



**BUCKLEY CITY COUNCIL MEETING AGENDA**  
**March 28, 2017**  
**Multi-Purpose Center, 811 Main Street**  
**City Council Meeting**  
**Opening 7:00 P.M.**

Call to Order  
Pledge of Allegiance  
Roll Call of Council Members

Next Ordinance #06-17  
Next Resolution #17-03  
Next Agenda Bill #AB17-018

**A. Citizen Participation**

*Time Limit of Three Minutes (Must sign up at City Hall by Wednesday prior to the Council Meeting)*

**B. Staff Reports**

**C. Main Agenda**

**Page #**

- |  |           |
|--|-----------|
| 1. <b>Public Hearing: Ext. of Moratorium - Marijuana Prod &amp; Process in GC Zone</b>           | <b>8</b>  |
| 2. <b>Public Hearing: Ext. of Moratorium - Contractor &amp; Outdoor Storage Yards in GC Zone</b> | <b>10</b> |
| 3. ORD No. __-17: Extending Moratorium: Marijuana Prod & Processing in GC Zone                   | <b>12</b> |
| 4. ORD No. __-17: Extending Moratorium: Contractor & Outdoor Storage Yards in GC Zone            | <b>15</b> |
| 5. ORD No. __-17: Amending BMC 16.70 "Violations and Penalties"                                  | <b>18</b> |
| 6. Lease Amendment - Frigh Factory – Haunted House   | <b>22</b> |
| 7. Lease Amendment - Doxa [SoZo] Cross Fit Fire Station Lease – Addendum #7                      | <b>28</b> |
| 8. Consultant Scope - AHBL - SR410 Subarea Plan – Addendum #1                                    | <b>53</b> |
| 9. Repair Estimate - Buckley Hall Roof & Interior Wall Leak Repair                               | <b>57</b> |

**D. Consent Agenda**

**60**

10. A. Approve Minutes of March 14, 2017 City Council Meeting  
B. Claims

**E. Committee Reports**

- |   |               |
|---|---------------|
| 11. Mayor's Report                              | Johnson       |
| 12. Administration, Finance & Public Safety     | Boyle Barrett |
| 13. Transportation & Utilities                  | Tremblay      |
| 14. Community Services                          | Rose          |
| 15. Council Member Comments & Good of the Order |               |

*Council may add and take action on other items not listed on this agenda*



**CITY OF BUCKLEY ♦ PO BOX 1960 ♦ BUCKLEY, WA 98321**  
360-829-1921 ♦ Fax 360-829-2659 ♦ <http://www.cityofbuckley.com>

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## **CITY OF BUCKLEY MEETING LIST**

Mar 23	6:30 PM	Community Services
Mar 28	7:00 PM	City Council
Apr 3	7:00 PM	Planning Commission
Apr 4	9:30 AM	Admin, Finance & Public Safety (City Hall)
Apr 4	7:00 PM	City Council Study Session
Apr 10	10:30 AM	Buckley Hall Board
Apr 11	7:00 PM	City Council
Apr 18	9:30 AM	Admin, Finance & Public Safety (City Hall)
Apr 18	7:00 PM	Transportation & Utilities (City Hall)
Apr 20	6:30 PM	Community Services
Apr 25	7:00 PM	City Council

**The above meetings will be held in the Multi-Purpose Center located at 811 Main Street unless otherwise noted.  
Last Revised March 22, 2017.**

# March 2017



Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 7 Planning Commission— <b>Public Hearing</b>	7 9:30 Admin, Fin & PS  7 City Council Study Session	8	9	10	11
12  <b>SPRING FORWARD</b>	13 10:30 Buckley Hall Board	14 7 City Council	15	16 6:30 Community Services	17  Everyone's Irish On March 17th.	18
19	20 7 Planning Commission	21 9:30 Admin, Fin & PS  7 Transportation & Utilities	22	23	24	25
26	27	28 7 City Council	29	30	31	

# April 2017



Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3 <i>7 Planning Commission</i>	4 9:30 Admin, Fin & PS <i>7 City Council Study Session</i>	5	6	7	8
9	10 <i>10:30 Buckley Hall Board</i>	11 <i>7 City Council</i>	12	13	14	15
16 	17	18 9:30 Admin, Fin & PS <i>7 Transportation &amp; Utilities</i>	19	20 <i>6:30 Community Services</i>	21	22 
23	24	25 <i>7 City Council</i>	26	27	28 <i>Celebrate Arbor Day</i>  <i>Plant A Tree</i>	29
30						

## A. CITIZEN PARTICIPATION

## B. STAFF REPORTS

## C. MAIN AGENDA

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT: Public Hearing: Extension of Moratorium – Marijuana Prod &amp; Process in GC Zone</b>	<b>Agenda Date: March 28, 2017 AB17-018</b>		
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts	X	X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr	X	X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		X
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
	PW/Utilities – Chris Banks		
<b>Attachments:</b> Public Hearing Notice			
<p>SUMMARY STATEMENT: On October 11, 2016 the City Council adopted a six-month moratorium on the establishment, location, licensing or permitting of marijuana production or processing facilities and operations in the City’s General Commercial (GC) Zone. The purpose of this Public Hearing is to solicit public input and comment from interested individuals or groups on a six month extension of the moratorium pertaining to marijuana production or processing facilities and operations in the GC Zone.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: <b>N/A</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	



## NOTICE OF PUBLIC HEARING EXTENSION OF MORATORIUM ON MARIJUANA PRODUCTION & PROCESSING IN GENERAL COMMERCIAL ZONE CITY OF BUCKLEY

**NOTICE IS HEREBY GIVEN** that the Buckley City Council will hold a **Public Hearing** shortly after 7:00 PM at a City Council Meeting on **Tuesday, March 28, 2017**, at the Buckley Multipurpose Building, at 811 Main Street, Buckley. On October 11, 2016 the City Council adopted a six-month moratorium on the establishment, location, licensing or permitting of marijuana production or processing facilities and operations in the City's General Commercial (GC) Zone. The purpose of this Public Hearing is to solicit public input and comment from interested individuals or groups on a six month extension of the moratorium pertaining to marijuana production or processing facilities and operations in the GC Zone.

Each person wishing to speak at this Public Hearing will take the podium, clearly state his or her name and full address for the record, and will be allowed three (3) minutes in which to voice their comments and/or concerns on the matter at hand. Speakers are asked to avoid repetitious or irrelevant comments, and personal attacks will not be tolerated. **Questions will not be taken at this time.** If you have questions, please contact the City as indicated below, in advance of the Public Hearing.

Buckley does not discriminate on the basis of disabilities. If you need special accommodations, please contact City Hall within three business days prior to the Public Hearing at (360) 761-7801.

Comments may be presented orally at the Public Hearing or submitted in writing to Dave Schmidt, City Administrator, P. O. Box 1960, Buckley, WA 98321, or by e-mail to: [dschmidt@cityofbuckley.com](mailto:dschmidt@cityofbuckley.com), prior to 5:00 PM on Monday, March 27, 2017. Questions may be answered by contacting City staff at (360) 761-7801. DATED this 14th day of March, 2017.

Posted: March 14, 2017  
Published: March 22, 2017

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT: Public Hearing: Extension of Moratorium – Contractor &amp; Outdoor Storage Yards in GC Zone</b>	<b>Agenda Date: March 28, 2017 AB17-019</b>		
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts	X	X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr	X	X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		X
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
	PW/Utilities – Chris Banks		
<b>Attachments:</b> Public Hearing Notice			
<p>SUMMARY STATEMENT: On October 11, 2016 the City Council adopted a six-month moratorium on the establishment, location and/or construction of contractor/construction yards &amp; outdoor storage yards in in the City’s General Commercial (GC) Zone. The purpose of this Public Hearing is to solicit public input and comment from interested individuals or groups on a six month extension of the moratorium pertaining to contractor/construction yards &amp; outdoor storage yards in in the City’s General Commercial (GC) Zone.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: None			
RECOMMENDED ACTION: <b>N/A</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	



## NOTICE OF PUBLIC HEARING EXTENSION OF MORATORIUM ON CONTRACTOR & OUTDOOR STORAGE YARDS IN GENERAL COMMERCIAL ZONE CITY OF BUCKLEY

**NOTICE IS HEREBY GIVEN** that the Buckley City Council will hold a **Public Hearing** shortly after 7:00 PM at a City Council Meeting on **Tuesday, March 28, 2017**, at the Buckley Multipurpose Building, at 811 Main Street, Buckley. On October 11, 2016 the City Council adopted a six-month moratorium on the establishment, location and/or construction of contractor/construction yards & outdoor storage yards in the City's General Commercial (GC) Zone. The purpose of this Public Hearing is to solicit public input and comment from interested individuals or groups on a six month extension of the moratorium pertaining to contractor/construction yards & outdoor storage yards in in the City's General Commercial (GC) Zone.

Each person wishing to speak at this Public Hearing will take the podium, clearly state his or her name and full address for the record, and will be allowed three (3) minutes in which to voice their comments and/or concerns on the matter at hand. Speakers are asked to avoid repetitious or irrelevant comments, and personal attacks will not be tolerated. **Questions will not be taken at this time.** If you have questions, please contact the City as indicated below, in advance of the Public Hearing.

Buckley does not discriminate on the basis of disabilities. If you need special accommodations, please contact City Hall within three business days prior to the Public Hearing at (360) 761-7801.

Comments may be presented orally at the Public Hearing or submitted in writing to Dave Schmidt, City Administrator, P. O. Box 1960, Buckley, WA 98321, or by e-mail to: [dschmidt@cityofbuckley.com](mailto:dschmidt@cityofbuckley.com), prior to 5:00 PM on Monday, March 27, 2017. Questions may be answered by contacting City staff at (360) 761-7801. **DATED this 14th day of March, 2017.**

Posted: March 14, 2017  
Published: March 22, 2017

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>ORD No. __-17: Extending Emergency Moratorium- Marijuana (Prod &amp; Process - GC Zone)</b>	<b>Agenda Date: March 28, 2017</b>		<b>AB17-020</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts	X	X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
<b>Attachments:</b> Ordinance			
<p>SUMMARY STATEMENT: See attached findings in the Ordinance.</p> <p>An extension of the moratorium will allow the City’s Planning Commission time to complete evaluation of this impact and determine whether or not changes to the City’s zoning regulations are warranted.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Full Council			
<b>RECOMMENDED ACTION: Motion to Approve ORD No __-17 Extending the Emergency Moratorium on Marijuana Production &amp; Processing in the City’s GC Zone.</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. \_\_-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, ADOPTING A SIX MONTH EXTENSION OF A MORATORIUM ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING AND PERMITTING OF MARIJUANA PROCESS AND PRODUCTION FACILITIES IN THE GENERAL COMMERCIAL ZONE AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.**

**WHEREAS**, on October 11, 2016, the Buckley City Council adopted Buckley Ordinance No. 18-16, a six-month moratorium on the establishment, location, operation, licensing and permitting of marijuana production and processing facilities in the General Commercial Zone, and

**WHEREAS**, the Buckley Planning Commission is still evaluating permanent amendments to address marijuana process and production facilities and needs additional time to make a recommendation to the City Council for a permanent zoning code amendment on the facilities,

NOW THEREFORE THE CITY OF BUCKLEY, PIERCE COUNTY, DOES ORDAIN AS FOLLOWS:

**Section 1.** That the Recitals above, as well as those in Ordinance No. 18-16, are hereby adopted by reference as the City Council’s findings of fact, as if fully set forth herein.

**Section 2.** That pursuant to the provisions of RCW 35A.63.220, the City Council adopts a six-month extension to the moratorium initially adopted in Buckley Ordinance No. 18-16.

**Section 3.** If any provision of this ordinance is held invalid, such invalidity shall not affect any other provision, or the applications thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are to be declared severable.

**Section 4.** This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Introduced, passed, and approved by the Buckley City Council on \_\_\_\_\_,  
2017.

\_\_\_\_\_  
Mayor Pat Johnson

Attest:

\_\_\_\_\_  
Joanne Starr, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Phil Olbrechts, City Attorney

PUBLISHED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>ORD No. __-17: Extending Emergency Moratorium – Contractor &amp; Outdoor Storage Yds - GC Zone</b>	<b>Agenda Date: March 28, 2017</b>		<b>AB17-021</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts	X	X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson	X	X
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
<b>Attachments:</b> Ordinance			
<p>SUMMARY STATEMENT: See attached findings in the Ordinance.</p> <p>An extension of the moratorium will allow the City’s Planning Commission time to complete evaluation of this impact and determine whether or not changes to the City’s zoning regulations are warranted.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Full Council			
<b>RECOMMENDED ACTION: Motion to Approve ORD No __-17 Extending the Emergency Moratorium on Contractor/Construction &amp; Outdoor Storage Yds in the City’s GC Zone.</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. \_\_-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, ADOPTING A SIX MONTH EXTENSION OF A MORATORIUM ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING AND PERMITTING OF CONSTRUCTION/CONTRACTOR AND/OR OUTDOOR STORAGE YARDS IN THE GENERAL COMMERCIAL ZONE AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.**

**WHEREAS**, on October 11, 2016, the Buckley City Council adopted Buckley Ordinance No. 19-16, a six-month moratorium on the establishment, location, operation, licensing and permitting of any construction/contractor and/or outdoor storage yards in the General Commercial Zone, and

**WHEREAS**, the Buckley Planning Commission is still evaluating permanent amendments to address contractor yards and needs additional time to make a recommendation to the City Council for a permanent zoning code amendment on contractor yards,

NOW THEREFORE THE CITY OF BUCKLEY, PIERCE COUNTY, DOES ORDAIN AS FOLLOWS:

**Section 1.** That the Recitals above, as well as those in Ordinance No. 19-16, are hereby adopted by reference as the City Council’s findings of fact, as if fully set forth herein.

**Section 2.** That pursuant to the provisions of RCW 35A.63.220, the City Council adopts a six-month extension to the contractor yard moratorium initially adopted in Buckley Ordinance No. 19-16.

**Section 3.** If any provision of this ordinance is held invalid, such invalidity shall not affect any other provision, or the applications thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are to be declared severable.

**Section 4.** This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Introduced, passed, and approved by the Buckley City Council on \_\_\_\_\_,  
2017.

\_\_\_\_\_  
Mayor Pat Johnson

Attest:

\_\_\_\_\_  
Joanne Starr, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Phil Olbrechts, City Attorney

PUBLISHED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT: ORD No. __-17 - Amending BMC 16.70 Violations and Penalties</b>	<b>Agenda Date: March 28, 2017</b>		<b>AB17-022</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
Municipal Court – Jessica Cash			
	PW/Utilities – Chris Banks		
<b>Attachments:</b> Ordinance			
<p>SUMMARY STATEMENT: Per ordinance findings, in order to eliminate redundancy and to continue to consolidate, clarify and update provisions of the municipal code, the City Council desires to incorporate enforcement of the Building and Fire Codes into the City’s Code Enforcement Chapter 1.12 by amending Chapter 1.12.010 and Chapter 16.70 of the Buckley Municipal Code.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: PS/A/F 3/21/17			
RECOMMENDED ACTION: <b>MOTION to Approve Ordinance No. __-17 Amending BMC 16.70 Violations and Penalties.</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

**CITY OF BUCKLEY, WASHINGTON**

**ORDINANCE NO. \_\_-17**

**AN ORDINANCE of the City Council of the City of Buckley, Pierce County, Washington, Amending Chapter 1.12.010 entitled “Applicability of Chapter” and Chapter 16.70 entitled “Violations and Penalties” of the Buckley Municipal Code to transfer enforcement of the Building Codes to the City’s Code Enforcement Chapter.**

**WHEREAS**, the City Council recently updated BMC 16.06 “City Building Code” and BMC 16.24 “City Fire Code” to be consistent with RCW 19.27 which was effective July 1, 2016; and

**WHEREAS**, enforcement for the Building and Fire Codes violations has been through BMC 16.70 since 1998; and

**WHEREAS**, in 2005 the City developed comprehensive code enforcement provisions through adoption of Ordinance #09-05 that covered most municipal code violations but did not apply to BMC 16.70; and

**WHEREAS**, in order to eliminate redundancy and to continue to consolidate, clarify and update provisions of the municipal code the City Council desires to incorporate enforcement of the Building and Fire Codes into the City’s Code Enforcement Chapter 1.12 by amending Chapter 1.12.010 and Chapter 16.70 of the Buckley Municipal Code; now, therefore,

**THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 1.12.010 of the Buckley Municipal Code entitled “Applicability of Chapter” is hereby amended to read as follows:

**1.12.010 Applicability of chapter.**

The provisions of this chapter shall apply to enforcement of BMC Titles 4, 6, 8, 9, 10, 11 (Chapter 11.44 BMC), 12 (Chapter 12.12 BMC), 14, 15, 16 (~~Chapter 16.01 BMC~~), 17, 18, and 19. For purposes of this chapter, such titles and chapters shall be referred to as “the applicable chapters and titles of this code.”

**Section 2.** Chapter 16.70 of the Buckley Municipal Code entitled “Violations and Penalties” is hereby amended to read as follows:

**16.70.010 Violations.**

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain, conduct any activity within, operate, or maintain any building, structure, facility, or vehicle in violation of any of the provisions of this title, or to fail to abate a hazard as required by this title. **All violations of this title shall be subject to Chapter 1.12 BMC.**

**16.70.015 Stop work order.**

The building official shall have the authority to serve a person or entity a stop work order if an action is being undertaken in violation of this chapter. The stop work order shall be served pursuant to BMC 1.12.170 and/or BMC 1.12.180. **All material violations of this title that are not immediately remedied shall be considered continuing and a threat to public health and safety.** ~~contain a description of the nature, extent and time of violation; direction for the specific action to cease and desist; and specific corrective action to be taken within a specified time period. The stop work order may be served by U.S. mail, by posting on the property or by personal service and shall be effective immediately upon receipt or posting on the property.~~ Nothing in this section precludes imposition of a civil penalty.

**16.70.020 Civil penalty.**

~~A person who fails to comply with the requirements of this chapter, who fails to conform to the terms of a permit, who undertakes new development without first obtaining city approval, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty.~~

**16.70.030 Amount of penalty.**

~~The penalty shall be \$500.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.~~

**16.70.040 Aiding or abetting.**

~~Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.~~

**16.70.050 Notice of penalty.**

~~A civil penalty shall be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same from the city. The notice shall describe the violation, approximate the dates of the violation, and shall order the acts constituting the violation to cease and desist, and in appropriate cases, require necessary corrective action within a specific time.~~

**16.70.060 Application for remission or mitigation.**

~~Any person incurring a penalty may appeal the penalty in accordance with Chapter 16.60 BMC. (Ord. 23-98 § 13, 1998).~~

**Section 3.** If any provision of this ordinance is declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be severable from the remaining provisions of this ordinance, and shall in no way affect the validity of the other provisions of this ordinance.

**Section 4.** This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Passed by the City Council on the 28<sup>th</sup> day of March, 2017.

\_\_\_\_\_  
Mayor Pat Johnson

Attest:

\_\_\_\_\_  
Joanne Starr, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Phil Olbrechts, City Attorney

PUBLISHED: \_\_\_\_\_  
EFFECTIVE: \_\_\_\_\_

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Lease Agreement: Addendum #2 - DSHS Ag Land Sublease Between the City and the Fright Factory.</b>  Cost Impact: + \$4,345 Annually Fund Source: 402 Sewer Fund Timeline: Mar 1, 2017 to Feb 28, 2021	<b>Agenda Date: March 28, 2017</b>		<b>AB17-023</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
PW/Utilities – Chris Banks			
<b>Attachments:</b> Fright Factory Agreement Addendum #2, Exhibit D & Map			
<p>SUMMARY STATEMENT: On February 26, 2013 the City Council approved the agreement to sublease buildings and facilities at the DSHS Agricultural Facility to the Fright Factory (Dennis &amp; Diane Wink) for a 2 year period, but extended this lease to 5 years through Addendum #1 on August 13, 2013.</p> <p>Although the Fright Factory is 4 years into this lease extension, the Winks are requesting to extend the lease for an additional 5 years due to their success and investment in the leased facilities. Based on increased lease rates that the City pays to DSHS after CPI adjustments and utility increases, terms of the lease extension have been adjusted accordingly.</p> <p>The Utility/Trans Committee reviewed the request and subsequent draft addendum on 3/21/17 and are recommending that the City Council accept and approve the addendum extending the lease for 5 years.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Utility/Trans Committee 3/21/17			
<b>RECOMMENDED ACTION: MOTION to Approve Addendum #2 of the Lease Agreement Between the City and the Fright Factory for Lease of Buildings and Facilities on the DSHS Ag Facility.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

**Addendum to Agricultural Land Sublease**

THIS 2<sup>nd</sup> ADDENDUM to the Agricultural Land Sublease (“ADDENDUM”) is in addition to (and incorporated therein by this reference) that certain Agricultural Land Sublease (“LEASE AGREEMENT”) between the City of Buckley (THE CITY), a Washington Municipal corporation, and Double DW, LLC, dba The Fright Factory (“LESSEE”).

**WHEREAS**, pursuant to Section 2 of the LEASE AGREEMENT, the CITY and LESSEE jointly agree to amend the terms of the original LEASE AGREEMENT in order in order to extend the LEASE AGREEMENT by 5 years, provide for a possible extension and identify potential utility charge adjustments;

**NOW THEREFORE,**

FOR AND IN CONSIDERATION OF the mutual promises, terms and conditions set forth in the LEASE AGREEMENT and contained herein, the Parties mutually agree as follows:

1. Section 2, Amended Term. This Lease shall be for a term of Five (5) years, commencing on the 1st day of March, 2017 with a possible two (2) year extension based upon satisfactory review and mutual agreement by both parties of the terms and conditions of the lease agreement. The Lessee shall be subject to earlier termination as provided in sections 21 and 22 herein.
  
2. Section 3, Amended Rent, Leasehold Excise Tax and Overdue Rent Penalty Terms.
  - a) Rent. LESSEE shall pay THE CITY rent for the Property for the year 2017 in the amount of \$2,500.00 plus LET and share of utility costs as shown below and in Exhibit D (attached), Lease Rates. Payments are due per the following schedule:

<b>*Payment Due Date</b>	<b>Rent</b>	<b>Leasehold Excise Tax</b>	<b>Utilities</b>	<b>Totals</b>	<b>Late Payment Penalty</b>
December 1, 2017	\$2,500	\$321	\$1,524	\$4,345	\$169
<b>Totals</b>	\$2,500	\$321	\$1,524	\$4,345	\$169
December 1, 2018	\$2,538	\$326	\$1,547	\$4,410	\$172
<b>Totals</b>	\$2,538	\$326	\$1,547	\$4,410	\$172
December 1, 2019	\$2,576	\$331	\$1,570	\$4,476	\$174
<b>Totals</b>	\$2,576	\$331	\$1,570	\$4,476	\$174
December 1, 2020	\$2,614	\$336	\$1,594	\$4,543	\$177
<b>Totals</b>	\$2,614	\$336	\$1,594	\$4,543	\$177

December 1, 2021	\$2,653	\$341	\$1,618	\$4,612	\$180
<b>Totals</b>	<b>\$2,653</b>	<b>\$341</b>	<b>\$1,618</b>	<b>\$4,612</b>	<b>\$180</b>

*\*Note: Rent amount and schedule of payments shall follow the same schedule and terms above, except that the utility charge portion may be increased annually by any changes in electrical costs and any percentage rate increase adopted City Council for City provided services.*

All payments shall be sent to:

City of Buckley  
Attention: Finance Department  
P.O. Box 1960  
Buckley, WA 98321

- b) Leasehold Excise Tax. LESSEE shall also be responsible for the applicable Leasehold Excise Tax (“LET”) for the lease of the Property. LESSEE shall submit payments equal to the LET amount due to THE CITY at the address above, per the payment schedule in Section 3 (a). The current LET rate is **12.84%** of the total Lease amount prior to offsets. LESSEE agrees to be responsible for any adjustments to the LET amount required by the Washington State Department of Revenue.
- c) Additional Payment (Concession Right). THE CITY hereby grants the LESSEE a concession right to operate a Haunted House on the site. In exchange for such concession right, LESSEE shall pay a sum greater than the fair market rental value of the site equal to thirty-five percent ~~(35%)~~ **(30%)** of the net profit (after deducting operating expenses including rent and utility payments) from revenue it takes in from admissions to the Haunted House and fifty percent (50%) of any and all revenues it takes from its vendors and from each and every other source of revenue it generates through operations of the Haunted House. Payment is payable to the City by December 1 of each year along with an itemized list of expenses and actual revenue breakdown for accountability purposes.

Revenue to the City derived from concession rights, while not solely limited to, shall be used to provide continued support for City improvements to the leased facility and/or support of youth & senior recreational programs in the community

- d) Overdue Rent. The LESSEE’s failure to pay rent within 30 days after the due date shall be a default of the Lease, and THE CITY may then pursue remedies as provided in Section 22, Remedies for Default. Rent payments received after 30 days following the due date shall include the late penalty and interest charges.

The LESSEE shall pay THE CITY a late charge of six percent (6%) of the amount of any rent payment received by THE CITY more than 30 days after the due date.

The LESSEE shall pay THE CITY interest at the rate of one percent (1%) per month, beginning on

the date such rent is due and until the rent is paid, for any rent payment received by THE CITY more than 30 days after the due date.

3. Effect of Addendum. This Second Addendum modifies the Lease Agreement, but does not supersede it except as and to the extent provided by this Second Addendum. All provisions of the Lease Agreement shall remain in full force and effect except to the extent indicated hereunder.

IN WITNESS WHEREOF, the parties have caused this ADDENDUM to be signed and executed this 28<sup>th</sup> day of March, 2017.

**DOUBLE DW, LLC, dba  
THE FRIGHT FACTORY**

**CITY OF BUCKLEY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Pat Johnson

\_\_\_\_\_  
Title Date

\_\_\_\_\_  
Mayor Date

**DOUBLE DW, LLC, dba  
THE FRIGHT FACTORY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title Date

Exhibit D Lease Rates (Addendum #2)		City of Buckley Ag Land Lease (Double DW, LLC) March, 2017			
<b>Lease Area</b>	<b>Facilities</b>	<b>Rate/Each</b>	<b>Annual Amount</b>		
Buildings/Facilities (Type A)	4	\$500	\$2,000		
Buildings/Facilities (Type B)	2	\$250	\$500		
<b>Total Rate</b>	<b>6</b>		<b>\$2,500</b>		
Leasehold Excise Tax	12.84%		\$321		
<b>Proportionate Utility Cost</b>	<b>Per Bldg</b>				
Annual Power/Bldg (est)	\$327	\$1,308	<b>\$1,308</b>		
Annual Water/Bldg	\$216	\$216	<b>\$216</b>		
<b>Total Annual Rent and Tax</b>			<b>\$4,345</b>		
<b>Payment Schedule</b>					
*Payment Due Date	Rent	Leasehold Excise Tax	Utilities	Totals	Late Payment Penalty
December 1, 2017	\$2,500	\$321	\$1,524	\$4,345	\$169
<b>Totals</b>	\$2,500	\$321	\$1,524	\$4,345	\$169
<b>Due Date</b>	<b>Rent</b>	<b>LE Tax:</b>	<b>Utilities</b>	<b>Total</b>	<b>Late Rent Penalty</b>
December 1, 2018	\$2,538	\$326	\$1,547	\$4,410	\$172
<b>Totals</b>	\$2,538	\$326	\$1,547	\$4,410	\$172
<b>Due Date</b>	<b>Rent</b>	<b>LE Tax:</b>	<b>Utilities</b>	<b>Total</b>	<b>Late Rent Penalty</b>
December 1, 2019	\$2,576	\$331	\$1,570	\$4,476	\$174
<b>Totals</b>	\$2,576	\$331	\$1,570	\$4,476	\$174
<b>Due Date</b>	<b>Rent</b>	<b>LE Tax:</b>	<b>Utilities</b>	<b>Total</b>	<b>Late Rent Penalty</b>
December 1, 2020	\$2,614	\$336	\$1,594	\$4,543	\$177
<b>Totals</b>	\$2,614	\$336	\$1,594	\$4,543	\$177
<b>Due Date</b>	<b>Rent</b>	<b>LE Tax:</b>	<b>Utilities</b>	<b>Total</b>	<b>Late Rent Penalty</b>
December 1, 2021	\$2,653	\$341	\$1,618	\$4,612	\$180
<b>Totals</b>	\$2,653	\$341	\$1,618	\$4,612	\$180



Field #1 ↓

Bldg #7 (Feed Barn West) ↓

Bldg #8 (Feed Barn North) ↓

Bldg #6 (Feed Barn Central) ↓

Bldg #2 (Operations) ↓

Bldg #5B (Milking Parlor (Offices)) ↓

Bldg #5A (Milking Parlor) ↓

Bldg #10 (Hay Storage North) ↓

Bldg #1A (Maintenance) ↓

Bldg #9 (Hay Storage South) ↓

Bldg #4 (Equip Storage & Maint) ↓

Bldg #1 (Old Calf Barn) ↓

Bldg #3 (Feed Barn East) ↓

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Google earth

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b>  <b>Agreement: Addendum #7 to Doxa (“SoZo”) CrossFit LLC Lease of the Old Fire Station Building</b>	<b>Agenda Date: March 28, 2017</b>		<b>AB17-024</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
	PW/Utilities – Chris Banks		
<b>Attachments:</b> Lease Addendum			
<p>SUMMARY STATEMENT: See attached Memorandum.</p> <p>Staff is requesting and recommending that the City Council approve the addendum to the lease.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: PS/A/F 3/21/17			
<b>RECOMMENDED ACTION: MOTION to Approve Addendum #7 to the Agreement Between the City and Doxa (SoZo) Crossfit LLC for Lease of the Old Fire Station Building.</b>			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	

# City of Buckley

P.O. Box 1960, Buckley WA 98321  
Phone: 360-829-1921 ext 200  
Fax: 360-829-2659



# Memo

To: Mayor & City Council

From: City Administrator

Date: March 22, 2017

RE: Doxa [SoZo] Cross Fit Fire Station Lease w-Purchase Option

All,

Per the Mayor and City Council's direction, staff and the City Attorney have completed negotiation of a lease extension with SoZo Crossfit that includes an option to purchase the Old Fire Station facility located at 151 Cedar Street. Terms of the lease extension consist of the following:

- The lease with option to purchase is a lease extension for a term of four (4) years expiring on December 31, 2020.
- Rent is set initially at \$2,300 per month, plus leasehold excise tax on top, with annual CPI bumps. This reflects the appraised value of annual market rent of \$2,000 per month plus 30% of the value of repairs that the City has agreed to do, which is \$300/mo.
- Rent adjustments in subsequent years will be per Section 5 of the Lease.
- The purchase price would be \$240,000 which consists of an appraised value of \$210,000 plus 30% of the value of repairs that the City has agreed to do, which is \$30,000.
- The option to purchase must be exercised at any time on or before June 30, 2019, giving the parties 90 days to close.
- Under the purchase option a portion of the monthly rent payment shall be credited toward the purchase. Rent to be credited shall be calculated by: (a) the total amount of base monthly rent paid for the premises during the extended term until the time of closing, less (b) an amount that is equal to (x) One Thousand Four Hundred and No/100 Dollars (\$1,400.00) multiplied by (y) the number of months of rent paid until the time of closing.

- Section 22 of the Lease is eliminated so that the City doesn't have to pay a broker's commission.

- The City agrees to make necessary repairs consisting of repairing/replacing the roof, replacing windows and completing common wall repairs to delineate building separation. The City will have no other responsibility for roof or outer shell repairs or replacements during the lease term or prior to purchase.

- Except for these improvements, SoZo agrees to take the building during the extended term on an "AS IS, WHERE IS" basis, and SoZo shall assume all maintenance obligations with regard to the windows and the roof in and on the building after the City's replacement of the same.

- Within 90 days of the execution of this addendum the City agrees to record a Survey for Boundary Line Adjustment (the "Boundary Line Adjustment") with Pierce County, Washington, which will adjust the boundary lines between existing tax assessor parcel numbers 207500-0800 (Parcel 'A') and 297500-0810 (Parcel 'B') to create a new legal description for Parcel B as specified in the addendum.

- The addendum specifies that SoZo will continue to grant access to the building for Broadband Telecommunications for purposes of operating, repairing and maintaining a wireless broadband network facility. Any Purchase & Sale Agreement would include a provision that space needs to be available for Westcom Broadband's cabling and antennae.

Staff is recommending that the City Council except terms of the lease w-purchase option and approve the lease addendum. If you have any questions, please let me know. Thank you.

Dave

**SEVENTH ADDENDUM TO THE LEASE AGREEMENT BETWEEN THE  
CITY OF BUCKLEY AND SOZO CROSSFIT, LLC**

**THIS SEVENTH ADDENDUM TO LEASE AGREEMENT** is by and between the City of Buckley (“Landlord”), and SoZo Crossfit, LLC (“Tenant”).

**WHEREAS**, Landlord and Tenant are parties to that certain Lease Agreement (the “Lease”) dated January 1, 2013, for a portion of the premises located at 151 Cedar Street, Buckley, Washington, as more particularly described in Exhibit A of the Second Addendum to Lease (the “Premises”), as such Lease has been amended; and

**WHEREAS**, the pursuant to the Sixth Addendum to Lease dated the 25<sup>th</sup> day of January, 2017, the term of the Lease was extended effective as of January 1, 2017, for a period of four and one-half (4.5) years (the “Extended Term”), through June 30, 2021 (the “Extended Term Termination Date”);

**WHEREAS**, at the time the parties executed the Sixth Addendum to Lease, the parties were working to finalize terms related to the Extended Term, including an option for Tenant to purchase the real property on which the Premises is located; and

**WHEREAS**, the parties desire to amend the Lease to set the rent for the extended term of the Lease, to modify the Extended Term Termination Date, to require certain Landlord improvements to be made to the Premises and to grant Tenant an option to purchase the real property on which the Premises is located;

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, it is agreed by and between the Landlord and Tenant as follows:

1. **Rent for Extended Term.** The parties agree that “basic rental” for the first year of the Extended Term of the Lease shall be in the amount of Two Thousand Three Hundred and No/100 Dollars (\$2,300.00) per month. Rent for the second year of the Extended Term, and each year thereafter, shall increase in accordance with the provisions of Section 5 of the Lease. Late fees and interest, as described in Section 4 of the Lease, shall continue to apply during the Extended Term, and Tenant shall remain obligated to pay the leasehold excise tax applicable to the Premises (as described in Section 9 of the Lease) and such other applicable fees and charges described in the Lease.
2. **Modification of Extended Term Termination Date.** The parties agree that the Extended Term Termination Date is amended to be December 31, 2020.
3. **Limited Improvements.** Landlord agrees to repair and replace the windows and roof of the building of which the Premises is a part at Landlord’s cost and expense on or before the 30th day of June, 2017 (the “Replacements”). Except for the Replacements, Tenant agrees to take the Premises during the Extended Term on an “AS IS, WHERE IS” basis, and Tenant shall assume all maintenance obligations with regard to the windows

and the roof in and on the Building after Landlord's replacement of the same. Despite the Tenant's foregoing maintenance obligations, Tenant acknowledges and agrees that the Premises does not include the roof. Landlord agrees to provide Tenant access to the roof in order to perform Tenant's maintenance obligations. In performing Tenant's maintenance obligations, Tenant agrees to not interfere with the Telecommunications Facility or any equipment related thereto on the roof of the building.

4. **Access to Premises for Broadband Telecommunications Purposes.** Tenant acknowledges and agrees that Landlord and Landlord's designated telecommunications provider, and its subcontractors and agents, if any, require access on and through the Premises for purposes of operating, repairing and maintaining a wireless broadband network facility (the "Telecommunications Facility"). A portion of the Telecommunications Facility is located in the building of which the Premises is a part, and a portion is located in the adjacent building, with certain cabling for the Telecommunications Facility running through the shared wall of the two buildings. Tenant agrees to allow Landlord and its designated telecommunications provider, as well as their subcontractors and agents, if any, access to the Premises twenty-four (24) hours per day, seven (7) days per week, for the purposes of operating, repairing and maintaining the Telecommunications Facility.

5. **Deletion of Section 22 of Lease.** The parties agree that Section 22 of the Lease is hereby deleted in its entirety.

6. **Purchase Option.** The parties agree that the following new Section 22 shall be added to the Lease:

22. **Purchase Option.** Provided that: (a) Tenant is not in default under this Lease at the time of exercise or at the time of closing, and (b) Landlord has recorded the Boundary Line Adjustment (described below), Tenant shall have the option (the "Option") to purchase the Property defined below in Section 22.1, according to the following terms:

22.1 **Boundary Line Adjustment.** Landlord intends to record a Survey for Boundary Line Adjustment (the "Boundary Line Adjustment") with Pierce County, Washington, which will adjust the boundary lines between existing tax assessor parcel numbers 207500-0800 (Parcel 'A') and 297500-0810 (Parcel 'B') to create the following new legal description for Parcel B (Parcel B, according to the new legal description below, is referred to herein as the "Property"):

LOTS 3 AND 4, BLOCK 15, CHAMBERLAINS ADDITION TO  
BUCKLEY, ACCORDING TO THE PLAT THEREOF, RECORDED IN  
VOLUME 3 OF PLATS, AT PAGE 43, RECORDS OF PIERCE  
COUNTY, WASHINGTON.  
EXCEPTING THEREFROM THAT PORTION OF SAID LOT 3 LYING  
NORTH OF THE FOLLOWING DESCRIBED LINE:  
COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 3:  
THENCE NORTH 01'23'41" WEST ALONG THE EAST LINE OF  
SAID LOT 3 A DISTANCE OF 19.85 FEET TO THE FACE OF AN

EXISTING BUILDING AND THE BEGINNING OF THE HEREIN DESCRIBED LINE;  
THENCE SOUTH 88' 15' 47" WEST ALONG SAID BUILDING A DISTANCE OF 64.80 FEET TO THE WEST LINE OF SAID LOT 3 AND THE TERMINUS OF THE HEREIN DESCRIBED LINE.  
CONTAINS: 0.122 ACRES, MORE OR LESS.

Landlord will use its best efforts to record the Boundary Line Adjustment on or before ninety (90) days following the parties' full execution of the Seventh Addendum.

22.1 Exercise of Option. Provided that the express conditions set forth above in the first paragraph of Section 22 are satisfied, Tenant shall be entitled to exercise the Option at any time on or before June 30, 2019, (the "Option Exercise Period") by giving written notice to Landlord of Tenant's election to purchase the Property (the "Exercise Notice").

22.2 Closing of Sale. Upon Tenant's exercise of its Option, the parties shall close the sale on a mutually agreeable date that is on or before ninety (90) days of the date of the Exercise Notice (the "Closing").

22.3 Encumbrances. Tenant acknowledges and agrees that Tenant's purchase of the Property shall be subject to all non-monetary encumbrances that do not affect the marketability of the Property and to an easement or other agreement, in a form reasonably satisfactory to the City of Buckley, which may be recorded at Closing, granting or reserving to the City of Buckley rights for the City of Buckley and its designated telecommunications provider to operate a wireless broadband network site on the Property, including without limitation, towers, antennas and associated mounting hardware and equipment on the roof of the Property, together with cabling connections and a power line in or through the Property to operate said equipment (the "Broadband Encumbrance"). Tenant acknowledges that the Broadband Encumbrance is for the benefit of the City of Buckley and that all benefits, whether monetary or in the form of services, of the Broadband Encumbrance shall be retained by the City as of and following the Closing.

22.4 Purchase Price. The purchase price for the Property pursuant to the Option (the "Purchase Price") shall be Two Hundred Forty Thousand and No/100 Dollars (\$240,000.00), less the Credit.

The Credit shall be equal to: (a) the total amount of base monthly rent paid for the Premises during the Extended Term until the time of Closing, less (b) an amount that is equal to (x) One Thousand Four Hundred and No/100 Dollars (\$1,400.00) multiplied by (y) the number of months of rent paid until the time of Closing.

For sake of example, if Option is exercised on June 30, 2019, and the Closing of the sale under the Option occurs ninety (90) days later on September 30, 2019, the Purchase Price shall be \$210,300.00\*. The calculation of the Purchase Price and Credit is as follows:

\$240,000.00 - \$29,700.00 (Credit) = \$210,300.00 Purchase Price\*

The Credit is equal to:

(a) \$75,900.00\* [total monthly rent paid for 33 months]

less

(b) \$46,200.00 [\$1,400.00/month x 33 months]

\*This example Purchase Price calculation is based on the base rent in effect as of the first year of the Extended Term and does not take into effect annual CPI rent increases. Accordingly, the actual Purchase Price calculation may differ when actual CPI rent increases are taken into effect.

22.5 Form of Purchase and Sale Agreement. The parties agree that the purchase and sale agreement for Tenant's purchase of the Property under the Option shall be in substantially the form attached hereto and incorporated herein as Exhibit A.

22.6 Termination of Option. THE OPTION GRANTED HEREIN SHALL NOT SURVIVE THE TERMINATION OF THIS LEASE. IN ADDITION, IF THIS LEASE SHALL TERMINATE FOR ANY REASON PRIOR TO THE END OF THE OPTION EXERCISE PERIOD, OR IF TENANT SHALL FAIL TO TIMELY GIVE THE EXERCISE NOTICE WITHIN THE OPTION EXERCISE PERIOD, TIME BEING OF THE ESSENCE, OR IF TENANT IS IN DEFAULT OF THIS LEASE AT THE TIME OF ITS EXERCISE OF THE OPTION OR AT ANY TIME PRIOR TO THE CLOSING OF THE SALE TO TENANT, THE OPTION PROVIDED IN THIS SECTION AND ANY EXERCISE THEREOF BY TENANT SHALL CEASE AND TERMINATE AND SHALL BE NULL AND VOID. THIS OPTION IS PERSONAL TO SOZO CROSSFIT, LLC, AND IT MAY NOT BE ASSIGNED TO ANY SUCCESSOR OR ASSIGNEE OF SOZO CROSSFIT, LLC.

7. Effect of Addendum. This Seventh Addendum modifies the Lease, but does not supersede it except as and to the extent provided by this Seventh Addendum. All provisions of the Lease shall remain in full force and effect except to the extent indicated hereunder.

Landlord:  
City of Buckley

Tenant:  
SoZo "Doxa" CrossFit

-----  
By: Patricia Johnson, Mayor

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

-----  
By: Kevin Schneider

Its: \_\_\_\_\_

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

-----  
By: David Schmidt, City Administrator

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

APPROVED AS TO FORM:

-----  
By: Scott Snyder, City Attorney

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







**EXHIBIT A**  
**FORM OF PURCHASE AND SALE AGREEMENT**

[See attached]



**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**

*This has been prepared for submission to your attorney for review and approval prior to signing. No representation is made by licensee as to its sufficiency or tax consequences*

Reference Date: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_ ("Buyer") agrees to buy and \_\_\_\_\_ ("Seller") agrees to sell, on the following terms, the commercial real estate and all improvements thereon (collectively, the "Property") commonly known as \_\_\_\_\_ in the City of \_\_\_\_\_, \_\_\_\_\_ County, Washington, legally described on attached Exhibit A. The Reference Date above is intended to be used to reference this Agreement and is not the date of "Mutual Acceptance," which is defined in Section 23.

**1. PURCHASE PRICE.** The purchase price is \_\_\_\_\_ Dollars (\$\_\_\_\_\_) payable as follows (check only one):

- All cash at closing with no financing contingency.
- All cash at closing contingent on new financing in accordance with the Financing Addendum (attach CBA Form PS\_FIN).
- \$\_\_\_\_\_ OR \_\_\_\_\_% of the purchase price in cash at closing with the balance of the purchase price paid as follows (**check one or both, as applicable**):  Buyer's assumption of the outstanding principal balance as of the Closing Date of a first lien note and deed of trust (or mortgage), or real estate contract, in accordance with the Financing Addendum (attach CBA Form PS\_FIN);  Buyer's delivery at closing of a promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, in accordance with the Financing Addendum (attach CBA Form PS\_FIN ).
- Other: \_\_\_\_\_.

**2. EARNEST MONEY.** The earnest money in the amount of \$\_\_\_\_\_ shall be in the form of  Cash  Personal check  Promissory note (attached CBA Form EMN)  Other: \_\_\_\_\_

The earnest money shall be held by  Selling Firm  Closing Agent. Selling Broker may, however, transfer the earnest money to Closing Agent.

Buyer shall deliver the earnest money no later than:

- \_\_\_\_\_ days after Mutual Acceptance.
- On the last day of the Feasibility Period defined in Section 5 below.
- Other: \_\_\_\_\_.

If the earnest money is to be held by Selling Firm and is over \$10,000, it shall be deposited to:  Selling Firm's pooled trust account (with interest paid to the State Treasurer)  A separate interest bearing trust account in Selling Firm's name. The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is entitled to the earnest money is entitled to interest.

Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer. Unless otherwise provided in this Agreement, the earnest money shall be applicable to the purchase price.

**3. EXHIBITS AND ADDENDA.** The following Exhibits and Addenda are made a part of this Agreement:

- Exhibit A - Legal Description
- Earnest Money Promissory Note, CBA Form EMN
- Promissory Note, LPB Form No. 28A
- Short Form Deed of Trust, LPB Form No. 20
- Deed of Trust Rider, CBA Form DTR
- Utility Charges Addendum, CBA Form UA

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_



**COMMERCIAL & INVESTMENT REAL ESTATE  
 PURCHASE & SALE AGREEMENT  
 (CONTINUED)**

- FIRPTA Certification, CBA Form 22E
- Assignment and Assumption, CBA Form PS-AS
- Addendum/Amendment, CBA Form PSA
- Back-Up Addendum, CBA Form BU-A
- Vacant Land Addendum, CBA Form VLA
- Financing Addendum, CBA Form PS\_FIN
- Tenant Estoppel Certificate, CBA Form PS\_TEC
- Defeasance Addendum, CBA Form PS\_D
- Other \_\_\_\_\_

**4. SELLER'S UNDERLYING FINANCING.** Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at closing. In addition, Seller shall provide Buyer notice prior to the end of the Feasibility Period if Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in CBA Form PS\_D or any different process identified in Seller's defeasance notice to Buyer.

**5. FEASIBILITY CONTINGENCY.** Buyer's obligations under this Agreement are conditioned upon Buyer's satisfaction in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives written notice to Seller within \_\_\_\_\_ days (30 days if not filled in) (the "Feasibility Period") of Mutual Acceptance stating that this condition is satisfied. If such notice is timely given, the feasibility contingency stated in this Section 5 shall be deemed to be satisfied.

**a. Books, Records, Leases, Agreements.** Seller shall make available for inspection by Buyer and its agents within \_\_\_\_\_ days (2 days if not filled in) after Mutual Acceptance all documents in Seller's possession or control relating to the ownership, operation, renovation or development of the Property, excluding appraisals or other statements of value, and including: statements for real estate taxes, assessments, and utilities for the last three years and year to date; property management agreements and any other agreements with professionals or consultants; leases or other agreements relating to occupancy of all or a portion of the Property and a suite-by-suite schedule of tenants, rents, prepaid rents, deposits and fees; plans, specifications, permits, applications, drawings, surveys, and studies; maintenance records, accounting records and audit reports for the last three years and year to date; and "Vendor Contracts" which shall include maintenance or service contracts, and installments purchase contracts or leases of personal property or fixtures used in connection with the Property. Buyer shall determine within the Feasibility Period: (i) whether Seller will agree to terminate any objectionable Vendor Contracts; and (ii) whether Seller will agree to pay any damages or penalties resulting from the termination of objectionable Vendor Contracts. Buyer's waiver of the Feasibility Contingency shall be deemed Buyer's acceptance of all Vendor Contracts which Seller has not agreed in writing to terminate. Buyer shall be solely responsible for obtaining any required consents to such assumption and the payment of any assumption fees. Seller shall cooperate with Buyer's efforts to receive any such consents but shall not be required to incur any out-of-pocket expenses or liability in doing so. Seller shall transfer the Vendor Contracts as provided in Section 17.

**b. Access.** Seller shall permit Buyer and its agents, at Buyer's sole expense and risk to enter the Property at reasonable times subject to the rights of and after legal notice to tenants, to conduct inspections concerning the Property and improvements, including without limitation, the structural condition of improvements, hazardous

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
 Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_



**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT  
(CONTINUED)**

materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, confidentiality, and disruption of Seller's tenants. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants or property management personnel without obtaining the Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall restore the Property and improvements to the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents. This agreement to indemnify and defend Seller shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the feasibility contingency only for the purpose of leasing or to satisfy conditions of financing.

c. Buyer waives the right to receive a seller disclosure statement ("Form 17-Commercial") if required by RCW 64.06. However, if Seller would otherwise be required to provide Buyer with a Form 17-Commercial, and if the answer to any of the questions in the section of the Form 17-Commercial entitled "Environmental" would be "yes," then Buyer does not waive the receipt of the "Environmental" section of the Form 17-Commercial which shall be provided by Seller.

**6. TITLE INSURANCE.**

a. **Title Report.** Seller authorizes Buyer, its Lender, Listing Broker, Selling Broker or Closing Agent, at Seller's expense, to apply for and deliver to Buyer a  standard  extended (standard, if not completed) coverage owner's policy of title insurance. Buyer shall pay the increased costs associated with an extended policy including the excess premium over that charged for a standard coverage policy, and the cost of any survey required by the title insurer. The title report shall be issued by \_\_\_\_\_ (a title company of Seller's choice, if not completed). If Seller previously received a preliminary commitment from a title insurer that Buyer declines to use, Buyer shall pay any cancellation fee owing to the original title insurer. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed.

b. **Permitted Exceptions.** Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (1) twenty (20) days after Mutual Acceptance of this Agreement; or (2) the expiration of the Feasibility Period. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections (1) Seller agrees, in writing, to remove all objectionable provisions or (2) Buyer notifies Seller that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within five (5) days of delivery of the supplemental report and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The closing date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided, however, that the lien securing any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, those provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the "Permitted Exceptions." Seller shall cooperate with Buyer and the title company to clear objectionable title matters but shall not be required to incur any out-of-pocket expenses or liability other than payment of monetary encumbrances not assumed by Buyer and proration of real property taxes, and Seller shall provide an owner's affidavit containing the information and reasonable covenants requested by the title company. The title policy shall

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Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_



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contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the Permitted Exceptions.

7. **CLOSING OF SALE.** The sale shall be closed on \_\_\_\_\_, ("Closing") by \_\_\_\_\_ ("Closing Agent") (Seller shall select the Closing Agent, if not completed). Buyer and Seller shall deposit with Closing Agent by 12:00 p.m. on the scheduled Closing date all instruments and monies required to complete the purchase in accordance with this Agreement. "Closing" shall be deemed to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in the performance of this Agreement. Sale proceeds shall be considered available to Seller, even though they cannot be disbursed to Seller until the next business day after Closing. Notwithstanding the foregoing, if Seller informed Buyer during the Feasibility Period that Seller's underlying financing requires that it be defeased and may not be paid off, then Closing shall be conducted in accordance with the three-day closing process described in CBA Form PS\_D. This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent with this Agreement.
  
8. **CLOSING COSTS AND PRORATIONS.** Seller shall deliver an updated rent roll to Closing Agent not later than two (2) days before the scheduled Closing date in the form required by Section 5(a) and any other information reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. Seller certifies that the information contained in the rent roll is correct as of the date submitted. Seller shall pay the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection with the same. Seller and Buyer shall each pay one-half of the escrow fees. Any real estate excise taxes shall be paid by the party who bears primary responsibility for payment under the applicable statute or code. Real and personal property taxes and assessments payable in the year of closing; collected rents on any existing tenancies; interest; utilities; and other operating expenses shall be pro-rated as of Closing. If tenants pay any of the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. Buyer shall pay to Seller at Closing an additional sum equal to any utility deposits or mortgage reserves for assumed financing for which Buyer receives the benefit after Closing. Buyer shall pay all costs of financing including the premium for the lender's title policy. If the Property was taxed under a deferred classification prior to Closing, then Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the Property from the deferred classification. At Closing, all refundable deposits on tenancies shall be credited to Buyer or delivered to Buyer for deposit in a trust account if required by state or local law. Buyer shall pay any sales or use tax applicable to the transfer of personal property included in the sale.
  - a. **Unpaid Utility Charges.** Buyer and Seller  WAIVE  DO NOT WAIVE (do not waive if neither box checked) the right to have the Closing Agent disburse closing funds necessary to satisfy unpaid utility charges affecting the Property pursuant to RCW 60.80. If "do not waive" is checked, then attach CBA Form UA ("Utility Charges" Addendum) to this Agreement.
  
9. **POST-CLOSING ADJUSTMENTS, COLLECTIONS, AND PAYMENTS.** After Closing, Buyer and Seller shall reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items were prorated or credited at Closing based upon estimates. Any bills or invoices received by Buyer after Closing which relate to services rendered or goods delivered to the Seller or the Property prior to Closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Notwithstanding the foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting from the reconciliation. Rents collected from each tenant after Closing shall be applied first to rentals due most recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
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delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of delinquent rents but shall have no right to evict tenants after Closing.

**10. OPERATIONS PRIOR TO CLOSING.** Prior to Closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of Mutual Acceptance but shall not be required to repair material damage from casualty except as otherwise provided in this Agreement. After the Feasibility Period, Seller shall not enter into or modify existing rental agreements or leases (except that Seller may enter into, modify, extend, renew or terminate residential rental agreements or residential leases in the ordinary course of its business), service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld.

**11. POSSESSION.** Buyer shall be entitled to possession  on closing  \_\_\_\_\_ (on closing, if not completed). Buyer shall accept possession subject to all tenancies disclosed to Buyer during the Feasibility Period.

**12. SELLER'S REPRESENTATIONS.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the feasibility contingency stated in Section 5 above, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller represents to Buyer that, to the best of Seller's actual knowledge, each of the following is true as of the date hereof: (a) Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations under the Agreement; (b) The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Seller's possession or control regarding the operation and condition of the Property; (c) Seller has not received any written notices that the Property or the business conducted thereon violate any applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after Closing; (f) There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district; (g) Seller has paid (except to the extent prorated at Closing) all local, state and federal taxes (other than real and personal property taxes and assessments described in Section 8 above) attributable to the period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after Closing; (h) Seller is not aware of any concealed material defects in the Property except as disclosed to Buyer in writing during the Feasibility Period; (i) There are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); there are no underground storage tanks located on the Property; and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to Closing Seller or Buyer discovers any information which would cause any of the representations above to be false if the same were deemed made as of the date of such discovery, then the party discovering the same shall promptly notify the other party in writing. If the newly-discovered information will result in costs or liability to Buyer in excess of the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement, or will materially adversely affect Buyer's intended use of the Property, then Buyer shall have the right to terminate the Agreement and receive a refund of its earnest money. Buyer shall give notice of termination within five (5)

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
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days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly-discovered information such that a representation provided for above was false.

**13. AS-IS.** Except for those representations and warranties specifically included in this Agreement: (i) Seller makes no representations or warranties regarding the Property; (ii) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness for a particular purpose, tenantability, habitability and use; (iii) Buyer otherwise takes the Property "AS IS;" and (iv) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.

**14. PERSONAL PROPERTY.**

**a.** This sale includes all right, title and interest of Seller to the following tangible personal property:  None  That portion of the personal property located on and used in connection with the Property, which Seller will itemize in an Exhibit to be attached to this Agreement within ten (10) days of Mutual Acceptance (None, if not completed). The value assigned to the personal property shall be \$ \_\_\_\_\_ (if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Broker and Selling Broker). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.

**b.** In addition to the leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.

**15. CONDEMNATION AND CASUALTY.** Seller bears all risk of loss until Closing, and thereafter Buyer shall bear the risk of loss. Buyer may terminate this Agreement and obtain a refund of the earnest money if improvements on the Property are destroyed or materially damaged by casualty before Closing, or if condemnation proceedings are commenced against all or a portion of the Property before Closing. Damage will be considered material if the cost of repair exceeds the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement. Alternatively, Buyer may elect to proceed with closing, in which case, at Closing, Seller shall assign to Buyer all claims and right to proceeds under any property insurance policy and shall credit to Buyer at Closing the amount of any deductible provided for in the policy.

**16. FIRPTA - TAX WITHHOLDING AT CLOSING.** Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act, and Seller shall sign it on or before Closing. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

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Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_



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**17. CONVEYANCE.** Title shall be conveyed by a Statutory Warranty Deed subject only to the Permitted Exceptions. If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a contract vendee's assignment sufficient to convey after acquired title. At Closing, Seller and Buyer shall execute and deliver to Closing Agent CBA Form No. PS-AS Assignment and Assumption Agreement transferring all leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) and all intangible property transferred pursuant to Section 14(b).

**18. NOTICES AND COMPUTATION OF TIME.** Unless otherwise specified, any notice required or permitted in, or related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and must be delivered to Seller and Listing Broker with a courtesy copy to any other party identified as a recipient of notices in Section 28. A notice to Seller shall be deemed delivered only when received by Seller, Listing Broker, or the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and must be delivered to Buyer, with a copy to Selling Broker and with a courtesy copy to any other party identified as a recipient of notices in Section 28. A notice to Buyer shall be deemed delivered only when received by Buyer, Selling Broker, or the licensed office of Selling Broker. Selling Broker and Listing Broker have no responsibility to advise of receipt of a notice beyond either phoning the represented party or causing a copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller shall keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective when received by that party at the address, fax number, or email indicated in Section 28.

Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean Pacific Time and shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, times or number of hours; provided, however, that if the Closing Date falls on a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, or a date when the county recording office is closed, then the Closing Date shall be the next regular business day.

**19. AGENCY DISCLOSURE.** At the signing of this Agreement,

Selling Broker \_\_\_\_\_

represented \_\_\_\_\_

and the Listing Broker \_\_\_\_\_

represented \_\_\_\_\_.

Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to the Brokers' Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as a dual agent. If Selling Broker and Listing Broker are the same person representing both parties, then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_



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**20. ASSIGNMENT.** Buyer  may  may not (may not, if not completed) assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless provided otherwise herein. If the "may not" option is selected and the words "and/or assigns" or similar words are used to identify the Buyer, then this Agreement may be assigned with notice to Seller but without Seller's consent only to an entity which is controlled by or under common control with the Buyer identified in this Agreement. Any other assignment requires Seller's consent. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase price, then the party identified as the initial Buyer shall guarantee payment of the Seller financing.

**21. DEFAULT AND ATTORNEY'S FEE.**

**a. Buyer's default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then (**check one**):

- Seller may terminate this Agreement and keep the earnest money as liquidated damages as the sole and exclusive remedy available to Seller for such failure; or
- Seller may, at its option, (a) terminate this Agreement and keep as liquidated damages the earnest money as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.

**b. Seller's default.** In the event Seller fails, without legal excuse, to complete the sale of the Property, then (**check one**):

- As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all earnest money or fees paid by Buyer whether or not the same are identified as refundable or applicable to the purchase price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages, provided, however, Buyer must file suit within sixty (60) days from the scheduled date of closing or from the date Seller has informed Buyer in writing that Seller will not proceed with closing, whichever is earlier; or
- Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.

Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and expenses. In the event of trial, the amount of the attorney's fee shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state where the Property is located.

**22. MISCELLANEOUS PROVISIONS.**

**a. Complete Agreement.** This Agreement and any addenda and exhibits thereto state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement.

**b. Counterpart Signatures.** This Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.

**c. Electronic Delivery.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents.

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_



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**d. Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding Section 20 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

**23. ACCEPTANCE; COUNTEROFFERS.** Seller has until midnight of \_\_\_\_\_, 20\_\_\_\_ (if not filled in, the third business day) following the day Buyer delivers the offer to accept this offer, unless sooner withdrawn. If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the \_\_\_\_\_ business day (if not filled in, the second business day) following receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to the Buyer. No acceptance, offer or counteroffer from the Buyer is effective until a signed copy is received by the Seller, the Listing Broker or the licensed office of the Listing Broker. No acceptance, offer or counteroffer from the Seller is effective until a signed copy is received by the Buyer, the Selling Broker or the licensed office of the Selling Broker. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully-signed counteroffer has been received by the offeror, his or her broker, or the licensed office of the broker. If any party is not represented by a broker, then notices must be delivered to and shall be effective when received by that party.

**24. INFORMATION TRANSFER.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, applications or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.

**25. CONFIDENTIALITY.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party.

**26. SELLER'S ACCEPTANCE AND BROKERAGE AGREEMENT.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. If there is no written listing or commission agreement, Seller agrees to pay a commission of \_\_\_\_\_% of the sales price or \$\_\_\_\_\_. The commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Firm shall pay to Selling Firm a commission of \_\_\_\_\_% of the sales price or \$\_\_\_\_\_. Seller assigns to Listing Firm and Selling Firm a portion of the sales proceeds equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or committed by Listing Firm or Selling Firm for Buyer or Seller shall be reimbursed or paid therefrom, and the balance shall be paid one-half to Seller and one-half to Listing Firm and Selling Firm according to the listing agreement and any co-brokerage agreement. In any action by Listing Firm or Selling Firm to enforce this Section, the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Firm nor Selling Firm are receiving compensation from more than one party to this transaction unless disclosed on an attached addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached Exhibit A is commercial real estate. Notwithstanding Section 25 above, the pages containing this Section, the parties' signatures and an attachment describing the Property may be recorded.

**27. LISTING BROKER AND SELLING BROKER DISCLOSURE.** EXCEPT AS OTHERWISE DISCLOSED IN WRITING TO BUYER OR SELLER, THE SELLING BROKER, LISTING BROKER, AND FIRMS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

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CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS; THE CONDITION OF THE PROPERTY OR ITS IMPROVEMENTS; THE FITNESS OF THE PROPERTY FOR BUYER'S INTENDED USE; OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS AGREEMENT.

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

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Purchase & Sale Agreement  
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**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT  
(CONTINUED)**

**28. IDENTIFICATION OF THE PARTIES.** The following is the contact information for the parties involved in this Agreement:

**Buyer**

Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Seller**

Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Selling Firm**

Name: \_\_\_\_\_  
Assumed Name (if applicable) : \_\_\_\_\_  
Selling Broker: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
CBA Office No.: \_\_\_\_\_

**Listing Firm**

Name: \_\_\_\_\_  
Assumed Name (if applicable) : \_\_\_\_\_  
Listing Broker: \_\_\_\_\_  
Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
CBA Office No.: \_\_\_\_\_

**Licensed Office of the Selling Broker**

Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
CBA Office No.: \_\_\_\_\_

**Licensed Office of the Listing Broker**

Address: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
CBA Office No.: \_\_\_\_\_

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_  
Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

**Ogden Murphy Wallace, PLLC**  
 901 Fifth Ave, Suite 3500  
 Seattle, WA 98164  
 Phone: 206-447-7000  
 Fax: 206-447-0215

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CBA Form PS-1A  
 Purchase & Sale Agreement  
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**COMMERCIAL & INVESTMENT REAL ESTATE  
 PURCHASE & SALE AGREEMENT  
 (CONTINUED)**

**Courtesy Copy of Notices to Buyer to:**

**Courtesy Copy of Notices to Seller to:**

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Business Phone:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_  
**Mobile Phone:** \_\_\_\_\_  
**Email:** \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Business Phone:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_  
**Mobile Phone:** \_\_\_\_\_  
**Email:** \_\_\_\_\_

IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer \_\_\_\_\_  
 Printed name and type of entity

Buyer \_\_\_\_\_  
 Printed name and type of entity

Buyer \_\_\_\_\_  
 Signature and title

Buyer \_\_\_\_\_  
 Signature and title

Date signed \_\_\_\_\_

Date signed \_\_\_\_\_

Seller \_\_\_\_\_  
 Printed name and type of entity

Seller \_\_\_\_\_  
 Printed name and type of entity

Seller \_\_\_\_\_  
 Signature and title

Seller \_\_\_\_\_  
 Signature and title

Date signed \_\_\_\_\_

Date signed \_\_\_\_\_

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

Ogden Murphy Wallace, PLLC  
901 Fifth Ave, Suite 3500  
Seattle, WA 98164  
Phone: 206-447-7000  
Fax: 206-447-0215

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**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT  
(CONTINUED)**

**EXHIBIT A \***

[Legal Description]

\_\_\_\_\_

\* To ensure accuracy in the legal description, consider substituting the legal description contained in the preliminary commitment for title insurance or a copy of the Property's last vesting deed for this page. Do not neglect to label the substitution "Exhibit A." You should avoid transcribing the legal description because any error in transcription may render the legal description inaccurate and this Agreement unenforceable.

INITIALS: Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

Buyer \_\_\_\_\_ Date \_\_\_\_\_ Seller \_\_\_\_\_ Date \_\_\_\_\_

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

## ITEM INFORMATION

<b>SUBJECT:</b>  <b>Consultant Agreement – AHBL for Completion of the SR410 Subarea Plan – Addendum #1</b>	<b>Agenda Date: March 28, 2017</b>		<b>AB17-025</b>	
	Department/Committee/Individual	Created	Reviewed	
	Mayor Pat Johnson		X	
	City Administrator – Dave Schmidt	X	X	
	City Attorney – Phil Olbrechts		X	
	City Engineer – Dominic Miller			
	City Clerk – Joanne Starr		X	
	Finance Dept – Sheila Bazzar			
	Building Official – Mike Deadmond			
	Fire Dept – Chief Predmore			
	Parks & Rec Dept – Ellen Boyd		X	
	Planning Dept – Kathy Thompson			
	Police Dept – Chief Arsanto			
	Municipal Court – Jessica Cash			
PW/Utilities – Chris Banks				

**Attachments:** Agreement Addendum

**SUMMARY STATEMENT:** On March 24, 2015 the City Council approved a consultant scope of work to have AHBL complete the SR410 Subarea Master Plan. This was after spending considerable time and energy going through an RFP process. The Council approved the entire scope of work for all tasks associated with the Plan for a cost not to exceed \$47,428.

AHBL, City staff and the Planning Commission completed all planning work associated with the SR410 Subarea Master Plan in July, 2016 and forwarded a recommendation to the City Council for adoption of the Plan. However, in the interim the City Attorney recommended that the underlying parcels which the subarea plan covered should have any segregations completed before adoption of the Plan. Due to the complexity of the laws concerning Binding Site Plans and Subdivision of commercial property, it has taken staff several months to make a determination about how best to proceed.

The Scope of Work being presented for consideration in Addendum #1 outlines the path forward to complete this work. Therefore, staff is requesting and recommending that the City Council approve the attached Addendum #1 of the Consultant Agreement with AHBL for \$14,300 to assist in completing this work.

**COMMITTEE REVIEW AND RECOMMENDATION:** PS/A/F 3/21/17

**RECOMMENDED ACTION: Motion to Approve Addendum #1 to the Consultant Agreement with AHBL for Completion of the SR410 Subarea Plan.**

### RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>

**Addendum #1  
EXHIBIT A  
Scope of Work  
Rainier Gateway Subarea Plan Implementation Services**

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The following is a Scope of Work between the City of Buckley (City) and AHBL, Inc. (Consultant).

***Project Description***

Consultant has been assisting the City with the preparation and implementation of the Rainier Gateway Subarea Plan. The Plan goals and policies have been identified and design standards developed. It is the City's desire to make the property "development-ready" as much as possible in order to be competitive and encourage the development. A concept for the ultimate parcelization of the Subarea has been developed; however, additional input from the developer community and removal of regulatory impediments is needed. This additional work will ultimately lead to adoption of a refined Subarea Plan.

Binding Site Plan Amendment

The overarching goal for the Subarea is to seek out tourist-oriented commercial and mixed use development that works well with the existing City amenities within the area, including the Foothills Trail, Veteran's Memorial, Youth Center, and Skatepark. The Subarea is currently parcelized through Binding Site Plan No. 96-1, as amended in No. 2000-1, recorded under Pierce County Auditor's Fee No. 200005245007. The City Attorney has advised us that Binding Site Plans (BSPs) are typically used for commercial and industrial centers where individual property owners are part of a common development. It is not typical for publicly owned land or residential land to be subdivided in this manner. The City process for amending the BSP requires a public hearing and approval by the City Hearing Examiner, a regulatory process that is cumbersome and time intensive for a future buyer/developer. The proposed scope of work will "amend" the BSP by removing the City-owned property from it. Once removed, the property can be subdivided in a manner more appropriate for mixed-use development and for sale through a full subdivision process. We have not included a scope of work for the future subdivision process because we do not have enough information at this time.

Developer Request for Proposals

Consultant has prepared a subdivision/parcelization scheme for staff review and has also reviewed the strategy with a local commercial broker. It is not clear what parcel sizes and configuration will be most desirable to the developer community. We are proposing the issuance of a Developer Request for Proposal that seeks to obtain developer ideas and interest in the Subarea and further informs a parcelization strategy.

There is a tremendous opportunity in creating a developer's package and soliciting the land for a public-private development opportunity. This could be done as an RFQ or presented to a select few development firms that specialize in this type of pedestrian-scale, destination project.

***Land Use Planning – 2140783.30***

**Description of Work**

The following services have been requested to assist the City in their redevelopment goals within the planned Buckley Rainier Gateway Subarea. Consultant's planners will assist with amendments to the BSP so that the subject properties will be independent parcels and ready for sale to third parties. Consultant's planners will work with Consultant's surveyors in creating the applicable exhibits and description to formally amend the BSP. Consultant will also prepare the associated applications and proposal narrative.

Furthermore, Consultant's planners will assist the City in the preparation of a formal request for proposal notice for the purpose of recruiting a third-party investor to purchase the City-owned property(ies) and construct a redevelopment project that aligns with the City's economic development goals. The following tasks and services will be provided:

#### Binding Site Plan (BSP) Amendment – Task 34

1. Coordinate with the surveyor to prepare the associated exhibits, maps, and descriptions to facilitate the BSP amendment.
2. Prepare a formal Minor Amendment to the BSP pursuant to City standards. This will include an application, associated narrative, and exhibits. It is assumed that a State Environmental Policy Act (SEPA) checklist will not be required since no additional lots will be created. It is also assumed that the request will not result in additional lots; therefore, the request may be reviewed and approved by the City Administrator as a Minor Amendment. Consultant will prepare up to two rounds of revisions based on City comments.

#### Developer RFP – Task 35

3. Coordinate with City staff to determine the intent, goals, and parameters for a public notice offering of the City-owned properties located in the Buckley Rainer Gateway Subarea. Consultant will attend one project meeting.
4. Prepare a formal Developer Request for Proposal (RFP) that describes the public offering of the City-owned properties located in the Buckley Rainer Gateway Subarea. The RFP will include the site description, the intent/vision for the properties, the property characteristics, and the public solicitation process. The RFP will establish the instructions for respondents. The RFP will include a narrative and associated exhibits/maps. The RFP will also include supplemental information, such as land use regulations and utilities. Consultant will prepare up to two rounds of revisions based by City comments.

#### Council Work Session – Task 36

5. Participation in a Council work session to explain the Developer RFP initiative and the process therein. Consultant will prepare a formal presentation and engage the Council to provide feedback that will lead to the RFP creation in the aforementioned task. This may be implemented as an optional task and as specifically authorized by the City.

#### ***Land Surveying – 2140783.50***

##### **Description of Work**

The following services have been requested for the Buckley Rainier Gateway Subarea development, as defined by the Amended BSP No. 2000-1, recorded under Pierce County Auditor's Fee No. 200005245007. We understand that it is the City's intention to amend that portion of the BSP lying southerly of Main Street to remove all lots from said BSP, with the exception of those occupied by the Post Office and Library (Lots 14 and 16). It is assumed that the electronic file (AutoCAD) for the above referenced BSP will be made available to Consultant to aid in the preparation of this amendment. If the AutoCAD file is not available, the scope and fee listed below will need to be revised.

1. Prepare BSP Amendment that accurately identifies parcel boundaries, tax parcel numbers, site addresses, and easements of record. Easements will be shown, as identified in the title report provided by the client. Prepare revised legal descriptions for parcels being removed from Binding Site Plan. The site plan will be furnished to the client in electronic format and as a hard copy drawing. It is assumed that others will attend and facilitate the public hearing process and we will not be required to attend.

**Note:** The BSP Amendment shall be limited to those areas lying south of Main Street only. While we are required to show the entire BSP for the amendment, we are not responsible for any revisions that may be required north of Main Street. Should this become necessary upon agency review, we will meet with you to discuss these requirements and how to best address them.

2. Prepare all necessary materials and applications, and provide project expediter to submit BSP Amendment application to the City of Buckley.
3. Address any redline comments generated by the City upon review of BSP Amendment.

**Note:** This task covers minor revisions. It does not include revisions or requirements related to critical areas and/or wetlands or wetland buffers, easements, etc. Should these items arise during the course of review, an additional authorization shall be prepared.

4. Upon final approval, prepare final mylar maps for signatures and recording. Provide project expediter to route final maps for necessary signatures and recording.

**Reimbursable Expenses – Task 90**

Reimbursable expenses such as mileage and reprographics. This scope of work will be billed on a time and expense basis.

**Note: This proposal does not include fees for title reports, plat certificates, agency review, or recording fees. No corners will be set as a part of this Authorization.**

A current title report will need to be submitted to Consultant before Consultant can commence work:

**Billing Summary – Original Approved Scope of Work**

<u>Task#</u>	<u>Task Name</u>	<u>Contract Amount</u>	<u>Billed to Date</u>
31	Subarea Plan Approval	\$32,432	\$32,432
32	Implementation	\$10,924	\$10,924
33	General Project Coordination	\$3,772	\$2,753.50
90	Reimbursables	\$300	\$289.16

**Billing Summary – Addendum #1**

<u>Items</u>	<u>Description</u>	<u>Task No.</u>	<u>Amount</u>
<b>Land Use Planning - 2140783.30</b>			
Items 1-2	Binding Site Plan (BSP) Amendment	T-34	\$3,120
Items 3-4	Developer RFP	T-35	3,920
Item 5	Council Work Session	T-36	1,520
<b>Subtotal</b>			<b>\$8,560</b>
<b>Land Surveying - 2140783.50</b>			
Items 1-4	Binding Site Plan (BSP) Amendment		<b>\$5,340</b>
<b>Reimbursable Expenses (T&amp;E estimate)</b>		T-90	<b>\$400</b>
<b>GRAND TOTAL</b>			<b>\$14,300</b>

# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT: Repair Estimate - Buckley Hall Roof &amp; Interior Wall Leak Repair</b>	<b>Agenda Date: March 28, 2017</b>		<b>AB17-026</b>
	Department/Committee/Individual	Created	Reviewed
	Mayor Pat Johnson		X
	City Administrator – Dave Schmidt	X	X
	City Attorney – Phil Olbrechts		X
	City Engineer – Dominic Miller		
	City Clerk – Joanne Starr		X
	Finance Dept – Sheila Bazzar		
	Building Official – Mike Deadmond		
	Fire Dept – Chief Predmore		
	Parks & Rec Dept – Ellen Boyd		
	Planning Dept – Kathy Thompson		
	Police Dept – Chief Arsanto		
	Municipal Court – Jessica Cash		
	PW/Utilities – Chris Banks		X
<b>Attachments:</b> Estimate			
<p>SUMMARY STATEMENT: On February 14, 2017 the City Council approved bids to have Neilson Construction complete repairs to the ADA ramps and south side exterior wall of Buckley Hall. During repair of the exterior wall Neilson discovered evidence of extensive leaks from the roof into both the exterior and interior of the building. Upon further investigation it was identified that many if not all of the roof flashing was installed incorrectly contributing to extensive water damage, to include walls in the kitchen area.</p> <p>City staff requested that Neilson provide an estimate to make the corrections to roof flashing and repair the exterior and interior damaged areas. Cost estimate to complete these repairs is \$5,324.00.</p> <p>City staff is requesting and recommending that the City Council approve this estimate and authorize the repairs.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: PS/A/F 3/21/17			
RECOMMENDED ACTION: <b>MOTION to Approve Neilson Construction’s estimate to repair the roof and water damaged areas of Buckley Hall and Authorize the work to be completed.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

# *Neilson Construction*

P.O. Box 1147 Enumclaw, WA 98022

License # NEILSC\*044KO

Phone: 253-709-0412

Fax: 360-829-1990

**City of Buckley**

**March 21st, 2017**

**Community Hall**

**127 North River**

**Buckley, Wa., 98321**

## **Community hall repairs**

**Remove and discard brick chimney at roof line**

**Underlay and install roofing panel**

**Remove and replace 2 5" gas stack flashings**

**Remove and replace 1 6" gas stack flashing**

**Install Dektite boot to power mast**

**Remove and replace 36" x 36" kitchen hood flash**

**Remove and replace 2 2" ABS roof vents**

**Labor and materials \$3,615.00**

**Repair 150 sq ft of sheetrock to west wall and ceiling due to water damage**

**Primer and paint 220 sq ft of west wall**

**Primer and paint 400 sq ft of ceiling**

**Labor and materials \$1320.00**

**Total labor and materials**      **\$4935.00**  
**Buckley excise tax 7.9%**      **\$389.00**  
**Total**      **\$5,324.00**

**Neilson Construction honors a five year warranty on all workmanship**

**Owner/Agent**\_\_\_\_\_ **Date**\_\_\_\_\_

**Neilson Construction**\_\_\_\_\_ **Date**\_\_\_\_\_

## D. CONSENT AGENDA

**City Council  
March 14, 2017**

Mayor Pro Tem Tremblay called the regularly scheduled meeting to order at 7:00 PM.

Upon roll call the following members were present: Sundstrom, Rose, B. Burkett, Tremblay, S. Burkett and Leggett. Also in attendance were City Administrator Schmidt, City Planner Thompson, Police Chief Arsanto and Fire Chief Predmore.

Mayor Pro Tem Tremblay asked if there were any additions, deletions, or changes to the agenda.

**Council member Rose moved to approve the agenda as presented. Council member Leggett seconded the motion. Motion carried.**

**CITIZEN PARTICIPATION**

None.

**STAFF REPORTS**

None.

**MAIN AGENDA**

**Presentation & Proclamation: Pierce County Library – Pierce County Reads Program:**

**Peggy Venemon – 11320 261<sup>st</sup> Ave E. Buckley, WA 98321**

Peggy Venemen stated that the Pierce County Reads program has been around for ten years already, and she shared a little information about to the book that they chose for this year called Grunt.

**ORD No. 04-17: Adopting New BMC 3.64 – Small & Attractive Asset Policy:**

**Council member B. Burkett moved to approve the amended Ordinance No. 04-17 adopting a New BMC 3.64 – Small & Attractive Asset Policy. Council member Leggett seconded the motion. Upon roll call vote motion carried 4/2.**

**ORD No. 05-17: Amending BMC 16.24 – City Fire Code:**

**Council member Rose moved to approve Ordinance No. 05-17 adopting a New BMC 16.24 City Fire Code. Council member S. Burkett seconded the motion. Upon roll call vote motion carried 6/0.**

**Engineering Services Proposal - WWTP Non-Potable Water System Project:**

**Council member S. Burkett moved to approve the Engineering Services Proposal for the WWTP Non-Potable Water System Project. Council member Rose seconded the motion. Motion carried.**

## **CONSENT AGENDA**

**Council member Leggett moved to approve the Consent Agenda. Council member B. Burkett seconded the motion. Motion carried.**

Approve Minutes of February 28, 2017 City Council Meeting  
Approve Minutes of March 7, 2017 City Council Study Session

Claim check numbers 56542 through 56631, in the amount of \$171,240.68, for the period of March 1, 2017 through March 14, 2017; Payroll check numbers 36371 through 36415, in the amount of \$86,235.96 and ACH payroll in the amount of \$279,264.16 for a total February, 2017 payroll of \$365,500.12; and Treasurer check numbers 11966 and 11967 in the amount of \$608.77, and ACH Treasurer payments in the amount of \$10,853.26 for a total amount of \$11,462.03 for the month of February, 2017 are hereby approved and ordered paid this 14<sup>th</sup> day of March, 2017.

## **COMMITTEE REPORTS**

### **Mayor's Report:**

Mayor Pro Tem Tremblay stated that Mayor Johnson is in Washington DC.

### **Administration, Finance & Public Safety:**

Council member Rose stated they met March 7<sup>th</sup> and discussed ongoing projects. City Clerk Starr said that the City-wide shred has been done. Finance Director Bazzar stated that the Audit report is now available online. They will be meeting again next Tuesday.

### **Transportation & Utilities:**

Council member Tremblay stated they will be meeting next Tuesday. Council member Tremblay stated he is now the chair of the Zoo Board.

### **Community Services:**

Council member Rose stated they will be meeting on the 23<sup>rd</sup>.

### **Council Member Comments & Good of the Order:**

Council member Sundstrom stated that channel 282 on the weekends has the Bronx Zoo. Also, Council member Sundstrom stated that a coyote went onto his property and ate one of his chickens, and he asked whether or not he can protect his livestock with firearms within the city limits of Buckley. Council member Sundstrom also asked about the drug/homeless house on North 3<sup>rd</sup> St. and why we can't do anything about it.

**Council member Leggett moved to adjourn. Council member S. Burkett seconded the motion. Motion carried.**

**With nothing further the meeting was adjourned at 7:37 PM.**

---

Mayor

---

City Administrator

## E. COMMITTEE REPORTS