

Agenda Summary Report (ASR)

Franklin County Board of Commissioners

DATE SUBMITTED: Dec 5, 2019	PREPARED BY: Keith Johnson
Meeting Date Requested: Dec 10, 2019	PRESENTED BY: Keith Johnson, County Admin
ITEM: (Select One) <input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Brought Before the Board Time needed:	
SUBJECT: Approval of Purchase and Sale Agreement and Easement Agreement to transfer ownership of certain real property owned by Franklin County and located in the City of Kahlotus to Fire District #2.	
FISCAL IMPACT: No additional budget and no material fiscal impact. The property is of limited financial value to the County but the County will retain an easement to use the property for certain public works functions.	
BACKGROUND: Fire District #2 desires this property for the purpose of building an equipment barn to store fire suppression equipment. Franklin County owns the parcel upon which currently provides an equipment shed that houses Public Works/State DOT weather monitoring equipment. Franklin County will retain an easement to continue to have access to the parcel for the purpose of maintaining and protecting the PW/DOT equipment. Approval of the ownership transfer and instruction to the County Administrator to prepare necessary documentation was completed in Resolution 2019-350.	
RECOMMENDATION: Recommend the BOCC approve the Resolution and sign the Purchase and Sale Agreement and the Easement Agreement and approve signatory authority for the County Administrator should any further documentation be required to finalize the transaction.	
COORDINATION: Keith Johnson, County Administrator Matt Mahoney, Public Works Director Joe Roach, Fire District #2	
ATTACHMENTS: ASR/Resolution, Purchase and Sale Agreement and Easement Agreement	
HANDLING / ROUTING: Original to Administration for finalization Copy to Keith Johnson	

I certify the above information is accurate and complete.



Keith Johnson, County Administrator

FRANKLIN COUNTY RESOLUTION _____

**BEFORE THE BOARD OF COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

***SALE AND TRANSFER OF CERTAIN REAL PROPERTY TO
FIRE PROTECTION DISTRICT #2***

WHEREAS, Franklin County owns a certain real property parcel of approximately 25,000 sq. ft., located in the City of Kahlotus, known as Parcel 102043085, at 115 N. Violet Ave., Kahlotus, WA 99335 which includes a standing shop building that houses state and county owned technical weather monitoring equipment; and

WHEREAS, Franklin County Fire District #2 desires to obtain this parcel of real property for the purpose of erecting a fire station and equipment facility; and

WHEREAS, R.C.W. 36.34.010 and 36.34.020 allows the sale and conveyance of real property to other governmental agencies; and

WHEREAS, the Franklin County Commissioners declared Parcel No. 102043085, together with all improvements as surplus property in accordance with R.C.W. 36.24 et al, and instructed the County Administrator to prepare the necessary documentation to transfer ownership to Franklin County Fire District #2 in Resolution 2019-350; and

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and deems this to be in the best interest of the County.

NOW THEREFORE BE IT RESOLVED, that the Franklin County Commissioners approve the attached Purchase and Sale Agreement and Easement Agreement and give signatory authority to the Franklin County Administrator to finalize the transaction should any further documentation be required.

APPROVED this 10th day of December 2019.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

Chair

Chair Pro Tem

Member

ATTEST:

Clerk to the Board

PURCHASE AND SALE AGREEMENT

The purchaser(s) to this Agreement is/are: Franklin County Fire District No. 2.

The seller(s) to this Agreement is/are: Franklin County, a political subdivision of the State of Washington.

Purchasers hereby agree to purchase, and Sellers hereby agree to sell the following described real estate:

Legal Description:

Abbreviated Legal: MCKINNEYS ADD LOTS 1 TO 5, BLK 16 TOG W/VAC LEE & LEONA STS & VAC ALLEY ADJ

Full Legal Description on the attached **Exhibit A**

Parcel No.: 102-043-085

Property Address: 115 N. Violet Ave., Kahlotus, WA 99335

1. **Purchase Price and Terms.** The property shall be transferred for no consideration.
2. **Building and Personal Property.** There is an existing building of approximately 1,900 square feet located on the property which is included in the sale. Said building currently houses certain high-tech equipment owned by Seller (the "Equipment"). The Equipment located in the building is not part of the sale and shall be retained by Sellers. The parties will execute an easement, a copy of the form of which is attached hereto as **Exhibit B**, to be signed at closing allowing Sellers full power and authority of ingress and egress over, along and across the Property to allow Sellers to access monitor, examine, maintain, repair and refurbish the Equipment from time to time. Buyers will have other obligations with respect to the Equipment as set forth in the attached easement.
3. **Title.** Title to the subject property shall be marketable at closing. Rights, reservations, covenants, agreements, conditions, and restrictions, presently of record, and easements, encroachments and existing building or zoning regulations not materially affecting the value of the property or unduly interfering with Purchaser's intended use of the property, shall not cause the title to be considered unmarketable. Purchasers shall conclusively be

deemed to have accepted the condition of title unless Sellers receive notice of Purchasers' objections within ten (10) days after the preliminary commitment for title insurance is received by or made available to Purchasers. Purchasers shall accept the property subject to any and all matters relating to water and/or any water rights (if any).

4. **Earnest money.** No earnest money is required.
5. **Default.** If this Agreement is terminated for any reason, the defaulting party shall be responsible for any cancellation fees and/or professional fees of the title company and closing agent. If either party fails, without legal excuse, to complete the sale, the non-defaulting party may seek specific performance of this Agreement and damages.
6. **Title Insurance.** The parties authorize closing agent, at Sellers' expense and within five (5) days from the date on which this Agreement is provided to closing agent, to apply for a standard form policy of title insurance (or, at Seller's option, then-current title insurance industry direct equivalent) to be issued by Cascade Title Company. The title insurance policy shall contain no exceptions other than those contained in said policy's standard form and those not inconsistent with this Agreement. If title to the subject property is not so insurable and cannot be made so insurable prior to closing, Purchasers may elect either to waive and fully accept such encumbrances or defects without any recourse against Sellers, or to terminate this Agreement and receive a refund of the earnest money funds. Purchasers acknowledge that the above-referenced title insurance does not insure the location of boundaries and that extended forms of title insurance are available at additional costs to Purchasers.
7. **Deed.** If this Agreement is for conveyance of fee title, title shall be conveyed by Statutory Warranty Deed free of encumbrances or defects except those specified herein or otherwise deemed acceptable to Purchasers.
8. **Taxes and Assessments.** Taxes for the current year, HOA assessments, water and other utilities constituting liens and assessments shall be prorated and allocated between the parties on a customary and usual basis as of date of closing.
9. **Possession at Closing.** Purchasers shall be entitled to possession upon the date of closing.
10. **FIRPTA.** This sale may be subject to the withholding and reporting requirements of the Foreign Investment in Real Property Tax Act (FIRPTA), unless Sellers furnish to Purchasers an affidavit of non-foreign status. Sellers and Purchasers agree to comply with FIRPTA, if applicable. Seller [x] is [] is not a U. S. citizen. Purchaser [x] is [] is not a U. S. citizen.

11. **Property Condition.** Purchasers offer to purchase the property in its present, "AS IS," condition. Sellers make no warranty or representations of any kind related to the property condition or any improvements thereon.
12. **Closing Costs.** All closing costs associated with this transaction shall be paid by Seller.
13. **Closing.** The sale shall be closed within twenty (20) days after preliminary commitment for title insurance policy is delivered showing title insurable, as above provided, **but in any event not later than the termination date which is: December 31, 2019.**

The Purchasers and Sellers shall deposit with closing agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. **Any funds required for closing, other than the earnest money, shall be in the form of cash or a cashier's check made payable to closing agent's trust account.**
14. **Closing Escrow.** For purposes of this Agreement, "date of closing" shall be construed as the date upon which all appropriate documents are recorded and proceeds of this sale are available for disbursement to Sellers. Funds held in reserve accounts pursuant to escrow instructions shall be deemed, for purposes of this definition, as available for disbursement to Sellers.
15. **Risk of Loss.** If prior to closing, improvements on said premises shall be destroyed or materially damaged by fire or other casualty, this Agreement at option of Purchasers, shall become null and void and the Purchasers shall be entitled to the return of the earnest money.
16. **Merger.** The terms of this Agreement shall not merge in, but shall survive closing of this transaction.
17. **Attorney's Fees.** In the event of litigation between the parties with respect to this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees together with the reasonable costs of searching records to determine the condition of title and customary costs of suit, which sum shall be included in any judgment or decree entered in such litigation. The venue of any action brought under this contract shall be at the option of either of said parties in the county where the subject real property is located.
18. **Property Dimensions.** Unless otherwise expressly specified herein, square footage, dimensions, and/or boundaries used in marketing the property are understood to be approximations and are not intended to be relied upon to determine the fitness or value of the property.

19. **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the legal representatives and assigns of the parties hereto.
20. **Document Exchange.** Facsimile or electronic mail (email) transmission of any signed original document and retransmission of any signed facsimile or electronic mail transmission shall be the same as transmission of an original document. At the request of either party, the parties will confirm facsimile transmitted signatures by signing an original document.
21. **Legal Representation.** Powell & Gunter represent the Seller in this transaction. The Purchasers have been advised to seek independent legal counsel with respect to this Agreement and have had the opportunity to do so.
22. **Final Agreement.** There are no other verbal or other agreements which modify or affect this Agreement.
23. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.
24. **Waiver of Seller's Disclosure.** As authorized under RCW 64.06.010(7), Purchasers hereby acknowledge and agree that Purchasers are foregoing and fully waiving the right to request and receive a "Seller's Disclosure Statement" on the subject property from Sellers.

TIME IS OF THE ESSENCE OF THIS AGREEMENT.

DATED this ____ day of November.

Purchasers:

Franklin County Fire District No. 2

Shawn Ayers, Commissioner

Todd Van Hollebeke, Commissioner

Connie Smith, Commissioner

Joseph Roach, Commissioner

Sellers:

Franklin County, a political subdivision of the State of Washington

Robert Koch, Chairman

Brad Peck, Member

Clint Didier, Member

Exhibit A
Legal Description

Lots 1, 2, 3, 4 and 5, Block 16, MCKINNEY'S ADDITION TO HARDERSBURG, NOW KAHLOTUS, according to the Plat thereof recorded in Volume B of Plats, Page 9, records of Franklin County, Washington. Together with vacated Lee and Leona streets and vacated alley adjacent thereto.

Exhibit B
Form of Easement

F:/Word/Real/Franklin County.Fire Distict 2.EMRA.docx

Purchase and Sale Agreement
Page -7-
Powell & Gunter
Attorneys at Law
1025 Jadwin
Richland, WA 99352
(509) 943-6781

After recording return to:

Powell & Gunter
1025 Jadwin
Richland, WA, 99352

EASEMENT

This Easement is made by and between the following parties as of this ____ day of November, 2019:

RECITALS

WHEREAS, FRANKLIN COUNTY FIRE DISTRICT NO. 2 (“Grantor”), owns certain real property located within Franklin County, State of Washington, which property and improvements are referenced herein as the Property and described in **Exhibit A**;

WHEREAS, FRANKLIN COUNTY (“Grantee”) is a Political Subdivision of the State of Washington;

WHEREAS, there is certain high-tech equipment (“Equipment”) owned by Grantee located on the Property;

WHEREAS, Grantor desires to grant an easement to Grantee to access and maintain the Equipment as set forth below.

NOW, THEREFORE, the parties agree as follows:

GRANT OF EASEMENT

1. **Grant of Easement.** For and in consideration of the benefits derived and to be derived by the Grantor herein, and other good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor hereby conveys and quit claims to Grantee, a perpetual non-exclusive easement (the “Easement”) over, under, along and across the Property to allow Grantee to access, monitor, examine, maintain, operate, construct, erect, install, repair and refurbish the Equipment from time to time, and the Grantee shall have the right of ingress and egress over the Property for the purpose of exercising all rights hereby

granted, and for any other purpose.

2. **Equipment.** The Equipment includes all equipment located in the structure currently located on the Property which includes, without limitation, all equipment that is part of the “Continuously Operating Reference Station” on the Property.
3. **Maintenance of Structure.** There is an existing structure of approximately 1,900 square feet on the Property. Grantor agrees, at its own expense, to maintain the structure in satisfactory condition to house the Equipment as reasonably requested by Grantee.
4. **No Obstruction of Equipment.** Grantor acknowledges that the data received from the antenna which is part of the Equipment requires an unobstructed view of the sky. Grantor agrees to make no alterations or improvements to the Property that will negatively impact the Equipment’s functionality or capabilities and will work with Grantee to limit the impact of any such alterations or improvements. To that end, Grantor covenants not to build, place or allow to be built or placed on the Property any structure of any kind without the prior written approval of Grantee. Grantor agrees to cut, trim and control the growth of trees and shrubbery on the Property to the extent necessary to keep such growth clear of the Equipment.
5. **Use of Easement.** Grantor, and the future owners of the Property, shall fully use and enjoy the Property in any way which does not materially damage or obstruct the Grantee’s right to the Easement. No fences, walls, structures or barriers to access will be erected or placed on the Property that would unreasonably interfere with the Easement.
6. **Termination, Modification and Abandonment.** This Easement may be terminated, modified, or abandoned at any time by recording in the real property records of Franklin County, Washington, an instrument executed by the parties, referring to this Easement and declaring the Easement terminated, modified or abandoned.
7. **Term.** This Easement shall be perpetual and shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successor and assigns.
8. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Washington.

[signature page follows]

In witness whereof, the Grantor has executed this Easement on the date first written above.

GRANTOR:

Franklin County Fire District No. 2

Shawn Ayers, Commissioner

Todd Van Hollebeke, Commissioner

Connie Smith, Commissioner

Joseph Roach, Commissioner

STATE OF WASHINGTON)
) SS.
COUNTY OF FRANKLIN)

On this _____ day of November, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared SHAWN AYERS to me known to be a Commissioner of FRANKLIN COUNTY FIRE DISTRICT NO. 2 that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said FRANKLIN COUNTY FIRE DISTRICT NO. 2, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of said entity.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington,
Residing at _____
My commission expires:

STATE OF WASHINGTON)
) SS.
COUNTY OF FRANKLIN)

On this _____ day of November, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared TODD VAN HOLLEBEKE to me known to be a Commissioner of FRANKLIN COUNTY FIRE DISTRICT NO. 2 that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said FRANKLIN COUNTY FIRE DISTRICT NO. 2, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of said entity.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington,
Residing at _____
My commission expires:

STATE OF WASHINGTON)
) SS.
COUNTY OF FRANKLIN)

On this _____ day of November, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared CONNIE SMITH to me known to be a Commissioner of FRANKLIN COUNTY FIRE DISTRICT NO. 2 that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said FRANKLIN COUNTY FIRE DISTRICT NO. 2, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument on behalf of said entity.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington,
Residing at _____
My commission expires:

STATE OF WASHINGTON)
) SS.
COUNTY OF FRANKLIN)

On this _____ day of November, 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared JOSEPH ROACH to me known to be a Commissioner of FRANKLIN COUNTY FIRE DISTRICT NO. 2 that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said FRANKLIN COUNTY FIRE DISTRICT NO. 2, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of said entity.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary Public in and for the State of Washington,
Residing at _____
My commission expires:

Exhibit A
LEGAL DESCRIPTION

Lots 1, 2, 3, 4 and 5, Block 16, MCKINNEY'S ADDITION TO HARDERSBURG, NOW KAHLOTUS, according to the Plat thereof recorded in Volume B of Plats, Page 9, records of Franklin County, Washington. Together with vacated Lee and Leona streets and vacated alley adjacent thereto.

FRANKLIN COUNTY RESOLUTION 2019-350

**BEFORE THE BOARD OF COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

DECLARATION OF CERTAIN SURPLUS REAL PROPERTY

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and deems this to be in the best interest of the County; and,

WHEREAS, Franklin County owns a certain real property parcel of approximately 25,000 sq. ft, located in the City of Kahlotus, known as Parcel 102043085, at 115 N. Violet Ave., Kahlotus, WA 99335; and

WHEREAS, the property also includes a standing shop building that houses state and county owned technical weather monitoring equipment; and

WHEREAS, Franklin County Fire District #2 desires to obtain this parcel of real property for the purpose of erecting a fire station and equipment facility; and

WHEREAS, R.C.W. 36.34.010 and 36.34.020 allows the sale and conveyance of real property to other governmental agencies; and

WHEREAS, the Franklin County Board of Commissioners finds that there is no economic or essential purpose for retaining ownership of this parcel and building by Franklin County, the Fire District will grant a perpetual license for the County to continue to maintain and operate the weather monitoring equipment, and the citizens of Franklin County will be benefited by conveying ownership to Franklin County Fire Protection District #2;

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Commissioners does hereby declare Parcel No. 102043085, together with all improvements as surplus property in accordance with R.C.W. 36.24 et al, and instructs the County Administrator to prepare the necessary documentation to transfer ownership to Franklin County Fire District #2.

APPROVED this 12th day of November, 2019.


**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**



Chair



Chair Pro Tem



Member

ATTEST:



Clerk to the Board