

**CLAIM RESOLUTION SETTLEMENT AGREEMENT
BETWEEN
ERIN WESTVANG AND THE CITY OF EVERETT**

Erin Westvang (Claimant), represented by Law Office of James R. Walsh per James R. Walsh, and the City of Everett, represented by Pratt, Day, & Stratton, PLLC, per Marne J. Horstman, and enter into this agreement pursuant to RCW 51.04.063, to resolve all issues within claim numbers SH-28579, SG-86079, SC-70786, SB-12211, W-834373, W-488085, and W-280586, and to seek approval of this agreement from the Board of Industrial Insurance Appeals (Board).

1. Parties to the Agreement

Pursuant to RCW 51.04.063, the parties to this agreement are:

a. Claimant

Name	Erin Westvang
Claimant Address	7110 55 th Place NE Marysville WA 98270 Tel.: 425-330-8604
Represented by	James R. Walsh Law Office of James R. Walsh 20201 Cedar Valley Road Suite 140 Lynnwood, WA 98036-2028 Tel.: 425-774-6883 WSBA # 11997

b. Employer

The City of Everett	
Address	c/o CorVel Corporation PO Box 230608 Portland, OR 97281 Tel.: 503-501-5584
Represented by	Marne J. Horstman Pratt, Day, & Stratton, PLLC 2102 N. Pearl St., Ste 106 Tacoma, WA 98406 mhorstman@prattdaystratton.com WSBA # 27339

No other employer is subject to any responsibility or burden under the Claims or any other claim.

2. Criteria to Settle the Impacted Claims

The parties agree that the following information is true and correct.

Claimant Criteria to Settle	
Date of Birth and Age of Claimant	01/14/1964 59 years old
Gender	Female
Life Expectancy of Claimant	86.1 years pursuant to the tables provided by the Social Security Administration. Claimant is expected to live an additional 26.5 years. (26.5 years x 12 months = 318 months) (26.5 years x 52 weeks = 1,378 weeks)
Marital Status	Married
Dependents	None
Other Benefits	The Claimant receives a pension from the City of Everett in the amount of \$1,020.00 per month. The Claimant does not receive any Social Security or other benefits.

CLAIM 1	
Claim Number	SH-28579
Date of Industrial Injury	01/30/2014
Description of Accident	The Claimant sustained an occupational disease to her neck and left shoulder driving bus and assisting wheelchairs.
Nature and Extent of Condition and Disability	The Claimant was rated for a permanent partial disability of a Category 3 for cervical impairments and 3% of the left upper extremity already paid under prior claims and subsumed within the value of this settlement.
Date Claim Received	01/31/2014
Date of Claim Allowance	04/02/2014
Date Allowance Order Became Final	On or about 06/10/2014, approximately 60 days after the Claimant's receipt of the order with benefits as already paid.

Claim Status	The claim is open and will be closed by Department order as part of the agreement with benefits as already paid.
Closing Order	The claim is open and will be closed by Department order as part of the agreement with benefits as already paid.
Condition(s)	
Accepted Conditions	There are no Department-ordered accepted conditions.
Denied Conditions	By order dated 09/02/2016, the Department determined the Employer is not responsible for the conditions diagnosed as subacromial bursitis, rotator cuff teninitis [sic], and AC arthrosis because they were not caused or aggravated by the industrial injury or occupational disease for which the claim was filed. The Department issued an affirming order on 09/27/2016.

CLAIM 2	
Claim Number	SG-86079
Date of Industrial Injury	10/04/2012
Description of Accident	The Claimant sustained a left eye abrasion at work.
Nature and Extent of Condition and Disability	She received treatment and her condition returned to preinjury status with no permanent impairment.
Date Claim Received	The claim was received on or about 10/04/2012.
Date of Claim Allowance	There is no order allowance order in the file, but the claim can be presumed to be allowed at least as of the date of the Department order closing the claim dated 10/30/2013.
Date Allowance Order Became Final	At least on or about 12/10/2013, approximately 60 days after the Claimant receipt of the closing order.
Claim Status	The claim was closed by Department order dated 10/30/2013, and will remain closed as part of this agreement.
Closing Order	The claim was closed by Department order dated 10/30/2013, and will remain closed as part of this agreement.
Condition(s)	
Accepted Conditions	There are no Department orders accepting any conditions, but the condition of left eye abrasion was treated under the claim.
Denied Conditions	There are no orders denying or segregating any conditions in this claim.

CLAIM 3	
Claim Number	SC-70786
Date of Industrial Injury	02/27/2008
Description of Accident	The Claimant injured her left shoulder at work.
Nature and Extent of Condition and Disability	The Claimant's industrial injury resulted in a 3% permanent impairment of the left upper extremity, previously paid at claim closure.
Date Claim Received	The claim was received on or about 03/13/2008.
Date of Claim Allowance	The claim was allowed by order dated 06/10/2008.
Date Allowance Order Became Final	On or about 08/15/2008, approximately 60 days after the Claimant's receipt of the order.
Claim Status	The claim was closed by Department order dated 03/03/09 and will remain closed as part of this agreement.
Closing Order	The claim was closed by Department order dated 03/03/09, with an award for 3% permanent partial disability of the left upper extremity and will remain closed as part of this agreement.
Condition(s)	
Accepted Conditions	There are no Department orders accepting any conditions, but the Claimant was treated for a straining injury of the left shoulder with subsequent rotator cuff tendonitis/tendonopathy and MRI evidence of a partial thickness bursal tear of the supraspinatus under the claim.
Denied Conditions	There are no orders denying or segregating any conditions in this claim.

CLAIM 4	
Claim Number	SB-12211
Date of Industrial Injury	11/22/2005
Description of Accident	The Claimant sustained a right knee injury at work.
Nature and Extent of Condition and Disability	The Claimant received conservative care and her condition returned to preinjury status without any permanent impairment.
Date Claim Received	The claim was received on or about 11/22/2005.

Date of Claim Allowance	There is no allowance order in the file, but the claim can be presumed to be allowed at least as of the date of the Department order closing the claim dated 06/14/2006.
Date Allowance Order Became Final	Claim allowance became final on or about 08/20/2006, approximately 60 days after the Claimant's receipt of the closing order.
Claim Status	The claim was closed by order dated 06/14/2006 and will remain closed as part of this agreement.
Closing Order	The claim was closed by order dated 06/14/2006 and will remain closed as part of this agreement.
Accepted Conditions	There are no orders accepting any conditions, but the Claimant received conservative treatment for her right knee under the claim.
Denied Conditions	There are no orders denying or segregating any conditions in this claim.

CLAIM 5	
Claim Number	W-834373
Date of Industrial Injury	06/02/04
Description of Accident	The Claimant sustained a right ankle injury at work.
Nature and Extent of Condition and Disability	The Claimant had conservative care for her right ankle sprain and her condition returned to preinjury status without any permanent impairment.
Date Claim Received	The claim was received by the Employer on or about 06/02/04.
Date of Claim Allowance	There is no allowance order in the file, but the claim can be presumed to be allowed at least as of the date of the order closing the claim dated 08/13/2004.
Date Allowance Order Became Final	Claim allowance became final on or about 10/20/2004, sixty days after the Claimant's receipt of the closing order.
Claim Status	The claim was closed by order dated 08/13/2004 and will remain closed as part of this agreement.
Closing Order	The claim was closed by order dated 08/13/2004 and will remain closed as part of this agreement.
Accepted Conditions	There are no orders accepting any conditions, but the Claimant received conservative treatment for her right ankle sprain under the claim.

Denied Conditions	There are no orders denying or segregating any conditions in this claim.
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CLAIM 6	
Claim Number	W-488085
Date of Industrial Injury	06/01/2000
Description of Accident	The Claimant experienced pain in her neck, shoulder, and arm while working as a paratransit driver for the Employer.
Nature and Extent of Condition and Disability	The Claimant received treatment for her neck, back, and left arm under the claim. On 09/06/2002, the claim was closed with a Category 3 permanent partial disability award for the cervical spine. The Claimant submitted an Application to Reopen her claim on 10/20/2003, and the claim was reopened effective 10/3/2003. The claim was closed again on 03/12/2004, with no further award for any permanent impairment.
Date Claim Received	06/26/2000
Date of Claim Allowance	07/06/2000
Date Allowance Order Became Final	Claim allowance became final on or about 09/10/2000, sixty days after the Claimant's receipt of the allowance order.
Claim Status	The claim is closed a second time by order dated 03/12/2004 and will remain closed as part of this agreement.
Closing Order	The claim is closed a second time by order dated 03/12/2004 and will remain closed as part of this agreement.
Condition(s)	
Accepted Conditions	There are no Department orders accepting any conditions, but the Claimant received treatment for her left arm, neck, and back under the claim.
Denied Conditions	There are no orders denying or segregating any conditions in this claim.

CLAIM 7	
Claim Number	W-280586
Date of Industrial Injury	09/09/1998
Description of Accident	The Claimant sustained a neck strain while working for the Employer.

Nature and Extent of Condition and Disability	The Claimant received treatment and her condition returned to preinjury status without any resulting permanent impairment.
Date Claim Received	The claim was received on 11/12/1998.
Date of Claim Allowance	The claim was allowed by Department order dated 12/09/1999.
Date Allowance Order Became Final	Claim allowance became final on or about 02/15/2000, sixty days after the Claimant's receipt of the allowance order.
Claim Status	The claim was closed by order dated 04/19/2000, and will remain closed as part of this agreement.
Closing Order	The claim was closed by order dated 04/19/2000, and will remain closed as part of this agreement.
Condition(s)	
Accepted Conditions	There is no information about any accepted conditions, but the condition of neck strain was treated under the claim.
Denied Conditions	The file does not contain any orders denying or segregating any conditions in this claim.

3. Claims Not Impacted

The parties agree the scope of this agreement is limited to the Claims outlined above and no other claims are impacted by this agreement.

4. No Further Disability Entitlement

In consideration for the lump sum amount listed in **Section 6–Lump Sum**, the Claimant relinquishes any further Washington Industrial Insurance Act disability benefits or payments to which the Claimant may be entitled resulting from the Claims. Disability benefits include payment of time loss compensation (wage loss), loss of earning power (partial wage loss), permanent partial disability and or pension benefits.

5. Vocational Entitlement

In consideration for the lump sum amount set forth in **Section 6– Lump Sum**, the Claimant relinquishes any further Washington Industrial Insurance Act vocational benefits and services to which the Claimant may be entitled under the Claims. The Claimant understands that vocational benefits and services include vocational assessment, vocational plan development and job retraining.

6. Lump Sum Payment

In consideration of the release above, and for this agreement, the Self-insured Employer agrees to pay the Claimant the sum of \$170,000.00.

This lump sum is being paid to the Claimant for disabilities related to the Claimant's work-related conditions which will interfere with the Claimant's ability to engage in gainful employment for the remainder of the Claimant's life. None of this amount should be considered as payment to segregate any condition which may be related to the Claim(s).

This agreement is for payment of a single lump sum amount of \$170,000.00, which shall be paid as outlined below:

Payment Schedule of Single Lump Sum	
Payment Amount	Payment Schedule
\$170,000.00	Single Lump Sum Payment: The Single Lump Sum Payment of \$170,000.00 will be made within fourteen (14) days after the revocation period has expired.
Total Single Lump Sum	\$170,000.00

Lifetime Expectancy Award

The parties agree the \$170,000.00 lump sum is intended to compensate the Claimant for diminished earning capacity during the Claimant's remaining life expectancy which is 26.5 years according to the life tables published by the Social Security Administration.

Pursuant to **Section 18-Attorney's Fees** of this agreement, the Claimant and Claimant's Counsel have agreed to a 15% contingent fee. After deducting the 15% fee of \$25,500.00 from the Lump Sum, the Net Lump Sum amount is \$144,500.00.

The Claimant's life expectancy constitutes a period of 318 months or 1,378 weeks, and the lump sum is intended to compensate the Claimant for lost earning capacity at the rate of about \$ \$454.40 per month or about \$ 104.86 per week.

7. Discharge of Payment

The obligation of the Employer to make the single payment outlined in **Section 6- Lump Sum Payment**, shall be discharged when a valid check is mailed for the required amount to the last known address in the Self-insured Employer's file. That address is presently in care of James R. Walsh, Law Office of James R. Walsh, 20201 Cedar Valley Road, Suite 140, Lynnwood, WA 98036-2028.

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If the check is lost or otherwise not received, the Employer, upon prompt notification of non-receipt, will stop payment on the unreceived check and reissue the check, subject to verification that the check has not been negotiated or otherwise cashed.

The Claimant must promptly notify the Department and Employer of any address change. In the event of such notification, if the payment is still unpaid, the Employer will thereafter make payment of the Lump Sum amount to the Claimant at such address as Claimant has designated.

8. Claim Closure

It is the intent of the parties that at the time this agreement becomes final the Claim(s) will be closed and/or remain closed. The Claimant understands, other than the payment provided in this agreement, the Claimant will not receive any other benefits, including medical treatment unless the Claimant's Claim(s) is reopened under **Section 10 – Reopening**, in which case the Claimant understands the Claimant would only be entitled to medical treatment and to no other benefits or payments.

The Claimant understands the Employer will ask the Department to issue an order to implement the terms of this agreement regarding Claim Nos. SH-28579, SG-86079, SC-70786, SB-12211, W-834373, W-488085, and W-280586, including language that the claims will be closed or will remain closed if presently closed, and the single lump sum will be paid as outlined in **Section 6- Lump Sum Payment**. Further, the parties intend that this order will operate to affirm any unaddressed protests and/or disputes. The Employer will ask the Department to issue the order no later than fourteen (14) days after the agreement is approved by the Board and the revocation period has expired.

9. Medical Treatment

The parties stipulate that the Claimant is not in need of further medically necessary and proper treatment for any conditions under Claim Nos. SH-28579, SG-86079, SC-70786, SB-12211, W-834373, W-488085, and W-280586, and that all conditions related to the industrial injuries/occupational diseases listed above in **Section 2–Criteria to Settle the Impacted Claims** have reached maximum medical improvement.

10. Reopening

Pursuant to RCW 51.04.063 and RCW 51.32.160, the Claimant retains the right to file an application to reopen the Claims should the Claimant's condition(s) related to the Claimant's industrial injury and/or occupational disease worsen. The Claimant may also file an application to reopen her Claim(s) for condition(s) other than the accepted conditions, subject to the rules and regulations of the Industrial Insurance Act. The Claimant understands that the Claimant will be required to demonstrate aggravation of the condition in the Claim(s) as contemplated by RCW 51.32.160 if the Claimant applies to reopen the Claim(s). Reopening is not guaranteed, and the Employer may request denial of the Application to Reopen should it determine there was no worsening of the Claimant's conditions, within the meaning of RCW 51.32.160. In the event the Department denies the Application to Reopen, the Claimant may appeal that decision pursuant to RCW 51.52.060. The Claimant further understands that any reopening will be limited to

medical benefits only, and that even if the Claim(s) is reopened, no further disability benefits or other payments will be paid.

11. Administration of Claims During Board Approval Process

The Self-insured Employer agrees to continue to administer and provide all benefits due on the Claim(s) under the date this agreement becomes final. Any unpaid bills for necessary and proper treatment provided under the Claims prior to the date of closure should be submitted to the Employer within forty-five (45) days of claim closure, but in no case later than one (1) year following the date of the treatment or service. The parties agree that all necessary and proper treatment for claim-related conditions to date has been paid. There are no further benefits to administer on the Claims included in this agreement.

12. Ability to Work

Nothing in this agreement will prevent the Claimant from returning to work full time or part time, paid or unpaid.

13. Future Claims

If the Claimant returns to work, and suffers a further industrial injury or occupational disease, the Claimant may file a new claim and receive appropriate benefits if the claim is allowed.

14. Parties' Understandings

The parties acknowledge and each understands and agrees to the terms of this agreement and has entered into this agreement knowingly and willingly. No party has been harassed or coerced to participate in this agreement. The parties have represented the facts and the law to each other to the best of their knowledge. The parties represent that this agreement is not the result of a material misrepresentation of law or fact, and that the agreement is reasonable under the circumstances. Finally, the parties acknowledge and agree that this agreement will bind each to all aspects of the Claim except for medical benefits.

In addition:

a) Claimant Understands

- i) Industrial Insurance Benefits: The Claimant acknowledges, agrees, and understands that by entering into this agreement, the Claimant will receive no other benefits related to the Claims except as outlined in this agreement. The Claimant acknowledges that the Claimant could have continued to pursue additional benefits under the Claims (benefits such as financial disability payments or additional vocational services), but instead opted to enter into this agreement. The Claimant understands their rights under RCW 51.04.063.
- ii) Other Benefits Potentially Impacted: The Claimant acknowledges, agrees, and understands that by entering into this agreement, there is a chance that other government benefits that the Claimant is receiving, or may be entitled to receive in the future, may be impacted.
 - i. Social Security Benefits

The Claimant is not currently receiving Social Security Disability benefits, but she has been advised by legal counsel that there is a risk any future benefits may be offset by the Social Security Administration. Nevertheless, the Claimant believes this agreement is in her best interests.

ii. Medicare Benefits

The Claimant further understands that because this agreement does not compromise any rights to medical treatment under the Claims, there should be no impact on Medicare benefits.

iii. Other Benefits

The Claimant has confirmed that any other benefits that the Claimant may receive will not be impacted by this agreement.

b) Self-insured Employer Understands

i. Allowance Order: The Self-insured Employer acknowledges, agrees, and understands this agreement does not set aside or reverse the allowance orders on the Claims.

ii. Assessment Impact: The Self-insured Employer acknowledges, agrees, and understands the total lump sum payment of \$170,000.00 will be considered a claim cost and will be reported to the Department of Labor and Industries (Department) in the Employer's quarterly assessment.

iii. No Other Funds Impacted: The Employer represents this agreement does not subject any Department funds covered under RCW Title 51 to any responsibility or burden without prior approval from the director or designee.

15. Medicare Coverage

The parties acknowledge and warrant that it is not the purpose of this agreement to shift the responsibility for payment of medical expenses for the treatment of industrial injury or occupational disease-related conditions to Medicare, Medicaid, or any other government program.

If the accepted medical conditions outlined in this agreement should worsen and require treatment, the Claimant understands and accepts responsibility to seek treatment for those conditions by following the process outlined in **Section 10--Reopening**. To the best of the parties' abilities, they have tried to be clear that this agreement covers only the medical conditions

accepted and covered under the Claims, as outlined in this agreement. Other medical conditions are not covered except as provided in **Section 10-Reopening**.

The Claimant's right to future treatment for the industrial injury or occupational disease related conditions is not being compromised by this agreement; therefore, the Claimant and the Employer do not expect that there will be any impact to the Claimant's Medicare benefits. Nevertheless, the

Claimant knowingly and voluntarily accepts responsibility for this risk and waives any and all claims of any nature and/or damages against the Employer should Medicare take such action, including but not limited to a Private Cause of Action against the Employer under the Medicare Secondary Payer Act (MSP) pursuant to 42 USC § 1395y(b)(3)(A). If the Claimant decides to seek treatment for the accepted medical conditions outlined in this agreement without going through the Self-insured Employer and/or the Department, and Medicare finds it covered and provided for treatment that should have been paid for by funds associated with the worker's industrial insurance claim(s), the Claimant agrees to accept responsibility for all costs and penalties for that treatment assessed by the Center for Medicare & Medicaid Services, Medicare Secondary Payer Recovery Contractor(s), collection agencies, or any other governmental entity's claims, actions, judgments or settlements.

16. Assignability

The Claimant will not and has not already agreed to sell, mortgage, encumber or otherwise assign any part of the payment. The payment will be made to the Claimant except in the event of the Claimant's death. In the event of the Claimant's death prior to the payment, payment will be made in accordance with **Section 17--Claimant's Beneficiaries**.

17. Claimant's Beneficiaries

In the event of the Claimant's death prior to payment, the payment will be made in accordance with **Section 6-- Lump Sum Payment** to such person or entity as designated in writing on a form acceptable to the Department. If no such designation has been made, or the person is not living at the time, such payment will be made to the Claimant's estate.

18. Attorney Fees

Each party shall pay all attorneys' fees and costs arising from the actions of its own counsel in connection with the administration and litigation of the Claims and this agreement up to the date this agreement becomes final. This provision is not intended to affect any rights the Claimant may have under RCW 51.52.130 to obtain attorney fees in any future superior court appeal regarding the Claims.

Pursuant to RCW 51.52.120, the Claimant's attorney services are limited to 15% of the payment made under **Section 6-- Lump Sum Payment** as compensation for work done in connection with this agreement.

19. Filing for Approval

The parties acknowledge that this agreement must be approved by the Board, and that the Employer will be responsible for filing for such approval pursuant to Board rules. The Employer

will file for approval no later than ten (10) days after receiving signed copies from all parties and will send notification to all other parties upon filing.

20. Revocation

Any party may revoke this agreement by providing written notice to the other parties and to the

Board (if the agreement has been submitted to the Board for approval). A party may revoke this agreement no later than thirty days after the date that the agreement is approved by the Board regardless of the date a party receives the Board's approval of this agreement.

21. Governing Law

This agreement will be construed and interpreted in accord with the laws of the State of Washington, specifically the Washington Industrial Insurance Act. Pursuant to RCW 51.04.063 the parties acknowledge and agree that if aggrieved by the failure of any other party to comply with the terms of this agreement, the aggrieved party has one (1) year from the date of failure to petition to the Board.

Furthermore, the parties acknowledge and agree that should the Board find a party has failed to comply with the agreement, the Board will impose a penalty of up to 25% of the monetary amount unpaid at the time the petition for noncompliance is filed.

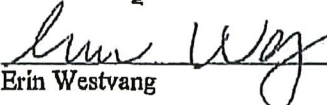
The Superior Courts of Washington will have no original jurisdiction to hear claims or disputes arising from failure to comply with this agreement, and the parties acknowledge that the Board has exclusive jurisdiction to hear any and all disputes regarding compliance with this agreement. The Board will also decide any disputes related to attorneys' fees for services related to this agreement.

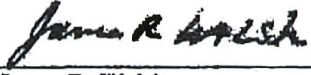
22. Comprehensive Document

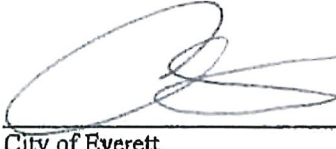
All parties acknowledge that before entering into this agreement, each has had the opportunity to discuss this agreement with an attorney of their choosing and to obtain legal and income tax advice regarding the possible consequences of this agreement. The terms of this agreement have been completely read and are fully understood and voluntarily accepted.


This agreement consists of 13 pages and sets forth in full all the terms and conditions agreed upon by the parties. There are not any other agreements, representations or promises, verbal or otherwise, regarding the subject matter of this agreement.

Parties to the Agreement:

 10-06-23
Erin Westvang DATE

 10/9/23
James R. Walsh DATE
Law Office of James R. Walsh
20201 Cedar Valley Road, Suite 140
Lynnwood, WA 98036-2028
WSBA#: 11997
Representing Erin Westvang

 10/12/23
City of Everett, DATE
Per Cassie Franklin, Mayor

 10/12/23
Marne J. Horstman DATE
Pratt, Day & Stratton, PLLC
2102 N. Pearl St, Suite 106
Tacoma, WA 98406
WSBA#: 27339
Representing the City of Everett

Office of the City Attorney
APPROVED AS TO FORM
David C. Hall, City Attorney

ATTEST:

Deputy City Clerk