

Everett City Council Preliminary Agenda 6:30 p.m., Wednesday, November 15, 2023 City Council Chambers

Roll Call

Pledge Of Allegiance

Land Acknowledgment

Approval Of Minutes: November 8, 2023

Mayor's Comments

Public Comment

Council Comments/Liaison Reports

Administration Update

City Attorney

CONSENT ITEMS:

(1) Adopt Resolution Authorizing Claims Against The City Of Everett In The Amount Of \$2,125,122.55 For The Period Ending October 28, 2023 Through November 3, 2023.

Documents:

RES CLAIMS PAYABLE OCT 28, 2023 - NOV 3, 2023.PDF

(2) Authorize The Mayor To Sign Contract Amendment #1 With Axon Enterprise Inc. For Body Worn Cameras And Tasers From Department Of Enterprise Services Contract #04420 And 06316/COE #2019-111.

Documents:

AXON CONTRACT AMENDMENT 1.PDF

(3) Authorize The Mayor To Sign A Professional Services Agreement With G&E Engineering For The 2024 Everett Water System Vulnerability Assessment.

Documents:

GANDE ENGINEERING-2024 EVT WTR SYS VULNERABILITY ASSESSMENT-PSA.PDF

PROPOSED ACTION ITEMS:

(4) CB 2310-56 – 1st Reading - Adopt An Ordinance Relating To Animal Control, Amending

Chapters 6.04 And 6.08 Of The Everett Municipal Code. (3rd & Final Reading 12/6/23)

Documents:

CB 2310-56.PDF

(5) CB 2310-57 – 2nd Reading - Adopt An Ordinance Closing A Special Improvement Project Entitled "Hannabrook Park Improvement Project", Fund 354, Program 85 As Established By Ordinance No. 3931-23. (3rd & Final Reading 11/29/23)

Documents:

CB 2310-57.PDF

(6) CB 2310-58 – 2nd Reading - Adopt An Ordinance Closing A Special Improvement Project Entitled "T. A. Sullivan Caretaker House Demolition", Fund 354, Program 082, As Established By Ordinance No. 3932-23. (3rd & Final Reading 11/29/23)

Documents:

CB 2310-58.PDF

(7) CB 2310-59 – 2nd Reading - Adopt An Ordinance Amending The Development Agreement For The Everett Riverfront District Properties Related To The Landfill Site, Amending Section 1 Of Ordinance No. 3121 -09, As Previously Amended. (3rd & Final Reading 11/29/23)

Documents:

CB 2310-59.PDF

ACTION ITEMS:

(8) Authorize The Mayor To Sign The Professional Services Agreement With Shiels Obletz Johnsen, Inc. In The Amount Of \$344,400 In Substantially The Form Provided.

Documents:

SOJ PROJECT MANAGEMENT PSA.PDF

(9) Award RFQ 2023-117 And Authorize The Mayor To Sign The Professional Services Agreement With Environmental Sciences Associates In The Amount Of \$807,421, In Substantially The Form Provided.

Documents:

ENVIRONMENTAL SCIENCE ASSOCIATES SEPA PSA.PDF

PUBLIC HEARINGS:

(10) CB 2310-54 – 3rd & Final Reading - Adopt An Ordinance Establishing Special System Development Fees For Connection To The City Of Everett's Water, Sewer, And Stormwater Systems For 2024 – 2027, Amending EMC 14.08.135.

Documents:

CB 2310-54.PDF

(11) CB 2310-55 – 2nd Reading - Adopt An Ordinance Appropriating The Budget For The City Of Everett For The Year 2024 In The Amount Of \$746,730,743. (3rd & Final Reading 11/29/23, Continued Public Hearing And Vote On 12/6/23)

Documents:

CB 2310-55.PDF

Executive Session

Adjourn

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- o Call in to listen to the Council meetings: 425.616.3920, conference ID: 724 887 726#
- Participate remotely via Zoom by registering to speak at <u>everettwa.gov/speakerform</u>. You must register no later than 30 minutes prior to the meeting. Or contact Angela Ely at 425.257.8703 or <u>aely@everettwa.gov</u> and identify the topic you wish to address.
- Provide written public comments by email to Council@everettwa.gov or mail to 2930
 Wetmore Avenue, Suite 9A, Everett, WA 98201. Emailing comments 24 hours prior to the meeting will ensure your comment is distributed to councilmembers and appropriate staff.
- Persons seeking to comment on non-agenda items may be asked to submit the comments in writing if the comment does not address an issue of broad public interest.

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- The Council meetings are broadcast on government-access cable Comcast Channel 21 and Frontier Channel 29. They are rebroadcast on Monday and Tuesday at noon;
 Thursday at 2 p.m. and 7 p.m.; Friday and Sunday at 7 p.m.; Saturday at 10 a.m.
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If you do not wish to participate in the meeting, we provide these other methods of contacting your elected officials: Email the Council at <u>Council@everettwa.gov</u>.

- o Call the Council offices at 425.257.8703
- You may call in just to listen to the meeting: 425.616.3920, conference ID 724 887 726#

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Be it Resolved by the City Council of the City of Everett:

Whereas the claims payable by check against the City of Everett for the period October 28, 2023 through November 3, 2023, having been audited and approved by the proper officers, have been paid and the disbursements made by the same, against the proper funds in payment thereof, as follows:

<u>Fund</u>	Department	4	<u>Amount</u>	<u>Fι</u>	<u>ind</u>	Department	Amount
001	City Council		554.26	1	01	Parks & Recreation	18,785.60
002	General Government		82,273.86	1	10	Library	7,852.08
003	Legal		1,346.86	1	12	Community Theater	15,438.32
004	Administration		3,470.24	1	19	Public Works-Street Improv	34,658.50
005	Municipal Court		1,085.71	1	20	Public Works-Streets	372.53
007	Human Resources		739.26	1	26	MV-Equipment Replacemer	8,828.14
009	Misc Financial Funds		91,423.44	1	46	Property Management	64,225.65
010	Finance		1,170.28	1	52	Cum Reserve-Library	3,735.00
015	Information Technology		339.03	1	53	Emergency Medical Service:	49,356.42
018	Communications, Mktg & Engag		125.46	1	55	Capital Reserve Fund	22,381.01
021	Planning & Community Dev		1,199.92	1	56	Criminal Justice	1,189.62
024	Public Works-Engineering		6,230.05	1	97	CHIP Loan Program	61.21
026	Animal Shelter		443.73	1	98	Community Dev Block Gran	27,492.68
030	Emergency Management		73.42	3	03	PW Improvement Projects	75,430.99
031	Police		21,398.53	3	36	Water & Sewer Sys Improv	345,460.00
032	Fire		59,322.20	3	54	Parks Capital Construction	27,510.79
038	Facilities/Maintenance		3,637.10	4	01	Public Works-Utilities	367,303.73
				4	02	Solid Waste Utility	58,386.71
	TOTAL GENERAL FUND	\$	274,833.35	4	25	Public Works-Transit	371,686.05
				4	30	Everpark Garage	18,287.75
				4	40	Golf	19,174.66
					50	Snoh River Regional Water	2,350.00
					01	MVD-Transportation Service	148,727.58
				5	03	Self-Insurance	38,864.07
				5	05	Computer Reserve	22,007.73
					07	Telecommunications	27,210.19
					37	Police Pension	5 <i>,</i> 405.70
					38	Fire Pension	20,883.24
					61	Claims	300.00
				6	65	Other Special Agency Funds	46,923.25
						TOTAL CLAIMS	\$ 2,125,122.55
Council	person introducing Resolution						

Passed and approved this _____ day of _____ , 2023

Council President

EVERETT

Proiect title:

Authorize the Mayor to sign Contract Amendment #1 with Axon Enterprise Inc for Body Worn Cameras and Tasers from Department of Enterprise Services Contract #04420 and 06316/COE #2019-111

City Council Agenda Item Cover Sheet

Council Bill # interoffice use

Project:	Police Body Cameras and Tasers
Partner/Supplier:	Axon Enterprise Inc.
Location:	N/A
Preceding action:	8/12/20 Acceptance of Edward Bryne Memorial Justice Assistance Grant 11/18/20 Acceptance of Department of Justice Grant 11/25/20 Award and Authorize the Mayor to sign a Contract with Axon Enterprise Inc for body worn cameras and interview room hardware from NASPO Contract #OK-MA-145-015/COE #2019-111
F.	Criminal Justice Fund 156, Police General Fund Department 031

Fiscal summary statement:

Currently, the Everett Police Department contracts with Axon Enterprise Inc. for several products, including body-worn cameras, tasers, interview rooms, digital forensic tools, and digital evidence management, with a total annual cost for all products of \$348,977.80 plus applicable Washington State sales tax.

Contract Amendment #1 with Axon Enterprise Inc. maintains the same fiscal impact of \$348,977.80 per year for five years for a total of \$1,979,733.58, including applicable Washington State sales tax. By contracting for five years, the City locks in the discounted pricing without incurring additional year-over-year increases.

Project summary statement:

During 2019, the Police, Information Technology, and Procurement departments interviewed Coban Technologies, Inc. and Axon to assess the brand and type of body camera equipment the Police department would like to purchase. Both companies were listed on the Washington State Department of Enterprise Services (WA DES) contract #06316. After completing the evaluation, the staff recommended contracting with Axon. Contract Amendment #1 updates the Police department's tasers from X2 to Taser 10, allowing the department to continue equipping police officers with tasers and body cameras at a fixed cost for the next five years.

The body-worn cameras and interview room hardware are available for purchase from Axon Enterprise Inc. through a Washington State Department of Enterprise Services participating Addendum # 06316, which allows Washington state public entities to use Department of Enterprise Services Contract #04420 and 06316/COE #2019-111. The City has an Interlocal agreement with the Washington State Department of Enterprise Services from its competitively awarded contracts in lieu of soliciting bids on our own.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign Contract Amendment #1 with Axon Enterprise Inc. for body worn cameras and tasers from Department of Enterprise Services Contract #04420 and 06316/COE #2019-111.

Agenda dates requested:

November 15, 2023

Briefing Proposed action Consent X Action Ordinance Public hearing Yes X No

Budget amendment:

Yes X No

PowerPoint presentation: Yes X No

Attachments:

Contract Amendment #1 & Quote

Department(s) involved: Procurement & Police

Contact person: Theresa Bauccio-Teschlog

Phone number: (425) 257-8901

Email: tbauccio@everettwa.gov

Initialed by: SM Department head

Administration

Council President



This First Amendment ("**Amendment**") is between Axon Enterprise, Inc. (f/k/a Taser International, Inc.), a Delaware corporation ("**Axon**"), and the City of Everett ("**Agency**"). This Amendment is effective as of the last signature date on this Amendment ("**Effective Date**"). Axon and Agency are each a "**Party**" and collectively "**Parties**".

Axon and Agency are parties to the Master Services and Purchasing Agreement by and between the City of Everett and Axon Enterprise, Inc. dated December 7, 2020 ("**Agreement**"). The parties also executed an addendum regarding Washington State transparency laws (the "**Addendum**"), which is part of the Agreement.

The Parties wish to incorporate further changes into the Agreement in order to expand the scope of offered products. The newly added products are from Washington State Department of Enterprise Services contract number 04220 ("**DES Contract 04420**") and Washington State Department of Enterprise Services contract number 06316 ("**DES Contract 06316**").

The Parties therefore agree as follows:

- 1. The attached documents are hereby incorporated into the Agreement:
 - a. TASER 10 Appendix
 - b. Axon Respond Appendix
 - c. Axon Investigate Appendix
 - d. Quote Q-518261-45229.662JH
- 2. The parties agree on the following orders of precedence (with A governing B, B governing C, and so on) in the event of conflict between provisions of the Agreement:
 - The order of precedence governing products from DES Contract 06316 is: (A) the Addendum, (B) pricing in Quote Q-518261, (C) appendices added by this First Amendment, (D) the other terms and conditions of the Agreement, and lastly (E) DES Contract 06316 (which is hereby incorporated into the Agreement except for its pricing).
 - The order of precedence governing products from DES Contract 04420 is: (A) the Addendum, (B) pricing in Quote Q-518261, (C) appendices added by this First Amendment (D) DES Contract 04420 (which is hereby incorporated into the Agreement except for its pricing), and lastly (E) the other terms and conditions of the Agreement.
- 3. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

[signatures on next page]



Each representative identified below declares that the representative is authorized to execute this Amendment as of the date of signature.

Axon Enterprise, Inc.	Agency
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:



TASER 10 Appendix

This TASER 10 Appendix applies to Agency's TASER 10, OSP 10, OSP Plus, or OSP 10 Plus Premium purchase from Axon, if applicable.

- <u>Duty Cartridge Replenishment Plan</u>. If the Quote includes "Duty Cartridge Replenishment Plan", Agency
 must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty
 and those that only use a CEW for training. Agency may not resell cartridges received. Axon will only replace
 cartridges used in the line of duty.
- 2. <u>Training</u>. If the Quote includes a training voucher, Agency must use the voucher within one (1) year of issuance, or the voucher will be void. Axon will issue Agency a voucher annually beginning on the start of the TASER Subscription Term. The voucher has no cash value. Agency cannot exchange it for another device or service. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency's responsibility. If the Quote includes Axon Online Training or Virtual Reality Content Empathy Development for Autism/Schizophrenia (collectively, "Training Content"), Agency may access Training Content. Axon will deliver all Training Content electronically.
- Extended Warranty. If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a five- (5-) year term, which includes the hardware manufacturer's warranty plus the four-(4-) year extended term.
- 4. <u>Trade-in</u>. If the Quote contains a discount on CEW-related line items, including items related to OSP, then that discount may only be applied as a trade-in credit, and Agency must return used hardware and accessories associated with the discount ("Trade-In Units") to Axon. Agency must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in credit. Agency may not destroy Trade-In Units and receive a trade-in credit.

Agency Size	Days to Return from Start Date of TASER 10 Subscription
Less than 100 officers	60 days
100 to 499 officers	90 days
500+ officers	180 days

- 5. **TASER 10 Subscription Term**. The TASER 10 Subscription Term for a standalone TASER 10 purchase begins on shipment of the TASER 10 hardware. The TASER 10 Subscription Term for OSP 10 begins on the OSP 10 start date.
- 6. <u>Access Rights</u>. Upon Axon granting Agency a TASER 10 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 10 CEW devices during the TASER 10 Subscription Term. Agency may not exceed the number of end users the Quote specifies.
- <u>Agency Warranty</u>. If Agency is located in the US, Agency warrants and acknowledges that TASER 10 is classified as a firearm and is being acquired for official Agency use pursuant to a law enforcement agency transfer under the Gun Control Act of 1968.
- 8. **Purchase Order.** To comply with applicable laws and regulations, Agency must provide a purchase order to Axon prior to shipment of TASER 10.
- 9. <u>Apollo Grant (US only).</u> If Agency has received an Apollo Grant from Axon, Agency must pay all fees in the Quote prior to upgrading to any new TASER CEW offered by Axon.



Axon Respond Appendix

This Axon Respond Appendix applies to both Axon Respond and Axon Respond Plus, if either is included on the Quote.

- 1. <u>Axon Respond Subscription Term</u>. If Agency purchases Axon Respond as part of a bundled offering, the Axon Respond subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Respond to Agency. If Agency purchases Axon Respond as a standalone, the Axon Respond subscription begins the later of the (1) date Axon provisions Axon Respond to Agency, or (2) first day of the month following the Effective Date. The Axon Respond subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Respond.
- Scope of Axon Respond. The scope of Axon Respond is to assist Agency with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Agency uses Axon Respond outside this scope, Axon may initiate good-faith discussions with Agency on upgrading Agency's Axon Respond to better meet Agency's needs.
- 3. <u>Axon Body 3 LTE Requirements</u>. Axon Respond is only available and usable with an LTE enabled bodyworn camera. Axon is not liable if Agency utilizes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon's choice to provide LTE service. Axon may change LTE carriers during the Term without Agency's consent.
- 4. <u>Axon Fleet 3 LTE Requirements</u>. Axon Respond is only available and usable with a Fleet 3 system configured with LTE modem and service. Agency is responsible for providing LTE service for the modem. Coverage and availability of LTE service is subject to Agency's LTE carrier.
- 5. Axon Respond Service Limitations. Agency acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area, and other causes reasonably outside of the carrier's control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.
 - 5.1. With regard to Axon Body 3, Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Agency expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Agency is not a third-party beneficiary of any agreement between Axon and the underlying carrier.
- 6. <u>Termination</u>. Upon termination of this Agreement, or if Agency stops paying for Axon Respond or bundles that include Axon Respond, Axon will end Axon Respond services, including any Axon-provided LTE service.



Axon Investigate Appendix

If the Quote includes Axon's On Prem Video Suite known as Axon Investigate or Third Party Video Support License, the following appendix shall apply.

- 1. <u>License Grant</u>. Subject to the terms and conditions specified below and upon payment of the applicable fees set forth in the Quote, Axon grants to Agency a nonexclusive, nontransferable license to install, use, and display the Axon Investigate software ("Software") solely for its own internal use only and for no other purpose, for the duration of subscription term set forth in the Quote. This Agreement does not grant Agency any right to enhancements or updates, but if such are made available to Agency and obtained by Agency they shall become part of the Software and governed by the terms of this Agreement.
- 2. Third-Party Licenses. Axon licenses several third-party codecs and applications that are integrated into the Software. Users with an active support contract with Axon are granted access to these additional features. By accepting this agreement, Agency agrees to and understands that an active support contract is required for all of the following features: DNxHD output formats, decoding files via the "fast indexing" method, proprietary file metadata, telephone and email support, and all future updates to the software. If Agency terminates the annual support contract with Axon, the features listed above will be disabled within the Software. It is recommended that users remain on an active support contract to maintain the full functionality of the Software.
- 3. **Restrictions on Use**. Agency may not permit any other person to use the Software unless such use is in accordance with the terms of this Agreement. Agency may not modify, translate, reverse engineer, reverse compile, decompile, disassemble or create derivative works with respect to the Software, except to the extent applicable laws specifically prohibit such restrictions. Agency may not rent, lease, sublicense, grant a security interest in or otherwise transfer Agency's rights to or to use the Software. Any rights not granted are reserved to Axon.
- 4. <u>Term</u>. For purchased perpetual Licenses only—excluding Licenses leased for a pre-determined period, evaluation licenses, companion licenses, as well as temporary licenses--the license shall be perpetual unless Agency fails to observe any of its terms, in which case it shall terminate immediately, and without additional prior notice. The terms of Paragraphs 1, 2, 3, 5, 6, 8 and 9 shall survive termination of this Agreement. For licenses leased for a pre-determined period, for evaluation licenses, companion licenses, as well as temporary licenses, the license is granted for a period beginning at the installation date and for the duration of the evaluation period or temporary period as agreed between Axon and Agency.
- 5. <u>Title</u>. Axon and its licensors shall have sole and exclusive ownership of all right, title, and interest in and to the Software and all changes, modifications, and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), regardless of the form or media in which the original or copies may exist, subject only to the rights and privileges expressly granted by Axon. This Agreement does not provide Agency with title or ownership of the Software, but only a right of limited use.
- 6. <u>Copies</u>. The Software is copyrighted under the laws of the United States and international treaty provisions. Agency may not copy the Software except for backup or archival purposes, and all such copies shall contain all Axon's notices regarding proprietary rights as contained in the Software as originally provided to Agency. If Agency receives one copy electronically and another copy on media, the copy on media may be used only for archival purposes and this license does not authorize Agency to use the copy of media on an additional server.
- 7. <u>Actions Required Upon Termination</u>. Upon termination of the license associated with this Agreement, Agency agrees to destroy all copies of the Software and other text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Software that are provided by Axon to Agency ("Software Documentation") or return such copies to Axon. Regarding any copies of media containing regular backups of Agency's computer or computer system, Agency agrees not to access such media for the purpose of recovering the Software or online Software Documentation.
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First Amendment to the Master Services and Purchasing Agreement

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Axon Enterprise, Inc. 17800 N 85th St. Scottsdale, Arizona 85255 United States VAT: 86-0741227 Domestic: (800) 978-2737 International: +1.800.978.2737

Q-518261-45229.662JH

Issued: 10/30/2023

Quote Expiration: 11/10/2023

Estimated Contract Start Date: 01/01/2024

Account Number: 123231 Payment Terms: N30 Delivery Method:

SHIP TO	BILL TO	SALES REPRESENTATIVE	PRIMARY CONTACT
Business;Delivery;Invoice-3002 Wetmore Ave 3002 Wetmore Ave Everett, WA 98201-4018 USA	Everett Police Dept WA 3002 Wetmore Ave Everett WA 98201-4018 USA Email:	Chris Neubeck Phone: +1 6027080074 Email: cneubeck@axon.com Fax: (480) 658-0629	Jeraud Irving Phone: (425) 257-8400 Email: jirving@everettwa.gov Fax: (425) 257-6506

60 Months

\$1,826,603.14

\$1,979,733.58

Quote Summary

Program Length

TOTAL COST

Discount Summary

Average Savings Per Year	\$113,911.71
TOTAL SAVINGS	\$569,558.54

Payment Summary

ESTIMATED TOTAL W/ TAX

Date	Subtotal	Тах	Total
Dec 2023	\$81,896.40	\$8,107.27	\$90,003.67
Jan 2024	\$348,795.54	\$28,941.50	\$377,737.04
Jan 2025	\$348,977.80	\$29,020.40	\$377,998.20
Jan 2026	\$348,977.80	\$29,020.40	\$377,998.20
Jan 2027	\$348,977.80	\$29,020.40	\$377,998.20
Jan 2028	\$348,977.80	\$29,020.47	\$377,998.27
Total	\$1,826,603.14	\$153,130.44	\$1,979,733.58

Q-518261-45229.662JH

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

ltem	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
100553	TRANSFER CREDIT - SOFTWARE AND SERVICES	1			\$1.00	(\$23,890.86)	(\$23,890.86)	(\$2,365.20)	(\$26,256.06)
100552	TRANSFER CREDIT - GOODS AXON	1			\$1.00	\$1,125.00	\$1,125.00	\$111.37	\$1,236.37
100845	BUNDLE - TRUE UP - TASER 10 CERTIFICATION BUNDLE	146	2		\$45.36	\$45.36	\$13,245.12	\$1,311.26	\$14,556.38
OSP10	Officer Safety Plan 10	146	58	\$225.05	\$193.90	\$160.04	\$1,355,218.72	\$114,363.41	\$1,469,582.13
T10Cert	TASER 10 Certification Bundle	18	60	\$80.29	\$75.83	\$75.83	\$81,896.40	\$8,107.27	\$90,003.67
Unlimited7	Unlimited 7 Bundle	146	2	\$86.71	\$139.00	\$116.43	\$33,997.56	\$2,253.38	\$36,250.94
A la Carte Softwar	e								
50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	60		\$27.12	\$27.12	\$4,881.60	\$483.27	\$5,364.87
50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	60		\$31.68	\$31.68	\$7,603.20	\$752.71	\$8,355.91
100678	INVESTIGATE PRO USB DONGLE	1			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
100749	INVESTIGATE PRO DONGLE LICENSE	1	60		\$271.23	\$271.23	\$16,273.80	\$1,611.11	\$17,884.91
50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	60		\$107.41	\$107.32	\$25,756.96	\$0.00	\$25,756.96
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	60		\$0.60	\$0.60	\$36,000.00	\$0.00	\$36,000.00
73682	AUTO TAGGING LICENSE	146	60		\$9.76	\$9.76	\$85,497.60	\$8,464.26	\$93,961.86
73478	REDACTION ASSISTANT USER LICENSE	146	60		\$9.76	\$9.76	\$85,497.60	\$8,464.26	\$93,961.86
ProLicense	Pro License Bundle	16	60		\$42.31	\$42.25	\$40,560.00	\$4,015.44	\$44,575.44
BasicLicense	Basic License Bundle	57	60		\$16.27	\$16.25	\$55,575.00	\$5,501.92	\$61,076.92
A la Carte Service	S								
85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1			\$6,800.00	\$6,800.00	\$6,800.00	\$0.00	\$6,800.00
A la Carte Warrant	ties								
50448	EXT WARRANTY, INTERVIEW ROOM	1	24		\$23.56	\$23.56	\$565.44	\$55.98	\$621.42
Total							\$1,826,603.14	\$153,130.44	\$1,979,733.58

Delivery Schedule

Hardware

Bundle	ltem	Description	QTY	Estimated Delivery Date
Officer Safety Plan 10	71044	BATTERY, SIGNAL SIDEARM, CR2430 SINGLE PACK	292	12/01/2023
Officer Safety Plan 10	75015	SIGNAL SIDEARM KIT	146	12/01/2023
TASER 10 Certification Bundle	100390	TASER 10 HANDLE, YLW, CLASS 3R	18	12/01/2023
TASER 10 Certification Bundle	100393	TASER 10 LIVE DUTY MAGAZINE BLACK	18	12/01/2023
TASER 10 Certification Bundle	100394	TASER 10 HALT TRN MAGAZINE BLUE (HOOK-AND-LOOP-TRAINING)	1	12/01/2023
TASER 10 Certification Bundle	100395	TASER 10 LIVE TRAINING MAGAZINE PURPLE	1	12/01/2023
TASER 10 Certification Bundle	100396	TASER 10 INERT MAGAZINE RED	1	12/01/2023
TASER 10 Certification Bundle	100399	TASER 10 LIVE CARTRIDGE	360	12/01/2023
TASER 10 Certification Bundle	100400	TASER 10 HALT CARTRIDGE	110	12/01/2023
TASER 10 Certification Bundle	100401	TASER 10 INERT CARTRIDGE	8	12/01/2023
TASER 10 Certification Bundle	100611	TASER 10 SAFARILAND HOLSTER, RH	18	12/01/2023
TASER 10 Certification Bundle	20018	TASER BATTERY PACK, TACTICAL	18	12/01/2023
TASER 10 Certification Bundle	20018	TASER BATTERY PACK, TACTICAL	4	12/01/2023
Officer Safety Plan 10	100390	TASER 10 HANDLE, YLW, CLASS 3R	146	02/01/2024
Officer Safety Plan 10	100390	TASER 10 HANDLE, YLW, CLASS 3R	4	02/01/2024
Officer Safety Plan 10	100393	TASER 10 LIVE DUTY MAGAZINE BLACK	146	02/01/2024
Officer Safety Plan 10	100393	TASER 10 LIVE DUTY MAGAZINE BLACK	4	02/01/2024
Officer Safety Plan 10	100394	TASER 10 HALT TRN MAGAZINE BLUE (HOOK-AND-LOOP-TRAINING)	6	02/01/2024
Officer Safety Plan 10	100395	TASER 10 LIVE TRAINING MAGAZINE PURPLE	6	02/01/2024
Officer Safety Plan 10	100396	TASER 10 INERT MAGAZINE RED	6	02/01/2024
Officer Safety Plan 10	100399	TASER 10 LIVE CARTRIDGE	2920	02/01/2024
Officer Safety Plan 10	100400	TASER 10 HALT CARTRIDGE	880	02/01/2024
Officer Safety Plan 10	100401	TASER 10 INERT CARTRIDGE	59	02/01/2024
Officer Safety Plan 10	100611	TASER 10 SAFARILAND HOLSTER, RH	146	02/01/2024
Officer Safety Plan 10	100623	ENHANCED HOOK-AND-LOOP TRAINING (HALT) SUIT (V2)	3	02/01/2024
Officer Safety Plan 10	20018	TASER BATTERY PACK, TACTICAL	146	02/01/2024
Officer Safety Plan 10	20018	TASER BATTERY PACK, TACTICAL	25	02/01/2024
Officer Safety Plan 10	20018	TASER BATTERY PACK, TACTICAL	4	02/01/2024
Officer Safety Plan 10	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	2	02/01/2024
Officer Safety Plan 10	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	2	02/01/2024
Officer Safety Plan 10	74200	TASER 6-BAY DOCK AND CORE	2	02/01/2024
Officer Safety Plan 10	80087	TASER TARGET, CONDUCTIVE, PROFESSIONAL (RUGGEDIZED)	2	02/01/2024
Officer Safety Plan 10	80090	TARGET FRAME, PROFESSIONAL, 27.5 IN. X 75 IN., TASER 7	2	02/01/2024
TASER 10 Certification Bundle	100399	TASER 10 LIVE CARTRIDGE	40	12/01/2024
TASER 10 Certification Bundle	100400	TASER 10 HALT CARTRIDGE	110	12/01/2024
Officer Safety Plan 10	100399	TASER 10 LIVE CARTRIDGE	300	02/01/2025
Officer Safety Plan 10	100400	TASER 10 HALT CARTRIDGE	880	02/01/2025
TASER 10 Certification Bundle	100399	TASER 10 LIVE CARTRIDGE	40	12/01/2025
TASER 10 Certification Bundle	100400	TASER 10 HALT CARTRIDGE	110	12/01/2025
Officer Safety Plan 10	100399	TASER 10 LIVE CARTRIDGE	290	02/01/2026

Hardware

ltem	Description	QTY	Estimated Delivery Date
100400	TASER 10 HALT CARTRIDGE	870	02/01/2026
73309	AXON CAMERA REFRESH ONE	150	06/01/2026
73689	MULTI-BAY BWC DOCK 1ST REFRESH	19	06/01/2026
100399	TASER 10 LIVE CARTRIDGE	30	12/01/2026
100400	TASER 10 HALT CARTRIDGE	110	12/01/2026
100399	TASER 10 LIVE CARTRIDGE	290	02/01/2027
100400	TASER 10 HALT CARTRIDGE	880	02/01/2027
100399	TASER 10 LIVE CARTRIDGE	40	12/01/2027
100400	TASER 10 HALT CARTRIDGE	100	12/01/2027
100399	TASER 10 LIVE CARTRIDGE	290	02/01/2028
100400	TASER 10 HALT CARTRIDGE	870	02/01/2028
73310	AXON CAMERA REFRESH TWO	150	12/01/2028
73688	MULTI-BAY BWC DOCK 2ND REFRESH	19	12/01/2028
	100400 73309 73689 100399 100400 100399 100400 100399 100400 100399 100400 73310	100400TASER 10 HALT CARTRIDGE73309AXON CAMERA REFRESH ONE73689MULTI-BAY BWC DOCK 1ST REFRESH100399TASER 10 LIVE CARTRIDGE100400TASER 10 HALT CARTRIDGE100399TASER 10 LIVE CARTRIDGE100400TASER 10 HALT CARTRIDGE100400TASER 10 HALT CARTRIDGE100400TASER 10 HALT CARTRIDGE100399TASER 10 LIVE CARTRIDGE100400TASER 10 LIVE CARTRIDGE100400TASER 10 HALT CARTRIDGE100399TASER 10 LIVE CARTRIDGE100399TASER 10 LIVE CARTRIDGE100400TASER 10 HALT CARTRIDGE100400 <td>100400 TASER 10 HALT CARTRIDGE 870 73309 AXON CAMERA REFRESH ONE 150 73689 MULTI-BAY BWC DOCK 1ST REFRESH 19 100399 TASER 10 LIVE CARTRIDGE 30 100400 TASER 10 HALT CARTRIDGE 110 100399 TASER 10 HALT CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 40 100399 TASER 10 LIVE CARTRIDGE 40 100399 TASER 10 LIVE CARTRIDGE 100 100399 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 40 100400 TASER 10 LIVE CARTRIDGE 290 100399 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 HALT CARTRIDGE 870 73310 AXON CAMERA REFRESH TWO 150</td>	100400 TASER 10 HALT CARTRIDGE 870 73309 AXON CAMERA REFRESH ONE 150 73689 MULTI-BAY BWC DOCK 1ST REFRESH 19 100399 TASER 10 LIVE CARTRIDGE 30 100400 TASER 10 HALT CARTRIDGE 110 100399 TASER 10 HALT CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 40 100399 TASER 10 LIVE CARTRIDGE 40 100399 TASER 10 LIVE CARTRIDGE 100 100399 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 40 100400 TASER 10 LIVE CARTRIDGE 290 100399 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 LIVE CARTRIDGE 290 100400 TASER 10 HALT CARTRIDGE 870 73310 AXON CAMERA REFRESH TWO 150

Software

Bundle	ltem	Description	QTY	Estimated Start Date	Estimated End Date
Basic License Bundle	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	57	01/01/2024	12/31/2028
Basic License Bundle	73840	EVIDENCE.COM BASIC ACCESS LICENSE	57	01/01/2024	12/31/2028
Pro License Bundle	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	48	01/01/2024	12/31/2028
Pro License Bundle	73746	PROFESSIONAL EVIDENCE.COM LICENSE	16	01/01/2024	12/31/2028
TASER 10 Certification Bundle	20248	TASER 7 EVIDENCE.COM LICENSE	18	01/01/2024	12/31/2028
TASER 10 Certification Bundle	20248	TASER 7 EVIDENCE.COM LICENSE	1	01/01/2024	12/31/2028
Unlimited 7 Bundle	73449	RESPOND DEVICE LICENSE	146	01/01/2024	02/29/2024
Unlimited 7 Bundle	73638	STANDARDS ACCESS LICENSE	146	01/01/2024	02/29/2024
Unlimited 7 Bundle	73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	146	01/01/2024	02/29/2024
Unlimited 7 Bundle	73746	PROFESSIONAL EVIDENCE.COM LICENSE	146	01/01/2024	02/29/2024
Unlimited 7 Bundle	73746	PROFESSIONAL EVIDENCE.COM LICENSE	1	01/01/2024	02/29/2024
A la Carte	100678	INVESTIGATE PRO USB DONGLE	1	01/01/2024	12/31/2028
A la Carte	100749	INVESTIGATE PRO DONGLE LICENSE	1	01/01/2024	12/31/2028
A la Carte	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	01/01/2024	12/31/2028
A la Carte	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	01/01/2024	12/31/2028
A la Carte	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	01/01/2024	12/31/2028
A la Carte	73478	REDACTION ASSISTANT USER LICENSE	146	01/01/2024	12/31/2028
A la Carte	73682	AUTO TAGGING LICENSE	146	01/01/2024	12/31/2028
A la Carte	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	01/01/2024	12/31/2028
Officer Safety Plan 10	20248	TASER 7 EVIDENCE.COM LICENSE	146	03/01/2024	12/31/2028
Officer Safety Plan 10	20248	TASER 7 EVIDENCE.COM LICENSE	2	03/01/2024	12/31/2028
Officer Safety Plan 10	73449	RESPOND DEVICE LICENSE	146	03/01/2024	12/31/2028
Officer Safety Plan 10	73638	STANDARDS ACCESS LICENSE	146	03/01/2024	12/31/2028
Officer Safety Plan 10	73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	146	03/01/2024	12/31/2028
Officer Safety Plan 10	73746	PROFESSIONAL EVIDENCE.COM LICENSE	146	03/01/2024	12/31/2028
Officer Safety Plan 10	73746	PROFESSIONAL EVIDENCE.COM LICENSE	1	03/01/2024	12/31/2028

Services

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Bundle	ltem	Description	QTY
Officer Safety Plan 10	100751	TASER 10 DUTY CARTRIDGE REPLACEMENT ACCESS PROGRAM	146
Officer Safety Plan 10	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Officer Safety Plan 10	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Officer Safety Plan 10	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Officer Safety Plan 10	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Officer Safety Plan 10	20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER	1
Officer Safety Plan 10	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Officer Safety Plan 10	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Officer Safety Plan 10	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Officer Safety Plan 10	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
Officer Safety Plan 10	20120	TASER 7 INSTRUCTOR COURSE VOUCHER	1
TASER 10 Certification Bundle	100751	TASER 10 DUTY CARTRIDGE REPLACEMENT ACCESS PROGRAM	18
A la Carte	85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Unlimited 7 Bundle	80464	EXT WARRANTY, CAMERA (TAP)	146	01/01/2024	02/29/2024
Unlimited 7 Bundle	80464	EXT WARRANTY, CAMERA (TAP)	4	01/01/2024	02/29/2024
Unlimited 7 Bundle	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	19	01/01/2024	02/29/2024
A la Carte	50448	EXT WARRANTY, INTERVIEW ROOM	1	01/01/2024	12/31/2025
Officer Safety Plan 10	80464	EXT WARRANTY, CAMERA (TAP)	146	02/01/2024	12/31/2028
Officer Safety Plan 10	80465	EXT WARRANTY, MULTI-BAY DOCK (TAP)	19	02/01/2024	12/31/2028
TASER 10 Certification Bundle	100704	EXT WARRANTY, TASER 10 HANDLE	18	12/01/2024	12/31/2028
TASER 10 Certification Bundle	80374	EXT WARRANTY, TASER 7 BATTERY PACK	18	12/01/2024	12/31/2028
TASER 10 Certification Bundle	80374	EXT WARRANTY, TASER 7 BATTERY PACK	4	12/01/2024	12/31/2028
Officer Safety Plan 10	100704	EXT WARRANTY, TASER 10 HANDLE	146	02/01/2025	12/31/2028
Officer Safety Plan 10	100704	EXT WARRANTY, TASER 10 HANDLE	4	02/01/2025	12/31/2028
Officer Safety Plan 10	80374	EXT WARRANTY, TASER 7 BATTERY PACK	146	02/01/2025	12/31/2028
Officer Safety Plan 10	80374	EXT WARRANTY, TASER 7 BATTERY PACK	25	02/01/2025	12/31/2028
Officer Safety Plan 10	80374	EXT WARRANTY, TASER 7 BATTERY PACK	4	02/01/2025	12/31/2028
Officer Safety Plan 10	80396	EXT WARRANTY, TASER 7 SIX BAY DOCK	2	02/01/2025	12/31/2028
Officer Safety Plan 10	80464	EXT WARRANTY, CAMERA (TAP)	4	02/01/2025	12/31/2028

Payment Details

nvoice Plan	ltem	Description	Qty	Subtotal	Tax	Tota
PD Fund - Upfront 18 Handles	T10Cert	TASER 10 Certification Bundle	18	\$81,896.40	\$8,107.27	\$90,003.67
Total				\$81,896.40	\$8,107.27	\$90,003.67
lan 2024						
Jan 2024	l é a	Description	04.	Cubésés	Tev	Tata
nvoice Plan	Item	Description	Qty	Subtotal	Tax	Tota
CJ Fund - Year 1	73478	REDACTION ASSISTANT USER LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 1	73682	AUTO TAGGING LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 1	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	\$7,200.00	\$0.00	\$7,200.00
CJ Fund - Year 1	BasicLicense	Basic License Bundle	57	\$11,115.00	\$1,100.38	\$12,215.38
CJ Fund - Year 1	OSP10	Officer Safety Plan 10	146	\$146,160.75	\$10,721.97	\$156,882.72
CJ Fund - Year 1	ProLicense	Pro License Bundle	16	\$8,112.00	\$803.09	\$8,915.09
CJ Fund - Year 1	Unlimited7	Unlimited 7 Bundle	146	\$6,799.52	\$450.68	\$7,250.20
T Fund - Year 1	100678	INVESTIGATE PRO USB DONGLE	1	\$0.00	\$0.00	\$0.00
T Fund - Year 1	100749	INVESTIGATE PRO DONGLE LICENSE	1	\$3,254.76	\$322.22	\$3,576.98
T Fund - Year 1	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	\$550.46	\$54.51	\$604.97
T Fund - Year 1	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	\$857.36	\$84.89	\$942.25
T Fund - Year 1	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	\$2,904.42	\$0.00	\$2,904.42
T Fund - Year 1	50448	EXT WARRANTY, INTERVIEW ROOM	1	\$63.76	\$6.30	\$70.06
JAG Grant - Year 1	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	\$425.86	\$42.16	\$468.02
JAG Grant - Year 1	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	\$663.28	\$65.66	\$728.94
JAG Grant - Year 1	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	\$2,246.97	\$0.00	\$2,246.97
JAG Grant - Year 1	50448	EXT WARRANTY, INTERVIEW ROOM	1	\$49.33	\$4.88	\$54.21
PD Fund - Year 1	100845	BUNDLE - TRUE UP - TASER 10 CERTIFICATION BUNDLE	146	\$3,020.34	\$299.01	\$3,319.35
PD Fund - Year 1	85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1	\$1,550.63	\$0.00	\$1,550.63
PD Fund - Year 1	OSP10	Officer Safety Plan 10	146	\$142,387.92	\$13,853.88	\$156,241.80
nvoice Upon Fulfillment	100552	TRANSFER CREDIT - GOODS AXON	1	\$1,125.00	\$111.37	\$1,236.37
nvoice Upon Fulfillment	100553	TRANSFER CREDIT - SOFTWARE AND SERVICES	1	(\$23,890.86)	(\$2,365.20)	(\$26,256.06)
Total				\$348,795.54	\$28,941.50	\$377,737.04

Mar 2024						
Invoice Plan	ltem	Description	Qty	Subtotal	Tax	Total
Invoice Upon Fulfillment	OSP10	Officer Safety Plan 10	146	\$0.00	\$0.00	\$0.00
Total				\$0.00	\$0.00	\$0.00

Jan 2025						
Invoice Plan	ltem	Description	Qty	Subtotal	Тах	Total
CJ Fund - Year 2	73478	REDACTION ASSISTANT USER LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 2	73682	AUTO TAGGING LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 2	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	\$7,200.00	\$0.00	\$7,200.00
CJ Fund - Year 2	BasicLicense	Basic License Bundle	57	\$11,115.00	\$1,100.38	\$12,215.38

Jan 2025						
Invoice Plan	ltem	Description	Qty	Subtotal	Тах	Total
CJ Fund - Year 2	OSP10	Officer Safety Plan 10	146	\$146,160.76	\$10,721.97	\$156,882.73
CJ Fund - Year 2	ProLicense	Pro License Bundle	16	\$8,112.00	\$803.09	\$8,915.09
CJ Fund - Year 2	Unlimited7	Unlimited 7 Bundle	146	\$6,799.52	\$450.68	\$7,250.20
IT Fund - Year 2	100678	INVESTIGATE PRO USB DONGLE	1	\$0.00	\$0.00	\$0.00
IT Fund - Year 2	100749	INVESTIGATE PRO DONGLE LICENSE	1	\$3,254.76	\$322.22	\$3,576.98
IT Fund - Year 2	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	\$976.32	\$96.65	\$1,072.97
IT Fund - Year 2	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	\$1,520.64	\$150.54	\$1,671.18
IT Fund - Year 2	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	\$5,151.39	\$0.00	\$5,151.39
IT Fund - Year 2	50448	EXT WARRANTY, INTERVIEW ROOM	1	\$113.09	\$11.20	\$124.29
PD Fund - Year 2	100845	BUNDLE - TRUE UP - TASER 10 CERTIFICATION BUNDLE	146	\$2,556.20	\$253.06	\$2,809.26
PD Fund - Year 2	85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1	\$1,312.34	\$0.00	\$1,312.34
PD Fund - Year 2	OSP10	Officer Safety Plan 10	146	\$120,506.74	\$11,724.91	\$132,231.65
Total				\$348,977.80	\$29,020.40	\$377,998.20

Jan 2026						
Invoice Plan	ltem	Description	Qty	Subtotal	Тах	Total
CJ Fund - Year 3	73478	REDACTION ASSISTANT USER LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 3	73682	AUTO TAGGING LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 3	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	\$7,200.00	\$0.00	\$7,200.00
CJ Fund - Year 3	BasicLicense	Basic License Bundle	57	\$11,115.00	\$1,100.38	\$12,215.38
CJ Fund - Year 3	OSP10	Officer Safety Plan 10	146	\$146,160.76	\$10,721.97	\$156,882.73
CJ Fund - Year 3	ProLicense	Pro License Bundle	16	\$8,112.00	\$803.09	\$8,915.09
CJ Fund - Year 3	Unlimited7	Unlimited 7 Bundle	146	\$6,799.52	\$450.68	\$7,250.20
IT Fund - Year 3	100678	INVESTIGATE PRO USB DONGLE	1	\$0.00	\$0.00	\$0.00
IT Fund - Year 3	100749	INVESTIGATE PRO DONGLE LICENSE	1	\$3,254.76	\$322.22	\$3,576.98
IT Fund - Year 3	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	\$976.32	\$96.65	\$1,072.97
IT Fund - Year 3	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	\$1,520.64	\$150.54	\$1,671.18
IT Fund - Year 3	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	\$5,151.39	\$0.00	\$5,151.39
IT Fund - Year 3	50448	EXT WARRANTY, INTERVIEW ROOM	1	\$113.09	\$11.20	\$124.29
PD Fund - Year 3	100845	BUNDLE - TRUE UP - TASER 10 CERTIFICATION BUNDLE	146	\$2,556.20	\$253.06	\$2,809.26
PD Fund - Year 3	85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1	\$1,312.34	\$0.00	\$1,312.34
PD Fund - Year 3	OSP10	Officer Safety Plan 10	146	\$120,506.74	\$11,724.91	\$132,231.65
Total				\$348,977.80	\$29,020.40	\$377,998.20

Jan 2027						
Invoice Plan	ltem	Description	Qty	Subtotal	Tax	Total
CJ Fund - Year 4	73478	REDACTION ASSISTANT USER LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 4	73682	AUTO TAGGING LICENSE	146	\$17,099.52	\$1,692.85	\$18,792.37
CJ Fund - Year 4	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	\$7,200.00	\$0.00	\$7,200.00
CJ Fund - Year 4	BasicLicense	Basic License Bundle	57	\$11,115.00	\$1,100.38	\$12,215.38
CJ Fund - Year 4	OSP10	Officer Safety Plan 10	146	\$146,160.76	\$10,721.97	\$156,882.73
CJ Fund - Year 4	ProLicense	Pro License Bundle	16	\$8,112.00	\$803.09	\$8,915.09
CJ Fund - Year 4	Unlimited7	Unlimited 7 Bundle	146	\$6,799.52	\$450.68	\$7,250.20
IT Fund - Year 4	100678	INVESTIGATE PRO USB DONGLE	1	\$0.00	\$0.00	\$0.00
IT Fund - Year 4	100749	INVESTIGATE PRO DONGLE LICENSE	1	\$3,254.76	\$322.22	\$3,576.98

Jan 2027						
Invoice Plan	ltem	Description	Qty	Subtotal	Tax	Total
IT Fund - Year 4	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	\$976.32	\$96.65	\$1,072.97
IT Fund - Year 4	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	\$1,520.64	\$150.54	\$1,671.18
IT Fund - Year 4	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	\$5,151.39	\$0.00	\$5,151.39
IT Fund - Year 4	50448	EXT WARRANTY, INTERVIEW ROOM	1	\$113.09	\$11.20	\$124.29
PD Fund - Year 4	100845	BUNDLE - TRUE UP - TASER 10 CERTIFICATION BUNDLE	146	\$2,556.20	\$253.06	\$2,809.26
PD Fund - Year 4	85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1	\$1,312.34	\$0.00	\$1,312.34
PD Fund - Year 4	OSP10	Officer Safety Plan 10	146	\$120,506.74	\$11,724.91	\$132,231.65
Total				\$348,977.80	\$29,020.40	\$377,998.20

Jan 2028						
Invoice Plan	ltem	Description	Qty	Subtotal	Tax	Total
CJ Fund - Year 5	73478	REDACTION ASSISTANT USER LICENSE	146	\$17,099.52	\$1,692.86	\$18,792.38
CJ Fund - Year 5	73682	AUTO TAGGING LICENSE	146	\$17,099.52	\$1,692.86	\$18,792.38
CJ Fund - Year 5	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	1000	\$7,200.00	\$0.00	\$7,200.00
CJ Fund - Year 5	BasicLicense	Basic License Bundle	57	\$11,115.00	\$1,100.40	\$12,215.40
CJ Fund - Year 5	OSP10	Officer Safety Plan 10	146	\$146,160.76	\$10,721.99	\$156,882.75
CJ Fund - Year 5	ProLicense	Pro License Bundle	16	\$8,112.00	\$803.08	\$8,915.08
CJ Fund - Year 5	Unlimited7	Unlimited 7 Bundle	146	\$6,799.52	\$450.66	\$7,250.18
IT Fund - Year 5	100678	INVESTIGATE PRO USB DONGLE	1	\$0.00	\$0.00	\$0.00
IT Fund - Year 5	100749	INVESTIGATE PRO DONGLE LICENSE	1	\$3,254.76	\$322.23	\$3,576.99
IT Fund - Year 5	50039	INTERVIEW - SOFTWARE - CLIENT MAINTENANCE (PER TOUCH PANEL-P	3	\$976.32	\$96.65	\$1,072.97
IT Fund - Year 5	50043	INTERVIEW - SOFTWARE - STREAMING SERVER MAINTENANCE (PER SER	4	\$1,520.64	\$150.54	\$1,671.18
IT Fund - Year 5	50045	UNLIMITED INTERVIEW ROOM CLOUD STORAGE	4	\$5,151.39	\$0.00	\$5,151.39
IT Fund - Year 5	50448	EXT WARRANTY, INTERVIEW ROOM	1	\$113.09	\$11.20	\$124.29
PD Fund - Year 5	100845	BUNDLE - TRUE UP - TASER 10 CERTIFICATION BUNDLE	146	\$2,556.20	\$253.07	\$2,809.27
PD Fund - Year 5	85149	CEW 2 DAY PRODUCT SPECIFIC INSTRUCTOR COURSE	1	\$1,312.34	\$0.00	\$1,312.34
PD Fund - Year 5	OSP10	Officer Safety Plan 10	146	\$120,506.74	\$11,724.93	\$132,231.67
Total				\$348,977.80	\$29,020.47	\$377,998.27

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Contract NASPO Contract No. OK-MA-145-015 is incorporated by reference into the terms and conditions of this Agreement. In the event of conflict the terms of Axon's Master Services and Purchasing Agreement shall govern.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement entered into between the parties on December 7, 2020, as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Exceptions to Standard Terms and Conditions

Agency has existing contract(s) 00035171 and 00064092 originated via Quote(s): Q-266330 and Q-328297

Agency is terminating those contracts effective 01/01/2024. Any change in this date will result in modification of the program value which may result in additional fees or credits due to or from Axon.

The parties agree that Axon is applying a Net Transfer Credit of (\$22,765.86) to the quote for paid but undelivered items.

Signature

Date Signed

10/30/2023



ADDENDUM

(WASHINGTON STATE TRANSPARENCY LAWS)

The City of Everett ("City") and Axon Enterprise, Inc. ("Vendor") are parties to an agreement entitled "Master Services and Purchasing Agreement" (the "Agreement"). The parties agree as follows:

- A. <u>Scope</u>. Regardless of anything to the contrary in the Agreement, all provisions in the Agreement that require the City to not disclose information or otherwise preserve confidentiality are strictly limited to those on the following list:
 - 1. Vendor has no Confidential Records
 - 2. 3.
 - 4
 - 5.
 - 6.
 - 7.

The items in the list above are referred to as the "Confidential Records".

If the Parties desire anything additional be Confidential Records, then a new addendum shall be executed by the parties. The City has no nondisclosure or confidentiality obligations under the Agreement with respect to anything that is not a Confidential Record as defined by this addendum.

B. <u>Washington Public Records Act.</u> Vendor acknowledges that the City is subject to the Washington Public Records Act, chapter 42.56 RCW and other Washington statutes related to open government (collectively, the "Act"). If the City receives a records request under the Act that requests any Confidential Records, then the City shall give reasonable written notice to Vendor. The City has no obligation to provide such notice for anything that is not Confidential Records. If Vendor desires that the Confidential Records not be disclosed, Vendor shall commence an action in Snohomish County Superior Court before the disclosure date. Notwithstanding anything to the contrary in the the Agreement, the City has no liability whatsoever to Vendor the disclosure of any record when that disclosure is consistent with the Act or with an order applying the Act entered by the Snohomish County Superior Court or a Washington appellate court.

- C. Agreement Not Confidential. Vendor acknowledges and agrees that the Agreement, work orders, service orders and similar documents stating work to be done for the City, pricing, and agreement terms and conditions are never confidential. All of these may be posted on the City's public website without notice to Vendor.
- D. Venue. The exclusive venue for any dispute regarding the subject matter of this addendum is Snohomish County Superior Court.

CITY:

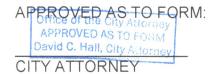
CASSIE FRANKLIN, MAYOR

VENDOR:

DocuSigned by:

DAEBB131A4424. Robert Driscoll By Title: VP, Assoc. General Counsel

ATTEST CITY CLERK



EVERETT City Council Agenda Item Cover Sheet

Project title: 2024 Everett Water System Vulnerability Assessment

Council Bill #		2024 Everett Water System Vulnerability Assessment
	Partner/Supplier :	G&E Engineering
Agenda dates requested:	Location:	N/A
November 15, 2023	Preceding action:	None
Briefing		401 – Water & Sewer Utility Fund
Proposed action		

Fiscal summary statement:

The City of Everett seeks a Professional Services Agreement with G&E Engineering with a total compensation amount not to exceed \$88,660.00. Source of funds for this PSA will be 401 – Water & Sewer Utility Fund.

Project summary statement:

The City of Everett (City) owns and operates a single source water supply and distribution system which provides potable water to more than 650,000 residents throughout Snohomish County. The City is interested in evaluating risk for its water supply and distribution system when subjected to natural or manmade large hazard events such as earthquakes, volcanic eruptions, flood, slides, terrorist attacks, etc. and what mitigation measures are necessary to reduce these risks.

Results from this study will be used in the 2025 Risk and Resiliency Assessment of the City of Everett's water system to fulfil the EPA's "America's Water Infrastructure Act of 2018" (AWIA) requirement.

Recommendation (exact action requested of Council):

Authorize the mayor to sign a Professional Services Agreement with G&E Engineering for the 2024 Everett Water System Vulnerability Assessment.

Initialed by: *RLS* Department head

Administration

Council President

November 15, 202: Briefing Proposed action Consent Action Ordinance

Ordinance Public hearing Yes x No

Х

Budget amendment:

Yes x No

PowerPoint presentation:

Yes x No

Attachments:

PSA

Department(s) involved: Public Works

Contact person: Jeff Marrs

Phone number: (425) 257-8967

Email: jmarrs@everettwa.gov

CITY OF EVERETT PROFESSIONAL SERVICES AGREEMENT



THIS AGREEMENT made and entered into as of date of last signature below, by and between the **CITY OF EVERETT**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the "City," and G&E Engineering, whose address is 6315 Swainland Rd. Oakland CA, 94611, hereinafter referred to as the "Service Provider."

WHEREAS, the City desires to engage the Service Provider to perform a vulnerbility assessment on the Everett water supply and distribution system for the City of Everett; and

WHEREAS, Service Provider represented, and by entering into this Agreement now represents, that it is fully qualified to perform the work to be performed hereunder in a competent and professional manner;

NOW, THEREFORE, the parties herein do mutually agree as follows:

1. **Engagement of Service Provider**. The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the attached "Exhibit A - Scope of Work". The Scope of Work so identified is hereafter referred to as "Work". Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider's proposal is attached as an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider's design shall be reasonably accurate, adequate and suitable for its intended purpose.

2. <u>Intellectual Property Rights</u>. Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.

3. <u>**Time of Beginning and Completion of Performance**</u>. This Agreement shall commence as of the date of mutual execution of this Agreement and shall be completed by December 31, 2024.

4. Compensation.

A. The City shall pay the Service Provider only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work.

B. The Service Provider shall be paid such amounts and in such manner as described in Exhibit B.

C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those types and amounts of expenses either listed in Exhibit C or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. If Exhibit C is either blank or not attached, expenses may not be reimbursed unless prior written approval was obtained from the City. An expense shall not be reimbursed if: (1) the expense is not identified in Exhibit C; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified in Exhibit C; or (3) the expense was not approved in writing by an authorized City representative prior to the Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for the Service Provider.

D. Total compensation, including all services and expenses, shall not exceed a maximum of eighty eight thousand, six hundred, and sisxty Dollars (\$88,660).

E. If Service Provider fails or refuses to correct its work when so directed by the City, the City may withhold from any payment otherwise due an amount that the City in good faith believes is equal to the cost to the City of correcting, re-procuring, or remedying any damage caused by Service Provider's conduct.

5. <u>Method of Payment</u>.

A. To obtain payment, the Service Provider shall (a) file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment; (b) submit a report of Work accomplished and hours of all tasks completed; (c) to the extent reimbursement of Eligible Expenses is sought, submit itemization of such expenses and, if requested by the City, copies of receipts and invoices; and (d) comply with all applicable provisions of this Agreement. Service Provider shall be paid no more often than once every thirty days. B. All requests for payment should be sent to:

City of Everett Attn.: Jennifer Bailey 3200 Cedar St. Everett, WA 98201

6. <u>Submission of Reports and Other Documents</u>. The Service Provider shall submit all reports and other documents as and when specified in Exhibit A. This information shall be subject to review by the City, and if found to be unacceptable, Service Provider shall correct and deliver to the City any deficient Work at Service Provider's expense with all practical dispatch. Service Provider shall abide by the City's determinations concerning acceptability of Work.

7. **Termination of Contract**. City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by email, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, the Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section 7 shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as email. The City does not by this Section 7 waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, and without limitation of or prejudice to any other available remedy or recourse, the City may deduct from the final payment due the Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.

8. <u>Changes</u>. The City may, from time to time, unilaterally change the scope of the services of the Service Provider to be performed hereunder. Such changes, including any increase or decrease in the scope of work (and resulting increase or decrease in compensation), shall: (a) be made only in writing and signed by an authorized City representative, (b) be explicitly identified as an amendment to this Agreement and (c) become a part of this Agreement.

9. <u>Subletting/Assignment of Contracts</u>. Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.

10. <u>Indemnification</u>. Except as otherwise provided in this Section 10, the Service Provider hereby agrees to defend and indemnify and save harmless the City from any and all Claims arising out of, in connection with, or incident to any negligent or intentional acts, errors, omissions, or conduct by Service Provider (or its employees, agents, representatives or

subcontractors/subconsultants) relating to this Agreement, whether such Claims sound in contract, tort, or any other legal theory. The Service Provider is obligated to defend and indemnify and save harmless the City pursuant to this Section 10 whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. The Service Provider's duty to defend and indemnify and save harmless pursuant to this Section 10 is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of the Service Provider. The Service Provider's obligations under this Section 10 shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) the Service Provider, its employees, subcontractors/subconsultants or agents and (b) the City, then the Service Provider's liability under this Section 10 shall be only to the extent of Service Provider's negligence. Solely and expressly for the purpose of its duties to indemnify and defend and save harmless the City, the Service Provider specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. The Service Provider recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section 10: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages or infringement or misappropriation of any patent, copyright, trade secret, or other proprietary right. If, and to the extent, Service Provider employs or engages subconsultants or subcontractors, then Service Provider shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify and save harmless the City to the extent and on the same terms and conditions as the Service Provider pursuant to this Section 10. The provisions of this Section 10 shall survive the expiration or termination of this Agreement.

11. Insurance.

A. Service Provider shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Service Provider's own cost and expense, the following policies of insurance with companies authorized to do business in the State of Washington, which are rated at least "A" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.

1. <u>Workers' Compensation Insurance</u> as required by Washington law and <u>Employer's</u> <u>Liability Insurance</u> with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Service Provider shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Service Provider covers such employees.

2. <u>Commercial General Liability Insurance</u> on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate,

including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

3. <u>Business Automobile Liability Insurance</u> in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.

4. Not Used/Stricken

B. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Service Provider to furnish the required insurance during the term of this Agreement.

C. Upon written request by the City, the insurer or his/her agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.

D. Prior to the Service Provider performing any Work, Service Provider shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Service Provider shall provide the City with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees and agents as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Service Provider's obligations to fulfill the requirements.

E. If the policy listed in Section 11.A.4. above, Professional Errors and Omissions Insurance, is on a claims made policy form, the retroactive date on the policy shall be the effective date of this Agreement or prior. The retroactive date of any subsequent renewal of such policy shall be the same as the original policy provided. The extended reporting or discovery period on a claims made policy form shall not be less than 36 months following expiration of the policy. (This Section 11.E shall not apply if Section 11.A.4. above is stricken.)

F. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

G. In case of the breach of any provision of this Section 11, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of the Service Provider, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Service Provider under this Agreement or may demand Service Provider to promptly reimburse the City for such cost.

12. <u>**Risk of Loss**</u>. Service Provider shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at Service Provider's own risk, and Service Provider shall be solely responsible for any loss of or damage to Service Provider's materials, tools, or other articles used or held for use in connection with the work.

13. Independent Contractor.

A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.

B. In addition to the other requirements of this Section, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:

(1) Service Provider is free from control or direction over the performance of the service; and

(2) The service performed is outside the usual course of business for the City, or will not be performed at any place of business of the City, or Service Provider is responsible for the costs of the principal place of business from which the service is performed; and

(3) Service Provider is customarily engaged in an independently established business of the same nature as the service performed, or has a principal place of business for the service performed that is eligible for a business deduction for federal income tax purposes; and

(4) On the effective date of this Agreement, Service Provider is responsible for filing a schedule of expenses, for the next applicable filing period, with the internal revenue service for the type of service performed; and

(5) By the effective date of this Agreement or within a reasonable time thereafter, Service Provider has established an account with the department of revenue and other state agencies, where required, for the service performed for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(6) By the effective date of this Agreement, Service Provider is maintaining a separate set of records that reflect all items of income and expenses of the services performed.

C. Any and all employees of the Service Provider, while engaged in the performance of any Work, shall be considered employees of only the Service Provider and not employees of the City. The Service Provider shall be solely liable for any and all claims that may or might arise under the Worker's Compensation Act on behalf of such employees or Service Provider, while so engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Service Provider's employees, while so engaged on any of the Work

D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all actions, claims, demands and expenses arising out of such act, and rules and regulations that are or may be promulgated in connection therewith.

E. Service Provider assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and, city business and occupation taxes), fees, licenses, excises or payments required by any city, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Service Provider and as to all duties, activities and requirements by the Service Provider in performance of the Work and Service Provider shall assume exclusive liability therefor, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

14. <u>Employment/Conflict of Interest</u>. The Service Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Service Provider, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. Further, it is recognized that Service Provider may or will be performing professional services during the term of this Agreement for other parties; however, such performance of other services shall not conflict with or interfere with Service Provider's ability to perform the Work. Service Provider agrees to resolve any such conflicts of interest in favor of the City.

15. <u>Audits and Inspections</u>. At any time during normal business hours and as often as the City may deem necessary, the Service Provider shall make available to the City for the City's examination all of the Service Provider's records and documents with respect to all matters covered by this Agreement and, furthermore, the Service Provider will permit the City to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

16. <u>City of Everett Business License</u>. Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.

17. <u>State of Washington Requirements</u>. Service Provider agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.

18. <u>**Compliance with Federal, State and Local Laws**</u>. Service Provider shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.

19. Compliance with the Washington State Public Records Act. Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section.

20. <u>Compliance with Grant Terms and Conditions.</u> Service Provider shall comply with any and all conditions, terms and requirements of any federal, state or other grant that wholly or partially funds Service Provider's work hereunder.

21. <u>Equal Employment Opportunity</u>. Service Provider shall not discriminate against any employee, applicant for employment, or other person on the basis of race, color, religion, sex, age, disability, marital state, or national origin or other circumstance prohibited by applicable federal, state, or local law or ordinance. Service Provider shall comply with and shall not violate any applicable provisions of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, and all applicable federal, state, or local law or ordinance regarding non-discrimination.

22. <u>Waiver</u>. Any waiver by the Service Provider or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.

23. <u>Complete Agreement</u>. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.

24. <u>Modification of Agreement.</u> This Agreement may only be modified as provided in ¶8, or by a writing explicitly identified as a modification of this Agreement that is signed by authorized representatives of the City and the Service Provider.

25. <u>Severability</u>. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.

26. Notices.

A. Notices to the City of Everett shall be sent to the following address:

City of Everett Attn.: Jennifer Bailey 3200 Cedar St. Everett, WA 98201

 B. Notices to the Service Provider shall be sent to the following address: G&E Engineering 6315 Swainland Rd. Oakland CA, 94611

26. <u>Venue</u>. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.

27. <u>Governing Law</u>. The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.

28. <u>City Marks</u>. The Service Provider will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.

29. <u>No Personal Liability</u>. No officer, agent or employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

30. <u>Signature/Counterparts</u>. This Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. Execution of this Agreement by a party shall be legally valid and effective by (i) executing a paper copy, (ii) execution by AdobeSign or DocuSign or other e-signature method, or (iii) transmitting an executed copy by email or otherwise in pdf format or other electronically scanned format.

IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement.

CITY OF EVERETT, WASHINGTON

Cassie Franklin, Mayor

Date

ATTEST:

Office of the City Clerk

Standard Document Approved as to Form Office of the City Attorney 11.15.22 SERVICE PROVIDER: Please fill in the spaces and sign in the box appropriate for your business entity.

Corporation Limited Liability Company	[Service Provider's Complete Legal Name]
Partnership	By:Signature
	Typed/Printed Name of Signer:
	Date:
Sole Proprietorship	[Typed/Printed Name]
	Signature Date:

Exhibit A Scope of Work

Introduction

The City of Everett Public Works department has requested that G&E update the multi-hazard risk assessment that was performed in the 2011-2012 time frame, with the following high-level request:

Goal 1. Update the original risk assessment (primarily the ≥ 48 " transmission pipes and water treatment facilities in the Spada / Chaplain reservoirs to reflect the various mitigation / new infrastructure put in place in the decade since the time the original assessment was performed.

and

Goal 2. Perform a new risk assessment for the water distribution system (primarily 6" to 16" diameter distribution pipe and related storage tanks and reservoirs inside the City of Everett).

and

Document all findings in a report.

Work Plan

Task 0. Project Management

Activities/Approach: Provide management, direction, coordination, and control of all project work, and associated management of project scope, schedule, budget, sub-consultants (if any), technical quality, and monthly progress reports and invoices. This task includes the following activities:

• Prepare monthly project status reports. Progress reports will identify budget status, progress status, activities of the previous month, and up-coming activities. These will be included with submittal of each invoice.

• Conduct calls between G&E's Project Manager (PM), and the City's PM to review project status, schedule, contract issues, and other project management related issues. These will be done one an as needed basis, approximately four during the scope of work.

Task Assumptions

• PM meetings will be virtual with a duration of approximately 30 minutes.

Deliverable

• Monthly progress reports and invoices.

Task 1. Obtain and review data from City

The City will provide to G&E the following information (preferably all in electronic format):

- Current GIS (ArcGIS format, generally shapefiles or geodatabases) that includes all water system infrastructure.
- Drawings, reports, and related material for transmission system infrastructure that has been materially modified in the 2010 to 2023 time frame. Ideally, all in .pdf format.
- Reports prepared for the City that address: hazards, condition assessments of distribution reservoirs, tanks, pump stations. Ideally, all in .pdf format.
- Leak and repair history for water distribution pipes. Ideally, in Excel (.xls, .xlsx) or GIS (shape files) format.
- Current Capital Improvement Plan (5 to 10 years looking forward).

G&E's responsibility to verify the adequacy of any report, work product or service provided by COE or its agents or its consultants to Consultant is not included in the Work Plan. G&E cannot guarantee the accuracy of any reports provided by COE.

Transmission System Review: G&E previously evaluated the various supply transmission pipelines 2, 3, 4, and 5, Spada Reservoir, Chaplain Reservoir, Water Filtration Plant, Sultan River Diversion Facilities and the Jackson Hydroelectric Power Plant, WFP Water Transmission Lines including portals 1 through 6 and tunnels 1 through 3, Terminal Reservoirs 2 and 3. The intent of the current work is to review the changes made to these facilities in the last decade (or so) and assess how these changes update (improve) the reliability of these facilities for the various hazards considered. For items where no changes have been made, the previous evaluations will remain.

Distribution System Review: In its previous evaluation, G&E was directed to exclude the distribution system. Therefore, in the current effort, the Distribution system will be evaluated for the first time for the various hazards, primarily earthquake loading conditions.

The City of Everett (COE) Supply System includes:

- Reservoir 2 (since removed)
- Reservoir 3 (rectangular partially buried concrete tank)
- Panther Creek
- Three Lakes Valve
- Cavalleros PRV
- East/West Clearwells
- Transmission lines
- Tulalip Line

The City of Everett (COE) Distribution System includes:

- Reservoir 1 (West, East, twin at-grade tanks)
- Reservoir 6 (North, South, twin at-grade tanks)

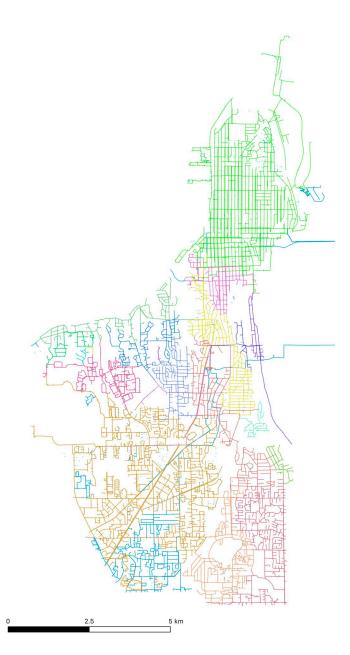
- Eastmont Tank (elevated steel tank)
- Olympic Tank (elevated steel tank)
- Casino Tank (elevated steel tank)
- Casino pump station
- Evergreen Pump Station

The COE distribution pipeline grid includes the following types of pipes

- Steel Pipe (common for larger diameter transmission within the city, as well as in the transmission system)
- Concrete Cylinder Pipe (CCP) (common for larger diameter transmission within the city)
- Cast Iron Pipe (common in older neighborhoods)
- Ductile Iron Pipe (common in newer neighborhoods)
- Asbestos Cement Pipe (one neighborhood)
- **PE**
- Limited amounts of other pipe materials

Items within the current scope include the COE facilities (all pipes). Reservoirs and tanks and pump stations needed to operate the system will be functionally considered; some of these facilities have had prior seismic evaluations (including Reservoirs 2, 3, 6), and for the present work, COE will provide copies of prior assessments, and G&E will use those findings as part of the overall current assessment.

G&E will perform new seismic assessments for the above-listed facilities (COE will select these: re-using existing assessments of facilities previously evaluated by others, or recently constructed), and all of the distribution pipe (see 2012-vintage map below, color coded by pressure zone). Seismic assessments will be made for every pipe segment, and summarized individually (database format), as well as by pressure zone as well as by the entire system as a whole.



The City will provide copies of clean water dives / corrosion / painting efforts for its reservoirs and tanks, in particular any prior recommendations that address leakage (and past repairs) for reservoir liners; and latest condition of the interiors of steel tanks (corrosion).

The assessment includes one day field inspection by Mr. Eidinger of water system facilities. The City will provide staff to visit and provide access to these sites. The site inspection will be performed after the drawings for these facilities have been reviewed. During this inspection, Mr. Eidinger will evaluate the style of installation, in particular seismic detailing. Mr. Eidinger may also perform non-destructive testing (steel plate thickness tests; rebar detection). If suitable, he will collect paint samples of older (pre-1980) steel tanks that are suspected of possibly using lead-based paint, for purpose of lead-based paint assessments. The cost and performance of lead-based paint assessments will done by COE; if by G&E, the cost for such work will be identified and agreed upon before doing such work.

COE will provide to G&E copies of prior soils testing (in particular soil resistivity data). At some facility locations, COE may have previously conducted soils testing for seismic evaluations (such as geotechnical borings, CPTs, etc.). COE will provide G&E copies of those tests / reports.

After review, G&E will indicate to the City whether additional soil testing is suitable, and if so, that testing and assessment will be performed by an on-call COE contractor.

After review of the distribution pipe system data (GIS maps, leak history), G&E will recommend whether or not it is worthwhile to conduct a series of soil resistivity tests in the City of Everett. This would be done by an on-call COE contractor, likely using Wenner 4-point tests. The results of this testing will be the soil resistivity (Rho, measured in ohm-cm) at various locations throughout the City. Soils with high resistivity (Rho over 5,000 ohm-cm) are generally not aggressive to buried metal pipe (cast iron, steel, wrought iron, etc.). Soils with low resistivity (Rho under 1,500 ohm-cm) are especially aggressive to buried metal pipe. The concept here is that past pipe leak history may be correlated with soil resistivity; and that under earthquake conditions, the relative weakness of existing buried pipes will also be so-correlated.

Task 2. Hazard Assessment

The City wishes this Vulnerability Assessment to reflect all hazards, including earthquakes, volcanic eruption, tsunami, flood, landslide and other natural phenomena; as well as manmade hazards. For the current work, the characterization of these hazards will be set as the same as that previously established in the 2012 Vulnerability assessment, updated to reflect current (year 2023) information. It is considered that earthquakes will likely control the assessment and the bulk of the effort will be to consider earthquakes. The new information includes:

- Earthquake ground motions will be based on NGA13 ground motion prediction equations (GMPEs). These GMPE models were established in 2013.
- Updated tsunami inundation hazard assessment for the Puget Sound and Snohomish River if available
- New hazard information reports prepared by third parties for the City and shared with G&E.
- Liquefaction and landslide and fault offset (South Whidbey Island fault zone). We will re-use the approaches to quantify these hazards as previously used in the 2012 effort. Should refinement of these hazards be suitable for materially refining the findings of the present Vulnerability Assessment, we will provide a recommendation for possible local subsurface investigations. However, in order to minimize the cost for the present Vulnerability Assessment, the strategy is to re-use available information, and factor in the cost for local subsurface investigations as part of actual future mitigation work.

Task 3. Risk Assessment

Transmission System. We will update the risk assessment of the various transmission system facilities, to reflect the mitigation work conducted by the City in the past decade or so. For

portions of the transmission system which remain unaltered in the past decade or so, we will reuse the previous assessments.

Distribution System.

Tanks. We will assess the earthquake performance of each tank (selected for detailed evaluation) for performance in probabilistic (about 100-year and 500-year return period); and planning level scenario earthquakes (including South Whidbey Island M 7; Cascadia Subduction Zone M 9). The probabilistic earthquakes will be based on code-type hazards and computations. The scenario earthquakes are most important for evaluating the system as a whole in earthquakes. Damage modes may include damage to attached pipes; damage / wrinkling to steel shells; water sloshing-induced damage.

Pump station. We will perform structural check as to the performance of the pump station building; as well as consider important equipment (pumps, motors, motor control centers, emergency back-up power).

Distribution Pipe. We will compute the potential for pipe damage in various scenario earthquake. Damage may include leaks or breaks in mains; damage to service laterals (up to the meter). We will use distribution pipe fragility models based on ALA (2001), additional relevant empirical pipe damage information in other earthquakes since then (notable Napa 2014; Christchurch 2011; Fortuna 2022; etc.), and, as suitable, reflect local soil resistivity. The results will be tabulated by style of pipe (steel, concrete cylinder, cast iron, asbestos cement, ductile iron, PVC, PE, etc.); and by pressure zone. Post-earthquake leak rates will be estimated. For scenario earthquakes, we will estimate the number of fire ignitions. Allowing for emergency response actions, we will tabulate how long water will be available for fire fighting; and how long it will take to repair damage and to restore the system to pre-earthquake performance.

Reservoirs 1, 2, 3 and 6. These reservoirs include various types of liner systems (including Hypalon bladders, etc.). Reservoir has since been removed from service. The seismic weaknesses may include damage to liner systems (and hence increased leak rates); damage to roof systems; damage to embankments; damage to inlet-outlet pipes. Depending on the style of construction and past evaluations, there may be some uncertainty as to the earthquake performance of embankments due to liquefaction / landslide; we will so note that, and recommend any additional optional geotechnical evaluations that may be suitable.

Task 4. System Performance, Capital Improvements, Benefit Cost, Draft Report

We will use the findings from Task 1, 2, 3 and evaluate the system, as a whole, version target Performance Goals. The prior Vulnerability Assessment (2012) provide target Goals, and these may have been updated / revised by the City in the interim. The Goals will be set for "probable" and "maximum" earthquake conditions as suitable.

We will assess the current system performance versus these Goals. We will develop 4 levels of possible Capital Improvement Plans (CIPs) (seismic mitigation of facilities; pipe replacement;

improved emergency response, planning-level cost estimates) and compare the water system assuming the improvements are implemented.

We will perform a Benefit Cost Analysis to quantify the merits of adopting any of the 4 levels of possible Capital Improvements.

We will document all findings in a draft Vulnerability Assessment report and submit it to the City. The draft report will facto in the prior 2012 transmission system report, and thus reflect the current system as a whole.

Task 5. Meeting, Review and Final Report.

Mr. Eidinger will meet with the City to discuss the draft Vulnerability Assessment report. This may be done in person (in Everett) or via a Teams (preferred) web-based meeting initiated by the City. The City may suggest different possible capital improvements, costs, goals, etc., with the objective of developing a capital program that is cost effective and fits within the City's planning and budgeting process.

Mr. Eidinger will review and update the draft report as final. Mr. Eidinger will submit the final report as well as supporting documentation. (electronic files). For budgeting purposes, we allow one revision cycle. Mr. Eidinger is a licensed Professional Engineer and Structural Engineer in California and will stamp the final report using that authority.

Optional. The SERA software may be provided to the City at no cost, at G&E's sole discretion, only if the City accepts the SERA license which has been provided under separate cover. If the City accepts the SERA software, then up to a 2-hour session will be conducted to demonstrate SERA and its usage; the cost of training is not included in Task 5. The SERA software would be provided at the completion of Task 5.

Exhibit B & C Cost and Other Direct Expenses

Compensation shall not exceed the contract amount over the lifetime of the contract. Invoice rates must match rates defined within the contract for the given year.

Task	MH	ODCs	Task Total	Task Total
	\$315		МН	Cost
0 Project Management	16		16	\$5,040
1 Collect Data, Review				
Coordinate data collection	8			
Convert GIS data to SERA format	16			
Review reports	16			
Convert leak history	16			
Field assessment (1 or 2 days)	8	\$1,800	64	\$21,960
2 Hazards				
Quantify ground motions at facilities	8			
Quantity ground motions at pipes	8			
Quantify other hazards	8		24	\$7,560
3. Risk Assessment				
Transmission system	8			
Distribution Facilities	16			
Distribution pipes	16		40	\$12,600
4. Performance, Goals, CIP				
Quantify performance vs Goals (as is)	12			
Develop 4 CIPs and costs	8			
Quantify performance with 4 CIPs	8			
Benefit Cost Analysis	8			
Draft report	24		60	\$18,900
5. Meeting, Final Report				
Meeting preparation and attendance	16			
Final report	24		40	\$12,600
Additional Services*				\$10,000
Total	244	\$1,800	244	\$88,660

*The original contract will only approve tasks 0-5 listed within the scope of work. Effort associated with Additional Services will only be completed upon written request by the City's project manager. Should COE request work by G&E that is not identified in the scope of work, that work will be performed on a time and material basis as per G&E's rate schedule. The estimated manhour (MH) breakdown by subtask is listed above. The other direct costs (ODCs) allow for travel-related costs for up to two days by Mr. Eidinger in Everett. G&E must request approval from the COE Project Manager for ODCs and reimbursable expenses should they be in excess of \$1,800.

G&E ENGINEERING SYSTEMS INC. RATE SCHEDULE 2024 Effective through December 31, 2024

Engineering Rate Schedule (Regular and Overtime Hours)

Principal (Eidinger)

\$315.00

Labor costs include salary, fringes, overhead, general and administrative, and profit. Labor costs are valid through December 31, 2024, and increase by 5% for the twelve months following, or the CPI index for calendar year 2024; upon notification before the year end. Rates for subsequent calendar years are subject to annual changes to reflect the CPI index for the prior 12 month period. Rate for expert testimony or deposition is \$630 per hour, and will not be charged without prior approval. Only the services of Mr. Eidinger are included.

Reimbursable Expenses

a. Mileage standard IRS rate per mile

b. Expenses of travel, subsistence and communications outside of the San Francisco Bay Area, in connection with the Project.

c. Expense of the reproduction and messenger delivery of project work and other documents.

d. Expense of outside services including sub-consultants, mock-ups, models, special drafting, display renderings, graphic art work, and photographic work at cost plus 10%.

e. Expense of special supplies and materials. Color print media shall be charged at \$0.75 per sheet (A size) or \$1.50 per sheet (B size) or \$1.50 per square foot for large format sizes (D or E size). Large format (D or E size) black and white drawings shall be charged at \$1.00 per square foot.

Payment

Payment is due net 30 days.

STATE RETIREMENT SYSTEMS FORM ATTACHMENT TO PROFESSIONAL SERVICES AGREEMENT ALL SERVICE PROVIDERS MUST COMPLETE AND SIGN THIS FORM

1.	Does Service Provider have <u>twenty-five (25) or more employees</u> ? Yes No
	IF YES: SKIP QUESTION 2, SKIP QUESTION 3, AND SIGN BELOW.
	IF NO: ANSWER QUESTIONS 2 AND 3.

- If a Service Provider <u>employee</u> will perform Work under this Professional Services Agreement, did that <u>employee</u> retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)? ☐ Yes ☐ No
- 3. Answer the appropriate question below for Service Provider's business organization:

Sole Proprietor. Did Service Provider retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), Law Enforcement Officers and Fire Fighters plan (LEOFF)? Yes No

<u>Partnership</u>. If a <u>partner</u> will perform Work under this Professional Services Agreement, did that <u>partner</u> retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters plan (LEOFF)? Yes No

Limited Liability Company. If a member will perform Work under this Professional Services Agreement, did that member retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters plan (LEOFF)? Yes No

<u>Corporation</u>. If a <u>shareholder</u> will perform Work under this Professional Services Agreement, did that <u>shareholder</u> retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)? Yes No

IF THERE IS A "YES" ANSWER TO ANY PART OF QUESTIONS 2 OR 3, AN ADDITIONAL QUESTIONNAIRE (AVAILABLE FROM HR OR LEGAL) <u>MUST</u> BE FILLED OUT AND SUBMITTED WITH THE CONTRACT.

Service Provider Name:

Printed Name:

Title:

EVERETT City Council Agenda Item Cover Sheet

Project title:

An Ordinance Relating to Animal Control, Amending Chapters 6.04 and 6.08 of the Everett Municipal Code

	Project: Animal Control Code Update
CB 2310-56	Partner/Supplier: N/A
Agenda dates requested:	Location: N/A
11/15/23, 11/29/23, 12/6/23	Preceding action: Ordinance No. 3903-22
Briefing 11/29/2023 First Reading 11/15/2023 Consent Action 12/6/2023 Ordinance X Public hearing Yes X No	Fund: N/A Fiscal summary statement: No fiscal impact.
	Deciect summary statements
Budget amendment: Yes X No	Project summary statement:
PowerPoint presentation: X Yes No	The attached ordinance amends Chapter 6.04 and 6.08 of the Everett Municipal Code and reflects changes to state law regarding animal control, including definitions and impound procedures. The updates are needed to keep the Everett Municipal Code consistent with state law.
Attachments: Ordinance	Other changes are presented to keep our code consistent with neighboring communities and to reflect community values, including standards relating to livestock, small livestock, and consequences for unprovoked animal bites.
Department(s) involved: Parks & Facilities	The ordinance also repeals the sunset provision in Section 10 of Ordinance No. 3903-22.
Animal Services Legal	These changes are proposed after review by Animal Services staff, the Animal Shelter Advisory Board, and the City Attorney's Office.
Contact person:	Recommendation (exact action requested of Council):
Bob Leonard	Adopt an ordinance relating to animal control, amending chapters 6.04 and 6.08 of the Everett
Phone number:	Municipal Code.
425-257-8335	
Email: bleonard@everettwa.gov	
Initialed by: \mathcal{RML}	
Department head	
Administration	



ORDINANCE NO. _____

An ORDINANCE Relating to Animal Control, AMENDING Chapters 6.04 and 6.08 EMC

WHEREAS,

- **A.** The 2023 State Legislature made revisions to State Law relating to animal control including definitions and impound procedures, and updates are needed to keep the Everett Municipal Code consistent with State Law.
- **B.** Other changes are also appropriate in order to keep our code consistent with neighboring communities and to reflect community values, including standards relating to livestock and consequences for unprovoked animal bites.
- **C.** The Everett City Council finds that the City should encourage, secure, and enforce those animal control measures deemed desirable and necessary for the protection of human health, safety, and welfare and to prevent injury to property and cruelty to animal life.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 10 of Ordinance No. 3903-22 is hereby repealed.

Sunset provision. This ordinance expires 12/15/2023 absent further action from Council, upon which time all amended sections shall revert back as if unamended herein.

Section 2. EMC 6.04.020, EMC 6.04.070, and EMC 6.04.090 are amended as follows, and a new section is added to Chapter 6.04 EMC to be codified as EMC 6.04.035, with strikeout text deleted and underlined text added:

6.04.020 Definitions.

As used in this chapter, the terms defined in this section shall have the defined meanings unless the context requires otherwise:

"Adult dog or cat" means any dog or cat over the age of six months.

"Animal" means any nonhuman mammal, bird, reptile or amphibian.

Animal at Large. Any animal off the property of its owner, unless restrained by leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a responsible

person, whether or not the owner of such animal, or which enters upon the property of another person without authorization of that person, shall be deemed "at large."

"Animal control" means the animal services division of the city of Everett, which includes the Everett animal shelter.

"Animal exhibition" means public display of any living animal in the promotion of entertainment, education, advertisement or any commercial enterprise.

Animal Kennel or Cattery. The three types of kennel or cattery are defined as follows:

1. "Hobby kennel or cattery" means any facility or residence where more than four, but less than eight, spayed or neutered dogs or spayed or neutered cats, or combinations thereof of cats and/or dogs, are kept, or harbored, for the enjoyment of the species only. In addition to the hobby kennel fee (see EMC 6.04.100), each dog and cat must be licensed individually at regular fees.

2. "Private kennel or cattery" means any facility or residence where more than two dogs or two cats of licensable age, or a combination of each in excess of two dogs and two cats and which cannot total more than eight animals (dogs and cats) are kept or harbored, which facility provides care, training of whatever nature, or breeding services, and does not have a business license related to the animal services. In addition to the private kennel fee, each dog and cat must be licensed individually at the regular fees set forth herein.

3. "Commercial kennel or cattery" means any owner or broker who keeps, leases, buys, barters, or sells animals for gain; provides facilities for breeding, boarding, transporting, exhibiting, grooming, including bathing or their cosmetic care; or provides guard services. In addition to the commercial kennel or cattery license, each personal pet must be licensed individually at the regular fees set forth herein.

"Dog handler" means a law enforcement officer who has successfully completed training as prescribed by the Washington State Criminal Justice Training Commission in police dog handling.

"Euthanasia" means the putting to death of an animal in a humane manner.

"Exotic, wild or dangerous animal" means any member of the animal kingdom which is not commonly domesticated or which is not common to North America, or which, irrespective of geographic origin, is of a wild or predatory nature, or any domesticated animal which, because of its size, vicious nature or other similar characteristics, would constitute a danger to human life or property if not kept, maintained or confined in a safe and secure manner. Incorporated by reference here are the State Game Department regulations, principally the following: WAC 232-12-15, 232-12-030, 232-12-040, 232-12-050 and 232-12-060.

"Harboring" means allowing any animal to remain, be lodged, fed, or sheltered on the property one

owns, occupies or controls for more than twenty-four hours.

"Kitten" means any cat under the age of six months.

"Livestock" includes horses, mules, jackasses, cattle, sheep, llamas, goats, swine, and all ratites, which includes, but is not limited to, emus and ostriches. <u>Except, livestock shall not mean miniature pot-bellied</u> pigs as defined in this section.

"Manager" means the manager of the animal services division or designee.

"Miniature pot-bellied pig" means a type of swine commonly known as the North American Vietnamese, Chinese, or Asian pot-bellied pig (Sus scrofa vittatus) that is no more than 22 inches in height at the shoulder and no more than 150 pounds in weight.

"Minimum care" means care sufficient to preserve the physical and mental health and well-being of an animal and includes, but is not limited to, the following requirements:

<u>1. Food of sufficient nutrition, quantity, and quality to allow for normal growth or maintenance of healthy body weight;</u>

2. Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal's needs;

<u>3. Shelter sufficient to protect the animal from wind, rain, snow, sun, or other environmental or weather conditions based on the animal's species, age, or physical condition;</u>

4. Veterinary or other care as may be deemed necessary by a reasonably prudent person to prevent or relieve in a timely manner distress from injury, neglect, or physical infirmity; and 5. Continuous access to an area:

a. With adequate space for exercise necessary for the physical and mental health and well-being of the animal. Inadequate space may be indicated by evidence of debility, stress, or abnormal behavior patterns;

b. With temperature and ventilation suitable for the health and well-being of the animal based on the animal's species, age, or physical condition;

c. With regular diurnal lighting cycles of either natural or artificial light; and

d. Kept reasonably clean and free from excess waste, garbage, noxious odors, or other contaminants, objects, or other animals that could cause harm to the animal's health and well-being.

"Owner" means any person or legal entity having a possessory property right in an animal or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by the owner.

"Personal service" means: handing it to the owner's attorney or to the owner; or leaving it at their office

with their clerk or other person in charge thereof, or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the owner has no office, leaving it at their dwelling, house or usual place of abode with some person of suitable age and discretion then residing therein.

"Physical infirmity" includes, but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle atrophy, restriction of blood flow to a limb or organ, mange or other skin disease, or parasitic infection.

"Physical injury" includes, but is not limited to, substantial physical pain, fractures, cuts, burns, punctures, bruises, or other wounds or illnesses produced by violence or by a thermal or chemical agent.

"Police dog" means a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

"Proper shelter" means a structure with at least four walls, a roof, a floor which is raised off the ground, a door opening properly shielded from wind and rain, with size commensurate to the size of the inhabiting animal.

"Puppy" means any dog under the age of six months.

"Retail pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling dogs, cats, and/or rabbits, at retail.

"Serious physical injury or infirmity" means physical injury or physical infirmity that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of a limb or bodily organ.

"Service dog" or "service animal" has the same meaning as currently enacted or later amended in RCW 49.60.040(25).

"Spayed or neutered" means medically determined to be incapable of reproduction or when the physical condition of an animal is certified by a licensed veterinarian to be such as would prohibit performance of such medical procedure to render it unreproductive.

"Small livestock" includes domesticated fowl and fur-bearing animals which are normally bred or maintained within pens, cages or hutches.

"Valid license" means a current tag from the jurisdiction in which the animal resides.



6.04.035 Miniature pot-bellied pigs, livestock, and small livestock.

A. The keeping of miniature pet-bellied pigs, livestock and small livestock in non-agriculturally zoned areas is for the personal use of the household only.

<u>B. Miniature pot-bellied pigs are allowed to be kept within the city limits. No more than two such</u> <u>animals per household are permitted. Owners of miniature pot-bellied pigs must comply with the</u> <u>licensing provision of EMC 6.02.030 and pay the fees for the license as defined therein.</u>

<u>C. Livestock is not permitted in non-agriculturally zoned areas, with the exception of miniature goats</u> and potbellied pigs, subject to:

1. Miniature breeds of goats include the following: pygmy, Nigerian dwarf and pygora or similar breeds (based on height and weight). Adult goats shall not exceed 25 inches measured from the withers or weigh more than 85 pounds. The wither is the ridge between the shoulder blades of the goat.

2. Up to three miniature goats may be kept on lots over 10,000 square-foot of a single-family residential dwelling unit. Nursing offspring may be kept until weaned, no longer than 12 weeks after birth.

3. Male goats must be neutered.

D. Small livestock is r	permitted in non-agriculturally z	oned areas, subject to:

1. Chickens:
I. Up to six chickens on lots up to 10,000 square feet
ii. Up to eight chickens on lots 10,000 – 15,000 square feet
iii. Up to ten chickens on lots 15,000 – 35,000 square feet
iv. One additional chicken per 5000 square feet, for lots over 35,000 square fee
2. Other fowl (ducks, geese, turkeys, etc.):
i. Peafowl are not permitted
ii. Up to six fowl on lots up to 15,000 square feet
iii. Up to eight fowl on lots 15,000 – 35,000 square feet
iv. One additional fowl per 5000 square feet, for lots over 35,000 square feet
3. Other small livestock:
i. Mink and foxes are not permitted.
ii. Up to six rabbits on lots smaller than 10,000 square feet
iii. Up to eight rabbits on lots 10,000 – 15,000 square feet
iv. Up to ten rabbits on lots 15,000 – 35,000 square feet



v. One additional rabbit per 5000 square feet, for lots over 35,000 square feet

vi. Nursing offspring may be kept no longer than 12 weeks after birth.

vii. At no time should the combined total number of small livestock exceed 12 animals per 10,000 square feet.

E. Grandparent Clause. Anyone with a current facilities license under this Chapter will be permitted to keep existing animals until the license expiration date, unless an animal control officer has probable cause that the owner is not complying with the owner's responsibilities specified in facilities permit regulations per EMC 6.04.050 and the Animal Control Manager, after reviewing such evidence, revokes the license per EMC 6.04.060.

6.04.070 Prohibited conduct.

A. Offenses Relating to Safety and Sanitation. It is unlawful for any person to:

1. Allow, as an owner of an animal, the accumulation of animal feces in any open area, run, cage or yard wherein animals are kept and to fail to remove or dispose of feces at least once every twenty-four hours;

2. Fail to remove the fecal matter deposited by the person's animal on public or private property of another before the owner and/or animal leaves the immediate area where the fecal matter was deposited;

3. Fail to have in the person's possession the equipment necessary to remove the person's animal's fecal matter when accompanied by said animal on public property or public easement;

4. Have possession or control of any animal sick or afflicted with any infectious or contagious disease and fail to provide treatment for such disease, or suffer or permit such diseased or infected animal to run at large, or come in contact with other animals, or drink at any public or common watering trough or stream accessible to other animals.

5. Owners of duly licensed "working dogs" are exempted from subsections (A)(2) and (3) of this section.

B. Offenses Relating to Control. It shall be unlawful for any person to:

1. Permit any animal to be at large. Exception: licensed domestic cats;

2. Permit a domestic cat to trespass upon the property of another in such a manner as to be a nuisance;

3. Permit an animal to be unattended on public premises, property or right-of-way except in those areas specifically designated to permit animals; animals must be confined to such restricted areas. Exception: licensed domestic cats, when not in conflict with subsection (B)(2) of this section;

4. Fail to keep every female dog or cat in heat confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding;

5. Be in possession of property and knowingly permit frequent, continuous or repetitive barking or noise made by any animal, which originates from the property, and which unreasonably disturbs or interferes with the peace, comfort and repose of property owners or possessors, except that such

sounds made in animal shelters or veterinary hospitals in compliance with this chapter at the time of the effective date of the amendatory ordinance codified in this section shall be exempt from this subsection;

6. Permit any animal to damage public property or the private property of another;

16.08 RCW, permit any animal to bite or attack a person or other animal without provocation.

7. Have possession or control of one or more roosters or peafowl. <u>Under circumstances not</u> amounting to a criminal charge, and in addition to the restrictions of Chapter 6.08 EMC and Chapter

C. Offenses Relating to Cruelty. It shall be unlawful for any person to:

1. Abandon an animal by intentionally, knowingly, recklessly or with criminal negligence leaving a domesticated animal at a location without providing for the animal's continued care. It is no defense to abandonment to abandon an animal at or near an animal shelter, veterinary clinic or other place of shelter if reasonable arrangements for the care of the animal were not made by the person abandoning the animal;

2. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, fail to provide an animal with <u>minimum care as defined in 6.04.020 EMC</u>. sufficient good and wholesome food and a constant source of clear potable water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment;

3. Leave an animal unattended for more than twenty-four consecutive hours;

4. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, or animal fighting as defined in RCW 16.52.117, beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal;

5. Give away any live animal as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animals as an incentive to enter any business agreement whereby the offer was for the purpose of attracting trade. Violation of this subsection shall be a misdemeanor, punishable in accordance with subsection (F) of this section;

6. Fail, as the operator of a motor vehicle which strikes a domestic animal, to stop at once and render such assistance as may be possible and fail to immediately report such injury or death to the animal's owner; in the event that the owner cannot be ascertained and located, such operator shall at once report the accident to the Everett animal control or the Everett police department;

7. Lay out or expose any kind of poison or leave exposed any poisoned food or drink for animals, or any substance or fluid whatever, whereon or wherein there is or shall be deposited or mingled, any kind of poison or poisonous or deadly substance or fluid whatsoever, on the premises of another, or in any unenclosed place, or to aid or abet any person in so doing. Exception: This does not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes;

8. Permit an animal exhibition or circus to perform in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering;

9. <u>Reserved.</u> Under circumstances not amounting to first degree animal cruelty as defined in RCW

16.52.205, confine, without adequate ventilation, any animal in any box, container or vehicle;

10. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, confine an animal within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including but not limited to extreme temperatures, lack of food or water, or confinement with a dangerous animal. Any animal control or peace officer is authorized to remove any animal from a motor vehicle, at any location, when the officer reasonably believes it is confined in such conditions as described above. Any animal so removed shall be delivered to the animal control shelter after the removing officer leaves written notice of such removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle;

10. Tease, tantalize or provoke any animal with the intent to cause fear or anger;

11. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, <u>keep tether or confine</u> any animal in such a manner or <u>in</u> such a place as to cause injury or pain or to endanger an animal, <u>including reckless exposure to hazardous objects or substances</u>, <u>including but not limited to drugs such as fentanyl</u>, <u>methamphetamine</u>, and <u>heroin</u>, <u>or unsanitary and unhealthy environments</u>. ; or to keep an animal in quarters that are injurious to the animal due to inadequate protection from heat or cold, or that are of insufficient size to permit the animal to move about freely;

12. Tether or confine an animal in such a manner that it can become entangled so that it cannot move freely, cannot reach shelter or water, or such that it can become entangled with another animal; the area where the animal is <u>kept</u> tethered or confined must be free of extraneous material that may cause it injury <u>or illness</u> (such as, but not limited to, glass, sharp metal, nails, etc.). Tether must be a minimum length of three times the length of the animal as measured from the tip of its nose to the base of its tail;

13. Transport an animal in or on a vehicle in such manner that it can exit the vehicle while it is in motion. The animal must be contained or secured in a manner so as to prevent the possibility of an inadvertent exit by the animal from the vehicle. It is further unlawful for any person to transport any living animal on the running board, fenders, hood, unrestrained in a convertible, in an unenclosed bed of a pickup or flatbed truck, or other outside part of any vehicle unless suitable harness, cage or enclosure is provided and so attached as to protect the animal from falling or being thrown therefrom;

14. Set out any leg hold traps in the city unless approved by animal control; except that this shall not apply to the reasonable use of rodent, insect, or slug traps for their intended purposes;

15. Except as provided in this subsection below, cut off more than one-half of the ear or ears of any domestic animal or cut off any part of the ear of a dog, devocalize a dog, or crop or cut off any part of the tail of a dog. Violation of this subsection shall be a misdemeanor, punishable in accordance with subsection (F) of this section. This section does not apply if the person performing the procedure is a licensed veterinarian utilizing accepted veterinary surgical protocols.

D. A retail pet store may not sell or offer for sale any dog, cat, or rabbit. A retail pet store may provide space and appropriate care for animals owned by a publicly operated animal control agency or nonprofit animal welfare organization for the purpose of adopting spayed or neutered dogs, cats or rabbits to the public. Violation of this subsection by any person or corporation shall be an infraction, punishable by a

fine of not more than two hundred fifty dollars per animal per day.

E. Offenses Relating to Misrepresenting an Animal as a Service Animal. It shall be unlawful for any person to:

1. It shall be an infraction punishable by a fine of not more than two hundred fifty dollars for any person to misrepresent an animal as a service animal. A violation of this section occurs when a person:

a. Expressly or impliedly represents that an animal is a service animal as defined in EMC 6.04.020 for the purpose of securing the rights or privileges afforded disabled persons accompanied by service animals set forth in this code, state or federal law; and

b. Knew or should have known that the animal in question did not meet the definition of a service animal.

2.

a. An animal control officer or police officer may investigate and enforce this section by making an inquiry of the person accompanied by the animal in question and issuing an infraction. Refusal to answer the questions allowable under subsection (E)(2)(b) of this section shall create a presumption that the animal is not a service animal, and the officer may issue an infraction and require the person to remove the animal from the place of public accommodation.

b. An animal control officer or police officer or place of public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. An officer or place of public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. An officer or place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require that the service animal demonstrate its task. Generally, an officer or place of public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability, such as a dog is observed guiding a person who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to a person with an observable mobility disability.

F. Unless otherwise provided, violation of any provision of subsection (C) of this section shall constitute a gross misdemeanor, punishable by up to three hundred sixty-four days of jail and a five thousand dollar fine.

The sentence imposed for a misdemeanor or gross misdemeanor violation of subsection (C) of this section shall be in accordance with RCW 16.52.200, which is incorporated herein by reference as currently enacted or later amended, except as follows: The civil penalties under RCW 16.52.200(7) and (8) for convictions under subsection (C) of this section shall be payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control.

6.04.090 Shelter operation—Impoundment procedures—Release and disposal.

A. Shelter Operations.

1. The manager shall operate, maintain or provide an adequate facility to receive and care for any animal delivered to the manager's custody for disposition under provisions of this chapter, which facility shall be accessible to the public during reasonable hours for the conduct of necessary business concerning impounded animals.

2. The shelter will accept animals from outside the city if the city has a written agreement with the government agency responsible for the geographic area from which the animal came. The city shall charge such government agency a per animal fee for handling animals brought to the shelter from its geographic area. The city shall charge the per animal fee irrespective of whether the animal was delivered by an employee of the government agency, a resident of the geographic area from which the animal came, or anyone else.

B. Any animal may be impounded and held at the shelter when it is the subject of a violation of this chapter <u>Title 6 EMC</u>, when an animal requires protective custody and care for mistreatment or neglect by its lawful owner, or when otherwise ordered impounded by a court.

C. An animal is deemed to be impounded from the time the manager or the manager's designee, including Everett police personnel and contracted agents such as on-call veterinarian hospitals, takes physical custody of such animal.

D. The manager or any animal control officer or police officer may enter the private unenclosed property of another, with or without warrant, when in hot pursuit, to take possession of any animal observed at large.

E. Any person who finds and harbors a dog or cat, which is not lawfully their property and/or without knowing the animal owner's identity, shall notify the animal control shelter and furnish a description of the animal. The finder may surrender the animal to the animal control shelter or retain its possession, subject to demand of the manager of animal control. Records of reported findings shall be retained by the manager and made available to public inspection. If, within thirty days of the finding report made to animal control, no person makes claim upon the finder for return of the animal, the finder who retains possession shall obtain a license as required in this chapter and thus shall become the legal owner.

F. Impoundment is subject to the following holding period and notice requirements:

1. Any animal wearing a current license tag from a jurisdiction within the state shall be held for one hundred forty-four hours (six days) from time of impoundment; the impounding officer shall make reasonable effort by telephone to give notice of impoundment to the owner and, if unsuccessful, shall mail written notice to the last known address of the owner advising of the impoundment and the date by which redemption must be made.

2. Any animal not wearing a current license shall be held for seventy-two hours (three days) from time of impoundment before any disposition may be made of such animal.

3. Litters of kittens and puppies, brought in as abandoned, may be disposed of immediately upon custody, at the discretion of the manager.

4. Animals held for periods prescribed in this section, and not redeemed by the owner, shall become the property of the city.

5. Animals delivered for impoundment by a peace officer who removed such animal from possession of a person in custody of the peace officer shall be held for the period prescribed in subsection (F)(1) of this section.

G. Impoundment and Disposition of Animals.

1. Any impounded animal shall be released to the owner upon payment of impoundment, care and license fees unless in the discretion of the manager or the manager's designee there is an ongoing investigation of a violation of this chapter or state law. The manager or the manager's designee may release the animal to the owner's authorized representative; full identification of the owner and their authorized representative must be provided to animal control prior to release.

2. Notwithstanding the provisions of subsection (G)(1) of this section, no impounded animal shall be released to the owner until the owner establishes that any penalties, fines or forfeitures owed by the owner for violation of this chapter have been satisfied.

3. Any animal held for the prescribed period and not redeemed by its owner, and which is neither dangerous nor unhealthy, may be released for adoption, subject to the following conditions:

a. The adoptive owner agrees to furnish proper care to the animal in accord with this chapter;

b. Payment of required fees, including any medical care costs incurred during impoundment;

c. All animals will be altered (i.e., spayed or neutered) prior to completion of the adoption process. This includes receipt of all applicable fees.

4. There are four exceptions to the mandatory spay and neuter requirement.

a. The first exception is for unaltered animals that are temporarily housed at the shelter and returned to their owners.

b. The second exception is for kittens under eight weeks of age weighing less than two pounds, puppies under six weeks of age, or kittens and puppies who are unhealthy to safely spay and/or neuter. Shelter staff has the option of (i) if shelter space is available, caring for these animals until they can be safely altered; (ii) releasing them to a rescue group as noted in subsection (G)(4)(d) of this section; or (iii) euthanizing them.

c. The third exception is for animals that have a medical condition that makes it dangerous to undergo a spay or neuter surgery. These animals will be subject to the same options as outlined in subsection (G)(4)(b) of this section.

d. The fourth exception is for unaltered animals that are transported to and adopted out by other agencies. This option may include animals described in subsection (G)(4)(b) and/or (G)(4)(c) of this section. It will be the responsibility of the agency to spay and/or neuter these animals. Unaltered animals will not be released to agencies that do not require the animals to be altered prior to or upon adoption.



and

5. Administration shall decide the most cost-effective means to spay and neuter animals prior to adoption.

6. The owner of any animal retained at the shelter pending legal action pertaining to violations of this chapter and/or other judicial actions or hearings, pertaining to the owner's ownership/responsibilities regarding the animal, shall be liable for all fees prescribed by fee schedule, upon conviction.

7. The manager shall dispose of animals held for the prescribed period without redemption or adoption only by means of euthanasia; provided, however, that irrespective of any prescribed holding period the manager, upon advice of a licensed veterinarian, may immediately dispose of any sick or injured impounded animal by euthanasia.

8. The decision of whether to release an animal to an individual for the purposes of adoption shall be discretionary with the manager or the manager's designee. In making the determination the manager or the manager's designee shall base the decision on what is in the best interest of the animal and what is in the best interest of public safety. Factors which shall be considered include, but are not limited to, the age of the individual requesting adoption, the premises where the animal will be kept, condition, size and/or temperament of the animal. Dogs which have been declared dangerous under the provisions of Chapter 6.08 EMC or Chapter 16.08 RCW, or potentially dangerous under the provisions of Chapter 6.08 EMC, will not be available for adoption.

H. Removal of Animals for Feeding and Care.

1. If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated EMC 6.04.070(C) or Chapter 16.52 RCW, or a person owns, cares for, or resides with an animal in violation of an order issued under EMC 6.04.070(D) or 6.04.140 or RCW 16.52.200(4), or is in possession of an animal in violation of a court order from any jurisdiction due to a prior criminal animal cruelty conviction, and no responsible person can be found to assume the animal's care, the officer, after obtaining a may authorize, with a warrant, may enter the premises where the animal is located and seize the animal. the removal of the animal to the shelter or other suitable place for feeding and care. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

2. If a law enforcement officer or an animal control officer has probable cause to believe <u>an</u> <u>animal is in imminent danger or is suffering serious physical injury or infirmity, or needs immediate</u> <u>medical attention</u>, a violation of EMC 6.04.070(C) or Chapter 16.52 RCW has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of EMC 6.04.070(C) or Chapter 16.52 RCW by a veterinarian to determine whether the level of neglect or abuse in violation of EMC 6.04.070(C) or Chapter 16.52 RCW by a veterinarian to determine whether the level of the animal. This section does not condone illegal entry onto private property. enter onto private property without a warrant to:

a. Render emergency aid to the animal; or

b. Seize the animal without a warrant. Any animal seized without a warrant shall immediately be

brought to a veterinarian licensed in the state of Washington to provide medical attention and to assess the health of the animal.

3. A law enforcement officer or an animal control officer is not liable for any damages for entry onto private property without a warrant under this section, provided that the officer does not use any more force than is reasonably necessary to enter upon the property and remove the animal.

<u>4.3.</u> The owner from whom the animal was seized shall be provided with notice of the right to petition for immediate return of the animal and shall be afforded an opportunity to petition for such a civil hearing before the animal is deemed abandoned and forfeited. Any owner whose domestic animal is <u>seized removed</u> pursuant to EMC 6.04.070, <u>EMC 6.08.045</u> or Chapter 16.52 RCW shall, <u>within 72 hours</u> following the seizure, be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to the last known or suspected owner in person or a person residing at the place of seizure, or by registered mail if the owner is known to the last known or suspected owner. In making the decision to remove an animal pursuant to EMC 6.04.070 or Chapter 16.52 RCW, the officer shall make a good faith effort to contact the animal's owner before removal. Such notice shall include:

a. The name, business address, and telephone number of the law enforcement agency or animal care and control agency responsible for seizing the animal;

b. A description of the seized animal;

c. The authority and purpose for the seizure, including the time, place, and circumstances under which the animal was seized;

d. A statement that the owner is responsible for the cost of care for the animal who was lawfully seized, and that the owner will be required to post a bond payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control to defray the cost of minimum care within 14 calendar days of the seizure or the animal will be deemed abandoned and forfeited; and

e. A statement that the owner has a right to petition the Everett Municipal Court for a civil hearing for immediate return of the animal and that in order to receive a hearing, the owner or owner's agent must request the civil hearing by signing and returning to the court an enclosed petition within 14 calendar days after the date of seizure. The enclosed petition must be in substantially the same form as set forth in subsection 13 of this section.

4. The manager or the manager's designee may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. The manager or the manager's designee may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by:

a. Petitioning the Everett municipal court for the animal's immediate return subject to courtimposed conditions, or

b. Posting a bond or security payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the city still has custody of the animal when the bond or security expires, the animal shall become the city's property unless the court orders an alternative disposition. If a court order prevents the city from assuming ownership and the city continues to care for the animal,



the court shall order the owner to post or renew a bond or security for the city's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with an animal under EMC 6.04.070 or 6.04.140 or RCW 16.52.200(4) or similar statute or ordinance, the city may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

5. If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the Everett municipal court for the animal's return. The petition shall be filed with the court. Copies of the petition must be served on the animal shelter and the prosecuting attorney. If the court grants the petition, the animal must be surrendered to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the hearing on the petition, then the petition shall be joined with the criminal matter.

6. In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

5. a. When an animal is seized pursuant to this section, the owner shall post a bond payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control in an amount sufficient to provide minimum care for each animal seized for 30 days, including the day on which the animal was taken into custody, regardless of whether the animal is the subject of a criminal charge. Such bond shall be filed with animal control within 14 calendar days after the day the animal is seized.

b. i. If an owner fails to post a bond by 5:00 p.m. on the 14th calendar day after the day the animal was seized as required under this section, the animal is deemed abandoned and the owner's interest in the animal is forfeited to animal control by operation of law in accordance with the notice provided in subsection (4) of this section.

ii. A petition required by subsection (4)(e) of this section may be filed in Everett Municipal Court concerning any animal seized pursuant to this section. Copies of the petition must be served on animal control and the prosecuting attorney.

iii. An owner's failure to file a written petition by 5:00 p.m. on the 14th calendar day after the day the animal was seized shall constitute a waiver of the right to file a petition under this subsection and the animal is deemed abandoned and the owner's interest in the animal is forfeited to the city by operation of law unless a bond has been posted pursuant to this subsection (5). The court may extend the 14-day period to file a written petition by an additional 14 calendar days if the petitioner did not have actual notice of the seizure and the court finds, on the record and in writing, that there are exceptional and compelling circumstances justifying the extension.

c. i. Upon receipt of a petition pursuant to (b) of this subsection, the court shall set a civil hearing on the petition. The hearing shall be conducted within 30 calendar days after the filing of the petition. ii. At the hearing requested by the owner, the rules of civil procedure shall apply and the respondent shall have the burden of establishing probable cause to believe that the seized animal was subjected to a violation of this chapter. The owner shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order the owner to post a bond as required by this subsection (5) within 72 hours of the hearing, and if the owner fails to do so, the



seized animal is deemed abandoned and the owner's interest in the animal is forfeited to the city by operation of law. If the respondent does not meet its burden of proof, the court may order the animal returned to the owner at no cost to the owner, subject to conditions set by the court. If the court orders the return of an animal to the owner, the court may also order:

A. Reasonable attorney fees for the owner; and

B. A full refund of the bond posted pursuant to this subsection (5) by the owner for the care of the animal.

d. i. If a bond has been posted in accordance with this subsection (5), subsequent court proceedings shall be given court calendar priority so long as the animal remains in the custody of the city and the city may draw from the bond the actual reasonable costs incurred by the city in providing minimum care to the animal from the date of seizure to the date of final disposition of the animal in the criminal action.

ii. At the end of the time for which expenses are covered by the bond, if the owner seeks to prevent disposition of the animal by the custodial agency, the owner shall post a new bond with animal control within 72 hours following the prior bond's expiration. If an owner fails to post or renew a bond as required under this subsection (5), the animal is deemed abandoned and the owner's interest in the animal is forfeited to the city by operation of law.

e. For the purposes of this subsection (5), "animal" includes all unborn offspring of the seized animal and all offspring of the seized animal born after the animal was seized.

6. When an animal is seized from a person prohibited from owning, caring for, possessing, or residing with animals under RCW 16.52.200 or an order issued pursuant to Chapter 6.04 EMC, Chapter 6.08 EMC, RCW 16.52.200, 16.52.205 or 16.52.207, or similar statute, the animal is immediately and permanently forfeited by operation of law to the city and no court action is necessary.

7. If an animal is forfeited to the city according to the provisions of this section, the city may place the animal with a new owner; provided that the city may not place the animal with anyone who lives in the same household as the former owner.

8. The city may authorize a veterinarian or veterinary technician licensed in the state of Washington or a certified euthanasia technician certified in the state of Washington to euthanize a seized animal for humane reasons at any time if the animal is severely injured, sick, diseased, or suffering.

9. Nothing in this chapter shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to the city or other agency. Voluntary relinquishment has no effect on the criminal charges that may be pursued by the appropriate authorities.

10. Nothing in this chapter requires court action for taking custody of, caring for, and properly disposing of stray, feral, at-large, or abandoned animals, or wild animals not owned or kept as pets or livestock, as lawfully performed by the city.

<u>11.</u> 7. Any authorized person <u>caring for</u>, treating, or attempting to restore an animal to health under this section shall not be civilly or criminally liable for such action.

12. The provisions of this section are in addition to, and not in lieu of, the provisions of EMC 6.04.070, 6.04.140, 6.08.050, or RCW 16.52.200.

13. A petition for a civil hearing for the immediate return of a seized animal shall be in a form substantially similar to the following:

<u>"IN THE EVERETT MUNICIPAL COURT</u> OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF SNOHOMISH

· · · · ·,	<u>No</u>
<u>Petitioner,</u>	
VS.	PETITION FOR
· · · · ·	RETURN OF SEIZED
Respondent	ANIMALS

PARTIES/JURISDICTION

(a)(i) That Petitioner is, and at all relevant times herein was, a resident of (county of residence) County, Washington.

(ii) That Respondent is, and at all relevant times herein was, an agent, contractor, or political subdivision of the City of Everett, State of Washington.

(iii) That Petitioner's animal/animals were seized by Respondent in Everett, Snohomish County, Washington.

(iv) That this Court has jurisdiction over the subject matter and the parties hereto.

FACTS

(b)(i) That upon seizure of (number and type of animals) such animals were placed in the care and custody of the Respondent on (date of seizure).

(ii) That on or about (date on notice) the Respondent issued a seizure, bond, and forfeiture notice under EMC 6.04.090(H), a true and correct copy of said notice and accompanying attachments is attached hereto and incorporated herein as Exhibit A (attach a copy of the notice of seizure to this petition).

(iii) That pursuant to such notice, Petitioner herein files this petition for the immediate return of all such seized animals pursuant to EMC 6.04.090(H).

PRAYER

(c) Petitioner prays that this Court grant said petition and order the immediate return of Petitioner's aforementioned animals to Petitioner's care and custody.

DATED the . . . day of, By: Petitioner (Signature)

Section 3. EMC 6.08.045 is amended as follows, with strikeouts deleted and underlining added:

6.08.045 Dangerous and potentially dangerous dogs—Confiscation.

A. Any dangerous dog shall be immediately confiscated by Everett animal control if the:

1. Dog is not validly registered under this chapter or RCW 16.08.080;

2. Owner does not secure the liability insurance coverage required under this chapter or RCW 16.08.080;

3. Dog is not maintained in the proper enclosure; or

4. Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person.

B. The owner must pay the costs of confinement and control to Everett animal control if the dog is confiscated. Everett animal control must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with Section 6.08.050.

C. Under circumstances not rising to severe injury or death under EMC 6.08.045(E), if a potentially dangerous dog of an owner with a prior criminal conviction under this chapter or Chapter 16.08 RCW, or prior violation of EMC 6.04.070(B)(7), attacks or bites a person or another domestic animal, the dog's owner is guilty of a gross misdemeanor. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a potentially dangerous dog pursuant to this chapter or Chapter 16.08 RCW and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the potentially dangerous dog may be immediately confiscated by an animal control authority and impounded pursuant to EMC 6.04.090.

<u>D</u>C. If a dangerous dog of an owner with a prior conviction under this chapter or Chapter 16.08 RCW<u>, or</u> prior violation of EMC 6.04.070(B)(7), attacks or bites a person or another domestic animal, the dog's owner is guilty of a Class C felony, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter or Chapter 16.08 RCW and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.



ED. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a Class C felony punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog: (1) trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of the dog; or (2) provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of the dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter or Chapter 16.08 RCW. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by an animal control authority, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

FE. Any potentially dangerous dog or dangerous dog may be immediately seized and impounded by Everett animal control if an Everett animal control officer has probable cause to believe that the owner has failed to comply with the conditions or restrictions of this chapter or imposed by the animal control authority. Such impoundment shall be subject to the procedures of Section 6.04.090.

EMC Amended/Repealed by this Ordinance	Ordinance History of EMC Amended/Repealed by this Ordinance
EMC 6.04.020	(Ord. 3903-22 § 1, 2022; Ord. 3228-11 § 1, 2011; Ord. 2684-03 § 1, 2003;
	Ord. 2394-99 § 1, 1999; Ord. 1810-91 § 2, 1991.)
EMC 6.04.070	(Ord. 3903-22 § 4, 2022; Ord. 3236-11 § 9, 2011; Ord. 2873-05 § 1, 2005;
	Ord. 2394-99 § 6, 1999; Ord. 2091-95 § 1, 1995; Ord. 1810-91 § 7, 1991.)
EMC 6.04.090	(Ord. 3903-22 § 5, 2022; Ord. 3228-11 § 2, 2011; Ord. 2684-03 § 3, 2003;
	Ord. 2394-99 § 7, 1999; Ord. 1815-91 § 9, 1991.)
EMC 6.08.045	(Ord. 3705-19 § 8, 2019; Ord. 2782-04 § 5, 2004; Ord. 2393-99 § 9, 1999.)

Section 4. The following is provided for reference and may not be complete:

<u>Section 5.</u> The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, text and font styles and colors, section/subsection numbers, and any internal references.



<u>Section 6</u>. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

<u>Section 7</u>. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 8. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED:

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



EVERETT City Council Agenda Item Cover Sheet

Project title:

An Ordinance Closing a Special Improvement Project Entitled "Hannabrook Park Improvement Project", Fund 354, Program 085 as Established by Ordinance No. 3931-23

Council Bill

CB 2310-57

Agenda dates requested:

11/8/23, 11/15/23, 11/29/23

Briefing

Driening		
Proposed action	Х	
Consent		
Action	Х	
Ordinance	Х	
Public hearing		
Yes	Х	No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Closing Ordinance

Department(s) involved:

Parks & Facilities Administration

Contact person: Bob Leonard

Phone number: (425) 257-8335

Email: BLeonard@everettwa.gov

Initialed by:

RML Department head

Administration

Council President

Project:	"Hannabrook Park Improvement Project"
Partner/Supplier:	King County Directors' Association (KCDA)
Location:	5815 Brookridge Boulevard Everett, WA
Preceding action:	Ordinance 3931-23
Fund:	Fund 354, Program 085

Fiscal summary statement:

The source of funds for the Hannabrook Park Improvement Project is CIP-3 and Snohomish County REET 2 funding. The REET 2 funding from Snohomish County is a reimbursable grant that has been reimbursed.

The project was completed at a total cost of \$104,393.89. The Hannabrook Park Improvements were purchased through King County Director's Association (KCDA), in compliance with the City of Everett procurement requirements. The remaining balance of \$5,606.11 will be transferred back to CIP-3.

All expenses for the project have been paid and revenues collected.

Project summary statement:

The City of Everett Parks, Recreation and Open Space (PROS) Plan adopted in 2022 identifies the development of trails and fitness activities as two of the top opportunities that will benefit park users. Hannabrook Park is specifically highlighted as a park with opportunities for further enhancements that will complement the natural elements of the park, including an existing half-mile soft trail around the park, popular with walkers and runners.

Leveraging these existing amenities, the City of Everett Parks and Facilities department created its first nature fitness trail at Hannabrook Park. Installation included five unique fitness stations, safety surface material, and attendant landscape treatments.

The project was completed July 17, 2023.

All work has been completed to the satisfaction of the Parks and Facilities Department.

Recommendation (exact action requested of Council):

Adopt an Ordinance closing a special improvement project entitled "Hannabrook Park Improvement Project", Fund 354, Program 85 as established by Ordinance No. 3931-23.



ORDINANCE NO.

An ORDINANCE closing a special improvement project entitled "Hannabrook Park Improvement Project", Fund 354, Program 085 as established by Ordinance No. 3931-23

WHEREAS,

- **A.** The Parks special improvement project "Hannabrook Park Improvement Project", Fund 354, Program 085, was established to accumulate all costs for the improvement project.
- **B.** The purpose of the special improvement project has been accomplished.
- **C.** There are neither outstanding obligations of the fund to be paid nor uncollected revenues to be received.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

<u>Section 1.</u> That the project entitled "Hannabrook Park Improvement Project" Fund 354, Program 085 be closed.

<u>Section 2.</u> That the final revenues and expenses for the "Hannabrook Park Improvement Project", Fund 354, Program 085, are as follows:

REVENUES	
Fund 354 – CIP 3	\$ 30,000.00
Snohomish County Reet 2 Funds	<u>\$ 80,000.00</u>
Total	\$110,000.00
EXPENSES	
Construction	<u>\$104,393.89</u>
Total	\$104,393.89

Section 3. That the remaining balance of \$5,606.11 be transferred to CIP 3.

<u>Section 4</u>. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

<u>Section 5</u>. The City Council hereby declares that should any section, paragraph, sentence, clause, or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

<u>Section 6.</u> The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



EVERETT City Council Agenda Item Cover Sheet

Project title: An Ordinance Closing a Special Improvement Project Entitled "T. A. Sullivan Caretaker House Demolition", Fund 354, Program 082, as Established by Ordinance No. 3932-23

Council Bill #	Project: T.A. Sullivan Caretaker House Demolition
CB 2310-58	Partner/Supplier: Job Order Contracting - Burton Construction
Agenda dates requested:	Location: 11405 Silver Lake Road, Everett, WA
	Preceding action: Funding Ordinance 3932-23
Briefing	Fund: Fund 354, Program 082
Proposed action 11/08 & 11/15/23	
Consent	Fiscal summary statement:
Action 11/29/2023	
Ordinance X	The source of funds for the T. A. Sullivan Caretaker House Demolition was Capital Improvement Program 3 (CIP-3) in the amount of \$100,000. The project was completed at a total cost of
Public hearing	\$88,387.14. All expenses for the project have been paid. The remaining balance of \$11,612.86
Yes X No	will be transferred to CIP-3.
Budget amendment:	
Yes X No	Duciest summers statements
PowerPoint presentation:	Project summary statement:
Yes X No	This project demolished the Caretaker House structure at Thornton A. Sullivan Park. The
	structure was badly damaged by a fire on October 21, 2022. The structure was unoccupied at th
Attachments:	time of the fire. The project funded demolition and restoration of the site to level lawn.
Closing Ordinance	All work has been completed to the satisfaction of the Parks and Facilities Department.
Department(s) involved:	
Parks & Facilities	
Administration	Recommendation (exact action requested of Council):
Contact parcan	Adopt an Ordinance closing a special improvement project entitled "T. A. Sullivan Caretaker
Contact person: Bob Leonard	House Demolition", Fund 354, Program 082, as established by Ordinance No. 3932-23.
Phone number:	
(425) 257-8335	
Email:	
BLeonard@everettwa.gov	
Initialed by:	
RML	
Department head	
Administration	
Administration	

Council President



ORDINANCE NO.

An ORDINANCE closing a special improvement project entitled "T.A. Sullivan Caretaker House Demo", Fund 354, Program 082, as established by Ordinance No. 3932-23.

WHEREAS,

- **A.** The Parks special improvement project "T.A. Sullivan Caretaker House Demo", Fund 354, Program 082, was established to accumulate all costs for the improvement project.
- **B.** The purpose of the special improvement project has been accomplished.
- **C.** There are neither outstanding obligations of the fund to be paid nor uncollected revenues to be received.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

<u>Section 1.</u> That the project entitled "T.A. Sullivan Caretaker House Demo", Fund 354, Program 082, be closed.

<u>Section 2.</u> That the final revenues and expenses for the "T.A. Sullivan Caretaker House Demo", Fund 354, Program 082, are as follows:

REVENUES

Fund 354 – CIP 3	<u>\$100,000.00</u>
Total	\$100,000.00

EXPENSES

Construction	<u>\$88,387.14</u>
Total	\$88,387.14

Section 3. That the remaining balance of \$11,612.86 be transferred to CIP 3.

2023 ORDINANCE: T.A. Sullivan Caretaker House Demo

<u>Section 4</u>. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

<u>Section 5</u>. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

<u>Section 6.</u> The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

<u>Section 7</u>. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED:

EFFECTIVE DATE: _____

2023 ORDINANCE: T.A. Sullivan Caretaker House Demo

EEVERETT City Council Agenda Item Cover Sheet

Project title:

Ordinance Amending the Development Agreement for the Everett Riverfront District Properties Related to the Landfill Site, Amending Section 1 of Ordinance No. 3121-09, as previously amended

# interoffice use es requested: /15/23, 11/29/23	Project: Adopt ordinance regarding Riverfront Project	
	Partner/Supplier: Shelter Holdings	
	Location: Riverfront	
	Preceding action: Amendment of Development Agreement in 2021	
g/Briefing: 11/8 g: 11/15	Fund: N/A	

Fiscal summary statement: N/A

Project summary statement: This ordinance will allow an amendment to the Riverfront development agreement (DA), consisting of two relatively minor changes intended to have positive impact on the continuing development of the former landfill portion of the site. The proposed amendment was considered and recommended to Council by the Planning Commission at its meeting on 10.17.23.

The DA is one of several agreements between the City and the developer (Shelter Holdings) that govern the Riverfront development. These agreements envisage six phases of development on the central portion (landfill site). Most of the First Phase is complete.

The first proposed change is to the cinema element of the development. In 2021, considering the impact of the pandemic, Council approved a DA amendment that postponed the development's cinema element from the First Phase and recognized that a cinema may no longer be viable at the Riverfront. Shelter is now working on negotiating a long-term agreement with a restaurant/recreational anchor tenant for what is currently indicated as the cinema site. Accordingly, the proposed change to the agreement would replace the current cinema element with a proposed Anchor Food and Recreation use, which Shelter representatives will more fully describe at the briefing at first reading.

The second proposed change regards the Eclipse Mill Park, which is planned as a park with upland amenities (playground and picnic shelter) and in-water amenities (dock). Under the current agreements (going back to 2008 and 2019), Shelter first builds the upland part in stages, with the City building the in-water portion later when the City has funds. However, the City now will be able to use LIFT grant dollars to finance in-water park construction in 2025. Accordingly, the proposed change will adjust construction schedule to accommodate this, as it causes construction access issues if upland construction occurs before in-water work. This means the City will construct in-water in 2025, with Shelter following with its stages of upland work.

Finally, as mentioned above, several agreements govern the Riverfront. To make these two changes, corresponding revisions must be made to the Amended and Restated Property Disposition Agreement (ARPDA), which governs certain Riverfront real estate matters. Unlike a DA amendment (which is by ordinance), the ARPDA amendment is approved like other contracts, and will be scheduled for separate council action on 11.29.23, at the same meeting as the third reading of the proposed DA amendment ordinance. For reference, the proposed ARPDA amendment is attached

Recommendation (exact action requested of Council): Adopt Ordinance Amending the Development Agreement for the Everett Riverfront District Properties Related to the Landfill Site, Amending Section 1 of Ordinance No. 3121 -09, as previously amended.

Council Bill

CB 2310-59

Agenda date

11/8/23, 11/2

1st Reading 2nd Reading 3rd Reading/Hearing: 11/29

No

No

Ordinance X Public hearing Х Yes

Budget amendment:

Yes X No

PowerPoint presentation:

X Yes

Attachments:

1. DA Amendment Ordinance (with DA Amendment) 2. Planning Commission Resolution 23-04 3. ARPDA Amendment

Department(s) involved:

Planning, Parks & Facilities, Legal

Contact person: Yorik Stevens-Wajda

Phone number: (425) 257-8725

Email: ystevens@everettwa.gov

Initialed by:

Department head

Administration

Council President



ORDINANCE NO.

An Ordinance Amending the Development Agreement for the Everett Riverfront District Properties Related to the Landfill Site, Amending Section 1 of Ordinance No. 3121 -09, as previously amended

WHEREAS,

- A. In 2009, the City approved a Planned Development Overlay rezone for the Everett Riverfront District Properties pursuant to Ordinance 3121-09, implemented through a Development Agreement, for properties commonly referred to as the Simpson site, the Landfill site, and the Eclipse Mill site.
- **B.** In 2014, a First Amendment to the Development Agreement was approved by City Council pursuant to Ordinance 3373-14. The First Amendment only concerned the Simpson site and the Eclipse Mill site and did not concern the Landfill site.
- **C.** In 2019, a Second Amendment to the Development Agreement was approved by City Council pursuant to Ordinance 3674-19. The Second Amendment only concerned the Landfill site and did not concern the Simpson site or the Eclipse Mill site. The Second Amendment, among other matters, contained a cinema in the First Phase of Landfill development.
- **D.** In 2021, in response to the COVID-19 pandemic, the City Council approved an addendum to the Second Amendment to the Development Agreement. This addendum postponed the cinema from the First Phase to the Third Phase.
- **E.** In 2023, as anticipated by the 2021 addendum, the developer of the Landfill proposed to change the cinema use. In general, the proposal is to change the cinema use to an anchor food and recreational use.
- F. The specifics of the developer's proposed change to the Development Agreement for the Landfill are contained in the Second Addendum to the Second Amendment to Development Agreement, which is attached as <u>Exhibit 1</u> to this Ordinance and is referred to herein as the "Second Addendum." The Second Addendum does not contain any revision to the Development Agreement with respect to the Simpson site or the Eclipse Mill site.
- **G.** The Planning Commission considered the Developer's proposed change at its meeting October 17, 2023, during which the Planning Commission recommended approval of the proposed changes.
- H. The City Council held a public hearing on November 29, 2023, before passage of this ordinance.

NOW, THEREFORE, the City Council adopts the foregoing recitals as its findings, and the City Council therefore concludes the following:

1. The amendments in the Second Addendum approved by this Ordinance follow and are based on an appropriate land use and environmental review process that has included meaningful opportunities for public participation; and

- 2. The proposed change to the Planned Development Overlay zone and Development Agreement, and the resultant master plan for the Landfill site:
 - a. promote the best long term interests of the community and satisfy the criteria of EMC 19.29.050.C and EMC 15.03.200, to the extent such provisions are applicable;
 - b. is consistent with the Everett Growth Management Comprehensive Plan; and
 - c. bears a substantial relation to the public health, safety and welfare, implement conditions established in the original master plan and mitigation required in the revised EIS, which mitigates potential adverse impacts upon existing and anticipated land uses in the immediate vicinity of the subject property.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The Second Addendum is approved and the Mayor is authorized to execute the Second Addendum substantially in the form as provided in <u>Exhibit 1</u>.

Section 2. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 3. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 4. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 5. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Section 6. The City Council public hearing on November 29, 2023,_is deemed to satisfy any applicable public hearing requirements under chapter 19.29 EMC. A copy of this Ordinance, and an executed copy of the Second Addendum, shall be recorded with the Snohomish County Auditor's Office and shall constitute a covenant running with the land.

// // // RIVERFRONT ORDINANCE Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

RIVERFRONT ORDINANCE

EXHIBIT 1

SECOND ADDENDUM TO SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT

SECOND ADDENDUM

ТО

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

This Second Addendum to the Second Amendment to Development Agreement (this "<u>Addendum</u>") is dated as of last signature below (the "<u>Effective Date</u>"), and is made and entered into by and among **RIVERFRONT COMMERCIAL INVESTMENT, L.L.C.** ("<u>Riverfront</u>"), a Washington limited liability company and **RIVERFRONT PHASE 1, LLC**, a Washington limited liability company, with respect to the Phase 1 Lots, **RIVERFRONT PHASE 2, LLC**, a Washington limited liability company, with respect the Phase 2 Lots, **RIVERFRONT PHASE 3, LLC**, a Washington limited liability company, with respect the Phase 3 Lots, **RIVERFRONT PHASE 3, LLC**, a Washington limited liability company, with respect the Phase 3 Lots, **RIVERFRONT PHASE 4, LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the maximum section the the theorem of the State of Washington (the "<u>City</u>").

RECITALS

The City and Developer are parties to the Development Agreement dated June 2, 2009, which was amended by the First Amendment dated April 3, 2014, the Second Amendment to Development Agreement dated May 17, 2019, and the Addendum to Second Amendment dated as of May 4, 2021 (the 2021 addendum, the "*Initial Addendum*"; the 2019 amendment the "*Second Amendment*"; the development agreement as amended by both amendments and the Initial Addendum, the "*Development Agreement*"). Unless otherwise defined herein, all capitalized terms in this Addendum have the meaning set forth in the Second Amendment. The names of the lots in the paragraph above are as defined in the Assignment and Assumption Agreement by and among the parties dated December 20, 2019, recorded under Snohomish County recording no. 202001090614 ("*Assignment Agreement*").

On October 21, 2019, the City approved a minor amendment to the Final Development Plan in accordance with EMC 19.29, which revised the second page of Attachment E-1 to the Second Amendment. The amended version of the second page of Attachment E-1 was attached to the Initial Addendum as Exhibit A. Now the parties are further amending the Final Development Plan as set forth in this Addendum. The revised Attachment E-1 Final Development Plan is attached to this Addendum as Exhibit A.

As acknowledged in the Initial Addendum the COVID-19 pandemic has occurred since the execution of the Second Amendment and has impacted the viability and timing of certain elements of the Everett Riverfront Development. Specifically, Developer has determined that the Cinema Element of the Everett Riverfront Development is no longer viable. As further contemplated by the Initial Addendum, Developer has proposed and the City desires to approve, replacement of the Cinema Element with an anchor food and recreational use, as set forth in this Addendum.

On August 1, 2013, PNW Riverfront, LLC assigned and Riverfront assumed all of the rights, obligations and liabilities of PNW Riverfront with respect to the Development Agreement

and other agreements related to the Property pursuant to that Riverfront Assignment and Assumption Agreement recorded under Snohomish County recording no. 201311180486. Riverfront has subsequently assigned and Riverfront Phase 1, LLC, Riverfront Phase 2, LLC, Riverfront Phase 3, LLC, Riverfront Phase 4, LLC, Riverfront Grocer, LLC and Riverfront Theater, LLC have assumed rights, obligations and liabilities under the Development Agreement as more particularly set forth in the Assignment Agreement. PNW Riverfront does not hold any interest in the Property or under the Development Agreement. The parties now desire to remove PNW Riverfront as a party to the Development Agreement

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual promises as stated herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, PNW, Riverfront, and the City hereby agree as follows:

1. <u>Amendment of the Cinema Element Phase to the Anchor Food and Recreation (AFR)</u> Phase.

A. The Cinema Element Property is renamed the "Anchor Food and Recreation Property" (or "<u>AFR Property</u>") with no changes to the location or boundaries of such property. The Cinema Phase is renamed the Anchor Food and Recreation Phase (or "<u>AFR Phase</u>"). The Cinema use that was contemplated as part of the Cinema Phase is hereby replaced with an Anchor Food and Recreation Use (or "<u>AFR Use</u>").

1. An Anchor Food and Recreation (AFR) Use means an anchor establishment with indoor and outdoor spaces covering a substantial majority of the AFR Property that provides restaurant quality food and beverage service combined with active recreational options, such as, for example, table tennis, pickleball, tennis, handball, golf, squash, volleyball, or racquetball. An AFR Use does not include fitness centers or health spas.

2. The revised Final Development Plan attached to this Addendum as <u>Exhibit A</u>, is hereby approved by the City.

B. As defined in the Initial Addendum, the AFR Phase is one of the Remaining Phases. Prior to the completion of the Third Phase Developer will complete the AFR Phase, which will include construction of an AFR Use on the AFR Property. Drawings of the AFR Element are attached as <u>Exhibit B</u> ("<u>AFR Drawings</u>"). Figure 11 and Figure 12 of the First Phase Drawings that were attached as part of Exhibit 1 to the Second Amendment are hereby deleted. The AFR Drawings shall also be incorporated into subsection I: Supplemental Examples of the Mixed Use Design Guidelines that are Attachment G to the Second Amendment, as approved renderings for the AFR Phase under such guidelines.

2. <u>Amendment of Section 5.2: Developer Property – Use Restriction</u>. The new Section 5.2.1.1 of the Second Amendment which was added by the Initial Addendum is hereby amended to read as follows:

5.2.1.1 <u>Anchor Food and Recreation Phase.</u> Notwithstanding anything to the contrary in this Agreement, the sole permitted use of the AFR Property prior to issuance of a Partial Certificate of Completion for the AFR Phase is as follows: development and construction

of an AFR Use substantially as shown in the AFR Drawings and the revised Final Development Plan and in accordance with applicable provisions of the Second Amendment. Modifications to the Final Development Plan approved by the Planning Director using the criteria for administrative modification of the Final Development Plan as specified in the City's Planned Development Overlay regulations as set forth in EMC Chapter 19.29 shall be deemed to be "substantially as shown in the Final Development Plan" as that term is used in this Section. The Planning Director shall have the sole authority to determine if final site layout and building designs proposed for AFR Phase are "substantially as shown in the AFR Drawings." A decision to reject a plan or permit based on not being "substantially as shown in the AFR Drawings" must not be arbitrary and must be made in writing and supported by detailed findings. Second Amendment Section 5.2.2 does not apply to the AFR Phase. However, if Developer proposes a design that is not substantially as shown in the approved AFR Drawings, then such proposal will be subject to Planning Director approval on the basis of whether the proposed design meets the definition of an AFR Use, complies with the Design Guidelines, and provides at least the level of quality represented by the AFR Drawings. A decision to reject a plan or permit based on non-compliance with the preceding sentence must not be arbitrary and must be made in writing and supported by detailed findings.

3. <u>Park Project</u>. The deadlines for the Eclipse Mill Park project and the First Phase Park Project are as set forth in the Restated PDA, as amended.

4. <u>Removal of PNW Riverfront LLC</u>. For the Reasons set forth in Recital D above, PNW Riverfront LLC is hereby removed as a party to the Development Agreement.

5. <u>General Provisions</u>.

5.1 <u>Counterparts; pdf Signatures</u>. This Addendum may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. AdobeSign or other electronic or pdf signatures on this Agreement shall constitute original signatures of the Parties.

5.2 <u>Recording</u>. Either party may arrange for the recording of this Addendum with the Snohomish County Auditor's office, as necessary to disclose this Addendum on title documents for the affected property.

6. <u>Other</u>. Except as expressly modified in this Addendum, the Second Amendment shall remain in full force and effect.

EXHIBITS:

Exhibit A – Revised Attachment E-1: Final Development Plan

Exhibit B – AFR Drawings

Riverfront:

Riverfront Commercial Investment, L.L.C. a Washington limited liability company, by its authorized signatory:

By: Name: Title: STATE OF _____: SS.

COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

Riverfront Phase 1 LLC. a Washington limited liability company, by its authorized signatory:

By: Name: Title:

STATE OF _____: : SS. COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

Riverfront:

Riverfront Phase 2 LLC. a Washington limited liability company, by its authorized signatory:

By: Name: Title: STATE OF _____: SS.

COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

Riverfront:

Riverfront Phase 3 LLC a Washington limited liability company, by its authorized signatory:

By: Name: Title: STATE OF : : SS.

COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

Riverfront:

Riverfront Phase 4 LLC a Washington limited liability company, by its authorized signatory:

By: Name: Title: STATE OF :: SS.

COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

Riverfront:

Riverfront Grocer LLC a Washington limited liability company, by its authorized signatory:

By: Name: Title: STATE OF :: SS.

COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

Riverfront:

Riverfront Theater LLC a Washington limited liability company, by its authorized signatory:

By: Name: Title: STATE OF :: SS.

COUNTY OF _____:

On this, the _____ day of _____, 2023, before me a notary public, the undersigned officer, personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

<u>City</u>:

CITY OF EVERETT:

By:		
Cassie Franklin, Mayor	с	
ATTEST:		APPROVED AS TO FORM:
By:	_, City Clerk	By:, City Attorney
STATE OF WASHINGTON	: : S	S.
COUNTY OF SNOHOMISH	:	
On this, the day of	, 2023, be	fore me a notary public, the undersigned officer

personally appeared ______, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Notary Public

My commission expires _____

SECOND AMENDMENT

ТО

AMENDED AND RESTATED PROPERTY DISPOSITION AGREEMENT

EVERETT RIVERFRONT DEVELOPMENT

(LANDFILL)

This Second Amendment to Amended and Restated Property Disposition Agreement (this "*Amendment*") is dated for reference purposes as of the date of last signature below, and is made and entered into by and between (i)**RIVERFRONT COMMERCIAL INVESTMENT, L.L.C.** ("*Riverfront*"), a Washington limited liability company, and **RIVERFRONT PHASE 1, LLC**, a Washington limited liability company, with respect to the Phase 1 Lots, **RIVERFRONT PHASE 2, LLC**, a Washington limited liability company, with respect the Phase 2 Lots, **RIVERFRONT PHASE 3, LLC**, a Washington limited liability company, with respect the Phase 3 Lots, **RIVERFRONT PHASE 4, LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Grocer Lot, **RIVERFRONT THEATER, LLC**, a Washington limited liability company, with respect to the Theater Lot(collectively, "*Developer*"); and (ii) the **CITY OF EVERETT**, a municipal corporation of the State of Washington (the "*City*").

RECITALS

A. The City and Developer are parties to the Amended and Restated Property Disposition Agreement dated May 10, 2019, as amended by the First Amendment dated May 4, 2021 (as amended, this "*Agreement*"). All capitalized terms in this Amendment have the meaning set forth in the Agreement. The names of the lots in the paragraph above are as defined in the Assignment and Assumption Agreement by and among the parties dated December 20, 2019, recorded under Snohomish County recording no. 202001090614 ("*Assignment Agreement*").

B. Contemporaneously with this Amendment, the parties are executing a Second Addendum to the Second Amendment to the Development Agreement (the "*Second DA Addendum*"). As set forth in the Second DA Addendum, the parties have agreed to replacement of the Cinema Element with an anchor food and recreation use. One purpose of this Amendment is to make changes to the Agreement regarding this replacement that correspond to the Second DA Addendum.

C. In addition, since the First Amendment, the City has taken steps to secure funding for construction of the in-water improvements to the Eclipse Mill Park. Because of this, the parties desire to adjust the certain timing provisions regarding the park.

D. Further, the parties acknowledge that all rights, obligations and liabilities that PNW Riverfront LLC had under the Agreement have been assigned to and assumed by the Developer pursuant to the Assignment Agreement, and PNW Riverfront LLC does not hold any interest in the Developer Property. Therefore, the parties now desire to remove PNW Riverfront LLC as a party to this Agreement.

E. Accordingly, the Parties hereto have agreed to amend the Agreement as set forth herein.

AGREEMENTS

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and in accordance with the terms of the Agreement, Developer and the City hereby amend the Agreement as follows:

1 <u>REPLACEMENT OF CINEMA WITH ANCHOR FOOD AND</u> <u>RECREATION USE</u>

In the Agreement (including the exhibits thereto), the terms "cinema", "Cinema Element Phase" and "Cinema Element Property" are each respectively replaced with "AFR Use," "AFR Phase," and "AFR Property," as such terms are defined in the Second DA Addendum.

Section 3.4 of the Agreement, which was added by the First Amendment, is amended to read as follows: "As stated in the 2nd Amendment to the DA as amended, Developer will, prior to completion of the Third Phase, complete the AFR Phase."

2 <u>ECLIPSE MILL PARK</u>

The City anticipates receiving funding for the Later Phase Eclipse Mill Park Project in 2025, with construction beginning and complete in 2025 or 2026. The parties agree that for construction purposes it would be most efficient if Developer's First Phase Park Project were constructed after completion of the City's Later Phase Eclipse Mill Park Project. Accordingly, the parties amend the Agreement as follows:

- 2.1 The fifth sentence of Section 1.4 of the Agreement is replaced with "Developer will cause First Phase Park Completion to occur in accordance with the approved plans and specifications no later than 18 months after the City completes its Later Phase Eclipse Mill Park Project, subject to extension of such date for Force Majeure as provided in Section 13.2 ("*First Phase Park Completion Deadline*")."
- 2.2 The parenthetical in the first sentence of Agreement Section 2.3.3.2 is replaced with "(other than the First Phase Park Project, which must be completed by the First Phase Park Deadline)."

Section 7.2.2 of the Agreement is deleted. However, in the event that the City does not secure the anticipated funding for the Later Phase Eclipse Mill Park Project and provides written notice thereof to Developer, then (A) the First Phase Park Completion Deadline will be 18 months after the date of such notice to Developer, but in no event will such deadline be earlier than December 31, 2026, with such deadline subject to

extension for Force Majeure as provided in Section 13.2 and (B) Section 7.2.2 of the Agreement is automatically deemed restored to the Agreement as of the date of such notice to Developer.

The City shall cooperate with Developer to issue any extensions of the permits for the First Phase Park Project that are necessary to implement the timelines contemplated by this Amendment.

3 <u>REMOVAL OF PNW RIVERFRONT, LLC</u>

For the reasons set forth in Recital D above, PNW Riverfront LLC is hereby removed as a party to the Agreement.

4 AGREEMENT IN FULL FORCE AND EFFECT

Except as modified by this Amendment, the Agreement remains in full force and effect. This Agreement may be signed with AdobeSign, which is fully binding.

[SIGNATURE PAGES FOLLOW]

CITY SIGNATURE PAGE

CITY:

CITY OF EVERETT

By:

Cassie Franklin, Mayor

ATTEST:

By: Office of City Clerk

APPROVED AS TO FORM:

By:

Office of City Attorney

DEVELOPER SIGNATURE PAGES

DEVELOPER:

RIVERFRONT COMMERCIAL INVESTMENT, L.L.C., a Washington limited liability company

By: _____

Its:

RIVERFRONT PHASE 1 LLC, a Washington limited liability company

By: _____

Its:

RIVERFRONT PHASE 2 LLC, a Washington limited liability company

By:

Its: _____

RIVERFRONT PHASE 3 LLC, a Washington limited liability company

By:

Its: _____

RIVERFRONT PHASE 4 LLC, a Washington limited liability company

By: _____

Its: _____

RIVERFRONT THEATER LLC, a Washington limited liability company

By:

Its: _____

RIVERFRONT GROCER LLC, a Washington limited liability company

By:

Its: _____

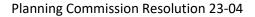


PLANNING COMMISSION RESOLUTION NO. 23-04

A Resolution Recommending that the City Council Approve an Amendment to the Riverfront Planned Development Overlay and Development Agreement

WHEREAS, THE PLANNING COMMISSION FINDS THE FOLLOWING:

- A. The City and Developer are parties to the Development Agreement dated June 2, 2009, which was amended by the First Amendment dated April 3, 2014, the Second Amendment to Development Agreement dated May 17, 2019, and the Addendum to Second Amendment dated as of May 4, 2021 (the 2021 addendum, the "Initial Addendum"; the 2019 amendment the "Second Amendment"; the development agreement as amended by both amendments and the Initial Addendum, the "Development Agreement"). Unless otherwise defined herein, all capitalized terms in this Addendum have the meaning set forth in the Second Amendment. The names of the lots in the paragraph above are as defined in the Assignment and Assumption Agreement by and among the parties dated December 20, 2019, recorded under Snohomish County recording no. 202001090614 ("Assignment Agreement").
- **B.** On October 21, 2019, the City approved a minor amendment to the Final Development Plan in accordance with EMC 19.29, which revised the second page of Attachment E-1 to the Second Amendment. The amended version of the second page of Attachment E-1 was attached to the Initial Addendum as Exhibit A. Now the parties are further amending the Final Development Plan as set forth in this Addendum. The revised Attachment E-1 Final Development Plan is attached to this Addendum as Exhibit A.
- **C.** As acknowledged in the Initial Addendum the COVID-19 pandemic has occurred since the execution of the Second Amendment and has impacted the viability and timing of certain elements of the Everett Riverfront Development. Specifically, Developer has determined that the Cinema Element of the Everett Riverfront Development is no longer viable. As further contemplated by the Initial Addendum, Developer has proposed and the City desires to approve, replacement of the Cinema Element with an anchor food and recreational use, as set forth in this Addendum.
- **D.** On August 1, 2013, PNW Riverfront, LLC assigned and Riverfront assumed all of the rights, obligations and liabilities of PNW Riverfront with respect to the Development Agreement and other agreements related to the Property pursuant to that Riverfront Assignment and Assumption Agreement recorded under Snohomish County recording no. 201311180486. Riverfront has subsequently assigned and Riverfront Phase 1, LLC, Riverfront Phase 2, LLC, Riverfront Phase 3, LLC, Riverfront Phase 4, LLC, Riverfront Grocer, LLC and Riverfront Theater, LLC have assumed rights, obligations and liabilities under the Development Agreement as more particularly set forth in the Assignment Agreement. PNW Riverfront does not hold any interest in the Property or under the Development Agreement. The parties now desire to remove PNW Riverfront as a party to the Development Agreement.



- **E.** The Planning Commission finds that the proposed amendments to the Riverfront Planned Development Overlay meet the approval criteria in EMC 19.29.050(C).
- F. The Planning Commission defers a public hearing on the matter to the city council.

NOW, THEREFORE, THE PLANNING COMMISSION RECOMMENDS THE FOLLOWING:

The Planning Commission recommends that the City Council adopt the Second Addendum to the Second Amendment to the Riverfront Development Agreement as presented hereto as Exhibit A and incorporated herein as if fully set forth.

Planning Commission Chair

Planning Commission Secretary

Dated:



EXHIBIT A: PROPOSED SECOND ADDENDUM TO SECOND AMENDMENT TO RIVERFRONT DEVELOPMENT AGREEMENT

SECOND ADDENDUM

ТО

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

This Second Addendum to the Second Amendment to Development Agreement (this "<u>Addendum</u>") is dated as of last signature below (the "<u>Effective Date</u>"), and is made and entered into by and among **RIVERFRONT COMMERCIAL INVESTMENT, L.L.C.** ("<u>Riverfront</u>"), a Washington limited liability company and **RIVERFRONT PHASE 1, LLC**, a Washington limited liability company, with respect to the Phase 1 Lots, **RIVERFRONT PHASE 2, LLC**, a Washington limited liability company, with respect the Phase 2 Lots, **RIVERFRONT PHASE 3, LLC**, a Washington limited liability company, with respect the Phase 3 Lots, **RIVERFRONT PHASE 3, LLC**, a Washington limited liability company, with respect the Phase 3 Lots, **RIVERFRONT PHASE 4, LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the Phase 4 Lots, **RIVERFRONT GROCER LLC**, a Washington limited liability company, with respect to the maximum sepect to the Theater Lot (collectively, "<u>Developer</u>"); and (ii) the **CITY OF EVERETT**, a municipal corporation of the State of Washington (the "<u>City</u>").

RECITALS

The City and Developer are parties to the Development Agreement dated June 2, 2009, which was amended by the First Amendment dated April 3, 2014, the Second Amendment to Development Agreement dated May 17, 2019, and the Addendum to Second Amendment dated as of May 4, 2021 (the 2021 addendum, the "*Initial Addendum*"; the 2019 amendment the "*Second Amendment*"; the development agreement as amended by both amendments and the Initial Addendum, the "*Development Agreement*"). Unless otherwise defined herein, all capitalized terms in this Addendum have the meaning set forth in the Second Amendment. The names of the lots in the paragraph above are as defined in the Assignment and Assumption Agreement by and among the parties dated December 20, 2019, recorded under Snohomish County recording no. 202001090614 ("*Assignment Agreement*").

On October 21, 2019, the City approved a minor amendment to the Final Development Plan in accordance with EMC 19.29, which revised the second page of Attachment E-1 to the Second Amendment. The amended version of the second page of Attachment E-1 was attached to the Initial Addendum as <u>Exhibit A</u>. Now the parties are further amending the Final Development Plan as set forth in this Addendum. The revised Attachment E-1 Final Development Plan is attached to this Addendum as <u>Exhibit A</u>.

As acknowledged in the Initial Addendum the COVID-19 pandemic has occurred since the execution of the Second Amendment and has impacted the viability and timing of certain elements of the Everett Riverfront Development. Specifically, Developer has determined that the Cinema Element of the Everett Riverfront Development is no longer viable. As further contemplated by the Initial Addendum, Developer has proposed and the City desires to approve, replacement of the



Cinema Element with an anchor food and recreational use, as set forth in this Addendum.

On August 1, 2013, PNW Riverfront, LLC assigned and Riverfront assumed all of the rights, obligations and liabilities of PNW Riverfront with respect to the Development Agreement and other agreements related to the Property pursuant to that Riverfront Assignment and Assumption Agreement recorded under Snohomish County recording no. 201311180486. Riverfront has subsequently assigned and Riverfront Phase 1, LLC, Riverfront Phase 2, LLC, Riverfront Phase 3, LLC, Riverfront Phase 4, LLC, Riverfront Grocer, LLC and Riverfront Theater, LLC have assumed rights, obligations and liabilities under the Development Agreement as more particularly set forth in the Assignment Agreement. PNW Riverfront does not hold any interest in the Property or under the Development Agreement. The parties now desire to remove PNW Riverfront as a party to the Development Agreement

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual promises as stated herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, PNW, Riverfront, and the City hereby agree as follows:

1. <u>Amendment of the Cinema Element Phase to the Anchor Food and Recreation (AFR)</u> Phase.

A. The Cinema Element Property is renamed the "Anchor Food and Recreation Property" (or "<u>AFR Property</u>") with no changes to the location or boundaries of such property. The Cinema Phase is renamed the Anchor Food and Recreation Phase (or "<u>AFR Phase</u>"). The Cinema use that was contemplated as part of the Cinema Phase is hereby replaced with an Anchor Food and Recreation Use (or "<u>AFR Use</u>").

1. An Anchor Food and Recreation (AFR) Use means an anchor establishment with indoor and outdoor spaces covering a substantial majority of the AFR Property that provides restaurant quality food and beverage service combined with active recreational options, such as, for example, table tennis, pickleball, tennis, handball, golf, squash, volleyball, or racquetball. An AFR Use does not include fitness centers or health spas.

2. . The revised Final Development Plan attached to this Addendum as <u>Exhibit A</u>, is hereby approved by the City.

B. As defined in the Initial Addendum, the AFR Phase is one of the Remaining Phases. Prior to the completion of the Third Phase Developer will complete the AFR Phase, which will include construction of an AFR Use on the AFR Property. Drawings of the AFR Element are attached as <u>Exhibit B</u> ("<u>AFR Drawings</u>"). Figure 11 and Figure 12 of the First Phase Drawings that were attached as part of Exhibit 1 to the Second Amendment are hereby deleted. The AFR Drawings shall also be incorporated into subsection I: Supplemental Examples of the Mixed Use Design Guidelines that are Attachment G to the Second Amendment, as approved renderings for the AFR Phase under such guidelines.

2. <u>Amendment of Section 5.2: Developer Property – Use Restriction</u>. The new Section 5.2.1.1 of the Second Amendment which was added by the Initial Addendum is hereby amended to read as follows:



5.2.1.1 Anchor Food and Recreation Phase. Notwithstanding anything to the contrary in this Agreement, the sole permitted use of the AFR Property prior to issuance of a Partial Certificate of Completion for the AFR Phase is as follows: development and construction of an AFR Use substantially as shown in the AFR Drawings and the revised Final Development Plan and in accordance with applicable provisions of the Second Amendment. Modifications to the Final Development Plan approved by the Planning Director using the criteria for administrative modification of the Final Development Plan as specified in the City's Planned Development Overlay regulations as set forth in EMC Chapter 19.29 shall be deemed to be "substantially as shown in the Final Development Plan" as that term is used in this Section. The Planning Director shall have the sole authority to determine if final site layout and building designs proposed for AFR Phase are "substantially as shown in the AFR Drawings." A decision to reject a plan or permit based on not being "substantially as shown in the AFR Drawings" must not be arbitrary and must be made in writing and supported by detailed findings. Second Amendment Section 5.2.2 does not apply to the AFR Phase. However, if Developer proposes a design that is not substantially as shown in the approved AFR Drawings, then such proposal will be subject to Planning Director approval on the basis of whether the proposed design meets the definition of an AFR Use, complies with the Design Guidelines, and provides at least the level of quality represented by the AFR Drawings. A decision to reject a plan or permit based on non-compliance with the preceding sentence must not be arbitrary and must be made in writing and supported by detailed findings.

3. <u>Park Project</u>. The deadlines for the Eclipse Mill Park project and the First Phase Park Project are as set forth in the Restated PDA, as amended.

4. <u>Removal of PNW Riverfront LLC</u>. For the Reasons set forth in Recital D above, PNW Riverfront LLC is hereby removed as a party to the Development Agreement.

5. <u>General Provisions</u>.

5.1 <u>Counterparts; pdf Signatures</u>. This Addendum may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. AdobeSign or other electronic or pdf signatures on this Agreement shall constitute original signatures of the Parties.

5.2 <u>Recording</u>. Either party may arrange for the recording of this Addendum with the Snohomish County Auditor's office, as necessary to disclose this Addendum on title documents for the affected property.

6. <u>Other</u>. Except as expressly modified in this Addendum, the Second Amendment shall remain in full force and effect.

EXHIBITS:

Exhibit A – Revised Attachment E-1: Final Development Plan and Anchor Food and Recreation Drawing











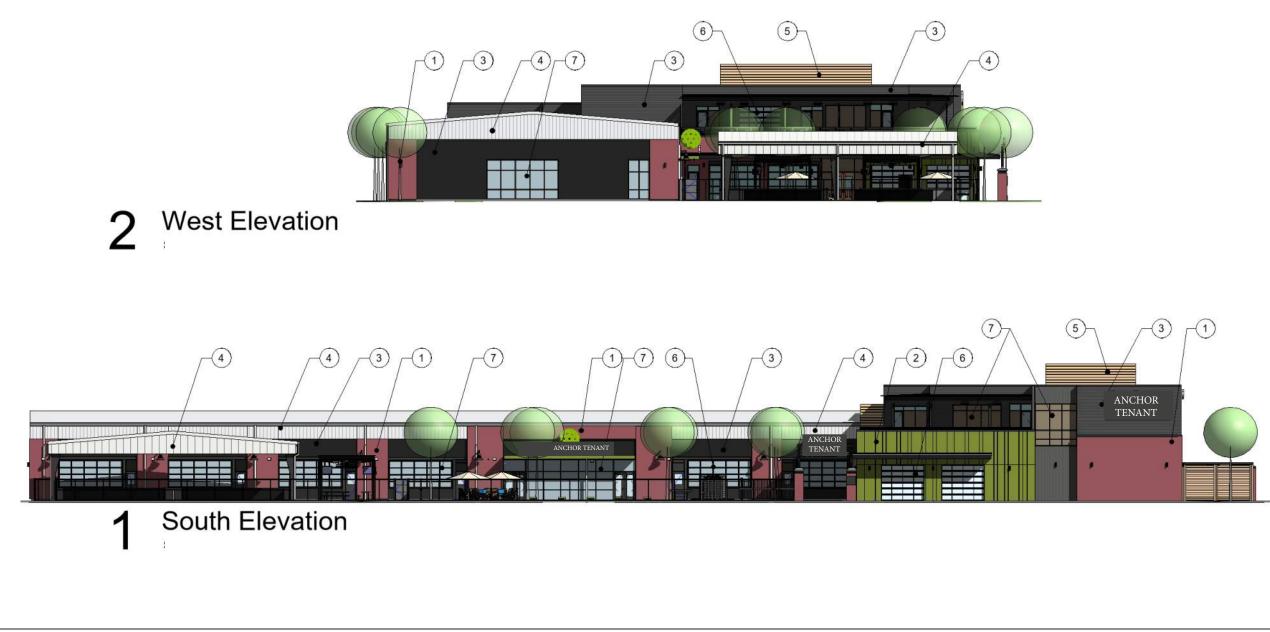


RIVERFRONT





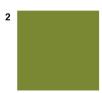
ELEVATIONS





RIVERFRON





FLAT METAL PANEL



HORIZONTAL METAL PANEL



VERTICAL METAL PANEL



HORIZONTAL WOOD



OPERABLE DOORS



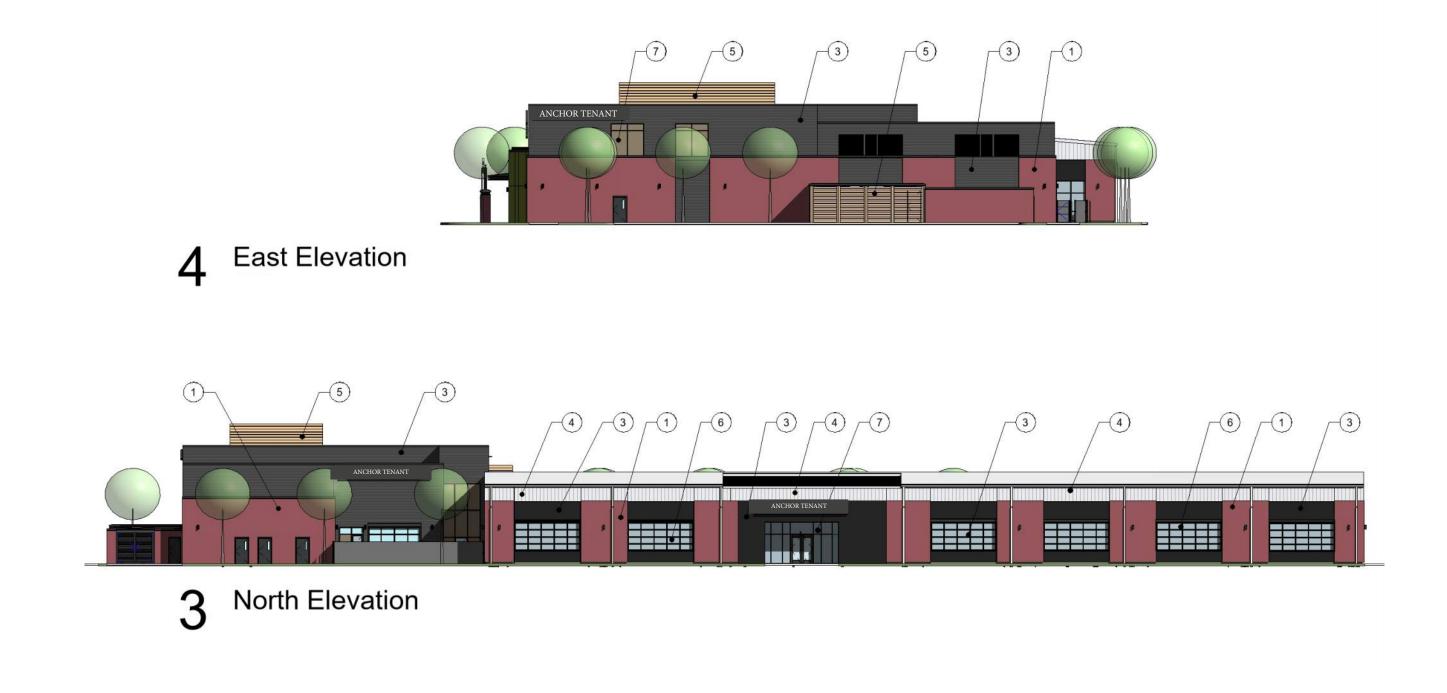
STOREFRONT

ALUMINIUM





ELEVATIONS











RIVERFROM



FLAT METAL PANEL



HORIZONTAL METAL PANEL



VERTICAL METAL PANEL



HORIZONTAL WOOD



OPERABLE DOORS



ALUMINIUM STOREFRONT Project title: Authorize Mayor to sign a Professional Services Agreement with Shiels Obletz Johnsen Inc.

Council Bill

Agenda dates requested:

November 8, 2023

Briefing X Proposed action Consent Action X Ordinance Public hearing Yes X No

Budget amendment:

Yes X No

PowerPoint presentation: X Yes No

Attachments:

Professional Services Agreement

Department(s) involved:

Administration; Economic Development

Contact person: Dan Eernissee

Phone number: 425-257-8681

Email: deernissee@everettwa.gov

Initialed by:

DE Department head

Administration

Council President

Consideration:	Professional Services Agreement
Project:	Everett Stadium Project
Partner/Supplier:	Shiels Obletz Johnsen, Inc. (SOJ)
Location:	City of Everett
Preceding action:	Joint Resolution of Support for a new Everett outdoor multipurpose stadium: <u>9/28/22</u>
Fund:	Fund 145

Fiscal summary statement:

In 2022, the State of Washington awarded eleven cities funds to upgrade community stadiums and fields. The Everett stadium project received the largest grant of \$7.4 million to pay for infrastructure costs associated with providing a facility for the AquaSox that meets Major League Baseball's new standards. Until state funds are made available to offset this expense, Shiels Obletz Johnsen, Inc. (SOJ) will be paid through Fund 145. If Council awards the PSA as recommended, a corresponding budget amendment to Fund 145 will be proposed at an upcoming Council meeting. Once state funds are available, a budget amendment will also be made to reflect this revenue.

Project summary statement:

On <u>September 28, 2022</u>, the City and County passed Joint Resolution No. 22-056 in support of a new Everett outdoor multipurpose stadium. If the City is to execute this stadium project, centralized project management will be necessary. Projects of this size and complexity are beyond the scope of current City staffing. In July, the City executed a \$50,000 professional services agreement with SOJ, which is a Seattle and Portland-based project management firm, with projects such as ShoWare Center, Lumen Field Modernization, Climate Pledge Arena, T-Mobile Park (Safeco Field), FIFA World Cup 2026 Seattle Host City Capital Projects, Seattle Storm Temporary Improvements at Alaska Airlines Arena, Seattle Aquarium Ocean Pavilion, Pike Place Market Renovation and MarketFront. The purpose of the initial agreement was to get the project moving.

Continued project management services will be required as the project moves through the environmental review, site evaluation, project development, and design stages in 2023 and 2024. Upcoming project management services will certainly exceed \$50,000 through 2024. Accordingly, in accordance with Procurement Policy, City staff is bringing forward to City Council a new professional services agreement for \$344,400.

Recommendation (exact action requested of Council):

Authorize the Mayor to Sign the Professional Services Agreement with Shiels Obletz Johnsen, Inc. in the amount of \$344,400 in substantially the form provided.



PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("**Agreement**") is effective as of the date of last signature below and is between the City of Everett, a Washington municipal corporation (*the* "**City**"), and the person identified as the Service Provider in the Basic Provisions below ("**Service Provider**"). This Agreement includes the Basic Provisions, the attached General Provisions, the attached scope of Work (Exhibit A), and the attached method of compensation (Exhibit B).

In consideration of the covenants, terms and conditions set forth below, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Service Provider agree as follows:

BASIC PROVISIONS		
Service Provider	Shiels Obletz Johnsen, Inc.	
	1109 First Avenue, Suite 330	
	Seattle, WA 98101	
	ben@sojsea.com	
City Project Manager	Dan Eernissee	
	2930 Wetmore Avenue	
	Everett, WA 98201	
	DEernissee@everettwa.gov	
Brief Summary of Scope of Work	Project management for the Everett stadium project	
Completion Date	December 31, 2024	
Maximum Compensation Amount	\$344,400	

BASIC PROVISIONS		
Service Provider Insurance Contact Information	USI Insurance Services NW	
	610-362-8130	
	Dawna.brosius@usi.com	
State Retirement Systems (must answer both questions)	Does Service Provider have 25 or more employees?	
	Answer: Yes	
	If Service Provider has less than 25 employees, did any Service Provider Personnel who will work under this Professional Services Agreement retire under a DRS retirement system?	
	Answer: N/A - Service Provider has 25 or more employees	
	"DRS retirement system" refers to any of the following Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), and Law Enforcement Officers and Fire Fighters plan (LEOFF).	
	"Service Provider Personnel" includes Service Provider employees and owners (such as shareholders, partners or members). If the Service Provider is a sole proprietor, then "Service Provider Personnel" refers to the sole proprietor.	
Prior Agreement	City and Service Provider are parties to the prior Professional Services Agreement dated 7.14.2023. That prior agreement is terminated and superseded by this Agreement as of the date of the Mayor's signature below.	

END OF BASIC PROVISIONS

IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement as of the date of last signature below.

CITY OF EVERETT WASHINGTON	SHIELS OBLETZ JOHNSEN, INC.
Cassie Franklin, Mayor	Signature:
	Name of Signer: Brad Tong
	Signer's Email Address: bradt@sojsea.com
	Title of Signer: Managing Partner
Date	

ATTEST

Office of the City Clerk

	STANDARD DOCUMENT
	APPROVED AS TO FORM
	OFFICE OF THE CITY ATTORNEY
EVEPETT	JUNE 23, 2023
EVERETT	JUNE 23, 2023

ATTACHMENT PROFESSIONAL SERVICES AGREEMENT (GENERAL PROVISIONS)

- 1. Engagement of Service Provider. The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the Scope of Work. The Scope of Work so identified is hereafter referred to as "Work". Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider's proposal or other document generated by Service Provider is attached or part of any attachment to this Agreement, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of the General Provisions of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider's design shall be reasonably accurate, adequate and suitable for its intended purpose.
- 2. Intellectual Property Rights. Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
- Time of Beginning and Completion of Performance. This Agreement shall commence as of the date of mutual execution of this Agreement and shall be completed by Completion Date stated in the Basic Provisions.

4. Compensation.

- A. The City shall pay the Service Provider only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work.
- B. The Service Provider shall be paid such amounts and in such manner as described in Exhibit B.
- C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those expenses as set forth in an exhibit to this Agreement or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. An expense shall not be reimbursed if: (1) the expense is not identified as an Eligible Expense; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified as an Eligible Expense; or (3) the expense was not approved in writing by an authorized City representative prior to the Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for the Service Provider.

- D. Total compensation, including all services and expenses, shall not exceed the Maximum Compensation Amount in the Basic Provisions.
- E. If Service Provider fails or refuses to correct its work when so directed by the City, the City may withhold from any payment otherwise due an amount that the City in good faith believes is equal to the cost to the City of correcting, re-procuring, or remedying any damage caused by Service Provider's conduct.

5. Method of Payment.

- A. To obtain payment, the Service Provider shall (a) file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment; (b) submit a report of Work accomplished and hours of all tasks completed; (c) to the extent reimbursement of Eligible Expenses is sought, submit itemization of such expenses and, if requested by the City, copies of receipts and invoices; and (d) comply with all applicable provisions of this Agreement. Service Provider shall be paid no more often than once every thirty days.
- B. All requests for payment should be sent to the City Project Manager Address in the Basic Provisions.
- 6. <u>Submission of Reports and Other Documents</u>. The Service Provider shall submit all reports and other documents as and when specified in the Scope of Work. This information shall be subject to review by the City, and if found to be unacceptable, Service Provider shall correct and deliver to the City any deficient Work at Service Provider's expense with all practical dispatch. Service Provider shall abide by the City's determinations concerning acceptability of Work.
- 7. **Termination of Contract**. City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by email, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, the Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section 7 shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as email. The City does not by this Section 7 waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, and without limitation of or prejudice to any other available remedy or recourse, the City may deduct from the final payment due the Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.
- 8. <u>Changes</u>. The City may, from time to time, unilaterally change the scope of the services of the Service Provider to be performed hereunder. Such changes, including any increase or decrease in the scope of work (and resulting increase or decrease in compensation), shall: (a) be made only in writing and signed by an authorized City representative, (b) be explicitly identified as an amendment to this Agreement and (c) become a part of this Agreement.
- 9. <u>Subletting/Assignment of Contracts</u>. Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.

10. Indemnification. To the extent of Service Provider's negligence, breach of this Agreement, or violation or law, or willful misconduct, and except as otherwise provided in this Section 10, the Service Provider hereby agrees to defend and indemnify and save harmless the City from any and all Claims arising out of, in connection with, or incident to any negligent or intentional acts, errors, omissions, or conduct by Service Provider (or its employees, agents, representatives or subcontractors/subconsultants) relating to this Agreement, whether such Claims sound in contract, tort, or any other legal theory. The Service Provider is obligated to defend and indemnify and save harmless the City pursuant to this Section 10 whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. The Service Provider's duty to defend and indemnify and save harmless pursuant to this Section 10 is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of the Service Provider. The Service Provider's obligations under this Section 10 shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) the Service Provider, its employees, subcontractors/subconsultants or agents and (b) the City, then the Service Provider's liability under this Section 10 shall be only to the extent of Service Provider's negligence. Solely and expressly for the purpose of its duties to indemnify and defend and save harmless the City, the Service Provider specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. The Service Provider recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section 10: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages or infringement or misappropriation of any patent, copyright, trade secret, or other proprietary right. If, and to the extent, Service Provider employs or engages subconsultants or subcontractors, then Service Provider shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify and save harmless the City to the extent and on the same terms and conditions as the Service Provider pursuant to this Section 10. The provisions of this Section 10 shall survive the expiration or termination of this Agreement.

11. Insurance.

- A. Service Provider shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Service Provider's own cost and expense, the policies of insurance as set forth in Section 11.A above with companies authorized to do business in the State of Washington, which are rated at least "A-" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.
 - <u>Workers' Compensation Insurance</u> as required by Washington law and <u>Employer's</u> <u>Liability Insurance</u> with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Service Provider shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Service Provider covers such employees.
 - 2. <u>Commercial General Liability Insurance</u> on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual

aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

- 3. <u>Business Automobile Liability Insurance</u> in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.
- 4. <u>Professional Errors and Omissions Insurance</u> in an amount not less than \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. Such coverage may be written on a claims made basis.
- B. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Service Provider to furnish the required insurance during the term of this Agreement.
- C. Upon written request by the City, the insurer or its agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.
- D. The Description of Operations on the Certificate of Insurance must substantially read as follows: "The above commercial general and auto liability policies are primary as to the City of Everett; have the City of Everett, its officers, employees, agents, and volunteers as additional insureds; and contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City of Everett."
- E. Prior to the Service Provider performing any Work, Service Provider shall provide the City or the City's designee with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Service Provider shall provide the City or the City's designee with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees, agents and volunteers as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City or the City's designee of any certificate showing less coverage than required is not a waiver of the Service Provider's obligations to fulfill the requirements.
- F. If the policy listed in Section 11.B.4. above, Professional Errors and Omissions Insurance, is on a claims made policy form, the retroactive date on the policy shall be the effective date of this Agreement or prior. The retroactive date of any subsequent renewal of such policy shall be the same as the original policy provided. The extended reporting or discovery period on a claims made policy form shall not be less than 36 months following expiration of the policy.
- G. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified selfinsurance) before any Work is commenced.
- H. In case of the breach of any provision of this Section 11, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of the Service Provider, and with such insurers, as the City may deem

proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Service Provider under this Agreement or may demand Service Provider to promptly reimburse the City for such cost.

12. <u>Risk of Loss</u>. Service Provider shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at Service Provider's own risk, and Service Provider shall be solely responsible for any loss of or damage to Service Provider's materials, tools, or other articles used or held for use in connection with the work.

13. Independent Contractor.

- A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.
- B. In addition to the other requirements of this Section, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:
 - (1) Service Provider is free from control or direction over the performance of the service; and
 - (2) The service performed is outside the usual course of business for the City, or will not be performed at any place of business of the City, or Service Provider is responsible for the costs of the principal place of business from which the service is performed; and
 - (3) Service Provider is customarily engaged in an independently established business of the same nature as the service performed, or has a principal place of business for the service performed that is eligible for a business deduction for federal income tax purposes; and
 - (4) On the effective date of this Agreement, Service Provider is responsible for filing a schedule of expenses, for the next applicable filing period, with the internal revenue service for the type of service performed; and
 - (5) By the effective date of this Agreement or within a reasonable time thereafter, Service Provider has established an account with the department of revenue and other state agencies, where required, for the service performed for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and
 - (6) By the effective date of this Agreement, Service Provider is maintaining a separate set of records that reflect all items of income and expenses of the services performed.
- C. Any and all employees of the Service Provider, while engaged in the performance of any Work, shall be considered employees of only the Service Provider and not employees of the City. The Service Provider shall be solely liable for any and all claims that may or might arise under the Worker's Compensation Act on behalf of such employees or Service Provider, while so engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Service Provider's employees, while so engaged on any of the Work.

- D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all actions, claims, demands and expenses arising out of such act, and rules and regulations that are or may be promulgated in connection therewith.
- E. Service Provider assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and, city business and occupation taxes), fees, licenses, excises or payments required by any city, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Service Provider and as to all duties, activities and requirements by the Service Provider in performance of the Work and Service Provider shall assume exclusive liability therefor, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.
- 14. <u>Employment/Conflict of Interest</u>. The Service Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Service Provider, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. Further, it is recognized that Service Provider may or will be performing professional services during the term of this Agreement for other parties; however, such performance of other services shall not conflict with or interfere with Service Provider's ability to perform the Work. Service Provider agrees to resolve any such conflicts of interest in favor of the City.
- 15. <u>Audits and Inspections</u>. At any time during normal business hours and as often as the City may deem necessary, the Service Provider shall make available to the City for the City's examination all of the Service Provider's records and documents with respect to all matters covered by this Agreement and, furthermore, the Service Provider will permit the City to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
- 16. <u>City of Everett Business License</u>. Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.
- State of Washington Requirements. Service Provider agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.
- 18. <u>Compliance with Federal, State and Local Laws</u>. Service Provider shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.
- 19. <u>Compliance with the Washington State Public Records Act.</u> Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall

deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section.

- 20. <u>Compliance with Grant/Loan Terms and Conditions.</u> Service Provider shall comply with any and all terms, conditions, terms and requirements of any federal, state or other agency grant or loan that wholly or partially funds Service Provider's work hereunder. If the grant or loan requires that the agency be a third party beneficiary to this Agreement, then the agency is a third party beneficiary to this Agreement.
- 21. <u>Equal Employment Opportunity</u>. Service Provider shall not discriminate against any employee, applicant for employment, or other person on the basis of race, color, religion, sex, age, disability, marital state, or national origin or other circumstance prohibited by applicable federal, state, or local law or ordinance. Service Provider shall comply with and shall not violate any applicable provisions of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, and all applicable federal, state, or local law or ordinance regarding non-discrimination.
- 22. <u>Waiver</u>. Any waiver by the Service Provider or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.
- 23. <u>Complete Agreement</u>. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.
- 24. <u>Modification of Agreement</u>. This Agreement may only be modified as provided in ¶8, or by a writing explicitly identified as a modification of this Agreement that is signed by authorized representatives of the City and the Service Provider.
- 25. <u>Severability</u>. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.

26. Notices.

- A. Notices to the City of Everett shall be sent to the City Project Manager address in the Basic Provisions.
- B. Notices to the Service Provider shall be sent to its address in the Basic Provisions.
- 27. <u>Venue</u>. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.
- 28. <u>Governing Law</u>. The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.
- 29. <u>City Marks</u>. The Service Provider will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.
- 30. **No Personal Liability**. No officer, agent or employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

- 31. <u>Signature/Counterparts</u>. This Agreement and any amendment thereto may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as an original signature.
- 32. <u>Standard Documents.</u> The Basic Provisions and General Provisions are standard City form documents. No changes by Service Provider are authorized to the Basic Provisions or General Provisions. Notwithstanding anything to the contrary in this Agreement, in the event that the Service Provider makes unauthorized changes to the Basic Provisions or the General Provisions, such changes are deemed to have never been made and the contract between the City and Service Provider is deemed to be the unchanged standard City form Basic Provisions and General Provisions, regardless of whether the City signs this Agreement in a form that may contain the unauthorized changes.

END OF GENERAL PROVISIONS

EXHIBIT A PROFESSIONAL SERVICES AGREEMENT (SCOPE OF WORK)

The City of Everett requires an outside firm to provide project management, site evaluation, and other services for the proposed development and construction of a multi-purpose park, amphitheater, and minor league baseball stadium within the City of Everett (the "Project").

The City of Everett has secured state capital funds to conduct the initial feasibility analysis, economic impact, and further due diligence analysis to evaluate alternative locations for the Project. The Project is anticipated to include:

- A park that will provide a wide range of recreational, event, and entertainment options for the Everett community. The vision is of an urban park that complements the existing park system and recreational options, anticipates growth projections in the city, and allows the use of the field except during ticketed events as well as areas of exclusive park use.
- A facility that should be able to be relatively easily converted into an amphitheater seating at concerts, graduations, and events. The vision is for an open-air venue that complements the Angel of the Winds Arena and provides accessible, affordable, and safe outdoor events.
- The stadium will be used by the Everett AquaSox, a professional High A Minor League baseball team currently playing in the Northwest League championship sanctioned by USA Baseball. The vision for the project is an unpretentious 2,800 – 3,200 seat multipurpose stadium designed for professional baseball. The Stadium will comply with MiLB standards for player development and multi-use activities that may include emergency management, youth sports, concerts, and other events.

So far, two prospective sites have been identified by the City; however, the Project Manager may be asked to expand the analysis to other potential sites.

The City of Everett sees the Project progressing in three phases:

- Phase One (2023-2024):
 - Evaluation of site alternatives, including State Environmental Policy Act (SEPA) review
 - Site evaluation and due diligence, and study of economic impact and market feasibility for site alternatives
 - Determination of Project scope and financial viability for both initial construction and operation and maintenance; development of pro forma sources and uses budgets for both
 - o Site selection
 - Confirm necessary funding for site assembly and construction and identify sources of funding for operation and maintenance
 - Preparation for Phases Two and Three
- Phase Two (2024-2025)

- o Real Property Acquisition
- Selection of and contract negotiations with the designer, developer/contractor to construct the Project
- Negotiation of AquaSox lease
- Negotiation of legally binding commitments with other public and private parties necessary to fully fund construction and operation, and maintenance (sponsors, naming rights, etc.)
- Design and Permitting of Project
 - Phase Three (2025-early 2027)
 - o Project Construction
 - Project ready for AquaSox baseball for the 2027 season.

SCOPE OF WORK: PHASE ONE

This scope of work is for project management, site alternative evaluation, and other services for <u>Phase</u> <u>One</u> of the Project (2023-2024). It is possible that the Project Manager's contract will be extended to include later phase work.

A. <u>Project Management</u>

The Project Manager will be charged with providing Project leadership. The Project Manager will be the central organizing and driving brain of all parts of the Project. The Project Manager must "own" the Project, understand the critical path(s), and push the Project through Phase One. The Project Manager should not expect to receive detailed direction from the City of Everett. It will be the Project Manager's responsibility to be the initiator and assign responsibilities to the Project team.

B. Phase One Work

1. Project Team – Early Analysis Support

Provide recommendations for additional areas of expertise and team composition to support the successful implementation of Phase 1. This could include preliminary/conceptual design studies, early environmental work, community outreach, real estate finance, and land use consultation, third-party cost review/estimator, and Sports Market and/or Performance Venue Market Feasibility analysis. Support and manage solicitation, selection, and management of additional consultants as requested.

2. <u>State Environmental Policy Act (SEPA) Process</u>

Shortly after the Project Manager is under contract, the City intends to engage a consultant for the SEPA and EIS processes. The Project Manager will be charged with coordinating and assisting with the selection of the SEPA consultant. The Project Manager will manage the SEPA consultant and will closely coordinate with the City's SEPA legal counsel.

3. <u>Site Alternative Analysis/Feasibility</u>

The City anticipates that site analysis will require the tasks described below. The Project Manager will be charged with managing the Project so that site analysis is completed. The City expects that most of the tasks will be completed by other consultants, such as the SEPA consultant, whom the Project Manager will manage. The City expects that the Project Manager will identify when additional consultants are necessary to complete the tasks. The tasks below should not be taken as

final, but instead should be taken only as illustrative of the City's general intent. The Project Manager will be expected to revise and reformulate the tasks as necessary to achieve Project goals and timelines and, in close collaboration with the SEPA consultant and SEPA legal counsel, achieve completion of Phase One.

Task I – Site Evaluation and Preliminary Economic Feasibility

- Size determine the site size needed to accommodate the facility, which is expected to be approximately 6 – 12 acres. City and Project Manager will initially discuss the project and confirm the acreage necessary for the project.
- Orientation determine whether the alternative sites will accommodate the orientation required to meet recommended MiLB specifications along with other multi-purpose stadium functions.
- Constructability top-level opinion of site alternatives feasibility to construct the project as envisioned, such as topography, reasonable utility proximity, demolition requirements, parking, transit connections, land acquisition, and public entitlements.
- 4. Location are the site alternatives reasonably located relative to the project purpose?
- 5. Preliminary zoning review are the sites currently zoned to allow the project?
- 6. Project Economic Impact initial direct and indirect economic impacts of project construction and operations with a strong emphasis on long-term placemaking impact on downtown Everett, given the critical and unique role downtown will play in helping the city achieve its long-term growth and sustainability targets.
- 7. Project Market Feasibility initial project market analysis to quantify demand, market capacity, and other factors relative to the project's economic feasibility.
- Other The City and Project Manager may add/modify the scope and tasks included in Task

 I.

Task II – Site Due Diligence/Concept Design/Overall Project Feasibility

- 1. Program Development with City input, develop a rough design program for the project for each site alternatives in order to provide adequate information to due diligence contractors.
- Preliminary sources and uses budgets for both construction and operation and maintenance

 Develop preliminary total project budget in alignment with proposed funding sources and
 project schedule.
- 3. Collaborate with City and Team to partner with other organizations to develop a complete project funding strategy (construction and operation and maintenance).
- 4. Confirm necessary funding for site assembly and construction and identify viable sources of funding for operation and maintenance.
- 5. Preliminary schedule development develop project schedule incorporating City decisionmaking processes, funding source approval, land acquisition, procurement plan, design, permitting, and construction for each site alternative.
- 6. Develop stakeholder engagement plan including but not limited to a project charter.
- 7. Develop procurement plan for designer and developer/contractor for Project.

- 8. Concept Design develop draft conceptual project design for each site alternative to depict facility orientation, adjacent development potential, basic facility materiality, operational perspectives, neighborhood connectivity, connectivity to parking facilities and public transportation, and other factors which will be determined in order to depict the project.
- 9. Other The City and Project Manager may add/modify the scope and tasks included in Task II.

Task III – Site Feasibility and Economic Impact

- Parking provide an initial assessment of parking needs, potential parking inventory development within the site alternatives, and parking assets within a 20-minute walking distance to the site, identifying specific parking types (private, public, garage, surface, etc.), owners, total capacities, other uses that could impact facility event availability (net available) and pricing.
- 2. Traffic provide an initial opinion of ingress/egress circumstances, challenges, and likely modifications that could/should be considered for facility operations.
- 3. Acquisition provide an initial assessment of land assembly feasibility, including the number of parcels required, owner, historical title transfer/price information, and a rough estimate of land acquisition costs. This task must be done in close cooperation with the City site acquisition legal counsel.
- 4. Commercial Development provide an initial opinion of commercial development opportunities within the sites and/or adjacent to the sites.
- 5. Neighborhood Assessment provide a description of any adjacent, abutting, or otherwise impacted neighborhoods, communities, districts, or enterprises with an opinion of benefits and/or challenges to the project.
- 6. Economic Impact extension of the project's economic impacts which should be site specific, such as adjacent, ancillary commercial development opportunities and catalytic influence for community redevelopment.
- 7. Other The City and Project Manager may add/modify scope and tasks included in Task III.

EXHIBIT B PROFESSIONAL SERVICES AGREEMENT (METHOD OF COMPENSATION)

SELECT ONE OF THE FOLLOWING METHODS OF COMPENSATION, EACH OF WHICH IS SUBJECT TO THE MAXIMUM COMPENSATION AMOUNT

HOURLY RATE. The City shall pay Service Provider a sum equal to the amount of hours actually worked multiplied by the rate identified below for staff performing the Work.

Name	Title	Rate
Ethan Bernau	Partner/Senior Project Manager	\$232/hr
Ben Franz-Knight	Partner/Senior Project Manager	\$252/hr
Julie DeDonato	Project Manager	\$200/hr
Matt Strutynski	Project Controls	\$105/hr
Ken Johnsen	Strategic Advisor	\$300/hr
enter name	enter title	enter rate
enter name	enter title	enter rate

If there are more staff than rows in the table above, then those staff names, titles, and rates shall be provided in the Scope of Work.

PROGRESS PAYMENTS. The City shall pay Service Provider the following amounts upon the completion of the following tasks.

Task	Amount Paid on Task Completion
enter task	enter amount

If there are more tasks than rows in the table above, then those tasks and payment amounts shall be provided in the Scope of Work.

LUMP SUM. The City shall pay Service Provider \$ <u>enter amount</u> upon the completion of the Work.

METHOD CONTAINED IN SCOPE OF WORK. The City shall pay Service Provider as set forth in the Scope of Work.

EVERETT City Council Agenda Item Cover Sheet

Project title:

Award RFQ 2023-117 and Authorize Mayor to sign a Professional Services Agreement with Environmental Sciences Associates

Council Bill

Agenda dates requested:

November 8, 2023

Briefing		
Proposed action	n	
Consent		
Action	Х	
Ordinance		
Public hearing		
Yes	Х	No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Professional Services Agreement

Department(s) involved:

Administration; Economic Development; Procurement

Contact person: Dan Eernissee

Phone number: 425-257-8681

Email: deernissee@everettwa.gov

Initialed by: \mathcal{DE}

Department head

Administration

Council President

Consideration:	Professional Services Agreement
Project:	Everett Stadium Project
Partner/Supplier:	Environmental Science Associates
Location:	City of Everett
Preceding action:	Joint Resolution of Support for a new Everett outdoor multipurpose stadium: <u>9/28/22</u>
Fund:	Fund 145

Fiscal summary statement:

In 2022, the State of Washington awarded eleven cities funds to upgrade community stadiums and fields. The Everett stadium project received the largest grant of \$7.4 million to pay for infrastructure costs associated with providing a facility for the AquaSox that meets Major League Baseball's new standards. Until state funds are made available to offset this expense, Environmental Science Associates (ESA) will be paid through Fund 145. If Council awards RFQ 2023-117 as recommended, a corresponding budget amendment to Fund 145 will be proposed at an upcoming Council meeting. Once state funds are available, a budget amendment will also be made to reflect this revenue.

Project summary statement:

As the community is aware, Major League Baseball (MLB) has imposed new stadium requirements on all Minor League Baseball (MiLB) teams. Funko Field, where the AquaSox currently play, needs major renovation or rebuilding to meet MLB requirements. If in the next few years, a MiLB team does not make significant progress to play in a stadium that complies, MLB will either move the team to another city or take away its franchise.

One of the longest lead time items on providing a stadium compliant with the new rules—wherever that stadium might be located in Everett – is compliance with the state environmental policy act (SEPA). SEPA requires that an Environmental Impact Statement (EIS) be prepared on projects like this, including the evaluation of alternatives. This is anticipated to take about a year.

This work is ordinarily competed by an outside consultant. The City issued a Request for Qualifications 2023-117 on August 14, 2023, with responses due September 6, 2023. Finalists were interviewed, and the highest evaluated is Environmental Sciences Associates (ESA).

Recommendation (exact action requested of Council):

Award RFQ 2023-117 and Authorize the Mayor to Sign the Professional Services Agreement with Environmental Sciences Associates in the amount of \$807,421, in substantially the form provided.



PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("*Agreement*") is effective as of the date of the Mayor's signature below and is between the City of Everett, a Washington municipal corporation (*the "City*"), and the person identified as Service Provider in the Basic Provisions below ("*Service Provider*"). This Agreement is for the purpose of the Service Provider providing services to the City as set forth in the Agreement. This Agreement includes and incorporates the Basic Provisions, the attached General Provisions, the attached scope of work (Exhibit A), and the attached method of compensation (Exhibit B).

BASIC PROVISIONS	
Service Provider	Environmental Science Associates
	2801 Alaskan Way, Suite 200
	Seattle, WA 98121
	pxander@esassoc.com
City Project Manager	Julie DeDonato
	City of Everett SOJ
	1109 First Avenue, Suite 330
	Seattle, WA 98101
	julied@sojsea.com
Brief Summary of Scope of Work	SEPA consultant for stadium project
Completion Date	November 15, 2024
Maximum Compensation Amount	\$807,421

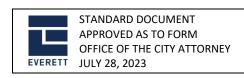
BASIC PROVISIONS		
Service Provider Insurance Contact Information	RLI Insurance Company	
	Ali Smith	
	619-788-5795 (50206)	
State Retirement Systems (must answer both questions)	Does Service Provider have 25 or more employees?	
	Answer: Yes	
	If Service Provider has less than 25 employees, did any Service Provider Personnel who will work under this Professional Services Agreement retire under a DRS retirement system?	
	Answer: N/A - Service Provider has 25 or more employees	
	"DRS retirement system" refers to any of the following Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), and Law Enforcement Officers and Fire Fighters plan (LEOFF).	
	"Service Provider Personnel" includes Service Provider employees and owners (such as shareholders, partners or members). If Service Provider is a sole proprietor, then "Service Provider Personnel" refers to the sole proprietor.	

END OF BASIC PROVISIONS

IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement, which includes and incorporates the above Basic Provisions, the attached General Provisions, the attached scope of work (Exhibit A), and the attached method of compensation (Exhibit B).

CITY OF EVERETT WASHINGTON	ENVIRONMENTAL SCIENCE ASSOCIATES
	Signature:
Cassie Franklin, Mayor	
	Name of Signer: Stacy Bumback
	Signer's Email Address: sbumback@esassoc.com
	Title of Signer: NW Regional Manager
Date	
ATTEST	

Office of the City Clerk



ATTACHMENT PROFESSIONAL SERVICES AGREEMENT (GENERAL PROVISIONS v.071423.21)

- 1. Engagement of Service Provider. The City hereby agrees to engage Service Provider, and Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the Scope of Work attached as Exhibit A. The Scope of Work so identified is hereafter referred to as "Work". Without a written directive of an authorized representative of the City, Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If Service Provider's proposal or other document generated by Service Provider is incorporated or attached as an exhibit or part of any exhibit to this Agreement or in any amendment or task or work order pursuant to this Agreement, then such proposal or document is part of this Agreement solely to the extent that it describes the Work, the Work schedule, and the amounts or rates to be paid for such Work, and Service Provider expressly agrees that no terms or conditions from such proposal or document are incorporated or included into this Agreement. In the event of difference or conflict between parts of this Agreement, Service Provider shall be bound by whichever is more stringent on Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider's design shall be reasonably accurate, adequate and suitable for its intended purpose.
- 2. Intellectual Property Rights. Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City, belong to the City. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
- 3. <u>Time of Beginning and Completion of Performance</u>. This Agreement shall commence as of the date of mutual execution of this Agreement and shall be completed by Completion Date stated in the Basic Provisions.
- 4. Compensation.
 - A. The City shall pay Service Provider only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work. Any item in a budget or cost estimate labelled "contingency" is for services necessary in furtherance of the Work as specifically pre-authorized in writing by the City Project Manager. No payment from a "continency" line item will be made by the City without such authorization from the City Project Manager.
 - B. Service Provider shall be paid such amounts and in such manner as described in Exhibit B.
 - C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those expenses as set forth in an exhibit to this Agreement <u>or</u> such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. An expense shall not be reimbursed if: (1) the expense is not identified as an Eligible Expense; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified as an Eligible Expense; or (3) the expense was not approved in writing by an authorized City representative prior to Service Provider incurring the

expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for Service Provider.

- D. Total compensation, including all services and expenses, shall not exceed the Maximum Compensation Amount in the Basic Provisions.
- E. If Service Provider fails or refuses to correct its work when so directed by the City, the City may withhold from any payment otherwise due an amount that the City in good faith believes is equal to the cost to the City of correcting, re-procuring, or remedying any damage caused by Service Provider's conduct.

5. Method of Payment.

- A. To obtain payment, Service Provider shall (a) file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment; (b) submit a report of Work accomplished and hours of all tasks completed; (c) to the extent reimbursement of Eligible Expenses is sought, submit itemization of such expenses and, if requested by the City, copies of receipts and invoices; and (d) comply with all applicable provisions of this Agreement. Service Provider shall be paid no more often than once every thirty days.
- B. All requests for payment should be sent to the City Project Manager Address in the Basic Provisions.
- 6. <u>Submission of Reports and Other Documents</u>. Service Provider shall submit all reports and other documents as and when specified in the Scope of Work. This information shall be subject to review by the City, and if found to be unacceptable, Service Provider shall correct and deliver to the City any deficient Work at Service Provider's expense with all practical dispatch. Service Provider shall abide by the City's determinations concerning acceptability of Work.
- 7. Termination of Contract. City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by email, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as email. The City does not by this Section waive, release or forego any legal remedy for any violation, breach or nonperformance of any of the provision of this Agreement. At its sole option, and without limitation of or prejudice to any other available remedy or recourse, the City may deduct from the final payment due Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.
- 8. <u>Changes</u>. The City may, from time to time, unilaterally change the scope of the services of Service Provider to be performed hereunder. Such changes, including any increase or decrease in the

scope of work (and resulting increase or decrease in compensation), shall: (a) be made only in writing and signed by an authorized City representative, (b) be explicitly identified as an amendment to this Agreement and (c) become a part of this Agreement.

- 9. <u>Subletting/Assignment of Contracts</u>. Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.
- 10. Indemnification. To the extent of Service Provider's negligence, breach of this Agreement, or violation or law, or willful misconduct, and except as otherwise provided in this Section, Service Provider hereby agrees to defend and indemnify and save harmless the City from any and all Claims arising out of, in connection with, or incident to any negligent or intentional acts, errors, omissions, or conduct by Service Provider (or its employees, agents, representatives or subcontractors/subconsultants) relating to this Agreement, whether such Claims sound in contract, tort, or any other legal theory. Service Provider is obligated to defend and indemnify and save harmless the City pursuant to this Section whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. Service Provider's duty to defend and indemnify and save harmless pursuant to this Section is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of Service Provider. Service Provider's obligations under this Section shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) Service Provider, its employees, subcontractors/subconsultants or agents and (b) the City, then Service Provider's liability under this Section shall be only to the extent of Service Provider's negligence. Solely and expressly for the purpose of its duties to indemnify and defend and save harmless the City, Service Provider specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. Service Provider recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages or infringement or misappropriation of any patent, copyright, trade secret, or other proprietary right. If, and to the extent, Service Provider employs or engages subconsultants or subcontractors, then Service Provider shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify and save harmless the City to the extent and on the same terms and conditions as Service Provider pursuant to this Section. The provisions of this Section shall survive the expiration or termination of this Agreement.

11. Insurance.

- A. Service Provider shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Service Provider's own cost and expense, the policies of insurance as set forth in this Section with companies authorized to do business in the State of Washington, which are rated at least "A-" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.
 - 1. <u>Workers' Compensation Insurance</u> as required by Washington law and <u>Employer's</u> <u>Liability Insurance</u> with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, Service Provider shall require each subcontractor to provide

Workers' Compensation Insurance for its employees, unless Service Provider covers such employees.

- 2. <u>Commercial General Liability Insurance</u> on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.
- 3. <u>Business Automobile Liability Insurance</u> in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.
- 4. <u>Professional Errors and Omissions Insurance</u> in an amount not less than \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. Such coverage may be written on a claims made basis.
- B. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of Service Provider to furnish the required insurance during the term of this Agreement.
- C. Upon written request by the City, the insurer or its agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.
- D. The Description of Operations on the Certificate of Insurance must substantially read as follows: "The above commercial general and auto liability policies are primary as to the City of Everett; have the City of Everett, its officers, employees, agents, and volunteers as additional insureds; and contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City of Everett."
- E. Prior to Service Provider performing any Work, Service Provider shall provide the City or the City's designee with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Service Provider shall provide the City or the City's designee with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees, agents and volunteers as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City or the City's designee of any certificate showing less coverage than required is not a waiver of Service Provider's obligations to fulfill the requirements.
- F. If the policy listed above, Professional Errors and Omissions Insurance, is on a claims made policy form, the retroactive date on the policy shall be the effective date of this Agreement or prior. The retroactive date of any subsequent renewal of such policy shall be the same as the original policy provided. The extended reporting or discovery period on a claims made policy form shall not be less than 36 months following expiration of the policy.
- G. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide

the City with evidence of Workers' Compensation Insurance (or evidence of qualified selfinsurance) before any Work is commenced.

- H. In case of the breach of any provision of this Section, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of Service Provider, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Service Provider under this Agreement or may demand Service Provider to promptly reimburse the City for such cost.
- 12. <u>Risk of Loss</u>. Service Provider shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at Service Provider's own risk, and Service Provider shall be solely responsible for any loss of or damage to Service Provider's materials, tools, or other articles used or held for use in connection with the work.

13. Independent Contractor.

- A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.
- B. In addition to the other requirements of this Section, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:
 - (1) Service Provider is free from control or direction over the performance of the service; and
 - (2) The service performed is outside the usual course of business for the City, or will not be performed at any place of business of the City, or Service Provider is responsible for the costs of the principal place of business from which the service is performed; and
 - (3) Service Provider is customarily engaged in an independently established business of the same nature as the service performed, or has a principal place of business for the service performed that is eligible for a business deduction for federal income tax purposes; and
 - (4) On the effective date of this Agreement, Service Provider is responsible for filing a schedule of expenses, for the next applicable filing period, with the internal revenue service for the type of service performed; and
 - (5) By the effective date of this Agreement or within a reasonable time thereafter, Service Provider has established an account with the department of revenue and other state agencies, where required, for the service performed for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and
 - (6) By the effective date of this Agreement, Service Provider is maintaining a separate set of records that reflect all items of income and expenses of the services performed.
- C. Any and all employees of Service Provider, while engaged in the performance of any Work, shall be considered employees of only Service Provider and not employees of the City.

Service Provider shall be solely liable for any and all claims that may or might arise under the Worker's Compensation Act on behalf of such employees or Service Provider, while so engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of Service Provider's employees, while so engaged on any of the Work.

- D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all actions, claims, demands and expenses arising out of such act, and rules and regulations that are or may be promulgated in connection therewith.
- E. Service Provider assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and, city business and occupation taxes), fees, licenses, excises or payments required by any city, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by Service Provider and as to all duties, activities and requirements by Service Provider in performance of the Work and Service Provider shall assume exclusive liability therefor, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.
- 14. <u>Employment/Conflict of Interest</u>. Service Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Service Provider, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. Further, it is recognized that Service Provider may or will be performing professional services during the term of this Agreement for other parties; however, such perform the Work. Service Provider agrees to resolve any such conflicts of interest in favor of the City.
- 15. <u>Audits and Inspections</u>. At any time during normal business hours and as often as the City may deem necessary, Service Provider shall make available to the City for the City's examination all of Service Provider's records and documents with respect to all matters covered by this Agreement and, furthermore, Service Provider will permit the City to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
- 16. <u>City of Everett Business License</u>. Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.
- 17. <u>State of Washington Requirements</u>. Service Provider agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.
- 18. <u>Compliance with Federal, State and Local Laws</u>. Service Provider shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.

- 19. Compliance with the Washington State Public Records Act. Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section.
- 20. <u>Compliance with Grant/Loan Terms and Conditions.</u> Service Provider shall comply with any and all terms, conditions, terms and requirements of any federal, state or other agency grant or loan that wholly or partially funds Service Provider's work hereunder. If the grant or loan requires that the agency be a third party beneficiary to this Agreement, then the agency is a third party beneficiary to this Agreement.
- 21. <u>Equal Employment Opportunity</u>. Service Provider shall not discriminate against any employee, applicant for employment, or other person on the basis of race, color, religion, sex, age, disability, marital state, or national origin or other circumstance prohibited by applicable federal, state, or local law or ordinance. Service Provider shall comply with and shall not violate any applicable provisions of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, and all applicable federal, state, or local law or ordinance regarding non-discrimination.
- 22. <u>Waiver</u>. Any waiver by Service Provider or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.
- 23. <u>Complete Agreement</u>. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.
- 24. <u>Modification of Agreement.</u> This Agreement may only be modified as provided in Section 8, or by a writing explicitly identified as a modification or amendment of this Agreement that is signed by authorized representatives of the City and Service Provider. Amendments to this Agreement that change the Total Compensation Amount or the Completion Date or make substantial changes to the Work must be approved by the City Council and signed by the Mayor. Other amendments may be signed by Mayor.
- 25. <u>Severability</u>. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.
- 26. Notices.
 - A. Notices to the City shall be sent to the City Project Manager address in the Basic Provisions.
 - B. Notices to Service Provider shall be sent to its address in the Basic Provisions.
- 27. <u>Venue</u>. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.

- 28. <u>Governing Law</u>. The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.
- 29. <u>City Marks</u>. Service Provider will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.
- 30. **No Personal Liability**. No officer, agent or employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.
- 31. <u>Federal Debarment</u>. Service Provider shall immediately notify the City of any suspension or debarment or other action that excludes Service Provider or any Service Provider subcontractor from participation in Federal contracting. Service Provider shall verify all subcontractors that are intended and/or used by Service Provider for performance of Work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at https://www.epls.gov/epls/search.do. Service Provider shall keep proof of such verification within Service Provider records.
- 32. <u>Signature/Counterparts</u>. This Agreement and any amendment thereto may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. AdobeSign signatures are fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as an original signature.
- 33. <u>Standard Document.</u> This General Provisions document is a standard City form document. No changes by Service Provider are authorized to the General Provisions. Notwithstanding anything to the contrary in this Agreement, in the event that Service Provider makes unauthorized changes to the General Provisions, such changes are deemed to have never been made and the contract between the City and Service Provider is deemed to be the unchanged standard City form General Provisions in version stated below, regardless of whether the City signs this Agreement in a form that may contain the unauthorized changes.

END OF GENERAL PROVISIONS (v.071423.21)

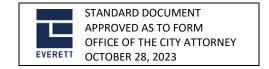


EXHIBIT A PROFESSIONAL SERVICES AGREEMENT (SCOPE OF WORK -- ATTACHED)

2801 Alaskan Way Suite 200 Seattle, WA 98121 206.789.9658 phone 206.789.9684 fax

SCOPE OF WORK

Project Description

The City of Everett has selected ESA to assist with the City of Everett Baseball Stadium/Amphitheatre/Park Project (the Project). The Project involves the development and operation of a new outdoor multi-purpose facility that would include a new High-A Minor League baseball stadium that provides 2,800-3,200 fixed seats for baseball fans and that converts to an "amphitheater" to seat up to 5,000 persons, and development of an urban park. The City has identified two different locations in north Everett where the Project could be developed.

This scope of work describes the tasks and activities that ESA will undertake necessary to complete the State Environmental Policy Act (SEPA) environmental review process for the Project, and the assumptions and deliverables associated with each. The work will be conducted according to the terms of ESA's contract with the City of Everett that is executed. This scope of work also provides general assumptions, a draft budget, and a draft schedule for the overall work proposed.

General Assumptions

- The City of Everett Planning Department is the lead agency for SEPA and has full editorial discretion over the content of the Environmental Impact Statement (EIS).
- The ESA Team will prepare the EIS in conformance with SEPA requirements in City of Everett Code.
- Shiels Obletz Johnsen (SOJ) will represent the City through the SEPA process.
- The Draft EIS (DEIS) will evaluate up to two (2) build or Action Alternatives, which will be developed to a conceptual level, approximately 10% design level and a No Action Alternative.
- The EIS will be a "limited scope" EIS with four elements of the environment (transportation, light & glare, noise, and cultural historical analyzed for the Alternatives. It is assumed that the City agrees to built-in mitigation as part of the project description for any potential significant impacts in all other disciplines, so they are reduced to a below significant level. If the scope is changed at the City's request following the scoping process, ESA will review and identify whether there are any necessary associated budget or schedule changes.
- The SOJ/City Team will provide detailed descriptions and graphical depictions of their proposal including operational characteristics (e.g., event size and frequencies, hours of



operation), physical design characteristics (e.g., loading/service delivery, lighting and signage, outdoor sound amplification), employment, and sustainability features.

- The No Action Alternative will describe the conditions at Funko Field with no AquaSox Baseball Team but with other baseball activities continuing.
- The City and SOJ will provide ESA with all previously prepared materials related to planning for the Project.
- Unless otherwise stated, all deliverables will be provided in electronic PDF format to the City's designated project manager (or designated, secured file-sharing location) who will be responsible for appropriate distribution.
- ESA has assumed one) version of internal review of the DEIS, and the FEIS followed by production of the final version, and one (1) round of internal review of other deliverables.
- The City will provide timely reviews of internal deliverables, in accordance with agreedupon review schedules and stipulations. The City will consolidate comments from various individuals, departments, and parties involved in the internal review process and resolve any conflicting comments prior to asking ESA to address them.
- The estimated duration from Notice to Proceed to publication of the Final EIS (FEIS) is approximately 12 months. This timeframe may be adjusted as a detailed schedule is developed by ESA and approved by the City.
- The schedule is dependent on timely delivery of project information by the applicant, timely review of ESA Team materials by the applicant and the City, and other factors outside the control of the ESA Team.

Contract

This document constitutes the scope of work for the contract for preparing the EIS. The scope encompasses EIS scoping through preparation of the DEIS, consolidation of and responses to comments on the DEIS, through the completion of the FEIS.

Contract Change Management

Events outside the control of the ESA Team have the potential to change the established scope of work. ESA's project manager will monitor the contract scope, schedule, budget, and completion status. ESA will communicate promptly if changes in scope, budget, or schedule are anticipated or requested by the City. If a change in scope is necessary, the ESA Team and the City Team would jointly agree on strategies to address changes to the scope, budget, or schedule. ESA would prepare and submit a change request specifying the agreed-to changes to the scope, budget, and/or schedule to the City for amendment, as required in the contract agreement.



Tasks

Task 1 Project Management and Meetings

Task Objective:

This task's objective is to provide the overall management and coordination of all work under this scope, delivered pursuant to the confirmed project schedule and budget.

Subtask 1.1 Project Management Tasks

ESA's Project Management Team, Crescentia Brown (Project Director), Pamela Xander (Project Manager), and Emily Heim (Deputy Project Manager), will oversee all consultant team activities and coordinate with City staff to the extent necessary to implement the overall scope of work and meet the City's goals, which include certification of an environmental document in 2024. ESA's Principal-in-Charge (Brian Boxer) will provide strategic guidance.

Subconsultants on the ESA Team include Fehr and Peers (F&P) for transportation and Stantec for Light and Glare. In this scope of work, the "ESA Team" refers to ESA and its subconsultants. ESA can bring on additional subconsultants if there is a need as the project progresses. However, we believe our current group can provide additional services if needed including geotechnical services, increased public involvement, and architectural design services. The current scope of work assumes the following roles:

- Project Proponent City of Everett
- Project Applicant City of Everett
- City Representative SOJ
- SEPA Lead Agency City of Everett Planning Department
- SEPA Responsible Official Yorik Stevens-Wajda

In this scope of work, the "City Team" refers to SOJ and any City personnel.

In light of the desired accelerated project schedule, this subtask assumes a high level of involvement by the ESA Team and the City Team to address project management issues in an expedited manner, including maintenance of the project schedule, regular ongoing coordination, internal coordination of the technical members of the ESA Team, guidance from the technical team, preparation of public presentations, review and revision based on City comments, Quality Assurance & Quality Control (QA/QC), and other related tasks.

ESA will prepare and submit monthly invoices and progress reports, which will include subcontractor progress reports and invoices. The progress report will include a summary of work conducted and a status report on the overall progress.

ESA

Deliverables:

- Ongoing project quality assurance, schedule and budget management, and project communications.
- Monthly invoices and progress reports.

Assumptions:

- Length of contract is 12 months or less.
- ESA will begin this task within 2 weeks of notice to proceed.

Subtask 1.2 Project Coordination Meetings

This subtask includes regular virtual project coordination meetings/conference calls between the ESA Team and the City Team. It is anticipated that these meetings will be attended by ESA's Project Manager, and as needed, by the ESA Project Director and/or Deputy Project Manager to track project progress and address issues as they arise. ESA's Principal-in-Charge will be available to the City on an as-needed basis.

- Bi-weekly Project Meetings with City Team ESA's project manager (and up to 1 other ESA Team staff) will attend 30-minute bi-weekly meetings with the City's SEPA Project Manager and City Team (including City legal counsel) as needed to coordinate on information sharing and project status. For budgeting purposes, the total number of 30-minute bi-weekly meetings over the 12-month period is assumed to be 24, although the frequency, ESA Team staff, and duration of the meetings will vary depending on the work phase or specific need. It is assumed that these bi-weekly meetings will be held on Teams/Zoom. If the City Team prefers some in-person meetings, the ESA Team can accommodate that in accordance with adjustments in the available budget.
- Internal ESA Team Project Meetings Periodically, the ESA Team will need to meet internally to ensure that all staff are on schedule and are consistently informed of any changes relevant to their required analysis or documentation. The scope and budget allows for up to two (2) 30-minute Team/Zoom meetings per month for 12 months, although the frequency and duration of these meetings will vary depending on the work phase.

Deliverables:

• Summaries documenting decisions and key actions only if required for the SEPA Administrative record.

Assumptions:

• Bi-weekly meetings with the City Team meetings will be held depending on need and are assumed to be virtual.

Subtask 1.2.1 Kick-off Meeting

The ESA Team will host a virtual project kick-off meeting for no more than two-hours with the City Team to review overarching project objectives, organization, communication protocols, document retention and distribution protocol, project schedule, as well as determine available information from the City Team. This is important to make sure that all team members are able to receive the same information and ask questions before they begin their work.

Deliverables:

- Project Kick-off meeting agenda
- Designate Data sharing protocol
- Near-term tasks and information needs schedule.
- Project Description confirmation
- Alternatives confirmation
- Running list of follow-up items

Assumptions:

- Up to 6 selected ESA Team members will attend the kick-off meeting.
- City Team will select their attendees to attend the meeting.
- The meeting will be held on Teams/Zoom and last no longer than 2 hours.

Subtask 1.3 Technical Meetings and Site Visit

The ESA Team will require internal technical meetings between subject matter experts where their analyses overlap. The scope and budget allow for up to two (2) 30-minute Team/Zoom meetings per month for 12 months, although the frequency and duration of these meetings will vary depending on the work phase.

Subject matter experts will need to make a site visit to gather data and other information relevant to their documentation for the EIS. It is assumed that the site visits would last no more than 4-6 hours. The majority of the ESA Team will be able to drive from the general Seattle vicinity to Everett directly.

Deliverables:

• Updates to the Subtask 1.2.1 Running list of follow-up items, if needed.

Assumptions:

- The technical meetings will be held on Teams/Zoom and last no longer than 30-minutes
- The site visits will last no more than 4-6 hours depending on the subject matter expert.

Task 2 Scoping

Task Objective:

The objective of this task is to complete all of the required EIS scoping work as per SEPA Rules in Washington Administrative Code (WAC) 197-11-408 as stated below:

Scoping.

(1) The lead agency shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two or three significant impacts or alternatives, the EIS shall be focused on those.

(2) To ensure that every EIS is concise and addresses the significant environmental issues, the lead agency shall:

(a) Invite agency, affected tribes, and public comment on the DS (WAC 197-11-360).

(i) If the agency requires written comments, agencies, affected tribes and the public shall be allowed twenty-one days from the date of issuance of the DS in which to comment, unless expanded scoping is used.

(iii) The date of issuance for a DS is the date it is sent to the department of ecology and other agencies with jurisdiction, and is publicly available.

(b) Identify reasonable alternatives and probable significant adverse environmental impacts.

(c) Eliminate from detailed study those impacts that are not significant.

(d) Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

(3) Agencies, affected tribes, and the public should comment promptly and as specifically as permitted by the details available on the proposal.

(4) Meetings or scoping documents, including notices that the scope has been revised, may be used but are not required. The lead agency shall integrate the scoping process with its existing planning and decision-making process in order to avoid duplication and delay.

(5) The lead agency shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.

(6) DEISs shall be prepared according to the scope decided upon by the lead agency in its scoping process.

(7) EIS preparation may begin during scoping.

Subtask 2.1 Project Description Development

Establishing the project description at the beginning of the project is crucial to being able to begin the EIS process and issue the appropriate SEPA threshold determination. The project description should be developed in enough detail that the public is able to reasonably consider the proposal, raise questions, and become educated about the goals and objectives of the Project.

A project description is also needed for subject matter experts to begin their analyses of the Alternatives. Even if not all of the project design and specifications are complete, the ESA Team will work with the City Team to produce the appropriate ranges and estimates for information that is still forthcoming.



It is important to understand that once the analysis by the subject matter experts has begun, there should be no substantive revisions to the project description or there is a risk that the technical reports will need to begin again which will impact scope, budget, and schedule.

Deliverables:

- Draft Project Description
- Final Project Description

Assumptions:

- One (1) round of City Team review.
- City consolidates all City comments prior to submitting to ESA.
- The project description will be finalized within three (3) weeks of Notice to Proceed by the City with input from the ESA and will not change after the initial confirmation.

Subtask 2.2 Project Alternative Development

The EIS must evaluate reasonable alternatives that could feasibly attain the proposal's objective and are within a jurisdictional agency's authority to control. The City has requested that two (2) Action Alternatives and a No Action Alternative be presented to the public in the Scoping Notice. The City requested the following Alternatives:

- No Action Alternative
- Action Alternatives:
 - o Alternative 1: Funko Field
 - o Alternative 2: Smith & Wall

After Scoping is complete, ESA will consult with the City Team to determine if the Alternatives need to be revised or refined.

Deliverables:

- Draft Description of Alternatives
- Final Description of Alternatives

Assumptions:

- The EIS should include a discussion of the "affected environment" for each of the alternatives (WAC 197-11-440 (6) and WAC 197-11-430 (2)(e)). The elements of the built and natural environment to be discussed are listed in WAC 197-11-444.
- There will be no more than two (2) Action Alternatives and a No Action Alternative.
- Alternatives to be evaluated in the DEIS will be refined based on scoping comments.
- One (1) round of City Team review.
- City consolidates all City staff comments prior to submitting to ESA.
- The Alternatives will be finalized within three (3) weeks of Notice to Proceed by the City with input from the ESA.



• The scope, budget, and/or schedule will be revised accordingly to match the final Alternatives as per City Team instructions.

Subtask 2.3 Issuance of Determination of Significance (DS) and Notice of Scoping

Upon completion of the project description and initial description of the Alternatives, the City SEPA Responsible Official may issue a SEPA threshold determination. It is assumed that the threshold determination will be a Determination of Significance as per WAC 197-11-736 as stated below:

Determination of significance (DS).

"Determination of significance" (DS) means the written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact, and therefore an EIS is required (WAC <u>197-11-310</u> and <u>197-11-360</u>). The DS form is in WAC <u>197-11-980</u> and must be used substantially in that form.

The ESA Team will provide a draft DS and Notice of Scoping form for the City Team to review. The final version for the City to sign and issue and post on the Ecology SEPA Register will be provided after comments from the City have been integrated.

Deliverables:

- Draft DS and Notice of Scoping
- Final DS and Notice of Scoping

Assumptions:

- The SEPA Responsible Official will issue a DS.
- The City Team will post to the Ecology SEPA register and prepare for distribution to appropriate jurisdictional agencies as described in the Public Outreach and Engagement process.
- One (1) round of City Team review.
- The City will consolidate all City staff comments prior to submitting to ESA.

Subtask 2.4 Scoping Comment Management

The City Team will collect all scoping comments and provide those comments to the ESA Team to produce the Scoping Summary Report.

Assumptions:

- The City will compile Scoping comments received via email and hard copy (received at the public meeting and mail).
- All hard copy comments will be scanned (readable) and sent to ESA electronically.
- No more than 50 comments from individuals or agencies will be received during Scoping. Additional comments may require a change to the scope and budget.



Following completion of the Scoping process and receipt of all scoping comments from the City, the ESA Team will develop a Scoping Summary report for the City Team to review. The Scoping Summary report will identify major themes and describe how those identified issues will be addressed in the DEIS. The Scoping Summary report will also identify comments that are outside the scope of DEIS. This is an important part of the overall SEPA Administrative Record and will be attached as an appendix to the DEIS. The City may also choose to post it to their project website as a transparent way for the public to see that their comments were received and considered.

Deliverables:

- Draft Scoping Summary Report (electronic format only)
- Final Scoping Summary Report (electronic format only)

Assumptions:

- One (1) round of City Team review
- The City will consolidate City comments prior to submitting to ESA.

Task 3 Public Outreach and Engagement

Task Objective:

Public outreach and engagement on the EIS will be led by the City with support from the ESA Team. ESA will support the City Team by providing draft written content for outreach materials, reviewing outreach materials, as well as facilitation and attendance at one virtual public meeting for the scoping comment period and one virtual meeting for the DEIS comment period. ESA will provide materials outlined below for use in materials, public meetings, and the EIS, as requested by the City Team.

Subtask 3.1 Public Outreach Materials

ESA will develop draft and final written outreach content for materials for public noticing consistent with the Everett Municipal Code, including posting notice, mailer/postcard to SEPA mailing list, website content, notice for official City newspaper, and PowerPoint presentation (1 draft, 1 final). The ESA Team will be responsible for producing the following materials for one virtual scoping meeting and one virtual DEIS meetings:

- Posting notice (signage)- Per EMC Section 15.02.110, a site-specific proposal requires posting notice in two places on or near the subject property. The ESA Team will prepare content that follows specification in 15.02.110(A)(3). The City will order and pay for the appropriate size and number of signs and post them at the appropriate site locations.
- Mailer/postcard for City to distribute to their SEPA mailing list high-level overview of the proposal, scoping/DEIS meeting details, and how to comment. City Website page content high-level overview of the proposal, SEPA process, schedule, scoping/DEIS meeting



following milestones, in addition to up to six (6) other updates as necessary:

- 1. DS and Scoping Notice (start of 21-day comment period)
- 2. Scoping Completion
- 3. Scoping Summary Report
- 4. DEIS Issuance and Notice of Availability (start of 30-day comment period)
- 5. DEIS Comment Period Completion
- 6. FEIS Issuance

Deliverables:

- Draft Public Outreach Materials
- Final Public Outreach Materials

Assumptions:

- One (1) round of City Team review.
- City consolidates all City comments prior to submitting to ESA.
- ESA team will provide written content for outreach materials and for graphically laying out materials and providing/creating any needed images and graphics up to the number of hours in the budget. The City may need to provide additional support if the budget is met.

Subtask 3.2 Scoping Meeting and DEIS Meeting

The ESA Team will support the City-led public outreach for the two (2) public comment periods: Scoping and DEIS. For each public comment period there will be one (1) virtual public meeting that will be held on a virtual meeting platform, such as Zoom. ESA will provide up to two (2) staff to facilitate and attend both the virtual Scoping and DEIS meetings.

Note that if the City decides to have a court reporter present at the meeting to provide a transcript for the public record, the ESA Team can assist in providing firms that can provide that service and the City can pay directly. A court reporter may alternatively transcribe from public meeting recordings provided by the City.

Deliverables:

- One (1) Virtual Scoping Meeting
- One (1) Virtual DEIS Comment Meeting
- The ESA Team will facilitate and attend one (1) virtual scoping public meeting and one (1) virtual DEIS public meeting. ESA will provide up to four (4) staff to facilitate and attend.
- The City will be responsible for advertising the meetings over and above the SEPA requirements.
- The City will be responsible for collaborating with ESA to schedule mutually agreeable times for the meetings.

Assumptions

- City will set up virtual meeting links for both meetings and handle meeting logistics such as registration page.
- The City will provide the SEPA mailing list and neighborhood leader mailing list (per EMC 15.02.130 B).
- The City will distribute outreach materials, including printing and delivery of mailings, uploading content to website, printing and posting on-site notices, coordinating, and submitting notice in official City newspaper and Ecology SEPA Register.
- ESA staff will facilitate and attend the virtual Scoping meeting and DEIS meeting. The City Team will attend and provide technical support for both meetings.
- ESA will set up the virtual public meeting link and provide up to one (1 practice session with the City prior to each meeting.
- The City will provide project description, graphics, and related materials that will be used to describe the Project for outreach materials and during public meetings.
- PowerPoint presentation the City Team will lead the preparation of an 8-12 minute PPT describing the proposal, SEPA process, alternatives, schedule, and how to comment. The ESA Team will provide PPT support and support one practice session with the City Team prior to each virtual meeting.
- The City will issue the Determination of Significance and Notice of for Scoping for the Scoping process to begin, and the City will issue the Notice of Availability and Requests for Comments for the DEIS, with input from ESA.
- Scoping comment period will be twenty-one (21) days and the DEIS comment period will be thirty (30) days.
- City staff will take notes at the virtual scoping and DEIS public meetings and provide meeting summaries to the ESA Team if a court reporter is not contracted. These notes will be used in the scoping summary and in the response to comments chapter in the FEIS.
- The virtual meetings may be recorded and made part of the public record and provided on the City website project page if requested.
- All materials created for scoping are expected to be updated for the DEIS phase.
- Assumes one (1) round of City review for materials during each phase.
- All comments will be consolidated by the City prior to submittal to ESA.

Task 4 Draft Environmental Impact Statement (Draft EIS)

Task Objective:

The ESA Team, including subject matter experts, will begin to prepare the DEIS that will be issued to the public for review and comment as soon as possible in the process – even while the Scoping process is still in progress.



Subtask 4.1 Style Sheet

The ESA Team will prepare a simple style sheet of guidelines to facilitate consistent terminology throughout all reports prepared under this contract and to streamline the editorial process. The style sheet will be distributed to the City Team for review and comment. Once agreed upon, the style guidelines will not change substantially during the production of the EIS and will be used by the ESA Team while preparing their documentation.

Deliverables:

- Draft Style sheet (electronic format only)
- Final Style sheet (electronic format only)

Assumptions:

- One (1) round of City Team review.
- City consolidates all City comments prior to submitting to ESA.

Subtask 4.2 Administrative Record

The ESA Team will establish and maintain all necessary documentation and information needed for the SEPA administrative record. This will provide the foundation for SEPA due diligence and meeting legal requirements.

Subtask 4.3 Data Collection

The ESA Team will prepare a list of data that the subject matter experts will require to prepare their documentation. This data list will be shared with the City Team, and a checklist format will be used to determine who is responsible for gathering data, by what date, and in what format. The City will be responsible for collecting the data to give to the ESA Team.

Subtask 4.4 Methodologies and Thresholds of Significance

ESA subject matter experts will each develop their methodologies and thresholds of significance to be used to write their particular Chapter sections on Affected Environment, Impact Analysis, and Mitigation Measures.

The methodology may vary by discipline and may include study area, data sources and evaluation methods, including any computer models to be used. Methodology may also include a literature review, desktop research, site visits, data collection, and other reasonable and objective measures. It is assumed that the subject matter experts are professionals in their discipline and able to prepare appropriate methodology. The City SEPA Responsible Official will provide one round of review of the materials.

ESA subject matter experts will each develop their thresholds of significance to use in their impact analysis for their particular chapter of the EIS. These thresholds will allow them to make conclusive statements of potential significant adverse impacts to the environment. The significant thresholds



will be based on best available information and provide for objectivity. They will also be able to provide for potential mitigation measures that may reduce those impacts to below significant levels. It is assumed that the subject matter experts are professionals in their discipline and able to prepare appropriate thresholds. The City SEPA Responsible Official will provide one round of review of the materials.

Subtask 4.5 Cumulative Impacts Project List

ESA will develop a preliminary cumulative project list in consultation with the City. The list will be compiled following Task 3 Scoping and updated as needed prior to completion of the preliminary Final EIS. The City Team will confirm the list is complete.

Deliverables:

- Draft Cumulative Impacts Project List
- Final Cumulative Impacts Project List

Assumptions:

- The City will provide input regarding anticipated projects.
- One (1) round of City Team review
- City will consolidate City comments prior to submitting to ESA.

Subtask 4.6 Description of Alternatives for DEIS

Following the Scoping comment period, the City will confirm and finalize the Alternatives to be analyzed by the subject matter experts in the Draft EIS. The City initially requested that two (2) Action Alternatives and a No Action Alternative be presented to the public in the Scoping Notice. In addition, the description of the No Action Alternative will need to be confirmed. The ESA Team will work with the City Team to determine the final selection and description of Alternatives for the DEIS.

The SEPA EIS will present an equal level of analysis for each Alternative since the City considers each of the Alternatives to be equally eligible for development of the Project. The City does not intend to select a Preferred Alternative in the FEIS.

Chapter 1 of the DEIS will introduce the Project and the City's objectives for the Project. The Project objectives currently include the construction of a baseball stadium that can also serve as an amphitheater venue for other entertainment, and development of an urban park. Chapter 2 of the DEIS will provide the Description of the Alternatives. Chapters 1 and 2 of the DEIS will provide the following information:

- Project Objectives
- Description of a No Action Alternative
- Description of Action Alternatives
 - o Alternative 1: Funko Field

o Alternative 2: Smith & Wall

Deliverables:

- Draft Description of Alternatives
- Final Description of Alternatives

Assumptions:

- There will be no more than two (2) Action Alternatives and one (1) No Action Alternative.
- One (1) round of City Team review.
- City consolidates all City comments prior to submitting to ESA.
- The Alternatives will be finalized within two (2) weeks of completion of the Scoping Comment period.
- The scope, budget, and/or schedule will be revised accordingly to match the final Alternatives as per City Team instructions.

Subtask 4.7 Notice of Availability of DEIS

Upon completion of the Draft EIS, the City SEPA Responsible official will issue the Notice of Availability of the DEIS as per WAC 197-11-455 and WAC 197-11-510. The ESA Team will provide the draft Notice of Availability of DEIS for the City Team to review. The final version will be provided to the City for signature for the City to issue and post on the Ecology SEPA Register will be provided after comments from the City have been integrated.

Deliverables:

- Draft Notice of Availability of DEIS
- Final Notice of Availability of DEIS

Assumptions:

- The City Team will post to the Ecology SEPA register and prepare for distribution to appropriate jurisdictional agencies as described in the Public Outreach and Engagement process.
- One (1) round of City Team review.
- The City will consolidate all City comments prior to submitting to ESA.

Subtask 4.8 Technical Analyses

The ESA Team will start preparing the affected environment sections prior to completion of Scoping, although Scoping could modify the range of alternatives and the scope of the analysis to be provided. Additional publicly available information will be used to characterize the potentially affected area. It is understood that the DEIS analysis may need to change slightly based upon information received during Scoping and potential updated design information.

Impacts from construction and operation of the Alternatives will be fully analyzed for up to four elements of the environment. It is assumed that the City Team will make a reasoned judgment on whether the impacts of the Alternative on each element of the environment may have a potential

significant adverse impact and whether they should be included in the analysis. This does not refer to a detailed analysis, but rather would be similar to what one would complete for an environmental checklist for the project. The purpose is to memorialize why some elements of the environment need not be discussed in the EIS (because they are determined to have a potential significant adverse environmental impact that cannot be mitigated) (WAC 197-11-440 (6)(a)). There are currently four elements that have been preliminarily selected to focus on: Transportation, Noise, Light & Glare, and Cultural Resources. The technical analysis will be incorporated into a Preliminary Draft of the DEIS. This Preliminary DEIS (PDEIS) will include one (1) review cycle (PDEIS_v1 and a final version).

The DEIS will include the following environmental elements:

4.8.1 Transportation / Traffic

F&P, as a subconsultant to ESA, will complete the transportation analysis needed to inform the Transportation chapter of the DEIS. The following section details the tasks for transportation analysis and documentation.

Study Locations & Scenarios

F&P will analyze the effects of up to three (3) alternatives (No Action and two Action Alternatives) on the transportation system. Based on the location of each of the alternatives, F&P will coordinate with City staff to determine the appropriate study area boundaries and intersections. It is assumed that up to 15 intersections will be analyzed under each of the alternatives and that the same 15 intersections will be analyzed for the No Action and Action Alternative located at Funko Field.

F&P will use schedule data for events at the existing Funko Field and venues that host concerts similar to those expected to utilize the planned stadium, to determine the appropriate time period for analysis. It is expected that the transportation analysis will be completed for the time period during which event traffic would overlap with peak travel times on the surrounding roadway network (i.e., weekday pre-event peak hour).

F&P will prepare a memo documenting recommendations for study locations and scenarios for review by the City prior to beginning data collection and additional analysis.

Existing Transportation Conditions

F&P will analyze the roadway (including general purpose traffic and freight effects), transit, bicycle, and pedestrian networks, and transportation safety. A detailed evaluation of parking supply will also be performed for the area surrounding each of the proposed locations. These analyses will reference (and use data if applicable) information documented in the City's existing Transportation Element and data being complied for the City's ongoing Transportation Element update.

As necessary, traffic volume counts will be collected at study intersections in January or February 2024. It is assumed that, when possible, recently collected traffic counts (counts collected in 2022 or 2023) will be utilized.

As part of Existing Conditions, F&P will analyze the following:



- Intersection Operations: F&P will evaluate intersection delay and level of service (LOS) at all study intersections during the time period identified for analysis. The analysis will be completed using Highway Capacity Manual (HCM) 6th Edition methodologies and the Synchro software package to complete the analysis.
- **Transit Operations:** F&P will perform analyses and prepare exhibits that document the following for transit service in the area, utilizing data available from Community Transit, Everett Transit, and Sound Transit:
 - Routes including stops/stations/terminals
 - Hours and days of operation
 - Headways
 - Walk distance from nearest stop to alternative location
- **Bicycle Facilities:** F&P will prepare an exhibit that illustrates existing bicycle facilities in the study area, including on-street bicycle lanes and off-street paths. As part of intersection traffic counts, bicyclist activity will also be collected and documented.
- **Pedestrian Facilities:** F&P will prepare an exhibit that illustrates existing sidewalks and crosswalks in the project vicinity. As part of intersection traffic counts, pedestrian activity will also be collected and will be documented.
- **Other Travel Modes:** F&P will describe other prevailing travel modes in the study area including the presence of Transportation Network Companies (TNCs), taxis, car sharing services, bikeshare, etc.
- **Goods/Freight Movement:** F&P will document existing heavy vehicle percentages along major roadways within the study area based on data provided by Everett and/or traffic counts. An exhibit will be prepared to display existing truck routes based on the City's Transportation Element.
- **Transportation Safety** F&P will identify high frequency collision intersections focusing on collisions that resulted in fatal or serious injuries. The analysis will be conducted using collision data from the last three (3) years, which F&P will request from the Washington State Department of Transportation (WSDOT).
- **Existing Parking Supply:** F&P will prepare exhibits that document the existing on-street and off-street parking supply in the area surrounding each of the potential sites. It is expected that this will rely on data available from the City regarding the location of on-street and off-street parking.
- **Existing Conditions Memorandum:** F&P will prepare a Technical Memorandum documenting existing transportation conditions which will be provided to the City for one (1) round of review



and comments. F&P will make one (1) round of updates and incorporate City comments for inclusion in the transportation chapter of the DEIS.

Identify Planned Transportation Improvements

F&P will compile a list of planned transportation improvements within the study area, including ST3 light rail expansion and other projects that could influence travel in the study area. F&P will prepare a table and map of planned transportation improvements showing funding commitments and timing. This information will be used in the following task.

Prepare Background Travel Demand Forecasts

F&P will prepare traffic forecasts that represent 2044 conditions for all study locations. To develop these forecasts, F&P will utilize PSRC's Soundcast travel demand model. Updates to the model will include planned infrastructure improvements expected to be in place by 2044 and land use updates to reflect the City's preferred land use alternative for the ongoing Comprehensive Plan update.

Transportation Demands

Under this task, F&P will develop estimates for trip generation, proposed trip distribution and trip assignment for each of the alternatives.

Trip Generation

F&P will collect and evaluate the following data, if available, to assist in determine the mode split for the proposed stadium:

- Review of any available studies of attendee travel behavior characteristics at sporting events and concerts at similar sized venues in the Puget Sound region
- Review of empirical mode split data from comparable Minor League stadiums as available
- Any proposed project activities to accommodate attendees (e.g., shuttles) will be considered in this evaluation
- Supply-side review of available parking supply to identify maximum attendee usage for these modes

The project's pre-event and post-event peak hour trip generation will be calculated in terms of both person trips and vehicle trips. It will be estimated based on the following data sources:

- 1. Vehicle trip arrival and departure percentages (by hour) and average vehicle occupancy (AVO) from other entertainment venues in the Puget Sound region (or from comparable facilities in other regions).
- 2. Number of event attendees and employees.



Trip Distribution

F&P will purchase Big Data for a time period corresponding to a recent AquaSox home game, specifically trip origins and destinations for attendees based on anonymous attendee cell phone and GPS data to determine the anticipated distribution of vehicle trips generated by the proposed project.

It is not anticipated that trip distribution will differ for the two Action Alternatives; however, if it is determined that one of the action alternative locations would provide better access to reliable transit service, adjustments to vehicle trip generation may be considered.

Trip Assignment

It is expected that a separate trip assignment will need to be developed for each of the two Action Alternatives. Route choice can be particularly challenging to accurately estimate because it can depend on the presence of changeable message signs, mobile app wayfinding guidance, parking location, and overall familiarity with the area.

F&P's preferred method for tracking and assigning vehicle trips through the roadway network is to use the Soundcast travel demand model. For inbound trips, trip origins would be based on cell phone data, which would be translated into specific traffic analysis zones (TAZs). The destination of those trips would be specific parking garages/lots, on-street parking areas, and passenger loading zones. Outbound trips would be modeled in a similar manner. It may be necessary to adjust the model's assignment parameters to more accurately reflect the relative travel time of one route versus another, street closures, and the effects of wayfinding mobile apps.

These findings will be documented in a technical memorandum for review and approval by the City prior to additional analysis using this information.

Multi-Modal Impact Analysis & Mitigation

F&P will complete a multimodal analysis for the No Action and up to two Action Alternatives. This analysis will include:

- Intersection LOS analysis for the selected time period.
- Evaluation of the transit system's ability to accommodate project transit riders, access to transit, and any adverse effects on transit system operations, such as on-time performance and travel time reliability.
- Evaluation of the bicycle network from the perspective of adequate facilities, comfort for riders, and adverse effects of the proposed project on existing or planned bicycle facilities.
- Evaluation of the pedestrian network for gaps in sidewalk connectivity, increased conflicts between pedestrians and other modes of travel, and adverse effects of the proposed project on existing or planned pedestrian facilities.
- Evaluation of goods/freight movement for potential impacts to existing and planned goods/freight movement facilities, including truck routes.



• Evaluation of the project's impact on parking supply and demand in the area surrounding each potential site.

F&P will review site access and circulation for each project alternative in the immediate project vicinity including parking garage ingress/egress, drop-off/pick-up areas for TNCs, paratransit, and taxis, bus loading, premium parking entry/exits, wayfinding, and truck loading/staging.

F&P will evaluate construction activities for each project alternative. The level of analysis will depend on the degree of specificity to be provided regarding construction activities (duration of construction, hours of operations, number/routing of trucks, number of employees, parking for employees, staging of equipment, street/sidewalk closures, etc.).

F&P will work with the City and ESA to develop significance thresholds for significant impacts for each technical topic area described above. Mitigation measures will be recommended for significant impacts. In addition, any secondary or cumulative impacts will also be identified, and any significant unavoidable adverse impacts will be identified.

DEIS

F&P will prepare the transportation section of the DEIS. The section will describe and analyze the affected environment, alternatives under consideration, comparative impacts by alternative, potential mitigation measures, and significant unavoidable adverse impacts for Transportation. It will include a technical appendix that contains all analyses, interim memos, and other data relied upon in the analysis. It is anticipated that up to three (3) versions of the transportation section will be submitted based on comments provided by the project team after each submittal.

FEIS Comment Responses and Chapter Revisions

This task includes time for F&P staff to review DEIS comment letters and draft responses to transportation-related comments. Potential topic areas likely to be addressed may include roadway system analysis, parking, safety, transit capacity, neighborhood traffic intrusion, bicycle/pedestrian facilities, curb space usage, mitigation measures, etc. F&P will coordinate with ESA regarding specific approaches for preparing written responses including the use of common responses and consistency of wording of responses. This task also includes other required text edits to the FEIS Transportation chapter that may arise from comments or FEIS analysis.

F & P will conduct the detailed transportation analyses and use this information to write the transportation sections of the draft and Final EIS, in accordance with the Scope of Work approved by the City Team. The evaluations will be summarized in the DEIS, with the full evaluation included in a technical appendix.

4.8.2 Noise

ESA expects noise to be a community concern for the park, amphitheater, and stadium project. ESA will provide an analysis of the No Action and the two Action Alternative sites. The noise study will include assessment of impacts caused by construction and operation of the project. ESA expects the noise study to include assessment of the following sources:



- Traffic noise associated with visitors to the facility as well as employees and delivery vehicles.
- Direct operational noise associated with events at the facility, including minor league baseball games, other sporting events, amplified music concerts, and recreational uses of park areas.
- Construction noise, including from clearing and grading, excavation, and building construction. Major sources of construction are anticipated to include pile driving, augering, power generators, and other heavy equipment, as well as construction vehicles such as materials hauling and workers' vehicles.
- Depending on the project location, vibration emissions from construction equipment and activities such as pile driving and vibratory rollers.

ESA will write sections for the Draft and Final EIS that will include:

- A description of the existing noise environment, including site-specific noise measurements to describe the existing noise environment and assess the potential for noise impacts.
- A summary of noise regulations applicable to the project alternatives.
- For each project alternative, an assessment of noise associated with construction and operation. Each assessment will include a review of compliance with applicable regulatory limits and an evaluation of whether noise abatement measures are warranted.
- An assessment of noise and vibration abatement measures for construction, as necessary, to ensure noise and vibration emissions from construction comply with applicable regulatory requirements and would not result in detrimental impacts to nearby communities.
- An assessment of noise abatement measures for operational activities, such as from traffic, public address systems, amplified music concerts, and other activities.

Assumptions:

• ESA will need to take noise measurements at the different sites.

4.8.3 Light and Glare

Stantec will provide a light and glare analysis. Stantec assumes that visual assessment of light and glare issues would be the focus of this section, and view analyses from up to four (4) key viewpoints for each Alternative will be conducted. Site renderings prepared by the City Team would be used as the basis for the analysis.

Stantec will provide the analysis of the No Action and the two Action Alternative sites. They will:

- Conduct a daytime site visit at each site to evaluate.
- Evaluate existing lighting systems surrounding neighborhoods and development, existing topography, and viewsheds will be evaluated.
- Conduct a nighttime analysis of existing illumination systems on site and in surrounding areas.



- Take representative photographs for both daytime and nighttime conditions.
- Evaluate proposed development at each site based on SEPA EIS requirements.
- Review proposed stadium, amphitheater, and other site lighting plans, elements, and representative equipment selection.
- Evaluate proposed photometric analysis and potential graphic representations.
- Evaluate proposed electronic scoreboards and signage. Review existing applicable codes.
- Prepare in-house lighting renderings, consisting of (1) for each site for a total of (2) renders. Lighting renderings will be done as a photoshop effort over the top of photographs.
- Identify nearby uses that would be considered sensitive to spillover light or glare,
- Evaluate elements of the project that could have significant impacts depending on and design
- Characterize in broad terms the ability to minimize or mitigate such impacts and provide a qualitative comparison of the relative impacts of each alternative.

Assumptions:

- (Stantec) (2) site visits per site (one daytime and one nighttime) for three (3) sites, totaling six (6) site visits. These will be performed by (1) staff member.
- (Stantec) Lighting renderings will be done via photoshop overlay. If another program is desired, such as Enscape, that can be discussed as an additional service but would be additional scope and budget.

4.8.4 Cultural and Archeological Resources

ESA cultural resources subject matter experts will complete an initial Cultural Resources Assessment (CRA) Desktop Analysis consisting of a literature review, records search, identification of any previously documented historic and cultural resources within the identified alternative locations and surrounding vicinity. The analysis will include a review of the current Washington State Department of Archaeology and Historic Preservation (DAHP) databases to assess the inventory of known resources in the area, including Traditional Cultural Properties that may have been designated. Studies and surveys that have been completed will be evaluated and incorporated by reference.

Projects that require substantial excavation have the potential for inadvertent discovery of cultural resources. To present the possible impacts from the proposed stadium redevelopment, ESA will review existing literature to evaluate the likelihood of encountering cultural resources during excavation.

In addition, any project in the state that receives state funding is obligated to comply with Governor's Executive Order 21-02. This may require additional analysis or review with the City Team to determine the requirements necessary for this proposal.



ESA's architectural historians will coordinate with the City to form the basis for the EIS sections. Should ESA determine that additional information is needed to satisfy SEPA requirements, it is assumed that this information will be provided by the City's Team. If necessary, the scoping and budget allows for the analysis for a limited mapping of existing historic resources.

Assumptions:

- Assumes state funding will trigger Governor's Executive Order 21-02.
- Assumes a limited mapping of historic resources if they are determined to be in the study area.

4.9 DEIS Front Material/Fact Sheet/References/Appendices

The ESA Team will begin the initial stages of analysis during the Scoping process in order to expedite documentation. This will include the front matter for the document including assembly of the draft cover letter, Fact Sheet, acronyms and abbreviations, table of contents, distribution list, references, appendices, and other available information that can be prepared ahead of time.

Deliverables

- Draft DEIS Front Material
- Final DEIS Front Material

Assumptions:

- One (1) round of review by the City Team.
- The City will consolidate all City comments prior to submittal to ESA.
- The City will be responsible for providing the SEPA distribution list to ESA.
- The City will be responsible for publication and distribution of notices, documentation and the DEIS document.
- There will not be a 508 remediation for ADA required.

4.10 Preliminary DEIS (PDEIS) Version 1

The ESA Team will prepare Version 1 of the DEIS and submit to the City Team for review and comment.

Deliverables

• PDEIS Version 1

Assumptions:

- One (1) round of review by the City Team.
- The City will consolidate all City comments prior to submittal to ESA.
- Assume no more than 2 weeks for City Team review and 2 weeks for ESA responses

4.11 DEIS Final for Issuance

The ESA Team will prepare the final DEIS for distribution. During this team, ESA will provide a half day for a "page turn" for the City Team to review each page of the document prior to issuance. No substantive changes are expected at this point in the process. Substantive changes would require a change to the schedule as well as scope and budget.

Deliverables

- Half-day Page Turn with City Team
- DEIS Final for Issuance

Assumptions:

• Document will be complete and ready for issuance date within 2-weeks from Page Turn date.

Task 5 Final EIS

Task Objective:

ESA will prepare the Final EIS after review of all DEIS comments received through the DEIS meeting, the web-form, and through mailed and emailed comments. The City has determined that no Preferred Alternative will be selected for the FEIS.

Subtask 5.1 Collect and Categorize All DEIS Comments

ESA will receive all comment received on the DEIS from the City received through public hearings, email, mail, and the website. ESA will organize the comments received on the DEIS and will have the lead responsibility for managing the public comments after receipt from the City. All comments received on the DEIS will be coded by comment category. ESA will consolidate and organize all comments received on the DEIS according to topic and number of comments received on a topic.

Assumptions:

- The City Team will receive and compile comments received via email and hard copy (received at the public hearings and mail) and provide to ESA.
- All hard copy comments will be scanned (readable) and sent to ESA electronically.
- For budgeting purposes, approximately 50 comments. If there are substantially more comments, the scope and budget for this Subtask will be reviewed and revised.

Subtask 5.2 Prepare Response to Comments

The Final EIS will include a Chapter for all comments received on the DEIS and responses to each comment. ESA will identify comments that require input or direction from the City Team. The City Team will provide the initial responses to comments. ESA will collaborate with the City on providing advice on responses and contributing when appropriate to create a consistent voice for



responses. The format will either be in a specific response or a "common response" – a comprehensive response prepared to address numerous recurring comments received on the same or similar issues.

Deliverables:

• Draft Response to Comments will appear in the Final EIS document for City review.

Assumptions:

- The City Team will provide the initial responses to all comments.
- The chapter on Response to Comments will be presented to the City Team review as part of the FEIS review rather than a separate review; there will be no separate review of the Response to Comments Chapter.

Subtask 5.3 Write FEIS Chapters

The City Team will not select a Preferred Alternative for the FEIS. Rather, the ESA Team will address and incorporate changes to the DEIS in the text of the FEIS for the Alternatives analyzed. The changes will include corrections, additions, and clarifications.

Deliverables:

• The updated Chapters will be presented in the Preliminary FEIS document package for the City Team to review. There will be no separate review.

Subtask 5.4 PFEIS Version 1

The ESA Team will prepare Version 1 of the FEIS for City Team comment.

Deliverables

PFEIS Version 1

Assumptions:

- One (1) round of review by the City Team.
- The City will consolidate all comments prior to submittal to ESA.
- Assume no more than 2 weeks for City Team review and 2 weeks for ESA responses

Subtask 5.5 FEIS for Issuance

The ESA Team will prepare the final FEIS for distribution. During this team, ESA will provide a half day for a "page turn" for the City Team to review each page of the document prior to issuance. No substantive changes are expected at this point in the process. Substantive changes would require a change to the schedule as well as scope and budget.

Deliverables

- Half-day Page Turn with City Team
- FEIS Final for Issuance

Assumptions:

• Document will be complete and ready for issuance date within 2-weeks from Page Turn date.



BUDGET

The costs for the scope described above are included in the attached budget. Direct costs other than labor include travel, parking, and equipment needed to complete the scope, printing, and other incidental costs. Non-labor direct costs are listed as "Other Direct Costs" in the attached budget.



SCHEDULE

The timeframe for delivery of the scope described above is approximately 12 months. Factors that could affect the schedule, but which are outside of ESA's control include, but may not be limited to:

- Delivery of or changes to project description information from the City Team;
- Content or quantity of comments received from the public through the Scoping process or in response to the DEIS;
- City decisions to extend the Scoping period or period for review of the DEIS; or
- City decisions to undertake other studies which could affect the overall timing of the process.

Assumptions:

• To be developed based on finalized schedule developed by the City

Draft City of Everett Baseball Stadium/Amphitheatre/Park Project Schedule

	🗙 Milestone	Task ba	ır																				
		2023		2024																			
	November 6 13 20		December 11 18		January 15 21	29 5	February 12 19 26		arch 18 25 1	Apr 8 15	il 22 29	May 6 13 20) 27 3	June 10 17	24 1	July 8 15 2	2 29 5	August 12 19	26 2	Septem 9 16	ber 23 30 7	October 14 21	28
TASK MILESTONES																							
Task 1: Project Management																							
Notice to Proceed/Kick-off	11/27/2	23																					
Ongoing Team Meetings and Project Management																							
Task 3: Scoping																							
Prepare Draft Determination of Significance (DS) and Scoping Outreach Materials		11/27 - 12,																					
City Reviews Draft DS and Outreach Materials			12/8 - 12/19																				
Finalize DS and Outreach Materials				12/20 - 1/3																			
Issue Determination of Significance				1/4/24																			
21-Day Scoping Comment Period					1/8 - 1/29																		
Task 4: Draft EIS																							
Data Collection			11	1/27 - 1/29										、									
Project Description and Alternatives Complete				1/1	9/24																		
Prepare Preliminary DEIS (PDEIS)							1/	/2 - 4/26															
City Reviews PDEIS											4/2	9 - 5/10											
Incorporate Edits to PDEIS												5/15 -	- 5/31										
City Rreviews Revised PDEIS														6/3 - 6/16									
Finalize DEIS														6/1	7 - 6/26								
Publish DEIS														6/28/	/24								
30-Day DEIS Comment Period																7/1 - 7/30							
Task 5: Final EIS																							
Prepare Preliminary FEIS (PFEIS)																	7/15 - 8/2	23					
City Reviews PFEIS																			8/26 - 9/9				
Incorporate Edits to PFEIS																				9/10 - 9/24			
City Reviews Revised PFEIS																					9/26 - 10/9		
Finalize FEIS																						/10 - 10/24	
Distribute FEIS																						10/25/24	

EXHIBIT B PROFESSIONAL SERVICES AGREEMENT (METHOD OF COMPENSATION -- ATTACHED)

STANDARD METHODS OF COMPENSATION

SELECT ONE OF THE FOLLOWING METHODS OF COMPENSATION, EACH OF WHICH IS SUBJECT TO THE MAXIMUM COMPENSATION AMOUNT

HOURLY RATE. The City shall pay Service Provider a sum equal to the amount of hours actually worked multiplied by the rate identified below for staff performing the Work.

Name	Title	Rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate

If there are more staff than rows in the table above, then those staff names, titles, and rates shall be provided in the Scope of Work.

PROGRESS PAYMENTS. The City shall pay Service Provider the following amounts upon the completion of the following tasks.

Task	Amount Paid on Task Completion
enter task	enter amount

If there are more tasks than rows in the table above, then those tasks and payment amounts shall be provided in the Scope of Work.

LUMP SUM. The City shall pay Service Provider \$ <u>enter amount</u> upon the completion of the Work.

METHOD CONTAINED IN SCOPE OF WORK. The City shall pay Service Provider as set forth in the Scope of Work.

ESA Labor Detail and Expense Summary

Employe	ee Names																			
	r Category																			
Labor	Calegory	Senior Principal Consultant 6	Principal Consultant 4	Bringing Concultant 4	Associate Consultant 1	Senior Consultant 4	Associate Consultant 1	Principal Consultant 3	Senior Consultant 3	Senior Consultant	Managing Consultant 3	Associate Consultan t 2	Senior Consultant 4	Project Technician	Associate Consultant		Project Technician 3		Total Hours	Labor Price
Task # Task Name/Description		\$397	\$282	\$282	\$128	\$200	\$128	\$255	\$181	\$161	\$223	\$141	\$200	\$119	\$178	\$164	\$119	\$0		
-		4091	φζοζ	φζοζ	Φ120	φ200	φ120	φ200	\$101	\$101	φ223	φ 141	\$200	φΠσ	\$170	φ104	φ11 3	φυ		
Task 1 Project Management and Meetings		2	0	50	50	0												_	100	04.000
1.1 Project Management Tasks		2	8	58	58	6								28					160 \$	31,362
1.2 Project Coordination Meetings		8	14	24	24	•			4	4	4	•	0						82 \$	19,224
1.2.1 Kick-Off Meeting		2	2	2	2	2	2	2	2	1	2	2	2						23 \$ 96 \$	4,995
1.3 Technical Meetings and Site Visit		4	8	24	24	6	6	<u>^</u>	8	8	8	0	0		0	•	•			20,172
Task 1 Subtotal		16	32	108	108	14	8	2	14	13	14	2	2	28	U	U	U		361 \$	75,753
Task 2 Scoping		0	<u>^</u>	0	0														- \$	7.05
2.1 Project Description Development		6	6	8	8														28 \$	7,354
2.2 Project Alternative Development		6	6	8	8														28 \$	7,354
2.3 Issuance of DS and Notice of Scoping			1	8	8	10	40												17 \$	3,562
2.4 Scoping Comment Management				6	12	12	12												42 \$	7,164
2.5 Scoping Summary Report				4	16	8	16												44 \$	6,824
Task 2 Subtotal		12	13	34	52	20	28	0	0	0	0	0	0	0	0	0	0	0	159 \$	32,258
Task 3 Public Outreach and Engagement																			- \$	
3.1 Public Outreach Materials						28	20									23			71 \$	11,932
3.2 Scoping Meeting and DEIS Meeting		1	1	16	16	24	12										14		84 \$	15,241
Task 3 Subtotal		1	1	16	16	52	32	0	0	0	0	0	0	0	0	23	14	0	155 \$	27,173
Task 4 Draft EIS																			- \$	
4.1 Style Sheet				1	1								12		12				26 \$	4,946
4.2 Administrative Record					16								12						28 \$	4,448
4.3 Data Collection		2	2	4	14		12	1	2	0	2								39 \$	6,877
4.4 Methodologies & Thresholds of Significance			2	4	4			1	2	0	2								15 \$	3,267
4.5 Cumulative Impacts Project List			1	4	12														17 \$	2,946
4.6 Description of Alternatives for DEIS		2	2	6	6														16 \$	3,818
4.7 Notice of Availability of DEIS			2	6	12	6	8						4						38 \$	6,816
4.8 Technical Analyses																			0 \$	
4.8.1 Transportation/Traffic (Fehr & Peers)		4	4	8	8						6								30 \$	7,334
4.8.2 Noise Memo(ESA)		2	2	4	4						50								62 \$	14,148
4.8.3 Light & Glare (ESA and Stantec)		2	2	8	8							8							28 \$	5,766
4.8.4 Cultural & Archaeological Resources (ESA)		1	2	4	4			30	98	120		12							271 \$	49,001
4.9 DEIS Front Material/Fact Sheet/References/Appendices				14	24								24		16				78 \$	14,668
4.10 PDEIS v.1		4	4	40	40	8	60	2	6	6	6	8	24		16				224 \$	41,072
4.12 DEIS Final for Issuance			2	12	12		20					8	16		16				86 \$	15,220
Task 4 Subtotal		17	25	115	165	14	100	34	108	126	66	36	92	0	60	0	0	0	958 \$	180,327
Task 5 Final EIS																			- \$	
5.1 Collect and Categorize Draft EIS Comments				12	28	28	28												96 \$	16,152
5.2 Prepare Response to Comments			16	24	20	8	12	4	20	8	8	40							120 \$	24,688
5.3 Write FEIS Chapters5.4 PFEIS v.1		6	6	28	32		20	4	20	20	24	16	24		20				170 \$ 128 \$	31,712 26,118
5.5 FEIS for Issuance		0	6	12	12	8	20	2	Δ	Δ	Δ	8	24		16				120 \$	22,318
Task 5 Subtotal		6	34	104	124	44	80	10	44	32	36	36	48	0	36	0	0	0	634 \$	120,988
		Ū			127			10		02	00		-10	Ū		Ū	Ū	Ū	- \$	120,000
Total Hours		52	2 105	377	465	144	4 248	8 46	166	5 171	116	74	142	28	96	23	14	-	2,267	
Total Labor Costs	\$	20,644	\$ 29,610	\$ 106,314					\$ 30,046	6 \$ 27,531	\$ 25,868	\$ 10,434	\$ 28,400	\$ 3,332	\$ 17,088	\$ 3,772	\$ 1,666	\$ -	\$	436,499
Percent of Effort - Labor Hours Only		2.3%																	100.0%	
Percent of Effort - Total Project Cost		2.6%																		54.19
PROJECT COST ESTIMATE SUMMARY TABLE		2.69		_	6 7.4%	3.69	% 3.9	% 1.5%	3.7%	% 3.4%	3.2%	o 1.3%	3.5%	0.4%	.1%	0.5%	。 0.2%	o 0.0%		54
ESA Labor Cost ESA Labor Technology and Data Management Fee	>	3%	\$ 436,499 \$ 13,095																	
ESA Non-Labor Expenses																				
Reimbursable Expenses (see Attachment A for detail)			\$ 2,021																	
ESA Equipment Usage (see Attachment A for detail)			\$ -																	
Subtotal ESA Non-Labor Expenses			\$ 2,021																	
Subconsultant Costs (see Attachment B for detail)			\$ 250,490																	
Contingency		15%	\$ 105,316																	
				-																

PROJECT TOTAL

807,421

\$

Attachment B Cost Proposal: Subconsultant Detail

		Subconsultant Costs									
			Fehr & Peers		Stantec	ę	Subtotal Subconsultant		Percent Fee @	Su	Total bconsultant
	Task Number / Description		Transportation		Light & Glare		Cost		5%	Ρ	roject Cost
Insert Budget By Task											
1	Task 1 Project Management	\$	12,300	\$	5,000	\$	17,300	\$	865	\$	18,165
						\$	-	\$	-	\$	-
2	Task 2 Scoping					\$	-		-	\$	-
						\$	-	\$	-	\$	-
3	Task 3 Public Outreach & Engagement	\$	1,720	\$	1,752	\$	3,472		174		3,646
						\$	-	\$	-	\$	-
4	Task 4 Draft EIS	\$	152,950	\$	40,890	\$	193,840		9,692		203,532
		•		•		\$	-	\$	-	\$	-
5	Task 5 Final EIS	\$	5,000	\$	5,000	\$	10,000	\$	500		10,500
				•		\$	-	\$	-	\$	-
6	Other Direct Costs (ODCs)	•		\$	-	\$	-	\$	-	\$	-
7	Big Data Purchase		7,000			\$	7,000		350	\$	7,350
7	Traffic Counts		6,000	¢	400	\$	6,000	\$	300	\$	6,300
0	Mileage Reimbursement (\$0.655 / mi)		350	\$	400	\$		\$	38	\$	788
8	Parking	\$	100	\$	100	\$	200	\$	10	\$	210
0	Printing					\$ \$	•	\$ \$	-	\$ ¢	-
9	Equipment Subconsultant Total	¢	185,420	¢	52 4 4 2	Ŧ			- 11,928	\$ ¢	- 250,490
	Subconsultant Total	Φ	100,420	Ф	53,142	Ф	238,562	Φ	11,928	Ф	200,490

EVERETT City Council Agenda Item Cover Sheet

Project title:

Adopt an Ordinance establishing special System Development Fees for connection to the City of Everett's water, sewer, and stormwater systems for 2024 – 2027, amending EMC 14.08.135.

Council Bill

CB 2310-54

Agenda dates requested:

Briefing	10/25/2023					
Proposed action	11/1/2023					
Consent						
Action	11/15/2023					
Ordinance x						
Public hearing	11/15/2023					
X Yes	No					

No

Budget amendment:

Yes	Х
res	~

 X
 Yes
 No

Attachments: Proposed Ordinance

Department(s) involved: Public Works, Admin

Contact person: Shaun Bridge

Phone number: (425) 257-8823

Email: sbridge@everettwa.gov

Initialed by: SB Department head

Administration

Council President

Consideration:	System Development Fees Ordinance establishing rates for 2024-2027
Project:	
Partner/Supplier:	
Location:	Citywide
Preceding action:	Ordinance 3632-18 passed 11/7/2018
Fund:	Fund 401

Fiscal summary statement:

The proposed ordinance would decrease System Development Fees 11.5% percent in 2024, increasing 5.1% percent in 2025, 2026, and increasing 5.2% in 2027

Project summary statement:

Everett has completed the 2024 System Development Fee study. Staff recommends that a new four-year ordinance be adopted by City Council to be effective January 1, 2024. The proposed ordinance aligns the City's System Development Fee program with industry best management practices.

Recommendation (exact action requested of Council):

Adopt an Ordinance establishing special System Development Fees for connection to the City of Everett's water, sewer, and stormwater systems for 2024 – 2027, amending EMC 14.08.135.



ORDINANCE NO.

An ORDINANCE establishing special system development charges for connection to the City of Everett water and sewer systems and stormwater system impacts, and amending EMC 14.08.135.

WHEREAS,

- A. The City Council finds that additional connections to the City of Everett water system and sewer system have cumulative impacts which will require future reconstruction and expansion of system facilities.
- B. Under RCW 35.92.025 and chapter 35.67 RCW, the City Council may impose system development charges to property owners seeking new connections to the water system and sewer system and contributing stormwater runoff to stormwater systems in such amount as the City Council may determine in order that such property owners shall bear their equitable share of the cost of the system.
- C. Surface water and stormwater services related to new development include protection and preservation of natural drainage systems and receiving waters and drainage for public streets.
- D. The City Council finds that City recent investment in the stormwater system is sufficiently large that stormwater should have a system development charge separate from the sewer and water development charge.
- E. Using best management practices, the stormwater development charge shall be based on impervious surface area and apply to all areas in the City limits.
- F. The City Council finds that basing System Development Charges for water and sewer on water service size is consistent with current best management practices.
- G. The City Council further determines that all charges in this ordinance are reasonable and are proper in order that property owners shall bear their equitable share of the cost of such systems.
- H. The City commissioned a study of the system development charges by HDR Engineering, Inc. The system development charges in this ordinance are consistent with the HDR report dated October 9, 2023.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The recitals above are hereby adopted as findings, conclusions, and determinations in support of this ordinance.

Section 2. EMC 14.08.135 is amended to add:

Effective January 1, 2024:

In addition to utility permit charges for sewer service, water service, and stormwater and any inspection charges, there is hereby imposed, on the owners of properties, special system development charges in the following amounts:

	Water		Total Water and
	System	Sewer System	Sewer System
	Development	Development	Development
Meter Size	Charge	Charge	Charges
3/4"	\$4,577	\$4,028	\$8,605
1" domestic/fire*	\$4,577	\$4,028	\$8,605
1″	\$7,644	\$6,727	\$14,371
1 1⁄2″	\$15,242	\$13,414	\$28,656
2″	\$24,396	\$21,471	\$45,867
3″	\$45,771	\$40,283	\$86,054
4"	\$76,300	\$67,152	\$143,452
6"	\$152,554	\$134,264	\$286,818
8"	\$244,095	\$214,831	\$458,926
10"	\$350,924	\$308,852	\$659,776
12"	\$514,920	\$453,187	\$968,107

1. <u>Water and Sewer System Development Charges</u>

*Domestic/Fire combination meter for Single Family Residences and Duplexes reviewed under the International Residential Code, upsized due to the addition of a fire sprinkler system.

The above table contains charges for inside City-limits. Areas outside City limits, but connected to the City's water and sewer system, shall be charged the inside-City-limits charge plus (unless otherwise required by law) a 25% surcharge.

 <u>Stormwater System Development Charge.</u> In addition to water and sewer system development charges, there shall be a stormwater system development charge based on square footage of impervious surface area imposed on development within city limits that contributes stormwater to the stormwater drainage system or to a receiving water body or receiving waters*:

Development Type	Stormwater System Development Charge
New Construction	Base Charge (1 ISU ≤2500 sf): \$747 Additional charge for impervious area >2500 sf: \$0.2988/sf
Existing Development adding new impervious surface area	Calculated per square foot of added impervious surface area \$0.2988/sf

ISU = Impervious Surface Unit, defined as 2500 sf of impervious surface area.

* "Impervious surface,", "stormwater," "stormwater drainage system," and "receiving water body or receiving waters" as defined in chapter 14.28 EMC.

Section 3. EMC 14.08.135 is amended to add:

Effective January 1, 2025:

In addition to utility permit charges for sewer service, water service, and stormwater and any inspection charges, there is hereby imposed, on the owners of properties, special system development charges in the following amounts:

1. <u>Water and Sewer System Development Charges</u>

Meter Size	Water System Developmen t Charge	Sewer System Development Charge	Total Water and Sewer System Development Charges
3⁄4″	\$4,860	\$4,149	\$9,009
1" domestic/fire*	\$4,860	\$4,149	\$9,009
1″	\$8,115	\$6,929	\$15,044
1 1⁄2″	\$16,182	\$13,817	\$29,999
2″	\$25,901	\$22,115	\$48,016
3″	\$48,596	\$41,492	\$90,088
4"	\$81,009	\$69,167	\$150,176
6″	\$161,969	\$138,292	\$300,261
8″	\$259,160	\$221,276	\$480,436
10"	\$372,583	\$318,118	\$690,701
12"	\$546,701	\$466,783	\$1,013,484

*Domestic/Fire combination meter for Single Family Residences and Duplexes reviewed under the International Residential Code, upsized due to the addition of a fire sprinkler system.

The above table contains charges for inside City-limits. Areas outside City-limits, but connected to the City's water and sewer system, shall be charged the inside-City-limits charge plus (unless otherwise required by law) a 25% surcharge.

 <u>Stormwater System Development Charge</u>. In addition to water and sewer system development charges, there shall be a stormwater system development charge based on square footage of impervious surface area imposed on development within city limits that contributes stormwater to the stormwater drainage system or to a receiving water body or receiving waters*:

Development Type	Stormwater System Development Charge
New Construction	Base Charge (1 ISU ≤2500 sf): \$823 Additional charge for impervious area >2500 sf: \$0.3292/sf
Existing Development adding new impervious surface area	Calculated per square foot of added impervious surface area at \$0.3292/sf

ISU = Impervious Surface Unit, defined as 2500 sf of impervious surface area.

* "Impervious surface,", "stormwater," "stormwater drainage system," and "receiving water body or receiving waters" as defined in chapter 14.28 EMC.

Section 4. EMC 14.08.135 is amended to add:

Effective January 1, 2026:

In addition to utility permit charges for sewer service, water service, and stormwater and any inspection charges, there is hereby imposed, on the owners of properties, special system development charges in the following amounts:

1. <u>Water and Sewer System Development Charges</u>

Meter Size	Water System Development Fee	Sewer System Development Charge	Total Water and Sewer System Development Charges
3/4"	\$5,159	\$4,274	\$9,433
1″			
domestic/fire*	\$5,159	\$4,274	\$9,433
1″	\$8,616	\$7,137	\$15,753

1 ½"	\$17,181	\$14,231	\$31,412
2″	\$27,500	\$22,779	\$50,279
3″	\$51,595	\$42,737	\$94,332
4″	\$86,009	\$71,242	\$157,251
6″	\$171,966	\$142,441	\$314,407
8″	\$275,156	\$227,914	\$503,070
10"	\$395,578	\$327,661	\$723,239
12"	\$580,443	\$480,786	\$1,061,229

*Domestic/Fire combination meter for Single Family Residences and Duplexes reviewed under the International Residential Code, upsized due to the addition of a fire sprinkler system.

The above table contains charges for inside City-limits. Areas outside City-limits, but connected to the City's water and sewer system, shall be charged the inside-City-limits charge plus (unless otherwise required by law) a 25% surcharge.

 Stormwater System Development Charge. In addition to water and sewer system development charges, there shall be a stormwater system development charge based on square footage of impervious surface area imposed on development within city limits that contributes stormwater to the stormwater drainage system or to a receiving water body or receiving waters*:

Development Type	Stormwater System Development Charge
New Construction	Base Charge (1 ISU ≤2500 sf): \$906 Additional charge for impervious area >2500 sf: \$0.3624/sf
Existing Development adding new impervious surface area	Calculated per square foot of added impervious surface area at \$0.3624/sf

ISU = Impervious Surface Unit, defined as 2500 sf of impervious surface area.

* "Impervious surface,", "stormwater," "stormwater drainage system," and "receiving water body or receiving waters" as defined in chapter 14.28 EMC.

Section 5. EMC 14.08.135 is amended to add:

Effective January 1, 2027:

In addition to utility permit charges for sewer service, water service, and stormwater and any inspection charges, there is hereby imposed, on the owners of properties, special system development charges in the following amounts:

Meter Size	Water System Development Charge	Sewer System Development Charge	Total Water and Sewer System Development Charges
3⁄4″	\$5,478	\$4,402	\$9,880
1" domestic/fire*	\$5,478	\$4,402	\$9,880
1″	\$9,148	\$7,351	\$16,499
1 ½"	\$18,242	\$14,658	\$32,900
2″	\$29,197	\$23,462	\$52,659
3″	\$54,779	\$44,019	\$98,798
4"	\$91,317	\$73,379	\$164,696
6"	\$182,579	\$146,714	\$329,293
8″	\$292,138	\$234,751	\$526,889
10"	\$419,993	\$337,491	\$757,484
12"	\$616,267	\$495,210	\$1,111,477

1. <u>Water and Sewer System Development Charges</u>

*Domestic/Fire combination meter for Single Family Residences and Duplexes reviewed under the International Residential Code, upsized due to the addition of a fire sprinkler system.

The above table contains charges for inside City-limits. Areas outside City-limits, but connected to the City's water and sewer system, shall be charged the inside-City-limits charge plus (unless otherwise required by law) a 25% surcharge.

 Stormwater System Development Charge. In addition to water and sewer system development charges, there shall be a stormwater system development charge based on square footage of impervious surface area imposed on development within city limits that contributes stormwater to the stormwater drainage system or to a receiving water body or receiving waters*:

Development Type	Stormwater System Development Charge
New Construction	Base Charge (1 ISU ≤2500 sf): \$998 Additional charge for impervious area >2500 sf: \$0.3992/sf
Existing Development adding new impervious surface area	Calculated per square foot of added impervious surface area at \$0.3992/sf

ISU = Impervious Surface Unit, defined as 2500 sf of impervious surface area.

* "Impervious surface,", "stormwater," "stormwater drainage system," and "receiving water body or receiving waters" as defined in chapter 14.28 EMC.

Section 6. The preamble subsection of EMC 14.08.135 (which preamble states in its entirety "In addition to current sewer and water connection permit and inspection fees, there is hereby imposed, on the owners of properties, a special connection charge in the following amounts:") is deleted:

Section 7. EMC 14.08.135.I is amended as follows:

I. Impervious surface or area is defined by chapter 14.28 EMC.

Section 8. Sections of this Ordinance are to be codified as follows:

This Ordinance	EMC Subsection
Section	
2	14.08.135.A
3	14.08.135.B
4	14.08.135.C
5	14.08.135.D

The current EMC 14.08.135A-D are Sections 1 through 4 of Ordinance 3632-18. Those four ordinance sections contain charges for time periods prior to January 1, 2024. Although those four ordinance sections in Ordinance 3632-18 are not repealed, their codification is no longer necessary.

Section 9. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 10. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 11. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 12. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance

is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

CASSIE FRANKLIN, MAYOR

ATTEST:

CITY CLERK

Passed:

Valid:

Published: _____

Effective: _____

EVERETT City Council Agenda Item Cover

Project title: Budget Hearing #1 for the 2024 Proposed Operating Budget.

Council Bill #	Consideration: Ordinance						
CB 2310-55	Project: 2024 Proposed Budget						
Agondo datos reguestado	Fund: Multiple						
Agenda dates requested: 11/08/23 - 1 st Reading 11/15/23 - 2 nd Reading 11/29/23 - 3 rd Reading	Fiscal summary statement:						
Briefing	The combined aggregate budget totals are:						
Proposed action X Consent	Estimated Beginning Fund Balance and Revenues	\$746,730,743					
Action12/6/23OrdinanceXPublic hearing	Appropriations and Transfers Ending Fund Balances Total	\$438,816,064 <u>\$307,914,679</u> \$746,730,743					
X Yes No	Project summary statement:						
Budget amendment: Yes X No	The attached Ordinance establishes the City of Everett's 2024 Operating Budget. The proposed Ordinance affects all funds that are budgeted annually. The budget adoption process includes three scheduled public hearings.						
PowerPoint presentation: X Yes No							
	Recommendation (exact action requested of Council):						
Attachments: Ordinance	Conduct three public hearings, and adopt an Ordinance appropriating the budget for the City of Everett for the year 2024 in the amount of \$746,730,743.						
Department(s) involved: Finance							
Contact person: Susy Haugen							
Phone number: (425) 257-8612	ment: The attached Ordinance establishes the City of Everett's 2024 Operating Budget. The proposed Ordinance affects all funds that are budgeted annually. The budget adoption process includes three scheduled public hearings. esentation: No No Recommendation (exact action requested of Council): Conduct three public hearings, and adopt an Ordinance appropriating the budget for the City of Everett for the year 2024 in the amount of \$746,730,743. involved: n:						
Email: Shaugen@everettwa.gov							
Initialed by: $S\mathcal{H}$							
Department head							
Administration							
Council President							



ORDINANCE NO. _____

An ORDINANCE adopting the 2024 annual budget for the City of Everett, Washington.

WHEREAS,

The City Council has reviewed the proposed budget appropriations and information, which was made available; and approves the appropriation of local, state, and federal funds for the 2024 Budget.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The budget for the year 2024 now on file in the office of the City Clerk of the City of Everett in the aggregate amount of \$746,730,743 is hereby adopted, and the totals of estimated revenues and appropriations and transfers, including interfund reimbursements, and the aggregate totals for all such funds combined are as follows:

			Est. Beginning				
		I	Fund Balance &	Α	ppropriations	I	Ending Fund
Fund	Name		Revenue	& Transfers		Balance	
002	General Fund	\$	176,705,929	\$	144,305,929	\$	32,400,000
101	Parks & Recreation		7,719,214		7,719,214		-
110	Library		5,763,267		5,763,267		-
112	Municipal Arts		729,727		729,727		-
114	Conference Center		941,474		941,474		-
119	Street Improvements		4,006,855		4,006,855		-
120	Streets		3,420,598		3,420,598		-
126	Motor Vehicle/Equip Replacement		5,150,998		3,299,000		1,851,998
130	Develop. & Const. Permit Fees		6,089,696		4,926,453		1,163,243
138	Hotel Motel Tax Fund		1,873,906		1,010,000		863,906
145	Cumulative Res/Real Prop. Acquis.		4,242,249		187,500		4,054,749
146	Property Management		5,329,150		2,289,187		3,039,963
148	Cumulative Reserve /Parks		4,718,483		25,000		4,693,483
149	Senior Center Reserve		507 <i>,</i> 882		54,000		453,882
151	Fund for Animals		1,527,294		750,420		776,874
152	Cumulative Reserve /Library		637,559		114,937		522,622
153	Emergency Medical Services		35,587,082		19,826,040		15,761,042
154	Real Estate Excise Tax Fund		12,703,646		113,142		12,590,504
155	General Gov't Special Projects		9,332,236		200,000		9,132,236
156	Criminal Justice Fund		16,185,785		7,045,617		9,140,168

		I	Est. Beginning				
		F	und Balance &	Α	ppropriations	I	Ending Fund
Fund	Name		Revenue		& Transfers		Balance
157	Traffic Mitigation	\$	4,860,487	\$	4,860,487	\$	-
159	Transportation Benefit District		2,373,696		1,936,000		437,696
160	Rainy Day Fund		4,508,945		635,269		3,873,676
162	Capital Reserve		47,363,589		2,847,215		44,516,374
171	Affordable and Supportive Housing		852,262		-		852,262
197	CHIP Loan Program		14,724,490		1,179,632		13,544,858
198	Comm Develop. Block Grants		2,017,890		655,233		1,362,657
210	Bond Redemption Fund		2,372,215		2,372,215		-
401	Water/Sewer Utility		142,370,888		117,348,625		25,022,263
402	Solid Waste Utility		12,349,210		3,380,935		8,968,275
425	Transit		77,658,890		37,514,405		40,144,485
430	Everpark Garage		2,504,327		992,310		1,512,017
440	Golf		8,625,311		5,623,781		3,001,530
450	Sno River Reg Wtr Auth		18,000		18,000		-
501	Motor Vehicle Division		11,538,308		9,174,392		2,363,916
503	Self-Insurance Fund		23,601,233		13,950,349		9,650,884
505	Information Technology Reserve		7,076,128		4,063,056		3,013,072
507	Telecommunications Fund		1,159,705		812,375		347,330
508	Health Benefits Reserve		29,674,054		20,417,425		9,256,629
637	Police Pension Fund		18,119,166		1,792,000		16,327,166
638	Fire Pension Fund		29,788,919		2,514,000		27,274,919
TOTAL CIT	Y BUDGET	\$	746,730,743	\$	438,816,064	\$	307,914,679

Section 2. The above appropriations and transfers will be used by the various departments of the City of Everett as allocated in the 2024 budget.

Section 3. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause, or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

<u>Section 5</u>. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.



ORDINANCE

Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



From:Scott PattisonSent:Monday, November 13, 2023 3:30 PMTo:Angela ElySubject:Baseball

Follow up

Flagged

Follow Up Flag: Flag Status:

Category 2: Sensitive information

Angela, This makes 3

Category 2: For official use only / disclosure permissible by law.

From: morrietrautman@gmail.com <morrietrautman@gmail.com> Sent: Thursday, November 9, 2023 10:49 AM To: Scott Pattison <<u>SPattison@everettwa.gov</u>> Subject: [EXTERNAL] Baseball

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Scott,

Here is the text of my presentation at City Council last evening. Need anything else, let me know.

Madame Mayor Madame President Council

My name is Morrie Trautman and I reside at 816 35th Street, here in Everett.

My intention for speaking to Council this evening is to encourage you, as the City, to endorse the expenditure of funds, to explore the feasibility of engaging the community in the construction of a new Major League compliant baseball stadium. My partner's son, Andy Atwood, is a professional baseball player with the Chicago White Sox organization. Prior to the White Sox, he played 5 years of collegiate baseball for Oregon State University and the University of Texas. Kathy and I have had the opportunity to travel the country watching Andy play baseball. From the Cape Cod League in New England to Spring training in Arizona we have visited many cities and small towns and witnessed the effects and contributions these professional level baseball facilities have on the vitality and character of their communities.

One such community is Kannapolis, North Carolina. It is a small blue collar town where Andy played for the local Low A affiliate of the White Sox, the Kannapolis Cannonballers. Historically a mill town, textile mills in this case, not timber like Everett. It was home to the Cannon Textile Mills, makers of Cannon towels. After the offshoring of the textile industry the town went into a lengthy depression. Sound familiar?... The old mill sights were eventually bought and repurposed into a public/private research center, currently housing research facilities for numerous universities and private enterprises. Adjacent to the research center and contiguous to the downtown area, the community constructed a new baseball facility that has become the center piece of the town. On game days, it is filled with the noise of sports fans. When not in use for baseball, it is open to the citizens of the community as a city park. At most times of the day, you can see families and friends using the stadium for walking, running, picnics, dog walking and other family activities. Summertime brings evening movies to the big screen, to be enjoyed by the townspeople.

In closing, it is a given that with the new mandates of Major League Baseball, the Aquasox are faced with a move. I would like to encourage the Council to engage this opportunity to bring a new vitality to our city and maintain the continuance of professional baseball in our community.

Thank you.

Morrie Trautman

From:	Scott Pattison
Sent:	Monday, November 13, 2023 3:29 PM
То:	Angela Ely
Subject:	Letter
Attachments:	NOV8.COE.CITY COUNCIL. AGENDA17.docx

Follow Up Flag: Flag Status: Follow up Flagged

Category 2: Sensitive information

Category 2: For official use only / disclosure permissible by law.

Category 2: For official use only / disclosure permissible by law.

I am here to ask the city council to approve the contract to do a study of the potential locations for the AquaSox baseball park stadium.

As a lifelong resident, born and raised here in Everett, I believe it is crucial to keep the AquaSox here in town.

In the mid-80s, when the Everett Giants came here, it was a huge WIN for this city...it brought affordable family fun to this community. On a personal note, when I got my driver's license, in 1986, one of the first outings I got to do with my friends, is drive us to a Giants game...with no parents!

Over the years, as the team evolved and changed and became the AquaSox, not a summer went by without going to the park to catch a game. It was more cost effective than going to the movies or any events down near Seattle.

I have incredible memories watching my son run the bases after games, or go to the AquaSox camps every summer...it had a huge influence on him and his love of the sport...He loved everything about the team and the sport - and a proud mom moment – he is currently a sophomore at Wenatchee valley college on a baseball scholarship!

The great thing about sporting events., like the Aquasox, is you don't HAVE to be a baseball fan to enjoy the games...it is a shared social event...it brings people together...plus has a huge impact on local business – whether it is dinner before the games, drinks after, or becoming a new customer to a local company because you saw their banner on the wall...

And on a professional level – I currently work for another sports team, here in Everett, right down the hill....and I love partnership with the AquaSox – we do share season ticket holders, share some sponsors, share some strategies...and we support each other.

So, this study is critical to keep the AquaSox in Everett.... it's a vital part of our community.

Katrina Koontz

Senior Sales & Marketing Account Executive, Everett Silvertips

Resident of Marysville, WA

From:	Scott Pattison
Sent:	Monday, November 13, 2023 3:27 PM
То:	Angela Ely
Subject:	Letter of Support
Attachments:	Letter of support for Aquasox 2023.pdf

Follow Up Flag: Flag Status: Follow up Flagged

Category 2: Sensitive information

Angela I have a couple of these, can you share them with all the members?

Scott

Category 2: For official use only / disclosure permissible by law.



November 8, 2023

Everett City Council 2930 Wetmore Avenue Everett, WA 98201

Dear Council Members,

I am writing to ask you to support the funding of the SEPA Study needed to continue the new ballpark project for the Everett AquaSox.

As a long-time business owner in Everett, I have been a partner and supporter of the AquaSox for years. Lombardi's has provided postgame meals for the team for several years and even fed the team when Mariners legend, Felix Hernandez, pitched a rehab game in front of a sellout crowd in 2016!

The AquaSox are important to the community, and it would leave a void in the quality of life of our community if we were to lose them. The AquaSox have been providing affordable family fun since 1984. As a business owner having affordable entertainment makes Everett more attractive to my employees. A new stadium will also offer continued growth for youth sports in our area. This is important to me and my employees.

The SEPA study is critical, as it is the next step in keeping the AquaSox in Everett. I ask that the Everett City Council support the funding request for the SEPA study. The state has already allocated \$7.2M for the stadium project, therefore, funding for this study can be appropriated from this source.

Thank you for your thoughtful consideration of this request.

Regards,

Kein Jogn-Duke

Kerri Lonergan-Dreke CEO/Co-Owner Lombardi's Restaurant Group

Category 2: Sensitive information

Hello,

The email below will be submitted as written comment at this evenings Council meeting.

Thank you, Angie

Category 2: For official use only / disclosure permissible by law.

From: travel.trygve@hushmail.com <travel.trygve@hushmail.com>
Sent: Wednesday, November 15, 2023 7:09 AM
To: DL-Council <Council@everettwa.gov>
Subject: [EXTERNAL] No Stadium

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Yesterday's Herald says the city council is considering an \$80 million stadium. That's just nuts. Infrastructure projects, social projects, and many other worthy institutions like our library and parks can't be funded because funds are short, and now you want to blow \$80 million on a stadium. That's more than \$700 per Everett resident! No one will derive such value from it.

I will say it again: That's just nuts.

Trygve Anderson 814 Colby Avenue Everett WA 98201



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State your name and city of residence when you begin speaking. Each person is asked to limit comments to three minutes. This allows everyone a fair opportunity to speak. Return this form to the council administrator before the meeting begins.

All comments must be relevant and delivered to the Council as a whole in a respectful manner. The following comments are not allowed:

- Comments on any kind of campaigning, whether for or against ballot measures or candidates running for office
- Comments advertising any product
- Comments focused on personal matters that are unrelated to City business

You can also submit a comment and attend meetings online at **everettwa.gov/city council**. Click on "Council meeting public comment sign up form." This must be done at least 30 minutes prior to the meeting. Additional instructions are available on the web page.

City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

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NAME (required): Michele Dillon	
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DATE: 11-15-23
NAME (required): Shyleen Reed
CITY (required): <u>Evenett</u> ZIP (required): <u>Evenett</u>
EMAIL (optional):PHONE (optional):_425-760-6058
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During the comment period that will follow the agenda item AGENDA ITEM #:
During the general public comment. Please state the topic you would like to speak on: <u>City of Everett</u> , <u>animal</u> <u>Code</u> <u>Chenge</u>
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DATE: 11/15/2023
NAME (required): HECFOI FERNANDE Lerma Peña
CITY (required): Everett WA ZIP (required): 18204
EMAIL (optional): helerma 3 Qg mais com PHONE (optional): 425-232-0271
DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city
When would you like to deliver your comments: Is your topic on today's agenda?
During the comment period that will follow the agenda item AGENDA ITEM #:
During the general public comment. Please state the topic you would like to speak on: <u>Public Zone Asmorking & No disturbance</u> <u>Right to be let alone law</u>
Public Comment forms are public records and are subject to disclosure pursuant to the Public Records Act

(RCW 42.56) and may be posted online with City archived records.



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DATE: 11-15-23	
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DATE: 11/15/2023
NAME (required): MICHOEL WALLACE
CITY (required): <u>EVERETT</u> ZIP (required): <u>19203</u>
EMAIL (optional):PHONE (optional):
DISTRICT (circle one): 1 2 (3) 4 5 Not sure Don't live in city
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DATE: 11-15_23
NAME (required): DANNY TETZLAFF
CITY (required): EVENIT ZIP (required): 98201
EMAIL (optional): Clampt Bagueso PHONE (optional): 509 833 8801
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DATE: 11/13/23
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