  
Bainbridge Island, WA 98110  
Attn: Dan Hamlin  
Email: [dan@biparks.org](mailto:dan@biparks.org)

With copy to:  
Law Office of Hayes Gori, PLLC  
271 Wyatt Way NE, Suite 112  
Bainbridge Island, WA 98110  
Email: [hayes@hayesthelawyer.com](mailto:hayes@hayesthelawyer.com)  
Attn: Hayes Gori

To Seller: Bainbridge School District No. 303  
8489 Madison Avenue North  
Bainbridge Island, WA 98110  
Attn: Dane Fenwick  
Email: [dfenwick@bisd303.org](mailto:dfenwick@bisd303.org)

With copy to:  
Pacifica Law Group  
1191 Second Ave, Suite 2000  
Seattle, WA 98101-3404  
Attention: Denise Stiffarm

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

14. Survival of Representations and Warranties. All representations, warranties, covenants and agreements of the parties contained in this Agreement, or in any instrument or other writing provided for herein, shall survive the Closing.

15. Finders' or Brokers' Fees. In this transaction, neither Seller nor Buyer are represented by a broker and each party declares for itself that, to its knowledge, no commission is due to any broker or agent not named herein as a result of this transaction, and each party agrees, as to the other party, that it shall indemnify, defend and save such party harmless from and against any claims, fees (including attorneys' fees and costs) or costs arising out of any claim made by any other broker claiming a commission is due by or through the indemnifying party. The indemnifications set forth in this Section 15 shall survive Closing.

16. Event of Default. In the event of a default under this Agreement by Seller (including a breach of any representation, warranty or covenant set forth herein), Buyer shall be entitled, in addition to all other remedies, including termination of this Agreement and immediate return of the Deposit, to pursue any remedies permitted by law or equity against Seller. In the event of a breach or default by Buyer without any default by Seller or failure of any condition to Buyer's obligations hereunder, Seller's sole and exclusive remedy shall be the retention of the Deposit held by Escrow Agent, together with all interest earned thereon, and all amounts previously paid to it hereunder, as liquidated damages and not as a forfeiture or penalty. The parties acknowledge that in the event of such default by Buyer, Seller will have incurred substantial but unascertainable damages and that therefore the provision herein for liquidated damages is a valid one.

17. Miscellaneous.

(a) Applicable Law. This Agreement shall in all respects, be governed by and construed in accordance with the laws of the State of Washington. Seller and Buyer hereby agree that venue of any action between the parties relating to this Agreement shall be in Kitsap County, Washington.

(b) Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties hereto.

(c) Modification or Amendment. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties hereto.

(d) Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

(e) Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to the subject matter of this Agreement are hereby canceled in their entirety and are of no further force or effect.

(f) Attorneys' Fees. Should either party bring suit to enforce this Agreement, the substantially prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit, including, without limitation, the fees of accountants, appraisers and other professionals, whether at trial or on appeal.

(g) Headings. The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.



(h) Counterparts. This Agreement may be signed in counterparts and all of such counterparts when properly executed by the appropriate parties thereto together shall serve as a fully executed document, binding upon the parties. This Agreement may be executed by original signature and/or electronic signature made in compliance with the ESIGN Act of 2000 (as the same may be amended) (e.g., DocuSign), and may be delivered via facsimile, electronic mail, or other method, and any counterpart so executed and delivered shall be deemed to have been duly and validly executed and delivered for all purposes.

(i) Effective Date; Timing Agreements. The Effective Date of this Agreement shall be the date on which this Agreement is fully executed by both parties (or, the date on which the last party to this Agreement signs). Time is of the essence to both Seller and Purchaser in the performance of this Agreement. If the final date of any period of time set forth in any provision of this Agreement falls upon a Saturday or Sunday or a legal holiday under the laws of the State of Washington, then and in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday, or a legal holiday.

**SIGNATURES FOLLOW**

**SELLER:**

\_\_\_\_\_  
BAINBRIDGE SCHOOL DISTRICT NO. 303

Name: Amii Thompson, Superintendent

Date: \_\_\_\_\_

**BUYER:**

\_\_\_\_\_  
BAINBRIDGE ISLAND METROPOLITAN PARK &  
RECREATION DISTRICT

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### Legal Description of the Property

SE $\frac{1}{4}$  NE $\frac{1}{4}$  EXCEPTING the east 400 feet thereof, and the NE $\frac{1}{4}$  SE $\frac{1}{4}$  EXCEPTING the east 400 feet, ALSO EXCEPTING THEREFROM the south 746 feet of said NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 16, Township 25 North, Range 2 East, W.M., containing 40.03 acres, more or less, according to the DNR Map 373 dated June 1980, on file with the office of the Commissioner of Public Lands, Olympia, Washington.

Situate in the City of Bainbridge Island, County of Kitsap, State of Washington.

**EXHIBIT B**

Form of Deed

After recording, return to:

Pacifica Law Group LLP  
1191 Second Avenue, Suite 2000  
Seattle, WA 98101  
Attn: Denise Stiffarm

### STATUTORY WARRANTY DEED

**Grantor:** Bainbridge Island School District No. 303  
**Grantee:** Bainbridge Island Metropolitan Park & Recreation District  
**Abbrev. Legal:** Ptn. E ½ 16-25N-R2E  
**Tax Parcel No.:** 162502-1-041-2006  
**Reference:** None

The Bainbridge Island School District No. 303, a political subdivision of the State of Washington (“**Grantor**”), for good and valuable consideration, receipt of which is hereby acknowledged, conveys and warrants to the Bainbridge Island Metropolitan Park & Recreation District, a municipal corporation (“**Grantee**”), the following described real estate, situated in Kitsap County, Washington:

See Exhibit A attached hereto and incorporated herein by this reference, the (“**Property**”);

SUBJECT TO the exceptions set forth on Exhibit B attached hereto.

Grantor hereby reserves out of the grant hereby made, unto itself, its successors and assigns forever, a perpetual, non-exclusive easement in gross over the Property for passive use related to students and others participating in Grantor’s educational programming and activities that do not negatively affect the ecological values of the Property (the “**Reserved Easement**”). The Reserved Easement does not permit Grantor to construct any structures or improvements on the Property. The Reserved Easement does not permit Grantor to remove any trees, other vegetation, or fauna from the property. The Reserved Easement shall be subject to future conservation easements, encumbrances, or covenants (the “**Future Encumbrances**”) recorded on the Property provided that such Future Encumbrances reserve Grantor’s rights under the Reserved Easement.

*(remainder of page intentionally left blank)*

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

GRANTOR:

BAINBRIDGE ISLAND SCHOOL DISTRICT  
NO. 303, a political subdivision of the State of  
Washington

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KITSAP )

On this \_\_\_\_ day of \_\_\_\_\_, 2025, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the Bainbridge Island School District No. 303, a political subdivision of the State of Washington, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year above first written.

(Print name of notary)  
 NOTARY PUBLIC in and for the State of  
 Washington, residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

**EXHIBIT A TO DEED**  
**Legal Description**

SE $\frac{1}{4}$  NE $\frac{1}{4}$  EXCEPTING the east 400 feet thereof, and the NE $\frac{1}{4}$  SE $\frac{1}{4}$  EXCEPTING the east 400 feet, ALSO EXCEPTING THEREFROM the south 746 feet of said NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 16, Township 25 North, Range 2 East, W.M., containing 40.03 acres, more or less, according to the DNR Map 373 dated June 1980, on file with the office of the Commissioner of Public Lands, Olympia, Washington.

Situate in the City of Bainbridge Island, County of Kitsap, State of Washington.

**EXHIBIT B TO DEED**  
**Permitted Exceptions**

[TBD]



**DECLARATION OF RESTRICTIVE COVENANTS AND**

**GRANT OF DEED OF RIGHT**

**Grand Forest East Addition**

Grantor: Bainbridge Island Metro Parks & Recreation District

Grantee: Bainbridge Island Land Trust

Legal

Description: The Southeast quarter of the Northeast quarter and the Northeast quarter of the Southeast quarter, Section 16, Township 25 North, Range 2 East, W.M., in Kitsap County, Washington; Except therefrom the East 400 feet; And Except the South 746 feet of said Northeast quarter of the Southeast quarter; And Except the West 50 feet conveyed for road.

Assessor's Property Tax Parcel No. 162502-1-041-2006

1. Grantor shall take reasonable and feasible measures as are necessary to protect the 38.80-acre Property as legally described, in perpetuity. The Protected Property is forestland and supports a diverse mix of native vegetation and wildlife habitat. The Property shall be used exclusively as a passive public park and natural open space, open to the public for purposes of walking, jogging, biking, horseback riding, sitting, nature viewing, photography, picnicking (without fire or other cooking facilities), and other similar passive recreational uses and activities. The Property shall be maintained, managed and preserved by Grantor in accordance with generally accepted industry standards and best practices generally applicable to public forested parks similar to the Property.
2. This instrument is subordinate to the rights conveyed Auditor's File No. 9211160058 (water reservoir) and Auditor's File No. 9612200083 (communications tower lease). Grantor shall not amend these instruments without prior consultation and collaboration with Grantee.
3. The following uses and activities are prohibited on the Property:
  - a. Subdivision or legal lot creation.
  - b. Residential and commercial uses.
  - c. Commercial logging.
  - d. Development of structures, including storage areas, equipment maintenance facilities, residences, bulkheads; provided, that fences are permitted for public safety or to protect natural open space. Fences should not unreasonably impede animal movement.
  - e. New roads, rights-of-way or utility easements without prior consultation and collaboration with Grantee.

- f. Except as otherwise specifically set forth in this document, driving or parking of motorized vehicles except for maintenance or emergency.
  - g. Discharge of firearms or any other projectiles such as bow and arrow.
  - h. Any uses and activities that are inconsistent with those set forth in Section 1 above.
- 4. The Property is to be managed as an addition to the Grand Forest, and therefore any questions as to permitted uses and activities shall be analyzed and resolved so as to harmonize the use of the Property with the use of the Grand Forest. Grantor shall consult and collaborate with Grantee in the development of a Stewardship Plan for integrating the Property into the Grand Forest.
- 5. Following provisions apply with respect to specific uses and activities:
  - a. Grantor shall maintain the trail system as per attached Exhibit A, with one additional trail connection to the east to be added in a location determined by Grantor in consultation and collaboration with Grantee. Grantor may relocate trails in consultation and collaboration with Grantee. Trails shall be maintained as per Grantor's *Trail Development and Management Plan* and trail treads should consist of only natural materials.
  - b. Grantor may construct one new parking area for up to 12 cars within 100' of Mandus Olson Rd NE, with the location determined in consultation with Grantee. Public motorized access is permitted to the parking area.
  - c. Trails shall be designated "non-motorized" with standards for devices powered by electric motors (electric bikes, wheelchairs, etc.) in accordance with State of Washington guidelines and with equitable access for the mobility impaired.
  - d. Grantor may plant and maintain only native vegetation.
  - e. Grantor should control invasive species for habitat maintenance and restoration, and manage vegetation as needed to maintain permitted improvements. Herbicides consistent with the Grantors Integrated Pest Management policy constituting minimum necessary to meet objectives and in compliance with the product label are allowed. Domestic animals may be periodically used to control invasive plants provided that there is a subsequent restoration of native plants.
  - f. Grantor may grant access for traditional and cultural uses by indigenous people consistent with a Stewardship Plan.
  - g. As reasonably required, based on the recommendation of a certified tree arborist, Grantor may remove snags or hazard trees that threaten public safety, permitted structures, roadways or trails on or adjacent to the Property.
  - h. Grantor may conduct other forest management activities consistent with maintaining habitat value and forest health and reducing fire risk under a Forest Management Plan. Grantee shall be provided the opportunity to review and comment on the Forest Management Plan prior to final approval by Grantor.
  - i. Grantor may take other actions necessary to protect health or safety, or allow emergency response actions, provided that any such activity shall be conducted to minimize adverse environmental impacts to the extent practicable.

6. In consideration for Grantee's significant contribution of funds to acquire the Property, Grantor hereby conveys to Grantee the right to enforce this document, as follows:

- a. "Consultation and Collaboration" as used in this agreement shall be defined as: Prior to making any significant decisions affecting the performance of the sections in this agreement when "consultation and collaboration" are referenced, the parties shall engage in meaningful consultation, ensuring that all viewpoints are considered. The Parties shall strive to reach a consensus. Ultimately, the final decision-making authority belongs to the Grantor, subject to Grantee's right to judicial enforcement under this Section 6.
  - b. If Grantee determines that Grantor is in actual or threatened violation of this document, Grantee may give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, if the violation involves injury to the Property resulting from any use or activity inconsistent with this document, to restore the Property to its prior condition.
  - c. Grantee may bring an action for injunctive relief if:
    - i. Grantor fails to cure the violation within forty-five (45) days after receipt of written notice of violation from Grantee; or
    - ii. Under circumstances where the violation cannot reasonably be cured within a forty-five (45) day period, Grantor fails to begin curing the violation within the forty-five (45) day period, or fails to continue diligently to cure such violation until finally cured.
  - d. In any judicial proceeding to enforce this document, the prevailing party shall be entitled to reimbursement from the other party of its costs and expenses, including attorneys' and consultants' costs and fees.
7. This document contains covenants that run with the land in perpetuity and shall be binding upon Grantor, its successors and assigns, and upon any person acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or otherwise. Grantor shall record this document with the Kitsap County Assessor at the time Grantor acquires title to the Property. In the event Grantor decides to sell the Property and receives a bona fide offer to purchase the property, Grantee shall have a right of first refusal to acquire the Property on the same terms and conditions. If Grantor sells all or any portion of its interest in the Property, the new owner of the Property or any portion thereof shall be subject to the covenants and requirements under this document. This document may not be terminated or modified without the advance written consent of Grantee.

**SIGNATURES FOLLOW**

**GRANTOR:**

\_\_\_\_\_  
BAINBRIDGE ISLAND METROPOLITAN PARK &  
RECREATION DISTRICT

Name: Dan Hamlin, Executive Director

Date: \_\_\_\_\_

**GRANTEE:**

\_\_\_\_\_  
BAINBRIDGE ISLAND LAND TRUST

Name: Cullen Brady, Executive Director

Date: \_\_\_\_\_

**AGREEMENT FOR PURCHASE AND SALE OF RESTRICTIVE COVENANTS  
AND GRANT OF DEED OF RIGHT**

THIS AGREEMENT FOR PURCHASE AND SALE OF RESTRICTIVE COVENANTS AND GRANT OF DEED OF RIGHT (this “**Agreement**”) made as of the \_\_\_\_ day of April, 2025, by and between Bainbridge Island Metropolitan Recreation and Park District, a Washington municipal corporation (the “**Seller**”), and Bainbridge Island Land Trust, a Washington nonprofit corporation (together with its successors and permitted assigns, “**Buyer**”).

**ARTICLE 1  
PARTIES / PROPERTY / PURCHASE PRICE**

**1.1 Certain Basic Terms.**

- |   |  |
|---|--|
| (a) <u>Buyer and Notice Address:</u><br>Bainbridge Island Land Trust and its assigns<br>Attn: Cullen Brady<br>147 Finch Place SW<br>Suite 3<br>Bainbridge Island, WA 98110<br>Telephone: (206) 842-1216<br>Email: cullen@bi-landtrust.org | <u>With a copy to:</u><br>K&L Gates LLP<br>Attn: Craig Trueblood<br>925 Fourth Ave.<br>Suite 2900<br>Seattle, WA 98104-1158<br>Telephone: (206) 370-8368<br>Email: craig.trueblood@klgates.com   |
| (b) <u>Seller and Notice Address:</u><br>Bainbridge Island Metro Park & Recreation District<br>Attn: Dan Hamlin<br>7686 NE High School RD<br>Bainbridge Island, WA 98110<br>Telephone: 206.842.0501<br>Email: dan@biparks.org             | <u>With a copy to:</u><br>Law Office of Hayes Gori, PLLC<br>Attn: Hayes Gori<br>271 Wyatt Way NE, Suite 112<br>Bainbridge Island, WA 98110<br>Telephone: 206-842-6462<br>Email: <a href="mailto:hayes@hayesthelawyer.com">hayes@hayesthelawyer.com</a> |
| (c) <u>Title Company:</u><br>Pacific Northwest Title<br>Attn:<br>2021 NW Myhre Road, Ste 300<br>Silverdale, WA 98383<br>Telephone:<br>Email:  | (d) <u>Escrow Agent:</u><br>Pacific Northwest Title<br>Attn: Rachel Snelson<br>2021 NW Myhre Road, Ste 300<br>Silverdale, WA 98383<br>Telephone:<br>Email: <a href="mailto:RachelS@pnwtkitsap.com">RachelS@pnwtkitsap.com</a>                          |
| (e) Effective Date: April ___, 2025.  |  |
| (f) Purchase Price: \$_____   |  |

- (g) Earnest Money: \$25,000.00
- (h) Due Diligence Period: The period ending at 5:00 p.m. (local time where the Property is located) on the 30<sup>th</sup> day after the Effective Date.
- (i) Closing Date: On the date of Closing under that certain Real Estate Purchase and Sale Agreement, dated April \_\_, 2025, between Bainbridge Island School District No. 303 and Bainbridge Island Metropolitan Recreation and Park District but no later than May 30, 2025.
- (j) Deed of Right: Restrictive Covenants and Grant of Deed of Right on approximately 38 acres of real property located in Kitsap County, Washington, as described in Exhibit A attached hereto (the “**Property**”). Tax Parcel Number 162502-1-041-2006.

1.2 **Conveyance.** Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Restrictive Covenants and Grant of Deed of Right attached hereto as Exhibit B (the “**Deed of Right**”).

1.3 **Earnest Money.** Within two (2) business days of Buyer’s acknowledged receipt of a fully executed copy of this Agreement, Buyer shall deposit with the Escrow Agent the Earnest Money. The Earnest Money shall be held and disbursed by the Escrow Agent pursuant to Article 9 of this Agreement. If this Agreement terminates prior to the expiration of the Due Diligence Period pursuant to any express right of Buyer to terminate this Agreement, the Earnest Money shall be surrendered to Buyer immediately upon request, and all further rights and obligations of the parties under this Agreement shall terminate.

## ARTICLE 2 PROPERTY INSPECTION

2.1 **Seller’s Delivery of Specified Documents.** Within five (5) days after the Effective Date, Seller shall provide to Buyer the documents and reports listed in Exhibit C (the “**Due Diligence Materials**”) to the extent in the possession of Seller or its agents. Seller shall provide to Buyer the Due Diligence Materials as such come into Seller’s possession or produced by Seller after the initial delivery above and shall continue to provide same during the pendency of this Agreement. Seller shall have no obligation to prepare or to commission the preparation of Due Diligence Materials which do not exist or which are otherwise outside of the possession of Seller or its agents. Seller need not provide documents included with the title commitment.

2.2 **Seller Disclosure Statement.** Contemporaneously with Seller’s delivery of this executed Agreement, Seller shall deliver to Buyer a completed and signed “Environmental Questionnaire” attached hereto as Exhibit D.

2.3 **Due Diligence.** Buyer shall have through the last day of the Due Diligence Period in which to examine, inspect, and investigate the Property and, in Buyer’s sole and absolute judgment and discretion, to determine whether the Property is acceptable to Buyer and to obtain all necessary internal approvals (the “**Due Diligence Contingency**”). Notwithstanding anything to the contrary in this Agreement, Buyer may give to Seller written notice that Buyer waives the Due Diligence Contingency. If Buyer gives such notice on or before 5:00 p.m. on the last day of the Due Diligence Period, then this Agreement shall remain in full force and effect. If Buyer does not give such notice on or before 5:00 p.m.

on the last day of the Due Diligence Period, then, unless otherwise agreed in writing, this Agreement shall terminate automatically and the Earnest Money shall be surrendered to Buyer.

Buyer and its agents, employees, and representatives shall have a continuing right of reasonable access to the Property at reasonable times during the pendency of this Agreement for the purpose of conducting surveys, engineering, geotechnical, and environmental inspections and tests (which may include, after specific written approval of Seller, intrusive inspection and sampling), and any other inspections, studies, or tests reasonably required by Buyer. In the course of its investigations Buyer may make inquiries to third parties including, without limitation, lenders, contractors, and municipal, local, and other government officials and representatives, and Seller consents to such inquiries. Buyer shall keep the Property free and clear of any liens and will indemnify, defend, and hold Seller harmless from all claims and liabilities asserted against Seller as a result of any such entry by Buyer, its agents, employees, or representatives. If any inspection or test disturbs the Property, Buyer will restore the Property to the same condition as existed prior to any such inspection or test. The obligations of the Buyer under this paragraph shall survive the termination of the Agreement.

**2.4 Adverse Conditions.** As a condition to Buyer's obligations to close, there shall be no material adverse change in any condition of or affecting the Property not caused by Buyer or its contractors, employees, affiliates or other related or similar parties, that has occurred after the Due Diligence Period including without limitation (i) any dumping of refuse or environmental contamination; (ii) any termination or cessation of legal access to the Property; and (iii) the availability, adequacy or cost of or for all utilities (including without limitation, water, sanitary sewer, storm sewer, gas, electric, cable and any other utilities required to serve or service the Property) that will be necessary to serve the Proposed Project.

### ARTICLE 3 TITLE AND SURVEY REVIEW

**3.1 Delivery of Title Commitment and Survey.** Buyer shall cause to be prepared a current, effective commitment for title insurance (the "**Title Commitment**") issued by the Title Company, in the amount of the Purchase Price with Buyer as the proposed insured, and accompanied by true, complete, and legible copies of all documents referred to in the Title Commitment. Seller shall cause to be prepared a current ALTA/ACSM Survey of the Property (the "**Survey**") including a certification addressed to Buyer and the Title Company unless waived by the Buyer prior to Closing.

**3.2 Title Review and Cure.** During the Due Diligence Period, Buyer shall review title to the Property as disclosed by the Title Commitment and notify Seller of any objections it may have to title of the Property. Seller will reasonably cooperate with Buyer in curing any objections Buyer may have to title to the Property. Seller shall have no obligation to cure title objections except monetary liens of an ascertainable amount created by, under or through Seller, which liens Seller shall cause to be released at the Closing. Seller agrees to remove any exceptions or encumbrances to title which are created by, under or through Seller after the Effective Date without Buyer's consent. Buyer may terminate this Agreement and receive a refund of the Earnest Money if the Title Company revises the Title Commitment after the expiration of the Due Diligence Period to add or modify exceptions or to delete or modify the conditions to obtaining any endorsement requested by Buyer during the Due Diligence Period if such additions, modifications or deletions are material, not reasonably acceptable to Buyer and are not removed by the Closing Date. The term "**Permitted Exceptions**" shall mean the specific exceptions (exceptions that are not part of the promulgated title insurance form) in the Title Commitment that the Title Company has not agreed to insure over or remove from the Title Commitment as of the expiration of the Due Diligence

Period and that Seller is not required to remove as provided above, and real estate taxes not yet due and payable.

**3.3 Delivery of Title Policy at Closing.** At the Closing, as a condition to Buyer's obligation to close, the Title Company shall deliver to Buyer an ALTA extended coverage Owner's Policy of Title Insurance ("**Title Policy**") issued by the Title Company with general exceptions deleted in accordance with customary practice, containing the Buyer's Endorsements, dated the date and time of the recording of the Deed of Right in the amount of the Purchase Price, insuring Buyer as owner of good, marketable and indefeasible fee simple title to the Property, subject only to the Permitted Exceptions. "**Buyer's Endorsements**" shall mean, to the extent such endorsements are available, such endorsements as Buyer may require based on its review of the Title Commitment and Survey. Seller shall execute at Closing an affidavit on the Title Company's standard form so that the Title Company can delete or modify the standard printed exceptions as to parties in possession, unrecorded liens, and similar matters within the knowledge or control of Seller. The Title Policy may be delivered after the Closing if at the Closing the Title Company issues a currently effective, duly-executed "marked-up" Title Commitment and irrevocably commits in writing to issue the Title Policy in the form of the "marked-up" Title Commitment promptly after the Closing Date.

#### ARTICLE 4 PRE-CLOSING COVENANTS

**4.1 Performance under Contracts.** During the pendency of this Agreement, Seller will perform its material obligations under financing and other agreements that affect the Property.

**4.2 New Encumbrances.** During the pendency of this Agreement, except with respect to a Reserved Easement granted to the Bainbridge Island School District No. 303 pursuant to that certain Real Estate Purchase and Sale Agreement, dated April \_\_, 2025, between Bainbridge Island School District No. 303 and Seller, Seller will not without Buyer's prior written consent (a) create or permit the creation of any lien, encumbrance or charge that will not be satisfied in full at Closing or (b) enter into any contract that will be an obligation affecting the Property after the Closing.

**4.3 Listings and Other Offers.** During the pendency of this Agreement, Seller will not list the Property with any broker or otherwise solicit or make or accept any offers to sell the Property, engage in any discussions or negotiations with any third party with respect to the sale or other disposition of the Property, or enter into any contracts or agreements (whether binding or not) regarding any disposition of the Property.

#### ARTICLE 5 CLOSING

**5.1 Closing.** The consummation of the transaction contemplated herein ("**Closing**") shall occur on the Closing Date at the offices of the Escrow Agent. Closing shall occur through an escrow with the Escrow Agent. Funds shall be deposited into and held by Escrow Agent in a closing escrow account with a bank satisfactory to Buyer and Seller. Upon satisfaction or completion of all closing conditions and deliveries, the parties shall direct the Escrow Agent to immediately record and deliver the closing documents to the appropriate parties and make disbursements according to the closing statements executed by Seller and Buyer. The Escrow Agent shall agree in writing with Buyer that release of funds to the Seller shall irrevocably commit it to issue the Title Policy in accordance with this Agreement.



**5.2 Conditions to the Parties' Obligations to Close.** In addition to all other conditions set forth herein, the obligation of Seller, on the one hand, and Buyer, on the other hand, to consummate the transactions contemplated hereunder shall be contingent upon the following:

a. The other party's representations and warranties contained herein shall be true and correct as of the Effective Date and the Closing Date. For purposes of this clause (a), a representation shall be false if the factual matter that is the subject of the representation is false notwithstanding any lack of knowledge or notice to the party making the representation;

b. As of the Closing Date, the other party shall have performed its obligations hereunder and all deliveries to be made at Closing have been tendered;

c. There shall exist no actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, pending or threatened against the other party or the Property that would materially and adversely affect the operation or value of the Property or the other party's ability to perform its obligations under this Agreement;

d. There shall exist no pending or threatened action, suit or proceeding with respect to the other party before or by any court or administrative agency which seeks to restrain or prohibit, or to obtain damages or a discovery order with respect to, this Agreement or the consummation of the transactions contemplated hereby; and

e. The transaction shall have been duly approved by the Seller's Board of Commissioners and the Buyer's Board of Directors;

f. All required approvals, consents, and authorizations of state, county and federal regulatory authorities shall have been received

g. Closing under that certain Real Estate Purchase and Sale Agreement, dated April \_\_, 2025, between Bainbridge Island School District No. 303 and Bainbridge Island Metropolitan Recreation and Park District; and

h. All required consents of third parties shall have been received.

So long as a party is not in default hereunder, if any condition to such party's obligation to proceed with the Closing hereunder has not been satisfied as of the Closing Date, such party may, in its sole discretion, terminate this Agreement by delivering written notice to the other party on or before the Closing Date, or elect to close, notwithstanding the non-satisfaction of such condition, in which event such party shall be deemed to have waived any such condition. In the event such party elects to close, notwithstanding the nonsatisfaction of such condition, there shall be no liability on the part of any other party hereto for breaches of representations and warranties of which the party electing to close had actual knowledge at the Closing. If Buyer elects to terminate this Agreement after the Due Diligence Period on the basis of any of subsections 5.2(e) above, the Earnest Money shall be deemed forfeit and shall be released by the Escrow Agent to the Seller. Nothing in the foregoing shall relieve a party from any liability it would otherwise have if the failure of a party to satisfy a condition also constitutes a default by such party hereunder.

**5.3 Seller's Deliveries in Escrow.** At least two (2) business days prior to the Closing Date, Seller shall deliver in escrow to the Escrow Agent the following:

a. Restrictive Covenants and Grant of Deed of Right. A Restrictive Covenants and Grant of Deed of Right in the form attached hereto as Exhibit B.

b. Legal Disclosures. Any disclosures or reports required by applicable state and local law in connection with the conveyance of the Property;

c. Authority. Evidence of existence, organization, and authority of Seller and the authority of the person executing documents on behalf of Seller reasonably satisfactory to Buyer, the Escrow Agent, and the Title Company; and

d. Additional Documents. Any additional documents that Buyer, the Escrow Agent or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

**5.4 Buyer's Deliveries in Escrow.** Except as specified below, at least one (1) business day prior to the Closing Date, Buyer shall deliver in escrow to the Escrow Agent the following:

a. Purchase Price. On the Closing Date, the Purchase Price, less the Earnest Money that is applied to the Purchase Price, plus or minus applicable prorations, deposited by Buyer with the Escrow Agent in immediate, same-day federal funds wired for credit into the Escrow Agent's escrow account;

b. Assignments. Any assignments and other documents and certificates for service contracts, warranties and Intangible Property;

c. Legal Disclosures. Such disclosures and reports as are required by applicable state and local law in connection with the conveyance of real property;

d. Authority. Evidence of existence, organization, and authority of Buyer and the authority of the person executing documents on behalf of Buyer reasonably satisfactory to Seller, the Escrow Agent, and the Title Company; and

e. Additional Documents. Any additional documents that Seller, the Escrow Agent or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

**5.5 Closing Statements.** At least one (1) business day prior to the Closing Date, Seller and Buyer shall deposit with the Escrow Agent executed closing statements consistent with this Agreement in form required by the Escrow Agent. If Seller and Buyer cannot agree on the closing statement to be deposited as aforesaid because of a dispute over the prorations and adjustments set forth therein, the Closing nevertheless shall occur, and the amount in dispute shall be withheld from the Purchase Price and placed in an escrow with the Title Company, to be paid out upon the joint direction of the parties or pursuant to court order upon resolution or other final determination of the dispute.

**5.6 Title Policy.** The Escrow Agent shall deliver to Buyer the Title Policy pursuant to Section 3.3.

**5.7 Closing Costs.** Each party shall pay its portion of the following costs as indicated below.

<b><u>Type of Cost:</u></b>	<b><u>Paid by:</u></b>
Survey:	Seller
Title Policy Premiums:	
For standard coverage:	Seller
Increment associated with extended coverage and endorsements:	Buyer
Documentary, transfer, excise and sales taxes and similar fees	Seller
Recording charges:	
Instruments to remove encumbrances that Seller is obligated to remove:	Seller
Deed of Right:	Buyer
Appraisals, engineering studies, inspections, environmental inspections and other inspections and tests desired by Buyer:	Buyer
Other Costs:	
Escrow Agent's escrow fee:	Split 50/50
Escrow cancellation fee:	Buyer
Other costs not specified:	Local custom

5.8 **Close of Escrow.** The Escrow Agent, as agent for the Title Company, shall agree in writing with Seller and Buyer that (a) recordation of the Deed of Right constitutes its representation that it is holding the closing documents, closing funds and closing statement and is prepared and irrevocably committed to disburse the closing funds in accordance with the closing statements and (b) release of funds to the Seller shall irrevocably commit it to issue the Title Policy in accordance with this Agreement. Upon satisfaction or completion of the foregoing conditions and deliveries, the parties shall direct the Escrow Agent to immediately record and deliver the documents described above to the appropriate parties and make disbursements according to the closing statements executed by Seller and Buyer and in accordance with escrow instructions by each party consistent with this Agreement.

## ARTICLE 6 COMMISSIONS

6.1 **Commissions.** Seller and Buyer represent and warrant each to the other that they have not dealt with any real estate broker, sales person or finder in connection with this transaction. In the event of any claim for a broker's or finder's fee or commission in connection with the negotiation, execution or consummation of this Agreement or the transaction contemplated hereby, each party shall indemnify and hold harmless the other party from and against any such claim based upon any statement, representation or agreement of such party.

ARTICLE 7  
REPRESENTATIONS AND WARRANTIES

7.1 **Seller's Representations and Warranties.** As a material inducement to Buyer to execute this Agreement and consummate this transaction, Seller represents and warrants to Buyer that:

a. Legal Description. To Seller's knowledge, the legal description set forth in Exhibit A is the correct legal description of the Land to be conveyed pursuant to this Agreement. If the legal description in Exhibit A is not a complete or correct legal description of the Land to be conveyed, then the legal description in the Title Commitment shall be substituted in place of the legal description in Exhibit A on or before Closing.

b. Title. Seller holds fee simple title to the Property. To Seller's knowledge, the Property is not subject to any encumbrance that will not be set forth in the Title Commitment.

c. Organization and Authority. Seller is properly organized and in good standing as a Washington municipal corporation, Seller has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the sale contemplated by this Agreement. This Agreement and all of the documents to be delivered by Seller at the Closing have been and will be authorized and properly executed and will constitute the valid and binding obligations of Seller, enforceable in accordance with their terms.

d. Legal Lot. Seller has not received any notice from any government entity or agency indicating the Property is not a legal lot or lots in compliance with state statutes and local ordinances.

e. Conflicts and Pending Actions or Proceedings. There is no agreement to which Seller is a party or, to Seller's knowledge, binding on Seller which is in conflict with this Agreement. To Seller's knowledge, there is no action or proceeding pending or threatened against or relating to the Property, which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement.

f. Agreements with Governmental Authorities/Restrictions. Except as included in the Due Diligence Materials delivered to Buyer, Seller has not entered into, and has no knowledge of, any agreement with or application to any governmental authority with respect to any zoning modification, variance, exception, platting or other matter. To Seller's knowledge, neither Seller nor the Property is in violation or non-compliance with any restriction or covenant affecting the Property.

g. Condemnation. To Seller's knowledge, no condemnation, eminent domain or similar proceedings are pending or threatened with regard to the Property.

h. Notice of Special Assessments. Seller has not received any notice and has no knowledge of any pending or threatened liens, special assessments, condemnations, impositions or increases in assessed valuations (other than property taxes) to be made against the Property by any governmental authority.

i. Moratorium. To Seller's knowledge, there is no action imposed, pending, or contemplated by any utility supplier or other authority having jurisdiction over the Property that may result in a zoning change, a code change or the restriction, reduction, delay or denial of any permit necessary for the construction, use or occupancy of the Property.

j. Due Diligence Materials. To Seller's knowledge, the Due Diligence Materials contain all material documents, files, written information, books and records in Seller's possession or control and relating to the Property.

k. Environmental. Seller has no knowledge of any violation of Environmental Laws related to the Property or the presence or release of Hazardous Materials on or from the Property except as disclosed in the Due Diligence Materials. Seller has not manufactured, introduced, released or discharged from or onto the Property any Hazardous Materials or any toxic wastes, substances or materials (including, without limitation, asbestos), and Seller has not used the Property or any part thereof for the generation, treatment, storage, handling or disposal of any Hazardous Materials, in violation of any Environmental Laws. To Seller's knowledge, there is not now, nor has there ever been, on or in the Property underground storage tanks, asbestos-containing materials, or any material spills or polychlorinated biphenyls, including those used in hydraulic oils, electric transformers or other equipment. The term "**Environmental Laws**" includes without limitation the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act and other federal laws governing the environment as in effect on the Effective Date together with their implementing regulations and guidelines as of the Effective Date, and all state, regional, county, municipal and other local laws, regulations and ordinances that are equivalent or similar to the federal laws recited above or that purport to regulate Hazardous Materials. The term "**Hazardous Materials**" includes petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas or such synthetic gas), and any substance, material waste, pollutant or contaminant listed or defined as hazardous or toxic under any Environmental Law.

Seller is under contract to obtain fee simple title to the Property under that certain Real Estate Purchase and Sale Agreement, dated April \_\_, 2025, between Bainbridge Island School District No. 303 and Bainbridge Island Metropolitan Recreation and Park District. As used in this Section 7.1, "Seller's knowledge" means the actual knowledge of Dan Hamlin, Seller's Executive Director, with no duty to investigate.

## **7.2 Limitations on Seller's Representations and Warranties**

a. As-Is Purchase. Buyer acknowledges and agrees that, except as otherwise expressly set forth in this Agreement, the Deed of Right or any other Closing document: (i) the purchase of the Property shall be on an "AS IS," "WHERE IS," WITH ALL FAULTS" basis, subject to reasonable wear and tear from the Effective Date until the Closing Date; (ii) neither Seller nor any of its representatives have made any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whether express or implied, oral or written, past present or future, with respect to the Property or any portion thereof; and (iii) Buyer's decision to purchase the Property is based solely on the investigation, study, and analyses of all aspects of the Property as made by Buyer and Buyer's agents, employees, representatives, attorneys, advisors, and independent contractors. Buyer further acknowledges and agrees that Buyer is not relying on any statement made or information provided to Buyer by Seller or any of Seller's representatives, except for the representations and warranties expressly made by Seller in this Agreement.

b. Due Diligence Materials. Due Diligence Materials prepared by third parties and provided by Seller to Buyer are provided only as an accommodation to Buyer with no representation or warranty by Seller as to their reliability, sufficiency, or accuracy and not with the intent that these documents be relied upon by Buyer. Upon request from Buyer, Seller agrees to use commercially

reasonable effort to obtain reliance letters from the third parties that prepared such Due Diligence Materials.

c. Buyer's Waiver. EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTED PROVIDED BY SELLER IN SECTION 7.1 ABOVE AND AS OTHERWISE EXPRESSLY SET FORTH IN THE DEED OF RIGHT OR ANY OTHER CLOSING DOCUMENT, BUYER SHALL, UPON THE CLOSING, BE DEEMED TO HAVE DISCLAIMED AND WAIVED ANY AND ALL OBJECTIONS TO, OR CLAIMS AGAINST SELLER WITH RESPECT TO, THE CHARACTERISTICS AND CONDITIONS OF THE PROPERTY. IN ADDITION, BUYER HEREBY WAIVES, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, THE RIGHT TO RESCIND THIS AGREEMENT PURSUANT TO ANY PROVISION OF RCW 64.06. IT IS THE INTENT OF BUYER THAT ANY SELLER DISCLOSURE STATEMENT PROVIDED BY SELLER WILL NOT BE RELIED UPON BY BUYER, AND SHALL GIVE BUYER NO RIGHTS WITH RESPECT TO SELLER OR UNDER THIS AGREEMENT. THIS WAIVER OF THE RIGHT TO RESCIND APPLIES TO THE SELLER DISCLOSURE STATEMENT PROVIDED BEFORE, ON OR AFTER THE DATE OF THIS AGREEMENT AND APPLIES PROSPECTIVELY TO ANY UPDATED OR REVISED SELLER DISCLOSURE STATEMENTS THAT MAY BE PROVIDED BY SELLER TO BUYER. NOTWITHSTANDING THE FOREGOING, BUYER'S WAIVER DOES NOT APPLY TO ANY INTENTIONAL MISREPRESENTATIONS OR CONCEALMENTS MADE BY SELLER OR SELLER'S REPRESENTATIVES.

**7.3 Buyer's Representations and Warranties.** As a material inducement to Seller to execute this Agreement and consummate this transaction, Buyer represents and warrants to Seller that:

a. Organization and Authority. Buyer has been duly organized and validly exists as a Washington nonprofit corporation. Subject only to obtaining certain internal approvals on or before the expiration of the Due Diligence Period, Buyer has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the sale. This Agreement and all of the documents to be delivered by Buyer at the Closing have been and will be authorized and properly executed and will constitute the valid and binding obligations of Buyer, enforceable in accordance with their terms.

b. Conflicts and Pending Action. There is no agreement to which Buyer is a party or to Buyer's knowledge binding on Buyer which is in conflict with this Agreement. There is no action or proceeding pending or to Buyer's knowledge, threatened, against Buyer which challenges or impairs Buyer's ability to execute or perform its obligations under this Agreement.

**7.4 Survival of Representations and Warranties.** The representations and warranties set forth in this Article 7 are made as of the Effective Date and are remade as of the Closing Date and shall not be deemed to be merged into or waived by the instruments of Closing, but shall survive for a period of one (1) years after the Closing and thereafter terminate. During such 1-year period following Closing, each party agrees to defend and indemnify the other against any claim, liability, damage or expense asserted against or suffered by such other party arising out of the breach or inaccuracy of any such representation or warranty.

## ARTICLE 8 DEFAULT AND REMEDIES

**8.1 Seller's Default.** If Seller defaults in its obligation to sell and convey the Property to Buyer pursuant to this Agreement, or Seller otherwise defaults in the performance of any other material



obligation of Seller under this Agreement and fails to cure such other default within five business days following written notice thereof, Buyer's sole remedy shall be to elect one of the following: (a) to terminate this Agreement, in which event Buyer shall be entitled to the return by the Escrow Agent of the Earnest Money and expenses incurred by Buyer in connection with its Due Diligence Contingency, or (b) to bring a suit for specific performance, provided that Buyer waives the right to bring suit at any later date to the extent permitted by law.

**8.2 Buyer's Default.** If this transaction fails to close due to the default of Buyer, then Seller's sole remedy in such event shall be to terminate this Agreement and to retain the Earnest Money as liquidated damages, Seller waiving all other rights or remedies in the event of such default by Buyer. This limitation shall include any claims for attorneys' fees, interest and actual or consequential damages from failure to close, but shall not limit Seller's remedies for a breach of Buyer's indemnification obligations under this Agreement. The parties acknowledge that in the event of such default by Buyer, Seller will have incurred substantial but unascertainable damages and that therefore the retention of the Earnest Money by Seller as liquidated damages is a valid one.

**8.3 Other Expenses.** If this Agreement is terminated due to the default of a party, then the defaulting party shall pay any fees due to the Escrow Agent for holding the Earnest Money and any fees due to the Title Company for cancellation of the Title Commitment.

**8.4 Limitations on Damages.** Under no circumstances shall either party be liable for any consequential, punitive, special, or nominal damages.

## ARTICLE 9 EARNEST MONEY PROVISIONS

**9.1 Use of Funds.** The Escrow Agent shall not commingle the Earnest Money with any funds of the Escrow Agent or others. If the Closing under this Agreement occurs, the Escrow Agent shall deliver the Earnest Money to, or upon the instructions of, Buyer on the Closing Date. Provided such supplemental escrow instructions are not in conflict with this Agreement as it may be amended in writing from time to time, Seller and Buyer agree to execute such supplemental escrow instructions as may be appropriate to enable Escrow Agent to comply with the terms of this Agreement.

**9.2 Termination Due to Non-Satisfaction of Contingency.** The Buyer shall notify the Escrow Agent and Seller of the date that the Due Diligence Period ends promptly after such date is established under this Agreement, and if Buyer fails to give such notice, Seller may do so, and the Escrow Agent may rely upon such notice. If this Agreement is terminated pursuant to Sections 2.3 or 3.2, Escrow Agent shall pay the entire Earnest Money to Buyer within one (1) business day after Buyer's demand thereof. This Agreement automatically terminates upon termination of that certain Real Estate Purchase and Sale Agreement, dated April \_\_, 2025, between Bainbridge Island School District No. 303 and Bainbridge Island Metropolitan Recreation and Park District, in which case Escrow Agent shall pay the entire Earnest Money to Buyer within one (1) business day after Buyer's demand thereof. No notice to Escrow Agent from Seller shall be required for the release of the Earnest Money to Buyer by Escrow Agent. Seller agrees it shall have no right to bring any action against Escrow Agent which would have the effect of delaying, preventing, or in any way interrupting Escrow Agent's delivery of the Earnest Money to Buyer pursuant to this paragraph, any remedy of Seller being against Buyer, not Escrow Agent.

**9.3 Other Terminations.** Upon a termination of this Agreement other than as described in Section 9.2, either party to this Agreement (the "**Terminating Party**") may give written notice to the Escrow Agent and the other party (the "**Non-Terminating Party**") of such termination and the reason for

such termination. Such request shall also constitute a request for the release of the Earnest Money to the Terminating Party. The Non-Terminating Party shall then have five (5) business days in which to object in writing to the release of the Earnest Money to the Terminating Party. If the Non-Terminating Party provides such an objection, then the Escrow Agent shall retain the Earnest Money until it receives written instructions executed by both Seller and Buyer as to the disposition and disbursement of the Earnest Money, or until ordered by final court order, decree or judgment, which is not subject to appeal, to deliver the Earnest Money to a particular party, in which event the Earnest Money shall be delivered in accordance with such notice, instruction, order, decree or judgment.

**9.4 Interpleader.** Seller and Buyer mutually agree that in the event of any controversy regarding the Earnest Money, unless mutual written instructions are received by the Escrow Agent directing the Earnest Money's disposition, the Escrow Agent shall not take any action, but instead shall await the disposition of any proceeding relating to the Earnest Money or, at the Escrow Agent's option, the Escrow Agent may interplead all parties and deposit the Earnest Money with a court of competent jurisdiction in which event the Escrow Agent may recover all of its court costs and reasonable attorneys' fees. Seller or Buyer, whichever loses in any such interpleader action, shall be solely obligated to pay such costs and fees of the Escrow Agent, as well as the reasonable attorneys' fees of the prevailing party in accordance with the other provisions of this Agreement.

## ARTICLE 10 [intentionally left blank]

## ARTICLE 11 DAMAGE OR DESTRUCTION; CONDEMNATION

**11.1 Risk of Loss.** The risk of loss, damage or destruction to the Property by fire or other casualty or the taking of all or part of the Property by condemnation or eminent domain or by an agreement in lieu thereof until the Closing is assumed by Seller, unless the fire or other casualty was caused by Buyer or any of its employees, agents or contractors.

**11.2 Fire or Casualty.** In the event that the Property shall have been damaged by fire or casualty, then at Buyer's election, Seller shall, unless Seller has previously repaired or restored the Property to its former condition, either: (a) pay over to Buyer the amount of any insurance deductible and pay over or assign to Buyer, on delivery of the Deed of Right all amounts recovered or recoverable on account of any insurance, less any amounts reasonably expended by Seller for partial restoration, in which case Seller shall be relieved of liability for the loss due to fire or other casualty; or (b) notify Seller and Escrow Agent of its election to terminate this Agreement and direct Escrow Agent to return the Earnest Money Deposit (including any interest thereon) to Buyer in which case, upon such return, all other obligations of the parties hereto shall cease and this Agreement shall be void and without recourse to the parties hereto.

**11.3 Condemnation.** If all or part of the Property is taken by condemnation, eminent domain or by agreement in lieu thereof, or any proceeding to acquire, take or condemn all or part of the Property is authorized, threatened or commenced, Buyer may either terminate this Agreement (in which event Buyer shall be entitled to a return of the Earnest Money Deposit and accrued interest thereon, if any) or close title to the Property in accordance with the terms hereof, without reduction in the Purchase Price, together with an assignment of Seller's rights to any award paid or payable by or on behalf of the condemning authority. If Seller has received payments from the condemning authority and if Buyer



elects to close title to the Property. Seller shall credit the amount of said payment against the Purchase Price at the Closing.

**11.4 Notice by Seller.** Seller shall promptly notify Buyer of any damage or destruction to the Property or any notice received by it or information or awareness acquired by it regarding the threatening of or commencement of condemnation or similar proceedings.

## ARTICLE 12 MISCELLANEOUS

**12.1 Assignment.** Buyer shall not have the right to assign this Agreement and its rights hereunder without the prior written consent of Seller, which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties.

**12.2 Invalidity and Waiver.** If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

**12.3 Governing Law.** This Agreement and said other instruments shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the State of Washington.

**12.4 Survival.** The provisions of this Agreement that contemplate performance after the Closing and the obligations of the parties not fully performed at the Closing shall survive the Closing and shall not be deemed to be merged into or waived by the instruments of Closing.

**12.5 No Third Party Beneficiary.** This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

**12.6 Entirety and Amendments.** This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

**12.7 Time.** Time is of the essence in the performance of this Agreement.

**12.8 Confidentiality.** Except as required by judicial process or to enforce the provisions of this Agreement, neither party shall make any public announcement or disclosure of this Agreement or any information related to this Agreement to any third party (other than each party's respective employees, consultants, attorneys and agents) prior to the Closing without the prior written consent of the other party.

**12.9 Attorneys' Fees.** Should either party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including attorneys' fees, expended or incurred in connection therewith.

**12.10 Notices.** All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1.1. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, or (b) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Buyer shall be deemed given by Buyer and notices given by counsel to the Seller shall be deemed given by Seller. A notice given on a Saturday, Sunday, or legal holiday, or after 5:00 p.m. Seattle, Washington time shall be deemed given on the next business day.

**12.11 Construction.** The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

**12.12 Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. Seattle, Washington time.

**12.13 Procedure for Indemnity.** The following provisions govern actions for indemnity under this Agreement. Promptly after receipt by an indemnitee of notice of any claim, such indemnitee will, if a claim in respect thereof is to be made against the indemnitor, deliver to the indemnitor written notice thereof and the indemnitor shall have the right to participate in, and, if the indemnitor agrees in writing that it will be responsible for any costs, expenses, judgments, damages and losses incurred by the indemnitee with respect to such claim, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnitor, if the indemnitee reasonably believes that representation of such indemnitee by the counsel retained by the indemnitor would be inappropriate due to actual or potential differing interests between such indemnitee and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnitor within a reasonable time of notice of any such claim shall relieve such indemnitor of any liability to the indemnitee under this indemnity only if and to the extent that such failure is prejudicial to its ability to defend such action, and the omission so to deliver written notice to the indemnitor will not relieve it of any liability that it may have to any indemnitee other than under this indemnity. If an indemnitee settles a claim without the prior written consent of the indemnitor, then the indemnitor shall be released from liability with respect to such claim unless the indemnitor has unreasonably withheld such consent.

**12.14 Further Assurances.** Each party, at the request of the other, shall promptly and in good faith execute, acknowledge (if appropriate) and deliver whatever additional documents, and do such other acts, as may be reasonably required in order to accomplish the intent and purposes of this Agreement.

**12.15 Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by

facsimile or electronic mail counterparts of the signature pages. Without limiting the binding effect thereof, the parties hereby agree promptly to deliver the original counterpart of this document.

**12.16 Multiple Parties.** In the event Seller is composed of more than one person or entity, obligations arising from this Agreement are and shall be joint and several as to each such person or entity. Each person executing this Agreement in his or her individual capacity does so on behalf of his or her marital community.

**12.17 Limitation on Liability.** Any obligation or liability of Buyer whatsoever which may arise at any time under this Agreement or any obligation or liability which may be incurred by Buyer pursuant to any other instrument, transaction or undertaking contemplated hereby shall be satisfied, if at all, out of Buyer's assets only. No obligation or liability shall be personally binding upon, nor shall be enforced against, the property of any of Buyer's trustees, officers, employees, shareholders or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

**12.18 WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*{ Signatures on Following Page }*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

**SELLER**

Bainbridge Island Metro Park & Recreation District, a Washington municipal corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

**BUYER**

Bainbridge Island Land Trust, a Washington nonprofit corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

## PURCHASE AND SALE AGREEMENT

### EXHIBITS

- A - Legal Description of Real Property
- B - Restrictive Covenants and Grant of Deed of Right
- C - Due Diligence Materials List
- D - Seller Disclosure Statement

**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

[to be developed by title company]

**EXHIBIT B**

**RESTRICTIVE COVENANTS AND GRANT OF DEED OF RIGHT**

[form as agreed]

## **EXHIBIT C**

### **DUE DILIGENCE MATERIALS LIST**

Current ALTA survey

All lease and easement documents and exhibits

Any licenses, permits, purchase and sale agreements or other contractual agreements

All correspondence with governmental entities regarding the condition of the Property

Prior environmental reports

Any documents related to any reciprocal easements or other multi-party agreements



## Exhibit D Environmental Questionnaire

### BAINBRIDGE ISLAND LAND TRUST ENVIRONMENTAL SCREENING QUESTIONNAIRE

#### Part I: To be Completed by Owner(s) & Occupant(s)

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Owner / Occupant  
(circle one)

Preparer's Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Property Location: \_\_\_\_\_

Parcel ID #(s): 352502-4-019-2005 \_\_\_\_\_ Acreage \_\_\_\_\_

Name of Landowner (if different from above): \_\_\_\_\_

**Directions:** Please answer every question below to the best of your knowledge. For every "yes" answer, please note details in the space provided on page 3. Then sign and date bottom of page 3.

Question		Answer		
1.	Is the property or any adjoining property used for an industrial use?	Yes	No	Unknown
2.	To the best of your knowledge, has the property or any adjoining property been used for an industrial use in the past?	Yes	No	Unknown
3.	Is the property or any adjoining property used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility?	Yes	No	Unknown
4.	To the best of your knowledge, has the property or any adjoining property been used as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, junkyard or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility?	Yes	No	Unknown

5.	Are there currently, or to the best of your knowledge have there been previously, any damaged or discarded automotive or industrial batteries, or pesticides, paints, or other chemicals in individual containers of greater than 5 gallons (19 liters) in volume or 50 gallons (190 liters) in the aggregate, stored on or used at the property?	Yes	No	Unknown
6.	Are there currently, or to the best of your knowledge have there been previously, any industrial drums (typically 55 gallons (208 liters)) or sacks of chemicals located on the property?	Yes	No	Unknown
7.	Has fill dirt been brought onto the property that originated from a contaminated site or that is of unknown origin?	Yes	No	Unknown
8.	Are there currently, or to the best of your knowledge have there been previously, any pits, ponds, or lagoons located on the property in connection with waste treatment or waste disposal?	Yes	No	Unknown
9.	Is there currently, or to the best of your knowledge has there been previously, any stained soil on the property?	Yes	No	Unknown
10.	Are there currently, or to the best of your knowledge have there been previously, any registered or unregistered storage tanks (above or underground) located on the property?	Yes	No	Unknown
11.	Are there currently, or to the best of your knowledge have there been previously, any vent pipes, fill pipes, or access ways indicating a fill pipe protruding from the ground on the property or adjacent to any structure located on the property?	Yes	No	Unknown
12.	Are there currently, or to the best of your knowledge have there been previously, any flooring, drains, or walls located within the facility that are stained by substances other than water or emitting foul odors?	Yes	No	Unknown
13.	If the property is served by a private well or non-public water system, have contaminants been identified in the well or system that exceed guidelines applicable to the water system or has the well been designated as contaminated by any government environmental/health agency?	Yes	No	Unknown
14.	Do you have any knowledge of environmental liens or governmental notification relating to past or recurrent violations of environmental laws with respect to the property or any facility located on the property?	Yes	No	Unknown
15.	Have you been informed of the past or current existence of hazardous substances or petroleum products or environmental violations with respect to the property or any facility located on the property?	Yes	No	Unknown

- |     |   |     |    |         |
|-----|---|-----|----|---------|
| 16. | Do you have any knowledge of any environmental site assessment of the property or facility that indicated the presents of hazardous substances or petroleum products on, or contamination of, the property or recommended further assessment of the property? | Yes | No | Unknown |
| 17. | Do you know of any past, threatened or pending lawsuits or administrative proceedings concerning a release or threatened release of any hazardous substance or petroleum products involving the property or any owner or occupant of the property?            | Yes | No | Unknown |
| 18. | Does the property discharge wastewater on or adjacent to the property other than storm water into a sanitary sewer system?  | Yes | No | Unknown |
| 19. | To the best of your knowledge, have hazardous substances or petroleum products, unidentified waste materials, tires, automotive or industrial batteries or any other waste materials been dumped above grade, buried and/or burned on the property?           | Yes | No | Unknown |
| 20. | Is there a transformer, capacitor, or any hydraulic equipment for which there are any records indicating the presence of PCBs?  | Yes | No | Unknown |

**NOTES** *(Please provide details below concerning any item above for which you answered "yes," and any additional information that may be pertinent to the environmental condition of the property.)*

*Item #*


Preparer represents that to the best of the preparer's knowledge the above statements and facts are true and correct. To the best of the preparer's actual knowledge, no material facts have been suppressed or misstated.

Signature \_\_\_\_\_

Date \_\_\_\_\_



## Memorandum

Date: 4/11/2025

To: BIMPRD Board of Commissioners

From: Matthew F. Keough, Senior Planner  
Bainbridge Island Metropolitan Park & Recreation District

Subject: 2026 Park Comprehensive Plan Update **Progress Report**

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Update progress reports will now accompany board meeting packets, reflecting leadership meetings that occur on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of each month. These reports also introduce current activities to be referenced at upcoming board meetings.

### Status:

We are kicking off the public process at Earth Expo. In May, we begin community conversations regarding the comprehensive plan update and from there, setting vision and priorities.

### Overview:

Based on the Engagement Plan approved by the board on March 20<sup>th</sup>, the first phase of the project – to engage the community – will begin on Saturday April 26<sup>th</sup> at the Earth Expo. Attendees will engage with the first of the on-going opportunities to share their experiences and expectations regarding the park system (Refer to item #1).

The comp plan committee is working with the marketing team and our consultant, Framework, on finalizing the outreach materials ahead of the April 26<sup>th</sup> launch of the engagement plan. Utilizing Board and leadership team input, the community survey will be brought before the board on May 1<sup>st</sup>.

The second phase of the project – Analyze - has begun with the Plan Audit, a District review of current goals and objectives (Refer to item #2). This work will be part of the education effort that will give solid grounding to community conversations (Refer to item #3), leading to visioning over the summer and drafting the plan this Fall.

### Current Activities:

1. Launching Phase 1 “Engage” at Earth Expo, 4/26, at Battle Point 10am-2pm
  - a. In-person Mapping Activity (board review of activity on 4/17)
  - b. Open public input/comment begins 4/26
    - i. Project webpage to have “Sign-up” for notices
    - ii. Interactive website opens for on-going activities
    - iii. Recognition/Encouragement for participation (ideas)
  - c. Community Survey (board review on 5/1)
    - i. Postcards to population sample to be sent second week of May
    - ii. Scientific-valid Survey responses (board review, early June)
    - iii. Open Survey opportunity to begin in June)
  - d. Education Program (project website will present District data and public input)
2. Beginning of Phase 2 “Analyze”
  - a. Current Goals and Objectives under review by Departments
  - b. Plan Audit Survey Tool (to be introduced to the board 4/17)
  - c. System Inventory (begun the basic update but preparing for evaluation based on input regarding internal and external visioning)
3. Planning community meetings regarding “Setting the Direction”
  - a. Schedule being finalized for 3 general sessions (expected on “non-board meeting Thursday” evenings in May)
  - b. Mapping and Budgeting activities will begin at these meetings
  - c. Open House Report Out (expected the first or second weekend of June)
  - d. On-going Stakeholder meetings (available upon request)

### Upcoming Dates:

Board Meeting, April 17:	Plan Audit Tool
Board Meeting, May 1:	Proposed Community Survey
TBA, dates in May:	Community meetings on “Setting the Direction”
TBA, by mid-Jun:	Open House, Report Out on Survey and Input

### Reminders/Helpful Items

- Report updates to the Organization and Stakeholder Notice List announcing the Update Process (needed by April 18)
- Review Community Survey Questions (needed by April 18)

Public Message: Our message is to encourage folks to sign up to receive notice of upcoming events such as the Open House in June and to follow our progress through our website and online platform.

Contacts: <https://biparks.org/comprehensive-planning/>; [mattk@biparks.org](mailto:mattk@biparks.org)

**BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT**

**RESOLUTION 2025-07**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT, KITSAP COUNTY, WASHINGTON, AUTHORIZING A \$15,000 ACCOUNT WITH ACTIVENET FOR PROCESSING REFUNDS.**

**WHEREAS**, the District currently uses Jonas Fitness and Vermont Systems software for all membership management and recreation program registration as well as for various rental programs and these software systems allow the District to have a negative balance when the total amount processed by the software for refunds exceeds the amount of income it collects on a particular day; and

**WHEREAS**, ActiveNet is the new software which the District will soon be using in place of Jonas Fitness and Vermont Systems and ActiveNet requires the District to have a positive balance for refunds to be processed; and

**WHEREAS**, the District is now in need of writing ActiveNet a check for \$15,000 to prefund an account to maintain a positive balance on those days when the amount of the refunds processed is higher than the amount of income processed; and

**WHEREAS**, accounting staff will be responsible for tracking and reconciling the \$15,000 account with ActiveNet,

**NOW THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Bainbridge Island Metropolitan Park & Recreation District, Kitsap County, Washington, that the District authorize staff to allow ActiveNet to hold \$15,000 in an account to process refunds on those days on which the amount of the refunds processed exceeds the amount of income received.

**PASSED** by the Board of Commissioners of the Bainbridge Island Metropolitan Park & Recreation District, Kitsap County, Washington, at a regular meeting thereof held this 17th day of April, 2025 the undersigned commissioners being present.

**BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT**

BY: \_\_\_\_\_  
Tom Goodlin

BY: \_\_\_\_\_  
Dawn Janow

BY: \_\_\_\_\_  
Kenneth R. DeWitt

BY: \_\_\_\_\_  
John Thomas Swolgaard

ATTEST: \_\_\_\_\_  
Jay C. Kinney

**Policy Name:** Texting and Instant Messaging  
**Section:** 3000 Operational: 3100 Administrative  
**Policy Number:** 0000

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**Purpose:** To outline and regulate the use of text messaging and instant messaging for District business.

**Reference:** This policy supersedes the cell phone use policy adopted by Resolution 2016-17.

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**Policy:**

Any text or instant message (IM) that has been sent or received by employees in connection with the transaction of District business is a public record that must be retained in accordance with Washington State Archives retention schedules and records retention laws. [RCW Chapter 40.14](#) contains regulations for the retention, preservation and lawful destruction of public records. Records must be managed according to the applicable Washington State Archives retention schedules and may be subject to disclosure under [RCW Chapter 42.56](#) the Public Records Act. The retention period for public records depends on the function and content of the record, not its format or method of transmission. A text or IM sent or received by an employee that relates to District business is a public record regardless of whether the device used is owned by the District or the employee.

Employees are prohibited from using personal devices or accounts to text or IM for District related business.

Text and IM are to be used only for transitory messages with a short-term retention value that can be destroyed when no longer needed for District business. The Washington State Archives defines “transitory records” as those which “only document information of temporary short-term value,” provided that the records are: 1) not needed as evidence of a business transaction; and 2) not covered by a more specific records retention series.

When communications that are more than transitory are necessary, such communications shall occur in person, by telephone, or by email but not by text or IM. Text and IM will not be used to provide any working direction to staff which is not documented in some other form for retention purposes.

The following is intended to help manage the texts and IMs sent or received regarding District business:

- a. Employees may use text and IM for transitory messages only. Examples include informal notices of meetings, directions, scheduling information, and other routine messages which do not relate to the functional responsibility of the agency.
- b. Text and IM may not be used to send policy, contract, formal correspondence, or personnel related data. Sensitive information should not be sent by text or IM, (e.g. social security numbers, credit card numbers, passwords, etc.).
- c. Transitory messages should be deleted as soon as possible.
- d. If transitory messages do exist at the time a public records request is submitted to the agency, they may be responsive and if so need to be retained and produced.

All employees have records management responsibilities for business-related texts and IMs they send and receive and may be asked to identify records responsive to public disclosure or discovery requests.

Use of text or IM that is not in accordance with this policy is grounds for disciplinary action up to and including termination.

# Information Sheet Compiled by Staff

## Metro Park District – Commissioner Compensation

### [RCW 35.61.150: Park commissioners—Compensation.](#)

(1) Metropolitan park commissioners selected by election according to RCW ~~35.61.050~~(2) shall perform their duties and may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate up to the daily compensation maximum amount provided in subsection (3) of this section for each day or portion of a day spent in actual attendance at official meetings or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed the annual compensation maximum amount provided in subsection (3) of this section per year.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3)(a) For purposes of the references in subsection (1) of this section, the daily compensation maximum amount\*\* is one hundred twenty-eight dollars and the annual compensation maximum amount is twelve thousand two hundred eighty-eight dollars. However, for any metropolitan park district with facilities including an aquarium, a wildlife park, and a zoo, accredited by a nationally recognized accrediting agency, the annual compensation maximum amount is twenty-four thousand five hundred seventy-six dollars.

(b) The dollar thresholds established in this subsection (3) must be adjusted for inflation by the office of financial management every five years, beginning January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(4) A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

**\*\*Current Office of Financial Management rates:** For the current OFM compensation rates for most special purpose district officials, effective January 1, 2024-December 31, 2028, see [WSR 23-23-158](#).

**Excerpt from WSR 23-23-158:** In accordance with the requirements set forth above, the Office of Financial Management submits for publication the new dollar threshold. The new dollar threshold is one hundred and



sixty-one dollars (\$161) per day with a new annual compensation limit of fifteen thousand four hundred and fifty-six dollars (\$15,456).

## **Sample Language Governing Compensation at Other Metro Park Districts**

### **PENMET PARKS COMMISSIONER COMPENSATION POLICY LANGUAGE:**

This Commissioner Compensation Policy establishes policy relative to the payment of just compensation to District Commissioners in accordance with RCW 35.61.150 for work performed on behalf of the District and in accordance with the appropriate adopted Resolutions.

The policy is further designed to provide elected commissioners who incur authorized related expenses while on Peninsula Metropolitan Park District (PenMet Parks) business, reasonable and timely procedures for obtaining payment of the compensation.

#### **Section 1. Maximum Compensation**

The maximum compensation for Commissioners is established by RCW 35.61.150 and upon the effective date of any legislative change to RCW 35.61.150, the Commissioner compensation rates shall automatically and without further action of the Board be adjusted to the new maximum permissible compensation rate and annual total.

#### **Section 2. District Business Definitions**

Just compensation for District Commissioners is limited to the business of the District and is defined as:

- A. Meetings of the Board: Attendance at regular and special meetings of the Board, which are defined as those meetings that are scheduled meetings as required by the open meetings act;
- B. Committee Meetings: Attendance at committee meetings, which are defined as meetings of two or more Commissioners for the purpose of conducting District business; and
- C. Other: Time spent where a Commissioner attends and is representing the District and performing District business such as but not limited to:
  - a. Public events
  - b. District sponsored or co-sponsored events
  - c. Meetings with staff
  - d. Meetings with constituents
  - e. Meetings with legislators
  - f. Meetings with outside agencies
  - g. Education and training

Activities that a Commissioner attends and performs work that would typically be considered a “volunteer” activity should not be considered a meeting in the context of this policy.

#### **Section 3. Individual Annual Total Distribution**

The annual compensation to a Commissioner shall not exceed one-fifth of the approved budget line item for Commissioner Compensation or the maximum allowable compensation pursuant to law, whichever is less. In the event there are funds remaining under this line item, those funds will be redistributed by Board Action in accordance with the adopted Comprehensive Financial Policies.

#### **Section 4. Frequency of Compensation**

Commissioners shall use the approved Compensation Tracking form for all submittals for compensation. Commissioners shall submit Compensation Tracking forms no less than quarterly for consideration of the Board at their April, July, October, and January meetings.

#### Section 5. Tax Deductions

Commissioners receiving compensation shall be treated as employees and all Commissioner compensation shall be subject to applicable state and federal tax deductions which shall be deducted from each compensation payment.

#### **TACOMA PARKS INFORMATION:**

Tacoma Parks adopted a resolution allowing for commissioner compensation in accordance with RCW 35.61.150.

Tacoma Parks uses the following guidance:

Each commissioner shall be compensated at the rate of one hundred sixty-one (\$161) per day. One “day” shall be defined as follows:

1. Attendance at a Board of Park Commissioners’ Meeting.
2. Attendance at a Metro Parks’ related meeting that exceeds one hour.
3. Attendance at a convention relating to Metro Parks and its programs.
4. Work performed on a Metro Parks’ project that exceeds one hour.

Under no circumstances shall the total compensation exceed one hundred sixty-one dollars (\$161) per day or thirty thousand, nine hundred twelve dollars (\$30,912) per year. If a commissioner requests compensation under this policy that commissioner shall not be entitled to mileage reimbursement for the same day unless the mileage request is for travel outside of Pierce County.

Any commissioner who seeks compensation shall provide a signed statement to the Metro Parks’ Director of Administration and Finance or such other person as designated by the Executive Director that sets forth the dates and activities for which compensation is requested. Metro Parks shall make payment to commissioners and will withhold taxes on such payments, according to its normal processing periods. Metro Parks shall issue a form W-2 or equivalent to each commissioner at the end of each year. Payment pursuant to this policy shall not entitle a commissioner to any Metro Parks’ employee benefits nor does it create an employer – employee relationship.

#### **Information from the Municipal Research and Services Center’s Website**

Excerpts from: [MRSC - Salaries, Compensation, and Benefits for Local Elected Officials](#)

#### **SPECIAL PURPOSE DISTRICTS**

Note that these salary schedules apply only to members who have been *elected* to that position. Any members of a governing body who are appointed to the role – for instance, a city councilmember or county commissioner who serves on one of these bodies in an ex officio capacity – will have to consult the agency statutes but might not be eligible to receive this additional compensation.

#### **CHANGES TO SALARIES**

Salaries that are set by the governing body cannot be increased or decreased during the officials' terms of office unless a previously adopted ordinance establishes an automatic fixed salary increase. Although elected officials' salaries set by a salary commission also cannot be decreased until after the officials' terms end, their salaries can be increased by the commission at any time during the officials' terms.

#### ELECTED OFFICIALS WHO SET THEIR OWN SALARY

When a governing body sets the salary of its members, that salary cannot be increased or decreased after an election or during the official's term (Washington State Constitution [Article XI, Section 8](#)). The constitutional prohibition against increasing the salary of a councilmember applies to the *term of office* rather than to the individual holding the office (*State ex rel Wyrick v. City of Ritzville* and [AGO 1999 No. 1](#)). So, any changes in salary need to be adopted by the governing body prior to the general or special election and will only apply when a new term of office commences.

Those in the middle of their term will continue to receive the old salary until they are re-elected and start a new term. An official appointed or elected to fill a mid-term vacancy receives the same salary as the person who previously held the position.

The one circumstance in which mid-term salary increases are allowed is when the local code establishing the increase was adopted before the official's term of office commenced, and it either (1) applied an automatic, fixed salary increase each year (e.g., a 3% increase takes effect each January 1); or (2) specified the actual salary amount for future years. See [Richland Municipal Code Sec. 2.32.040](#), which establishes councilmember salaries for future years.

These types of mid-term salary increase that take effect during the officials' terms do not violate the constitution, as long as the increase is a specified amount and not tied to a variable index, such as the Consumer Price Index (CPI). As explained by the [Washington State Auditor's Office Bulletin \(No. 1999-01\)](#), "[U]nless the increase can be foreseen at the beginning of the term, salary increases connected to an index violated the constitutional restriction." (While this bulletin is from 1999, the State Auditor's Office confirmed in 2024 that it is still accurate.)

In other words, a fixed salary increase, such as a codified 3% increase, can be foreseen, whereas connecting the increase to a CPI cannot be foreseen, as the CPI changes every year.

#### WAIVING SALARIES

Some elected officials voluntarily choose not to accept some or all of their salary. An elected official can voluntarily choose to waive, refuse, or donate a portion (or all) of the salary that has been established for the position. Many special district officials are given the express statutory authority to waive all or part of their salaries – see the special purpose district statutes listed in the table above. While there is not a comparable statutory provision for elected officials of cities or counties, they may nonetheless voluntarily choose to waive their salaries.

The simplest way for an elected official to reduce the salary they receive is by donating all or a part back to the local government. The donation would be tax deductible, but income received must still be reported by the elected official for tax purposes with all relevant deductions taken out. A second option is for the official to formally waive all or part of their salary.

Though elected officials may waive or reduce their salaries, local governments should be mindful of the Washington State constitutional prohibition in [Article XI, Section 8](#). This constitutional prohibition does not

allow local governments to increase or decrease officials' salaries after their election and during the term of office. (The prohibition is explored in greater detail in the Changes to Salaries Section.)

MRSC's view is that, so long as the salary waiver or reduction is voluntary, the salary waiver/reduction does not implicate the constitutional prohibition on decreasing salaries because the officials' salaries would not actually be decreased or diminished after the election or during the term of office. MRSC recommends salary waivers/reductions be captured in writing and done in accordance with adopted policies.

### **Points to Consider if the Board Decides to Allow Compensation**

1. The board could set policy for a compensation level up to the amount allowed by RCW.
2. The board may define when compensation could be claimed by a commissioner.