



Everett City Council Preliminary Agenda
6:30 p.m., Wednesday, February 21, 2024
City Council Chambers

Roll Call

Pledge Of Allegiance

Land Acknowledgment

Approval Of Minutes: February 14, 2024

Mayor's Comments: Swear In Everett Police Officer: Robab Gessese

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 \$1,745,808.09 For The Period Ending February 3, 2024 Through February 9, 2024.

Documents:

[RES CLAIMS PAYABLE FEB 3, 2024 - FEB 9, 2024.PDF](#)

(2) Authorize The Mayor To Sign The Municipal Stormwater Capacity Grant Agreement With The Washington State Department Of Ecology For The Biennium (2023-2025) In The Amount Not To Exceed \$130,000.

Documents:

[DOE-BIENNIAL STORMWATER CAPACITY GRANT AGMT.PDF](#)

(3) Authorize Mayor To Execute The Lease Agreement With Everett Rowing Association For The Shell House And Storage Building At Langus Riverfront Park.

Documents:

[EVERETT ROWING ASSOCIATION LEASE.PDF](#)

(4) Authorize The Mayor To Sign Amendment No. 1 With Elcon Associates, Inc.

Documents:

[INDUCTIVE CHARGING INFRASTRUCTURE FOR ECLIPSE MILL PARK CHANGE ORDER NO. 1.PDF](#)

(5) Authorize The Mayor To Sign An Interlocal Agreement With Snohomish County For \$80,000 In 2024 REET II Funding To Construct A Skate Feature At Lion's Park.

Documents:

[LIONS PARK SKATE DOT INTERLOCAL AGREEMENT.PDF](#)

(6) Authorize The Mayor To Sign The Professional Services Agreement With Natural Systems Design Inc. For The Fish Passage Barrier Inventory And Assessments Program.

Documents:

[NATURAL SYSTEMS DESIGN-FISH PASSAGE BARRIER INVENTORY AND ASSESSMENTS PRG-PSA.PDF](#)

(7) Authorize The Mayor To Sign The Agreement To Release Funds To The Port Of Everett For West Marine View Drive Public Access Improvements In Substantially The Form Provided.

Documents:

[PROJECT FUNDS RELEASE AGREEMENT-PORT OF EVERETT FOR WEST MARINE VIEW DRIVE PUBLIC ACCESS IMPROVEMENTS.PDF](#)

(8) Authorize The Mayor Or Her Designee To Apply For Grant Funding And Adopt A Resolution That Designates Authorized Representatives To Act On Behalf Of The City Of Everett And Sign All Necessary Documents With Respect To The SRFB Grant For The Fish Passage Barrier Inventory, Assessment, And Prioritization Project In The Amount Of Up To \$60,000.

Documents:

[WA RECREATION_CONSERVATION OFFICE_SALMON RECOVERY COUNCIL-GRANT APP APPROVAL.PDF](#)

(9) Authorize The Mayor Or Her Designee To Apply For, And If Awarded, To Sign All Necessary Documents And Agreements For The SRFB Grant For The Fish Passage Barrier Inventory, Assessment, And Prioritization Project In The Amount Of Up To \$200,000.

Documents:

[FISHBARRIERREMOVALINVENTORYASSESSPRIOR_WRIA7_GRANTAUTHORIZATION.PDF](#)

(10) Authorize The Mayor To Sign The Washington State Department Of Transportation 2023-2025 Transit Support Grant Agreement.

Documents:

[WSDOT PTD0946 TRANSIT SUPPORT GRANT.PDF](#)

(11) Authorize The Mayor To Sign The Washington State Department Of Transportation 2023-2025 Paratransit Grant Agreement.

Documents:

[WSDOT PTD0947 PARATRANSIT GRANT AGREEMENT.PDF](#)

(12) Authorize Everett Transit To Purchase Five Reconditioned Buses From Complete Coachworks.

Documents:

[EVERETT TRANSIT- 5 BUS PURCHASE WITH EURO WINDOWS.PDF](#)

ACTION ITEMS:

(13) CB 2401-77 – 3rd & Final Reading - Adopt An Ordinance Closing A Special Improvement Project Entitled "Emma Yule Park Improvements", Fund 354, Program 064, As Established By Ordinance No. 3797-21.

Documents:

[CB 2401-77.PDF](#)

(14) CB 2401-78 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Improvement Project Entitled "Edgewater Creek Bridge Replacement" Fund 303, Program 115, To Accumulate All Costs For The Improvement And Repealing Ordinance No. 3719-19.

Documents:

[CB 2401-78.PDF](#)

(15) CB 2401-79 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Improvement Project Entitled "Forest Park Pickleball Court Installation", Fund 354, Program 093, To Accumulate All Design And Permitting Costs For The Project In The Amount Of \$250,000.

Documents:

[CB 2401-79.PDF](#)

(16) CB 2401-80 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Improvement Project Entitled "Kiwaniis Park Renovations", Fund 354, Program 090, To Accumulate All Project Costs In The Amount Of \$411,000.

Documents:

[CB 2401-80.PDF](#)

(17) CB 2401-81 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Improvement Project Entitled "Larimer Barn Demolition", Fund 354, Program 097, To Accumulate All Costs For The Project In The Amount Of \$85,000.

Documents:

[CB 2401-81.PDF](#)

(18) CB 2401-82 – 3rd & Final Reading - Adopt An Ordinance Closing A Special Improvement Project Entitled, Madison Morgan Park Improvements, Fund 354, Program 063, As Established By Ordinance No. 3818-21.

Documents:

[CB 2401-82.PDF](#)

BRIEFING & PROPOSED ACTION ITEM:

(19) CB 2402-83 – 1st Reading - Adopt An Ordinance Amending Ordinance No. 3779-20, As Amended, Entitled "Everett Municipal Building – Public Works Tenant Improvement Project", Fund 342, Program 42 & 43, Fund 336, Program 015 To Accumulate All Costs For The Project. (3rd & Final Reading 3/6/24)

Documents:

Executive Session

Adjourn

PARTICIPATION IN REMOTE COUNCIL MEETINGS

- o Call in to listen to the Council meetings: 425.616.3920, conference ID: 724 887 726#
- o Participate remotely via Zoom by registering to speak at everettwa.gov/speakerform. You must register no later than 30 minutes prior to the meeting. Or contact Angela Ely at 425.257.8703 or aely@everettwa.gov and identify the topic you wish to address.
- o 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.**
- o 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.

AGENDAS, BROADCAST AND RECORDINGS

- o The Council agendas and meeting recordings can be found, in their entirety, at everettwa.gov/citycouncil.
- o 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.
- o Watch live meetings and recordings at YouTube.com/EverettCity.

CONTACT THE COUNCIL

If you do not wish to participate in the meeting, we provide these other methods of contacting your elected officials: Email the Council at Council@everettwa.gov.

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

The City of Everett does not discriminate on the basis of disability in the admission or access to, or treatment in, its programs or activities. Requests for assistance or accommodations can be arranged by contacting the Everett City Council Office at 425.257.8703. For additional information, please visit our website at <https://www.everettwa.gov/3129/American-Disabilities-Act-ADA-and-Title->.

RESOLUTION NO. _____

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 February 3, 2024 through February 9, 2024, 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>	<u>Department</u>	<u>Amount</u>	<u>Fund</u>	<u>Department</u>	<u>Amount</u>
001	City Council	88.19	101	Parks & Recreation	3,747.38
002	General Government	16,172.59	110	Library	53,009.04
003	Legal	5,299.55	112	Community Theater	15,775.47
004	Administration	3,670.00	120	Public Works-Streets	5,029.88
005	Municipal Court	304.48	130	Develop & Const Permit Fee	280.63
007	Human Resources	877.56	146	Property Management	16,065.87
009	Misc Financial Funds	209,833.25	148	Cum Reserve-Parks	55.76
010	Finance	1,538.21	152	Cum Reserve-Library	1,449.35
015	Information Technology	84.60	153	Emergency Medical Service:	134,298.58
021	Planning & Community Dev	1,250.89	155	Capital Reserve Fund	45.82
024	Public Works-Engineering	135,404.22	156	Criminal Justice	29,622.71
026	Animal Shelter	2,436.08	197	CHIP Loan Program	97.38
030	Emergency Management	353.68	303	PW Improvement Projects	14,431.63
031	Police	14,681.23	336	Water & Sewer Sys Improv I	194,027.46
032	Fire	1,836.18	342	City Facilities Construction	48,422.00
038	Facilities/Maintenance	5,072.79	354	Parks Capital Construction	5,475.00
TOTAL GENERAL FUND		\$ 398,903.50	401	Public Works-Utilities	360,078.93
			425	Public Works-Transit	45,130.45
			430	Everpark Garage	993.21
			440	Golf	3,276.05
			501	MVD-Transportation Service	96,232.30
			503	Self-Insurance	28,140.96
			505	Computer Reserve	8,529.34
			507	Telecommunications	4,154.89
			508	Health Benefits Reserve	21,000.00
			637	Police Pension	46,275.60
			638	Fire Pension	48,712.00
			661	Claims	83,832.51
			665	Other Special Agency Funds	49,269.42
			670	Custodial Funds	29,444.97
				TOTAL CLAIMS	\$ 1,745,808.09

Councilperson introducing Resolution

Passed and approved this _____ day of _____, 2024

Council President

Project title: Authorize 2023-2025 Biennial Stormwater Capacity Grant Agreement

Council Bill #

Agenda dates requested:
2/21/24

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

Budget amendment:
Yes ☒ X No

PowerPoint presentation:
Yes ☒ X No

Attachments: Municipal
Stormwater Capacity Grant
Agreement

Department(s) involved:
Public Works

Contact person:
Souheil Nasr

Phone number:
425-257-7210

Email:
SNasr@everettwa.gov

Initialed by:
RLS
Department head

Administration

Council President

Consideration: 2023-2025 Biennial Stormwater Capacity Grant Agreement

Project: City of Everett Western Washington Phase II Municipal Stormwater Permit Implementation

Partner/Supplier: Washington State Department of Ecology

Location: City of Everett

Preceding action: NA

Fund: Fund 401 – Water/Sewer Utility Fund

Fiscal summary statement:

The amount funded by the Municipal Stormwater Capacity Grant Agreement (2023-2025) for implementation of tasks required for compliance with the Phase II Municipal Stormwater Permit is for \$130,000 for the biennium (July 1, 2023 through March 31, 2025).

Project summary statement:

The Washington State Department of Ecology (Ecology) issued the City of Everett the first Phase II Municipal Stormwater Permit in 2007 under the National Pollutant Discharge Elimination System (NPDES) permit program. This permit program is a requirement of the federal Clean Water Act. The Phase II Municipal Stormwater Permit authorizes the discharge of stormwater runoff from the municipal separate stormwater system into surface waters and groundwaters, as long as the City implements Permit-specified components to protect water quality. Ecology's most recent Phase II Municipal Stormwater Permit became effective August 1, 2019. The Permit has additional compliance and reporting requirements that are being phased in over the 5 year period.

Ecology provides non-competitive biennial grant funding in the form of Municipal Stormwater Capacity grants to Phase I and Phase II Permittees to assist with implementation and management of the Phase II Municipal Stormwater Permit. Grant funds will be used to attain compliance with current and future requirements where applicable such as: water quality monitoring for TMDLs; developing policies, source control, and stormwater management action planning.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the Municipal Stormwater Capacity Grant Agreement with the Washington State Department of Ecology for the biennium (2023-2025) in the amount not to exceed \$130,000.



Agreement No. WQSWCAP-2325-EverPW-00090

WATER QUALITY STORMWATER CAPACITY AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF EVERETT

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and City of Everett, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	2023-2025 Biennial Stormwater Capacity Grants
Total Cost:	\$130,000.00
Total Eligible Cost:	\$130,000.00
Ecology Share:	\$130,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2023
The Expiration Date of this Agreement is no later than:	03/31/2025
Project Type:	Capacity Grant

Project Short Description:

This project will assist Phase I and II Permittees in implementation or management of municipal stormwater programs.

Project Long Description:

N/A

Overall Goal:

This project will improve water quality in the State of Washington by reducing stormwater pollutants discharged to state water bodies.

Agreement No: WQSWCAP-2325-EverPW-00090
Project Title: 2023-2025 Biennial Stormwater Capacity Grants
Recipient Name: City of Everett

RECIPIENT INFORMATION

Organization Name: City of Everett

Federal Tax ID: 91-6001248
UEI Number: LVPSLN4A2LF6

Mailing Address: 3200 Cedar St.
Everett, Washington 98201

Physical Address: 3200 Cedar St.
Everett, Washington 98201

Organization Email: sbridge@everettwa.gov
Organization Fax: (425) 257-8945

Contacts

Agreement No: WQSWCAP-2325-EverPW-00090
Project Title: 2023-2025 Biennial Stormwater Capacity Grants
Recipient Name: City of Everett

Project Manager	<p>Dana Zlateff Surface Water Compliance Specialist</p> <p>3200 Cedar Street Everett, Washington 98201 Email: dzlateff@everettwa.gov Phone: (425) 257-8927</p>
Billing Contact	<p>Mi Young Lee Financial Analyst</p> <p>3200 Cedar St. Everett, Washington 98201 Email: mlee@everettwa.gov Phone: (425) 257-8922</p>
Authorized Signatory	<p>Sarrah Superville Capital Program Funding Manager</p> <p>3200 Cedar St. Everett, Washington 98201 Email: ssuperville@everettwa.gov Phone: (425) 257-8922</p>

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Water Quality
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Water Quality
300 Desmond Drive SE
Lacey, WA 98503

Contacts

Project Manager	<div>Kyle Graunke</div> <div>PO Box 47600 Olympia, Washington 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 628-3890</div>
Financial Manager	<div>Kyle Graunke</div> <div>PO Box 47600 Olympia, Washington 98504-7600 Email: kygr461@ecy.wa.gov Phone: (360) 628-3890</div>

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State Department of Ecology	City of Everett
By: _____	By: _____
Vincent McGowan, P.E. Water Quality Program Manager	Sarrah Superville Capital Program Funding Manager
Date	Date
Template Approved to Form by Attorney General's Office	

Cassie Franklin

MayorDate

Tim Benedict

Deputy City AttorneyDate

Marista Jorve

City ClerkDate

Agreement No: WQSWCAP-2325-EverPW-00090
Project Title: 2023-2025 Biennial Stormwater Capacity Grants
Recipient Name: City of Everett

SCOPE OF WORK

Task Number: 1

Task Cost: \$5,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: Maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and the EAGL (Ecology Administration of Grants and Loans) recipient closeout report (including photos, if applicable). In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

B. The RECIPIENT shall keep documentation that demonstrates the project is in compliance with applicable procurement, contracting, and interlocal agreement requirements; permitting requirements, including application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items. This documentation shall be available upon request.

C. The RECIPIENT shall maintain effective communication with ECOLOGY and maintain up-to-date staff contact information in the EAGL system. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant and loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and Recipient Closeout Report.
- * Properly maintained project documentation.

Recipient Task Coordinator: Dana Zlateff

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports that include descriptions of work accomplished, project challenges or changes in the project schedule. Submitted at least quarterly.	
1.2	Recipient Closeout Report (EAGL Form).	

Agreement No: WQSWCAP-2325-EverPW-00090
Project Title: 2023-2025 Biennial Stormwater Capacity Grants
Recipient Name: City of Everett

SCOPE OF WORK

Task Number: 2

Task Cost: \$125,000.00

Task Title: Permit Implementation

Task Description:

Conduct work related to implementation of municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit requirements. If the RECIPIENT is out of compliance with the Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) permit, the RECIPIENT will use funds to attain compliance where applicable. The following is a list of elements projects may include:

- 1) Public education and outreach activities, including stewardship activities.
- 2) Public involvement and participation activities.
- 3) Illicit discharge detection and elimination (IDDE) program activities, including:
 - a) Mapping of municipal separate storm sewer systems (MS4s).
 - b) Staff training.
 - c) Activities to identify and remove illicit stormwater discharges.
 - d) Field screening procedures.
 - e) Complaint hotline database or tracking system improvements.
- 4) Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 - a) Development of an ordinance and associated technical manual or update of applicable codes.
 - b) Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance.
 - c) Training for plan review or inspection staff.
 - d) Participation in applicable watershed planning effort.
- 5) Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 - a) Inspecting and/or maintaining the MS4 infrastructure.
 - b) Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
- 6) Annual reporting activities.
- 7) Establishing and refining stormwater utilities, including stable rate structures.
- 8) Water quality monitoring to implement permit requirements for a Water Cleanup Plan (Total Maximum Daily Load (TMDL)). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan (QAPP) that ECOLOGY approves prior to awarding funding for monitoring. Monitoring must directly meet a Phase I or II permit requirement.
- 9) Structural stormwater controls program activities (Phase I permit requirement).
- 10) Source control for existing development (Phase I permit requirement), including:
 - a) Inventory and inspection program.
 - b) Technical assistance and enforcement.
 - c) Staff training.
- 11) Equipment purchases that result directly in improved permit compliance. Equipment purchases must be specific to implementing a permit requirement (such as a vector truck) rather than general use (such as a pick-up truck). Equipment purchases over \$5,000.00 must be pre-approved by ECOLOGY.

Agreement No: WQSWCAP-2325-EverPW-00090
Project Title: 2023-2025 Biennial Stormwater Capacity Grants
Recipient Name: City of Everett

Documentation of all tasks completed is required. Documentation may include field reports, dates and number of inspections conducted, dates of trainings held and participant lists, number of illicit discharges investigated and removed, summaries of planning, stormwater utility or procedural updates, annual reports, copies of approved QAPPs, summaries of structural or source control activities, summaries of how equipment purchases have increased or improved permit compliance.

Ineligible expenses include capital construction projects, incentives or give-a-ways, grant application preparation, Technology Assessment Protocol - Ecology (TAPE) review for proprietary treatment systems, or tasks that do not support Municipal Stormwater Permit implementation.

Task Goal Statement:

This task will improve water quality in the State of Washington by reducing the pollutants delivered by stormwater to lakes, streams, and the Puget Sound by implementing measures required by Phase I and II NPDES permits.

Task Expected Outcome:

RECIPIENTS will implement measures required by Phase I and II NPDES permits.

Recipient Task Coordinator: Dana Zlateff

Permit Implementation

Deliverables

Number	Description	Due Date
2.1	Documentation of tasks completed	

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Recipient Name: City of Everett

BUDGET**Funding Distribution EG240257**

NOTE: *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: 2023-25 Stormwater Capacity Grant Funding Type: Grant
Funding Effective Date: 07/01/2023 Funding Expiration Date: 03/31/2025
Funding Source:

Title: Model Toxics Control Stormwater Account (MTCSA)

Fund: FD

Type: State

Funding Source %: 100%

Description: MTCSA

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%
Recipient Match %: 0%
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

2023-25 Stormwater Capacity Grant	Task Total
Grant and Loan Administration	\$ 5,000.00
Permit Implementation	\$ 125,000.00

Total: \$ 130,000.00

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 Project Title: 2023-2025 Biennial Stormwater Capacity Grants
 Recipient Name: City of Everett

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
2023-25 Stormwater Capacity Grant	0.00 %	\$ 0.00	\$ 130,000.00	\$ 130,000.00
Total		\$ 0.00	\$ 130,000.00	\$ 130,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered

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Recipient Name: City of Everett

transaction complies with certification of suspension and debarment requirements.

7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in www.sam.gov <http://www.sam.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in

Agreement No: WQSWCAP-2325-EverPW-00090

Project Title: 2023-2025 Biennial Stormwater Capacity Grants

Recipient Name: City of Everett

the [System for Award Management \(SAM\) <https://sam.gov/SAM/>](https://sam.gov/SAM/) exclusion list.

Agreement No: WQSWCAP-2325-EverPW-00090
Project Title: 2023-2025 Biennial Stormwater Capacity Grants
Recipient Name: City of Everett

GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

07/01/2023 Version

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/2301002.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.

* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff, volunteers, and contractors working at the project site.
 - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

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j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

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The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

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16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

20. PROGRESS REPORTING

Agreement No: WQSWCAP-2325-EverPW-00090
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Recipient Name: City of Everett

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

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22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
 - b) Be kept in a common file to facilitate audits and inspections.
 - c) Clearly indicate total receipts and expenditures related to this Agreement.
 - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

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27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

28. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

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event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions

Project title: Lease Agreement with Everett Rowing Association for the Shell House and Storage Building at Langus Riverfront Park

Council Bill # *interoffice use*

Agenda dates requested:

Briefing
Proposed action
Consent 2/21/24
Action
Ordinance
Public hearing
Yes X No

Budget amendment:
Yes X No

PowerPoint presentation:
Yes X No

Attachments:
Lease Agreement

Department(s) involved:
Real Property
Parks & Facilities
Legal

Contact person:
Bob Leonard

Phone number:
425-257-8335

Email:
bleonard@everettwa.gov

Initialed by:
RML
Department head

Administration

Council President

Project: Lease Agreement with Everett Rowing Association

Partner/Supplier: Everett Rowing Association

Location: 300 Smith Island Rd. Everett, WA 98201

Preceding action: NA

Fund: NA

Fiscal summary statement:

The Everett Rowing Association leases the shell house and a storage building located at 300 Smith Island Rd., at Langus Riverfront Park to run operations and programs for their youth and adult rowing program. The proposed lease will replace the existing License to Use City Property Agreement. The lease of both buildings contains approximately 7,050 rentable square feet and provides monthly rent of \$786.29 with a 3% increase each year.

Project summary statement:

The Everett Rowing Association has used the shell house and storage building at Langus Riverfront Park since 1991. The current License to Use City Property Agreement expired on December 31, 2023, and has continued on a month-to-month basis. The License to Use City Property Agreement is being replaced with a lease agreement. The proposed lease agreement includes a 5-year lease term with a tenant option to renew the lease for an additional 5 years.

Recommendation (exact action requested of Council):

Authorize Mayor to execute the lease agreement with Everett Rowing Association for the shell house and storage building at Langus Riverfront Park.



STANDARD LEASE

This Lease is made as of the date of last signature below, between the City of Everett, a Washington municipal corporation ("**Landlord**"), and Everett Rowing Association, a Washington Nonprofit Corporation ("**Tenant**").

1. BASIC LEASE PROVISIONS. The following definitions and provisions apply and are part of this Lease:

Base Rent	<p>\$786.29 per month + 3% increase each Lease year, as follows:</p> <table><tr><th>Dates</th><th>Monthly Rent</th></tr><tr><td>January 1, 2024-December 31, 2024</td><td>\$786.29</td></tr><tr><td>January 1, 2025-December 31, 2025</td><td>\$809.88</td></tr><tr><td>January 1, 2026-December 31, 2026</td><td>\$834.18</td></tr><tr><td>January 1, 2027-December 31, 2027</td><td>\$859.20</td></tr><tr><td>January 1, 2028-December 31, 2028</td><td>\$884.98</td></tr></table>	Dates	Monthly Rent	January 1, 2024-December 31, 2024	\$786.29	January 1, 2025-December 31, 2025	\$809.88	January 1, 2026-December 31, 2026	\$834.18	January 1, 2027-December 31, 2027	\$859.20	January 1, 2028-December 31, 2028	\$884.98
Dates	Monthly Rent												
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January 1, 2027-December 31, 2027	\$859.20												
January 1, 2028-December 31, 2028	\$884.98												
Security Deposit	\$0 (if "0" or left blank, then there is no security deposit)												
Building	<p>The two buildings (a shell house building and a storage building) located at 300 Smith Island Rd., in Everett, Washington, in which the Leased Premises is located.</p> <p>The legal description of real property on which the buildings are located is attached as <u>Exhibit A</u>. If the parties determine that a drawing of the Leased Premises is necessary, it will also be included as part of <u>Exhibit A</u>.</p> <p>In this Lease, the two buildings are collectively referred to as the "Building."</p>												
Leased Premises	<p>The interior space of the Building containing approximately 7,050 rentable square feet:</p> <p>Shell House: 5,800</p> <p>Storage building: 1,250</p>												
Term	<u>60 months</u> : (5) years, from January 1, 2024 to December 31, 2028.												
Extension Term	The terms and conditions of Extension Term(s), if any, are provided in <u>Exhibit B</u> . If there is no <u>Exhibit B</u> , then there are no Extension Term(s).												
Approved Use	General office use only.												

Special Termination Right	Landlord may terminate this Lease, with or without cause, upon ninety (90) days prior written notification to Tenant. This termination is not a default under this Lease by either party, and Tenant's obligation to pay Base Rent and Additional Rent is only for Base Rent and Additional Rent accruing prior to the effective date of the termination.
Landlord Notice Address	Real Property Manager City of Everett 802 E. Mukilteo Blvd, Bldg. 100 Everett, WA 98203
Tenant Notice Address	At the Leased Premises, with a copy to: Everett Rowing Association P.O. Box 774 Everett, WA 98206 Attn. Sarah Kelly
Services Provided by Landlord	Landlord will provide the Leased Premises with electricity, water, sewer and heat and garbage services. These services are included in the Base Rent.
Additional Requirements Regarding Signs	All signage must be pre-approved by the Landlord (as stated in Section 12 below) and all costs associated with any signage and installation or removal of any signage is solely the responsibility of the Tenant.
Additional Rules	<p>Dissemination of public information: Any request for information or public questions, complaints, feedback etc. must be referred to the Recreation Office and any dissemination of Everett Parks and Facilities information must be pre-approved by contacting the Recreation Office at 425 257-8300 option 2 or recreation@everettwa.gov.</p> <p>Keys and Access: At the Tenant's expense, Tenant may rekey and lock the premises but must provide two keys to Landlord for Landlord access.</p> <p>Trash and waste removal: Tenant may dispose of garbage waste in the large waste dumpster across from the property on Smith Island Rd.</p> <p>Not responsible for lost, stolen, or damaged items: The Landlord is not responsible for any lost, stolen, or damaged items inside the Building.</p> <p>Stored items: The Tenant may not store or keep anything outside of the Building at any time.</p>
Additional Provisions	N/A
Landlord Work	If Landlord has agreed to construct improvements in the Leased Premises, such work is shown in <u>Exhibit C</u> . If there is no <u>Exhibit C</u> , Landlord has not agreed to construct any improvements in the Leased Premises.

Lease Guaranty	Name of Guarantor, if any: . The terms and conditions of the Lease Guaranty, if any, are provided in <u>Exhibit D</u> . If there is no <u>Exhibit D</u> , then there is no Guarantor or Lease Guaranty.
Parking	The parking provisions of this Lease, if any, are provided in <u>Exhibit E</u> . If there is no <u>Exhibit E</u> , then there are no parking provisions applicable to this Lease.
Tenant Insurance Contact Information	Enter insurance contact name
	Enter insurance contact phone number
	Enter insurance contact email address

2. LEASED PREMISES. Landlord leases to Tenant, and Tenant leases from Landlord, the Leased Premises. Tenant has examined the Leased Premises and is in all respects familiar with the Leased Premises and the improvements in the Leased Premises and Building. Tenant accepts the Leased Premises and its improvements in their “as is” condition. Tenant further acknowledges and agrees that (a) except as specifically provided in this Lease, Landlord has made no representations or warranties to Tenant with respect to the Leased Premises or the Building, (b) Tenant is not relying on any representations or warranties by any person regarding the Leased Premises or the Building, and (c) except for Landlord Work, if any, described in Section 1 and Exhibit C to this Lease, Landlord has no obligation to construct any improvements to the Leased Premises or the Building.

3. TERM. The term of this Lease is for the Term stated in Section 1 of this Lease. The terms and conditions of one or more Extension Terms, if any, are provided in the attached Exhibit B.

(a) If Landlord cannot deliver possession of the Leased Premises for any reason at the commencement of the Term, such non-delivery will not (i) cause Landlord liability for damages, (ii) cause the Lease to become void or voidable, or (iii) cause the Term to be extended. However, in such event Tenant will not be liable for rent until Landlord can deliver possession, and if possession is delayed by over ninety (90) days, Tenant may terminate this Lease by written notice to Landlord, so long as the written notice is delivered to Landlord prior to delivery of possession of the Leased Premises to Tenant.

(b) The Lease may be terminated by Landlord pursuant to its Special Termination Right set forth in Section 1 above, in addition to any other termination rights that may be contained in this Lease.

4. RENT. During the term of this Lease, Tenant shall pay the Base Rent by the first day of each calendar month of the Term to:

Treasurer
City of Everett
2930 Wetmore Avenue
Everett, WA 98201

or such other place as Landlord may from time to time designate in writing. Tenant shall also pay to Landlord items described as **"Additional Rent"** in this Lease, including, without limitation, Leasehold Excise Tax (as defined below). If any rent is, at any time, five (5) or more days past due, Tenant shall pay a late charge equal to ten percent (10%) of the past due rent. In addition, interest will accrue on the past due amount from the date due until paid in full at a per annum rate, which is the lesser of the highest interest rate permitted by applicable law or twelve percent (12%) per annum (the **"Default Rate"**). Tenant shall make all rent payments without deduction or offset. Rent for partial months, if any occur, will be prorated.

5. USE. Tenant shall use the Leased Premises only for the Approved Use stated in Section 1. Tenant shall not use or permit the use of the Leased Premises for any other use without the prior written consent of Landlord, which may be withheld at Landlord's sole discretion. Tenant shall abide by the rules and regulations governing the Leased Premises or the Building that may be made by Landlord from time to time, including, without limitation, those described in Section 1 above. Tenant shall use reasonable methods to induce customers, clients and all persons invited by Tenant to observe such rules and regulations.

6. COMPLIANCE WITH LAW. Tenant shall not do anything or suffer anything to be done in or about the Leased Premises which will in any way violate or conflict with any Governmental Requirements (as defined below). At its sole cost and expense, Tenant shall obtain all required permits in connection with its use, occupancy and operation of the Leased Premises and shall promptly comply with all Governmental Requirements. Should any Governmental Requirement now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant shall, at its sole cost and expense, comply promptly with such Governmental Requirements. Tenant shall be responsible, at its sole cost and expense, to make all alterations to the Leased Premises that are required to comply with Governmental Requirements. Tenant shall not use or permit the use of the Leased Premises in any manner that may create a nuisance. Tenant shall not use any machinery or equipment in the Leased Premises which might be injurious to the Leased Premises or to the Building or which might cause noise or vibration that would be objectionable to other persons. **"Governmental Requirements"** means any and all statutes, ordinances, codes, laws, rules, regulations, standards, orders and directives, now in force or which may hereafter be enacted or promulgated, of the United States of America, the State of Washington, any county, city, district, municipality or other governmental subdivision, court or agency or quasi-governmental agency with jurisdiction and any board, agency or authority associated with any such governmental entity, as now or later amended, promulgated

or issued and all current or future final orders, judgments or decrees of any court with jurisdiction interpreting or enforcing any of the foregoing.

7. INSPECTION AND RIGHT-OF-ENTRY. Landlord and its agents shall have the right, but not the duty, to inspect the Leased Premises at any time to determine whether Tenant is complying with the terms of this Lease. If Tenant is not in compliance with this Lease, Landlord shall have the right, but not the duty, to immediately enter upon the Leased Premises to remedy any conditions or circumstances caused by Tenant's failure to comply with the terms hereof, and Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord in connection with the remedy of such conditions or circumstances within thirty (30) days of demand.

8. MAINTENANCE OF PREMISES. Tenant shall at all times throughout the Term keep the Leased Premises in good order, condition and repair. Tenant shall maintain the Leased Premises in a clean, orderly and neat appearance, and shall not permit any offensive odors to emit from the Leased Premises and shall not commit waste nor permit any waste to be committed in the Leased Premises. Except for maintenance attributable (a) to Tenant's breach of its obligations under this Lease, (b) to Tenant's acts or omissions or those of Tenant's employees, agents or contractors, or (c) to improvements made by Tenant, Landlord shall maintain the roof, exterior walls, foundation, HVAC and building structure of the Leased Premises in a good state of repair.

9. LANDLORD'S ACCESS FOR REPAIRS. Landlord reserves the right to make repairs, alterations, connections or extensions to the Leased Premises and the Building as Landlord deems necessary ("**Landlord Repairs**"), and Tenant shall permit Landlord to enter the Leased Premises for the purpose of making Landlord Repairs at any time on reasonable notice (except in the case of an emergency in which case no notice shall be required). Tenant shall have no right to abate rent or receive any compensation by reason of inconvenience or annoyance arising from Landlord Repairs. This Section 9 does not create any duty on the part of Landlord to make Landlord Repairs. Tenant agrees to pay to Landlord as Additional Rent the entire cost of Landlord Repairs which are necessary due to Tenant's negligence or breach of this Lease together with a fee for overhead and administrative expenses equal to 10% of such costs.

10. LANDLORD-PROVIDED SERVICES. Landlord shall provide the Leased Premises with services as described in Section 1 of this Lease. Landlord shall in no case be liable for damages (including consequential damages) or in any way be responsible for the loss to Tenant of such services arising from the failure of, diminution of or interruption of such services to the Leased Premises, unless (a) such failure of, diminution of or interruption of any such service was caused by the gross negligence or willful misconduct of Landlord, its agents or contractors, and (b) any such claims are not covered by the business interruption insurance required to be maintained by Tenant pursuant to this Lease, nor will such failure of, diminution of or interruption be deemed an eviction of Tenant or release Tenant from any of Tenant's obligations under this Lease. To the extent that Landlord bears any responsibility for the foregoing, Landlord's responsibility and Tenant's remedy shall be limited to an abatement in Base Rent for the period beginning with (i) the day which is five (5) consecutive days after the date on which

Tenant delivers notice to Landlord of such interruption, deprivation or reduction and of the fact that Tenant is being deprived of all reasonable use of the Leased Premises and ending on (ii) the date such interruption, deprivation or reduction which is Landlord's responsibility is no longer causing Tenant to be deprived of all reasonable use of the Leased Premises.

11. UTILITIES AND OTHER CHARGES.

(a) Utility Charges. With respect to services other than those described as Landlord-provided in Section 1 of this Lease, Tenant shall be responsible for, and pay prior to delinquency, all charges for utilities or services used or consumed on or supplied to the Leased Premises, including the charges, if any, for installing meters. Meter locations and installation methods shall be subject to Landlord's prior written consent, which may be withheld in its sole discretion.

(b) Licenses and Taxes. Tenant shall pay when due all license fees, excise taxes, business and occupation taxes and any other fees and taxes pertaining to the business conducted on the Leased Premises and all personal property taxes levied with respect to all personal property located at the Leased Premises.

(c) Leasehold Excise Tax. Tenant shall pay Landlord as Additional Rent, all leasehold excise tax, as required by RCW 82.29A or any other Governmental Requirement, in lieu of real property taxes, and any taxes levied or assessed in lieu of the foregoing, in whole or in part (collectively, "***Leasehold Excise Tax***"). Leasehold excise tax is calculated by the State of Washington using a percentage multiplier of either the rent required under this Lease or an imputed fair market value, and as a result, Tenant shall be responsible for any increases in leasehold excise tax that result from an increase in rent for the Leased Premises over the term of the Lease, or for the increases due to an increase in the statutory rate during the term of this Lease. If Tenant provides Landlord with a proof of exemption from payment of leasehold excise tax issued by the Washington State Department of Revenue, then Tenant shall not be required to pay leasehold excise tax for the period that such exemption is effective. If the exemption is of limited duration, Tenant shall be required to obtain documented renewal of such exemption and provide such to Landlord in order to claim continued exemption under this Lease. To the extent that any rent credit provisions are a part of this Lease, Tenant's obligation to pay leasehold excise tax shall not be obviated by such credit.

12. ALTERATIONS AND FIXTURES; SIGNS. Tenant shall not make or permit to be made any alterations, additions, improvements, or installations in or to the Leased Premises (including telecommunication facilities), or place signs or other displays visible from outside of the Leased Premises (individually and collectively "***Tenant Alterations***"), without first obtaining the consent of Landlord, which may be withheld in Landlord's sole discretion. Tenant shall deliver to Landlord complete plans and specifications for any proposed Tenant Alterations and, if consent by Landlord is given, all such work shall be performed at Tenant's sole cost and expense by Landlord or, with Landlord's consent, by Tenant with contractors approved by Landlord. Tenant shall be authorized to perform Tenant Alterations only to the extent and under such terms and conditions

as Landlord, in its absolute discretion, shall specify. All Tenant Alterations performed by Tenant shall be (a) completed in accordance with the plans and specifications approved by Landlord; (b) completed in accordance with all Governmental Requirements (including, without limitation, Chapter 39.12 RCW); (c) carried out promptly in a good and workmanlike manner; (d) completed with all new materials; and (e) free of defects in materials and workmanship.

13. SUBLETTING AND ASSIGNMENT.

(a) Assignment and Subletting by Tenant. Tenant shall not sublet the whole or any part of the Leased Premises, nor assign this Lease, or any part thereof, without the prior written consent of Landlord, which consent may be withheld at Landlord's sole discretion. This Lease is not assignable by operation of law. If Tenant is a corporation (or after incorporation), then any transfer of this Lease by merger, consolidation or liquidation, or any change in the ownership of, or power to vote the majority of Tenant's outstanding stock, will constitute an assignment for the purposes of this Section. If Tenant is a partnership or limited liability company, then any dissolution or termination of the partnership or limited liability company or change in control of the partnership or limited liability company or in a majority of the interests held by the partners or members thereof will constitute an assignment for purposes of this Section. Any assignment made by Tenant will not become effective until the assignee, in a written instrument acceptable to Landlord at Landlord's sole discretion, assumes this Lease and agrees to perform and be bound by all of the obligations of Tenant accruing under this Lease from and after the date of assignment. Regardless of Landlord's consent, no subletting or assignment shall release Tenant of Tenant's obligation or alter the primary liability of Tenant to pay rent and to perform all other obligations to be performed by Tenant under this Lease. Acceptance of rent by Landlord from any person other than Tenant will not be deemed to be a waiver by Landlord of any provision of this Lease. Consent to one assignment or subletting will not be deemed consent to any subsequent assignment or subletting. Whether or not Landlord consents to any proposed assignment of this Lease, Tenant shall pay Landlord's reasonable review and processing fees, as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord not to be less than two thousand five hundred dollars (\$2,500), within thirty (30) days after demand by Landlord.

(b) Assignment by Landlord. Landlord shall have the right to assign and transfer, in whole or in part, its rights and obligations under this Lease and in any and all of the Building and the real property upon which it is situated. If Landlord so assigns this Lease or sells or transfers any or all of the Building, Landlord shall, upon consummation of such assignment or transfer be released automatically from any liability under this Lease for obligations to be performed or observed after the date of the assignment or transfer. After the effective date of the assignment or transfer, Tenant must look solely to Landlord's successor-in-interest for all liability and obligations hereunder.

14. SURRENDER OF LEASED PREMISES.

(a) Surrender. Tenant shall, at the expiration or earlier termination of this Lease, surrender and deliver the Leased Premises to Landlord (i) in as good condition as when received by Tenant from Landlord or as later improved, reasonable use and wear excepted, and (ii) free from any tenancy or occupancy by any person.

(b) Removal of Property. Upon the expiration or earlier termination of this Lease, Tenant may remove its personal property, office supplies and office furniture and equipment if (i) such items are readily moveable and are not attached to the Leased Premises; (ii) such removal is completed prior to the expiration or earlier termination of this Lease; and (iii) Tenant immediately repairs all damage caused by or resulting from such removal. All Tenant Alterations shall become the property of Landlord and shall remain upon and be surrendered with the Leased Premises, unless Landlord requires their removal. If removal is required, Tenant shall, at its sole cost and expense, remove all (or such portion as Landlord shall designate) of the Tenant Alterations, repair any damages resulting from such removal and return the Leased Premises to the same condition as existed prior to such Tenant Alterations.

(c) Holding Over. If Tenant holds over after the expiration of the term of the Lease with Landlord's express prior written consent, which may be withheld at Landlord's sole discretion, such holding over will be construed as a tenancy from month-to-month on the terms and conditions set forth in this Lease, which tenancy may be terminated by either party upon at least ninety (90) days' written notice to the other party, effective as of the last day of a calendar month. If Tenant holds over after the expiration of the Term or earlier termination thereof without Landlord's prior written consent, which may be withheld in Landlord's sole discretion, such tenancy shall be a tenancy at sufferance, and shall not constitute a renewal hereof or an extension for any further term, and in such case Base Rent shall be payable at a daily rate equal to three times the amount of the daily Base Rent applicable during the last rental period of the Term under this Lease. Such tenancy shall be subject to every other applicable term, covenant and agreement contained herein. Nothing contained in this Section 14(c) shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Leased Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. If Tenant fails to surrender the Leased Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender and any lost profits to Landlord resulting therefrom. Tenant agrees that any proceedings necessary to recover possession of the Leased Premises, whether before or after expiration of the Term, shall be considered an action to enforce the terms of this Lease for purposes of the awarding of any attorney's fees in connection therewith.

15. INDEMNIFICATION.

(a) Indemnity. Tenant shall indemnify, defend and hold harmless Landlord against and from any and all claims, actions, damages, liability, costs and expenses, including attorney's fees, arising out of or relating to (a) Tenant's use of the Leased Premises or from the conduct of Tenant's business or from any activity, work, or other things done or permitted by Tenant in or about the Leased Premises, (b) any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, (c) any act or omission, negligence or willful misconduct of Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, damages, attorneys' fees and liabilities incurred in defense of any such claim in any action or proceeding brought thereon. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Leased Premises from any cause other than and to the extent of Landlord's gross negligence or willful misconduct. Tenant shall give prompt notice to Landlord in case of casualty or accident in the Leased Premises. This Section 15 shall survive the expiration or termination of this Lease. For the purposes of this Lease, the claims, actions, damages, liability and expenses for which Tenant must indemnify, defend and hold harmless the City are referred to as "**Covered Claims**".

(b) Concurrent Fault. This Section does not purport to indemnify Landlord against liability for Covered Claims caused by or resulting from the sole gross negligence or willful misconduct of Landlord, its officers, employees and agents. If Covered Claims are caused by or result from the concurrent negligence of (i) Landlord, its officers, employees or agents, and (ii) Tenant, its agents, servants, employees, officers, subcontractors, sublicensees, subtenants, successors or assigns, then this Section will provide Landlord the maximum indemnification permitted by law.

(c) Washington Law. This Section is specifically and expressly intended to constitute a waiver of Tenant's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide Landlord with a full and complete indemnity from claims made by Tenant and its employees, to maximum extent allowed by law. LANDLORD AND TENANT ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

(d) Waiver and Release. Landlord shall not be liable to Tenant, or its directors, officers, shareholders, agents, employees, invitees, subtenants, contractors or licensees, for any loss, injury or damage to Tenant or any other person, or to its or their property, irrespective of the cause of such injury, damage or loss, unless, and then only to the extent, it is caused by or results from the gross negligence or willful misconduct of Landlord or its employees without contributory negligence on the part of Tenant or any of its directors, officers, shareholders, employees, agents, invitees, subtenants, licensees or contractors. As a material part of the consideration to Landlord for this Lease, Tenant hereby waives and releases all claims against Landlord with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease.

16. INSURANCE/WAIVER OF SUBROGATION.

(a) Tenant Insurance. Tenant shall, throughout the Term, at its own expense, keep and maintain in full force and effect each and every one of the following policies, each of which shall be endorsed as needed to provide that the insurance afforded by these policies is primary and that all insurance carried by Landlord and Landlord's self-insurance is strictly excess and secondary and shall not contribute with Tenant's liability insurance:

(i) A policy of commercial general liability insurance, including a contractual liability endorsement covering Tenant's obligations under Section 15 above, insuring against claims of bodily injury and death or property damage or loss with a combined single limit at the Commencement Date of this Lease of not less than Two Million Dollars (\$2,000,000.00) per occurrence and location. Tenant shall include Landlord and Landlord's officers, elected officials, employees, agents, and volunteers as additional insureds. The limit shall be reasonably increased during the Term at Landlord's request.

(ii) "Special Form" property insurance (which is commonly called "all risk") covering Tenant Alterations and any and all furniture, fixtures, equipment, inventory, improvements and other property in or about the Leased Premises which is not owned by Landlord, for the then, entire current replacement cost of such property.

(iii) Business interruption insurance in an amount sufficient to cover costs, damages, lost income, expenses, Base Rent, Additional Rent and all other sums payable under this Lease, should any or all of the Leased Premises not be usable for a period of up to twelve (12) months.

(iv) A policy of worker's compensation insurance if and as required by applicable law and employer's liability insurance with limits of no less than One Million and No/100 Dollars (\$1,000,000.00).

(v) In the event Tenant acquires company automobiles, a policy of comprehensive automobile liability insurance, including loading and unloading, and covering owned and hired vehicles with limits of no less than One Million Dollars (\$1,000,000.00) per occurrence.

(b) All insurance policies required under this Section 16 shall be with companies having a rating according to Best's Insurance Key Rating Guide for Property – Casualties of no less than A- Class VIII. Each policy shall provide that it is not subject to cancellation, lapse or reduction in coverage except after thirty (30) days' written notice to Landlord. Tenant shall deliver to Landlord, prior to the commencement of its occupation of the

Leased Premises and, from time to time thereafter, at Landlord's request, certificates evidencing the existence and amounts of all such policies and copies of such insurance policies. There shall be no deductible amount applicable with respect to the Tenant's policy of commercial general liability insurance, unless approved in advance by Landlord in writing. Deductibles for Tenant's "special form" property insurance shall be commercially reasonable and customary. There shall be no self-insured retention with respect to the insurance requirements under this Section 16, unless approved in advance in writing by Landlord in its sole discretion.

(c) If Tenant fails to acquire or maintain any insurance or provide evidence of insurance required by this Section 16, Landlord may, but shall not be required to, obtain such insurance or evidence and the costs associated with obtaining such insurance or evidence shall be payable by Tenant to Landlord on demand together with a fee for overhead and administrative expenses equal to 10% of such costs.

(d) Waiver of Subrogation. Landlord and Tenant each mutually release the other from every right, claim and demand which may hereafter arise in favor of either arising out of or in connection with any loss occasioned by fire, earthquake or other casualty and such other perils as are included in the provisions of the normal extended coverage clauses of fire and casualty insurance policies, and hereby waive all rights of subrogation in favor of insurance carriers arising out of any such losses and sustained by either Landlord or Tenant in or to the Leased Premises or any property therein, but only to the extent of deductibles specified in the insurance policies plus the insurance proceeds paid to such party under its policies of insurance or, if it fails to maintain the required policies, the insurance proceeds that would have been paid to such party if it had maintained such policies. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged.

17. DAMAGE OR DESTRUCTION BY FIRE OR OTHER CASUALTY.

(a) If the Leased Premises are damaged by fire, earthquake, or other casualty ("**Casualty**"), Tenant shall give immediate written notice to Landlord. If Landlord estimates that (i) the damage can be repaired to meet Tenant's business needs within one hundred eighty (180) days after Landlord is notified by Tenant of such damage, and (ii) if there are sufficient insurance proceeds available to repair such damage, then Landlord shall proceed with reasonable diligence to restore the Leased Premises to substantially the condition which existed prior to the damage and this Lease shall not terminate. If either of the conditions set forth in phase (i) and (ii) of the previous sentence are not satisfied, then Landlord may elect, in its sole and absolute discretion, to either: (x) terminate this Lease or (y) restore the Leased Premises to substantially the same condition which existed prior to the damage and this Lease shall continue. Notice of Landlord's election shall be delivered to Tenant within ninety (90) days after the date Landlord receives written notice of the damage. Failure to deliver notice within the specified period shall be treated as an election not to restore. Tenant agrees to look to the provider of Tenant's insurance for

coverage for the loss of Tenant's use of the Leased Premises and any other related losses or damages incurred by Tenant during any reconstruction period following a Casualty.

(b) If the Building is damaged by Casualty and more than fifty percent (50%) of the Building is rendered untenable, without regard to whether the Leased Premises are affected by such damage, Landlord may, in its absolute discretion, elect to terminate this Lease by notice in writing to Tenant within ninety (90) days after the date Landlord receives written notice of the damage. Such notice shall be effective twenty (20) days after delivery to Tenant unless a later date is set forth in Landlord's notice.

18. CONDEMNATION. If the property or any part thereof wherein the Leased Premises are located shall be taken by public or quasi-public authority under any power of eminent domain or condemnation, this Lease, at the option of Landlord shall terminate and Tenant shall have no claim or interest in or to any award of damages for such taking. In the case of a taking of a part of the Leased Premises or a portion of the Building not required for Tenant's reasonable use of the Leased Premises, this Lease shall continue in full force and effect and the Base Rent shall be equitably reduced based on the proportion by which the floor area of the Leased Premises is reduced, such reduction in Base Rent to be effective as of the date the physical taking occurs. Landlord reserves all rights to damages or awards for any taking by eminent domain relating to the Leased Premises, the Building and the real property upon which the Building is situated, and the unexpired term of this Lease. Tenant assigns to Landlord any right Tenant may have to such damages or award and Tenant shall make no claim against Landlord for damages for termination of its leasehold interest or interference with Tenant's business. Tenant shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Tenant may be entitled for Tenant's moving expenses or other relocation costs if they are awarded separately to Tenant in the eminent domain proceedings and do not reduce the damages or award to Landlord.

19. EVENTS OF DEFAULT. Each of the following occurrences is an "*Event of Default*":

(a) Payment Default. Tenant's failure to pay rent or any other amount due under this Lease within five (5) days after Landlord has delivered written notice to Tenant that such amount is due; however, an Event of Default shall occur without any obligation of Landlord to give any written notice if Tenant fails to pay rent when due and, during the twelve (12) month interval preceding such failure, Landlord has given Tenant written notice of failure to pay rent on one (1) or more occasions;

(b) Abandonment. Tenant abandons or vacates the Leased Premises or any substantial portion of the Leased Premises combined with the non-payment of rent;

(c) Other Defaults. Except as otherwise provided in this Section 19 or elsewhere in this Lease, Tenant's failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of more than thirty (30) days after Landlord has delivered to Tenant written notice thereof

or such shorter or longer period expressly provided elsewhere in this Lease (provided, if the nature of Tenant's failure is such that more time is reasonably required in order to cure, an Event of Default shall not be deemed to have occurred and such failure may be cured if Tenant commences to cure such failure within such period and thereafter reasonably and diligently pursues the cure to completion, such period in no event to exceed ninety (90) days from the date of Landlord's original default notice);

(d) Insolvency. The filing of a petition by or against Tenant (the term "**Tenant**" shall include, for the purpose of this Section, any guarantor of Tenant's obligations hereunder) (i) in any bankruptcy or other insolvency proceeding; (ii) seeking any relief under any state or federal debtor relief law; (iii) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (iv) for the reorganization or modification of Tenant's capital structure; or (v) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within ninety (90) days after its filing.

(e) Failure to Surrender. Tenant fails to surrender possession of the Leased Premises at the expiration or earlier termination of his Lease in the condition required by this Lease.

(f) Multiple Events of Default. Notwithstanding any cure periods specified in this Section 19, after the occurrence during the Term of any two events which after the giving of notice or the lapse of time would become an Event of Default, Tenant shall neither be entitled to notice nor an opportunity to cure and Landlord, at its option, may immediately declare an Event of Default.

20. REMEDIES. Upon any Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord under this Lease or by law or equity, take any one or more of the following actions:

(a) Termination of Lease. Terminate this Lease by giving Tenant written notice, in which event Tenant shall pay to Landlord the sum of (i) all rent accrued under this Lease through the date of termination, (ii) all other amounts due hereunder, plus interest at the Default Rate, and (iii) an amount equal to the total rent that Tenant would have been required to pay for the remainder of the Term discounted to present value based on the then U.S. Treasury yield rate for ten-year notes; or

(b) Termination of Possession. Terminate Tenant's right to possess the Leased Premises without terminating this Lease by giving written notice thereof to Tenant, in which event Tenant shall pay to Landlord (i) all rent and other amounts accrued under this Lease to the date of termination of possession, (ii) all amounts due from time to time, and (iii) all rent and other net sums required under this Lease to be paid by Tenant during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Leased

Premises during such period, after deducting all reasonable costs incurred by Landlord in reletting the Leased Premises. If Landlord elects to proceed under this subsection, Landlord may remove all of Tenant's property from the Leased Premises and store the same in a public warehouse at a reasonable cost to, and for the account of, Tenant, without becoming guilty of trespass, or liable for any reasonable loss or damage that may be occasioned thereby. Landlord shall use commercially reasonable efforts to relet the Leased Premises on such terms as Landlord in its sole discretion may determine (including a lease term different from the Term, rental concessions, use of brokers and alterations to, and improvement of, the Leased Premises); however, Landlord is not obligated to relet the Leased Premises before leasing other portions of the Building or property and Landlord is not obligated to accept any prospective tenant proposed by Tenant unless such proposed tenant meets all of Landlord's reasonable, then existing leasing criteria. Landlord shall not be liable for, nor shall Tenant's obligations under this Lease be diminished because of, Landlord's failure to relet the Leased Premises or to collect rent due for such reletting. Tenant is not entitled to the excess of any consideration obtained by reletting over the rent due under this Lease. Reentry by Landlord in the Leased Premises shall not affect Tenant's obligations under this Lease for the unexpired Term; rather, Landlord may, from time to time, bring an action against Tenant to collect amounts due by Tenant, without the necessity of Landlord's waiting until the expiration of the Term. Unless Landlord delivers written notice to Tenant expressly stating that it has elected to terminate this Lease, all reasonable actions taken by Landlord to dispossess or exclude Tenant from the Leased Premises shall be deemed to be taken under this subsection 20(b). If Landlord elects to proceed under this subsection 20(b), it may at any time elect to terminate this Lease. Tenant hereby waives all claims for damages that may be caused by Landlord's re-entering and taking possession of Leased Premises or removing and storing the property of Tenant as provided in this Lease, and will save Landlord harmless from loss, costs or damages occasioned Landlord thereby, and no such re-entry shall be considered or construed to be forcible entry.

21. HAZARDOUS MATERIALS.

(a) No Hazardous Materials. Tenant shall not cause or permit any storage, use, sale, release, generation or disposal of any Hazardous Materials (as defined below) in, on or about the Leased Premises or the Building; provided, however, Tenant shall be permitted without notice or Landlord's written consent to handle, store, use or dispose of products containing small quantities of Hazardous Materials, such as ordinary cleaning and ordinary maintenance products used by Tenant for cleaning and maintenance and/or customary operation of a rowing club in the reasonable and prudent conduct of the Approved Use on the Leased Premises. Tenant further covenants and agrees that at all times during the Term of this Lease, Tenant shall comply with all applicable Environmental Laws (as defined below), now or hereafter in effect, regulating Tenant's occupation and/or operation and/or use of the Leased Premises or any other portion of the Building. Prior to the expiration or termination of this Lease or such earlier time as may be required by Landlord or applicable law, Tenant shall, at Tenant's sole cost and expense and in accordance with all Environmental Laws and after obtaining Landlord's written consent which may be subject to such conditions as Landlord deems necessary, (i) remove from the Leased Premises and the Building any and all Hazardous Materials which Tenant, its employees, agents,

contractors and/or sublessees, or invitees have used, sold, released, generated or disposed of in, on or about the Leased Premises or the Building and (ii) restore the Leased Premises and the Building to their condition existing prior to the appearance of such use, sale, release, generation or disposal of Hazardous Materials.

(b) Indemnification. In addition to Tenant's indemnity, defense, and hold harmless obligations elsewhere in this Lease, if Tenant breaches this Section 21, or if the use, sale, release, generation or disposal of Hazardous Materials caused or permitted by Tenant causes contamination or other damage of the Leased Premises or the Building or any property in the vicinity of the Building, or if contamination or other damage to the Leased Premises by Hazardous Materials otherwise occurs for which Tenant is responsible or otherwise legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend, and hold Landlord harmless from any and all liabilities, obligations, charges, losses, damages, penalties, claims, demands, actions, suits, judgments, costs, expenses and disbursements (including, without limitation, diminution in value of the Leased Premises or the Building, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) which arise during or after the Term as a result of such contamination or damage. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Materials present in the soil or groundwater on or under the Leased Premises or the Building.

(c) **"Hazardous Materials"** means any waste, pollutant, contaminant, chemical, petroleum product, pesticide, fertilizer, substance, or material that is defined, classified, or designated as hazardous, toxic, radioactive, dangerous, or other comparable term or category under any Environmental Laws (as defined below), including, but not limited to, gasoline, oil or any byproducts or fractions thereof, polychlorinated biphenyls, per- and polyfluoroalkyl substances, asbestos, paints, solvents, lead, cyanide, radioactive material, or any other materials which have adverse effects on the environment or the health and safety of persons.

(d) **"Environmental Laws"** means all federal, state, and local laws, statutes, rules, regulations, ordinances, and codes, and any judicial or administrative interpretation thereof or requirement thereunder, now or hereafter in effect, relating, to the regulation or protection of human health, safety, the environment and natural resources, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §§ 5101 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§ 11001 et seq.), and any similar or comparable state or local laws, including without limitation, the Model Toxics Control

Act (Chapter 70A.030 RCW, formerly codified at Chapter 70.105D RCW) and the Hazardous Waste Management Act (Chapter 70A.029 RCW, formerly codified at Chapter 70.105 RCW).

(e) All portions of this Section 21 shall survive the expiration or termination of this Lease.

22. RELOCATION. Landlord reserves the right to relocate Tenant from the Leased Premises into other premises within the Building owned by Landlord similar in size and convenience to the Leased Premises. If Landlord elects to so relocate Tenant, Landlord shall deliver written notice to Tenant at least ninety (90) days in advance of the relocation date. Upon relocation, this Lease shall be amended by substituting the description of the relocated premises and all rights of Tenant to the original Leased Premises shall cease. Landlord shall reimburse Tenant for the actual, reasonable out-of-pocket costs incurred in (a) moving into the new location, (b) relocating telecommunication facilities and other electronic installations and (c) reprinting stationery, business cards and similar Tenant forms and supplies.

23. MISCELLANEOUS

(a) No Brokers. Landlord and Tenant warrant to one another that neither has engaged a broker in connection with this Lease and agree to indemnify the other if a claim for a fee or commission arises in connection with this transaction as a result of such indemnifying parties' activities.

(b) Not Used.

(c) Estoppel Certificates. Tenant shall, at any time, on not less than ten (10) days prior written notice from Landlord, sign and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect), (ii) the date to which the rent, security deposit, and other charges are paid in advance, if any, and (iii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord or Tenant under this Lease, or specifying such defaults, if any, which are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Leased Premises or Building. Tenant's failure to deliver such statement within such time period shall be conclusive upon Tenant that (x) this Lease is in full force and effect, without modification except as may be represented by Landlord, (y) there are no uncured defaults in Landlord's performance, and (z) not more than one (1) month's rent has been paid in advance.

(d) Liens. Tenant shall keep the Leased Premises free and clear of all liens and encumbrances arising from or out of its use and occupancy of the Leased Premises and Building. If any lien is filed against the Leased Premises or the Building or adjacent or underlying property owned by Landlord as a result of the action or inaction of Tenant or its employees, agents or

contractors, Tenant shall upon demand promptly have the lien released or provide Landlord with a bond in the amount required by Landlord to remove the lien of record.

(e) Notices. All notices to be given by the parties shall be in writing and may either be served personally, delivered by overnight courier (such as UPS or Fed Ex) or deposited in the United States mail, postage prepaid, by either registered or certified mail to the notice addresses provided in Section 1 of this Lease. A party may change its notice address effective on written notice to the other party. All such notices shall be deemed delivered and effective on the earlier of (i) the date received or refused for delivery, or (ii) five (5) calendar days after having been deposited in the United States Postal Service, postage prepaid.

(f) No Waiver of Covenants. No waiver of any default hereunder shall be implied from any omission by either party to take any action on account of such default if such default persists or is repeated and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. The subsequent acceptance of rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. One or more waivers of any breach of any covenant, term, or condition of this Lease shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

(g) Landlord Exculpation. The liability of Landlord to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Leased Premises shall be limited solely and exclusively to the interest of Landlord in the Building.

(h) No Consequential Damages. Notwithstanding any contrary provision herein, Landlord shall not be liable under any circumstances for injury or damage to, or interference with, Tenant's business, or for any consequential, incidental or special damages, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

(i) Heirs. The rights, liabilities, and remedies provided for herein shall extend to and be binding upon the heirs, legal representatives, successors and, so far as the terms of this Lease permit, assigns of the parties hereto; and the words "Landlord" and "Tenant" and their accompanying verbs or pronouns, wherever used in this Lease, shall apply equally to all persons, firms or corporations which may be or become parties hereto.

(j) Joint and Several Liability. If Tenant is composed of more than one signatory to this Lease, each signatory shall be jointly and severally liable with each other signatory for payment and performance according to this Lease. The act of, notice to, notice from, refund to or signature of, any signatory to this Lease (including, without limitation, modifications of this Lease made by fewer than all such signatories) shall bind every other

signatory as though every other signatory had so acted, or received or given the notice or refund, or signed.

(k) Recording. Tenant agrees that Landlord, at its sole option, may record a written memorandum of this Lease, and that Tenant shall have no right to record this Lease or such a memorandum.

(l) Costs and Attorney's Fees. If, by reason of any default or breach on the part of Tenant in the performance of any of the provisions of this Lease, it becomes necessary for Landlord to institute legal action to interpret this Lease or as a result of the breach or default, then Tenant agrees to pay all reasonable costs and attorney's fees incurred by Landlord in connection therewith, including, without limitation, those on any appeal or in any bankruptcy action.

(m) Entire Agreement; Amendment. This Lease represents the entire agreement between the parties and supersedes all other agreements and representations made prior hereto. No amendment hereof shall be binding on either party unless and until approved in writing by both parties.

(n) Severability. If any provision of this Lease or any application hereof shall be found to be invalid or unenforceable, for any reason, such provisions shall be enforceable to the maximum extent permitted by law and the remainder of this Lease and any other application of such provision shall not be affected thereby.

(o) Choice of Law and Venue. This Lease shall be administered and interpreted under the laws of the State of Washington. Exclusive venue for litigation arising from or relating to this Lease shall be in Snohomish County, Washington.

(p) Survivability. All clauses of this Lease that require performance beyond the expiration of termination of the Lease shall survive such termination or expiration.

(q) Legislative Appropriation. If the term of this Lease extends beyond Landlord's current fiscal year, the obligations of Landlord in succeeding fiscal years are contingent upon legislative appropriation for the specific purpose of funding this Lease in accordance with law. In the event that funds are not so appropriated, Landlord may terminate this Lease without penalty or further obligation.

(r) Standard for Landlord's Consent. Wherever Landlord's consent or approval is required under this Lease, except as expressly stated to the contrary herein, the standard for Landlord's consent or approval shall be Landlord's sole discretion.

(s) Reimbursement of Landlord. Landlord's reasonable costs and expenses (including, without limitation, architects', engineers', attorneys' and other consultants' fees) incurred in consideration of, or in response to, a request by Tenant for any Landlord consent,

including but not limited to, consents to an assignment, a subletting or the presence or use of Hazardous Materials, shall be paid by Tenant upon receipt of an invoice therefor.

(t) Business Licenses. Tenant agrees to obtain and/or maintain a City of Everett business license, if required by applicable law. Tenant also agrees that its performance of this Lease shall be conclusively deemed to have been performed in Everett and shall pay all applicable local, state, and federal taxes thereon. Tenant agrees to register, obtain, and maintain any State of Washington business licenses, Department of Revenue account and/or unified business identifier as required by RCW 50.04.140 and 51.08.195.

(u) Counterparts; Signatures. This Lease may be executed in counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called "pdf" format shall be legal and binding and shall have the same full force and effect as if an original of this Lease had been delivered. Landlord and Tenant (i) intend to be bound by the signatures (whether original, faxed or electronic) on any document sent by facsimile or electronic mail, (ii) are aware that the other party will rely on such signatures, and (iii) hereby waive any defenses to the enforcement of the terms of this Lease based on the foregoing forms of signature.

[signatures on following pages(s)]

IN WITNESS WHEREOF THE PARTIES hereto have executed this Lease.

LANDLORD:

CITY OF EVERETT

MAYOR

ATTEST:

OFFICE OF THE CITY CLERK

STANDARD DOCUMENT
APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY
(2.24.22)

STATE OF WASHINGTON

COUNTY OF SNOHOMISH

} ss.

This record was acknowledged before me on _____, 20____ by Cassie Franklin as the Mayor of the City of Everett, a Washington municipal corporation.

[Stamp Below]

Signature

NOTARY PUBLIC in and for the State of Washington

My Commission

Expires _____

TENANT:

a EVERETT ROWING ASSOCIATION, A WASHINGTON NONPROFIT CORP.

BY: *Sarah Kelly*

NAME: SARAH E. KELLY

TITLE: President of the Board.

STATE OF WASHINGTON

COUNTY OF SNOHOMISH } ss.

This record was acknowledged before me on 25th JANUARY, 2024 by
SARAH KELLY as the PRESIDENT of EVERETT ROWING, a
NONPROFIT CORP. ASSOC.

[Stamp Below]



Tippi Mathison
Signature

NOTARY PUBLIC in and for the State of Washington

My Commission

Expires

9/19/2026

EXHIBIT A

Leased Premises consists of the interior spaces of the buildings depicted below, , which is located on that City property legally described as follows:

A portion of the Northeast and the Northwest quarters SECTION 16 TOWNSHIP 29 RANGE 05 E.W.M GOVERNMENT LOTS 8 & 11 LESS HIGHWAY AND LESS COUNTY ROAD & LESS PORTION LYING EASTERLY OF STATE ROUTE NO. 1

Accessor's Parcel No. 29051600300800

Commonly known as 300 Smith Island Rd., Everett, WA 98201

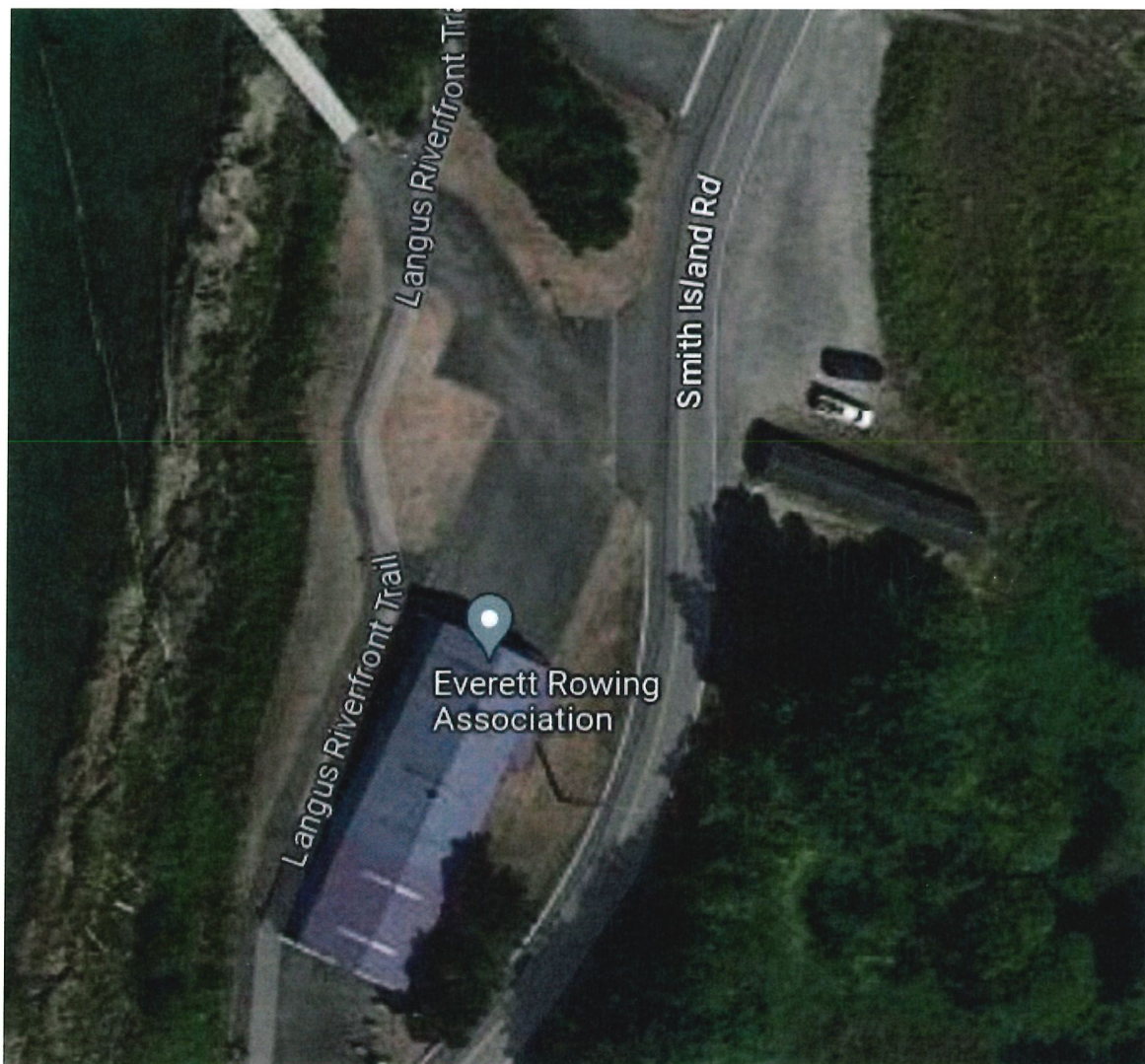


EXHIBIT B

Terms and Conditions of Extension Term

Provided Tenant is not in default of any provision of the Lease beyond the applicable cure period at the time Tenant exercises the option to request extension of this Lease, Tenant shall have the option to request extension of the term of this Lease for an extension term of five (5) years ("Extension Term"). For clarity, this means that the Lease could be extended until July 31, 2033. If Tenant desires to exercise its option to request extension of the Lease, Tenant shall provide written notice of the election to Landlord at least six (6) months prior to the expiration of the original Lease term. If the request is made, and City Parks and Facilities Director approves the request at such Director's sole discretion, then the Lease will so extended, and the Extension Term shall be subject to the same terms, covenants and conditions as the original term, except that the Base Rent during the Extension Term shall be as follows:

Dates	Monthly Base Rent
January 1, 2029 – December 31, 2029	\$911.53
January 1, 2030 – December 31, 2030	\$938.87
January 1, 2031 – December 31, 2031	\$967.04
January 1, 2032 – December 31, 2032	\$996.05
January 1, 2033 – December 31, 2033	\$1,025.93

EXHIBIT C

Landlord Work

None

EXHIBIT D

Lease Guaranty

None

EXHIBIT E

Parking Provisions

Parking is first come, first serve at the Leased Premises. All Tenant parking must be in already established parking stalls and any parking in ADA parking stalls must have proper permitting. Any parking by the Tenant in "No Parking" zones or parking that is done illegally may be subject to parking infraction and subject to fees.



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)
01/08/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Southeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C No. Ext): 1-877-945-7378 FAX (A/C No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com														
INSURED United States Rowing Association 1 S. Post Road Princeton Junction, NJ 08550	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: HDI Global Specialty SE</td><td>B0783</td></tr><tr><td>INSURER B: Texas Insurance Company</td><td>16543</td></tr><tr><td>INSURER C: United States Fire Insurance Company</td><td>21113</td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: HDI Global Specialty SE	B0783	INSURER B: Texas Insurance Company	16543	INSURER C: United States Fire Insurance Company	21113	INSURER D:		INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** W32401849**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Watercraft Liability <input checked="" type="checkbox"/> Sexual Abuse: \$1M/\$1M GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	HDGL003701205	12/31/2023	12/31/2024	<table><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 1,000,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 3,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	MED EXP (Any one person)	\$	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 3,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
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PRODUCTS - COMP/OP AGG	\$ 2,000,000																			
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PROPERTY DAMAGE (Per accident)	\$																			
	\$																			
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		BESGLXTNJ01130117029201	12/31/2023	12/31/2024	<table><tr><td>EACH OCCURRENCE</td><td>\$ 2,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 2,000,000	AGGREGATE	\$ 2,000,000		\$								
EACH OCCURRENCE	\$ 2,000,000																			
AGGREGATE	\$ 2,000,000																			
	\$																			
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A	N/A				<table><tr><td>PER STATUTE</td><td>OTH-ER</td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$</td></tr></table>	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$						
PER STATUTE	OTH-ER																			
E.L. EACH ACCIDENT	\$																			
E.L. DISEASE - EA EMPLOYEE	\$																			
E.L. DISEASE - POLICY LIMIT	\$																			
C	Accident Medical Expense incl. volunteers & participants		US2066998	12/31/2023	12/31/2024	Limit \$25,000														

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Name of Team / Club: Everett Rowing Association

The Certificate Holder is included as Additional Insured under the Liability. Coverage is provided under this policy only for the sponsored/supervised Rowing activities of the named insureds for which a premium has been paid. This certificate is issued on behalf of Everett Rowing Association.

CERTIFICATE HOLDER**CANCELLATION**

The City of Everett, its officers, agents and employees
802 E. Mukilteo Blvd.
Everett, WA 98203

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

The City of Everett, its officers, agents and employees
802 E. Mukilteo Blvd.
Everett, WA 98203

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Project title: Inductive Charging Infrastructure for Eclipse Mill Park

Council Bill # *interoffice use*

Agenda dates requested:

2/21/24

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

Budget amendment:

Yes ☒ X No

PowerPoint presentation:

Yes ☒ X No

Attachments:

Amendment No 1

Department(s) involved:

Transit

Contact person:

Tom Hingson

Phone number:

425-257-8939

Email:

thingson@everettwa.gov

Initialed by:

TEH

Department head

Administration

Council President

Project: Inductive Charging Infrastructure for Eclipse Mill Park

Partner/Supplier: Elcon Associates, Inc./ KPFF

Location: 3535 Riverfront Blvd

Preceding action: Professional Services Agreement, approved July 21, 2023

Fund: 425/ Transit. SnoPUD

Fiscal summary statement:

• Project Cost	\$55,860.00
• Eligible Expenses	\$ 500.00
• Amendment No. 1	\$30,052.24
• Total Compensation (Not to Exceed)	\$86,412.24

Project summary statement:

The work in this amendment is the engineering and design necessary changes to move the charging platform from inside the Eclipse Mill Park to on-street design. Elcon Associates, Inc. will engineer the short circuit calculation for the new location. KPFF will provide civil engineering, including updating specifications and drawings.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign Amendment No. 1 with Elcon Associates, Inc



**AMENDMENT NO. 1
PROFESSIONAL SERVICES AGREEMENT**

This Amendment to Professional Services Agreement ("**Amendment**") 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 the Service Provider below ("**Service Provider**"). The City and Service Provider are parties to the Professional Services Agreement described below, as may be previously amended ("**Agreement**"). 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 to amend the Agreement as set forth below:

Service Provider	Elcon Associates, Inc./ KPFF
City Project Manager	Vincent Bruscas
	vbruscas@everettwa.gov
Original Agreement Date	7/6/2022

AMENDMENTS		
New Completion Date	If this Amendment changes the Completion Date, enter the new Completion Date: Enter new Completion Date, if any If no new date is entered, this Amendment does not change the Completion Date.	
New Maximum Compensation Amount	If this Amendment changes compensation, complete the following table. If the table is not completed, this Amendment does not change compensation.	
	Maximum Compensation Amount Prior to this Amendment	\$56,360.00
	Compensation Added (or Subtracted) by this Amendment	\$30,052.24
	Maximum Compensation Amount After this Amendment	\$86,412.24

Changes to Scope of Work	Scope of Work is REPLACED by the Scope of Work attached to this Amendment (Leaving selection as "Click for Dropdown Menu" means no change to Scope of Work.
Other Amendments	N/A	
Standard Amendment Provisions	Regardless of the date(s) on which this Amendment is signed by the parties, and regardless of any Agreement completion date(s) that may have been in the Agreement prior to this Amendment, the parties agree that the Agreement is deemed continuously in effect since the Original Agreement Date.	
	This Amendment 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 Amendment will be deemed an original signature and will be fully enforceable as an original signature.	
	All provisions in the Agreement shall remain in effect except as expressly modified by this Amendment. From and after the effective date of this Amendment, all references to the Agreement in the Agreement are deemed references to the Agreement as modified by this Amendment.	

SIGNATURES ON FOLLOWING PAGE

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

**CITY OF EVERETT
WASHINGTON**

Elcon Associates, Inc./ KPFF

Cassie Franklin, Mayor

Signature: _____

Name of Signer: Dimitri Siaterlis

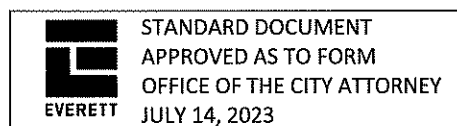
Signer's Email Address: dsiaterlis@elcon.com

Title of Signer: Principal Engineer

Date

ATTEST

Office of the City Clerk



1/26/2024

Mr. Vincent Bruscas
Everett Transit Project Coordinator
3201 Smith Ave Suite 215
Everett, WA 98201

Subject: Electrical Engineering Services Proposal for the Everett Transit Eclipse
Mill Park Inductive Charger Design Installation – Equipment Relocation

Reference: Your Friday, December 15, 2023, Request for Scope of Work and Fee
Proposal to Relocate Electrical Chargers by the Riverfront Blvd
KPFF's attached Scope of Work and Fee Proposal

Dear Mr. **Bruscas**,

Based on our Teams meeting, your email dated December 15, 2023, and KPFF's
scope/fee, we have prepared the following scope of work and attached fee proposal.

Scope of Work:

Expected tasks for the electrical revisions of this project are outlined below:

1. Project Planning and Administration
2. Coordination with Everett Transit and KPFF Consulting Engineers
3. Revise and relocate all electrical equipment shown on drawing E1.1
4. Update short circuit calculations to account for shorter feeder

Assumptions:

- A Time and Materials contract for services will be negotiated and signed and a Notice to Proceed (NTP) issued before work begins.
- Work will be under the direction of Everett Transit personnel.
- KPFF Consulting Engineers will provide revisions to Civil background.
- All deliverables listed above will be provided electronically in PDF format.

We appreciate the opportunity to submit this scope of work and fee proposal. Please call or e-mail if you have any questions. We look forward to working with you on the revisions of this project.

Sincerely,
ELCON ASSOCIATES, INC.

Dimitri Siaterlis, PE.
Principal Electrical Engineer



City of Everett
Inductive Charger for Eclipse Mill Park - RFQ No. 2021-1343

18-Dec-23
Billing Rate (2022)
Relocation of Electrical Equipment by the Riverfront Blvd

		Dimitri Siaterlis	Kinh Pham	Nick Meusch	Curtis Smith	Deanna Siaterlis	Mitch Wagner	Total Hours
		Project Manager	QA/QC	Planner	Sr. Electrical Designer	Electrical Engineer	Electrical Engineer	
Billing Rate (2022)		\$ 220.00	\$ 220.00	\$ 90.00	\$ 140.00	\$ 105.00	\$ 105.00	
Task #	Scope of Services							
	Project Management (internal)	4						4
	Coordination with Everett Transit and KPFF Personnel	4			4			8
	QA/QC (internal)	1						1
	Bi-weekly Team Coordination Meetings with City Staff							0
1	Electrical Engineering and Design							
1.1	Revise drawing E1.1				10			10
1.2	Update short circuit calculations.						4	4
								0
2	Construction Bid Documents							
								0
3	Construction Management							
								0
								0
								0
								0
Total Hours		9	0	0	14	0	4	27
Total Cost by Staff		\$ 1,980.00	\$ -	\$ -	\$ 1,960.00	\$ -	\$ 420.00	\$ 4,360.00
Expenses		Mileage:						
Elcon Associates, Inc's Subtotal Budget (Not to Exceed)								
KPFF's Additional Fee from Design Phase								
Civil Subconsultant KPFF Engineers								
4% OH on KPFF's Fee Proposal								
Total Project Budget (Not to Exceed)								

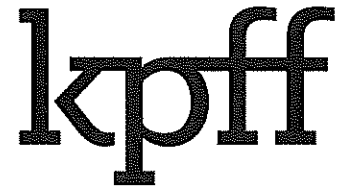
\$ 4,360.00

\$ 2,000.00

\$ 22,781.00

\$ 911.24

\$ 30,052.24



January 23, 2024

Mr. Dimitri Siaterlis, PE
Elcon Associates, Inc.
16300 Christensen Road, Suite 330
Seattle, WA 98188

Subject: Civil Engineering Services Additional Services Request
Everett Transit Inductive Charging Infrastructure – Eclipse Mill Park Site

Dear Dimitri:

Thank you for the opportunity to submit this additional services request to accommodate for the design changes that are needed at the Eclipse Mill Park site to reposition the proposed charging equipment from the Eclipse Mill Park site to the roadway frontage area on Riverfront Boulevard. We understand that this change was needed due to scheduling and timing of when this project work needed to be operational to accommodate Everett Transit's electric bus fleet.

PROJECT DESCRIPTION

It is our understanding that the project will redesign and install one in-ground inductive charger for transit fleet to be located along the frontage area at the Eclipse Mill Park site on Riverfront Boulevard in Everett, Washington. A new concrete pad containing the inductive charging equipment will be provided adjacent to the existing curbline. Pavement re-channelization, underground conduit routing from the utility grid point of connection (POC) to charging equipment, horizontal control, and design around other above and below-grade features will need to be designed for.

SCOPE OF WORK

A summary of the civil engineering-related scope is shown below:

A. TASK 1 – CIVIL ENGINEERING AND DESIGN

- Review and verify existing conditions including, but not limited to available City of Everett GIS and aerial data, owner-provided as-builts and reports for civil engineering-related information, and site visit to confirm pavement channelization conditions for modifications needed.
- Coordinate with Elcon and Everett Transit for electrical conduit routing and stop location placement.
- Prepare updated 100% civil design submittals for site location. Civil engineering design to include conduit routing and utility protection or relocation, pavement removal and

restoration including new concrete pad for proposed bus stop, utility trenching and section details, bus stop placement including an analysis of existing pavement channelization and modifications needed to delineate bike and through lane merge conditions with proposed transit stop along Riverfront Boulevard, and site distance assessment relative to proposed Eclipse Mill Park site driveway.

- Provide updated civil engineering technical specifications applicable to revised stop location.
- Provide input on civil-related items for the cost estimate (if needed).
- Assume one site visit.

Deliverables

- 100% Plans, Specifications and Estimate

B. TASK 2 – CONSTRUCTION PHASE DOCUMENTS

KPFF Consulting Engineers will provide updated construction drawings, input to engineer's estimate as needed, and updated specifications for the construction and installation of charging system and associated civil improvements. These documents will be used by Everett Transit to confirm and negotiate change order work as necessary for installation of the inductive charging system to be located on Riverfront Boulevard at the Eclipse Mill Park site.

Deliverables

- Issued for Construction Documents

ASSUMPTIONS

- Pavement replacement will only be required because of utility installation; therefore, the project will not trigger any storm drainage requirements.
- The client shall provide pavement section information and recommendation from existing as-built information or otherwise.
- The electrical POC and size/number of conduits required will be provided to KPFF by Elcon.
- Civil plans will be developed using aerial photos, as-builts, and existing City GIS as the base. There will be no survey provided during the design phase and it will be the contractor's responsibility to pothole and field verify prior to construction.
- Horizontal control will be provided as dimensional information from existing surface features or known fixed objects that can readily be determined in the field.

- An electrical permit will be required from the City of Everett and Elcon Associates will lead that effort. No other permits required, including street-use or Right-of-Way permit. Civil improvements will be allowed for under existing Master Development Permit already acquired by Developer.
- A single construction document and bid package will be prepared.
- Cultural resource coordination will be managed by the City if required.
- KPFF team will utilize in-house CAD standards for drawing appearance.

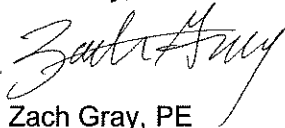
FEES

We propose to provide the above civil engineering services for the following fees, billed on an hourly, not-to-exceed basis in accordance with the attached fee schedule and Terms and Conditions, which are made part of this proposal.

Task 1	\$ 18,165
Task 2	<u>\$4,616</u>
Total	<u>\$ 22,781</u>

We appreciate the opportunity to work with Elcon Associates and Everett Transit on this project. If this proposal meets your approval, please sign below, and return one copy for our files. If you have any questions concerning this proposal, please feel free to call me at (206) 617-9450.

Sincerely,



Zach Gray, PE
Associate

ZRG:heh

Enclosure

10000999002 – 500

Approved: _____ Date: _____
Elcon Associates, Inc



Everett Transit
Inductive Charging Civil Change Work Proposal for Eclipse Mill Park Site

	Ron Leimkuhler	Zach Gray	Dawn Li	Michael Vu	Samantha Pier	Total Hours
	Principal/QAQC	Project Manager	Design Engineer	CAD Tech	Project Coordinator	
Billing Rate (2024)	\$ 263.90	\$ 260.65	\$ 123.76	\$ 135.56	\$ 114.38	

Task #	Scope of Services						
1	Civil Engineering and Design						
1.1	Review & incorporate existing information on Riverfront Boulevard for updated stop location, prepare updated civil engineering drawings showing installation of charging equipment in concrete pad, analyze and prepare modifications to existing roadway channelization, assess site distance from proposed park driveway, prepare updated specifications as applicable, input to civil costs, and 1 site visit.	2	8	80	40	2	132
Task 1 Total Hours		2	8	80	40	2	132
Task 1 Cost by Staff		\$ 527.80	\$ 2,085.20	\$ 9,900.80	\$ 5,422.40	\$ 228.76	\$ 18,164.96
2	Construction Phase Documents						
2.1	Provide Issued for Construction documents for change order work.	1	2	20	10		33
Task 2 Total Hours		1	2	20	10	0	33
Task 2 Cost by Staff		\$ 263.90	\$ 521.30	\$ 2,475.20	\$ 1,355.60	\$ -	\$ 4,616.00
Total Hours		3	10	100	50	2	165
Total Cost by Staff		\$ 791.70	\$ 2,606.50	\$ 12,376.00	\$ 6,778.00	\$ 228.76	\$ 22,780.96
Total Budget (Not to Exceed)							\$ 22,780.96

Project Title: An Interlocal Agreement with Snohomish County for \$80,000 in 2024 REET II Funding to construct a Skate feature at Lion's Park

Council Bill #

Agenda dates requested:

Briefing
 Proposed action
 Proposed action
 Consent 02/21/2024
 Action
 Ordinance
 Public hearing
 Yes X No

Budget amendment:
 Yes X No

PowerPoint presentation:
 Yes X No

Attachments:
 Interlocal Agreement with
 City of Everett and
 Snohomish County

Department(s) involved:
 Parks & Facilities
 Legal

Contact person:
 Bob Leonard

Phone number:
 425-257-8335

Email:
 bleonard@everettwa.gov

Initialed by:
 RML

Department head

Administration

Council President

Project: Lion's Park Skate Feature

Partner/Supplier: Snohomish County

Location: 7530 Cascade Drive, Everett, WA 98201

Preceding action: None

Fund: None

Fiscal summary statement:

The Snohomish County Council approved REET II funding, available for local county entities, to share in the cost of capital improvement projects throughout the county. The County has awarded the City of Everett \$80,000 in 2024 REET II funding to construct a skate feature at Lion's Park.

Project summary statement:

The history of skating in the City of Everett dates back to the development of its first skate park at Walter E. Hall Park in 1998—Snohomish County's oldest skate park. Parks and Facilities is committed to increasing skate opportunities as we believe that by expanding and enhancing skating across our city we will introduce youth, and adults alike, to the social and physical benefits of skating. The City of Everett's Parks PROS Plan (Parks Recreation & Open Space Plan) adopted by the Council in 2022 identifies increased skating opportunities as a priority among respondents.

Established in 1975, Lion's Park serves as an important gathering place for residents of the Beverly Park-Cascade View Neighborhood. Based on feedback from the neighborhood group, the adjacent Boys and Girls Club, as well as the City of Everett Police Department, we believe it is an ideal location to introduce Everett's first-of-its-kind skate feature. This park improvement will provide the following benefits to the neighborhood:

- Deepen engagement with partner non-profit and public agencies (Boys and Girls Club, The Skate Project);
- Provide targeted recreational activities and programming for youth;
- Fulfill an identified priority and desire for enhanced outdoor recreation opportunities, especially skate opportunities, throughout our city.

This park improvement will be realized, in part, with the support of Snohomish County through REET II funding.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign an interlocal agreement with Snohomish County for \$80,000 in 2024 REET II funding to construct a skate feature at Lion's Park.

INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND THE CITY OF EVERETT FOR THE LION'S PARK SKATE DOT PROJECT

This INTERLOCAL AGREEMENT (the "Agreement"), is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), and the City of Everett, a Washington municipal corporation (the "City"), collectively the "Parties," pursuant to chapter 39.34 RCW.

RECITALS

A. The 2015 Snohomish County Parks and Recreation Element, a component of the Snohomish County Growth Management Act Comprehensive Plan, has documented a County-wide need for a wide variety of recreational facilities; and

B. The County Executive and the County Council have determined that it is consistent with the Snohomish County Parks and Recreation Element and is in the public interest of County residents to participate in joint undertakings with local municipalities to increase recreational opportunities and facility capacity; and

C. Amendment #1 to the 2024 Adopted Budget, approved by Ordinance 23-120, included \$800,000 of REET II funds, collected pursuant to chapter 82.46 RCW, to be split equally between the five council districts for Council/City Partnership Projects; and

D. The County Council adopted benchmarks for Council/City Partnership Projects through Motion 23-259; and

E. Pursuant to the adopted benchmarks, the Council identified various projects for inclusion in the Council/City Partnership Projects; and

F. One of the identified Council/City projects is the City's Lion's Park Skate Dot ("the Project") which will design and construct the City's first stand-alone skate dot in Lion's Park; and

G. Snohomish County has agreed to provide Eighty Thousand (\$80,000) of REET II funds (the "Funds") in support of the Project; and

H. The City has provided the following: copy of submission form for County funds (Attachment A, attached hereto and incorporated herein by reference); proof of City ownership of the Project property (Attachment B, attached hereto and incorporated herein by this reference); relevant portions of the City's Capital Facilities Plan ("CFP") identifying the Project (Attachment C, attached hereto and incorporated herein by this reference); and proof of insurance if not covered by WCIA (Attachment D, attached hereto and incorporated herein by this reference); and

I. Pursuant to this Agreement, the County wishes to provide, and the City wishes to accept, the above-described Funds from the County.

AGREEMENT

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the City agree as follows:

1. Purpose of Agreement.

This Agreement is authorized by and entered into pursuant to chapter 39.34 RCW. The purpose and intent of this Agreement is to define the responsibilities of the County and the City as they relate to the County's provision of the funds to the City's Project located at 7530 Cascade Drive, Everett, WA 98201 (the "Property").

2. Effective Date and Duration.

This Agreement shall take effect when it has been duly executed by both parties and either filed with the County Auditor or posted on the County's Interlocal Agreements website. This Agreement shall remain in effect through December 31, 2025, unless earlier terminated pursuant to the provisions of Section 12 below; PROVIDED HOWEVER, that each party's obligations are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with applicable law.

3. Administrators.

Each party to this Agreement shall designate an individual (an "Administrator"), who may be designated by title or position, to oversee and administer such party's participation in this Agreement. The Parties' initial Administrators shall be the following individuals:

County's Initial Administrator:

Rich Patton, Division Manager
Snohomish County Division of Parks &
Recreation
6705 Puget Park Drive
Snohomish, Washington 98296
(425) 388-6618 phone
rich.patton@snoco.org

City's Initial Administrator:

Brad Chenoweth, Capital Projects Coordinator
City of Everett, Parks and Facilities
802 E Mukilteo Blvd.
Everett, WA 98203
425-308-3939
BChenoweth@everettwa.gov

Either party may change its Administrator at any time by delivering written notice of such party's new Administrator to the other party.

4. Project Performance.

4.1 Certification of Real Property Interest. The City certifies to the County that the City owns the Property, as evidenced by Exhibit B, and additional real property or easements are not needed to complete the Project.

4.2 City's Financial Commitment. The City certifies to the County that the City will have sufficient monies to complete the Project by the Project deadline identified in Section 4.4 below and that the Project was included in the City's CFP as evidenced by Attachment C.

4.3 Project Completion. The City shall complete the Project as detailed in Attachment A.

4.4 Project Deadline. On or before December 31, 2025, the City shall complete the Project. In executing the Project, the City shall obtain and, upon request, provide the County with copies of all permits necessary to complete the Project.

4.5 Recognition of County as Financial Sponsor. The City shall recognize the County as a financial sponsor of the Project as follows:

4.5.1 Upon completion of the Project or dedication of the completed Project, whichever comes first, the City shall install at the Project site a plaque in a form approved by the County that indicates that the County is a financial sponsor of, or contributor to, the Project;

4.5.2 The City shall invite the County to all events promoting the Project and recognize the County at all such events as a financial sponsor of the Project;

4.5.3 The City shall recognize the County as a financial sponsor in all brochures, banners, posters, and other promotional material related to the Project.

4.6 Project Maintenance. The City shall be responsible for on-going capital improvements to, and maintenance of, the Project and the Property. The County makes no commitment to support the Project or Property beyond what is provided for in this Agreement and assumes no obligation for future support of the Project or Property except as expressly set forth in this Agreement.

4.7 Availability to County Residents. The City shall make the Property available to all County residents on the same terms as it is available to residents of the City.

5. Invoicing and Payment.

5.1 Invoicing. Within thirty days of final completion of the Project or by December 30, 2025, whichever occurs first. The City shall submit to the County one invoice on City letterhead requesting disbursement of the Funds for the Project. The invoice needs to include name and address of City, name and the address of who the invoice is addressed to (the County), the date, the amount being requested for reimbursement, and the name of the project being funded. Invoices shall provide line-item detail for materials, labor and overhead. Backup documentation should include of copies of invoices paid by the City to contractors/consultants for the work performed, which covers the full amount being requested for reimbursement and proof of payment on those invoices. Additionally, providing progress photos of the site is strongly recommended with prior, during and after completion photos.

5.2 Payment. Unless the County delivers to the City written notice disputing the amount of a particular line item, within twenty (20) working days of receipt from the City of an invoice properly submitted to the County pursuant to Section 5.1, the County shall remit to the City an amount not to exceed Eighty Thousand (\$80,000). In the event the total costs of the Project are less than \$80,000, the County shall only remit those funds necessary to pay the submitted invoice in full unless otherwise disputed as provided in this Section 5.2.

5.3 Accounting. The City shall maintain a system of accounting and internal controls that complies with generally accepted accounting principles and governmental accounting and financial reporting standards and provisions concerning preservation and destruction of public documents in accordance with applicable laws, including chapter 40.14 RCW.

5.4 Recordkeeping. The City shall maintain adequate records to support billings. The records shall be maintained by the City for a period of six (6) years after completion of this Agreement. The County, or any of its duly authorized representatives, shall have access to books, documents, or papers and records of the City relating to this Agreement for purposes of inspection, audit, or the making of excerpts or transcripts.

5.5 Audit and Repayment. The City shall return Funds disbursed to it by the County under this Agreement upon the occurrence of any of the following events:

5.5.1 If overpayments are made; or

5.5.2 If an audit of the Project by the State or the County determines that the Funds have been expended for purposes not permitted by the REET II statute, the State, the County, or this Agreement.

In the case of 5.5.1 or 5.5.2, the County shall make a written demand upon the City for repayment, and the City shall be obligated to repay to the County the Funds demanded within sixty (60) calendar days of the demand. The County's right to demand repayment from the City may be exercised as often as necessary to recoup from the City all funds required to be returned to the County.

The City is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

6. Independent Contractor.

The City will perform all work associated with the Project as an independent contractor and not as an agent, employee, or servant of the County. The City shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be employees and agents of the City and not the County. The County shall only have the right to ensure performance.

7. Indemnification/Hold Harmless.

The City shall assume the risk of liability for damage, loss, costs and expense arising out of the activities under this Agreement and all use of any improvements it may place on the Property. The City shall hold harmless, indemnify and defend the County, its officers, elected and appointed officials, employees and agents from and against all claims, losses, lawsuits, actions, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property or business and/or any death, injury or disability to or of any person or party, including but not limited to any employee, arising out of or suffered, directly or indirectly, by reason of or in connection with the acquisition or use of the Property and this Agreement; PROVIDED, that the above indemnification does not apply to those damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees or agents. This indemnification obligation shall include, but is not limited to, all claims against the County by an employee or former employee of City, and City, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the County only, under any industrial insurance act, including Title 51 RCW, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

8. Liability Related to City Ordinances, Policies, Rules and Regulations.

In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, policy, rule or regulation is at issue, the City shall defend the same at its sole expense and, if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

9. Insurance.

The City shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, exercise of the rights and privileges granted by this Agreement, by the City, its agents, representatives, and employees/subcontractors. The cost of such insurance shall be paid by the City.

9.1 Minimum Scope and Limits of Insurance. General Liability: Insurance Services Office Form No. CG 00 01 Ed. 11-88, covering COMMERCIAL GENERAL LIABILITY with limits no less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage.

9.2 Other Insurance Provisions. Coverage shall be written on an "Occurrence" form. The insurance policies required in this Agreement are to contain or be endorsed to contain the County, its officers, officials, employees, and agents as additional insureds as respects liability

arising out of activities performed by or on behalf of the [City/Town/District] in connection with this Agreement.

9.3 Verification of Coverage. The City shall furnish the County with certificate(s) of insurance and endorsement(s) required as evidenced by Attachment D.

9.4 If the City is self-insured, in lieu of the insurance required in this Section 9, the City shall, upon request of the County, provide the County a letter certifying the City's self-insurance program.

10. Compliance with Laws.

In the performance of its obligations under this Agreement, each party shall comply with all applicable federal, state, and local laws, rules and regulations.

11. Default and Remedies.

11.1 Default. If either the County or the City fails to perform any act or obligation required to be performed by it hereunder, the other party shall deliver written notice of such failure to the non-performing party. The non-performing party shall have twenty (20) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default ("Default") under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said twenty (20) day period, then the non-performing party shall not be in Default if it commences cure within said twenty (20) day period and thereafter diligently pursues cure to completion.

11.2 Remedies. In the event of a party's Default under this Agreement, then after giving notice and an opportunity to cure pursuant to Section 11.1 above, the non-Defaulting party shall have the right to exercise any or all rights and remedies available to it in law or equity.

12. Early Termination.

12.1 30 Days' Notice. Except as provided in Section 12.2 below, either party may terminate this Agreement at any time, with or without cause, upon not less than thirty (30) days' advance written notice to the other party. The termination notice shall specify the date on which the Agreement shall terminate.

12.2 Termination for Breach. In the event that the City fails to complete the Project by December 31, 2025, and/or otherwise commits a Default as described in Section 11, the County may terminate this Agreement immediately by delivering written notice to the City. Within thirty (30) days of such early termination, the City shall return to the County all Funds previously disbursed from the County to the City for the Project plus interest at the rate of twelve percent (12%) per annum beginning thirty (30) days from the date of early termination.

13. Dispute Resolution.

In the event differences between the Parties should arise over the terms and conditions or the performance of this Agreement, the Parties shall use their best efforts to resolve those differences on an informal basis. If those differences cannot be resolved informally, the matter may be referred for mediation to a mediator mutually selected by the Parties. If mediation is not successful or if a party waives mediation, either of the Parties may institute legal action for specific performance of this Agreement or for damages.

14. Notices.

All notices required to be given by any party to the other party under this Agreement shall be in writing and shall be delivered either in person, by United States mail, or by electronic mail (email) to the applicable Administrator or the Administrator's designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses set forth in Section 3 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

15. Miscellaneous.

15.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document executed with the same formalities as required for this Agreement and signed by the party against whom such modification is sought to be enforced.

15.2 Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

15.3 Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

15.4 Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

15.5 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

15.6 No Waiver. A party's forbearance or delay in exercising any right or remedy with respect to a Default by the other party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by either party of any particular Default constitute a waiver of any other Default or any similar future Default.

15.7 No Assignment. This Agreement shall not be assigned, either in whole or in part, by either party without the express written consent of the other party, which may be granted or withheld in such party's sole discretion. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.

15.8 Warranty of Authority. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.

15.9 No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the Parties.

15.10 No Separate Entity Necessary. The Parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

15.11 Ownership of Property. Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

15.12 No Third Party Beneficiaries. This Agreement and each and every provision hereof is for the sole benefit of the [City/Town/District] and the County. No other persons or Parties shall be deemed to have any rights in, under or to this Agreement.

15.13 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth under their signatures below, and effective as of the date of the last party to sign.

County

SNOHOMISH COUNTY

City

CITY OF EVERETT

By _____
Snohomish County Executive Date

By _____
Title: _____ Date

Approved as to Form:

/s/ George B. Marsh 1/23/2024
Deputy Prosecuting Attorney Date

Approved as to Form:

Office of the City Attorney Date

ATTACHMENT A - SUBMISSION FORM

SNOHOMISH COUNTY PARTNERSHIP PROJECTS

OVERVIEW: Funding is available through Snohomish County's Capital Improvement Program to provide dollars for the completion of qualifying projects in partnership with public entities. Eligible public entities include: school districts, park districts, utility districts, county and cities/towns that have a CIP. Funding is provided through the Real Estate Excise Tax 2 (REET 2) Fund and projects must comply with fund restrictions and ideally, be included in the receiving entity's adopted capital budget. Funding is subject to availability and appropriation by the County Council.

QUALIFYING PROJECTS: REET 2 may only be used for financing "capital projects" specified in the capital facilities plan. RCW 82.46.035(5) defines capital projects as:

- (a) Planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems;
- (b) Planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and
- (c) Until January 1, 2026, planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of facilities for those experiencing homelessness and affordable housing projects.

SECTION 1: CONTACT INFORMATION

Public Entity Name	Public Entity Address		
Person Authorized to Approve Agreement for Funding	Contact Person Name	Contact Person Phone	Contact Person Email

SECTION 2: PROJECT INFORMATION

Program Year		
Project Title		
Project Location		
Project Description: <i>Brief (1-2 sentences) description of what the project will accomplish</i>		
Please select the appropriate category of REET II eligible uses for your proposed project:		
Is the project identified in the budget? <i>If your project is selected, please submit appropriate budget pages upon request</i>	YES	NO
Is this project identified in a CIP? <i>If your project is selected, please submit appropriate budget pages upon request</i>	YES	NO
Is the land identified for the project owned by the applying entity?	YES	NO
Is your entity in agreement with the attached template agreement for funding?	YES	NO

SECTION 3: FUNDING REQUEST – The maximum amount allowed per Council District is dependent on available funding and is subject to budget approval and appropriation. Funds may only be awarded to eligible public entities in Snohomish County, Washington.

County Funds Requested	\$
Public Entity Match Provided	\$

SECTION 4: INSURANCE COVERAGE – please check the appropriate box below to indicate if your entity can obtain each type of coverage. (Waivers may be granted in some instances.) *If your project is selected, please submit your proof of insurance upon request.*

Type	Agency CAN obtain this coverage	Agency CANNOT obtain this coverage
Public Liability Insurance - \$1,000,000 personal injury and property damage		
Worker's Compensation Coverage – as required by the State of Washington		
Professional Liability – Only required when providing professional services, \$1,000,000 error and omissions.		
Self-Insured – Public Entities ONLY		

SECTION 5: FINAL QUESTIONS – HAVE YOU...

Completed all form questions	YES	NO
Confirmed desired project is in the appropriate budget documents	YES	NO
Confirmed desired project is in your CIP	YES	NO
Reviewed the agreement template	YES	NO
Confirmed Proof of Insurance	YES	NO

SECTION 6: SUBMISSION REQUIREMENTS

Please submit the form and all requested attachments to the following address by July 31st, 5 PM

Council District 2
megan.dunn@co.snohomish.wa.us
425-388-2408

3000 Rockefeller Avenue, M/S 609
 Everett, WA 98201-4046

Property Account Summary

9/25/2023

Parcel Number	00393600200100	Property Address	UNKNOWN UNKNOWN , UNKNOWN,
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General Information

Property Description	BEVERLY HOME TRACTS DIV 1 BLK 002 D-00 - LOT 1 BLK 2 TGW VAC PTN PARK DR LY ADJ THRTO PER CITY EVORD NO 208-72 REC AF NO 2300433 ALSO TGWALL LOTS 2 & 3 OF BLK 2
Property Category	Land and Improvements
Status	Active, Locally Assessed
Tax Code Area	00010

Property Characteristics

Use Code	681 Nursery, Primary & Secondary School
Unit of Measure	Acre(s)
Size (gross)	1.30

Parties

Role	Percent	Name	Address
Taxpayer	100	EVERETT CITY OF	3002 WETMORE AVE, EVERETT, WA 98201 United States
Owner	100	CITY OF EVERETT	3200 CEDAR ST, EVERETT, WA 98201 United States

Related Properties

No Related Properties Found

Property Values

Value Type	Tax Year 2023	Tax Year 2022	Tax Year 2021	Tax Year 2020	Tax Year 2019
Taxable Value Regular					
Exemption Amount Regular	\$1,137,000	\$900,000	\$783,000	\$669,000	\$606,000
Market Total	\$1,137,000	\$900,000	\$783,000	\$669,000	\$606,000
Assessed Value	\$1,137,000	\$900,000	\$783,000	\$669,000	\$606,000
Market Land	\$1,137,000	\$900,000	\$783,000	\$669,000	\$606,000
Market Improvement					

Personal Property					
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Active Exemptions

Government Property

Events

Effective Date	Entry Date-Time	Type	Remarks
10/16/2019	10/16/2019 09:38:00	Owner Added	Party/Property Relationship by sasset
10/15/2019	10/16/2019 09:38:00	Owner Terminated	Party/Property Relationship by sasset

Tax Balance

Distribution of Current Taxes

District	Rate	Amount	Voted Amount	Non-Voted Amount
TOTAL				

Pending Property Values

Pending Tax Year	Market Land Value	Market Improvement Value	Market Total Value	Current Use Land Value	Current Use Improvement	Current Use Total Value
2024	\$1,137,000.00	\$0.00	\$1,137,000.00	\$0.00	\$0.00	\$0.00

Levy Rate History

Tax Year	Total Levy Rate
2022	9.155779
2021	9.934227
2020	11.225217

Real Property Structures

Receipts

Date	Receipt No.	Amount Applied	Amount Due
No Receipts Found			

Sales History

Property Maps

Neighborhood Code	Township	Range	Section	Quarter	Parcel Map
1201013	28	05	07	SE	View parcel maps for this Township/Range/Section

QUARTER

SECTION

TOWNSHIP N.W.B.L.

RANGE E.W.M.

SE

7

28

5

Centerline

Lot

Block

Section

City Limits

Gov Lot

Subdiv

ROW

Quarter

Tax Acct

Major Water

Other Lot

Vac ROW

16th

Easement

Minor Water

Other Subdiv

Vac Lot

0

200

400

Feet

1 inch = 200 feet

Map produced on February 14, 2023

A product of the Assessor's Office
Snohomish County, Washington

R3E R4E R5E R6E R7E R8E R9E R10E R11E R12E

T28N T29N T30N T31N

NE-07-28-05

SP 1202-49-89

1-042

2-059

(6742)

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ALPINE HEIG

80TH ST SE

19TH DR SE

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Parcel ID: 00393600200100
Property Address: UNKNOWN
City: UNKNOWN
Zip Code:
Taxpayer: EVERETT CITY OF
Owner: CITY OF EVERETT
Size (Gross Acres): 1.3
Market Value: \$1,137,000
Tax Code Area: 00010
Neighborhood: 1201013
E1/4 SEC7 T28N R5E

[Property Account Summary](#)
[and Property Sales](#)
[PDF Parcel Map](#)
[PDF Parcel Map](#)



ATTACHMENT C - CAPITAL FACILITIES PLAN

Capital Plan

Everett Parks, Recreation & Open Space Plan ■ FINAL February 2022

Project Name	District	Acres or Miles	Cost Estimate	Start Year	Funding Sources	% Related to Growth	Impact Fee Eligible: 2021-2031
Swim Center Renovation/Admin Recreation and Community Center *	2	0.00	\$6,000,000	2029	REET, Grants, Impact Fees	25%	\$1,500,000
Doyle Park Playground	2	0.00	\$300,000	2021	REET, Impact Fees	10%	\$30,000
Forest Park Playground Replacement	2	0.00	\$1,000,000	2020	REET, Impact Fees	25%	\$250,000
Forest Park Sport Court	2	0.00	\$280,657	2020	REET, Grants, Impact Fees	50%	\$140,329
Lowell Park Playground	2	0.00	\$420,000	2024	REET, Impact Fees	10%	\$42,000
Lowell Park Restroom	2	0.00	\$160,000	2022	REET, Grants, Impact Fees	25%	\$40,000
Lowell Park Sport Court Renovation	2	0.00	\$98,436	2020	REET, Impact Fees	50%	\$49,218
Rotary Park Boat Launch Renovations	2	0.00	\$399,847	2022	REET, Grants	0%	\$0
Edgewater Park Playground	3	0.00	\$336,000	2023	REET, Grants, Impact Fees	10%	\$33,600
Edgewater Park Renovation	3	0.00	\$425,000	2023	REET, Grants, Impact Fees	25%	\$106,250
Edgewater Sport Court - YAF	3	0.00	\$299,788	2021	REET, Grants, Impact Fees	50%	\$74,947
Howarth Park Playground	3	0.00	\$240,000	2021	REET, Impact Fees	10%	\$24,000
Howarth Park Restroom	3	0.00	\$280,000	2021	REET, Impact Fees	50%	\$140,000
Howarth Park Sport Court & Parking	3	0.00	\$318,000	2021	REET, Grants, Impact Fees	10%	\$31,800
Phil Johnson Ballfields Design	3	0.00	\$4,650,000	2018	REET, Grants, Impact Fees	80%	\$3,720,000
Phil Johnson Park Playground	3	0.00	\$205,000	2022	REET, Impact Fees	10%	\$20,500
Disc Golf Development TAS	5	0.00	\$50,000	2022-2023	REET, Grants, Impact Fees	100%	\$50,000
TA Sullivan Park Playground	5	0.00	\$1,000,000	2021	REET, Impact Fees	25%	\$250,000
Hard Surface Preservation Program (Annual × 10 year)	Citywide	0.00	\$2,000,000	2021	REET, Grants, Impact Fees	10%	\$200,000
Picnic Tables/Shelters Systemwide	Citywide	0.00	\$800,000	2025	REET, Grants, Impact Fees	100%	\$800,000
Skate Dots	Citywide	0.00	\$90,000	2031	REET, Grants, Impact Fees	100%	\$90,000
Pickleball Courts	Citywide		\$1,065,940	2023-2031	REET, Grants, Impact Fees	100%	\$1,065,940
Investment Subtotal			\$24,176,619				\$10,777,050
Programmatic							
Planning Efforts	Programmatic	0.00	\$390,000	2022-2031	REET, Impact Fees	50%	\$195,000
20 yr. Forest Restoration Program	Programmatic	0.00	\$975,000	2021	REET	0%	\$0
Small Capital Projects	Programmatic	0.00	\$4,500,000	2021	REET	0%	\$0
Programmatic Subtotal			\$5,865,000				\$195,000
Grand Total			\$102,157,882				\$78,838,313

* Could be either Admin or Swim Center Renovation

**ATTACHMENT D
PROOF OF INSURANCE**

LETTER OF SELF-INSURANCE

For Period: 12/31/2022 – 12/31/2023

This is to inform you of the City of Everett's insurance program. The City of Everett maintains a comprehensive program of risk retention and insurance.

Based on discussion and direction from City Administration, the City has elected to self-insure its liability exposures. The City's self-insured retention for general, auto and professional liability is \$2,000,000, which is fully funded. Excess liability is purchased with limits of \$30,000,000 over the self-insured retention.

Please contact me at (425) 257-8702 if you have any questions relating to the City of Everett's insurance program.



Christine Muth-Schulz
Risk Manager

Risk Management



2930 Wetmore Ave., Ste. 10-C
Everett, WA 98201



425.257.7000
425.257.8693 fax



CityAttorney@everettwa.gov
everettwa.gov/legal

Project title: PSA with Natural Systems Design Inc. for the Fish Passage Barrier Inventory & Assessment Program

Council Bill #

Project: Fish Passage Barrier Inventory and Assessments Program

Partner/Supplier: Natural Systems Design, Inc.

Location: Citywide

Preceding action: Authorized mayor to sign 2023 PSA scope amendment for field work

Fund: 401 – Water/Sewer Utility Fund

Agenda dates requested:

2/21/2024

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

Budget amendment:

Yes ☒ X No

PowerPoint presentation:

Yes ☒ X No

Attachments:

PSA

Department(s) involved:

Public Works

Contact person:

Souheil Nasr

Phone number:

425-257-7210

Email:

snasr@everettwa.gov

Fiscal summary statement:

This project is funded by the Utilities 2024 Operating Budget, and there is no outside funding. The Professional Services Agreement (PSA) is for a total of \$60,000.

Project summary statement:

The State is required by court injunction to remove state-owned fish passage barriers by 2030. Surface Water Management is conducting a voluntary, preemptive effort to inventory and assess City fish barriers. This is a continuation of 2023 efforts and will include: data management; refinement of barrier removal prioritization; and estimating remaining work tasks, cost, and timeline to complete the barrier inventory and ranking. This information will help identify barrier removal projects and will also strengthen City applications for potential grant funding.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the Professional Services Agreement with Natural Systems Design Inc. for the Fish Passage Barrier Inventory and Assessments Program.

Initialed by:

RLS

Department head

Administration

Council President



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 Service Provider identified 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	Natural Systems Design, Inc.
	1900 N. Northlake Way, Suite 211 Seattle, WA 98103
	olivia@naturaldes.com
City Project Manager	Cindy Cullen
	City of Everett – Public Works Department 3200 Cedar St. Everett, WA 98201
	ccullen@everettwa.gov
Brief Summary of Scope of Work	Fish passage barrier inventory and prioritization support
Completion Date	December 31, 2024
Maximum Compensation Amount	\$60,000

BASIC PROVISIONS	
Service Provider Insurance Contact Information	Lisa Day, Assured Partners of Washington, LLC
	425-952-2694
	Lisa.Day@assuredpartners.com
State Retirement Systems (must answer both questions)	<p>Does Service Provider have 25 or more employees?</p> <p>Answer: Yes</p> <p>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?</p> <p>Answer: Click for Dropdown Menu</p> <p>“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).</p> <p>“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.</p>

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**

NATURAL SYSTEMS DESIGN, INC.

Cassie Franklin, Mayor

Signature: _____

Name of Signer: Steve Winter

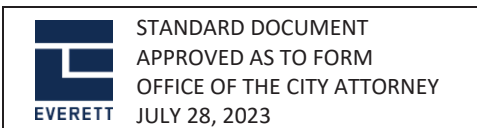
Signer's Email Address: SteveW@naturaldes.com

Title of Signer: Principal Scientist

Date

ATTEST

Office of the City Clerk



ATTACHMENT
PROFESSIONAL SERVICES AGREEMENT
(GENERAL PROVISIONS v.071423.1)

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. **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of mutual execution of this Agreement and the Work 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.
 - 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 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 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 or to an address designated by the City Project Manager in writing.
6. **Submission of Reports and Other Documents.** 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"). 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. The City does not by this Section 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 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. **Changes.** 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. **Subletting/Assignment of Contracts.** Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.
10. **Indemnification.** 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 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. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance 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. Commercial General Liability Insurance 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. Business Automobile Liability Insurance 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. Professional Errors and Omissions Insurance 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 CGL and auto 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 self-insurance) 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. **Risk of Loss.** 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. **Employment/Conflict of Interest.** 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 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. **Audits and Inspections.** 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. **City of Everett Business License.** Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.
- 17. **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. **Compliance with Federal, State and Local Laws.** 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. **Compliance with Grant/Loan Terms and Conditions.** 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. **Equal Employment Opportunity.** 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. **Waiver.** 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. **Complete Agreement.** 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. **Modification of Agreement.** 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.
25. **Severability.** 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. **Venue.** Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.
28. **Governing Law.** 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. **City Marks.** 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. **Federal Debarment.** 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. **Signature/Counterparts.** 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. **Standard Document.** 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.071423.1)**

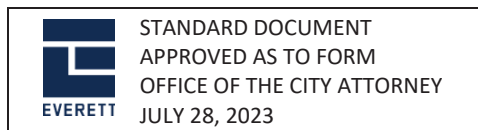


EXHIBIT A
PROFESSIONAL SERVICES AGREEMENT
(SCOPE OF WORK -- ATTACHED)

EXHIBIT A. Scope of Work

SCOPE OF WORK

Fish Passage Barrier Prioritization Phase II

Prepared by:

Natural Systems Design, Inc.

Prepared for:

Cindy Cullen, City of Everett Public Works

Purpose

This scope of work was prepared by Natural Systems Design (NSD) for the City of Everett (City) to continue work towards a comprehensive fish passage prioritization plan that acts as a guide for City personnel to plan and seek funding for fish barrier crossing correction, replacement, or removal. This contract is part of a phased approach to build from the Phase 1 work completed in 2023 and continue to develop a fish passage barrier prioritization workbook. This workbook is intended to be a living document, which can be updated as new barrier or stream information is gathered by the City.

This scope of work describes the technical services to be completed by NSD to support the City in the assessment and prioritization of fish passage barriers within the limits of the City of Everett. Work to be completed by NSD has been divided into the following tasks and linked to specific project deliverables:

Task 1: Data synthesis and review

Task 2: Finalize prioritization workbook

Task 3: Develop scope projection for remaining City fish barrier assessments

Task 4: Meetings and project management

Task 5: Contingency

For this project, NSD's core team consists of Torrey Luiting, MS, PWS, as the Principal In-Charge, Olivia Vito, MNR, as the primary analyst and Project Manager, and Eleanor Bartolomeo, MS, as the Senior Engineer. Our office administrative team will assist with monthly invoicing and coordination of meetings. This team will be supported as needed by other technical staff at NSD.

Task 1: Data synthesis and review

NSD will review existing City data for updates to the City's Fish Passage Sites database, including review of field data collected by WFC and NSD. NSD will update the City's Fish Passage Sites database accordingly, particularly for updates to site passability. NSD will support the City's submission of the updated Fish Passage Sites database to WDFW for their Fish Passage and Diversion Screening Inventory (FPDSI).

Assumptions:

- ▶ NSD will utilize existing regulations, primarily driven by the WDFW Fish Passage Manual, to make determinations about site passability. When existing guidance is insufficient to make determinations of passability, NSD will provide our best professional recommendations, and rationality for those recommendations, to the City.
- ▶ If no sites have data that warrant an update to their passability, the City's Fish Passage Sites database may remain unchanged and NSD will proceed with Task 2.

Deliverables:

- ▶ Updated Fish Passage Sites database (in ArcGIS Online hosted feature layer format), if applicable due by **4/30/24**.

Budget: \$4,114

Task 2: Finalize prioritization workbook

NSD will finalize the 2023 Phase 1 prioritization workbook. Additional City owned barriers falling within City limits and with known passability status will be incorporated into the workbook. This will entail manual revision of the habitat quality modeling data against the City's streamline network for updates to the streamline configuration of the modeling data. NSD will work with the City of Everett to verify that the best streamline configuration is being used based on the best available data at the time.

Prioritization values will be refined, if necessary, to follow the King County prioritization methodology as developed in Phase I. NSD will prepare one draft and one final memorandum documenting the changes to the prioritization workbook.

Assumptions:

- ▶ Final prioritization workbook will include (at a minimum) barriers that are known to be owned by the City of Everett, have a known barrier status, and are located within City limits (excluding structures related to the water transmission line east of City limits).
- ▶ Crossings beneath City owned infrastructure, yet outside of city limits, may be included in the inventory if such information is already documented in the City's Fish Passage Sites database.
- ▶ Private landowner crossings that occur within city limits will not be included in the prioritization workbook, but may be included in the City's Fish Passage Sites inventory if such information is already documented in the inventory.
- ▶ Landowner and stakeholder outreach will not be conducted by NSD.
- ▶ No fieldwork will be conducted in Task 2.

Deliverables:

- ▶ Updated prioritization workbook that relies on iterations developed by NSD in 2023 and incorporates final revisions. Draft will be submitted to the City for review by **9/5/24**. The City will respond with any comments by **9/19/24**. The final draft will be submitted to the City by **9/26/24**.

- ▶ Draft and final memorandum describing the final barrier prioritization workbook and what has been updated or revised in 2024. Draft will be submitted to the City by 10/10/24. The City will respond with any comments 10/24/24. The final draft will be submitted to the City by 10/31/24.

Budget: \$27,146

Task 3: Develop scope projection for remaining City fish barrier assessments

NSD will develop a list of the projected taskwork yet to be completed under the City's fish passage prioritization program and associated ballpark cost estimate. Projected scope taskwork items will likely include, but are not limited to:

- Assessment of City culverts with unknown passability status
- Identifying private stream crossings and evaluating passability
- Evaluating complex culverts
- Determination of ownership for culverts with unknown ownership
- Cross-referencing of City databases that are not yet incorporated into the City's Fish Passage Sites database
- Stakeholder and landowner outreach and engagement
- Developing preliminary cost estimates to inform prioritization
- Identifying grant opportunities
- Identifying geographic coordination opportunities with other entities such as WSDOT, Snohomish County, and downstream Cities (for data sharing or to identify planned projects on same stream)
- Support in developing City website to discuss fish passage efforts and provide a webmap

Assumptions:

- ▶ Projected taskwork will be scoped, not completed, within this scope of work.
- ▶ Some scoped items may be lumped or split as needed for associating approximate cost estimates.
- ▶ Associated costs will be generated as ballpark numbers and will not incorporate rates of inflation. Final values will be derived as the best estimate by NSD at the time of evaluation.

Deliverables:

- ▶ List of projected taskwork yet to be completed under the City's fish passage prioritization program and associated ballpark cost estimate. Draft will be submitted to the City for review by 6/13/24. The City will respond with any comments by 6/27/24. The final draft will be submitted to the City by 7/9/24.

Budget: \$8,980

Task 4: Meetings and Project Management

This task includes the labor and expenses associated with scheduling, coordination, and quality control services for this work, along with conference calls and related coordination with the City.

Up to three 1-hour meetings may occur with the City as needed to advance the scope of work, answer questions and gain input into the final prioritization workbook.

NSD's project manager and financial administrative assistant will be responsible for administering the contract, handling team communication (both internally and with the City), responding to requests for information, preparing invoices, tracking budget, and related project management and administration tasks.

Assumptions:

- ▶ NSD will manage the project on a total budget basis but would track and report hours by task.
- ▶ This task will be accomplished over the course of approximately 11 months (February through December 2024), with project management effort anticipated at approximately 1-hour per month on average for the project manager and administrative support.
- ▶ Associate Principal support will be provided for quality assurance.
- ▶ Client and internal team coordination is anticipated at approximately 0.5 hour per month on average.
- ▶ Preparation for or attendance at larger stakeholder meetings, beyond providing screenshots and figures of work already completed in Tasks 1 through 3, is not included in this scope of work.

Deliverables:

- ▶ Ongoing coordination with City.
- ▶ Monthly invoice with amount spent by task and remaining amount. Work performed will be documented under each task within invoice.

Budget: \$5,084

Task 5: Contingency

At the written request of the City, NSD will provide additional technical assistance support for the fish passage prioritization program up to **\$14,676** of staff time and related expenses, as appropriate. Task 5 will be implemented on a time and materials basis and can be used to cover existing, new, or otherwise unanticipated related task work.

Assumptions:

- ▶ This task will be initiated only at the City's express request. Before initiating Task 5, at a minimum, an email from the COE will be required that clearly indicates a Notice to Proceed and scope of activities included in the authorization.

Deliverables:

- ▶ Dependent on contingency task(s) requested.

Budget: \$14,676

Project Timeline and Budget

Estimated schedule and budget for the tasks described in this scope of work are outlined in Table 1 based on the assumptions described above and estimated level of effort given the information known to NSD at the time of this contract. This project budget represents our knowledge of the work already completed, best understanding of the requested project elements, and accompanying assumptions as detailed herein. The exact schedule and duration of tasks may change during the course of the project, in which event, any changes will be coordinated with the City.

For the scope of services described above, we estimate that our total fee will be completed on a Time and Materials basis, Not to Exceed Value as detailed below in Table 1. This budget estimate is made based on the scope of services outlined above and is broken out per task below in Table 1 and in Exhibit B.

NSD may move resources between tasks within the contract amount to accomplish the scope of work and as necessary and appropriate to the work requested. It is our understanding that the necessary funds are available for this project and that these funds are committed to the project upon execution of this agreement.

Table 1. Summary of project budget and schedule. Anticipated project duration is February 2024 through December 31, 2024. Blue shading indicates anticipated task duration, based on assumption of contract concluding by December 31, 2024. If possible, taskwork may commence and conclude ahead of this schedule.

Task	Subtotal	2024										
		Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1 Task 1: Data synthesis and review	\$4,114											
2 Task 2: Finalize prioritization workbook	\$27,146											
3 Task 3: Develop scope projection for remaining City fish barrier assessments	\$8,980											
4 Task 4: Meetings and project management	\$5,084											
5 Task 5: Contingency	\$14,676											
Total	\$60,000								Contract End: Dec 31, 2024			

EXHIBIT B
PROFESSIONAL SERVICES AGREEMENT

**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
(see attached)	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
enter task	enter amount
enter task	enter amount
enter task	enter amount
enter task	enter amount
enter task	enter amount
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 \$ enter amount 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.

☐ **METHOD CONTAINED IN ATTACHED PAGE(S).** The City shall pay Service Provider as set forth in the spreadsheets or other documents attached to this Exhibit B.

EXHIBIT B. Cost Estimate Summary

		Olivia V (Project Scientist)	Ginevra M (Staff Scientist)	Melody M (Administrative Support)	Torrey L (Associate Principal Scientist)	Eleanor B (Senior Engineer)	Total Hours	Labor (Billing Rate)	Expenses	Total Cost
Task	Task Description	\$187.00	\$151.00	\$95.00	\$235.00	\$218.00				
1	Data synthesis and review	22					22	\$ 4,114.00		\$ 4,114.00
2	Finalize prioritization workbook	75	76		7		158	\$ 27,146.00		\$ 27,146.00
3	Develop scope projection for remaining City fish barrier assessments	36			4	6	46	\$ 8,980.00		\$ 8,980.00
4	Meetings and project management	16		9.65	5		30.65	\$ 5,084.00		\$ 5,083.75
5	Contingency									\$ 14,676.00
6										
7										
SubTotals		149	76	9.65	16	6	256.7	\$ 45,324.00	\$ -	\$ 60,000.00

2024 Rate Schedule

	STANDARD RATES
Classification	\$/hr
Senior Principal (Engineer or Scientist)	286
Principal (Engineer or Scientist)	249
Associate Principal (Engineer or Scientist)	235
Senior engineer	218
Senior scientist (biologist, ecologist, geomorphologist, hydrologist)	214
Senior planner/landscape architect	208
Project engineer	192
Project scientist (biologist, ecologist, geomorphologist, hydrologist)	187
Project planner/landscape architect	181
Staff engineer	161
Staff scientist (biologist, ecologist, geomorphologist, hydrologist)	151
Staff planner/landscape architect	137
Engineering technican	130
Scientist technican	122
Senior CAD/GIS technician	130
CAD/GIS technician	126
Field monitoring coordinator	113
Field monitoring technician	98
Senior administration support	105
Administrative support	95

Equipment	\$/day
RV field office	150
RTK survey unit	275
Total station survey unit	175
Level survey unit	60
Field GPS/lpad	30
Differential Trimble GPS	125
Drone and Camera Package	175
Single beam sonar	175
Multi-person inflatable watercraft	200
Single-person inflatable watercraft	100
Boat motorized (36ft)	350
Boat motorized (20ft)	275
Boat motorized (10ft)	100
Vibracore Drill System	100
Dynamic Cone Penetrometer	80
Sediment Grain Size Analysis	100/sample

Reimbursables	
Reproduction (per copy)	\$ 0.05
Mileage	at current federal rate
Plotting	at cost
Courier	at cost
Per diem	at Federal rate

Project title: An Agreement to Release Funds to the Port of Everett for West Marine View Drive Public Access Improvements

Council Bill # *interoffice use*

Agenda dates requested:

Briefing
Proposed action
Consent 02/21/2024
Action
Ordinance
Public hearing
Yes X No

Budget amendment:
X Yes No

PowerPoint presentation:
Yes X No

Attachments:
Release of Funds Agreement

Department(s) involved:
Parks & Facilities
Administration
Finance
Legal

Contact person:
Bob Leonard

Phone number:
425-257-8335

Email:
bleonard@everettwa.gov

Initialed by:
RML
Department head

Administration

Council President

Project: Project Funds Release Agreement- Port of Everett for West Marine View Drive Public Access Improvements

Partner/Supplier: Port of Everett

Location: N/A

Preceding action: N/A

Fund: Fund 155 General Government Special Projects

Fiscal summary statement:

The City will release the \$401,529 from the City set-aside fund that holds the 2% contribution(s) previously made by the Port of Everett for off-site public access improvements.

Project summary statement:

In 2017, the City of Everett Hearing Examiner approved the shoreline permit for the Port of Everett's project for improvements to its waterfront south terminal wharf. As part of the Hearing Examiner's decision, the Port of Everett was required, "as an alternative to providing direct, on-site public access, to make a contribution of 2% of total project construction costs . . . to the City of Everett to fund future off-site public access improvements." The Hearing Examiner decision further required that this contribution be "set aside in a separate fund for a public access improvement as identified in the City's Shoreline Public Assess Plan, or to another public access project, as mutually agreed to by the City and Port."

The Port accordingly contributed a total of \$611,192. There was a small beginning balance, and some interest was also accrued. Of this set-aside amount, \$243,060 was used to help fund the City's Grand Avenue Park Bridge project, which was a significant waterfront public access improvement.

This proposed agreement will release the remainder of the set-aside fund (\$401,529) back to the Port to help fund an additional waterfront access project to be completed by the Port. This public access project will be located on West Marine View Drive between the City's Grand Avenue Park Bridge and 15th Street. The bulkhead along West Marine View Drive is being replaced and new pedestrian improvements will be constructed during the project, including additional walking areas, new public seating areas, new landscaping, and a significant expansion of the overwater viewing platform. The project will also expand the public space for the current Music at the Marina summer series. Estimated project completion date is Spring 2025.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the Agreement to release funds to the Port of Everett for West Marine View Drive public access improvements in substantially the form provided.



PROJECT FUNDS RELEASE AGREEMENT

This Project Funds Release Agreement (“**Agreement**”) is effective as of the date of last signature below (“**Effective Date**”) and is between the City of Everett, a Washington municipal corporation (“**City**”), and the Funds Recipient identified in the table below (the “**Funds Recipient**”).

Funds Recipient	Port of Everett
Funds Recipient Project Manager	Joe Eagle
	PO Box 538 Everett, WA 98206-0538
	JoeE@portofeverett.com
City Project Manager	Bob Leonard
	City of Everett – Parks and Facilities 802 E. Mukilteo Boulevard Everett, WA 98203
	bleonard@everettwa.gov
City Fund	City fund that holds the 2% contribution(s) by Port of Everett for off-site public access improvements pursuant to the below-described Findings and Decision of the Hearing Examiner.
Controlling City Fund Document	Findings and Decision of the Hearing Examiner of the City of Everett (In the Matter of the Application of the Port of Everett for Approval of a Shoreline Substantial Development Permit “South Terminal”) under SMA #16-009 dated April 20, 2017.
Amount Held in City Fund as of Effective Date of this Agreement	\$401,529

Project	The project will be located on West Marine View Dr (WMVD) between the City Grand Avenue Bridge and 15th St. The bulkhead along WMVD is being replaced and new pedestrian improvements will be constructed during the project, including additional walking areas, new public seating areas, new landscaping and a significant expansion of the overwater viewing platform. We also anticipate removal of one curb cut along WMVD and restrictions on the current vehicle traffic to minimize conflicts. The project will also expand the public space for the current Music at the Marina summer series. Estimated project completion date is Spring, 2025.
Project Funds Release Schedule	1/3 to be released on award of Project contract (\$133,843) 1/3 to be released on Project contractor mobilization (\$133,843) 1/3 to be released on Project substantial completion (\$133,843))

I. Project Funds Release.

A. The City and Funds Recipient agree that the Project is a proper use of the City Fund under the Controlling Fund Document.

B. So long as the Project is in accordance with the Controlling Fund Document, the City will release \$401,529 to the Funds Recipient from the City Fund in accordance with Project Funds Release Schedule.

C. The Funds Recipient is responsible for the construction of the Project. The Funds Recipient will design and construct the Project in accordance with applicable law.

D. The Funds Recipient will be responsible at the Funds Recipient's sole cost for Project operation and maintenance. If all or any portion of the Project is damaged or reaches the end of useful life, the Funds Recipient at its sole cost will replace with like kind and quality.

II. Miscellaneous.

A. Notices to the parties must be sent to the project manager addresses above.

B. This Agreement may not be modified except by a written instrument duly executed by the parties.

C. This Agreement constitutes the entire agreement of the parties relating to the specific subject matter of this Agreement. This Agreement supersedes and replaces all other written or oral agreements regarding that subject matter.

D. This Agreement and any amendment 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. Signatures with AdobeSign are fully binding.

[signatures on following page]

IN WITNESS WHEREOF, the City and Funds Recipient have executed this Agreement.

**CITY OF EVERETT
WASHINGTON**

PORT OF EVERETT

Cassie Franklin, Mayor

Signature: _____

Name of Signer: Lisa Lefebber

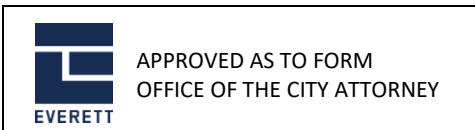
Title of Signer: Chief Executive Officer

Date

Date

ATTEST

Office of the City Clerk





City Council Agenda Item Cover Sheet

Project title: Grant application approval and resolution to authorize applying for funding and designating authorized representatives to act on behalf of the City for the Fish Passage Barrier Inventory, Assessment, and Prioritization Project.

Council Bill # *interoffice use*

Agenda dates requested:

February 21, 2024

Briefing

Proposed action

Consent ☒

Action

Ordinance

Public hearing

Yes ☒ No

Budget amendment:

Yes ☒ No

PowerPoint presentation:

Yes ☒ No

Attachments:

Resolution

Department(s) involved:

Public Works

Contact person:

Shaun Bridge

Phone number:

425-257-8823

Email:

sbridge@everettwa.gov

Initialed by:

Department head

Administration

Council President

Project: Fish Passage Barrier Inventory, Assessment, and Prioritization project

Partner/Supplier: Washington State Recreation and Conservation Office (RCO)/WRIA 8 Salmon Recovery Council (SRC)

Location: City of Everett

Preceding action: None

Fund: 401 – Water/Sewer Utility

Fiscal summary statement:

The City of Everett has an opportunity to apply for a Salmon Recovery Funding Board (SRFB) grant in the amount of up to \$60,000 through the WRIA 8 Salmon Recovery Council (SRC). The Washington State Recreation and Conservation Office (RCO) will manage the agreement and funding. A grant match of up to \$10,600 (15%) is required. The source of funding is Fund 401 - Water/Sewer Utility.

Project summary statement:

A March 2013 court injunction required the State of Washington to significantly increase efforts for removing state-owned fish passage barriers (e.g., culverts, dams, etc.) by 2030. Funding has become available to communities to voluntarily assess and remove fish passage barriers.

If awarded this grant will offer an opportunity for the City's Surface Water Department to continue to develop a comprehensive inventory of City-owned fish barriers in the Lake Washington Watershed (which includes North Creek, Swamp Creek, and Penny Creek), and prioritizing projects with the goal of seeking future design funding for replacements.

Grant application deadline is February 23, 2024. Information on this grant is available at <https://www.govlink.org/watersheds/8/funding/default.aspx#srfb>

Recommendation (exact action requested of Council):

Authorize the Mayor or her designee to apply for grant funding and adopt a resolution that designates authorized representatives to act on behalf of the City of Everett and sign all necessary documents with respect to the SRFB grant for the Fish Passage Barrier Inventory, Assessment, and Prioritization project in the amount of up to \$60,000.

.....

RESOLUTION NO. _____

A RESOLUTION regarding grant funding administered through the Washington State Recreation and Conservation Office for the FISH PASSAGE BARRIER INVENTORY, ASSESSMENT, AND PRIORITIZATION project

WHEREAS,

- A. This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).
- B. Grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above; In this resolution, the City is referred to as “our organization.”

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above “Project(s).”
- 2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Public Works Director or designee
Project contact (day-to-day administering of the grant and communicating with the RCO)	Public Works Director or designee
RCO Grant Agreement (Agreement)	Mayor
Agreement amendments	Mayor
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typically recorded on the on the property with the county.	Mayor

The above persons are considered an “authorized representative(s)/agent(s)” for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office’s WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and

pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed “Deed of Right” for fee acquisitions, or an “Assignment of Rights” for other than fee acquisitions (which documents will be based upon the Office’s standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.
12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Councilmember introducing resolution

Passed and approved this ____ day of _____, 2024.

Council President

Project title: Grant application approval for the Fish Passage Barrier Inventory, Assessment, and Prioritization Project.

Council Bill # *interoffice use*

Agenda dates requested:

February 21, 2024

Briefing

Proposed action

Consent ☒

Action

Ordinance

Public hearing

Yes ☒ No

Budget amendment:

Yes ☒ No

PowerPoint presentation:

Yes ☒ No

Attachments:

Department(s) involved:

Public Works

Contact person:

Shaun Bridge

Phone number:

425-257-8823

Email:

sbridge@everettwa.gov

Initialed by:

RS

Department head

Administration

Council President

Project: Fish Passage Barrier Inventory, Assessment, and Prioritization project

Partner/Supplier: Washington State Recreation and Conservation Office (RCO)/Salmon Recovery Funding Board (SRFB)

Location: City of Everett

Preceding action: None

Fund: 401 – Water/Sewer Utility

Fiscal summary statement:

The City of Everett has an opportunity to apply for a Snohomish Basin Salmon Recovery grant in the amount of up to \$200,000 through SRFB for the Water Resource Inventory Area (WRIA) 7. The Washington State Recreation and Conservation Office (RCO) will manage the agreement and funding. A grant match of up to \$35,300 (15%) is required. The source of funding is Fund 401 - Water/Sewer Utility.

Project summary statement:

A March 2013 court injunction required the State of Washington to significantly increase efforts for removing state-owned fish passage barriers (e.g., culverts, dams, etc.) by 2030. Funding has become available to communities to voluntarily assess and remove fish passage barriers.

If awarded this grant will offer an opportunity for the City's Surface Water Department to continue to develop a comprehensive inventory of City-owned fish barriers in the Snohomish Watershed (which includes areas where storm water flows into the Snohomish River), and prioritizing projects with the goal of seeking future design funding for replacements.

Grant application deadline is March 15, 2024. Information on this grant is available at https://snohomishcountywa.gov/DocumentCenter/View/112804/2024_Snohomish_Salmon_RFP?bidId=

The RCO Resolution to designate authorized representatives for the project in WRIA 8 will also cover WRIA 7.

Recommendation (exact action requested of Council):

Authorize the Mayor or her designee to apply for, and if awarded, to sign all necessary documents and agreements for the SRFB grant for the Fish Passage Barrier Inventory, Assessment, and Prioritization project in the amount of up to \$200,000.

Project title: Washington State Department of Transportation 2023-2025 Transit Support Grant Agreement

Council Bill # *interoffice use*

Agenda dates requested:

2/21/24

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

Budget amendment:

Yes ☒ X No

PowerPoint presentation:

Yes ☒ X No

Attachments:

Grant Agreement

Department(s) involved:

Transit

Contact person:

Tom Hingson

Phone number:

425-257-8939

Email:

thingson@everettwa.gov

Initialed by:

TEH

Department head

Administration

Council President

Project: Sustain fixed route transit services

Partner/Supplier: Washington State Department of Transportation

Location: City of Everett

Preceding action: 2023 Transit Support Grant for \$746,133

Fund: 425/Transit

Fiscal summary statement:

This project will have a positive financial impact as the City will receive grant funding. Funding has a \$0.00 match requirement, and no budget amendment is necessary.

Project summary statement:

The City of Everett will receive \$4,237,959 in grant funding from the Washington State Department of Transportation to provide fixed route transit service from July 1, 2023 to June 30, 2025. The City is eligible for this funding as a transit provider who has adopted a free youth fare policy. Funding from this program is available from the Move Ahead Washington transportation funding package made possible by the Washington Climate Commitment Act. This grant will reimburse Everett Transit for a portion of fixed route driver salaries to sustain the current level of fixed route service.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the Washington State Department of Transportation 2023-2025 Transit Support grant agreement.



WSDOT Contact: Marianna Hanefeld

WSDOT E-mail: marianna.hanefeld@wsdot.wa.gov

WSDOT Phone: 425-777-0557

Consolidated Grant Program Operating Grant Agreement			
Agreement Number	PTD0946	Contractor:	City of Everett dba Everett Transit
Term of Agreement	July 1, 2023 through June 30, 2025		
Vendor #	916001248		
UEI	NB35N2NU35J3		3201 Smith Ave Ste 200 Everett, WA 98201-4594
ALN # / ALN Name	N/A		
Indirect Cost Rate	N/A		
R & D	No		
Service Area	Snohomish County	Contact:	Melinda Adams
		Email:	madams@everettwa.gov

THIS AGREEMENT, entered into by the Washington State Department of Transportation, hereinafter "WSDOT," and the Contractor identified above, hereinafter the "CONTRACTOR," individually the "PARTY" and collectively the "PARTIES."

WHEREAS, the State of Washington in its Sessions Laws of 2023, Chapter 472, Section 221, authorizes funding for Public Transportation Programs and other special proviso funding as identified in the budget through its 2023-2025 biennial appropriations to WSDOT; and

WHEREAS, the CONTRACTOR has requested funds for the project(s) or program(s) shown under the heading titled "Funding by Project" (hereinafter known as the "Project(s)") which has been selected by WSDOT for funding assistance.

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1

SCOPE OF WORK AND BUDGET

Funding by Project

Project Title: Transit Support Grant - Operating Fixed-Route Service

UPIN # N/A

Scope of Work: Sustain fixed-route operating costs

Type of Funds	Current Percentage	Current Funds	Projected Funds	Total Funds
State Transit Support (CCA)	100.00%	\$ 4,237,959		\$ 4,237,959
Projected Grant Funds				
Grant Funds	100.00%	\$ 4,237,959	\$ -	\$ 4,237,959
Contractor's Funds	0.00%	\$ -		\$ -
Total Project	100.00%	\$ 4,237,959	\$ -	\$ 4,237,959

Budget: Current Funds reflect total funding appropriated by the WA State Legislature in the 23-25 biennium.

Section 2

Purpose of Agreement

The purpose of this AGREEMENT is for WSDOT to provide funds to the CONTRACTOR for public transportation services that meet the needs of persons in the State of Washington.

Section 3

Scope of Project

The CONTRACTOR shall undertake and complete the Project described and detailed in **Section 1- Scope of Work**. The CONTRACTOR shall operate the service within the service area described in Section 1, in accordance with the terms and conditions of this AGREEMENT.

Section 4

Term of Agreement

The CONTRACTOR shall commence, perform, and complete the work identified under this AGREEMENT within the time defined in the caption space header titled “Term of Agreement” on this AGREEMENT regardless of the date of signature and execution of this AGREEMENT unless terminated as provided herein.

Section 5

General Compliance Assurance

The CONTRACTOR agrees to comply with all instructions as prescribed in WSDOT’s Consolidated Grants Program Guidebook, hereinafter referred to as the “Guidebook”, and any amendments thereto, found at <https://wsdot.wa.gov/business-wsdot/grants/public-transportation-grants/manage-your-grant>, which by this reference is fully incorporated herein. The CONTRACTOR agrees that WSDOT, and/or any authorized WSDOT representative, shall have not only the right to monitor the compliance of the CONTRACTOR with respect to the provisions of this AGREEMENT but also have the right to seek judicial enforcement with regard to any matter arising under this AGREEMENT.

Section 6

Contractor’s Share of Project Costs

- A. The Total Project Cost shall not exceed the amounts detailed in **Section 1**. The CONTRACTOR agrees to expend eligible funds, together with any Contractor’s Funds allocated for the Project, in an amount sufficient to complete the Project. The CONTRACTOR agrees to expend eligible funds, together with other funds allocated for the Project, in an amount sufficient to complete the Project as detailed in **Section 1**. If at any time the CONTRACTOR becomes aware that the cost of the Project will exceed or be less than the amount identified in **Section 1**, the CONTRACTOR shall notify WSDOT in writing within thirty (30) calendar days of making that determination. Nothing in **Section 6(A)**, shall preclude the requirements specified in **Section 7 (B)** for payments at the end of the biennium.

- B. **Minimum Match:** The CONTRACTOR is required to provide a minimum match of funds for the Project as identified in **Section 1**, indicated as Contractor's Funds.

Section 7

Reimbursement and Payment

- A. Payment will be made by WSDOT on a reimbursable basis for actual costs and expenditures incurred while performing eligible direct and related indirect Project work during the life of the Project. Payment is subject to the submission to and approval by WSDOT of properly prepared invoices that substantiate the costs and expenses submitted by the CONTRACTOR for reimbursement. Failure to send in progress reports and financial information as required in **Section 9 –Reports** may delay payment. The CONTRACTOR shall submit an invoice detailing and supporting the costs incurred. Such invoices may be submitted no more than once per month and no less than once per year, during the course of this AGREEMENT. If approved by WSDOT, properly prepared invoices shall be paid by WSDOT within thirty (30) days of receipt of the invoice.
- B. The CONTRACTOR shall submit an invoice for completed work in the same state fiscal year in which it was incurred. Pursuant to RCW 43.88.020(12) "fiscal year" is defined as the year beginning July 1st and ending the following June 30th. Reimbursement requests must be received no later than July 15 of the following state fiscal year. If the CONTRACTOR is unable to provide an invoice by this date, the CONTRACTOR shall provide an estimate of the charges to be billed so WSDOT may accrue the expenditures in the proper fiscal year. Any payment request received after the timeframe prescribed above will not be eligible for reimbursement.

Section 8

Assignments and Subcontracts

- A. The CONTRACTOR shall submit to WSDOT a copy of any contract, amendment, or change order thereto pertaining to this Project for review and documentation. This includes any completed Project facilities and/or infrastructure under this AGREEMENT, or other actions obligating the CONTRACTOR in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT, including any leasing and/or lending the Project or any part thereof to be used by anyone, not under the CONTRACTOR's direct supervision.
- B. The CONTRACTOR agrees to include all applicable sections of the AGREEMENT such as **Section 5, Sections 8 through 20, and Section 27**, of this AGREEMENT in each subcontract and in all contracts, it enters into for the employment of any individual, procurement of any materials, or the performance of any work to be accomplished under this AGREEMENT.

Section 9 Reports

- A. The CONTRACTOR shall prepare quarterly reports regarding services provided pursuant to this AGREEMENT and other related information as prescribed in the Guidebook, and any amendments thereto, whichever is applicable, or as requested by WSDOT. Due to Legislative and WSDOT reporting requirements, any required quarterly progress reports shall be submitted for the duration of the AGREEMENT period regardless of whether the underlying funding sources have been exhausted. Post-grant annual performance reporting may also be required as prescribed in the Guidebook. Those reports include, but are not limited to:
1. Project Passenger Trips Provided
 2. Project Service Hours Provided
 3. Project Revenue Service Miles Provided
 4. Narrative Progress Report
 5. Financial Status/Summaries of the Project.
- B. Failure to meet any of the above-identified report submittal timelines may result in the CONTRACTOR being considered to be in breach of contract and “Not In Good Standing” as defined in the Guidebook referenced in **Section 5 - General Compliance** of Agreement of this agreement. Failure to meet the above-identified report submittal timelines may also prevent the CONTRACTOR from receiving future PT Rideshare grant funds in the next biennium.

Section 10 Energy Credit

To the extent CONTRACTOR receives any monies from the sale or disposition of energy credits, decarbonization credits, environmental credits, or any other monies through its participation of a like program, CONTRACTOR agrees to reinvest those monies into services and projects consistent with the STATE’S public transportation grant program. CONTRACTOR’S obligation to reinvest these monies under this provision shall be in an amount no less than the proportion of the STATE’S funding of this AGREEMENT.

Section 11 No Obligation by the State Government

No contract between the CONTRACTOR and its subcontractors shall create any obligation or liability for WSDOT with regard to this AGREEMENT without WSDOT’s specific written consent, notwithstanding its concurrence in, or approval of, the award of any contract or subcontract or the solicitations thereof.

Section 12 Personal Liability of Public Officers

No officer or employee of WSDOT shall be personally liable for any acts or failure to act in connection with this AGREEMENT, it being understood that in such matters they are acting solely as agents of WSDOT.

Section 13 Ethics

1. Relationships with Employees and Officers of WSDOT. The CONTRACTOR shall not extend any loan, gratuity or gift of money in any form whatsoever to any employee or officer of WSDOT, nor shall CONTRACTOR knowingly rent or purchase any equipment and materials from any employee or officer of WSDOT.
2. Employment of Former WSDOT Employees. The CONTRACTOR hereby warrants that it shall not engage on a full-time, part-time, or another basis during the period of this AGREEMENT, any professional or technical personnel who are or have been, at any time during the period of this AGREEMENT, in the employ of WSDOT without the written consent of WSDOT.

Section 14 Civil rights

The CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any WSDOT-assisted contract or in the administration of its public transportation services.

Section 15 Compliance with Laws and Regulations

- A. The CONTRACTOR agrees to abide by all applicable state and federal laws and regulations including but not limited to, those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence compliance with such federal and state laws and regulations, and retention of all such records. The CONTRACTOR will adhere to all applicable nondiscrimination provisions in chapter 49.60 RCW.
- B. Additionally, the CONTRACTOR agrees to comply with the following:
 1. SB 5974 Move Ahead Washington
 2. RCW 70A.02 Healthy Environmental for All (HEAL) ACT, and
 3. RCW 70A. 65.260 Climate Commitment ACT.
- C. Except when a federal statute or regulation preempts state or local law, no provision of the AGREEMENT shall require the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of state or local law. If any provision or compliance with any provision of this AGREEMENT violates state or local law or would require the CONTRACTOR to violate state or local law, the CONTRACTOR agrees to notify WSDOT immediately in writing. Should this occur, WSDOT and the CONTRACTOR agree to make appropriate arrangements to proceed with or, if necessary, expeditiously, terminate the AGREEMENT.

Section 16

Environmental and Regulatory Requirements

The CONTRACTOR agrees to secure any necessary local, state, and federal permits and approvals, and comply with all applicable requirements of Chapter 43.21C RCW State Environmental Policy Act (SEPA). The CONTRACTOR agrees to comply with all applicable requirements of Executive Order 21-02, Archaeological and Cultural Resources, for all capital construction projects or land acquisitions not undergoing Section 106 review under the National Historic Preservation Act of 1966 (Section 106).

Section 17

Accounting Records

- A. Project Accounts.** The CONTRACTOR agrees to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The CONTRACTOR agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible and available to WSDOT upon request, and, to the extent feasible, kept separate from documents not pertaining to the Project.
- B. Documentation of Project Costs and Program Income.** The CONTRACTOR agrees to support all allowable costs charged to the Project, including any approved services contributed by the CONTRACTOR or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The CONTRACTOR also agrees to maintain accurate records of all program income derived from implementing the Project.

Section 18

Audits, Inspection, and Retention of Records

- A. Submission of Proceedings, Contracts, Agreements, and Other Documents.** During the performance period of the Project and for six (6) years thereafter, the CONTRACTOR agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as WSDOT may require. Project closeout does not alter these recording and record-keeping requirements. Should an audit, enforcement, or litigation process be commenced, but not completed, during the aforementioned six-year period then the CONTRACTOR's obligations hereunder shall be extended until the conclusion of that pending audit, enforcement, or litigation process.
- B. General Audit Requirements.** The CONTRACTOR agrees to obtain any other audits required by WSDOT at CONTRACTOR's expense. Project closeout will not alter the CONTRACTOR's audit responsibilities.

- C. **Inspection.** The CONTRACTOR agrees to permit WSDOT and the State Auditor, or their authorized representatives, to inspect all Project work materials, payrolls, and other data, and to audit the books, records, and accounts of the CONTRACTOR and its subcontractors pertaining to the Project. The CONTRACTOR agrees to require each third party to permit WSDOT, and the State Auditor or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that third party contract, and to audit the books, records, and accounts involving that third party contract as it affects the Project.

Section 19

Labor Provisions

Overtime Requirements. No CONTRACTOR or subcontractor contracting for any part of the Project work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek CONTRACTOR will comply with all applicable provisions of Title 49 RCW, Labor Regulations.

Section 20

Changed Conditions Affecting Performance

The CONTRACTOR hereby agrees to immediately notify WSDOT of any change in conditions or law, or of any other event, which may affect its ability to perform the Project in accordance with the provisions of this AGREEMENT.

Section 21

Coordination of Special Needs Transportation

It is the policy of WSDOT to actively support the coordination of special needs transportation in the state. As a condition of assistance, the CONTRACTOR is required to participate in local coordinated planning as led by CONTRACTOR's relevant Metropolitan Planning Organization (MPO) and/or Regional Transportation Planning Organization (RTPO). Persons with special transportation needs means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or purchase transportation.

Section 22

Remedies for Misuse or Noncompliance.

If WSDOT determines that the Project has been used in a manner materially different from **Section 1- Scope of Work**, WSDOT may direct the CONTRACTOR to repay WSDOT the State-funded share of the Project. WSDOT may also withhold payments should it determine that the CONTRACTOR has failed to materially comply with any provision of this AGREEMENT.

Section 23

Disputes

- A. **Disputes.** Disputes, arising in the performance of this AGREEMENT, which are not resolved by agreement of the PARTIES, shall be decided in writing by the WSDOT Public Transportation Division Assistant Director or designee. This decision shall be final and conclusive unless within ten (10) days from the date of the CONTRACTOR's receipt of WSDOT's written decision, the CONTRACTOR mails or otherwise furnishes a written appeal to the Director of the Public Transportation Division or the Director's designee. The CONTRACTOR's appeal shall be decided in writing by the Director of the Public Transportation Division within thirty (30) days of receipt of the appeal by the Director of the Public Transportation Division or the Director's designee. The decision shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision.
- B. **Performance During Dispute.** Unless otherwise directed by WSDOT, CONTRACTOR shall continue performance under this AGREEMENT while matters in dispute are being resolved.
- C. **Claims for Damages.** Should either PARTY to this AGREEMENT suffer injury or damage to person, property, or right because of any act or omission of the other PARTY or any of that PARTY's employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other PARTY within thirty (30) days after the first observance of such injury or damage.
- D. **Rights and Remedies.** All remedies provided in this AGREEMENT are distinct and cumulative to any other right or remedy under this document or afforded by law or equity, and may be exercised independently, concurrently, or successively and shall not be construed to be a limitation of any duties, obligations, rights and remedies of the PARTIES hereto. No action or failure to act by WSDOT or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under this AGREEMENT, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Section 24 Termination

- A. Termination for Convenience. WSDOT and/or the CONTRACTOR may suspend or terminate this AGREEMENT, in whole or in part, and all or any part of the financial assistance provided herein, at any time by written notice to the other PARTY. WSDOT and the CONTRACTOR shall agree upon the AGREEMENT termination provisions including but not limited to the settlement terms, conditions, and in the case of partial termination the portion to be terminated. Written notification must set forth the reasons for such termination, the effective date, and in case of a partial termination the portion to be terminated. However if, in the case of partial termination, WSDOT determines that the remaining portion of the award will not accomplish the purposes for which the award was made, WSDOT may terminate the award in its entirety. The PARTIES may terminate this AGREEMENT for convenience for reasons including, but not limited to, the following:
1. The requisite funding becomes unavailable through the failure of appropriation or otherwise;
 2. WSDOT determines, in its sole discretion, that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds;
 3. The CONTRACTOR is prevented from proceeding with the Project as a direct result of an Executive Order of the President with respect to the prosecution of a war or in the interest of national defense; or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources;
 4. The CONTRACTOR is prevented from proceeding with the Project by reason of a temporary preliminary, special, or permanent restraining order or injunction of a court of competent jurisdiction where the issuance of such order or injunction is primarily caused by the acts or omissions of persons or agencies other than the CONTRACTOR; or
 5. The State Government determines that the purposes of the statute authorizing the Project would not be adequately served by the continuation of financial assistance for the Project;
- B. In the case of termination for convenience under subsections A.1-5 above, WSDOT shall reimburse the CONTRACTOR for all costs payable under this AGREEMENT that the CONTRACTOR properly incurred prior to termination. The CONTRACTOR shall promptly submit its claim for reimbursement to WSDOT. If the CONTRACTOR has any property in its possession belonging to WSDOT, the CONTRACTOR will account for the same, and dispose of it in the manner WSDOT directs.
- C. Termination for Default. WSDOT may suspend or terminate this AGREEMENT for default, in whole or in part, and all or any part of the financial assistance provided herein, at any time by written notice to the CONTRACTOR, if the CONTRACTOR materially breaches or fails to perform any of the requirements of this AGREEMENT, including:

1. Takes any action pertaining to this AGREEMENT without the approval of WSDOT, which under the procedures of this AGREEMENT would have required the approval of WSDOT;
 2. Jeopardizes its ability to perform pursuant to this AGREEMENT, United States of America laws, Washington state laws, or local governmental laws under which the CONTRACTOR operates;
 3. Fails to make reasonable progress on the Project or other violation of this AGREEMENT that endangers substantial performance of the Project; or
 4. Fails to perform in the manner called for in this AGREEMENT or fails, to comply with, or is in material violation of, any provision of this AGREEMENT. WSDOT shall serve a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default hereunder. If it is later determined by WSDOT that the CONTRACTOR had an excusable reason for not performing, such as events which are not the fault of or are beyond the control of the CONTRACTOR, such as a strike, fire or flood, WSDOT may: (a) allow the CONTRACTOR to continue work after setting up a new delivery of performance schedule, or (b) treat the termination as a termination for convenience.
- D. WSDOT, in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) business days, or such longer period as determined by WSDOT, in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the CONTRACTOR fails to remedy to WSDOT's satisfaction the breach or default within the timeframe and under the conditions set forth in the notice of termination, WSDOT shall have the right to terminate this AGREEMENT without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude WSDOT from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.
- E. In the event that WSDOT elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this AGREEMENT, such waiver by WSDOT shall not limit WSDOT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this AGREEMENT.
- F. If this AGREEMENT is terminated, whether for convenience or for default, before the specified end date set forth in the caption header, "Term of Agreement", WSDOT and the CONTRACTOR shall execute an amendment to this AGREEMENT identifying the termination date and the reason for termination.

Section 25

Forbearance by WSDOT Not a Waiver

Any forbearance by WSDOT in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

Section 26

Lack of Waiver

In no event shall any WSDOT payment of grant funds to the CONTRACTOR constitute or be construed as a waiver by WSDOT of any CONTRACTOR breach, or default. Such payment shall in no way impair or prejudice any right or remedy available to WSDOT with respect to any breach or default.

Section 27

Limitation of Liability

- A. The CONTRACTOR shall indemnify, defend, and hold harmless WSDOT, its agents, employees, and officers and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs (hereinafter referred to collectively as "claims"), of whatsoever kind or nature brought against WSDOT, arising out of, in connection with or incident to the execution of this AGREEMENT and/or the CONTRACTOR's performance or failure to perform any aspect of this AGREEMENT. This indemnity and defense provision applies to all claims against WSDOT, its agents, employees, and officers arising out of, in connection with, or incident to the negligent acts or omissions of the CONTRACTOR, its agents, employees, officers, and subcontractors of any tier. Provided, however, that nothing herein shall require the CONTRACTOR to indemnify, defend, and hold harmless or defend WSDOT, its agents, employees, or officers to the extent that claims are caused by the sole negligent acts or omissions of WSDOT, its agents, employees or officers; and provided further that if such claims result from the concurrent negligence of (a) the CONTRACTOR its employees, agents, officers or contractors and (b) the STATE, its employees or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity and defense provisions provided herein shall be valid and enforceable only to the extent of the negligence of the PARTY, its employees, officers, authorized agents, and/or contractors. The indemnification and hold harmless provision shall survive termination of this AGREEMENT.
- B. The CONTRACTOR shall be deemed an independent contractor for all purposes, and the employees of the CONTRACTOR or its subcontractors and the employees thereof, shall not in any manner be deemed to be the employees of WSDOT.
- C. The CONTRACTOR agrees that its obligations under this AGREEMENT extend to any claim, demand, and/or cause of action by, or on behalf of its employees or agents while performing under this AGREEMENT. For this purpose, the CONTRACTOR, by MUTUAL NEGOTIATION, hereby waives any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions in Title 51 RCW.
- D. In the event either the CONTRACTOR or WSDOT incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section of this AGREEMENT against the other PARTY, all such fees, costs and expenses shall be recoverable by the prevailing PARTY.

Section 28

Agreement Modifications

Either PARTY may request changes to this AGREEMENT. Any changes to the terms of this AGREEMENT must be mutually agreed upon and incorporated by written amendment to this AGREEMENT. Such written amendment to this AGREEMENT shall not be binding or valid unless signed by the persons authorized to bind from each of the PARTIES. Provided, however, that changes to the federal award identification number, DUNS, project title, federal ID number, CFDA number, milestones, PIN the contact person of either PARTY, or dollar amount changes that do not affect the Project total cost, will not require a written amendment, but will be approved and documented by WSDOT through an administrative revision. WSDOT shall notify the CONTRACTOR of the revision in writing.

Section 29

WSDOT Advice

The CONTRACTOR bears complete responsibility for the administration and success of the Project as defined by this AGREEMENT and any amendments thereto. If the CONTRACTOR solicits advice from WSDOT on problems that may arise, the offering of WSDOT advice shall not shift the responsibility of the CONTRACTOR for the correct administration and success of the Project, and WSDOT shall not be held liable for offering advice to the CONTRACTOR.

Section 30

Venue and Process

In the event that either PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the PARTIES hereto agree that any such action shall be initiated in the Superior Court of the State of Washington situated in Thurston County. The PARTIES agree that the laws of the State of Washington shall apply.

Section 31

Subrogation

- A. Prior to Subrogation. WSDOT may require the CONTRACTOR to take such reasonable action as may be necessary or appropriate to preserve the CONTRACTOR's right to recover damages from any person or organization alleged to be legally responsible for injury to the Project Equipment as defined in the scope of work or other property in which WSDOT has a financial interest.
- B. Subrogation. WSDOT may require the CONTRACTOR to assign to WSDOT all rights of recovery against any person or organization for loss, to the extent of WSDOT's loss. Upon assignment, the CONTRACTOR shall execute, deliver, and do whatever else reasonably necessary to secure WSDOT's rights. The CONTRACTOR shall do nothing after any loss to intentionally prejudice the rights of WSDOT.

- C. Duties of the CONTRACTOR. If WSDOT has exercised its right of subrogation, the CONTRACTOR shall cooperate with WSDOT and, upon WSDOT's request, assist in the prosecution of suits and enforce any right against any person or organization who may be liable to WSDOT due to damage to Project Equipment. The CONTRACTOR shall attend hearings and trials as requested by WSDOT, assist in securing and giving evidence as requested by WSDOT, and obtain the attendance of witnesses as requested by WSDOT.

Section 32

Counterparts

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.

Section 33

Complete Agreement

This document contains all covenants, stipulations, and provisions agreed upon by the PARTIES. No agent or representative of WSDOT or the CONTRACTOR has authority to make, and neither WSDOT nor the CONTRACTOR shall be bound by or be liable for, any statement, representation, promise or agreement not set forth herein or made by written amendment hereto.

Section 34

Severability

If any covenant or provision of this AGREEMENT shall be adjudged void, such adjudication shall not affect the validity or obligation of performance of any other covenant or provision, or any part thereof, which in itself is valid if such remainder conforms to the terms and requirements of applicable law and the intent of this AGREEMENT. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision except as herein allowed.

Section 35

Order of Precedence

Any conflict or inconsistency in this AGREEMENT and its attachments will be resolved by giving documents precedence in the following order:

1. State law
2. This AGREEMENT
3. The Consolidated Operating Guidebook

**Section 36
Execution**

This AGREEMENT is executed by the Director, Public Transportation Division, State of Washington, Department of Transportation, or the Director's designee, not as an individual incurring personal obligation and liability, but solely by, for and on behalf of the State of Washington, Department of Transportation, in the capacity as Director, Public Transportation Division, or as a designee.

**Section 37
Binding Agreement**

The undersigned acknowledge that they are authorized to execute this AGREEMENT and bind their respective agency(ies) and or entity(ies) to the obligations set forth herein.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT on the day and year last written below.

WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION

CONTRACTOR

Authorized Representative
Public Transportation Division, WSDOT

Authorized Representative

Title

Print Name

Date

Date

Project title: Washington State Department of Transportation 2023-2025 Paratransit Grant Agreement

Council Bill # *interoffice use*

Agenda dates requested:

2/21/24

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

Budget amendment:

Yes ☒ X No

PowerPoint presentation:

Yes ☒ X No

Attachments:

Grant Agreement

Department(s) involved:

Transit

Contact person:

Tom Hingson

Phone number:

425-257-8939

Email:

thingson@everettwa.gov

Initialed by:

TEH

Department head

Administration

Council President

Project: Sustain demand response transportation services to special needs populations.

Partner/Supplier: Washington State Department of Transportation

Location: City of Everett

Preceding action: 2021-2023 Paratransit Grant PTD0492 for \$1,643,675

Fund: 425/Transit

Fiscal summary statement:

This project will have a positive financial impact as the City will receive grant funding. Funding has a \$0.00 match requirement, and no budget amendment is necessary.

Project summary statement:

The City of Everett will receive \$2,666,768 in grant funding from the Washington State Department of Transportation to provide demand response transit service to special needs populations from July 1, 2023 to June 30, 2025. This grant will reimburse Everett Transit for a portion of driver and scheduler salaries. There is no match requirement from the City.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the Washington State Department of Transportation 2023-2025 Paratransit grant agreement.



WSDOT Contact: Marianna Hanefeld

WSDOT E-mail: marianna.hanefeld@wsdot.wa.gov

WSDOT Phone: 425-777-0557

Consolidated Grant Program Operating Grant Agreement			
Agreement Number	PTD0946	Contractor:	City of Everett dba Everett Transit
Term of Agreement	July 1, 2023 through June 30, 2025		
Vendor #	916001248		
UEI	NB35N2NU35J3		3201 Smith Ave Ste 200 Everett, WA 98201-4594
ALN # / ALN Name	N/A		
Indirect Cost Rate	N/A		
R & D	No		
Service Area	Snohomish County	Contact:	Melinda Adams
		Email:	madams@everettwa.gov

THIS AGREEMENT, entered into by the Washington State Department of Transportation, hereinafter "WSDOT," and the Contractor identified above, hereinafter the "CONTRACTOR," individually the "PARTY" and collectively the "PARTIES."

WHEREAS, the State of Washington in its Sessions Laws of 2023, Chapter 472, Section 221, authorizes funding for Public Transportation Programs and other special proviso funding as identified in the budget through its 2023-2025 biennial appropriations to WSDOT; and

WHEREAS, the CONTRACTOR has requested funds for the project(s) or program(s) shown under the heading titled "Funding by Project" (hereinafter known as the "Project(s)") which has been selected by WSDOT for funding assistance.

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1

SCOPE OF WORK AND BUDGET

Funding by Project

Project Title: Paratransit and Demand Response Transit Services

UPIN # N/A

Scope of Work: Provide Paratransit and Demand Response transportation services for the general public and the special needs population.

Type of Funds	Current Percentage	Current Funds	Projected Funds	Total Funds
State Special Needs Transportation - Transit Formula Funds (CCA)	100.00%	\$ 2,666,768		\$ 2,666,768
Projected Grant Funds				
Grant Funds	100.00%	\$ 2,666,768	\$ -	\$ 2,666,768
Contractor's Funds	0.00%	\$ -		\$ -
Total Project	100.00%	\$ 2,666,768	\$ -	\$ 2,666,768

Budget: Current Funds reflect total funding appropriated by the WA State Legislature in the 23-25 biennium.
Projected Funds are subject to appropriation by the WA State Legislature, once appropriated, funds will be added to this AGREEMENT by written amendment.

Section 2

Purpose of Agreement

The purpose of this AGREEMENT is for WSDOT to provide funds to the CONTRACTOR for public transportation services that meet the needs of persons in the State of Washington.

Section 3

Scope of Project

The CONTRACTOR shall undertake and complete the Project described and detailed in **Section 1- Scope of Work**. The CONTRACTOR shall operate the service within the service area described in Section 1, in accordance with the terms and conditions of this AGREEMENT.

Section 4

Term of Agreement

The CONTRACTOR shall commence, perform, and complete the work identified under this AGREEMENT within the time defined in the caption space header titled “Term of Agreement” on this AGREEMENT regardless of the date of signature and execution of this AGREEMENT unless terminated as provided herein.

Section 5

General Compliance Assurance

The CONTRACTOR agrees to comply with all instructions as prescribed in WSDOT’s Consolidated Grants Program Guidebook, hereinafter referred to as the “Guidebook”, and any amendments thereto, found at <https://wsdot.wa.gov/business-wsdot/grants/public-transportation-grants/manage-your-grant>, which by this reference is fully incorporated herein. The CONTRACTOR agrees that WSDOT, and/or any authorized WSDOT representative, shall have not only the right to monitor the compliance of the CONTRACTOR with respect to the provisions of this AGREEMENT but also have the right to seek judicial enforcement with regard to any matter arising under this AGREEMENT.

Section 6

Contractor’s Share of Project Costs

- A. The Total Project Cost shall not exceed the amounts detailed in **Section 1**. The CONTRACTOR agrees to expend eligible funds, together with any Contractor’s Funds allocated for the Project, in an amount sufficient to complete the Project. The CONTRACTOR agrees to expend eligible funds, together with other funds allocated for the Project, in an amount sufficient to complete the Project as detailed in **Section 1**. If at any time the CONTRACTOR becomes aware that the cost of the Project will exceed or be less than the amount identified in **Section 1**, the CONTRACTOR shall notify WSDOT in writing within thirty (30) calendar days of making that determination. Nothing in **Section 6(A)**, shall preclude the requirements specified in **Section 7 (B)** for payments at the end of the biennium.

- B. **Minimum Match:** The CONTRACTOR is required to provide a minimum match of funds for the Project as identified in **Section 1**, indicated as Contractor's Funds.

Section 7

Reimbursement and Payment

- A. Payment will be made by WSDOT on a reimbursable basis for actual costs and expenditures incurred while performing eligible direct and related indirect Project work during the life of the Project. Payment is subject to the submission to and approval by WSDOT of properly prepared invoices that substantiate the costs and expenses submitted by the CONTRACTOR for reimbursement. Failure to send in progress reports and financial information as required in **Section 9 –Reports** may delay payment. The CONTRACTOR shall submit an invoice detailing and supporting the costs incurred. Such invoices may be submitted no more than once per month and no less than once per year, during the course of this AGREEMENT. If approved by WSDOT, properly prepared invoices shall be paid by WSDOT within thirty (30) days of receipt of the invoice.
- B. The CONTRACTOR shall submit an invoice for completed work in the same state fiscal year in which it was incurred. Pursuant to RCW 43.88.020(12) "fiscal year" is defined as the year beginning July 1st and ending the following June 30th. Reimbursement requests must be received no later than July 15 of the following state fiscal year. If the CONTRACTOR is unable to provide an invoice by this date, the CONTRACTOR shall provide an estimate of the charges to be billed so WSDOT may accrue the expenditures in the proper fiscal year. Any payment request received after the timeframe prescribed above will not be eligible for reimbursement.

Section 8

Assignments and Subcontracts

- A. The CONTRACTOR shall submit to WSDOT a copy of any contract, amendment, or change order thereto pertaining to this Project for review and documentation. This includes any completed Project facilities and/or infrastructure under this AGREEMENT, or other actions obligating the CONTRACTOR in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT, including any leasing and/or lending the Project or any part thereof to be used by anyone, not under the CONTRACTOR's direct supervision.
- B. The CONTRACTOR agrees to include all applicable sections of the AGREEMENT such as **Section 5, Sections 8 through 20, and Section 27**, of this AGREEMENT in each subcontract and in all contracts, it enters into for the employment of any individual, procurement of any materials, or the performance of any work to be accomplished under this AGREEMENT.

Section 9 Reports

- A. The CONTRACTOR shall prepare quarterly reports regarding services provided pursuant to this AGREEMENT and other related information as prescribed in the Guidebook, and any amendments thereto, whichever is applicable, or as requested by WSDOT. Due to Legislative and WSDOT reporting requirements, any required quarterly progress reports shall be submitted for the duration of the AGREEMENT period regardless of whether the underlying funding sources have been exhausted. Post-grant annual performance reporting may also be required as prescribed in the Guidebook. Those reports include, but are not limited to:
1. Project Passenger Trips Provided
 2. Project Service Hours Provided
 3. Project Revenue Service Miles Provided
 4. Narrative Progress Report
 5. Financial Status/Summaries of the Project.
- B. Failure to meet any of the above-identified report submittal timelines may result in the CONTRACTOR being considered to be in breach of contract and “Not In Good Standing” as defined in the Guidebook referenced in **Section 5 - General Compliance** of Agreement of this agreement. Failure to meet the above-identified report submittal timelines may also prevent the CONTRACTOR from receiving future PT Rideshare grant funds in the next biennium.

Section 10 Energy Credit

To the extent CONTRACTOR receives any monies from the sale or disposition of energy credits, decarbonization credits, environmental credits, or any other monies through its participation of a like program, CONTRACTOR agrees to reinvest those monies into services and projects consistent with the STATE’S public transportation grant program. CONTRACTOR’S obligation to reinvest these monies under this provision shall be in an amount no less than the proportion of the STATE’S funding of this AGREEMENT.

Section 11 No Obligation by the State Government

No contract between the CONTRACTOR and its subcontractors shall create any obligation or liability for WSDOT with regard to this AGREEMENT without WSDOT’s specific written consent, notwithstanding its concurrence in, or approval of, the award of any contract or subcontract or the solicitations thereof.

Section 12 Personal Liability of Public Officers

No officer or employee of WSDOT shall be personally liable for any acts or failure to act in connection with this AGREEMENT, it being understood that in such matters they are acting solely as agents of WSDOT.

Section 13 Ethics

1. Relationships with Employees and Officers of WSDOT. The CONTRACTOR shall not extend any loan, gratuity or gift of money in any form whatsoever to any employee or officer of WSDOT, nor shall CONTRACTOR knowingly rent or purchase any equipment and materials from any employee or officer of WSDOT.
2. Employment of Former WSDOT Employees. The CONTRACTOR hereby warrants that it shall not engage on a full-time, part-time, or another basis during the period of this AGREEMENT, any professional or technical personnel who are or have been, at any time during the period of this AGREEMENT, in the employ of WSDOT without the written consent of WSDOT.

Section 14 Civil rights

The CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any WSDOT-assisted contract or in the administration of its public transportation services.

Section 15 Compliance with Laws and Regulations

- A. The CONTRACTOR agrees to abide by all applicable state and federal laws and regulations including but not limited to, those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence compliance with such federal and state laws and regulations, and retention of all such records. The CONTRACTOR will adhere to all applicable nondiscrimination provisions in chapter 49.60 RCW.
- B. Additionally, the CONTRACTOR agrees to comply with the following:
 1. SB 5974 Move Ahead Washington
 2. RCW 70A.02 Healthy Environmental for All (HEAL) ACT, and
 3. RCW 70A. 65.260 Climate Commitment ACT.
- C. Except when a federal statute or regulation preempts state or local law, no provision of the AGREEMENT shall require the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of state or local law. If any provision or compliance with any provision of this AGREEMENT violates state or local law or would require the CONTRACTOR to violate state or local law, the CONTRACTOR agrees to notify WSDOT immediately in writing. Should this occur, WSDOT and the CONTRACTOR agree to make appropriate arrangements to proceed with or, if necessary, expeditiously, terminate the AGREEMENT.

Section 16

Environmental and Regulatory Requirements

The CONTRACTOR agrees to secure any necessary local, state, and federal permits and approvals, and comply with all applicable requirements of Chapter 43.21C RCW State Environmental Policy Act (SEPA). The CONTRACTOR agrees to comply with all applicable requirements of Executive Order 21-02, Archaeological and Cultural Resources, for all capital construction projects or land acquisitions not undergoing Section 106 review under the National Historic Preservation Act of 1966 (Section 106).

Section 17

Accounting Records

- A. Project Accounts.** The CONTRACTOR agrees to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The CONTRACTOR agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible and available to WSDOT upon request, and, to the extent feasible, kept separate from documents not pertaining to the Project.
- B. Documentation of Project Costs and Program Income.** The CONTRACTOR agrees to support all allowable costs charged to the Project, including any approved services contributed by the CONTRACTOR or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The CONTRACTOR also agrees to maintain accurate records of all program income derived from implementing the Project.

Section 18

Audits, Inspection, and Retention of Records

- A. Submission of Proceedings, Contracts, Agreements, and Other Documents.** During the performance period of the Project and for six (6) years thereafter, the CONTRACTOR agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as WSDOT may require. Project closeout does not alter these recording and record-keeping requirements. Should an audit, enforcement, or litigation process be commenced, but not completed, during the aforementioned six-year period then the CONTRACTOR's obligations hereunder shall be extended until the conclusion of that pending audit, enforcement, or litigation process.
- B. General Audit Requirements.** The CONTRACTOR agrees to obtain any other audits required by WSDOT at CONTRACTOR's expense. Project closeout will not alter the CONTRACTOR's audit responsibilities.

- C. **Inspection.** The CONTRACTOR agrees to permit WSDOT and the State Auditor, or their authorized representatives, to inspect all Project work materials, payrolls, and other data, and to audit the books, records, and accounts of the CONTRACTOR and its subcontractors pertaining to the Project. The CONTRACTOR agrees to require each third party to permit WSDOT, and the State Auditor or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that third party contract, and to audit the books, records, and accounts involving that third party contract as it affects the Project.

Section 19 Labor Provisions

Overtime Requirements. No CONTRACTOR or subcontractor contracting for any part of the Project work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek CONTRACTOR will comply with all applicable provisions of Title 49 RCW, Labor Regulations.

Section 20 Changed Conditions Affecting Performance

The CONTRACTOR hereby agrees to immediately notify WSDOT of any change in conditions or law, or of any other event, which may affect its ability to perform the Project in accordance with the provisions of this AGREEMENT.

Section 21 Coordination of Special Needs Transportation

It is the policy of WSDOT to actively support the coordination of special needs transportation in the state. As a condition of assistance, the CONTRACTOR is required to participate in local coordinated planning as led by CONTRACTOR's relevant Metropolitan Planning Organization (MPO) and/or Regional Transportation Planning Organization (RTPO). Persons with special transportation needs means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or purchase transportation.

Section 22

Remedies for Misuse or Noncompliance.

If WSDOT determines that the Project has been used in a manner materially different from **Section 1- Scope of Work**, WSDOT may direct the CONTRACTOR to repay WSDOT the State-funded share of the Project. WSDOT may also withhold payments should it determine that the CONTRACTOR has failed to materially comply with any provision of this AGREEMENT.

Section 23

Disputes

- A. **Disputes.** Disputes, arising in the performance of this AGREEMENT, which are not resolved by agreement of the PARTIES, shall be decided in writing by the WSDOT Public Transportation Division Assistant Director or designee. This decision shall be final and conclusive unless within ten (10) days from the date of the CONTRACTOR's receipt of WSDOT's written decision, the CONTRACTOR mails or otherwise furnishes a written appeal to the Director of the Public Transportation Division or the Director's designee. The CONTRACTOR's appeal shall be decided in writing by the Director of the Public Transportation Division within thirty (30) days of receipt of the appeal by the Director of the Public Transportation Division or the Director's designee. The decision shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision.
- B. **Performance During Dispute.** Unless otherwise directed by WSDOT, CONTRACTOR shall continue performance under this AGREEMENT while matters in dispute are being resolved.
- C. **Claims for Damages.** Should either PARTY to this AGREEMENT suffer injury or damage to person, property, or right because of any act or omission of the other PARTY or any of that PARTY's employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other PARTY within thirty (30) days after the first observance of such injury or damage.
- D. **Rights and Remedies.** All remedies provided in this AGREEMENT are distinct and cumulative to any other right or remedy under this document or afforded by law or equity, and may be exercised independently, concurrently, or successively and shall not be construed to be a limitation of any duties, obligations, rights and remedies of the PARTIES hereto. No action or failure to act by WSDOT or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under this AGREEMENT, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Section 24

Termination

- A. Termination for Convenience. WSDOT and/or the CONTRACTOR may suspend or terminate this AGREEMENT, in whole or in part, and all or any part of the financial assistance provided herein, at any time by written notice to the other PARTY. WSDOT and the CONTRACTOR shall agree upon the AGREEMENT termination provisions including but not limited to the settlement terms, conditions, and in the case of partial termination the portion to be terminated. Written notification must set forth the reasons for such termination, the effective date, and in case of a partial termination the portion to be terminated. However if, in the case of partial termination, WSDOT determines that the remaining portion of the award will not accomplish the purposes for which the award was made, WSDOT may terminate the award in its entirety. The PARTIES may terminate this AGREEMENT for convenience for reasons including, but not limited to, the following:
1. The requisite funding becomes unavailable through the failure of appropriation or otherwise;
 2. WSDOT determines, in its sole discretion, that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds;
 3. The CONTRACTOR is prevented from proceeding with the Project as a direct result of an Executive Order of the President with respect to the prosecution of a war or in the interest of national defense; or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources;
 4. The CONTRACTOR is prevented from proceeding with the Project by reason of a temporary preliminary, special, or permanent restraining order or injunction of a court of competent jurisdiction where the issuance of such order or injunction is primarily caused by the acts or omissions of persons or agencies other than the CONTRACTOR; or
 5. The State Government determines that the purposes of the statute authorizing the Project would not be adequately served by the continuation of financial assistance for the Project;
- B. In the case of termination for convenience under subsections A.1-5 above, WSDOT shall reimburse the CONTRACTOR for all costs payable under this AGREEMENT that the CONTRACTOR properly incurred prior to termination. The CONTRACTOR shall promptly submit its claim for reimbursement to WSDOT. If the CONTRACTOR has any property in its possession belonging to WSDOT, the CONTRACTOR will account for the same, and dispose of it in the manner WSDOT directs.
- C. Termination for Default. WSDOT may suspend or terminate this AGREEMENT for default, in whole or in part, and all or any part of the financial assistance provided herein, at any time by written notice to the CONTRACTOR, if the CONTRACTOR materially breaches or fails to perform any of the requirements of this AGREEMENT, including:

1. Takes any action pertaining to this AGREEMENT without the approval of WSDOT, which under the procedures of this AGREEMENT would have required the approval of WSDOT;
 2. Jeopardizes its ability to perform pursuant to this AGREEMENT, United States of America laws, Washington state laws, or local governmental laws under which the CONTRACTOR operates;
 3. Fails to make reasonable progress on the Project or other violation of this AGREEMENT that endangers substantial performance of the Project; or
 4. Fails to perform in the manner called for in this AGREEMENT or fails, to comply with, or is in material violation of, any provision of this AGREEMENT. WSDOT shall serve a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default hereunder. If it is later determined by WSDOT that the CONTRACTOR had an excusable reason for not performing, such as events which are not the fault of or are beyond the control of the CONTRACTOR, such as a strike, fire or flood, WSDOT may: (a) allow the CONTRACTOR to continue work after setting up a new delivery of performance schedule, or (b) treat the termination as a termination for convenience.
- D. WSDOT, in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) business days, or such longer period as determined by WSDOT, in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the CONTRACTOR fails to remedy to WSDOT's satisfaction the breach or default within the timeframe and under the conditions set forth in the notice of termination, WSDOT shall have the right to terminate this AGREEMENT without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude WSDOT from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.
- E. In the event that WSDOT elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this AGREEMENT, such waiver by WSDOT shall not limit WSDOT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this AGREEMENT.
- F. If this AGREEMENT is terminated, whether for convenience or for default, before the specified end date set forth in the caption header, "Term of Agreement", WSDOT and the CONTRACTOR shall execute an amendment to this AGREEMENT identifying the termination date and the reason for termination.

Section 25

Forbearance by WSDOT Not a Waiver

Any forbearance by WSDOT in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

Section 26
Lack of Waiver

In no event shall any WSDOT payment of grant funds to the CONTRACTOR constitute or be construed as a waiver by WSDOT of any CONTRACTOR breach, or default. Such payment shall in no way impair or prejudice any right or remedy available to WSDOT with respect to any breach or default.

Section 27
Limitation of Liability

- A. The CONTRACTOR shall indemnify, defend, and hold harmless WSDOT, its agents, employees, and officers and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs (hereinafter referred to collectively as "claims"), of whatsoever kind or nature brought against WSDOT, arising out of, in connection with or incident to the execution of this AGREEMENT and/or the CONTRACTOR's performance or failure to perform any aspect of this AGREEMENT. This indemnity and defense provision applies to all claims against WSDOT, its agents, employees, and officers arising out of, in connection with, or incident to the negligent acts or omissions of the CONTRACTOR, its agents, employees, officers, and subcontractors of any tier. Provided, however, that nothing herein shall require the CONTRACTOR to indemnify, defend, and hold harmless or defend WSDOT, its agents, employees, or officers to the extent that claims are caused by the sole negligent acts or omissions of WSDOT, its agents, employees or officers; and provided further that if such claims result from the concurrent negligence of (a) the CONTRACTOR its employees, agents, officers or contractors and (b) the STATE, its employees or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity and defense provisions provided herein shall be valid and enforceable only to the extent of the negligence of the PARTY, its employees, officers, authorized agents, and/or contractors. The indemnification and hold harmless provision shall survive termination of this AGREEMENT.
- B. The CONTRACTOR shall be deemed an independent contractor for all purposes, and the employees of the CONTRACTOR or its subcontractors and the employees thereof, shall not in any manner be deemed to be the employees of WSDOT.
- C. The CONTRACTOR agrees that its obligations under this AGREEMENT extend to any claim, demand, and/or cause of action by, or on behalf of its employees or agents while performing under this AGREEMENT. For this purpose, the CONTRACTOR, by MUTUAL NEGOTIATION, hereby waives any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions in Title 51 RCW.
- D. In the event either the CONTRACTOR or WSDOT incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section of this AGREEMENT against the other PARTY, all such fees, costs and expenses shall be recoverable by the prevailing PARTY.

Section 28

Agreement Modifications

Either PARTY may request changes to this AGREEMENT. Any changes to the terms of this AGREEMENT must be mutually agreed upon and incorporated by written amendment to this AGREEMENT. Such written amendment to this AGREEMENT shall not be binding or valid unless signed by the persons authorized to bind from each of the PARTIES. Provided, however, that changes to the federal award identification number, DUNS, project title, federal ID number, CFDA number, milestones, PIN the contact person of either PARTY, or dollar amount changes that do not affect the Project total cost, will not require a written amendment, but will be approved and documented by WSDOT through an administrative revision. WSDOT shall notify the CONTRACTOR of the revision in writing.

Section 29

WSDOT Advice

The CONTRACTOR bears complete responsibility for the administration and success of the Project as defined by this AGREEMENT and any amendments thereto. If the CONTRACTOR solicits advice from WSDOT on problems that may arise, the offering of WSDOT advice shall not shift the responsibility of the CONTRACTOR for the correct administration and success of the Project, and WSDOT shall not be held liable for offering advice to the CONTRACTOR.

Section 30

Venue and Process

In the event that either PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the PARTIES hereto agree that any such action shall be initiated in the Superior Court of the State of Washington situated in Thurston County. The PARTIES agree that the laws of the State of Washington shall apply.

Section 31

Subrogation

- A. Prior to Subrogation. WSDOT may require the CONTRACTOR to take such reasonable action as may be necessary or appropriate to preserve the CONTRACTOR's right to recover damages from any person or organization alleged to be legally responsible for injury to the Project Equipment as defined in the scope of work or other property in which WSDOT has a financial interest.
- B. Subrogation. WSDOT may require the CONTRACTOR to assign to WSDOT all rights of recovery against any person or organization for loss, to the extent of WSDOT's loss. Upon assignment, the CONTRACTOR shall execute, deliver, and do whatever else reasonably necessary to secure WSDOT's rights. The CONTRACTOR shall do nothing after any loss to intentionally prejudice the rights of WSDOT.

- C. Duties of the CONTRACTOR. If WSDOT has exercised its right of subrogation, the CONTRACTOR shall cooperate with WSDOT and, upon WSDOT's request, assist in the prosecution of suits and enforce any right against any person or organization who may be liable to WSDOT due to damage to Project Equipment. The CONTRACTOR shall attend hearings and trials as requested by WSDOT, assist in securing and giving evidence as requested by WSDOT, and obtain the attendance of witnesses as requested by WSDOT.

Section 32

Counterparts

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.

Section 33

Complete Agreement

This document contains all covenants, stipulations, and provisions agreed upon by the PARTIES. No agent or representative of WSDOT or the CONTRACTOR has authority to make, and neither WSDOT nor the CONTRACTOR shall be bound by or be liable for, any statement, representation, promise or agreement not set forth herein or made by written amendment hereto.

Section 34

Severability

If any covenant or provision of this AGREEMENT shall be adjudged void, such adjudication shall not affect the validity or obligation of performance of any other covenant or provision, or any part thereof, which in itself is valid if such remainder conforms to the terms and requirements of applicable law and the intent of this AGREEMENT. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision except as herein allowed.

Section 35

Order of Precedence

Any conflict or inconsistency in this AGREEMENT and its attachments will be resolved by giving documents precedence in the following order:

1. State law
2. This AGREEMENT
3. The Consolidated Operating Guidebook

**Section 36
Execution**

This AGREEMENT is executed by the Director, Public Transportation Division, State of Washington, Department of Transportation, or the Director's designee, not as an individual incurring personal obligation and liability, but solely by, for and on behalf of the State of Washington, Department of Transportation, in the capacity as Director, Public Transportation Division, or as a designee.

**Section 37
Binding Agreement**

The undersigned acknowledge that they are authorized to execute this AGREEMENT and bind their respective agency(ies) and or entity(ies) to the obligations set forth herein.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT on the day and year last written below.

WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION

CONTRACTOR

Authorized Representative
Public Transportation Division, WSDOT

Authorized Representative

Title

Print Name

Date

Date

Project title: Everett Transit Purchase of Five (5) Reconditioned Buses

Council Bill # interoffice use

Agenda dates requested:

2/21/24

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

Budget amendment:

☒ x Yes ☐ No

PowerPoint presentation:

Yes ☒ x No

Attachments:

Complete Coachworks Quote
for Five Reconditioned Buses

Department(s) involved:

Transit

Contact person:

Tom Hingson

Phone number:

(425) 257-8939

Email:

thingson@everettwa.gov

Initialed by:

TEH

Department head

Administration

Council President

Project: Purchase of five (5) reconditioned buses from Complete Coachworks

Partner/Supplier: Complete Coachworks

Location: N/A

Preceding action: N/A

Fund: 425/Transit

Fiscal summary statement:

Everett Transit will use local, unrestricted funds to purchase five reconditioned buses from Complete Coachworks in Riverside, CA. The total expected cost will be \$1,310,341.10. This will require a budget amendment at a later date.

Project summary statement:

Due to delays in the installation of infrastructure for charging electric buses, as well as current and forecasted parts and service issues related to Proterra buses' bankruptcy, Everett Transit will procure five (5) reconditioned buses from Complete Coach Works in Riverside, CA. These buses ensure the uninterrupted and reliable provision of service while delays are worked through and lingering parts and service issues are resolved.

Recommendation (exact action requested of Council):

Authorize Everett Transit to purchase five reconditioned buses from Complete Coachworks.



2-13-2024

Everett Transit
3201 Smith Ave., Everett, WA 98201
Attention: Michael Schmieder
mschmieder@everettwa.gov

RE: Everett Transit – Bus Purchase and Extra Work Quote

On behalf of Complete Coach Works (CCW), I am pleased to submit our quote for the Sale and agreed upon SOW of 5 used Transit buses. As the largest rehabilitation, retrofit, and upgrade company in North America, with over thirty-six (36) years of experience, Complete Coach Works stands uniquely qualified to partner with Everett Transit on this project.

Complete Coach Works along with Everett Transit has developed a base scope of work that has been tailored to fit Everett Transit's needs. Quote is based on this scope which is attached for reference. Any change to this scope will affect final pricing.

Complete Coach Works quote for the base scope of work attached is as follows:

Per Bus Purchase Total: \$80,000.00

Per Bus Add-On SOW Total: \$182,068.22

Total Cost Per Bus: \$262,068.22

Total for 5 bus Project: \$1,310,341.10

Please note the "other" line is the total for sublet work including paint, graphics install, tire install, and remote work (passenger window installation) being performed at Everett Transit.

This pricing is based on work being completed at CCW Headquarters in Riverside CA and does not include transportation and applicable sales tax. Pricing is valid for 90 days.

This Quotation is done in concert with WA State Contract # 06719-04 and would be applicable with this order.

Thank you for the opportunity to provide this quote. Please contact me by phone at (951) 836-6526 or e-mail: james@completecoach.com if you have any questions or need additional information.

Sincerely,

James Carson
Regional Sales Manager



Everett Transit Bus Purchase Add-Ons EuroWindow (5 Buses)

CUST: Everett Transit	BUS #:	DATE: 2/1/2024
VIN #: 15GGB271781079894	MODEL: 2008 Gillig 35' Diesel LF	

ITEM #	LOCATION OF DAMAGE	DESCRIPTION	QTY	UOM	PART #	COST EA	EXT COST	LABOR HRS
00 - Bus Purchase								
01		Purchase of Used Gillig 35 ft Diesel Transit Bus	1.00	EACH	-X-	80,000.00	80,000.00	
01 - Interior Components								
01	Interior Seating	Customer Requested Passenger Seats Be Reupholstered / Remove Seat Inserts, Palletize, Transport, Install Seat Inserts			-X-	0.00	0.00	40.00
01.01	Sublet for Line 01	Reupholster Seat Backs	32.00	EACH	Sublet	71.50	2,288.00	
01.02	Sublet for Line 01	Reupholster Seat Bottoms	32.00	EACH	Sublet	71.50	2,288.00	
02	Interior	Customer has Requested Installation of Full Camera System / Remove Existing Camera System and Install New Camera System			-X-	0.00	0.00	56.00
02.01	Kit for Line 02	Luminator Camera System, Everett Specific Kit (Includes Cameras, DVR, Cables, Housings)	1.00	EACH	A-0164867	17,863.30	17,863.30	
03	ADA Belts	Customer has Requested Replacement of Existing ADA Securement with New Q-Straint / Remove Existing ADA and Install New			-X-	0.00	0.00	8.00
03.01	Part for Line 03	Restraint, Retractor, Female, Seat Belt, Lap	1.00	EACH	Q8-6340-1	81.32	81.32	
03.02	Part for Line 03	Deluxe Retractor with Red Webbing	4.00	EACH	Q7-5200-R	138.50	554.00	
03.03	Part for Line 03	Restraint, Retractor, Male, Seat Belt, Lap	1.00	Each	Q8-6340-2	81.32	81.32	
03.04	Part for Line 03	Retractor, Shoulder Belt	1.00	EACH	Q5-3405-1	88.36	88.36	
03.05	Part for Line 03	Qrt Max Red Web, Auto Release, Auto Tensioning w/30" Cable, Hook Facing Down	4.00	EACH	Q7-5200-CR30A	163.70	654.80	
03.06	Part for Line 03	Lap & Shoulder Belt Assy	1.00	EACH	Q-86002	194.83	194.83	
04	Passenger Stanchions	Customer has Request Hand Straps be Installed / Install Hand Strap on Stanchions			-X-	0.00	0.00	4.00
04.01	Part for Line 04	Strap, Hand	10.00	EACH	15-68952-000	55.47	554.70	
01A - Flooring								
01	Interior Flooring	Customer Has Requested Flooring Be Replaced / Remove Seating, Modesty Panels, Flooring, Repair Sub Floor			-X-	0.00	0.00	72.00
01.01	Misc Materials for Line 01	Misc Materials, Bondo, Sandpaper, Alcohol, Propane, Rags	1.00	EACH	Misc Materials	325.00	325.00	
02	Interior Flooring	Install New Flooring, Install Seating, Modesty Panels and Attach Stanchions			-X-	0.00	0.00	80.00
02.01	Part for Line 02	Gerflor Sirius, 6801 Graphite Flooring	1.00	ROLL	6801 GraphiteNT	1,645.59	1,645.59	
02.02	Part for Line 02	Molding, Black Plastic Corner Trim, Gillig	3.00	EACH	15-44603L000	53.69	161.07	
02.03	Part for Line 02	Weldrod, Flat, Gerflor Graphite	0.20	ROLL	CR50	50.70	10.14	
02.04	Part for Line 02	Weldrod, Corner, Gerflor Graphite	0.20	ROLL	CA72	56.56	11.31	
02.05	Part for Line 02	Platform, Drivers Mat	1.00	EACH	18-48612M002	51.23	51.23	
02.06	Part for Line 02	Mat, Driver's Floor	1.00	EACH	18-58654CYM278 92	226.08	226.08	



Everett Transit Bus Purchase Add-Ons EuroWindow (5 Buses)

CUST:	Everett Transit				BUS #:		DATE:	2/1/2024
VIN #:	15GGB271781079894				MODEL:	2008 Gillig 35' Diesel LF		
ITEM #	LOCATION OF DAMAGE	DESCRIPTION	QTY	UOM	PART #	COST EA	EXT COST	LABOR HRS
02.07	Part for Line 02	Flooring, Step Nosing, Yellow	2.00	EACH	15-51025-002	24.08	48.16	
02.08	Part for Line 02	Step Nosing, Entrance Door Center, Yellow	1.00	EACH	15-46192-002	79.26	79.26	
02.09	Part for Line 02	Flooring Step Nosing (Yellow)	1.00	EACH	15-42881-004	95.94	95.94	
02.10	Part for Line 02	Standee, Yellow, EP27, 2.5 inch Wide (Length Specified When Ordered) Transflor Altro (RVWD)	4.00	FEET	ASFSTANDEE-EP27	4.55	18.20	
02.11	Part for Line 02	Flooring, Yellow, 36" x 15"	1.00	EACH	TFM2229	47.50	47.50	
02.12		Molding, Floor Trim, Yellow, Rubber, (90° Angle Shape), 1-1/4 x 1-1/4 inch ID (1.250) x 12 foot Long (144 inch) (RVWD)	12.00	FEET	15-61039L144.00	5.73	68.76	
02.13	Part for Line 02	Adhesive, Ecofix 25 Pressure Sensitive, 4.0 Gal (900-1200 SF Approx) HELEC254.0	1.00	EACH	HELEC251.0	158.54	158.54	
02.14	Part for Line 02	Adhesive, Contact, Hemiplast - HEL81651.0	1.00	GAL	ADJ81651.0	57.27	57.26	
02.15	Part for Line 02	Blade, Grooving, "U" Shape, Pack of 10	1.00	EACH		3.82	3.82	
02.16	Part for Line 02	Sealant, Mastic, Altro Black (TFM27892) (A1M100)	6.00	EACH	A1M100	42.12	252.72	
02 - Driver's Area								
01	Driver's Area	Customer Requested and Specified New Driver's Seat / Remove Existing Seat and Install New Seat			-X-	0.00	0.00	2.50
01.01	Part for Line 01	Driver Seat Assy	1.00	EACH	82-69083-000	6,587.28	6,587.28	
02	Driver's Area	Customer Requested Gooseneck Microphone be Installed / Remove Dash Mounted Phone Microphone and Route Wiring to Overhead and Install Gooseneck Microphone			-X-	0.00	0.00	6.00
02.01	Part for Line 02	Microphone, Goose Neck, 24" On/Off Switch	1.00	EACH	13-57023-001	200.92	200.92	
03	Driver's Area	Customer Requested Steering Wheels be Replaced with Specified Wheel / Remove and Replace Steering Wheel.			-X-	0.00	0.00	2.00
03.01	Part for Line 03	Wheel, Steering	1.00	EACH	53-35392-000N	190.27	190.27	
03.02	Part for Line 03	Horn Button, Part Number Unknown.	1.00	EACH	Horn Button	42.04	42.04	
04	Driver's Area	Customer Requested New "Diamond" Farebox / Install Farebox and Connect Light			-X-	0.00	0.00	4.00
04.01	Part for Line 04	Model RV Fare Box w/ Two Vaults	1.00	EACH	Model RV	2,585.05	2,585.05	
04.02	Part for Line 04	D-10 Heavy Duty Stand 31" tall	1.00	EACH	D-10	466.05	466.05	
05	Driver's Area	Customer Requested New Adjustable Brake/Throttle Combination / Remove Existing and Install New Brake & Throttle Pedals			-X-	0.00	0.00	8.00
05.01	Part for Line 05	Pedal, Brake & Throttle, Adjustable (Kongsberg 317880-001) (Old Gillig# 82-51051-001)	1.00	EACH	317880-001	2,186.38	2,186.38	
06	Driver's Area	Customer Requested Installation of Driver's Barrier			-X-	0.00	0.00	6.00
06.01	Part for Line 06	Barrier, Arrow Global Slide Stowable Driver Protection System (Gillig) (Arrow# MV3080022)	1.00	EACH	3080022	5,850.00	5,850.00	



Everett Transit Bus Purchase Add-Ons EuroWindow (5 Buses)

CUST: Everett Transit	BUS #:	DATE: 2/1/2024
VIN #: 15GGB271781079894	MODEL: 2008 Gillig 35' Diesel LF	

ITEM #	LOCATION OF DAMAGE	DESCRIPTION	QTY	UOM	PART #	COST EA	EXT COST	LABOR HRS
03 - Exterior Components								
01	Exterior Mirrors	Customer Requested New Exterior Driver's Mirror Be Installed / Remove Existing Mirrors and Install New Power/Heated Mirrors			-X-	0.00	0.00	8.00
01.01	Part for Line 01	Driver's Mirror, R/S, Power/Heated	1.00	EACH	20-55184V026	1,086.03	1,086.03	
01.02	Part for Line 01	Driver's Mirror, C/S, Power/Heated	1.00	EACH	20-55184V034	1,474.43	1,474.43	
01.03	Part for Line 01	Switch Assy, Joystick, Mirror	2.00	EACH		70.62	141.24	
01.04	Part for Line 01	Switch, Mirror Heater	1.00	EACH		32.92	32.92	
02	Wheel Fenders	Customer has Requested Wheel Fender Flares be Replaced / Remove and Replace Existing Fender Flares			-X-	0.00	0.00	5.00
02.01	Part for Line 02	Fender Flare, Front LH/RH, (Gillig)	2.00	EACH	50-35475-003	182.79	365.58	
02.02	Part for Line 02	Fender Flare, Rear LH/RH, (Gillig)	2.00	EACH	50-35475-004	186.03	372.06	
03	Battery Compartment	Customer has Requested Replacement of Existing Batteries with New AGM Batteries / Replace Batteries with Upgrade Batteries, AGM vs Convention Lead Acid (Customer to Pay Cost Difference of Upgrade)			-X-	0.00	0.00	1.50
03.01	Part for Line 03	Battery, 8D Flag Post, AGM	2.00	EACH		776.32	1,552.64	
04	Front Bumper	Customer Requested New Bicycle Rack be Installed / Remove and Replace Front Bike Rack			-X-	0.00	0.00	6.00
04.01	Part for Line 04	Apex 2 Bike Rack, Stainless Steel, Anti-Glare Finish	1.00	EACH	101082	1,472.90	1,472.90	
04.02	Part for Line 04	Bracket, Stand-Off, 5.5T, 8.73L, 1.47F (N)	2.00	EACH	101026	97.50	195.00	
04.03	Part for Line 04	Bolt Kit, Stand Off Bracket - For Sportworks Bike Racks, (Mfg# 100194)	1.00	EACH	100194	33.80	33.80	
04.04	Part for Line 04	Pivot Plate Assy, Apex 2, 14, 18 Mounting	1.00	EACH	101175	326.30	326.30	
05	Exterior Speaker	Customer Requested New Exterior Speaker be Installed / Remove Existing Speaker and Install New			-X-	0.00	0.00	1.00
05.01	Part for Line 05	Speaker, Exterior	1.00	EACH	51-52445-000	102.26	102.26	
06	Exterior Front	Customer Requested Front License Plate Mount / Install Mounting Holes in Front Mask			-X-	0.00	0.00	1.00
07	Exterior Compartment Doors	Customer Requested All Exterior Door Struts and Latches be Replaced			-X-	0.00	0.00	16.00
07.01	Part for Line 07	Strut, Gas, Spring Assembly	2.00	EACH	53-20347-007	17.65	35.30	
07.02	Part for Line 07	Spring Assembly, Strut, Gas 85 LBS	4.00	EACH	53-20347-008	12.79	51.16	
07.03	Part for Line 07	Spring/Strut Assy	2.00	EACH	53-02231-017	18.98	37.96	
07.04	Part for Line 07	Gas Spring Assy, W/O Lock	2.00	EACH	53-02231-014	10.24	20.48	
07.05	Part for Line 07	Plate, Lock Mounting	11.00	EACH	40-00445-003	7.23	79.53	
07.06	Part for Line 07	Lock, Square Key, 5/16"	11.00	EACH	50-00019-000	3.95	43.45	
07.07	Part for Line 07	Prop Rod Assy, Rear Wheel C/S and R/S Arc Panel (Old Gillig# 53-29743-000)	4.00	EACH	53-29743-000	16.64	66.56	
03A - Exterior Windows Euro Style								



Everett Transit Bus Purchase Add-Ons EuroWindow (5 Buses)

CUST: **Everett Transit** BUS #: DATE: **2/1/2024**
VIN #: **15GGB271781079894** MODEL: **2008 Gillig 35' Diesel LF**

ITEM #	LOCATION OF DAMAGE	DESCRIPTION	QTY	UOM	PART #	COST EA	EXT COST	LABOR HRS
01	Passenger and Driver's Windows	Remove and Reinstall Passenger Windows for Pre and Post Paint			-X-	0.00	0.00	40.00
02	Passenger and Driver's Windows	Installation of Customer Requested Eurostyle Passenger Windows On Site at Everett Transit.	1.00	EACH	-X-	7,864.00	0.00	
02.01	Kit for Line 01	Storm-Tite Flush Mounted Window Kit, 35ft Gillig	1.00	EACH	24-064B	28,806.78	28,806.78	

04 - Suspension

01	Front Suspension	Customer Requested Replacement of Air Bags and Shocks / Remove and Replace Front Axle Air Bags and Shocks			-X-	0.00	0.00	6.00
01.01	Part for Line 01	Air Spring / Air Bag, Front Suspension, Firestone# W01-358-5298	4.00	EACH	08-37209-000N	120.95	483.80	
01.02	Part for Line 01	Shock, Absorber, Front, Monroe # 74414 Gabriel 85723	2.00	EACH	08-73701-000	177.76	355.52	
02	Rear Suspension	Customer Requested Replacement of Air Bags and Shocks / Remove and Replace Rear Axle Air Bags and Shocks			-X-	0.00	0.00	12.00
02.01	Part for Line 02	Air Spring / Air Bag, Rear, Firestone# W01-358-9697	4.00	EACH	82-60271-000	144.59	578.36	
02.02	Part for Line 02	Absorber, Shock, RR	4.00	EACH	11-73703-000	156.08	624.32	
03	Wheels and Tires	Customer Requested Wheels be Replaced with New / Remove Tires from Existing Rims and Install on New Rims			-X-	0.00	0.00	2.00
03.01	Sublet for Line 03	Sublet, Remove and Install Tires on New Rims	1.00	EACH	Sublet	221.00	0.00	
03.02	Part for Line 03	Wheels, Disc Hub Piloted, Steel	6.00	EACH	53-16097-001	320.44	1,922.64	

05 - Paint & Decals

01	Bus Exterior	Paint Bus to Match Everett Transit Fleet Scheme (Red Above Belt Line, Black Window Panels and Entrance and Exit Door Panels, Silver Below Belt Line) See Drawing			-X-	0.00	0.00	12.00
01.01	Sublet for Line 01	Sublet of Painting Bus	1.00	EACH	Sublet	36,270.00	0.00	
02	Bus Exterior	Install Customer Supplied Graphics			-X-	0.00	0.00	0.00
02.01	Sublet for Line 02	Sublet Installation of Customer Supplied Graphics	1.00	EACH	Sublet	1,560.00	0.00	

APPROVED BY CCW:

DATE **2-13-24**

APPROVED BY CUSTOMER:

DATE

TOTAL LABOR COST **49,875.00** **399.00**

TOTAL PARTS COST **166,278.22**

TRANSPORTATION **0.00**

OTHER **45,915.00**

TAX @ **0.00**

TOTAL **262,068.22**

Project title: An Ordinance Closing a Special Improvement Project Entitled “Emma Yule Park Improvements”, Fund 354, Program 064, as Established by Ordinance No. 3797-21

Council Bill #

CB 2401-77

Agenda dates requested:

2/7/24; 2/14/24; 2/21/24

Briefing

Proposed action 2/7, 2/14/24

Consent

Action 2/21/24

Ordinance **X**

Public hearing

Yes **X** 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: Emma Yule Park Improvements**Partner/Supplier:** Game Time – Omnia Partners**Location:** 4817 Rucker Avenue, Everett, WA**Preceding action:** Funding Ordinance 3797-21**Fund:** Fund 354, Program 064**Fiscal summary statement:**

The source of funds for the Emma Yule Park Improvements was Capital Improvement Program 3 (CIP-3) in the amount of \$2,050,000. The project was completed at a total cost of \$1,874,153. All expenses for the project have been paid. The remaining balance of \$175,847 will be transferred to CIP-3.

Project summary statement:

The Emma Yule Park Improvements, Fund 354, Program 064 was established to provide for the design and construction cost for the improvements of the Emma Yule Park in the Glacier View Neighborhood. The playground consists of a 2-5 year old play area, and a 5-12 year old play area as well as walking paths that intersect with the sidewalks on either side of the park, and interpretive signage. The land was donated by the YMCA for Park development, and it was transformed into a vibrant neighborhood park.

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 “Emma Yule Park Improvements”, Fund 354, Program 064, as established by Ordinance No. 3797-21.



ORDINANCE NO. _____

An ORDINANCE closing a special improvement project entitled, Emma Yule Park Improvements, Fund 354, Program 064, as established by Ordinance No. 3797-21.

WHEREAS,

- A.** The Emma Yule Park Improvements, Fund 354, Program 064 was established to provide for the design and construction cost for the improvements of the Emma Yule Park.
- B.** The purpose of the fund 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:

Section 1. That the project entitled Emma Yule Park Improvements, Fund 354, Program 064, be closed.

Section 2. That the final revenues and expenses for Emma Yule Park Improvements, Fund 354, Program 064, are as follows:

REVENUES		
	CIP 3	<u>\$ 2,050,000</u>
	Total	\$ 2,050,000
EXPENSES		
	Construction	\$ 1,874,153
	Transfer Out – to CIP 3	<u>\$ 175,847</u>
	Total	\$ 2,050,000

Section 3. That the remaining balance of \$175,847 be transferred back to CIP 3.

Section 4. 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 5. 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 6. 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:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



Project title: An Ordinance creating a special improvement project entitled “Edgewater Creek Bridge Replacement” Fund 303, Program 115, to accumulate all costs for the improvement and repealing Ordinance No. 3719-19.

Council Bill #

CB 2401-78

Agenda dates requested:

2/7/24, 2/14/24 & 2/21/24

Briefing

Proposed action

Consent

Action

Ordinance ☒

Public hearing

Yes ☒ No ☐

Budget amendment:

Yes ☒ No ☐

PowerPoint presentation:

Yes ☒ No ☐

Attachments:

Proposed Ordinance

Department(s) involved:

Public Works, Admin

Contact person:

Tom Hood

Phone number:

(425) 257-8809

Email:

thood@everettwa.gov

Initialed by:

RLS

Department head

Administration

Council President

Consideration: Plans & Systems Ordinance

Project: Edgewater Creek Bridge Replacement

Partner/Supplier: WA State Department of Transportation

Location: Mukilteo Boulevard at Shore Avenue

Preceding action: City Ordinance No. 3719-19, approved [12/18/19](#)

Fund: Fund 303, Program 115

Fiscal summary statement:

The programmed available funding for this project is \$34,000,000 and the sources of funds are:

Bridge Program – Federal Funds	\$ 25,000,000
DEMO Grant #WA329	3,000,000
Fund 157 – Traffic Mitigation	<u>6,000,000</u>
Total Funds	\$ 34,000,000

This amending ordinance, increasing the project’s programed available funding, is necessary to reflect increased grant funds and escalating construction costs. Public Works staff were successful in obtaining an increase in Federal bridge funding from the original \$12.0 million to \$25.0 million as well as an additional \$3.0 million DEMO grant.

Project summary statement:

This project will remove and replace the existing Edgewater Creek Bridge, which was built in 1946 and is a vital link in a chain of three bridges that provide the only access to neighborhoods along Mukilteo Boulevard.

The existing bridge is a non-redundant two girder composite deck concrete structure that is structurally deficient in load capacity. In addition, the bridge is seismically vulnerable and functionally obsolete due to narrow substandard traffic lanes and sidewalks.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Improvement Project entitled “Edgewater Creek Bridge Replacement” Fund 303, Program 115, to accumulate all costs for the improvement and repealing Ordinance No. 3719-19.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project entitled “Edgewater Creek Bridge Replacement” Fund 303, Program 115 and REPEALING Ordinance No. 3719-19

WHEREAS,

- A.** The City of Everett is committed to replacing structurally deficient and functionally obsolete bridge infrastructure.
- B.** The bridge over Edgewater Creek requires complete replacement.
- C.** The City of Everett has identified the need and obtained Federal funds to remove and replace the existing structure.
- D.** Ordinance No. 3719-19 obligated funds for the design and construction and there is now the need to program additional Federal grant funding.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Ordinance No. 3719-19 is hereby repealed.

Section 2. A special improvement project is hereby established as Fund 303, Program 115, entitled “Edgewater Creek Bridge Replacement” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

Section 3. Authorization is hereby granted for the “Public Works Director” or “City Engineer” under direction of the Mayor, to assume full and complete responsibility for conducting all tasks and doing all things to accomplish the actions authorized in this ordinance

Section 4. The sum of \$34,000,000 is hereby appropriated to Fund 303, Program 115, “Edgewater Creek Bridge Replacement” as follows:

A.	Estimated Project Costs	\$34,000,000
B.	Source of Funds	
	Bridge Program – Federal Funds BRM-2776(009)	\$25,000,000
	DEMO Grant – ID # WA329	3,000,000

Fund 157 – Traffic Mitigation
Total Funds

6,000,000
\$34,000,000

Section 5. 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 6. 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 7. 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:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

Project title:

An Ordinance Creating a Special Improvement Project Entitled “Forest Park Pickleball Court Installation”, Fund 354, Program 093, to Accumulate All Design and Permitting Costs for the Project in the Amount of \$250,000

Council Bill #

CB 2401-79

Agenda dates requested:

2/7/24, 2/14/24, 2/21/24

Briefing

Proposed Action 2/7, 2/14/24

Consent

Action 2/21/24

Ordinance ☒

Public hearing

Yes ☒ No

Budget amendment:

Yes ☒ No

PowerPoint presentation:

Yes ☒ No

Attachments:

Funding Ordinance

Department(s) involved:

Parks & Facilities

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

bleonard@everettwa.gov

Initialed by:

RML

Department head

Administration

Council President

Project: Forest Park Pickleball Court Installation

Partner/Supplier: MacLeod Reckord, PACE, Willamette

Location: 802 E. Mukilteo Blvd, Everett

Preceding action: None

Fund: Fund 354, Program 093 (CIP-3)

Fiscal summary statement:

The proposed Ordinance will provide funding for the design and permitting costs for the Forest Park Pickleball Court Installation.

The source of funds for this project is Fund 354, Program 093 (CIP 3). All related design and permit costs are estimated at \$250,000.

The Parks & Facilities Department has been awarded a Local Community Project Grant from the state in the amount of \$345,000 to help fund the project. The department also plans to apply for a Youth Athletic Facilities Grant to also help fund the project.

Project summary statement:

The City of Everett and the Mukilteo Everett Pickleball Club are partnering in the planning, design and construction of Everett’s first multiple court outdoor recreation facility dedicated solely to pickleball the nation’s fastest growing sport for people of all ages and abilities.

The project includes the replacement of approximately thirty underutilized and dilapidated covered horseshoe pits and related structures and storage outbuildings. The two existing multi-use sport courts will be renovated to complement the new pickleball facility and expand opportunities for basketball and hockey. The proposed new facility will add, eight paved dedicated pickleball courts, four of which will be designed for regulation play. Additional enhancements include related sport fencing, energy-efficient site lighting, drinking fountain, benches, new horseshoe pits, added cornhole, landscape and stormwater treatment.

Staff will return to Council for approval to amend the funding Ordinance once an Engineer’s estimate for construction costs is prepared.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Improvement Project entitled “Forest Park Pickleball Court Installation”, Fund 354, Program 093, to accumulate all design and permitting costs for the project in the amount of \$250,000.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project entitled, “Forest Park Pickleball Court Installation”, Fund 354, Program 093, to accumulate all design and permitting costs for the project.

WHEREAS,

- A.** The City Council recognizes the need to maintain and improve City Park amenities.
- B.** The City Council recognizes the value and need to provide Everett residents and visitors with recreation spaces.
- C.** The City recognizes that many park amenities have reached the end of their useful life and require replacement and renovation.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special improvement project fund is hereby entitled “Forest Park Pickleball Court Installation”, Fund 354, Program 093.

Section 2. Authorization is hereby granted to the Parks and Facilities Department Director under the administration of the Mayor, to assume full responsibility for conducting all tasks and performing all necessary steps to accomplish the actions authorized by this Ordinance.

Section 3. The estimated cost of design and permitting is \$250,000.

Section 4. The sum of \$250,000 is hereby appropriated to Fund 354, Program 093, “Forest Park Pickleball Court Installation” project.

A. Use of Funds		
Design and Permitting		<u>\$250,000</u>
Total		\$250,000
B. Source of Funds		
CIP 3		<u>\$250,000</u>
Total		\$250,000

- C. The appropriation shall not lapse but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned without the necessity of reappropriation.

Section 5. 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 6. 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 7. 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: _____



Project title: An Ordinance Creating a Special Improvement Project Entitled “Kiwanis Park Renovations”, Fund 354, Program 090, to Accumulate All Project Costs in the Amount of \$411,000

Council Bill #

CB 2401-80

Agenda dates requested:

2/7/24, 2/14/24, 2/21/24

Briefing

Proposed Action 2/7, 2/14/24

Consent

Action 2/21/24

Ordinance ☒

Public hearing

☐ Yes ☒ No**Budget amendment:**☐ Yes ☒ No**PowerPoint presentation:**☐ Yes ☒ No**Attachments:**

Funding Ordinance

Department(s) involved:

Parks & Facilities

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

bleonard@everettwa.gov

Initialed by:*RML*

Department head

Administration

Council President

Project: Kiwanis Park Renovations**Partner/Supplier:** King County Directors Association (KCDA)**Location:** 36th and Rockefeller, Everett, WA**Preceding action:** None**Fund:** Fund 354, Program 090 (CIP-3)**Fiscal summary statement:**

The proposed Ordinance will provide funding for the Kiwanis Park Renovations Project. The source of funds for the project is Capital Improvement Program 3 (CIP-3). The project cost is estimated at \$411,000. These costs include all construction activities, contingency, tax, and all other costs associated with the project. Playground equipment procurement and installation will be through King County Directors Association (KCDA) Cooperative. The Parks & Facilities Department was also awarded a grant from Snohomish County in the amount of \$75,000 for the renovation of the sports court and plans to acquire another grant from Snohomish County this year to help fund the project.

Project summary statement:

Scheduled renovations of Parks and their equipment are necessary to keep them functional and enjoyable for the community, compliant with new standards, and to minimize maintenance costs. Park renovation work includes demolition of the existing playground, removal of the engineered wood fiber surfacing system, construction of a new forever lawn surfacing system, installation of the new playground equipment and certification of the design and installation. This project will also make needed renovations and repairs to the sport court located in the park.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Improvement Project entitled “Kiwanis Park Renovations”, Fund 354, Program 090, to accumulate all project costs in the amount of \$411,000.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project “Kiwanis Park Renovations”, Fund 354, Program 090, to accumulate all project costs in the amount of \$411,000

WHEREAS,

- A.** The City Council recognizes the need to maintain and improve City Park amenities.
- B.** The playground at Kiwanis Park is 20 years old and exceeds the City of Everett Park’s life-cycle standard of 15 years.
- C.** The City Council has recognized the need to replace the playground and renovate the sport court at Kiwanis Park.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special improvement project fund is hereby entitled “Kiwanis Park Renovations”, Fund 354, Program 090, to accumulate project costs in the amount of \$411,000.

Section 2. Authorization is hereby granted to the Parks and Facilities Department Director under the administration of the Mayor, to assume full responsibility for conducting all tasks and performing all necessary steps to accomplish the actions authorized by this Ordinance.

Section 3. The estimated cost of the playground replacement is \$411,000.

Section 4. The sum of \$411,000 is hereby appropriated to Fund 354, Program 090 “Kiwanis Park Renovations” project.

A. Use of Funds		
Construction and Related Costs		<u>\$411,000</u>
Total		\$411,000
B. Source of Funds		
CIP 3		\$336,000
Snohomish County REET 2 Grant		<u>\$ 75,000</u>
Total		\$411,000

- C. The appropriation shall not lapse but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned without the necessity of reappropriation.

Section 5. 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 6. 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 7. 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: _____



Project title:

An Ordinance Creating a Special Improvement Project Entitled “Larimer Barn Demolition”, Fund 354, Program 097, to Accumulate All Costs for the Project in the Amount of \$85,000

Council Bill #

CB 2401-81

Agenda dates requested:

2/7/24, 2/14/24, 2/21/24

Briefing

Proposed action 2/7, 2/14/24

Consent

Action 2/21/24

Ordinance X

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Ordinance

Plan

Department(s) involved:

Parks and Facilities

Contact person:

Bob Leonard

Phone number:

425 257-8335

Email:

Bleonard@everettwa.gov

Initialed by:

RML

Department head

Administration

Council President

Project: Larimer Barn Demolition

Partner/Supplier: Forma

Location: Property lot 4-026, Parcel ID: 28050500402600, Everett, WA

Preceding action: None

Fund: Fund 354, Program 097 (CIP-3)

Fiscal summary statement:

The source of funds for the Larimer Barn Demolition Project is CIP-3

The project cost estimate is \$85,000. These costs include all construction activities, contingency, tax, and all other costs associated with the project.

Project summary statement:

This project will demolish the existing barn structure on City owned property. The structure is unoccupied and not structurally sound for any use. This project will fund the demolition, debris removal, and site restoration to include any needed grading and grass hydro seed, to match typical surrounding grasslands.

The anticipated start of construction is in 2024 with completion prior to December 31, 2024.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Improvement Project entitled “Larimer Barn Demolition”, Fund 354, Program 097, to accumulate all costs for the project in the amount of \$85,000.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project entitled “Larimer Barn Demolition”, Fund 354, Program 097 to accumulate all costs for the project in the amount of \$85,000.

WHEREAS,

- A.** The City Council recognizes the need to maintain City owned properties.
- B.** The City Council recognizes that the Larimer Barn is unoccupied and not structurally sound for any use.
- C.** The City recognizes that the Larimer Barn has reached the end of its useful life and should be safely demolished.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special improvement project fund is hereby entitled, “Larimer Barn Demolition”, Fund 354, Program 097.

Section 2. Authorization is hereby granted to the Parks and Facilities Department Director under the administration of the Mayor, to assume full responsibility for conducting all tasks and performing all necessary steps to accomplish the actions authorized by this Ordinance.

Section 3. The estimated cost of the project is \$85,000.

Section 4. The sum of \$85,000 is hereby appropriated to Fund 354, Program 097, Larimer Barn Demolition Project.

- A. Use of Funds**

Barn Demo and Associated Costs	<u>\$85,000</u>
Total	\$85,000
- B. Source of Funds**

CIP 3	<u>\$85,000</u>
Total	\$85,000
- C.** The appropriation shall not lapse but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned without the necessity of reappropriation.

Section 5. 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 6. 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 7. 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 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: _____



Project title:

An Ordinance Closing a Special Improvement Project Entitled, Madison Morgan Park Improvements, Fund 354, Program 063, as Established by Ordinance No. 3818-21

Council Bill #

CB 2401-82

Agenda dates requested:

2/7/24, 2/14/24, 2/21/24

Briefing

Proposed action 2/7, 2/14/24

Consent

Action 2/21/24

Ordinance **X**

Public hearing

Yes **X** 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: Madison Morgan Park Improvements

Partner/Supplier: Job Order Contracting – Forma\SWR Garner’s NW Landscaping

Location: Madison ST & Morgan RD, Everett, WA

Preceding action: Funding Ordinance 3818-21

Fund: Fund 354, Program 063

Fiscal summary statement:

The source of funds for the Madison Morgan Park Improvements project was Capital Improvement Program 3 (CIP-3) in the amount of \$315,000. The project was completed at a total cost of \$288,288. All expenses for the project have been paid. The remaining balance of \$26,712 will be transferred back to CIP-3.

Project summary statement:

The project funded walking paths, a gathering circle, perimeter fencing of the park and residence inside the park, interpretive signage, plantings for the meadow and seasonal wetlands, and a park monument sign.

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, Madison Morgan Park Improvements, Fund 354, Program 063, as established by Ordinance No. 3818-21.



ORDINANCE NO. _____

An ORDINANCE closing a special improvement project entitled, Madison Morgan Park Improvements, Fund 354, Program 063, as established by Ordinance No. 3818-21.

WHEREAS,

- A.** The Madison Morgan Park Improvements, Fund 354, Program 063 was established to provide for the design and construction cost for the improvements of the Madison Morgan Park.
- B.** The purpose of the fund 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:

Section 1. That the special construction fund, Fund No. 354, Program 063, Madison Morgan Park Improvements be closed.

Section 2. That the final revenues and expenses for Madison Morgan Park Improvements, Fund 354, Program 063, are as follows:

REVENUES		
	CIP 3	<u>\$ 315,000</u>
	Total	\$ 315,000
EXPENSES		
	Construction	\$ 288,288
	Transfer Out – to CIP 3	<u>\$ 26,712</u>
	Total	\$ 315,000

Section 3. That the remaining balance of \$26,712 be transferred to CIP 3.

Section 4. 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 5. 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 6. 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:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____





City Council Agenda Item Cover Sheet

Project title:

An Ordinance Amending Ordinance No. 3779-20, as amended, entitled "Everett Municipal Building – Public Works Tenant Improvement Project", Fund 342, Program 42 & 43, Fund 336, Program 015, to Accumulate All Costs for the Project

Council Bill #

CB 2402-83

Agenda dates requested:

Briefing 02/21/2024
Proposed action 02/28/2024
Consent
Action 03/06/2024
Ordinance **X**
Public hearing
Yes **X** No

Budget amendment:

Yes **X** No

PowerPoint presentation:

Yes **X** No

Attachments:

Funding Ordinance

Department(s) involved:

Public Works
Parks & Facilities
Administration
Finance

Contact person:

Bob Leonard

Phone number:

425-257-8225

Email:

bleonard@everettwa.gov

Initialed by:

RML

Department head

Administration

Council President

Project: Everett Municipal Building – Public Works Tenant Improvement Project

Partner/Supplier: N/A

Location: 2930 Wetmore Avenue

Preceding action: Ordinance No. 3930-23

Fund: Fund 342, Program 42 & 43, Fund 336, Program 015

Fiscal summary statement:

On February 8th, 2023, City Council approved an amendment to Funding Ordinance 3779-20 to fund the full design of the Everett Municipal Building – Public Works Tenant Improvement Project in the amount of \$4,000,000. This design work along with the General Contractor/Construction Management (GC/CM) procurement process has determined the project scope of work and the amending Ordinance will provide the funding necessary to complete the project.

The funding sources for this program will be Fund 342 (CIP1) and Fund 401 Water and Sewer Utility Fund. We plan to split the total project costs amongst the two funding sources with Utilities Fund 401 contributing to their portion of the tenant improvements (approx. \$6,205,603) and CIP1 covering the rest of the tenant improvements for general fund employees and the shell & core work (approx. \$29,653,253) which encompasses the majority of the work that will be performed on the project. Currently CIP1 has approximately \$13,000,000 accounted for in our budget for this project and plans to utilize an interfund loan from Utilities Fund 401 to cover the shortage in CIP1 for this project. The City plans to issue limited tax general obligation (LTGO) bonds in 2025. The bond proceeds will be used to repay the interfund loan from Water and Sewer Utility Fund 401.

The total project costs including design, construction, project costs, sales tax and contingencies is \$36,000,000.

Project summary statement:

The Everett Municipal Building – Public Works Tenant Improvement Project intends to make necessary improvements to critical building systems, update and improve existing office/common spaces, and relocate Public Works administrative staff from the Service Center located on Cedar Street. The project represents several opportunities such as, relocating staff to the more structurally sound Everett Municipal Building, consolidating City services into one location, and reducing lease payment costs to the general fund. Now that our previous tenant, US Forest Service, has moved out, the building is 40% unoccupied which becomes the ideal time to reallocate office space and address aging building systems and deferred maintenance issues with minimal impact to City operations.

This amendment will provide the funding necessary to complete the project.

Recommendation (exact action requested of Council):

Adopt an Ordinance amending Ordinance No. 3779-20, as amended, entitled "Everett Municipal Building – Public Works Tenant Improvement Project", Fund 342, Program 42 & 43, Fund 336, Program 015 to accumulate all costs for the project.



ORDINANCE NO. _____

An Ordinance Amending Ordinance No. 3779-20, as amended, entitled “Everett Municipal Building – Public Works Tenant Improvement Project”, Fund 342, Program 42 & 43, Fund 336, Program 015 to Accumulate All Costs for the Project.

WHEREAS,

- A.** Ordinance No. 3779-20 was established to fund schematic design.
- B.** Ordinance No. 3930-23 amended Ordinance No. 3779-20 and was established to fund full design of the project.
- C.** The City Council recognizes the need for additional funding to complete the construction and project costs of the project.
- D.** The City plans to issue limited tax general obligation (LTGO) bonds in 2025. The bond proceeds will be used to repay the interfund loan from Water and Sewer Utility Fund 401.
- E.** The City Council recognizes investments must be made to the Everett Municipal Building’s core and shell to preserve and update the facility.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 1 of Ordinance No. 3779-20, which reads as follows (as amended by Ordinance No. 3930-23):

The estimated cost of the design is \$4,000,000.

Be and the same is hereby amended to read as follows:

The estimated total cost of the project is \$36,000,000 including costs related to design, construction, and project costs.

Section 2. Section 4 of Ordinance No. 3779-20, which reads as follows (as amended by Section 2 of Ordinance No. 3930-23):

The sum of \$4,000,000 is hereby appropriated to Fund 336, Program 015 “Everett Municipal Building – Public Works Tenant Improvement Project.

- A. Use of Funds
- | | |
|---------------------------------------|-------------------|
| Schematic Design | \$ 325,700 |
| Design | \$2,924,300 |
| GC/CM Preconstruction Services | \$ 500,000 |
| GC/CM Owner Advisor Services Phase II | <u>\$ 250,000</u> |
| Total | \$4,000,000 |
- B. Source of Funds
- | | |
|-------------------------------------|--------------------|
| Fund 401 – Water/Sewer Utility Fund | \$2,400,000 |
| CIP 1 | <u>\$1,600,000</u> |
| Total | \$4,000,000 |
- C. The appropriation shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned without the necessity of re-appropriation.

Be and the same is hereby amended to read as follows:

The sum of \$36,000,000 is hereby appropriated to Fund 342, Program 042 and 043, and Fund 336, Program 015.

- A. Use of Funds
- | | |
|---------------------------------------|---------------------|
| Schematic Design | \$ 325,700 |
| Design | \$2,924,300 |
| GC/CM Preconstruction Services | \$ 500,000 |
| GC/CM Owner Advisor Services Phase II | \$ 250,000 |
| GC/CM Construction & Project Costs | <u>\$32,000,000</u> |
| Total | \$36,000,000 |
- B. Source of Funds
- | | |
|---------------------------------------------------------|---------------------|
| Fund 401 – Water/Sewer Utility Fund (Utilities TI cost) | \$ 6,205,603 |
| Interfund Loan from Fund 401 | \$16,794,397 |
| CIP 1 | <u>\$13,000,000</u> |
| Total | \$36,000,000 |
- C. The appropriation shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned without the necessity of re-appropriation.



Section 3: Authorization is hereby granted to the Parks and Facilities Director under the administration of the Mayor, to assume full responsibility for conducting all tasks and performing all necessary steps to accomplish the actions authorized by this Ordinance.

Section 4. 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 5. 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 6. 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:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____



EFFECTIVE DATE: _____





EVERETT MUNICIPAL BUILDING

Everett Municipal Building Public Works Tenant Improvements Project



Everett Municipal Building Public Works Tenant Improvements Project

Scope and Origination

Updates and Replacements to Building Systems

- **Roof**
- **Elevator Modernization**
- **HVAC**
- **Electrical Distribution/ Lighting Controls**
- **Fire System**
- **Emergency Generator**
- **Domestic Hot Water System/ Plumbing Fixtures**
- **Remodel ½ the buildings occupiable floor space**



Everett Municipal Building Public Works Tenant Improvements Project

Work Scope Percentage Breakdown

Shell & Core Work:

- 71% of the work
- 100% General Fund
- Costs covered by LTGO bond and cash on hand

Tenant Improvement Work:

- 29% of the work
- Utilities and General Fund would split this portion
- Utilities 60% General Fund 40%



Everett Municipal Building Public Works Tenant Improvements Project

Cost Breakdowns

*Includes WSST, Contingencies, and 1% for the Arts

Design/ Consultant Costs.....	\$ 3,683,141
Construction Costs.....	\$ 30,219,779
Owner Costs (Fixtures / Furniture, Moves, Permit Fees).....	\$ 1,955,936
 Total Project Cost.....	 \$35,858,856
Schematic Design Estimate.....	\$38,041,318
Delta (Difference in Price from estimate).....	(\$ 2,182,462)

Shell & Core/ Tenant Improvements Breakdown

Shell & Core Costs(71%).....	\$25,516,184
Tenant Improvement Costs(29%).....	\$10,342,672
 Utilities TI Contribution (60%).....	 \$ 6,205,603
General Fund TI Contribution (40%).....	\$ 4,137,069
 Total General Fund contribution for the project.....	 \$29,653,253



Everett Municipal Building Public Works Tenant Improvements Project Cost Comparable (Similar projects from other municipalities)

City of Redmond- City Hall New Construction Build- 100,000 sq. ft. civic facility
Cost per sq. ft. - **\$350**

City of Mukilteo- City Hall New Construction Build- 18,000 sq. ft. civic facility
Cost per sq. ft. - **\$548**

City of Marysville- Civic Center New Construction Build (just civic building portion of the project)- 37,329 sq. ft. civic building
Cost per sq. ft. - **\$490**

City of Everett- Municipal Building Renovation- 100,000 sq. ft. building, approximately
47,000 sq. ft. of Tenant Improvements
Total Cost per sq. ft. - **\$453**



Everett Municipal Building Public Works Tenant Improvements Project Schedule

- ❑ March-April 2024: Start of Construction
- ❑ April - July 2024: Restroom renovations and demo work on remodeled floors
- ❑ August 2024 - January 2025: construction of select floors and building systems
- ❑ February – September 2025: Majority of construction work completed, remaining work includes long lead time items
- ❑ Punchlist and substantial completion anticipated Q3/Q4 of 2025



Everett Municipal Building Public Works Tenant Improvements Project Labor Analysis

- BNBuilders employs 100% unionized construction labor forces.
- 98% of total labor utilized is union represented labor.
- 28% local labor utilized.
- Looking to exceed 15% apprenticeship utilization.



Everett Municipal Building Public Works Tenant Improvements Project

NEXT STEPS





EVERETT MUNICIPAL BUILDING

Everett Municipal Building Public Works Tenant Improvements Project



Everett Municipal Building Public Works Tenant Improvements Project

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Updates and Replacements to Building Systems

- **Roof**
- **Elevator Modernization**
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- Looking to exceed 15% apprenticeship utilization.



Everett Municipal Building Public Works Tenant Improvements Project

NEXT STEPS





EVERETT CITY COUNCIL Public Comment Form

Thank you for being here today. Please fill out this form to speak at the council meeting.

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](https://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.

DATE: 2/21/24

NAME (required): Chelsea Gray

CITY (required): Everett ZIP (required): 98201

EMAIL (optional): _____ PHONE (optional): _____

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: Inequity in Policing + Governance



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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: FEB 21, 2024

NAME (required): Jane C. McClure

CITY (required): EVERETT, WA ZIP (required): 98201

EMAIL (optional): jcmclure@icloud.com PHONE (optional): 206/382-9999

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: Clark Park & whatelse?! the gazebo.

From: Lauren Rahimi <burnett.lauren@gmail.com>
Sent: Wednesday, February 21, 2024 12:27 PM
To: DL-Council
Subject: [EXTERNAL] Housing Project

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.

Hello,

I wanted to let you know that I am in support of the new housing project of 1,500 units and thank you for your work on the project.

I would like to request the build of a new youth center near Wiggums Hollow park and staffing for the new library in the new development. Having youth centers is one of the most important things we can do to create a positive environment for our young ones to grow. They are the backbone of our future. Also, having youth centers gives youth the tools needed to grow positively and reduces the chance of incarceration. I have young children and they would make use of these youth centers.

Also, I would like to advocate for ADA ramps to be updated to current standard and for the sidewalks on 15th street added for pedestrian safety.

Thank you,

Lauren Rahimi
9819 21st Ave SE, Everett, WA 98208

From: Henry Cotter <cottehe@gmail.com>
Sent: Wednesday, February 21, 2024 12:47 PM
To: Judy Tuohy; Elizabeth Vogeli; Scott Bader; Mary Fosse; Paula Rhyne; Donald Schwab; Ben Zarlingo; Cassie Franklin
Cc: DL-Council; Angela Ely; John Phillips; Lisa Phillips; Dulcy Stout
Subject: [EXTERNAL] The Clark Park gazebo

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.

Dear Mayor Franklin and Everett City Councilmembers,

Council member Bader attended our neighborhood meeting last night and asked everyone in attendance for their input regarding the Clark Park gazebo. I'm writing to you in that regard.

My wife and I moved to Everett in March 2020, just before the pandemic shut the world down. It was an interesting time as you all remember, and meeting people in a new city was, not surprisingly, tough. We came across Bayside Neighborhood Association (BNA) and were quickly pressed into service on the steering committee, and it's here that we heard about Clark Park and the gazebo. At the time, the gazebo was encased behind a chain link fence. It was a goal of the BNA to 'free' the gazebo because we saw a lot of potential in it as a gathering spot for neighborhood events.

Indeed, once the gazebo was freed, we set to planning events to be held in the park with the gazebo as a focal point and we've succeeded in holding multiple events in the park: National Night Out, Art in the Park, Caroling in Clark Park (the gazebo was truly the centerpiece for this event), and Bark in the Park. Bark in the Park is where we gauged interest in having a dog park in Clark Park. Interest was high.

We've met with Bob Leonard and Parks staff for some fantastic collaboration about building a dog park and possibly renovating the gazebo by installing decorative gating to it, making it ADA compliant and possibly integrating it into the dog park. Their support has been excellent! Unfortunately, the costs of renovating the gazebo, which sat for 20 years in the elements unused and unmaintained behind a chain link fence, grew and grew into a six-figure sum which is a lot of money for the city, which is looking to cut spending to balance the budget.

Our dream for others using the gazebo for events has not been realized. Other than one very nice performance by Trinity Lutheran Church, BNA is the only one who uses the gazebo.

We know that there is opposition to removing the gazebo. But where were these concerned citizens when it was encased in fencing for 20 years? Where were they for the last 4 years as we were planning events to try to spur more use of the gazebo. We've not seen them at our events. We've not seen them attend our meetings.

Because of its location, we believe that Clark Park can be an absolute gem for the neighborhood. We want neighbors to use it. We want neighbors to enjoy it. The addition of the dog park under the giant trees will be a great place for people and their pets to come and get some exercise and fresh air. The gazebo needs a lot of expensive work. We don't believe its presence is necessary to make it a great park.

Thank you for your time,

Henry Cotter

Chair - Bayside Neighborhood Association

From: Christy Pruitt <cp-pruitt@outlook.com>
Sent: Sunday, February 18, 2024 10:57 AM
To: DL-Council
Subject: [EXTERNAL] Save Our Gazebo!

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.

Our historic gazebo at Clark Park IS INDEED a treasure for many people, who have used it for generations for various reasons. My family always looks forward to taking time out each month to have a picnic and enjoy the park and gazebo; often sharing food, playing music (guitars), and having a good time with the gazebo being the central fixture of many of our treasured memories. We were thrilled with the idea of safely refurbishing our beloved gazebo- especially since we pay taxes that support the city and our parks. To learn on the news that this plan has been completely scrapped and the mayor is putting in a dog park is absolutely unacceptable! There was no public comment, no chance for our community to respond! Of all the things to do with this, a dog park is an absolute insult! Don't take the easy way and doze down an existing park- carve out a new spot for dogs- you own plenty land, a dog park is easy to fence off on a cleared and appropriately planted land. Build a dog park elsewhere! Leave our precious gazebo ALONE! Our family is one of many that will fight this the entire way, as well as make sure our community KNOWS that Mayor Cassie Franklin and the current city council are the ones that agreed to plow down this precious HISTORICAL gathering place. So much has happened that this has survived- the growth of the region, 2 world wars, and countless generations that have gathered here. Erasing our culture will be on your heads, a shame. This is a total marxist move! LEAVE OUR CULTURALLY SIGNIFICANT GAZEBO IN PLACE! Update it as promised, as funds were raised, people elected on, etc. KEEP YOUR WORD! Be the light in these dark days!

Thank you,

~Christy

From: d.barr@datombar.com <daves1@datombar.com>
Sent: Saturday, February 17, 2024 6:48 PM
To: DL-Council
Subject: [EXTERNAL] Clark Park Gazebo

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.

Hello,

I want to take a moment to tell you removing the Gazebo at Clark Park is not the solution for the city's homeless and crime problem. In fact, it's a knee jerk reaction. What's next, the trees in the park? Seating? the park itself? The gazebo is a historic structure in Everett. To remove this would be shameful for the city. Do better and come up with a different solution!

--

David T. Barr

From: D Haynes <dianashaynes@gmail.com>
Sent: Thursday, February 15, 2024 7:03 PM
To: DL-Council
Cc: D Haynes
Subject: [EXTERNAL]

Follow Up Flag: Follow up
Flag Status: Completed

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.

I just watched an article on the evening news about the multiple 15-story buildings to be put in the Delta neighborhood of Everett. Why are 15 stories acceptable when Hopeworks was denied 8 story buildings. Really 15 stories just give less space for the humans. Kids are supposed to play in the apartment? More people with less outdoor space to share. Meanwhile Hopeworks helps build the person to be independent. Hopeworks has working business models. Hopeworks runs housing as well as eco friendly apartments. This company builds the community, it does not extort the the community.

Please let me know who else my concerns should be sent to.

Diana Haynes

From: John Phillips <phillijo@msn.com>
Sent: Wednesday, February 21, 2024 11:01 AM
To: Judy Tuohy; Elizabeth Vogeli; Scott Bader; Mary Fosse; Paula Rhyne; Donald Schwab; Ben Zarlingo; Cassie Franklin
Cc: dulcy.stout@gmail.com; Henry Cotter; Lisa Phillips; DL-Council; Angela Ely
Subject: [EXTERNAL] Clark Park Gazebo

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.

Dear Mayor and Everett City Councilmembers,

I am writing to you today to provide information on the neighbors that live in Bayside and value Clark Park as the park closest to our homes.

At issue now is the gazebo and its long-term status. There are no easy solutions or good solutions. Since moving to Everett, the gazebo has been a fixture in my life along with Clark Park. I cannot recall how many hours I have spent at the park cleaning up or planning a fun event for the community utilizing the gazebo.

In 2017, I met some neighbors at Clark Park while doing a clean up around the neighborhood. We were fascinated by the gazebo standing tall against the tennis courts but enclosed behind a fence. We had many questions about the gazebo and its history.

We saw the immediate potential of Clark Park as a gathering space. Its proximity to high density development within the Metro Everett zone, including mature chestnut trees and open space for activities. As we asked questions, we learned Clark Park was the first park in Everett and was aptly named City Park. The gazebo was built in 1921 by a local architect and was fenced off in the 1990s to prevent vandalism. The Everett School District tennis courts cut the open one square block park in half in 1981. Which left the gazebo at the edge of the park instead of in the center of the park, where it stood for 60 years prior to the tennis courts.

Some neighbors formed Clark Park Active in 2018 and had pop up events throughout the summer. These were held during the weekdays and attracted local families and individuals excited to use the playground and play lawn games throughout the park. We also become actively involved in the Bayside Neighborhood Association.

Interest in active space for dog owners in high density housing within short walking distances grew as well. As neighbors, we are at the park at different times of the day and talked to dog owners and other users of the park. Some lived in single-family housing, but many lived in higher density housing near the park and used the park to exercise their dog.

We encourage the local churches to hold events in the park as well. There are three churches on the same block as Clark Park.

One event at Clark Park is Bark in the Park. Throughout the day there are many dog owners coming to the park and enjoy the obstacle course and getting to know other dog owners in the neighborhood. At these events we would ask the dog owners about the idea of a dog park. We also did informal non-scientific surveys that found support for active dog use in the park. There is support for the dog park.

Art in the Park was started post covid and early in the season for new artists and some seasoned artists to sell art (with proper permits from Parks Department and vendor licenses). This event also included three hours of musical performance sponsored by a local art gallery. These events drew large crowds and resonated with folks seeing lights and decorations around the gazebo.

Clark Park in the last few years has hosted Caroling in the Park with multiple musical groups from local schools, churches, and professional acts. Caroling in the Park is part of City of Everett's Wintertide events. Music at the park drew large crowds of 100 or more. Unfortunately, it had to be relocated to Wetmore Plaza in 2023 due to losing access to electricity at the park due to vandalism.

National Night Out events are held at Clark Park for at least a decade. There was also an Easter Egg hunt at Clark Park organized by the Bayside Neighborhood Association until 2020.

A mural was painted at the park in 2021 with funds from the Everett Cultural Arts program and support from the City of Everett staff. It was designed and painted by volunteers from the neighborhood.

In 2023, we celebrated the 100-year anniversary of Trinity Lutheran Church with a concert in the gazebo, with no power due to vandalism.

Support from the Everett Parks department has been excellent. From our first inquiries about the fence, they provided information talked to us and met with us on site. In 2020, they agreed to remove the fence around the gazebo. Having the fence removed meant the opportunity for multiple community events including music at the gazebo organized by the Bayside Neighborhood Association. Bayside Neighborhood Association would apply for the proper permits to use the park. We also proposed moving the gazebo, refurbishing it to a more central area of the park. Parks supported the idea, and the Historic Commission rejected it in 2020.

We have met with Parks staff on the dog park, upgrades to the gazebo and introducing art into the park. For three years we discussed the gazebo and dog park with neighbors adjacent to the park and they attended meetings both in-person and virtually. Parks staff attend those meetings and presented concepts and ideas for the dog park and refurbishing the gazebo.

These meetings were held at our regular neighborhood association meetings with parks staff. These meetings were advertised on multiple social media accounts the same social media outlets people are using now to discuss the gazebo. We also sent out our community newsletter that was issued once a month.

After developing preliminary designs for the dog park and gazebo where both co-existed we looked forward to more details being developed. Late in 2023, Parks department highlighted what we feared and already knew, the gazebo was in severe disrepair because of 20 years of neglect.

Most of the support columns are rotted, Parks department added the cost of renovating the gazebo to the project, which became a full rebuild in the process adding ADA ramp and some security and better access to electricity (the electricity was vandalized in 2023 and no longer useable).

At no time did we receive support for the Historic Commission or Historic Everett. Support for our events came from the Cultural Arts Commission, Port of Everett, and City of Everett along with many of our local businesses.

We openly talked about Clark Park to anyone who would listen. We also communicated status to our councilmembers. We would point out issues to them the issues when they attended the events.

If the gazebo is so important now, where was this interest 25 years ago when it was fenced off and left to decay?

I would like to know if Historic Everett is now interested in raising the additional funds to refurbish the gazebo. Speaking from years of experience setting up and using the gazebo for events, it can no longer stand in its current state and be useful to the neighbors for events for much longer.

Everett Herald Article from January 2020 confirming neighborhood activity <https://www.heraldnet.com/news/long-closed-gazebo-at-everetts-clark-park-may-be-set-free/>

Bayside Neighborhood Association Web sit on Clark Park <https://baysidena.yolasite.com/Clark-Park.php>

Bayside Neighborhood Association Events <https://baysidena.yolasite.com/events.php>

Thank you,

John Phillips

Bayside Neighbor

Vice-Chair and long-time member of the Bayside Neighborhood Association

From: Lisa Phillips <phillili@msn.com>
Sent: Wednesday, February 21, 2024 1:54 PM
To: Elizabeth Vogeli; Scott Bader; Mary Fosse; Paula Rhyne; Donald Schwab; Ben Zarlingo; Cassie Franklin; Angela Ely; Judy Tuohy
Subject: [EXTERNAL] Clark Park Gazebo

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.

Dear Councilmembers and Mayor Franklin,

I am writing you to express support for removal of the gazebo at Clark Park.

I am surprised that suddenly there is so much interest in keeping the gazebo at Clark Park. Many of the folks interested don't even live in the neighborhood surrounding the park, nor do they attend the numerous events we have held at Clark Park over the past 5 years. We get a permit every time we hold an event at Clark Park to ensure we can have access to use the gazebo. I think the Bayside Neighborhood is the only group that uses the gazebo.

I have a great respect for the history in our city. The house I live in was built in 1901. What I don't want to happen is the gazebo to stay in the park and continue to decay, rot, be vandalized and eventually collapse. I've heard some folks recommend putting a fence back up to keep folks out of the gazebo. I don't see how that is a solution.

The gazebo was fenced in about 20 years ago and has just been forgotten about and neglected. The roof is in disrepair, the pillars are rotting, and it is getting vandalized. The option of putting shutters on the gazebo are no longer an option due to the astronomical expense.

I would rather see the gazebo be moved to a location where it can be restored to its former glory and be used and appreciated in a different park or location. I'm sure the Everett Historical Commission could use their energy applying for grants to do this.

Thank you for your time and consideration and for serving our beautiful and historic city.

Sincerely,
Lisa Phillips

From: Paula Rhyne
Sent: Wednesday, February 21, 2024 3:31 PM
To: Angela Ely
Subject: FW: [EXTERNAL] Oppose Planned Park District in Delta Neighborhood

Category 2: Sensitive information

Public testimony

Paula Rhyne, MPA (*she/her*)
Everett City Councilmember, District 2
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Category 2: For official use only / disclosure permissible by law.

From: Rachel Pearson <rachelcspearson@gmail.com>
Sent: Tuesday, February 20, 2024 9:20 PM
To: Ben Zarlingo <BZarlingo@everettwa.gov>; Cassie Franklin <CFranklin@everettwa.gov>; Donald Schwab <DSchwab@everettwa.gov>; Judy Tuohy <JTuohey@everettwa.gov>; Elizabeth Vogeli <EVogeli@everettwa.gov>; Mary Fosse <MFosse@everettwa.gov>; Paula Rhyne <PRhyne@everettwa.gov>
Subject: [EXTERNAL] Oppose Planned Park District in Delta Neighborhood

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Dear Everett City Officials,

I am writing to you today to let you know my neighbors and I oppose the planned park district that the Everett planning commission is in the process of getting approval to build. My husband and I live off 17th st & Pine, and we are already concerned with the crime near Henry M. Jackson Park, especially as parents to two young children.

The Baker Heights area should definitely be reorganized and developed, but the usage of the proposal will undoubtedly attract crime, vandalism, and apathy while driving away those like myself who want to grow a family on property they are invested in and wish to steward well. People want more single family homes or townhomes with yards to build long term wealth and upward mobility. This proposal will not add value to the neighborhood.

There are so many more reasons why my neighbors and I disagree with this proposal (and many of them my neighborhood association-the delta neighborhood association is addressing) but just wanted to drop you officials a note letting you know there are so many people including myself who oppose this.

I hope you consider what the community wants and needs rather than what government officials want to build because we are the ones who live here.

Sincerely,
Rachel Pearson