

RESOLUTION NO. 2827

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, ACQUIRING RIGHT OF WAY FOR THE FENNEL CREEK TRAIL SEGMENT 2A, PROJECT PARCEL #6 / LEGACY GLOBAL FOUNDATION.

WHEREAS, Public Services staff has listed the right of way acquisition of land for the construction of the Fennel Creek Trail Segment 2A in the 2019-2020 Biennial budget; and

WHEREAS, In January of 2015 the Council approved a Local Programs Agreement with Parametrix for the design of Fennel Creek Segment 2 per Resolution 2431; and

WHEREAS, WSDOT in 2016 awarded a Pedestrian Safety program grant to assist the City with constructing Segment 2A of the Fennel Creek Trail; and

WHEREAS, the City of Bonney Lake has recently completed the 95th Street Bypass Trail portion to provide the logical termini for Segment 2A to be constructed; and

WHEREAS, in April of 2019 WSDOT reviewed the Right of Way (ROW) plans for the Fennel Creek Trail Segment 2A; and

WHEREAS, on April 23, 2019 WSDOT approved the Right of Way Acquisition Procedures; and

WHEREAS, on August 8, 2019 WSDOT approved the NEPA application for the Fennel Creek Trail Segment 2; and

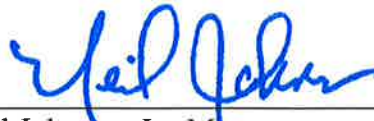
WHEREAS, on December 10th, 2019 Council passed Ordinance 1630 authorizing the acquisition by negotiation or condemnation of certain real property interests needed for the Fennel Creek Trail Segment 2A; and

WHEREAS, Project Parcel #6, Pierce County Parcel #7001960422 owned by Legacy Global Foundation has agreed to sell 139,828 sf of land in fee which includes 10,633 sf of land in permanent trail easement for the sum of \$70,000; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON HEREBY RESOLVES AS FOLLOWS:


That the City Council of the City of Bonney Lake does hereby authorize the Mayor to sign the attached documents to convey the trail easement to the City of Bonney Lake.

Passed by the City Council this 24th day of March, 2020.



Neil Johnson, Jr., Mayor

AUTHENTICATED:



Harwood T. Edvalson, City Clerk

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: PS / John Woodcock	Meeting/Workshop Date: 24 March 2020	Agenda Bill Number: AB20-41
Agenda Item Type: Resolution	Ordinance/Resolution Number: 2827	Sponsor:

Agenda Subject: Acquire Right of Way for the Fennel Creek Trail Segment 2A, Project Parcel #6 / Legacy Global Foundation.

Full Title/Motion: A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Acquire Right Of Way For The Fennel Creek Trail Segment 2a, Project Parcel #6 / Legacy Global Foundation.

Administrative Recommendation: Approve

Background Summary: In January of 2015 the Council approved the design of Fennel Creek Segment 2. In 2016 the City was awarded a Pedestrian Safety program grant from WSDOT to assist the City with constructing Segment 2A of the Fennel Creek Trail. The City of Bonney Lake has just completed the 95th Street Bypass Trail portion to provide the logical termini necessary for Segment 2A to be constructed (federal requirement when accepting their grants). WSDOT has reviewed and approved the Right of Way (ROW) plans for the Fennel Creek Trail Segment 2A identifying eleven properties necessary for purchase to construct this segment of the trail. WSDOT has approved the Right of Way Acquisition Procedures for the City and approved the NEPA application for the Fennel Creek Trail Segment 2. Council has also authorized the acquisition by negotiation or condemnation of certain real property interests needed for the Fennel Creek Trail Segment 2A. All necessary steps before acquisition can begin.

The City's real-estate acquisition team has negotiated with the owners of Tax Parcel #7001960422 and they have agreed to sell their portion of land to the City.

Attachments: Resolution 2827, Statutory Warranty Deed, Excise Tax Affidavit, Title Report Review Form, Escrow Agreement, Real Property Voucher, Map

BUDGET INFORMATION

Budget Amount	Current Balance	Required Expenditure	Budget Balance	Fund Source
\$2,417,256.00	\$2,310,030.29	\$70,000	\$2,240,030.29	<input type="checkbox"/> General
				<input type="checkbox"/> Utilities
				<input checked="" type="checkbox"/> Other

Budget Explanation: Park CIP: Eden - 302.035.076.594.76.65.01 - Fennel Creek Trail- Segment 2
 Revenue Source: Park Fund: REET and Park Impact Fees

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:	Community Development <i>Approvals:</i>		Yes	No
	Date: 17 March 2020	Chair/Councilmember Dan Swatman	<input type="checkbox"/>	<input type="checkbox"/>
		Councilmember Michelle Keith	<input type="checkbox"/>	<input type="checkbox"/>
		Councilmember Tom Watson	<input type="checkbox"/>	<input type="checkbox"/>
	Forward to:	Consent Agenda:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Commission/Board Review:

Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s):	Tabled to Date:

APPROVALS

Director:
Ryan Johnstone

Mayor:
Neil Johnson Jr.

**Date Reviewed
by City Attorney:**
(if applicable)

TRANSMITTAL



UNIVERSAL FIELD SERVICES, INC.
111 MAIN STREET SUITE 105
EDMONDS, WA 98020
Tel: (425) 673-5559
Fax: (425) 673-5579
hnewitt@ufsrw.com

DATE: March 3, 2020
TO: John Woodcock, City Engineer
FROM: Heidi Newitt, Sr. Administrative Specialist *HN*
RE: Fennel Creek Trail – Segment 2
Project Parcel #6 / Legacy Global Foundation, Inc.

1) Please coordinate signature and return fully executed originals to Universal:

- Statutory Warranty Deed
- Excise Tax Affidavit
- Title Report Review Form (Parcel Title Summary Memo)
- Escrow Agreement
- Real Property Voucher (please return signed **copy** to Universal)

2) Please retain for your records:

- Real Property Voucher (please retain **original**)
- W-9*

3) Escrow and Wire Instructions:

Once we have received executed documents, we will forward to Escrow. **Please refer to the Escrow Agreement identifying the mutual agreement between the City and Escrow.**

Note specifically that monies to the owner are processed through Escrow, not the City. In short, Escrow will:

- a) Notify you when the file is ready to close and provide you with wire instructions and the dollar amount to be wired.
- b) Provide a Closing Detail Statement
- c) Clear all encumbrances (as identified on the Parcel Title Summary Memo) and issue an Owner's policy of title insurance in the amount identified in the Escrow Agreement.

Please do not hesitate to contact me if you have any questions.

**NOTE: If you choose to also provide the fully executed documents via e-mail, please do not include the W-9. The W-9 contains Private Personal Information and the original is provided for your Accounting Department records. For security purposes, we shred file copies of the W-9 upon confirmation of payment. A copy of the W-9 will not be included in the final paper or electronic acquisition folder.*

After recording, return to:

**City of Bonney Lake
Attn: City Clerk
9002 Main St. E
Bonney Lake, WA 98391**

STATUTORY WARRANTY DEED

**Grantor: Legacy Global Foundation, Inc., a public 501(c)3 organization
Grantee: City of Bonney Lake
Abbreviated Legal: Tract C1, Copperfield Estates, a P.D.D.
Tax Parcel No.: 7001960422
Fennel Creek Trail – Segment 2**

Legacy Global Foundation, Inc., a public 501(c)3 organization, Grantor, for and in consideration of the sum of TEN AND NO/100 (\$10.00) Dollars, and other valuable consideration, hereby conveys and warrants to the City of Bonney Lake, a Washington municipal corporation (City), the following described real estate situated in Pierce County, Washington:

Tract C1, Copperfield Estates, a P.D.D., according to the plat thereof recorded under Recording No. 200511285008, records of Pierce County, Washington

It is understood and agreed that delivery of this Deed is hereby tendered and that the terms and obligations hereof shall not become binding upon the City of Bonney Lake unless and until accepted and approved hereon in writing for the City of Bonney Lake.

DATED this 29 day of JANUARY, 2020.

Statutory Warranty Deed

Grantor:

LEGACY GLOBAL FOUNDATION, INC.

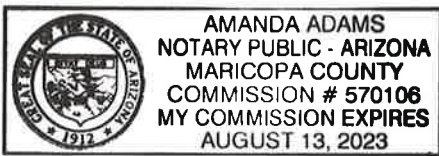
By: [Signature]
Printed Name: Melodie Durfee
Title: President and Chief Operating Officer
Date: 1/29/2020

STATE OF ARIZONA)
 : ss
County of MARICOPA)

On this 29 day of JANUARY 2020, before me personally appeared Melodie Durfee, to me known to be the President and Chief Operating Officer of Legacy Global Foundation, Inc., that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument.

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

(SEAL)



[Signature]
Notary Public in and for the State of
ARIZONA, residing at MESA, AZ

My commission expires 08/13/2023

Accepted by City of Bonney Lake

By: [Signature]
Printed Name: Neil Johnson Jr.
Title: Mayor
Date: 3/24/20

Approved as to form:

By: [Signature]
Printed Name: Kathleen Haggard
Title: City Attorney
Date: 3/25/20

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED
Only for sales in a single location code on or after January 1, 2020.

Check box if the sale occurred
in more than one location code.

PLEASE TYPE OR PRINT

Check box if partial sale, indicate % sold. List percentage of ownership acquired next to each name.

SELLER GRANTOR	1 Name <u>Legacy Global Foundation, Inc., a public 501(c)3 organization</u>	BUYER GRANTEE	2 Name <u>City of Bonney Lake, a Washington municipal corporation</u>
	Mailing Address <u>1423 Higley Rd., Suite 127</u>		Mailing Address <u>9002 Main Street E</u>
	City/State/Zip <u>Mesa, AZ 85206</u>		City/State/Zip <u>Bonney Lake, WA 98391</u>
	Phone No. (including area code) <u>(480) 505-6248</u>		Phone No. (including area code) <u>(253) 862-8602</u>

3 Send all property tax correspondence to: <input checked="" type="checkbox"/> Same as Buyer/Grantee	List all real and personal property tax parcel account numbers - check box if personal property	List assessed value(s)
Name _____	<u>7001960422</u> <input type="checkbox"/>	<u>6,700.00</u>
Mailing Address _____	_____ <input type="checkbox"/>	<u>0.00</u>
City/State/Zip _____	_____ <input type="checkbox"/>	<u>0.00</u>
Phone No. (including area code) _____	_____ <input type="checkbox"/>	<u>0.00</u>

4 Street address of property: N/A (vacant land), Bonney Lake, WA 98391

This property is located in Bonney Lake

Check box if any of the listed parcels are being segregated from another parcel, are part of a boundary line adjustment or parcels being merged.

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

Tract C1, Copperfield Estates, a P.D.D., according to the plat thereof recorded under Recording No. 200511285008, records of Pierce County

5 Select Land Use Code(s):

Select Land Use Codes _____

enter any additional codes: 7630-Grnbelt common areas

(See back of last page for instructions) YES NO

Was the seller receiving a property tax exemption or deferral under chapters 84.36, 84.37, or 84.38 RCW (nonprofit organization, senior citizen, or disabled person, homeowner with limited income)?

Is this property predominantly used for timber (as classified under RCW 84.34 and 84.33) or agriculture (as classified under RCW 84.34.020)? See ETA 3215

6 YES NO

Is this property designated as forest land per chapter 84.33 RCW?

Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34 RCW?

Is this property receiving special valuation as historical property per chapter 84.26 RCW?

If any answers are yes, complete as instructed below.

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

This land does does not qualify for continuance.

DEPUTY ASSESSOR

DATE

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY) NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) does not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) NEW OWNER(S) SIGNATURE

PRINT NAME

7 List all personal property (tangible and intangible) included in selling price.

None

If claiming an exemption, list WAC number and reason for exemption:

WAC No. (Section/Subsection) _____

Reason for exemption _____

Type of Document Statutory Warranty Deed

Date of Document 1-29-2020

Gross Selling Price \$	<u>70,000.00</u>
*Personal Property (deduct) \$	_____
Exemption Claimed (deduct) \$	_____
Taxable Selling Price \$	<u>70,000.00</u>
Excise Tax: State	
Less than \$500,000.01 at 1.1% \$	<u>770.00</u>
From \$500,000.01 to \$1,500,000 at 1.28% \$	<u>0.00</u>
From \$1,500,000.01 to \$3,000,000 at 2.75% \$	<u>0.00</u>
Above \$3,000,000 at 3.0% \$	<u>0.00</u>
Agricultural and timberland at 1.28% \$	<u>0.00</u>
Total Excise Tax: State \$	<u>770.00</u>
0.0050 Local \$	<u>350.00</u>
*Delinquent Interest: State \$	<u>0.00</u>
Local \$	<u>0.00</u>
*Delinquent Penalty \$	<u>0.00</u>
Subtotal \$	<u>1,120.00</u>
*State Technology Fee \$	<u>5.00</u>
*Affidavit Processing Fee \$	<u>0.00</u>
Total Due \$	<u>1,125.00</u>

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

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

Signature of Grantor or Grantor's Agent <u>Kristin Butterfield</u>	Signature of Grantee or Grantee's Agent <u>Neil Johnson Jr</u>
Name (print) <u>Kristin Butterfield</u>	Name (print) <u>Neil Johnson Jr</u>
Date & city of signing <u>2-11-20, Wood Lake</u>	Date & city of signing <u>3/24/20, Bonney Lake</u>

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and fine (RCW 9A.20.020(1C)).



Date: January 14, 2020

RE: Parcel Title Summary Memo – Schedule B Part II- Special Exceptions

Reviewed by: Sam Meldrum

Project Name: City of Bonney Lake-Fennel Creek Trail

Project Parcel No.: #6 – TID # 700196-042-2

Title Report # 750324RT, dated March 8, 2019; Second Report dated January 7, 2020

Property Owner: Legacy Global Foundation, Inc., a public 501(e)3 organization (formerly Bernecker)

Reviewed – No Comments or concerns on exceptions

Reviewed – See Comments

Comments: **Permanent Trail Easement**

Exception Number	Exception Description	Recommended Action Remain / Delete and explanation	City of Bonney Lake Comments
1	Payment of real estate excise tax. Taxing Authority is now under the authority of the Town of Eatonville.	DELETE: City exempt by statute. Low Risk	
2	General Taxes 2020 (700196-042-2)	DELETE: Taxes to be prorated by escrow at closing.	
3	Any conveyance by Legacy Global Foundation Inc. must be executed by Melodie Durfee, President & Chief Operating Officer	DELETE: Signatory Authority is confirmed. Low Risk	
4	Legal description to be confirmed for the forthcoming instrument	DELETE: Legal description will be insured as described on the preliminary commitment. Low Risk	
5	Matters of record against vested owner	DELETE: No matters of record against vested owner name(s) found in county public records or clerk's office. An update to the Title Report will be performed prior to closing. Low Risk	
6	The following conveyance was recorded within the last 36 months	DELETE: A search of public records shows a Statutory Warranty Deed at AFN 202001130008. Low Risk	
7	Matters of record against proposed insured	DELETE: A search of public records shows there have been no pertinent records against proposed insured; Bonney Lake. Low Risk	

Exception Number	Exception Description	Recommended Action Remain / Delete and explanation	City of Bonney Lake Comments
8	Exceptions and reservations for mineral rights contained in Deed (AFN 1615917)	REMAIN: Subject To – City to accept per Section 8-4.5.2 (b) of the WSDOT R/W manual. Low Risk	
9	Overhead and Underground Easement for electric and cable. (AFN 8602040167)	REMAIN: Outside of project area. Easement area is located 700' Northwest of the proposed Trail Easement. Low Risk	
10	Declaration of Covenant & Irrevocable Power of Attorney, reformation of a County Road Improvement District (AFN 9602050177)	REMAIN: Outside of project area. Agreement location pertains to area 730' west of the proposed Trail Easement. Low Risk	
11	Utility Service Annexation Covenant (AFN 200111090549, 200111090550, 200111090551 & 200111090552)	REMAIN: Outside of project area. Agreements pertain to property 650' Southwest of the proposed Trail Easement. Low Risk	
12	Covenants, conditions and restrictions disclosed by the plat of Copperfield Estates, a P.D.D. (AFN 200511285008)	REMAIN: Subject To – Difficult and expensive to delete covenants on plat. Plat establishes "easement to City of Bonney Lake, PSE, Qwest, Comcast et al on the front 10 feet of each lot and tract." Low Risk	
13	Covenants, conditions and restrictions for Copperfield Estates (AFN 200511280835) Amendments (AFN200511301573 and 201206150375)	REMAIN: Subject To – Difficult and expensive to remove CCR's from the title. There is no risk to the City found in the CCRs of Copperfield Estates. Low Risk	
14	Provisions contained in Articles of Incorporation and By-laws of Copperfield Estates HOA	REMAIN: Subject to - Difficult and expensive to delete provisions in the HOA Articles of Incorporation & By-laws. No adverse issues found. Low Risk	

The undersigned has reviewed and approved the above exceptions/paragraphs to be deleted or remain on the final title policy to be issued to the City of Bonney Lake.

City of Bonney Lake

John Woodcock
City Engineer

3/23/20
Date

ESCROW AGREEMENT

TO: Rainier Title Company, Attn: Escrow Dept, 3560 Bridgeport Way W, Ste 2D, University Place, WA 98466

RE: Fennel Creek Trail – Segment 2 Project
Project Parcel # 6 / Pierce County Tax Parcel # 7001960422
Title Order No.: # 750324RT

DATE: 3/2/2020

City of Bonney Lake and the undersigned grantor, Legacy Global Foundation, Inc., mutually agree and direct you to close this escrow in accordance with the following instructions:

1. The undersigned grantor hereby authorizes the issuance of a City warrant payable solely to the above-named Escrow Agent, for our benefit.
2. Receive the Statutory Warranty Deed handed herewith from the corporation as grantor to the City of Bonney Lake as grantee, granting fee title of the lands described in your above-referenced Preliminary Commitment.
3. Receive the sum of \$70,000.00 in the form of a warrant that you are instructed to distribute as follows:


Pay and eliminate of record all encumbrances on said premises shown in your Preliminary Commitment Second Report dated January 7, 2020, together with any other encumbrances appearing of record against said premises, on statement of holder or holder's representative prior to closing, except those noted in paragraphs 8, 12, 13, and 14. General taxes are to be prorated at closing.

4. Note: All escrow and recording fees shall be paid by City of Bonney Lake.

5. The City of Bonney Lake, at its discretion, reserves the right to withdraw the funds for this transaction from escrow and close this transaction independently or deposit said funds with the Clerk of the Court if deemed necessary.
6. When ready to record instruments shown in instruction 2 above (no recording fee or real estate excise tax is to be charged to the seller), record instruments and prepare CLOSING DETAIL STATEMENT as explained on the reverse hereof.
7. Remit the balance by your check to: Legacy Global Foundation, Inc., 1423 S. Higley Rd., Ste. 127, Mesa, AZ 85206 with your CLOSING DETAIL STATEMENT.
8. Issue standard form Owner's policy of title insurance in the sum of \$70,000.00 insuring the City of Bonney Lake as owner of the estate conveyed.
9. Upon closing, mail recorded instruments, title policy, and copy of CLOSING DETAIL STATEMENT to The city of Bonney Lake, Attn : John Woodcock, City Engineer, 9002 Main Street E, Bonney Lake, WA 98931.

City of Bonney Lake

Legacy Global Foundation, Inc.

By: 
Name Mayor
Title


Melodie Durfee
President and Chief Operating Officer


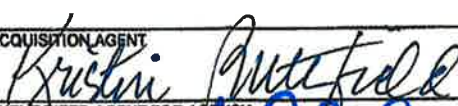

CLOSING DETAIL STATEMENT

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

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

In case the Escrow Agent has withheld funds from distribution to the grantor for any reason, the Escrow Agent shall furnish to the City of Bonney Lake copies of correspondence transmitting such withheld funds at the time of their final disposition.

REAL PROPERTY VOUCHER

AGENCY NAME City of Bonney Lake 9002 Main Street E Bonney Lake, WA 98391		I hereby certify under penalty of perjury that the items and amounts listed herein are proper charges against the Agency, that the same or any part thereof has not been paid, and that I am authorized to sign for the claimant.		
		SIGNATURE (IN INK) FOR EACH CLAIMANT 	DATED 1/29/20	
GRANTOR OR CLAIMANT (NAME, ADDRESS) Legacy Global Foundation, Inc. 1423 S Higley Rd., Suite 127 Mesa, AZ 85206	TIN/SSN: see Form W-9	X		
PROJECT NO. AND TITLE Fennel Creek Trail Project - Segment 2		X		
FEDERAL AID NO. STP(UL)-0105(023)	PARCEL NO. 6 (TID 7001960422)			
In full, complete and final payment and settlement for the title or interest conveyed or released, as fully set forth in:		DATED	\$ AMOUNT	
LAND:	Trail Easement 10,633 SF (@ \$0.50 per SF x 100%)	+	\$5,350.00	
IMPROVEMENTS:		+	\$0.00	
DAMAGES:				
Cost to Cure		+		
Proximity		+		
Other		+		
SPECIAL BENEFITS				
JC (Just Compensation) Amount			\$5,350.00	
REMAINDER:				
Uneconomic Remnant		+		
Excess Acquisition		+		
DEDUCTIONS:				
Amount Previously Paid				
Performance Bond				
Salvage Amount				
Pre Paid Rent				
Other				
ADMINISTRATIVE SETTLEMENT For 133, 233 SF in fee		+	\$64,650.00	
STATUTORY EVALUATION ALLOWANCE		+		
ESCROW FEE		+		
REAL ESTATE EXCISE TAX		+		
OTHER:				
		+		
ACQUISITION AGENT 	DATE 2/1/20	Voucher No.	TOTAL AMOUNT PAID \$70,000.00	
AUTHORIZED AGENT FOR AGENCY 	DATE 3/24/20			