	City Council Study Session Finance, Technology and Economic Development Special Focus Area October 11, 2021 - 5:30 PM Virtual AGENDA Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
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I. CALL TO ORDER

II. VIRTUAL PARTICIPATION LINK

A. Virtual Participation Link

The Auburn City Council Study Session scheduled for Monday, October 11, 2021 at 5:30 p.m. will be held virtually and telephonically. To attend the meeting virtually please click one of the below links, enter the meeting ID into the Zoom app, or call into the meeting at the phone number listed below.

Per Governor Inslee's Emergency Proclamation 20-05 and 20-28 et. seq. and City of Auburn Resolution No. 5581, City of Auburn has designated meeting locations as "virtual" for all Regular, Special and Study Session Meetings of the City Council and for the Committees, Boards and Commissions of the City.

The link to the Virtual Meeting or phone number to listen to the Council Meeting is:

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://us06web.zoom.us/j/81712493871>

Or join by phone:

253 215 8782
877 853 5257 (Toll Free)

Webinar ID: 817 1249 3871

B. Roll Call

III. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

IV. AGENDA ITEMS FOR COUNCIL DISCUSSION

- A. Regional Homelessness Authority – Sub-Regional Planning Update (Tate)(20 Minutes)**
Staff from the King County Regional Homelessness Authority will provide an update on progress related to the Sub-Regional Homelessness plan

- B. Resolution No. 5615 (Faber/Comeau)(10 Minutes)
A Resolution authorizing the Mayor to execute a contract for purchase and sale between the City of Auburn and Diamond J. Investments, LLC for Real Property
- C. Resolution No. 5616 (Faber/Comeau)(10 Minutes)
A Resolution authorizing the Mayor to execute a contract for purchase and sale between the City of Auburn and Kent-Yi Company for Real Property
- D. Resolution No. 5624 (Caillier)(15 Minutes)
A Resolution (1) authorizing the Mayor to sign a contract with Axon Enterprise, Inc., for Police Body Worn Cameras and related equipment, and (2) allocating ARPA funds toward the contract purchase

V. FINANCE, TECHNOLOGY AND ECONOMIC DEVELOPMENT DISCUSSION ITEMS

- A. Resolution No. 5617 (Comeau)(10 Minutes)
A Resolution authorizing the Mayor to execute a contract for the sale of City owned Real Property to Bridge Acquisition, LLC
- B. Resolution No. 5621 (Comeau)(10 Minutes)
A Resolution declaring certain Real Property as surplus, and authorizing the Mayor to execute a contract for the sale of surplus Real Property to the Valley Regional Fire Authority

VI. OTHER DISCUSSION ITEMS

VII. NEW BUSINESS

VIII. ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Regional Homelessness Authority – Sub-Regional Planning
Update (Tate)(20 Minutes)

Date:

October 4, 2021

Department:

Community Development

Attachments:

[Regional Homelessness Authority Powerpoint](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

For discussion only.

Background for Motion:**Background Summary:**

On August 23, 2021, staff from the King County Regional Homelessness Authority provided an overview of the new entity and introduction to their upcoming body of work. During this meeting, Alexis Mercedes Rinck, Sub-Regional Planning Manager, and Paul Tan, South King County Sub-Regional Planning Coordinator will provide an overview of the work done to date and what to expect in the next six months for the South King County Sub-Regional Plan.

Reviewed by Council Committees:

Councilmember: Mulenga

Staff:

Tate

Meeting Date: October 11, 2021

Item Number:

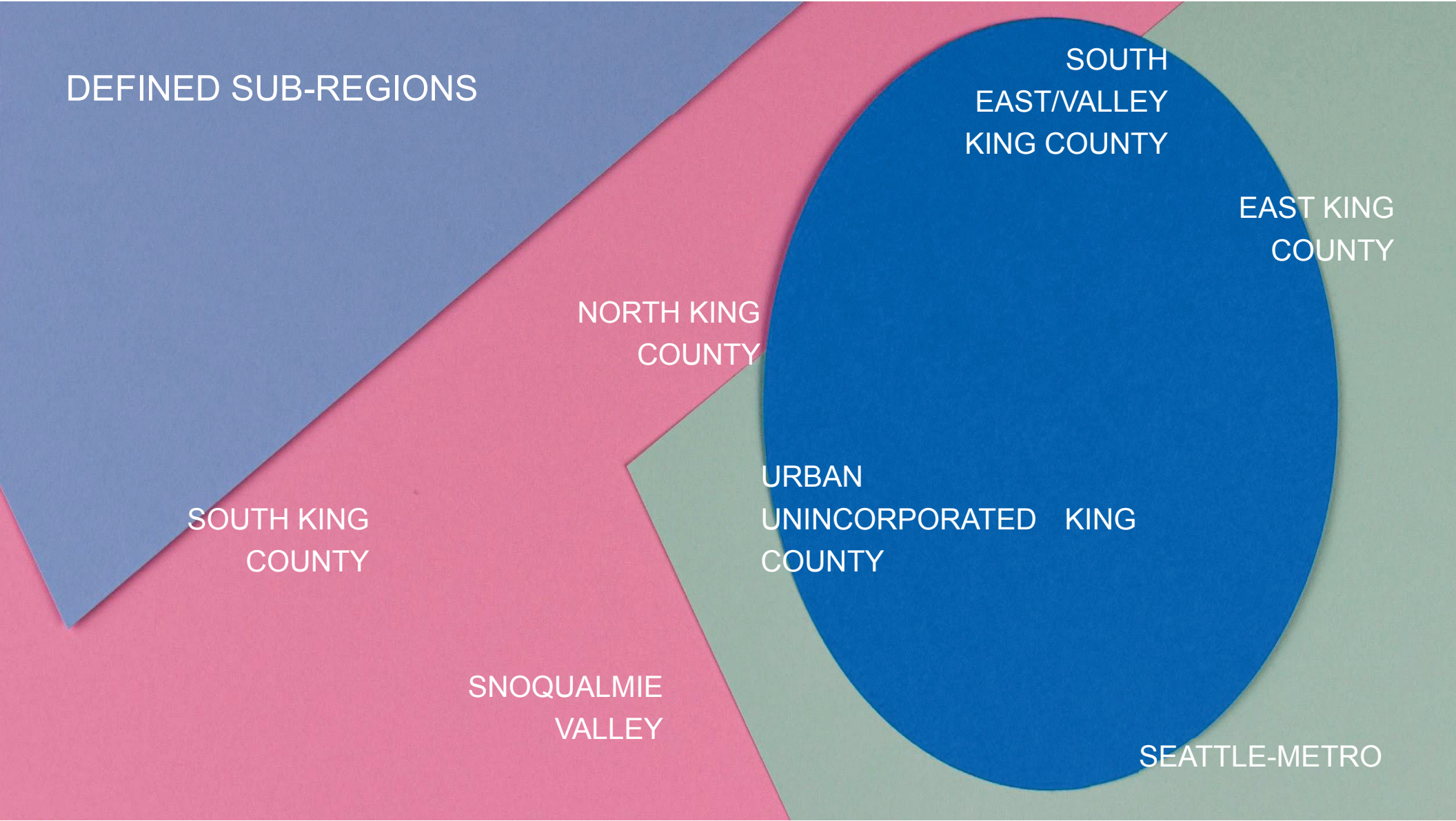
KING COUNTY REGIONAL HOMELESSNESS AUTHORITY

Draft Sub-Regional Planning Snapshot Report

Overview

- Defined Sub-Regions
- Regional Engagement
- Progress on Key Component 1
- Progress on Key Component 2
- Progress on Key Component 3
- Updated Timeline
- Closing and Questions

DEFINED SUB-REGIONS

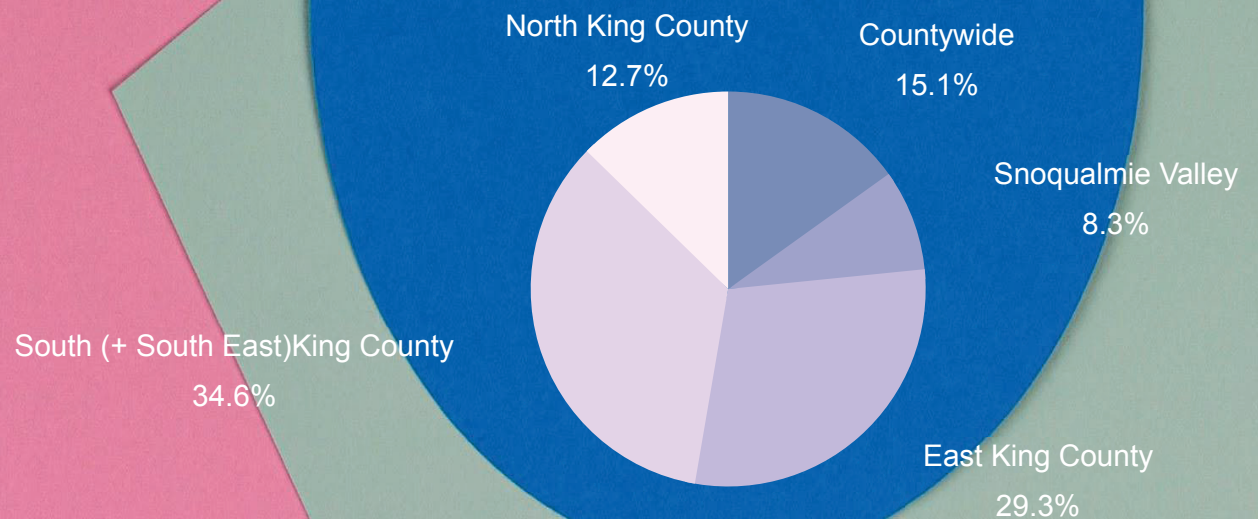


Regional Engagement

- Government
- Service Providers
- Faith-based Partners
- Regional Coalitions
- Business
- Community-based

206 different stakeholders

127 different organizations/entities



Engagement Pathways

SUB-REGIONAL MEETINGS

17 identified sub-regional
tables

SITE VISITS

Visits to 20 different services
providers

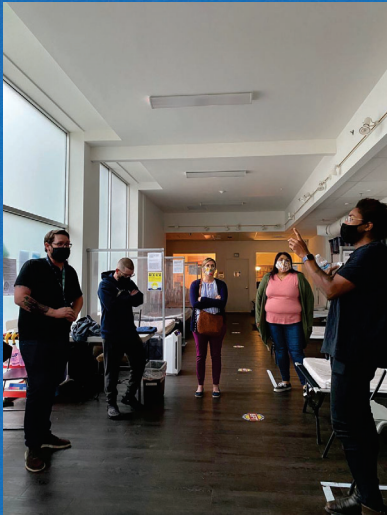
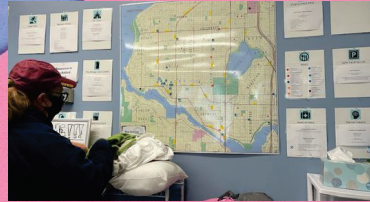
COUNCIL PRESENTATIONS

9 city council meetings

WEEKLY EMAIL UPDATE

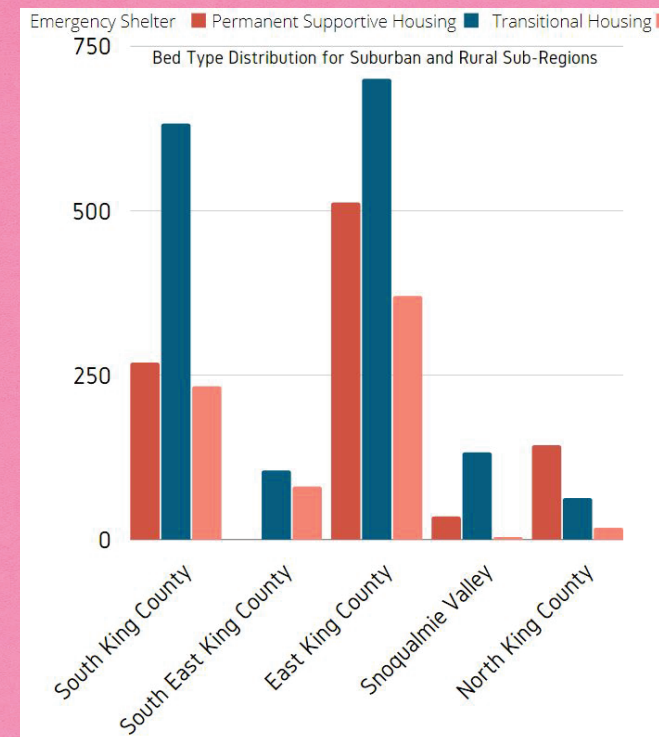
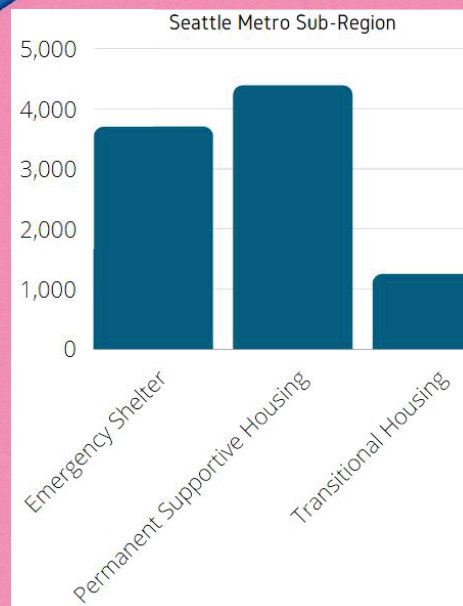
Weekly communications to
engaged stakeholders

What we are hearing



Key Component 1: Landscape of Services by Sub-Region

- Analysis of 2020 HMIS data on bed types
- Issuing a survey to providers across the sub-regions
- Details next steps



Key Component 2: Funding and Investment

Includes:

- Identification that 21 cities in King County are putting funding towards homelessness response.
- Details reports identifying the scale of resources needed to build, preserve and subsidize housing for folks 0-30% AMI.
- Next steps for level and type of funding information we are seeking.

Key Component 3: Centering Lived Experience

Sub-Regional Planning staff work with the Lived Experience Coalition on weekly basis:

- Provide updates at LEC general meeting every Friday
- Regular workgroup for feedback

Revised Timeline



PHASE 1:
INITIAL INFORMATION
GATHERING AND
RELATIONSHIP
BUILDING

JUNE 2021 -
DECEMBER 2021



PHASE 2:
ANALYSIS AND
CONTINUED
ENGAGEMENT

JANUARY 2022 -
MARCH 2022



PHASE 3:
SUB-REGIONAL
ACTION PLANS
DEVELOPMENT

APRIL 2022 -
JUNE 2022



PHASE 4:
DRAFTING AND
DEVELOPMENT OF
SUB-REGIONAL PLANS

JULY 2022 -
AUGUST 2022



Welcome to our new
South King County
Sub-Regional Planning
Coordinator:

Paul Tan!



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5615 (Faber/Comeau)(10 Minutes)

Date:

September 29, 2021

Department:

City Attorney

Attachments:

[Council Presentation for Resolution No. 5615 &](#)

[5616](#)

[Resolution No. 5615](#)

[Exhibit A-1 Vicinity Map](#)

[Exhibit A-2 Mill Creek Assemblage Depiction](#)

[Resolution No. 5615 Exhibit B Legal Description](#)

[Resolution No. 5615 Exhibit C - PSA](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

For discussion only.

Background for Motion:

Purchasing of these properties will allow for the conservation and future improvement to Mill Creek and the ecosystem it provides. The City will also be reimbursed by King County for the acquisition costs of these properties.

Background Summary:

Prior to voting on Resolution 5615, Auburn City Council will be asked to vote on Resolution 5614 which allows the City to accept and allocate grant funds from King County Conservation Futures and Cooperative Watershed Management programs. These are reimbursable grants with which funds are to be used for the purchase of real property that will aid in the conservation and future habitat improvements to Mill Creek.

These properties are part of two separate but adjoining short plats (Sp-2-81 and SP-3-81) located in northwest Auburn. The City currently owns two of the four properties in short plat SP-2-81. Approving Resolution 5615 and 5616 will allow the City to purchase the two remaining properties in SP-2-81 and two of the four properties that make up SP-3-81 along with all divided interests in Tracts A & B of the short plats.

The properties are raw land covered with grass vegetation. Mill Creek wanders through the south and western portion of Sp-3-81. Purchasing these properties the will ensure that this portion of Mill Creek will be protected from future development and securing the right of access for future habitat improvements in this location.

Reviewed by Council Committees:

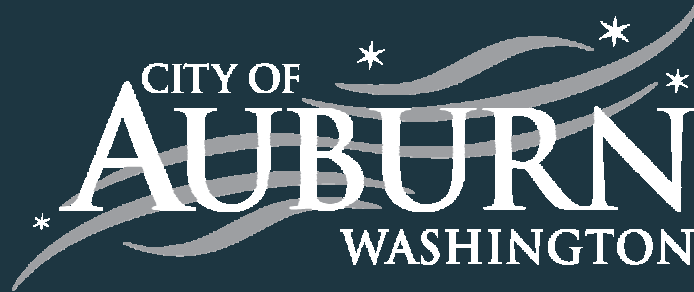
Councilmember: Stearns

Staff:

Faber/Comeau

Meeting Date: October 11, 2021

Item Number:



CONSERVATION FUTURES & COOPERATIVE WATERSHED MANAGEMENT GRANT PROPERTIES

MILL CREEK PROPERTY PURCHASES

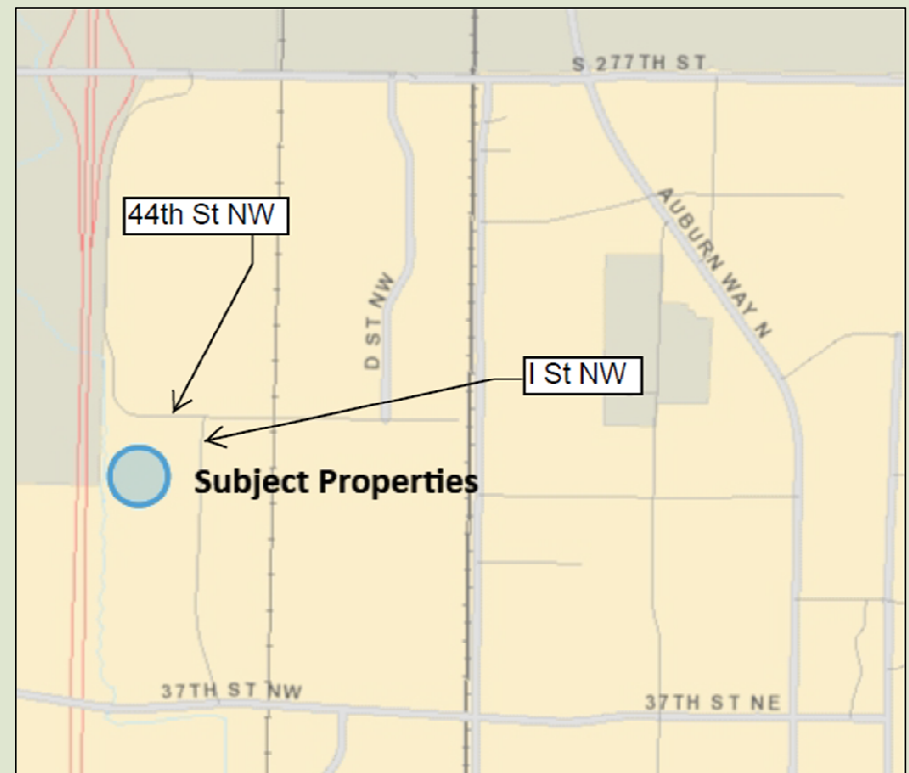
Legal Department

AUBURN VALUES

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

GENERAL DESCRIPTION

- SW Corner of 44th St NW & I St NW, east of State Route 167
- Six vacant land parcels, two owners / two land transactions – Kent Yi Company & Diamond J. Investments
 - (RES 5615 & 5616)
- Parcels are covered with grass vegetation, Mill Creek meanders through the south and western portions of the property



GENERAL DESCRIPTION CONT.

- Two Short Plats – Sp-2-81 & SP-3-81 parallel to one another with ROW/Utility tract (Tract A) separating the two
 - Divided interest in Tract A & B
- City owns two of the four parcels in SP-2-81
 - 936000-0010 & 0013
- Resolution 5615 – Diamond J. (Red) & Resolution 5616 – Kent-Yi (Yellow)



PURPOSE

Protection from development and the securing of rights of access for future salmon habitat improvement projects associated with Mill Creek

SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

TRANSACTION DETAILS

- **Purchase Price**
 - Kent-Yi PIN 936000-0014 & 0016 (yellow)
 - \$52,600
 - Diamond J. Investments PIN 936000-0011, 0012, 0015 & 0017 (red)
 - \$106,500
 - Each equal to their 2020 tax assessed valuations
- **Purchase Funding – Reimbursable grants from King County Conservation Futures and Cooperative Watershed Management Programs (Res 5614)**
- **Feasibility, title review**



JOSH ARNDT
REAL ESTATE MANAGER
JARNDT@AUBURNWA.GOV
253.288.4325

Legal Department

**AUBURN
VALUES**

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

RESOLUTION NO. 5615

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO
EXECUTE A CONTRACT FOR PURCHASE AND SALE
BETWEEN THE CITY OF AUBURN AND DIAMOND J.
INVESTMENTS, LLC FOR REAL PROPERTY

WHEREAS, with the passing of Resolution 5614, Auburn City Council authorized the City to accept and appropriate grant funds from King County Conservation Futures and Cooperative Watershed Management; and

WHEREAS, the purpose of those grant funds described in Resolution 5614 is for the purchase of real property to be used for future habitat improvements associated with Mill Creek; and

WHEREAS, the City seeks to purchase property located near the intersection of 44th St NW and I St NW in northwest Auburn, generally depicted in Exhibits “A-1” (Vicinity Map) & “A-2” (Mill Creek Assemblage) with King County Conservation Futures to be used for future habitat improvements associated with Mill Creek.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, RESOLVES as follows:

Section 1. The Mayor is authorized to execute a Contract for the Purchase of the real property legally described in Exhibit “B” between the City and Diamond J. Investments, LLC in substantial conformity with the purchase contract attached as Exhibit “C”.

Section 2. The Mayor is authorized to implement those administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. This resolution shall be in full force and effect upon passage and signatures.

Dated and Signed this _____ day of _____, 2021.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

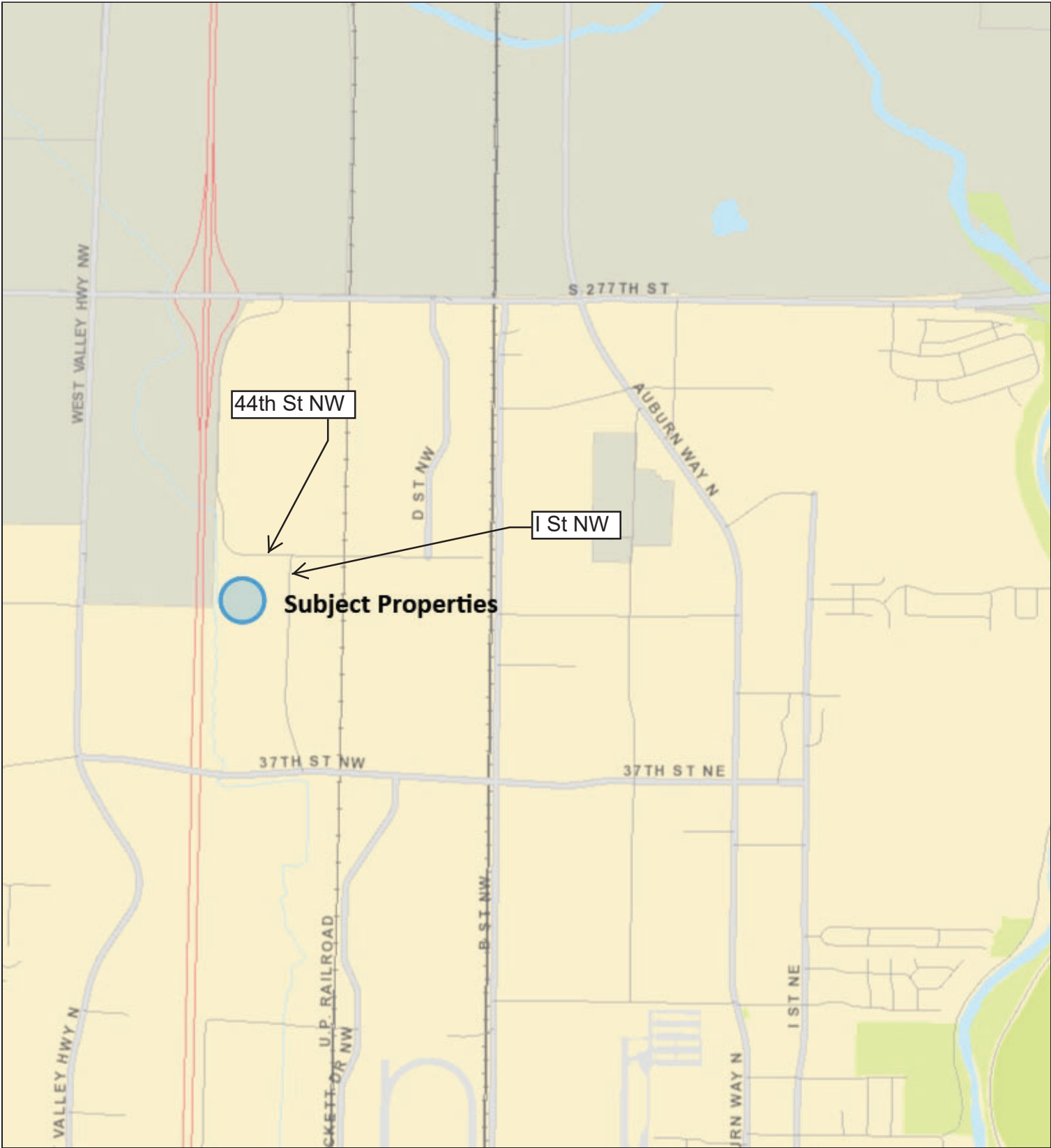
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

Kendra Comeau, City Attorney

Resolution 5615 & 5616
Exhibit "A-1" (Vicinity Map)

Printed Date: 9/13/2021
Map Created by City of Auburn eGIS
Imagery Date: May 2015



2,666.7 0 1,333.3 2,666.7 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



Resolution 5615 and 5616 Exhibit "A-2" (Mill Creek Assemblage)

Printed Date: 9/16/2021
Map Created by City of Auburn eGIS
Imagery Date: May 2015



333.3 0 166.7 333.3 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



Resolution 5615
Exhibit “B” – Legal Description

For APN/Parcel ID(s): 936000-0011-02, 936000-0012-01, 936000-0015-08 and
936000-0017-06

PARCEL A: (936000-0011-02 936000-0012-01)

LOT(S) 1 AND 2, KING COUNTY SHORT PLAT NO. SP-2-81, ACCORDING TO
THE SHORT PLAT THEREOF, RECORDED JANUARY 26, 1981 UNDER
RECORDING NO. 8101260642, RECORDS OF KING COUNTY, WASHINGTON.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND
EGRESS OVER TRACTS A OF KING COUNTY SHORT PLAT NO SP-3-81,
RECORDED UNDER RECORDING NO. 8101260641, RECORDS OF KING
COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

PARCEL B: (936000-0015-08 936000-0017-06)

LOT(S) 3 AND 4, KING COUNTY SHORT PLAT NO. SO-3-81, ACCORDING TO
THE SHORT PLAT THEREOF, RECORDED JANUARY 26, 1981, UNDER
RECORDING NO. 8101260641, RECORDS OF KING COUNTY, WASHINGTON.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND
EGRESS OVER TRACTS A OF KING COUNTY SHORT PLAT NO SP-3-81,
RECORDED UNDER RECORDING NO. 8101260641, RECORDS OF KING
COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

TICOR TITLE COMPANY COMMITMENT NO. 70179646

**Resolution 5615
Exhibit “C”
(Cover Sheet)**

**COA / Diamond J. Investments
Purchase & Sale Agreement**

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of the _____ day of _____, 2021 ("Effective Date"), by and between the **City of Auburn**, a Washington municipal corporation ("City" or "Buyer"), and **Diamond J. Investments LLC**, an Oregon Limited Liability Company ("Seller"). Seller and Buyer are collectively referred to as the "Parties."

RECITALS

A. Seller owns certain real property created by Auburn Short Plat SP-2-81 and SP-3-81, REC# 8201260641 in Auburn, Washington, also known as King County Parcel Nos. 936000-0011, 12, 15 & 17 (collectively the "Subject Property"), legally described in attached **Exhibit A**.

B. Seller wishes to sell, and Buyer wishes to buy, the Subject Property owned by Seller described in **Exhibit A** along with any interest Seller has in Tract A & B of SP-2-81 and SP-3-81.

C. Buyer intends to use grant funds from the King County Conservation Futures and King County Cooperative Watershed Management grant programs for the purchase of the Subject Property.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which the Parties mutually acknowledge, Buyer and Seller agree as follows:

1. **Certain Defined Terms.** For purposes of this Agreement, the following capitalized terms in this Agreement will have the following definitions:

1.1 "Closing" or "Close of Escrow" means the recordation of the Deed in the Official Records and Seller's receipt of the Purchase Price.

1.2 "Closing Date" means the date which is thirty (30) days after the expiration or waiver of the due diligence and feasibility review period, but a date not to exceed October 31, 2021, but which may be extended pursuant to Section 5.

1.3 "Deposit" means an amount of Two thousand five hundred dollars (\$2,500), plus any other amounts designated as a Deposit in this Agreement.

1.4 "Escrow" means the escrow opened with Escrow Agent for the consummation of the transaction described in this Agreement.

1.5 "Escrow Agent" means Ticor Title Company, located at: 33400 9th Ave S. #102 Federal Way, WA 98003.

1.6 "Official Records" means the official real property records of King County, Washington.

1.7 "Permitted Exceptions" has the meaning as set forth in Section 6.1 below.

1.8 "Purchase Price" has the meaning as set forth in Section 3.

1.9 "Title Company" means Ticor Title Company.

1.10 "Title Policy" means the then current Buyer-purchased standard coverage ALTA owner's policy of title insurance issued by the Title Company to Buyer with coverage in the amount of purchase price, showing title to the Subject Property vested in Buyer subject only to the Permitted Exceptions.

2. **Purchase and Sale.** Buyer agrees to buy, and Seller agrees to sell, the Subject Property legally described in **Exhibit "A"**, and any and all interest in Tracts A & B the Seller may have on the terms and conditions set forth in this Agreement.

3. **Purchase Price; Cash Payment.** The Purchase Price is **One Hundred Six Thousand Five Hundred Dollars and no cents (\$106,500.00)**, which will be payable in full at Closing. The Deposit will be applied to the Purchase Price due at Closing. The Purchase Price payment by Buyer will be via wire transfer of collected federal funds.

4. **Earnest Money Deposit.** On execution of this Agreement, Buyer will deposit with Escrow Agent **Two Thousand Five Hundred Dollars and no cents (\$2,500.00)** in cash (the "Deposit"), which the Escrow Agent will hold as an earnest money deposit for this transaction. The Deposit will be held in Escrow and applied or disposed of by the Escrow Agent based on the terms of this Agreement. The Deposit will not be refunded and will become property of Seller upon expiration of Buyer's Due Diligence and Feasibility period.

5. **Due Diligence and Feasibility.** Due Diligence and Feasibility Period. Buyer shall have the right for a period of **two months** from the Effective Date of this Agreement (the "Due Diligence Period") to conduct Buyer's due diligence and feasibility review, examination and inspection of all matters pertaining to its acquisition of the Subject Property, including such inspections, tests, and surveys as Buyer deems appropriate to determine the suitability of the Subject Property for Buyer's intended use. Buyer is solely responsible to determine its ability to use the Subject Property for its intended use and is solely responsible for submitting all necessary applications for City, State, and Federal permits necessary to determine feasibility. If, based upon Buyer's review, examination and inspection, Buyer determines in its sole discretion that it intends to acquire the Subject Property, then Buyer shall promptly notify Seller of such determination in writing prior to

the expiration of the Due Diligence Period and the Deposit will become nonrefundable (except as otherwise provided herein), and the Parties will proceed to Closing. In the event that Buyer fails to deliver such notice to Seller on or before the expiration of the Due Diligence Period, Buyer will be deemed to be satisfied and to have waived its right to terminate this Agreement pursuant to this subsection. If Buyer timely and affirmatively advises Seller in writing of its dissatisfaction based on its Due Diligence review, then this Agreement automatically terminates, the Parties' rights under this Agreement shall be of no further force or effect and the Deposit will be returned to Buyer.

6. Title Policy. Promptly after mutual execution of this Agreement, Buyer will obtain a standard coverage preliminary title insurance commitment covering the Subject Property from the Title Company (the "Commitment"). The Title Company will be instructed to deliver a copy of the Commitment and copies of exceptions to Buyer, Seller, and the Parties' respective counsel. Approval by Buyer of the exceptions to title set forth in the Commitment (other than as hereinafter set forth) will be a condition precedent to Buyer's obligation to purchase the Subject Property. Unless Buyer gives written notice that it disapproves the exceptions to title shown on the Commitment (other than the exceptions to title approved by Buyer and described in Section 6.1 below), stating the exceptions so disapproved, within ten (10) days after the date of delivery of the Commitment to Buyer, Buyer will be deemed to have approved such exceptions. If Buyer disapproves any title exceptions, Seller will have a ten (10) day period after its receipt of Buyer's written notice of disapproval of the same within which to provide written notice to Buyer as to which of such disapproved title exceptions Seller will remove (or cause to be removed) from title; provided, however, that Seller will not be required to actually remove such exception(s) until Closing. If, for any reason, Seller's notice given pursuant to the immediately preceding sentence does not covenant to remove all of Buyer's disapproved title exceptions at or prior to Closing, Buyer has the right to terminate this Agreement by written notice to Seller and Escrow Agent given within ten (10) days after the earlier of the expiration of such ten (10) day period or the date Seller informs Buyer that it does not intend to remove the disapproved items (the "Termination Notice"). Buyer's failure to deliver the Termination Notice within such ten (10) day period will be deemed Buyer's approval of any such previously disapproved title exception. If Buyer delivers the Termination Notice within such ten (10) day period, the obligation of Seller to sell, and Buyer to buy, the Subject Property will terminate.

6.1 Permitted Exceptions. In addition to such other exceptions to title as may be approved by Buyer pursuant to the provisions of Section 6 above, Buyer shall accept title to the Subject Property subject to the following (collectively, the "Permitted Exceptions"):

The printed exceptions which appear in the then current ALTA form standard coverage owner's policy of title insurance issued by Title Company in the State of Washington; and items created by, or on behalf of, Buyer.

7. **Buyer's Right of Entry.** Buyer, and its agents and consultants, at Buyer's sole expense and risk, may enter the Subject Property during the term of this Agreement for the purpose of Buyer's due diligence and feasibility study of the Property. Buyer will (a) exercise care at all times on or about the Subject Property, and (b) take precautions for the prevention of injury to persons or damage to property on or about the Subject Property. Any physical alteration of the Subject Property in connection with Buyer's study will be restored by Buyer immediately upon demand by Seller, at Buyer's sole expense. Buyer indemnifies Seller against any loss, damage, or claim resulting from Buyer's inspections and tests. Buyer is not Seller's agent in connection with such activities and has no authority to allow any liens to encumber the Subject Property. Buyer shall keep the Subject Property free from all mechanics', materialmen's and other liens, and all claims, arising from any work or labor done, services performed, or materials and supplies furnished in with Buyer's actions in the exercise of its right of entry on the Subject Property and Buyer will maintain all insurance as required by Seller with respect to activities on the Subject Property.

8. **Closing.**

8.1 Time for Closing. This purchase and sale will be closed in the office of Escrow Agent on the Closing Date. Buyer and Seller will place in Escrow with Escrow Agent all instruments, documents and monies necessary to complete the sale under this Agreement. Funds held in Escrow pursuant to Escrow instructions will be deemed, for purposes of this definition, as available for disbursement to Seller. Neither party needs to be physically present at the Closing.

8.2 Closing Costs.

8.2.1 Seller's Costs. Associated with the sale and conveyance Seller will pay; (a) Seller's share of prorations, if any, and (b) Seller's own legal fees and fees of its own consultant, if any.

8.2.2 Buyer's Costs. Buyer will pay all costs associated with the sale and conveyance of the Subject Property, including but not limited to: (a) the full escrow fees and costs, (b) all premiums charged for the Title Policy and any additional endorsements or coverage Buyer may require, including applicable sales tax, (c) the recording fees for the Deed; and (d) Buyer's share of prorations, if any (d) real estate excise taxes.

8.2.3 Other Costs. All other costs and expenses will be Buyer's obligation.

8.2.4 Real Property Taxation. Seller will be responsible for all real property taxes due and owing prior to the Closing.

8.3 Closing Documents.

8.3.1 Seller's Documents. At Closing, Seller will deliver to Escrow Agent the following instruments and documents:

- a. An executed and acknowledged Statutory Warranty Deed acceptable to Buyer;
- b. The executed real estate excise tax affidavit to accompany the Deed; and
- c. An executed nonforeign person affidavit in the form required under Section 1445 of the Internal Revenue Code.

8.3.2 Buyer's Documents. At Closing, Buyer shall deliver to Escrow Agent the following funds, instruments and documents:

- a. The balance of the Purchase Price in accordance with Section 3; and
- b. An executed real estate excise tax affidavit.

9. **Possession.** Buyer will be entitled to possession of the Subject Property upon Closing.

10. **Representations and Warranties.**

10.1 Seller's Representations and Warranties. In addition to any other representations or warranties of City elsewhere in this Agreement, Seller represents and warrants to Buyer now, and as of the Date of Closing, that:

10.1.1 Authority. Seller has full power and authority to execute this Agreement and perform Seller's obligations and all necessary action to authorize this transaction has been taken, except as specifically provided herein.

10.1.2 Hazardous Substances. Seller has not received notification of any kind from any governmental agency suggesting that the Subject Property is or may be targeted for a Hazardous Substances cleanup; to the best of Seller's knowledge the Subject Property has not been used (a) for the storage, disposal or discharge of oil, solvents, fuel, chemicals or any type of toxic, dangerous, hazardous or biological waste or substance (collectively, "Hazardous Substances"), or (b) as a landfill or waste disposal site; to the best of Seller's knowledge the Subject Property has not been contaminated with any Hazardous Substances; and (c) to the best of Seller's knowledge, there are no underground storage tanks on the Subject Property. Buyer agrees to waive Seller's Disclosure Statement under RCW 64.06.010 with the exception of item 6 "Environmental" under RCW 64.06.013 which Seller shall deliver to Buyer within five (5) business days following execution of this Agreement. A blank copy of the Environmental Section of Seller's Disclosure Statement is attached as **Exhibit B** for reference. Prior to closing, Buyer will be responsible to evaluate the property for Hazardous Substances and Seller will be given the opportunity, but will not be obligated, to remediate any concerns brought to the attention of environmental authorities.

10.1.3 Buyer's Representations and Warranties. In addition to any other representations and warranties of Buyer elsewhere in this Agreement, Buyer represents and warrants to Seller now, and as of the Date of Closing, that (a) Buyer has full power to execute, deliver and carry out the terms and provisions of this Agreement, and has taken all necessary action to authorize the execution, delivery and performance of this Agreement; and (b) the individual executing this Agreement on behalf of Buyer has the authority to bind Buyer to the terms and conditions of this Agreement.

10.1.4 "As is" condition of Subject Property. The Purchase Price reflects that Buyer is purchasing the Subject Property "as is," "where is," and "with all faults," except to the extent of representations and warranties specifically made by Seller or in the Statutory Warranty Deed or other documents to be delivered by Seller at Closing.

11. Maintenance of Subject Property; Risk of Loss, Condemnation.

11.1 Maintenance of Subject Property. From the date of this Agreement until the Closing Date (or any earlier termination of this Agreement), Seller agrees to maintain the Subject Property in substantially the same condition existing as of the Effective Date, ordinary wear and tear, damage by casualty excepted.

11.2 Risk of Loss; Condemnation. Risk of loss of or damage to the improvements on the Subject Property will be borne by Seller at all times until the Closing Date and no event of casualty or damage shall affect the parties' obligations under the Agreement or the Purchase Price, however, Buyer will have the right to receive any insurance proceeds due Seller in connection with any casualty or damage and Seller covenants to maintain commercially reasonable casualty insurance in place with respect to the Subject Property at all times prior to Closing. Seller shall promptly notify Buyer of any condemnation or eminent domain proceeding which affects or may affect the Subject Property. In the event of any condemnation or eminent domain proceeding by any entity other than City, or a deed in lieu of or under threat thereof, which affects a material portion of the Subject Property, Buyer may elect either to terminate this Agreement, or to purchase the Subject Property in the condition existing on the Closing Date without adjustment of the Purchase Price.

12. Default.

12.1 Time of Essence. Time is of the essence for this Agreement.

12.2 Seller's Remedies for Buyer's Default or Failure to Close. If Buyer fails, without legal excuse, to complete the purchase of the Subject Property in accordance with this Agreement, Seller's sole and exclusive remedies shall be to retain the Deposit as liquidated damages. Buyer expressly agrees that the retention of the Deposit by Seller represents a reasonable estimation of the damages in the event of Buyer's default and failure to close, that actual damages may be difficult to ascertain, and that this provision

does not constitute a penalty. In this respect, Buyer and Seller acknowledge that these damages have been specifically negotiated between Buyer and Seller and will compensate Seller for delaying the eventual sale of the Subject Property and to compensate Seller or its costs and expenses associated with this Agreement.

12.3 Buyer's Remedies for Seller's Default. If Seller fails to complete the sale of the Subject Property in accordance with this Agreement, Buyer's remedy will be to terminate this Agreement or to seek specific performance.

13. **Notices.** All notices, demands and other communications required or permitted to be given shall be in writing and shall be sent by personal delivery (including by means of professional messenger or courier service) or registered or certified mail, postage-prepaid, return-receipt requested, or by electronic mail (email) at the addresses provided. Notice shall be deemed to have been given if personally delivered or sent by electronic mail (email), upon receipt, if sent by mail, two (2) days after duly placed in the U.S. Mail to all of the addresses designated for such party.

The Parties' respective addresses for notices are as follows:

If to City: City of Auburn
Real Estate Division
25 West Main Street
Auburn, WA 98001-4998
Attn: Josh Arndt
Email: jarndt@auburnwa.gov

With copies to: City Attorney's Office
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Attn: City Attorney
Email: kcomeau@auburnwa.gov, druth@auburnwa.gov

If to Seller: Diamond J. Investments, LLC
Brad Johnson, its -
32113 S Palmer Rd
Molalla, OR 97038
503.819.4173
Bradj3176@canby.com

Notice of change of address shall be given by written notice in the manner detailed in this Section.

14. General.

14.1. Entire Agreement. This is the entire Agreement of Buyer and Seller with respect to the matters covered hereby and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers must be in writing. No waiver of any right or remedy in the event of default will constitute a waiver of such right or remedy in the event of any subsequent default. Venue for disputes under this Agreement is the Superior Court of King County, Washington.

14.2 Choice of Law. This Agreement will be governed by the laws of the State of Washington.

14.3 No Third Party Beneficiaries/Severability. This Agreement is for the benefit only of the Parties and shall inure to the benefit of and bind the heirs, personal representatives, successors and permitted assigns of the parties. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14.4 Survival of Rights, Duties, and Obligations. The Parties' rights, duties, covenants, and obligations shall survive Closing and the expiration or earlier termination of this Agreement.

14.5 Indemnification. From and after Closing, and for a period of ten (10) years from the Closing Date, Seller shall indemnify, defend, and hold Buyer harmless from and against any and all claims and agency orders or requirements relating to or arising out of, directly or indirectly, the Subject Property, except to the extent caused by the negligence or willful misconduct of Buyer.

14.6 Signing Authority. Each of the Parties represents and warrants that the individual signing this Agreement on its behalf is duly authorized to enter into this Agreement and to execute and legally bind such Party to it.

14.7 Attorneys' Fees. In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party is entitled to recover from the other party such sum as the Court may adjudge reasonable as attorneys' fees, including fees incurred at trial, on any appeal and in any petition for review.

14.8 Exclusivity. During the term of this Agreement, Seller will not market nor list the Subject Property for sale, nor accept any offers from third parties with respect to sale of the Subject Property.

14.9 Reservation of Police Power. Notwithstanding anything to the contrary set forth in this Agreement, Buyer understands and acknowledges that City's authority to exercise its police (regulatory) powers in accordance with applicable law shall not be deemed limited by the provisions of this Agreement.

14.10 This purchase is subject to the approval of the King County Futures Committee, which Buyer shall make reasonable effort to obtain by the expiration of the due diligence and feasibility period. If no notice of King County Futures Committee is delivered to Seller by the end of the feasibility period, then approval shall be deemed to have been granted. Buyer may request an extension, at no cost to Buyer for this provision. Seller agrees to allow for an extension of this provision if Buyer can demonstrate reasonable efforts in obtaining said approval.

14.11 Approval by Auburn City Council. The Parties acknowledge that this Agreement shall not be deemed accepted by or binding on Seller until approved by the Auburn City Council

14.12 Exhibits. The following exhibits are attached and incorporated into this Agreement by reference.

- (i) **Exhibit A – Legal Description of the Subject Property**
- (ii) **Exhibit B – Seller Disclosure, Environmental**

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

SIGNATURE PAGE

BUYER
CITY OF AUBURN

Nancy Backus, Mayor Date:

Attest: _____
Shawn P. Campbell, City Clerk

Approved as to Form:

Kendra Comeau, Auburn City Attorney

SELLER

Diamond J Investments LLC

Signature: _____ Date:

Print Name:

Title:

Address:

Contact Info:

EXHIBIT "A"

Legal Description

For APN/Parcel ID(s): 936000-0011-02, 936000-0012-01, 936000-0015-08 and
936000-0017-06

PARCEL A: (936000-0011-02 936000-0012-01)

LOT(S) 1 AND 2, KING COUNTY SHORT PLAT NO. SP-2-81, ACCORDING TO
THE SHORT PLAT THEREOF, RECORDED JANUARY 26, 1981 UNDER
RECORDING NO. 8101260642, RECORDS OF KING COUNTY, WASHINGTON.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND
EGRESS OVER TRACTS A OF KING COUNTY SHORT PLAT NO SP-3-81,
RECORDED UNDER RECORDING NO. 8101260641, RECORDS OF KING
COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

PARCEL B: (936000-0015-08 936000-0017-06)

LOT(S) 3 AND 4, KING COUNTY SHORT PLAT NO. SO-3-81, ACCORDING TO
THE SHORT PLAT THEREOF, RECORDED JANUARY 26, 1981, UNDER
RECORDING NO. 8101260641, RECORDS OF KING COUNTY, WASHINGTON.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND
EGRESS OVER TRACTS A OF KING COUNTY SHORT PLAT NO SP-3-81,
RECORDED UNDER RECORDING NO. 8101260641, RECORDS OF KING
COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

TICOR TITLE COMPANY COMMITMENT NO. 70179646

EXHIBIT "B"
Seller Disclosure – Environmental

ENVIRONMENTAL DISCLOSURE		Yes	No	Don't Know	N/A
A	Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?	X			
B	Does any part of the property contain fill dirt, waste, or other fill materials?			X	
C	Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?		X		
D	Are there any shorelines, wetlands, floodplains, or critical areas on the property?	X			
E	Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?		X		
F	Has the property been used for commercial or industrial purposes?		X		
G	Is there any soil or groundwater contamination?			X	
H	Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?		X		
I	Has the property been used as a legal or illegal dumping site?		X		
J	Has the property been used as an illegal drug manufacturing site?		X		
K	Are there any radio towers in the area that cause interference with cellular telephone reception?		X		

If you answered yes to any of the following please give further details here.

A. Property ~~is~~ wetlands so probably floods some

D. Wetlands on property



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5616 (Faber/Comeau)(10 Minutes)

Department:

City Attorney

Attachments:

[Resolution No. 5616](#)

[Exhibit A-1 Vicinity Map](#)

[Exhibit A-2 Mill Creek Assemblage Depiction](#)

[Resolution No. 5616 Exh B Legal Description](#)

[Resolution No. 5616 Exh C-PSA](#)

Date:

September 29, 2021

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

For discussion only.

Background for Motion:

Purchasing of these properties will allow for the conservation and future improvement to Mill Creek and the ecosystem it provides. The City will also be reimbursed by King County for the acquisition costs of these properties.

Background Summary:

Prior to voting on Resolution 5616, Auburn City Council will be asked to vote on Resolution 5614 which allows the City to accept and allocate grant funds from King County Conservation Futures and Cooperative Watershed Management programs. These are reimbursable grants with which funds are to be used for the purchase of real property that will aid in the conservation and future habitat improvements to Mill Creek.

These properties are part of two separate but adjoining short plats (Sp-2-81 and SP-3-81) located in northwest Auburn. The City currently owns two of the four properties in short plat SP-2-81. Approving Resolution 5615 and 5616 will allow the City to purchase the two remaining properties in SP-2-81 and two of the four properties that make up SP-3-81 along with all divided interests in Tracts A & B of the short plats.

The properties are raw land covered with grass vegetation. Mill Creek wanders through the south and western portion of Sp-3-81. Purchasing these properties will ensure that this portion of Mill Creek will be protected from future development and securing the right of access for future habitat improvements in this location.

Reviewed by Council Committees:

Councilmember: Stearns

Meeting Date: October 11, 2021

Staff:

Faber/Comeau

Item Number:

RESOLUTION NO. 5616

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR PURCHASE AND SALE BETWEEN THE CITY OF AUBURN AND KENT-YI COMPANY FOR REAL PROPERTY

WHEREAS, with the passing of Resolution 5614, Auburn City Council authorized the City to accept and appropriate grant funds from King County Conservation Futures and Cooperative Watershed Management; and

WHEREAS, the purpose of those grant funds described in Resolution 5614 is for the purchase of real property to be used for future habitat improvements associated with Mill Creek; and

WHEREAS, the City seeks to purchase property located near the intersection of 44th St NW and I St NW in northwest Auburn, generally depicted in Exhibits “A-1” (Vicinity Map) & “A-2” (Mill Creek Assemblage) with King County Conservation Futures to be used for future habitat improvements associated with Mill Creek.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, RESOLVES as follows:

Section 1. The Mayor is authorized to execute a Contract for the Purchase of the real property legally described in Exhibit “B” between the City and Kent-Yi Company in substantial conformity with the purchase contract attached as Exhibit “C”.

Section 2. The Mayor is authorized to implement those administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. This resolution shall be in full force and effect upon passage and signatures.

Dated and Signed this _____ day of _____, 2021.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

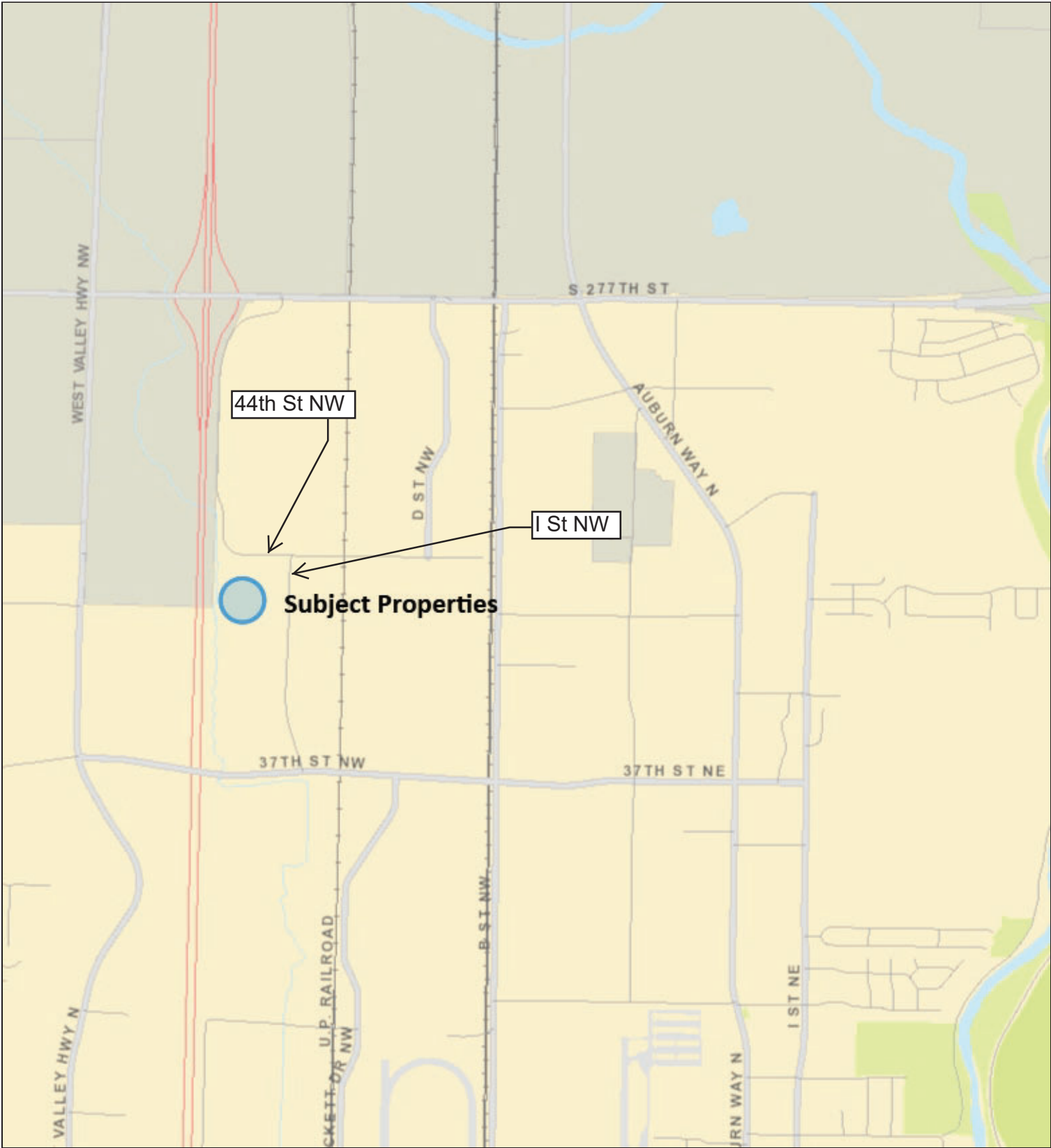
Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

Kendra Comeau, City Attorney

Resolution 5615 & 5616
Exhibit "A-1" (Vicinity Map)

Printed Date: 9/13/2021
Map Created by City of Auburn eGIS
Imagery Date: May 2015



2,666.7 0 1,333.3 2,666.7 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



Resolution 5615 and 5616 Exhibit "A-2" (Mill Creek Assemblage)

Printed Date: 9/16/2021
Map Created by City of Auburn eGIS
Imagery Date: May 2015



333.3 0 166.7 333.3 Feet

NAD_1983_StatePlane_Washington_North_FIPS_4601_Feet

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



Resolution 5616
Exhibit “B” – Legal Description

Lots 1 and 2 of Short Plat No. SP-3-81, according to the Short Plat Survey recorded under King County [Recording No. 8201260641](#);

TOGETHER WITH an easement for ingress, egress and utility purposes as disclosed in said short plat;

Situate in the City of Auburn, County of King, State of Washington.

**Resolution 5616
Exhibit “C”
(Cover Sheet)**

**COA / Kent-Yi, General Partnership
Purchase & Sale Agreement**

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “Agreement”) is entered into as of the _____ day of _____, 2021 (“Effective Date”), by and between the **City of Auburn**, a Washington municipal corporation (the “City” or “Buyer”), and **Kent-Yi Company**, a Washington General Partnership (“Seller”). Seller and Buyer are collectively referred to as the “Parties.”

RECITALS

A. Seller owns certain real property created by Auburn Short Plat SP-3-81, REC# 8201260641 in Auburn, Washington, also known as King County Parcel Nos. 936000-0014 & 16 (collectively the “Subject Property”), legally described in attached **Exhibit A**.

B. Seller wishes to sell and Buyer wishes to buy the Subject Property owned by Seller described in **Exhibit A** along with any interest Seller has in Tract A & B of SP-3-81.

C. Buyer intends to use grant funds from the King County Conservation Futures and King County Cooperative Watershed Management grant programs for the purchase of the Subject Property.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which the Parties mutually acknowledge, Buyer and Seller agree as follows:

1. **Certain Defined Terms.** For purposes of this Agreement, the following capitalized terms in this Agreement will have the following definitions:

1.1 “Closing” or “Close of Escrow” means the recordation of the Deed in the Official Records and Seller’s receipt of the Purchase Price.

1.2 “Closing Date” means the date which is thirty (30) days after the expiration or waiver of the due diligence and feasibility review period, but a date not to exceed October 31, 2021, but which may be extended pursuant to Section 5.

1.3 “Deposit” means an amount of Two thousand five hundred dollars (\$2,500), plus any other amounts designated as a Deposit in this Agreement.

1.4 “Escrow” means the escrow opened with Escrow Agent for the consummation of the transaction described in this Agreement.

1.5 “Escrow Agent” means Ticor Title Company, located at: 33400 9th Ave S. #102 Federal Way, WA 98003.

Purchase and Sale Agreement – COA / Kent-Yi Company
King County Parcel #'s 936000-0014 & 16
Page 1 of 13

Execution Copy

1.6 “Official Records” means the official real property records of King County, Washington.

1.7 “Permitted Exceptions” has the meaning as set forth in Section 6.3 below.

1.8 “Purchase Price” has the meaning as set forth in Section 3.

1.9 “Title Company” means Ticor Title Company.

1.10 “Title Policy” means the then current Buyer-purchased standard coverage ALTA owner’s policy of title insurance issued by the Title Company to Buyer with coverage in the amount of purchase price, showing title to the Subject Property vested in Buyer subject only to the Permitted Exceptions.

2. **Purchase and Sale.** Buyer agrees to buy, and Seller agrees to sell, the Subject Property legally described in **Exhibit “A”**, and any and all interest in Tracts A & B the Seller may have on the terms and conditions set forth in this Agreement.

3. **Purchase Price; Cash Payment.** The Purchase Price is **Fifty Two Thousand Six Hundred Dollars and no cents (\$52,600.00)**, which will be payable in full at Closing. The Deposit will be applied to the Purchase Price due at Closing. The Purchase Price payment by Buyer will be via wire transfer of collected federal funds.

4. **Earnest Money Deposit.** On execution of this Agreement, Buyer will deposit with Escrow Agent **Two Thousand Five Hundred Dollars and no cents (\$2,500.00)** in cash (the “Deposit”), which the Escrow Agent will hold as an earnest money deposit for this transaction. The Deposit will be held in Escrow and applied or disposed of by the Escrow Agent based on the terms of this Agreement. The Deposit will not be refunded and will become property of Seller upon expiration of Buyer’s Due Diligence and Feasibility period.

5. **Due Diligence and Feasibility.** Due Diligence and Feasibility Period. Buyer shall have the right for a period of Two Months from the Effective Date of this Agreement (the “Due Diligence Period”) to conduct Buyer’s due diligence and feasibility review, examination and inspection of all matters pertaining to its acquisition of the Subject Property, including such inspections, tests, and surveys as Buyer deems appropriate to determine the suitability of the Subject Property for Buyer’s intended use. Buyer is solely responsible to determine its ability to use the Subject Property for its intended use, and is solely responsible for submitting all necessary applications for City, State, and Federal permits necessary to determine feasibility. If, based upon Buyer’s review, examination and inspection, Buyer determines in its sole discretion that it intends to acquire the Subject Property, then Buyer shall promptly notify Seller of such determination in writing prior to the expiration of the Due Diligence Period and the Deposit will become nonrefundable (except as otherwise provided herein), and the Parties will proceed to Closing. In the event that Buyer fails to deliver such notice to Seller on or before the expiration of the Due Diligence Period, Buyer will be deemed to be satisfied and to have waived its right to

terminate this Agreement pursuant to this subsection. If Buyer timely and affirmatively advises the Seller in writing of its dissatisfaction based on its Due Diligence review, then this Agreement automatically terminates, the Parties' rights under this Agreement shall be of no further force or effect and the Deposit will be returned to Buyer.

6. Title Policy. Promptly after mutual execution of this Agreement, Buyer will obtain a standard coverage preliminary title insurance commitment covering the Subject Property from the Title Company (the "Commitment"). The Title Company will be instructed to deliver a copy of the Commitment and copies of exceptions to Buyer, Seller, and the Parties' respective counsel. Approval by Buyer of the exceptions to title set forth in the Commitment (other than as hereinafter set forth) will be a condition precedent to Buyer's obligation to purchase the Property. Unless Buyer gives written notice that it disapproves the exceptions to title shown on the Commitment (other than the exceptions to title approved by Buyer and described in Section 6.1 below), stating the exceptions so disapproved, within ten (10) days after the date of delivery of the Commitment to Buyer, Buyer will be deemed to have approved such exceptions. If Buyer disapproves any title exceptions, Seller will have a ten (10) day period after its receipt of Buyer's written notice of disapproval of the same within which to provide written notice to Buyer as to which of such disapproved title exceptions Seller will remove (or cause to be removed) from title; provided, however, that Seller will not be required to actually remove such exception(s) until Closing. If, for any reason, Seller's notice given pursuant to the immediately preceding sentence does not covenant to remove all of Buyer's disapproved title exceptions at or prior to Closing, Buyer has the right to terminate this Agreement by written notice to Seller and Escrow Agent given within ten (10) days after the earlier of the expiration of such ten (10) day period or the date Seller informs Buyer that it does not intend to remove the disapproved items (the "Termination Notice"). Buyer's failure to deliver the Termination Notice within such ten (10) day period will be deemed Buyer's approval of any such previously disapproved title exception. If Buyer delivers the Termination Notice within such ten (10) day period, the obligation of Seller to sell, and Buyer to buy, the Subject Property will terminate.

6.1 Permitted Exceptions. In addition to such other exceptions to title as may be approved by Buyer pursuant to the provisions of Section 6 above, Buyer shall accept title to the Property subject to the following (collectively, the "Permitted Exceptions"):

The printed exceptions which appear in the then current ALTA form standard coverage owner's policy of title insurance issued by Title Company in the State of Washington; and items created by, or on behalf of, Buyer.

7. Buyer's Right of Entry. Buyer, and its agents and consultants, at Buyer's sole expense and risk, may enter the Subject Property during the term of this Agreement for the purpose of Buyer's due diligence and feasibility study of the Property. Buyer will (a) exercise care at all times on or about the Subject Property, and (b) take precautions for the prevention of injury to persons or damage to property on or about the Subject Property. Any physical alteration of the Subject Property in connection with Buyer's study will be restored by Buyer immediately upon demand by Seller, at Buyer's sole expense. Buyer

indemnifies Seller against any loss, damage, or claim resulting from Buyer's inspections and tests. Buyer is not Seller's agent in connection with such activities and has no authority to allow any liens to encumber the Subject Property. Buyer shall keep the Subject Property free from all mechanics', materialmen's and other liens, and all claims arising from any work or labor done, services performed, or materials and supplies furnished in with Buyer's actions in the exercise of its right of entry on the Subject Property and Buyer will maintain all insurance as required by Seller with respect to activities on the Subject Property.

8. Closing.

8.1 Time for Closing. This purchase and sale will be closed in the office of Escrow Agent on the Closing Date. Buyer and Seller will place in Escrow with Escrow Agent all instruments, documents and monies necessary to complete the sale under this Agreement. Funds held in Escrow pursuant to Escrow instructions will be deemed, for purposes of this definition, as available for disbursement to Seller. Neither party needs to be physically present at the Closing.

8.2 Closing Costs.

8.2.1 Seller's Costs. Associated with the sale and conveyance Seller will pay; (a) Seller's share of prorations, if any, and (b) Sellers own legal fees, if any.

8.2.2 Buyer's Costs. Buyer will pay all costs associated with the sale and conveyance of the Subject Property, including but not limited to: (a) the full escrow fees and costs, (b) all premiums charged for the Title Policy and any additional endorsements or coverage Buyer may require, including applicable sales tax, (c) the recording fees for the Deed; and (d) Buyer's share of prorations, if any (d) real estate excise taxes, and (e) real estate commissions in the amount of \$2,630.00 to Skyline Properties.

8.2.3 Other Costs. All other costs and expenses will be Buyer's obligation.

8.2.4 Real Property Taxation. Seller will be responsible for all real property taxes due and owing prior to the Closing.

8.3 Closing Documents.

8.3.1 Seller's Documents. At Closing, Seller will deliver to Escrow Agent the following instruments and documents:

- a. An executed and acknowledged Statutory Warranty Deed acceptable to Buyer;
- b. The executed real estate excise tax affidavit to accompany the Deed; and
- c. An executed nonforeign person affidavit in the form required under Section 1445 of the Internal Revenue Code.

8.3.2 Buyer's Documents. At Closing, Buyer shall deliver to Escrow Agent the following funds, instruments and documents:

- a. The balance of the Purchase Price in accordance with Section 3; and
- b. An executed real estate excise tax affidavit.

9. **Possession.** Buyer will be entitled to possession of the Subject Property upon Closing.

10. **Representations and Warranties.**

10.1 Seller's Representations and Warranties. In addition to any other representations or warranties of City elsewhere in this Agreement, Seller represents and warrants to Buyer now, and as of the Date of Closing, that:

10.1.1 Authority. Seller has full power and authority to execute this Agreement and perform Seller's obligations, and all necessary action to authorize this transaction has been taken, except as specifically provided herein.

10.1.2 Hazardous Substances. Seller has not received notification of any kind from any governmental agency suggesting that the Subject Property is or may be targeted for a Hazardous Substances cleanup; to the best of Seller's knowledge the Subject Property has not been used (a) for the storage, disposal or discharge of oil, solvents, fuel, chemicals or any type of toxic, dangerous, hazardous or biological waste or substance (collectively, "Hazardous Substances"), or (b) as a landfill or waste disposal site; to the best of Seller's knowledge the Subject Property has not been contaminated with any Hazardous Substances; and (c) to the best of Seller's knowledge, there are no underground storage tanks on the Subject Property. Buyer agrees to waive Seller's Disclosure Statement under RCW 64.06.010 with the exception of item 6 "Environmental" under RCW 64.06.013 which Seller shall deliver to Buyer within five (5) business days following execution of this Agreement. A blank copy of the Environmental Section of Seller's Disclosure Statement is attached as **Exhibit B** for reference. Prior to Closing, Buyer will be responsible to evaluate the property for Hazardous Substances and Seller will be given the opportunity, but will not be obligated, to remediate any concerns brought to the attention of environmental authorities.

10.1.3 Buyer's Representations and Warranties. In addition to any other representations and warranties of Buyer elsewhere in this Agreement, Buyer represents and warrants to Seller now, and as of the Date of Closing, that (a) Buyer has full power to execute, deliver and carry out the terms and provisions of this Agreement, and has taken all necessary action to authorize the execution, delivery and performance of this Agreement; and (b) the individual executing this Agreement on behalf of Buyer has the authority to bind Buyer to the terms and conditions of this Agreement.

10.1.4 "As is" condition of Subject Property. The Purchase Price reflects that Buyer is purchasing the Subject Property "as is," "where is," and "with all faults," except to the extent of representations and warranties specifically made by Seller or in the Statutory Warranty Deed or other documents to be delivered by Seller at Closing.

11. Maintenance of Subject Property; Risk of Loss, Condemnation.

11.1 Maintenance of Subject Property. From the date of this Agreement until the Closing Date (or any earlier termination of this Agreement), Seller agrees to maintain the Subject Property in substantially the same condition existing as of the Effective Date, ordinary wear and tear, damage by casualty excepted.

11.2 Risk of Loss; Condemnation. Risk of loss of or damage to the improvements on the Subject Property will be borne by Seller at all times until the Closing Date and no event of casualty or damage shall affect the parties' obligations under the Agreement or the Purchase Price, however, Buyer will have the right to receive any insurance proceeds due Seller in connection with any casualty or damage and Seller covenants to maintain commercially reasonable casualty insurance in place with respect to the Subject Property at all times prior to Closing. Seller shall promptly notify Buyer of any condemnation or eminent domain proceeding which affects the Subject Property. In the event of any condemnation or eminent domain proceeding by any entity other than City, or a deed in lieu of or under threat thereof, which affects a material portion of the Subject Property, Buyer may elect either to terminate this Agreement, or to purchase the Subject Property in the condition existing on the Closing Date without adjustment of the Purchase Price.

12. Default.

12.1 Time of Essence. Time is of the essence for this Agreement.

12.2 Seller's Remedies for Buyer's Default or Failure to Close. If Buyer fails, without legal excuse, to complete the purchase of the Subject Property in accordance with this Agreement, Seller's sole and exclusive remedies shall be to retain the Deposit as liquidated damages. Buyer expressly agrees that the retention of the Deposit by Seller represents a reasonable estimation of the damages in the event of Buyer's default and failure to close, that actual damages may be difficult to ascertain and that this provision does not constitute a penalty. In this respect, Buyer and Seller acknowledge that these damages have been specifically negotiated between Buyer and Seller and will compensate Seller for delaying the eventual sale of the Subject Property and to compensate Seller or its costs and expenses associated with this Agreement.

12.3 Buyer's Remedies for Seller's Default. If Seller fails to complete the sale of the Subject Property in accordance with this Agreement, Buyer's remedy will be to terminate this Agreement or to seek specific performance.

13. Notices. All notices, demands and other communications required or permitted to be given shall be in writing, and shall be sent by personal delivery (including by means of Purchase and Sale Agreement – COA / Kent-Yi Company
King County Parcel # 936000-0014 & 16
Page 6 of 13

Execution Copy

professional messenger or courier service) or registered or certified mail, postage-prepaid, return-receipt requested, or by electronic mail (e-mail) at the addresses provided. Notice shall be deemed to have been given if personally delivered or sent by electronic mail (e-mail), upon receipt, if sent by mail, two (2) days after duly placed in the U.S. Mail to all of the addresses designated for such party.

The Parties' respective addresses for notices are as follows:

If to City:	City of Auburn Real Estate Division 25 West Main Street Auburn, WA 98001-4998 Attn: Josh Arndt Email: jarndt@auburnwa.gov
With copies to:	City Attorney's Office City of Auburn 25 West Main Street Auburn, WA 98001-4998 Attn: City Attorney Email: kcomeau@auburnwa.gov, druth@auburnwa.gov
If to Seller:	Skyline Properties (Office # 940) Ron Melik (License # 4651) 702 S Hill Park Dr, Suite 203 Puyallup, WA 98373 206.354.2995 Ronsellshomes@comcast.net
With copies to:	Kent-Yi Partnership Attn: Victor Lin (Partnership Secretary) 388 Medea Creek Ln Oak Park, CA 91377 818-699-1411 Email: victor.s.lin@gmail.com

Notice of change of address shall be given by written notice in the manner detailed in this Section.

14. General.

14.1. Entire Agreement. This is the entire Agreement of Buyer and Seller with respect to the matters covered and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers must be in writing. No waiver of any right or remedy in the event of default Purchase and Sale Agreement – COA / Kent-Yi Company
King County Parcel # 936000-0014 & 16
Page 7 of 13

Execution Copy

will constitute a waiver of such right or remedy in the event of any subsequent default. Venue for disputes under this Agreement is the Superior Court of King County, Washington.

14.2 Choice of Law. This Agreement will be governed by the laws of the State of Washington.

14.3 No Third-Party Beneficiaries/Severability. This Agreement is for the benefit only of the Parties and shall inure to the benefit of and bind the heirs, personal representatives, successors and permitted assigns of the parties. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14.4 Survival of Rights, Duties, and Obligations. The Parties' rights, duties, covenants, and obligations shall survive Closing and the expiration or earlier termination of this Agreement.

14.5 Indemnification. From and after Closing, and for a period of ten (10) years from the Closing Date, Seller shall indemnify, defend, and hold Buyer harmless from and against any and all claims and agency orders or requirements relating to or arising out of, directly or indirectly, the Subject Property, except to the extent caused by the negligence or willful misconduct of Buyer.

14.6 Signing Authority. Each of the Parties represents and warrants that the individual signing this Agreement on its behalf is duly authorized to enter into this Agreement and to execute and legally bind such Party to it.

14.7 Attorneys' Fees. In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party is entitled to recover from the other party such sum as the Court may adjudge reasonable as attorneys' fees, including fees incurred at trial, on any appeal and in any petition for review.

14.8 Exclusivity. During the term of this Agreement, Seller will not market nor list the Subject Property for sale, nor accept any offers from third parties with respect to sale of the Subject Property.

14.9 Reservation of Police Power. Notwithstanding anything to the contrary set forth in this Agreement, Buyer understands and acknowledges that City's authority to exercise its police (regulatory) powers in accordance with applicable law shall not be deemed limited by the provisions of this Agreement.

14.10 This purchase is subject to the approval of the King County Futures Committee which Buyer shall make reasonable effort to obtain by the expiration of the due diligence and feasibility period. If no notice of King County Futures Committee is
Purchase and Sale Agreement – COA / Kent-Yi Company
King County Parcel # 936000-0014 & 16
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delivered to Seller by the end of the feasibility period then approval shall be deemed to have been granted. Buyer may request an extension, at no cost to Buyer for this provision. Seller agrees to allow for an extension of this provision if Buyer can demonstrate reasonable efforts in obtaining said approval.

14.11 Approval by Auburn City Council. The Parties acknowledge that this Agreement shall not be deemed accepted by or binding on Seller until approved by the Auburn City Council.

14.12 Real Estate Broker / Commissions. The Parties acknowledge that Skyline Properties broker (Office #905), Ron Melik (License #4651), has performed services on behalf of Seller that entitles the Brokerage to a real estate commission. The Parties agree that Buyer will pay a brokerage commission in the amount of **Two Thousand Six Hundred Thirty Dollars and no cents (\$2,630.00)** as part of Buyer's closing costs identified in paragraph 8.2.2 above.

14.13 Exhibits. The following exhibits are attached and incorporated into this Agreement by reference.

- (i) **Exhibit A – Legal Description of the Subject Property**
- (ii) **Exhibit B – Seller Disclosure, Environmental**

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SIGNATURE PAGE

BUYER
CITY OF AUBURN

Nancy Backus, Mayor Date:

Attest: _____
Shawn P. Campbell, City Clerk

Approved as to Form:

Kendra Comeau, Auburn City Attorney

SELLER
Kent-Yi Company

Ming Yang Tsai 8/28/2021
Signature: Date:

Ming Yang Tsai
Print Name:

Ken-Yi Partnership Manager
Title:

Title:

4956 Purdue Ave NE Seattle, WA 98105
Address:

Contact Info:

EXHIBIT "A"

Legal Description

Lots 1 and 2 of Short Plat No. SP-3-81, according to the Short Plat Survey recorded under King County Recording No. 8201260641

TOGETHER WITH an easement for ingress, egress and utility purposes as disclosed in said short plat;

Situate in the City of Auburn, County of King, State of Washington

King County Parcel Numbers: 936000-0014-09 and 936000-0016-07

EXHIBIT “B”
Seller Disclosure – Environmental

ENVIRONMENTAL DISCLOSURE		Yes	No	Don't Know	N/A
A	Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?		✓		
B	Does any part of the property contain fill dirt, waste, or other fill materials?		✓		
C	Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?		✓		
D	Are there any shorelines, wetlands, floodplains, or critical areas on the property?	✓			
E	Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?		✓		
F	Has the property been used for commercial or industrial purposes?		✓		
G	Is there any soil or groundwater contamination?		✓		
H	Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?		✓		
I	Has the property been used as a legal or illegal dumping site?		✓		
J	Has the property been used as an illegal drug manufacturing site?		✓		
K	Are there any radio towers in the area that cause interference with cellular telephone reception?		✓		

If you answered yes to any of the following please give further details here.

A portion of the property has been designated wetland status by the local government.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5624 (Caillier)(15 Minutes)

Date:

October 6, 2021

Department:

Police

Attachments:

[Resolution No. 5624](#)

[Exhibit A - Axon Quote and Contract](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

For discussion only.

Background for Motion:**Background Summary:**

The City Council passed Ordinance 6830 that authorized the Auburn Police Department (APD) to use officer worn body cameras and to engaged in competitive negotiations for those cameras and updated in car video and interview room camera systems and updated less lethal conducted energy weapons.

Following passage of Ordinance 6830, APD issued a request for proposal seeking these equipment items from qualified vendors. Three potential vendors responded. Of those three, only the proposal submitted by Axon Enterprise, Inc. offered all of the equipment items sought. Axon's proposal offers the items at a bundled reduced price, and with technical advantages in video quality, storage, redaction and conducted energy weapon integration that makes its proposal the most advantageous to the City.

Axon's contract calls for yearly installment payments. Resolution 5624 would further authorize the City to use its ARPA funds for the 2021 installment payment, as an expenditure toward the authorized ARPA purpose of addressing an increase in gun related crime within the City. The City recommends passage of Resolution 5624, authorizing the Mayor to sign the proposed contract and quote with Axon

Reviewed by Council Committees:

Councilmember: Jeyaraj

Staff:

Caillier

Meeting Date: October 11, 2021

Item Number:

RESOLUTION NO. 5624

A RESOLUTION OF THE CITY OF AUBURN, WASHINGTON: (1) AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH AXON ENTERPRISE, INC., FOR POLICE BODY WORN CAMERAS AND RELATED EQUIPMENT, AND (2) ALLOCATING ARPA FUNDS TOWARD THE CONTRACT PURCHASE

WHEREAS, the Auburn Police Department (APD) seeks to increase transparency, accountability and efficiency by procuring officer body worn cameras, updated systems for in-car video and interview room cameras, and updated less lethal conducted energy weapons;

WHEREAS, Axon Enterprise, Inc. (Axon) is a vendor of these items. On July 12, 2021, Axon presented information to the City Council regarding its products and services. Following Axon's presentation, the City Council passed Ordinance No. 6830 authorizing the APD to use body cameras, and to engage in competitive negotiations for the procurement of the above equipment items;

WHEREAS, on August 9, 2021 the APD issued and published a request for proposals (RFP) seeking proposals for the items. APD received proposals from Axon and two other vendors. Of the three proposals received, only Axon's offered all items sought in the RFP. Axon's proposal quotes \$2,296,086.41 for the items sought, to be paid in yearly installments each November until 2025;

WHEREAS, bundling this equipment purchase under Axon's proposal reduces the cost of separate item purchases, and Axon's proposal includes several technical advantages in video quality, storage, redaction and conducted energy weapon integration that makes its proposal the most advantageous to the City;

WHEREAS, on September 7, 2021, the City passed Ordinance No. 6832 that allocated a portion of its American Rescue Plan Act (ARPA) funds for the authorized purpose of mitigating negative economic impacts of the COVID-19 pandemic. U.S. Treasury Department guidance indicates that expenditures toward law enforcement technology and equipment to more efficiently and effectively respond to increased gun violence during the pandemic can meet this stated ARPA purpose;

WHEREAS, APD statistics reveal increased gun related crime in the City during the pandemic when compared to previous years. The Council finds that the Axon contract installment payment for 2021 would enable APD to more efficiently and effectively respond to this COVID-era increase in gun related crime through accurate incident recording and documentation, and an improved less lethal incident response option for APD officers;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. The Mayor is authorized to sign the contract and the corresponding price quote with Axon attached as Exhibit A to this Resolution;

Section 2. The Finance Department is authorized to fund the 2021 installment of the Axon contract using the City's ARPA funds allocated to mitigating negative COVID economic impacts under Ordinance No. 6832.

Section 3. The Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 4. This Resolution shall take effect and be in full force upon passage and signatures.

Dated and Signed this _____ day of _____, 2021.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 VAT: 86-0741227
 Domestic: (800) 978-2737
 International: +1.800.978.2737

Q-331734-44475.720AS

Issued: 10/06/2021



Quote Expiration: 11/01/2021

EST Contract Start Date: 12/01/2021

Account Number: 112450

Payment Terms: N30

Delivery Method: Fedex - Ground

SHIP TO	BILL TO
Business;Delivery;Invoice-340 E Main St 340 E Main St Auburn, WA 98002-5548 USA	Auburn Police Dept. - WA 340 E Main St Auburn, WA 98002-5548 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Allen Sliper Phone: Email: asliper@axon.com Fax:	Phone: (253) 876-1907 Email: sstocker@auburnwa.gov Fax: (253) 931-5108

Program Length	60 Months
TOTAL COST	\$2,296,086.41
ESTIMATED TOTAL W/ TAX	\$2,296,086.41

Bundle Savings	\$727,872.90
Additional Savings	\$37,432.08
TOTAL SAVINGS	\$765,304.98

PAYMENT PLAN		
PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 1	Nov, 2021	\$586,352.50
Year 2	Nov, 2022	\$427,433.48
Year 3	Nov, 2023	\$427,433.48
Year 4	Nov, 2024	\$427,433.48
Year 5	Nov, 2025	\$427,433.48

Quote Details

Bundle Summary		
Item	Description	QTY
OSP7+Premium	2021 - OFFICER SAFETY PLAN 7 PLUS Premium	123
AB3C	AB3 Camera Bundle	123
AB3MBD	AB3 Multi Bay Dock Bundle	16
Unlimited7+Premium	2021 Unlimited 7+ Premium Bundle	2
AB3C	AB3 Camera Bundle	2
AB3MBD	AB3 Multi Bay Dock Bundle	1
Fleet3B	Fleet 3 Basic	44
ProLicense	Pro License Bundle	10
DynamicBundle	Dynamic Bundle	1

Bundle: AB3 Camera Bundle Quantity: 123 Start: 12/1/2021 End: 11/30/2026 Total: 85977 USD			
Category	Item	Description	QTY
Camera	73202	AXON BODY 3 - NA10	123
Spare Camera	73202	AXON BODY 3 - NA10	4
Camera Mount	71026	MAGNET MOUNT, FLEXIBLE REINFORCED, RAPIDLOCK	123
USB	11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2	123
Other	71026	MAGNET MOUNT, FLEXIBLE REINFORCED, RAPIDLOCK	12
Other	11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2	4

Bundle: AB3 Multi Bay Dock Bundle Quantity: 16 Start: 12/1/2021 End: 11/30/2026 Total: 24622.4 USD			
Category	Item	Description	QTY
Dock	74210	AXON BODY 3 - 8 BAY DOCK	16
Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	16
Wall Mount	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	16

Bundle: 2021 - OFFICER SAFETY PLAN 7 PLUS Premium Quantity: 123 Start: 12/1/2021 End: 11/30/2026 Total: 1727387.91 USD			
Category	Item	Description	QTY
Holsters	20160	TASER 7 HOLSTER - SAFARILAND, RH+CART CARRIER	120
Holsters	20161	TASER 7 HOLSTER - SAFARILAND, LH+CART CARRIER	3
HALT Suit	20050	HOOK-AND-LOOP TRAINING (HALT) SUIT	3

Handle License	20248	TASER 7 EVIDENCE.COM LICENSE	123
Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	369
Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	369
Handles	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	123
Inert Cartridges	22179	TASER 7 INERT CARTRIDGE, STANDOFF (3.5-DEGREE) NS	50
Inert Cartridges	22181	TASER 7 INERT CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	50
Admin License	20248	TASER 7 EVIDENCE.COM LICENSE	2
Taser 7 Target	80087	TASER 7 TARGET, CONDUCTIVE, PROFESSIONAL (RUGGEDIZED)	2
Spare Handles	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	4
Taser 7 Target Frame	80090	TARGET FRAME, PROFESSIONAL, 27.5 IN. X 75 IN., TASER 7	2
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	246
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	246
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	246
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	246
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	246
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	246
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	246
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	246
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	246
Batteries	20018	TASER 7 BATTERY PACK, TACTICAL	147
Master Instructor Course Vouchers	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Master Instructor Course Vouchers	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Master Instructor Course Vouchers	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Master Instructor Course Vouchers	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Master Instructor Course Vouchers	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Training Halt Cartridges	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	246
Training Halt Cartridges	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	246
Training Halt Cartridges	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	246
Training Halt Cartridges	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	246
Instructor Course Vouchers	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Instructor Course Vouchers	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Instructor Course Vouchers	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Instructor Course Vouchers	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Instructor Course Vouchers	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Docks	74200	TASER 7 6-BAY DOCK AND CORE	2
Dock Mount	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	2
Dock Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	2
Duty Cartridge Replenishment Program	20246	TASER 7 DUTY CARTRIDGE REPLACEMENT LICENSE	123
E.com License	73746	PROFESSIONAL EVIDENCE.COM LICENSE (Formerly SKU 73746)	123

Viewer License	73687	EVIDENCE.COM VIEWER LICENSE	1
Device Storage	73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	123
A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	3690
Respond Plus	73680	RESPOND DEVICE PLUS LICENSE	123
Records	73681	AXON RECORDS FULL	123
Citizen	73618	CITIZEN FOR COMMUNITIES USER LICENSE	123
Redaction	73478	REDACTION ASSISTANT USER LICENSE	123
Auto Tagging	73682	AUTO TAGGING LICENSE	123
Performance	73739	PERFORMANCE LICENSE	123
On-Demand Transcription	85760	Auto-Transcribe Unlimited Service	123
3rd Party Video	11642	THIRD-PARTY VIDEO SUPPORT LICENSE	123
Auto Tagging Implementation	79999	AUTO TAGGING / PERFORMANCE IMPLEMENTATION SERVICE	1
Signal Sidearm Kit	75015	SIGNAL SIDEARM KIT	123
Signal Sidearm Batteries	71044	BATTERY, SIGNAL SIDEARM, CR2430 SINGLE PACK	246
Camera Warranty	80464	EXT WARRANTY, CAMERA (TAP)	123
Camera Refresh 1 with Spares	73309	AXON CAMERA REFRESH ONE	127
Camera Refresh 2 with Spares	73310	AXON CAMERA REFRESH TWO	127
Warranty	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	16
Multi-bay Dock Refresh 1	73689	MULTI-BAY BWC DOCK 1ST REFRESH	16
Multi-bay Dock Refresh 2	73688	MULTI-BAY BWC DOCK 2ND REFRESH	16
VR Software	20370	FULL VR TASER 7 ADD-ON USER ACCESS	123
VR Headset	20378	HTC SUNRISE VR HEADSET	5
Spare Camera Warranty	80464	EXT WARRANTY, CAMERA (TAP)	4
Other	80395	EXT WARRANTY, TASER 7 HANDLE	123
Other	80395	EXT WARRANTY, TASER 7 HANDLE	4
Other	80374	EXT WARRANTY, TASER 7 BATTERY PACK	147
Other	80396	EXT WARRANTY, TASER 7 SIX BAY DOCK	2
Controller Case	20188	VR CONTROLLER KIT PELICAN CASE	2
Controller	20298	VR-ENABLED GLOCK 17 CONTROLLER	2
Tablet	20296	SAMSUNG S7+ TABLET FOR VR SIMULATOR	2
Tablet Case	20297	SAMSUNG S7+ TABLET CASE FOR VR SIMULATOR	2
Standoff Cartridges	22196	TASER 7 VR CARTRIDGE, STANDOFF (3.5-DEGREE)	4
CQ Cartridges	22197	TASER 7 VR CARTRIDGE, CLOSE-QUARTERS (12-DEGREE)	4

Bundle: 2021 Unlimited 7+ Premium Bundle				Quantity: 2	Start: 12/1/2021	End: 11/30/2026	Total: 23879.99 USD
Category	Item	Description	QTY				
E.com License	73746	PROFESSIONAL EVIDENCE.COM LICENSE (Formerly SKU 73746)	2				
Device Storage	73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	2				
A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	60				

Respond Plus	73680	RESPOND DEVICE PLUS LICENSE	2
Records	73681	AXON RECORDS FULL	2
Citizen	73618	CITIZEN FOR COMMUNITIES USER LICENSE	2
Redaction	73478	REDACTION ASSISTANT USER LICENSE	2
Auto Tagging	73682	AUTO TAGGING LICENSE	2
Performance	73739	PERFORMANCE LICENSE	2
On-Demand Transcription	85760	Auto-Transcribe Unlimited Service	2
3rd Party Video	11642	THIRD-PARTY VIDEO SUPPORT LICENSE	2
Auto Tagging Implementation	79999	AUTO TAGGING / PERFORMANCE IMPLEMENTATION SERVICE	1
Signal Sidearm Kit	75015	SIGNAL SIDEARM KIT	2
Signal Sidearm Batteries	71044	BATTERY, SIGNAL SIDEARM, CR2430 SINGLE PACK	4
Camera Warranty	80464	EXT WARRANTY, CAMERA (TAP)	2
Camera Refresh 1 with Spares	73309	AXON CAMERA REFRESH ONE	2
Camera Refresh 2 with Spares	73310	AXON CAMERA REFRESH TWO	2
Warranty	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	1
Multi-bay Dock Refresh 1	73689	MULTI-BAY BWC DOCK 1ST REFRESH	1
Multi-bay Dock Refresh 2	73688	MULTI-BAY BWC DOCK 2ND REFRESH	1
VR Software	20370	FULL VR TASER 7 ADD-ON USER ACCESS	2
VR Headset	20378	HTC SUNRISE VR HEADSET	1
Controller Case	20188	VR CONTROLLER KIT PELICAN CASE	1
Controller	20298	VR-ENABLED GLOCK 17 CONTROLLER	1
Tablet	20296	SAMSUNG S7+ TABLET FOR VR SIMULATOR	1
Tablet Case	20297	SAMSUNG S7+ TABLET CASE FOR VR SIMULATOR	1
Standoff Cartridges	22196	TASER 7 VR CARTRIDGE, STANDOFF (3.5-DEGREE)	2
CQ Cartridges	22197	TASER 7 VR CARTRIDGE, CLOSE-QUARTERS (12-DEGREE)	2

Bundle: AB3 Camera Bundle Quantity: 2 Start: 12/1/2021 End: 11/30/2026 Total: 1398 USD			
Category	Item	Description	QTY
Camera	73202	AXON BODY 3 - NA10	2
Camera Mount	71026	MAGNET MOUNT, FLEXIBLE REINFORCED, RAPIDLOCK	2
USB	11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2	2

Bundle: AB3 Multi Bay Dock Bundle Quantity: 1 Start: 12/1/2021 End: 11/30/2026 Total: 1538.9 USD			
Category	Item	Description	QTY
Dock	74210	AXON BODY 3 - 8 BAY DOCK	1
Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	1
Wall Mount	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	1

Bundle: Fleet 3 Basic Quantity: 44 Start: 12/1/2021 End: 11/30/2026 Total: 340560.01 USD			
Category	Item	Description	QTY
Storage	80410	FLEET, EVIDENCE LICENSE, 1 CAMERA STORAGE, LICENSE	88
E.com License	80400	FLEET, VEHICLE LICENSE, LICENSE	44
Camera Kit & Warranty	72036	FLEET 3 STANDARD 2 CAMERA KIT	44
Router	11634	CRADLEPOINT IBR900-1200M-NPS+5 YEAR NETCLOUD	44
Router Antenna	71200	FLEET ANT, AIRGAIN, 5-IN-1, 2LTE, 2WIFI, 1GNSS, BL	44
Ethernet Cable	74110	FLEET ETHERNET CABLE, CAT6, 25 FT	44
Vehicle Installation	73391	FLEET 3 NEW INSTALLATION (PER VEHICLE)	44
Axon Signal Unit	70112	AXON SIGNAL UNIT	44
Cable Assembly	70117	AXON SIGNAL UNIT, CABLE ASSEMBLY	44
Spare Camera Kit & Warranty	72036	FLEET 3 STANDARD 2 CAMERA KIT	1
Other	80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	44
Other	80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	1

Bundle: Pro License Bundle Quantity: 10 Start: 12/1/2021 End: 11/30/2026 Total: 23400 USD			
Category	Item	Description	QTY
E.com License	73746	PROFESSIONAL EVIDENCE.COM LICENSE (Formerly SKU 73746)	10
A La Carte Storage	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	30

Bundle: Dynamic Bundle Quantity: 1 Start: 12/1/2021 End: 11/30/2026 Total: 8882.5 USD			
Category	Item	Description	QTY
Other	74056	WALL MOUNT	1
Other	50294	LITE SERVER	2
Other	74116	INTERVIEW COVERT ENCLOSURE - AV WALL PLATE, FLUSH MOUNTED	1
Other	50220	HP SWITCH - 8PORT GIGABIT MAX POE MANAGED SWITCH - NON SER	1
Other	50113	COVERT CAMERA, MAIN UNIT	2
Other	50118	LOUOE MICROPHONE	2
Other	74114	INTERVIEW COVERT ENCLOSURE - MOTION SENSOR	1
Sensor Unit	50114	COVERT CAMERA, SENSOR UNIT	2
Other	50268	POS-X TP6 TOUCH PANEL W/4GB RAM	1

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

10/6/2021



Master Services and Purchasing Agreement between Axon and Agency

This Master Services and Purchasing Agreement ("**Agreement**") is between Axon Enterprise, Inc., a Delaware corporation ("**Axon**"), and the agency on the Quote ("**Agency**"). This Agreement is effective as of the later of the (a) last signature date on this Agreement or (b) signature date on the Quote ("**Effective Date**"). Axon and Agency are each a "**Party**" and collectively "**Parties**". This Agreement governs Agency's purchase and use of the Axon Devices and Services detailed in the Quote Appendix ("**Quote**"). It is the intent of the Parties that this Agreement act as a master agreement governing all subsequent purchases by Agency for the same Axon products and services in the Quote, and all such subsequent quotes accepted by Agency shall be also incorporated into this Agreement by reference as a Quote. The Parties therefore agree as follows:

1 Definitions.

"**Axon Cloud Services**" means Axon's web services for Axon Evidence, Axon Records, Axon Dispatch, and interactions between Evidence.com and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.

"**Axon Device**" means all hardware provided by Axon under this Agreement.

"**Quote**" means an offer to sell and is only valid for devices and services on the quote at the specified prices. Any terms within Agency's purchase order in response to a Quote will be void unless the terms are reviewed and approved by Axon. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon may cancel orders made from quotes containing typographical errors by Axon that affect the quantity of items supplied or other material quote terms, unless Agency has relied on the erroneous quote to its detriment.

"**Services**" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2 Term. This Agreement begins on the Effective Date and continues until all subscriptions hereunder have expired or have been terminated ("**Term**").

All subscriptions including Axon Evidence, Axon Fleet, Officer Safety Plans, Technology Assurance Plans, and TASER 7 plans begin after shipment of the applicable Axon Device. If Axon ships the Axon Device in the first half of the month, the start date is the 1st of the following month. If Axon ships the Axon Device in the second half of the month, the start date is the 15th of the following month. For purchases solely of Axon Evidence subscriptions, the start date is the Effective Date. Each subscription term ends upon completion of the subscription stated in the Quote ("**Subscription Term**").

Upon completion of the Subscription Term, the Subscription Term will automatically renew for an additional 5 years ("**Renewal Term**"). For purchase of TASER 7 as a standalone, Axon may increase pricing to its then-current list pricing for any Renewal Term. For all other purchases, Axon may increase pricing on all line items in the Quote up to 3% at the beginning of each year of the Renewal Term. New devices and services may require additional terms. Axon will not authorize services until Axon receives a signed Quote or accepts a purchase order, whichever is first.

3 Payment. Axon invoices upon shipment. Payment is due net 30 days from the invoice date. Payment obligations are non-cancelable. Agency will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Agency is responsible for collection and attorneys' fees.

4 Taxes. Agency is responsible for sales and other taxes associated with the order unless Agency provides Axon a valid tax exemption certificate.

5 Shipping. Axon may make partial shipments and ship Axon Devices from multiple locations. All shipments are FOB shipping point via common carrier. Title and risk of loss pass to Agency upon Axon's delivery to the common carrier. Agency is responsible for any shipping charges in the Quote.

6 Returns. All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

7 Warranty.

7.1 Hardware Limited Warranty. Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for 1 year from the date of Agency's receipt, except Signal Sidearm, which Axon warrants for 30 months from the date of Agency's receipt. Axon warrants its Axon-manufactured accessories for 90-days from the date of Agency's receipt. Used conducted energy weapon ("CEW") cartridges are deemed to have operated properly. Extended warranties run from the expiration of the 1-year hardware warranty through the extended warranty term. Non-Axon manufactured Devices are not covered by Axon's warranty. Agency should contact the manufacturer for support of non-Axon manufactured Devices.

7.2 Claims. If Axon receives a valid warranty claim for an Axon manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Device with the same or like Device, at Axon's option. A replacement Axon Device will be new or like new. Axon will warrant the replacement Axon Device for the longer of (a) the remaining warranty of the original Axon Device or (b) 90-days from the date of repair or replacement.

If Agency exchanges a device or part, the replacement item becomes Agency's property, and the replaced item becomes Axon's property. Before delivering a Axon Device for service, Agency must upload Axon Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Axon Device sent to Axon for service.

7.3 Spare Axon Devices. For qualified purchases, Axon may provide Agency a predetermined number of spare Axon Devices as detailed in the Quote ("**Spare Axon Devices**"). Spare Axon Devices are intended to replace broken or non-functioning units while Agency submits the broken or non-functioning units, through Axon's warranty return process. Axon will repair or replace the unit with a replacement Axon Device. Title and risk of loss for all Spare Axon Devices shall pass to Agency in accordance with shipping terms under Section 5. Axon assumes no liability or obligation in the event Agency does not utilize Spare Axon Devices for the intended purpose.

7.4 Limitations. Axon's warranty excludes damage related to: (a) failure to follow Axon Device use instructions; (b) Axon Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Axon Device; (d) force majeure; (e) Axon Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Axon Devices with a defaced or removed serial number.

7.4.1 To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement.

7.4.2 Axon's cumulative liability to any Party for any loss or damage resulting from any claim, demand, or action arising out of or relating to any Axon Device or Service will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the 12 months preceding the claim. Neither Party will be liable for direct, special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.

8 Statement of Work. Certain Axon Devices and Services, including Axon Interview Room, Axon Channel Services, and Axon Fleet, may require a Statement of Work that details Axon's Service deliverables ("**SOW**"). In the event Axon provides an SOW to Agency, Axon is only responsible to perform Services described in the SOW. Additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule. The SOW is incorporated into this Agreement by reference.



Master Services and Purchasing Agreement between Axon and Agency

- 9 **Axon Device Warnings.** See www.axon.com/legal for the most current Axon Device warnings.
- 10 **Design Changes.** Axon may make design changes to any Axon Device or Service without notifying Agency or making the same change to Axon Devices and Services previously purchased by Agency.
- 11 **Bundled Offerings.** Some offerings in bundled offerings may not be generally available at the time of Agency's purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Agency's election not to utilize any portion of an Axon bundle.
- 12 **Insurance.** Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance reflecting coverage for Axon and its employees or agents performing any work under this Agreement or any of its appendices.
- 13 **Indemnification.** Axon will indemnify Agency's officers, directors, and employees ("Agency Indemnitees") against all claims, demands, losses, and reasonable expenses arising out of a third-party claim against an Agency Indemnitee resulting from any negligent act, error or omission, or willful misconduct by Axon under this Agreement, except to the extent of Agency's negligent or willful misconduct.
- 14 **IP Rights.** Axon owns and reserves all right, title, and interest in Axon devices and services and suggestions to Axon, including all related intellectual property rights. Agency will not cause any Axon proprietary rights to be violated.
- 15 **IP Indemnification.** Axon will indemnify Agency Indemnitees against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon Devices or Services infringes or misappropriates the third-party's intellectual property rights. Agency must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon Devices or Services by Agency or a third-party not approved by Axon; (b) use of Axon Devices and Services in combination with hardware or services not approved by Axon; (c) use of Axon Devices and Services other than as permitted in this Agreement; or (d) use of Axon software that is not the most current release provided by Axon.
- 16 **Agency Responsibilities.** Agency is responsible for (a) Agency's use of Axon Devices; (b) breach of this Agreement or violation of applicable law by Agency or an Agency end user; and (c) a dispute between Agency and a third-party over Agency's use of Axon Devices.
- 17 **Termination.**
- 17.1 **For Breach.** A Party may terminate this Agreement for cause if it provides 30 days written notice of the breach to the other Party, and the breach remains uncured at the end of 30 days. If Agency terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.
- 17.2 **By Agency.** If sufficient funds are not appropriated or otherwise legally available to pay the fees, Agency may terminate this Agreement. Agency will deliver notice of termination under this section as soon as reasonably practicable.
- 17.3 **Effect of Termination.** Upon termination of this Agreement, Agency rights immediately terminate. Agency remains responsible for all fees incurred before the effective date of termination. If Agency purchases Axon Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Agency the difference between the MSRP for Axon Devices received, including any Spare Axon Devices, and amounts paid towards those Axon Devices. Only if terminating for non-appropriation, Agency may return Axon Devices to Axon within 30 days of termination. MSRP is the standalone price of the individual Axon Device at the time of sale. For bundled Axon Devices, MSRP is the standalone price of all individual components.
- 18 **Confidentiality.** "**Confidential Information**" means nonpublic information designated as confidential or,

given the nature of the information or circumstances surrounding disclosure, should reasonably be understood to be confidential. Each Party will take reasonable measures to avoid disclosure, dissemination, or unauthorized use of the other Party's Confidential Information. Unless required by law, neither Party will disclose the other Party's Confidential Information during the Term and for 5-years thereafter. Axon pricing is Confidential Information and competition sensitive. Axon may publicly announce information related to this Agreement.

19 General.

- 19.1 Force Majeure.** Neither Party will be liable for any delay or failure to perform due to an event such as a natural or man-made disaster, an act of God, a strike, a riot, an act of war, or a similar cause beyond a Party's reasonable control.
- 19.2 Independent Contractors.** The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.
- 19.3 Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 19.4 Non-Discrimination.** Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.
- 19.5 Export Compliance.** Each Party will comply with all import and export control laws and regulations.
- 19.6 Assignment.** Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This Agreement is binding upon the Parties respective successors and assigns.
- 19.7 Waiver.** No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.
- 19.8 Severability.** If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.
- 19.9 Survival.** The following sections will survive termination: Payment, Warranty, Axon Device Warnings, Indemnification, IP Rights, and Agency Responsibilities.
- 19.10 Governing Law.** The laws of the state where Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.
- 19.11 Notices.** All notices must be in English. Notices posted on Agency's Axon Evidence site are effective upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Contact information for notices:

Axon: Axon Enterprise, Inc.
Attn: Legal
17800 N. 85th Street
Scottsdale, Arizona 85255
legal@axon.com

Agency: City of Auburn
Attn: Mark Caillier
340 E. Main St.
Auburn, WA 98002
mcaillier@auburnwa.gov

- 19.12 Entire Agreement.** This Agreement, including the Appendices and any SOW(s), represents the

entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.

Each representative identified below declares they have been expressly authorized to execute this Agreement as of the date of signature.

Axon Enterprise, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____

City of Auburn

Signature: _____

Name: Nancy Backus

Title: Mayor

Date: _____



Axon Cloud Services Terms of Use Appendix

1 **Definitions.**

“Agency Content” is data uploaded into, ingested by, or created in Axon Cloud Services within Agency’s tenant, including media or multimedia uploaded into Axon Cloud Services by Agency. Agency Content includes Evidence but excludes Non-Content Data.

“Evidence” is media or multimedia uploaded into Axon Evidence as 'evidence' by an Agency. Evidence is a subset of Agency Content.

“Non-Content Data” is data, configuration, and usage information about Agency’s Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

“Personal Data” means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

2 **Access.** Upon Axon granting Agency a subscription to Axon Cloud Services, Agency may access and use Axon Cloud Services to store and manage Agency Content. Agency may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Agency may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data (**“TASER Data”**). Agency may not upload non-TASER Data to Axon Evidence Lite.

3 **Agency Owns Agency Content.** Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content is not Axon’s business records. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will only have access to Agency Content for the limited purposes set forth herein. Agency agrees to allow Axon access to Agency Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.

4 **Security.** Axon will implement commercially reasonable and appropriate measures to secure Agency Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Agency Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.

5 **Agency Responsibilities.** Agency is responsible for (a) ensuring Agency has necessary rights in or to Agency Content uploaded; (b) ensuring no Agency Content or Agency end user’s use of Agency Content or Axon Cloud Services violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services. If Agency becomes aware of any violation of this Agreement by an end user, Agency will immediately terminate that end user’s access to Axon Cloud Services.

Agency will also maintain the security of end user names and passwords and security and access by end users to Agency Content. Agency is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Agency regulation and standards. Agency may not sell, transfer, or sublicense access to any other entity or person. Agency shall contact Axon immediately

Title: Master Services and Purchasing Agreement between Axon and Agency

Department: Legal

Version: 12.0

Release Date: 12/18/2020



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if an unauthorized party may be using Agency's account or Agency Content, or if account information is lost or stolen.

To the extent Agency uses the Axon Cloud Services to interact with YouTube®, such use may be governed by the YouTube Terms of Service, available at <https://www.youtube.com/static?template=terms>.

For purposes of this Agreement, "Agency End User" includes those Agency individuals identified in Paragraph 13 of this Agreement, and does not include members of the public or others who obtain access to Agency's Content through or as a result of legally required disclosures.

- 6 **Privacy**. Agency's use of Axon Cloud Services is subject to the Axon Cloud Services Privacy Policy, a current version of which is available at <https://www.axon.com/legal/cloud-services-privacy-policy>. Agency agrees to allow Axon access to Non-Content Data from Agency to (a) perform troubleshooting, maintenance, or diagnostic screenings; (b) provide, develop, improve, and support current and future Axon products and related services; and (c) enforce this Agreement or policies governing the use of Axon products.
- 7 **Axon Body 3 Wi-Fi Positioning**. Axon Body 3 cameras offer a feature to enhance location services where GPS/GNSS signals may not be available, for instance, within buildings or underground. Agency administrators can manage their choice to use this service within the administrative features of Axon Cloud Services. If Agency chooses to use this service, Axon must also enable the usage of the feature for Agency's Axon Cloud Services tenant. Agency will not see this option with Axon Cloud Services unless Axon has enabled Wi-Fi Positioning for Agency's Axon Cloud Services tenant. When Wi-Fi Positioning is enabled by both Axon and Agency, Non-Content and Personal Data will be sent to Skyhook Holdings, Inc. ("**Skyhook**") to facilitate the Wi-Fi Positioning functionality. Data controlled by Skyhook is outside the scope of the Axon Cloud Services Privacy Policy and is subject to the Skyhook Services Privacy Policy.
- 8 **Storage**. For Axon Unlimited Device Storage subscriptions, Agency may store unlimited data in Agency's Axon Evidence account only if data originates from Axon Capture or the applicable Axon Device. Axon may charge Agency additional fees for exceeding purchased storage amounts.
- 9 **Location of Storage**. Axon may transfer Agency Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Agency Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Agency Content remains with Agency.
- 10 **Suspension**. Axon may temporarily suspend Agency's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Agency or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent.

Agency remains responsible for all fees incurred through suspension. Axon will not delete Agency Content because of suspension, except as specified in this Agreement.
- 11 **Axon Cloud Services Warranty**. Axon disclaims any warranties or responsibility for data corruption or errors occurring before the Agency uploads data to Axon Cloud Services.
- 12 **Axon Records**. Axon Records is the software-as-a-service product that is generally available at the time Agency purchases an OSP 7 bundle. During Agency's Axon Records Subscription Term, Agency will be entitled to receive Axon's Update and Upgrade releases on an if-and-when available basis.

The Axon Records Subscription Term will end upon the competition of the Axon Records Subscription as documented in the Quote, or if purchased as part of an OSP 7 bundle, upon competition of the OSP 7 Term ("**Axon Records Subscription**")

An "**Update**" is a generally available release of Axon Records that Axon makes available from time to time. An "**Upgrade**" includes (i) new versions of Axon Records that enhance features and functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.

New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included. If Agency purchases Axon Records as part of a bundled offering, the Axon Record subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Records to Agency.

- 13** **Axon Cloud Services Restrictions.** Agency and Agency end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:

- 13.1** copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
- 13.2** reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;
- 13.3** access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
- 13.4** use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
- 13.5** access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
- 13.6** remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or
- 13.7** use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; to store or transmit material in violation of third-party privacy rights; or to store or transmit malicious code.

- 14** **After Termination.** Axon will not delete Agency Content for 90-days following termination. There will be no functionality of Axon Cloud Services during these 90-days other than the ability to retrieve Agency Content. Agency will not incur additional fees if Agency downloads Agency Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Agency Content after these 90-days and will thereafter, unless legally prohibited, delete all Agency Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Agency Content from Axon Cloud Services.

- 15** **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.

- 16** **U.S. Government Rights.** If Agency is a U.S. Federal department or using Axon Cloud Services on behalf of a U.S. Federal department, Axon Cloud Services is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Agency is using Axon Cloud Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Agency will immediately discontinue use of Axon Cloud Services.



Master Services and Purchasing Agreement

- 17 **Survival.** Upon any termination of this Agreement, the following sections in this Appendix will survive: Agency Owns Agency Content, Storage, Axon Cloud Services Warranty, and Axon Cloud Services Restrictions.



Master Services and Purchasing Agreement

Professional Services Appendix

- 1 **Utilization of Services.** Agency must use professional services as outlined in the Quote and this Appendix within 6 months of the Effective Date.
- 2 **Body-Worn Camera Full Service (BWC Full Service).** BWC Full Service includes advance remote project planning and configuration support and up to 4 consecutive days of on-site service and a professional services manager to work with Agency to assess Agency's deployment and determine which on-site services are appropriate. If Agency requires more than 4 consecutive on-site days, Agency must purchase additional days. BWC Full Service options include:

System set up and configuration

- Instructor-led setup of Axon View on smartphones (if applicable)
- Configure categories and custom roles based on Agency need
- Register cameras to Agency domain
- Troubleshoot IT issues with Axon Evidence and Axon Dock ("Dock") access
- One on-site session included

Dock configuration

- Work with Agency to decide the ideal location of Docks and set configurations on Dock
- Authenticate Dock with Axon Evidence using admin credentials from Agency
- On-site assistance, not to include physical mounting of docks

Best practice implementation planning session

- Provide considerations for the establishment of video policy and system operations best practices based on Axon's observations with other agencies
- Discuss the importance of entering metadata in the field for organization purposes and other best practice for digital data management
- Provide referrals of other agencies using the Axon camera devices and Axon Evidence
- Recommend rollout plan based on review of shift schedules

System Admin and troubleshooting training sessions

Step-by-step explanation and assistance for Agency's configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence

Axon instructor training (Train the Trainer)

Training for Agency's in-house instructors who can support Agency's Axon camera and Axon Evidence training needs after Axon has fulfilled its contractual on-site obligations

Evidence sharing training

Tailored workflow instruction for Investigative Units on sharing Cases and Evidence with local prosecuting agencies

End user go-live training and support sessions

- Assistance with device set up and configuration
- Training on device use, Axon Evidence, and Evidence Sync

Implementation document packet

Axon Evidence administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide

Post go-live review

- 3 **Body-Worn Camera Starter Service (BWC Starter).** BWC Starter includes advance remote project planning and configuration support and one day of on-site Services and a professional services manager to work closely with Agency to assess Agency's deployment and determine which Services are appropriate. If Agency requires more than 1 day of on-site Services, Agency must purchase additional on-site Services. The BWC Starter options include:



Master Services and Purchasing Agreement

System set up and configuration (Remote Support)

- Instructor-led setup of Axon View on smartphones (if applicable)
- Configure categories & custom roles based on Agency need
- Troubleshoot IT issues with Axon Evidence and Axon Dock (“Dock”) access

Dock configuration

- Work with Agency to decide the ideal location of Dock setup and set configurations on Dock
- Authenticate Dock with Axon Evidence using “Administrator” credentials from Agency
- Does not include physical mounting of docks

Axon instructor training (Train the Trainer)

Training for Agency’s in-house instructors who can support Agency’s Axon camera and Axon Evidence training needs after Axon’s has fulfilled its contracted on-site obligations

End user go-live training and support sessions

- Assistance with device set up and configuration
- Training on device use, Axon Evidence, and Evidence Sync

Implementation document packet

Axon Evidence administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide

- 4 **Body-Worn Camera Virtual 1-Day Service (BWC Virtual)**. BWC Virtual includes all items in the BWC Starter Service Package, except one day of on-site services.

- 5 **CEW Services Packages**. CEW Services Packages are detailed below:

System set up and configuration

- Configure Axon Evidence categories & custom roles based on Agency need.
- Troubleshoot IT issues with Axon Evidence.
- Register users and assign roles in Axon Evidence.
- **For the CEW Full Service Package:** On-site assistance included
- **For the CEW Starter Package:** Virtual assistance included

Dedicated Project Manager

Assignment of specific Axon representative for all aspects of planning the rollout (Project Manager). Ideally, Project Manager will be assigned to Agency 4–6 weeks before rollout

Best practice implementation planning session to include:

- Provide considerations for the establishment of CEW policy and system operations best practices based on Axon’s observations with other agencies
- Discuss the importance of entering metadata and best practices for digital data management
- Provide referrals to other agencies using TASER CEWs and Axon Evidence
- **For the CEW Full Service Package:** On-site assistance included
- **For the CEW Starter Package:** Virtual assistance included

System Admin and troubleshooting training sessions

On-site sessions providing a step-by-step explanation and assistance for Agency’s configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence

Axon Evidence Instructor training

- Provide training on the Axon Evidence to educate instructors who can support Agency’s subsequent Axon Evidence training needs.
- **For the CEW Full Service Package:** Training for up to 3 individuals at Agency
- **For the CEW Starter Package:** Training for up to 1 individual at Agency



Master Services and Purchasing Agreement

TASER CEW inspection and device assignment

Axon's on-site professional services team will perform functions check on all new TASER CEW Smart weapons and assign them to a user on Axon Evidence.

Post go-live review

For the CEW Full Service Package: On-site assistance included.

For the CEW Starter Package: Virtual assistance included.

6 Smart Weapon Transition Service. The Smart Weapon Transition Service includes:

Archival of CEW Firing Logs

Axon's on-site professional services team will upload CEW firing logs to Axon Evidence from all TASER CEW Smart Weapons that Agency is replacing with newer Smart Weapon models.

Return of Old Weapons

Axon's on-site professional service team will ship all old weapons back to Axon's headquarters.

Axon will provide Agency with a Certificate of Destruction

*Note: CEW Full Service packages for TASER 7 include Smart Weapon Transition Service instead of 1-Day Device Specific Instructor Course.

7 Signal Sidearm Installation Service. If Agency purchases Signal Sidearm Installation Service, Axon will provide one day of on-site Services and one professional services manager and will cover the installation of up to 100 Signal Sidearm devices per package purchased. Agency is responsible for providing an appropriate work area and ensuring all holsters that will have Signal Sidearm installed onto them are available on the agreed-upon installation date(s). Installation includes:

Removal of existing connection screws that affix a holster to a holster mount
Proper placement of the Signal Sidearm Mounting Plate between the holster and the mount
Reattachment of the holster to the mount using appropriate screws
Functional testing of Signal Sidearm device

8 Out of Scope Services. Axon is only responsible to perform the professional services described in the Quote and this Appendix. Any additional professional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

9 Delivery of Services. Axon personnel will work Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays. Axon will perform all on-site tasks over a consecutive timeframe. Axon will not charge Agency travel time by Axon personnel to Agency premises as work hours.

10 Access Computer Systems to Perform Services. Agency authorizes Axon to access relevant Agency computers and networks, solely for performing the Services. Axon will work to identify as soon as reasonably practicable resources and information Axon expects to use and will provide an initial itemized list to Agency. Agency is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Agency.

11 Site Preparation. Axon will provide a hardcopy or digital copy of current user documentation for the Axon Devices ("**User Documentation**"). User Documentation will include all required environmental specifications for the professional Services and Axon Devices to operate per the Axon Device User Documentation. Before installation of Axon Devices (whether performed by Agency or Axon), Agency must prepare the location(s) where Axon Devices are to be installed ("**Installation Site**") per the environmental specifications in the Axon Device User Documentation. Following installation, Agency must maintain the Installation Site per the environmental specifications. If Axon modifies Axon Device User Documentation for any Axon Devices under this Agreement, Axon will provide the update to Agency when Axon generally releases it



Master Services and Purchasing Agreement

- 12 **Acceptance.** When Axon completes professional Services, Axon will present an acceptance form (“**Acceptance Form**”) to Agency. Agency will sign the Acceptance Form acknowledging completion. If Agency reasonably believes Axon did not complete the professional Services in substantial conformance with this Agreement, Agency must notify Axon in writing of the specific reasons for rejection within 7 calendar days from delivery of the Acceptance Form. Axon will address the issues and re-present the Acceptance Form for signature. If Axon does not receive the signed Acceptance Form or written notification of reasons for rejection within 7 calendar days of delivery of the Acceptance Form, Axon will deem Agency to have accepted the professional Services.
- 13 **Agency Network.** For work performed by Axon transiting or making use of Agency’s network, Agency is solely responsible for maintenance and functionality of the network. In no event will Axon be liable for loss, damage, or corruption of Agency’s network from any cause.



Master Services and Purchasing Agreement

Technology Assurance Plan Appendix

If Technology Assurance Plan (“**TAP**”) or a bundle including TAP is on the Quote, this appendix applies.

- 1 **TAP Warranty.** The TAP warranty is an extended warranty that starts at the end of the 1-year Hardware Limited Warranty.
- 2 **Officer Safety Plan.** If Agency purchases an Officer Safety Plan (“**OSP**”), Agency will receive the deliverables detailed in the Quote. Agency must accept delivery of the TASER CEW and accessories as soon as available from Axon.
- 3 **OSP 7 Term.** OSP 7 begins after Axon ships the Axon Body 3 or TASER 7 hardware to Agency. If Axon ships in the first half of the month, OSP 7 starts the 1st of the following month. If Axon ships in the second half of the month, OSP 7 starts the 15th of the following month (“**OSP 7 Term**”).
- 4 **TAP BWC Upgrade.** If Agency has no outstanding payment obligations and purchased TAP, Axon will provide Agency a new Axon body-worn camera (“**BWC Upgrade**”) as scheduled in the Quote. If Agency purchased TAP Axon will provide a BWC Upgrade that is the same or like Axon Device, at Axon’s option. Axon makes no guarantee the BWC Upgrade will utilize the same accessories or Axon Dock.
- 5 **TAP Dock Upgrade.** If Agency has no outstanding payment obligations and purchased TAP, Axon will provide Agency a new Axon Dock as scheduled in the Quote (“**Dock Upgrade**”). Accessories associated with any Dock Upgrades are subject to change at Axon discretion. Dock Upgrades will only include a new Axon Dock bay configuration unless a new Axon Dock core is required for BWC compatibility. If Agency originally purchased a single-bay Axon Dock, the Dock Upgrade will be a single-bay Axon Dock model that is the same or like Axon Device, at Axon’s option. If Agency originally purchased a multi-bay Axon Dock, the Dock Upgrade will be a multi-bay Axon Dock that is the same or like Axon Device, at Axon’s option.
- 6 **Upgrade Delay.** Axon may ship the BWC and Dock Upgrades as scheduled in the Quote without prior confirmation from Agency unless the Parties agree in writing otherwise at least 90 days in advance. Axon may ship the final BWC and Dock Upgrade as scheduled in the Quote 60 days before the end of the Subscription Term without prior confirmation from Agency.
- 7 **Upgrade Change.** If Agency wants to change Axon Device models for the offered BWC or Dock Upgrade, Agency must pay the price difference between the MSRP for the offered BWC or Dock Upgrade and the MSRP for the model desired. If the model Agency desires has an MSRP less than the MSRP of the offered BWC Upgrade or Dock Upgrade, Axon will not provide a refund. The MSRP is the MSRP in effect at the time of the upgrade.
- 8 **Return of Original Axon Device.** Within 30 days of receiving a BWC or Dock Upgrade, Agency must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon including serial numbers for the destroyed Axon Devices. If Agency does not return or destroy the Axon Devices, Axon will deactivate the serial numbers for the Axon Devices received by Agency.
- 9 **Termination.** If Agency’s payment for TAP, OSP, or Axon Evidence is more than 30 days past due, Axon may terminate TAP or OSP. Once TAP or OSP terminates for any reason:
 - 9.1 TAP and OSP coverage terminate as of the date of termination and no refunds will be given.
 - 9.2 Axon will not and has no obligation to provide the Upgrade Models.
 - 9.3 Agency must make any missed payments due to the termination before Agency may purchase any future TAP or OSP.



Master Services and Purchasing Agreement

TASER 7 Appendix

This TASER 7 Appendix applies to Agency's TASER 7, OSP 7, or OSP 7 Plus purchase from Axon.

- 1 **Duty Cartridge Replenishment Plan.** If the Quote includes "Duty Cartridge Replenishment Plan", Agency must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Agency may not resell cartridges received. Axon will only replace cartridges used in the line of duty.
- 2 **Training.** If the Quote includes a training voucher, Agency must use the voucher within 1 year of issuance, or the voucher will be void. Axon will issue Agency a voucher annually beginning on the start of the TASER Subscription Term. The voucher has no cash value. Agency cannot exchange it for another device or service. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency's responsibility. If the Quote includes Axon Online Training or Virtual Reality Content Empathy Development for Autism/Schizophrenia (collectively, "Training Content"), Agency may access Training Content. Axon will deliver all Training Content electronically.
- 3 **Extended Warranty.** If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a 5-year term, which includes the hardware manufacturer's warranty plus the 4-year extended term.
- 4 **Trade-in.** If the Quote contains a discount on CEW-related line items, including items related to OSP, then that discount may only be applied as a trade-in credit, and Agency must return used hardware and accessories associated with the discount ("Trade-In Units") to Axon. Agency must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in credit. Agency may not destroy Trade-In Units and receive a trade-in credit.

Agency Size	Days to Return from Start Date of TASER 7 Subscription
Less than 100 officers	30 days
100 to 499 officers	90 days
500+ officers	180 days

- 5 **TASER 7 Subscription Term.** The TASER 7 Subscription Term for a standalone TASER 7 purchase begins on shipment of the TASER 7 hardware. The TASER 7 Subscription Term for OSP 7 begins on the OSP 7 Start date.
- 6 **Access Rights.** Upon Axon granting Agency a TASER 7 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 7 CEW devices during the TASER 7 Subscription Term. Agency may not upload any non-TASER 7 data or any other files to Axon Evidence. Agency may not exceed the number of end users than the Quote specifies.
- 7 **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content, so Agency may file an objection with the court or administrative body.
- 8 **Termination.** If payment for TASER 7 is more than 30 days past due, Axon may terminate Agency's TASER 7 plan by notifying Agency. Upon termination for any reason, then as of the date of termination:



Master Services and Purchasing Agreement

- 8.1** TASER 7 extended warranties and access to Training Content will terminate. No refunds will be given.
- 8.2** Axon will invoice Agency the remaining MSRP for TASER 7 products received before termination. If terminating for non-appropriations, Axon will not invoice Agency if Agency returns the CEW, rechargeable battery, holster, dock, core, training suits, and unused cartridges to Axon within 30 days of the date of termination.
- 8.3** Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER 7 plan.

Axon Auto-Tagging Appendix

- 1 **Scope.** Axon Auto-Tagging consists of the development of a module to allow Axon Evidence to interact with Agency's Computer-Aided Dispatch ("CAD") or Records Management Systems ("RMS"). This allows end users to auto-populate Axon video meta-data with a case ID, category, and location-based on data maintained in Agency's CAD or RMS.
- 2 **Support.** For thirty days after completing Auto-Tagging Services, Axon will provide up to 5 hours of remote support at no additional charge. Axon will provide free support due to a change in Axon Evidence, so long as long as Agency maintains an Axon Evidence and Auto-Tagging subscription. Axon will not provide support if a change is required because Agency changes its CAD or RMS.
- 3 **Changes.** Axon is only responsible to perform the Services in this Appendix. Any additional Services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule.
- 4 **Agency Responsibilities.** Axon's performance of Auto-Tagging Services requires Agency to:
 - 4.1 Make available relevant systems, including Agency's current CAD or RMS, for assessment by Axon (including remote access if possible);
 - 4.2 Make required modifications, upgrades or alterations to Agency's hardware, facilities, systems and networks related to Axon's performance of Auto-Tagging Services;
 - 4.3 Provide access to the premises where Axon is performing Auto-Tagging Services, subject to Agency safety and security restrictions, and allow Axon to enter and exit the premises with laptops and materials needed to perform Auto-Tagging Services;
 - 4.4 Provide all infrastructure and software information (TCP/IP addresses, node names, network configuration) necessary for Axon to provide Auto-Tagging Services;
 - 4.5 Promptly install and implement any software updates provided by Axon;
 - 4.6 Ensure that all appropriate data backups are performed;
 - 4.7 Provide assistance, participation, and approvals in testing Auto-Tagging Services;
 - 4.8 Provide Axon with remote access to Agency's Axon Evidence account when required;
 - 4.9 Notify Axon of any network or machine maintenance that may impact the performance of the module at Agency; and
 - 4.10 Ensure reasonable availability of knowledgeable staff and personnel to provide timely, accurate, complete, and up-to-date documentation and information to Axon.
- 5 **Access to Systems.** Agency authorizes Axon to access Agency's relevant computers, network systems, and CAD or RMS solely for performing Auto-Tagging Services. Axon will work diligently to identify as soon as reasonably practicable resources and information Axon expects to use and will provide an initial list to Agency. Agency is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Agency.

Axon Fleet Appendix

- 1 **Agency Responsibilities.** Agency must ensure its infrastructure and vehicles adhere to the minimum requirements to operate Axon Fleet 2 or Axon Fleet 3 (collectively, "Axon Fleet") as established by Axon during the qualifier call and on-site assessment at Agency and in any technical qualifying questions. If Agency's representations are inaccurate, the Quote is subject to change.
- 2 **Cradlepoint.** If Agency purchases Cradlepoint Enterprise Cloud Manager, Agency will comply with Cradlepoint's end user license agreement. The term of the Cradlepoint license may differ from the Axon Evidence Subscription. If Agency requires Cradlepoint support, Agency will contact Cradlepoint directly.
- 3 **Third-party Installer.** Axon will not be liable for the failure of Axon Fleet hardware to operate per specifications if such failure results from installation not performed by, or as directed by Axon.
- 4 **Wireless Offload Server.**
 - 4.1 **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use Wireless Offload Server ("WOS"). "Use" means storing, loading, installing, or executing WOS solely for data communication with Axon Devices for the number of licenses purchased. The WOS term begins upon the start of the Axon Evidence Subscription.
 - 4.2 **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of WOS; (b) reverse engineer, disassemble, or decompile WOS, apply any process to derive the source code of WOS, or allow others to do so; (c) access or use WOS to avoid incurring fees or exceeding usage limits; (d) copy WOS in whole or part; (e) use trade secret information contained in WOS; (f) resell, rent, loan or sublicense WOS; (g) access WOS to build a competitive device or service or copy any features, functions or graphics of WOS; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within WOS.
 - 4.3 **Updates.** If Agency purchases WOS maintenance, Axon will make updates and error corrections to WOS ("WOS Updates") available electronically via the Internet or media as determined by Axon. Agency is responsible for establishing and maintaining adequate Internet access to receive WOS Updates and maintaining computer equipment necessary for use of WOS. The Quote will detail the maintenance term.
 - 4.4 **WOS Support.** Upon request by Axon, Agency will provide Axon with access to Agency's store and forward servers solely for troubleshooting and maintenance.
- 5 **Axon Vehicle Software.**
 - 5.1 **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use ViewXL or Dashboard (collectively, "Axon Vehicle Software.") "Use" means storing, loading, installing, or executing Axon Vehicle Software solely for data communication with Axon Devices. The Axon Vehicle Software term begins upon the start of the Axon Evidence Subscription.
 - 5.2 **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of Axon Vehicle Software; (b) reverse engineer, disassemble, or decompile Axon Vehicle Software, apply any process to derive the source code of Axon Vehicle Software, or allow others to do so; (c) access or use Axon Vehicle Software to avoid incurring fees or exceeding usage limits; (d) copy Axon Vehicle Software in whole or part; (e) use trade secret information contained in Axon Vehicle Software; (f) resell, rent, loan or sublicense Axon Vehicle Software; (g) access Axon Vehicle Software to build a competitive device or service or copy any features, functions or graphics of Axon Vehicle Software; or (h)



Master Services and Purchasing Agreement

remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Axon Vehicle Software.

- 6 **Axon Fleet Upgrade.** If Agency has no outstanding payment obligations and has purchased the "Fleet Technology Assurance Plan" (Fleet TAP), Axon will provide Agency with the same or like model of Fleet hardware ("Fleet Upgrade") as schedule on the Quote.

If Agency would like to change models for the Axon Fleet Upgrade, Agency must pay the difference between the MSRP for the offered Axon Fleet Upgrade and the MSRP for the model desired. The MSRP is the MSRP in effect at the time of the upgrade. Agency is responsible for the removal of previously installed hardware and installation of the Axon Fleet Upgrade.

Within 30 days of receiving the Axon Fleet Upgrade, Agency must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon, including serial numbers of the destroyed Axon Devices. If Agency does not destroy or return the Axon Devices to Axon, Axon will deactivate the serial numbers for the Axon Devices received by Agency.

- 7 **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content, so Agency may file an objection with the court or administrative body.

- 8 **Axon Fleet Termination.** Axon may terminate Agency's Fleet subscription for non-payment. Upon any termination:

- 8.1 Axon Fleet subscription coverage terminates, and no refunds will be given.
- 8.2 Axon will not and has no obligation to provide the Axon Fleet Upgrade.
- 8.3 Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future Fleet TAP.



Master Services and Purchasing Agreement

Axon Respond Appendix

This Axon Respond Appendix applies to both Axon Respond and Axon Respond Plus.

- 1 **Axon Respond Subscription Term.** If Agency purchases Axon Respond as part of a bundled offering, the Axon Respond subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Respond to Agency.

If Agency purchases Axon Respond as a standalone, the Axon Respond subscription begins the later of the (1) date Axon provisions Axon Respond to Agency, or (2) first day of the month following the Effective Date.

The Axon Respond subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Respond.

- 2 **Scope of Axon Respond.** The scope of Axon Respond is to assist Agency with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Agency uses Axon Respond outside this scope, Axon may initiate good-faith discussions with Agency on upgrading Agency's Axon Respond to better meet Agency's needs.

- 3 **Axon Body 3 LTE Requirements.** Axon Respond is only available and usable with an LTE enabled body-worn camera. Axon is not liable if Agency utilizes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon's choice to provide LTE service. Axon may change LTE carriers during the Term without Agency's consent.

- 4 **Axon Fleet 3 LTE Requirements.** Axon Respond is only available and usable with a Fleet 3 system configured with LTE modem and service. Agency is responsible for providing LTE service for the modem. Coverage and availability of LTE service is subject to Agency's LTE carrier.

- 5 **Axon Respond Service Limitations.** Agency acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area and other causes reasonably outside of the carrier's control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.

With regard to Axon Body 3, Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Agency expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Agency is not a third-party beneficiary of any agreement between Axon and the underlying carrier.

- 6 **Termination.** Upon termination of this Agreement, or if Agency stops paying for Axon Respond or bundles that include Axon Respond, Axon will end Aware services, including any Axon-provided LTE service.



Master Services and Purchasing Agreement

Add-on Services Appendix

This Appendix applies to Axon Citizen for Communities, Axon Redaction Assistant, and Axon Performance.

- 1 **Subscription Term.** If Agency purchases Axon Citizen for Communities, Axon Redaction Assistant, or Axon Performance as part of OSP 7, the subscription begins on the later of the (1) start date of the OSP 7 Term, or (2) date Axon provisions Axon Citizen for Communities, Axon Redaction Assistant, or Axon Performance to Agency.

If Agency purchases Axon Citizen for Communities, Axon Redaction Assistant, or Axon Performance as a standalone, the subscription begins the later of the (1) date Axon provisions Axon Citizen for Communities, Axon Redaction Assistant, or Axon Performance to Agency, or (2) first day of the month following the Effective Date.

The subscription term will end upon the completion of the Axon Evidence Subscription associated with the add-on.

- 2 **Axon Citizen Storage.** For Axon Citizen, Agency may store an unlimited amount of data submitted through the public portal (“**Portal Content**”), within Agency’s Axon Evidence instance. The post-termination provisions outlined in the Axon Cloud Services Terms of Use Appendix also apply to Portal Content.

- 3 **Performance Auto-Tagging Data.** In order to provide some features of Axon Performance to Agency, Axon will need to store call for service data from Agency’s CAD or RMS.



Axon Auto-Transcribe Appendix

This Appendix applies to Axon Auto-Transcribe.

- 1) **Subscription Term.** If Agency purchases Axon Auto-Transcribe as part of a bundle or Axon Cloud Services subscription, the subscription begins on the later of the (1) start date of the bundle or Axon Cloud Services license term, or (2) date Axon provisions Axon Auto-Transcribe to Agency. If Agency purchases Axon Auto-Transcribe minutes as a standalone, the subscription begins on the date Axon provisions Axon Auto-Transcribe to Agency.

Axon Auto-Transcribe minutes expire one year after being provisioned to Agency by Axon.

If Agency cancels Auto-Transcribe services, any amounts owed by the Parties will be based on the amount of time passed under the annual subscription, rather than on the number of minutes used, regardless of usage.

- 2) **Auto-Transcribe A-La-Carte Minutes.** Upon Axon granting Agency a set number of minutes, Agency may utilize Axon Auto-Transcribe, subject to the number of minutes allowed on the Quote. Agency will not have the ability to roll over unused minutes to future Auto-Transcribe terms. Axon may charge Agency additional fees for exceeding the number of purchased minutes.
- 3) **Axon Auto-Transcribe On-Demand.** Upon Axon granting Agency an On-Demand subscription to Axon Auto-Transcribe, Agency may utilize Axon Auto-Transcribe with no limit on the number of minutes. The scope of Axon Auto-Transcribe On-Demand is to assist Agency with reviewing and transcribing individual evidence items. In the event Agency uses Axon Auto-Transcribe On-Demand outside this scope, Axon may initiate good-faith discussions with Agency on upgrading Agency's Axon Auto-Transcribe On-Demand to better meet Agency's needs.
- 4) **Warranty.** Axon does not warrant the accuracy of Axon Auto-Transcribe.



Axon Virtual Reality Content Terms of Use Appendix

- 1 **Term.** The Quote will detail the duration of the Virtual Reality Content license.
- 2 **Headsets.** Agency may purchase additional virtual reality headsets from Axon. In the event Agency decides to purchase additional virtual reality headsets for use with Axon's Virtual Reality Content, Agency must purchase those headsets from Axon.
- 3 **License Restrictions.** All licenses will immediately terminate if Agency does not comply with any term of this Agreement. If Agency utilizes more users than stated in this Agreement, Agency must purchase additional Virtual Reality Content licenses from Axon. Agency may not use Virtual Reality Content for any purpose other than as expressly permitted by this Agreement. Agency may not:
 - 3.1 modify, tamper with, repair, or otherwise create derivative works of Virtual Reality Content;
 - 3.2 reverse engineer, disassemble, or decompile Virtual Reality Content or apply any process to derive the source code of Virtual Reality Content, or allow others to do the same;
 - 3.3 copy Virtual Reality Content in whole or part, except as expressly permitted in this Agreement;
 - 3.4 use trade secret information contained in Virtual Reality Content;
 - 3.5 resell, rent, loan or sublicense Virtual Reality Content;
 - 3.6 access Virtual Reality Content to build a competitive device or service or copy any features, functions, or graphics of Virtual Reality Content; or
 - 3.7 remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Virtual Reality Content or any copies of Virtual Reality Content.
- 4 **Termination.** Axon may terminate Agency's license immediately for Agency's failure to comply with any of the terms in this Agreement.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5617 (Comeau)(10 Minutes)

Date:

October 6, 2021

Department:

Legal

Attachments:

[Council Presentation 302 Lunch Rd. Auburn\(2\)](#)

[Resolution No. 5617](#)

[Resolution No. 5617 Exhibit A - Term Sheet](#)

[BridgeDev - Auburn Land - City of Auburn](#)

[7.21.21](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

For discussion only.

Background for Motion:

The City declared this property surplus to its needs back in 2018. Bridge Development Partners or Bridge Acquisition, is a strong international company experienced in industrial development. Development of this surplus property and the surrounding properties will benefit the City by adding to its tax and economic base.

Background Summary:

The property located at 302 Lund Rd was purchased from King County on 9/19/2006 for \$180,000 authorized by City Council under resolution 4099. On October 15, 2018, Council passed resolution 5384 which, 1) declared the property as surplus to the needs of the City, and 2) authorized the sale of the property to Papé Properties, Inc.

The sale of the property to Papé never materialized due to the cost and challenge associated with development of this property due to known wetlands on the property. Since 2018, other parties have expressed interest in the property for development purposes, but no party has taken serious action.

Bridge Acquisition, LLC ("Bridge") is a subsidiary of Bridge Development Partners. Bridge is a vertically integrated real estate operating company and investment manager focused on the development and acquisition of industrial properties. They are an international company with a regional office in Bellevue. Bridge owns and operates more than 5 million square feet of industrial property throughout the Seattle region. Bridge is recently developed on the Segale property located off of 8th Street SW and the former cold storage facility located off of 15th St SW next to the bus barn and the City's Maintenance and Operations yard.

Bridge intends to combine City owned Lund Road property with two privately owned 5 acre parcels (parcels 132104-9043 & 132104-9031) adjacent to the City's property and develop industrial manufacturing/warehouse space. Properties in this area are zoned M1 which allows

for industrial development. Many of the surrounding properties are already developed with similar product. The City's and adjoining private party parcels have known wetlands making the development of these properties challenging. Bridge's experience in industrial development will be an asset in this regards.

Reviewed by Council Committees:

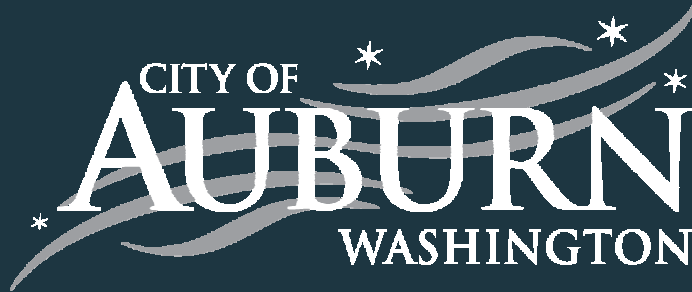
Councilmember:

Staff:

Comeau

Meeting Date: October 11, 2021

Item Number:



302 LUND RD, AUBURN

**PROPOSED SALE OF THE CITY OWNED
PROPERTY TO BRIDGE ACQUISITION, LLC**

Legal Department

AUBURN
VALUES

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

LOCATION

- 302 Lund Rd, Auburn
- South of W Main St between State Route 167 & Interurban Trail



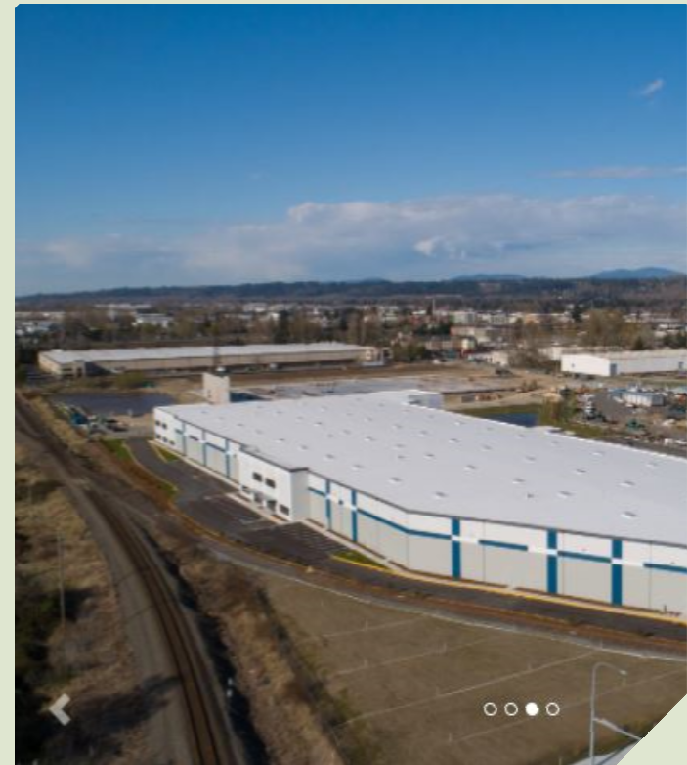
SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

PROPERTY DETAIL

- 8.26 acres
- Purchased by the City in 2006 for \$180,000
 - ...for the overall enhancement of the City
- Vacant
- 2011 Staff report classified 8 of 8.26 acres as Category II wetlands
- Previously declared as “surplus” by Auburn City Council (Section 1 of Resolution 5384)
- Zoned M1 (Light Industrial)
- Surrounding properties developed for industrial uses

BUYER – BRIDGE ACQUISITION, LLC

- “Bridge” is a vertically integrated real estate operating company and investment manager focused on the development and acquisition of industrial properties in supply-constrained core markets in the U.S and the U.K
- Own and operate more than 5M square feet of industrial property in the Seattle region
- Bridge Point Auburn 200
 - 701 15th Street Southwest, Auburn



SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

TRANSACTION DETAILS

- **Purchase Price - \$200,000 or appraised value, whichever is greater**
- **\$30,000 earnest money deposit with portions becoming “non-refundable” and released to the City at certain transactional milestones**
- **Buyer pays all closing costs – (Title & Escrow Fees, Recording Fees, etc.)**
- **Closing to take place within 30 days of waiver or expiration of Due Diligence Period(s)**
- **Public Hearing set for October 18th, 2021**
 - **Voting on legislation to take place after the Public Hearing**

JOSH ARNDT
REAL ESTATE MANAGER
JARNDT@AUBURNWA.GOV
253.288.4325

Legal Department

**AUBURN
VALUES**

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

A RESOLUTION NO. 5617

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR THE SALE OF CITY OWNED REAL PROPERTY TO BRIDGE ACQUISITION, LLC

WHEREAS, the City purchased 302 Lund Road from King County on September 19, 2006 for the overall enhancement of the City under the authority granted by Resolution 4099; and

WHEREAS, Auburn City Council, through Section 1 of Resolution 5384 passed on October 15, 2018, declared the 302 Lund Rd as surplus property to the City's needs; and

WHEREAS, Bridge Acquisition, LLC has expressed desire to purchase 302 Lund Rd from the City and it is in the public interest to sell the surplus property at this time; and

WHEREAS, the Auburn City Council held a public hearing in accordance with RCW 39.33.020,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, RESOLVES as follows:

Section 1. The Mayor is authorized to execute a Contract for the sale of the following legally described real property:

LEGAL DESCRIPTION

LOT 2 OF AUBURN SP-11-85, RECORDING NO. 8601080790, SAID SHORT PLAT, DESCRIBED AS FOLLOWS: WEST $\frac{3}{4}$ OF THE WEST $\frac{1}{2}$ OF THE NE $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 4 EAST,

W.M., KING COUNTY, WASHINGTON, LESS STATE ROAD, LESS COUNTY ROAD

more commonly referred to by King County tax parcel 1321049104, or by street address 302 Lund Rd. SW, Auburn, WA 98001 between the City and Bridge Acquisition, LLC in substantial conformity with the Term Sheet attached as Exhibit "A."

Section 2. The Mayor is authorized to implement those administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. This resolution shall be in full force and effect upon passage and signatures.

Dated and Signed this _____ day of _____, 2021.

CITY OF AUBURN

NANCY BACKUS
MAYOR

ATTEST:

Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

Kendra Comeau, City Attorney

JUNE 2, 2021

JULY 21, 2021

Josh Arndt
Real Estate Manager
City of Auburn

Sent via email: jarndt@auburnwa.gov

Mr. Arndt

Bridge Acquisition, LLC ("Purchaser") is interested in purchasing the available property located at **302 Lund Rd in Auburn WA 98001** Owned by the City of Auburn ("Seller" or "City"). The terms upon which we propose to purchase the land are set forth below. **Below are our updated terms.**

1. Property: Landsite totaling ± 8.26 acres located at **302 Lund Road in Auburn, WA**. Parcel #132104-1904.
2. Purchase Price: The purchase price shall be a minimum of [TWO HUNDRED THOUSAND DOLLARS] **\$200,000** or the appraised price as established by an appraisal whichever is more.
3. Appraisal: The City will commission and Bridge will pay for an update to the existing November 1, 2018 appraisal of the same property, prepared by Ken Barnes, MAI, CRE, and Tia Belisle of McKee Appraisal within 10 calendar days following the expiration or waiver of Buyer's Initial Due Diligence period. The updated appraisal will set the purchase price of the property. If the Buyer does not agree with the updated appraisal value, it may obtain an appraisal at its own expense. If the Buyer's appraisal is more than 15% below the City's updated appraisal, the Buyer and Seller's appraisers will jointly select a third appraiser, and that appraisal value will set the purchase price. The parties agree to split the cost of the third appraisal. If the Buyer's appraisal is less than 15% below the Seller's appraisal, the average of the Buyer and Seller appraisals will set the purchase price. Under no circumstance will the values determined by the appraisal cause the purchase price to be less than \$200,000.
4. Earnest Money Deposit: Within five (5) business days following full execution of a purchase contract, Buyer will deposit [THIRTY THOUSAND DOLLARS] \$30,000 with the Escrow Company, \$20,000 of which in the form of a promissory note. The Earnest Money shall be considered non-refundable and released to the Seller in the following manner; (i) \$10,000 shall be considered non-

refundable and released to Seller immediately following Buyer's deposit of earnest money with escrow as described above, (ii) \$10,000 shall be converted from promissory note to cash and released to Seller upon expiration or waiver of Buyer's initial Due Diligence Period, or upon Buyer's issuing to Seller the Due Diligence Extension Notice, whichever occurs first; and (iii) \$10,000 shall be converted from promissory note to cash and released to Seller upon expiration or waiver of any Extended Due Diligence Period as it may exist. All Earnest Money released to Seller shall be considered non-refundable.

5. Due Diligence (DD):

Purchaser's Due Diligence period shall be as presented below:

- 18 months from mutual execution of a purchase and sale agreement to complete Purchaser's Due Diligence (the "Initial Due Diligence Period").
- Purchaser is entitled to one 1) 12 month extension option ("Extended Due Diligence Period") by providing advanced written notice to Seller not more than 30 calendar days from the expiration of the Initial Due Diligence Period ("Due Diligence Extension Notice"). If the Due Diligence Extension Notice is not provided within the appropriate time period, or Buyer does not provide Seller with a notice of disapproval of due diligence ("Notice of Buyer's Disapproval of Due Diligence") prior to the expiration of the Initial Due Diligence Period or Extended Due Diligence Period, Buyer's due diligence will be deemed to be approved and due diligence will immediately become waived and the remaining promissory note held in Escrow will be converted to check, considered non-refundable and remitted to Seller within 14 calendar days of the expiration of the Initial or Extended Due Diligence Period or Buyer provides Seller with a written notice approving of Buyer's due diligence ("Notice of Buyer's Approval of Due Diligence"), whichever occurs first. Upon Buyer's approval of Due Diligence, the Parties shall proceed to closing.

If Buyer provides City with a Due Diligence Extension Notice within the appropriate time period, Buyer's Extended Due Diligence Period will be from the expiration of the Initial Due Diligence Period.

During Due Diligence period Purchaser shall obtain an approved plan for wetland mitigation from the governing authorities, obtain SEPA, and any other municipal approvals needed to develop the site.

6. Acceptance of City's Existing Documents: Buyer acknowledges receipt and approves of documentation provided by City with relation to this property, which may include but is not limited to: previous title reports ,surveys, and past wetland documentation.
7. Title: Within 10 business days following mutual execution of a Purchase and Sale Agreement, Seller will cause to be delivered to Buyer, at Buyer's expense, an ALTA Standard Coverage Title Commitment from Stewart Title. Should Buyer wish to receive an Extended Coverage Title Policy, Buyer agrees to satisfy all title insurer requirements to obtain said Extended Coverage at their own cost and action, including but not limited to any survey work not already furnished by Seller.
8. Closing: Closing will occur thirty (30) days following our satisfactory completion of Due Diligence, at which time Seller will deliver to Purchaser a Statutory Warranty Deed conveying title to the Property subject only to special exceptions and conditions acceptable to buyer, but free and clear of all mortgages and liens and also an assignment of Seller's interest in any and all leases, agreements, architectural and engineering plans, studies, surveys, service contracts, governmental approvals, personal property, and other similar items relative to the Property if they may exist.
9. Closing Costs: All Closing Costs will be paid by the Purchaser.
10. Brokerage: It is understood and agreed that the Seller does not have Broker representation. The Buyer is represented by Joel Jones of Neil Walter Company. No other broker has been involved in the contemplated sale. Buyer shall pay Buyer's Broker all brokerage commissions.
11. Auburn City Council: Auburn City Council agrees to negotiate exclusively with Bridge Acquisition LLC for the sale of the Property for 90 days following passage of such Resolution. The terms of any such sale shall be in substantial conformity to these terms described above.
- 12.

This Letter of Intent is intended to be a summary of terms for a Purchase and Sale Agreement which shall substantially confirm to the terms agreed to herein.

Sincerely,

BRIDGE DEVELOPMENT PARTNERS

 8/12/21

Justin Carlucci
Partner



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5621 (Comeau)(10 Minutes)

Date:

October 6, 2021

Department:

Legal

Attachments:

[Council Presentation 1101 D St NE Auburn\(2\)](#)

[Resolution No. 5621](#)

[Resolution No. 5621 Exhibit A - 1101 D Street NE](#)

[Purchase and Sale Agreement](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

For discussion only.

Background for Motion:

This Property has been used as a fire station since the City first acquired it. Selling the Property to the Valley Regional Fire Authority will not only see the Property continues to be used for its original intent, but proceeds from the sale will also provide revenue to the City.

Background Summary:

The City acquired title to 1101 D Street NE in Auburn (the "Property") in 1984 and thereafter began making improvements to the property for use as a fire station by the Auburn Fire Department. On January 1, 2007 as a result of a voter-approved measure, the Auburn Fire Department combined with the Pacific Fire Department and the City of Algona to form the Valley Regional Fire Authority (VRFA), which provides fire and EMS services to all three Cities. The City retained ownership of the Property and leased it to VRFA for continued use as a fire station as outlined in the Valley Regional Fire Authority – Regional Fire Protection Service Authority Plan dated August 29, 2006.

In 2020 VRFA approached the City of Auburn expressing interest in purchasing the Property, which serves as Station 31, VRFA's headquarters. VRFA conducted an appraisal which serves the sales price of the Property. Conditions of the agreement require that prior to closing the City will dedicate 5.5ft of the property (not considered part of the surplus or property to be conveyed to VRFA) adjacent to D Street NE for Right of Way required for future road widening. VRFA as a condition of closing this transaction must sever the existing power service to the emergency signal located on the west side of D Street NE and rewire this signal, which emergency signal is and will remain under the ownership of the City, to an existing City power service in the area at VRFA's sole cost.

Post-closing requirements of the agreement will require; 1) VRFA to grant the City a water utility easement for continued operation, access, maintenance and repair of an existing City water utility, 2) VRFA and the City to execute a Stormwater Easement and Maintenance Agreement (SWEMA) for the Property's private stormwater runoff facilities; and 3) VRFA and

the City to execute an Amendment to the existing lease agreement removing Station 31 from the lease agreements defined premises.

Reviewed by Council Committees:

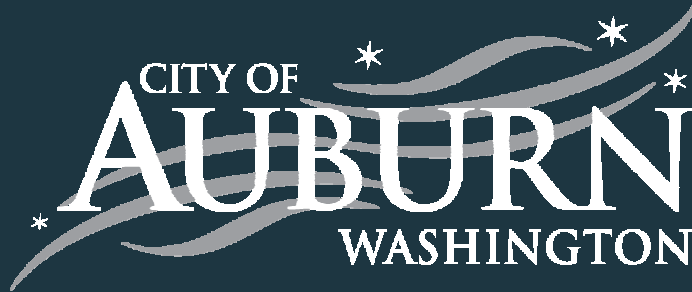
Councilmember:

Staff:

Comeau

Meeting Date: October 11, 2021

Item Number:



**1101 D STREET NE, AUBURN
(VRFA STATION 31)**

**PROPOSED SURPLUS AND SALE OF THE CITY
OWNED PROPERTY TO VRFA**

Legal Department

AUBURN
VALUES

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N



LOCATION

North of
downtown

Next to
downtown
Green River
campus,
Lowes & Fred
Meyer

HISTORY



1984, City of Auburn
acquires the property and
begins making
improvements to the
property to be used as a
fire station by the Auburn
Fire Department



January 1, 2007, Valley
Regional Fire Authority (VRFA)
is formed as a result of a voter
approved measure

*Replaces Auburn and Pacific
Fire Departments to provide
fire and EMS services to
Auburn, Pacific & Algona*



As part of this transition
City of Auburn retains
ownership of 1101 D
Street NE (Station 31)
but leases the property
to VRFA for continued
use as a Fire Station



Station 31 serves as
VRFA headquarters

SERVICE • ENVIRONMENT • ECONOMY • CHARACTER • SUSTAINABILITY • WELLNESS • CELEBRATION

TRANSACTION DETAILS

- **Purchase Price - \$2,030,000**
 - Set by a fair market appraisal
- **Pre-Closing obligations**
 - Right of Way dedication along D Street NE (City responsibility)
 - Relocate power source feeding the emergency traffic signal located on the west side of D Street NE (VRFA responsibility)
- **Post-Closing obligations**
 - VRFA to grant the City a Water Utility Easement for an existing onsite water utility
 - VRFA to sign a Stormwater Easement and Maintenance Agreement (SWEMA) with the City for the continued maintenance of onsite stormwater facilities
 - City and VRFA to execute a lease amendment removing Station 31 from the existing VRFA / City lease agreement
 - Station 32 (R Street SE), 33 (182nd Ave E) and 35 (GSA) to remain under lease with the City
- **Public Hearing set for October 18, 2021**
 - Voting on the legislation to take place after the Public Hearing

JOSH ARNDT
REAL ESTATE MANAGER
JARNDT@AUBURNWA.GOV
253.288.4325

Legal Department

**AUBURN
VALUES**

S E R V I C E
E N V I R O N M E N T
E C O N O M Y
C H A R A C T E R
S U S T A I N A B I L I T Y
W E L L N E S S
C E L E B R A T I O N

RESOLUTION NO 5621

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DECLARING CERTAIN REAL PROPERTY AS SURPLUS; AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR THE SALE OF SURPLUS REAL PROPERTY TO THE VALLEY REGIONAL FIRE AUTHORITY

WHEREAS, the City owns that certain real property legally described in Section 1 below, being more commonly referred to as “1101 D Street NE” or “Station 31”, located in the City of Auburn, County of King, parcel number 745992-0010; and

WHEREAS, 1101 D Street NE has been used as a fire station since the City acquired the real property in 1984, first by the Auburn Fire Department and more recently by the Valley Regional Fire Authority; and

WHEREAS, on January 1, 2007 as a result of a voter-approved measure, the Auburn Fire Department combined with the Pacific Fire Department and the City of Algona to form the Valley Regional Fire Authority; and

WHEREAS, since its inception, Valley Regional Fire Authority has leased 1101 D Street NE from the City for continued use as a fire station; and,

WHEREAS, Valley Regional Fire Authority is interested in purchasing 1101 D Street NE from the City; and

WHEREAS, the Auburn City Council held a public hearing in accordance with RCW 39.33.020,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. That the following legally described property is declared surplus to the City's needs:

LEGAL DESCRIPTION

LOT 1, RPM-AUBURN, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 126 OF PLATS AT PAGES 84 AND 85, RECORDS OF KING COUNTY, WASHINGTON.

EXCEPT ANY PORTION CONVEYED TO THE CITY OF AUBURN FOR RIGHT OF WAY PURPOSES.

more commonly referred to by street address 1101 D Street NE, Auburn, WA 98002.

Section 2. The Mayor of the City of Auburn, or the mayor's designee, is authorized to execute a contract for the sale of real property to Valley Regional Fire Authority in substantial conformity with the Agreement attached as Exhibit A.

Section 3. The Mayor is further authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 4. This resolution shall be in full force and effect upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2021.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:

Kendra Comeau, City Attorney

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this “Agreement”) is entered into as of the _____ day of _____, 2021 (“Effective Date”), by and between the **CITY OF AUBURN**, a Washington municipal corporation (the “City” or “Seller”), and **VALLEY REGIONAL FIRE AUTHORITY**, a Washington Municipal Corporation, (hereinafter “VRFA” or “Buyer”). Seller and Buyer hereinafter may be referred to as the “Parties” or individually as a “Party.”

RECITALS

A. The City owns real property located at 1101 D ST NE Auburn, Washington 98002, also known as King County Parcel No. 745992-0010 (“Subject property”), legally described as shown in **Exhibit A**.

B. VRFA leases the property from the City and uses the property as Fire Station #31.

C. VRFA desires to purchase this property from the City of Auburn for the purpose of continuing to use the property as a fire station, or for some other public purpose.

D. The City desires to sell this property to VRFA.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which the Parties mutually acknowledge, Buyer and Seller agree as follows:

1. **Certain Defined Terms.** For purposes of this Agreement, the following capitalized terms in this Agreement will have the following definitions:

1.1 “Property” means the land and all rights, title and interests associated with the land legally described in **Exhibit A** as well as all of Seller’s right, title and interest in and to tangible personal property, if any, appurtenant to or used in connection with the Real Property (“Personal Property”), and all improvements owned by Seller whether above or below the surface of the land, including the emergency signal in the D street right-of-way, except those improvements designated by easement described in Section 4.

1.2 “Closing” or “Close of Escrow” means the recordation of the Deed in the Official Records and Seller’s receipt of the Purchase Price.

1.3 “Closing Date” On or before December 31, 2021 or such other date as may be agreed to in writing, and subject to completion of the following; (1) the City holding a public hearing on the sale of the Property, as required by RCW 39.33.020, (2) City Council to pass a resolution declaring the property as surplus to the City’s needs, (3) payment of

the Purchase Price to Seller from Buyer, (4) recording of the executed Deed from Seller to Buyer, and; (5) completion of items described in subsections 3.1 and 3.2 below.

1.4 “Deposit”. No deposit to be collected.

1.5 “Escrow” means the escrow opened with Escrow Agent for the consummation of the transaction described in this Agreement.

1.6 “Escrow Agent” means First American Title Company, located at: 920 5th Ave Suite 1200, Seattle, WA 98104.

1.7 “Official Records” means the official real property records of King County, Washington.

1.8 “Permitted Exceptions” has the meaning as set forth in Section 6.1 below.

1.9 “Purchase Price” has the meaning as set forth in Section 3.

1.10 “Title Company” means First American Title Company.

1.11 “Title Policy” means the then current Standard form ALTA Purchaser’s policy of title insurance issued by the Title Company to Buyer with coverage in the amount of purchase price, showing title to the Subject Property vested in Buyer subject only to the Permitted Exceptions.

2. The Property to be Sold. The City is the sole owner in fee simple of certain real property located in King County Washington, legally described in **Exhibit A** (herein referred to as the “Property”). Subject to and conditioned upon the terms set forth in this Agreement, the Buyer wishes to buy, and Seller wishes to sell, convey, assign, transfer and deliver all Seller’s rights, title, interest and improvements in, on, above and below the Property, excluding the water utility described in paragraph 4.1 below, and subject to any permitted title exceptions, and the execution of the Water Utility Easement, Stormwater Easement & Maintenance Agreement and Lease amendment substantially in the form of **Exhibits B-3, B-4 & B-5**. Seller shall convey the property by Statutory Warranty Deed substantially in the form of **Exhibit B-1** attached.

3. Purchase Price; Cash Payment & Other Considerations. In consideration for the sale, transfer, conveyance, assignment and delivery of the Property, Buyer shall pay in full to Seller on the Closing Date a total purchase price of **Two Million Thirty Thousand Dollars and no cents (\$2,030,000.00)**. The Purchase Price payment by Buyer will be via cashier’s check, certified check, or wire transfer of funds.

Seller and Buyer agree that the entire Purchase Price is allocable to the Real Property, and that the value of the Personal Property, if any, is de minimis.

3.1 Pre-Closing Right of Way Dedication. Buyer and Seller hereby acknowledge and agree that prior to Closing, Seller will dedicate 5 ½ feet of property along the entire eastern boundary line for Right of Way (ROW) purposes. The ROW shall be granted via Right of Way Deed substantially in the form of **Exhibit B-2** attached. Buyer and Seller further agree that the purchase price observes and is reflective of this ROW dedication.

3.2 Emergency Traffic Signals. Buyer and Seller hereby acknowledge that the Property is served by an emergency traffic signals located within the D Street NE ROW adjacent to the Property. The parties further acknowledge that (i) maintenance and maintenance costs for the existing emergency signals have been the responsibility of the City, (ii) modifications to or the replacement of the emergency signals, including all costs and expenses has been the responsibility of VRFA, and; (iii) power for the emergency signal located on the west side of the D Street NE comes directly from the northern most building on the Property.

As part of the consideration for this agreement Buyer and Seller hereby agree and covenant that (i) The City shall continue to bear the responsibilities of maintenance and maintenance costs for the existing emergency signals, (ii) Any modification to or replacement of the existing emergency signals or appurtenances, whether made for operational purposes, due to redevelopment of the Property, relocation of the Property entrance, or otherwise shall be at the sole cost and expense of VRFA , and; (iii) Prior to closing, VRFA shall, obtain a construction permit from the City of Auburn for, and sever the existing power service to the emergency signal located on the west side of D Street NE and rewire the emergency signal to the existing City power service cabinet located to the north of the Property. As part of this work VRFA shall install two 2" conduits in accordance with the City of Auburn Engineering Design and Construction Standards between the signal and power cabinet. All costs and fees for the work and permit will be the sole responsibility of VRFA. This work shall be considered complete upon final inspection and closure of the permit.

Buyer shall hold harmless, indemnify, and defend Seller from any and all cost, liability, claims, judgments, administrative actions, litigation, or other obligations arising out of the maintenance and rewiring of the emergency signal.

4. Post-Closing Obligations. Buyer and Seller acknowledge and agree that as part of the consideration and therefore reflective of the Purchase Price certain obligations must be met after the sale, transfer, conveyance and delivery of the Property. Failure to meet said obligations by either Party will constitute a material breach of contract and each Party shall have the right to induce specific performance on the other for obligations owed.

4.1 Water Utility Easement. Buyer and Seller acknowledge that there exists an operational water utility lying under the surface of the Property that services the Property. This water utility is expressly excluded as part of the property transfer. Immediately following the recording of the Statutory Warranty Deed, Buyer as Grantor, shall grant to Seller as Grantee, a Water Utility Easement for the continued operation, access, maintenance and repair of this water utility. The Water Utility Easement shall be substantially in the form of **Exhibit B-3** attached.

4.2 SWEMA Agreement. Buyer and Seller acknowledge that the existing stormwater runoff facilities located within the property are a private system and therefore the ownership and maintenance responsibilities of the facilities will transfer to the Buyer as part of the Property. Immediately following the recording of the Statutory Warranty Deed, Buyer as Grantor and Seller as Grantee, will execute and cause to be recorded a Stormwater Easement and Maintenance Agreement (SWEMA) for the Properties stormwater runoff facilities. The SWEMA shall be substantially in the form of **Exhibit B-4** attached.

4.3 Amendment to the Lease Agreement. Immediately following the recording of the Statutory Warranty Deed the Parties shall execute an amendment to the Lease Agreement authorized by Auburn City Council under resolution 4390 between the City and VRFA. The amendment shall be substantially in the form of **Exhibit B-5** attached.

5. Earnest Money Deposit. Buyer and Seller mutually agree that there is to be no deposit required for this transaction.

6. Title Policy. Promptly after mutual execution of this Agreement, Seller will obtain a Standard form preliminary title insurance commitment covering the Property from the Title Company (the "Commitment"). The Title Company will be instructed to deliver a copy of the Title Commitment and copies of exceptions to Buyer, Seller, and the Parties' respective counsel. Approval by Buyer of the exceptions to title set forth in the Commitment (other than as hereinafter set forth) will be a condition precedent to Buyer's obligation to purchase the Property. Unless Buyer gives written notice that it disapproves the exceptions to title shown on the Commitment, stating the exceptions so disapproved, within ten (10) days after the date of receipt from the Title Company, Buyer will be deemed to have approved such exceptions. If Buyer disapproves any title exceptions, Seller will have a ten (10) day period after its receipt of Buyer's written notice of disapproval of the same within which to provide written notice to Buyer as to which of such disapproved title exceptions the Seller will remove (or cause to be removed) from title; provided, however, that Seller will not be required to actually remove such exception(s) until the Closing Date. If, for any reason, Seller's notice given pursuant to the immediately preceding sentence does not covenant to remove all of Buyer's disapproved title exceptions at or prior to Closing, Buyer has the right to terminate this Agreement by written notice (the "Termination Notice") to Seller and Escrow Agent given within ten (10) days after the earlier of the expiration of the Seller's ten (10) day notice period or the date Seller informs Buyer that it does not intend to remove the disapproved items. Buyer's failure to deliver the Termination Notice within such ten (10) day period will be deemed Buyer's approval of any such previously disapproved title exception. If Buyer delivers the Termination Notice within such ten (10) day period, the obligation of Seller to sell, and Buyer to buy, the Subject property will terminate, in which case each party shall bear its own costs and expenses up to and including the Closing Date.

6.1 Permitted Exceptions. In addition to such other exceptions to title as may be approved by Buyer pursuant to the provisions of Section 6 above, Buyer shall accept title to the Property subject to the following (collectively, the “Permitted Exceptions”):

7. **Survival Of Rights, Duties, And Obligations** . The Parties’ rights, duties, covenants, and obligations under Sections 3.1, 3.2, 4.1, 4.2, 9, 10.3, 11, 12, 14.4 – 14.7 and 14.10 shall survive Closing and the expiration or earlier termination of this Agreement.

8. **Closing.**

8.1 Time for Closing. This purchase and sale will be closed in the office of Escrow Agent on the Closing Date. Buyer and Seller will deposit in Escrow with Escrow Agent all instruments, documents and monies necessary to complete the sale under this Agreement. Funds held in reserve accounts pursuant to escrow instructions will be deemed, for purposes of this definition, as available for disbursement to Seller. Neither party needs to be physically present at the Closing.

8.2 Closing Costs.

8.2.1 Seller’s Costs. Seller will pay (a) Recording fees of the Right of Way Dedication Deed, Easements (b) Seller’s share of real estate property tax proration’s, if any; (c) its own attorney and professional fees.

8.2.2 Buyer’s Costs. Buyer will pay (a) the full escrow fees and costs, (b) the recording fees for the conveyance of the Property by Statutory Warranty Deed and Excise Tax Affidavit; (c) all title premiums for the Title Policy and any additional endorsements or coverage Buyer may require, including applicable sales tax, (d) the recording fees for the Water Utility Easement substantially in the form of **Exhibit B-3**, (e) the recording fees for the Stormwater Easement & Maintenance Agreement substantially in the form of **EXHIBIT B-4** (f) real estate excise taxes, if any, and (g) Buyer’s share of real estate property tax proration’s, if any.

8.2.3 All other costs and expenses will be allocated between Buyer and Seller in accordance with the customary practice of King County, Washington.

8.3 Closing Documents.

8.3.1 Seller’s Documents. At Closing, Seller will deliver to Escrow Agent or have the Escrow Agent create for Seller’s execution the following instruments and documents:

- a. The executed and acknowledged Statutory Warranty Deed in the form attached as **Exhibit B-1**, conveying the Property to Buyer.
- b. The executed real estate excise tax affidavit to accompany the Deed.
- c. A recorded copy of the Right of Way dedication deed substantially in the form of **Exhibit B-2**.

- d. An executed copy of the lease amendment substantially in the form of **Exhibit B-5**.

8.3.2 Buyer's Documents. At Closing, Buyer shall deliver to Escrow Agent the following funds, instruments and documents:

- a. The balance of the Purchase Price in accordance with Section 3.
- b. An executed real estate excise tax affidavit.
- c. An executed Water Utility Easement substantially in the form of **Exhibit B-3**.
- d. An executed Stormwater Easement & Maintenance Agreement substantially in the form of **Exhibit B-4**.
- e. An executed copy of the lease amendment substantially in the form of **Exhibit B-5**.

8.4 Closing shall be considered complete when all of the following occur: Pre-closing obligation described in subsections 3.1 and 3.2 have been completed, Buyer makes payment to Seller, purchase of the Title Policy required in section 6, all encumbrances not acceptable or not waived by Buyer have been cured, the parties have executed the real estate excise tax and non-foreign person affidavits, and the executed statutory warranty deed to Buyer is recorded.

8.5 In addition to the acts and assurances recited and contemplated by this Agreement, the parties agree to perform, execute, and/or deliver any such further acts and assurances that may reasonably be required to effect the purpose, terms, and conditions of this Agreement.

9. **Possession**. Buyer is currently occupying the Property under an existing lease and will be entitled to possession of the Property upon Closing.

10. **Representations and Warranties**.

10.1 Seller's Representations and Warranties. In addition to any other representations or warranties of City elsewhere in this Agreement, Seller represents and warrants to Buyer now, and as of the Date of Closing, that:

10.1.1 Authority. That the Seller has full power and authority to execute this Agreement and perform Seller's obligations hereunder, and all necessary action to authorize this transaction has been taken, except as specifically provided herein.

10.1.2 Hazardous Substances. Seller has not received notification of any kind from any governmental agency suggesting that the Subject property is or may be qualify for a Hazardous Substances cleanup.

Seller agrees to complete item 6, "Environmental" of Seller's Disclosure Statement, attached as **Exhibit C**. Buyer agrees to waive the Seller's Disclosure Statement under RCW 64.06.010 with the exception of item 6 under RCW 64.06.013.

10.1.3 Seller warrants that the property has no material, structural or hidden defects and that to the best of Seller's knowledge, there is no litigation pending or threatened against Seller that arises out of the ownership of the Property and that might materially and detrimentally affect the (i) use or operation of the Property for Buyer's intended use, or (ii) the ability of Seller to perform its obligations under this Agreement, or (iii) the value of the Property.

10.2 Buyer's Representations and Warranties. In addition to any other representations and warranties of Buyer elsewhere in this Agreement, Buyer represents and warrants to Seller now, and as of the Date of Closing, that (a) Buyer has full power to execute, deliver and carry out the terms and provisions of this Agreement, and has taken all necessary action to authorize the execution, delivery and performance of this Agreement; and (b) the individual executing this Agreement on behalf of Buyer has the authority to bind Buyer to the terms and conditions of this Agreement.

10.3 "As is" condition of Subject property. The Purchase Price reflects that the Buyer is purchasing the Subject property "as is," "where is," and "with all faults." Except to the extent of representations and warranties specifically made by Seller or in the Statutory Warranty Deed or other documents to be delivered by Seller at Closing, the Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, contracts or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to the value, nature, quality, or condition of the Property, including, without limitation:

- (i) The water, soil and geology;
- (ii) The suitability of the Property for any and all activities and uses that Buyer or anyone else may conduct thereon;
- (iii) The compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;
- (iv) The habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property;
- (v) The manner or quality of the construction or materials, if any, incorporated into the Property; or
- (vii) Any other matter with respect to the Property.

(b) Seller has not made, does not make, and specifically disclaims any representations regarding compliance with any environmental protection, pollution, zoning or land use laws, rules, regulations, orders, or requirements.

(c) Without limitation, Seller does not make and specifically disclaims any warranties, express or implied, any warranties or representations with respect to the structural condition of the Property, the area of land being purchased, the existence or non-existence of any Hazardous Substances or underground storage tanks, or the actual or threatened release, deposit, seepage, migration or escape of Hazardous Substances, from or into the Property, and the compliance or noncompliance of the Property with applicable federal, state, county and local laws and regulations, including, without limitation, environmental laws and regulations and seismic/building codes, laws and regulations. For purposes of this Agreement, the term "Hazardous Substances" shall mean: "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended; hazardous wastes, hazardous materials, hazardous substances, toxic waste, toxic materials, or toxic substances as defined in state or federal statutes or regulations; asbestos-containing materials, polychlorinated biphenyls; radioactive materials, chemicals known to cause cancer or reproductive toxicity; petroleum products, distillates or fractions; any substance the presence of which is prohibited by statute or regulation; and any substance for which any statute or regulation requires a permit or special handling in its use, collection, storage, treatment or disposal.

10.4 Indemnification. From and after Closing, Buyer shall indemnify, defend and hold Seller, its officers, agents and employees harmless from and against any and all claims and agency orders or requirements directly or indirectly relating to or arising out of, the Property.

11. Maintenance of Subject property; Risk of Loss, Condemnation.

11.1 Maintenance of Subject property. From the Effective Date until the Closing Date (or any earlier termination of this Agreement), Buyer as occupant of the Property agrees to continue to maintain the Subject property in substantially the same condition existing as of the Effective Date, ordinary wear and tear, and damage by casualty excepted.

The Parties agree that it will not damage nor commit waste on the property between the Effective Date and the Closing Date.

11.2 Risk of Loss. Risk of loss of or damage to the Property shall be borne by Seller until the Closing Date. Thereafter, Purchaser shall bear the risk of loss. In the event of material loss of or damage to the Property prior to the Closing Date, Seller shall promptly notify Purchaser in writing and Seller shall not be obligated to restore the Property nor pay damages to Purchaser by reason of such loss or damage. Upon receipt of written notice pursuant to Section 11 below, Purchaser may within five (5) business days terminate this Agreement by giving written notice of such termination to Seller and such termination shall be effective immediately; provided, however, that Purchaser may elect to purchase the Property in the condition then existing; provided that, Purchaser delivers notice of such election pursuant to Section 13 below within five (5) business days of receipt of Seller's notice of a material loss of or damage to the Property as provided for in this Section 11

12. Default.

12.1 Time. Time is of the essence in every provision herein contained.

12.2 Seller's Remedies for Buyer's Default or Failure to Close. If Buyer fails, without legal excuse, to complete the purchase of the Subject property in accordance with this Agreement, Seller's sole and exclusive remedies shall be to terminate this Agreement or to seek specific performance as well as any other remedies at law or equity.

12.3 Buyer's Remedies for Seller's Default. If Seller fails to complete the sale of the Subject property in accordance with this Agreement, Buyer's remedy will be to terminate this Agreement or to seek specific performance, as well as any other remedies at law or equity.

13. Notices. All notices, demands and other communications required or permitted to be given hereunder shall be in writing, and shall be sent by personal delivery (including by means of professional messenger or courier service) or registered or certified mail, postage-prepaid, return-receipt requested, or by email at the addresses provided herein. Notice shall be deemed to have been given upon receipt if personally delivered or sent by email, and if sent by mail, two (2) days after duly deposited in the U.S. Mail to all of the addresses designated for such party.

The Parties' respective addresses for notices are as follows:

If to City: City of Auburn
Real Property Management
25 West Main Street
Auburn, WA 98001-4998
Attn: Josh Arndt
Email: jarndt@auburnwa.gov

With copies to: City Attorney's Office
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Attn: City Attorney
Email: kcomeau@auburnwa.gov, druth@auburnwa.gov

If to Valley Regional Fire Authority: Valley Regional Fire Authority
1101 D St. NE
Auburn, WA 98002
Attn: Brad Thompson, Fire Chief
Email: Brad.Thompson@vrfa.org

With copies to: Valley Regional Fire Authority

1101 D St. NE
Auburn, WA 98002
Attn: Mark Horaski, Chief Financial Officer
Email: Mark.Horaski@vrfa.org

Notice of change of address shall be given by written notice in the manner detailed in this Section.

14. General.

14.1. Entire Agreement, Waiver, and Governing Law. This is the entire agreement of Buyer and Seller with respect to the matters covered hereby and supersedes all prior agreements between them, written or oral. Any waivers must be in writing. No waiver of any right or remedy in the event of default will constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement will be governed by the laws of the State of Washington. Venue for disputes under this agreement is the Superior Court of King County, Washington.

14.2 No Third Party Beneficiaries/Severability. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the heirs, personal representatives, successors and permitted assigns of the parties hereto. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14.3 Signing Authority. Each of the Parties hereby represents and warrants that the individual signing this Agreement on its behalf is duly authorized to enter into this Agreement and to execute and legally bind such Party to it.

14.4 Attorneys' Fees. In the event suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party is entitled to recover from the other party such sum as the Court may adjudge reasonable as attorneys' fees, including fees incurred at trial, on any appeal and in any petition for review.

14.5 Reservation of Police Power. Notwithstanding anything to the contrary set forth in this Agreement, Buyer understands and acknowledges that the City's authority to exercise its police (regulatory) powers in accordance with applicable law shall not be deemed limited by the provisions of this Agreement.

14.6 Amendment. This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer

14.7 Construction. This Agreement and each of its terms have been explicitly negotiated between the parties, and each has had the opportunity for legal counsel to review

the Agreement, so that the language in all parts will be construed according to its fair meaning and not strictly for or against either party.

14.8 Agreement to Purchase. Buyer hereby acknowledges receipt of a copy of this Agreement. Buyer offers to purchase the Property on the above terms and conditions. Seller shall have until **9:00 p.m. on October 29, 2021** to accept, counter, or reject this offer.

14.9 Approval by Auburn City Council. The Parties acknowledge that this Agreement shall not be deemed accepted by or binding on the Seller until approved by the Auburn City Council.

14.10 Non-Merger. The terms and provisions of this Agreement will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

14.11 Exhibits. The following exhibits are attached and incorporated into this Agreement by reference.

- (i) **Exhibit A – Legal Description of the Property**
- (ii) **Exhibit B-1 – Statutory Warranty Deed Form**
- (iii) **Exhibit B-2 – Right of Way Dedication Deed Form**
- (iv) **Exhibit B-3 – Water Utility Easement**
- (v) **Exhibit B-4 – Stormwater Easement & Maintenance Agreement**
- (vi) **Exhibit B-5 – Lease Amendment**
- (vii) **Exhibit C – Seller Disclosure, Environmental**

[SIGNATURES ON THE FOLLOWING PAGE]

SIGNATURES

BUYER

VALLEY REGIONAL FIRE AUTHORITY



Brad Thompson, Fire Chief

9/30/21

Date:

Approved as to Form:



Eric Quinn, VRFA Attorney

SELLER

CITY OF AUBURN

Nancy Backus, Mayor

Date:

Approved as to Form:

Kendra Comeau, City of Auburn Attorney

EXHIBIT "A"
Legal Description

LOT 1, RPM-AUBURN, ACCORDING TO THE PLAT THEREOF, RECORDED IN
VOLUME 126 OF PLATS AT PAGES 84 AND 85, RECORDS OF KING COUNTY,
WASHINGTON.

EXCEPT THE EASTERLY 5.50 FEET THEREOF CONVEYED TO THE CITY OF
AUBURN FOR RIGHT OF WAY PURPOSES BY DEED RECORDED UNDER KING
COUNTY RECORDING NUMBER _____

King County Parcel Number: 7459920010

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Auburn, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated _____

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

Dated _____

Notary Public in and for the State of _____
residing at _____

My appointment expires _____

EXHIBIT A
Right of Way Dedication Legal Description

The Easterly 5.50 feet of Lot 1, RPM-Auburn, according to the plat thereof recorded in Volume 126 of Plats, Pages 84 and 85, records of King County, Washington.

Situate in the City of Auburn, King County, Washington.

Containing an area of 3,196 square feet, more or less.

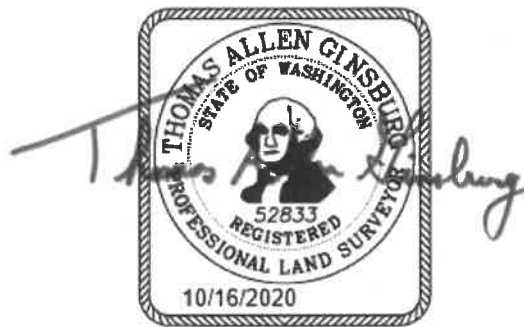


EXHIBIT B
Depiction of Right of Way Dedication

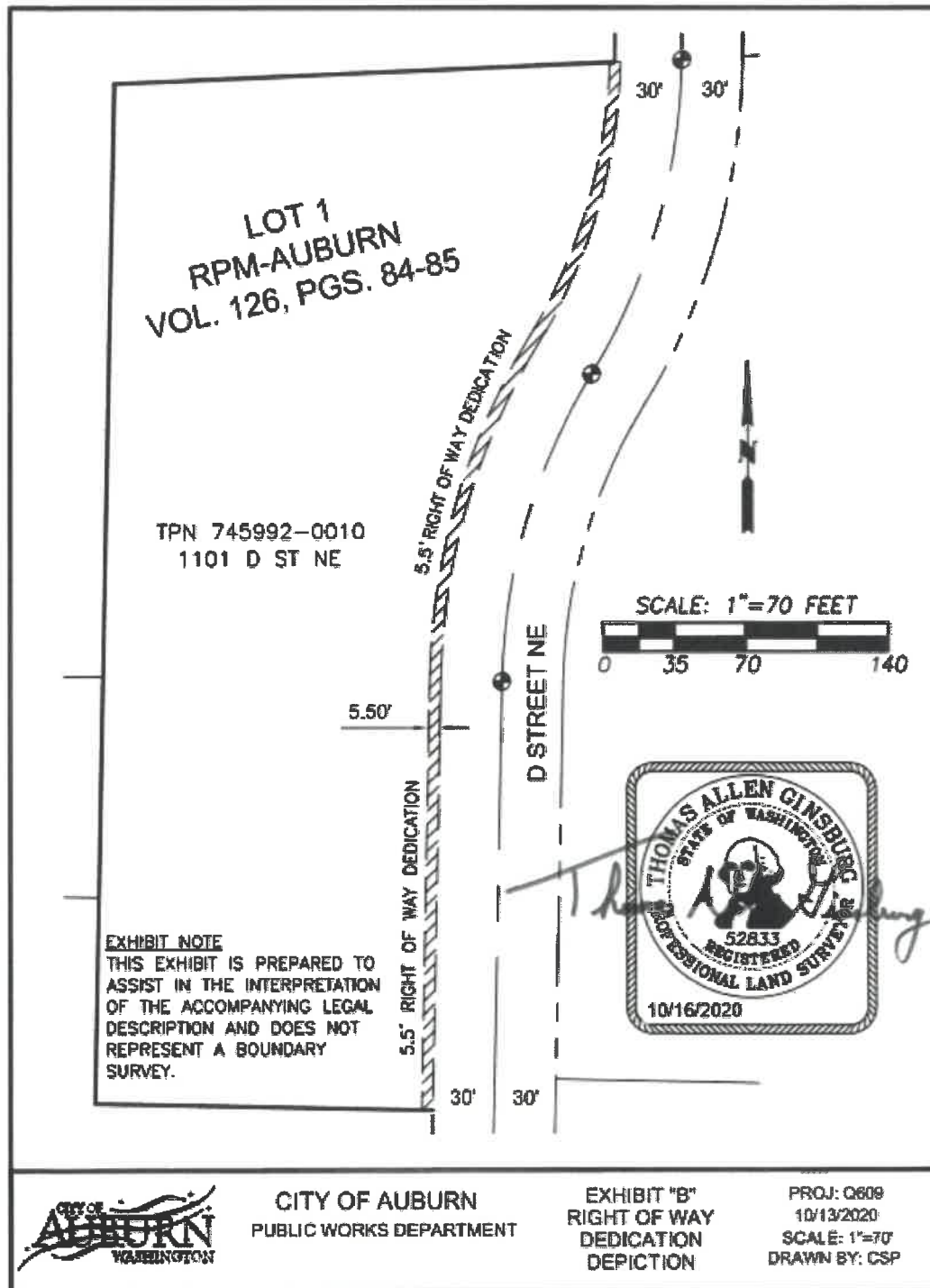


EXHIBIT B-3
Water Utility Easement

Return Address:
City of Auburn
City Clerk
25 West Main
Auburn, WA 98001

Above this line reserved for recording information

WATER UTILITY EASEMENT

Reference # (if applicable):	N/A
Grantor:	Valley Regional Fire Authority
Grantee:	City of Auburn
QSTR:	SW-7-21-5
Assessor's Tax Parcel ID#:	745992-0010

For and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, **Valley Regional Fire Authority** ("Grantor") hereby conveys and warrants to the **City of Auburn**, a Washington municipal corporation, its successors and assigns ("Grantee"), a perpetual Nonexclusive Easement, legally described in **Exhibit A**, and depicted in **Exhibit B** ("Easement Area") for the purposes of access, inspection, laying, maintaining and repair to the water utility and appurtenances thereto. This easement shall burden the above-designated Tax Parcel ("Parent Parcel") legally described in **Exhibit C**:

SEE EXHIBITS "A", "B" AND "C", ATTACHED HERETO AND BY THIS
REFERENCE MADE A PART HEREOF.

Grantee shall have the absolute right, at times as may be necessary, for immediate entry upon said Easement Area for the purpose of maintenance, inspection, construction, repair or reconstruction of the above improvements without incurring any legal obligation or liability therefore.

Grantee shall have the absolute right to place any type of driving surface within the Easement Area deemed necessary by the Grantee.

Grantee shall have the absolute right to relocate the easement on the Grantor's property, provided that the easement relocation area does not substantially interfere with Grantor's operations or existing structures. Grantor shall not be entitled to any compensation associated with the easement relocation.

Grantor shall not in any way block, restrict or impede access and egress to or from the Easement Area, and/or in any way block, restrict or impede full use of the real property within the Easement Area by the Grantee for the above-described purposes. Other than what might exist at the time of execution of this easement, no building, wall, rockery, fence, trees or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of the Easement Area, without the express written consent of the Grantee. With Grantee permission, Grantor may fence across said Easement Area and/or along the boundaries of the Easement Area, provided that a gate is constructed in the fence. The gate shall be of sufficient length and location to allow the Grantee full use of, and access and egress to and from the Easement Area. If the gate is to be locked, keys shall be provided to the Grantee.

Without the written permission of the City Public Works Director and City Engineer, no excavation shall be made within three (3) feet of the water service facilities and the surface level of the ground within the Easement Area shall be maintained at the elevation as currently existing.

Grantor shall have the right to relocate the existing water utility should Grantor elect to redevelop, improve, or have some other specific need, cause or desire. If Grantor desires to have the utility relocated Grantor shall work with Grantee in good faith to determine a new location that is acceptable to both parties. As part of the relocation Grantor shall provide Grantee with a complete legal description describing and depicting the new agreed upon location for the utility and both parties agree to record a new utility easement substantially in the same form as this easement describing and depicting the new agreed upon location. Immediately following recording of the new utility easement or Grantor's abandonment of those facilities described herein, whichever happens last, Grantee shall execute a release of easement for that area described in Exhibit A and depicted in Exhibit B. All costs and fees associated with the utility relocation, including permit fees, construction costs, survey, recording of a new utility easement and release of the abandoned easement shall be the responsibility of the Grantor.

Grantor accepts all risk of loss to Grantor's property and its improvements and further agrees to defend, indemnify, and hold harmless Grantee, its consultants, employees, elected officials, agents, representatives, or designees from all liability, claims, damages, losses, and expenses, whether direct, indirect, or consequential, including, but not limited to, reasonable attorneys' fees, expert witness fees, and other expenses of litigation resulting from personal injury or property damage arising out of or in connection with Grantee's water utility facilities within the Easement Area.

Grantor grants to the Grantee the right of ingress and egress to the Easement Area over and across all paved, graveled, or otherwise improved driveways or parking lots within the Parent Parcel. If direct access to the Easement Area is not available from such driveways or parking lots, the Grantee's right of ingress and egress shall include such other areas within the Parent Parcel as the Grantee determines are necessary to access the Easement Area from such driveways and parking lots or from the Parent Parcel's boundaries. In the case of any damage or disruption of the Parent Parcel, the Grantee shall return the property to a condition reasonably comparable to its condition as it existed immediately before entry and/or work was made thereon by the Grantee or its agents.

EXHIBIT A

Easement Area

A Water Easement located within the Southwest Quarter of the Southwest Quarter of Section 7, Township 21 North, Range 5 East of the Willamette Meridian, King County, Washington, being and comprising a portion of Lot 1, RPM-Auburn, according to the plat recorded in Volume 126 of Plats, Pages 84 and 85, records of King County, Washington, lying within the limits of a strip of land 15.00 feet wide and having 7.50 feet of such width to each side of the following described centerlines:

Commencing at the Northwest Corner of said Lot 1, thence along the West Line of Said Lot 1 South $1^{\circ}12'09''$ West a distance of 222.28 feet to the POINT OF BEGINNING;

Thence leaving said West Line South $87^{\circ}47'03''$ East a distance of 7.50 feet to a point hereinafter referred to as Point A;

Thence continuing South $87^{\circ}47'03''$ East a distance of 108.01 feet;

Thence South $81^{\circ}12'17''$ East a distance of 55.40 feet to the East Line of said Lot 1, also being the Westerly Right of Way Margin of D Street Northeast, and the terminus of this centerline description.

TOGETHER WITH

Beginning at aforementioned Point A, thence North $1^{\circ}12'09''$ East a distance of 21.50 feet and the terminus of this centerline description.

EXCEPT any portion lying within D Street Northeast.

The sidelines of this water easement being lengthened or shortened as necessary to intersect upon themselves, the West Line of Lot 1 and the Westerly Right of Way Margin of D Street Northeast.

Containing an area of 2,774 square feet, more or less.

The Basis of Bearings for this description being the calculated bearing of South $00^{\circ}38'42''$ West along the monumented centerline of D Street Northeast, as determined between the monuments at 15th Street Northeast (COA MON 609-012) and the first southerly point of curvature (COA MON 610-013).

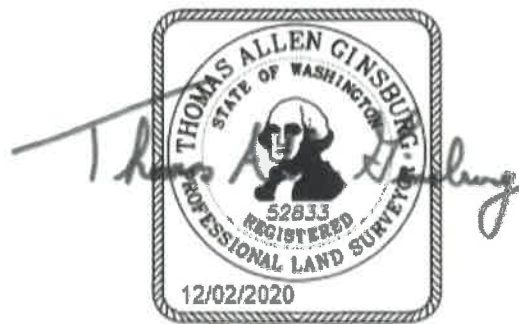


EXHIBIT B Depiction of Easement Area

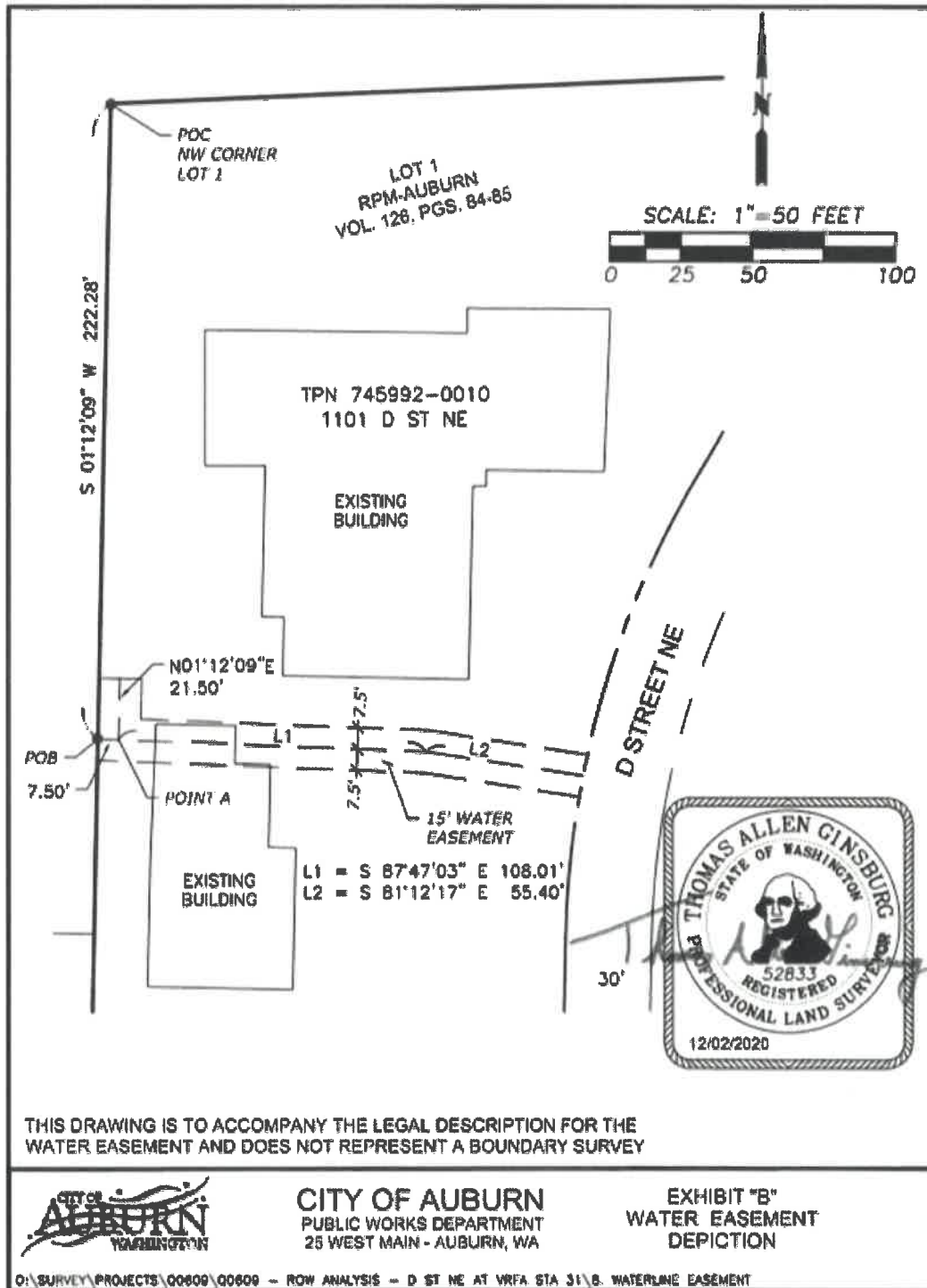


EXHIBIT C
Parent Parcel

LOT 1, RPM-AUBURN, ACCORDING TO THE PLAT THEREOF, RECORDED IN
VOLUME 126 OF PLATS AT PAGES 84 AND 85, RECORDS OF KING COUNTY,
WASHINGTON.

EXCEPT THE EASTERLY 5.50 FEET THEREOF CONVEYED TO THE CITY OF
AUBURN FOR RIGHT OF WAY PURPOSES BY DEED RECORDED UNDER KING
COUNTY RECORDING NUMBER _____

King County Parcel Number: 7459920010

EXHIBIT B-4
Stormwater Easement and Management Agreement

Return Address:
City of Auburn
City Clerk
25 West Main
Auburn, WA 98001

Above this line reserved for recording information.

STORMWATER EASEMENT AND MAINTENANCE AGREEMENT

Grantor: Valley Regional Fire Authority Grantee: City of Auburn QSTR: SW-7-21-5 Assessor's Tax Parcel ID#(s): 745992-0010
--

In consideration of the mutual covenants contained herein and for other valuable consideration, this easement and agreement are made and entered into this _____ day of _____, _____, by and between the City of Auburn, a municipal corporation of the State of Washington, (the "CITY") and Valley Regional Fire Authority, (the "PROPERTY OWNER" and collectively, the "PARTIES").

1. STORMWATER EASEMENT

This easement and maintenance agreement applies to the Real Property described in Exhibit "A" and depicted in Exhibit "B"

Private Stormwater Facilities on the Real Property include, but are not limited to, the following storm water elements:

- Detention Pipe
- Control Structure
- Catch Basins
- Oil/Water Separator

PROPERTY OWNER agrees to provide a non-exclusive easement ("Stormwater Easement"), legally described in Exhibit "A" and depicted in Exhibit "B", to the CITY for access, inspection, and maintenance for the purposes of this Agreement, over, under and on the Real Property, and on that portion of the property containing Private

Stormwater Facilities. This easement shall be a burden to the Real Property and shall be a benefit to the City Storm Drainage Utility System.

2. MAINTENANCE

The PROPERTY OWNER agrees to maintain the Private Stormwater Facilities in accordance with the Auburn City Code, including the City of Auburn Surface Water Management Manual.

The PROPERTY OWNER agrees to allow the CITY to enter the Real Property for the limited purpose of inspecting the Private Stormwater Facilities, including authorizing the City to utilize any necessary equipment to perform such inspections. The CITY will notify the PROPERTY OWNER in writing of any necessary maintenance. If the PROPERTY OWNER fails to maintain the Private Stormwater Facilities after being notified by the CITY, the PROPERTY OWNER agrees the CITY may enter onto the Real Property to perform emergency maintenance in the event of failure of the storm management plan elements which might result in adverse impacts(s) on public facilities or private facilities of other property owners but at no time will the City have any ownership interest in the Real Property. The PROPERTY OWNER agrees to reimburse the CITY for the costs incurred by the CITY in maintaining the Private Stormwater Facilities. Should the CITY incur attorney's fees and/or costs in enforcing the agreement and/or in maintaining or collecting maintenance fees, the PROPERTY OWNER agrees to pay reasonable attorney's fees and all costs incurred by the CITY. The City's sole obligation in the event of any damage, relocation, or disruption of the Easement Area, its employees, contractors, or agents shall be to re-establish existing grades and provide for adequate site stabilization.

3. POLLUTION

3.1 Hazardous Substances Defined

As used herein, the term "Hazardous Substances" means any hazardous, toxic, chemical, or dangerous substance, pollutant, contaminant, waste or material, including petroleum, which is regulated under any federal, state, or local statute, ordinance, rule, regulation or common law relating to chemical management, environmental protection, contamination, or cleanup including, without limitation, the Comprehensive Environmental Response, Compensation, the Liability Act of 1980 and as later amended, and the Resource Conservation and Recovery Act as amended.

3.2 Clean-up

In the event of the presence of Hazardous Substances on the Real Property caused by any person or entity other than the City, the PROPERTY OWNER shall, at its own cost, undertake immediate response as required by law, including, but not limited to, reporting to appropriate agencies, and shall notify the CITY as soon as reasonably possible. The PROPERTY OWNER will pursue enforcement of all required remediation and cleanup efforts until they are completed and the cleanup and/or remediation has been approved by appropriate governmental agencies. The PARTIES agree that such clean-up requirements are consistent with 42 U.S.C. § 9607 and Chapter 70.105D RCW.

In the event that a spill of Hazardous Substances from the Real Property crosses the public right-of-way, the PROPERTY OWNER will, at its own cost, undertake immediate response as required by law, including, but not limited to, reporting to appropriate agencies, and will notify the CITY as soon as reasonably possible, and will pursue enforcement of all required remediation and cleanup efforts until they are completed and the cleanup and/or remediation has been approved by appropriate governmental agencies.

If the PROPERTY OWNER does not pursue and complete cleanup and/or remediation, the City may pursue those actions and the PROPERTY OWNER will reimburse the City for all associated costs.

4. GENERAL PROVISIONS

4.1 Acknowledgment of Other Enforcement Actions

PROPERTY OWNER acknowledges that there may be liability for violations of codes that could result in additional fines and/or the possibility of incarceration in addition to the fees for maintenance should violations occur.

4.2 Covenant Running With Land

This easements and the covenants shall be a covenant running with the land and shall inure to the benefit of and be binding in perpetuity on any recorded owner of the Real Property until such time as this Agreement is vacated or replaced by mutual agreement of the parties.

4.3 Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument..

4.4 Heirs, Successors and Assigns

This easement and the covenants is binding upon, and inures to the benefit of, the CITY and the PROPERTY OWNER and their respective successors, heirs, administrators, and assigns. The PARTIES desire that this Agreement be recorded to advise heirs, successors and assigns of both parties as to the existence of this easement and agreement.

4.5 Indemnity

The CITY agrees to hold harmless the PROPERTY OWNER, its officers, agents and employees from any damages, claims, or costs associated with any damages, claims or costs arising out of this Agreement, except those arising out of the gross negligence or intentional misconduct of the PROPERTY OWNER, or those arising out of the PROPERTY OWNER's failure to provide maintenance, repair, and clean-up in accordance with this agreement.

PROPERTY OWNER agrees to hold harmless the CITY, its officers, agents and employees from any damages, claims, costs associated with any maintenance by the PROPERTY OWNER and with storm water runoff, spills, and debris originating from the public right of way, or for which a third party may be liable, that enters the Private Stormwater Facilities from the public way, and any other damages, claims or costs arising out of this Agreement, except those arising out of the gross negligence or intentional misconduct of the CITY.

EXECUTED as of the date first written above.

Valley Regional Fire Authority

STATE OF WASHINGTON)
COUNTY OF KING) ss

I certify I have known or have satisfactory evidence that _____
and _____ is/are the person(s) who appeared before me, and
said person(s) acknowledged that he/she/they signed this instrument on oath stated that
he/she/they was/were authorized to execute the instrument and acknowledge as the
_____ of _____,
a Washington Municipal Corporation, to be the free and voluntary act of such party for the
uses and purposes mentioned in the instrument.

Dated _____

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____

CITY OF AUBURN

Jacob Sweeting, City Engineer

Date _____

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Jacob Sweeting is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the CITY ENGINEER of the CITY OF AUBURN to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated _____

Notary Public in and for the State of Washington
Residing at _____
My appointment expires _____

EXHIBIT A

Stormwater Easement and Maintenance Agreement Legal Description

**LOT 1, RPM-AUBURN, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 126 OF PLATS AT
PAGES 84 AND 85, RECORDS OF KING COUNTY, WASHINGTON.**

SITUATE IN THE CITY OF AUBURN, KING COUNTY, WASHINGTON.

EXHIBIT B Depiction of Stormwater Easement and Maintenance Agreement

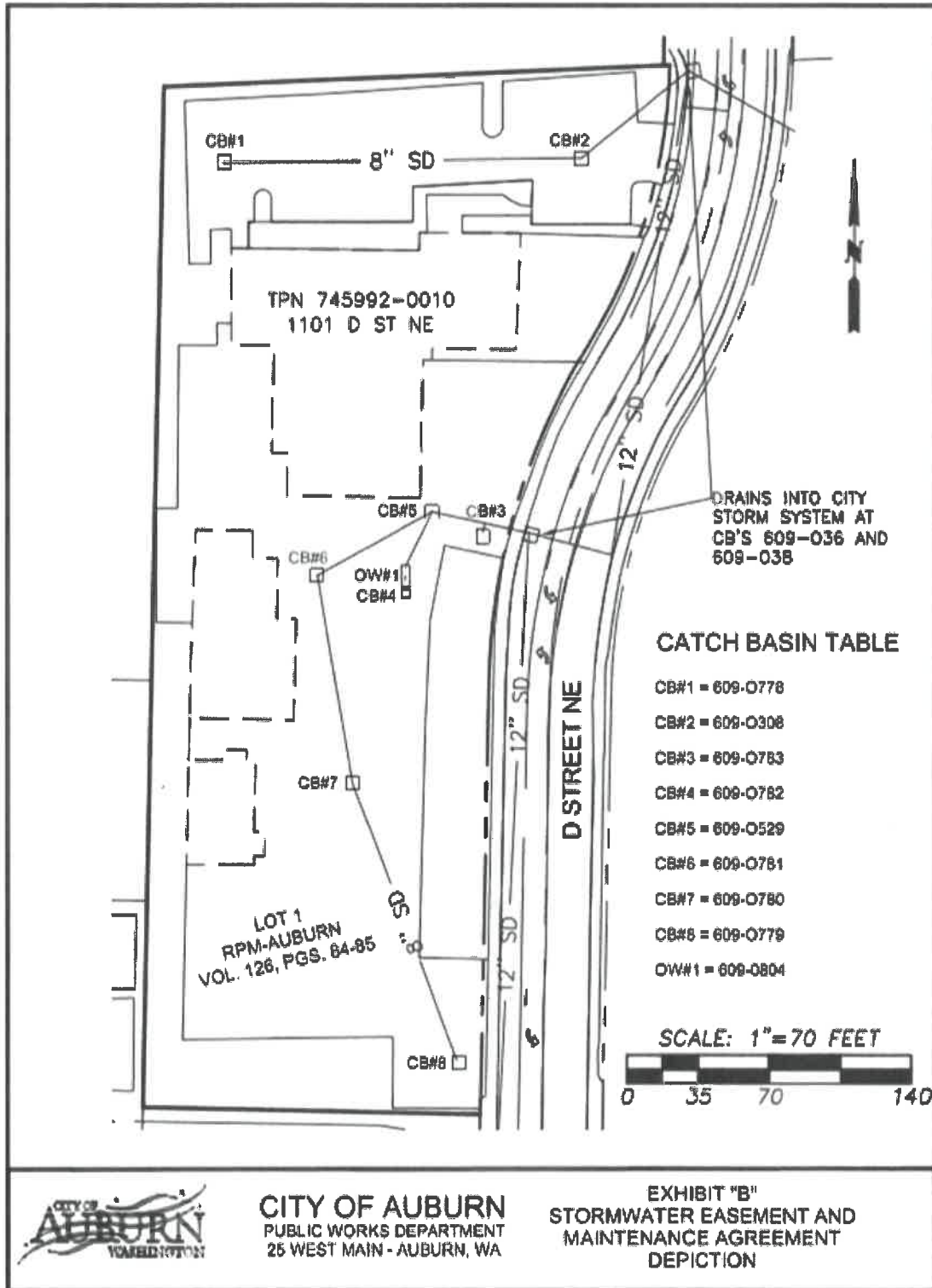


EXHIBIT B-5
Amendment to the Lease Agreement

**FIRST AMENDMENT TO THE LEASE AGREEMENT
BETWEEN THE CITY OF AUBURN AND VALLEY REGIONAL FIRE
AUTHORITY**

THIS AMENDMENT is made and entered into this ____ day of _____, _____, by and between the **CITY OF AUBURN**, a Washington municipal corporation (the "City"), and **VALLEY REGIONAL FIRE AUTHORITY**, a Washington municipal corporation (the "VRFA"), collectively referred to as the "Parties", amending the Lease Agreement between the parties dated August 18, 2008.

RECITALS:

1. On August 18, 2008, Authorized under Resolution 4390 the Parties entered into a lease agreement for VRFA to utilize and occupy City owned properties located at 500 182nd Ave. E ("Station 33"), 1101 D St NE ("Station 31") and 1951 R Street SE ("Station 32") as Fire Stations.
2. On _____, _____, Authorized under Resolution _____ VRFA purchased Station 31 from the City.
3. It is the intent of the parties to remove Station 31, located at 1101 D Street NE, from the definition of "Fire Stations" in the Lease Agreement and to withdraw that property from the leaseholds subject to the Agreement.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, upon execution the following is hereby amended:

- The second recital is amended to read as follows:

"WHEREAS, the City owns land and is willing to lease the land to the VRFA to construct and maintain a future fire station in one location and to use the existing buildings for a fire station at a second location, and"

- The following new section is inserted as section one of the lease and all other sections are renumbered accordingly:

Premises. City owned property located at 1951 R Street SE and a portion of the property located at 500 182nd Ave E (the "Premises" or "Fire

Stations”), as legally described in Exhibit A, is leased to VRFA for those purposes defined in paragraph 6, below.

- A 27th paragraph is added to the Lease Agreement and reads as follow:
“This Agreement and any amendments thereto may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.”
- Exhibit A is amended to read as follows:

LEGAL DESCRIPTION FOR 1951 R STREET SE; AUBURN, WA 98002

LOT 1 OF AUBURN SHORT PLAT SP-6-80 AS RECORDED
KING COUNTY AUDITOR’S FILE #8007080428, BEING
A PORTION OF:

BEGINNING AT THE SOUTHEAST CORNER OF GOVERNMENT LOT 11 IN THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 21, NORTH, RANGE 5 EAST OF THE WM IN THE CITY OF AUBURN, KING COUNTY, WASHINGTON; THENCE NORTH 0°04’45” EAST ALONG THE EAST LINE OF GOVERNMENT LOT 11 IN SAID SECTION 19, A DISTANCE OF 70.08 FEET; THENCE NORTH 43°03’17” WEST ALONG THE CENTERLINE OF VACATED (OLD) HOWARD ROAD EXTENDED A DISTANCE OF 188 FEET, TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID VACATED CENTERLINE NORTH 43°03’17” WEST A DISTANCE OF 547.05 FEET; THENCE SOUTH 46°56’43” WEST A DISTANCE OF 30 FEET TO THE SOUTHWESTERLY MARGIN OF VACATED (OLD) HOWARD ROAD; THENCE NORTH 43°03’17” WEST ALONG SAID VACATED WESTERLY MARGIN, A DISTANCE OF 172.99 FEET; THENCE NORTH 46°56’43” EAST A DISTANCE OF 30 FEET TO THE CENTERLINE OF SAID VACATED (OLD) HOWARD ROAD; THENCE NORTH 43°03’17” WEST ALONG SAID VACATED CENTERLINE A DISTANCE OF 103.02 FEET TO THE SOUTHWESTERLY MARGIN OF THE ACCESS ROAD TO STATE ROAD NO. 5; THENCE SOUTH 62°05’03” EAST ALONG SAID SOUTHWESTERLY MARGIN A DISTANCE OF 555.81 FEET; THENCE CONTINUING ALONG SAID SOUTHWESTERLY MARGIN SOUTH 69°81’50” EAST A DISTANCE OF 149.12 FEET TO THE WESTERLY MARGIN OF “B” STREET SOUTHEAST; THENCE SOUTH 0°04’45” WEST ALONG SAID WESTERLY MARGIN A DISTANCE OF 224.93 FEET; THENCE SOUTH 46°56’43” WEST A DISTANCE OF 93.92 FEET TO THE POINT OF BEGINNING;

SITUATED IN THE COUNTY OF KING, STATE OF WASHINGTON

LEASE AREA LEGAL DESCRIPTION FOR 500 182ND AVE E, AUBURN:

THAT PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER FO THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 20 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, PIERCE COUNTY, WASHINGTON;

EXCEPTING THEREFROM: THE EAST 30.00 FEET THEREOF CONVEYED TO PIERCE COUNTY WITHIN DEED RECORDED UNDER A.F.N. 2277811 AND ALSO EXCEPTING THREFROM ANY PORTION CONVEYED TO EL PASO NATURAL GAS COMPANY BY DEED RECORDED UNDER A.F.N. 2410280.

BEING MORE PARTICULARLY DESCRIBED, AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE ALONG THE NORTH LINE OF SAID SUBDIVISION SOUTH 89°40’15” WEST, 30.06 FEET TO THE WEST LINE OF THE EAST 30.00 FEET CONVEYED TO PIERCE COUNTY BY DEED FILED UNDER AUDITOR’S FILE NUMBER 2277811 AND 2410280 AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID LINE 03°13’05” WEST, 626.08 FEET; THENCE NORTH 88°38’15” WEST, 26.64 FEET; THENCE NORTH 51°20’43”

WEST, 35.93 FEET; THENCE NORTH 23°45'23" WEST, 102.13 FEET; THENCE NORTH 16°20'43" WEST, 140.77 FEET; THENCE NORTH 65°33'31" WEST, 52.66 FEET; THENCE NORTH 89°25'58" WEST, 55.50 FEET; THENCE SOUTH 01°53'10" WEST, 81.16 FEET; THENCE NORTH 89°40'07" WEST, 193.75 FEET; THENCE NORTH 29°12'10" WEST, 8.48 FEET; THENCE NORTH 37°07'09" WEST, 24.20 FEET; THENCE NORTH 74°41'22" WEST, 12.09 FEET; THENCE NORTH 25°55'52" WEST, 12.17 FEET; THENCE NORTH 23°17'44" EAST, 25.20 FEET; THENCE NORTH 00°27'21" WEST, 20.92 FEET; THENCE NORTH 24°32'27" WEST, 78.52 FEET; THENCE NORTH 08°21'07" EAST, 25.04 FEET; THENCE NORTH 20°58'14" WEST, 25.58 FEET; THENCE NORTH 45°48'25" WEST, 17.39 FEET; THENCE NORTH 14°27'49" WEST, 14.04 FEET; THENCE NORTH 00°19'45" WEST, 197.25 FEET TO THE NORTH LINE OF SAID SUBDIVISION; THENCE ALONG SAID LINE NORTH 89°40'15" EAST, 551.63 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON

CONTAINING 231,682 SQUARE FEET OR 5.319 ACRES, MORE OR LESS

ALL OTHER TERMS AND CONDITIONS AGREED TO IN THE LEASE AGREEMENT BETWEEN THE CITY AND VRFA DATED AUGUST 18, 2008 SHALL REMAIN THE SAME.

[Signatures on the following pages]

EXHIBIT C
Seller Disclosure Statement – Environmental

ENVIRONMENTAL DISCLOSURE		Yes	No	Don't Know	N/A
A	Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?			X	
B	Does any part of the property contain fill dirt, waste, or other fill materials?			X	
C	Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?			X	
D	Are there any shorelines, wetlands, floodplains, or critical areas on the property?		X		
E	Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?			X	
F	Has the property been used for commercial or industrial purposes?	X			
G	Is there any soil or groundwater contamination?			X	
H	Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?			X	
I	Has the property been used as a legal or illegal dumping site?		X		
J	Has the property been used as an illegal drug manufacturing site?		X		
K	Are there any radio towers in the area that cause interference with cellular telephone reception?			X	

If you answered yes to any of the following please give further details here.

F) Property is currently used and occupied by the Valley Regional Fire Authority.