

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Amendment No. 3 to Property _____ Consent
 Purchase Agreement with _____ X Action
 Touchstone Corporation for the _____ First Reading
 purchase and redevelopment of _____ Second Reading
 the Allen Buick Property _____ Third Reading
 extending the feasibility period _____ Public Hearing
 to June 16, 2010

COUNCIL BILL # _____
 Originating Department Real Property
 Contact Person Mike Palacios
 Phone Number 425-257-8938
 FOR AGENDA OF Feb. 10, 2010

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Allen Buick Property, SE Corner of Colby Ave and Wall Street	10/15/08 Resolution and Property Purchase Agreement Approval 4/8/09 Amendment No. 1 10/7/09 Amendment No. 2	Amendment No. 3	Legal Real Property

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

On October 15, 2008, City Council adopted Resolution No. 6068 declaring as surplus the City-owned real property commonly known as the Allen-Buick Property, and authorized the Mayor to execute the Property Purchase Agreement with Touchstone Corporation for the sale of the property.

Section 4(a) and (b) of the Property Purchase Agreement provided for a six -month feasibility period to conduct studies and to determine that the property is economically and otherwise feasible for the purchaser's intended use, prior to the transaction closing. On April 14, 2009, the City and Touchstone executed Amendment No. 1 to the agreement, extending the feasibility period to October 16, 2009, with a second Amendment approved on October 7, 2009, which extended the feasibility period to February 16, 2010.

Touchstone has completed studies of the property including a site Survey, a Phase I and Phase II Environmental Site Assessment, a Geotechnical Evaluation of the property and various Conceptual Design Plans for the proposed hotel project to be constructed on the site.

The City and Touchstone have made significant progress related to the specific environmental issues, geotechnical issues and project design concerns for the hotel project, including parking access, location, and costs of parking. Amendment No. 3 will extend the agreement to June 16, 2010, and allow for sufficient time to complete discussions and negotiations regarding remaining issues.

RECOMMENDATION:

Authorize the Mayor to sign Amendment No. 3 to Property Purchase Agreement with Touchstone Corporation for the purchase and redevelopment of the Allen Buick Property extending the feasibility period to June 16, 2010.

**AMENDMENT NO. 3
PROPERTY PURCHASE AGREEMENT
(Colby Avenue & Wall Street, Everett, Washington)**

THIS AMENDMENT NO. 3 TO PROPERTY PURCHASE AGREEMENT ("Amendment") is made and entered this 10th day of February, 2010, by and between the **CITY OF EVERETT**, a Washington municipal corporation, ("Seller") and **TOUCHSTONE CORPORATION**, a Washington corporation, **AND/OR ASSIGNS** ("Purchaser").

RECITALS

A. Purchaser and Seller are parties to the Property Purchase Agreement dated October 16th, 2008 ("Agreement"), and Amendment No. 1 dated April 14, 2009, and Amendment No. 2 dated October 7, 2009, which concerns the real property legally described on Exhibit A to the Agreement and shown on the sketch on Exhibit B to the Agreement ("Property").

B. As a part of Purchaser's due diligence, Purchaser completed studies of the Property including; a site Survey; a Phase I and Phase II Environmental Site Assessment; and Geotechnical Evaluations of the Property for the proposed hotel project to be constructed on the site. An Amendment No. 1 to the Property Purchase Agreement dated April 14, 2009, and Amendment No. 2 dated October 7, 2009, was provided in order for Purchaser and City to address and negotiate concerns relating to; environmental issues; geotechnical issues; and Project Design concerns regarding parking for the project relating to access, location, and costs of parking for the Project.

C. Purchaser and City have made significant progress related to the specific environmental issues; geotechnical issues; and Project Design concerns for the hotel project including parking access, location, and costs of parking.

D. For the purposes of permitting sufficient time to complete discussions and further negotiations regarding these remaining issues, Purchaser and Seller have agreed to extend the Feasibility Period under the Agreement for an additional period of 120 days so that it expires on June 16, 2010.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree as follows:

1. Section 4(a) of the Agreement, as amended, is hereby deleted and replaced with the following:

a. Studies. On or before June 16, 2010 ("**Feasibility Period**"), Purchaser shall have approved, in Purchaser's sole and absolute

discretion, all soils, engineering, hazardous waste, geotechnical, wetlands, feasibility and other studies and reports which Purchaser obtains in connection with the Property and the Project (as defined herein) and such other information relating to the Property that is specifically requested by Purchaser of Seller in writing to the extent such information is in the possession or control of Seller or any affiliate of Seller, or may be obtained by Seller, or any affiliate of Seller through the exercise of commercially reasonable efforts and is not otherwise confidential or privileged.

2. All terms, conditions and provisions of the Agreement as amended remain in full force and effect, except as expressly modified by this Amendment. Unless otherwise provided in this Amendment, capitalized words in this Amendment have the same meaning as they have in the Agreement.

DATED as of the day and year first set forth above.

SELLER: **CITY OF EVERETT,**
a Washington municipal corporation

Ray Stephanson, Mayor

APPROVED AS TO FORM: **CITY ATTORNEY FOR CITY OF EVERETT**

Jim Iles, City Attorney

ATTEST: **CITY CLERK**

Sharon Marks, City Clerk

PURCHASER: **TOUCHSTONE CORPORATION,**
a Washington corporation

By James D. O'Hanlon
Its Vice President