



City of Tukwila
**Community Services
 and Safety Committee**

- ◆ Jovita McConnell, Chair
- ◆ De'Sean Quinn
- ◆ Hannah Hedrick

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| <u>Distribution:</u> | |
| J. McConnell | Mayor McLeod |
| D. Quinn | M. Wine |
| H. Hedrick | C. O'Flaherty |
| | A. Youn |
| | L. Humphrey |

AGENDA

MONDAY, FEBRUARY 12, 2024 – 5:30 PM

| | |
|---|---|
| ON-SITE PRESENCE: TUKWILA CITY HALL HAZELNUT CONFERENCE ROOM 6200 SOUTHCENTER BOULEVARD | REMOTE PARTICIPATION FOR THE PUBLIC: 1-253-292-9750, ACCESS CODE: 936039108# Click here to: Join Microsoft Teams Meeting For Technical Support: 1-206-433-7155 |
|---|---|

| Item | Recommended Action | Page |
|--|--|--------------|
| 1. BUSINESS AGENDA | | |
| a. Specialized Police Intelligence Development Resource (SPIDR) contract amendment. <i>Eric Lund, Deputy Police Chief</i> | a. Forward to 2/26 Special Meeting Consent Agenda. | Pg.1 |
| b. Purchase and sale agreement with Forterra for the Duwamish Hill Preserve. <i>Kris Kelly, Deputy Parks & Recreation Director; and Mike Perfetti, Senior Program Manager</i> | b. Forward to 2/26 C.O.W. & 3/4 Regular Meeting. | Pg.25 |
| 2. MISCELLANEOUS | | |

Next Scheduled Meeting: *March 11, 2024*





INFORMATIONAL MEMORANDUM

TO: Community Services and Safety Committee
FROM: Eric Drever, Chief of Police
BY: Eric Lund, Deputy Chief of Police
CC: Thomas McLeod
DATE: February 6, 2024
SUBJECT: Versaterm (Formerly SPIDRTech) Contract Renewal

ISSUE

The Police Department is seeking approval from the council to amend contract #23-047 with Versaterm starting 1/1/24 and ending 12/31/24.

BACKGROUND

Versaterm (Formerly known as SPIDRTech) developed technology to help police improve operational efficiency and community engagement. The SPIDR Tech Platform was designed to incorporate relevant data from the Police Department's records management system (RMS) and/or computer aided dispatch (CAD) system to automatically generate and send customized text and email messages to victims of crime and reporting parties. Subsequently, customers will receive mobile-friendly surveys that can be utilized to measure community trust and satisfaction.

DISCUSSION

This application is very beneficial to improve the product that the police department provides to the community. People can provide instant feedback on the service that they were provided by completing a quick survey. They can also ask for additional contact. 911 callers receive instant updates on most calls to 911. They are provided information if officers have handled a call, a case report was taken, or an arrest was made. It also notifies victims of felony crimes when there is an update to their case report. For the year 2023, over 53,000 messages were sent to 911 callers. There was a 17.7% survey completion rate which is in line with our goal for response rate. Many survey responders leave positive messages about specific officers which helps boost employee morale by showing the officers that they are appreciated.

Because the aggregate of the contract amendment is over \$40,000, we must seek council approval to continue through 2024.

FINANCIAL IMPACT

In 2022, the police department utilized seizure funds to implement this contract. The police department has budgeted for this expense in the 2023-2024 Bi-Annual Budget. In 2023, the cost for this contract was \$23,100. The cost for year 2024 will be \$18,380.09. The amount budgeted for 2024 was \$23,100.00

RECOMMENDATION

The Police Department is requesting this item be forwarded to the 2/26/24 Special Meeting Consent Agenda.

ATTACHMENTS

Versaterm Quote #00002779
Amendment #1 for Contract #23-047
Contract #23-047
2023 Quarter 3 Business Review



a Versaterm Public Safety Company

SPIDR Tech Proposal

Quote Information

| | | | |
|--------------|---|-----------------|------------|
| Quote Name | Tukwila Police Department (WA) - Rnwl - SPIDR Platform - FY24 | Created Date | 2023-09-27 |
| | | Expiration Date | 2024-01-01 |
| Quote Number | 00002779 | | |
| Created By | Jacob Burley | | |

Executive Summary

SPIDR Tech was founded by former law enforcement officers to help law enforcement agencies leverage their own data to improve public perception and increase efficiency by providing excellent customer service. Following extensive market research, we designed and built the world's first comprehensive, customer service infrastructure for law enforcement with the goal of improving communication and transparency between agency and community.

Overview of the Technology

The SPIDR Tech Platform is designed to incorporate relevant data from your agency's Records Management System (RMS) and/or Computer Aided Dispatch (CAD) system to automatically generate and send customized text and email messages to victims of crime and reporting parties. Subsequently, customers will receive mobile-friendly surveys comprised of questions chosen by your agency that can be utilized to measure community trust and satisfaction.

The platform offered in this proposal is entirely Software-as-a-Service (SaaS) and requires no hardware to be installed locally with the agency. The software can be accessed using any modern browser, such as Chrome, Firefox, Safari, and Edge.

Your agency can push data to the SPIDR Tech Platform via our Application Program Interface (API), or the SPIDR Tech deployment team can read data from a server through a secure connection.

Project Notes: 1-Year Contract Renewal
01/01/2024 to 12/31/2024.

Note: This is a 9-month prorated amount as the account has been paid through 03/30/2024.

Agency Information

| | | | |
|--------------|----------------------|--------------|--------------------------------|
| Contact Name | Eric Lund | Account Name | Tukwila Police Department (WA) |
| Email | e.lund@tukwilawa.gov | | |

Quote Line Items

| Quantity | Product | Sales Price | Total Price | Line Item Description |
|----------|---------------------------------------|-------------|--------------|---------------------------|
| 77.00 | SPIDR Platform: Patrol Module | USD 79.57 | USD 6,126.89 | included in subscription |
| 77.00 | SPIDR Platform: Investigations Module | USD 79.57 | USD 6,126.89 | included in subscription |
| 77.00 | SPIDR Platform: Insights Module | USD 79.57 | USD 6,126.89 | included in subscription |
| 1.00 | One-Time Discount | USD -0.58 | USD -0.58 | adjustment to match quote |
| 1.00 | Maintenance & Support | USD 0.00 | USD 0.00 | Included |

Totals

Invoicing Notes: 1-Year Contract Renewal
01/01/2024 to 12/31/2024.

Note: This is a 9-month prorated amount as the
account has been paid through 03/30/2024.

| | |
|----------------|---------------|
| Contract Term | 1 Year |
| Quote Currency | USD |
| Net Terms | Net 30 |
| Subtotal | USD 18,380.09 |
| Discount | 0.00% |
| Total Price | USD 18,380.09 |
| Grand Total | USD 18,380.09 |

Quote Acceptance Information

TERM:

The products and services listed under this renewal quote shall be governed by the existing agreement(s) as between Customer and SPIDR Tech, Inc.

By signing this renewal quote, the Customer is hereby bound to renew the service for the period described and/or to purchase the products listed for the grand total stated herein. A signed renewal quote transmitted through email is valid and binding even if an original paper document bearing the customer's original signature is not delivered.

Agency

SPIDR Tech, Inc.

Signature of Authorized Individual:

Signature of Authorized Individual:

Name of Authorized Individual:

Name of Authorized Individual:

Title:

Title:

Date:

Date:

Purchase Order (if known):

Full legal name of Customer:

Subscription Agreement

SUBSCRIPTION AGREEMENT

This Subscription Agreement (this "Agreement") is made as of date of last signature above (the "Effective Date"), by and between SPIDR Tech Inc., a Delaware corporation addressable at 1 N. MacDonald, Suite 500. Mesa, AZ 85201 ("SPIDR Tech"), and the Customer identified in the attached Sales Proposal. SPIDR Tech and Customer may be referred to as a "Party" herein and together as the "Parties." The Sales Proposal executed by and between SPIDR Tech and the Customer (the "Sales Proposal") and the terms therein shall be deemed incorporated herein.

WHEREAS, SPIDR Tech's proprietary systems, applications and related APIs permit police departments to gather, review and analyze data in connection with law enforcement intelligence, officer productivity and related community engagement.

WHEREAS, Customer desires to access and use SPIDR Tech's proprietary system, and SPIDR Tech desires to provide such access, in accordance with the terms and conditions herein;

NOW, THEREFORE, in consideration of the covenants set forth herein, SPIDR Tech and Customer hereby agree as follows:

1. Provision of the Service.

1.1 Provision Generally. SPIDR Tech will provide Customer with access to SPIDR Tech's proprietary service for the modules specified in the Sales Proposal (collectively the "Service") in accordance with the terms and conditions of this Agreement. In order to access and use the Service, Customer is responsible at its own expense for obtaining its own Internet access, and any hardware and software required therefor.

1.2 Grant of Rights. Subject to the terms and conditions of this Agreement, SPIDR Tech hereby grants to Customer a limited, non-exclusive, non-transferable right to access and use the Service, solely for Customer's purposes during the Term. All rights not expressly granted to Customer are reserved by SPIDR Tech and its licensors. There are no implied rights.

1.3 Restrictions. Customer shall not (and shall not allow any third party to): (a) use the Service for the benefit of any third party, or to develop or market any product, software or service that is functionally similar to or derivative of the Service, or for any other purpose not expressly

permitted herein; (b) permit any third party or individual to access or use the Service; (c) sell, distribute, rent, lease, service bureau, post, link, disclose or provide access to the Service, directly or indirectly, to any third party; (d) alter, modify, debug, reverse engineer, decompile, disassemble, or otherwise attempt to derive or gain access to any software (including source code) associated with the Service; or (e) use any robot, spider, scraper or other automated means to access the Service, or engage in any scraping, data-mining, harvesting, screen-scraping, data aggregating or indexing of the Service. Customer shall keep all passwords and API Keys provided to it safe and secure, and shall be responsible for all use of the Service using passwords or API keys issued to Customer. Customer shall notify SPIDR Tech immediately of any actual or suspected unauthorized use of its passwords or API keys for the Service. Without limiting any of its other rights or remedies, SPIDR Tech reserves the right to suspend access to the Service if SPIDR Tech reasonably believes that Customer has materially violated the restrictions and obligations in this Agreement (in which case, it shall provide Customer prompt written notice of such suspension).

1.4 Customer Cooperation. Customer shall: (a) reasonably cooperate with SPIDR Tech in all matters relating to the Service; (b) respond promptly to any SPIDR Tech request to provide information, approvals, authorizations or decisions that are reasonably necessary for SPIDR Tech to provide the Service in accordance with this Agreement; and (c) provide such Customer materials or information as SPIDR Tech may reasonably request to provide the Service and ensure that such materials or information are complete and accurate in all material respects.

2. SPIDR Tech Technology. In connection with providing the Service, SPIDR Tech and its licensors shall operate and support the hosted environment used by SPIDR Tech to provide the Service, including the SPIDR Tech Technology, the server hardware, disk storage, firewall protection, server operating systems, management programs, web server programs, documentation and all other technology or information so used by SPIDR Tech. As used herein, "SPIDR Tech Technology" means all of SPIDR Tech's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by SPIDR Tech in providing the Service.

3. Downtime. Subject to the terms and conditions of this Agreement, SPIDR Tech shall use commercially reasonable efforts to provide access to the Service for twenty-four (24) hours a day, seven (7) days a week throughout the term of this Agreement. Customer agrees that from time to time the Service may be inaccessible or inoperable for various reasons, including (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which SPIDR Tech may undertake from time to time; or (iii) causes beyond the control of SPIDR Tech or which are not reasonably foreseeable by SPIDR Tech, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures, or failures or issues experienced by the Hosting Contractors independent of and not related to the Service or SPIDR Tech (collectively "Downtime"). SPIDR Tech shall use commercially reasonable efforts to provide twenty-four (24) hour advance notice to Customer in the event of any scheduled Downtime. SPIDR Tech shall have no obligation during performance of such operations to mirror Customer Data on any other server or to transfer Customer Data to any other server. SPIDR Tech shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the service in connection with Downtime, whether scheduled or not.

4. Ownership. Customer acknowledges and agrees that as between SPIDR Tech and Customer, all right, title and interest in and to the Service (including the data, information, text, images, designs, sound, music, marks, logos, compilations (meaning the collection, arrangement and assembly of information) and other content on or made available through the Service, other than Customer Data), the SPIDR Tech Technology and all improvements and derivatives of the foregoing (including all intellectual property and proprietary rights embodied therein or associated therewith) are and shall remain owned by SPIDR Tech or its licensors, and this Agreement in no way conveys any right, title or interest in the Service or the SPIDR Tech Technology other than a limited right to use the Service in accordance with the terms and conditions herein. No right or license is granted hereunder to Customer under any trademarks, service marks, trade names or logos. Customer shall not remove any SPIDR Tech trademark, service mark or logo, or any proprietary notices or labels (including any copyright or trademark notices) from the Service.

5. Fees; Payments; Taxes.

5.1 Fees. In consideration of the provision of the Service hereunder, Customer shall pay SPIDR Tech the fees as set forth and the scheduled laid out on the Sales Proposal.

5.2 Taxes. All amounts due hereunder are exclusive of all sales, use, excise, service, value added, or other taxes, duties and charges of any kind (whether foreign, federal, state, local or other) associated with this Agreement, the Service, or Customer's access to the Service. Customer shall be solely responsible for all such taxes, duties and charges (except for taxes imposed on SPIDR Tech's income), which may be invoiced by SPIDR Tech from time-to-time.

5.3 Payment Method. Customer shall make all payments hereunder, in US dollars, in the manner specified by SPIDR Tech, and without deduction of any charges, taxes or other amounts.

5.4 Late Payments. Customer shall pay interest on all late payments at the lesser of (a) 1.5% per month or (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse SPIDR Tech for all costs and expenses, including attorneys' fees, incurred in collecting any unpaid amounts owed by Customer hereunder.

6 Term; Termination.

6.1 Term. The term of this Agreement shall commence on the Effective Date and, unless earlier terminated as set forth herein, shall continue for the period and in the manner set forth in the Sales Proposal. Either Party may terminate this Agreement by providing the other Party 30 days advance written notice of its desire to terminate. The entire term before termination is collectively referred to as the "Term" herein.

6.2 Termination for Breach. Either Party may terminate this Agreement by written notice thereof to the other Party, if the other Party materially breaches this Agreement and does not cure such breach within 30 days after written notice thereof.

6.3 Effects of Termination: Survival. Upon any termination of this Agreement: (a) all rights granted to Customer hereunder shall terminate and SPIDR Tech shall no longer provide access to the Service to Customer, and (b) Customer shall cease using the Service. Any obligations that have accrued prior to termination shall survive termination of this Agreement. In addition, the following Sections, as well as any other provisions herein which by their nature should survive, shall survive termination of this Agreement: Sections 4 through 12.

7. Customer Data.

7.1 Data Generally. All data and information which the Customer inputs or provides to the Service (the "Customer Data") is stored in a private and secure fashion (as regulated by CJIS requirements), and will not be used by SPIDR Tech except as permitted herein. Customer hereby grants to SPIDR Tech a limited, non-exclusive, non-transferable, royalty-free right to use, reproduce, manipulate, display, transmit and distribute the Customer Data solely in connection with providing the Service to Customer, and improving and developing the Service. In addition, SPIDR Tech may analyze Customer Data, and data of other customers, to create aggregated or anonymized statistics or data that do not identify Customer or any individual, and SPIDR Tech may during and after the Term use and disclose such statistics or data in its discretion. Except as specified otherwise in this Agreement (including the Sales Proposal), Customer shall be solely responsible for providing, updating, uploading and maintaining all Customer Data. The content of Customer Data shall be Customer's sole responsibility. SPIDR Tech shall operate the Service in a manner that provides reasonable information security for Customer Data, using commercially reasonable data backup, security, and recovery protections (as regulated by CJIS requirements).

7.2 Additional Customer Responsibilities. Customer is solely responsible for all Customer Data. SPIDR Tech does not guarantee the accuracy, integrity or quality of Customer Data. Customer shall not: (a) upload or otherwise make available to SPIDR Tech any Customer Data that is unlawful or that violates the rights of any third parties; (b) upload or otherwise make available to SPIDR Tech any Customer Data that Customer does not have a right to transmit due to any law, rule, regulation or other obligation; (c) use, upload or otherwise transmit any

Customer Data that infringes any intellectual property or other proprietary rights of any third party; (d) upload or otherwise make available to SPIDR Tech any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy, limit the functionality of any computer software or hardware or telecommunications equipment; (e) interfere with or disrupt the Service or servers or networks connected to the Service; (f) upload or otherwise make available to SPIDR Tech any Customer Data that constitutes protected health information subject to the Health Insurance Portability and Accountability Act or any regulation, rule or standards issued thereunder; or (g) violate any applicable law, rule or regulation, including those regarding the export of technical data.

8. Representations and Warranties; Disclaimer.

8.1 General Representations and Warranties. Each Party hereby represents and warrants to the other Party that: (a) it is a corporation, company or other entity (as applicable) duly organized, validly existing and in good standing in its jurisdiction of organization; (b) its execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary organizational action on its part; (c) the provisions set forth in this Agreement constitute legal, valid, and binding obligations of such Party enforceable against such Party in accordance with their terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and (d) its execution, delivery and performance of this Agreement do not and will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under, any agreement or other obligation to which such Party is subject.

8.2 SPIDR Tech Limited Warranty. SPIDR Tech warrants that it will provide the Service in a competent and workmanlike manner. SPIDR Tech does not warrant that it will be able to correct all reported defects or that use of the Service will be uninterrupted or error free. SPIDR Tech makes no warranty regarding features or services provided by any third parties. SPIDR Tech retains the right to modify its services and the SPIDR Tech Technology in its sole discretion; provided that doing so does not have a material adverse impact on the Service hereunder. Customer's sole remedy for SPIDR Tech's breach of the warranty in this paragraph shall be that SPIDR Tech shall remedy the applicable error, or if SPIDR Tech is unable to do so in a timely manner, refund to Customer actual damages up to a limit of the fees paid for the Service for the 6-month period immediately prior to when the breach of warranty occurred.

8.3 Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 8.1-8.2 ABOVE, SPIDR TECH MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WITH RESPECT TO THE SERVICE (IN EACH CASE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE), INCLUDING ANY WARRANTY (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, (B) THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR, (C) AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE, OR (D) AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED FROM THE SERVICE.

9. Limitations of Liability.

9.1 Damages Cap. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, SPIDR TECH'S TOTAL LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THE SERVICE OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO SPIDR TECH UNDER THIS AGREEMENT DURING THE PRIOR 6 MONTHS.

9.2 Disclaimer of Indirect Damages. EXCEPT FOR (A) CUSTOMER'S OBLIGATION TO PAY ALL AMOUNTS DUE HEREUNDER, (B) ITS INDEMNIFICATION OBLIGATIONS OR (C) ITS BREACH OF ANY INTELLECTUAL PROPERTY OR CONFIDENTIALITY OBLIGATIONS OR RESTRICTIONS HEREIN (INCLUDING ANY LIMITATIONS OR RESTRICTIONS ON USE OF THE SERVICE), IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING LOSS OF DATA, PROFITS OR REVENUE) ARISING OUT OF OR RELATED TO THE SERVICE OR THIS AGREEMENT, WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

9.3 Basis of the Bargain. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 9 ARE A FUNDAMENTAL BASIS OF THE BARGAIN, THAT SPIDR TECH HAS SET ITS FEES IN RELIANCE ON THE ENFORCEABILITY OF THESE PROVISIONS, AND THAT THEY SHALL APPLY NOTWITHSTANDING THAT ANY REMEDY SHALL FAIL ITS ESSENTIAL PURPOSE.

10. Indemnification.

10.1 SPIDR Tech Indemnification. SPIDR Tech shall defend, indemnify and hold harmless Customer and its directors, officers, employees and agents ("Customer Indemnified Parties") from and against any third party claims, actions, proceedings, demands, lawsuits, damages, liabilities and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") to the extent based on any claim that the Service infringes, misappropriates or otherwise violates (collectively, "Infringes") any third party intellectual property or proprietary right (excluding patents).

10.2 Customer Indemnification. Customer shall defend, indemnify and hold harmless SPIDR Tech and its directors, officers, employees, agents and providers ("SPIDR Tech Indemnified Parties") from and against any Claims to the extent based on any claim that the Customer Data Infringes any third party intellectual property or proprietary right (excluding patents).

10.3 Indemnification Process. As conditions of the indemnification obligations in Sections 10.1-10.2 above: (a) the applicable Customer Indemnified Party or SPIDR Tech Indemnified Party (the "Indemnitee") will provide the indemnifying Party (the "Indemnitor") with prompt written notice of any Claim for which indemnification is sought (provided that failure to so notify will not remove the Indemnitor's indemnification obligations except to the extent it is prejudiced thereby), (b) the Indemnitee will permit the Indemnitor to control the defense and settlement of such Claim, and (c) the Indemnitee will reasonably cooperate with the Indemnitor in connection with the Indemnitor's evaluation, defense and settlement of such Claim. In defending any Claim, the Indemnitor shall use counsel reasonably satisfactory to the other Party. The Indemnitor shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of the other Party (not unreasonably withheld).

10.4 Exclusions. SPIDR Tech's obligations in Section 10.1 above shall not apply to any Claim to the extent arising from or relating to (a) misuse of the Service (including any use not strictly in accordance with the documentation therefor, SPIDR Tech's instructions, and this Agreement), (b) any modification, alteration or conversion of the Service not created or approved in writing by SPIDR Tech, (c) any combination of the Service with any computer, hardware, software or service not provided by SPIDR Tech, (d) SPIDR Tech's compliance with specifications or other requirements of Customer, or (e) any third party data or Customer Data. If the Service is or may be subject to a Claim of Infringement described in Section 10.1 above, SPIDR Tech may, at its cost and sole discretion: (i) obtain the right for Customer to continue using the Service as contemplated herein; or (ii) replace or modify the Service so that it becomes non-Infringing without substantially compromising its principal functions; or (iii) to the extent the foregoing are not commercially reasonable, terminate this Agreement and return to Customer any pre-paid fees for the Service associated with the then-remaining Term. SPIDR Tech's obligations in this Section 10 shall be SPIDR Tech's sole obligations, and Customer's sole remedies, in the event of any Infringement of intellectual property or proprietary rights by or related to the Service.

11. Confidentiality.

11.1 Definition. "Confidential Information" means information that is disclosed by either Party (the "Disclosing Party") to the other Party (the "Receiving Party") hereunder during the Term that is clearly labeled or identified as confidential or proprietary when disclosed, or that, under the circumstances, should reasonably be treated as confidential, except that "Confidential Information" shall not include any information that (a) is or becomes generally known to the public through no fault of, or breach of this Agreement by, the Receiving Party; (b) is rightfully in the

Receiving Party's possession at the time of disclosure without an obligation of confidentiality; (c) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (d) is rightfully obtained by the Receiving Party from a third party without restriction on use or disclosure. In addition, (i) the terms and conditions of this Agreement shall be deemed to be Confidential Information of both Parties; and (ii) the Service and SPIDR Tech Technology shall be deemed Confidential Information of SPIDR Tech, regardless of whether or not they are labeled or identified, or would reasonably be considered confidential.

11.2 General Obligations. Each Party agrees that it will during the Term and thereafter (a) not disclose the other Party's Confidential Information to any third party (other than as permitted in the last sentence of this paragraph); (b) use the other Party's Confidential Information only to the extent reasonably necessary to perform its obligations or exercise its rights under this Agreement; (c) disclose the other Party's Confidential Information only to those of its employees and independent contractors who reasonably need to know such information for purposes of this Agreement and who are bound by confidentiality obligations offering substantially similar protection to those in this Section 11; and (d) protect all Confidential Information of the other Party from unauthorized use, access, or disclosure in the same manner as it protects its own confidential information of a similar nature, and in no event with less than reasonable care. Notwithstanding the above, this paragraph shall not prohibit: (i) a Party from disclosing Confidential Information of the other Party to the extent required by applicable law, rule or regulation (including a court order or other government order) or the rules and regulations of the SEC or any national securities exchange; provided that such Party provides the other Party prior written notice of such disclosure, to the extent practicable, and reasonably cooperates with efforts of the other Party to seek confidential treatment thereof, to the extent such cooperation is requested by the other Party; or (ii) a Party from disclosing the terms and conditions of this Agreement to its attorneys and financial advisors, or current or potential lenders, other sources of financing, investors or acquirors; provided that such third parties are bound by confidentiality obligations offering substantially similar protection to those in this Section 11 (provided further that such third parties are only permitted to use such information for the purpose of advising, lending or providing financing to, or investing in or acquiring, such Party, as applicable).

11.3 Return or Destruction. Except as otherwise expressly provided in this Agreement, the Receiving Party will return to the Disclosing Party, or destroy or erase, the Disclosing Party's Confidential Information in tangible form, upon the termination of this Agreement; provided that (a) Receiving Party may retain a copy of Disclosing Party's Confidential Information solely for the purposes of tracking Receiving Party's rights and obligations hereunder with respect thereto, (b) Receiving Party may retain copies of Disclosing Party's Confidential Information solely to the extent required by law or by applicable professional standards which require such Party to retain copies of its working papers, and (c) Receiving Party may retain Disclosing Party's Confidential Information solely to the extent reasonably necessary for Receiving Party to exercise rights or perform obligations under this Agreement that survive such termination.

11.4 Feedback. Notwithstanding the above or anything to the contrary herein, to the extent that Customer at any time provides SPIDR Tech with any feedback or suggestions regarding the Service, including potential improvements or changes thereto (collectively, "Feedback"), the Feedback shall not be considered Confidential Information of Customer, and SPIDR Tech shall be free to use, disclose, and otherwise exploit in any manner, the Feedback for any purpose.

12. Miscellaneous.

12.1 Compliance with Laws. Each Party shall comply with all laws, rules, regulations and ordinances applicable to its activities hereunder.

12.2 Hosting Providers. Customer acknowledges that the Service is hosted by third party hosting providers (the "Hosting Contractors"). SPIDR Tech may change its Hosting Contractors at any time. Customer's use of the Service is subject to any applicable restrictions imposed by the Hosting Contractors. Notwithstanding any other provision of this Agreement, SPIDR Tech shall not be liable for any problems, failures, defects or errors with the Service to the extent caused by the Hosting Contractors. Customer acknowledges that the fees payable for the Service reflect the fact that SPIDR Tech is not responsible for the acts and omissions of the Hosting Contractors.

12.3 Assignment. Customer may not assign this Agreement, or assign any of its rights or delegate any of its obligations under this Agreement, without the prior written consent of SPIDR Tech. SPIDR Tech may freely assign this Agreement, or assign any of its rights or delegate any of its obligations under this Agreement. Any purported assignment or delegation in violation of this paragraph is null and void. This Agreement will bind and inure to the benefit of each Party's successor and permitted assigns.

12.4 Entire Agreement; Amendment. This Agreement (including the Sales Proposal attached hereto) contains the complete understanding and agreement of the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, oral or written, with respect thereto. No pre-printed terms on any purchase order, invoice or similar document issued in relation to this Agreement shall have any effect on the Parties or this Agreement. This Agreement may be amended or modified only by an express written agreement signed by duly authorized representatives of both Parties.

12.5 Notices. Unless otherwise specifically provided herein, all notices required or permitted by this Agreement shall be in writing and may be delivered personally, or may be sent by facsimile, overnight delivery or certified mail, return receipt requested, to the addresses provided in the Sales Proposal.

12.6 Force Majeure. SPIDR Tech shall not be liable or responsible to Customer, nor be considered to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any provision of this Agreement to the extent such failure or delay is caused by or results from any act, circumstance or other cause beyond the reasonable control of SPIDR Tech, including acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable technology or components, telecommunication breakdown, or power outage.

12.7 Publicity. SPIDR Tech shall have the right to use Customer's name and logo on client lists published on SPIDR Tech's website and in marketing materials. SPIDR Tech may announce the relationship hereunder in a press release provided that SPIDR Tech obtains Customer's prior approval of the wording of the release (not to be unreasonably withheld).

12.8 Choice of Law. This Agreement is and will be governed by and construed under the laws of Arizona USA, without giving effect to any conflicts of laws provision thereof or of any other jurisdiction that would produce a contrary result. The Parties hereby consent to the jurisdiction of any federal or state court located in the state of Arizona for any claim or other proceeding related to this Agreement or their activities hereunder, and waive any objections of improper venue or inconvenient forum.

12.9 Injunctive Relief. Each Party acknowledges that its breach of any intellectual property or confidentiality obligations or restrictions herein (including any limitations or restrictions on use of the Service) will cause substantial harm to the other Party that could not be remedied by payment of damages alone. Accordingly, the other Party will be entitled to seek preliminary, temporary and permanent injunctive relief, and other equitable relief, for any such breach, without any requirement to post bond, in any court of competent jurisdiction.

12.10 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise or employment relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

12.11 Waiver. No waiver by either Party of any of the provision of this Agreement is effective unless explicitly set forth in writing and signed by such Party. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

12.12 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or invalidate or render unenforceable such provision in any other jurisdiction.

12.13 Headings: Interpretation. Headings are provided for convenience only and will not be used to interpret the substance of this Agreement. Unless the intent is expressly otherwise in specific instances, use of the words "include," "includes," or "including" in this Agreement shall not be limiting and "or" shall not be exclusive.

12.14 Counterparts. This Agreement may be executed in two counterparts (which may be delivered by .pdf or other facsimile format acceptable to the Parties), each of which shall be an original and both of which taken together shall form one agreement.



City of Tukwila

6200 Southcenter Boulevard, Tukwila WA 98188

Agreement Number:

CONTRACT FOR SERVICES

Amendment #1

Between the City of Tukwila and Versaterm (formerly SPIDRTech)

That portion of Contract No. **23-047** between the City of Tukwila and **Versaterm (formerly SPIDRTech)** is hereby amended as follows:

1. Quote #00002779 will be added to the current contract
2. 1-year contract renewal. Start date 1/1/2024. End date 12/31/2024.

All other provisions of the contract shall remain in full force and effect.

Dated this _____ day of _____, 20_____.

**** City signatures to be obtained by
City Clerk's Staff ONLY. ****

**** Contractor signature to be obtained by
sponsor staff. ****

CITY OF TUKWILA

CONTRACTOR:

Tom McLeod, Mayor

By: _____

Printed Name: _____

ATTEST/AUTHENTICATED:

Title: Chief Revenue Officer

Christy O'Flaherty, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney



a Versaterm Public Safety Company

SPIDR Tech Proposal

Quote Information

| | | | |
|--------------|--|-----------------|------------|
| Quote Name | Tukwila Police Renewal_3 Module_1 Year | Created Date | 2023-03-10 |
| Quote Number | 00000905 | Expiration Date | 2023-03-31 |
| Created By | Jennifer Schwartz | | |

Executive Summary

SPIDR Tech was founded by former law enforcement officers to help law enforcement agencies leverage their own data to improve public perception and increase efficiency by providing excellent customer service. Following extensive market research, we designed and built the world's first comprehensive, customer service infrastructure for law enforcement with the goal of improving communication and transparency between agency and community.

Overview of the Technology

The SPIDR Tech Platform is designed to incorporate relevant data from your agency's Records Management System (RMS) and/or Computer Aided Dispatch (CAD) system to automatically generate and send customized text and email messages to victims of crime and reporting parties. Subsequently, customers will receive mobile-friendly surveys comprised of questions chosen by your agency that can be utilized to measure community trust and satisfaction.

The platform offered in this proposal is entirely Software-as-a-Service (SaaS) and requires no hardware to be installed locally with the agency. The software can be accessed using any modern browser, such as Chrome, Firefox, Safari, and Edge.

Your agency can push data to the SPIDR Tech Platform via our Application Program Interface (API), or the SPIDR Tech deployment team can read data from a server through a secure connection.

Agency Information

| | | | |
|--------------|-------------|--------------|--------------------------------|
| Contact Name | Eric Drever | Account Name | Tukwila Police Department (WA) |
|--------------|-------------|--------------|--------------------------------|

Quote Line Items

| Quantity | Product | Sales Price | Total Price | Line Item Description |
|----------|-----------------------------|-------------|---------------|-----------------------|
| 77.00 | SPIDR Platform Subscription | USD 300.00 | USD 23,100.00 | @77 Sworn Count |
| 1.00 | Maintenance & Support | USD 693.00 | USD 693.00 | 3% ARR Increase |

Totals

| | | | |
|------------------|---|----------------|---------------|
| Invoicing Notes: | Tukwila Police Department utilizes the Patrol Module, Investigations Module, and Insights Module. | Contract Term | 1 Year |
| | This FY23 quote is for one year and includes a standard 3% ARR increase. | Quote Currency | USD |
| | This contract is for term 03.31.2023 - 12.31.2023, at which time the agency will have | Net Terms | Net 30 |
| | | Subtotal | USD 23,793.00 |
| | | Discount | 0.00% |
| | | Total Price | USD 23,793.00 |
| | | Grand Total | USD 23,793.00 |

Quote Acceptance Information

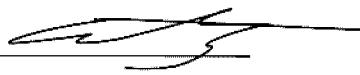
TERM:

The products and services listed under this renewal quote shall be governed by the existing agreement(s) as between Customer and SPIDR Tech, Inc.

By signing this renewal quote, the Customer is hereby bound to renew the service for the period described and/or to purchase the products listed for the grand total stated herein. A signed renewal quote transmitted through email is valid and binding even if an original paper document bearing the customer's original signature is not delivered.

SPIDR Tech, Inc.

Agency

Signature: 

 Signature: 
Key: c6b8af87 3e4a 4fb3 ad28 2dd457cb3b5f

Name: Anthony Carty

Name: Allan Ekberg

APPROVED AS TO FORM BY ASSISTANT CITY ATTORNEY 03/10/23 APPROVAL ON FILE.

Title: Chief Financial Officer

Title: Mayor

Date Signed: March 13, 2023

Date Signed: 03-15-2023

Subscription Agreement

SUBSCRIPTION AGREEMENT

This Subscription Agreement (this "Agreement") is made as of date of last signature above (the "Effective Date"), by and between SPIDR Tech Inc., a Delaware corporation addressable at 1 N. MacDonald, Suite 500. Mesa, AZ 85201 ("SPIDR Tech"), and the Customer identified in the attached Sales Proposal. SPIDR Tech and Customer may be referred to as a "Party" herein and together as the "Parties." The Sales Proposal executed by and between SPIDR Tech and the Customer (the "Sales Proposal") and the terms therein shall be deemed incorporated herein.

WHEREAS, SPIDR Tech's proprietary systems, applications and related APIs permit police departments to gather, review and analyze data in connection with law enforcement intelligence, officer productivity and related community engagement.

WHEREAS, Customer desires to access and use SPIDR Tech's proprietary system, and SPIDR Tech desires to provide such access, in accordance with the terms and conditions herein;

NOW, THEREFORE, in consideration of the covenants set forth herein, SPIDR Tech and Customer hereby agree as follows:

1. Provision of the Service.

1.1 Provision Generally. SPIDR Tech will provide Customer with access to SPIDR Tech's proprietary service for the modules specified in the Sales Proposal (collectively the "Service") in accordance with the terms and conditions of this Agreement. In order to access and use the Service, Customer is responsible at its own expense for obtaining its own Internet access, and any hardware and software required therefor.

1.2 Grant of Rights. Subject to the terms and conditions of this Agreement, SPIDR Tech hereby grants to Customer a limited, non-exclusive, non-transferable right to access and use the Service, solely for Customer's purposes during the Term. All rights not expressly granted to Customer are reserved by SPIDR Tech and its licensors. There are no implied rights.

1.3 Restrictions. Customer shall not (and shall not allow any third party to): (a) use the Service for the benefit of any third party, or to develop or market any product, software or service that is functionally similar to or derivative of the Service, or for any other purpose not expressly permitted herein; (b) permit any third party or individual to access or use the Service; (c) sell, distribute, rent, lease, service bureau, post, link, disclose or provide access to the Service, directly or indirectly, to any third party; (d) alter, modify, debug, reverse engineer, decompile, disassemble, or otherwise attempt to derive or gain access to any software (including source code) associated with the Service; or (e) use any robot, spider, scraper or other automated means to access the Service, or engage in any scraping, data-mining, harvesting, screen-scraping, data aggregating or indexing of the Service. Customer shall keep all passwords and API Keys provided to it safe and secure, and shall be responsible for all use of the Service using passwords or API keys issued to Customer. Customer shall notify SPIDR Tech immediately of any actual or suspected unauthorized use of its passwords or API keys for the Service. Without limiting any of its other rights or remedies, SPIDR Tech reserves the right to suspend access to the Service if SPIDR Tech reasonably believes that Customer has materially violated the restrictions and obligations in this Agreement (in which case, it shall provide Customer prompt written notice of such suspension).

1.4 Customer Cooperation. Customer shall: (a) reasonably cooperate with SPIDR Tech in all matters relating to the Service; (b) respond promptly to any SPIDR Tech request to provide information, approvals, authorizations or decisions that are reasonably necessary for SPIDR Tech to provide the Service in accordance with this Agreement; and (c) provide such Customer materials or information as SPIDR Tech may reasonably request to provide the Service and ensure that such materials or information are complete and accurate in all material respects.

2. SPIDR Tech Technology. In connection with providing the Service, SPIDR Tech and its licensors shall operate and support the hosted environment used by SPIDR Tech to provide the Service, including the SPIDR Tech Technology, the server hardware, disk storage, firewall protection, server operating systems, management programs, web server programs, documentation and all other technology or information so used by SPIDR Tech. As used herein, "SPIDR Tech Technology" means all of SPIDR Tech's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by SPIDR Tech in providing the Service.

3. Downtime. Subject to the terms and conditions of this Agreement, SPIDR Tech shall use commercially reasonable efforts to provide access to the Service for twenty-four (24) hours a day, seven (7) days a week throughout the term of this Agreement. Customer agrees that from time to time the Service may be inaccessible or inoperable for various reasons, including (i) equipment malfunctions; (ii) periodic maintenance

procedures or repairs which SPIDR Tech may undertake from time to time, or (iii) causes beyond the control of SPIDR Tech or which are not reasonably foreseeable by SPIDR Tech, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures, or failures or issues experienced by the Hosting Contractors independent of and not related to the Service or SPIDR Tech (collectively "Downtime"). SPIDR Tech shall use commercially reasonable efforts to provide twenty-four (24) hour advance notice to Customer in the event of any scheduled Downtime. SPIDR Tech shall have no obligation during performance of such operations to mirror Customer Data on any other server or to transfer Customer Data to any other server. SPIDR Tech shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the service in connection with Downtime, whether scheduled or not.

4. Ownership. Customer acknowledges and agrees that as between SPIDR Tech and Customer, all right, title and interest in and to the Service (including the data, information, text, images, designs, sound, music, marks, logos, compilations (meaning the collection, arrangement and assembly of information) and other content on or made available through the Service, other than Customer Data), the SPIDR Tech Technology and all improvements and derivatives of the foregoing (including all intellectual property and proprietary rights embodied therein or associated therewith) are and shall remain owned by SPIDR Tech or its licensors, and this Agreement in no way conveys any right, title or interest in the Service or the SPIDR Tech Technology other than a limited right to use the Service in accordance with the terms and conditions herein. No right or license is granted hereunder to Customer under any trademarks, service marks, trade names or logos. Customer shall not remove any SPIDR Tech trademark, service mark or logo, or any proprietary notices or labels (including any copyright or trademark notices) from the Service.

5. Fees; Payments; Taxes.

5.1 Fees. In consideration of the provision of the Service hereunder, Customer shall pay **SPIDR Tech the fees as set forth and the scheduled laid out on the Sales Proposal.**

5.2 Taxes. All amounts due hereunder are exclusive of all sales, use, excise, service, value added, or other taxes, duties and charges of any kind (whether foreign, federal, state, local or other) associated with this Agreement, the Service, or Customer's access to the Service. Customer shall be solely responsible for all such taxes, duties and charges (except for taxes imposed on SPIDR Tech's income), which may be invoiced by SPIDR Tech from time-to-time.

5.3 Payment Method. Customer shall make all payments hereunder, in US dollars, in the manner specified by SPIDR Tech, and without deduction of any charges, taxes or other amounts.

5.4 Late Payments. Customer shall pay interest on all late payments at the lesser of (a) 1.5% per month or (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse SPIDR Tech for all costs and expenses, including attorneys' fees, incurred in collecting any unpaid amounts owed by Customer hereunder.

6 Term; Termination.

6.1 Term. The term of this Agreement shall commence on the Effective Date and, unless earlier terminated as set forth herein, shall continue for the period and in the manner set forth in the Sales Proposal. Either Party may terminate this Agreement by providing the other Party 30 days advance written notice of its desire to terminate. The entire term before termination is collectively referred to as the "Term" herein.

6.2 Termination for Breach. Either Party may terminate this Agreement by written notice thereof to the other Party, if the other Party materially breaches this Agreement and does not cure such breach within 30 days after written notice thereof.

6.3 Effects of Termination; Survival. Upon any termination of this Agreement: (a) all rights granted to Customer hereunder shall terminate and SPIDR Tech shall no longer provide access to the Service to Customer, and (b) Customer shall cease using the Service. Any obligations that have accrued prior to termination shall survive termination of this Agreement. In addition, the following Sections, as well as any other provisions herein which by their nature should survive, shall survive termination of this Agreement: Sections 4 through 12.

7. Customer Data.

7.1 Data Generally. All data and information which the Customer inputs or provides to the Service (the "Customer Data") is stored in a private and secure fashion (as regulated by CJIS requirements), and will not be used by SPIDR Tech except as permitted herein. Customer hereby grants to SPIDR Tech a limited, non-exclusive, non-transferable, royalty-free right to use, reproduce, manipulate, display, transmit and distribute the Customer Data solely in connection with providing the Service to Customer, and improving and developing the Service. In addition, SPIDR Tech may analyze Customer Data, and data of other customers, to create aggregated or anonymized statistics or data that do not identify Customer or any individual, and SPIDR Tech may during and after the Term use and disclose such statistics or data in its discretion. Except as specified otherwise in this Agreement (including the Sales Proposal), Customer shall be solely responsible for providing, updating, uploading and maintaining all Customer Data. The content of Customer Data shall be Customer's sole responsibility. SPIDR Tech shall operate the Service in a manner that provides reasonable information security for Customer Data, using commercially reasonable data backup, security, and recovery protections (as regulated by CJIS requirements).

7.2 Additional Customer Responsibilities. Customer is solely responsible for all Customer Data. SPIDR Tech does not guarantee the accuracy, integrity or quality of Customer Data. Customer shall not: (a) upload or otherwise make available to SPIDR Tech any Customer Data that is unlawful or that violates the rights of any third parties; (b) upload or otherwise make available to SPIDR Tech any Customer Data that Customer does not have a right to transmit due to any law, rule, regulation or other obligation; (c) use, upload or otherwise transmit any Customer Data that infringes any intellectual property or other proprietary rights of any third party; (d) upload or otherwise make available to SPIDR Tech any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy, limit the functionality of any computer software or hardware or telecommunications equipment; (e) interfere with or disrupt the Service or servers or networks connected to the Service; (f) upload or otherwise make available to SPIDR Tech any Customer Data that constitutes protected health information subject to the Health Insurance Portability and Accountability Act or any regulation, rule or standards issued thereunder; or (g) violate any applicable law, rule or regulation, including those regarding the export of technical data.

8. Representations and Warranties; Disclaimer.

8.1 General Representations and Warranties. Each Party hereby represents and warrants to the other Party that: (a) it is a corporation, company or other entity (as applicable) duly organized, validly existing and in good standing in its jurisdiction of organization; (b) its execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary organizational action on its part; (c) the provisions set forth in this Agreement constitute legal, valid, and binding obligations of such Party enforceable against such Party in accordance with their terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and (d) its execution, delivery and performance of this Agreement do not and will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under, any agreement or other obligation to which such Party is subject.

8.2 SPIDR Tech Limited Warranty. SPIDR Tech warrants that it will provide the Service in a competent and workmanlike manner. SPIDR Tech does not warrant that it will be able to correct all reported defects or that use of the Service will be uninterrupted or error free. SPIDR Tech makes no warranty regarding features or services provided by any third parties. SPIDR Tech retains the right to modify its services and the SPIDR Tech Technology in its sole discretion; provided that doing so does not have a material adverse impact on the Service hereunder. Customer's sole remedy for SPIDR Tech's breach of the warranty in this paragraph shall be that SPIDR Tech shall remedy the applicable error, or if SPIDR Tech is unable to do so in a timely manner, refund to Customer actual damages up to a limit of the fees paid for the Service for the 6-month period immediately prior to when the breach of warranty occurred.

8.3 Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 8.1-8.2 ABOVE, SPIDR TECH MAKES NO

REPRESENTATION OR WARRANTY WHATSOEVER, AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WITH RESPECT TO THE SERVICE (IN EACH CASE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE), INCLUDING ANY WARRANTY (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, (B) THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR, (C) AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE, OR (D) AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED FROM THE SERVICE.

9. Limitations of Liability.

9.1 Damages Cap. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, SPIDR TECH'S TOTAL LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THE SERVICE OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO SPIDR TECH UNDER THIS AGREEMENT DURING THE PRIOR 6 MONTHS.

9.2 Disclaimer of Indirect Damages. EXCEPT FOR (A) CUSTOMER'S OBLIGATION TO PAY ALL AMOUNTS DUE HEREUNDER, (B) ITS INDEMNIFICATION OBLIGATIONS OR (C) ITS BREACH OF ANY INTELLECTUAL PROPERTY OR CONFIDENTIALITY OBLIGATIONS OR RESTRICTIONS HEREIN (INCLUDING ANY LIMITATIONS OR RESTRICTIONS ON USE OF THE SERVICE), IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING LOSS OF DATA, PROFITS OR REVENUE) ARISING OUT OF OR RELATED TO THE SERVICE OR THIS AGREEMENT, WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

9.3 Basis of the Bargain. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 9 ARE A FUNDAMENTAL BASIS OF THE BARGAIN, THAT SPIDR TECH HAS SET ITS FEES IN RELIANCE ON THE ENFORCEABILITY OF THESE PROVISIONS, AND THAT THEY SHALL APPLY NOTWITHSTANDING THAT ANY REMEDY SHALL FAIL ITS ESSENTIAL PURPOSE.

10. Indemnification.

10.1 SPIDR Tech Indemnification. SPIDR Tech shall defend, indemnify and hold harmless Customer and its directors, officers, employees and agents ("**Customer Indemnified Parties**") from and against any third party claims, actions, proceedings, demands, lawsuits, damages, liabilities and expenses (including reasonable attorneys' fees and court costs) (collectively, "**Claims**") to the extent based on any claim that the Service infringes, misappropriates or otherwise violates (collectively, "**Infringes**") any third party intellectual property or proprietary right (excluding patents).

10.2 Customer Indemnification. Customer shall defend, indemnify and hold harmless SPIDR Tech and its directors, officers, employees, agents and providers ("**SPIDR Tech Indemnified Parties**") from and against any Claims to the extent based on any claim that the Customer Data Infringes any third party intellectual property or proprietary right (excluding patents).

10.3 Indemnification Process. As conditions of the indemnification obligations in Sections 10.1-10.2 above: (a) the applicable Customer Indemnified Party or SPIDR Tech Indemnified Party (the "**Indemnitee**") will provide the indemnifying Party (the "**Indemnitor**") with prompt written notice of any Claim for which indemnification is sought (provided that failure to so notify will not remove the Indemnitor's indemnification obligations except to the extent it is prejudiced thereby), (b) the Indemnitee will permit the Indemnitor to control the defense and settlement of such Claim, and (c) the Indemnitee will reasonably cooperate with the Indemnitor in connection with the Indemnitor's evaluation, defense and settlement of such Claim. In defending any Claim, the Indemnitor shall use counsel reasonably satisfactory to the other Party. The Indemnitor shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of the other Party (not unreasonably withheld).

10.4 Exclusions. SPIDR Tech's obligations in Section 10.1 above shall not apply to any Claim to the extent arising from or relating to (a) misuse of the Service (including any use not strictly in accordance with the documentation therefor, SPIDR Tech's instructions, and this Agreement), (b) any modification, alteration or conversion of the Service not created or approved in writing by SPIDR Tech, (c) any combination of the Service with any computer, hardware, software or service not provided by SPIDR Tech, (d) SPIDR Tech's compliance with specifications or other requirements of Customer, or (e) any third party data or Customer Data. If the Service is or may be subject to a Claim of Infringement described in Section 10.1 above, SPIDR Tech may, at its cost and sole discretion: (i) obtain the right for Customer to continue using the Service as contemplated herein; or (ii) replace or modify the Service so that it becomes non-Infringing without substantially compromising its principal functions; or (iii) to the extent the foregoing are not commercially reasonable, terminate this Agreement and return to Customer any pre-paid fees for the Service associated with the then-remaining Term. SPIDR Tech's obligations in this Section 10 shall be SPIDR Tech's sole obligations, and Customer's sole remedies, in the event of any Infringement of intellectual property or proprietary rights by or related to the Service.

11. Confidentiality.

11.1 Definition. "**Confidential Information**" means information that is disclosed by either Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**") hereunder during the Term that is clearly labeled or identified as confidential or proprietary when disclosed, or that, under the circumstances, should reasonably be treated as confidential, except that "Confidential Information" shall not include any information that (a) is or becomes generally known to the public through no fault of, or breach of this Agreement by, the Receiving Party; (b) is rightfully in the Receiving Party's possession at the time of disclosure without an obligation of confidentiality; (c) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (d) is rightfully obtained by the Receiving Party from a third party without restriction on use or disclosure. In addition, (i) the terms and conditions of this Agreement shall be deemed to be Confidential Information of both Parties; and (ii) the Service and SPIDR Tech Technology shall be deemed Confidential Information of SPIDR Tech, regardless of whether or not they are labeled or identified, or would reasonably be considered confidential.

11.2 General Obligations. Each Party agrees that it will during the Term and thereafter (a) not disclose the other Party's Confidential Information to any third party (other than as permitted in the last sentence of this paragraph); (b) use the other Party's Confidential Information only to the extent reasonably necessary to perform its obligations or exercise its rights under this Agreement; (c) disclose the other Party's Confidential Information only to those of its employees and independent contractors who reasonably need to know such information for purposes of this Agreement and who are bound by confidentiality obligations offering substantially similar protection to those in this Section 11; and (d) protect all Confidential Information of the other Party from unauthorized use, access, or disclosure in the same manner as it protects its own confidential information of a similar nature, and in no event with less than reasonable care. Notwithstanding the above, this paragraph shall not prohibit: (i) a Party from disclosing Confidential Information of the other Party to the extent required by applicable law, rule or regulation (including a court order or other government order) or the rules and regulations of the SEC or any national securities exchange; provided that such Party provides the other Party prior written notice of such disclosure, to the extent practicable, and reasonably cooperates with efforts of the other Party to seek confidential treatment thereof, to the extent such cooperation is requested by the other Party; or (ii) a Party from disclosing the terms and conditions of this Agreement to its attorneys and financial advisors, or current or potential lenders, or other sources of financing, investors or acquirors; provided that such third parties are bound by confidentiality obligations offering substantially similar protection to those in this Section 11 (provided further that such third parties are only permitted to use such information for the purpose of advising, lending or providing financing to, or investing in or acquiring, such Party, as applicable).

11.3 Return or Destruction. Except as otherwise expressly provided in this Agreement, the Receiving Party will return to the Disclosing Party, or destroy or erase, the Disclosing Party's Confidential Information in tangible form, upon the termination of this Agreement; provided that (a)

receiving Party may retain a copy of Disclosing Party's Confidential Information solely for the purposes of tracking receiving Party's rights and obligations hereunder with respect thereto, (b) Receiving Party may retain copies of Disclosing Party's Confidential Information solely to the extent required by law or by applicable professional standards which require such Party to retain copies of its working papers, and (c) Receiving Party may retain Disclosing Party's Confidential Information solely to the extent reasonably necessary for Receiving Party to exercise rights or perform obligations under this Agreement that survive such termination.

11.4 Feedback. Notwithstanding the above or anything to the contrary herein, to the extent that Customer at any time provides SPIDR Tech with any feedback or suggestions regarding the Service, including potential improvements or changes thereto (collectively, "Feedback"), the Feedback shall not be considered Confidential Information of Customer, and SPIDR Tech shall be free to use, disclose, and otherwise exploit in any manner, the Feedback for any purpose.

12. Miscellaneous.

12.1 Compliance with Laws. Each Party shall comply with all laws, rules, regulations and ordinances applicable to its activities hereunder.

12.2 Hosting Providers. Customer acknowledges that the Service is hosted by third party hosting providers (the "Hosting Contractors"). SPIDR Tech may change its Hosting Contractors at any time. Customer's use of the Service is subject to any applicable restrictions imposed by the Hosting Contractors. Notwithstanding any other provision of this Agreement, SPIDR Tech shall not be liable for any problems, failures, defects or errors with the Service to the extent caused by the Hosting Contractors. Customer acknowledges that the fees payable for the Service reflect the fact that SPIDR Tech is not responsible for the acts and omissions of the Hosting Contractors.

12.3 Assignment. Customer may not assign this Agreement, or assign any of its rights or delegate any of its obligations under this Agreement, without the prior written consent of SPIDR Tech. SPIDR Tech may freely assign this Agreement, or assign any of its rights or delegate any of its obligations under this Agreement. Any purported assignment or delegation in violation of this paragraph is null and void. This Agreement will bind and inure to the benefit of each Party's successor and permitted assigns.

12.4 Entire Agreement; Amendment. This Agreement (including the Sales Proposal attached hereto) contains the complete understanding and agreement of the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, oral or written, with respect thereto. No pre-printed terms on any purchase order, invoice or similar document issued in relation to this Agreement shall have any effect on the Parties or this Agreement. This Agreement may be amended or modified only by an express written agreement signed by duly authorized representatives of both Parties.

12.5 Notices. Unless otherwise specifically provided herein, all notices required or permitted by this Agreement shall be in writing and may be delivered personally, or may be sent by facsimile, overnight delivery or certified mail, return receipt requested, to the addresses provided in the Sales Proposal.

12.6 Force Majeure. SPIDR Tech shall not be liable or responsible to Customer, nor be considered to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any provision of this Agreement to the extent such failure or delay is caused by or results from any act, circumstance or other cause beyond the reasonable control of SPIDR Tech, including acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable technology or components, telecommunication breakdown, or power outage.

12.7 Publicity. SPIDR Tech shall have the right to use Customer's name and logo on client lists published on SPIDR Tech's website and in marketing materials. SPIDR Tech may announce the relationship hereunder in a press release provided that SPIDR Tech obtains Customer's prior approval of the wording of the release (not to be unreasonably withheld).

12.8 Choice of Law. This Agreement is and will be governed by and construed under the laws of Washington, USA, without giving effect to any conflicts of laws provision thereof or of any other jurisdiction that would produce a contrary result. The Parties hereby consent to the jurisdiction of any federal or state court located in the state of Washington for any claim or other proceeding related to this Agreement or their activities hereunder, and waive any objections of improper venue or inconvenient forum.

12.9 Injunctive Relief. Each Party acknowledges that its breach of any intellectual property or confidentiality obligations or restrictions herein (including any limitations or restrictions on use of the Service) will cause substantial harm to the other Party that could not be remedied by payment of damages alone. Accordingly, the other Party will be entitled to seek preliminary, temporary and permanent injunctive relief, and other equitable relief, for any such breach, without any requirement to post bond, in any court of competent jurisdiction.

12.10 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise or employment relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

12.11 Waiver. No waiver by either Party of any of the provision of this Agreement is effective unless explicitly set forth in writing and signed by such Party. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

12.12 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or invalidate or render unenforceable such provision in any other jurisdiction.

12.13 Headings; Interpretation. Headings are provided for convenience only and will not be used to interpret the substance of this Agreement. Unless the intent is expressly otherwise in specific instances, use of the words "include," "includes," or "including" in this Agreement shall not be limiting and "or" shall not be exclusive.

12.14 Counterparts. This Agreement may be executed in two counterparts (which may be delivered by .pdf or other facsimile format acceptable to the Parties), each of which shall be an original and both of which taken together shall form one agreement.



TUKWILA POLICE DEPARTMENT

Quarterly Business Review

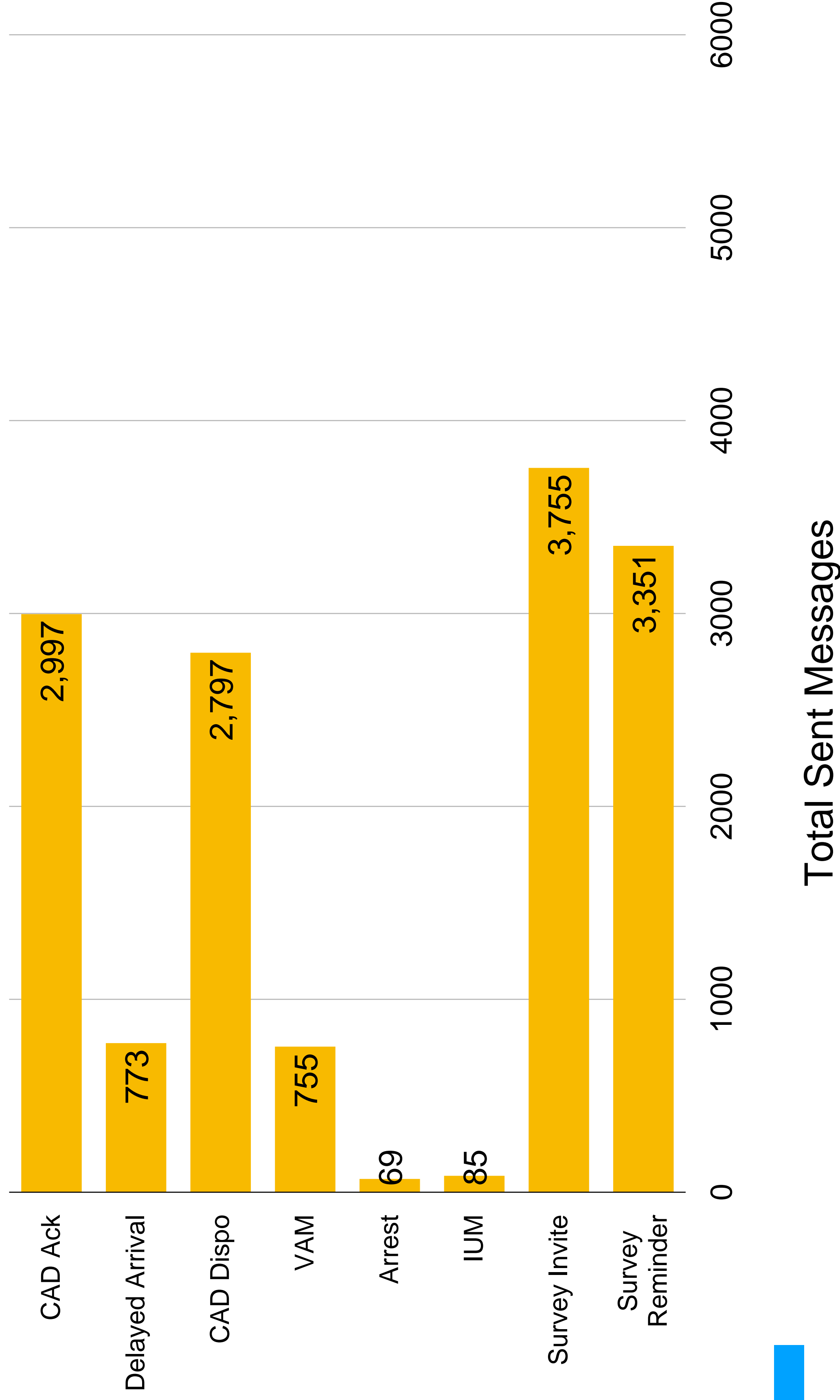
Q3-2023

Prepared By:
Tom Marin, Partner Success Manager
Tom.Marin@versaterm.com

Summary

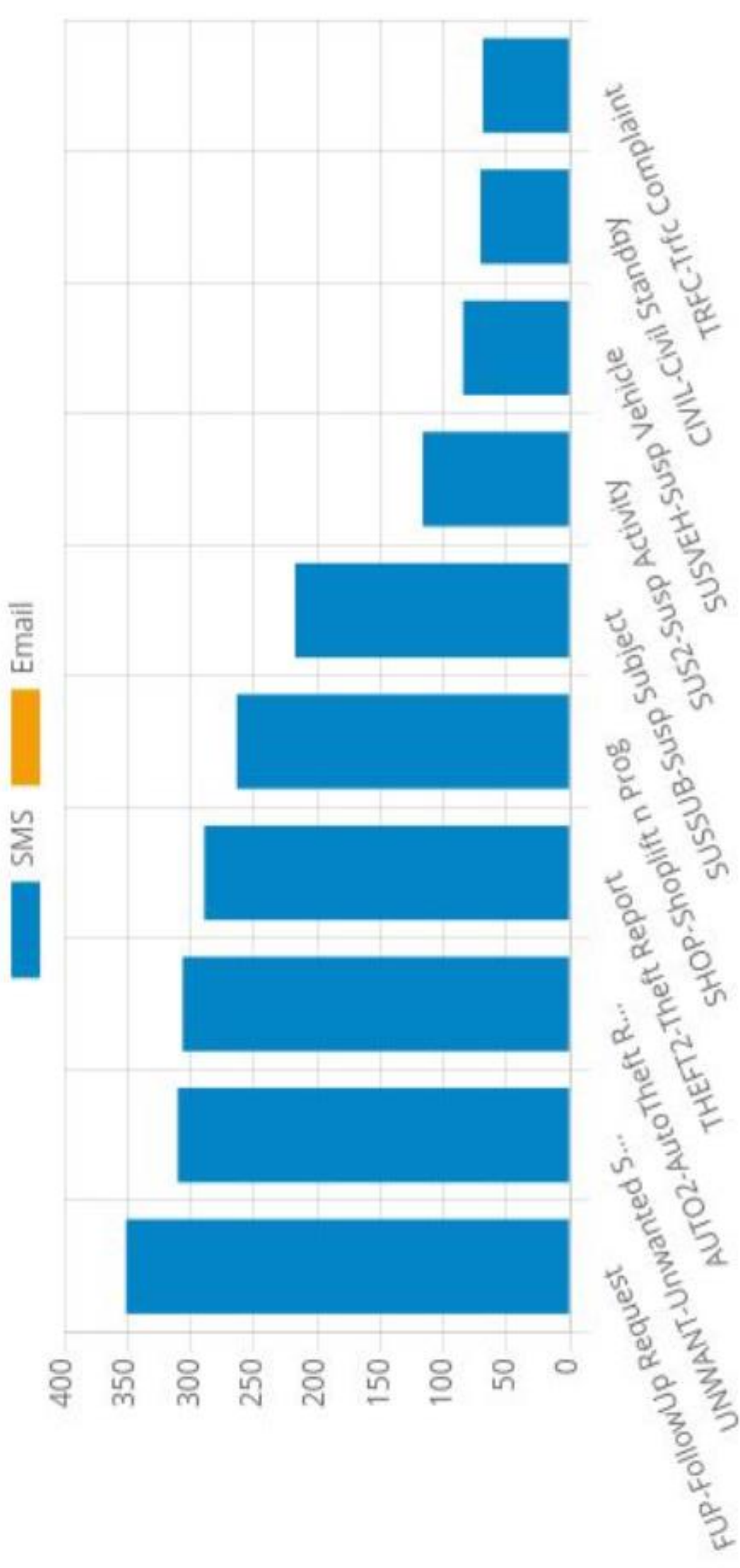


The Tukwila Police Department sent a total of 14,582 messages from the period of July 1st, 2023, through September 30th, 2023.



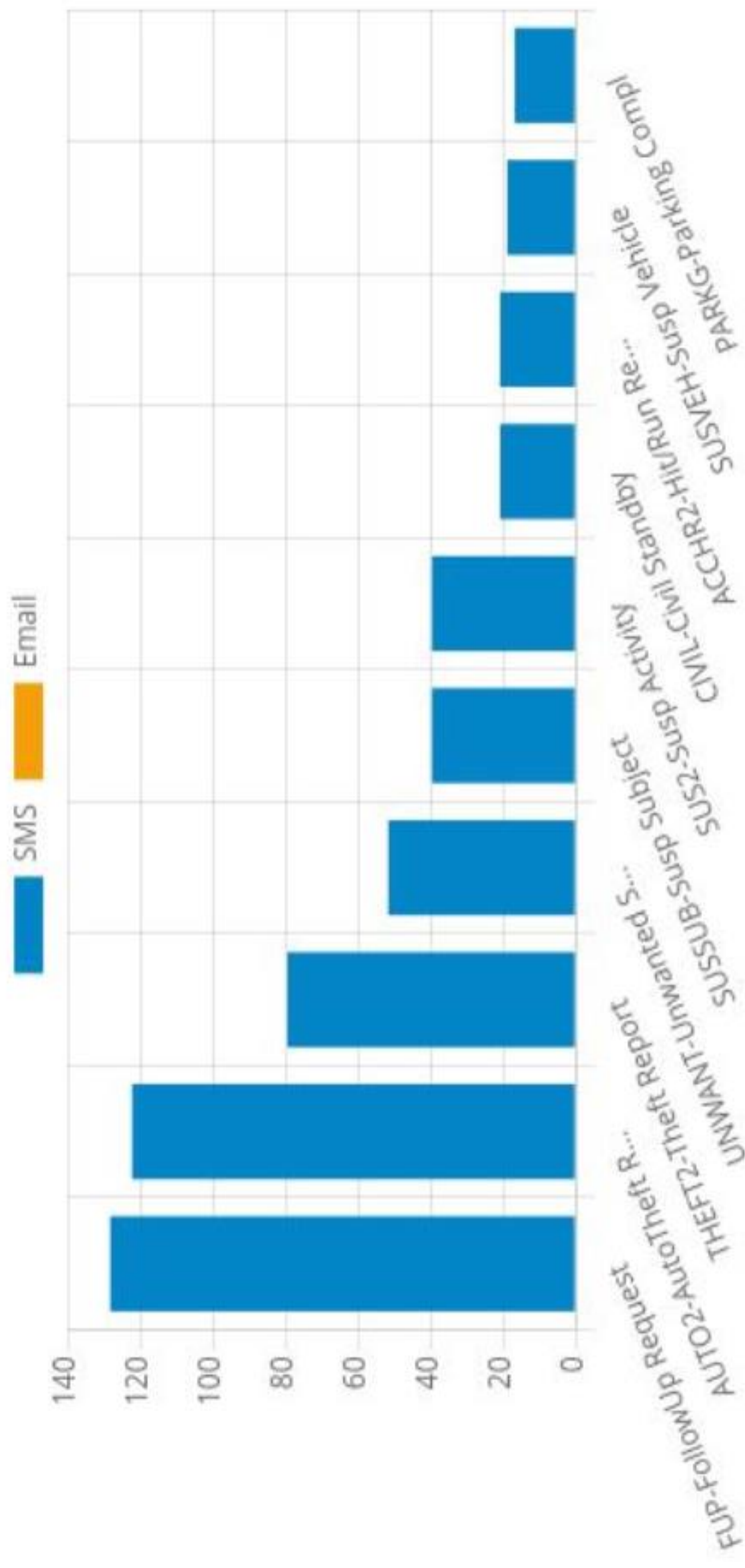
The top sent
CAD
Acknowledgement
Messages are broken
down by crime
category. This is how
many were sent per
category.

TOP CATEGORIES - SENT MESSAGES (CAD)



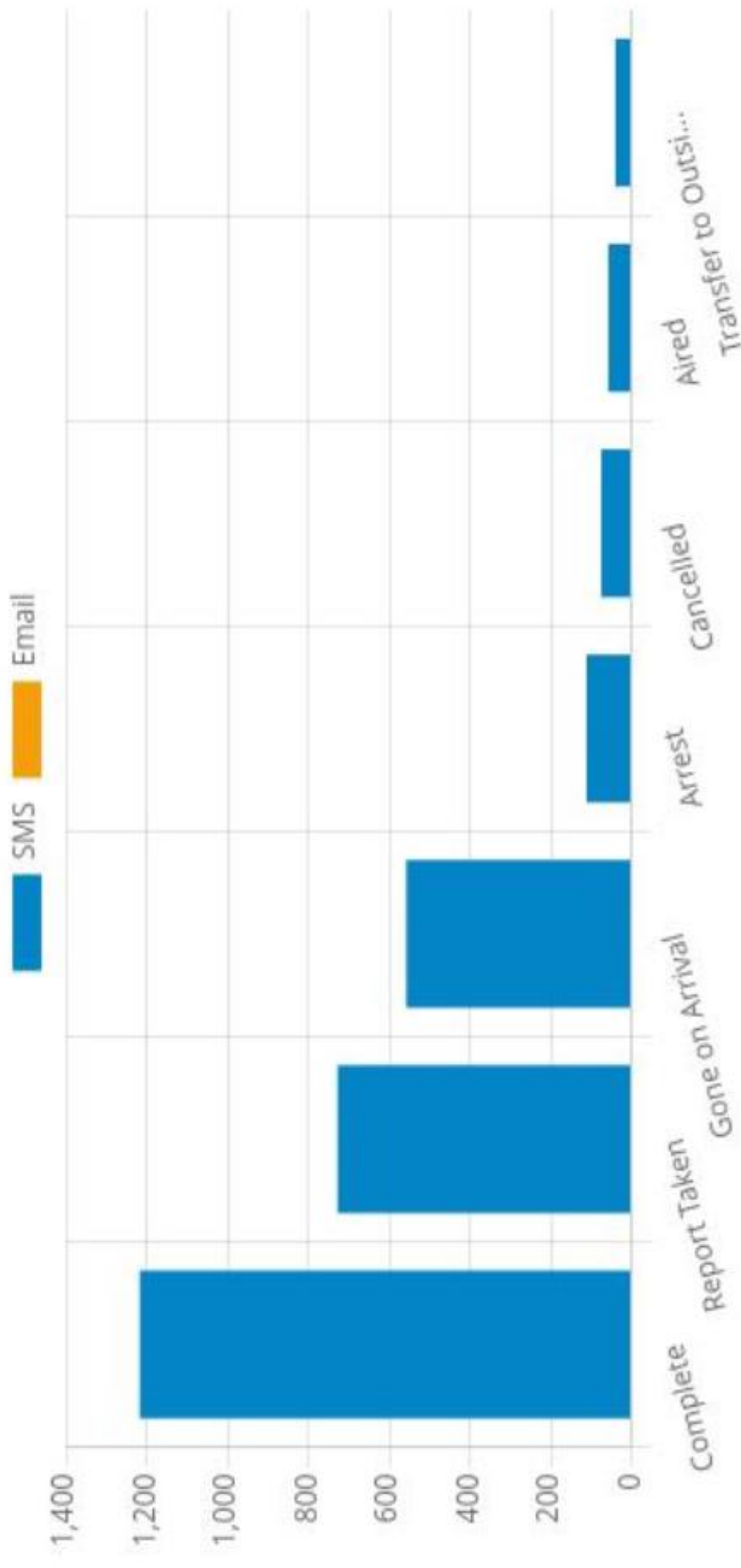
The top sent **CAD Delayed Arrival Messages** are broken down by crime category. This is how many were sent per category.

TOP CATEGORIES - SENT MESSAGES (DAM)

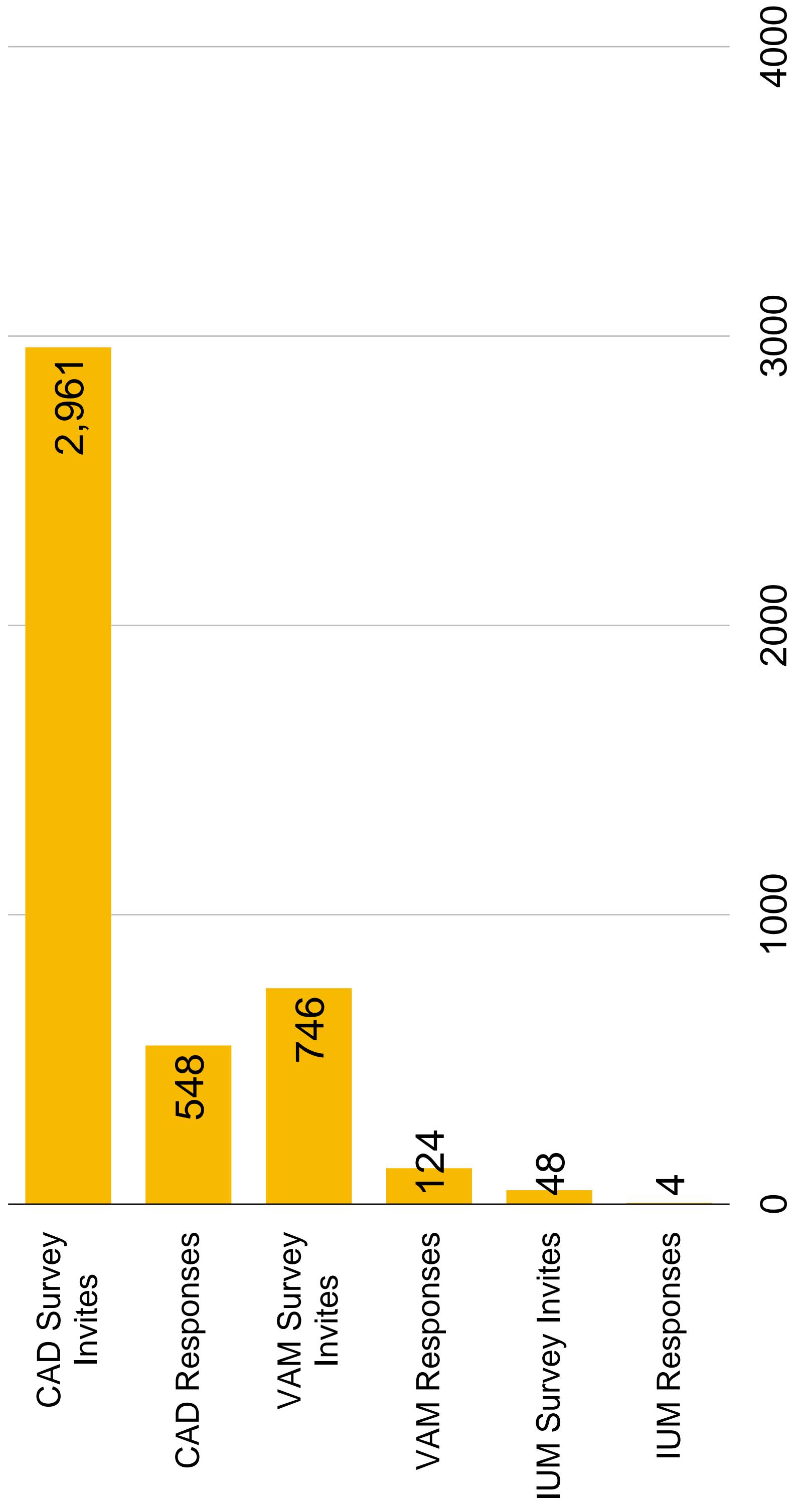


The top sent **CAD Disposition Messages** are broken down by crime category. This is how many were sent per category.

TOP CATEGORIES - SENT MESSAGES (CDM)



Total Survey Messages



Completion Rate

| | |
|-----|-------|
| CAD | 18.5% |
| VAM | 16.6% |
| IUM | 8.3% |



Summary of **Top 3 Base Metrics** for the quarter from your CAD survey.

Quarter Score Average



| What was the nature of your contact? | |
|--------------------------------------|-----|
| Emergency | 77% |
| Non-Emergency | 23% |

| Did you interact with a Tukwila Police Officer? | |
|---|-----|
| Yes | 62% |
| No | 38% |

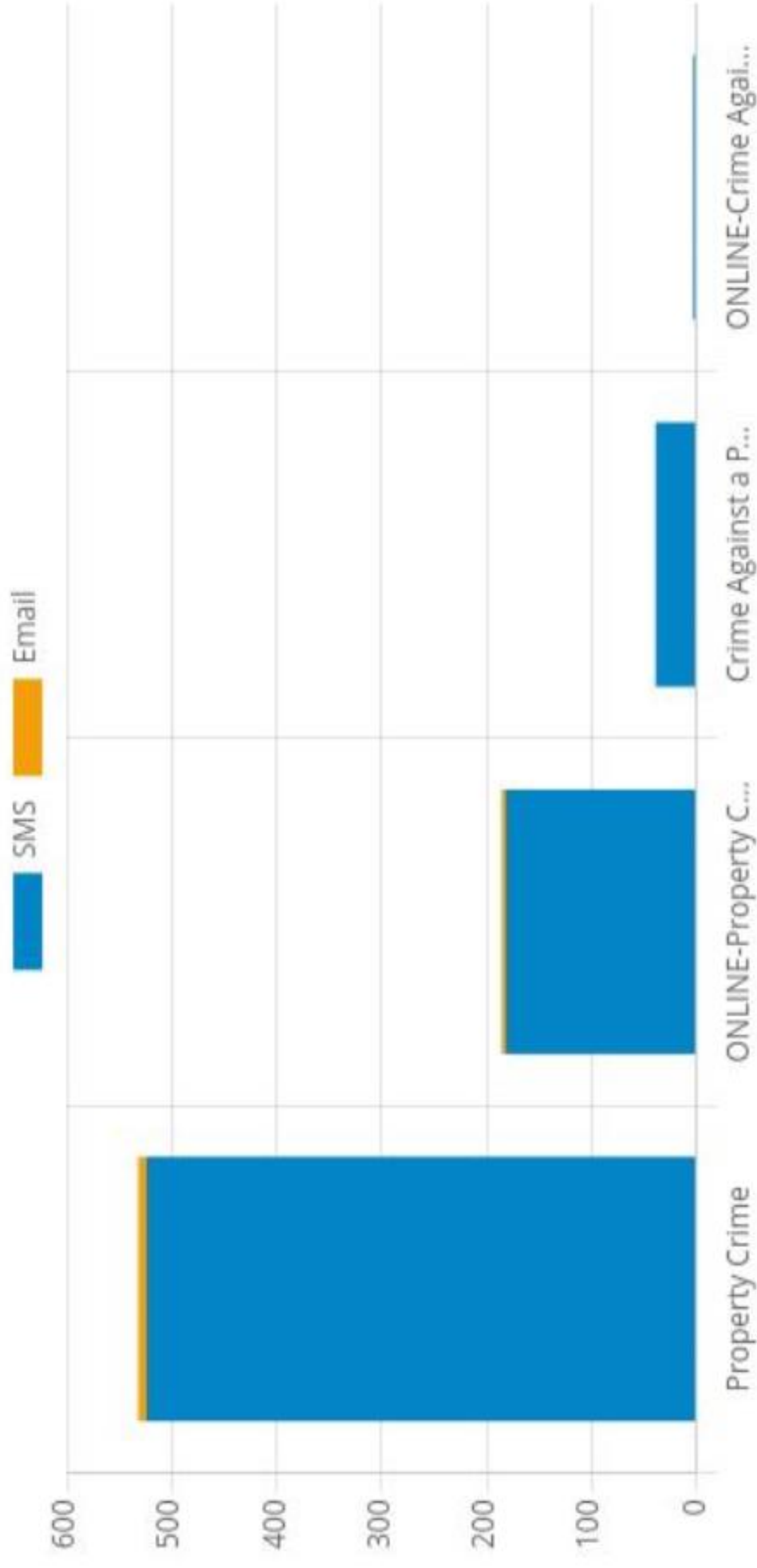
| If given the option, would you have preferred to file your report online? | |
|---|-----|
| Yes | 12% |
| No | 88% |

| Did you find the electronic correspondence sent by the Tukwila Police Department helpful? | |
|---|-----|
| Yes | 84% |
| No | 12% |

All Victim Acknowledgement Messages are broken down by crime category. This is how many were sent per category.

Sent VAM Messages by Status Update

TOP CATEGORIES - SENT MESSAGES (VAM)



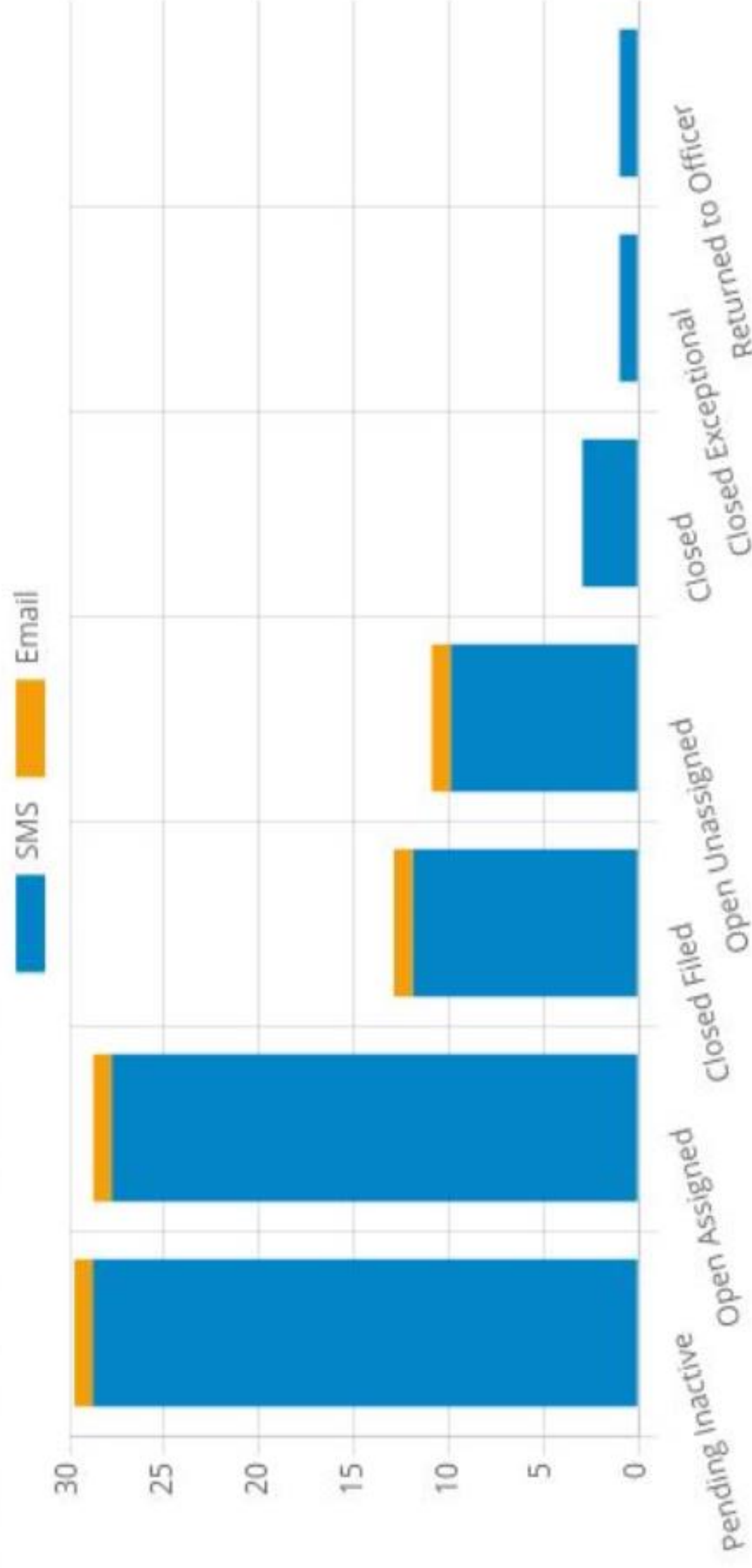
Sent IUM Messages by Status Update



All Investigation Update Messages are broken down by status. This is how many were sent per category.



TOP CATEGORIES - SENT MESSAGES (IUM)





INFORMATIONAL MEMORANDUM

TO: **Community Services and Safety Committee**

FROM: **Pete Mayer, Parks and Recreation Director**

BY: **Mike Perfetti, Public Works, Surface Water Sr. Program Manager**

CC: **Thomas McLeod, Mayor**
Marty Wine, Interim City Administrator

DATE: **February 9, 2024**

SUBJECT: **Duwamish Hill Preserve - Proposed Property Acquisitions**

ISSUE

Authorize the Assignment of a Purchase and Sale Agreement (PSA) from Forterra to the City of Tukwila and acquire ownership of parcels 1023049072 and 3351400005 per the terms of the PSA to expand the Duwamish Hill Preserve.

BACKGROUND

In 2004, Forterra (formerly Cascade Land Conservancy) and the City, in partnership with Friends of the Hill, purchased what is now the 10.5-acre Duwamish Hill Preserve. In the original park masterplan, the City identified the two subject parcels to be potentially acquired and incorporated into the park. The programming for the parcels has yet to be determined but could be used in relation to the Public Works' *Duwamish Hill Preserve Phase 3 CIP*, aimed at restoring the shoreline and providing expanded and improved public access to the river.

DISCUSSION

In 2022, Forterra and Tukwila were awarded a \$365,000 Conservation Futures Tax (CFT) program award to acquire the subject two parcels, which were listed for sale at the time the application was submitted, but subsequently sold to another buyer. The subject properties were again listed on the open market in November 2023, and on February 2, 2024, Forterra and the seller signed a Purchase and Sale Agreement for the appraised value of \$450,000. The offer has a 45-day contingency period to accommodate a 3rd party appraisal review and environmental assessment. The scheduled closing date is March 18, 2024.

FINANCIAL IMPACT

The CFT no-match grant award approval will be put forward before the Transportation and Infrastructure Committee on February 26th and Regular Council on March 4th, along with CFT funding for the PW CIP, *Nelsen Side Channel Project*. On January 18th, the Conservation Futures Advisory Committee approved a supplemental funding request of \$220,000, which needs to be formally approved by King County Council and will likely become available in the third quarter of 2024.

| | | CFT funds to be deposited into escrow | City funds to be deposited into escrow and reimbursed by CFT later in 2024 |
|---|------------------|---------------------------------------|--|
| Purchase and Sale | \$455,000 | | |
| Appraisal, Forterra staff time | \$10,000 | | |
| Estimated funds needed to close (incl. contingency) | \$25,000 | | |
| Total estimated cost | \$490,000 | \$365,000 | \$125,000 |

RECOMMENDATION

The Committee is being asked to recommend that the Council: (1) authorize \$125,000 to purchase the two properties to expand the Duwamish Hill Preserve, to be reimbursed at a later date; (2) authorize signing the assignment of the Purchase and Sale Agreement from Forterra to the City and assume all the terms and ownership of the two properties, and to forward this recommendation to the February 26 Committee of the Whole meeting for discussion and subsequent March 4 Regular Meeting for approval.

ATTACHMENTS

Purchase and Sale Agreement
Duwamish Hill Preserve CIP Page

VACANT LAND PURCHASE AND SALE AGREEMENT
General Terms

- a. **Purchase Price.** Buyer shall pay to Seller the Purchase Price, including the Earnest Money, in cash at Closing, unless otherwise specified in this Agreement. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement and is not relying on any contingent source of funds, including funds from loans, the sale of other property, gifts, retirement, or future earnings, except to the extent otherwise specified in this Agreement. The parties shall use caution when wiring funds to avoid potential wire fraud. Before wiring funds, the party wiring funds shall take steps to confirm any wire instructions via an independently verified phone number and other appropriate measures.
- b. **Earnest Money.** Buyer shall deliver the Earnest Money by the Delivery Date listed in Specific Term No. 6 (2 days after mutual acceptance if not filled in) to the party holding the Earnest Money (Buyer Brokerage Firm or Closing Agent). If sent by mail, the Earnest Money must arrive at Buyer Brokerage Firm or Closing Agent by the Delivery Date. If the Earnest Money is held by Buyer Brokerage Firm and is over \$10,000.00 it shall be deposited into an interest bearing trust account in Buyer Brokerage Firm's name provided that Buyer completes an IRS Form W-9. Interest, if any, after deduction of bank charges and fees, will be paid to Buyer. Buyer shall reimburse Buyer Brokerage Firm for bank charges and fees in excess of the interest earned, if any. If the Earnest Money held by Buyer Brokerage Firm is over \$10,000.00 Buyer has the option to require Buyer Brokerage Firm to deposit the Earnest Money into the Housing Trust Fund Account, with the interest paid to the State Treasurer, if both Seller and Buyer so agree in writing. If Buyer does not complete an IRS Form W-9 before Buyer Brokerage Firm must deposit the Earnest Money or the Earnest Money is \$10,000.00 or less, the Earnest Money shall be deposited into the Housing Trust Fund Account. Buyer Brokerage Firm may transfer the Earnest Money to Closing Agent at Closing. If all or part of the Earnest Money is to be refunded to Buyer and any such costs remain unpaid, the Buyer Brokerage Firm or Closing Agent may deduct and pay them therefrom. The parties instruct Closing Agent to provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Brokers at the addresses and/or fax numbers provided herein.

Upon termination of this Agreement, a party or the Closing Agent may deliver a form authorizing the release of Earnest Money to the other party or the parties. The party(s) shall execute such form and deliver the same to the Closing Agent. If either party fails to execute the release form, a party may make a written demand to the Closing Agent for the Earnest Money. Pursuant to RCW 64.04.220, Closing Agent shall deliver notice of the demand to the other party within 15 days. If the other party does not object to the demand within 20 days of Closing Agent's notice, Closing Agent shall disburse the Earnest Money to the party making the demand within 10 days of the expiration of the 20 day period. If Closing Agent timely receives an objection or an inconsistent demand from the other party, Closing Agent shall commence an interpleader action within 60 days of such objection or inconsistent demand, unless the parties provide subsequent consistent instructions to Closing Agent to disburse the earnest money or refrain from commencing an interpleader action for a specified period of time. Pursuant to RCW 4.28.080, the parties consent to service of the summons and complaint for an interpleader action by first class mail, postage prepaid at the party's usual mailing address or the address identified in this Agreement. If the Closing Agent complies with the preceding process, each party shall be deemed to have released Closing Agent from any and all claims or liability related to the disbursement of the Earnest Money. If either party fails to authorize the release of the Earnest Money to the other party when required to do so under this Agreement, that party shall be in breach of this Agreement. For the purposes of this section, the term Closing Agent includes a Buyer Brokerage Firm holding the Earnest Money. The parties authorize the party commencing an interpleader action to deduct up to \$750.00 for the costs thereof. The parties acknowledge that RCW 64.04.220 requires the court to award the Closing Agent its reasonable attorneys' fees and costs associated with an interpleader action.

- c. **Condition of Title.** Unless otherwise specified in this Agreement, title to the Property shall be marketable at Closing. ~~The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions and restrictions, presently of record and general to the area; easements and encroachments, not materially affecting the value of or unduly interfering with Buyer's reasonable use of the Property; and reserved oil and/or mining rights.~~ Seller shall not convey or reserve any oil and/or mineral rights after mutual acceptance without Buyer's written consent. Monetary encumbrances or liens not assumed by Buyer, shall be paid or discharged by Seller on or before Closing. Title shall be conveyed by a Statutory Warranty Deed. If this Agreement is for conveyance of a buyer's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a buyer's assignment of the contract sufficient to convey after acquired title. If the Property has been short platted, the Short Plat number is in the Legal Description.
- d. ~~**Title Insurance.** Seller authorizes Buyer's lender or Closing Agent, at Seller's expense, to apply for the then current ALTA form of standard form owner's policy of title insurance from the Title Insurance Company. If Seller previously received a preliminary commitment from a Title Insurance Company that Buyer declines to use, Buyer shall pay any cancellation fees owing to the original Title Insurance Company. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. The Title Insurance Company shall send a copy of the preliminary commitment to Seller, Listing Broker, Buyer and Buyer Broker. The preliminary commitment, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in said standard form and Special Exceptions consistent with the Condition of Title herein provided. If title cannot be made so insurable prior~~

| | | | | | | | |
|------------------|----------|------------------|----------|-------------------|------|-------------------|------|
| MC | 2/5/2024 | 79 | 02/02/24 | | | | |
| Buyer's Initials | Date | Buyer's Initials | Date | Seller's Initials | Date | Seller's Initials | Date |

VACANT LAND PURCHASE AND SALE AGREEMENT
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~~to the Closing Date, then as Buyer's sole and exclusive remedy, the Earnest Money shall, unless Buyer elects to waive such defects or encumbrances, be refunded to Buyer, less any unpaid costs described in this Agreement, and this Agreement shall thereupon be terminated. Buyer shall have no right to specific performance or damages as a consequence of Seller's inability to provide insurable title.~~

e. Closing and Possession. This sale shall be closed by the Closing Agent on the Closing Date. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. If the Closing Date falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, the Closing Agent shall close the transaction on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. Buyer shall be entitled to possession at 9:00 p.m. on the Possession Date. Seller shall maintain the Property in its present condition, normal wear and tear excepted, until Buyer is provided possession. Buyer reserves the right to walk through the Property within 5 days of Closing to verify that Seller has maintained the Property as required by this paragraph. Seller shall not enter into or modify existing leases or rental agreements, 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.

f. 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 shall 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 the Assignment paragraph of this Agreement, 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.

g. Closing Costs and Prorations and Charges and Assessments. Seller and Buyer shall each pay one-half of the escrow fee unless otherwise required by applicable FHA or VA regulations. Taxes for the current year, rent, interest, and lienable homeowner's association dues shall be prorated as of Closing. Buyer shall pay Buyer's loan costs, including credit report, appraisal charge and lender's title insurance, unless provided otherwise in this Agreement. If any payments are delinquent on encumbrances which will remain after Closing, Closing Agent is instructed to pay such delinquencies at Closing from money due, or to be paid by, Seller. Buyer shall pay for remaining fuel in the fuel tank if, prior to Closing, Seller obtains a written statement from the supplier as to the quantity and current price and provides such statement to the Closing Agent. Seller shall pay all utility charges, including unbilled charges. Unless waived in Specific Term No. 11, Seller and Buyer request the services of Closing Agent in disbursing funds necessary to satisfy unpaid utility charges in accordance with RCW 60.80 and Seller shall provide the names and addresses of all utilities providing service to the Property and having lien rights (attach NWMLS Form 22K Identification of Utilities or equivalent).

Buyer is advised to verify the existence and amount of any local improvement district, capacity or impact charges or other assessments that may be charged against the Property before or after Closing. Seller will pay such charges that are or become due on or before Closing. Charges levied before Closing, but becoming due after Closing shall be paid as agreed in Specific Term No.12.

h. Sale Information. Listing Broker and Buyer Broker are authorized to report this Agreement (including price and all terms) to the Multiple Listing Service that published it and to its members, financing institutions, appraisers, and anyone else related to this sale. Buyer and Seller expressly authorize all Closing Agents, appraisers, title insurance companies, and others related to this Sale, to furnish the Listing Broker and/or Buyer Broker, on request, any and all information and copies of documents concerning this sale.

i. Seller Citizenship and FIRPTA. Seller warrants that the identification of Seller's citizenship status for purposes of U.S. income taxation in Specific Term No. 13 is correct. Seller shall execute a certification (NWMLS Form 22E or equivalent) under the Foreign Investment In Real Property Tax Act ("FIRPTA") and provide the certification to the Closing Agent within 10 days of mutual acceptance. If Seller is a foreign person for purposes of U.S. income taxation, 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. Seller shall pay any fees incurred by Buyer related to such withholding and payment.

If Seller fails to provide the FIRPTA certification to the Closing Agent within 10 days of mutual acceptance, Buyer may give notice that Buyer may terminate the Agreement at any time 3 days thereafter (the "Right to Terminate Notice"). If Seller has not earlier provided the FIRPTA certification to the Closing Agent, Buyer may give notice of termination of this Agreement (the "Termination Notice") any time following 3 days after delivery of the Right to Terminate Notice. If Buyer gives the Termination Notice before Seller provides the FIRPTA certification to the Closing Agent, this Agreement is terminated and the Earnest Money shall be refunded to Buyer.

MC 2/5/2024 79 02/02/24

Buyer's Initials Date Buyer's Initials Date Seller's Initials Date Seller's Initials Date

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j. Notices and Delivery of Documents. Any notice related to this Agreement (including revocations of offers or counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and shall be deemed delivered only when the notice is received by Seller, by Listing Broker, or at the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and shall be deemed delivered only when the notice is received by Buyer, by Buyer Broker, or at the licensed office of Buyer Broker. Documents related to this Agreement, such as NWMLS Form 17C, Information on Lead-Based Paint and Lead-Based Paint Hazards, Public Offering Statement or Resale Certificate, and all other documents shall be delivered pursuant to this paragraph. Buyer and Seller must keep Buyer Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice.

Facsimile transmission of any notice or document shall constitute delivery. E-mail transmission of any notice or document (or a direct link to such notice or document) shall constitute delivery when: (i) the e-mail is sent to both Buyer Broker and Buyer Brokerage Firm or both Listing Broker and Listing Brokerage Firm at the e-mail addresses specified on page one of this Agreement; (ii) Buyer Broker or Listing Broker provide written acknowledgment of receipt of the e-mail (an automatic e-mail reply does not constitute written acknowledgment); or (iii) if a party is unrepresented, the e-mail is sent directly to the party's e-mail address specified on page one of this Agreement. At the request of either party, or the Closing Agent, the parties will confirm facsimile or e-mail transmitted signatures by signing an original document.

k. Computation of Time. Unless otherwise specified in this Agreement, any period of time measured in days and stated in this Agreement shall start on the day following the event commencing the period and shall expire at 9:00 p.m. of the last calendar day of the specified period of time. Except for the Possession Date, if the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of 5 days or less, except for any time period relating to the Possession Date, shall not include Saturdays, Sundays or legal holidays. If the parties agree that an event will occur on a specific calendar date, the event shall occur on that date, except for the Closing Date, which, if it falls on a Saturday, Sunday, legal holiday as defined in RCW 1.16.050, or day when the county recording office is closed, shall occur on the next day that is not a Saturday, Sunday, legal holiday, or day when the county recording office is closed. When counting backwards from Closing, any period of time measured in days shall start on the day prior to Closing and if the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, the specified period of time shall expire on the next day, moving forward, that is not a Saturday, Sunday or legal holiday (e.g. Monday or Tuesday). If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached. Time is of the essence of this Agreement.

l. Integration and Electronic Signatures. This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Buyer and Seller. The parties acknowledge that a signature in electronic form has the same legal effect and validity as a handwritten signature.

m. Assignment. Buyer may not assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless the parties indicate that assignment is permitted by the addition of "and/or assigns" on the line identifying the Buyer on the first page of this Agreement.

n. Default. In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the following provision, as identified in Specific Term No. 7, shall apply:

i. Forfeiture of Earnest Money. That portion of the Earnest Money that does not exceed five percent (5%) of the Purchase Price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure.

ii. Seller's Election of Remedies. Seller may, at Seller's option, (a) keep the Earnest Money as liquidated damages 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.

o. Professional Advice and Attorneys' Fees. Buyer and Seller are advised to seek the counsel of an attorney and a certified public accountant to review the terms of this Agreement. Buyer and Seller shall pay their own fees incurred for such review. However, if Buyer or Seller institutes suit against the other concerning this Agreement, or if the party holding the Earnest Money commences an interpleader action, the prevailing party is entitled to reasonable attorneys' fees and expenses.

p. Offer. This offer must be accepted by 9:00 p.m. on the Offer Expiration Date, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the other party, by the other party's broker, or at the licensed

ML 2/5/2024

Buyer's Initials Date

Buyer's Initials Date

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Seller's Initials Date

Seller's Initials Date

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office of the other party’s broker pursuant to General Term j. If this offer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 162
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q. Counteroffer. Any change in the terms presented in an offer or counteroffer, other than the insertion of or change to Seller’s name and Seller’s warranty of citizenship status, shall be considered a counteroffer. If a party makes a counteroffer, then the other party shall have until 9:00 p.m. on the counteroffer expiration date to accept that counteroffer, unless sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the other party, the other party’s broker, or at the licensed office of the other party’s broker pursuant to General Term j. If the counteroffer is not so accepted, it shall lapse and any Earnest Money shall be refunded to Buyer. 164
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r. Offer and Counteroffer Expiration Date. If no expiration date is specified for an offer/counteroffer, the offer/counteroffer shall expire 2 days after the offer/counteroffer is delivered by the party making the offer/counteroffer, unless sooner withdrawn. 170
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s. Agency Disclosure. Buyer Brokerage Firm, Buyer Brokerage Firm’s Designated Broker, Buyer Broker’s Branch Manager (if any) and Buyer Broker’s Managing Broker (if any) represent the same party that Buyer Broker represents. Listing Brokerage Firm, Listing Brokerage 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. All parties acknowledge receipt of the pamphlet entitled “Real Estate Brokerage in Washington.” 173
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t. Brokerage Firm Compensation. Seller and Buyer shall pay compensation in accordance with any listing or compensation agreement to which they are a party. The Listing Brokerage Firm’s compensation shall be paid as specified in the listing agreement. The Buyer Brokerage Firm’s compensation offered in the listing shall be paid by Seller as set forth in this Agreement or any Addendum hereto. The compensation offered to the Buyer Brokerage Firm, if any, is set forth in Specific Term No. 18, and if there is any inconsistency between the Buyer Brokerage Firm’s compensation offered in the listing and the description of the offered compensation stated in Specific Term No. 18, the terms of the listing shall control. Seller and Buyer hereby consent to Listing Brokerage Firm or Buyer Brokerage Firm receiving compensation from more than one party and to the sharing of compensation between firms. Seller and Buyer hereby assign to Listing Brokerage Firm and Buyer Brokerage Firm, as applicable, a portion of their funds in escrow equal to such compensation and irrevocably instruct the Closing Agent to disburse the compensation directly to the Firm(s). In any action by Listing or Buyer Brokerage Firm to enforce this paragraph, the prevailing party is entitled to court costs and reasonable attorneys’ fees. Seller and Buyer agree that the Firms are intended third-party beneficiaries under this Agreement. 178
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u. Subdivision. If the Property must be subdivided, Seller represents that there has been preliminary plat approval for the Property and this Agreement is conditioned on the recording of the final plat containing the Property on or before the date specified in Specific Term No. 14. If the final plat is not recorded by such date, this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 191
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v. Feasibility Contingency. Unless satisfied/waived, Buyer shall have the time period set forth in Specific Term No. 15 to verify the suitability of the Property for Buyer’s intended use, including whether the Property can be platted, developed and/or built on (now or in the future) and what it will cost to do so. Buyer should not rely on any oral statements concerning this made by Seller, Listing Broker or Buyer Broker. Buyer should inquire at the city or county, and water, sewer or other special districts in which the Property is located. Buyer’s inquiry should include, but not be limited to: building or development moratoriums applicable to or being considered for the Property; any special building requirements, including setbacks, height limits or restrictions on where buildings may be constructed on the Property; whether the Property is affected by a flood zone, wetlands, shorelands or other environmentally sensitive areas; road, school, fire and any other growth mitigation or impact fees that must be paid; the procedure and length of time necessary to obtain plat approval and/or a building permit; sufficient water, sewer and utility and any service connection charges; and all other charges that must be paid. Buyer and Buyer’s agents, representatives, consultants, architects and engineers shall have the right, from time to time during and after the feasibility contingency, to enter onto the Property and to conduct any tests or studies that Buyer may need to ascertain the condition and suitability of the Property for Buyer’s intended purpose. Buyer shall restore the Property and all improvements on the Property to the same condition they were in prior to the inspection. Buyer shall be responsible for all damages resulting from any inspection of the Property performed on Buyer’s behalf. Seller shall cooperate with Buyer in obtaining permits or other approvals Buyer may reasonably require for Buyer’s intended use of the Property; provided that Seller shall not be required to incur any liability or expenses in doing so. If Buyer does not give notice of disapproval on or before the time period set forth in Specific Term No. 15, this feasibility contingency shall conclusively be deemed satisfied. If Buyer gives timely notice of disapproval, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. The Feasibility Contingency Addendum (NWMLS Form 35F), if included in the Agreement, supersedes the Feasibility Contingency in Specific Term No. 15 and this General Term v. 195
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| <u>mc</u> | <u>2/5/2024</u> | <u>TP</u> | <u>02/02/24</u> |
| Buyer’s Initials | Date | Seller’s Initials | Date |

VACANT LAND PURCHASE AND SALE AGREEMENT
General Terms

- w. Information Verification Period.** Unless satisfied/waived, Buyer shall have the time period set forth in Specific Term 217
 No.16 (10 days after mutual acceptance if not filled in) to verify all information provided from Seller or Listing Brokerage 218
 Firm related to the Property. This contingency shall be deemed satisfied unless Buyer gives notice identifying the 219
 materially inaccurate information within the time period set forth in Specific Term No. 16. If Buyer gives timely notice 220
 under this section, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer. 221
- x. Property Condition Disclaimer.** Buyer and Seller agree, that except as provided in this Agreement, all representations 222
 and information regarding the Property and the transaction are solely from Seller or Buyer, and not from any Broker. 223
 The parties acknowledge that the Brokers are not responsible for assuring that the parties perform their obligations 224
 under this Agreement and that none of the Brokers has agreed to independently investigate or confirm any matter 225
 related to this transaction except as stated in this Agreement, or in a separate writing signed by such Broker. In 226
 addition, Brokers do not guarantee the value, quality or condition of the Property and some properties may contain 227
 building materials, including siding, roofing, ceiling, insulation, electrical, and plumbing, that have been the subject of 228
 lawsuits and/or governmental inquiry because of possible defects or health hazards. Some properties may have other 229
 defects arising after construction, such as drainage, leakage, pest, rot and mold problems. In addition, some properties 230
 may contain soil or other contamination that is not readily apparent and may be hazardous. Brokers do not have the 231
 expertise to identify or assess defective or hazardous products, materials, or conditions. Buyer is urged to use due 232
 diligence to inspect the Property to Buyer's satisfaction and to retain inspectors qualified to identify the presence of 233
 defective or hazardous materials and conditions and evaluate the Property as there may be defects and hazards that 234
 may only be revealed by careful inspection. Buyer is advised to investigate whether the Property is suitable for Buyer's 235
 intended use and to ensure the water supply is sufficient to meet Buyer's needs. Buyer is advised to investigate the cost 236
 of insurance for the Property, including, but not limited to homeowner's, fire, flood, earthquake, landslide, and other 237
 available coverage. Buyer acknowledges that local ordinances may restrict short term rentals of the Property. Brokers 238
 may assist the parties with locating and selecting third-party service providers, such as inspectors or contractors, but 239
 Brokers cannot guarantee or be responsible for the services provided by those third parties. The parties shall exercise 240
 their own judgment and due diligence regarding third-party service providers. 241
- y. Fair Housing.** Seller and Buyer acknowledge that local, state, and federal fair housing laws prohibit discrimination 242
 based on sex, marital status, sexual orientation, gender identity, race, creed, color, religion, caste, national origin, 243
 citizenship or immigration status, families with children status, familial status, honorably discharged veteran or military 244
 status, the presence of any sensory, mental, or physical disability, or the use of a support or service animal by a person 245
 with a disability. 246

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2/5/2024

Buyer's Initials Date

AuthenticSource

02/02/24

Seller's Initials Date Seller's Initials Date

ADDENDUM/AMENDMENT TO PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated February 1, 2024 between Forterra NW ("Buyer") and TCB Homes LLC ("Seller") concerning 3912 and 3914 S. 115th St., Tukwila, WA 98168.

IT IS HEREBY AGREED AS FOLLOWS:

EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

PARCEL A:

Lot 1 and the West 3 feet of Lot A, Block 20, C.D. Hillman's Meadow Gardens Addition to City of Seattle, Division No. 3, according to the plat thereof recorded in Volume 12 of Plats, page 86, records of King County, WA.

PARCEL B:

That portion of Government Lot 2, Section 10, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at the Southwest corner of Lot 1, Block 20, C.D. HILLMAN'S MEADOW GARDENS ADDITION TO THE CITY OF SEATTLE, DIVISION NO. 3, as per Plat recorded in Volume 12 of Plats, page 86, in King County, Washington; THENCE Northerly along the West line of said Lot 1, a distance of 100 feet, THENCE North 86°15'00" West, a distance of 100 feet; THENCE Southerly to the North right-of-way margin of South 115th Street; THENCE Easterly along said margin, 100 feet, more or less, to said Southwest corner of Lot 1, and the True Point of Beginning; (ALSO KNOWN AS Lot B of King County Lot Line Adjustment No. 985024, recorded under Recording No. 8510170346).


EXHIBIT B: FORM OF EARNEST MONEY NOTE


PROMISSORY NOTE

\$10,000.00

Seattle, Washington
_____, 2024

FOR VALUE RECEIVED, the undersigned promises to pay TCB HOMES LLC ("Seller"), and to deliver such payment to Escrow Holder (upon the terms set forth in the Purchase and Sale Agreement dated February 1, 2024, between Seller and the undersigned as Buyer ("Agreement")), the sum of TEN THOUSAND DOLLARS (\$10,000.00) with no interest thereon,

 2/5/2024
Seller Initials: Date __/__/24
Buyer

 02/02/24
79 Buyer's Initials: Date __/__/24
Seller

payable concurrently with, and only upon, satisfaction of the Feasibility Contingency (as that term is defined in the Agreement).

FORTERRA NW

By: _____
Its: _____

ADDITIONAL PROVISIONS

A. Feasibility Contingency and Earnest Money: in addition to the matters set forth in Paragraph v of the Agreement, Buyer will determine whether sufficient funding is available for acquiring the Property. If Buyer determines that it will require additional time to confirm funding, Buyer may, by notice to Seller given prior to the end of the 45-day period, extend the Feasibility Contingency period by up to an additional 30 days, as specified in the notice. If and when the Feasibility Contingency is satisfied, Buyer shall deliver funds to the Closing Agent in the amount of and in place of the Earnest Money Note, which funds shall then be the Earnest Money.

B. REET: Seller to pay real estate excise tax.

C. Title Matters: Title shall be insurable by a ALTA Owner's Standard Coverage Policy in the amount of the Purchase Price (the "Title Policy"), subject only to the Permitted Exceptions (as defined below). Seller shall satisfy all requirements of the Title Company in connection with issuance of the Title Policy in accordance with the Commitment (as that term is defined below). Within 15 days after mutual acceptance, Seller shall obtain and deliver to Buyer a current title insurance commitment issued by the Title Company, showing title to the Property as vested in Seller and committing to insure such title in Buyer by the issuance of the Title Policy. The commitment (or one or more updates thereto) (collectively, the "Commitment") shall also commit the Title Company to issue such policy endorsements as reasonably required by Buyer. Buyer shall have 15 days after receipt of the Commitment to notify Seller in writing (a "Title Objection Notice") of any objection Buyer in its sole discretion may have to any matter of record shown on the Commitment (the "Title Objections"). General taxes and assessments, but not special assessments, due after Closing, and those matters of record disclosed in the Commitment that Buyer does not disapprove constitute permitted exceptions ("Permitted Exceptions"). Seller shall have five (5) Business Days from its receipt of a Title Objection Notice to notify Buyer in writing whether Seller commits to cause the Title Objections to be removed or insured against at Closing. If Seller does not commit to remove or provide insurance against any Title Objection, Buyer's sole remedy shall be to either:

- a. proceed with this transaction and, subject to any other conditions or requirements provided for in this Agreement, purchase the Property, and any Title Objections that Seller has not committed to remove or insure over shall be considered Permitted Exceptions; or
- b. elect not to proceed to purchase the Property and terminate this Agreement, by giving Seller written notice of such election within 10 days after receiving Seller's response to the Title Objection Notice, in which case this Agreement shall terminate, the Earnest

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MC

____ Seller Initials: Date __/__/24

Buyer

7P

02/02/24
____ Buyer's Initials: Date __/__/24

seller

Money shall be returned to Buyer and neither Seller nor Buyer shall have any further rights or obligations under this Agreement.

Notwithstanding any provision above, the following are not considered Permitted Exceptions and must be removed by Seller at or prior to Closing: (i) liens and security interests securing loans obtained by Seller; (ii) any other monetary liens or security interests; and (iii) all taxes and assessments due and payable for or applicable to any period prior to the Closing.

D. Environmental Matters: Seller represents and warrants to Buyer that it has not, and prior to Closing will have not, used, generated, manufactured, produced, stored, released, discharged or disposed of, on, under, above or about the Property (or off-site of the Property that might affect the Property) or transported to or from the Property, any Hazardous Substance or allowed any other person or entity to do so. Seller has no knowledge, nor has Seller observed any questionable practice or conduct (including with respect to the acts or omissions of any prior owner of the Property) indicating, that any Hazardous Substance has been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or above the Property (or off-site of the Property that might affect the Property) or transported to or from the Property by any entity, firm or person, or from any source whatsoever. The term "Hazardous Substance" includes, without limitation (i) those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", "hazardous wastes" or "solid waste" in any Environmental Law; (ii) petroleum products and petroleum byproducts; (iii) polychlorinated biphenyls; and (iv) chlorinated solvents. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions or hazardous substances.

E. Indemnity: Seller shall pay, protect, defend, indemnify and hold Buyer and its successors and assigns harmless from and against any and all loss, liability, damage and expense suffered or incurred by reason of: (i) the breach of any representation, warranty or agreement of Seller set forth in this Agreement; (ii) the ownership, maintenance, and/or operation of the Property by Seller prior to Closing; or (iii) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of the Seller, its representatives, employees, contractor or suppliers that occurred before Closing. Seller shall defend any claim covered by this indemnity using counsel reasonably acceptable to Buyer.

F. Donation in Lieu of Commission: In lieu of paying 2.5% Buyer broker commission, at Closing, Seller will make a donation to Forterra NW, which is a 501(c)(3) organization, equal to 2.5% of the Purchase Price.

G. Closing Date: The closing date shall be on a date to be agreed by Buyer and Seller but in any event within 30 days after the feasibility contingency is satisfied.

Seller Signature _____

Date: 02/02/24 _____

DocuSigned by:
Michelle Connor
863BE8C6071A4E7...
Buyer Signature _____

Date: 2/5/2024 _____

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Buyer Initials: Date __/__/24
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Seller

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2023 to 2028

PROJECT: Duwamish Hill Preserve Phase III

Project No. 92241203

DESCRIPTION: The park master plan calls for moving a portion of S. 115th Street landward to improve shallow water habitat, water quality and enjoyment of the shoreline.

JUSTIFICATION: This project is described in the Duwamish Hill Preserve Park Master Plan and is listed as Project DUW-63 in the WRIA 9 Salmon Habitat Plan (2021)

STATUS: In 2022, a section of shoreline eroded into the river, creating cracks in the gravel road shoulder. Residents have complained about issues and activities related to vehicles parking along the shoreline.

MAINT. IMPACT: Responses to shoreline erosion, roadway shoulder maintenance and clean-up are expected to decrease. Some passive park and roadway element improvements may be expected to increase maintenance (TBD).

COMMENT: Consideration being given to omitting parking along the shoreline gravel shoulder. Staff will seek grants to help support this project.

| FINANCIAL (in \$000's) | Through Estimated | | | | | | | | | |
|---------------------------|-------------------|------|------------|----------|------------|----------|----------|--------------|----------|--------------|
| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | BEYOND | TOTAL |
| EXPENSES | | | | | | | | | | |
| Design | | | 20 | | 600 | | | | | 620 |
| Land (R/W) | | | 300 | | | | | | | 300 |
| Maint./Monitoring | | | | | | | | | | |
| Const. Mgmt. | | | | | | | | 600 | | 600 |
| Construction | | | 50 | | | | | 4,000 | | 4,050 |
| TOTAL EXPENSES | | | 370 | 0 | 600 | 0 | 0 | 4,600 | 0 | 5,570 |
| FUND SOURCES | | | | | | | | | | |
| Awarded Grant | | | | | | | | | | 0 |
| Proposed Grant | | | 300 | | 400 | | | 4,300 | | 5,000 |
| Mitigation Actual | | | | | | | | | | 0 |
| Mitigation Expected | | | | | | | | | | 0 |
| Utility Revenue | | | 70 | | 200 | | | 300 | | 570 |
| TOTAL SOURCES | | | 370 | 0 | 600 | 0 | 0 | 4,600 | 0 | 5,570 |

