

**** Per Section 3 of Anacortes [Resolution 2082](#) Ratifying Proclamation of Emergency and Providing Temporary Procedures to Respond to the COVID-19 Epidemic, adopted by the Anacortes City Council on March 16, 2020, and [Resolution 3038](#), adopted June 28, 2021, extending the duration of portions of Resolution 2082 through September 30, 2021, City Council meetings may be held partially or entirely virtually.**

- Meetings may be viewed on the [City of Anacortes website](#), on the City of Anacortes [YouTube](#) Channel, or on TV [Channel 10](#).
- The public may also watch, listen to, or participate in the meeting live by visiting <https://us02web.zoom.us/j/89255646791> or by telephoning 1-253-215-8782 and entering Meeting ID 892 5564 6791.
- The public is encouraged to comment via email to cityclerk@cityofanacortes.org or via written comment addressed to City Clerk, P.O. Box 547, Anacortes, WA 98221. Public comments received by the [City Clerk](#) prior to 3:00 p.m. the day of the meeting will become part of the record for the meeting, just as if presented in person.
- Complete guidelines for virtual participation in Anacortes City Council meetings are available [here](#). View the quick video example for connecting to the meeting [here](#).



Anacortes City Council
Municipal Building Council Chambers
904 6th Street

**** Attendees in Council Chambers must comply with [Dept. of Health orders](#) ****

September 13, 2021
6:00 PM

PRELIMINARY AGENDA
[Packet Materials](#) / [Watch Meeting](#)

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. COVID-19 Update (Discussion)
 - b. Skagit County Law & Justice Council (Discussion)
 - c. Finance Committee (Discussion)
 - d. Housing Affordability and Community Services Committee (Discussion)
 - e. Personnel Committee (Discussion)
 - f. Planning Committee (Discussion)
4. **Public Comment**
5. **Consent Agenda**
 - a. Minutes of September 7, 2021 (Discussion), (Action)
 - b. Approval of claims in the amount of \$520,829.96 (Action)
 - c. Street Fair Application: Hot September Nights (Action)
 - d. Contract Award: Anacortes Police Department Body Cameras #21-168-APD-001 (Action)

Per Resolution 2044, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk (*) may do so as those items are considered by Council during the course of the meeting.

The City of Anacortes is committed to making public meetings available and accessible to all members of the community.
For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.

6. **Other Business**

- a. * Access Anacortes Fiber Internet Update (Discussion)
- b. * Anacortes Community Forest Lands Management Plan Update (Discussion)
- c. Contract Award: Sensus Water Meter Software #21-136-WTR-001 (Discussion/Action)
- d. Contract Award: Grand View Cemetery Expansion - Phase 2 #19-092-PRK-004 (Action)

7. **Adjournment**

Per Resolution 2044, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk () may do so as those items are considered by Council during the course of the meeting.*

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Anacortes City Council Minutes - September 7, 2021

Call to Order

Mayor Laurie Gere called to order the Anacortes City Council meeting of September 7, 2021 at 6:00 p.m. Councilmembers Jeremy Carter, Anthony Young, Ryan Walters, Christine Cleland-McGrath, Carolyn Moulton, Bruce McDougall and Matt Miller participated in the meeting remotely via Zoom.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

COVID-19 Update: Mayor Gere reported current case statistics and vaccination progress for Anacortes, Skagit County, Washington State. The mayor shared vaccination recommendations and availability.

Proclamation of Childhood Cancer Awareness Month: Mayor Gere read a statement proclaiming September Childhood Cancer Awareness Month in Anacortes.

Finance Committee: Mr. Walters reported from the Committee meeting on August 25. The topics discussed included a proposed Waste Management contract modification, evaluation of financial transparency software, and committee recommendations for ARPA spending.

Housing Affordability and Community Services Committee: Ms. Moulton reported from the Committee meeting held on August 24. The committee members attended a session with staff from many City departments and a guest presenter on the topic of addressing homelessness.

Museum Committee: Ms. Cleland-McGrath reported from the Committee meeting on August 26. The topics discussed included recent staffing changes, the Museum budget for 2022, and the Carnegie Building roofing project.

Fiber Committee: Mr. McDougall reported from the Committee meeting held on August 26. The topics discussed included various actual and potential grant funding streams for the fiber utility, addition of two fiber installation crew members, and current customer statistics.

Port/City Liaison Committee: Ms. Cleland-McGrath reported from the Committee meeting held earlier in the day. The topics discussed included ongoing projects affecting both jurisdictions.

Public Comment

Mark Robinson said his business, NW Permit Services, had experienced difficulty working with a city review technician. Mr. Robinson said he had emailed the Public Works Director for assistance and asked to have a different staff member assigned. He asked Mr. Buckenmeyer to please address his request. Mayor Gere advised that Mr. Buckenmeyer, who had just returned to the office from approved leave, would respond directly to Mr. Robinson.

Consent Agenda

Mr. Miller removed Items D and E, from the Consent Agenda. Mr. Miller moved, seconded by Mr. Young, to approve Consent Agenda items A, B, C and F. The motion carried unanimously by voice vote.

A. Minutes of August 23, 2021

- B. Approval of claims in the amount of \$1,282,385.47
The following vouchers/checks were approved for payment:
EFT numbers: 101033 through 101093 and 101124, total \$1,194,797.39
Check numbers: 101094 through 101123, total \$38,362.15
Wire transfer numbers: 289354 through 289833, total \$3,516.12
- C. Contract Modification: 2021 Waterline Replacements #21-006-WTR-001
- F. Reciprocal Access Agreement with the Port of Anacortes

- D. Contract Modification: WWTP Outfall Permitting Services #20-032-SEW-003
- E. Contract Modification: Anchor QEA - Master Services Agreement #21-024-LEG-001

Mr. Miller asked Public Works Director Fred Buckenmeyer to address the funding for the contract modifications presented on Consent Agenda items D and E. Mr. Buckenmeyer said the Sewer Fund would fund the Outfall project unless FEMA funding became available. Mr. Buckenmeyer said funding for the QEA contract was coming out of the Water Fund but other funding options were being investigated.

Mr. Miller moved, seconded by Mr. Carter, to approve Consent Agenda Items D and E. The motion carried unanimously by voice vote.

PUBLIC HEARINGS

Resolution 3043 Confirming Interim Ordinance 3091 Facilitating Development of Daycares in the R4 Use Zone and Adopting a Work Plan

Planning Director Don Measamer introduced Resolution 3043 for an advertised public hearing. He briefly reviewed the Work Plan that would be adopted by the resolution.

Mayor Gere opened the public hearing. No member of the public wished to address the Council on this topic. The mayor closed the public hearing.

CAROLYN MOULTON moved, seconded by BRUCE MCDOUGALL, to approve Resolution 3043 as presented. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDOUGALL, MATT MILLER. Nays - None. Result: Passed

CLOSED RECORD DECISION HEARING

CUP-2021-0001: Conditional Use Permit for the Cap Sante North Basin RV Park – Port of Anacortes

Senior Planner Libby Grage presented an application from the Port of Anacortes for a Conditional Use Permit for a Recreational Vehicle (RV) Park at Cap Sante Marina North Basin, 611 T Avenue. Ms. Grage's slide presentation was added to the packet materials for the meeting. She advised that an open record public hearing for the application had been held by the Planning Commission on August 11, 2021. The Planning Commission voted to recommend to the City Council approval with conditions of the conditional use permit and site plan application.

Mr. Walters asked to remove Condition 17 regarding intersection engineering. Councilmembers Moulton, Young, Miller, Cleland-McGrath and McDougall agreed.

Mayor Gere invited the applicant to address the Council. No one present wished to do so.

Mr. Walters asked if the storm drainage report referenced in Condition 10 was likely to substantively change the layout of the project. The applicant's project engineer, David Galbraith of Pacific Surveying and Engineering, responded.

Mr. Walters asked about ADA accessible crossings on Market Street. Ms. Grage, Mr. Measamer and Port of Anacortes Director of Planning, Properties & Environmental Brenda Treadwell responded to that question.

BRUCE MCDOUGALL moved, seconded by ANTHONY YOUNG, to approve CUP-2021-0001 amended to remove Condition 17. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDOUGALL, MATT MILLER. Nays - None. Result: Passed

OTHER BUSINESS

Resolution 3050: Authorizing Distribution of Tourism Promotion Funds

Mr. Measamer introduced Resolution 3050 Authorizing Distribution of Tourism Promotion Funds to the City of Anacortes Chamber of Commerce in the amount of \$27,000.00 for the purchase of a Christmas Tree for the City Holiday Celebrations. Mr. Measamer reported that the Lodging Tax Advisory Committee had recommended approval of the resolution.

Ms. Moulton inquired which other tree options had been considered. Chamber of Commerce Tourism Director Christy Lyman responded to that question.

RYAN WALTERS moved, seconded by JEREMY CARTER, to approve Resolution 3050 as presented. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDOUGALL, MATT MILLER. Nays - None. Result: Passed

Adjournment

There being no further business, at approximately 7:15 p.m. the Anacortes City Council meeting of September 7, 2021 was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the September 13, 2021 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
289820	5/31/2021	9978	DALTON, OLMSTED & FUGLEVAND	WWTP OUTFALL PRE-DESIGN - MAY 2021	\$ 42,397.50	pw1
289935	7/13/2021	44858	CORRECT EQUIPMENT, INC	MAINTENANCE SUPPLIES	\$ 1,626.00	dwwtp
289937	7/28/2021	233484	CONTROL FACTORS-SEATTLE INC	MAINTENANCE SUPPLIES	\$ 2,785.74	dwwtp
289936	8/3/2021	9742077	RYAN HERCO PRODUCTS CORP	PS15 ODOR SCRUBBER PUMP	\$ 1,689.20	dwwtp
290171	8/17/2021	25921	ALLMAX SOFTWARE, INC.	OPERATOR 10 DATABASE CONVERSION TO SQL FOR WWTP	\$ 1,000.00	dwwtp
289940	8/17/2021	331 0589978	UNIFIRST CORPORATION	UNIFORM LAUNDRY - FIBER	\$ 40.76	fiber
289826	8/18/2021	BC1425199	GALLS, LLC.	CLASS B UNIFORM ORDER - HUTSELL	\$ 1,490.93	medic
289960	8/18/2021	21-49487a	MILLENNIUM	FIBER OPTIC CABLE	\$ 7,275.13	fiber
289892	8/18/2021	12932	SKAGIT PUBLISHING LLC	PUBLISH AA-132908	\$ 44.66	finance
289893	8/18/2021	12933	SKAGIT PUBLISHING LLC	PUBLISH AA-132911	\$ 44.66	finance
289894	8/18/2021	12934	SKAGIT PUBLISHING LLC	PUBLISH AA-134157	\$ 109.62	finance
289895	8/18/2021	12935	SKAGIT PUBLISHING LLC	PUBLISH AA-134166	\$ 121.80	finance
289896	8/18/2021	12936	SKAGIT PUBLISHING LLC	PUBLISH AA-134169	\$ 129.92	finance
289897	8/18/2021	12937	SKAGIT PUBLISHING LLC	PUBLISH AA-134175	\$ 158.34	finance
289898	8/18/2021	12938	SKAGIT PUBLISHING LLC	PUBLISH AA-134259	\$ 73.08	finance
289899	8/18/2021	12939	SKAGIT PUBLISHING LLC	PUBLISH AA-134442	\$ 146.16	finance
289945	8/18/2021	34094	WESTERN SYSTEMS REFUSE &	STANDARD GRIPPER BELT- #551	\$ 66.51	dshop
289934	8/19/2021	8172021SF	CORPORATION SERVICE COMPANY	CORPORATION SERVICE COMPANY ANNUAL ACCOUNT FEE	\$ 99.00	legal
289333	8/20/2021	2797328	FOSTER GARVEY PC	SAMISH INDIAN NATION MATTER NO. 89	\$ 1,529.00	legal
290161	8/20/2021	9886717953	VERIZON WIRELESS	SCADA COMMUNICATION 07-21 - 08-20 2021	\$ 1,256.84	dwwtp
289671	8/21/2021	171681	LAKESIDE INDUSTRIES, INC.	ROCK SALES, 5/8" X 3/4"	\$ 1,783.31	shopcc
289932	8/23/2021	04053	ANCHOR QEA, LLC	WTP CLEANUP/DEMO MATTER NO. 96	\$ 31,330.15	legal
290155	8/23/2021	14414533	BROWN AND CALDWELL	WWTP SUMMARY OF SOLIDS TREATMENT ALTERNATIVES - 4/24/21-7/8/21	\$ 11,765.18	dwwtp
289943	8/23/2021	0626600-IN	NATIONAL SAFETY, INC	FIRST AID KIT SUPPLIES	\$ 345.98	dshop
289957	8/24/2021	0059263-IN	FURROW PUMP	GRIFFCO CALIBRATION CYLINDER	\$ 359.54	dwwtp
290181	8/24/2021	1127724	LIFE ASSIST, INC	NIBP TUBING ASSEMBLY	\$ 183.52	medic
290167	8/25/2021	1891-082521	CHAVOND-BARRY ENGINEERING CORP	ANNUAL INCINERATOR OPERATOR TRAINING	\$ 13,000.00	dwwtp
290182	8/25/2021	17443330	W S DARLEY & CO	12 EQUIPMENT MOUNTING BRACKETS	\$ 537.34	medic
289822	8/26/2021	6697117	CARDINAL HEALTH 110, INC.	PHARMACEUTICALS	\$ 4.54	medic
289823	8/26/2021	6697135	CARDINAL HEALTH 110, INC.	PHARMACEUTICALS	\$ 6.36	medic
290190	8/26/2021	an805407	CENTRAL WELDING SUPPLY CO, INC	O2 FOR AMBULANCE	\$ 51.55	medic

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
289942	8/26/2021	51305	KRIEG CONSTRUCTION, INC	3/8" HMA- STREET DEPT	\$ 10,197.93	dshop
290179	8/26/2021	9504378875	TELEFLEX LLC	4 BOXES EZ-IO NEEDLES (25MM & 45 MM)	\$ 2,215.50	medic
290191	8/27/2021	136347	FASTENAL COMPANY	WORKGLOVES, BATTERIES	\$ 34.08	medic
290164	8/27/2021	773614	HASA, INC	PLANT CHEMICALS	\$ 3,282.17	dwwtp
289886	8/28/2021	360-299-0813-1017915	ZIPLY FIBER	WWTP 8/28-9/27/21	\$ 313.93	dwwtp
289887	8/28/2021	360-293-6427-0218975	ZIPLY FIBER	CITY HALL 911 8/28-9/27/21	\$ 79.66	finance
290028	8/28/2021	360-293-3725-0501135	ZIPLY FIBER	DEPOT PHONE 08/28-09/27/21	\$ 67.53	parks1
290031	8/28/2021	360-588-1422-0822015	ZIPLY FIBER	APD BUSINESS LINE 8/28-9/27/21	\$ 299.58	apd
290032	8/28/2021	360-588-9248-0619005	ZIPLY FIBER	APD BACKUP LINE 8/28-9/27/21	\$ 206.46	apd
290033	8/28/2021	360-299-6615-0615165	ZIPLY FIBER	APD 911 LINE 8/28-9/27/21	\$ 73.27	apd
290034	8/28/2021	360-293-4900-0912865	ZIPLY FIBER	APD BAC LINE 8/28-9/27/21	\$ 86.08	apd
290186	8/28/2021	360-299-2484-0726025	ZIPLY FIBER	LIBRARY PHONE 8/28-9/27/21	\$ 56.88	publib
290192	8/28/2021	360-293-9063-0926075	ZIPLY FIBER	WI-FI FOR 29-3 8/2-9/27/21	\$ 90.05	medic
290176	8/29/2021	ReimbLamp	LAMP, DANIEL	REIMBURSEMENT FOR STA BOOTS (OR	\$ 100.00	medic
289939	8/30/2021	9323131041	GRAYBAR ELECTRIC COMPANY, INC	FIBER OPTIC PATCH CABLES	\$ 1,107.29	fiber
289889	8/30/2021	1883796	MILES SAND & GRAVEL CO.	CRUSHED ROCK / COMMERCIAL & FIDALGO AVE	\$ 509.16	dshop
289883	8/30/2021	MV260186	MOTOR TRUCKS, INC	PIGTAIL #512	\$ 2.08	dshop
289881	8/30/2021	233815	NAPA	COUPLER- SHOP	\$ 23.93	dshop
289882	8/30/2021	233812	NAPA	COUPLER, GREASE- SHOP	\$ 10.65	dshop
289941	8/30/2021	233798	NAPA	RING TERMINALS- #213	\$ 30.70	dshop
289948	8/30/2021	300000006951	PUGET SOUND ENERGY INC	STREET LIGHTS: 07/29- 08/27/21	\$ 385.79	dshop
289949	8/30/2021	300000290043	PUGET SOUND ENERGY INC	STREET LIGHTS: 07/01- 07/30/21	\$ 17,596.04	dshop
290003	8/30/2021	300000325005	PUGET SOUND ENERGY INC	STREET LIGHTS: 07/09- 08/06/2021	\$ 78.92	dshop
290011	8/30/2021	300000340004	PUGET SOUND ENERGY INC	STREET LIGHTS: 07/29- 08/27/21	\$ 80.18	dshop
290178	8/30/2021	3184	SKAGIT 911	2ND QTR 2021 FIRE MOBILE (SPILLMAN)	\$ 1,091.41	medic
289834	8/30/2021	49412879	UNIVAR USA INC	SODIUM HYDROXIDE (CAUSTIC)	\$ 3,465.35	dwwtp
289962	8/31/2021	248 984 6277 5	CASCADE NATURAL GAS CORP.	WTP 7/31-8/30/21	\$ 743.18	dwwtp
290193	8/31/2021	136397	FASTENAL COMPANY	BATTERIES	\$ 12.44	medic
290158	8/31/2021	AUG 2021	KORTERUD, WAYNE D	INDIGENT SCREENING AUGUST	\$ 375.00	court
290170	8/31/2021	172522	LAKESIDE INDUSTRIES, INC.	RAILROAD BALLAST- STREET DEPT	\$ 199.60	dshop
290174	8/31/2021	172520	LAKESIDE INDUSTRIES, INC.	DUMP FEES- COMMERCIAL & FIDALGO PROJECT	\$ 40.50	dshop

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
290143	8/31/2021	445	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 19.50	court
290144	8/31/2021	449	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 91.00	court
290145	8/31/2021	448	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 65.00	court
290146	8/31/2021	450	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 39.00	court
290147	8/31/2021	447	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 520.00	court
290148	8/31/2021	446	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 71.50	court
290149	8/31/2021	451	LAW OFFICE OF CARA LORENZO	PUB DEF CONFL	\$ 299.00	court
290180	8/31/2021	IN1615723	MUNICIPAL EMERGENCY SERVICES	REPAIR AND PARTS FOR COMPRESSOR NOZZLE	\$ 139.26	medic
290157	8/31/2021	0821	NELSON, BONNIE	AGING MASTERY PROGRAM ADMINISTRATION - AUGUST 2021	\$ 400.00	parks1
290005	8/31/2021	9973	PETDATA, INC	PETDATA LICENSING FEES AUGUST	\$ 110.70	finance
290015	8/31/2021	220025931985	PUGET SOUND ENERGY INC	CHERRY LN & ORCHARD AVE STREET LIGHTS: 07/31- 08/31/21	\$ 7.58	dshop
290183	8/31/2021	200000666863	PUGET SOUND ENERGY INC	LIBRARY 10TH STREET LED 7/31-8/31/21	\$ 9.43	publib
290184	8/31/2021	200000667218	PUGET SOUND ENERGY INC	LIBRARY 10TH & M ST 7/31-8/31/21	\$ 20.03	publib
290017	8/31/2021	022583	REECE, STORMIE	DEPOT CLEANING AUGUST 2021	\$ 792.00	parks1
290037	8/31/2021	0173	SKAGIT COUNTY SOLID WASTE FUND	AUGUST TONNAGE HAULED	\$ 87,331.59	dshop
290007	8/31/2021	INV00672121	SMARSH, INC	TEXT ARCHIVING PLATFORM 8/1-8/31/21	\$ 174.16	infosys
289946	8/31/2021	P16007-09	SONSRAY MACHINERY, LLC	REAR WINDOW PARTS- #406	\$ 1,115.04	dshop
290159	8/31/2021	128680	SUMMIT LAW GROUP, PLLC	LEGAL SERVICES	\$ 432.00	hr
290019	8/31/2021	331 0592102	UNIFIRST CORPORATION	UNIFORM LAUNDRY - FIBER	\$ 40.76	fiber
290153	8/31/2021	1080118	UTILITIES UNDERGROUND LOCATION	AUGUST LOCATE TICKETS	\$ 233.49	dshop
290169	9/1/2021	20279	ALL AMERICAN LEADERSHIP	SEPTEMBER 2021 ONLINE LEADERSHIP DEV PROGRAM	\$ 1,000.00	pw1
290004	9/1/2021	RI105024272	FRANCOTYP-POSTALIA, INC	MAILING MACHINE QUARTERLY RENTAL 9/1-11/30/21	\$ 130.43	finance
290001	9/1/2021	59432	G12 COMMUNICATIONS	SIP TRUNKS 9/1-9/30/21	\$ 971.56	infosys
289953	9/1/2021	I5893861	HD FOWLER COMPANY INC	KUPFERLE SAMPLING STATIONS X 2	\$ 2,114.00	dwtp
289944	9/1/2021	410501-21	IDENTIFIX	YEARLY ONLINE MANUALS & DIAGNOSTIC SERVICE- SHOP	\$ 1,428.00	dshop
289938	9/1/2021	234071	NAPA	OIL & AIR FILTER- #514	\$ 124.39	dshop
290185	9/1/2021	1000159377	OCLC, INC	CATALOGING, ILL, FIRSTSEARCH/WORLDCAT DISCOVERY (9-1 TO 9-30 2021)	\$ 379.03	publib
290156	9/1/2021	PS-INV107814	PORT OF ANACORTES	ASPHALT REPAIRS AT SEAFARER'S WAY, A DOCK	\$ 10,288.96	wdist
289961	9/1/2021	200012505505	PUGET SOUND ENERGY INC	WTP 8/1-8/31/21	\$ 106,256.94	dwtp
290166	9/1/2021	0273909-IN	REISNER DISTRIBUTOR INC	INCINERATOR FUEL	\$ 404.71	dwwtp
289955	9/1/2021	5062718972	RICOH USA, INC	S/N C86152062 HR COPIES 8/1-8/31/21	\$ 8.16	finance
289956	9/1/2021	5062719102	RICOH USA, INC	S/N C86150637 CARNEGIE 6/1-8/31/21	\$ 174.93	museum
289958	9/1/2021	5062719835	RICOH USA, INC	S/N C86111493 COURT 6/1-8/31/21	\$ 92.77	finance

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
289959	9/1/2021	5062720011	RICOH USA, INC	S/N C86079893 LIBRARY PUBLIC 6/1-8/31/21	\$ 7,030.44	publib
290027	9/1/2021	5062719953	RICOH USA, INC	S/N C86138600 APD HALLWAY 6/1-8/31/21	\$ 32.05	apd
290029	9/1/2021	5062719119	RICOH USA, INC	S/N C86138599 APD FRONT OFFICE COPIES 8/1-8/31/21	\$ 37.32	apd
290168	9/1/2021	GB00100301	TRANSAMERICA LIFE INS CO	LEOFF LONG-TERM CARE INSURANCE	\$ 634.98	hr
289832	9/1/2021	331 0592246	UNIFIRST CORPORATION	WTP LAUNDRY SERVICE	\$ 107.57	dwtp
290002	9/1/2021	714630	USA BLUE BOOK	LIQUINOX DETERGENT	\$ 86.72	dwtp
289947	9/1/2021	128480	VENTEK INTERNATIONAL	MONTHLY HOSTING FEE 09/01-09/30/21	\$ 135.00	parks1
290012	9/1/2021	22000912	WASHINGTON STATE PATROL	SR CENTER BACKGROUND CHECK	\$ 55.00	parks1
290014	9/1/2021	22001331	WASHINGTON STATE PATROL	RECREATION BACKGROUND CHECK	\$ 231.00	pkrec
290035	9/1/2021	22000852	WASHINGTON STATE PATROL	BACKGROUND CHECKS; AUGUST 2021	\$ 185.50	apd
290010	9/1/2021	1393984-0043-8	WASTE MANAGEMENT	AUGUST 2021 CONTRACTED SERVICES	\$ 119,104.49	finance
290018	9/1/2021	2299398-0043-4	WASTE MANAGEMENT	WTP TRASH, RECYCLING PICKUP 8/1/21-8/31/21	\$ 161.69	dwtp
290008	9/1/2021	102958801-0009020	WAVE	DEDICATED INTERNET ACCESS 9/1-9/30/21	\$ 1,469.82	fiber
290009	9/1/2021	102583701-0009020	WAVE	DEDICATED INTERNET ACCESS 9/1-9/30/21	\$ 1,469.82	fiber
289888	9/1/2021	360-299-3674-0214175	ZIPLY FIBER	OPS PHONE LINE 8/28 - 9/27/21	\$ 71.17	dshop
290152	9/1/2021	360-293-1900-0122885	ZIPLY FIBER	CITY MAIN PHONE 9/1-9/30/21	\$ 1,261.27	finance
290196	9/1/2021	360-293-0045-0223175	ZIPLY FIBER	BACK-UP LINES @ 29-1 9/1-9/30/21	\$ 155.23	medic
289952	9/2/2021	25900	CAP SANTE MARINE LTD	DNR COMPLIANCE WORK	\$ 1,216.60	plan
290013	9/2/2021	12625254	HACH COMPANY	PH BUFFER PILLOWS 7.00	\$ 102.31	dwtp
290016	9/2/2021	12625255	HACH COMPANY	PH BUFFER PILLOWS 7.00	\$ 102.31	dwtp
289950	9/2/2021	RefundMilless	MILLESS, JENNIFER	WA PARK CAMPGROUND REFUND	\$ 61.00	parks1
289954	9/2/2021	114180	WALTON BEVERAGE COMPANY, INC	WTP BREAKROOM SUPPLIES	\$ 74.00	dwtp
290006	9/2/2021	114176	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 148.00	finance
290022	9/2/2021	114178	WALTON BEVERAGE COMPANY, INC	OPS BREAKROOM SUPPLIES	\$ 77.25	dshop
290175	9/2/2021	114175	WALTON BEVERAGE COMPANY, INC	AFD BREAKROOM SUPPLIES	\$ 213.00	medic
290154	9/3/2021	AUG2021	CABOT DOW ASSOCIATES, INC.	COMPENSATION STUDY WORK PROJECT - 8/1 - 8/31/21	\$ 4,000.00	hr
290030	9/3/2021	RefundGraham	GRAHAM, HEATHER	WA PARK CAMPGROUND REFUND	\$ 70.00	parks1
290020	9/3/2021	4009	SIGNDOG NW	SIGNAGE FOR FIBER VAN	\$ 1,421.63	fiber
290021	9/3/2021	4010	SIGNDOG NW	SIGNAGE FOR FIBER TRUCKS	\$ 580.99	fiber
290177	9/7/2021	6718066	CARDINAL HEALTH 110, INC.	PHARMA - ALBUTEROL	\$ 4.54	medic
289951	9/27/2021	773616	HASA, INC	SODIUM HYPOCHLORITE	\$ 936.68	dwtp

Total **\$520,829.96**



City Council Agenda Bill

Meeting Date: September 13,
2021

Agenda Item: 5.c.

Agenda Item Title: Street Fair Application: Hot September Nights

Staff Contact(s): DON MEASAMER

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
DON MEASAMER	Motion

Item Summary: Classic car show Sunday, September 26, 2021, from **12:30 pm to 3 pm**. (Note that Applicant has reduced the event duration from what was submitted on the application.) Street closure will be 5th Street between Commercial Avenue and Q Avenue. Estimated attendance 100 people.

Budget Impact:
None

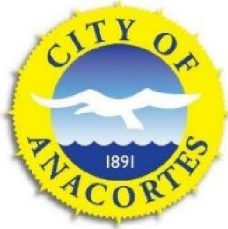
Previous Action: None

Recommended Motion: I move to approve this Street Fair Application as submitted

Alternative Actions: Deny or approve with modifications

Attachments (listed in order presented):

1. Street Fair Application
2. Event Map
3. Indemnification Agreement



Street Fair Application

Per AMC 7.04.040, application shall be filed not less than ninety days in advance of the date on which the event is to occur, if the event requires the closure of any highway or street, any detouring traffic, or any significant impact on city services. Other events not requiring the foregoing are to be filed not less than sixty days in advance of the proposed event. Applicants will be notified when the application is scheduled for consideration by City Council, and will again be notified when City Council either approves or denies the application. Following application approval, applicants will be provided with contact numbers for relevant city departments. Applicants are responsible to for contacting individual City departments to request services for the event, such as traffic control, solid waste removal, and food service inspection.

View Anacortes Municipal Code [Chapter 7.04, Special Events](#)

Application

**Application Date ***

8/18/2021

Event Name *

Hot September Nights

Applicant/Organization Name *

Johnny Picassos LLc

Mailing Address *

501 commercial ave

Event Contact Person *

john archibald

Event Contact Email *

johnjarchibald@gmail.com

Event Contact Phone *

(360) 299-2755

Event Website

johnnypicassos@gmail.com

Estimated Number of Participants/Attendees *

100

Event Description *

Classic car show

Will food vendors participate in this event? *

All Food Vendors must be inspected by the Fire Marshall on site prior to the start of the event.

☒ Yes ☐ No

Date Event Starts *

9/26/2021

Time Event Starts *

12:00:00 PM

Date Event Ends *

9/26/2021

Time Event Ends *

6:00:00 PM

Date Street Closure Starts *

Include requested closures before and after the event hours if required for set up and tear down.

9/26/2021

Time Street Closure Starts *

12:00:00 PM

Date Street Closure Ends *

9/26/2021

Time Street Closure Ends *

7:00:00 PM

Event Location *

List end points of each street that will be closed (e.g. 6th Street from O Ave to Q Ave). Also include location and dimensions of any structures that will be erected and locations of the event that will not be on city street right of way.

End points are the end of 5th street at Commercial and Q Street

Parking Location

List any public parking areas that the event requests to use for dedicated event parking, including handicapped parking.

We are requesting all parking areas located within 5th street closure including handicap space. We would like to add city hall parking in order to provide more space . This will provide for handicap parking and more show car space. The parking lot request removes show car vehicles that may otherwise occupy the center of 5th street, blocking the right of way to any

Event Map (optional)

Upload one or more maps of the event

Hot September Nights
Map.pdf 320.31KB

Indemnification Agreement *

Upload scan of SIGNED indemnification agreement

City of Anacortes
Indemnification Agreement.pdf 285.53KB

Download the Indemnification Agreement [here](#).

Signage

Street closure signs will be provided by the City of Anacortes. Applicants must contact City staff one week prior to the event to arrange sign delivery. Event sponsor personnel are responsible for placing street closure signs, which may not be posted more that 48 hours prior to the approved closure, must be removed immediately following the event, and must be returned to city staff the first business day following the event.

Insurance

The applicant may be required to provide public liability insurance subject to the provisions of AMC 7.04.100. Applicants will be notified following application approval of insurance requirements for the specific event.

Electronic Signature Agreement

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

I state that I am over the age of 18, that I agree to assume responsibility for the above-described event and to abide by all conditions stipulated by the approval of the application. *

☒ Yes

Signature



Admin Review

Council Meeting Date *

Target date for presentation to City Council; no later than 30 days prior to event

9/7/2021

Staff Review Deadline *

Staff review/approval required no later than 7 days prior to City Council meeting to allow packet preparation

8/31/2021

Administrator comments and conditions of approval

Please note request to use City Parking lot.

Insurance Certificate

Insurance certificate may be required by staff or as a condition of Council approval



Departmental Review



Building Department will provide the following services for this event:

Building Department concerns, objections, or conditions of approval *

Must leave access open to both driveways to the Majestic Parking lot from Q Avenue

Fire Department will provide the following services for this event:

Fire Department concerns, objections, or conditions of approval *

All food vendors must comply with City of Anacortes codes, rules, and regulations.

Parks Department will provide the following services for this event:

Parks Department concerns, objections, or conditions of approval *

None

Police Department will provide the following services for this event:

normal police patrols

Police Department concerns, objections, or conditions of approval *

None

Public Works Department will provide the following services for this event:

signs if asked for in advance.

Public Works Department concerns, objections, or conditions of approval *

none

Departmental attachments

Upload any staff memos, guidelines, or requirements that will be in effect for this event.

City Council Decision

City Council Decision *

☐ Approved ☐ Approved with conditions ☐ Denied

City Council Decision Date *

Conditions of Approval

WebClient Path

Submit

by Anonymous User 8/18/2021 4:00:33 PM (Submit Form)

Route to Department H...

by Stewart, Joann 8/19/2021 10:42:38 AM (Admin Review)

- The task was assigned to Stewart, Joann 8/18/2021 4:00 PM

Approve

by Ludemann, WiL 8/19/2021 11:36:00 AM (Public Works Review)

- Ludemann, WiL assigned the task to Ludemann, WiL 8/19/2021 11:35 AM
- The task was assigned to Ludemann, WiL, Koegel, Matt. The due date is: August 31, 2021 5:00 PM 8/19/2021 10:42 AM

Approve

by Lunsford, Jonn 8/19/2021 10:45:39 AM (Parks Director Review)

- The task was assigned to Lunsford, Jonn. The due date is: August 31, 2021 5:00 PM 8/19/2021 10:42 AM

Approve

by Fuller, Chris 8/19/2021 1:58:19 PM (Police Chief Review)

- The task was assigned to Fuller, Chris. The due date is: August 31, 2021 5:00 PM 8/19/2021 10:42 AM

Approve

by Kennedy, Jack 8/23/2021 4:36:09 PM (Fire Marshall Review)

- The task was assigned to Kennedy, Jack. The due date is: August 31, 2021 5:00 PM 8/19/2021 10:42 AM

Object

by Measamer, Don 8/19/2021 11:23:06 AM (Building Department Review)

- The task was assigned to Measamer, Don. The due date is: August 31, 2021 5:00 PM 8/19/2021 10:42 AM

Re-Route Application

by Measamer, Don 9/1/2021 12:20:51 PM (Administrator Resolves Objection)

- Majestic requests that their parking lot driveways remain accessible to guests, leave north side of street open to the west side of the westerly driveway.
- Hunt, Marcia reassigned the task to Measamer, Don 9/1/2021 8:16 AM
- The task was assigned to Stewart, Joann 8/19/2021 11:23 AM

Staff Review Complete

by Measamer, Don 9/1/2021 12:23:01 PM (Admin Monitoring)

- Must leave access open to both of the Majestic driveways to the parking lot on north side of street from Q Avenue
- The task was assigned to Measamer, Don. The due date is: August 31, 2021 5:00 PM 9/1/2021 12:20 PM

Approve

by Measamer, Don 9/1/2021 12:23:51 PM (Building Department Review)

- The task was assigned to Measamer, Don. The due date is: August 31, 2021 5:00 PM 9/1/2021 12:20 PM

'Admin Monitoring' assigned to Stewart, Joann 8/19/2021 10:42:40 AM

'Public Works Review' assigned to Ludemann, WiL, Koegel, Matt 8/19/2021 10:42:40 AM

'Parks Director Review' assigned to Lunsford, Jonn 8/19/2021 10:42:40 AM

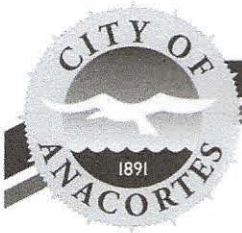
'Police Chief Review' assigned to Fuller, Chris 8/19/2021 10:42:40 AM

'Fire Marshall Review' assigned to Kennedy, Jack 8/19/2021 10:42:40 AM

Google Maps



Map data ©2021 50 ft



SPECIAL EVENT INDEMNIFICATION AGREEMENT

The undersigned applicant, by signing below, certifies that the applicant is the authorized officer of the sponsoring organization and agrees as follows:

Pursuant to Anacortes Municipal Code Title 7.04.090, the undersigned applicant agrees to defend, indemnify and hold the City of Anacortes, its agents, employees and officers, harmless from any and all claims, injuries, suits, damages, losses, demands and judgments including the attorneys' fees and other costs of their defense, arising out of in whole or in part, the activities, omissions or appliances of the applicant, his employees, agents, volunteers or otherwise, except any claims arising from the sole negligence of the City. The applicant further agrees to comply with all provisions of pertinent laws, rules and regulations, and agrees that any failure to so comply may lead to revocation of an applicant's permit. This Indemnification Agreement constitutes substantial adequate consideration in return for the City's issuance of a special event permit.

Date: 8-11-2021

John J. Archibald
Name and Title – Printed

John Archibald
Name and Title – Printed

Owner Johnny Pizaros LLC
Signature

[Signature]
Signature



City Council Agenda Bill

Meeting Date: September 13,
2021

Agenda Item: 5.d.

Agenda Item Title: Contract Award: Anacortes Police Department Body Cameras
#21-168-APD-001

Staff Contact(s): DAVE FLOYD

Approved for Submittal to Council by **Action Type**
TIFFANY MATSON Contract Award

Item Summary: City staff seeks City Council consent to award a contract in the amount of \$109,085.06 to WatchGuard Video for the purchase of body cameras for the Anacortes Police Department. This agreement provides for all hardware, cloud-based evidence management system, user licenses, on-site assist install, training, and five years of 24/7 support.

Background:

1. History: During the 2020-2021 Legislative Session, [House Bill 1223](#) was put into law which requires, in part, for law enforcement agencies to electronically record custodial interrogations by January 1, 2022.
2. Key Terms:
 - Contract is for a fixed price of \$109,085.06 over a 5 year period. The per year breakdown is:

Year 1	\$28,973.44
Year 2	\$20,027.90
Year 3	\$20,027.90
Year 4	\$20,027.90
Year 5	\$20,027.90

1. Competitive Bidding: The City has a cooperative purchasing agreement with

Sourcewell and is procuring this equipment and service through contract [010720-WCH](#).

Budget Impact:

Contractor	WatchGuard Video
Contract Amount	\$109,085.06 over 5 years
BARS #	001.310.521.70.31
Budget Amendment Required?	Yes (already completed in last budget amendment)

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign contract 21-168-APD-001 with WatchGuard Video in the amount of \$109,085.06 for the purchase of Anacortes Police Department Body Cameras.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. 21-168-APD-001

WatchGuard Video

415 E. Exchange
 Allen, TX 75002
 (P) 800-605-6734 (F) 212-383-9661

**Prepared For:**

Anacortes Police Department - Attention: Chris Fuller
 30 V300 VaaS

QUOTATION - MCH-0168-03**DATE: 06-28-21****PROJECT QUOTATION**

We at WatchGuard Video are pleased to quote the following systems for the above referenced project:

Video-As-A-Service

Deliverables / Materials / Services	Qty	Unit Price	Amount
Body-worn camera and evidence management software - 5 Year Video-as-a-Service Package @ \$49 per Month AAS-BWC-5YR-001 (PaaS) Video-as-a-Service includes CommandCentral Evidence, the cloud-based evidence management system with unlimited device storage and unlimited cloud sharing. User licenses on a per-device basis. 50 GB of non-device storage included per device, averaged across all devices in the program CommandCentral Evidence, Records, Redaction, Sharing, Community Engagement capabilities and capture application included. Body-worn camera (battery + choice of mount included) Third year technology (Hardware) refresh. 5-year agreement (billed Quarterly or Annually) Advanced hardware replacement service & 24/7 support No-Fault hardware warranty	30	\$2,940.00	\$88,200.00
Transfer Station (8 Bay) Video-as-a-Service Package @ \$30 per Month AAS-BWC-XFS-DOC (PaaS) 8-Bay Ethernet Transfer Station Ethernet Cable, Rack mount (optional) & Power Cord	2	\$1,800.00	\$3,600.00
USB Docking Station Video-as-a-Service Package @ \$4 per Month AAS-BWC-USB-DOC (PaaS) USB Dock for Body-worn camera including USB Cable	1	\$240.00	\$240.00
Subtotal Price			\$92,040.00

Initial Cost

Deliverables / Materials / Services	Qty	Unit Price	Amount
Managed Software Installation Service; On-Site Assist Install, Training, Configuration, Project Management, Consultation WGW00122-400	1	\$5,000.00	\$5,000.00
V300, Battery, Removable and Rechargeable, 3.8V, 4180mAh WGP02614	28	\$99.00	\$2,772.00
Pre Configured V300 Transfer Station II with Power Supply and Cables. INCLUDED BW-ACK-V3-TSC V300 Transfer Station II TS02, D350, 8-Slot Rack Mount Charge/Upload Dock, 10GB includes kit with Power Supply and Cables.	1	\$0.00	\$0.00
V300 CAMERA MOUNT, M330 MOLLE LOOP W/ QUICK RELEASE LEVERS INCLUDED WGP02836	10	\$50.00	\$0.00
Subtotal Price			\$7,772.00

Deliverables / Materials / Services	Qty	Unit Price	Amount
Spillman Integration (Included - discount \$16,800) 000-000	1	\$16,800.00	\$0.00
Freight Charge (BWC) TEST_FREIGHT_PN FOB First Destination	30	\$15.00	\$450.00
Subtotal Price			\$450.00

5-Year Cost Breakdown

Year 1 - \$26,630.00
Year 2 - \$18,408.00
Year 3 - \$18,408.00
Year 4 - \$18,408.00
Year 5 - \$18,408.00

BY SIGNING BELOW, THE PARTIES AGREE THAT THIS QUOTE SHALL BE GOVERNED BY THE NEGOTIATED MASTER CUSTOMER AGREEMENT AND SOURCEWELL CONTRACT #010720-WCH Effective 02/21/2020 - 02/21/2024, WHICH ARE HEREBY INCORPORATED BY REFERENCE AND MADE APART HEREOF. THE PARTIES AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF AGREEMENTS REFERENCED HEREIN.

WatchGuard Video, Inc.

Customer: City of Anacortes

By: _____

By: _____

Name: _____

Name: Laurie Gere

Title: _____

Title: Mayor

Date: _____

Date: _____

Negotiated Master Customer Agreement

This Negotiated Master Customer Agreement (the “**MCA**”) is entered into between WatchGuard Video, Inc., with offices at 415 E. Exchange Parkway, Allen, TX 75002 (“**WatchGuard**”) and the entity set forth in the signature block below (“**Customer**” or “**City**”). WatchGuard and Customer will each be referred to herein as a “**Party**” and collectively as the “**Parties**”. This Agreement (as defined below) is effective as of the date of the last signature (the “**Effective Date**”).

1. Agreement.

1.1. Scope; Agreement Documents. This MCA governs Customer’s purchase of Products (as defined below) and Services (as defined below) from WatchGuard. Additional terms and conditions applicable to specific Products and Services are set forth in one or more addenda attached to this MCA (each an “**Addendum**”, and collectively the “**Addenda**”). In addition, the Parties may agree upon solution descriptions, equipment lists, statements of work, schedules, technical specifications, and other ordering documents setting forth the Products and Services to be purchased by Customer and provided by WatchGuard and additional rights and obligations of the Parties (the “**Ordering Documents**”). To the extent required by applicable procurement law, a proposal submitted by WatchGuard in response to a competitive procurement process will be included within the meaning of the term Ordering Documents. This MCA, the Addenda, and any Ordering Documents collectively form the Parties’ “**Agreement**”.

1.2. Order of Precedence. Each Addendum will control with respect to conflicting terms in the MCA, but only as applicable to the Products and Services described in such Addendum. Each Ordering Document will control with respect to conflicting terms in the MCA or any Addenda, but only as applicable to the Products and Services described on such Ordering Document.

2. Products and Services.

2.1. Products. WatchGuard will (a) sell hardware provided by WatchGuard (“**Equipment**”), (b) license software which is either preinstalled on Equipment or installed on Customer-Provided Equipment (as defined below) and licensed to Customer by WatchGuard for a perpetual or other defined license term (“**Licensed Software**”), and (c) license cloud-based software as a service products and other software which is either preinstalled on Equipment or installed on Customer-Provided Equipment, but licensed to Customer by WatchGuard on a subscription basis (“**Subscription Software**”) to Customer, to the extent each is set forth in an Ordering Document, for Customer’s own use in accordance with this Agreement. The Equipment, Licensed Software, and Subscription Software shall collectively be referred to herein as “**Products**”, or individually as a “**Product**”. At any time during the Term (as defined below), WatchGuard may substitute any Products at no cost to Customer, if the substitute is substantially similar to the Products set forth in the applicable Ordering Documents.

2.2. Services.

2.2.1. WatchGuard will provide services related to purchased Products (“**Services**”), to the extent set forth in an Ordering Document.

2.2.2. Integration Services; Maintenance and Support Services. If specified in an Ordering Document, WatchGuard will provide, for the term of such Ordering Document, (a) design, deployment, and integration Services in order to design, install, set up, configure, and/or integrate the applicable Products at the applicable locations (“**Sites**”), agreed upon by the Parties (“**Integration Services**”), or (b)

break/fix maintenance, technical support, or other Services (such as software integration Services) ("**Maintenance and Support Services**"), each as further described in the applicable statement of work. Maintenance and Support Services and Integration Services will each be considered "Services", as defined above.

2.2.3. Service Ordering Documents. The Fees for Services will be set forth in an Ordering Document and any applicable project schedules. A Customer point of contact will be set forth in the applicable statement of work for the Services. For purposes of clarity, each statement of work will be incorporated into, and form an integral part of, the Agreement.

2.2.4. Service Completion. Unless otherwise specified in the applicable Ordering Document, Services described in an Ordering Document will be deemed complete upon WatchGuard's performance of all Services listed in such Ordering Document ("**Service Completion Date**"); provided, however, that Maintenance and Support Services may be offered on an ongoing basis during a given Ordering Document term, in which case such Maintenance and Support Services will conclude upon the expiration or termination of such Ordering Document.

2.3. Non-Preclusion. If, in connection with the Products and Services provided under this Agreement, WatchGuard makes recommendations, including a recommendation to purchase other products or services, nothing in this Agreement precludes WatchGuard from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement standards or other laws, regulations, or policies.

2.4. Customer Obligations. Customer will ensure that information Customer provides to WatchGuard in connection with receipt of Products and Services are accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for WatchGuard to provide the Products and Services and perform its other duties under this Agreement. Unless the applicable Ordering Document states otherwise, WatchGuard may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions or Customer information, decisions, or approvals described in this Section. If any assumptions in the Ordering Documents or information provided by Customer prove to be incorrect, or if Customer fails to perform any of its obligations under this Agreement, WatchGuard's ability to perform its obligations may be impacted and changes to the Agreement, including the scope, Fees, and performance schedule may be required.

2.5. Documentation. Products and Services may be delivered with documentation for the Equipment, software Products, or data that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information (collectively, "**Documentation**"). Documentation is and will be owned by WatchGuard, and unless otherwise expressly agreed in an Addendum or Ordering Document that certain Documentation will be owned by Customer. WatchGuard hereby grants Customer a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Products and Services.

2.6. WatchGuard Tools and Equipment. As part of delivering the Products and Services, WatchGuard may provide certain tools, equipment, models, and other materials of its own. Such tools and equipment will remain the sole property of WatchGuard. unless they are to be purchased by Customer as Products and are explicitly listed on an Ordering Document. The tools and

equipment may be held by Customer for WatchGuard's use without charge and may be removed from Customer's premises by WatchGuard at any time without restriction. Customer will safeguard all tools and equipment while in Customer's custody or control, and be liable for any loss or damage. Upon the expiration or earlier termination of this Agreement, Customer, at its expense, will return to WatchGuard all tools and equipment in its possession or control.

2.7. Authorized Users. Customer will ensure its employees and Authorized Users comply with the terms of this Agreement and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users' names, passwords and login credentials for access to Products and Services. "**Authorized Users**" are Customer's employees, full-time contractors engaged for the purpose of supporting the Products and Services that are not competitors of WatchGuard, and the entities (if any) specified in an Ordering Document or otherwise approved by WatchGuard in writing (email from an authorized WatchGuard signatory accepted), which may include affiliates or other Customer agencies.

2.8. Export Control. Customer, its employees, and any other Authorized Users will not access or use the Products and Services in any jurisdiction in which the provision of such Products and Services is prohibited under applicable laws or regulations (a "**Prohibited Jurisdiction**"), and Customer will not provide access to the Products and Services to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Authorized Users are not named on any U.S. government list of persons prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it and its Authorized Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Authorized Users to access or use the Products or Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Authorized Users will comply with all applicable laws regarding the transmission of technical data exported from the U.S. and the country in which Customer, its employees, and the Authorized Users are located.

2.9. Change Orders. Unless a different change control process is agreed upon in writing by the Parties, a Party may request changes to an Addendum or an Ordering Document by submitting a change order to the other Party (each, a "**Change Order**"). If a requested change in a Change Order causes an increase or decrease in the Products or Services, the Parties by means of the Change Order will make appropriate adjustments to the Fees, project schedule, or other matters. Change Orders are effective and binding on the Parties only upon execution of the Change Order by an authorized representative of both Parties.

3. Term and Termination.

3.1. Term. The term of this MCA ("**Term**") will commence on the Effective Date and continue until six (6) months after the later of (a) the termination, expiration, or discontinuance of services under the last Ordering Document in effect, or (b) the expiration of all applicable warranty periods, unless the MCA is earlier terminated as set forth herein. The applicable Addendum or Ordering Document will set forth the term for the Products and Services governed thereby.

3.2. Termination. Either Party may terminate the Agreement or the applicable Addendum or Ordering Document if the other Party breaches a material obligation under the Agreement and does not cure such breach within thirty (30) days after receipt of notice of the breach or fails to produce a cure plan within such period of time. Each Addendum and Ordering Document may be separately terminable as set forth therein.

3.2.a Termination for Public Convenience.

The City may terminate the Agreement in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the Agreement is terminated in accordance with this paragraph, WatchGuard shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work and services performed. An equitable adjustment in the Agreement price for partially completed items of work and performed services will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

3.3. Suspension of Services. WatchGuard may terminate or suspend any Products or Services under an Ordering Document if WatchGuard determines: (a) the related Product license has expired or has terminated for any reason; (b) the applicable Product is being used on a hardware platform, operating system, or version not approved by WatchGuard; (c) Customer fails to make any payments when due; or (d) Customer fails to comply with any of its other obligations or otherwise delays WatchGuard's ability to perform.

3.4. Effect of Termination or Expiration. Upon termination for any reason or expiration of this Agreement, an Addendum, or an Ordering Document, Customer and the Authorized Users will return or destroy (at WatchGuard's option) all WatchGuard Materials and WatchGuard Confidential Information in their possession or control and, as applicable, provide proof of such destruction, except that Equipment purchased by Customer should not be returned. If Customer has any outstanding payment obligations under this Agreement, WatchGuard may accelerate and declare all such obligations of Customer immediately due and payable by Customer. Notwithstanding the reason for termination or expiration, Customer must pay WatchGuard for Products and Services already delivered. Customer has a duty to mitigate any damages under this Agreement, including in the event of default by WatchGuard and Customer's termination of this Agreement.

4. Payment and Invoicing.

4.1. Fees. Fees and charges applicable to the Products and Services (the "**Fees**") will be as set forth in the applicable Addendum or Ordering Document, and such Fees may be changed by WatchGuard at any time, except that WatchGuard will not change the Fees for Products and Services purchased by Customer during the term of an active Ordering Document or during a Subscription Term (as defined and further described in the applicable Addendum). Changes in the scope of Services described in an Ordering Document may require an adjustment to the Fees due under such Ordering Document. If a specific invoicing or payment schedule is set forth in the applicable Addendum or Ordering Document, such schedule will apply solely with respect to such Addendum or Ordering Document. Unless otherwise specified in the applicable Ordering Document, the Fees for any Services exclude expenses associated with unusual and costly Site access requirements (e.g., if Site access requires a helicopter or other equipment), and Customer will reimburse WatchGuard for these or other expenses incurred by WatchGuard in connection with the Services.

4.2. Taxes. The Fees do not include any excise, sales, lease, use, property, or other taxes, assessments, duties, or regulatory charges or contribution requirements (collectively, "**Taxes**"), all of which will be paid by Customer, except as exempt by law, unless otherwise specified in an Ordering Document. If WatchGuard is required to pay any Taxes, Customer will reimburse

WatchGuard for such Taxes (including any interest and penalties) within thirty (30) days after Customer's receipt of an invoice therefore. Customer will be solely responsible for reporting the Products for personal property tax purposes, and WatchGuard will be solely responsible for reporting taxes on its income and net worth.

4.3. Invoicing. WatchGuard will invoice Customer at the frequency set forth in the applicable Addendum or Ordering Document, and Customer will pay all invoices within thirty (30) days of the invoice date or as otherwise specified in the applicable Addendum or Ordering Document. Late payments will be subject to interest charges at the maximum rate permitted by law, commencing upon the due date. WatchGuard may invoice electronically via email, and Customer agrees to receive invoices via email at the email address set forth in an Ordering Document. Customer acknowledges and agrees that a purchase order or other notice to proceed is not required for payment for Products or Services.

5. Sites; Customer-Provided Equipment; Non-WatchGuard Content.

5.1. Access to Sites. Customer will be responsible for providing all necessary permits, licenses, and other approvals necessary for the installation and use of the Products and the performance of the Services at each applicable Site, including for WatchGuard to perform its obligations hereunder, and for facilitating WatchGuard's access to the Sites. No waivers of liability will be imposed on WatchGuard or its subcontractors by Customer or others at Customer facilities or other Sites, but if and to the extent any such waivers are imposed, the Parties agree such waivers are void.

5.2. Site Conditions. Customer will ensure that (a) all Sites are safe and secure, (b) Site conditions meet all applicable industry and legal standards (including standards promulgated by OSHA or other governmental or regulatory bodies), (c) to the extent applicable, Sites have adequate physical space, air conditioning, and other environmental conditions, electrical power outlets, distribution, equipment, connections, and telephone or other communication lines (including modem access and interfacing networking capabilities), and (d) Sites are suitable for the installation, use, and maintenance of the Products and Services. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

5.3. Site Issues. WatchGuard will have the right at any time to inspect the Sites and advise Customer of any deficiencies or non-conformities with the requirements of this **Section 5 – Sites; Customer-Provided Equipment; Non-WatchGuard Content**. If WatchGuard or Customer identifies any deficiencies or non-conformities, Customer will promptly remediate such issues or the Parties will select a replacement Site. If a Party determines that a Site identified in an Ordering Document is not acceptable or desired, the Parties will cooperate to investigate the conditions and select a replacement Site or otherwise adjust the installation plans and specifications as necessary. A change in Site or adjustment to the installation plans and specifications may cause a change in the Fees or performance schedule under the applicable Ordering Document.

5.4. Customer-Provided Equipment. Certain components, including equipment and software, not provided by WatchGuard may be required for use of the Products and Services ("**Customer-Provided Equipment**"). Customer will be responsible, at its sole cost and expense, for providing and maintaining the Customer-Provided Equipment in good working order. Customer represents and warrants that it has all rights in Customer-Provided Equipment to permit WatchGuard to access and use the applicable Customer-Provided Equipment to provide the Products and Services under this Agreement, and such access and use will not violate any laws or infringe any third-party rights (including intellectual property rights). Customer (and not WatchGuard) will be fully liable for Customer-Provided Equipment, and Customer will immediately notify WatchGuard

of any Customer-Provided Equipment damage, loss, change, or theft that may impact WatchGuard's ability to provide the Products and Services under this Agreement, and Customer acknowledges that any such events may cause a change in the Fees or performance schedule under the applicable Ordering Document.

5.5. Non-WatchGuard Content. In certain instances, Customer may be permitted to access, use, or integrate Customer or third-party software, services, content, and data that is not provided by WatchGuard (collectively, "**Non-WatchGuard Content**") with or through the Products and Services. If Customer accesses, uses, or integrates any Non-WatchGuard Content with the Products or Services, Customer will first obtain all necessary rights and licenses to permit Customer's and its Authorized Users' use of the Non-WatchGuard Content in connection with the Products and Services. Customer will also obtain the necessary rights for WatchGuard to use such Non-WatchGuard Content in connection with providing the Products and Services, including the right for WatchGuard to access, store, and process such Non-WatchGuard Content (e.g., in connection with Subscription Software), and to otherwise enable interoperation with the Products and Services. Customer represents and warrants that it will obtain the foregoing rights and licenses prior to accessing, using, or integrating the applicable Non-WatchGuard Content with the Products and Services, and that Customer and its Authorized Users will comply with any terms and conditions applicable to such Non-WatchGuard Content. If any Non-WatchGuard Content require access to Customer Data (as defined below), Customer hereby authorizes WatchGuard to allow the provider of such Non-WatchGuard Content to access Customer Data, in connection with the interoperation of such Non-WatchGuard Content with the Products and Services. Customer acknowledges and agrees that WatchGuard is not responsible for, and makes no representations or warranties with respect to, the Non-WatchGuard Content (including any disclosure, modification, or deletion of Customer Data resulting from use of Non-WatchGuard Content or failure to properly interoperate with the Products and Services). If Customer receives notice that any Non-WatchGuard Content must be removed, modified, or disabled within the Products or Services, Customer will promptly do so. WatchGuard will have the right to disable or remove Non-WatchGuard Content if WatchGuard believes a violation of law, third-party rights, or WatchGuard's policies is likely to occur, or if such Non-WatchGuard Content poses or may pose a security or other risk or adverse impact to the Products or Services, WatchGuard, WatchGuard's systems, or any third party (including other WatchGuard customers). Nothing in this Section will limit the exclusions set forth in **Section 7.2 – Intellectual Property Infringement**.

6. Representations and Warranties.

6.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that (a) it has the right to enter into the Agreement and perform its obligations hereunder, and (b) the Agreement will be binding on such Party.

6.2. WatchGuard Warranties. Subject to the disclaimers and exclusions below, WatchGuard represents and warrants that (a) Services will be provided in a good and workmanlike manner and will conform in all material respects to the descriptions in the applicable Ordering Document; and (b) for a period of ninety (90) days commencing upon the Service Completion Date for one-time Services, the Services will be free of material defects in materials and workmanship. Other than as set forth in subsection (a) above, recurring Services are not warranted but rather will be subject to the requirements of the applicable Addendum or Ordering Document. WatchGuard provides other express warranties for WatchGuard-manufactured Equipment, WatchGuard-owned software Products, and certain Services. Such express warranties are included in the applicable Addendum or Ordering Document. Such representations and warranties will apply only to the applicable Product or Service that is the subject of such Addendum or Ordering Document.

6.3. Warranty Claims; Remedies. To assert a warranty claim, Customer must notify WatchGuard in writing of the claim prior to the expiration of any warranty period set forth in this MCA or the applicable Addendum or Ordering Document. Unless a different remedy is otherwise expressly set forth for a particular warranty under an Addendum, upon receipt of such claim, WatchGuard will investigate the claim and use commercially reasonable efforts to repair or replace any confirmed materially non-conforming Product or re-perform any non-conforming Service, at its option. Such remedies are Customer's sole and exclusive remedies for WatchGuard's breach of a warranty. WatchGuard's warranties are extended by WatchGuard to Customer only, and are not assignable or transferrable.

6.4. Pass-Through Warranties. Notwithstanding any provision of this Agreement to the contrary, WatchGuard will have no liability for third-party software or hardware provided by WatchGuard; provided, however, that to the extent offered by third-party providers of software or hardware and to the extent permitted by law, WatchGuard will pass through express warranties provided by such third parties.

6.5. WARRANTY DISCLAIMER. EXCEPT FOR THE EXPRESS AND PASS THROUGH WARRANTIES IN THIS AGREEMENT, PRODUCTS AND SERVICES PURCHASED HEREUNDER ARE PROVIDED "AS IS" AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE AGREEMENT ARE THE COMPLETE WARRANTIES FOR THE PRODUCTS AND SERVICES AND WATCHGUARD DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. WATCHGUARD DOES NOT REPRESENT OR WARRANT THAT USE OF THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER'S PARTICULAR REQUIREMENTS.

7. Indemnification.

7.1. General Indemnity. WatchGuard will defend, indemnify, and hold Customer harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual third-party claim, demand, action, or proceeding ("**Claim**") for personal injury, death, or direct damage to tangible property to the extent caused by WatchGuard's negligence, gross negligence or willful misconduct while performing its duties under an Ordering Document or an Addendum, except to the extent the claim arises from Customer's negligence or willful misconduct. WatchGuard's duties under this **Section 7.1 – General Indemnity** are conditioned upon: (a) Customer promptly notifying WatchGuard in writing of the Claim; (b) WatchGuard having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with WatchGuard and, if requested by WatchGuard, providing reasonable assistance in the defense of the Claim.

7.2. Intellectual Property Infringement. WatchGuard will defend Customer against any third-party claim alleging that a WatchGuard-developed or manufactured Product or Service (the "**Infringing Product**") directly infringes a United States patent or copyright ("**Infringement Claim**"), and WatchGuard will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by WatchGuard in settlement of an Infringement Claim. WatchGuard's duties under this **Section 7.2 – Intellectual Property Infringement** are conditioned upon: (a) Customer promptly notifying WatchGuard in writing of the Infringement Claim; (b) WatchGuard having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with WatchGuard and, if requested by WatchGuard, providing reasonable assistance in the defense of the Infringement Claim.

- 7.2.1. If an Infringement Claim occurs, or in WatchGuard's opinion is likely to occur, WatchGuard may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer (i) a pro-rated refund of any amounts pre-paid for the Infringing Product (if the Infringing Product is a software Product, i.e., Licensed Software or Subscription Software) or (ii) a credit for the Infringing Product, less a reasonable charge for depreciation (if the Infringing Product is Equipment, including Equipment with embedded software).
- 7.2.2. In addition to the other damages disclaimed under this Agreement, WatchGuard will have no duty to defend or indemnify Customer for any Infringement Claim that arises from or is based upon: (a) Customer Data, Customer-Provided Equipment, Non-WatchGuard Content, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Product or Service with any products or materials not provided by WatchGuard; (c) a Product or Service designed, modified, or manufactured in accordance with Customer's designs, specifications, guidelines or instructions; (d) a modification of the Product or Service by a party other than WatchGuard; (e) use of the Product or Service in a manner for which the Product or Service was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to use or install an update to the Product or Service that is intended to correct the claimed infringement. In no event will WatchGuard's liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by WatchGuard from Customer from sales or license of the Infringing Product.
- 7.2.3. This **Section 7.2 – Intellectual Property Infringement** provides Customer's sole and exclusive remedies and WatchGuard's entire liability in the event of an Infringement Claim. For clarity, the rights and remedies provided in this Section are subject to, and limited by, the restrictions set forth in **Section 8 – Limitation of Liability** below.

7.3. Customer Indemnity. Customer will defend, indemnify, and hold WatchGuard and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer-Provided Equipment, Customer Data, or Non-WatchGuard Content, including any claim, demand, action, or proceeding alleging that any such equipment, data, or materials (or the integration or use thereof with the Products and Services) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the Agreement, (b) Customer-Provided Equipment's failure to meet the minimum requirements set forth in the applicable Documentation or match the applicable specifications provided to WatchGuard by Customer in connection with the Products or Services; (c) Customer's (or its service providers, agents, employees, or Authorized User's) negligence or willful misconduct; and (d) Customer's or its Authorized User's breach of this Agreement. This indemnity will not apply to the extent any such claim is caused by WatchGuard's use of Customer-Provided Equipment, Customer Data, or Non-WatchGuard Content in violation of the Agreement. WatchGuard will give Customer prompt, written notice of any claim subject to the foregoing indemnity. WatchGuard will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

8. Limitation of Liability.

8.1. DISCLAIMER OF CONSEQUENTIAL DAMAGES. EXCEPT FOR PERSONAL INJURY OR DEATH, WATCHGUARD, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE “**WATCHGUARD PARTIES**”) WILL NOT BE LIABLE IN CONNECTION WITH THIS AGREEMENT (WHETHER UNDER WATCHGUARD’S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF WATCHGUARD HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

8.2. DIRECT DAMAGES. EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE WATCHGUARD PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED \$100,000. NOTWITHSTANDING THE FOREGOING, FOR ANY SUBSCRIPTION SOFTWARE OR FOR ANY RECURRING SERVICES, THE WATCHGUARD PARTIES’ TOTAL LIABILITY FOR ALL CLAIMS RELATED TO SUCH PRODUCT OR RECURRING SERVICES IN THE AGGREGATE WILL NOT EXCEED \$250,000.

8.3. ADDITIONAL EXCLUSIONS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, WATCHGUARD WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO WATCHGUARD, OR ANY OTHER DATA AVAILABLE THROUGH THE PRODUCTS OR SERVICES; (B) CUSTOMER-PROVIDED EQUIPMENT, NON-WATCHGUARD CONTENT, THE SITES, OR THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, DATA, OR OTHER THIRD-PARTY MATERIALS, OR THE COMBINATION OF PRODUCTS AND SERVICES WITH ANY OF THE FOREGOING; (C) LOSS OF DATA OR HACKING; (D) MODIFICATION OF PRODUCTS OR SERVICES BY ANY PERSON OTHER THAN WATCHGUARD; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH OR BY THE PRODUCTS AND SERVICES; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; OR (G) CUSTOMER’S OR ANY AUTHORIZED USER’S BREACH OF THIS AGREEMENT OR MISUSE OF THE PRODUCTS AND SERVICES.

8.4. Voluntary Remedies. WatchGuard is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed issues in **Section 8.3 – Additional Exclusions** above, but if WatchGuard agrees to provide Services to help resolve such issues, Customer will reimburse WatchGuard for its reasonable time and expenses, including by paying WatchGuard any Fees set forth in an Ordering Document for such Services, if applicable.

9. Confidentiality.

9.1. Confidential Information. “**Confidential Information**” means any and all non-public information provided by one Party (“**Discloser**”) to the other (“**Recipient**”) that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable businessperson would consider non-public and confidential by its nature. With respect to WatchGuard, Confidential Information will also include Products and Services, and Documentation, as well as any other information relating to the Products and Services.. In order to be considered Confidential Information, information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by Discloser by submitting a written document to Recipient within thirty (30) days after such disclosure. The written document must

contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent. The Parties acknowledge this agreement is not considered Confidential Information.

9.2. Obligations of Confidentiality. During the Term and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (a) not disclose Confidential Information to any third party, except as expressly permitted in this **Section 9 - Confidentiality**; (b) restrict disclosure of Confidential Information to only those employees (including, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must access the Confidential Information for the purpose of, and who are bound by confidentiality terms substantially similar to those in, this Agreement; (c) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (d) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (e) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (f) only use the Confidential Information as needed to fulfill its obligations and secure its rights under this Agreement.

9.3. Exceptions. Recipient is not obligated to maintain as confidential any information that Recipient can demonstrate by documentation (a) is publicly available at the time of disclosure or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality to Discloser; (c) is otherwise lawfully known to Recipient prior to such disclosure without a duty of confidentiality to Discloser; or (d) is independently developed by Recipient without the use of, or reference to, any of Discloser's Confidential Information or any breach of this Agreement. Additionally, Recipient may disclose Confidential Information to the extent required by the Washington State Public Records Act, including a judicial or legislative order or proceeding.

9.4. Ownership of Confidential Information. All Confidential Information is and will remain the property of Discloser and will not be copied or reproduced without the express written permission of Discloser (including as permitted herein). Within ten (10) days of receipt of Discloser's written request, Recipient will return or destroy all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain (a) one (1) archival copy of the Confidential Information for use only in case of a dispute concerning this Agreement and (b) Confidential Information that has been automatically stored in accordance with Recipient's standard backup or recordkeeping procedures, provided, however that Recipient will remain subject to the obligations of this Agreement with respect to any Confidential Information retained subject to clauses (a) or (b). No license, express or implied, in the Confidential Information is granted to the Recipient other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. Discloser represents and warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

10. Proprietary Rights; Data; Feedback.

10.1. Data Definitions. The following terms will have the stated meanings: "**Customer Contact Data**" means data WatchGuard collects from Customer, its Authorized Users, and their end users for business contact purposes, including marketing, advertising, licensing and sales purposes; "**Service Use Data**" means data generated by Customer's use of the Products and Services or by WatchGuard's support of the Products and Services, including personal information, location,

monitoring and recording activity, product performance and error information, activity logs and date and time of use; “**Customer Data**” means data, information, and content, including images, text, videos, documents, audio, telemetry and structured data base records, provided by, through, or on behalf of Customer, its Authorized Users, and their end users through the use of the Products and Services. Customer Data does not include Customer Contact Data, Service Use Data, or information from publicly available sources or other Third-Party Data or WatchGuard Data; “**Third-Party Data**” means information obtained by WatchGuard from publicly available sources or its third party content providers and made available to Customer through the Products or Services; “**WatchGuard Data**” means data owned or licensed by WatchGuard; “**Feedback**” means comments or information, in oral or written form, given to WatchGuard by Customer or Authorized Users, including their end users, in connection with or relating to the Products or Services; and “**Process**” or “**Processing**” means any operation or set of operations which is performed on personal information or on sets of personal information, whether or not by automated means, such as collection, recording, copying, analyzing, caching, organization, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

10.2. WatchGuard Materials. Customer acknowledges that WatchGuard may use or provide Customer with access to software, tools, data, and other materials, including designs, utilities, models, methodologies, systems, and specifications, which WatchGuard has developed or licensed from third parties (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, or derivative works of the foregoing, whether made by WatchGuard or another party) (collectively, “**WatchGuard Materials**”). The Products and Services, WatchGuard Data, Third-Party Data, and Documentation, are considered WatchGuard Materials. Except when WatchGuard has expressly transferred title or other interest to Customer by way of an Addendum or Ordering Document, the WatchGuard Materials are the property of WatchGuard or its licensors, and WatchGuard or its licensors retain all right, title and interest in and to the WatchGuard Materials (including, all rights in patents, copyrights, trademarks, trade names, trade secrets, know-how, other intellectual property and proprietary rights, and all associated goodwill and moral rights). For clarity, this Agreement does not grant to Customer any shared development rights in or to any WatchGuard Materials or other intellectual property, and Customer agrees to execute any documents and take any other actions reasonably requested by WatchGuard to effectuate the foregoing. WatchGuard and its licensors reserve all rights not expressly granted to Customer, and no rights, other than those expressly granted herein, are granted to Customer by implication, estoppel or otherwise. Customer will not modify, disassemble, reverse engineer, derive source code or create derivative works from, merge with other software, distribute, sublicense, sell, or export the Products and Services or other WatchGuard Materials, or permit any third party to do so.

10.3. Ownership of Customer Data. Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. WatchGuard acquires no rights to Customer Data except those rights granted under this Agreement including the right to Process and use the Customer Data as set forth in **Section 10.4 – Processing Customer Data** below and in other applicable Addenda. The Parties agree that with regard to the Processing of personal information which may be part of Customer Data, Customer is the controller and WatchGuard is the processor, and may engage sub-processors pursuant to **Section 10.4.3 – Sub-processors**.

10.4. Processing Customer Data.

10.4.1. WatchGuard Use of Customer Data. To the extent permitted by law, Customer grants WatchGuard and its subcontractors a right to use Customer Data and a

royalty-free, worldwide, non-exclusive license to use Customer Data (including to process, host, cache, store, reproduce, copy, modify, combine, analyze, create derivative works from such Customer Data and to communicate, transmit, and distribute such Customer Data to third parties engaged by WatchGuard) to (a) perform Services and provide Products under the Agreement, (b) analyze the Customer Data to operate, maintain, manage, and improve WatchGuard Products and Services, and (c) create new products and services. Customer agrees that this Agreement, along with the Documentation, are Customer's complete and final documented instructions to WatchGuard for the processing of Customer Data. Any additional or alternate instructions must be agreed to according to the Change Order process. Customer represents and warrants to WatchGuard that Customer's instructions, including appointment of WatchGuard as a processor or sub-processor, have been authorized by the relevant controller.

10.4.2. Collection, Creation, Use of Customer Data. Customer further represents and warrants that the Customer Data, Customer's collection, creation, and use of the Customer Data (including in connection with WatchGuard's Products and Services), and WatchGuard's use of such Customer Data in accordance with the Agreement, will not violate any laws or applicable privacy notices or infringe any third-party rights (including intellectual property and privacy rights). Customer also represents and warrants that the Customer Data will be accurate and complete, and that Customer has obtained all required consents, provided all necessary notices, and met any other applicable legal requirements with respect to collection and use (including WatchGuard's and its subcontractors' use) of the Customer Data as described in the Agreement.

10.4.3. Sub-processors. Customer agrees that WatchGuard may engage sub-processors who in turn may engage additional sub-processors to Process personal data in accordance with this Agreement. When engaging sub-processors, WatchGuard will enter into agreements with the sub-processors to bind them to data processing obligations to the extent required by law.

10.5. Data Retention and Deletion. Except for anonymized Customer Data, as described above, or as otherwise provided under the Agreement, WatchGuard will delete all Customer Data following termination or expiration of this MCA or the applicable Addendum or Ordering Document, with such deletion to occur no later than ninety (90) days following the applicable date of termination or expiration, unless otherwise required to comply with applicable law. Any requests for the exportation or download of Customer Data must be made by Customer to WatchGuard in writing before expiration or termination, subject to **Section 13.9 – Notices**. WatchGuard will have no obligation to retain such Customer Data beyond expiration or termination unless the Customer has purchased extended storage from WatchGuard through a mutually executed Ordering Document.

10.6. Service Use Data. Customer understands and agrees that WatchGuard may collect and use Service Use Data for its own purposes, including the uses described below. WatchGuard may use Service Use Data to (a) operate, maintain, manage, and improve existing and create new products and services, (b) test products and services, (c) to aggregate Service Use Data and combine it with that of other users, and (d) to use anonymized or aggregated data for marketing, research or other business purposes. Service Use Data may be disclosed to third parties. It is Customer's responsibility to notify Authorized Users of WatchGuard's collection and use of Service Use Data and to obtain any required consents, provide all necessary notices, and meet any other applicable legal requirements with respect to such collection and use, and Customer

represents and warrants to WatchGuard that it has complied and will continue to comply with this Section.

10.7. Third-Party Data and WatchGuard Data. WatchGuard Data and Third-Party Data may be available to Customer through the Products and Services. Customer and its Authorized Users may use WatchGuard Data and Third-Party Data as permitted by WatchGuard and the applicable Third-Party Data provider, as described in the applicable Addendum. Unless expressly permitted in the applicable Addendum, Customer will not, and will ensure its Authorized Users will not: (a) use the WatchGuard Data or Third-Party Data for any purpose other than Customer's internal business purposes; (b) disclose the data to third parties; (c) "white label" such data or otherwise misrepresent its source or ownership, or resell, distribute, sublicense, or commercially exploit the data in any manner; (d) use such data in violation of applicable laws; (e) remove, obscure, alter, or falsify any marks or proprietary rights notices indicating the source, origin, or ownership of the data; or (f) modify such data or combine it with Customer Data or other data or use the data to build databases. Additional restrictions may be set forth in the applicable Addendum. Any rights granted to Customer or Authorized Users with respect to WatchGuard Data or Third-Party Data will immediately terminate upon termination or expiration of the applicable Addendum, Ordering Document, or this MCA. Further, WatchGuard or the applicable Third-Party Data provider may suspend, change, or terminate Customer's or any Authorized User's access to WatchGuard Data or Third-Party Data if WatchGuard or such Third-Party Data provider believes Customer's or the Authorized User's use of the data violates the Agreement, applicable law or WatchGuard's agreement with the applicable Third-Party Data provider. Upon termination of Customer's rights to use any WatchGuard Data or Third-Party Data, Customer and all Authorized Users will immediately discontinue use of such data, delete all copies of such data, and certify such deletion to WatchGuard. Notwithstanding any provision of the Agreement to the contrary, WatchGuard will have no liability for Third-Party Data or WatchGuard Data available through the Products and Services. WatchGuard and its Third-Party Data providers reserve all rights in and to WatchGuard Data and Third-Party Data not expressly granted in an Addendum or Ordering Document.

10.8. Feedback. Any Feedback provided by Customer is entirely voluntary, and will not create any confidentiality obligation for WatchGuard, even if designated as confidential by Customer. WatchGuard may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users and Customer represents and warrants that it has obtained all necessary rights and consents to grant WatchGuard the foregoing rights.

10.9. Improvements; Products and Services. The Parties agree that, notwithstanding any provision of this MCA or the Agreement to the contrary, all fixes, modifications and improvements to the Services or Products conceived of or made by or on behalf of WatchGuard that are based either in whole or in part on the Feedback, Customer Data, or Service Use Data (or otherwise) are the exclusive property of WatchGuard and all right, title and interest in and to such fixes, modifications or improvements will vest solely in WatchGuard. Customer agrees to execute any written documents necessary to assign any intellectual property or other rights it may have in such fixes, modifications or improvements to WatchGuard.

11. Force Majeure; Delays Caused by Customer.

11.1. Force Majeure. Except for Customer's payment obligations hereunder, neither Party will be responsible for nonperformance or delayed performance due to events outside of its reasonable control. If performance will be significantly delayed, the affected Party will provide notice to the other Party, and the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule.

11.2. Delays Caused by Customer. WatchGuard's performance of the Products and Services will be excused for delays caused by Customer or its Authorized Users or subcontractors, or by failure of any assumptions set forth in this Agreement (including in any Addendum or Ordering Document). In the event of a delay under this **Section 11.2 – Delays Caused by Customer**, (a) Customer will continue to pay the Fees as required hereunder, (b) the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule, and (c) Customer will compensate WatchGuard for its out-of-pocket costs incurred due to the delay (including those incurred by WatchGuard's affiliates, vendors, and subcontractors).

12. Disputes. The Parties will use the following procedure to resolve any disputes relating to or arising out of this Agreement (each, a "**Dispute**");

12.1. Governing Law. All matters relating to or arising out of the Agreement are governed by the laws of the State of Texas, unless Customer is the United States Government (or an agency thereof), in which case all matters relating to or arising out of the Agreement will be governed by the laws of the State in which the Products and Services are provided. The terms of the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.

12.2. Negotiation; Mediation. Either Party may initiate dispute resolution procedures by sending a notice of Dispute ("**Notice of Dispute**") to the other Party. The Parties will attempt to resolve the Dispute promptly through good faith negotiations, including timely escalation of the Dispute to executives who have authority to settle the Dispute (and who are at a higher level of management than the persons with direct responsibility for the matter). If a Dispute is not resolved through negotiation, either Party may initiate mediation by sending a notice of mediation ("**Notice of Mediation**") to the other Party. The Parties will choose an independent mediator within thirty (30) days of such Notice of Mediation. Neither Party may unreasonably withhold consent to the selection of a mediator, but if the Parties are unable to agree upon a mediator, either Party may request that the American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute. All in person meetings under this **Section 12.2 – Negotiation; Mediation** will take place in Dallas, Texas, and all communication relating to the Dispute resolution will be maintained in strict confidence by the Parties. Notwithstanding the foregoing, any Dispute arising from or relating to WatchGuard's intellectual property rights will not be subject to negotiation or mediation in accordance with this Section, but instead will be decided by a court of competent jurisdiction, in accordance with **Section 12.3 – Litigation, Venue, Jurisdiction** below.

12.3. Litigation, Venue, Jurisdiction. If the Dispute has not been resolved by mediation within sixty (60) days from the Notice of Mediation, either Party may submit the Dispute to a court of competent jurisdiction in the state in which the Products and Services are provided. . Each Party expressly consents to the exclusive jurisdiction of such courts for resolution of any Dispute and to enforce the outcome of any mediation.

13. General.

13.1. Compliance with Laws. Each Party will comply with applicable laws in connection with the performance of its obligations under this Agreement, including that Customer will ensure its and its Authorized Users' use of the Products and Services complies with law (including privacy laws), and Customer will obtain any FCC and other licenses or authorizations (including licenses or authorizations required by foreign regulatory bodies) required for its and its Authorized Users' use of the Products and Services. WatchGuard may, at its discretion, cease providing or otherwise

modify Products and Services (or any terms related thereto in an Addendum or Ordering Document), in order to comply with any changes in applicable law.

13.2. Audit; Monitoring. WatchGuard will have the right to monitor and audit use of the Products, which may also include access by WatchGuard to Customer Data and Service Use Data. Customer will provide notice of such monitoring to its Authorized Users and obtain any required consents, including individual end users, and will cooperate with WatchGuard in any monitoring or audit. Customer will maintain during the Term, and for two (2) years thereafter, accurate records relating to any software licenses granted under this Agreement to verify compliance with this Agreement. WatchGuard or a third party ("**Auditor**") may inspect Customer's and, as applicable, Authorized Users' premises, books, and records. WatchGuard, or any third parties, will be escorted by Anacortes Police Department staff at all times in secured portions of Customer's premises. WatchGuard will pay expenses and costs of the Auditor, unless Customer is found to be in violation of the terms of the Agreement, in which case Customer will be responsible for such expenses and costs.

13.3. Assignment and Subcontracting. Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. WatchGuard may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.

13.4. Waiver. A delay or omission by either Party to exercise any right under this Agreement will not be construed to be a waiver of such right. A waiver by either Party of any of the obligations to be performed by the other, or any breach thereof, will not be construed to be a waiver of any succeeding breach or of any other obligation. All waivers must be in writing and signed by the Party waiving its rights.

13.5. Severability. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision will be deemed to be modified to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law. The remaining provisions of this Agreement will not be affected, and each such provision will be valid and enforceable to the full extent permitted by applicable law.

13.6. Independent Contractors. Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership, or formal business organization of any kind.

13.7. Third-Party Beneficiaries. The Agreement is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software included in the software Products will be a direct and intended third-party beneficiary of this Agreement.

13.8. Interpretation. The section headings in this Agreement are included only for convenience. The words "including" and "include" will be deemed to be followed by the phrase "without limitation". This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

13.9. Notices. Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as FedEx, UPS, or DHL), and will be effective upon receipt.

13.10. Cumulative Remedies. Except as specifically stated in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity, by contract, or otherwise. Except as specifically stated in this Agreement, the election by a Party of any remedy provided for in this Agreement or otherwise available to such Party will not preclude such Party from pursuing any other remedies available to such Party at law, in equity, by contract, or otherwise.

13.11. Survival. The following provisions will survive the expiration or termination of this Agreement for any reason: **Section 2.4 – Customer Obligations; Section 3.4 – Effect of Termination or Expiration; Section 4 – Payment and Invoicing; Section 6.5 – Warranty Disclaimer; Section 7.3 – Customer Indemnity; Section 8 – Limitation of Liability; Section 9 – Confidentiality; Section 10 – Proprietary Rights; Data; Feedback; Section 11 – Force Majeure; Delays Caused by Customer; Section 12 – Disputes; and Section 13 – General.**

13.12. Entire Agreement. This Agreement, including all Addenda and Ordering Documents, constitutes the entire agreement of the Parties regarding the subject matter hereto, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment, or other form will not be considered an amendment or modification or part of this Agreement, even if a representative of each Party signs such document.

The Parties hereby enter into this MCA as of the Effective Date.

WatchGuard Video, Inc.

Customer: City of Anacortes

By: _____

By: _____

Name: _____

Name: Laurie Gere

Title: _____

Title: Mayor

Date: _____

Date: _____

Equipment Purchase and Software License Addendum

This Equipment Purchase and Software License Addendum (this “**EPSLA**”) is entered into between WatchGuard Video, Inc., with offices at 415 E. Exchange Parkway, Allen, TX 75002 (“**WatchGuard**”) and the entity set forth in the signature block below or in the MCA (“**Customer**”), and will be subject to, and governed by, the terms of the Master Customer Agreement entered into between the Parties, effective as of _____ (the “**MCA**”). Capitalized terms used in this EPSLA, but not defined herein, will have the meanings set forth in the MCA.

1. Addendum. This EPSLA governs Customer’s purchase of Equipment and license of Licensed Software (and, if set forth in an Ordering Document, related Services) from WatchGuard, and will form part of the Parties’ Agreement.

2. Delivery of Equipment and Licensed Software.

2.1. Delivery and Risk of Loss. WatchGuard will provide to Customer the Products (and, if applicable, related Services) set forth in an Ordering Document, in accordance with the terms of the Agreement. WatchGuard will, using commercially reasonable practices, pack the ordered Equipment and ship such Equipment to the Customer address set forth in the applicable Ordering Document or otherwise provided by Customer in writing, using a carrier selected by WatchGuard. Notwithstanding the foregoing, delivery of Equipment (and any incorporated Licensed Software) will occur, and title and risk of loss for the Equipment will pass to Customer, upon delivery by WatchGuard in accordance with Ex Works, WatchGuard’s premises (Incoterms 2020). Customer will pay all shipping costs, taxes, and other charges applicable to the shipment and import or export of the Products and Services, as applicable, and Customer will be responsible for reporting the Products for personal property tax purposes. Delivery of Licensed Software for installation on Equipment or Customer-Provided Equipment will occur upon the earlier of (a) electronic delivery of the Licensed Software by WatchGuard, and (b) the date WatchGuard otherwise makes the Software available for download by Customer. If agreed upon in an Ordering Document, WatchGuard will also provide Services related to such Products.

2.2. Delays. Any shipping dates set forth in an Ordering Document are approximate, and while WatchGuard will make reasonable efforts to ship Products by any such estimated shipping date, WatchGuard will not be liable for any delay or related damages to Customer. Time for delivery will not be of the essence, and delays will not constitute grounds for cancellation, penalties, termination, or a refund.

2.3. Beta Services. If WatchGuard makes any beta version of a software application (“**Beta Service**”) available to Customer, Customer may choose to use such Beta Service at its own discretion, provided, however, that Customer will use the Beta Service solely for purposes of Customer’s evaluation of such Beta Service, and for no other purpose. Customer acknowledges and agrees that all Beta Services are offered “as-is” and without any representations or warranties or other commitments or protections from WatchGuard. WatchGuard will determine the duration of the evaluation period for any Beta Service, in its sole discretion, and WatchGuard may discontinue any Beta Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies.

3. Licensed Software License and Restrictions.

3.1. Licensed Software License. Subject to Customer's and its Authorized Users' compliance with the Agreement (including payment terms), WatchGuard hereby grants Customer and its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Licensed Software identified in an Ordering Document, in object code form only, and the associated Documentation, solely in connection with the Equipment provided by WatchGuard or authorized Customer-Provided Equipment (as applicable, the "**Designated Products**") and solely for Customer's internal business purposes. Unless otherwise stated in an Addendum or the Ordering Document, the foregoing license grant will be limited to the number of licenses set forth in the applicable Ordering Document and will continue for the life of the applicable Designated Product. Except as otherwise permitted in an applicable Addendum or Ordering Document, Customer may install, access, and use Licensed Software only in Customer's owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Licensed Software remotely from any location.

3.2. Subscription License Model. If the Parties mutually agree that any Licensed Software purchased under this EPSLA will be replaced with or upgraded to Subscription Software, then upon such time which the Parties execute the applicable Ordering Document, the licenses granted under this EPSLA will automatically terminate, and such Subscription Software will be governed by the terms of the applicable Addendum under this Agreement.

3.3. End User Licenses. Notwithstanding any provision to the contrary in the Agreement, certain Licensed Software is governed by a separate license, EULA, or other agreement, including terms governing third-party equipment or software, such as open source software, included in the Products and Services. Customer will comply, and ensure its Authorized Users comply, with any such additional terms applicable to third-party equipment or software.

3.4. Customer Restrictions. Customers and Authorized Users will comply with the applicable Documentation in connection with their use of the Products. Customer will not and will not allow others, including the Authorized Users, to: (a) make the Licensed Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; (b) reverse engineer, disassemble, or reprogram the Licensed Software or any portion thereof to a human-readable form; (c) modify, create derivative works of, or merge the Licensed Software with other software or equipment; (d) copy, reproduce, distribute, lend, lease, or transfer the Licensed Software or Documentation for or to any third party without the prior express written permission of WatchGuard; (e) take any action that would cause the Licensed Software or Documentation to be placed in the public domain; (f) use the Licensed Software to compete with WatchGuard; or (g) remove, alter, or obscure, any copyright or other notice.

3.5. Copies. Customer may make one (1) copy of the Licensed Software solely for archival, back-up, or disaster recovery purposes during the term of the applicable Licensed Software license. Customer may make as many copies of the Documentation reasonably required for the internal use of the Licensed Software during such Licensed Software's license term. Unless otherwise authorized by WatchGuard in writing, Customer will not, and will not enable or allow any third party to: (a) install a licensed copy of the Licensed Software on more than one (1) unit of a Designated Product; or (b) copy onto or transfer Licensed Software installed in a unit of a Designated Product onto another device. Customer may temporarily transfer Licensed Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Customer provides written notice to WatchGuard of the temporary transfer and identifies the device on which the Licensed Software is transferred. Temporary transfer of the

Licensed Software to another device must be discontinued when the original Designated Product is returned to operation and the Licensed Software must be removed from the other device. Customer must provide prompt written notice to WatchGuard at the time temporary transfer is discontinued.

3.6. Resale of Equipment. Equipment contains embedded Licensed Software. If Customer desires to sell its used Equipment to a third party, Customer must first receive prior written authorization from WatchGuard and obtain written acceptance of the applicable Licensed Software license terms, including the obligation to pay relevant license fees, from such third party.

4. Term.

4.1. Term. The term of this EPSLA (the “**EPSLA Term**”) will commence upon either (a) the Effective Date of the MCA, if this EPSLA is attached to the MCA as of such Effective Date, or (b) the EPSLA Date set forth on the signature page below, if this EPSLA is executed after the MCA Effective Date, and will continue until the later of (i) three (3) years after the first order for Products is placed via an Ordering Document, or (ii) the expiration of all applicable warranty periods (as set forth in **Section 6.1 – WatchGuard Warranties** below) under this EPSLA, unless this EPSLA or the Agreement is earlier terminated in accordance with the terms of the Agreement.

4.2 Termination. Notwithstanding the termination provisions of the MCA, WatchGuard may terminate this EPSLA (and any Ordering Documents hereunder) immediately upon notice to Customer if Customer breaches **Section 3 – Licensed Software License and Restrictions** of this EPSLA, or any other provision related to Licensed Software license scope or restrictions set forth in an Ordering Document, EULA, or other applicable Addendum. For clarity, upon termination or expiration of the EPSLA Term, all WatchGuard obligations under this EPSLA (including with respect to Equipment and Licensed Software delivered hereunder) will terminate. If Customer desires to purchase additional Services in connection with such Equipment or Licensed Software, Customer may enter into a separate Addendum with WatchGuard, governing such Services. Customer acknowledges that WatchGuard made a considerable investment of resources in the development, marketing, and distribution of the Licensed Software and Documentation, and that Customer’s breach of the Agreement will result in irreparable harm to WatchGuard for which monetary damages would be inadequate. If Licensee breaches this Agreement, in addition to termination, WatchGuard will be entitled to all available remedies at law or in equity, including immediate injunctive relief and repossession of all non-embedded Licensed Software and associated Documentation.

4.3 Equipment as a Service. In the event that Customer purchases any Equipment at a price below the MSRP for such Equipment in connection Customer entering into a fixed- or minimum required-term agreement for Subscription Software, and Customer or WatchGuard terminates the Agreement, this EPSLA, or other applicable Addendum (such as the Addendum governing the purchase of such Subscription Software) prior to the expiration of such fixed- or minimum required-term, then WatchGuard will have the right to invoice Customer for, and Customer will pay, the amount of the discount to the MSRP for the Equipment or such other amount set forth in the applicable Addendum or Ordering Document. This Section will not limit any other remedies WatchGuard may have with respect to an early termination.

5. Payment. Customer will pay invoices for the Products and Services provided under this EPSLA in accordance with the invoice payment terms set forth in the MCA. Generally, invoices are issued after shipment of Equipment or upon WatchGuard’s delivery of Licensed Software (in accordance with **Section 2.1 – Delivery and Risk of Loss**), as applicable, but if a specific invoicing or payment schedule is set forth in the applicable Ordering Document, EULA or other

Addendum, such schedule will control with respect to the applicable Products and Services referenced therein. WatchGuard will have the right to suspend future deliveries of Products and Services if Customer fails to make any payments when due.

6. Representations and Warranties; Liability.

6.1. WatchGuard Warranties. Subject to the disclaimers and exclusions set forth in the MCA and this EPSLA, (a) for a period of one (1) year commencing upon the delivery of WatchGuard-manufactured Equipment under **Section 2.1 – Delivery and Risk of Loss**, WatchGuard represents and warrants that such WatchGuard-manufactured Equipment, under normal use, will be free from material defects in materials and workmanship; (b) to the extent permitted by the providers of third-party software or hardware included in the Products and Services, WatchGuard will pass through to Customer any warranties provided by such third parties, which warranties will apply for the period defined by the applicable third party; and (c) for a period of ninety (90) days commencing upon the delivery of WatchGuard-owned Licensed Software under **Section 2.1 – Delivery and Risk of Loss**, WatchGuard represents and warrants that such Licensed Software, when used in accordance with the Documentation and the Agreement, will be free from reproducible defects that prevent operation of features critical to the primary functionality or successful operation of the WatchGuard-developed Licensed Software (as determined by WatchGuard). The warranty set forth in subsection (c) will be referred to as the “**WatchGuard Licensed Software Warranty**”. As Customer’s sole and exclusive remedy for any breach of the WatchGuard Licensed Software Warranty, WatchGuard will use commercially reasonable efforts to remedy the material defect in the applicable Licensed Software; provided, however, that if WatchGuard does not remedy such material defect within a reasonable time, then at WatchGuard’s sole option, WatchGuard will either replace the defective Software with functionally-equivalent software, provide substitute software to Customer, or terminate the applicable software license and refund any paid license fees to Customer on a pro-rata basis. For clarity, the WatchGuard Licensed Software Warranty applies only to the most current version of the Licensed Software issued by WatchGuard, and issuance of updated versions of any Licensed Software does not result in a renewal or extension of the WatchGuard Licensed Software Warranty beyond the ninety (90) day warranty period.

6.2. ADDITIONAL EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS FROM DAMAGES SET FORTH IN THE MCA, AND NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, WATCHGUARD WILL HAVE NO LIABILITY FOR (A) DEFECTS IN OR DAMAGE TO PRODUCTS RESULTING FROM USE OTHER THAN IN THE NORMAL AUTHORIZED MANNER, OR FROM ACCIDENT, LIQUIDS, OR NEGLIGENCE; (B) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN WATCHGUARD; (C) CUSTOMER’S OR ANY AUTHORIZED USER’S FAILURE TO COMPLY WITH INDUSTRY AND OSHA OR OTHER LEGAL STANDARDS; (D) DAMAGE TO RADIO ANTENNAS, UNLESS CAUSED BY DEFECTS IN MATERIAL OR WORKMANSHIP; (E) EQUIPMENT WITH NO SERIAL NUMBER; (F) BATTERIES OR CONSUMABLES; (G) FREIGHT COSTS FOR SHIPMENT TO REPAIR DEPOTS; (H) COSMETIC DAMAGE THAT DOES NOT AFFECT OPERATION; (I) NORMAL WEAR AND TEAR; (J) ISSUES OR OBSOLESCENCE OF LICENSED SOFTWARE DUE TO CHANGES IN CUSTOMER OR AUTHORIZED USER REQUIREMENTS, EQUIPMENT, OR SYSTEMS; (K) TRACKING AND LOCATION-BASED SERVICES; OR (L) BETA SERVICES.

6.3. Voluntary Remedies. WatchGuard is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed or excluded issues in the MCA or **Section 6.2 – Additional Exclusions** above, but if WatchGuard agrees to provide Services to help resolve such issues,

Customer will reimburse WatchGuard for its reasonable time and expenses, including by paying WatchGuard any Fees set forth in an Ordering Document for such Services, if applicable.

7. Copyright Notices. The existence of a copyright notice on any Licensed Software will not be construed as an admission or presumption of publication of the Licensed Software or public disclosure of any trade secrets associated with the Licensed Software.

8. Survival. The following provisions will survive the expiration or termination of this EPSLA for any reason: **Section 3 – Licensed Software License and Restrictions; Section 4 – Term; Section 5 – Payment; Section 6.2 – Additional Exclusions; Section 8 – Survival.**

Subscription Software Addendum

This Subscription Software Addendum (this “**SSA**”) is entered into between WatchGuard Video, Inc., with offices at 415 E. Exchange Parkway, Allen, TX 75002 (“**WatchGuard**”) and the entity set forth in the signature block below or in the MCA (“**Customer**”), and will be subject to, and governed by, the terms of the Master Customer Agreement entered into between the Parties, effective as of _____ (the “**MCA**”). Capitalized terms used in this SSA, but not defined herein, will have the meanings set forth in the MCA.

1. Addendum. This SSA governs Customer’s purchase of Subscription Software (and, if set forth in an Ordering Document, related Services) from WatchGuard, and will form part of the Parties’ Agreement. Additional Subscription Software-specific Addenda or other terms and conditions may apply to certain Subscription Software, where such terms are provided or presented to Customer.

2. Delivery of Subscription Software.

2.1. Delivery. During the applicable Subscription Term (as defined below), WatchGuard will provide to Customer the Subscription Software set forth in an Ordering Document, in accordance with the terms of the Agreement. WatchGuard will provide Customer advance notice (which may be provided electronically) of any planned downtime. Delivery will occur upon Customer’s receipt of credentials required for access to the Subscription Software or upon WatchGuard otherwise providing access to the Subscription Software. If agreed upon in an Ordering Document, WatchGuard will also provide Services related to such Subscription Software.

2.2. Modifications. In addition to other rights to modify the Products and Services set forth in the MCA, WatchGuard may modify the Subscription Software, any associated recurring Services and any related systems so long as their functionality (as described in the applicable Ordering Document) is not materially degraded. Documentation for the Subscription Software may be updated to reflect such modifications. For clarity, new features or enhancements that are added to any Subscription Software may be subject to additional Fees.

2.3. User Credentials. If applicable, WatchGuard will provide Customer with administrative user credentials for the Subscription Software, and Customer will ensure such administrative user credentials are accessed and used only by Customer’s employees with training on their proper use. Customer will protect, and will cause its Authorized Users to protect, the confidentiality and security of all user credentials, including any administrative user credentials, and maintain user credential validity, including by updating passwords. Customer will be liable for any use of the Subscription Software through such user credential (including through any administrative user credentials), including any changes made to the Subscription Software or issues or user impact arising therefrom. To the extent WatchGuard provides Services to Customer in order to help resolve issues resulting from changes made to the Subscription Software through user credentials, including through any administrative user credentials, or issues otherwise created by Authorized Users, such Services will be billed to Customer on a time and materials basis, and Customer will pay all invoices in accordance with the payment terms of the MCA.

2.4. Beta Services. If WatchGuard makes any beta version of a software application (“**Beta Service**”) available to Customer, Customer may choose to use such Beta Service at its own discretion, provided, however, that Customer will use the Beta Service solely for purposes of Customer’s evaluation of such Beta Service, and for no other purpose. Customer acknowledges and agrees that all Beta Services are offered “as-is” and without any representations or warranties or other commitments or protections from WatchGuard. WatchGuard will determine the duration of the evaluation period for any Beta Service, in its sole discretion, and WatchGuard may

discontinue any Beta Service at any time. Customer acknowledges that Beta Services, by their nature, have not been fully tested and may contain defects or deficiencies.

3. Subscription Software License and Restrictions.

3.1. Subscription Software License. Subject to Customer's and its Authorized Users' compliance with the Agreement, including payment terms, WatchGuard hereby grants Customer and its Authorized Users a limited, non-transferable, non-sublicenseable, and non-exclusive license to use the Subscription Software identified in an Ordering Document, and the associated Documentation, solely for Customer's internal business purposes. The foregoing license grant will be limited to use in the territory and to the number of licenses set forth in an Ordering Document (if applicable), and will continue for the applicable Subscription Term. Customer may access, and use the Subscription Software only in Customer's owned or controlled facilities, including any authorized mobile sites; provided, however, that Authorized Users using authorized mobile or handheld devices may also log into and access the Subscription Software remotely from any location. No custom development work will be performed under this Addendum.

3.2. End User Licenses. Notwithstanding any provision to the contrary in the Agreement, certain Subscription Software is governed by a separate license, EULA, or other agreement, including terms governing third-party software, such as open source software, included in the Subscription Software. Customer will comply, and ensure its Authorized Users comply, with such additional license agreements.

3.3. Customer Restrictions. Customers and Authorized Users will comply with the applicable Documentation and the copyright laws of the United States and all other relevant jurisdictions (including the copyright laws where Customer uses the Subscription Software) in connection with their use of the Subscription Software. Customer will not, and will not allow others including the Authorized Users, to make the Subscription Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; reverse engineer, disassemble, or reprogram software used to provide the Subscription Software or any portion thereof to a human-readable form; modify, create derivative works of, or merge the Subscription Software or software used to provide the Subscription Software with other software; copy, reproduce, distribute, lend, or lease the Subscription Software or Documentation for or to any third party; take any action that would cause the Subscription Software, software used to provide the Subscription Software, or Documentation to be placed in the public domain; use the Subscription Software to compete with WatchGuard; remove, alter, or obscure, any copyright or other notice; share user credentials (including among Authorized Users); use the Subscription Software to store or transmit malicious code; or attempt to gain unauthorized access to the Subscription Software or its related systems or networks.

4. Term.

4.1. Subscription Terms. The duration of Customer's subscription to the first Subscription Software and any associated recurring Services ordered under this SSA (or the first Subscription Software or recurring Service, if multiple are ordered at once) will commence upon delivery of such Subscription Software (and recurring Services, if applicable) and will continue for a twelve (12) month period or such longer period identified in an Ordering Document (the "**Initial Subscription Period**"). Following the Initial Subscription Period, Customer's subscription to the Subscription Software and any recurring Services will automatically renew for additional twelve (12) month periods (each, a "**Renewal Subscription Year**"), unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. (The Initial Subscription Period and each Renewal Subscription Year will each be referred to herein as a "**Subscription Term**".) WatchGuard may increase Fees prior to any

Renewal Subscription Year. In such case, WatchGuard will notify Customer of such proposed increase no later than thirty (30) days prior to commencement of such Renewal Subscription Year. Unless otherwise specified in the applicable Ordering Document, if Customer orders any additional Subscription Software or recurring Services under this SSA during an in-process Subscription Term, the subscription for each new Subscription Software or recurring Service will (a) commence upon delivery of such Subscription Software or recurring Service, and continue until the conclusion of Customer's then-current Subscription Term (a "**Partial Subscription Year**"), and (b) automatically renew for Renewal Subscription Years thereafter, unless either Party notifies the other Party of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. Thus, unless otherwise specified in the applicable Ordering Document, the Subscription Terms for all Subscription Software and recurring Services hereunder will be synchronized.

4.2. Term. The term of this SSA (the "**SSA Term**") will commence upon either (a) the Effective Date of the MCA, if this SSA is attached to the MCA as of such Effective Date, or (b) the SSA Date set forth on the signature page below, if this SSA is executed after the MCA Effective Date, and will continue until the expiration or termination of all Subscription Terms under this SSA, unless this SSA or the Agreement is earlier terminated in accordance with the terms of the Agreement.

4.3. Termination. Notwithstanding the termination provisions of the MCA, WatchGuard may terminate this SSA (or any Addendum or Ordering Documents hereunder), or suspend delivery of Subscription Software or Services, immediately upon notice to Customer if (a) Customer breaches **Section 3 – Subscription Software License and Restrictions** of this SSA, or any other provision related to Subscription Software license scope or restrictions set forth in an Addendum or Ordering Document, or (b) it determines that Customer's use of the Subscription Software poses, or may pose, a security or other risk or adverse impact to any Subscription WatchGuard, WatchGuard's Software, systems, or any third party (including other WatchGuard customers). Customer acknowledges that WatchGuard made a considerable investment of resources in the development, marketing, and distribution of the Subscription Software and Documentation, and that Customer's breach of the Agreement will result in irreparable harm to WatchGuard for which monetary damages would be inadequate. If Customer breaches this Agreement, in addition to termination, WatchGuard will be entitled to all available remedies at law or in equity (including immediate injunctive relief).

4.4. Wind Down of Subscription Software. In addition to the termination rights in the MCA, WatchGuard may terminate any Ordering Document and Subscription Term, in whole or in part, in the event WatchGuard plans to cease offering the applicable Subscription Software or Service to customers.

5. Payment.

5.1. Payment. Unless otherwise provided in an Ordering Document (and notwithstanding the provisions of the MCA), Customer will prepay an annual subscription Fee set forth in an Ordering Document for each Subscription Software and associated recurring Service, before the commencement of each Subscription Term. For any Partial Subscription Year, the applicable annual subscription Fee will be prorated based on the number of months in the Partial Subscription Year. The annual subscription Fee for Subscription Software and associated recurring Services may include certain one-time Fees, such as start-up fees, license fees, or other fees set forth in an Ordering Document. WatchGuard will have the right to suspend the Subscription Software and any recurring Services if Customer fails to make any payments when due.

5.2. License True-Up. WatchGuard will have the right to conduct an audit of total user licenses credentialed by Customer for any Subscription Software during a Subscription Term, and Customer will cooperate with such audit. If WatchGuard determines that Customer's usage of the Subscription Software during the applicable Subscription Term exceeded the total number of licenses purchased by Customer, WatchGuard may invoice Customer for the additional licenses used by Customer, pro-rated for each additional license from the date such license was activated, and Customer will pay such invoice in accordance with the payment terms in the MCA.

6. Liability.

6.1. ADDITIONAL EXCLUSIONS. IN ADDITION TO THE EXCLUSIONS FROM DAMAGES SET FORTH IN THE MCA, AND NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, WATCHGUARD WILL HAVE NO LIABILITY FOR (A) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (B) DISRUPTION OF OR DAMAGE TO CUSTOMER'S OR THIRD PARTIES' SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (C) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH THE SUBSCRIPTION SOFTWARE OR SERVICES, OR INTERPRETATION, USE, OR MISUSE THEREOF; (D) TRACKING AND LOCATION-BASED SERVICES; OR (E) BETA SERVICES.

6.2. Voluntary Remedies. WatchGuard is not obligated to remedy, repair, replace, or refund the purchase price for the disclaimed or excluded issues in the MCA or **Section 6.1 – Additional Exclusions** above, but if WatchGuard agrees to provide Services to help resolve such issues, Customer will reimburse WatchGuard for its reasonable time and expenses, including by paying WatchGuard any Fees set forth in an Ordering Document for such Services, if applicable.

7. WatchGuard as a Controller or Joint Controller. In all instances where WatchGuard acts as a controller of data, it will comply with the applicable provisions of the Motorola Privacy Statement at https://www.motorolasolutions.com/en_us/about/privacy-policy.html#privacystatement as may be updated from time to time. WatchGuard holds all Customer Contact Data as a controller and shall Process such Customer Contact Data in accordance with the Motorola Privacy Statement. In instances where WatchGuard is acting as a joint controller with Customer, the Parties will enter into a separate Addendum to the Agreement to allocate the respective roles as joint controllers.

8. Survival. The following provisions will survive the expiration or termination of this SSA for any reason: **Section 4 – Term; Section 5 – Payment; Section 6.1 – Additional Exclusions; Section 8 – Survival.**

Video as a Service Addendum

This Video as a Service Addendum (this “**VSA**”) is entered into between WatchGuard Video, Inc., with offices at 415 E. Exchange Parkway, Allen, TX 75002 (“**WatchGuard**”) and the entity set forth in the signature block below or in the MCA (“**Customer**”), and will be subject to, and governed by, the terms of the Master Customer Agreement entered into between the Parties, effective as of _____ (the “**MCA**”), and the applicable Addenda. Capitalized terms used in this VSA, but not defined herein, will have the meanings set forth in the MCA or the applicable Addenda.

- 1. Addendum.** This VSA governs Customer’s participation in WatchGuard’s Video-as-a-Service Program (“**VaaS Program**”). In addition to the MCA, other Addenda may be applicable to Products offered as part of the VaaS Program, including the Subscription Software Addendum (“**SSA**”), with respect to Subscription Software, and the Equipment Purchase and Software License Addendum (“**EPSLA**”), with respect to Licensed Software and Equipment, as each of those terms are defined therein, and as further described below. This VSA will control with respect to conflicting terms in the MCA or any other applicable Addendum, but only as applicable to the Products purchased under this VSA and not with respect to other Products or Services.
- 2. Equipment.** All hardware provided by WatchGuard to Customer under the VaaS Program will be considered “Equipment”, as defined in the EPSLA, and constitutes a purchase of such Equipment subject to the terms of the EPSLA. Additionally, the following terms and conditions apply to any Equipment purchased under the VaaS Program:

 - 2.1. Technology Refresh.** All body cameras and associated batteries purchased under the VaaS Program (“**Body Cameras**”) are eligible for a one-time replacement at no additional cost to the Customer during the three (3) year period following the date of delivery of the initial Body Cameras and associated batteries provided under the VaaS Program. In order to receive any replacement Body Camera applicable under this **Section 2.1.1 – Technology Refresh**, Customer must return the existing Body Camera to WatchGuard in working condition. The corresponding replacement Body Camera will be the then-current model of the Body Camera at the same tier as the Body Camera that is returned to WatchGuard. For clarity, any other Equipment received by Customer as part of the VaaS Program, other than Body Cameras, will not be eligible for a technology refresh hereunder.
 - 2.2. No-Fault Warranty.** Subject to the disclaimers set forth in the MCA and EPSLA, upon delivery of any Equipment purchased as part of the VaaS Program, WatchGuard will provide a No-fault Warranty to Customer for such Equipment that extends until the end of the Commitment Term (as defined below) applicable to such Equipment; except that the No-fault Warranty will not apply to (i) any Equipment with intentionally altered or removed serial numbers. (ii) any other damages disclaimed under the MCA or EPSLA, or (iii) any Equipment that WatchGuard determines was changed, modified, or repaired by Customer or any third party. The “**No-fault Warranty**” means that WatchGuard will repair or replace any Equipment components or parts that render the applicable Equipment unable to perform its intended purpose. With respect to any batteries in Body Cameras, a battery will be considered faulty and covered under this No-fault Warranty if it falls below sixty percent (60%) of rated capacity.
 - 2.3. Commitment Term.** Customer accepts that following the delivery of any Equipment under the VaaS Program, Customer commits to a five (5) year subscription term for such Equipment at the rate provided in the Ordering Document (the “**Initial Commitment Term**”). If Customer, for any reason, terminates any of its obligations to WatchGuard prior to expiration

of the applicable Commitment Term (as defined below), Customer will be subject to the payments described in **Section 4.3. – Termination** hereunder.

2.4. Additional Devices. Any additional Equipment, including any accessory items, ordered by Customer after Customers' initial purchase of Equipment hereunder may be subject to an incremental increase in Fees. In the event Customer orders additional Equipment under the VaaS Program within the ninety (90) days immediately following its initial purchase, such Equipment will be included in and subject to the Initial Commitment Term. Any additional Equipment purchased under the VaaS Program subsequent to such ninety- (90) day period, will commence an additional subscription term commitment for such Equipment of five (5) years (a "**Subsequent Commitment Term**") with respect to the monthly Fee associated with such additional Equipment. For purposes of this Addendum, the Initial Commitment Term and each Subsequent Commitment Term are each also referred to herein as a "**Commitment Term**".

3. Subscription Software.

3.1. EvidenceLibrary.com. Subject to **Section 4.1 – VaaS Term**, the VaaS Program provides Customer with a subscription to EvidenceLibrary.com Evidence Management System ("**ELC**") during the VSA Term (as defined below), the use of which is subject to the SSA. Customer's subscription will include unlimited users, Unlimited Storage (as defined below) and unlimited sharing, provided any media or data uploaded to ELC is done so using WatchGuard Equipment actively enrolled in the VaaS Program. Following expiration of the applicable Commitment Term, if Customer desires to continue use of expired Equipment with ELC, Customer must purchase additional access to ELC based on WatchGuard's prevailing rates, or WatchGuard may disconnect connectivity of any expired Equipment to ELC.

3.2. Unlimited Storage. The storage available to Customer in ELC under the VaaS Program ("**Unlimited Storage**") is as follows: (a) a one- (1) year storage period for non-evidentiary recordings; and (b) a ten- (10) year storage period for evidentiary recordings; provided, however, that storage is only available for video recordings that are recorded in an event-based setting where users are not recording an entire shift under one video footage. For the purpose of this section, "evidentiary recordings" refers to data having relevance to a legal trial or regulatory hearing.

3.3. CommandCentral. For each Body Camera, in-car system or integrated system purchased, Customer will receive one user license Motorola's CommandCentral, which provides access to CC Community, CC Capture, CC Vault and CC Records. If the Customer requires additional licenses to CommandCentral they must be purchased for an additional fee.

3.4. Applicable End User Terms. Additional license terms apply to third-party software included in CommandCentral Products. Specifically, Customer agrees that the ESRI terms and conditions available at https://www.motorolasolutions.com/en_us/products/command-center-software/motorola-solutions-customer-terms/flow-down-terms/esri-as-a-service-terms.html and the Microsoft terms and conditions available at https://www.motorolasolutions.com/en_us/products/command-center-software/motorola-solutions-customer-terms/flow-down-terms/microsoft-on-premise-terms.html apply to Customer's, and its Authorized Users', use of such Products. Customer will comply, and ensure its Authorized Users comply, with all such additional license terms.

3.5. In-Car System. If Customer's VaaS Program order includes an in-car system, Customer will receive a subscription to WatchGuard CarDetector Mobile during the VSA Term, the use of which is subject to the SSA.

3.6. Vigilant Access. Customer may opt for subscription to additional Subscription Software, including use of the Law Enforcement Archival Network (“**LEARN**”), which is subject to the SSA and any additional terms governing the use of LEARN. If Customer purchases a subscription to commercial license plate recognition data, then Customer will execute and agree to the terms of WatchGuard’s standard IDP Agreement.

3.7. License Plate Recognition Data. License plate recognition (“**LPR**”) data collected by Customer is considered Customer Data (as defined in the MCA) and is therefore subject to the Customer’s own retention policy. Customer, at its option, may share its LPR data with other similarly situated Law Enforcement Agencies (“**LEAs**”) which contract with Vigilant to access LEARN by selecting this option within LEARN. Other similarly situated LEAs may similarly opt to share their LPR data with Customer using LEARN. Such LPR data generated by other LEAs is considered Third-Party Data (as defined in the MCA), is governed by the retention policy of the respective LEA, and shall be used by Customer only in connection with its use of LEARN. LPR data that has reached its expiration date will be deleted from LEARN. Only individuals who are agents and/or sworn officers of Customer and who are authorized by Customer to access LEARN on behalf of Customer through login credentials provided by Customer (“**User Eligibility Requirements**”) may access LEARN. Vigilant in its sole discretion may deny access to LEARN to any individual based on such person’s failure to meet the User Eligibility Requirements. Customer will ensure no user logins are provided to agents or officers of other local, state, or Federal LEAs without the express written consent of Vigilant. Customer will be responsible for all individuals’ access to, and use of, LEARN through use of Customer login credentials, including ensuring their compliance with this Agreement.

3.8. Support of Downloaded Clients. If Customer purchases any software Product that requires a client installed locally on Customer-Provided Equipment or Equipment in possession of Customer, Customer will be responsible for downloading and installing the current version of such client, as it may be updated from time to time. WatchGuard will use reasonable efforts to continue supporting any version of a client for forty-five (45) days following its release, but WatchGuard may update the current version of its client at any time, including for bug fixes, product improvements, and feature updates, and WatchGuard makes no representations or warranties that any software Product will support prior versions of a client.

3.9. CJIS Security Policy. WatchGuard agrees to support Customer’s obligation to comply with the Federal Bureau of Investigation Criminal Justice Information Services (“**CJIS**”) Security Policy and will comply with the terms of the CJIS Security Addendum for the term of the Addendum or Ordering Document for the applicable Product. Customer hereby consents to WatchGuard screened personnel serving as the “escort” within the meaning of CJIS Security Policy for unscreened WatchGuard personnel that require access to unencrypted Criminal Justice Information for purposes of Product support and development.

4. System Completion. All Subscription Software sold at initial purchase under the VaaS Program will be deemed completed upon Customer’s (or the applicable Authorized User’s) Beneficial Use of ELC (the “**System Completion Date**”). Customer will not unreasonably delay Beneficial Use of ELC, and in any event, the Parties agree that Beneficial Use of ELC will be deemed to have occurred thirty (30) days after functional demonstration. As used in this Section, “**Beneficial Use**” means use by the customer or at least one (1) Authorized User of the material features and functionalities of a Product within a Software System, in material conformance with Product descriptions in the applicable Ordering Document. Any additional Subscription Software purchased under the VaaS Program will be deemed delivered upon Customer’s receipt of credentials required for access to the Subscription Software or upon WatchGuard otherwise

providing access to the Subscription Software. This Section applies to Products purchased as part of the VaaS Program notwithstanding the delivery provisions of the Addendum applicable to such Products, such as the SSA or EPSLA, and this Section will control over such other delivery provisions to the extent of a conflict.

5. Payment. Unless otherwise provided in an Ordering Document (and notwithstanding the provisions of the MCA), Customer will prepay a subscription Fee quarterly (each a “**Subscription Quarter**”), as set forth in an Ordering Document. If Customer orders any additional Product(s) under the VaaS Program subsequent to the initial purchase by Customer, Fees for such additional Product will be added to the quarterly subscription Fee, and will be payable on the same Fee payment schedule as the initial Product purchased under the VaaS Program; provided, however, that for the first Subscription Quarter during which such additional Product is purchased, the subscription Fee for the applicable additional Product will be pro-rated based on the applicable number of days remaining in the such initial Subscription Quarter.

6. Term and Termination.

6.1. VaaS Term. Customer’s participation in the VaaS Program will commence upon the System Completion Date under this VSA, and will continue through the end of the final Commitment Term hereunder. Following the end of any Commitment Term, Customer’s access to ELC with respect to the Equipment purchased relative to that Commitment Term will expire, and Customer must download or transfer all Customer Data associated with the applicable Equipment within thirty (30) days following expiration unless Customer purchases extended access to ELC from WatchGuard at the prevailing rates. WatchGuard has no obligation to retain Customer data for expired Equipment beyond thirty (30) days following expiration of the applicable Commitment Term. For example, if Customer purchases 100 devices on January 1 of Year 1 of the VSA Term, and then 100 additional devices on January 1 of Year 3, on December 31 of Year 5 (i.e., the conclusion of the Initial Commitment Term), Customer’s access to ELC with respect to the first 100 devices will be discontinued, and Customer must purchase extended storage or transfer all Customer Data associated with the first 100 devices within thirty (30) days of expiration of the Initial Commitment Term. In the foregoing example, ELC access and data storage for the second 100 devices purchase will extend until December 31 of Year 7.

6.2. Term. The term of this VSA (the “**VSA Term**”) will commence upon either (a) the Effective Date of the MCA, if this VSA is attached to the MCA as of such Effective Date, or (b) the VSA Date set forth on the signature page below, if this SSA is executed after the MCA Effective Date, and will continue until the expiration or termination of the last Commitment Term, unless this VSA or the Agreement is earlier terminated in accordance with the terms of the Agreement.

6.3. Termination. The termination provisions applicable to the VaaS Program will be those set forth in the MCA, EPSLA and SSA, as applicable. If Customer’s participation in the VaaS Program is terminated for any reason prior to the end of the Initial Commitment Term or any Subsequent Commitment Term, Customer will pay the pro-rated remainder of the aggregate Equipment MSRP price, calculated by multiplying the MSRP price of all Equipment purchased under the VaaS Program by the percentage resulting from dividing the number of months remaining in the Commitment Term applicable to such Equipment by sixty (60). In the event Customer purchased Equipment on multiple dates, resulting in separate Commitment Terms for certain Equipment, the preceding calculation will be made relative to the applicable Commitment Term for each Equipment order. For example, if Customer purchased \$1,000 worth of Equipment on January 1 of Year 1 of the VSA Term, and then \$1,000 worth of Equipment on January 1 of Year 2, and then Customer’s VaaS Program terminates on December 31 of Year 3, Customer will be required to repay: $\$1,000 \times (24/60) + \$1,000 \times (36/60)$, which is equal to \$1,000 in the aggregate.

7. **DEMS Additional Terms.** Use of and access to ELC will be subject to the additional terms and conditions set forth in the **DEMS Exhibit** attached hereto and incorporated herein.

8. **Survival.** The following provisions will survive the expiration or termination of this VSA for any reason: **Section 3 – Payment; Section 4 – Term and Termination; Section 6 – Survival.**

DEMS EXHIBIT
EVIDENCELIBRARY.COM

The following DEMS Exhibit (the “**Exhibit**”) is an Exhibit to the VSA and sets forth the terms relating to Customer’s use of ELC.

If any term in this Exhibit conflicts with a term in the main body of the VSA or any other part of the Agreement, this Exhibit will control with respect to ELC

1. DATA STORAGE. WatchGuard will determine, in its sole discretion, the location of the stored content for ELC, provided that all content for North American Customers will reside within North America and all content for U.S. government Customers will reside within the United States.

2. DATA RETRIEVAL. ELC will leverage different types of storage to optimize ELC, as determined in WatchGuard’s sole discretion. For multimedia data, such as videos, pictures, audio files, WatchGuard will, in its sole discretion, determine the type of storage medium used to store the content. The type of storage and medium selected by WatchGuard will determine the data retrieval speed. Access to content in archival storage may take up to eight (8) hours to be viewable.

3. API SUPPORT. WatchGuard will use commercially reasonable efforts to maintain the Application Programming Interface (“**API**”) offered as part of ELC during the term of this Addendum. APIs will evolve and mature over time, requiring changes and updates. Previous versions of APIs will be supported for a minimum of six (6) months after a new version of the applicable API is introduced. If support of the API is no longer a commercially reasonable option, WatchGuard will provide reasonable advance notice to Customer. If an API presents a security risk to ELC or any other Product or Services, WatchGuard has the right to discontinue an API without prior warning.

4. SERVICE LEVEL TARGETS.

MSI will use reasonable efforts to provide monthly availability of the ELC of 99.9%, with the exception of maintenance windows. There are many factors beyond WatchGuard’s control that may impact WatchGuard’s ability to achieve this goal, including but not limited to a force majeure event.

Additionally, WatchGuard will strive to meet the response time goals set forth in the table below.

RESPONSE TIME GOALS

SEVERITY LEVEL	DEFINITION	RESPONSE TIME
1	Total System Failure - occurs when the System is not functioning and there is no workaround; such as a Central Server is down or when the workflow of an entire agency is not functioning. This level is meant to represent a major issue that results in an unusable System, Subsystem, Product, or critical features. No work around or immediate solution is available.	Telephone conference within 1 Hour of initial voice notification
2	Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems. This level is meant to represent a moderate issue that limits a Customer's normal use of the System, Subsystem, Product or major non-critical features.	Telephone conference within 3 Business Hours of initial voice notification during normal business hours
3	Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround. This level is meant to represent a minor issue that does not preclude use of the System, Subsystem, Product, or critical features.	Telephone conference within 6 Business Hours of initial notification during normal business hours
4	Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow. This level is meant to represent very minor issues, such as cosmetic issues, documentation errors, general usage questions, and product or System Update requests.	Telephone conference within 2 Standard Business Days of initial notification

5. MAINTENANCE. Scheduled maintenance of ELC will be performed periodically. WatchGuard will make commercially reasonable efforts to notify Customer a week in advance. Unscheduled and emergency maintenance may be required from time to time. WatchGuard will make commercially reasonable efforts to notify Customer of unscheduled or emergency maintenance twenty-four (24) hours in advance.

6. WI-FI NETWORK REQUIREMENTS.

6.1 If any of the below items apply, additional Fees may apply:

- Customer's internet is through county/city IT, strict firewall policies, not able to install software on PC's;
- Customer requires multiple upload locations through different internet WatchGuards at each site;
- Customer has slow internet (<20MBps or higher for 4k video upload);
- Customer doesn't have Wi-Fi;
- Customer doesn't use Google Chrome or uses Google Chrome but has conflicting Chrome extensions;
- Customer requires multiple upload locations;
- Customer has multicast disabled on their wireless network;
- Customer wants to utilize MAC address filtering.

6.2 The following conditions are not supported:

- Wi-Fi AP's do not support 802.11AC;
- Customer AP does not support DNS-SD, and/or the Apple Bonjour suite.



September 2021

GPON CUSTOMER COUNT & REVENUE

Month	In Service	Static IPv4 Address	Internet Service Revenue	Static IPv4 Revenue	GPON Revenue	Other Revenue	MONTHLY REVENUE
Jan-21	524	31	\$ 33,616.00	\$ 411.00	\$ 34,027.00	\$ 2,023.25	\$ 36,050.25
Feb-21	575	34	\$ 36,445.00	\$ 449.00	\$ 36,894.00	\$ 2,023.25	\$ 38,917.25
Mar-21	624	31	\$ 38,906.00	\$ 400.00	\$ 39,306.00	\$ 2,023.25	\$ 41,329.25
Apr-21	698	34	\$ 43,962.00	\$ 438.00	\$ 44,400.00	\$ 2,023.25	\$ 46,423.25
May-21	720	35	\$ 45,200.00	\$ 447.00	\$ 45,647.00	\$ 2,023.25	\$ 47,670.25
Jun-21	772	39	\$ 48,868.00	\$ 494.00	\$ 49,362.00	\$ 2,023.25	\$ 51,385.25
Jul-21	808	39	\$ 50,902.00	\$ 494.00	\$ 51,396.00	\$ 2,023.25	\$ 53,419.25
Aug-21	830	39	\$ 52,320.00	\$ 494.00	\$ 52,814.00	\$ 2,023.25	\$ 54,837.25
Sep-21	863	39	\$ 54,507.00	\$ 494.00	\$ 55,001.00	\$ 2,023.25	\$ 57,024.25

CUSTOMER ORDERS

Residential	Count	Monthly Revenue	Commercial	Count	Monthly Revenue	Other Customers			
100Mbps	249	\$ 9,711.00	100Mbps	41	\$ 3,649.00	\$867.00			
100Mbps managed	237	\$ 11,613.00	100Mbps managed	35	\$ 3,465.00	\$1,156.25			
1Gbps	149	\$ 10,281.00	1Gbps	38	\$ 5,662.00				
1Gbps managed	100	\$ 7,900.00	1Gbps managed	14	\$ 2,226.00				
One Static IP	4	\$ 36.00	One Static IP	22	\$ 198.00				
Five Static IPs	2	\$ 40.00	Five Static IPs	11	\$ 220.00				
Total:	735	\$ 39,581.00	Total:	128	\$ 15,420.00				
Grand Total	\$ 57,024.25								
	CBD	Old Town	M Ave	2020 Aerial Areas	West End	Guemes View	East Side Expansion	South Fidalgo Bay	Total
Potential Customers	255	562	160	1296	2302	872	1815	367	7629
Sign-ups	127	251	75	464	656	186	574	28	2333
Take-Rate	49.8%	44.7%	46.9%	35.8%	28.5%	21.3%	31.6%	7.6%	30.6%
Partial Installs	0	0	0	0	11	0	0	0	11
In-Service	119	241	70	402	0	0	22	9	863
Percentage of Orders in Service	93.7%	96.0%	93.3%	86.6%	0.0%	0.0%	3.8%	32.1%	

In our current service areas 917 orders have been received of the potential 2273 customers which equates to 40.3% market share.

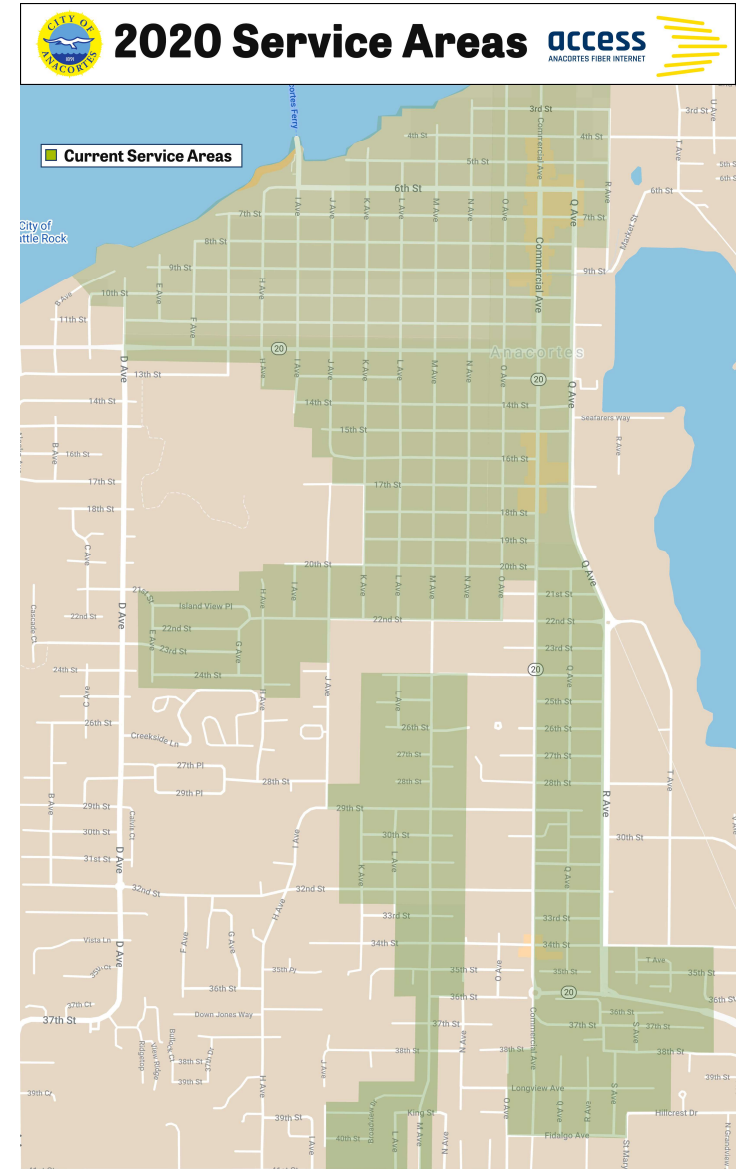
FIBER DIVISION CASHFLOWS

January 1 – July 31, 2021

	<u>Q1</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>YTD</u>
REVENUES						
Internet	110,085	42,933	45,429	48,564	50,547	297,558
Dark Fiber	3,468	1,156	1,156	1,156	1,156	8,094
Ethernet	2,601	867	867	867	867	6,069
Installation	<u>30,308</u>	<u>4,504</u>	<u>3,309</u>	<u>4,136</u>	<u>3,634</u>	<u>45,892</u>
total revenues	146,462	49,460	50,761	54,723	56,204	357,613
OPERATING EXPENSES	(<u>240,228</u>)	(<u>70,011</u>)	(<u>68,869</u>)	(<u>62,538</u>)	(<u>60,751</u>)	(<u>502,977</u>)
OPERATING CASHFLOW	(<u>93,766</u>)	(<u>20,551</u>)	(<u>18,108</u>)	(<u>7,815</u>)	(<u>4,547</u>)	(<u>145,364</u>)
CONSTRUCTION EXPENSES						
Backbone &						
Customer installations	(<u>441,873</u>)	(<u>100,223</u>)	(<u>308,185</u>)	(<u>360,449</u>)	(<u>684,573</u>)	(<u>1,895,303</u>)
Core equipment	(<u>17,286</u>)	(<u>2,091</u>)	(<u>2,399</u>)	(<u>11,470</u>)	(<u>977</u>)	(<u>34,223</u>)
LINE OF CREDIT	<u>0</u>	<u>0</u>	<u>0</u>	<u>306,905</u>	<u>0</u>	<u>306,905</u>
TOTAL CASHFLOW	(<u>552,925</u>)	(<u>122,865</u>)	(<u>328,692</u>)	(<u>72,829</u>)	(<u>690,097</u>)	(<u>1,767,985</u>)

ACCESS ANACORTES FIBER INTERNET SERVICE AREA

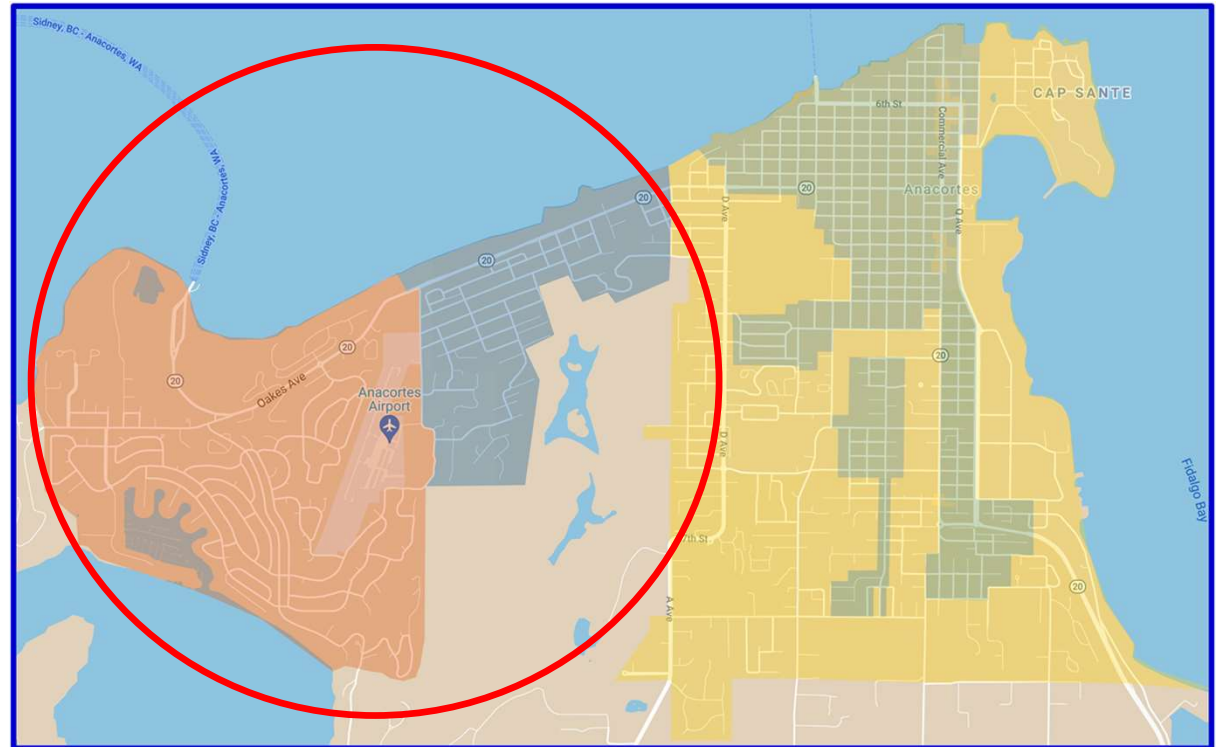
Fiber technicians are systematically completing installations and placing customers into service. There are 85 orders in queue for service in our current service areas.



FUNDING OPPORTUNITIES

American Recovery Plan Act

- Access will apply for funding through WA State Broadband Office
- \$9.75M requested for West End & Guemes View



NETWORK EXPANSION

Area	Pass	Projected Expansion Timeframe	Funding
“West End” West of Anacopper Mine Rd.	2375	2021 construction underway and installations begin fall 2021. Outside partial installations have begun. Installations will continue into early 2022.	Savibank Line of Credit (up to \$4.5M) Will submit this phase of the project for ARPA Funding which is being administered through the WA State Broadband Office
East of A Ave. Backfilling current service area	1815	2021 design followed by 2022 construction and installations	Economic Development Administration (EDA) grant for \$2.25M. Balance of project to be funded through Line of Credit.
Guemes View (East of Anacopper Mine Rd. to A Ave.)	875	2022 if grant funding secured, otherwise 2023	Will submit this phase of the project for ARPA Funding which is being administered through the WA State Broadband Office
South Fidalgo Bay (Urban Growth Area along HWY 20 & March’s Point)	367	2022 if grant funding secured, otherwise 2023-2024	
Burrows Bay	466	2022 if grant funding secured, otherwise will not proceed	

NETWORK EXPANSION

West End

Passes: 2,375
 Backbone Cost: \$6,000,000
 Funding: Line of Credit
 WA B'band Ofc

EDA Area

Passes: 1,815
 Backbone Cost: \$2,817,000
 Funding:
 EDA.....\$2,254,000
 Line of Credit.....\$563,000

Guemes View

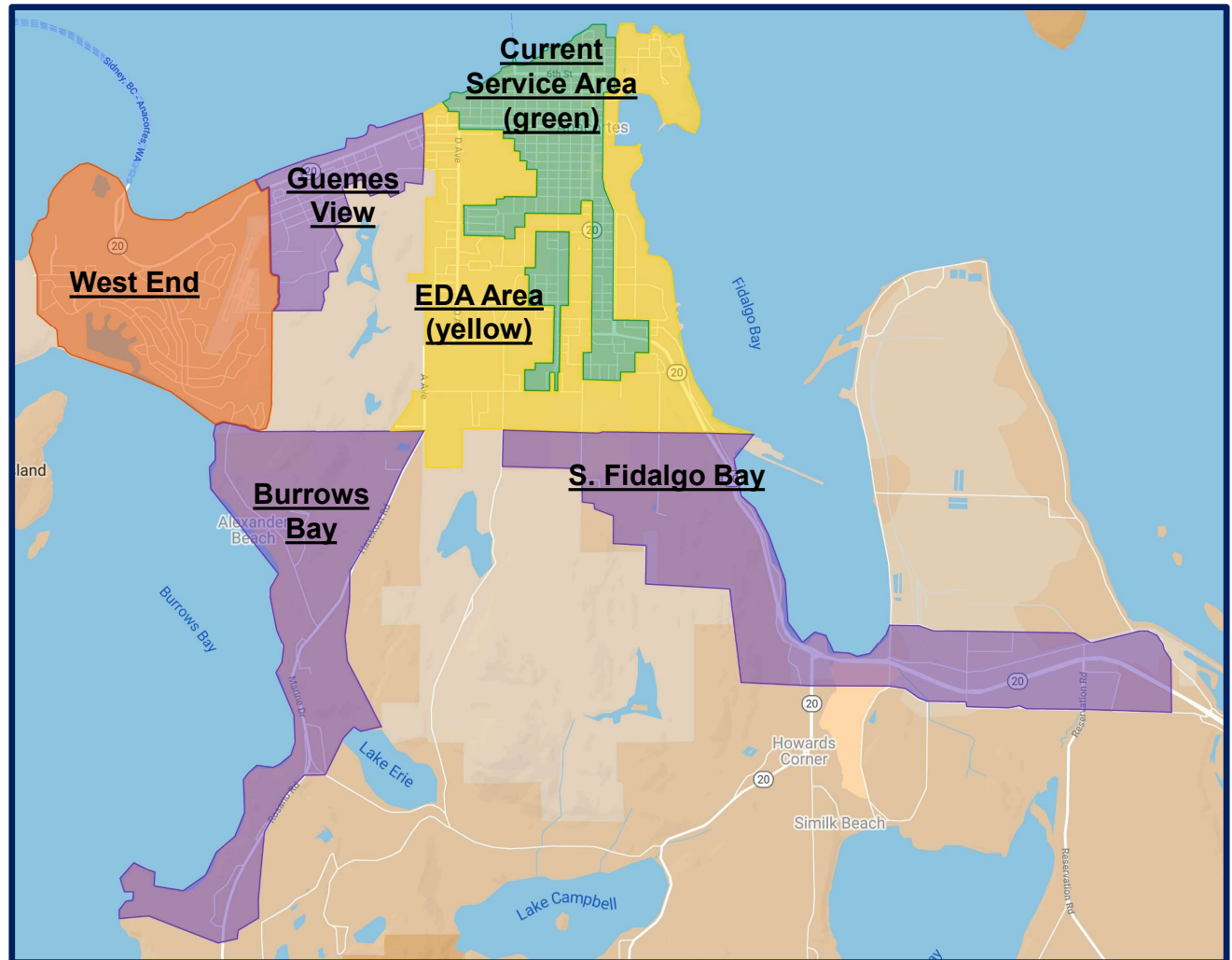
Passes: 872
 Backbone Cost: \$3,400,000
 Funding:
 WA B'band Ofc or
 Other grant opp. \$2,400,000
 Line of Credit.....\$1,000,000

South Fidalgo Bay

Passes: 367
 Backbone Cost: \$2,725,00
 Funding: grant opportunity

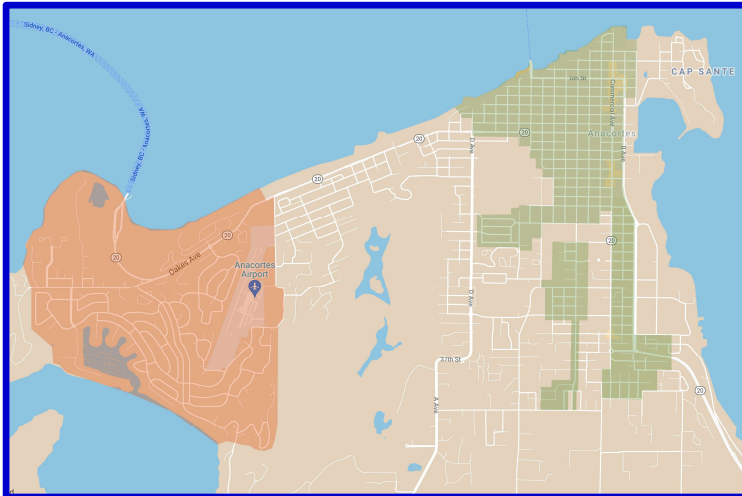
Burrows Bay

Passes: 466
 Backbone Cost: \$2,900,00
 Funding: grant opportunity



CURRENT EXPANSION

- Construction underway (22% of trenching and vault placement complete)
- Outside installations underway
- Securing easements on private streets
- 656 orders received (28.5% take rate)
- Accepting pre-orders for service



SPECIAL PROJECTS

☐ **ROCK ISLAND COMMUNICATIONS**

3rd quarter 2021

Dark fiber lease, Anacortes to Mount Vernon

Dark fiber lease, within Anacortes

☐ **SWINOMISH INDIAN TRIBAL COMMUNITY**

3RD quarter 2021

Business class internet service

☐ **WESTERN WASHINGTON UNIVERSITY – SHANNON POINT MARINE CENTER**

Late 2021

Dedicated internet access

☐ **ISLAND HOSPITAL- ADDITIONAL SITE**

Early 2022

Dark fiber lease



ANACORTES FIBER INTERNET

We are your City owned and operated municipal fiber network providing high speed fiber internet service to meet your business and residential needs.



COMING ACTIVITY

- *EDA grant application continues to be processed*
- *Finalizing easements with west end HOAs & property owners*
- *Awaiting ARPA grant funding application through WA State Broadband Office*
- *Following federal infrastructure legislation (projected \$65B nationally toward broadband)*

- > **Faster Speeds**
- > **Lower Prices**

- > **More Reliable**
- > **Locally Run**

Residential Plans

Month to Month

100 Mbps	\$39/month
1 Gbps	\$69/month
Managed WiFi	\$10/month
Install Fee	\$100

Business Plans

12 Month Contract

100 Mbps	\$89/month
1 Gbps	\$149/month
Managed WiFi	\$10/month
Install Fee	\$100

access
ANACORTES FIBER INTERNET





City Council Agenda Bill

Meeting Date: September 13,
2021

Agenda Item: 6.b.

Agenda Item Title: Anacortes Community Forest Lands Management Plan Update

Staff Contact(s): BOB VAUX

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
JOHN LUNSFORD	Discussion

Item Summary: A [draft ACFL Management Plan](#) was approved by the Forest Advisory Board in 2014 for the City Comprehensive Plan update in 2016. A review of the draft was delayed for various reasons. Staff would like to discuss with City Council a process for moving forward.

Budget Impact:

ACFL Management is covered in the existing budget, a revised plan should have a limited effect on the budget.

Previous Action: [Draft ACFL Management Plan](#) was approved by the ACFL Advisory Board in 2014. There were subsequent discussions at City Council in 2019. The draft has also been discussed at subsequent Forest Advisory Board and Parks & Recreation City Council Sub-Committee meetings.

Recommended Motion: The goal is to have a discussion on how to proceed with the draft ACFL management plan.

Alternative Actions: NA

Attachments (listed in order presented):

1. Staff Slide Presentation

The background of the slide is a composite image. The central portion is a photograph of a dirt path in a forest, with a wooden post and a trail sign visible on the right. The path is covered in fallen leaves. The left and right sides of the slide feature a vertical strip of a sky with soft, white clouds. The text is overlaid on the central forest image.

ACFL COMPREHENSIVE PLAN UPDATE

INTRODUCTION TO CITY COUNCIL
SEPTEMBER 13, 2021

TIMELINE OF COMPREHENSIVE PLAN

Oct. 30, 2014

- Staff Finishes Work on ACFL Comp Plan Update Draft

Dec. 4, 2014

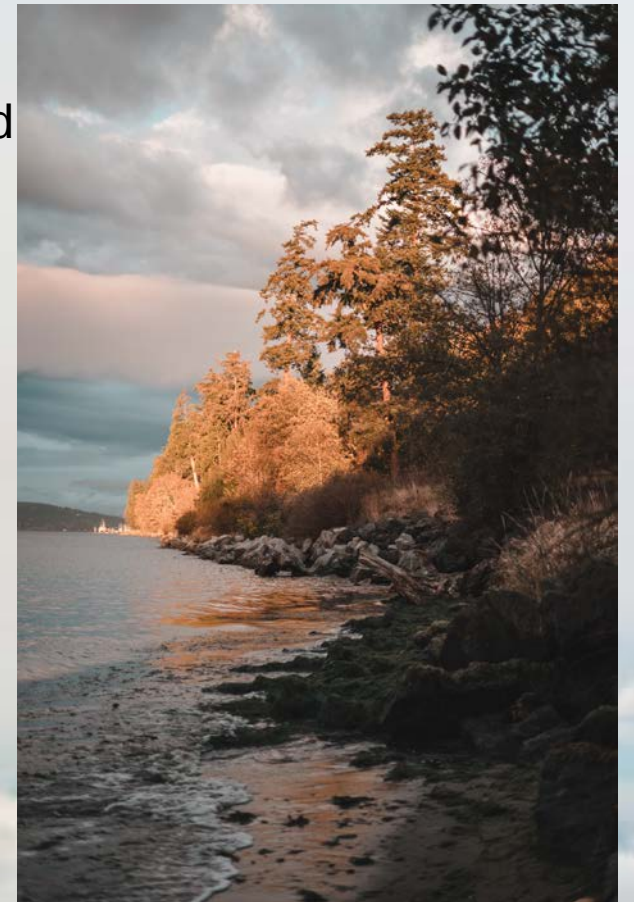
- Forest Advisory Board votes to approve Plan Update
- Parks & Recreation Staff brought the Parks Plan and the ACFL Comprehensive Plan to Council simultaneously
- Council decided to review the plans separately. Parks Plan was approved, ACFL Comp Plan ended up deeper in the queue
- Plan has stood the test of time



TIMELINE OF COMPREHENSIVE PLAN

Sept. 13, 2021

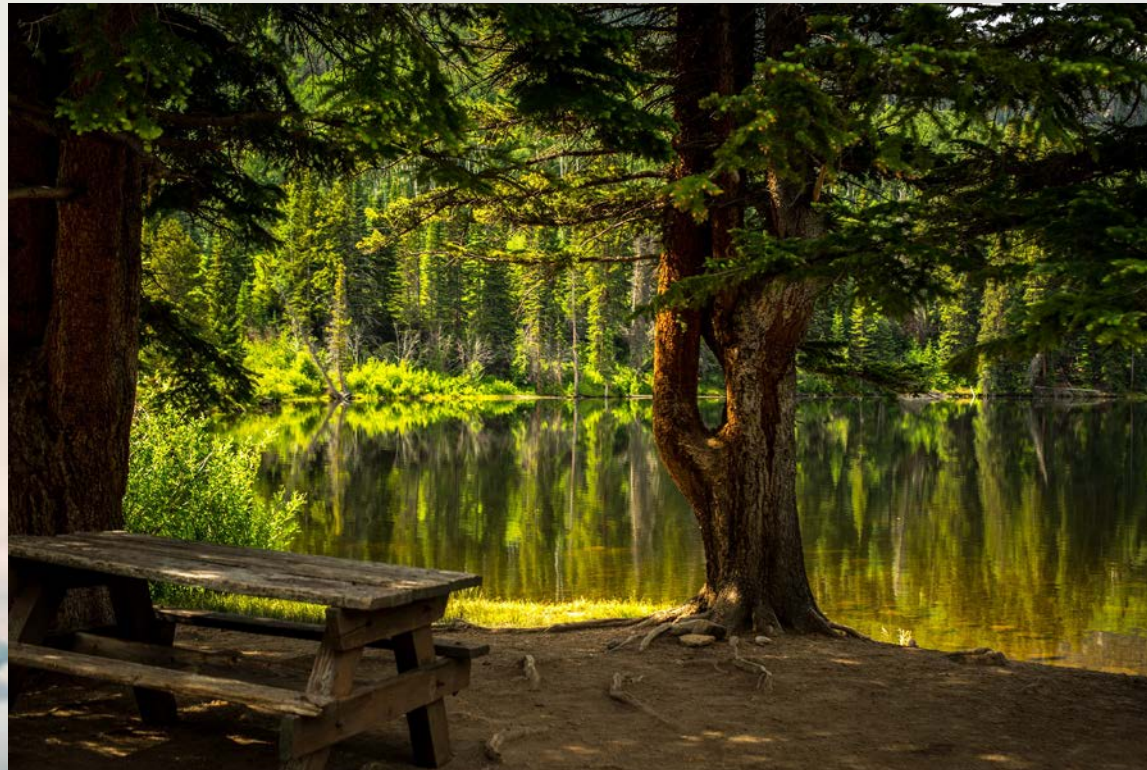
- ACFL Draft Comp Plan to City Council
- Council will set the course for updating the Plan.
Options include:
 - Send the plan back to the Forest Advisory Board for another round of public input
 - Set a Council public hearing for the Plan
 - Decide to approve the plan



TIMELINE OF COMPREHENSIVE PLAN

There are 25 pages of public comments submitted for this draft currently on the Parks Department website. Staff happy to include these in a Council packet.

There is a one page summary of the minor changes made by the Forest Advisory Board in 2014 also on the website.



ACFL Comprehensive Plan Update

ACFL Comprehensive Plan Update:

The Forest Advisory Board and staff have been holding public meetings, taking comments and revising the ACFL Comprehensive Plan for the past several months. Many changes to the document have been made. Recently some policy recommendations were made and we wanted to call this to the public's attention and invite comment. The following items were removed from the 2009 ACFL Comprehensive Plan:

Pg. 16. 5) The Forest Board should work with the Parks Board and other public entities to find places where dogs can be allowed off-leash in a trail setting and or with access to water. This process may take years of careful research and require significant input as to how best to accomplish this goal.

Pg. 32 5) Dog walkers were removed as a user group with representation on the ACFL Trail Committee.

The following items were added to the plan:

Pg. 16. 5) Commercial activities in the ACFL that do not violate existing policies may be permitted by the Parks and Recreation Director in consultation with the ACFL Advisory Board.

Pg. 37. Problems with algae and milfoil shall be addressed with this in mind but if manual removal is not effective, chemical herbicides may be used.

Introduction

Includes the goal of plan updates every 5 years

Management Areas

Many acres donated with restrictive deeds

Goals, policies, boundaries, restrictions, current conditions, projected uses and recommendations

Little Cranberry Lake Area: 257 acres

South Cranberry Lake Area: 446 acres



Management Areas

Whistle Lake/Fidalgo Ridge Area: 645 acres

Heart Lake Area: 515 acres

South Heart Lake Road/Ray Auld Drive Area: 465 acres

Mt. Erie Summit South / West Faces: 35 acres

Mt. Erie Conservancy Area: 459 acres



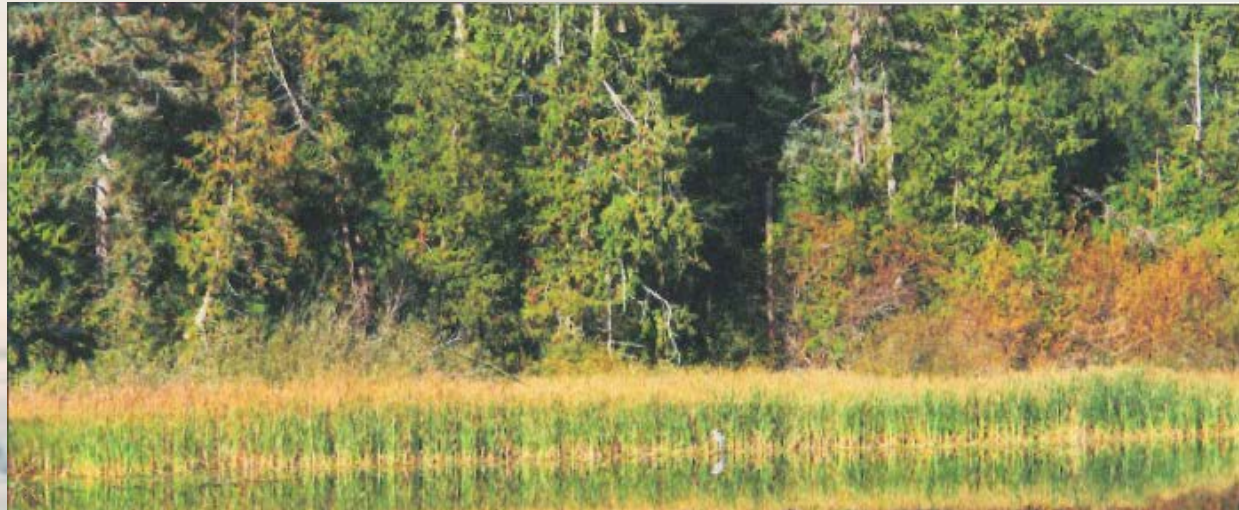
Forest Lands Stewardship

Forest Management

Flora Management

Wildlife Management

Water Resources Management



Management of Recreational Activities

Multi / shared use a unique and dynamic strength

Comprehensive Trail Plan in the appendix



Management Procedures

Forest Advisory Board membership: Planning Commission member not as critical as it once was

Fire protection: a topic that will continue to be an important one for the community

Annual Fire Patrol Tax paid to DNR: \$921

Appendices

History: acquisition, logging and CEP: 1998. Success has outdistanced expectations

Comprehensive Trail Use Plan: Intro / The Trail Plan / Implementation of the Trail Plan

2002 Heart Lake State Park deeded to the COA

Maps



July 1967

Current Topics

The balance between protection and recreation: access has created the relationship with the land. One reason why programs like the Conservation Easement Program are so successful

Friends of the Forest

Samish Nation

Wildfire

Ebikes

Pandemic visitor numbers

Whistle Lake Dam

THANK YOU





City Council Agenda Bill

Meeting Date: September 13,
2021

Agenda Item: 6.c.

Agenda Item Title: Contract Award: Sensus Water Meter Software #21-136-WTR-001

Staff Contact(s): FRED BUCKENMEYER, BRIAN MCDANIEL

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
TIFFANY MATSON	Contract Award

Item Summary: Summary Statement: City staff seeks City Council consent to award a contract in the amount of \$195,712.16 to Ferguson Waterworks for the Sensus Water Meter Software. This agreement provides for the setup, installation, configuration, integration, training, and support of the Sensus water meter software in the City's water system.

Background:

- **History:** The City currently uses the Sensus brand of water meters and meter reading software throughout the existing water system. This agreement is for a new version of software. It moves us to a Software as a Service platform (SaaS) cloud based and permits us to communicate with the two types of existing water meter radios in use by the City. This software allows us to switch the water meter radios to go from drive by reading to reading with the stationary antennas.
- **Competitive Bidding:** The City Council waived the competitive bidding requirements through Resolution 3036.

Budget Impact:

- Total contract price is \$195,712.16. The per-year costs are:
 - 2021: \$48,711.12
 - 2022: \$31,965.44
 - 2023: \$35,690.48
 - 2024: \$37,473.44

- 2025: \$41,871.68

Contractor	Ferguson Waterworks
Contract Amount	\$195,712.16
Earmarked Funds	\$
BARS #	401.740.534.63.41
Budget Amendment Required?	No
Start Date	Execution
End Date	five (5) years from the date the software is fully installed and operational

Previous Action: At the [5/24/21](#) meeting, Council approved [Resolution 3036](#).

Recommended Motion: I move that City Council authorize the Mayor to sign contract 21-136-WTR-001 with Ferguson Waterworks in the amount of \$195,712.16 for the Sensus Water Meter Software.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. 21-136-WTR-001
2. Staff Slide Presentation
3. AMI Budget Proposed 09.13.2021



AGREEMENT 21-136-WTR-001

Between THE CITY OF ANACORTES AND FERGUSON WATERWORKS

SENSUS WATER METER SOFTWARE

This Agreement, hereinafter referred to as "Agreement", made and entered into between the City of Anacortes, hereinafter referred to as the "City", and Ferguson Waterworks, hereinafter referred to as the "Consultant"; alleged

WHEREAS, the City requires the professional services of the Consultant;

NOW, THEREFORE, in consideration of mutual benefits accruing, it is agreed by and between the parties hereto as follows:

1. **Scope of Work.** Under this Agreement, the Consultant shall provide setup, installation, configuration, integration, training, and support of the Sensus water meter software in the City's water system, as directed by the Project Manager, Brian McDaniel. The Sensus' hosted Software solution and technical support shall be governed by Exhibit B, the negotiated Sensus **Software as a Service Agreement (SaaS)**, which is hereby incorporated by reference and made a part hereof.

2. **COVID-19 Safety Requirements Compliance.** The Consultant, and its sub-Consultants of any tier, agree to comply with all current and future COVID-19 proclamations, regulations, requirements and/or related guidance issued by the Office of the Governor of Washington State as it may relate to City of Anacortes projects.

3. **Price and Payment Terms.** The services provided under this Agreement shall be **One Hundred Ninety-Five Thousand Seven Hundred Twelve Dollars and Sixteen Cents (\$195,712.16)**. The billable rates for services provided shall be in accordance with Exhibit A, is attached hereto and incorporated by reference.

4. **Period of Performance.** The Consultant shall perform all setup, installation, configuration, integration, and training work by December 31, 2021, with continued annual renewal of the Sensus' hosted Software solution for five (5) years from the date the software is fully installed and operational in the City's system.

5. **Subcontracts.** The Consultant shall give notice in advance of placing any subcontract and will identify subcontracts before subcontracted work begins. "Subcontract" means any contract entered into by a sub Consultant to furnish supplies or services for performance of the prime Consultant or a sub Consultant. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders. The following information shall be included (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed sub Consultant, (iv) proposed subcontract price. Unless consent or approval specifically provides otherwise, consent by the City shall not constitute a determination –

- (1) of the acceptability of any subcontract terms or conditions;
- (2) Of the allowability of any cost under this Agreement,; or
- (3) To relieve the Consultant of any responsibility for performing this Agreement.

The Consultant shall give immediate written notice, reference Clause Notices, of any action or suit filed and prompt notice of any claim made against the Consultant by any sub Consultant or vendor that, in the opinion of the Consultant, may result in litigation related in any way to this Agreement, with respect to which the Consultant may be entitled to reimbursement from the City.

6. **Taxes.** The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Consultant must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Consultant's gross or net income, or personal property to which the City does not hold title. The City is exempt from Federal Excise Tax. Where applicable the City shall furnish a Federal Excise Tax Exemption certificate.

7. **Invoicing.** All invoices shall include a cover page that states: Company Name, Invoice Date, Due Date (30 days), Invoice Number, Invoice Period, Project Manager Name, Agreement Number, and amount requested per invoice. The Consultant must allow 30 calendar days from receipt of the invoice for payment. Invoices may be sent by US mail to City of Anacortes, Accounts Payable, PO Box 547, Anacortes, WA 98221, or by email to accountspayable@cityofanacortes.org

The City shall notify the Consultant within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Consultant shall then resubmit a new invoice less the disputed amount and payment shall be made within 30 calendar days. Any disputed amounts may be submitted under the Disputes clause contained herein.

8. **Withholding Payment.** In the event the City determines that the Consultant has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Consultant the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Consultant to terminate or damages, provided that the City promptly gives notice in writing to the Consultant of the nature of the default or failure to perform, and in no case more than 8 days after it determines to withhold amounts otherwise due. A determination of the City Attorney set forth in such notice to the Consultant of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Consultant acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. The City may act in accordance with any determination of the City Attorney which has become conclusive under this clause, without prejudice to any other remedy under the Contract, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Consultant, (3) to set off any amount so paid or incurred from amounts due to become due the Consultant. In the event the Consultant obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Consultant by reason of good faith withholding by the City under this clause.

9. **Final Payment: Waiver of Claim.** The Consultant's acceptance of final payment shall constitute a waiver of claims, except those previously and properly made and identified by the Consultant as unsettled at the time request for final payment is made.

10. **Ownership and Use of Documents.** All finished and unfinished documents and material prepared by the Consultant with funds paid by the City pursuant to the terms of this Agreement shall become the property of the City and shall be forwarded to the City upon its request. Documents and materials shall include but not be limited to plans, specifications, reports, electronic and non-electronic data, and other design documents prepared by the Consultant. Pursuant to RCW 42.56.70, all information and documents produced under this Agreement may be subject to public disclosure.

11. **Assistance Regarding Patent and Copyright Infringement.** In the event of any claim or suit against City on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any material furnished or work or services performed hereunder, Consultant shall defend City against any such suit or claim and hold City harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.

12. **Defense and Indemnity Agreement.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

13. **General Liability Insurance.**

A. Insurance Term: The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. No Limitation: Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance: Consultant shall obtain insurance of the types and coverages described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrences form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent consultants and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

D. Minimum Amounts of Insurance: Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence and \$2,000,000 general aggregate.

E. Other Insurance Provision: The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

F. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage: Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

H. Notice of Cancellation: The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

I. Failure to Maintain Insurance: Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the contract, or at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

J. City Full Availability of Consultant Limits: If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

14. **Registered or Licensed.** The City is prohibited from executing an Agreement with a Consultant who is not registered or licensed as required by the laws of the state. In addition, a City of Anacortes business license is required for any business working inside the city limits whose annual value of products, gross proceeds of sales, or gross income of the business in the city is more than \$2,000. Business licenses can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at bls.dor.wa.gov.

15. **Inspection.** The Project Manager shall have power to reject instruments of services which fail to comply with the requirements of this Agreement, but in case of dispute the Consultant may appeal to the City Attorney, whose decision shall be final. The Consultant shall comply with any and all orders and instructions given by the representative of the particular Department administering the Agreement in accordance with the terms of the Agreement. Nothing herein contained shall be taken to relieve the Consultant of his/her obligations or responsibilities under the Agreement. However, the Consultant shall be responsible for its own methods and conduct during the period of performance.

16. **Standard of Care.** The Consultant represents that Consultant has the necessary knowledge, skill, and experience to perform the Services required by this Agreement. Consultant and any persons employed by Consultant shall use their professional skill and efforts to perform the Work in a professional manner consistent with sound engineering practices, in accordance with the usually and customary professional care required for services of the type described in the Scope of Work herein provided at the same time and in the same locale. The City's remedy for a failure to meet the above Standard of Care shall be the re-performance of the Service or an equitable adjustment in the monies paid for the Professional Services, at the City's discretion

17. **Discrimination Prohibited.** During the performance of this Agreement, the Consultant and subConsultants shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, gender identity, or any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this Agreement. Consultant agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity and Nondiscrimination statutes and regulations.

18. **Consultant is an Independent Consultant.** The parties intend that an independent Consultant relationship will be created by this Agreement. No agent, employee or representative of the Consultant shall be deemed to be an agent, employee or representative of the City for any purpose. Consultant shall be solely responsible for all acts of its agents, employees, representatives and sub Consultants during the performance of this Agreement.

19. **Acceptance.** Consultant acknowledges and agrees that these General Provisions are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Consultant. These General Provisions supersede all conflicting or additional terms pre-printed on any purchase order, quote, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.

20. **No Third Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

21. **Right to Terminate Agreement.**

A. Termination for Default: If the Consultant defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Consultant in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Consultant was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

B. Termination for Public Convenience: The City may terminate the Agreement in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the Agreement is terminated in accordance with this paragraph, the Consultant shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work. An equitable adjustment in the Agreement price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

22. **Changes/Additional Work.** The City may engage Consultant to perform services in addition to those listed in this Agreement, and Consultant will be entitled to additional compensation for authorized additional services or materials. The City shall not be liable for additional compensation until and unless any and all additional work

and compensation is approved in advance in writing and signed by both parties to this Agreement. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Consultant to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

23. **Non-waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

24. **Non-assignable.** The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

25. **Covenant Against Contingent Fees.** The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

26. **Disputes**

A. General: Differences between the Consultant and the City, arising under and by virtue of this Agreement shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The provisions of this Clause shall survive the expiration or termination of this Agreement.

B. Notice of Potential Claims: The Consultant shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Contracting Agent or the City, or (2) the happening of any event or occurrence, unless the Consultant has given the City a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the City. The written Notice of Potential Claim shall set forth the reasons for which the Consultant believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Consultant shall keep full and complete daily records of the Work performed, labor and all costs and additional time claimed to be additional.

C. Detailed Claim: The Consultant shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the City, the Consultant has given the City a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

D. Dispute Resolution: In the event of a dispute between the City and the Consultant arising of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Consultant to have oversight over the administration of this Agreement. Said representatives shall meet within thirty (30) calendar days of receipt of detailed claim, and the parties shall make a good faith effort to achieve a resolution of the dispute. In the event the parties are unable to resolve the dispute under the procedure set forth above, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties. If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies.

27. **Force Majeure.** Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of Force Majeure. For the purposes of this Agreement, Force Majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force Majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; freight embargoes; epidemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice, but no more than two (2)

working days after the event, of the impediment and its effect on the ability to perform; failure to provide such notice shall preclude recovery under this provision. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. Rights Reserved: The City reserves the right to cancel the Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Consultant shall have no recourse against the City

28. **Compliance with Laws.** The Consultant in the performance of this Agreement shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services. The Consultant specifically agrees to pay any applicable business and occupation (B&O) taxes, which may be due on account of this Agreement.

29. **Severability.** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

30. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Washington. Any action brought under the Agreement or relating to the Project shall be brought in the Superior Court of the State of Washington in Skagit County Washington.

31. **Survival of Agreement Termination.** The articles relating to Defense and Indemnity, Taxes, Ownership and Use of Documents, Assistance Regarding Patent and Copyright Infringement, The City's Right to Terminate Agreement, Governing Law, and Disputes, shall survive completion of the services, payment in full of the compensation and termination of this Agreement.

32. **Notices.** Receipt of any notice shall be deemed effective three days after deposit of written notice in the U.S. mail, with proper postage and properly addressed. Notices shall be sent to the following addresses:

CITY:

City of Anacortes
Tiffany Matson
904 6th Street
PO Box 547
Anacortes, WA 98221

CONSULTANT:

Ferguson Waterworks
2042 112th St. S
Tacoma, WA 98444

The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that s/he or it is signing with full and complete authority to bind the party on whose behalf of whom s/he or it is signing, to each and every term of this Agreement.

CITY OF ANACORTES

FERGUSON WATERWORKS

By _____
Laurie Gere, Mayor

By _____

Date _____

Title _____

Date _____



FEL PORTLAND WATERWORKS #3011
9129 NORTH TYNDALL AVENUE
PORTLAND, OR 97217-6964

Phone: 503-240-6747
Fax: 503-240-6751

Deliver To: 26070
From: Richie Dixon Jr.
Comments:

13:15:36 JUN 23 2021

FERGUSON WATERWORKS #3011
Price Quotation
Phone: 503-240-6747
Fax: 503-240-6751

COA #21-136-WTR-001
EXHIBIT A

Bid No: B396095
Bid Date: 06/23/21
Quoted By: RAD

Cust Phone: 360-293-1900
Terms: NET 10TH PROX

Customer: CITY OF ANACORTES
METER ACCOUNT
PO BOX 547
ANACORTES, WA 98221-0547

Ship To: CITY OF ANACORTES
METER ACCOUNT
PO BOX 547
ANACORTES, WA 98221-0547

Cust PO#:

Job Name: ANACORTES SAAS

Item	Description	Quantity	Net Price	UM	Total
	YEAR 1 SAAS FEES YEAR 1 FEE INCLUDES SETUP *****				
S5396383700122	SAAS ANNUAL	1	21325.000	EA	21325.00
S5396383700108	SAAS INST & CONFIG LOGIC	1	19046.250	EA	19046.25
SP-FERGINTEGRATION	FERGUSON INTEGRATION & TRAINING	1	4400.000	EA	4400.00
SP-S5396064700001	FLEXNET PROPAGATION STUDY *****	1	0.000	EA	0.00
	YEAR 2 ANNUAL FEES ----				
S5396383700122	SAAS ANNUAL *****	1	29380.000	EA	29380.00
	YEAR 3 ANNUAL FEES				
S5396383700122	SAAS ANNUAL *****	1	32803.750	EA	32803.75
	YEAR 4 ANNUAL FEES ----				
S5396383700122	SAAS ANNUAL *****	1	34442.500	EA	34442.50
	YEAR 5 ANNUAL FEES				
S5396383700122	SAAS ANNUAL *****	1	38485.000	EA	38485.00
			Net Total:		\$179882.50
			Tax:		\$15829.66
			Freight:		\$0.00
			Total:		\$195712.16

Negotiated Software as a Service Agreement

between

City of Anacortes
(“Customer”)

and
Sensus USA Inc.
(“Sensus”)

IN WITNESS WHEREOF, the parties have caused this Software as a Service (“Agreement”) to be executed by their duly authorized representatives as of the day and year written below. The date of the last party to sign is the “Effective Date.”

This Agreement shall commence on the Effective Date and continue for/until: 5 Years (“Initial Term”). At the end of the Initial Term, this Agreement shall automatically renew for an additional term of 5 years (“Renewal Term”). The “Term” shall refer to both the Initial Term and the Renewal Term.

Sensus USA Inc.

Customer: City of Anacortes

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Laurie Gere
Title: Mayor
Date: _____

Contents of this Agreement:

Agreement
Exhibit A Software
Exhibit B Technical Support

Agreement

1. General

- A. **Agreement Generally.** The scope of this Agreement includes usage terms for Sensus' hosted Software solution, technical support, and supporting terms and conditions for an advanced metering infrastructure solution that Customer will purchase from Sensus' authorized distributor. Customer is not paying Sensus directly for the services provided by Sensus under the Agreement; rather, Customer shall pay Sensus' authorized distributor pursuant to a separate agreement between Customer and such authorized distributor.

2. Software.

- A. **Software as a Service (SaaS).** Sensus shall provide Customer with Software as a Service, as defined in Exhibit A, only so long as Customer is current in its payments for such services.
- B. **UCITA.** To the maximum extent permitted by law, the Parties agree that the Uniform Computer Information Transaction Act as enacted by any state shall not apply, in whole or in part, to this Agreement.

3. Spectrum

- A. **Spectrum Lease.** The parties previously entered into a spectrum manager lease on 10/23/2016 (the "Spectrum Lease"), which is hereby specifically incorporated by reference.

4. Equipment.

- A. **Purchase of Equipment.** Customer shall purchase all Field Devices, RF Field Equipment, and other goods (collectively, "Equipment") from Sensus' authorized distributor pursuant to the terms and conditions (including any warranties on such Equipment) agreed by Customer and Sensus' authorized distributor. This Agreement shall not affect any terms and conditions, including any warranty terms, agreed by Customer and Sensus' authorized distributor. If Customer elects to purchase any equipment or services directly from Sensus, or if Customer pays any fees or other costs to Sensus, then Sensus' Terms of Sale shall apply. The "Terms of Sale" are available at: <https://www.sensus.com/tc>, or 1-800-METER-IT
- B. **THERE ARE NO WARRANTIES IN THIS AGREEMENT, EXPRESS OR IMPLIED. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.**

5. Services.

- A. **Installation of Equipment.** Installation services for Field Devices, other goods, and RF Field Equipment will be as agreed between the Customer and Sensus' authorized distributor. Sensus will not provide installation services pursuant to this Agreement
- B. **Technical Support.** Sensus shall provide Customer the technical support set forth in Exhibit B.
- C. **Project Management.** Sensus' authorized distributor will provide project management services to Customer. Any project management of the FlexNet System provided by Sensus shall be subject to a separate agreement which describes the scope and pricing for such work.
- D. **Training.** Sensus' authorized distributor will provide Customer with training on the use of the FlexNet System. Any training provided by Sensus shall be subject to a separate agreement which describes the scope and pricing for such work.
- E. **IT Systems Integration Services.** Except as may otherwise be provided herein, integration of the Software into Customer's new or existing internal IT systems is not included in this Agreement. Any integration work shall be subject to a separate agreement which describes the scope and pricing for such work.

6. General Terms and Conditions.

- A. **Infringement Indemnity.** Sensus shall indemnify and hold harmless Customer from and against any judgment by a court of competent jurisdiction or settlement reached from any litigation instituted against Customer in the United States by a third party which alleges that the FlexNet System provided hereunder infringes upon the patents or copyrights of such third party, provided that Sensus shall have the right to select counsel in such proceedings and control such proceedings. Notwithstanding the foregoing, Sensus shall have no liability under this indemnity unless Customer cooperates with and assists Sensus in any such proceedings and gives Sensus written notice of any claim hereunder within fourteen (14) days of receiving it. Further, Sensus shall have no liability hereunder if such claim is related to: (i) any change, modification or alteration made to the FlexNet System by Customer or a third party, (ii) use of the FlexNet System in combination with any goods or services not provided by Sensus hereunder, (iii) Customer's failure to use the most recent version of the Software or to otherwise take any corrective action as reasonably directed by Sensus, (iv) compliance by Sensus with any designs, specifications or instructions provided by Customer or compliance by Sensus with an industry standard, or (v) any use of the FlexNet System other than for the Permitted Use. In the event the FlexNet System is adjudicated to infringe a patent or copyright of a third party and its use is enjoined, or, if in the reasonable opinion of Sensus, the FlexNet System is likely to become the subject of an infringement claim, Sensus, at its sole discretion and expense, may: (i) procure for Customer the right to continue using the FlexNet System or (ii) modify or replace the FlexNet System so that it becomes non-infringing. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SENSUS' ENTIRE LIABILITY FOR ANY CLAIM OF INFRINGEMENT.
- B. **Limitation of Liability.** Sensus' aggregate liability in any and all causes of action arising under, out of or in relation to this Agreement, its negotiation, performance, breach or termination (collectively "Causes of Action") shall not exceed (a) the total amount paid by Customer directly to Sensus' authorized distributor. This is so whether the Causes of Action are in tort, including, without limitation, negligence or strict liability, in contract, under statute or otherwise. As separate and independent limitations on liability, Sensus' liability shall be limited to direct damages. Sensus shall not be liable for: (i) any indirect, incidental, special or consequential damages; nor (ii) any revenue or profits lost by Customer or its Affiliates from any End User(s), irrespective whether such lost revenue or profits is categorized as direct damages or otherwise; nor (iii) any In/Out Costs; nor (v) damages arising from maincase or bottom plate breakage caused by freezing temperatures, water hammer conditions, or excessive water pressure. The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.
- C. **Termination.** Either party may terminate this Agreement earlier if the other party commits a material breach of this Agreement and such material breach is not cured within forty-five (45) days of written notice by the other party. Upon any expiration or termination of this Agreement, Sensus' and Customer's obligations hereunder shall cease and the software as a service and Spectrum Lease shall immediately cease.
- D. **Force Majeure.** If either party becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. The party affected by the force majeure will take reasonable steps to mitigate the Force Majeure.
- E. **Intellectual Property Rights.**

constitute one and the same instrument. Additionally, this Agreement may be executed by facsimile or electronic copies, all of which shall be considered an original for all purposes.

7. **Definitions. As used in this Agreement, the following terms shall have the following meanings:**

- A. **"Affiliate"** of a party means any other entity controlling, controlled by, or under common control with such party, where "control" of an entity means the ownership, directly or indirectly, of 50% or more of either; (i) the shares or other equity in such entity; or (ii) the voting rights in such entity.
- B. **"Confidential Information"** means any and all non-public information of either party, including all technical information about either party's products or services, pricing information, marketing and marketing plans, Customer's End Users' data, FlexNet System performance, FlexNet System architecture and design, FlexNet System software, other business and financial information of either party, and all trade secrets of either party.
- C. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Customer for the consumption of electricity, water, and/or gas, as applicable.
- D. **"Field Devices"** means the SmartPoint Modules
- E. **"FlexNet Base Station"** identifies the Sensus manufactured device consisting of one transceiver, to be located on a tower that receives readings from the SmartPoint Modules (either directly or via an R100 unit) by radio frequency and passes those readings to the RNI by TCP/IP backhaul communication. For clarity, FlexNet Base Stations include Metro Base Stations.
- F. **"FlexNet System"** is comprised of the SmartPoint Modules, RF Field Equipment, Server Hardware, software licenses, Spectrum Lease, and other equipment provided to Customer hereunder. The FlexNet System only includes the foregoing, as provided by Sensus. The FlexNet System does not include goods, equipment, software, licenses or rights provided by a third party or parties to this Agreement.
- G. **"Force Majeure"** means an event beyond a party's reasonable control, including, without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
- H. **"Hosted Software"** means those items listed as an Application in Exhibit A.
- I. **"In/Out Costs"** means any costs and expenses incurred by Customer in transporting goods between its warehouse and its End User's premises and any costs and expenses incurred by Customer in installing, uninstalling and removing goods.
- J. **"Intellectual Property"** means patents and patent applications, inventions (whether patentable or not), trademarks, service marks, trade dress, copyrights, trade secrets, know-how, data rights, specifications, drawings, designs, maskwork rights, moral rights, author's rights, and other intellectual property rights, including any derivations and/or derivative works, as may exist now or hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction, any registrations or applications thereof, and all goodwill pertinent thereto.
- K. **"LCM"** identifies the load control modules.
- L. **"Ongoing Fee"** means the annual or monthly fees, as applicable, to be paid by Customer to Sensus' authorized distributor during the Term of this Agreement.
- M. **"Patches"** means patches or other maintenance releases of the Software that correct processing errors and other faults and defects found previous versions of the Software. For clarity, Patches are not Updates or Upgrades.
- N. **"Permitted Use"** means only for reading and analyzing data from Customer's Field Devices in the Service Territory. The Permitted Use does not include reading third devices not provided by Sensus or reading Field Devices outside the Service Territory.
- O. **"R100 Unit"** identifies the Sensus standalone, mounted transceiver that takes the radio frequency readings from the SmartPoint Modules and relays them by radio frequency to the relevant FlexNet Base Station or directly to the RNI by TCP/IP backhaul communication, as the case may be.
- P. **"Release"** means both Updates and Upgrades.
- Q. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
- R. **"RF Field Equipment"** means, collectively, FlexNet Base Stations, R100 units (if any) and Remote Transceivers (if any).
- S. **"RNI"** identifies the regional network interfaces consisting of hardware and software used to gather, store, and report data collected by the FlexNet Base Stations from the SmartPoint Modules. The RNI hardware specifications will be provided by Sensus upon written request from Customer.
- T. **"RNI Software"** identifies the Sensus proprietary software used in the RNI and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement.
- U. **"Service Territory"** identifies the geographic area where Customer utilizes Sensus equipment to provide services to End Users as of the Effective Date. This area will be described on the propagation study in the parties' Spectrum Lease filing with the FCC.
- V. **"Server Hardware"** means the RNI hardware.
- W. **"SmartPoint™ Modules"** identifies the Sensus transmission devices installed on devices such as meters, distribution automation equipment and demand/response devices located at Customer's End Users' premises that communicate with the relevant devices and transmit those communications by radio frequency to the relevant piece of RF Field Equipment.
- X. **"Software"** means all the Sensus proprietary software provided pursuant to this Agreement, and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement. The Software does not include any third party software.
- Y. **"Updates"** means releases of the Software that constitute a minor improvement in functionality.
- Z. **"Upgrades"** means releases of the Software which constitute a significant improvement in functionality or architecture of the Software.
- AA. **"WAN Backhaul"** means the communication link between FlexNet Base Stations and Remote Transceivers and RNI.

Exhibit A Software

Software as a Service

1. Description of Services.

This exhibit contains the details of the Software as a Service that Sensus shall provide to Customer if both: (i) pricing for the application of Software as a Service has been provided to the Customer; and (ii) the Customer is current in its payments to Sensus' authorized distributor for such application of Software as a Service.

A. Software as a Service Generally.

Software as a Service is a managed service in which Sensus will be responsible for the day-to-day monitoring, maintenance, management, and supporting of Customer's software applications. In a Software as a Service solution, Sensus owns all components of the solution (server hardware, storage, data center, network equipment, Sensus software, and all third-party software) required to run and operate the application. These software applications consist of the following (each an "Application"):

- Regional Network Interface (RNI) Software
- Sensus Analytics
 - Enhanced Package

The managed application systems consist of the hardware, Sensus Software, and other third-party software that is required to operate the software applications. Each Application will have a production, and Disaster Recovery (as described below) environment. Test environments are not provided unless otherwise specifically agreed by Sensus in writing. Sensus will manage the Applications by providing 24 x 7 x 365 monitoring of the availability and performance of the Applications.

B. Use of Software as a Service.

Subject to the terms of this Agreement, Sensus shall make Software as a Service available to Customer to access and use solely for the Permitted Use and solely for so long as Customer is current in its payments to Sensus or its authorized distributor for Software as a Service. The Software as a Service term commences on the date that Sensus first makes Software as a Service available to Customer for use, and ends upon the earlier of:

(i) the expiration or termination of the Agreement; (ii) breach by Customer of this exhibit or the Agreement; or (iii) Customer's termination of Software as a Service as set forth in paragraph (C) below.

C. Termination of an Application.

Customer shall have the option at any time before the end of the Term to terminate any Application by giving Sensus one hundred twenty (120) days prior written notice. Such notice, once delivered to Sensus, is irrevocable. Should Customer elect to terminate any Application, Customer acknowledges that: (a) Customer shall pay all applicable fees, including any unpaid Software as a Service fees due in the current calendar year plus a ten percent (10%) early termination fee, where such fee is calculated based on the annual Software as a Service fee due in the current calendar year; and (b) Software as a Service for such Application shall immediately cease. If Customer elects to terminate the RNI Application in the Software as a Service environment but does not terminate the Agreement generally, then upon delivery of the notice to Sensus, Customer shall purchase the necessary (a) RNI hardware from a third party and (b) RNI software license at Sensus' then-current pricing. No portion of the Software as a Service fees shall be applied to the purchase of the RNI hardware or software license.

D. Software as a Service means only the following services:

- i. Sensus will provide the use of required hardware, located at Sensus' or a third-party's data center facility (as determined by Sensus), that is necessary to operate the Application.
- ii. Sensus will provide production and disaster recovery environments for Application.
- iii. Sensus will provide patches, updates, and upgrades to latest Sensus Hosted Software release.
- iv. Sensus will configure and manage the equipment (server hardware, routers, switches, firewalls, etc.) in the data centers:
 - (a) Network addresses and virtual private networks (VPN)
 - (b) Standard time source (NTP or GPS)
 - (c) Security access points
 - (d) Respond to relevant alarms and notifications
- v. Capacity and performance management. Sensus will:
 - (a) Monitor capacity and performance of the Application server and software applications 24x7x365 using KPI metrics, thresholds, and alerts to proactively identify any potential issues related to system capacity and/or performance (i.e. database, backspool, logs, message broker storage, etc.)
 - (b) If an issue is identified to have a potential impact to the system, Sensus will open an incident ticket and manage the ticket through resolution per Exhibit B, Technical Support.
 - (c) Manage and maintain the performance of the server and perform any change or configuration to the server, in accordance to standard configuration and change management policies and procedures.
 - (d) Manage and maintain the server storage capacity and performance of the Storage Area Network (SAN), in accordance to standard configuration and change management policies and procedures.
 - (e) Exceptions may occur to the system that require Sensus to take immediate action to maintain the system capacity and performance levels, and Sensus has authority to make changes without Customer approval as needed, in accordance to standard configuration and change management policies and procedures.
- vi. Database management. Sensus will:
 - (a) Implement the data retention plan and policy, and will provide the policy upon request.
 - (b) Monitor space and capacity requirements.
 - (c) Respond to database alarms and notifications.
 - (d) Install database software upgrades and patches.
 - (e) Perform routine database maintenance and cleanup of database to improve capacity and performance, such as rebuilding indexes, updating indexes, consistency checks, run SQL query/agent jobs, etc.
- vii. Incident and Problem Management. Sensus will:
 - (a) Proactively monitor managed systems (24x7x365) for key events and thresholds to proactively detect and identify incidents.
 - (b) Respond to incidents and problems that may occur to the Application(s).
 - (c) Maintain policies and procedures for responding to incidents and performing root cause analysis for ongoing problems.
 - (d) Correlate incidents and problems where applicable.

- (e) Sensus personnel will use the self-service portal to document and track incidents.
- (f) In the event that Sensus personnel is unable to resolve an issue, the issue will be escalated to the appropriate Subject Matter Expert (SME).
- (g) Maintain responsibility for managing incident and problems through resolution and will coordinate with Customer's personnel and/or any required third-party vendor to resolve the issue.
- (h) Provide telephone support consistent with Exhibit B, Technical Support in the case of undetected events.
- viii. Security Management. Sensus will:
 - (a) Monitor the physical and cyber security of the server and Application(s) 24x7x365 to ensure system is highly secure in accordance with NIST Security Standards.
 - (b) Perform active intrusion prevention and detection of the data center network and firewalls, and monitor logs and alerts.
 - (c) Conduct period penetration testing of the network and data center facilities.
 - (d) Conduct monthly vulnerability scanning by both internal staff and external vendors.
 - (e) Perform anti-virus and Malware patch management on all systems.
 - (f) Install updates to virus protection software and related files (including virus signature files and similar files) on all servers from the update being generally available from the anti-virus software provider.
 - (g) Respond to any potential threat found on the system and work to eliminate any virus or malware found.
 - (h) Adhere to and submit certification to NERC/CIP Cyber Security standards.
 - (i) Monitors industry regulation/standards regarding security – NERC, FERC, NIST, OpenSG, etc. through the dedicated Sensus security team.
 - (j) Provide secure web portal access (SSL) to the Application(s).
- ix. Backup and Disaster Recovery Management. Sensus will:
 - (a) Perform daily backups of data providing one (1) year of history for auditing and restoration purposes.
 - (b) Back-up and store data (on tapes or other storage media as appropriate) off-site to provide protection against disasters and to meet file recovery needs.
 - (c) Conduct incremental and full back-ups to capture data, and changes to data, on the Application(s).
 - (d) Replicate the Application(s) environments to a geographically separated data center location to provide a full disaster recovery environment for the Application production system.
 - (e) Provide disaster recovery environment and perform fail-over to Disaster Recovery environment within forty-eight (48) hours of declared event.
 - (f) Generate a report following each and any disaster measuring performance against the disaster recovery plan and identification of problem areas and plans for resolution.
 - (g) Maintain a disaster recovery plan. In the event of a disaster, Sensus shall provide the services in accordance with the disaster recovery plan.
 - (h) In the case of a disaster and loss of access to or use of the Application, Sensus would use commercially reasonable efforts per the Recovery Time Objectives (RTO) and Recovery Point Objectives (RPO) specified herein to restore operations at the same location or at a backup location within forty-eight (48) hours.
 - (i) The Application shall have a RTO of forty-eight (48) hours.
 - (j) The RPO shall be a full recovery of the Application(s), with an RPO of one (1) hours, using no more than a twenty-four (24) hour old backup. All meter-related data shall be pushed from each Base Station/TGB restoring the database to real-time minus external interfaced systems from the day prior.
 - (k) Data from external interfaced systems shall be recreated within a forty-eight (48) hour period with the assistance of Customer personnel and staff, as needed.

E. Customer Responsibilities:

- i. Coordinate and schedule any changes submitted by Sensus to the system in accordance with standard configuration and change management procedures.
- ii. Participate in all required configuration and change management procedures.
- iii. Customer will log incidents related to the managed Application with Sensus personnel via email, web portal ticket entry, or phone call.
- iv. Responsible for periodic processing of accounts or readings (i.e., billing files) for Customer's billing system for billing or other analysis purposes.
- v. Responsible for any field labor to troubleshoot any SmartPoint modules or smart meters in the field in populations that have been previously deployed and accepted.
- vi. First response labor to troubleshoot FlexNet Base Station, R100s, Remote Transceivers or other field network equipment.
- vii. Responsible for local area network configuration, management, and support.
- viii. Identify and research problems with meter reads and meter read performance.
- ix. Create and manage user accounts.
- x. Customize application configurations.
- xi. Support application users.
- xii. Investigate application operational issues (e.g., meter reads, reports, alarms, etc.).
- xiii. Respond to alarms and notifications.
- xiv. Perform firmware upgrades over-the-air, or delegate and monitor field personnel for on-site upgrades.

F. Software as a Service does not include any of the following services:

- i. Parts or labor required to repair damage to any field network equipment that is the result of a Force Majeure event.
- ii. Any integration between applications, such as Harris MeterSense, would require a Professional Services contract agreement to be scoped, submitted, and agreed in a signed writing between Sensus and all the applicable parties.

If an item is not listed in subparagraphs in item (D) above, such item is excluded from the Software as a Service and is subject to additional pricing.

2. Further Agreements

A. System Uptime Rate.

- i. Sensus (or its contractor) shall manage and maintain the Application(s) on computers owned or controlled by Sensus (or its contractors) and shall provide Customer access to the managed Application(s) via internet or point to point connection (i.e., Managed-Access use), according to the terms below. Sensus endeavors to maintain an average System Uptime Rate equal to ninety-nine (99.0) per Month (as defined below). The System Uptime Rate, cumulative across all Applications, shall be calculated as follows:

$$\text{System Uptime Rate} = 100 \times \frac{\text{TMO} - \text{Total Non-Scheduled Downtime minutes in the Month}}{\text{TMO}}$$

ii. **Calculations**

- a. **Targeted Minutes of Operation** or **TMO** means total minutes cumulative across all Applications in the applicable month minus the Scheduled Downtime in the Month.
- b. **Scheduled Downtime** means the number of minutes during the Month, as measured by Sensus, in which access to any Application is scheduled to be unavailable for use by Customer due to planned system maintenance. Sensus shall provide Customer notice (via email or otherwise) at least seven (7) days in advance of commencement of the Scheduled Downtime.
- c. **Non-Scheduled Downtime** means the number of minutes during the Month, as measured by Sensus, in which access to any Application is unavailable for use by Customer due to reasons other than Scheduled Downtime or the Exceptions, as defined below (e.g., due to a need for unplanned maintenance or repair).

iii. **Exceptions.** Exceptions mean the following events:

- Force Majeure
 - Emergency Work, as defined below; and
 - Lack of Internet Availability, as described below.
- a. **Emergency Work.** In the event that Force Majeure, emergencies, dangerous conditions or other exceptional circumstances arise or continue during TMO, Sensus shall be entitled to take any actions that Sensus, in good faith, determines is necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security or like concern to any of the Application(s) ("Emergency Work"). Such Emergency Work may include, but is not limited to: analysis, testing, repair, maintenance, re-setting and other servicing of the hardware, cabling, networks, software and other devices, materials and systems through which access to and/or use of the Application(s) by the Customer is made available (the "Managed Systems"). Sensus shall endeavor to provide advance notice of such Emergency Work to Customer when practicable and possible.
 - b. **Lack of Internet Availability.** Sensus shall not be responsible for any deterioration of performance attributable to latencies in the public internet or point-to-point network connection operated by a third party. Customer expressly acknowledges and agrees that Sensus does not and cannot control the flow of data to or from Sensus' networks and other portions of the Internet, and that such flow depends in part on the performance of Internet services provided or controlled by third parties, and that at times, actions or inactions of such third parties can impair or disrupt data transmitted through, and/or Customer's connections to, the Internet or point-to-point data connection (or portions thereof). Although Sensus will use commercially reasonable efforts to take actions Sensus may deem appropriate to mitigate the effects of any such events, Sensus cannot guarantee that such events will not occur. Accordingly, Sensus disclaims any and all liability resulting from or relating to such events.

iv. **System Availability.** For each month that the System Uptime Rates for the production RNI falls below 99.0%, Sensus will issue Customer the following Service Level Credits:

System Uptime Rate per calendar month	Service Level Credit
Less than 99.0% but at least 97.5%	5% of the monthly RNI SaaS Fees in which the service level default occurred (Note: SaaS fees are pre-paid annually and for purposes of SLA Credits are computed on a monthly basis.)
Less than 97.5% but at least 95.0%	10% of the monthly RNI SaaS Fees in which the service level default occurred
Less than 95.0%	20% of the monthly RNI SaaS Fees in which the service level default occurred

Service Level Credits for any single month shall not exceed 20% of the RNI SaaS Fee associated with the month in which the service level default occurred. Sensus records and data will be the sole basis for all Service Level Credit calculations and determinations, provided that such records and data must be made available to Customer for review and agreement by Customer. To receive a Service Level Credit, Customer must issue a written request no later than ten (10) days after the Service Level Credit has accrued. Sensus will apply each valid Service Level Credit to the Customer's invoice within 2 billing cycles after Sensus' receipt of Customer's request and confirmation of the failure to meet the applicable Service Level Credit. Service Level Credits will not be payable for failures to meet the System Uptime Rate caused by any Exceptions. No Service Level Credit will apply if Customer is not current in its undisputed payment obligations under the Agreement. Service Level Credits are exclusive of any applicable taxes charged to Customer or collected by Sensus. Sensus shall not refund an unused Service Level Credits or pay cash to Customer for any unused Service Level Credits. Any unused Service Level Credits at the time the Agreement terminates will be forever forfeited. THE SERVICE LEVEL CREDITS DESCRIBED IN THIS SECTION ARE THE SOLE AND EXCLUSIVE REMEDY FOR SENSUS' FAILURE TO MEET THE SYSTEM UPTIME REQUIREMENT OR ANY DEFECTIVE SAAS PERFORMANCE. IN NO EVENT SHALL THE AGGREGATE AMOUNT OF SERVICE LEVEL CREDITS IN ANY ANNUAL PERIOD EXCEED 20% OF THE ANNUAL RNI SAAS FEE.

B. **Data Center Site-Security.** Although Sensus may modify such security arrangements without consent or notice to Customer, Customer acknowledges the following are the current arrangements regarding physical access to and support of the primary hardware components of the Managed Systems:

- i. The computer room(s) in which the hardware is installed is accessible only to authorized individuals.
- ii. Power infrastructure includes one or more uninterruptible power supply (UPS) devices and diesel generators or other alternative power for back-up electrical power.
- iii. Air-conditioning facilities (for humidity and temperature controls) are provided in or for such computer room(s) and can be monitored and adjusted for humidity and temperature settings and control. Such air systems are supported by redundant, back-up and/or switch-over environmental units.
- iv. Such electrical and A/C systems are monitored on an ongoing basis and personnel are available to respond to system emergencies (if any) in real time.
- v. Dry pipe pre-action fire detection and suppression systems are provided.
- vi. Data circuits are available via multiple providers and diverse paths, giving access redundancy.

C. **Responsibilities of Customer.**

- i. Customer shall promptly pay all Software as a Service fees.
- ii. Customer may not (i) carelessly, knowingly, intentionally or maliciously threaten, disrupt, harm, abuse or interfere with the Application(s), Managed Systems or any of their functionality, performance, security or integrity, nor attempt to do so; (ii) impersonate any person or entity, including, but not limited to, Sensus, a Sensus employee or another user; or (iii) forge, falsify, disguise or otherwise manipulate any identification information associated with Customer's access to or use of the Application(s).
- iii. The provisioning, compatibility, operation, security, support, and maintenance of Customer's hardware and software ("Customer's Systems") is exclusively the responsibility of Customer. Customer is also responsible, in particular, for correctly configuring and maintaining (i) the desktop environment used by Customer to access the Application(s) managed by Sensus; and (ii) Customer's network router and firewall, if applicable, to allow data to flow between the Customer's Systems and Sensus' Managed Systems in a secure manner via the public Internet.
- iv. Upon receiving the system administrator account from Sensus, Customer shall create username and passwords for each of Customer's authorized

users and complete the applicable Sensus registration process (Authorized Users). Such usernames and passwords will allow Authorized Users to access the Application(s). Customer shall be solely responsible for maintaining the security and confidentiality of each user ID and password pair associated with Customer's account, and Sensus will not be liable for any loss, damage or liability arising from Customer's account or any user ID and password pairs associated with Customer. Customer is fully responsible for all acts and omissions that occur through the use of Customer's account and any user ID and password pairs. Customer agrees (i) not to allow anyone other than the Authorized Users to have any access to, or use of Customer's account or any user ID and password pairs at any time; (ii) to notify Sensus immediately of any actual or suspected unauthorized use of Customer's account or any of such user ID and password pairs, or any other breach or suspected breach of security, restricted use or confidentiality; and (iii) to take the Sensus-recommended steps to log out from and otherwise exit the Application(s) and Managed Systems at the end of each session. Customer agrees that Sensus shall be entitled to rely, without inquiry, on the validity of the user accessing the Application(s) application through Customer's account, account ID, usernames or passwords.

- v. Customer shall be responsible for the day-to-day operations of the Application(s) and FlexNet System. This includes, without limitation, (i) researching problems with meter reads and system performance, (ii) creating and managing user accounts, (iii) customizing application configurations, (iv) supporting application users, (v) investigating application operational issues, (vi) responding to alarms and notifications, and (vii) performing over-the-air commands (such as firmware updates or configuration changes).

D. Software Solution Components.

- i. **Description of Software Solutions.** Sensus software consists of a core communication module and a set of applications. Some applications are required to perform basic solution capabilities, other applications are optional and add additional capabilities and function to the overall solution. As Customer's business process expands and/or new Sensus offerings are made available, additional applications and functionality can dynamically be added to the solution, provided Customer purchases such additional applications.
- ii. **Regional Network Interface.** The Regional Network Interface (RNI) or Sensus head-end is the centralized intelligence of the FlexNet network; the RNI's primary objective is to transfer endpoint (such as meters) data to the Customer and the advanced feature applications. The RNI is adaptable to Customer configurations by simultaneously supporting a wide range of FlexNet enabled endpoints; including but not limited to meters (electric, water, gas), street lighting, and Home Area Network devices.
 - a. Core Package
 - (i) Communication
 - 1. Manages all inbound and outbound traffic to and from endpoints
 - 2. Outbound routing optimization
 - 3. Route analyzer
 - 4. AES256 bit encryption of radio messages
 - 5. Reports and metric details of network performance and troubleshooting aids
 - 6. Management of RF equipment (base stations and endpoint radios)
 - (ii) Data Collection
 - 1. Missing read management
 - 2. Management of duplicate reads
 - 3. 60 day temporary storage
 - (iii) Application integration
 - 1. To Sensus Analytics applications
 - 2. Enable 3rd party application integration
 - 3. Batch CMEP file export
 - 4. Real-time access through MultiSpeak
 - (iv) Endpoint Management
 - 1. Gas, water, electric, lighting concurrent support
 - 2. Remote configuration
 - 3. Remote firmware updates
 - 4. Reports, metrics and Troubleshooting
 - (v) User Management
 - 1. Secure access
 - 2. Password management
 - 3. Definable user roles
 - 4. User permissions to manage access to capabilities
 - b. Integration of RNI. Sensus shall provide RNI integration support services to Customer only to the extent specifically provided below:
 - (i) Sensus shall meet with the representative from the Customer's system(s) targeted for integration to determine which integration method is appropriate (e.g., Multispeak, CMEP, etc.).
 - 1. In scope and included integration efforts: Provide the gateway URLs to the integrating system as needed, provide Customer with standard integration API documentation, validate and test that the correct Customer information is flowing into and/or out of the RNI.
 - 2. Out of scope and subject to additional charges: Modifications or extensions to the standard API provided by Sensus and any integration efforts not outlined above as in scope and included.
 - (ii) Customer Responsibilities:
 - 1. Provide Sensus with information about the relevant information Customer wishes to transfer and integrate with the RNI.
 - 2. Establish the network and security required for the two systems to reasonably communicate.
 - 3. Verify integration to third party system functionality is working as intended.
 - (iii) If an item is not listed in subparagraph (i) above, such item is excluded from the integration of Sensus RNI Support and is subject to additional pricing.

3. Sensus Analytics

Sensus Analytics is a cloud-based solution and data platform that allows storage and retrieval of raw reads and data from other sources for analysis, exportation, and inquiry or reporting. The platform provides applications and reporting capabilities.

- A. Essential Package.** The Essential Package of the Sensus Analytics Application shall consist of the following modules:
- i. Device Access
 - a. Allows search for meter details by using data imported from the billing system or the Sensus Device ID or AMI ID.
 - b. Allows a view of the meter interval or register reads.
 - c. Meter data is available to be copied, printed, or saved to certain user programs or file formats, specifically CSV, PDF, and Spreadsheet.
 - d. Allows the current and historical data to be viewed.
 - e. Allows the current usage to be compared to historical distribution averages.
 - f. Allows the user to see the meter location on a map view.
 - g. Allows notifications for an event on a single meter to be forwarded to a Customer employee.
 - h. Allows details to be viewed about a meter – (dependent on the data integrated from other systems).
 - ii. Meter Insight (provides the following)
 - a. # of active meters.
 - b. # of orphaned meters with drill down to the list of meters.
 - c. # of inactive meters with usage drill down to the list of meters.
 - d. # of stale meters with drill down to the list of meters.
 - e. # of almost stale meters with drill down to the list of meters.
 - f. # of meters where no read is available with drill down to the list of meters.
 - g. # of meters with maximum threshold exceptions with drill down to the list of meters.
 - h. # of meters with minimum threshold exceptions with drill down to the list of meters.
 - i. # of unknown radios with drill down to the list of meters.
 - iii. Report Access
 - a. Allows the user to see meter alarms and choose a report from a list of standard reports.
 - b. Master Route Register Reads: Shows the latest reads for all meters within specified time window.
 - c. Meter Route Intervals Reads: Allows users to inspect intervals of a single meter over a period of time.
 - d. Master Route No Readings: List all meters that are active in the system, but have not been sending reads within the specified time window.
 - e. Consumption Report: List meters' consumption based on meter readings within the specified time window.
 - f. Zero Consumption for Period: List meters whose readings do not change over a period of time.
 - g. Negative Consumption: Shows the number of occurrences and readings of negative consumption for the last 24hr, 48hr and 72hr from the entered roll up date.
 - h. High Low Exception Report: Displays meters whose reads exceed minimum or/and maximum threshold, within a time range.
 - i. Consumption vs Previous Reported Read: Compares latest reading (from RNI) with last known read received from CIS.
 - j. Consumption Exception 24 hour Report: This report shows meters that satisfy these two conditions: (1) The daily average consumptions exceed entered daily consumption threshold; (2) The number of days when daily thresholds are exceeded are greater than the entered exception per day threshold.
 - k. Endpoint Details: Shows the current state of meters that are created within the specified time range.
 - l. Orphaned Meters: List meters that are marked as 'orphaned', which are created as of entered Created as of parameter.
 - m. Billing Request Mismatch: Displays meters in a billing request that have different AMR id with the ones sent by RNI. It also shows AMR id in billing request that have different meter Id in the RNI. Users must enter which billing request file prior to running the report.
 - n. All Alarms Report: List all alarms occurred during a time window. Users can select which alarm to show.
 - iv. Billing Access
 - a. Initiate the creation of billing export files formatted to the import needs of the billing system.
 - b. Receive billing request files from the billing system to identify what meters to include in the billing export file in the case where billing request file option is used.
 - c. Provides a repository of past billing files that were either used for billing preparation or actually sent to the billing system.
 - d. Will store created billing files for a period of three years unless otherwise denoted.
 - e. The system will allow creation of test files before export to the billing system.
 - v. Billing Adaptor
 - a. The underlying configurator and tools mapping the extraction of billing data to enable integration to the utility's billing system.
 - vi. Data Store
 - a. Allows storage of meter reading data including Intervals, Registers, and Alarms to be stored.
 - b. Stored data is available online for reports and analysis.
 - c. Data will be retained for 3 years. Additional duration can be purchased.
- B. Enhanced Package.** The Enhanced Package shall consist of the modules listed above in the Essential Package, as well as the following additional modules:
- i. Alarm Insight
 - a. Allows the user to summarize and filter alarms by a date range.
 - b. Allows the user to review all alarm types on a single screen.
 - c. The user can filter out the alarms not wanted on the screen.
 - d. Alarm totals can be visualized.
 - e. Adds a view of trending alarms over time.
 - f. Click to drill down on an alarm to gain more information on specific events.
 - g. Click to analyze a specific event on a particular device.
 - ii. Alert Manager
 - a. Allows creation of alert groups who will be notified when an alarm occurs.
 - b. Users can manage alert groups by adding and removing group members.
 - c. Allows selection of notification method for how end users in the group will be notified; email or SMS (text message).

- d. Allows creation of an alert from the available system events from smart points and assign to a group.
- e. Monitors the systems meters for events. When an event is triggered, all users in the group will be notified.

C. Integration of Sensus Analytics. Sensus shall provide integration support services to Customer only to the extent specifically provided below:

- i. Sensus shall provide Customer with a simple flat file specification known as VFlex for the integration of the Customer's back office system to the Sensus Analytics modules. The VFlex shall contain the following types of information: Device ids, end users in the system, end user status, end user account information, end user name, and other end user details. This flat file may be delimited or fixed width. Customer shall produce this file and transmit it to the FTP location designated by Sensus. When sent to the Sensus FTP servers, this file exchange will enable the system to become operational with the Customer's systems. Customer shall produce this file and transmit it to the FTP location designated by Sensus. Sensus will provide reasonable support to explain to Customer the required vs. optional fields that are in the specification, testing and validation of the file format and content.
- ii. In scope and included integration efforts: kick-off meeting to engage all required parties, mapping the Customer's fields to the VFlex specification, validation of expected output, and a two (2) hour system review of Sensus Analytics application and integration with the Customer's system (conducted remotely).
- iii. Out of scope and subject to additional charges will be the transformation of data where business logic including code must be written to modify the field content or format of the data to meet the VFlex specification.
- iv. Sensus' integration services consist of four (4) hours of assistance (remote or on-site, as determined by Sensus). If additional time is needed to complete the integration efforts, Sensus shall invoice Customer for additional fees on an actual time and materials basis.
- v. **If an item is not listed in subparagraphs (i) or (ii) above, such item is excluded from the integration of Sensus Analytics Support and is subject to additional pricing.**
- vi. **Data Import.** The Sensus Analytics Application contains adapters for the import of data from; (a) Customer's FlexNet System; and/or (b) AutoRead application for handheld and drive by systems, as applicable.
- vii. **Customer Acknowledgements.**
 - a. Customer acknowledges that the Sensus Analytics Application provides up to fifty (50) user logins for Customer's use.
 - b. Customer acknowledges and agrees the Sensus Analytics Application is based upon the actual number of End Users within Customer's Service Territory. Pricing may increase if Customer's Service Territory or actual number of End Users expands.
 - c. Customer acknowledges that all data related to the Sensus Analytics Applications is geographically hosted within the United States of America. Customer accepts the geographic location of such hosting, and indemnifies Sensus for any claims resulting therefrom.
 - d. Customer acknowledges and agrees that the Intellectual Property provisions of this Agreement apply in all respects to Customer's access to and use of the Sensus Analytics Applications.
 - e. Customer is responsible for validating the data analyzed by the Sensus Analytics Applications. Sensus makes no promises of improving Customer's operations or saving Customer money, nor is Sensus liable for any damages resulting from decisions made by Customer related to Customer's use of Sensus Analytics.

4. Third Party Software.

A. RedHat Linux. If Sensus is providing Customer with a license to use RedHat Linux Software, Customer agrees to the following:

By entering into this Agreement, Customer agrees to abide by and to be legally bound by the terms and conditions of the Red Hat End User License Agreements identified below, each of which are incorporated into this Agreement by reference and are available at the websites identified below. Please read the Red Hat End User License Agreements and incorporated references carefully.

Subscription:	End User License Agreement:
Red Hat Enterprise Linux	http://www.redhat.com/licenses/rhel_rha_eula.html
JBoss Enterprise Middleware	http://www.redhat.com/licenses/jboss_eula.html

Exhibit B

Technical Support

1. Sensus Technical Services provides utility customers with a single point of contact for Tier 1 support of technical issues as well as any coordination of additional resources required to resolve the issue. Requests that require specialized skills are to be forwarded to a senior support engineer or Technical Advisor within the team for further analysis. If Technical Services has exhausted all troubleshooting efforts for the product type, the issue will escalate to the Engineering Support Team. Occasionally, on-site troubleshooting/analysis may be required. The preferred order of on-site support is:
 - 1.1 The Customer (for assistance with the easiest and lowest time-consuming activities such as power on/power off).
 - 1.2 The local distributor.
 - 1.3 Sensus employees or contracted personnel, if required to fulfill a contract commitment.
2. **Support Categories**
 - 2.1. General questions regarding functionality, use of product, how-to, and requests for assistance on Sensus AMR, AML, RF Network Equipment, Metering Products, Sensus Lighting Control, and Demand Response Management System (FlexNet Home).
 - 2.2. Proactive reporting and resolution of problems.
 - 2.3. Reactive reporting to isolate, document, and solve reported hardware/software defects.
 - 2.4. Responding to service requests and product changes.
 - 2.5. Addressing customer inquiries with printed or electronic documentation, examples, or additional explanation/clarification.
3. **Support Hours**
 - 3.1. Standard Support Hours: Toll-free telephone support (1-800-638-3748 option #2) is available Monday thru Friday from 8:00 a.m. EST to 8:00 p.m. EST. After-hours, holiday and weekend support for Severity 1 and Severity 2 issues is available by calling 1-800-638-3748, option #8.
4. **Support Procedures**
 - 4.1. Customer identifies an issue or potential problem and calls Technical Services at 1-800-638-3748 Option #2. The Customer Service Associate or Technical Support Engineer will submit a Salesforce ticket.
 - 4.2. The Customer Service Associate or Technical Support Engineer will identify the caller name and utility by the assigned software serial number, city, and state based on where the call originated. The Customer Service Associate or Technical Support Engineer will require a brief description of the problem symptoms, or error messages depending on nature of the incident. The nature of the problem and severity levels will be mutually agreed upon by both parties (either at the time the issue is entered or prior to upgrading or downgrading an existing issue) using the severity definitions below as a guideline. The severity level is then captured into Salesforce for ticket creation and resolution processing. Any time during the processing of this ticket, if the severity level is changed by Sensus, the customer will be updated.
 - A. **Severity Levels Description:**

Sev1 Customer's production system is down. The system is unusable resulting in total disruption of work. No workaround is available and requires immediate attention.

Example: Network mass outage, all reading collection devices inoperable, inoperable head end software (e.g., FlexWare, Sensus MDM). Not able to generate billing files.

Sev2 Major system feature/function failure. Operations are severely restricted; there is a major disruption of work, no acceptable work-around is available, and failure requires immediate attention.

Examples: Examples: Network equipment failure (e.g., FlexNet Echo, FlexNet Remote, Base Station transceiver, or VGB); inoperable reading devices (e.g., AR5500, VXU, VGB, or CommandLink); head end software application has important functionality not working and cannot create export file for billing system operations.

Sev3 The system is usable and the issue doesn't affect critical overall operation.

Example: Minor network equipment failure (e.g., Echo/Remote false alarms or Base Station transceiver false alarms); head end software application operable but reports are not running properly, modification of view or some non-critical function of the software is not running.
 - 4.3. The Customer Service Associate or Technical Support Engineer identifies whether or not the customer is on support. If the customer is not on support, the customer is advised of the service options as well as any applicable charges that may be billed.
 - 4.4. Calls are placed in a queue from which they are accessible to Technical Support Engineers on a first-come-first-served basis. A 1st level Customer Service Associate may assist the customer, depending on the difficulty of the call and the representative's technical knowledge. Technical Support Engineers (Tier 1 support) typically respond/resolve the majority of calls based on their product knowledge and experience. A call history for the particular account is researched to note any existing pattern or if the call is a new report. This research provides the representative a basis and understanding of the account as well as any associated problems and/or resolutions that have been communicated.
 - a. Technical Services confirms that there is an issue or problem that needs further analysis to determine its cause. The following information must be collected: a detailed description of the issue's symptoms, details on the software/hardware product and version, a description of the environment in which the issue arises, and a list of any corrective action already taken.
 - b. Technical Services will check the internal database and product defect tracking system, to see if reports of a similar problem exist, and if any working solutions were provided. If an existing resolution is found that will address the reported issue, it shall be communicated to the customer. Once it is confirmed that the issue has been resolved, the ticket is closed.
 - c. If there is no known defect or support that defines the behavior, Technical Services will work with the customer to reproduce the issue. If the issue can be reproduced, either at the customer site or within support center test lab, Technical Services will escalate the ticket for further investigation / resolution.

If the issue involves units that are considered to be defective with no known reason, the representative will open a Special Investigation RMA through the Salesforce system. If it is determined that a sample is required for further analysis, the customer will be provided with instructions that detail where to send the product sample(s) for a root cause analysis. Once it is determined that the issue cannot be resolved by Tier 1 resources, the ticket will be escalated to Tier 2 support for confirmation/workarounds to resolve immediate issue. Technical Services will immediately contact the customer to advise of the escalation. The response and escalation times are listed in Section 5. At this time, screen shots, log files, configuration files, and database backups will be created and attached to the ticket.

5. **Response and Resolution Targets.**

Sensus Technical Support will make every reasonable effort to meet the following response and resolution targets:

Severity	Standard Target Response	Standard Target Resolution	Resolution (one or more of the following)
1	30 Minutes	Immediately assign trained and qualified Services Staff to correct the error on an expedited basis. Provide ongoing communication on the status of a correction (24 hours).	- Satisfactory workaround is provided. - Program patch is provided. - Fix incorporated into future release. - Fix or workaround incorporated into Salesforce Knowledge Base.
2	4 hours	Assign trained and qualified Services Staff to correct the error. Provide communication as updates occur (48 hours).	- Satisfactory workaround is provided. - Program patch is provided. - Fix incorporated into future release. - Fix or workaround incorporated into Salesforce Knowledge Base.
3	1 Business Day	30 business days	- Answer to question is provided. - Satisfactory workaround is provided. - Fix or workaround incorporated into Salesforce Knowledge Base. - Fix incorporated into future release.

6. **Problem Escalation Process.**

6.1. If the normal support process does not produce the desired results, or if the severity has changed, the issue may be escalated as follows to a higher level of authority.

- 6.1.1.1. Severity 1 issues are escalated by Sales or Technical Services to a Supervisor if not resolved within 2 hours; to the Manager level if not resolved within 4 hours; to the Director level if not resolved within the same business day; and to the VP level if not resolved within 24 hours.
- 6.1.1.2. A customer may escalate an issue by calling 1-800-638-3748, Option 2. Please specify the Salesforce ticket number and the reason why the issue is being escalated.
- 6.1.1.3. In the event that a customer is not satisfied with the level of support or continual problem with their products, they may escalate a given Salesforce ticket to Manager of Technical Services (1-800-638-3748, Option 2).

7. **General Support Provisions and Exclusions.**

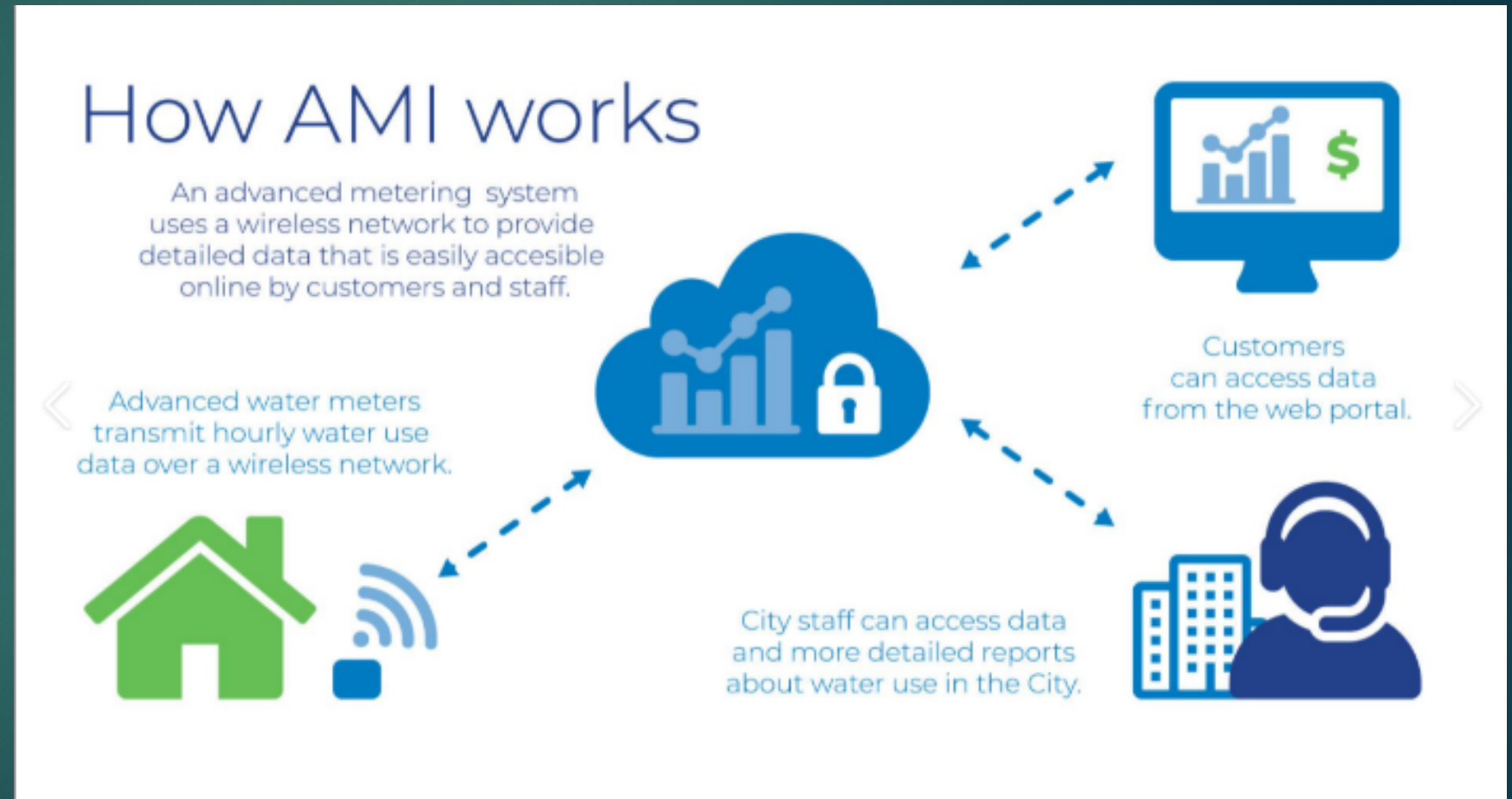
- 7.1. Sensus provides online documentation for Sensus products, and all Sensus customers are provided access to this online database, which includes operation, configuration and technical manuals. The customer shall provide names and email accounts to Sensus so Sensus may provide access to the product documentation.
- 7.2. Specialized support from Sensus is available on a fee basis to address support issues outside the scope of this support plan or if not covered under another specific contract or statement of work. For example: specialized systems integration services or out of warranty network equipment repair.

Sensus Water Meter Software

#21-136-WTR-001

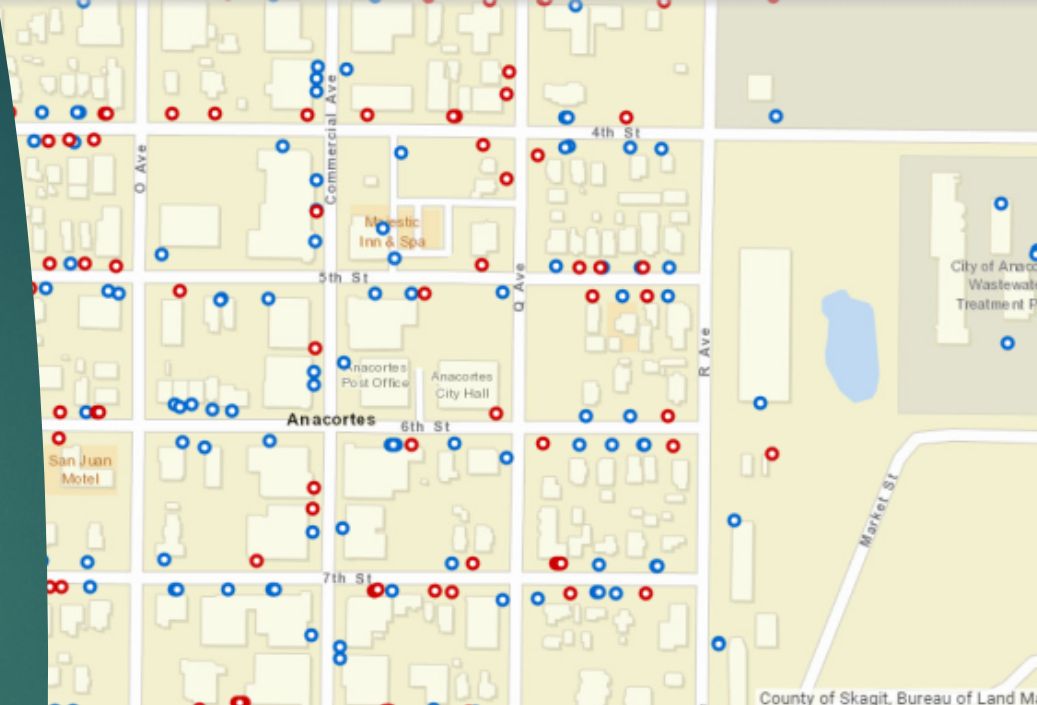
Automated Metering
Infrastructure (AMI)

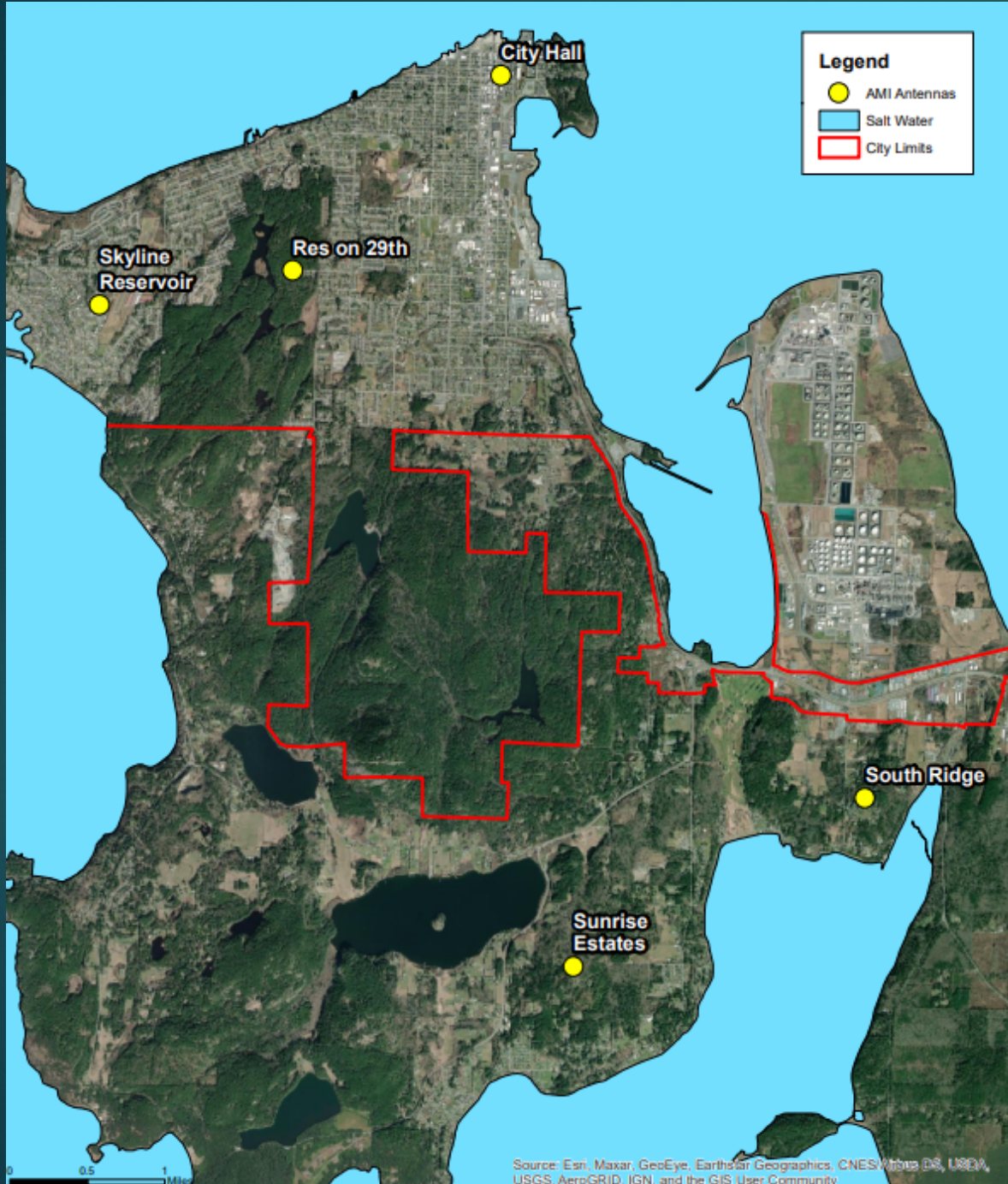
CITY OF ANACORTES
PUBLIC WORKS



Benefits to an AMI System

- ◆ Risk Reduction
 - ◆ Backflow notifications
 - ◆ Tampering notifications
- ◆ Water conservation tools
 - ◆ Recent success published A utility reduced water loss from 8 percent down to 2 percent
- ◆ Customer service
 - ◆ Customer Leak notification
 - ◆ Bill discrepancies
 - ◆ Virtual move in/move out
 - ◆ 390 Yearly - Estimated savings \$70,106.40 Annually
- ◆ Expandable network
 - ◆ PRV Stations Pressure Management – Risk Reduction



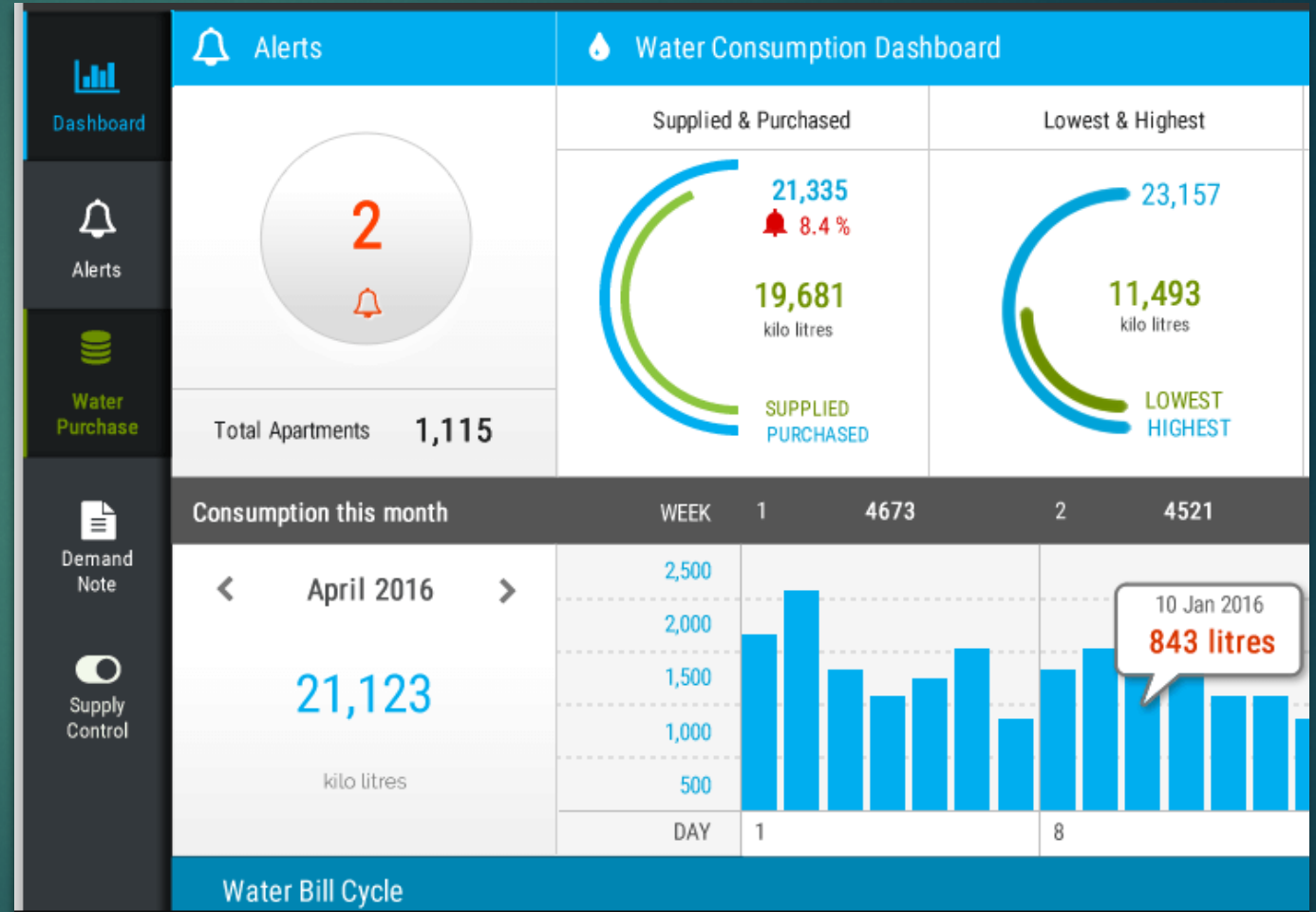


Project Scope

- ◆ Procure Software as a Service (SaaS)
- ◆ Install 5 Antenna Collectors
- ◆ Replace 5565 Radios
- ◆ Replace meter box lids as needed

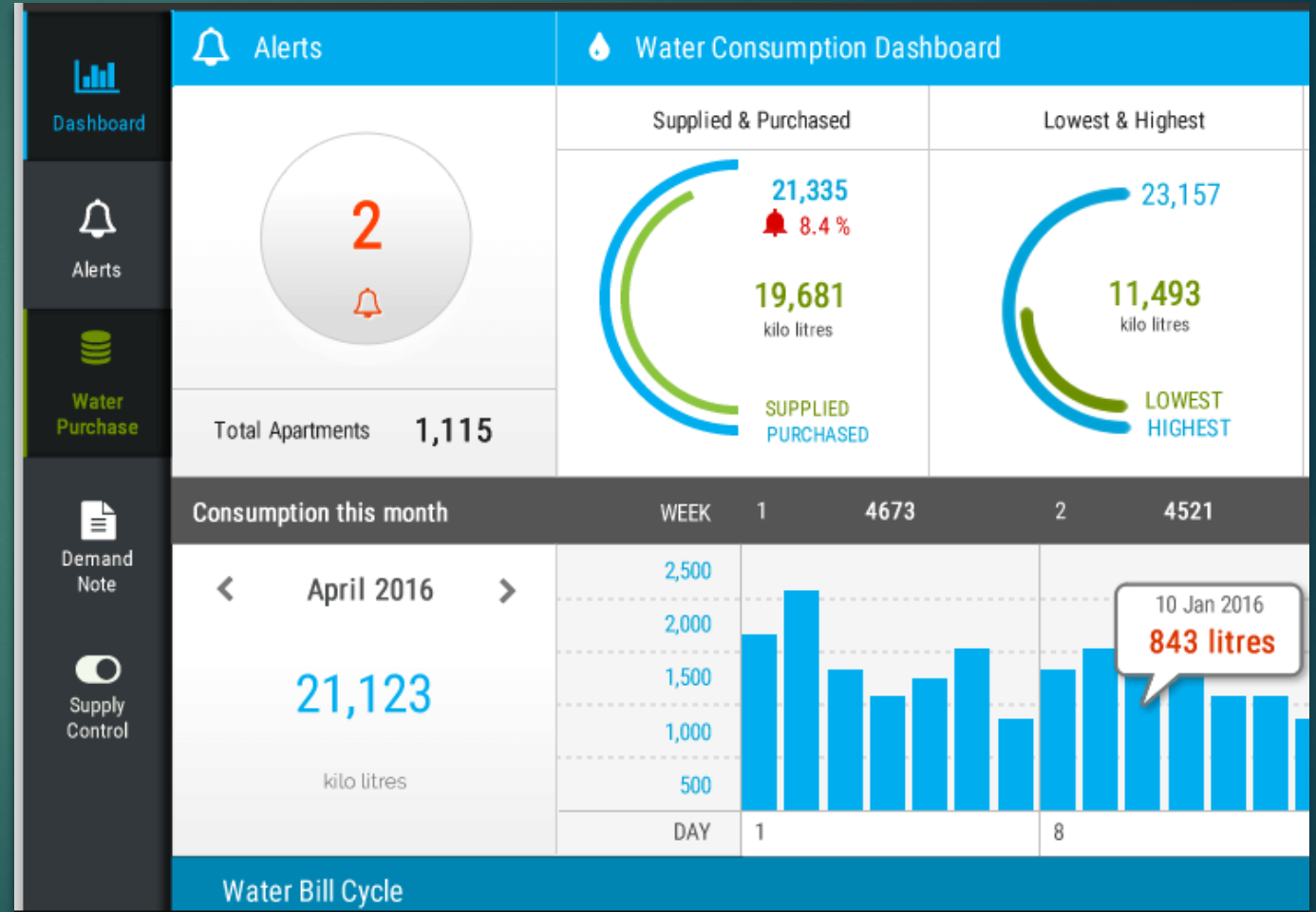
Cost Breakdown

- ◆ Total Project \$1,901,382
 - ◆ Radio Credit (\$194,665)
- ◆ 2021 City Hall Antenna (Collector) install September Ferguson/Sensus) \$286,770 (Includes SaaS)
- ◆ 2022 29th St Reservoir Antenna \$100,000
- ◆ 2023 – 2025 Remaining 3 Antenna install and radio conversions



Cost Breakdown

- ◆ \$1,230,500 radio change is planned maintenance
- ◆ \$35,000 average is annual software maintenance



Budget

- ◆ SaaS agreement amount assumes full deployment
- ◆ Annual fees are based on number of radios connecting to antenna
- ◆ CFP Review November 2021

	A	B	C	D	E	F	G	H
1		Task 2021 Budget	Start Date	End Date	Duration	Budget	Total Annual Expenditure	Radios Connected to Antenna
2						\$300,000		
3		Software Procurement	15-Sep	27-Sep	12	\$45,000		
4	M&O Budget 2021	Antenna (1) Install City Hall	30-Sep	15-Oct	15	\$34,270		
5		Train Staff (Change Management)	1-Oct	1-Nov	31	\$7,000		
6		Radio Change out	1-Sep	31-Dec	121	\$50,000		5,603
7		Box/Lids Change out					\$136,270	
8								
9		Task 2022 Budget				\$300,000		
10		Software Procurement				\$29,380		
11	CFP 2022	Antenna 2 Install 29th St Reservoir				\$100,000		
12		Radio/Meter changeout				\$130,000		5159
13		Design/Permitting				\$50,000	\$309,380	
14		Box/Lids Change out						
15								
16		Task 2023 Budget				\$500,000		
17		Software Procurement				\$32,804		
18	CFP 2023	Antenna 5 Sunrise Estates				\$100,000		
19		Radio/Meter changeout				\$300,000		896
20		Design/Permitting				\$50,000	\$482,804	
21		Box/Lids Change out						
22								
23		Task 2024 Budget				\$500,000		
24		Software Procurement				\$34,443		
25	CFP 2024	Antenna 4 Install Skyline Reservoir				\$100,000		
26		Radio/Meter changeout				\$300,000		2,962
27		Design/Permitting				\$50,000	\$484,443	
28		Box/Lids Change out						
29								
30		Task 2025 Budget				\$500,000		
31		Software Procurement				\$38,485		
32	CFP 2025	Antenna 3 Install Southridge				\$100,000		
33		Radio/Meter changeout				\$300,000		2,415
34		Design/Permitting				\$50,000.00	\$488,485	
35		Lids Change out						
36								
37		Total Project	\$1,901,382			Total Project	\$1,901,382	
38		Radio Credit- Warranty	\$194,665					
39	Project totals	Total Project with Warranty Credit	\$1,706,717					
40		M&O Radio Change out	\$1,296,135					
41		Totals less M&O With Credit- Includes SaaS	\$410,582					
42								
43								
44	Supporting Data	Radios to be changed	5565	\$996,135				
45		Radio Price = budget number	\$179					

What is Next

- ◆ Execute SaaS Agreement City Council Meeting September 13, 2021
- ◆ Construct Single Antenna on City Hall October 2021
- ◆ Staff Training and soft rollout Industrial users, Commercial, select residential



Questions?

Thank You

CITY OF ANACORTES
PUBLIC WORKS



Brian McDaniel Water System Manager
Page 111 of 127

M&O Budget 2021	Task 2021 Budget	Start Date	End Date	Duration	Budget	Total Annual Expenditure	Radios Connected to Antenna	Radios to be changed	Meters to be Replaced										
	Software Procurement	15-Sep	27-Sep	12	\$300,000														
	Antenna (1) Install City Hall	30-Sep	15-Oct	15	\$45,000														
	Train Staff (Change Management)	1-Oct	1-Nov	31	\$34,270														
	Radio Change out	1-Sep	31-Dec	121	\$7,000														
	Box/Lids Change out				\$50,000														
					\$136,270		5,603												
CFP 2022	Task 2022 Budget				\$300,000														
	Software Procurement				\$29,380														
	Antenna 2 Install 29th St Reservoir				\$100,000														
	Radio/Meter changeout				\$130,000														
	Design/Permitting				\$50,000														
	Box/Lids Change out																		
					\$309,380		5159												
CFP 2023	Task 2023 Budget				\$500,000														
	Software Procurement				\$32,804														
	Antenna 5 Sunrise Estates				\$100,000														
	Radio/Meter changeout				\$300,000														
	Design/Permitting				\$50,000														
	Box/Lids Change out																		
					\$482,804		896												
CFP 2024	Task 2024 Budget				\$500,000														
	Software Procurement				\$34,443														
	Antenna 4 Install Skyline Reservoir				\$100,000														
	Radio/Meter changeout				\$300,000														
	Design/Permitting				\$50,000														
	Box/Lids Change out																		
					\$484,443		2,962												
CFP 2025	Task 2025 Budget				\$500,000														
	Software Procurement				\$38,485														
	Antenna 3 Install Southridge				\$100,000														
	Radio/Meter changeout				\$300,000														
	Design/Permitting				\$50,000.00														
	Lids Change out																		
					\$488,485		2,415												
Project totals	Total Project	\$1,901,382				Total Project	\$1,901,382												
	Radio Credit- Warranty	\$194,665																	
	Total Project with Warranty Credit	\$1,706,717																	
	M&O Radio Change out	\$1,296,135																	
	Totals less M&O With Credit- Includes SaaS	\$410,582																	
Supporting Data	Radios to be changed	5565	\$996,135																
	Radio Price = budget number	\$179																	
<table><tr><th colspan="2">Radio Exchange Credit</th></tr><tr><td>289 radios out for the Warranty Period but still get value. Trade in Value \$11,094.71</td><td>\$11,095</td></tr><tr><td>2613 single port radios in Warranty Period that get value. Trade in Value \$125,032.05</td><td>\$125,032</td></tr><tr><td>1163 dual port radios in Warranty Period that get value. Trade in Value \$58,537.62</td><td>\$58,538</td></tr><tr><td>Total Credit</td><td>\$194,665</td></tr></table>										Radio Exchange Credit		289 radios out for the Warranty Period but still get value. Trade in Value \$11,094.71	\$11,095	2613 single port radios in Warranty Period that get value. Trade in Value \$125,032.05	\$125,032	1163 dual port radios in Warranty Period that get value. Trade in Value \$58,537.62	\$58,538	Total Credit	\$194,665
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9500 meters 1163 dual ports																			



City Council Agenda Bill

Meeting Date: September 13,
2021

Agenda Item: 6.d.

Agenda Item Title: Contract Award: Grand View Cemetery Expansion - Phase 2 #19-092-PRK-004

Staff Contact(s): JONN LUNSFORD

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
TIFFANY MATSON	Contract Award
TIFFANY MATSON	

Item Summary: Summary Statement: City staff seeks City Council consent to award a contract in the amount of \$605,972.48 to Trinity Contractors Inc. to perform the Grand View Cemetery Expansion - Phase 2. This contract provides an expansion of infrastructure improvements on approximately five acres of an existing 11.5-acre cemetery owned and operated by the City of Anacortes. Work to be performed by the contractor includes mobilizing onto the site; installing temporary erosion control measures; minor tree and root system removals; grading (excavation and backfill) of roadway, drainage, and landscape areas; installing an irrigation system with yard hydrants; installation of underground power utilities; revising existing and installing new stormwater systems for collection and conveyance of road and site runoff; roadway construction with placement of gravels, crushed surfacing, and hot mix asphalt; installing cement concrete sidewalks; installing various types of fencing; landscaping; plantings for low-impact stormwater management facilities; traffic and pedestrian control; demobilizing; and other work.

Background:

1. **History:** The first phase of the project which included tree removal and site clearing on the west side of the existing cemetery was complete in early 2021. Phase 2 continues the project to reflect the goals of the 2006 Grand View Cemetery Master Plan. Highlights of Phase 2 is that we will be turning 5 acres into a fully operating cemetery. There is going to be a columbarium area, a paved road 8' wide with 8' wide pullouts spaced throughout so visitors can park. The current layout shows 3202 4'x9' burial plots this will change some as we add the east- west corridors for irrigation and trees. Additional trees will be planted throughout the expansion, a new fence behind the homes that are on

Hillcrest Drive and there will be improvements to the front of the cemetery and around the sediment pond. Grand View currently has approximately 90 full burial lots for sale and 120 urn burial lots.

2. **Key Terms:**

- Contract is for a fixed price of \$605,972.48.
- Work will be physically completed within 34 Working days after the work commence.

3. **Competitive Bidding:** On August 18, 2021 the City [solicited bids](#) for the subject project and on September 2, 2021 a bid opening was conducted and 7 bids were received. Trinity Contractors Inc. was determined to be the lowest responsible bidder. The Engineer's Estimate for this project was \$500,000 to \$550,000. Bid results are provided as an attachment hereto.

Budget Impact:

Contractor	Trinity Contractors Inc.
Contract Amount	\$605,972.48
Earmarked Funds	Impact Fees & General Fund Transfer
BARS #	108.410.594.76.60
Start Date	Notice to Proceed
End Date	34 working days

Previous Action: Contract [19-092-PRK-002](#) for the construction of Phase 1 was approved at the [10/12/20](#) Council meeting. [Modification 02](#) for Contract 19-092-PRK-002 was approved at the [2/1/21](#) Council meeting.

Recommended Motion: I move that City Council authorize the Mayor to sign contract 19-092-PRK-004 with Trinity Contractors Inc. in the amount of \$605,972.48 to perform the Grand View Cemetery Expansion - Phase 2.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. Bid Tabulation 19-092-PRK-004
2. 19-092-PRK-004
3. Staff Slide Presentation



GRANDVIEW CEMETERY EXPANSION - PHASE 2 #19-092-PRK-004			Trinity Contractors Inc.		Matia Contractors, Inc.		Tiger Construction, Ltd.		HB Hansen Construction, Inc.		Strider Construction Co., Inc.		Larry Brown Construction, Inc.		Oceanside Construction, Inc.	
ITEM	DESCRIPTION	QTY	UNIT \$	TOTAL \$	UNIT \$	TOTAL \$	UNIT \$	TOTAL \$	UNIT \$	TOTAL \$	UNIT \$	TOTAL \$	UNIT \$	TOTAL \$	UNIT \$	TOTAL \$
1	MOBILIZATION 1-09.7	1 LS	\$ 25,000.00	\$ 25,000.00	\$ 55,350.00	\$ 55,350.00	\$ 47,100.00	\$ 47,100.00	\$ 47,000.00	\$ 47,000.00	\$ 80,000.00	\$ 80,000.00	\$ 63,000.00	\$ 63,000.00	\$ 50,000.00	\$ 50,000.00
2	REMOVAL OF STRUCTURES AND OBSTRUCTIONS 2-02 GSP	1 LS	\$ 5,000.00	\$ 5,000.00	\$ 5,035.00	\$ 5,035.00	\$ 10,900.00	\$ 10,900.00	\$ 5,000.00	\$ 5,000.00	\$ 1,000.00	\$ 1,000.00	\$ 4,745.00	\$ 4,745.00	\$ 5,000.00	\$ 5,000.00
3	ROADWAY EXCAVATION INCL. HAUL 2-03	200 CY	\$ 50.00	\$ 10,000.00	\$ 34.00	\$ 6,800.00	\$ 32.50	\$ 6,500.00	\$ 40.00	\$ 8,000.00	\$ 20.00	\$ 4,000.00	\$ 34.10	\$ 6,820.00	\$ 40.00	\$ 8,000.00
4	GRAVEL BORROW INCL. HAUL 2-03	1,065 TON	\$ 30.00	\$ 31,950.00	\$ 25.45	\$ 27,104.25	\$ 18.50	\$ 19,702.50	\$ 40.00	\$ 42,600.00	\$ 12.00	\$ 12,780.00	\$ 24.65	\$ 26,252.25	\$ 19.00	\$ 20,235.00
5	EMBANKMENT COMPACTION 2-03	500 CY	\$ 20.00	\$ 10,000.00	\$ 14.85	\$ 7,425.00	\$ 11.50	\$ 5,750.00	\$ 20.00	\$ 10,000.00	\$ 10.00	\$ 5,000.00	\$ 3.70	\$ 1,850.00	\$ 6.00	\$ 3,000.00
6	FINE GRADING OF DEVELOPMENT AREAS 2-03 SP	1 LS	\$ 50,000.00	\$ 50,000.00	\$ 2,045.00	\$ 2,045.00	\$ 5,520.00	\$ 5,520.00	\$ 33,000.00	\$ 33,000.00	\$ 5,000.00	\$ 5,000.00	\$ 15,900.00	\$ 15,900.00	\$ 3,000.00	\$ 3,000.00
7	CONVEYANCE SWALE RELOCATION 2-03 SP	1 LS	\$ 20,000.00	\$ 20,000.00	\$ 20,215.00	\$ 20,215.00	\$ 15,600.00	\$ 15,600.00	\$ 20,000.00	\$ 20,000.00	\$ 15,000.00	\$ 15,000.00	\$ 24,260.00	\$ 24,260.00	\$ 9,500.00	\$ 9,500.00
8	QUARRY SPALLS 8-15	10 CY	\$ 50.00	\$ 500.00	\$ 132.50	\$ 1,325.00	\$ 49.00	\$ 490.00	\$ 50.00	\$ 500.00	\$ 100.00	\$ 1,000.00	\$ 86.45	\$ 864.50	\$ 52.00	\$ 520.00
9	DRAIN PIPE 8 IN. DIAM. 7-01	100 LF	\$ 50.00	\$ 5,000.00	\$ 69.00	\$ 6,900.00	\$ 63.00	\$ 6,300.00	\$ 50.00	\$ 5,000.00	\$ 22.00	\$ 2,200.00	\$ 57.55	\$ 5,755.00	\$ 94.00	\$ 9,400.00
10	ROADWAY CURTAIN DRAIN 7-01 SP	30 LF	\$ 75.00	\$ 2,250.00	\$ 87.00	\$ 2,610.00	\$ 78.50	\$ 2,355.00	\$ 100.00	\$ 3,000.00	\$ 25.00	\$ 750.00	\$ 54.00	\$ 1,620.00	\$ 55.00	\$ 1,650.00
11	CATCH BASIN TYPE 1L 7-05	3 EA	\$ 2,000.00	\$ 6,000.00	\$ 2,060.00	\$ 6,180.00	\$ 2,020.00	\$ 6,060.00	\$ 2,000.00	\$ 6,000.00	\$ 1,500.00	\$ 4,500.00	\$ 2,055.00	\$ 6,165.00	\$ 2,000.00	\$ 6,000.00
12	IRRIGATION SYSTEM LANDSC SP	1 LS	\$ 115,000.00	\$ 115,000.00	\$ 103,780.00	\$ 103,780.00	\$ 137,000.00	\$ 137,000.00	\$ 102,000.00	\$ 102,000.00	\$ 200,000.00	\$ 200,000.00	\$ 139,500.00	\$ 139,500.00	\$ 190,000.00	\$ 190,000.00
13	CRUSHED SURFACING BASE COURSE 4-04	475 TON	\$ 30.00	\$ 14,250.00	\$ 38.25	\$ 18,168.75	\$ 36.50	\$ 17,337.50	\$ 40.00	\$ 19,000.00	\$ 30.00	\$ 14,250.00	\$ 44.70	\$ 21,232.50	\$ 29.00	\$ 13,775.00
14	HMA CL. 1/2 IN. PG 58H-22 5-04 GSP	160 TON	\$ 193.00	\$ 30,880.00	\$ 185.15	\$ 29,624.00	\$ 160.00	\$ 25,600.00	\$ 160.00	\$ 25,600.00	\$ 160.00	\$ 25,600.00	\$ 156.25	\$ 25,000.00	\$ 195.00	\$ 31,200.00
15	ESC LEAD 8-01	8 DAY	\$ 100.00	\$ 800.00	\$ 89.00	\$ 712.00	\$ 165.00	\$ 1,320.00	\$ 200.00	\$ 1,600.00	\$ 175.00	\$ 1,400.00	\$ 100.00	\$ 800.00	\$ 200.00	\$ 1,600.00
16	INLET PROTECTION 8-01	11 EA	\$ 30.00	\$ 330.00	\$ 44.00	\$ 484.00	\$ 75.50	\$ 830.50	\$ 50.00	\$ 550.00	\$ 50.00	\$ 550.00	\$ 48.00	\$ 528.00	\$ 35.00	\$ 385.00
17	STABILIZED CONSTRUCTION ENTRANCE 8-01	120 SY	\$ 10.00	\$ 1,200.00	\$ 32.25	\$ 3,870.00	\$ 53.50	\$ 6,420.00	\$ 30.00	\$ 3,600.00	\$ 28.00	\$ 3,360.00	\$ 39.35	\$ 4,722.00	\$ 50.00	\$ 6,000.00
18	STREET CLEANING 8-01	40 HR	\$ 25.00	\$ 1,000.00	\$ 167.00	\$ 6,680.00	\$ 225.00	\$ 9,000.00	\$ 85.00	\$ 3,400.00	\$ 125.00	\$ 5,000.00	\$ 120.00	\$ 4,800.00	\$ 100.00	\$ 4,000.00
19	WATTLE 8-01	440 LF	\$ 5.00	\$ 2,200.00	\$ 7.65	\$ 3,366.00	\$ 6.60	\$ 2,904.00	\$ 10.00	\$ 4,400.00	\$ 3.50	\$ 1,540.00	\$ 6.15	\$ 2,706.00	\$ 4.00	\$ 1,760.00
20	HIGH VISIBILITY FENCE 8-01	300 LF	\$ 5.00	\$ 1,500.00	\$ 3.85	\$ 1,155.00	\$ 12.50	\$ 3,750.00	\$ 10.00	\$ 3,000.00	\$ 4.00	\$ 1,200.00	\$ 4.35	\$ 1,305.00	\$ 5.00	\$ 1,500.00
21	EROSION/WATER POLLUTION CONTROL 8-01 SP	1 LS	\$ 3,000.00	\$ 3,000.00	\$ 9,925.00	\$ 9,925.00	\$ 5,600.00	\$ 5,600.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 12,000.00	\$ 12,000.00	\$ 17,000.00	\$ 17,000.00
22	LANDSCAPE PLANTINGS AND MATERIALS LANDSC SP	1 LS	\$ 150,000.00	\$ 150,000.00	\$ 141,700.00	\$ 141,700.00	\$ 154,500.00	\$ 154,500.00	\$ 200,000.00	\$ 200,000.00	\$ 175,000.00	\$ 175,000.00	\$ 239,000.00	\$ 239,000.00	\$ 292,000.00	\$ 292,000.00
23	PROJECT TEMPORARY TRAFFIC CONTROL 1-10 GSP	1 LS	\$ 1,000.00	\$ 1,000.00	\$ 9,665.00	\$ 9,665.00	\$ 1,090.00	\$ 1,090.00	\$ 2,000.00	\$ 2,000.00	\$ 3,500.00	\$ 3,500.00	\$ 575.00	\$ 575.00	\$ 1,000.00	\$ 1,000.00
24	STRUCTURE EXCAVATION CLASS B INCL. HAUL 2-09	50 CY	\$ 50.00	\$ 2,500.00	\$ 33.25	\$ 1,662.50	\$ 28.00	\$ 1,400.00	\$ 50.00	\$ 2,500.00	\$ 8.00	\$ 400.00	\$ 39.30	\$ 1,965.00	\$ 40.00	\$ 2,000.00
25	CEMENT CONC. SIDEWALK - 6 IN. DEPTH 8-14 SP	200 SY	\$ 75.00	\$ 15,000.00	\$ 140.00	\$ 28,000.00	\$ 63.50	\$ 12,700.00	\$ 60.00	\$ 12,000.00	\$ 70.00	\$ 14,000.00	\$ 76.75	\$ 15,350.00	\$ 162.00	\$ 32,400.00
26	FORCE ACCOUNT UNANTICIPATED SITE WORK 1-09.6 SP	1 EST	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
27	FORCE ACCOUNT POTHOLES EXISTING UTILITIES 1-09.6 SP	1 EST	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
28	SPCC PLAN 1-07	1 LS	\$ 500.00	\$ 500.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 1,000.00	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 325.00	\$ 325.00	\$ 2,500.00	\$ 2,500.00
29	CONSTRUCTION GEOTEXTILE FOR SOIL STABILIZATION 2-12	1,280 SY	\$ 5.00	\$ 6,400.00	\$ 5.55	\$ 7,104.00	\$ 1.60	\$ 2,048.00	\$ 3.00	\$ 3,840.00	\$ 2.75	\$ 3,520.00	\$ 2.15	\$ 2,752.00	\$ 3.00	\$ 3,840.00
30	CONNECTION TO DRAINAGE STRUCTURE 7-05 SP	2 EA	\$ 500.00	\$ 1,000.00	\$ 2,230.00	\$ 4,460.00	\$ 1,270.00	\$ 2,540.00	\$ 500.00	\$ 1,000.00	\$ 500.00	\$ 1,000.00	\$ 570.00	\$ 1,140.00	\$ 200.00	\$ 400.00
31	ADJUST EXISTING CATCH BASIN 7-05 SP	2 EA	\$ 350.00	\$ 700.00	\$ 1,008.00	\$ 2,016.00	\$ 1,600.00	\$ 3,200.00	\$ 300.00	\$ 600.00	\$ 350.00	\$ 700.00	\$ 255.00	\$ 510.00	\$ 300.00	\$ 600.00
32	REMOVE AND REPLACE EXISTING METAL CASTING 7-05 SP	1 EA	\$ 450.00	\$ 450.00	\$ 1,125.00	\$ 1,125.00	\$ 1,650.00	\$ 1,650.00	\$ 200.00	\$ 200.00	\$ 600.00	\$ 600.00	\$ 420.00	\$ 420.00	\$ 500.00	\$ 500.00
33	CHAIN LINK FENCES AND GATES LANDSC SP	1 LS	\$ 11,000.00	\$ 11,000.00	\$ 11,450.00	\$ 11,450.00	\$ 14,700.00	\$ 14,700.00	\$ 12,000.00	\$ 12,000.00	\$ 20,000.00	\$ 20,000.00	\$ 16,500.00	\$ 16,500.00	\$ 12,000.00	\$ 12,000.00
34	WOOD FENCE LANDSC SP	315 LF	\$ 45.00	\$ 14,175.00	\$ 64.35	\$ 20,270.25	\$ 75.50	\$ 23,782.50	\$ 60.00	\$ 18,900.00	\$ 60.00	\$ 18,900.00	\$ 84.45	\$ 26,601.75	\$ 65.00	\$ 20,475.00
35	SEGMENTAL RETAINING WALL LANDSC SP	85 LF	\$ 75.00	\$ 6,375.00	\$ 125.85	\$ 10,697.25	\$ 140.00	\$ 11,900.00	\$ 100.00	\$ 8,500.00	\$ 120.00	\$ 10,200.00	\$ 107.85	\$ 9,167.25	\$ 85.00	\$ 7,225.00
			Subtotal:	\$ 556,960.00	Subtotal:	\$ 569,454.00	Subtotal:	\$ 578,100.00	Subtotal:	\$ 620,790.00	Subtotal:	\$ 647,450.00	Subtotal:	\$ 696,131.25	Subtotal:	\$ 770,465.00
			8.8% sales tax:	\$ 49,012.48	8.8% sales tax:	\$ 50,111.95	8.8% sales tax:	\$ 50,872.80	8.8% sales tax:	\$ 54,629.52	8.8% sales tax:	\$ 56,975.60	8.8% sales tax:	\$ 61,259.55	8.8% sales tax:	\$ 67,800.92
			TOTAL BID:	\$ 605,972.48	TOTAL BID:	\$ 619,565.95	TOTAL BID:	\$ 628,972.80	TOTAL BID:	\$ 675,419.52	TOTAL BID:	\$ 704,425.60	TOTAL BID:	\$ 757,390.80	TOTAL BID:	\$ 838,265.92

Denotes correction from Contractor's bid proposal



CONTRACT AGREEMENT CONTRACT #PW-19-092-PRK-004

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and Trinity Contractors, Inc., a private contractor at PO Box 1348, Marysville, WA 98270 (herein after referred to as "Contractor").

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the OWNER and CONTRACTOR hereto covenant and agree as follows:

I. WORK.

The Contractor shall do all work and furnish all tools, materials, equipment, and transportation required for the construction of **GRAND VIEW CEMETERY EXPANSION - PHASE 2, Project No. 19-092-PRK-004** in accordance with and as described in the City of Anacortes document entitled "**PLANS, SPECIFICATIONS, AND CONTRACT DOCUMENTS**" which is hereby incorporated by reference and made a part hereof, and shall perform any changes to the work in accord with the Contract Documents.

II. ENGINEER.

Unless otherwise specifically stated, the word "Engineer" shall be understood to mean the OWNER'S Project Manager or the OWNER'S authorized representative who will perform the Contract Administration and field inspection responsibilities.

III. CONTRACT TIMES AND LIQUIDATED DAMAGES.

A. Contract Times:

1. Unless modified by the proposal, work shall start within **ten (10) calendar** days from the date of the Notice to Proceed. **Contract time shall begin on the first working day following the Notice to Proceed Date.** Physical Completion as defined in section 1-08.5 of the Special Provisions shall be achieved within **thirty-four (34) working days** after the work commences. The Contract Time shall commence upon issuance of the Notice to Proceed.

B. Liquidated Damages:

1. If said work is not completed within the time specified for Physical Completion, the Contractor agrees to pay the Owner the sum specified in Section 1-08.9 of the Standard Specifications for each and every working day said work remains incomplete after expiration of the specified time, as liquidated damages.

IV. CONTRACT PRICE.

The OWNER, hereby promises and agrees with the Contractor to retain and does retain the Contractor to provide the materials and to do and cause to be done the above-described work and to complete and finish the same according to the plans and specifications contained in document entitled "**PLANS, SPECIFICATIONS, AND CONTRACT DOCUMENTS**", and the terms and conditions herein contained, and hereby the OWNER contracts to pay CONTRACTOR for completion of the Work and in accordance to the same and the attached bid schedule, which is included as an Exhibit to this Agreement based upon the Unit Prices shown. The total contract price is **Six Hundred Five Thousand Nine Hundred Seventy-Two Dollars and Forty-Eight Cents (\$605,972.48).**

A. Interest:

1. Moneys not paid when due as provided in the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

V. CONTRACTOR REPRESENTATIONS.

In order to induce OWNER to enter in this Agreement, CONTRACTOR'S representations are as set forth as follows:

- A. CONTRACTOR has familiarized him/herself with the nature and extent of the Contract Document, scope of Work, site conditions, locality, general nature of work to be performed by OWNER or others at the site that relates to Work required by the Contract Documents and local conditions and federal, state, and local laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of Work.
- B. CONTRACTOR has carefully studied and examined the supplement, referred to above, which pertain to the conditions (subsurface or physical) to or contiguous to the site which may affect cost, progress, performance, or furnishing of said Work as CONTRACTOR deems necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with other terms and conditions of the Contract Documents, including specifically the provisions of the current WSDOT Specifications; and no additional or supplementary examinations, investigations, explorations, tests, reports, or similar information or data are or will be required by CONTRACTOR for such purposes.
- C. CONTRACTOR has reviewed and checked information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and has included costs as defined by WSDOT Specifications.
- D. CONTRACTOR has correlated information known to CONTRACTOR and results of such observations, familiarizations, examination, investigations, explorations, tests, and studies with Contract Documents.
- E. CONTRACTOR has given OWNER written notice of conflicts, errors, ambiguities or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by OWNER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of terms and conditions for performing and furnishing Work.

VI. CONTRACT DOCUMENTS.

- A. Contract Documents that comprise the entire Agreement between OWNER and CONTRACTOR concerning Work are defined in the WSDOT Specifications.
- B. Exhibits to this Agreement include:
 - 1. Conformed Bid Form signed by CONTRACTOR.
 - 2. Executed Performance Bond
 - 3. Executed Payment Bond.
 - 4. Required documents submitted by the CONTRACTOR prior to the execution of Agreement as identified in the "Instruction to Bidders".

VII. MISCELLANEOUS

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound, and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment. No assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- B. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents.
- C. It is further provided that no liability shall attach to the City of Anacortes, Washington, by reason of entering into this contract, except as expressly provided herein.

The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that s/he or it is signing with full and complete authority to bind the party on whose behalf of whom s/he or it is signing, to each and every term of this Agreement.

Owner:

City of Anacortes

Mayor

Date

Contractor:

Trinity Contractors, Inc.

Title

Date

BID PROPOSAL

TO: City of Anacortes
City Hall
904 6th Street
Anacortes, WA 98221

Attention: Nicole Johnston - City Project Manager

Non-Collusion Declaration

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this proposal are those named herein; that this proposal is in all respects fair and without fraud; that it is made without collusion with any official of the City of Anacortes; and that the proposal is made without any connection or collusion with any person making another proposal of this contract. **Moreover, the Bidder declares by signing the signature page of this Proposal that the following statement is true and correct:**

My firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

The bidder declares that he/she has carefully examined the contract documents for the construction of the project; that he/she has personally inspected the site; that he/she has satisfied him or herself as to the quantities involved, including materials and equipment and conditions of work involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the contract documents and that this proposal is made according to the provisions and under the terms of the contract documents, which documents are hereby made a part of this proposal.

The bidder declares that he/she has exercised his/her own judgment regarding the interpretation of subsurface information and has utilized all data, which he/she believes pertinent from the Engineer, Owner and other sources in arriving at his/her conclusions.

The bidder agrees that if this proposal is accepted, he/she will, within **ten (10) calendar days** after Notice of Award, execute the contract (the Agreement Form) with the City of Anacortes in the form of contract included in the contract documents, and will, prior to the time of execution of the contract, deliver to the City of Anacortes the Performance and Payment Bond, all Certificates of Insurance and proof of a City of Anacortes Business License required therein and will, to the extent of his/her proposals, furnish all necessary labor, tools, materials, equipment, and services required to do the work in the manner, in the time, and according to the methods as specified in the contract documents and required by the Engineer or other designated project representative there under.

The bidder further agrees, if awarded the contract, to begin work within **ten (10) working days** after the date of the Notice to Proceed. **Contract time shall begin on the first working day following the Notice to Proceed Date.** Physical Completion will be achieved within **thirty-four (34) working days**, in accordance with the Notice to Proceed.

In the event the bidder is awarded the contract and shall fail to complete the work within the time limit agreed upon as more particularly set forth in the contract documents, liquidated damages shall be paid to the Owner per the Special Provisions contained in the contract documents.

The bidder proposes to accept as full payment for the work proposed herein the amount computed under the provisions of the contract documents and based upon the unit price, it being expressly understood that the unit price is independent of the exact quantities involved. Bidder agrees that the unit prices shown represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type of work called for in these contract documents.

The undersigned bids for complete construction of the following described project:

NOTICE TO BIDDERS: BIDDERS ARE DIRECTED TO WWW.BXWA.COM TO ENSURE RECEIPT OF ENTIRE SOLICITATION.

GRAND VIEW CEMETERY EXPANSION - PHASE 2

This contract provides an expansion of infrastructure improvements on approximately five acres of an existing 11.5-acre cemetery owned and operated by the City of Anacortes. Work to be performed by the contractor includes mobilizing onto the site; installing temporary erosion control measures; minor tree and root system removals; grading (excavation, embankment, and backfill) of roadway, drainage, and landscape areas; installing an irrigation system with yard hydrants; installation of underground power utilities; revising existing and installing new stormwater systems for collection and conveyance of road and site runoff; roadway construction with placement of gravels, crushed surfacing, and hot mix asphalt; installing cement concrete sidewalks; installing various types of fencing; landscaping; plantings for low-impact stormwater management facilities; traffic and pedestrian control; demobilizing; and other work, all in accordance with the attached Contract Plans, City Development Standards, and the WSDOT Standard Specifications.

Project is located at 411 Hillcrest Drive, Anacortes, WA.

The bid price shall include everything necessary for the prosecution and completion of the services as detailed in the specifications including but not limited to furnishing all materials, equipment, supplies, tools, plant and other facilities and all management, supervision, labor and service, except as may be provided otherwise in this bid.

GRAND VIEW CEMETERY EXPANSION - PHASE 2

Item No.	Item Description	Spec. Ref.	Plan Quantity	Unit of Measure	Unit Price	Total Amount
1	MOBILIZATION	1-09.7	1	LS	\$ <u>25,000</u> . ⁰⁰	\$ <u>25,000</u> . ⁰⁰
2	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	2-02 GSP	1	LS	\$ <u>5000</u> . ⁰⁰	\$ <u>5000</u> . ⁰⁰
3	ROADWAY EXCAVATION INCL. HAUL	2-03	200	CY	\$ <u>50</u> . ⁰⁰	\$ <u>10,000</u> . ⁰⁰
4	GRAVEL BORROW INCL. HAUL	2-03	1,065	TON	\$ <u>30</u> . ⁰⁰	\$ <u>31,950</u> . ⁰⁰
5	EMBANKMENT COMPACTION	2-03	500	CY	\$ <u>20</u> . ⁰⁰	\$ <u>10,000</u> . ⁰⁰
6	FINE GRADING OF DEVELOPMENT AREAS	2-03 SP	1	LS	\$ <u>50,000</u> . ⁰⁰	\$ <u>50,000</u> . ⁰⁰
7	CONVEYANCE SWALE RELOCATION	2-03 SP	1	LS	\$ <u>20,000</u> . ⁰⁰	\$ <u>20,000</u> . ⁰⁰
8	QUARRY SPALLS	8-15	10	CY	\$ <u>50</u> . ⁰⁰	\$ <u>500</u> . ⁰⁰
9	DRAIN PIPE 8 IN. DIAM.	7-01	100	LF	\$ <u>50</u> . ⁰⁰	\$ <u>5,000</u> . ⁰⁰
10	ROADWAY CURTAIN DRAIN	7-01 SP	30	LF	\$ <u>75</u> . ⁰⁰	\$ <u>2250</u> . ⁰⁰
11	CATCH BASIN TYPE 1L	7-05	3	EACH	\$ <u>2000</u> . ⁰⁰	\$ <u>6000</u> . ⁰⁰

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Item No.	Item Description	Spec. Ref.	Plan Quantity	Unit of Measure	Unit Price	Total Amount
12	IRRIGATION SYSTEM	LANDSC SP	1	LS	\$ <u>115,000.</u> ⁰⁰	\$ <u>115,000.</u> ⁰⁰
13	CRUSHED SURFACING BASE COURSE	4-04	475	TON	\$ <u>30.</u> ⁰⁰	\$ <u>14,250.</u> ⁰⁰
14	HMA CL. 1/2 IN. PG 58H-22	5-04 GSP	160	TON	\$ <u>193.</u> ⁰⁰	\$ <u>30,880.</u> ⁰⁰
15	ESC LEAD	8-01	8	DAY	\$ <u>100.</u> ⁰⁰	\$ <u>800.</u> ⁰⁰
16	INLET PROTECTION	8-01	11	EACH	\$ <u>30.</u> ⁰⁰	\$ <u>330.</u> ⁰⁰
17	STABILIZED CONSTRUCTION ENTRANCE	8-01	120	SY	\$ <u>10.</u> ⁰⁰	\$ <u>1200.</u> ⁰⁰
18	STREET CLEANING	8-01	40	HOUR	\$ <u>25.</u> ⁰⁰	\$ <u>1000.</u> ⁰⁰
19	WATTLE	8-01	440	LF	\$ <u>5.</u> ⁰⁰	\$ <u>2200.</u> ⁰⁰
20	HIGH VISIBILITY FENCE	8-01	300	LF	\$ <u>5.</u> ⁰⁰	\$ <u>1500.</u> ⁰⁰
21	EROSION/WATER POLLUTION CONTROL	8-01 SP	1	LS	\$ <u>3000.</u> ⁰⁰	\$ <u>3000.</u> ⁰⁰
22	LANDSCAPE PLANTINGS AND MATERIALS	LANDSC SP	1	LS	\$ <u>150,000.</u> ⁰⁰	\$ <u>150,000.</u> ⁰⁰
23	PROJECT TEMPORARY TRAFFIC CONTROL	1-10 GSP	1	LS	\$ <u>1000.</u> ⁰⁰	\$ <u>1,000.</u> ⁰⁰
24	STRUCTURE EXCAVATION CLASS B INCL. HAUL	2-09	50	CY	\$ <u>50.</u> ⁰⁰	\$ <u>2500.</u> ⁰⁰
25	CEMENT CONC. SIDEWALK - 6 IN. DEPTH	8-14 SP	200	SY	\$ <u>75.</u> ⁰⁰	\$ <u>15,000.</u> ⁰⁰
26	FORCE ACCOUNT UNANTICIPATED SITE WORK	1-09.6 SP	1	EST	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>
27	FORCE ACCOUNT POT HOLE EXISTING UTILITIES	1-09.6 SP	1	EST	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
28	SPCC PLAN	1-07	1	LS	\$ <u>500.</u> ⁰⁰	\$ <u>500.</u> ⁰⁰

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Item No.	Item Description	Spec. Ref.	Plan Quantity	Unit of Measure	Unit Price	Total Amount
29	CONSTRUCTION GEOTEXTILE FOR SOIL STABILIZATION	2-12	1,280	SY	\$ <u>5</u> . ⁰⁰	\$ <u>6,400</u> . ⁰⁰
30	CONNECTION TO DRAINAGE STRUCTURE	7-05 SP	2	EACH	\$ <u>500</u> . ⁰⁰	\$ <u>1,000</u> . ⁰⁰
31	ADJUST EXISTING CATCH BASIN	7-05 SP	2	EACH	\$ <u>350</u> . ⁰⁰	\$ <u>700</u> . ⁰⁰
32	REMOVE AND REPLACE EXISTING METAL CASTING	7-05 SP	1	EACH	\$ <u>450</u> . ⁰⁰	\$ <u>450</u> . ⁰⁰
33	CHAIN LINK FENCES AND GATES	LANDSC SP	1	LS	\$ <u>11,000</u> . ⁰⁰	\$ <u>11,000</u> . ⁰⁰
34	WOOD FENCE	LANDSC SP	315	LF	\$ <u>45</u> . ⁰⁰	\$ <u>14,175</u> . ⁰⁰
35	SEGMENTAL RETAINING WALL	LANDSC SP	85	LF	\$ <u>75</u> . ⁰⁰	\$ <u>6,375</u> . ⁰⁰
				Sub-Total:		\$ <u>556,960</u> . ⁰⁰
Rule 170 applies to all bid items in this project. See Special Provision 1-07.2(2) for clarification.				Sales Tax (8.8%):		\$ <u>49,012</u> . ⁴⁸
				TOTAL BID		\$ <u>605,972</u> . ⁴⁸

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ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

Addendum No. 8, Initials JK

Addendum No. _____, Initials _____

Addendum No. _____, Initials _____

Addendum No. _____, Initials _____

NOTE: Failure to acknowledge any issued Addenda may render Proposal non-responsive and therefore void. It is the sole responsibility of the Bidder to learn of Addendum, if any. Such information may be obtained from the Builders Exchange website at www.bxwa.com.

BID DEPOSIT

A proposal deposit in an amount of five percent (5%) of the total bid is attached here in the form indicated below:

☒ Bid Bond ☐ Cashier's Check ☐ Certified Check ☐ Cash

NOTICE TO ALL BIDDERS

To report bid rigging activities call: **1-800-424-9071**

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern time. Anyone with knowledge of possible bid rigging, Bidder collusion, or other fraudulent activities should use the "hotline" to report activities. The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

Name of Bidder:

Trinity Contractors, Inc.

Contact Name:

JR Chapman

Mailing Address:

P.O. Box 1348

City, State, Zip:

Mayville WA 98270

Business Telephone:

360-322-6130

Cell Phone:

425-512-2977

Email Address:

JR.TrinityContractors@gmail.com

Contractor's State License No:

TRINIC1894L3

UBI Number:

603-122-532

By signing this proposal, the bidder agrees to all requirements contained in the contract documents.



(Corporate Seal)

Name of Bidder

Title

Date

Signature of Bidder

Print Name

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GRAND VIEW CEMETERY EXPANSION

Phase Two Update

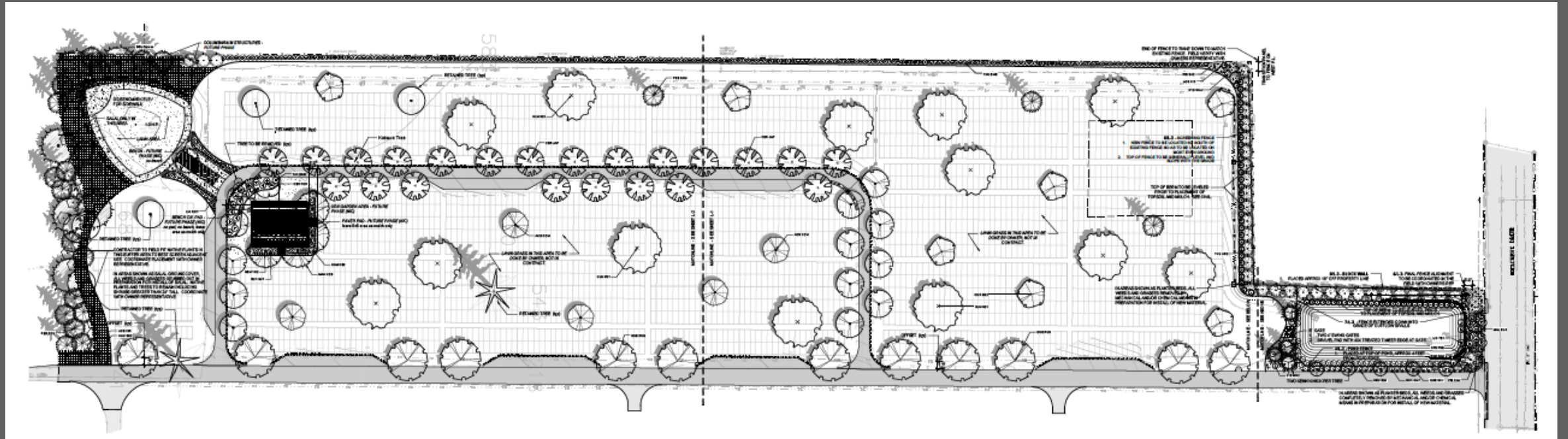
Project Manager, Nicole Johnston

Parks & Recreation Director, Jonn Lunsford

PHASE ONE EXPANSION



PHASE TWO EXPANSION-



QUESTIONS?

