



**Everett City Council Preliminary Agenda**  
**6:30 p.m., Wednesday, June 5, 2024**  
**City Council Chambers**

Roll Call

Pledge Of Allegiance

Land Acknowledgment

Approval Of Minutes: May 29, 2024

Mayor's Comments

Public Comment

Council Comments/Liaison Reports

Administration Update

City Attorney

**CONSENT ITEMS:**

(1) Adopt Resolution Authorizing Claims Against The City Of Everett In The Amount Of \$1,215,780.71 For The Period Ending May 18, 2024 Through May 24, 2024.

Documents:

[RES CLAIMS PAYABLE MAY 18, 2024 - MAY 24, 2024.PDF](#)

(2) Adopt Resolution Authorizing Payroll Claims Against The City Of Everett In The Amount Of \$5,414,845.14 For The Period Ending May 18, 2024.

Documents:

[2024 RESOLUTION FOR PAYROLL PAY PERIOD 11.PDF](#)

(3) Award And Authorize The Purchase Of Playground Equipment And Installation With Landscape Structures, Inc. And Northwest Playground Equipment, Inc. From King County Directors' Association #22-315/City Of Everett #2022-069, In The Estimated Amount Of \$388,155.47 Including Washington State Sales Tax.

Documents:

[KIWANIS PARK RENOVATION.PDF](#)

(4) Accept The Fleming Bicycle Corridor Project As Complete And Authorize The Mayor To Sign The Certificate Of Completion.

Documents:

[ALWAYS ACTIVE SERVICES LLC-FLEMING BICYCLE CORRIDOR.PDF](#)

(5) Authorize The Mayor To Sign The 2024 Professional Services Agreement With Phyco-Tech Inc. For Environmental Analytical Testing Services.

Documents:

[PHYCOTECH-ENVIRO ANALYTICAL TESTING-PSA.PDF](#)

(6) Authorize The Mayor To Sign The Grant Agreement For Everett Gospel Mission Pallet Project With Snohomish County And Authorize The Mayor To Sign All Necessary Subaward Agreements With Everett Gospel Mission To Implement The Grant.

Documents:

[SC EGM PALLET PROJECT GRANT AGREEMENT.PDF](#)

(7) Authorize The Mayor To Sign A Professional Service Agreement With Board And Vellum, LLC To Provide Architectural And Engineering Services For The Walter E. Hall Community Connections Path Project.

Documents:

[WALTER E HALL COMMUNITY CONNECTIONS PATH PSA.PDF](#)

PROPOSED ACTION ITEM:

(8) CB 2405-09 – 2nd Reading - Adopt An Ordinance Relating To Everpark Garage And Fund 430 Everpark Garage, And Repeal Ordinance 97-70. (3rd & Final Reading 6/12/24)

Documents:

[CB 2405-09.PDF](#)

ACTION ITEM:

(9) CB 2405-08 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Improvement Project Entitled, "Clark Park Renovation And Off Leash Dog Area", Fund 354, Program 101, To Accumulate All Costs For The Project.

Documents:

[CB 2405-08.PDF](#)

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](https://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](mailto:aely@everettwa.gov) and identify the topic you wish to address.



- o Provide written public comments by email to [Council@everettwa.gov](mailto: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](http://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](https://www.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](mailto: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->.

Council President



RESOLUTION NO. \_\_\_\_\_

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

That the payroll of the employees of the City of Everett as of May 18, and checks issued May 24, 2024, having been audited, be and the same is hereby approved and the proper officers are hereby authorized and directed to charge checks on the Payroll Fund in payment thereof:

Fund	Department	Gross Payroll	Employer Contributions
001	Legislative	12,844.45	6,923.05
003	Legal	96,468.57	30,293.89
004	Administration	52,437.40	12,060.02
005	Municipal Court	69,313.13	23,244.94
007	Personnel	60,665.71	19,480.79
010	Finance	100,211.55	32,331.35
015	Information Technology	115,065.37	37,489.61
018	Communications and Marketing	24,065.05	7,178.86
021	Planning & Community Dev	125,701.94	36,821.92
024	Public Works	218,982.41	71,309.69
026	Animal Shelter	58,257.83	23,841.55
030	Emergency Management	10,764.80	3,507.10
031	Police	1,168,451.54	304,380.52
032	Fire	797,725.99	190,843.08
038	Facilities/Maintenance	110,973.36	41,843.18
101	Parks & Recreation	166,171.84	61,034.88
110	Library	124,272.18	42,562.73
112	Community Theatre	8,654.25	2,123.28
120	Street	74,181.86	27,874.24
153	Emergency Medical Services	448,410.10	98,613.01
197	CHIP	11,771.44	3,421.37
198	Community Dev Block	3,839.52	1,268.56
401	Utilities	898,026.31	333,749.33
425	Transit	530,873.00	195,510.14
440	Golf	45,495.15	14,262.09
501	Equip Rental	81,220.39	30,739.81
		<u>\$5,414,845.14</u>	<u>\$1,652,708.99</u>

\_\_\_\_\_  
Councilperson Introducing Resolution

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Council President

**Project title:** Award and Authorize the Purchase of Playground Equipment and Installation with Landscape Structures, Inc. and Northwest Playground Equipment, Inc. from King County Directors' Association (KCDA) #22-315/COE #2022-069

**Council Bill #** *interoffice use*

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 06/05/24  
Action  
Ordinance  
Public hearing  
Yes x No

**Budget amendment:**

Yes x No

**PowerPoint presentation:**

Yes x No

**Attachments:**

Quotes

**Department(s) involved:**

Procurement & Parks & Facilities

**Contact person:**

Theresa Bauccio-Teschlog

**Phone number:**

425-257-8901

**Email:**

[tbauccio@everettwa.gov](mailto:tbauccio@everettwa.gov)

**Initialed by:**

Department head

Administration

Council President

**Project:** Kiwanis Park Renovations

**Partner/Supplier:** Landscape Structures, Inc. and Northwest Playground Equipment, Inc.

**Location:** 36<sup>th</sup> and Rockefeller, Everett, WA

**Preceding action:** [2/21/24](#) Final Adoption of Ordinance creating a Special Improvement Project entitled "Kiwanis Park Renovations"

**Fund:** Fund 354, Program 090 (CIP-3)

**Fiscal summary statement:**

The City Council approved the funding ordinance for this project [February 21, 2024](#).

The estimated total cost of this project is as follows:

Contractor	Quote Total, including Washington state Sales Tax
Landscape Structures, Inc.	\$281,885.56
Northwest Playground Equipment, Inc.	\$106,269.91
<b>Project Total:</b>	<b>\$388,155.47</b>

In compliance with the Procurement Policy, this purchase is brought before the Council for award as it exceeds \$250,000.

**Project summary statement:**

Kiwanis Park playground is twenty (20) years old and exceeds the City of Everett Park's life-cycle standard of fifteen (15) years. The Parks & Facilities Department intends to construct a new playground to replace the existing equipment and update the playground to current industry standards. The project includes demolishing the existing playground, removing the engineered wood fiber surfacing system, building a new forever lawn surfacing system, installing the new playground equipment, certifying the design and installation, and renovations and repairs to the park's sports court.

The equipment and labor are available from Landscape Structures, Inc. and Northwest Playground Equipment, Inc. through the King County Directors' Association (KCDA) competitively bid contract #22-315/City of Everett #2022-069. The City has an Interlocal cooperative purchasing agreement with KCDA that allows for purchases from its competitively awarded contracts instead of soliciting bids on our own.

**Recommendation (exact action requested of Council):**

Award and authorize the purchase of playground equipment and installation with Landscape Structures, Inc. and Northwest Playground Equipment, Inc. from King County Directors' Association #22-315/City of Everett #2022-069, in the estimated amount of \$388,155.47 including Washington state sales tax.

# Kiwanis Park Playground

Worksheet # 2311-12030-6



To:  
**City of Everett - Parks & Facilities**  
 Lolly Huggins | Capital Project Coordinator  
 803 East Mukilteo Blvd  
 Everett, WA 98203  
 Office: 425 512 2057 | Email: LHuggins@everettwa.gov

Owner:  
**City of Everett**  
 2930 Wetmore Avenue  
 Everett, WA 98201

**KCDA**  
 Design  
 Concept D R.1  
 #1180944-4-3

Project Location:  
**Kiwanis Park**  
 36th Street, Rockefeller Ave  
 Everett, WA 98201

Ship To:  
**Kiwanis Park**  
 36th Street, Rockefeller Ave  
 Everett, WA 98201

Date	Lead Time	Terms	Quoted By
May 13, 2024	24 to 26 weeks	KCDA Standard   Quote valid for 90 days	Adam Basich 206.932.6366
PLAYGROUND EQUIPMENT			
	CUST23-20	Design Concept D R.1, per drawing 1180944-4-3 - 5-12 Playground Equipment per attached itemized quote sheet. Manufactured by Landscape Structures	\$ 51,000.00
	1180944-4-3	Design Concept D R.1, per attached itemized quote sheet # 1180944-4-3 -Sensory Play Equipment. Manufactured by Landscape Structures	\$ 14,603.00
	1180944-4-3	Design Concept D R.1, per attached itemized quote sheet # 1180944-4-3 -Swing Area Play Equipment. Manufactured by Landscape Structures	\$ 4,916.00
PLAYGROUND SURFACING			
3437	square feet	Supply and Install Compacted Crushed Rock Base for Playground Grass Surfacing	\$ 8.15 \$ 28,011.55
3437	square feet	ForeverLawn Playground Grass Ultra	\$ 26.50 \$ 91,080.50
		2" SafetyFoam Pro interlocking pad for 8Ft CFH (over CCR) Envirofill Infill per product specifications. Composite edge nailer boards.	\$ -
		Also, all associated and required items that accompany this (seaming tape, etc. The professional and timely installation and cleanup of the ForeverLawn system.	\$ -
SITE WORK & INSTALLATION			
		Removal and Disposal of Existing Playground Equipment and Footings   based on 22 Posts, 20 Footings	\$ 18,010.00
		Installation of Design Concept D 5-12 Play Equipment Structure, per drawing #1180944-4-3 by certified, factory trained and local installation crew	\$ 25,500.00
		Installation of Design Concept D R.1 Sensory Play Equipment, per drawing #1180944-4-3 by certified, factory trained and local installation crew	Includes install of 'Terra Critter' \$ 7,301.50
		Installation of Design Concept D R.1 Swing Equipment, per drawing #1180944-4-3 by certified, factory trained and local installation crew	\$ 4,250.00
		Removal and Disposal of Concrete for Swing Area Expansion, Concrete Curb Replaced at 42 Lineal Feet	\$ 6,090.00
		KCDA Discount per contract 22-315	\$ (15,045.75)

KCDA Contract Holder:  
 Landscape Structures, Inc.  
 attention: **Misty Link**  
 601 - 7th Street South  
 Delano, MN 55328-0198  
 mistylink@playlsi.com  
 763.972.5591



Send for processing to:  
 PlayCreation, Inc.  
 attention: **John Larson**  
 2104 SW 152nd Street, ste 1  
 Burien, WA 98166  
 JohnL@PlayCreation.com  
 206.932.6366

KCDA Purchasing Cooperative  
 18639 - 80th Ave S Kent, WA 98064-5550  
 attention: **Karri Wyman** kwyman@kcda.org

Issue Purchase Order

Project Total	\$ 235,716.80
Freight	\$ 12,589.33
Tax (9.9%)	\$ 24,582.31
<b>Sub Total</b>	<b>\$ 272,888.43</b>
Bond Fees	\$ 8,186.65
Tax on Bond	\$ 810.48
<b>Grand Total</b>	<b>\$ 281,885.56</b>



ForeverLawn



## Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109  
Phone (425) 313-9161 FAX (425) 642-8117  
Email: sales@nwplayground.com

### QUOTE

To: Everett, City of

Re: Kiwanis Park

Quote # DD-5142024-00005096

Date: 05-14-2024

Quote Name: Kiwanis Park - Revision 2 KCDA

Bill To: 802 East Mukilteo Boulevard  
Everett, WA 98203

Site Address: 36th Street, Rockefeller Ave  
Everett, WA 98201

Name: Lolly Huggins  
Email: lhuggins@everettwa.gov

Phone: 425-512-2057  
Cell:

Item #	Qty	Description	Price	Total Price
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#### EQUIPMENT

##### Yalp

YA8566	1	Yalp Sutu Carefree pack	\$3,675.00	\$3,675.00
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##### Bison

PR98SHT	1	Ultimate HangTime 6" Adjustable Basketball System w/42" x60" Steel Backboard and Pedestal Mounting Equipment	\$3,185.00	\$3,185.00
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##### Lappset

YA3550	1	Lappset Sutu Interactive ball wall	\$49,900.00	\$49,900.00
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##### ID Sculptures

IHD - IDSculpture - Custom	1	ID Sculpture: TC100 - Sea Turtle	\$6,820.00	\$6,820.00
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Equipment Subtotal (less tax): \$63,580.00

#### CONTRACT DISCOUNT

Bison	KCDA - King County Directors Association Discount: BID #22-315	10%	(\$318.50)
Lappset	KCDA - King County Directors Association Discount: BID #22-315	5%	(\$2,495.00)
ID Sculptures	KCDA - King County Directors Association Discount: BID #22-315	5%	(\$341.00)

#### FREIGHT

Yalp	Freight	\$9,625.00
Bison	Freight	\$1,075.00
ID Sculptures	Freight	\$2,125.00

Equipment Total (less tax): \$73,250.50



## Northwest Playground Equipment, Inc.

PO Box 2410, Issaquah, WA 98027-0109

Phone (425) 313-9161 FAX (425) 642-8117

Email: sales@nwplayground.com

### CERTIFIED INSTALLATION

Site Prep	1	Cleaning existing concrete to a fresh slate. New striping per updated layout for foursquare, basketball and Sutu.	\$9,875.00	\$9,875.00
Playground Installation	1	Installation of Listed Lappset/Yalp Equipment and Basketball Hoop. Customer is Responsible for all Permits or Fees. Quote doesn't include Electrical Connections.	\$10,755.00	\$10,755.00

#### Prevailing Wage

Location Code: 3105	Performance Bond (If Required):		3.0%	\$20,630.00
	Credit Card Fee (If Required):		3.5%	\$2,816.42
	Resale Certificate Required for Tax Exemption:		Tax: 9.90%	\$9,572.99
	<b>ORDER TOTAL:</b>			<b>\$106,269.91</b>

### Acceptance of Proposal:

*(Please be sure you have read, signed, initialed and understand the Terms and Conditions on Page 2 of this Quote)*

The items, prices and conditions listed herein are satisfactory and are hereby accepted.

Dustin Deer

Sales Rep

Customer Signature

Date

**AGREEMENT  
BETWEEN  
CITY OF EVERETT (“CLIENT”),  
KING COUNTY DIRECTORS’ ASSOCIATION (“KCDA”),  
AND  
LANDSCAPE STRUCTURES, INC., (“CONTRACTOR”)**

**This AGREEMENT** is made as of the 24th day of June, 2024, between the public entity City of Everett (“Client”) 2930 Wetmore Avenue, Everett, WA 98201 (address); King County Directors Association (KCDA), Street Address: 18639 - 80th Ave S, Kent, WA 98032; and the Contractor: Landscape Structures, Inc.

This Agreement supplements the King County Directors’ Association (“KCDA”) Purchase Order Number 4144121 (“Purchase Order”) for the Client.

A general description of the Project is:

Removing and disposing of the current playground equipment, and engineered wood fiber materials, prepping the site of an extension of the swings area, and installing new playground equipment, a climbing feature, swings, and new turf.

The Architect/Engineer (“A/E”), if any, is:

*The Client, KCDA, and Contractor agree as set forth below.*

**ARTICLE 1  
THE WORK**

**1.1** This Agreement provides supplemental terms and conditions to the Purchase Order and is incorporated by reference into the Purchase Order as if set forth in full therein. This Agreement shall be completed and executed for all KCDA projects that include any on-site construction activities. The Contractor shall fully execute and complete the entire Work described in the Contract Documents.

**ARTICLE 2  
DATES OF COMMENCEMENT AND SUBSTANTIAL AND FINAL COMPLETION**

**2.1** The date of commencement of the Work (the date from which the Contract Time is measured) shall be the date established in a notice to proceed issued by the Client, unless a different date is stated below:

**2.2** The Contractor shall achieve Substantial Completion of the entire Work no later than 12/31/2025 and Final Completion no later than 3/31/2026, subject to adjustments of the Contract Time as provided in the Contract Documents.

**2.3** Liquidated damages, if any, shall be \$0.00 per day for each calendar day after the Contract Time that Substantial Completion is not attained, and shall be paid to the Client.



**ARTICLE 3**  
**CONTRACT SUM**

**3.1** KCDA shall pay the Contractor for the Contractor's performance of the Contract the Contract Sum of two hundred eighty-one thousand eight hundred eighty-five and 56/100 Dollars (\$281,885.56), subject to additions and deductions as provided in the Contract Documents. Sales tax is not included in the Contract Sum and shall be added to the invoice between the Contractor and KCDA and to the invoice between KCDA and the Client.

The contract sum has been derived from the contractor's bid to KCDA directly, or to KCDA through the Association of Educational Purchasing Agencies (AEPA) dated May 13, 2024, and is made up of the following components: See Quote #1180944-4-3.

**3.2** The Contract Sum is based upon and includes the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Client:

**3.3** Unit prices beyond those listed in the Contractor's Bid to KCDA or AEPA, if any, are as follows: N/A.

**3.4** Allowances, if any, are as follows: N/A.

**3.5** If this Agreement is for a Project for the Contract Sum of one million dollars or more, complete below the names of the following subcontractors with whom the Contractor will subcontract for performance of the work:

_____	HVAC (heating, ventilation, and air conditioning)
_____	Plumbing as described in chapter 18.106 RCW.
_____	Electrical as described in chapter 19.28 RCW.
_____	Structural Steel Installation
_____	Rebar Installation

**3.6** If the amount of the Contract Sum listed in Section 3.1 above is one million dollars or more, then this Project is subject to the apprenticeship requirements of RCW 39.04.320 and Section 10.17 in the attached General Conditions. If the amount of the Contract Sum listed in Section 3.1 is less than one million dollars, then such apprenticeship requirements do not apply.

**ARTICLE 4**  
**PAYMENT**

**4.1** Whenever this Agreement states that KCDA will make payments, the parties agree that payment from the Client to KCDA is a condition precedent to payment from KCDA to the Contractor and that KCDA will use such payments from the Client to pay Contractor. KCDA will make payments to the Contractor as provided below and elsewhere in the Contract Documents based upon Application(s) for Payment submitted by the Contractor and per Article 15. KCDA will schedule final payment, constituting the entire unpaid balance of

the Contract Sum except statutory retainage, to the Contractor when the Work has achieved Final Completion, the Agreement has been fully performed, the Client's Board of Directors has accepted the Work, and the Client has agreed to receive billing from KCDA. The retainage shall be paid pursuant to RCW 60.28 and the Contract Documents.

**4.2** Payments due and unpaid under the Agreement shall bear interest at the Bank of America prime rate plus 2%, unless a different rate is required under RCW 39.76.

## **ARTICLE 5**

### **PERMITS AND FEES**

**5.1** The Client will secure and pay for the cost of any required building permit. The Client shall secure and pay for necessary approvals, easements, assessments and charges required for the use or occupancy of permanent structures or permanent changes in existing facilities.

**5.2** The Contractor shall secure and pay, as a part of the Contract Sum, for all other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the construction of the Work.

## **ARTICLE 6**

### **PROPERTY INSURANCE**

**6.1** The Client shall include this project in its existing property insurance coverage for loss or damage to the property in the course of construction. Upon the occurrence of an insured loss, the Client shall have the power to adjust and settle any loss with the insurers.

**6.2** The Contractor shall be responsible for securing property insurance for its own equipment. This property insurance shall be on an "all-risk" or equivalent policy form and shall include, but not be limited to, coverage for fire and extended coverage, theft, vandalism, malicious mischief, collapse and windstorm. Any deductible shall be the sole responsibility of the Contractor. The Contractor's other insurance requirements are described in Article 17.

## **ARTICLE 7**

### **ENUMERATION OF CONTRACT DOCUMENTS**

The Contract Documents are enumerated as follows, except for modifications issued after execution of this Agreement:

**7.1** KCDA Invitation to Bid Number 22-315 or AEPA Invitation to Bid Number AEPA n/a and all of the terms and conditions incorporated therein, including but not limited to all terms and conditions in the Invitations for Bids, Request for Proposal, and Public Works Procedures for Members and Contractors.

**7.2** For AEPA bids, Washington, King County Directors' Association (KCDA) Additional Agency Terms and Conditions as listed in the AEPA Invitation to Bid.

**7.3** KCDA Purchase Order Number 4144121.

**7.4** This executed Agreement between the Client and Contractor, including the attached General Conditions.

7.5 Any Supplementary and other Conditions of the Agreement.

7.6 The Specifications as follows:

<u>Section</u>	<u>Title</u>	<u>Pages</u>
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7.7 The Drawings as follows:

<u>Number</u>	<u>Title</u>	<u>Date</u>
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7.8 The Addenda (if any) as follows:

<u>Number</u>	<u>Date</u>	<u>Pages</u>
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7.9 Department of Labor and Industries Prevailing Wage Rates.  
County: Snohomish County  
Effective Date: \_\_\_\_\_

7.10 Any other documents forming part of the Contract Documents and listed below:

*This Agreement entered into as of the day and year first written above.*

KING COUNTY DIRECTORS' ASSOCIATION

CONTRACTOR

By \_\_\_\_\_  
(Signature)

Karri Wyman, Contract & Procurement Lead  
(Printed name and title)

By \_\_\_\_\_  
(Signature)

Elaine Harkess, Contract Administrator  
(Printed name and title)

CLIENT

By \_\_\_\_\_  
(Signature)

Cassie Franklin, Mayor  
(Printed name and title)

Attest: \_\_\_\_\_  
Office of the City Clerk

# GENERAL CONDITIONS

## **ARTICLE 8** **THE CONTRACT DOCUMENTS**

**8.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one is as binding as if required by all. Performance by the Contractor is required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

**8.2** The Contract Documents shall not be construed to create a contractual relationship of any kind between the Client and a Subcontractor of any tier, between KCDA and a Subcontractor of any tier, between the A/E (if any) and a Subcontractor of any tier, or between any persons or entities other than the Client, KCDA, and Contractor.

**8.3** The term "Work" means the demolition, abatement, disposal, construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**8.4** The term "A/E" means the entity listed as such on the first page of this Agreement, if any. The A/E may be an architect, engineering or similar company, or consultant, and is not necessarily a licensed architect or engineer. If "None" or "N/A" is listed for the A/E, then the Client or its designated representative will perform all of the functions of the A/E described herein. The A/E is not an agent of the Client or KCDA, and is not authorized to speak on behalf of or bind the Client or KCDA.

**8.5** The Contractor's execution of the Agreement is a representation and acknowledgement that the Contractor has visited the site and become familiar with the local conditions under which the Work is to be performed, that the Contract Sum is reasonable compensation for all the Work, and that the Contract Time is adequate for the performance of the Work. The Contractor's execution of the Agreement is a further representation and acknowledgement that the Contractor has carefully checked and verified all pertinent figures and that it has examined the Contract Documents and the Project site, including any existing structures, and that it has satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished, and all other requirements of the Contract Documents, as well as the surface conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof.

**8.6** KCDA is an intended third-party beneficiary of this Agreement and may enforce all of its terms directly

against the Contractor. Contractor hereby assigns to the Client all manufacturers' warranties.

## **ARTICLE 9** **ADMINISTRATION OF THE AGREEMENT**

**9.1** The Client, with assistance from the A/E, will provide administration of the Agreement. The Client must approve in writing all changes in the Contract Sum or Time and all Change Orders, Construction Change Directives, and payments to the Contractor. The Client's Representative may perform any of the duties of the A/E described herein, at the discretion of the Client.

**9.2** No representative of KCDA, the Client, or the A/E is authorized to revoke, alter, enlarge, relax or release any requirements of the Contract Documents, nor to approve or accept any portion of the Work whether or not executed in accordance with, nor to issue instructions contrary to the Contract Documents, other than the Client's Superintendent. All warranties, guarantees, and certificates shall inure to the benefit of the Client.

**9.3** The Client or the A/E may disapprove, condemn or reject work when, in its opinion, the Work does not conform to the Contract Documents. The Client or the A/E may require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work is then fabricated, installed or completed.

**9.4** The Client or the A/E may call, schedule and conduct job meetings, which the Contractor and representatives of its Subcontractors shall attend, to discuss such matters as procedures, progress, problems and scheduling.

**9.5** The Client, KCDA, and the A/E may visit the site at intervals each considers appropriate to the stage of the Work to become generally familiar with the progress and quality of the completed Work. However, none of them will be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

**9.6** The Client may occupy the site during the course of the Work.

## **ARTICLE 10** **THE CONTRACTOR**

**10.1** The Contractor shall perform, supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, personnel and procedures, for safety, and for coordinating all portions of the Work under the Agreement, unless the Contract Documents specifically provide other instructions concerning these matters. The Contractor shall be and operate as an independent contractor in the performance of the Work and

shall have complete control over and responsibility for all personnel performing the Work. The Contractor is not authorized to enter into any agreements or undertakings for or on behalf of KCDA or the Client or to act as or be an agent or employee of KCDA or the Client.

**10.2** The Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, disposal, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**10.3 Workers.** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Contractor shall be responsible to KCDA and the Client for the acts and omissions of the Contractor's employees, Subcontractors of any tier and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor. At no change to the Contract Sum or Contract Time, the Client may provide written notice requiring the Contractor to remove from the Work any employee or other person carrying out the Work that the Client considers objectionable. If the Work is being performed at a site in active school use or where there is a likelihood of contact with children, a person shall be unfit and removed from the site if he or she is a registered sex offender or has pled guilty to or has been convicted of any felony crime involving the physical injury or death of a child (RCW 9A.32 or RCW 9A.36 but not RCW 46.61--motor vehicle violation), the physical neglect of a child (RCW 9A.42), sexual offenses against a minor (RCW 9A.44), sexual exploitation of a child (RCW 9.68A), the sale or purchase of a minor child (RCW 9A.64.030), promoting prostitution of a child (RCW 9A.88), or violation of similar laws of another jurisdiction. Failure to comply with this section shall be grounds for the immediate termination of this Agreement for cause.

**10.4 Warranty.** The Contractor warrants that materials and equipment furnished under the Agreement will be of good quality and new, that the Work will be performed in a skillful and workmanlike manner, free from defects not inherent in the quality required or explicitly permitted, and that the Work will conform to the requirements of the Contract Documents. The Client may conclude that Work not conforming to these requirements, including substitutions or deviations from the drawings or specifications not properly approved and authorized, is defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

**10.5 Taxes and Fees.** In accordance with Article 3, KCDA shall invoice the Client and pay all sales tax. The Contractor shall pay all other consumer, use, B & O, and

other similar taxes that are legally enacted when bids are received, whether or not yet effective or merely scheduled to go into effect.

**10.6 Legal Compliance.** The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Work. The Contractor shall promptly notify KCDA, the Client, and A/E in writing if the Contractor observes the Drawings or Specifications to be at variance with them.

**10.7 Submittals.** The Contractor shall review, approve and submit to the Client or A/E with reasonable promptness Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. The Work shall be in accordance with approved submittals.

**10.8 Progress Schedule.** Within *seven days* of execution of this Agreement, the Contractor shall submit a preliminary schedule of the Work to the Client. Failure to do so shall constitute a material breach of the Contract and a material breach of the conditions of the bid bond. Within *thirty days* after execution of the Agreement, and before any progress payment need be made, the Contractor, after consultations with its Subcontractors, shall submit a Progress Schedule to the Client. Neither the Client nor the A/E will, however, be required to review or approve the substance or sequence of the Progress Schedule, which are the Contractor's sole responsibility. The Contractor will be responsible for planning, scheduling, managing, and reporting the progress of the Work in accordance with all of the specific methods and submittals described in the Contract Documents. The Contractor shall use the Contract Schedule to plan, coordinate, and prosecute the Work in an orderly and expeditious manner.

**10.9 Clean-Up.** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. Prior to completion of the Work or at the Client's request, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials. If the Contractor fails to do so, the Client may do so and charge to the Contractor all costs incurred.

**10.10 Access.** The Contractor shall provide KCDA, the Client, the A/E and their respective consultants access to the Work wherever located.

**10.11 Royalties and Patents.** The Contractor shall pay all royalties and license fees, shall defend suits or claims for infringement of patent rights and shall hold KCDA, the Client, and the A/E harmless from loss on account thereof, unless the Contract Documents require the particular infringing design, process or product of a particular manufacturer or manufacturers.

**10.12 Indemnification.** Subject to the following conditions and to the fullest extent permitted by law, the

Contractor shall defend, indemnify, and hold harmless KCDA, the Client, and the A/E and their respective agents, employees, directors, officers, consultants, successors and assigns ("Indemnified Parties") from and against all claims, damages, losses and expenses, direct and indirect, or consequential, including but not limited to costs and attorneys' fees incurred on such claims and in proving the right to indemnification, arising out of or resulting from performance of the Work, any act or omission of the Contractor, its agents, any of its Subcontractors of any tier, and anyone directly or indirectly employed by the Contractor or Subcontractors of any tier ("Indemnitor"). The Contractor will fully defend, indemnify, and hold harmless the Indemnified Parties for the sole negligence of the Indemnitor. The Contractor will defend, indemnify, and hold harmless the Indemnified Parties for the concurrent negligence of the Indemnitor to the extent of the Indemnitor's negligence. The Contractor agrees to being added by KCDA or the Client as a party to any mediation, arbitration, or litigation with third parties in which KCDA or the Client alleges indemnification or contribution from an Indemnitor. The Contractor agrees that all of its Subcontractors of any tier will, in the subcontracts, similarly stipulate; in the event any does not, the Contractor shall be liable in place of such Subcontractor(s). To the extent a court or arbitrator strikes any portion of this indemnification provision for any reason, all remaining provisions shall retain their vitality and effect. In claims against any person or entity indemnified under this Section 10.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 10.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. After mutual negotiation of the parties, the Contractor waives immunity as to the Client, KCDA, the A/E and their consultants only under Title 51 RCW, "Industrial Insurance." IF THE CONTRACTOR DOES NOT AGREE WITH THIS WAIVER, IT MUST PROVIDE A WRITTEN NOTICE TO KCDA OR AEPA ALONG WITH THE SUBMISSION OF ITS BID TO KCDA OR AEPA, OR THE CONTRACTOR WILL BE DEEMED TO HAVE NEGOTIATED AND WAIVED THIS IMMUNITY. The provisions of this Section shall survive the expiration or termination of this Agreement.

### **10.13 Prevailing Wages.**

10.13.1 Pursuant to RCW 39.12, no worker, laborer, or mechanic employed in the performance of any part of this Agreement shall be paid less than the "prevailing rate of wage" (in effect as of the date that bids are due) as determined by the Industrial Statistician of the Department of Labor and Industries, ESAC Division, PO Box 44540, Olympia WA 98504-4540, Telephone (360) 902-5335. The schedule of the prevailing wage rates for the locality or localities where this Work will be performed is attached and made a part of this Agreement by reference as though fully set forth herein; if not attached, then the applicable prevailing wages are determined as of the Bid Date for the county in which the Project is located

and are available at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>. A copy is available for viewing at the Client's office, and a hard copy will be mailed upon request. To the extent that there is any discrepancy between the attached or provided schedule of prevailing wage rates and the published rates as are applicable under WAC 296-127-011, or if no schedule is attached, then the applicable published rates shall apply at no increase to the Contract Sum. The Contractor shall provide the respective Subcontractors with a schedule of the applicable prevailing wage rates. The Industrial Statistician will answer questions relating to prevailing wage data upon request.

10.13.2 Pursuant to RCW 39.12.060, in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the Department of Labor and Industries, whose decision therein shall be final and conclusive and binding on all parties involved in the dispute.

10.13.3 The Contractor shall defend, indemnify and hold the Client harmless, including attorneys' fees, from any violation or alleged violation of RCW 39.12 ("Prevailing Wages on Public Works") and RCW 51 ("Industrial Insurance"), including without limitation RCW 51.12.050, by the Contractor, any Subcontractor of any tier, or any person performing Work on behalf of the Contractor or any Subcontractor of any tier.

**10.14** The Contractor shall comply with all applicable provisions of RCW 49.28.

**10.15** Pursuant to RCW 49.70 and WAC 296-307-560 et seq., the Contractor shall provide KCDA and the Client copies of and have available at the Project Site a workplace survey or material safety data sheets for all "hazardous" chemicals under the control or use of Contractor or any Subcontractor at the Project Site.

**10.16** The Contractor shall maintain and preserve for at least three years from the date of final payment books, ledgers, records, documents, estimates, bidding documents, correspondence, logs, schedules, electronic data and other evidence relating or pertaining to the costs incurred by the Contractor in connection with or related to the Agreement and/or performance of the Contract ("records") to such extent and in such detail as will properly reflect and fully support compliance with the Contract Documents and with all costs, charges and other amounts of whatever nature for which reimbursement or payment is or may be claimed under the Contract. The Contractor agrees to make available at all reasonable times at the office of the Contractor all such records for inspection, audit and reproduction (including electronic reproduction) by KCDA and the Client and their representatives. These requirements shall be applicable to each Subcontractor of any tier and included in each Subcontract and purchase order issued with respect to the Work. The Contractor agrees, on behalf of itself, its representatives, and

Subcontractors of any tier and their representatives, that any rights under RCW 42.56 will commence at Final Acceptance, and that the invocation of such rights at any time by the Contractor or a Subcontractor of any tier or any of their representatives shall initiate an equivalent right to disclosures from the Contractor and Subcontractors of any tier for the benefit of KCDA and the Client. Because of the importance of the access of such records to the Client in the case of a Claim, if the Contractor or any Subcontractor fails to fully comply with the requirements of this section with regard to any Claim, such Claim shall be deemed to be waived.

**10.17 Apprenticeship.** If the Contract Sum is one million dollars or more (see Section 3.1 of the Agreement), then this Section 10.17 and RCW 39.04.320 shall apply. This Section 10.17 shall not apply and shall have no effect upon Projects where the Contract Sum is less than one million dollars.

**10.17.1** Pursuant to RCW 39.04.320, no less than fifteen percent (15%) of the Labor Hours shall be performed by apprentices, unless a different amount is permitted or otherwise required by law. Apprenticeship hours shall be performed by participants in training programs approved by the Washington State Apprenticeship Council.

**10.17.2** “Labor Hours” means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. “Labor hours” includes hours performed by workers employed by the Contractor and all Subcontractors working on the Project. “Labor hours” does not include hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements of RCW 39.12.

**10.17.3** During the term of this Contract, the Client may adjust the apprenticeship labor hour requirement upon its finding or determination that includes:

- .1 A demonstration of lack of availability of apprentices in the geographic area of the Project;
- .2 A disproportionately high ratio of material costs to labor hours that does not make feasible the required minimum levels of apprenticeship participation;
- .3 Demonstration by participating contractors of a good faith effort to comply with the requirements of RCW 39.04.300, 39.04.310 and 39.04.320;
- .4 Small contractors or subcontractors (e.g., small or emerging businesses) would be forced to displace regularly employed members of their workforce;
- .5 The reasonable and necessary requirements of the Contract render apprentice utilization infeasible at the required level (e.g., the number of skilled workers required and/or limitations on the time available to perform the Work preclude utilization of apprentices); or
- .6 Other criteria the Client deems appropriate, which are subject to review by the office of the Governor.

**10.17.5** The Contractor shall report apprentice participation to the Client at least monthly, on forms provided or approved by the Client. In addition, copies of monthly certified payroll records may be requested to document the goal including copies with any birthdates and social security numbers (and any other sensitive personal information) redacted so as such copies may be used to respond to any public records requests. The reports will include:

- .1 The name of the Project;
- .2 The dollar value of the Project;
- .3 The date of the Contractor’s notice to proceed;
- .4 The name of each apprentice and apprentice registration number;
- .5 The number of apprentices and labor hours worked by them, categorized by trade or craft;
- .6 The number of journey level workers and labor hours worked by them, categorized by trade or craft; and
- .7 The number, type, and rationale for the exceptions granted.

**10.18. Certified Payrolls.** Contractor and its Subcontractors of all tiers shall submit certified payrolls in accordance with RCW 39.12.120.

## **ARTICLE 11** **SUBCONTRACTORS**

**11.1** A “Subcontractor” is a person or entity that has a direct contract with the Contractor to perform a portion of the Work at the site or to supply materials or equipment. A “Subcontractor of any tier” includes Subcontractors as well as all direct and lower level sub-subcontractors and suppliers.

**11.2** As soon as practicable after award of the Agreement, the Contractor shall confirm in writing to KCDA and the Client the names of the Subcontractors for each portion of the Work. The Contractor shall not contract with any Subcontractor to whom the Client has made reasonable and timely objection or which is different from the one listed in conjunction with the bid. Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor to be bound to the Contractor by the terms of the Contract Documents to the extent of the Work to be performed by the Subcontractor and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward KCDA and the Client, and (2) allow to the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.

**11.3** The Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials or other items in connection with the performance of the Work (including, but not limited to, any Subcontractors). The Contractor shall furnish to KCDA and the Client such releases of liens and claims and other documents as KCDA or the Client may request from time to time to evidence such payment (and discharge).

KCDA may, at its option, withhold payment, in whole or in part, to the Contractor until such documents are so furnished. The Contractor shall defend, indemnify, and hold harmless KCDA and the Client from any liens, including all expenses and attorneys' fees. Nothing in the Contract Documents shall create any obligation on the part of KCDA, the Client, or A/E to pay or to see to the payment of any moneys due any Subcontractor of any tier or other person or entity, except as may otherwise be required by laws and regulations.

## **ARTICLE 12**

### **CONSTRUCTION BY CLIENT OR BY SEPARATE CONTRACTORS**

**12.1** The Client reserves the right to perform construction or operations related to the Project with the Client's own forces and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under conditions of the contract identical or substantially similar to those of the Contract Documents. The Contractor has the responsibility to coordinate its Work with such separate contractors and the Client's own forces.

**12.2** The Contractor shall afford the Client and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations as required by the Contract Documents.

## **ARTICLE 13**

### **CHANGES IN THE WORK**

**13.1** The Client, without invalidating the Agreement, may order changes in the Work consisting of additions, deletions or modifications ("Changes"), and the Contract Sum and Contract Time will be adjusted accordingly. Changes in the Work, the Contract Sum and/or the Contract Time shall be authorized only by written Change Order signed by KCDA, the Client, the A/E and the Contractor or by written Construction Change Directive signed by the Client and the A/E.

**13.1.1** Change Orders. A Change Order is a written instrument signed by KCDA, the Client, and the Contractor stating their agreement upon a change in the Work; the amount of the adjustment in the Contract Sum, if any; and the extent of the adjustment in the Contract Time, if any.

**13.1.2** Construction Change Directives. A Construction Change Directive is a written order prepared and signed by the Client and the A/E that directs a change in the Work and states a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. It shall be used in the absence of total agreement on the terms of a Change Order. The Contractor shall promptly proceed with the change in the Work described in the Construction Change Directive. As soon as possible, and within *seven days* of receipt, the Contractor shall advise KCDA and the Client in writing of the Contractor's

agreement or disagreement with the cost or the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**13.2** Changes in the Work shall be priced using the Contractor's unit prices and/or R.S. Means pricing as submitted in its Bid to KCDA or AEPA. If no such unit prices are listed for the Changes in the Work, and if the parties cannot agree on the cost or credit to KCDA and the Client from a Change in the Work, the Contractor shall keep and present, in such form as KCDA or the Client may prescribe, an itemized accounting together with supporting data. The total cost of any Change or Claim shall be limited to the reasonable value of the following:

**13.2.1** Direct labor costs: The effective W.D.O.L.&I. prevailing hourly wage for the laborers, journeymen, and foremen performing and/or directly supervising the Changed Work on the site. The premium portion of overtime wages may not be included unless pre-approved in writing by the Client. The hourly cost shall be based upon basic wages and mandatory fringe benefits and workers' insurances.

**13.2.2** Direct material costs: An itemization of the quantity of materials necessary to perform the Change in the Work and the net cost therefor.

**13.2.3** Construction equipment usage costs: An itemization of the actual length of time construction equipment appropriate for the Work will be used solely on the Change in the Work at the Site times the lower of the actual rental receipt or applicable current state, NECA, EquipmentWatch, or MCA rental cost. Actual, reasonable mobilization costs are permitted if the equipment is brought to the Site solely for the Change in the Work. The rate for equipment necessarily standing by for future use on the Work shall be 50% of the rate established above.

**13.2.4** Cost of any change in insurance or bond premium. Upon request, the Contractor shall provide KCDA and the Client with supporting documentation.

**13.2.5** Subcontractor costs: Payments the Contractor makes to Subcontractors for Changed Work performed by Subcontractors of any tier. The cost of Work for Subcontractors of any tier shall be determined in the same manner as prescribed in this Section 13.2.

**13.2.6** Fee: The allowance for all combined overhead, profit, and other costs, including all office, home office, extended and site overhead (including project manager, project engineer, superintendent and general foreman time), and all delay and including impact costs of any kind, added to the total cost to the Client of any Change Order or any Claim for additional work or extra payment of any kind on this Project shall be calculated consistent with the provisions of the KCDA contract. The change order must be signed by both the Client and Contractor.



**13.3 Dispute Resolution.** All claims, disputes and other matters in question of the Contractor, direct or indirect, arising out of, or relating to, the Contract Documents or the breach thereof ("Claims"), except Claims which have been waived under the terms of the Contract Documents, shall be decided exclusively by the following dispute resolution procedure; claims that have been waived under the terms of the Contract Documents are not permitted to be brought in any forum. The Contractor shall diligently carry on the Work and maintain the progress schedule during the dispute resolution procedure, including any litigation proceedings, unless the parties mutually agree in writing otherwise.

**13.3.1 Notice of Claim.** The Contractor shall submit notice of all Claims to both KCDA and the Client in writing within *seven days* of the event giving rise to them and shall include a clear description of the event and its probable effect. Failure to comply with these requirements shall constitute waiver of the Claim.

**13.3.2 Claim Submission.** Within *21 days* of the Notice of Claim, the Contractor shall provide both KCDA and the Client in writing with a Claim, which shall include a clear description of the Claim, any and all changes in cost and in time to which the Contractor and its Subcontractors of any tier may be entitled under this Agreement for the Claim, and data supporting the Claim. The claim of a Subcontractor may be brought only through the Contractor and only after the Contractor notifies KCDA and the Client in writing that the Contractor has reviewed and agrees with the Claim. No act, omission, or knowledge, actual or constructive, of the Client shall in any way be deemed to be a waiver of the requirement for a timely written Claim unless the Client provides the Contractor with an explicit, unequivocal written waiver. Failure to comply with these requirements shall constitute waiver of the Claim.

**13.3.3 Informal Resolution.** KCDA and the Client will make a determination of the Claim. If no determination is made within two weeks of submission of the Claim, the Claim shall be deemed rejected. If the Contractor disagrees with KCDA and the Client's determination and wishes to pursue the Claim further, the Contractor must, within *fourteen days* of receipt of the determination, provide KCDA and the Client with a written request that a representative of the Contractor, KCDA, and the Client meet, confer, and attempt to resolve the Claim. This meeting will then take place at a mutually convenient time within *thirty days* of the request, unless the Client elects to proceed directly to mediation.

**13.3.4 Mediation.** The Contractor may bring no litigation against the Client or KCDA unless the Claim is first subject to non-binding mediation under the Construction Mediation Rules of the American Arbitration Association ("AAA"). The Contractor is responsible for initiating the mediation process. This requirement cannot be waived except by an explicit written waiver signed by KCDA, the Client, and the Contractor. To initiate the mediation process, the Contractor shall submit a written mediation request to KCDA and the Client within *thirty days* of the meeting undertaken in

Section 13.3.3. If the parties are unable to agree to a mediator within *thirty days* after KCDA and the Client's receipt of the written request for mediation, any party may submit a request for mediation to the AAA. An officer of the Contractor and of KCDA and the Superintendent or designee of the Client, all having full authority to settle the Claim (subject only to ratification by the Client's Board of Directors), must attend the mediation session. To the extent there are other parties in interest, such as Subcontractors, their representatives, with full authority to settle the Claim, shall also attend the mediation session. Unless KCDA, the Client, and Contractor mutually agree in writing otherwise, all unresolved Claims in the Project shall be considered at a single mediation session which shall occur prior to Final Acceptance by the Client.

**13.3.5 Litigation.** The Contractor may bring no litigation on Claims unless such Claims have been properly raised and considered in the dispute resolution procedures of Sections 13.3.1 through 13.3.4 above. All unresolved Claims of the Contractor shall be waived and released unless the Contractor has strictly complied with the time limits of the Contract Documents, and litigation is served and filed within the earlier of (a) *120 days* after the Date of Substantial Completion as designated in writing by the Client or (b) *60 days* after Final Acceptance. This requirement cannot be waived except by an explicit written waiver signed by KCDA, the Client, and the Contractor. The pendency of a mediation (calculated as the period from the written request for mediation through the day following the mediation proceeding) shall toll these filing requirements.

**13.4 Notices and Claims.** All notices and Claims shall be made in writing as required by the Agreement.

**13.4.1** Any notice of a Claim of the Contractor against KCDA or the Client and any Claim of the Contractor, whether under the Agreement or otherwise, must be made pursuant to and in strict accordance with the applicable provisions of the Contract Documents. Failure to comply with these requirements shall constitute waiver of the Claim. No act, omission, or knowledge, actual or constructive, of KCDA, the Client, or the A/E shall in any way be deemed to be a waiver of the requirement for timely written notice and a timely written Claim unless KCDA, the Client, and the Contractor sign an explicit, unequivocal written waiver approved by KCDA and the Client's Board of Directors.

**13.4.2** The fact that KCDA, the Client, and the Contractor may continue to discuss or negotiate a Claim that has or may have been defective or untimely under the Contract shall not constitute waiver of the provisions of the Contract Documents unless KCDA, the Client, and Contractor sign an explicit, unequivocal written waiver approved by the Client's board of directors.

**13.4.3** The Contractor expressly acknowledges and agrees that the Contractor's failure to timely submit required notices or timely submit Claims has a substantial impact upon and prejudices KCDA and the Client, including but not limited to the inability to fully investigate or verify the Claim, mitigate

damages, choose alternative options, adjust the budget, delete or modify the impacted Work, and/or monitor time, cost and quantities. For these and other reasons, the parties stipulate that KCDA and the Client are prejudiced by the Contractor's failure to timely submit notices or Claims as required by the Contract Documents.

**13.5 Claims for Concealed or Unknown Conditions.** If conditions unknown to the Contractor are encountered at the site which are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found and generally recognized as inherent in activities of the character provided for in the Contract Documents, then the Contractor shall give written notice to KCDA and the Client promptly before conditions are disturbed and in no event later than *seven days* after the first observance on the conditions. The Contractor shall make any Claim arising from such condition in accordance with the dispute resolution procedure in Section 13.3.

**13.6 Claims for Consequential Damages.** The Contractor, the Client, and KCDA waive Claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes without limitation:

- .1** damages incurred by KCDA or the Client for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2** damages incurred by the Contractor for principal and home office overhead and expenses including without limitation the compensation of personnel stationed there, for losses of financing, business and reputation, for losses on other projects, for loss of profit, and for interest or financing costs.

This mutual waiver is applicable to all consequential damages of any cause, including without limitation due to either party's termination in accordance with Article 20. Nothing contained in this Section 13.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**13.7** The Contractor (including Subcontractors of any tier) shall not in any event be entitled to damages arising out of actual or alleged loss of efficiency; morale, fatigue, attitude, or labor rhythm; constructive acceleration; home office overhead; expectant underrun; trade stacking; reassignment of workers; concurrent operations; dilution of supervision; learning curve; beneficial or joint occupancy; logistics; ripple; season change; extended overhead; profit upon damages for delay; impact damages; or similar damages.

## **ARTICLE 14**

### **TIME**

**14.1** Within *seven days* of executing the Agreement, the Contractor shall deliver any required bond to the Client with a copy to KCDA; no Progress Payments shall be due until the bond is delivered.

**14.2** If, through no fault of the Contractor or a Subcontractor of any tier, the Work is delayed at any time in progress of the Work by changes ordered in the Work, by unanticipated general labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, delays caused by the Client or its separate contractors, or any causes beyond the Contractor's control and for which it and its subcontractors of any tier are not responsible, or by other causes which may justify delay, then the Contract Time shall be extended by Change Order to the extent the critical path is affected. The Contractor (including Subcontractors) shall be entitled to damages for delay, the total limited to the liquidated rate of Section 2.3, only where KCDA or the Client's own actions or inactions were the actual, substantial cause of the delay and where the Contractor could not have reasonably avoided the delay by the exercise of due diligence. If a delay was caused by the Contractor, a Subcontractor of any tier, or anyone acting on behalf of any of them, the Contractor is not entitled to an increase in the Contract Time or in the Contract Sum.

**14.3** THE TIMELY COMPLETION OF THIS PROJECT IS ESSENTIAL TO KCDA AND THE CLIENT. KCDA and the Client will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time; however, it may be difficult if not impossible to determine the amount of such damages. Consequently, this Agreement may include provisions for liquidated damages. KCDA and the Client's right to liquidated damages is not affected by partial completion, occupancy, or beneficial occupancy. If this Agreement does not contain an agreed amount for liquidated damages, KCDA and the Client may prove their actual damages.

## **ARTICLE 15**

### **PAYMENTS AND COMPLETION**

**15.1 Progress Payments.** Payments shall be made as provided in Articles 3 and 4 of this Agreement. If Progress payments are specified, they will be made monthly for Work duly approved and performed during the calendar month preceding the application according to the following procedure.

**15.1.1 Draft Application.** Within the first five days of each month, the Contractor shall submit to KCDA and the Client, for the Client's approval, a report on the current status of the Work as compared to the Progress Schedule and a draft itemized AIA Application for Payment for Work performed during the prior calendar month. This shall not constitute a payment request. KCDA or the Client may request the Contractor to provide data substantiating the Contractor's right to payment, such as copies of requisitions or invoices from Subcontractors.

15.1.2 **Payment Request.** The Client shall review and approve the draft Application for Payment, or state its reasons for disapproval. Upon the Client's approval, and after the Contractor has furnished all data requested, the Contractor may submit to KCDA a payment request in the agreed-upon amount, in the form of a notarized, itemized AIA Application for Payment for Work performed during the prior calendar month. KCDA shall re-verify the amounts with the Client and, once verified and approved by the Client, will invoice the Client, and KCDA shall make payment to Contractor from funds received from the Client. Payment from the Client to KCDA is a condition precedent to payment from KCDA to the Contractor. Among other things, the Application shall state that prevailing wages have been paid in accordance with the prefiled statement(s) of intent to pay prevailing wages on file with KCDA and the Client and that all payments due Subcontractors from KCDA's prior payments have been made. The submission of this Application constitutes a certification that the Work is current on the progress schedule, unless otherwise noted on the Application. If the Contractor believes it is entitled to payment for Work performed during the prior calendar month in addition to the agreed-upon amount, the Contractor may submit to KCDA a separate written payment request specifying the exact additional amount due, the category in the Schedule of Values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due.

15.1.3 **Payments to Subcontractors.** No payment request shall include amounts the Contractor does not intend to pay to a Subcontractor. If, after making a request for payment but before paying a Subcontractor for its performance covered by the payment request, the Contractor discovers that part or all of the payment otherwise due to the Subcontractor is subject to withholding from the Subcontractor for unsatisfactory performance or other reasons, the Contractor may withhold the amount as allowed under the subcontract, but it shall give the Subcontractor and KCDA and the Client written notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the Subcontractor payment, and pay the Subcontractor within *eight working days* after the Subcontractor satisfactorily completes the remedial action identified in the notice.

15.2 **Prevailing Wages.** Pursuant to RCW 39.12, the Contractor will not receive any payment until the Contractor and all Subcontractors have submitted a "Statement of Intent to Pay Prevailing Wage" to KCDA and the Client. The statement must have the approval of the Industrial Statistician of the Department of Labor and Industries before it is submitted to KCDA and the Client. The Contractor and the respective Subcontractors shall pay all fees required by the Department of Labor and Industries, including fees for the approval of the "Statement of Intent to Pay Prevailing Wages." Approved copies of the "Statement of Intent to Pay Prevailing Wages" must be posted where workers can easily read them.

15.3 **Progress payments.** Unless the Client informs the Contractor that a payment will be withheld as

provided in Section 15.4, KCDA shall make progress payments within 30 days of approval of the payment request by the Client.

15.4 **Withheld Payments.** Payments may be withheld on account of (1) defective Work not remedied, (2) claims filed by third parties, (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment or provide releases under Section 11.3.1, (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum, (5) damage to KCDA, the Client, or another contractor, (6) reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay, or (7) failure to carry out the Work in accordance with the Contract Documents. When KCDA intends to withhold all or part of a payment for any of the foregoing reasons, KCDA will provide the Contractor, within *eight working days* after KCDA's receipt of the Application for Payment, written notification of the reasons that all or part of the payment is being withheld and what remedial actions the Contractor must take to receive the withheld amount.

### 15.5 Substantial Completion.

15.5.1 When the Contractor believes that the entire Work is Substantially Complete, it shall notify KCDA and the Client in writing. When the Client agrees, the Client will issue a Certificate of Substantial Completion. Substantial Completion is the stage in the progress of the Work when the construction is sufficiently complete, in accordance with the Contract Documents, so the Client can fully utilize the Work (or the designated portion thereof) for the use for which it is intended. All Work other than incidental corrective or punchlist work and final cleaning shall have been completed. The Work is not Substantially Complete if all systems and parts affected by the Work are not usable, if an occupancy permit (temporary or final) has not been issued, or if utilities affected by the Work are not connected and operating normally. The fact that the Client may use or occupy the Work or designated portion thereof does not indicate that the Work is Substantially Complete, nor does such occupation toll or change any liquidated damages due KCDA.

15.5.2 Immediately before partial or complete occupancy, the Client will schedule an inspection tour of the area to be occupied. A representative of KCDA and/or the Client, A/E and Contractor will jointly tour the area and record items still remaining to be finished and/or corrected. The Contractor shall supply and install any items missed by the inspection but required or necessary for Final Completion as a part of the Contract Sum, notwithstanding their not being recorded during the inspection tour.

15.6 **Final Payment.** Pursuant to RCW 60.28, completion of the Contract Work shall occur after the Contractor has notified KCDA and the Client in writing that the Work has been concluded and submits the items listed below to KCDA and the Client, any required occupancy permit has been issued, and the Client's Board formally accepts the Project

("Final Acceptance"). Final Payment shall not become due until after Final Acceptance. Before Final Acceptance, the Contractor must have submitted the following to the Client:

.1 An affidavit that all payrolls, Subcontractors, bills for materials and equipment, and other indebtedness connected with the Work for which the Client or its property might in any way be responsible or encumbered, have been paid or otherwise satisfied,

.2 consent of surety to final payment,

.3 a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least *30 days* ' prior written notice has been given to KCDA and the Client,

.4 a written statement that the Contractor knows of no substantial reason why the insurance will not be renewable to cover the period required by the Contract Documents,

.5 other data establishing payment or satisfaction of or protection (satisfactory to KCDA and the Client) against all obligations, such as receipts, releases and waivers of liens arising out of the Agreement, satisfactorily demonstrating to KCDA and the Client that the claims of Subcontractors and laborers who have filed claims have been paid,

.6 pursuant to RCW 39.12.040, an "Affidavit of Wages Paid" from the Contractor and from each Subcontractor certified by the Industrial Statistician of the Department of Labor and Industries, with fees paid by the Contractor or Subcontractor,

.7 a certified statement that the Contractor has closed all necessary permits or otherwise met the requirements of all governing jurisdictions related to this Project (including, without limitation, city/county building departments, health districts and utility districts; attach a copy of each of these closed or signed-off permits),

.8 all warranties, guarantees, certificates, spare parts, specified excess material, and other documents or items required by the Contract Documents, and

.9 a hard copy of the "record" drawings and specifications, delivered in a clear, clean and legible condition.

If any Subcontractor of any tier refuses to furnish a release or waiver required by KCDA of the Client, KCDA may retain in the fund, account, or escrow funds such amount as to defray the cost of foreclosing the liens of such claims and to pay attorneys' fees, the total of which shall be no less than 150% of the claimed amount. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to KCDA all

moneys that the latter or the Client may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Final payment shall be made pursuant to RCW 60.28 after the Contractor has properly submitted certificates from the Department of Revenue, the Department of Labor and Industries and, pursuant to RCW 50.24, a certificate from the Department of Employment Security.

## **15.7 Waivers.**

15.7.1 Final Payment by KCDA. The making of final payment shall constitute a waiver of claims by KCDA and the Client except those arising from (1) liens, claims, security interests, or encumbrances arising out of the Agreement and unsettled; (2) failure of the Work to comply with the requirements of the Contract Documents; or (3) terms of warranties required by the Contract Documents or law.

15.7.2 Final Payment to Contractor. Acceptance of final payment by the Contractor shall constitute a waiver of Claims except those previously made in writing and identified in writing as unsettled on the final Application for Payment.

15.7.3 Change Orders. The execution of a Change Order shall constitute a waiver of Claims by the Contractor arising out of the Work to be performed or deleted pursuant to the Change Order, except as specifically described in the Change Order. If the Contractor adds to a Change Order or any other document a reservation of rights that has not been initialed by KCDA and the Client, all the amounts previously agreed shall be considered disputed and not yet payable unless the costs are re-negotiated or the reservation is withdrawn or changed in a manner satisfactory to and initialed by KCDA and the Client. If KCDA makes payment for a Change Order or an Application for Payment that contains a reservation of rights not initialed by KCDA and the Client to indicate agreement with the reservation, and if the Contractor accepts such payment, then the reservation of rights shall be deemed waived, withdrawn, and of no effect.

## **15.8 Retainage.**

### **15.8.1 Progress Payments:**

.1 Pursuant to RCW 60.28, KCDA will reserve 5% from the moneys the Contractor earns on estimates during the progress of the Work, to be retained as a trust fund for the protection and payment of the claims of any person arising under the Agreement and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from the Contractor.

.2 The moneys reserved may, at the option of the Contractor, be (1) retained in a fund by KCDA until *45 days* following Final Acceptance; or (2) deposited by KCDA in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until *45 days* following Final

Acceptance, with interest to the Contractor; or (3) placed in escrow with a bank or trust company until 45 days following the Final Acceptance, by KCDA's joint check to the bank or trust company and the Contractor, to be converted into bonds and securities chosen by the Contractor, approved by KCDA, and held in escrow, with interest on the bonds and securities paid to the Contractor as it accrues.

.3 If moneys are retained from the Contractor, it may retain payment of not more than 5% from the moneys earned by any Subcontractor, provided that the Contractor pays interest to the Subcontractor at the same interest rate it receives from its reserved funds.

**15.9 Warranty of Title.** The Contractor warrants and guarantees that title to Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the Client no later than the time of payment, free and clear of liens. The Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials or other items in connection with the performance of the Work (including, but not limited to, any Subcontractors). The Contractor shall furnish to the Client such releases of claims and other documents as may be requested by the Client from time to time to evidence such payment (and discharge). The Client may, at its option, withhold payment, in whole or in part, to the Contractor until such documents are so furnished. The Contractor shall indemnify and hold harmless the Client from any liens, including all expenses and attorneys' fees.

## **ARTICLE 16**

### **PROTECTION OF PERSONS AND PROPERTY**

**16.1** The Contractor shall have the right to control and shall be solely responsible for, and neither KCDA, the Client, nor the A/E shall have responsibility for, all aspects of safety, including initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Agreement. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to (1) employees on the Work and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein; and (3) other property at the site or adjacent thereto. The Contractor shall maintain the Work site and perform the Work in a manner that meets statutory and common-law requirements for the provision of a safe place to work. This requirement shall apply continuously and not be limited to working hours.

**16.2** The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by the Contractor, a Subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they

may be liable and for which the Contractor is responsible, except for damage or loss attributable to acts or omissions of KCDA, the Client, or A/E or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor or a Subcontractor of any tier. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 10.12.

**16.3** The Contractor shall not be required to perform without consent any Work relating to asbestos or polychlorinated biphenyl ("PCB") unless specifically required by the Contract Documents.

**16.4** The Contractor shall bear the risk of any loss, damage or destruction of its own property, including without limitation its tools, trailers and equipment, whether rented or owned, to the extent that they will not be incorporated in the Work. Any insurance provided by the Client will not cover any such loss, damage or destruction.

**16.5** If the scope of the Work requires the Contractor to perform Work relating to hazardous materials, the Contractor shall be responsible to take all reasonable precautions to prevent foreseeable bodily injury or death resulting from such materials or substances, and to dispose of such materials as required by the Contract Documents and all applicable state and federal laws and regulations. The Contractor shall defend, indemnify, and hold harmless the Client, its consultants, the A/E, and their respective agents, employees, consultants, successors and assigns from and against any and all claims to the extent of the Contractor's failure to abide by such Contract Documents and all applicable state and federal laws and regulations.

## **ARTICLE 17**

### **INSURANCE AND BONDS**

#### **17.1 Contractor's Liability Insurance.**

17.1.1 The Contractor shall purchase from and maintain during the life of this Agreement, at its own cost in a company or companies admitted to do business in the State of Washington, possessing a Best's policy holder's rating of A- or better and a financial rating of no less than VII, and reasonably acceptable to KCDA and the Client, an occurrence-based Commercial General Liability Insurance Policy which shall provide bodily injury and property damage liability on the Contractor's operations, including its Subcontractors of any tier; owned, non-owned and hired vehicles; and on work the Contractor may subcontract or sublet to others; and on the indemnity provisions of this Agreement. This insurance will name KCDA and the Client and their employees as additional insureds per Additional Insured Owner's (Form B) for Work performed under this Agreement. The Contractor's policy shall be designated primary coverage for both defense and indemnity, and any KCDA or Client policies excess. Such limits of liability insurance shall have per project general aggregate provisions and shall not be less than the following:

.1 \$1,000,000 Combined Single Limit protection for both bodily injury and property damage liability per occurrence and \$2,000,000 general aggregate;

.2 \$1,000,000 per accident for bodily injury liability including sickness, disease or death and property damage liability because of damage to or destruction of property of others, including loss of use thereof arising out of the operation of automobiles.

.3 \$1,000,000 for personal injury liability coverage included and defined in the Commercial General Liability insurance policy for damages which are sustained by (1) a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person.

.4 \$1,000,000 for claims involving blanket contractual liability insurance (included and defined in the Commercial General Liability Insurance Policy) applicable to the Contractor's obligations under Section 10.12.

.5 In addition, the Contractor shall maintain a true umbrella policy that provides excess limits over the primary layer, in an amount not less than \$2,000,000.

17.1.2 The insurance described above shall include coverage for underground, collapse and explosion exposures.

17.1.3 In addition, the Contractor shall purchase and maintain insurance for claims under workers' compensation (industrial insurance), disability benefit and other similar employee benefit acts in the State statutory amount and Employer's Liability with coverage of at least \$250,000/\$500,000.

17.1.4 Before commencing the Work or exposure to loss can occur, and, in any event, within *ten days* after KCDA has issued its notice of intent to award contract, the Contractor shall furnish KCDA and the Client with Certificates of Insurance, in duplicate, as evidence of all insurance required by the Contract Documents. All policies and certificates must be signed copies and shall contain provision that coverages afforded under the policies cannot be materially altered, allowed to expire or canceled without first giving *45 days* written notice by certified mail to KCDA and the Client. The Contractor shall furnish to KCDA and the Client copies of any subsequently issued endorsements amending, modifying, altering, or restricting coverage of limits.

17.1.5 Coverage shall be maintained without interruption from the date of commencement of the Work until the date of Final Acceptance, except for any coverage required to be maintained after Final Acceptance. Completed operations coverage shall remain in force for three years after Final Acceptance.

17.1.6 If KCDA or the Client is damaged by the failure of the Contractor to maintain any of the above insurance

or to so notify KCDA and the Client, than the Contractor shall bear all costs properly attributable thereto. KCDA MAY WITHHOLD PAYMENT PENDING RECEIPT OF ALL CERTIFICATES OF INSURANCE. Failure to withhold payment shall not constitute a waiver.

17.1.7 KCDA's specification or approval of the insurance in this Agreement or of its amount shall not relieve or decrease the liability of the Contractor under the Contract Documents or otherwise. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. The Contractor may, at its expense, purchase larger coverage amounts or additional insurance.

## **17.2 Property Insurance.**

17.2.1 The requirements for property insurance are addressed in Article 6 above.

## **17.3 Waivers of Subrogation.**

17.3.1 KCDA, the Client, and the Contractor waive all rights against each other and any of their subcontractors of any tier, the A/E, their consultants, separate contractors described in Article 12 (if any), and any of their respective agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Articles 6 and 17.2 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Client as fiduciary. KCDA and the Client do not waive their subrogation rights to the extent of the Client's property insurance on structures or portions of structures that do not comprise the Work. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

## **17.4 Payment and Performance Bond.**

17.4.1 Pursuant to RCW 39.08, the Contractor is required to submit payment and performance bonds secured from a surety company licensed to do business in the State of Washington. The Contractor shall pay for the bonds in the full amount of the Contract Sum plus sales tax. Within *seven days* of entering into the Agreement, the Contractor shall deliver two copies of the bond (including the original bond) to KCDA and one copy each to the Client and the A/E. The price of the bond will be added to the total contract amount to be paid by the Client. KCDA MAY DECLINE TO ENTER INTO THE CONTRACT IF EVIDENCE OF BONDABILITY IS NOT RECEIVED, AND THE CLIENT MAY WITHHOLD ITS NOTICE TO PROCEED AND/OR WITHHOLD PAYMENT TO THE CONTRACTOR UNTIL SUCH SURETY BOND IS RECEIVED.

## **ARTICLE 18**

### **CORRECTION OF WORK**

**18.1** The Contractor shall promptly and within no more than *fourteen (14) days* of notice from the Client or KCDA correct Work rejected or failing to conform to the requirements of the Contract Documents at any time through a period of one year from the date of Substantial Completion of the Agreement or by terms of a longer manufacturer's warranty or an applicable special warranty required by the Contract Documents. The provisions of this Article apply to Work done by Subcontractors of any tier as well as to Work done by direct employees of the Contractor.

**18.2** If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents or fails to carry out the Work in accordance with the Contract Documents, KCDA and/or the Client, by a written order, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

**18.3** Nothing contained in this Article shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described above relates only to the specific obligation of the Contractor to correct the Work and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

## **ARTICLE 19**

### **MISCELLANEOUS PROVISIONS**

**19.1 Applicable Law and Venue.** The Agreement shall be governed by the laws of the State of Washington, without regard to its choice of law provisions. The exclusive venue for any litigation regarding this Agreement shall be in the Superior Court in the county in which the Project is located.

**19.2 Statutes.** The Contractor shall abide by the provisions of all applicable Washington statutes. The statutes referenced in the Contract Documents are not meant to be a complete list and should not be relied upon as such.

**19.3 Contractor Registration and Related Requirements.** Pursuant to RCW 39.06, the Contractor shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27. The Contractor shall: have a current state unified business identifier number; have industrial insurance coverage for the Contractor's employees working in Washington as required in Title 51 RCW; have an employment security department number as required in Title 50 RCW; have a state excise tax registration number as required in Title 82 RCW, and; not be disqualified from bidding on any public works contract under

RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations).

**19.4 Law Against Discrimination.** Contractor shall comply with pertinent statutory provisions relating to public works of RCW 49.60.

**19.5 Provisions for Aged and Handicapped Persons.** Contractor shall comply with pertinent statutory provisions relating to public works of RCW 70.92.

**19.6 Safety Standards.** Contractor shall comply with pertinent provisions of Chapter 296-155 WAC, "Safety Standards for Construction Work."

**19.7 Unemployment Compensation.** Pursuant to RCW 50.24 in general and RCW 50.24.130 in particular, the Contractor shall pay contributions for wages for personal services performed under this Agreement or arrange for a bond acceptable to the commissioner.

**19.8 Drug-Free Workplace.** The Contractor and all Subcontractors shall fully comply with all applicable federal, state, and local laws and regulations regarding drug-free workplace, including the Drug-Free Workplace Act of 1988. Any person not fit for duty for any reason, including the use of alcohol, controlled substances, or drugs, shall immediately be removed from the Work.

**19.9 Tobacco-Free Environment.** Smoking or use of any kind of lighted pipe, cigar, cigarette or any other lighted smoking equipment, material or smokeless tobacco products, including vaping, is prohibited on all Client property.

**19.10 Asbestos Removal.** To the extent this Project involves asbestos removal, the Contractor shall comply with RCW 49.26 and any provisions of the Washington Administrative Code promulgated thereunder.

**19.11 Assignment.** The Contractor shall not let, delegate duties under, assign or transfer this Agreement, or any interest in it or part of it, without the prior written consent of KCDA and the Client.

**19.12 Weapons.** The Contractor and its employees, agents, and Subcontractors of any tier shall not bring onto the Project site or onto any Client property any firearm or any other type of weapon described in either RCW 9.41.280(1) or RCW 9.41.250. Any person violating this Section shall immediately be removed from the Work, and such a violation shall be grounds for a termination of this Agreement for cause at the Client's discretion.

**19.13 Contaminated Properties.** To the extent this Project involves the remediation of contaminated property, the Contractor shall comply with RCW 64.44 and 70.105D and any provisions of the Washington Administrative Code promulgated thereunder, including the use of authorized contractors as provided in RCW 64.44.060.

**19.14 Disposal of Materials.** To the extent this Project involves the remediation of contaminated property, the Contractor shall comply with all applicable requirements of RCW 70.95 and any provisions of the Washington Administrative Code promulgated thereunder.

## **ARTICLE 20**

### **TERMINATION OF THE CONTRACT**

**20.1 Termination for Cause by Contractor.** If KCDA fails to make payment for a period of *60 days* through no fault of the Contractor and has been given approval by the Client, the Contractor may, upon *seven additional days'* written notice to KCDA, terminate the Agreement and recover from KCDA payment for all Work properly executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including Fees applicable thereto.

**20.2 Termination for Cause by Client.** The Client may, upon *seven days'* written notice to the Contractor, terminate (without prejudice to any right or remedy of KCDA or the Client) the whole or any portion of the Work for cause, including but not limited to the following circumstances:

- .1 the Contractor fails to prosecute the Work or any portion thereof with sufficient diligence to ensure the Completion of the Work within the Contract Time;
- .2 the Contractor is in material default of or materially breaches any provisions of this Agreement;
- .3 the Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency;
- .4 the Contractor fails to supply a sufficient number of properly skilled workers or proper materials;
- .5 the Contractor fails to make prompt payment to Subcontractors or for materials or labor;
- .6 the Contractor materially disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or
- .7 the Contractor fails to comply with the provisions of RCW 28A.400.330 by permitting a worker on the Project having contact with children who has been convicted of or pled guilty to a felony crime involving children as described in Section 10.3.

**20.3 Termination for Convenience by Client.** The Client may, at any time upon *seven days'* written notice to the Contractor, terminate (without prejudice to any right or remedy of the Client or KCDA) the whole or any portion of the Work for the convenience of KCDA and the Client. The Client shall be liable to Contractor only for those costs reimbursable to Contractor in accordance with the following:

- .1 The amount due under Articles 4 and 15 of this Agreement for the performance of the Work actually performed; and
- .2 Other pre-approved costs, consistent with Section 13.2, necessary and reasonably incurred in connection with the termination of Work.

The total sum to be paid to the Contractor under this Section 20.3 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made.

### **20.4 Effects of Termination.**

20.4.1 Unless the Client directs otherwise, after receipt of a Notice of Termination from the Client pursuant to Sections 20.2 or 20.3, the Contractor shall promptly:

- .1 stop Work under the Agreement on the date and as specified in the Notice of Termination;
- .2 place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of any portion of the Work that is not terminated;
- .3 procure cancellation of all orders and subcontracts, upon terms acceptable to the Client, to the extent that they relate to the performance of Work terminated;
- .4 assign to the Client all of the right, title and interest of the Contractor under all orders and subcontracts, in which case the Client shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- .5 with the Client's approval, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts not assigned to the Client;
- .6 transfer title and deliver to the entity or entities designated by the Client the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated, and the completed or partially completed plans, drawings, information and other property related to the Work;
- .7 use its best efforts to sell any property of the types referred to in Section 20.4.1.6. The Contractor may acquire any such property under the conditions prescribed by and at a price or prices approved by the Client, and the proceeds of any such transfer or disposition may be applied in reduction of any payments to be made by the Client to the Contractor;
- .8 take such action as may be necessary or as directed by the Client to preserve and protect the Work and



property related to this Project in the possession of the Contractor in which the Client has an interest; and

.9 continue performance only to the extent not terminated.

20.4.2 In arriving at any amount due the Contractor after termination, the following deductions shall be made:

.1 all unliquidated advance or other prior payments on account made to the Contractor applicable to the terminated portion of the Agreement;

.2 any claim which KCDA or the Client may have against the Contractor;

.3 an amount necessary to protect KCDA and the Client against outstanding or potential liens or claims; and

.4 the agreed price for or the proceeds of sale of any materials, supplies or other things acquired by the Contractor or sold, pursuant to the provisions of Section 20.4.1.7, and not otherwise recovered by or credited to KCDA.

20.4.3 If (and only if) the termination pursuant to Section 20.3 is partial, the Contractor may file a Claim for an equitable adjustment of the price or prices specified in the Agreement relating to the continued portion of the Agreement. The Contractor must assert any Claim for an equitable adjustment under this subparagraph within *twenty-one days* from the effective date of the Termination.

20.4.4 The Contractor shall refund to KCDA any amounts KCDA paid to the Contractor in excess of costs reimbursable under Section 20.3.

20.4.5 The damages and relief from termination by the Client specifically provided in Article 20 shall be the Contractor's sole entitlement in the event of termination.

20.4.6 When this Agreement refers to a termination, it is understood that the termination is of this Agreement, the Purchase Order, and all related contract documents, but not of any contract between KCDA and the Contractor that is not specific to this Project and this Client.

End of Section

## PERFORMANCE BOND

Bond No.: 285074786

The City of Everett has awarded to Landscape Structures Inc. (Principal), a contract for the construction of the project designated as Kiwanis Park Renovations, in Everett, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and Liberty Mutual Insurance Company (Surety), a corporation organized under the laws of the State of MA and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City of Everett in the sum of Two Hundred Eighty One Thousand Eight Hundred Eighty Five and 56/100 US Dollars (\$ 281,885.56), which is the Contract Price, subject to the provisions herein.

This statutory performance bond shall become null and void if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all the terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety agrees to indemnify, defend, and protect the City of Everett against any claim of direct or indirect loss resulting from the failure of the Principal, its heirs, executors, administrators, successors, or assigns (or any of the employees, subcontractors, or lower-tier subcontractors of the Principal) to faithfully perform the Contract.

The Surety for value received agrees that no change, extension of time, alteration, or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond, and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety. The Surety agrees to be bound by the laws of the state of Washington and subjected to the jurisdiction of the state of Washington.

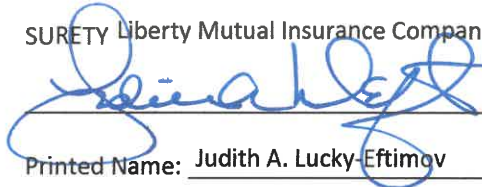
PRINCIPAL Landscape Structures Inc.



Printed Name: Brant Dennis

Title: Controller

SURETY Liberty Mutual Insurance Company

 5.16.2024

Printed Name: Judith A. Lucky-Eftimov

Title: Attorney-in-Fact

STANDARD BOND FORM  
OFFICE OF THE CITY ATTORNEY  
APPROVED AS TO FORM  
APPROVED AS TO CITY CHARTER § 4.1

Local Office/ Agent of Surety:

Name: Aon Risk Services

Address: 200 E. Randolph St., Chicago, IL 60601

Phone Number: 312-381-2793

Email: judi.lucky-efimov@aon.com



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

Certificate No: **8211823-285057**

## POWER OF ATTORNEY

**KNOWN ALL PERSONS BY THESE PRESENTS:** That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Aaron D. Griffin; Aerie Walton; Bartlomiej Siepierski; Christina L. Sandoval; Christopher P. Troha; Corinne Chapman; Dartonya Wright; Derek J. Elston; James B. McTaggart; Jean Torres; Jennifer L. Jakaitis; Jessica B. Dempsey; Judith A. Lucky-Eftimov; Kristin L. Hannigan; Melissa L. Fortier; Nicholas Kertesz; Richard Casas; Robert Nachreiner; Roger Pairoison; Samantha Chierici; Sandra M. Winsted; Susan A. Welsh; Tara A. Maquinto; Therese M. Jackson

all of the city of Chicago state of IL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

**IN WITNESS WHEREOF**, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 10th day of May, 2024.



Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

By:

David M. Carey  
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss  
County of MONTGOMERY

On this 10th day of May, 2024 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal  
Teresa Pastella, Notary Public  
Montgomery County  
My commission expires March 28, 2025  
Commission number 1126044  
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella  
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

### ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

### ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

**Certificate of Designation** - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

**Authorization** - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the seals of said Companies this 16th day of May, 2024



By:

Renee C. Llewellyn  
Renee C. Llewellyn, Assistant Secretary

PAYMENT BOND

Bond No. 285074786

The City of Everett has awarded to Landscape Structures Inc. (Principal), a contract for the construction of the project designated as Kiwanis Park Renovations, in Everett, Washington (Contract), and said Principal is required under the terms of that Contract to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and Liberty Mutual Insurance Company (Surety), a corporation organized under the laws of the State of MA and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City of Everett in the sum of Two Hundred Eighty One Thousand Eight Hundred Eighty Five and 56/100 US Dollars (\$ 281,885.56), which is the Contract Price, subject to the provisions herein.

This statutory payment bond shall become null and void if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW Titles 39.08 and 39.12, including all workers, laborers, mechanics, subcontractors, and material suppliers, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Title 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety agrees to indemnify, defend, and protect the City of Everett against any claim of direct or indirect loss resulting from the failure of the Principal, its heirs, executors, administrators, successors, or assigns (or the subcontractors or lower-tier subcontractors of the Principal) to pay all laborers, mechanics, subcontractors, lower-tier subcontractors material persons, and all persons who shall supply such contractor or subcontractors with provisions and supplies for the carrying on of such work.

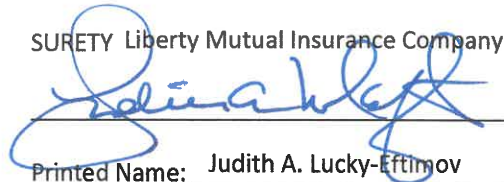
The Surety for value received agrees that no change, extension of time, alteration, or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond, and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety. The Surety agrees to be bound by the laws of the state of Washington and subjected to the jurisdiction of the state of Washington.

PRINCIPAL Landscape Structures Inc.

SURETY Liberty Mutual Insurance Company



 5-16-2024

Printed Name: Brant Dennis

Printed Name: Judith A. Lucky-Eftimov

Title: Controller

Title: Attorney-in-Fact

STANDARD BOND FORM  
OFFICE OF THE CITY ATTORNEY  
APPROVED AS TO FORM  
APPROVED AS TO CITY CHARTER § 4.1

Local Office/ Agent of Surety:

Name: Aon Risk Services

Address: 200 E. Randolph St., Chicago, IL 60601

Phone Number: 312-381-2793

Email: judi.lucky-eftimov@aon.com





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

Certificate No: **8211823-285057**

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all of the city of Chicago state of IL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 10th day of May, 2024.



Liberty Mutual Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

By:

David M. Carey  
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss  
County of MONTGOMERY

On this 10th day of May, 2024 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal  
Teresa Pastella, Notary Public  
Montgomery County  
My commission expires March 28, 2025  
Commission number 1126044  
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella  
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

### ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

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### ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

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I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 16th day of May, 2024



By:

Renee C. Llewellyn  
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

**Project title:** Request for Final Acceptance & Certificate of Completion for Fleming Bicycle Corridor

**Council Bill #**

**Agenda dates requested:**

June 5, 2024

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

**Budget amendment:**

Yes ☒ X No

**PowerPoint presentation:**

Yes ☒ X No

**Attachments:**

**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

**Project:** Fleming Bicycle Corridor

**Partner/Supplier:** Always Active Services, LLC

**Location:** Fleming Street @ Madison Street to Elk Hill Drive. @ Mukilteo Blvd.

**Preceding action:** Contract Award- 12/21/22

**Fund:** Fund 303 – Public Works Improvement Project

**Fiscal summary statement:**

Original Contract Amount: \$ 473,273.00

Final Contract Voucher Amount \$ 431,891.14

**Project summary statement:**

The general contractor, Always Active Services LLC., completed the Fleming Bicycle Corridor project in accordance with the project's plans and specifications and to the satisfaction of the Public Works Department.

**Recommendation (exact action requested of Council):**

Accept the Fleming Bicycle Corridor Project as complete and authorize the Mayor to sign the Certificate of Completion.

### CERTIFICATE OF COMPLETION

Project:	Fleming Bicycle Corridor
Contractor:	Always Active Services LLC
Work Order Number:	PW-3767/Fed Aid # CM-0420(027)/WSDOT # TA-7448

The above-mentioned Project was constructed per the plans and specifications and to the satisfaction of the Public Works Department.

The Contractor physically completed the Project within the time allowed in the Contract.

It is recommended that the City accept this Project as complete.

This certificate waives no rights that the City may have under the Contract, including without limitation rights to enforce the Contract against the Contractor for defective work.

Recommended:

  
\_\_\_\_\_  
Ryan Sass, Director of Public Works

Date: 5-24-2024

Approved:

\_\_\_\_\_  
Cassie Franklin, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Office of the City Clerk

STANDARD DOCUMENT  
APPROVED AS TO FORM  
OFFICE OF THE CITY ATTORNEY  
FEBRUARY 8, 2023





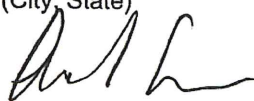
## Final Contract Voucher Certificate

Contractor <b>Always Active Services LLC</b>			
Street Address <b>2014 171st Avenue SE</b>			
City <b>Snohomish</b>	State <b>WA</b>	Zip <b>98290</b>	Date <b>4/23/2024</b>
Work Order No. <b>PW-3767 Federal Aid NO. CM-0420(027), WSDOT Contract No. TA-7448</b>			
Project Title <b>Fleming Bicycle Corridor</b>			
Date Work Physically Completed <b>September 26, 2023</b>		Final Amount <b>\$431,891.14, exclusive of Washington sales tax</b>	

### Contractor's Certification

I, the undersigned, certify and declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct: I am authorized to sign for the claimant; that in connection with the work performed and, to the best of my knowledge, no loan, gratuity or gift in any form whatsoever has been extended to any employee of the City of Everett, nor have I rented or purchased any equipment or materials from any employee of the City of Everett; that the attached final estimate is a true and correct statement showing all the monies due the claimant from the City of Everett for work performed and material furnished under this Contract; that I have carefully examined said final estimate and understand the same and; that I, on behalf of the claimant, hereby release and forever discharge the City of Everett from any and all claims of whatsoever nature which I or the claimant may have, arising out of the performance of said Contract, which are not set forth in said final estimate.

DATED at Snohomish WA this 25<sup>th</sup> day of April, 2024.  
(City, State)

  
Contractor Authorized Signature  
Amanda Schree  
Printed Name

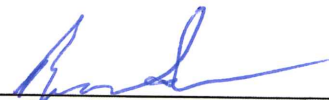
owner  
Title

### Public Works Department Certification

I certify to the best of my knowledge the attached final estimate to be based upon actual measurements, and to be true and correct.

Approved Date 5-24-2024

Keith Alewine  
Keith Alewine, Construction Manager

  
Ryan Sass, Director of Public Works

The Affidavit of Wages Paid must be prepared by the prime contractor, all subcontractors, and all subcontractor's agents and forwarded with the Final Contract Voucher Certification. Contractor's Claims, if any, must be included and the Contractor's Certification must be labeled indicating a claim attached. Scanned and/or e-signatures have same effect as ink signatures.





3200 Cedar Street,  
Everett WA 98201  
(425) 257-8800

**FINAL**

CONTRACT ESTIMATE VOUCHER  
Schedule: A

Date: 3/12/2024 CW Check: Keith Alvine

Date: 3/12/2024

Recommended By: Keith Alvine

Retainage not withheld  
per Retainage Bond  
# WA101687

Date: 4/25/24 PM Review: [Signature]

PW Director: [Signature]

Contractor: Always Active Services LLC  
Project: Fleming Bicycle Corridor  
Estimate: 5  
W.O.# PW3767  
Ends: 10/6/2023

SCHEDULE	ORG. CONTRACT	TO DATE	VARIANCE
A	\$ 475,273.00	\$ 431,891.14	\$ (43,381.86)
Total	\$ 475,273.00	\$ 431,891.14	\$ (43,381.86)

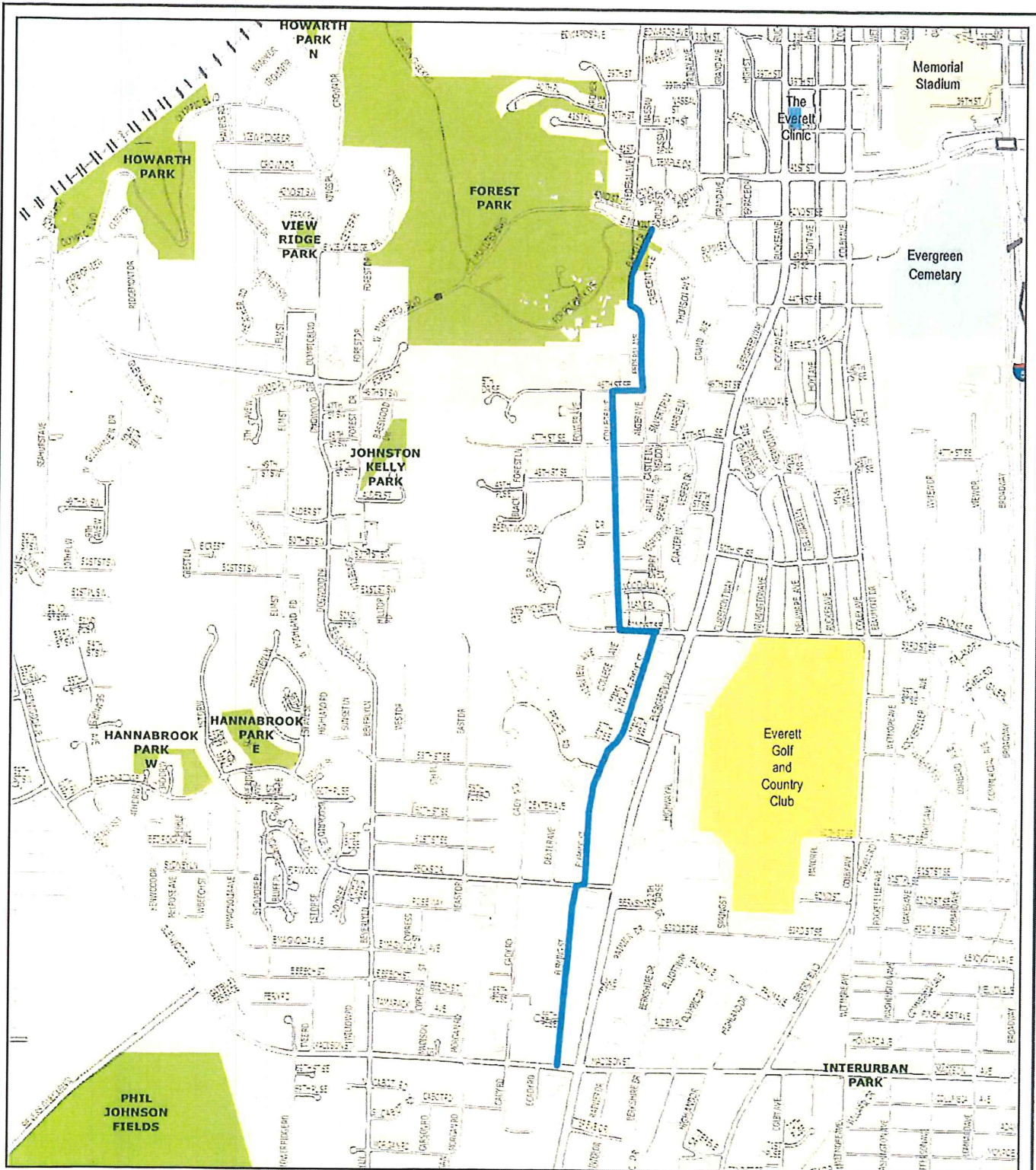
TOTAL	LESS RETENTION	SALES TAX	AMOUNTS PAID	DUE THIS ESTIMATE
\$ 431,891.14	0.0%	\$ -	\$ -	\$ 431,891.14
\$ 431,891.14	0.0%	\$ -	\$ -	\$ 431,891.14
\$ 431,891.14				\$ 72,635.04
\$ 431,891.14				\$ 72,635.04

ITEM #	ITEM DESCRIPTION	UNIT	UNIT PRICE	CONTRACT QUANTITY	CONTRACT TOTAL	UPDATED WITH CO & MOH QUANTITY	UPDATED WITH CO & MOH TOTAL	TO DATE QUANTITY	TO DATE TOTAL	PREVIOUS QUANTITY	PREVIOUS TOTAL	PRESENT QUANTITY	PRESENT TOTAL
1	MINOR CHANGE	F.A.	\$ 1.00	25,000.00	\$ 25,000.00	25,000.00	\$ 25,000.00	20,726.44	\$ 20,726.44	0.00	\$ -	20,726.44	\$ 20,726.44
2	RECORD DRAWINGS (MINIMUM BID)	L.S.	\$ 5,000.00	1.00	\$ 5,000.00	1.00	\$ 5,000.00	1.00	\$ 5,000.00	0.00	\$ -	1.00	\$ 5,000.00
3	SPCC PLAN	L.S.	\$ 2,000.00	1.00	\$ 2,000.00	1.00	\$ 2,000.00	1.00	\$ 2,000.00	0.00	\$ -	0.00	\$ -
4	MOBILIZATION	L.S.	\$ 88,000.00	1.00	\$ 88,000.00	1.00	\$ 88,000.00	1.00	\$ 88,000.00	0.54	\$ 47,326.40	0.46	\$ 40,673.60
5	PROJECT TEMPORARY TRAFFIC CONTROL	L.S.	\$ 130,000.00	1.00	\$ 130,000.00	1.00	\$ 130,000.00	1.00	\$ 130,000.00	1.00	\$ 130,000.00	0.00	\$ -
6	CRUSHED SURFACING TOP COURSE	TON	\$ 50.00	6.50	\$ 325.00	6.50	\$ 325.00	3.62	\$ 181.00	3.62	\$ 181.00	0.00	\$ -
7	EROSION/WATER POLLUTION CONTROL	L.S.	\$ 5,000.00	1.00	\$ 5,000.00	1.00	\$ 5,000.00	1.00	\$ 5,000.00	1.00	\$ 5,000.00	0.00	\$ -
8	INLET PROTECTION	EACH	\$ 60.00	22.00	\$ 1,320.00	22.00	\$ 1,320.00	6.00	\$ 360.00	6.00	\$ 360.00	0.00	\$ -
9	PRECAST SLOPED MOUNTABLE CURB	L.F.	\$ 70.00	315.00	\$ 22,050.00	315.00	\$ 22,050.00	135.00	\$ 9,450.00	135.00	\$ 9,450.00	0.00	\$ -
10	PERMANENT SIGNING	L.S.	\$ 34,000.00	1.00	\$ 34,000.00	1.00	\$ 34,000.00	1.00	\$ 34,000.00	0.90	\$ 30,600.00	0.10	\$ 3,400.00
11	4-INCH PLASTIC LINE	L.F.	\$ 575.00	952.00	\$ 547,400.00	952.00	\$ 547,400.00	1,538.00	\$ 8,843.50	1,538.00	\$ 8,843.50	0.00	\$ -
12	8-INCH PLASTIC LINE	L.F.	\$ 8.50	400.00	\$ 3,400.00	400.00	\$ 3,400.00	426.00	\$ 3,621.00	426.00	\$ 3,621.00	0.00	\$ -
13	PLASTIC BICYCLE LANE SYMBOL	EACH	\$ 575.00	1.00	\$ 575.00	1.00	\$ 575.00	5.00	\$ 2,875.00	5.00	\$ 2,875.00	0.00	\$ -
14	PLASTIC BICYCLE LANE SYMBOL WITH GREEN BACKGROUND	EACH	\$ 875.00	2.00	\$ 1,750.00	2.00	\$ 1,750.00	0.00	\$ -	0.00	\$ -	0.00	\$ -
15	PLASTIC SHARROW STRAIGHT	EACH	\$ 430.00	54.00	\$ 23,220.00	54.00	\$ 23,220.00	53.00	\$ 22,790.00	53.00	\$ 22,790.00	0.00	\$ -
16	PLASTIC RIGHT TURN SHARROW	EACH	\$ 1,200.00	2.00	\$ 2,400.00	2.00	\$ 2,400.00	4.00	\$ 4,800.00	4.00	\$ 4,800.00	0.00	\$ -
17	PLASTIC LEFT TURN SHARROW	EACH	\$ 1,200.00	3.00	\$ 3,600.00	3.00	\$ 3,600.00	5.00	\$ 6,000.00	5.00	\$ 6,000.00	0.00	\$ -
18	PLASTIC JOG RIGHT SHARROW	EACH	\$ 1,200.00	2.00	\$ 2,400.00	2.00	\$ 2,400.00	0.00	\$ -	0.00	\$ -	0.00	\$ -
19	PLASTIC JOG LEFT SHARROW	EACH	\$ 1,200.00	2.00	\$ 2,400.00	2.00	\$ 2,400.00	2.00	\$ 2,400.00	2.00	\$ 2,400.00	0.00	\$ -
20	PLASTIC SHARROW STRAIGHT WITH BRACKETS	EACH	\$ 747.00	12.00	\$ 8,964.00	12.00	\$ 8,964.00	13.00	\$ 9,711.00	13.00	\$ 9,711.00	0.00	\$ -
21	PLASTIC SHARROW STRAIGHT WITH GREEN BACKGROUND	EACH	\$ 1,725.00	12.00	\$ 20,700.00	12.00	\$ 20,700.00	7.00	\$ 12,075.00	7.00	\$ 12,075.00	0.00	\$ -
22	PLASTIC LEFT TURN SHARROW WITH GREEN BACKGROUND	EACH	\$ 2,875.00	3.00	\$ 8,625.00	3.00	\$ 8,625.00	1.00	\$ 2,875.00	1.00	\$ 2,875.00	0.00	\$ -
23	PLASTIC RIGHT TURN SHARROW WITH GREEN BACKGROUND	EACH	\$ 2,875.00	2.00	\$ 5,750.00	2.00	\$ 5,750.00	2.00	\$ 5,750.00	2.00	\$ 5,750.00	0.00	\$ -
24	24-INCH PLASTIC STOP LINE	L.F.	\$ 57.00	45.00	\$ 2,565.00	45.00	\$ 2,565.00	24.00	\$ 1,368.00	24.00	\$ 1,368.00	0.00	\$ -
25	REMOVING PLASTIC LINE	L.F.	\$ 8.00	1,425.00	\$ 11,400.00	1,425.00	\$ 11,400.00	1,313.00	\$ 10,504.00	1,313.00	\$ 10,504.00	0.00	\$ -
26	POLYMER CEMENT SURFACING WITH HEXAGON PATTERN FOR GREEN COLORED BICYCLE LANE	S.F.	\$ 12.00	2,550.00	\$ 30,600.00	2,550.00	\$ 30,600.00	2,610.00	\$ 31,320.00	2,610.00	\$ 31,320.00	0.00	\$ -
27	TEXTURED AND PIGMENTED CEMENT CONCRETE PAVEMENT	S.Y.	\$ 415.00	61.00	\$ 25,315.00	61.00	\$ 25,315.00	0.00	\$ -	21.00	\$ 8,715.00	(21.00)	\$ (8,715.00)
28	RAISED PAVEMENT MARKER TYPE 2	HUND	\$ 1,440.00	1.00	\$ 1,440.00	1.00	\$ 1,440.00	0.48	\$ 691.20	0.48	\$ 691.20	0.00	\$ -
101	TEXTURED AND PIGMENTED CEMENT CONCRETE PAVEMENT	S.Y.	\$ 550.00	0.00	\$ -	0.00	\$ -	21.00	\$ 11,550.00	0.00	\$ -	21.00	\$ 11,550.00







Notice to Proceed	1/0/1900
75% Completion	1/0/1900
Substantial Completion	1/0/1900
Substantial Completion of work achieved within	0

Schedule	ITEM #	ITEM DESCRIPTION	UNIT	CONTRACT QUANTITY	TOTAL QUANTITY	Reviewed By Date	Est 1	Est 2	Est 3	Est 4	Est 5
A	1	MINOR CHANGE	F.A.	25,000.00	20,726.44	Date1	5/19/2023	7/18/2023	8/11/2023	9/8/2023	10/6/2023
A	2	RECORD DRAWINGS (MINIMUM BID)	L.S.	1.00	1.00		0.00	0.00	0.00	0.00	20,726.44
A	3	SPCC PLAN	L.S.	1.00	1.00		0.00	0.00	0.00	0.00	1.00
A	4	MOBILIZATION	L.S.	1.00	1.00		0.00	1.00	0.00	0.00	0.00
A	5	PROJECT TEMPORARY TRAFFIC CONTROL	L.S.	1.00	1.00		0.5378	0.00	0.00	0.00	0.46
A	6	CRUSHED SURFACING TOP COURSE	TON	6.50	3.62		0.33	0.07	0.00	0.60	0.00
A	7	EROSION/WATER POLLUTION CONTROL	L.S.	1.00	1.00		0.00	3.62	0.00	0.00	0.00
A	8	INLET PROTECTION	EACH	22.00	6.00		0.00	0.40	0.00	0.60	0.00
A	9	PRECAST SLOPED MOUNTABLE CURB	L.F.	315.00	135.00		6.00	0.00	0.00	0.00	0.00
A	10	PERMANENT SIGNING	L.S.	1.00	1.00		135.00	0.00	0.00	0.00	0.00
A	11	4-INCH PLASTIC LINE	L.F.	952.00	1,538.00		0.00	0.25	0.22	0.43	0.10
A	12	8-INCH PLASTIC LINE	L.F.	400.00	426.00		453.00	0.00	0.00	1,085.00	0.00
A	13	PLASTIC BICYCLE LANE SYMBOL	EACH	1.00	5.00		426.00	0.00	0.00	0.00	0.00
A	14	PLASTIC BICYCLE LANE SYMBOL WITH GREEN BACKGROUND	EACH	2.00	0.00		0.00	0.00	0.00	5.00	0.00
A	15	PLASTIC SHARROW STRAIGHT	EACH	54.00	53.00		0.00	0.00	0.00	0.00	0.00
A	16	PLASTIC RIGHT TURN SHARROW	EACH	2.00	4.00		53.00	0.00	0.00	0.00	0.00
A	17	PLASTIC LEFT TURN SHARROW	EACH	3.00	5.00		4.00	0.00	0.00	0.00	0.00
A	18	PLASTIC JOG RIGHT SHARROW	EACH	2.00	0.00		3.00	0.00	0.00	0.00	0.00
A	19	PLASTIC JOG LEFT SHARROW	EACH	2.00	0.00		0.00	0.00	0.00	0.00	0.00
A	20	PLASTIC SHARROW STRAIGHT WITH BRACKETS	EACH	12.00	13.00		2.00	0.00	0.00	0.00	0.00
A	21	PLASTIC SHARROW STRAIGHT WITH GREEN BACKGROUND	EACH	12.00	7.00		9.00	0.00	0.00	0.00	0.00
A	22	PLASTIC LEFT TURN SHARROW WITH GREEN BACKGROUND	EACH	3.00	1.00		7.00	0.00	0.00	0.00	0.00
A	23	PLASTIC RIGHT TURN SHARROW WITH GREEN BACKGROUND	EACH	2.00	2.00		1.00	0.00	0.00	0.00	0.00
A	24	24-INCH PLASTIC STOP LINE	L.F.	45.00	24.00		2.00	0.00	0.00	0.00	0.00
A	25	REMOVING PLASTIC LINE	L.F.	1,425.00	1,313.00		0.00	0.00	0.00	24.00	0.00
A	26	POLYMER CEMENT SURFACING WITH HEXAGON PATTERN FOR GREEN COLORED BICYCLE LANE	S.F.	2,550.00	2,610.00		925.00	0.00	0.00	388.00	0.00
A	27	TEXTURED AND PIGMENTED CEMENT CONCRETE PAVEMENT	S.Y.	61.00	0.00		0.00	0.00	0.00	2,610.00	0.00
A	28	RAISED PAVEMENT MARKER TYPE 2	HUND	1.00	0.48		0.00	21.00	0.00	0.00	0.00
A	101	TEXTURED AND PIGMENTED CEMENT CONCRETE PAVEMENT	S.Y.	0.00	21.00		0.48	0.00	0.00	0.00	21.00





### FLEMING BICYCLE CORRIDOR

- |   |          |   |            |   |                          |
|---|----------|---|------------|---|--------------------------|
|  | Hospital |  | Commercial |  | City Parks               |
|  | Cemetery |  | Government |  | Fleming Bicycle Corridor |

0 0.25 0.5  
Miles



This Map has been produced using the best information available. However, the City of Everett in no way guarantees its accuracy.

**Project title:** 2024 Professional Services Agreement with Phyco-Tech Inc. for environmental analytical testing services.

**Council Bill #****Project:** Environmental Analytical Testing Services**Partner/Supplier:** Phyco-Tech Inc.**Location:** Everett WA**Preceding action:** N/A**Fund:** 401 – Water & Sewer Utility Fund**Agenda dates requested:**

Briefing

Proposed action

Consent 06/05/24

Action

Ordinance

Public hearing

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

PSA

**Department(s) involved:**

Public Works

**Contact person:**

Jeff Marrs

**Phone number:**

(425) 257-8967

**Email:**

jmarrs@everettwa.gov

**Fiscal summary statement:**

The City of Everett seeks a Professional Services Agreement with Phyco-Tech Inc. with a total compensation amount not to exceed \$160,000.00. Source of funds for this PSA will be 401 – Water & Sewer Utility Fund.

**Project summary statement:**

Public Works currently receives environmental analytical testing services from Phyco-Tech Inc. The 2024 Professional Services Agreement will be a 3-year contract initiated in 2024 through December 31, 2028, with a total contract amount of \$160,000.

Phyco-Tech will provide analysis of phytoplankton and periphyton to the genus level and assist with bloom identification at the discretion of the project manager, in accordance with EPA recognized test methods for drinking water, wastewater, and solids samples.

**Recommendation (exact action requested of Council):**

Authorize the Mayor to sign the 2024 Professional Services Agreement with Phyco-Tech Inc. for environmental analytical testing services.

**Initialed by:***RLS*

Department head

Administration

Council President



## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("**Agreement**") is effective as of the date of last signature below and is between the City of Everett, a Washington municipal corporation (*the "City"*), and the 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	Phyco-Tech Inc.
	620 Broad St. Ste #100
	St. Joseph, MI 49085
	sjohnson@phycotech.com
City Project Manager	Anna Thelen
	City of Everett – Public Works
	3200 Cedar St.
	Everett, WA 98201
Brief Summary of Scope of Work	athelen@everettwa.gov
	Phytoplankton Analysis
Completion Date	December 31, 2028
Maximum Compensation Amount	\$160,000

BASIC PROVISIONS	
Service Provider Insurance Contact Information	Debbie Morgan
	(248) 539-3003
	debbie@hblinsurance.com
State Retirement Systems (must answer both questions)	<p>Does Service Provider have 25 or more employees?</p> <p><b>Answer: No</b></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><b>Answer: No</b></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**

**PHYCO-TECH INC.**

\_\_\_\_\_  
Cassie Franklin, Mayor

Signature: \_\_\_\_\_

Name of Signer: Sarah Johnson

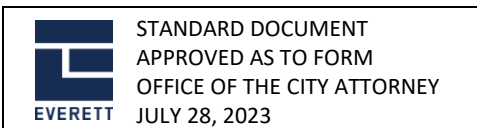
Signer's Email Address: sjohnson@phycotech.com

Title of Signer: Contract Coordinator/Office Manager

\_\_\_\_\_  
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. To the extent the Work includes material subject to copyright, Service Provider agrees that the Work is done as a “Work For Hire” as that term is defined under U.S. copyright law, and that as a result, the City shall own all copyrights in the Work. To the extent that the Work includes material subject to proprietary right protection but does not qualify as a “Work For Hire” under applicable law, Service Provider hereby assigns to the City all right, title and interest in and to the Work, including all copyrights, patents, trade secrets, and other proprietary rights therein (including renewals thereof). To the maximum extent permitted by law, Service Provider waives all moral rights in the Work. Notwithstanding the foregoing, 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 obligations 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 (CGL) 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 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.

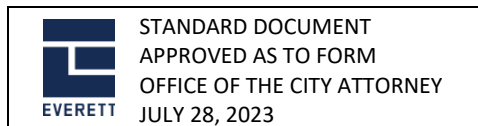
- D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all 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/eplsearch.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)**



### **SCOPE OF WORK**

Phytoplankton and periphyton analysis to the genus level, to include measurements of number, biovolume, and area. Assistance with bloom identification on an as needed basis at the discretion of the project manager.

**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
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate
enter name	enter title	enter rate

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

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

Task	Amount Paid on Task Completion
enter task	enter amount
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**

Compensation shall not exceed the contracted amount over the lifetime of the contract. PhycoTech Inc. to submit rate sheet for the upcoming year prior to current rate sheet expiration. Invoice rates must match rates defined within the contract.

See attached rate sheet.



269.983.3654 - Fax: 269.983.3653

## Quote for Services

Anna Thelen  
City of Everett Washington  
Everett Water Filtration Plant  
6133 Lake Chaplain Road  
Monroe, WA 98272-7821

## Reference

Quote2024/2025

Customer ID

318

Our standard lead time currently varies from our receipt of samples. We make every effort to complete our analysis within in a timely manor; however, if you have a specific date by which you need results or invoicing, please note that on the paperwork sent with your samples.

Date	Quote#	Quote Expires
2/1/2024	6716	4/1/2024

Description	Qty.	Rate	Estimate Total
Phytoplankton: Genus w/ Biovolume - year 1 (Discount for Volume is applied - 2024 Published Price=\$337.00)	1	321.00	321.00
Phytoplankton: Genus w/ Biovolume - year 2	1	337.00	337.00
Rapid Assay Services (3 HPMA Slides) -year 1 (Discount for Volume is applied - 2024 Published Price=\$258.00)	1	245.00	245.00
Rapid Assay Services (3 HPMA Slides) - year 2	1	258.00	258.00

Payment terms are net 30. Balances over 30 days are subject to a late payment fee of 3% per month on the outstanding balance.

Total

\$1,161.00

Analysis includes data delivered electronically and optically clear permanent slides. Units as specified by client. Analysis prices include report and raw data file, presum data file and diversity indices data file (if applicable) ONLY. Interpretations, extensive explanations, and modifications to the initial report will be billed at up to \$449.00 per hour.



## City Council Agenda Item Cover Sheet

**Project title:** Everett Gospel Mission Pallet Program

**Council Bill #** *interoffice use*

**Agenda dates requested:**

6/5/24

Briefing

Proposed action

Consent ☒

Action

Ordinance

Public hearing

Yes ☐ X No ☐

**Budget amendment:**

x Yes ☐ No ☐

**PowerPoint presentation:**

Yes ☐ X No ☐

**Attachments:**

Grant Agreement for EGM  
Pallet Project\_SD

**Department(s) involved:**

Community Development

**Contact person:**

Kembra Landry

**Phone number:**

425-257-7155

**Email:**

Klandry@everettwa.gov

**Initialed by:**

*JW*

Department head

Administration

Council President

**Project:** County EHF Grant for Everett Gospel Mission Pallet Program

**Partner/Supplier:** Snohomish County

**Location:** 3711 Smith Avenue, Everett

**Preceding action:** N/A

**Fund:** 155

**Fiscal summary statement:**

In 2023, Snohomish County awarded the City of Everett \$745,864.00 of Washington State Department of Commerce (DOC) Emergency Housing Fund (EHF) dollars to support the operations of emergency housing at Everett Gospel Mission's (EGM) Pallet Program.

**Project summary statement:**

Since 2021, Everett Gospel Mission (EGM) has operated a Pallet Shelter Program, known as "Palisades", in partnership with the City of Everett and Snohomish County. Initially launched with 20 pallets for those experiencing chronic homelessness, the program expanded to 40 pallets in 2022 and has since continued to provide emergency housing and supportive services to those most vulnerable. Hygiene facilities, community rooms, and storage facilities are also located on site to support those living in pallet structures.

Located on city property adjacent to EGM's overnight congregate shelter on 3711 Smith Avenue, this grant will be used to support ongoing operational expenses incurred since July 1, 2023 until June 30, 2024.

**Recommendation (exact action requested of Council):**

Authorize the Mayor to sign the Grant Agreement for Everett Gospel Mission Pallet Project with Snohomish County and authorize the Mayor to sign all necessary subaward agreements with Everett Gospel Mission to implement the Grant.

**Snohomish County Human Services**  
3000 Rockefeller Avenue, M/S 305 | Everett, WA 98201  
(425) 388-7200



<b>CONTRACT SPECIFICS</b>	Contract Number:	HCS-23-67-2315-198	Maximum Contract Amount:	\$745,864	
	Title of Project / Service:	Everett Gospel Mission Pallet Project			
	Start Date:	07/01/2023	End Date:	06/30/2024	Status Determination: Subrecipient
<b>CONTRACTING ORGANIZATION</b>	Agency Name:	City of Everett			
	Address:	3002 Wetmore Avenue			
	City, State & Zip:	Everett, WA 98201	IRS Tax No. / EIN:	91-6001248	
	Contact Person:	Cassie Franklin	Unique Entity Identifier:	608909156	
	Telephone:	425-257-7115	Email Address:	cfranklin@everettwa.gov	
<b>FUNDING SPECIFICS</b>	Funding Authority:	Washington State Department of Commerce			
	ALN* No. & Title:	N/A			
	Funding Specifics:	Washington State Department of Commerce Emergency Housing Fund (EHF)			
	Funding Source:	State	Federal Funding Addendum Attached:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>COUNTY</b>	Program Division	Contact Person	Contact Email	Contact Phone	
	Housing and Community Services	Robin Hood	robin.hood@snoco.org	425-388-7266	

**Additional terms of this Contract are set out in and governed by the following, which are incorporated herein by reference:**

Basic Terms and Conditions HSD-2018- 101-198, maintained on file at the Human Services Department:

Business Associate Agreement BAA-2018- 101-198, maintained on file at the Human Services Department:

Specific Terms and Conditions Attached as Exhibit A

Statement of Work/Project Description Attached as Exhibit B

Approved Contract Budget Attached as Exhibit C

In the event of any inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order: (a) appropriate provisions of state and federal law, (b) Specific Terms and Conditions, (c) Basic Terms and Conditions, (d) Business Associate Agreement, (e) other attachments incorporated by reference, and (f) other documents incorporated by reference.

**THE CONTRACTING ORGANIZATION IDENTIFIED ABOVE (HEREINAFTER REFERRED TO AS AGENCY), AND SNOHOMISH COUNTY (HEREINAFTER REFERRED TO AS COUNTY), HEREBY ACKNOWLEDGE AND AGREE TO THE TERMS OF THIS CONTRACT. SIGNATURES FOR BOTH PARTIES ARE REQUIRED BELOW. BY SIGNING, THE AGENCY IS CERTIFYING THAT IT IS NOT DEBARRED, SUSPENDED, OR OTHERWISE EXCLUDED FROM PARTICIPATING IN FEDERALLY FUNDED PROGRAMS. \* ALN is the Assistance Listing Number formerly known as CFDA number for federal funding**

**FOR THE CONTRACTING ORGANIZATION:**

**FOR SNOHOMISH COUNTY:**

(Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

(Title) \_\_\_\_\_

Mary Jane Brell Vujovic, Director \_\_\_\_\_ (Date) \_\_\_\_\_

Department of Human Services

**EXHIBIT A**  
**SPECIFIC TERMS AND CONDITIONS**  
**EVERETT GOSPEL MISSION PALLET PROJECT**

**I. INTRODUCTION**

The Emergency Housing Fund (EHF) grant is utilized to maintain current levels of homeless subsidies and emergency housing services.

Allowable activities and expenses follow the [Consolidated Homeless Grant \(CHG\)/System Demonstration Grant \(SDG\) guidelines](#). Allowable activities are restricted to “emergency housing” activities, to include: street outreach, diversion, emergency shelter including hotel/motel leasing, sanctioned encampments, transitional housing, rapid re-housing, housing search and placement, and housing stability case management.

EHF funds support a variety of activities, including the operation of emergency shelter units, program operations, rental assistance, and data collection and reporting. Refer to the [Consolidated Homeless Grant \(CHG\)/System Demonstration Grant \(SDG\) guidelines](#) for details on client eligibility, allowable activities, standards for documenting services and ensuring compliance, administrative and system requirements, coordinated assessments, reporting, legislatively established priorities, and requirements for local homeless plans.

**II. APPLICABLE GUIDELINES, REGULATIONS AND LAWS**

The Agency shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended including, but not limited to the following **Washington State Laws and Regulations**:

- A. Affirmative action, RCW 41.06.020(1);
- B. Boards of directors or officers of non-profit corporations – Liability – Limitations, RCW 4.24.264;
- C. Disclosure – campaign finances-lobbying, Chapter 42.17A RCW;
- D. Discrimination – Human Rights Commission, Chapter 49.60.RCW;
- E. Ethics in public service, Chapter 42.52 RCW;

- F. Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC;
- G. Open public meetings act, Chapter 42.30 RCW;
- H. Public records act, Chapter 42.56 RCW; and
- I. State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

### **III. CONTRACT MANAGEMENT**

The Representative for each of the parties identified on the Contract Face Sheet shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

### **IV. ORDER OF PRECEDENCE**

In the event that any provisions of the Contract, including all authorities incorporated by reference, are in conflict with one another, the provision which is the more encompassing and restrictive on the Agency's actions shall apply. In the event that equally restrictive provisions are in conflict with one another, the sources of the provisions shall govern their precedence. The order of precedence shall be first federal, then state, then local, and shall in all cases be ruled upon by the County.

### **V. SCOPE OF SERVICES**

- A. The Agency shall provide the services described in the Approved Statement of Work (hereinafter Exhibit B), pursuant to the provisions of this Contract.
- B. The Agency shall initiate criminal history background checks pursuant to RCW 43.43.830 and RCW 43.43.834 for all prospective employees and volunteers who may have unsupervised access to children under sixteen years of age, developmentally disabled persons of any age, or vulnerable adults.
- C. The Agency shall make a reasonable effort to secure the services of unpaid volunteers and other training or work program participants to supplement staff at no additional costs under this Contract.

### **VI. FINANCIAL AWARD**

The Agency is hereby awarded, in the form of a subaward, the total sum indicated in the Approved Contract Budget (hereinafter Exhibit C), to provide part of the funding for the full undertaking and performance of the Project. It is expressly agreed and understood that the total amount paid by the County under this Agreement shall not exceed the total subaward indicated in Exhibit C.



In the event funding from state sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, the County may amend the Contract amount to reflect any new funding limitations and conditions.

All funds shall be available only in strict accordance with the provisions of this Contract, the Basic Terms and Conditions referenced on the Contract face sheet, and other applicable federal, State, and local laws, regulations, and policies governing the funds provided in this Contract.

## **VII. ALLOWABLE COSTS**

Costs allowable under this Contract are based on an approved budget up to the Contract Maximum. If provided for in Exhibit B and Exhibit C, allowable use of EHF Program funds shall include:

- A. Administration;
- B. Data Collection; and
- C. Program Operations.

## **VIII. ANTICIPATORY COSTS**

Allowable costs under this Contract shall include costs incurred by the Agency during the Contract term set forth on the Contract Face Sheet or amended Contract Face Sheet, PROVIDED, that all costs shall not exceed the Contract Maximum, and PROVIDED, FURTHER, that no payments will be made before the Effective Date.

## **IX. FISCAL MANAGEMENT**

### **A. Administrative Costs**

1. Administrative costs actually incurred to support operating activities funded under this Contract may be charged to this Contract up to the amount specified in Exhibit C.
2. Administrative services shared by other programs may be assigned to this Contract based on an allocation plan that reasonably reflects the administrative costs necessary to support services provided under each contract administered by the Agency.

### **B. Cost Reimbursement**

1. Reimbursement for services delivered under this Contract shall be on a cost-reimbursement basis. Reimbursement shall be provided for services provided pursuant to Exhibit B. The Agency shall submit, in a format prescribed by the County, an invoice detailing, on a monthly basis, all costs associated with the program based on Exhibit C.
2. Invoices must provide adequate back up documentation to support costs on each reimbursement request, to include:
  - a. Submission of the general ledger with transaction and expenditure dates on allowable activities within period of performance.
  - b. For rent assistance and flexible payments, back up documentation should include the client HMIS number to tie the transaction to the recipient.
3. Reimbursement will be made upon the receipt and approval of the invoice and reports required by Exhibit B submitted within ten (10) days after the end of the month in which expenses were incurred.
4. If expenditure reports are not submitted in a timely manner, the County may recapture unclaimed funds for re-allocation among other eligible agencies. If the Agency fails to file an expenditure report within any two-month period, the County may elect to terminate the Contract.

#### C. Budget Revisions

1. The Agency may make limited changes to the approved budget that comply with the provisions for budget revisions in the Basic Terms and Conditions and the requirements of 2 CFR § 200.308. Certain types of post-award changes to the approved project budget will require the prior approval of Snohomish County, specifically:
  - a. Any revision proposed by the Agency for the reasons listed in 2 CFR § 200.308(c); and
  - b. Any revision meeting the requirements for prior approval in the Basic Terms and Conditions.
2. If a requested revision would result in a change to the approved project budget that requires prior Commerce approval, Snohomish County will obtain such approval before approving the request.

#### D. State Prevailing Wage

The Agency shall ensure compliance with Chapter 39.12 RCW pertaining to payment of state prevailing wages on public works projects and with Chapter 49.28 RCW pertaining to an eight-hour work day for covered activities paid for with funds under this Contract.

## **X. PROJECT REQUIREMENTS**

### **A. Nondiscrimination**

Supplemental to the requirements of the Basic Terms and Conditions, the Agency shall comply and require its subagencies performing work funding in whole or in part under this Contract to comply with applicable federal, State, and local nondiscrimination laws, regulations, and executive orders, including, but not limited to:

1. 24 CFR part 1 (Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development – Effectuation of Title VI of the Civil Rights Act of 1964), as amended, 24 CFR part 5 (General HUD Program Requirements; Waivers), as amended, and as further detailed in the HUD rule number RIN 2501-AD49, issued on February 3, 2012 (Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity), which, in part, requires the following:
  - a. Assistance provided by the Project shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status;
  - b. Inquiries as to sex are permitted only when determining eligibility for a temporary, emergency shelter that is limited to one (1) sex because it has shared sleeping rooms or bathrooms, or to determine the number of bedrooms to which a household may be entitled. Such inquiries are not permitted in any other homeless shelter or housing; and
  - c. Agencies are prohibited from inquiring into an applicant or participant's sexual orientation and gender identity for the purpose of determining eligibility or otherwise making housing available.
2. Fair Housing and Civil Rights

The Agency shall comply with fair housing and civil rights laws, regulations, and executive orders, including, but not limited to:

- a. Title VI of the Civil Rights Act of 1964, as amended (P.L. 88-352), and implementing regulations at 24 CFR part 1, as amended;

- b. Title VIII of Civil Rights Act of 1968 (P.L. 90-284), as amended, Section 104(b) of the Housing and Community Development Act of 1974, as amended, and 24 CFR § 576.407(b), which, in part, requires the Agency to implement the Project in a manner that affirmatively furthers fair housing. The Agency shall:
    - 1) Affirmatively market Project assistance to eligible persons in a manner that does not discriminate against persons on the basis of race, color, religion, sex, disability, familial status, or national origin;
    - 2) Provide all applicants and participants with information on rights and remedies available under applicable federal, State, and local fair housing and civil rights laws; and
    - 3) Take reasonable steps to ensure meaningful access to assistance provided by the Project for limited English proficiency (LEP) persons, consistent with Title VI and Executive Order 13166.
  - c. Section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. §§ 5304(b) and 5309), as amended, and 24 CFR part 6 (Non-Discrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974), as amended;
  - d. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and 24 CFR part 8, as amended;
  - e. The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), as amended;
  - f. The Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended; and
  - g. Executive Order No. 11063, as amended by Executive Order 12259, and 24 CFR part 107 (Equal Opportunity in Housing), as amended.
3. Affirmative Action and Equal Employment Opportunity

The Agency agrees that it will assist and cooperate actively with the County, HUD, and the Secretary of Labor in obtaining the compliance of the Agency and subagencies with the statutes and laws referred to in this Section and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the County, HUD, and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the County, HUD, and the Department of Labor in the discharge of the Department of Labor's primary responsibility for securing

compliance. The Agency will also ensure the compliance of the Agency and subagencies with state requirements pertaining to equal opportunity.

The Agency shall comply with laws, regulations, and executive orders pertaining to nondiscrimination in employment and contracting opportunities, including, but not limited to:

- a. Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §§ 5304(b) and 5309) and 24 CFR part 6 (Non-Discrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974), as amended;
- b. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and 24 CFR part 8, as amended;
- c. The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), as amended;
- d. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u), as amended, and implementing regulations at 24 CFR part 135, as amended. Failure to fulfill these requirements shall subject the County, the Agency and any of the Agency's subagencies, their successors and assigns, to those sanctions specified by the Contract through which federal assistance is provided;
- e. Snohomish County Section 3 Area. The County has identified its Section 3 area as that area within the corporate boundaries of Snohomish County. The term "low income" includes low-income unemployed residents of Snohomish County. The Agency will, to the greatest extent feasible, provide employment opportunities to those individuals;
- f. Executive Order No. 11246, as amended by Executive Order Nos. 11375, 11478, 12107 and 12086, Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), implementing regulations at 41 CFR part 60 (Regarding Non-Discrimination in Employment), as amended;
- g. Executive Order Nos. 11625, 12432 and 12138, and 2 CFR § 200.321. The Agency will take all necessary affirmative steps to assure that small businesses, minority business enterprises, and women's business enterprises are afforded the maximum practicable opportunity to participate in the performance of this Contract;

h. Chapter 39.80.040 RCW (Contracts for Architectural and Engineering Services – Participation by Minority and Women-Owned Firms), as amended; and

i. Discrimination prohibitions under Chapter 49.60 RCW, as amended.

#### 4. Service and Assistance Animals

Persons with disabilities may request a reasonable accommodation for any assistance animal, including an emotional support animal, under both Title VI of the Civil Rights Act of 1964, as amended (P.L. 88-352), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended.

#### B. Conflict of Interest

In all cases not governed by 2 CFR § 200.318 shall apply, including, but not limited to:

1. No employee, officer, or agent may participate in the selection, award, or administration of a grant if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a grant. The officers, employees, and agents of the Agency may neither solicit nor accept gratuities, favors, or anything of monetary value from the Agency's or parties to subcontracts and must comply with RCW 39.26.020. However, the Agency may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Agency.
2. If the Agency has a parent, affiliate, or subsidiary organization that is not a state, local government, or federally recognized tribe, the Agency must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Agency is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

In addition, the Agency agrees that it will incorporate the provisions in this Section and the conflict of interest provisions in the Basic Terms and Conditions into every subcontract required to be in writing and made pursuant to the Project assisted under this Contract.

### C. Pay Equity

The Agency agrees to ensure that “similarly employed” individuals in its workforce are compensated as equals, consistent with the following:

1. Employees are “similarly employed” if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
2. The Agency may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - a. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - b. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - c. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This contract may be terminated by the County, if the County, the Washington State Department of Enterprise Services, or the Washington State Department of Commerce determines that the Agency is not in compliance with this provision.

## XI. PROJECT MANAGEMENT

### A. Lead-Based Paint

The Agency must comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, M, and R, which apply to activities under this Contract.

### B. Housing Standards



Permanent housing receiving funding under this Contract must meet the habitability standards in accordance with [Consolidated Homeless Grant \(CHG\)/System Demonstration Grant \(SDG\) guidelines](#).

### C. Coordinated Entry System

The Agency shall use the Coordinated Entry system established by the Everett/Snohomish County Continuum of Care as required by the Department of Housing and Urban Development (HUD) CoC Program Coordinated Entry Requirements and guidelines as described in the [Consolidated Homeless Grant \(CHG\)/System Demonstration Grant \(SDG\) guidelines](#).

Transitional Housing, Homelessness Prevention, Rapid Re-Housing, and Permanent Supportive Housing projects funded by EHF must participate in Snohomish County's Coordinated Entry (CE) by accepting referrals and must fill openings exclusively through the CE process.

## XII. RECORDS

### A. Records to Be Maintained

The Agency shall maintain all records pertaining to the activities funded under this Contract and as further described in Exhibit B and shall furnish such records to the County, Commerce, or other authorized Federal officials, as requested. The Agency shall maintain records including, but not limited to:

1. Books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.
2. The above records and all other financial records, supporting documents, statistical records, and all other records pertinent to this Contract shall be retained for a period of six (6) years following the date of final payment or termination of this Contract. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times, to inspection, review or audit by Commerce, personnel duly authorized by Commerce, the Office of the State Auditor, and federal, state and county officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.



## **B. Participant Information and Confidentiality**

The Agency understands that participant information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or Agency's responsibilities with respect to services provided under this Contract, may be prohibited by federal, State, and local laws regarding privacy and obligations of confidentiality, unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

## **XIII. PERFORMANCE REVIEW**

At a minimum, the County shall review quarterly the Agency's level of planned performance compared to actual performance as reported on monthly expenditure and reports as provided pursuant to Exhibit B of this Contract. If the Agency has expenditure issues, or performance issues related to utilization or outcomes defined in Exhibit B, the County may reallocate those funds to other eligible program agencies. Any reduction will be based on actual performance. The level of funding reduction shall be negotiated between the Agency and the County, with the County retaining the authority to set the reduction level.

## **XIV. PROHIBITIONS**

Funds awarded under this Contract shall not supplant other existing funding sources. Funds awarded under this Contract shall not be used for:

- A. Activities not related to the EHF Program;
- B. Administrative expenses above the amount specified in Exhibit C; and
- C. Non-expendable equipment with a cost exceeding \$1,000.00 per item, without prior approval of the County.

## **XV. HOMELESS MANAGEMENT INFORMATION SYSTEM PARTICIPATION**

- A. The Agency shall participate in the Snohomish County Homeless Management Information System ("Snohomish County HMIS") which is administered by the County's Human Services Department. Snohomish County HMIS is an electronic database that collects data on homeless persons who receive coordinated entry, outreach, homeless prevention and intervention services, emergency shelter, transitional housing, supportive services not linked with housing, and permanent housing, including rapid rehousing, permanent supportive housing, and other permanent housing.
- B. Participation shall include the following:

1. Technical set up;
2. Staff training;
3. Development of and adherence to an HMIS implementation schedule;
4. Adherence to the requirements set forth in the Local HMIS Data Quality Plan, including timely data entry, internal monitoring of data quality, and timely correction of data;
5. Adherence to the requirements set forth in the Snohomish County HMIS Policy and Procedures Manual; and
6. Adherence to the requirements set forth in the “Agency Partner Agreement” and “User Policy, Code of Ethics and Responsibility Statement” executed by the Agency and Agency’s staff.

**XVI. PUBLICITY**

The Agency agrees not to publish or use any advertising or publicity materials in which the state of Washington or the County’s name is mentioned, or language used from which the connection with the state of Washington’s or the County’s name may reasonably be inferred or implied, without the prior written consent of the County.

**XVII. WRITTEN POLICIES AND PROCEDURES**

- A. Written policies and procedures consistent with federal and state regulations, as applicable, shall be kept on file in the office of the Agency and available for review.
- B. Such policies and procedures shall include, but not be limited to:
  1. Personnel and job descriptions;
  2. Organizational chart;
  3. Travel;
  4. Fiscal management;
  5. Location of handicap accessible facilities and services for homeless people with special needs; and
  6. Provision for bilingual public contact employees as appropriate.

## **XVIII. DOCUMENTS ON FILE**

- A. Documents consistent with federal and state regulations, as applicable, shall be kept on file in the office of the Agency and made available for review by the County at reasonable times.
- B. Such documents shall include, but not be limited to:
  - 1. Articles of incorporation/Tribal charter;
  - 2. By-laws;
  - 3. IRS nonprofit status certification;
  - 4. Current Agency audit;
  - 5. Insurance and bonding policies required by the Contract; and
  - 6. Contract Face Sheet.

## **XIX. PERFORMANCE EVALUATION AND MONITORING**

The Agency agrees to participate with the County in any evaluation of the Project conducted by the County, Commerce, or HUD and to make available all information in its possession relevant to such evaluation. The County will monitor the performance of the Agency against the goals and performance standards set forth in this Contract. Remedies for substandard performance that is not corrected to the County's satisfaction may include Contract suspension or termination following the procedures described in the Basic Terms and Conditions Agreement.

## **XX. TREATMENT OF CLIENTS**

The Agency shall not:

- A. Deny shelter to a homeless person or family because of inability to pay;
- B. Require participation in a religious service as a condition of receiving assistance; or
- C. Require residency in the designated service area as a requirement for a homeless person to receive services.

**XXI. ENVIRONMENTAL TOBACCO SMOKE**

Smoking is not permitted in any portion of any indoor facility owned, leased, or contracted for by the Agency and used routinely for the provision of services to children under the age of 18.

**XXII. COORDINATION OF ACTIVITIES**

Activities shall be coordinated with similar and related programs administered by the federal government and the state of Washington, including but not limited to, Continuum of Care planning.

**XXIII. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

1. All material provided to the Agency by the County that is designated as "confidential" by the County;
2. All material produced by the Agency that is designated as "confidential" by the County; and
3. All personal information in the possession of the Agency that may not be disclosed under state or federal law. "Personal information" includes, but is not limited to, information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The Agency shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Agency shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell, or disclose any Confidential Information to any third party except with the prior written consent of the County or as may be required by law. The Agency shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale, or disclosure of Confidential Information or violation of any state, or federal laws related thereto. Upon request, the Agency shall provide the County with its policies and procedures on confidentiality. The County may require changes to such policies and procedures as they apply to this Contract whenever the Agency reasonably determines that changes are necessary to prevent unauthorized disclosures. The Agency shall make the changes within the time period specified by the County. Upon request, the Agency shall immediately return to the County any Confidential Information that the County

reasonably determines has not been adequately protected by the Agency against unauthorized disclosure.

- C. Unauthorized Use or Disclosure. The Agency shall notify the County within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

#### **XXIV. AFTER-THE-AGREEMENT REQUIREMENTS**

The Agency's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Contract shall remain in effect during any period that the Agency has control over SDG funds, including program income. The County will close-out the award when it determines, in its sole discretion, that all applicable administrative actions and all required work of the grant have been completed.

#### **XXV. CONFORMANCE**

If any provision of this Contract 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.

#### **XXVI. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Agency's income or gross receipts, any other taxes, insurance, or expenses for the Agency or its staff shall be the sole responsibility of the Agency.

#### **XXVII. FRAUD AND OTHER LOSS REPORTING**

The Agency shall report in writing to the County all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable.

## **EXHIBIT B**

### **STATEMENT OF WORK**

#### **EVERETT GOSPEL MISSION PALLET PROJECT**

##### **I. DESCRIPTION**

The HMIS Name and Project ID are: 19757 PALLET SHELTER program (the Project) is funded with the Emergency Housing Fund (EHF), a Washington State Department of Commerce (Commerce) grant.

The Office of Community and Homeless Services (OCHS), as the Collaborative Applicant for the Everett/Snohomish County Continuum of Care (CoC), oversees the administration of the Coordinated Entry (CE) system under the guidance of the Partnership to End Homelessness (PEH). This Contract provides funding for temporary shelter to eligible households which does not require participants to sign leases or occupancy agreements or who are referred by a Coordinated Entry Resource Navigator.

The Agency shall undertake the activities described below under the direction of, and in collaboration with, the County and the PEH. In compliance with the terms of the Contract, the Agency shall perform the tasks and services carry out the Project as described in the Project Application, in Exhibit A, and in any subsequent revisions to the Project approved by the County. In addition to amendments and guidance from the County, the Agency shall comply with the Commerce Guidelines, as amended and RCW 43.185c Homeless Housing and Assistance. Additional information is available on the Department of Commerce website (<https://www.commerce.wa.gov/serving-communities/homelessness/consolidated-homeless-grant/>).

##### **II. ELIGIBILITY REQUIREMENTS**

A. The Agency will provide the following assistance to participant households.

1. The Project shall serve eligible Participants only, defined as:
  - a. Unsheltered Homeless: Living outside or in a place that is not designed for, or ordinarily used as a regular sleeping accommodation for human beings;
  - b. Fleeing or attempting to flee violence: domestic violence, dating violence, sexual assault, stalking, human trafficking, or other dangerous or life-threatening conditions that relate to violence against the household member(s); or

- c. Sheltered Homeless: Residing in a temporary housing program including shelters or exiting a system of care or institution where they resided for 90 days or less AND who resided in an emergency shelter or place not meant for human habitation immediately before entering that system of care or institution; or residing in a trailer or recreational vehicle that is parked illegally or in a location that is not intended for long-term stays.
  2. The Agency shall prioritize households who have a prior residence that is a place not meant for human habitation. Further, the Agency shall serve the target subpopulation(s) of individuals and families with children.
- B. The Agency shall ensure that all households served by the Project are enrolled in the Snohomish County's Coordinated Entry (CE) System by referring households to North Sound 2-1-1 to enroll the household into the CE System or through collaboration with a partner organization's Resource Navigator.
- C. The Agency shall follow a low-barrier approach and offer flexible intake schedules. The Agency shall enroll all eligible Participants in the Project without preconditions or barriers to entry. Participants must be enrolled regardless of the following criteria:
1. Having too little or no income;
  2. Having poor credit or financial history;
  3. Having poor or lack of rental history;
  4. Having involvement with the criminal justice system;
  5. Having active or a history of alcohol and/or substance abuse;
  6. Having been impacted by a crime;
  7. Lacking ID or proof of U.S. Residency Status;
  8. The type or extent of disability-related services or supports that are needed;  
or
  9. Other behaviors that are perceived as indicating a lack of "housing readiness", including resistance to receiving services.

The Agency may not establish eligibility requirements beyond those established by the Contract or applicable regulations, without prior written express approval from Snohomish County Human Services.

- D. The Agency shall administer the Snohomish County Fenn-Jorstad Self-Sufficiency Matrix© (FJSSM) to all adults served by the Project. The FJSSM© shall be administered at program entry and at exit; all scores must be entered into the Snohomish County Homeless Management Information System (HMIS).
- E. The Agency shall provide the following supportive services:
1. The Agency shall provide supportive services with the primary goal of quickly exiting to permanent housing. Supportive services may include assessing for rental barriers, targeted housing search, landlord engagement/negotiation, accessing mainstream resources, and making referrals to employment partners.
  2. Agency staff will complete the Coordinated Entry Assessment with Participants and use a Housing Stability Plan with specific action steps designed to address rental barriers and assist in obtaining permanent housing as quickly as possible. If the household's stay is longer than thirty (30) days, then the plan shall be reassessed and documented at least every thirty (30) days.
  3. The Agency shall make every effort to engage participants in supportive services. Supportive services shall emphasize participant choice and participation shall be entirely voluntary.
- F. The Agency shall not terminate Participants from the Project for any of the following reasons:
1. Failure to participate in supportive services or treatment programs;
  2. Failure to make progress on a housing stability plan;
  3. Alcohol and/or substance use in and of itself is not considered a reason for termination;
  4. Households residing in emergency shelter must not be exited to homelessness due to reaching a maximum stay limit; and
  5. The Agency must have a process in place for Participants terminated from a low barrier project due to violating rules focused on maintaining a safe environment to be considered for re-enrollment, if the household demonstrates unsafe behavior is unlikely to re-occur.
- G. The Agency shall ensure that Project units are of suitable dwelling size and meet Habitability Standards; an inspection of the facility must be conducted and documented at least once a year.



- H. The Agency shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at 24 CFR part 35, as applicable to the activities under this Contract.
- I. The Project will operate on a maximum ninety (90) day model. To the extent practicable, residents will be assisted in obtaining housing within thirty (30) days of entry into the emergency shelter. The shelter will strive to reduce the average length of stay. However, residents may stay longer to prevent returns to homelessness.
- J. If a household stays longer than ninety (90) days in emergency shelter, the Agency shall document income eligibility (at or below thirty percent (30%) AMI). Income eligibility must be documented at least every three (3) months thereafter.

Income limits are based on Area Median Income (AMI) which can be located at: [www.huduser.gov](http://www.huduser.gov). Income is money that is paid to, or on behalf of, any household member. Income includes the current gross income (annualized) of all adult (18 years and older) household members and unearned income attributable to a minor. Income inclusions and exclusions are listed in the Electronic Code of Federal Regulations, [www.ecfr.gov](http://www.ecfr.gov), Title 24 – Housing and Urban Development: Subtitle A 0-99: Part 5: Subpart F: Section [5.609 Annual Income](#).

Gross Income is the amount of income earned before any deductions (such as taxes and health insurance premiums) are made.

Current Income is the income that the household is currently receiving. Income recently terminated should not be included. Documentation dated within 30 days is acceptable. However, for public assistance benefits, (e.g., SSI, food stamps), a benefits statement received any time within the twelve months prior to the time of application and reflecting current benefits received by a household is allowed. A copy of a recent bank statement indicating direct deposit is also acceptable.

- K. The Agency will maintain an individual client file for each household served under this Contract that includes: a client file checklist; documentation of homelessness and program eligibility; HMIS consent; Coordinated Entry Assessment and Housing Stability Plan; a record of services provided and service referrals; income certification, if applicable; Habitability Inspections; and other information as needed to meet the requirements of Exhibit A.

### **III. OUTPUTS AND OUTCOMES**

- A. The Project shall provide a minimum of 20 bed nights each day.

- B. The Agency shall make best efforts to meet or exceed identified outcome(s) for the Project; these outcome(s) are aligned with the System Performance Benchmarks, as adopted by the Partnership to End Homelessness (PEH) Continuum of Care Board. The outcome measure(s) for the Project are as follows:

Measure	Description	Outcome
Length of Stay	Average number of days households remain in Emergency Shelter	Less than one hundred and three (103) days
Exits to Permanent	Percentage of households who exit to permanent housing	Greater than eight percent (8%)

#### IV. REPORTS

The Agency shall submit to the County such reports as the County requests pursuant to the requirements of federal, state, and/or local law, as applicable. At a minimum, the Agency shall submit, in a format prescribed by the County, the following reports:

REPORT	DUE DATE
Housing Inventory Count (HIC)/Annual Report	Annually, by the submission deadline established by the County;
Commerce Golden Report. Any data issue identified by the County, including but not limited to, client enrollment and assessment data, performance outcomes, and financial data must be addressed by the Agency in accordance with the Snohomish County HMIS Policies and Procedures, as described further in Exhibit A.	Annually, by the submission deadline established by the County; and
Quarterly Performance Report Review Form.	Within 14 days after Agency receives each Quarterly Performance Report from the County.

#### V. ADDITIONAL REQUIREMENTS

The Agency shall participate in the following activities:

- A. Everett/Snohomish County Continuum of Care (CoC) activities, including participation in planning activities, and the annual Point-In-Time (PIT) Count of individuals and families experiencing homelessness or who are at risk of homelessness. PIT participation includes the active recruitment of volunteers to conduct the PIT Count and submission of PIT project-specific data and information;
- B. The Agency shall ensure that appropriate staff attend all applicable trainings and learning opportunities, as identified by the County. In addition, staff that provide direct services and supervise staff who provide direct services and manage homeless grants should receive training and demonstrate competency in, at a minimum:
  - 1. Trauma Informed Services;
  - 2. Supporting victims of domestic violence;
  - 3. Fair Housing;
  - 4. Racial Equity;
  - 5. LGBTQ+ competency;
  - 6. Rapid Rehousing; and
  - 7. Progressive Engagement and Problem-Solving.
- C. Attend Coordinated Entry Partnership meetings and Navigator meetings as requested share information about system gaps and recommend next step improvements.
- D. Participate in data collection, project evaluation, and professional development opportunities as requested by OCHS or its partners.

**AGENCY NAME:** City of Everett

**CONTRACT PERIOD:** 7/1/2023 to 6/30/2024

REVENUE SOURCE	FUNDING PERIOD	AMOUNT	AMENDMENT	TOTAL AMOUNT
Emergency Housing Fund (COM)	7/1/2023 to 6/30/2024	\$ 745,864		\$ 745,864
				-
				-
				-
				-
				-
TOTAL FUNDS AWARDED:		\$ 745,864	\$ -	\$ 745,864

TOTAL MATCHING RESOURCES:	\$	-

SOURCE	FUNDING PERIOD	AMOUNT
TOTAL OTHER RESOURCES:		\$ -

# EXPENDITURES

CATEGORY	FUND SOURCE EHF Admin	FUND SOURCE EFH Facility Support	FUND SOURCE EHF Operations	TOTAL	MATCHING RESOURCES	OTHER RESOURCES
Salaries/Wages			\$ 184,820	\$ 184,820		
Benefits			50,046	50,046		
Supplies/Minor Equip.			26,700	26,700		
Prof. Services		\$ 359,744		359,744		
Postage						
Telephone						
Mileage/Fares						
Meals						
Lodging						
Advertising						
Leases/Rentals						
Insurance		12,000		12,000		
Utilities		31,344		31,344		
Repairs/Maint.		24,000		24,000		
Client Flex Funds			5,000	5,000		
Client Rent						
Printing						
Dues/Subscrip.						
Regis./Tuition						
Machinery/Equip.						
Administration	\$ 52,210			52,210		
Indirect						
Occupancy						
Misc. Construction						
Acquisition						
Relocation						
TOTAL	52,210	427,088	266,566	745,864	\$ -	\$ -

## EXPENDITURE NARRATIVE

AMOUNT	CATEGORY	NARRATIVE (provide justification describing each category supported with funds awarded under this contract)
\$ 184,820	Salaries/Wages	0.8 FTE Site Supervisor, 0.8 FTE Site Supervisor, .77 FTE Maintenance Staff for 12 months
\$ 50,046	Benefits	Proportionate amount of staff medical and dental insurance, FICA, Workers Comp Ins, Medicare
\$ 26,700	Supplies/Minor Equip.	Toilet tissue, Sanitizer, Hygiene products, Cleaning supplies, Laundry supplies, First Aid
\$ 359,744	Prof. Services	Contracted 24 hour security, Sani-Can service
\$ 12,000	Insurance	Portion of Liability and Replacement Insurance
\$ 31,344	Utilities	Portion of costs for electricity - PUD, natural gas - PSE, water and sewer - City of Everett, and refuse - Rubatino
\$ 24,000	Repairs/Maint.	Repair and replacement parts for pallet units, accessory structures, and fencing
\$ 5,000	Client Flex Funds	Client assistance for items and services to remove barriers to housing including but not limited to State IDs, glasses, medical or dental needs, minor vehicle repair, employment supplies or uniforms, transit passes, fuel cards, merchant cards
\$ 52,210	Administration	Indirect administrative costs not to exceed 7% (Admin for Agency and City)
\$ 745,864	TOTAL	

# **DETAIL SALARIES / WAGES**

POSITION	FUND SOURCE	% OF TIME TO FUND SOURCE	TOTAL MONTHLY	MONTHLY CHARGE TO FUND SOURCE	# OF MONTHS	TOTAL CHARGE TO FUND SOURCE
Site Supervisor	EHF	100.00%	\$ 8,500	\$ 8,500	12.00	\$ 102,000
Site Supervisor	EHF	80.00%	5,500	4,400	12.00	52,800
Maintenance Staff	EHF	80.00%	3,000	2,400	12.00	30,020
TOTAL:						\$ 184,820

NOTE: Above figures may reflect rounding

**Project title:** A Professional Service Agreement with Board and Vellum, LLC to Provide Architectural and Engineering Services for the Walter E. Hall Community Connections Path Project

**Council Bill #**

**Agenda dates requested:**  
6/5/24

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

**Budget amendment:**  
Yes ☒ X No

**PowerPoint presentation:**  
Yes ☒ X No

**Attachments:**

**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:** Walter E. Hall Community Connections Path

**Partner/Supplier:** Board and Vellum, LLC

**Location:** 1226 West Casino Road, Everett, WA

**Preceding action:** Funding Ordinance 4010-24

**Fund:** Fund 354, Program 094 (CIP-3)

**Fiscal summary statement:**

The proposed Professional Service Agreement with Board and Vellum, LLC is for architectural and engineering services for the Walter E. Hall Community Connections Path Project. The source of funds is Fund 354, Program 094. The maximum allowable design cost is \$89,496.

**Project summary statement:**

The project will install a multi-use pathway connecting 90<sup>th</sup> St SW to Walter E. Hall Park. The project will remove barriers to park access in the Westmont neighborhood by increasing the number of households within a 10 minute walk of the park. Architectural & Engineering consultant services will be contracted to develop schematic design, bid documents, construction drawings, and assist with bidding and construction administration.

Board and Vellum, LLC was selected from a formal RFQ process.

**Recommendation (exact action requested of Council):**

Authorize the Mayor to sign a Professional Service Agreement with Board and Vellum, LLC to provide architectural and engineering services for the Walter E. Hall Community Connections Path project.





**PROFESSIONAL SERVICES AGREEMENT  
(CDBG)**

This Professional Services Agreement ("**Agreement**") is effective as of the date of the Mayor's signature below and is between the City of Everett, a Washington municipal corporation (*the "City"*), and the person identified as Service Provider in the Basic Provisions below ("**Service Provider**"). This Agreement is for the purpose of the Service Provider providing the services as set forth in this Agreement. This Agreement includes and incorporates the Basic Provisions, the attached General Provisions, and the documents listed as Exhibits in the Basic Provisions.

BASIC PROVISIONS	
Service Provider	Board and Vellum LLC
	115 15th Ave E Ste 100 Seattle, WA
	jeff@boardandvellum.com
City Project Manager	Katherine Phillips
	City of Everett – Parks & Facilities 802 E Mukilteo Blvd Everett, WA 98203
	kphillips@everettwa.gov
Brief Summary of Scope of Work	A&E services for design of path connecting Walter E Hall Park to 90th St SW
Beginning Date	June 1, 2023
Completion Date	December 31, 2025
Maximum Compensation Amount	\$89,496.00

<b>BASIC PROVISIONS</b>	
<b>Exhibits</b>	<p>Exhibit A: Scope of Work and cost proposal dated 5/16/2024</p> <p>Exhibit B: Board &amp; Vellum response dated February 14, 2024, to 2023-164 Request for Qualifications Walter E. Hall Park Community Connections Path</p> <p>Exhibit C: CDBG Project Provisions</p> <p>Exhibit D: CDBG General Terms and Conditions</p> <p>Exhibit E: 2023-164 Request for Qualifications Walter E. Hall Park Community Connections Path</p>
<b>Service Provider Insurance Contact Information</b>	Melanie Kelly
	206.673.2450
	Melanie.kelly@alliant.com
<b>Order of Precedence</b>	<p>Differences or conflicts between with provisions of this Agreement shall be resolved by giving precedence in the following order:</p> <ol style="list-style-type: none"> <li>1. Applicable provisions of state and federal statutes and regulations including HUD Community Development Block Grant Regulations</li> <li>2. The Basic Provisions</li> <li>3. Attached General Provisions, CDBG Project Provisions (Exhibit B), and CDBG General Terms and Conditions (Exhibit C), each of which is of equal precedence. In the event of difference or conflict between these parts of this Agreement, Service Provider shall be bound by whichever provision, as determined by the City, is in compliance with applicable law and is more stringent on Service Provider and provides the City with greatest rights.</li> <li>4. Exhibit A, Service Provider's response</li> </ol>

<p><b>State Retirement Systems (must answer both questions)</b></p>	<p>Does Service Provider have 25 or more employees?</p> <p><b>Answer:</b> 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><b>Answer:</b> N/A - Service Provider has 25 or more employees</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>
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**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, and the documents listed as Exhibits in the Basic Provisions.

**CITY OF EVERETT  
WASHINGTON**

**BOARD AND VELLUM LLC**

\_\_\_\_\_  
Cassie Franklin, Mayor

Signature: \_\_\_\_\_

Name of Signer: Jeff Pelletier

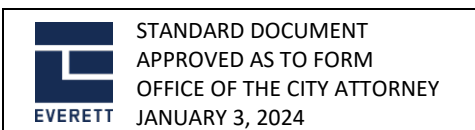
Signer's Email Address: jeff@boardandvellum.com

Title of Signer: Managing Principal

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Office of the City Clerk



**ATTACHMENT**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(GENERAL PROVISIONS CDBG)**

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 exhibit(s) to this Agreement. The work so described is hereafter referred to as “Work”.
  - A. 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, 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.
  - B. 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. Service Provider expressly agrees that no terms or conditions from such proposal or document are incorporated or included into this Agreement, unless the to-be-included term or condition is specifically referenced in the “Additional Provision(s)” portion of the Basic Provisions.
  - C. Work or requirements described in a scope of work document attached as an exhibit to this Agreement in aspirational or preferential terms (such as “it is desired that Supplier will,” “it is preferred that Supplier will” or similar language) is deemed to be mandatory, unless otherwise provided in the “Additional Provision(s)” portion of the Basic Provisions.
  - D. Not Used.
2. **Intellectual Property Rights.** Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
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. The Completion Date may be extended as set forth in the Agreement.
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 the exhibit(s) to this Agreement.
  - 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.

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") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by email, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as email. The City does not by this Section waive, release or forego any legal remedy for any violation, breach or 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 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 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.

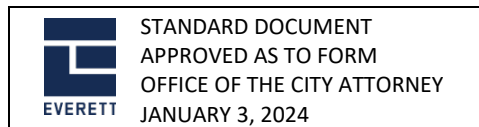
- H. In case of the breach of any provision of this Section, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of Service Provider, and with such insurers, as the City may deem proper, and may deduct 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 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. **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.
32. **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  
(CDBG)**



**EXHIBIT A**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(ATTACHED)**

# Walter E Hall Community Connections Pathway

City of Everett

## Scope of Work

April 30, 2024

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### Walter E Hall Community Connections Pathway

The goal of the project is to improve non-vehicular access to Walter E Hall Park by constructing a 6'-8' wide multi-use path connection between 90<sup>th</sup> street SW. The scope of work includes preparing design, engineering, including survey and geotechnical investigation, permitting, and construction documents for approximately 1800 linear feet of asphalt path.

#### Task 1 Project Administration

**Purpose:** Maintain clear communication with the city and design team to keep project on schedule and within budget.

**Deliverables:**

- Kickoff and Project set-up
- Project Schedule with monthly updates
- Monthly invoices
- Meeting agendas and minutes

#### Task 2 Base Data

**Purpose:** Collect basic site data including existing documentation, conduct a topographical survey and geotechnical investigation.

##### Task 2.1 Survey

- A) Property boundary survey of parcels
- B) Topographic survey of area shown in attachment A – Limit of Work. 2-foot contours, existing overhead and underground utilities, and portion of 90<sup>th</sup> St SW roadway
- C) Tree Survey

##### Task 2.2 Geotechnical Investigation

- A) Site Reconnaissance
  - (a) Review existing reports and data in the project vicinity
  - (b) Site observations of any ground features
- B) Subsurface Explorations
  - (a) Dynamic Cone Penetrometer Testing (DCPT) - Conduct 5-6 DCPT along the length of the potential trail alignment

- C) Geotechnical Report
  - A) Report outlining outcomes of studies and field results including surface and subsurface conditions (soil and groundwater), seismic site class and liquefaction, recommendations for supporting the multi-use trail surface and recommended pavement surface, general earthwork recommendations for excavation, fill and compaction.

**Deliverables:**

T 2.1 Topographic survey

T 2.2 Geotechnical Report

### Task 3 Preliminary Design & Permitting

**Purpose:** Prepare conceptual design for the trail alignment according to City standard specifications and details with adequate detail for preliminary pricing.

#### TASK 3.1 Schematic Design

- A) Site visit with team and City staff to evaluate the site and adjacent conditions and projects
- B) Work with City to develop compliance strategies (code, drainage, ADA) in coordination with a preapplication meeting
  - A) Review conceptual strategy with city
- C) Develop 30% design level drawings for city review and permit submittal based on approved conceptual strategy
  - A) Tree protection, erosion control and demolition plans with notes on construction access, erosion and sediment control assumes silt fence, interceptor swales and sedimentation traps,
  - B) Layout and materials plan for trail improvements including curbs, ramps and driveway approach as required
  - C) Grading Plan & Drainage Plan - including contours, spot elevations, cut/fill quantities, trail profiles, assumes trail will be exempt from water quality requirements due to low vehicular use and that stormwater will be sheet flow from the proposed path.
  - D) Planting plan and details (as needed)
  - E) Drainage report – outlining existing and developed conditions, proposed facilities, off site analysis as required by the City
  - F) Outline WSDOT specifications
  - G) Conceptual probable cost estimate

**Deliverables:**

T3.1 30% Conceptual Design Package

T3.2 Permit submittals

T3.3 City Coordination including (1) on site meeting, (1) virtual meeting to present 30% package, including (1) revision

## Task 4 Final Design

**Purpose:** Lead collaboration with City to keep project on track and meet design and budgetary goals, prepare construction document package ready for bidding, utilize the City's standard details and specifications to maximum extent feasible, continue open transparent communication with the City.

### Task 4.1 Design Documentation

- A) Refine schematic design documents to produce final design documents for bid.
  - (a) 60% Construction documents for city review and (1) revision
  - (b) 90% Construction documents for city review and (1) revision
  - (c) 100% Construction documents for city review and (1) revision
  - (d) Bid Documents

#### Deliverables:

T4.1 60%,90%,100% plans in pdf format suitable for review in Bluebeam software

T4.2 Revision of all plans and written responses to all staff comments

T 4.3 Bid Documents including Opinion of Probable Cost

## Task 5 Bid Support

**Purpose:** Provide assistance to City to issue project documents for Bidding; provide further information and clarification as needed for the purpose of obtaining accurate bids.

T5.1 Assist City prepare and issue bid documents

T5.2 Provide revisions and additional project documentation in response to questions from Bidders (1 round)

T5.3 Prepare and issue Addendum (if needed)

#### Deliverables:

TR5.1 Bid ready package including plans, contract documents, special provisions, specifications, and opinion of probable cost.

## Task 06 Construction Administration Support and Close out

**Purpose:** Provide basic construction administration services to support the city as needed.

T6.1 Construction Administration – Preconstruction kick-off meeting, (2) site visits at designated project milestones, review submittals and shop drawings, address and prepare responses to RFIs, final Punch site visit and punch notes

T6.2 Close out – prepare final records based on As-builts provided by contractor in CAD and PDF format.

#### Deliverables:

T6.1 Up to (4) site visits, sketches, responses, final punch

T6.2 Record Drawings



## Assumptions & Exclusions

- City to provide all existing documents for the project site.
- No cultural or historic artifacts will be encountered during field work.
- No deep machine testing will be needed.
- Project will not require a cultural landscape evaluation.
- Traffic studies will not be required.
- City will provide standard plans, details and specification requirements.
- Permit fees will be paid by the City.
- All utilities are available adjacent to the property and are of sufficient capacity to service the project without further review and without a required Developer's Extension Agreement.
- Evaluation of chemical properties of soil and groundwater, or presence of wetlands are not included.
- Assume to presentations to City Council, Parks Board or other community engagement.
- If needed, city will provide any services that would be performed by a certified arborist.
- Infiltration data and report on adjacent PUD site adequate for use in this project.
- Assume irrigation or seasonal watering provided by City.
- Assume SEPA is not required.
- Survey will not set parcel corners.

## Additional Services

- All other services not outlined above including additional field investigations, meetings, revisions, format changes, studies, estimates, presentations or correspondence, federal or state permitting will be considered additional services.
- Tree identification and risk assessment by a certified Arborist.
- Structural, shoring, or electrical engineering.
- Photometrics.
- Monitoring.
- Community outreach.

## Reimbursables

- Printing and plotting
- Mileage shall be reimbursed at the federally approved standard mileage rate.

Walter E Hall Community Connections Path  
Budget Overview

Consultant	Services	Total FEE
B&V	LA   PM	\$18,585
PanGeo	Geotech	\$5,196
DCW	Cost Analysis	\$9,925
CG	Civil Engineer	\$29,045
Terrane	Survey	\$13,955
	SUB-TOTAL	\$76,706
Add Item: Infiltration test		\$4,654
	SUB-TOTAL	\$81,360
Design Contingency (10%)		\$8,136
	TOTAL	\$89,496

Board & Vellum  
5/16/2024

Walter E Hall Community Connections Path

5/16/2024	75000	Board & Vellum			PanGEO				DCW				CG Enginners				Terrane			
	Role	Principle	PM/Senior Associate	Associate	Principal	Senior Engineer/ Geologist	Staff	Field Staff	Managing Director	Senior Project Leader	Cost Estimator	QAQC	Principal	Project Manager	CE II	CAD Drafter	2Person Field Crew	Professional Land Surveyor	Drafting	Admin
	Rate	\$225	\$180	\$140	\$225	\$185	\$145	\$135	\$185	\$175	\$165	\$110	\$ 250.00	\$ 205.00	\$ 145.00	\$ 115.00	\$5,665	\$275	\$175	\$125
Task 1.0	Project Administration																			
1.1	Project Administration	1	24																	
	Sub-total	\$ 225	\$ 4,320	\$ -																
	Consultant Sub-Total	\$4,545																		
	SubTotal																			
TASK 2.0	Base Data																			
2.1	Survey																2	4	8	1
2.2	Geotechnical Investigation				2	6	11	13												
	Sub-total				\$ 450	\$ 1,110	\$ 1,595	\$ 1,755									\$11,330	\$1,100	\$1,400	\$125
	Consultant Sub-Total				\$4,910												\$13,955			
	SubTotal																\$ 18,865			
TASK 3.0	Preliminary Design & Permitting																			
3.1	Schematic Design	2	30						2	3	10	2	0.5	11	24	10				
	Sub-total	\$ 450	\$ 5,400	\$ -					\$ 370	\$ 525	\$ 1,650	\$ 220	\$ 125	\$ 2,255	\$ 3,480	\$ 1,150				
	Consultant Sub-Total	\$5,850							\$2,765				\$7,010							
	SubTotal																\$15,625			
TASK 4.0	Final Design																			
4.1	Final Design	2	22							12	28	4	6	20	57	10				
	Sub-total	\$ 450	\$ 3,960	\$ -					\$ -	\$ 2,100	\$ 4,620	\$ 440	\$ 1,500	\$ 4,100	\$ 8,265	\$ 1,150				
	Consultant Sub-Total	\$4,410							\$7,160				\$15,015							
	SubTotal																\$26,585			
Task 5.0	Bid Support																			
5.1	Bid Support	1	4											3	5	2				
	Sub-total	\$ 225	\$ 720	\$ -										\$ 615.00	\$ 725.00	\$ 230.00				
	Consultant Sub-Total	\$945											\$1,570							
	SubTotal																\$2,515			
Task 6.0	Construction Services																			
6.1	Construction Administration & Close Out	1	12										1	4	22	6				
	Sub-total	\$ 225	\$ 2,160	\$ -									\$ 250	\$ 820	\$ 3,190	\$ 690				
	Consultant Sub-Total	\$2,385											\$4,950							
	SubTotal																			
	Total Hours	7	92		2	6	11	13	2	15	38	6	8	38	108	28	2	4	8	1
	Total Labor Cost	\$ 1,575	\$ 16,560	\$ -	\$ 450	\$ 1,110	\$ 1,595	\$ 1,755	\$ 370	\$ 2,625	\$ 6,270	\$ 660	\$ 1,875	\$ 7,790	\$ 15,660	\$ 3,220	\$ 11,330	\$ 1,100	\$ 1,400	\$ 125
	Sub-Total	\$18,135			\$4,910				\$9,925				\$28,545				\$13,955			
	Travel (mileage)	\$250											\$300							
	Reimbursables	\$200			\$286								\$200							
	Reumbursables Sub-Total	\$450			\$286				\$ -				\$500							
	SubTotal																			
	TOTAL	\$18,585			\$5,196				\$9,925				\$29,045				\$13,955			
	% Budget	24%			7%				13%				38%				18%			

Board & Vellum  
5/16/2024

**EXHIBIT B**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(ATTACHED)**

FEBRUARY 14, 2024

Statement of Qualifications | RFQ #2023-164

# Walter E Hall Park Community Connections Path

**Everett, Washington**

Board  Vellum

115 15th Avenue East  
Seattle, Washington 98112  
206 707 8895

[boardandvellum.com](https://boardandvellum.com)

**Project Manager**

Leslie Batten, Senior Associate  
[leslie@boardandvellum.com](mailto:leslie@boardandvellum.com) | 206 673 2450

# Letter of Transmittal

**Date** February 14, 2024  
**To** City of Everett  
**From** Zack Thomas & Leslie Batten – Board & Vellum  
**Project** City of Everett Walter E Hall Park Community Connections Path

Dear Selection Committee,

Board & Vellum (B&V) and our partners are pleased to submit this proposal in response to the City of Everett's (City) Request for Qualifications for the Walter E Hall Park Community Connections Path. Our team has extensive first-hand, local experience working, living, and recreating in Everett, as well as the professional, strategic-thinking experience to benefit the City. We are excited to partner with City staff in the endeavor to make high-quality trail facilities and services that are accessible, inclusive, and enhance the quality of life for Everett's residents, while also supporting the needs for the capital maintenance plan to manage the trail infrastructure and any future growth.

The City outlined several tasks and needs for specific expertise and experience in the RFQ, including preparing design, engineering, permitting, and construction documents for nearly 1,800 linear feet of asphalt multi-use path connecting 90th St West with Walter E Hall Park. Our goal is to prepare the City for the public bidding process with bid-ready documents that ultimately produce a multi-modal linkage that enhances the existing park features, creates a better connection to the neighborhood, and economizes maintenance demands.

We envision a creative design and engineering process in collaboration with City staff to ensure all City goals and any known community goals are taken into consideration. Our team of talented supporting partners will ensure design solutions are technically robust, resulting in a successful project.

We would love to be your design team. Thank you for considering our qualifications. We look forward to the opportunity to partner with you to create an exceptional vision for Walter E Hall Park Community Connections Path.

If you have any questions as you review our submission, please don't hesitate to reach out to us.



**Zack Thomas, PLA**

Principal, Landscape & Site Design  
zack@boardandvellum.com  
206 829 8587

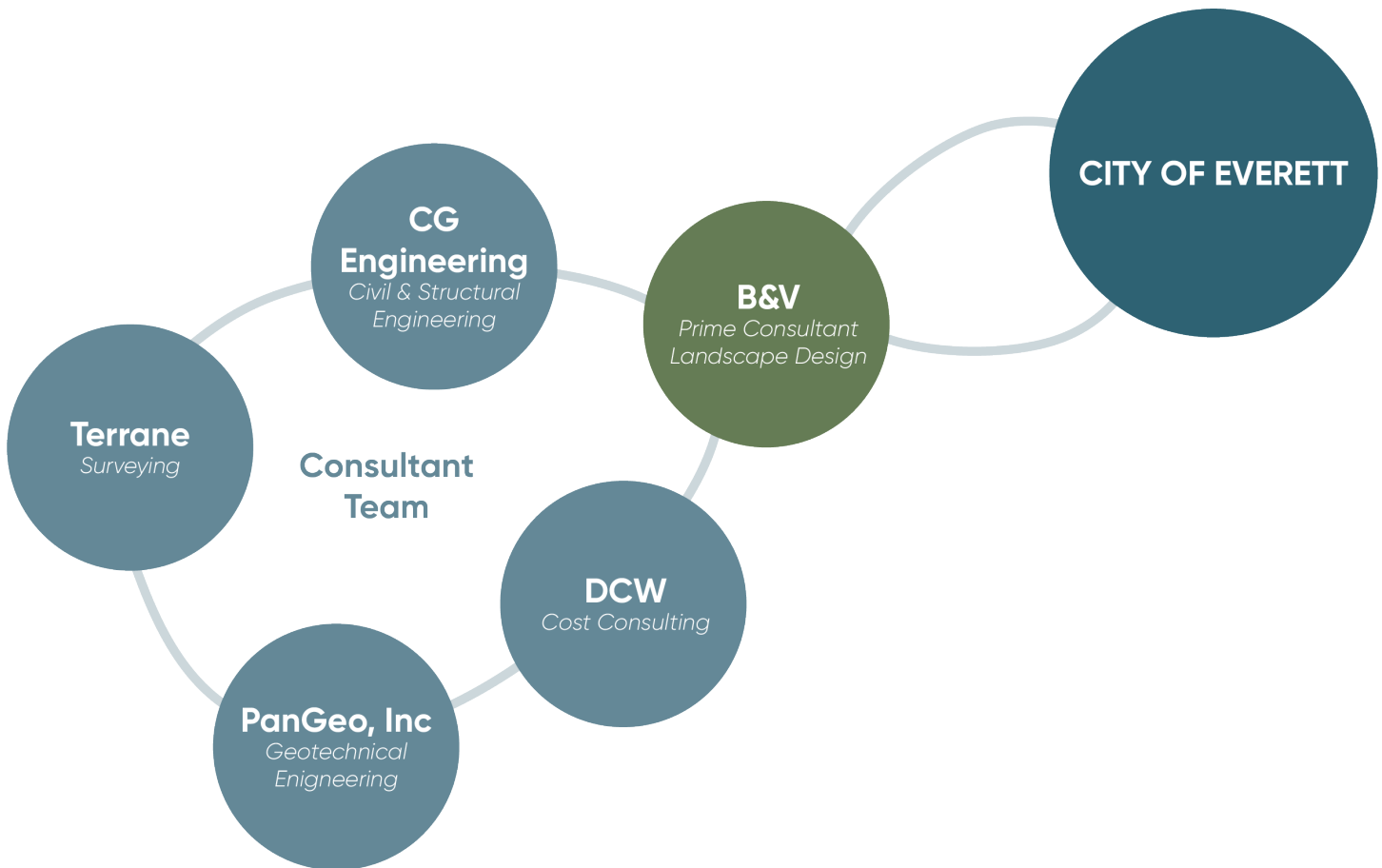


**Leslie Batten, PLA, CPSI, LEED GA**

Senior Associate, Landscape Architect  
leslie@boardandvellum.com  
206 673 2450

# 1. Qualifications & Experience

We believe teamwork is the key to success; that's why we've assembled a team that works seamlessly together, with partners who share values and a commitment to collaboration. We are excited to bring together the strengths of Board & Vellum with our consultant partners.



## A. Company Description

### Board & Vellum

Board & Vellum is a multidisciplinary architecture, interior design, and landscape architecture firm practicing for 13 years. The collective expertise of our design professionals spans many decades. Our ±50 person team leverages our deep well of shared knowledge to navigate complex projects with ease. Guided by a values-driven, client-first approach, our projects are not based around a single design aesthetic, but a vision of creating beautiful, enriching designs for clients and communities.

Our cross-disciplinary approach allows for inspired solutions that could be missed by a conventional team, and aids in our ability to work seamlessly across complex project teams. We foster a culture of open communication, innovation, and learning that prioritizes proactive design solutions. Whether public or private, indoors or outdoors, we focus on elevating experiences, designing for thoughtful impact not only on the immediate surroundings, but on the environment. We are proudly majority LGBTQ-owned, and have been a registered LGBT Business Enterprise through NGLCC since 2016.



### **CG Engineering**

Founded in 1997, CG Engineering offers two decades of experience working with developers, architects, property owners, and public agencies on civil and structural engineering and planning projects throughout the western United States. We employ an experienced team of structural and civil engineers and planners, as well as AutoCAD technicians and administrative staff. Our team efficiently handles complex projects from early land-use planning through development and construction. We emphasize outstanding customer service that builds lasting relationships within our industry and beyond.

### **Terrane**

Established in 1983, Terrane stands as a beacon of excellence in the realm of surveying services, joining decades of experience with cutting-edge technology to provide unrivaled precision and utility in our maps. We pride ourselves on the caliber of our team, our unwavering dedication to client satisfaction, and our extensive database of historic surveys, all of which empowers us to deliver the best solutions for your unique piece of the Pacific Northwest.

Terrane boasts a wealth of experience navigating the complexities of our customers' unique projects. With thousands of projects successfully completed each year spanning architectural design and permitting, infrastructure and urban development, telecommunications, and land use planning, our team recognizes the critical importance of collaboration and communication in the successful execution of all projects. By fostering close partnerships with our clients, regulatory agencies, and stakeholders, we ensure that every federally funded project progresses smoothly from our involvement to completion, achieving the highest standards of quality and compliance along the way.

### **PanGEO, Inc.**

PanGEO, Inc. is a geotechnical engineering firm serving clients in both the public and private sectors. Since its founding in 1999, PanGEO has grown steadily to its current size of 28 staff, including seven licensed Professional Engineers, eight licensed geologists, and 12 staff level geologists and engineers. A focus on top-notch client service, high quality engineering and a can-do attitude on every project are hallmarks of the firm and are evidenced with over 90 percent of our business coming from repeat clients and referrals. PanGEO's project experience includes parks, trails, bridges, pavements, roadway embankments, trenching and shoring, trenchless utility installation, pump stations, waterfront developments, port facilities, landslide evaluation, and retaining walls. From our previous experience, we are familiar with the logistical challenges involved with park projects in an urban setting.

### **DCW Cost Management**

DCW Cost Management is an independent third-party cost consultancy with offices in Seattle, WA and Portland, OR. We provide managed solutions through cost advice for our clients who are investing in infrastructure, property maintenance, and construction development. Because we are embedded in the regional construction community, we deliver costs that are reflective of the market and are detailed using a clear, efficient construction development perspective. We help clients with procurement strategies and engage with the supply chain. We have a proven track record of providing accurate cost planning and cost control services. Typically, our cost estimates fall within 5% of the low bid amounts on projects and often within 3% of the bid. Our services are provided to clients worldwide.

Our experience in the Washington construction market allows us to approach this project with confidence. We track technology and sustainability advances from a cost perspective. We work to offer our team early cost advice for informed decision making and continue through design development to provide an accurate, holistic perspective on cost. We are a Women Business Enterprise (WBE) in Washington and Oregon, a Small Contractor and Supplier (SCS), and a federally recognized Women Owned Small Business (WOSB).



## B. Project Manager



**Leslie Batten, PLA, CPSI, LEED Green Associate**

Board & Vellum, Senior Associate, Landscape Architect

**Years with Firm:** 6

**Years in Profession:** 16

**Project Role:** Project Manager

As a bridge between the built and natural environments, Leslie is committed to bringing together the program needs of the community while accentuating natural systems for mutual benefit. Her background in urban design complements her diverse experience in ecological stewardship resulting in spaces that are multi-functional and aesthetically pleasing. Leslie is passionate about public engagement with award winning results.

A thorough, detail-oriented designer, she is skilled at keeping complex projects and multidisciplinary teams focused on the project goals. She strives for innovation with an eye towards simple, long-term maintenance. Leslie enjoys working closely with clients and the community to discover the little things that make spaces delightful.

### Key Relevant Experience

- **Westside Park Rejuvenation & Master Plan:** *Leslie served as Project Manager for this reimagining of a decade-old Master Plan to create a highly programmed park for diverse community needs.*
- **Discovery Park Visitors Center Accessibility Improvements:** *Leslie served as Project Manager updating park facilities to meet new code requirements and encourage universal access.*
- **Laurelhurst Community Center Accessibility Improvements:** *Leslie served as Project Manager addressing accessibility goals through trail, path, playground, and recreational space updates on a challenging site with steep slopes and mature trees.*

## C. Key Team Members



**Zack Thomas, PLA**

Board & Vellum, Principal, Landscape & Site Design

**Years with Firm:** 7

**Project Role:** *Principal-in-Charge, Landscape Architecture*

Zack is a Landscape Architect and Principal at Board & Vellum, where he centers his approach on unraveling the complexities of each project's design, permitting, construction, and sustainability goals. Zack delights in working at the neighborhood scale and is passionate about carefully listening to clients' needs to design impactful civic and public spaces. With over 20 years of experience, Zack has led projects of varying scopes and scales, including award winning parks and civic projects, ranging from small urban plazas to an 8-acre redevelopment at the San Diego Zoo. He creates spaces that are inclusive, accessible, and sustainable while meeting budgetary goals.



**Jared Underbrink, PE**

CG Engineering, Civil Engineering Senior Project Manager

**Years with Firm:** 17

**Project Role:** *Civil Engineering*

Jared is the Civil Engineering Senior Project Manager at CG Engineering and has been with the company since 2007. Jared's civil engineering experience includes site layout and design for plats, apartment complexes, school campuses and commercial sites. Jared works closely with clients to develop creative solutions and maximize efficiency. He also has experience with low impact design techniques. He is a registered Professional Engineer in Washington.



**Greg Guillen, PE, SE**

CG Engineering, Principal

**Years with Firm:** 27

**Project Role:** *Principal-in-Charge, Civil & Structural Engineering*

As principal of CG Engineering, Greg brings over 35 years of diverse civil and structural engineering and project management experience. He has extensive experience working with team members for successful project outcomes. Greg provides Principal oversight and project management of civil site development for commercial and municipal projects. He is a current member of the Structural Engineers Association of Washington and the American Society of Civil Engineers and served five years as chairperson of the committee on Professional Registration. He is a registered Professional Engineer and a registered Structural Engineer in Washington, Oregon, and Alaska.



**Kenny Green**

Terrane, CEO

**Years with Firm:** 26

**Project Role:** *Principal-in-Charge, Surveying*

As CEO, Kenny is hyper-focused on the future of Terrane. His drive to streamline processes, innovate, and disrupt the status quo in what is often deemed a stagnant field has paved the way for Terrane to become the largest survey only firm in the state of Washington.

Kenny's is unwavering in his pursuit of making Terrane the easiest, and most reliable survey firm to work with. That vision coupled with modern technology and qualified professionals has made it possible for Terrane to complete over 10,000 surveys in western Washington under Kenny's leadership.



**Jacob Miller, PLS**

Terrane, Senior Project Surveyor

**Years with Firm:** 18

**Project Role:** *Surveying Manager*

As our Senior Project Surveyor, Jacob has a pivotal role as an accredited member, who is licensed to measure and define real property and its boundaries. His abilities include but are not limited to calculating property boundaries in preparation for our field crew, verifying all field data gathered and then preparing drawings that meet all Washington state requirements and represents true and accurate information. In addition to partnering with our Field Crew, Jacob also works with our office team and maintains internal communication between multiple departments. He supports the team in a technical and operational manner, ensuring we deliver many types of drawings efficiently and accurately.



**Emily Colin**

Terrane, Account Manager

**Years with Firm:** 4

**Project Role:** *Surveying Account Manager*

Emily will be the primary point of contact for day-to-day communication, and managing the project to ensure it stays on track. She will also act as the liaison between our internal technical team and the client for all comments, revisions, and feedback.



**Scott Dinkelman, LEG**

PanGEO Inc., Principal Engineering Geologist

**Years with Firm:** 10

**Project Role:** *Geotechnical Engineering*

Scott Dinkelman will serve as the Project Manager for the geotechnical aspects of this project, and he will be the single point of contact. Scott brings more than 25 years of technical and project management experience providing geotechnical, and engineering geology consulting services. As a Principal Engineering Geologist, Mr. Dinkelman is responsible for overall project supervision and coordination including mapping, exploration and site assessment, analysis of geologic data, design, and preparation and presentation of technical reports. Scott has worked on more than 20 park and trail projects in the past 10 years.



**Siew L. Tan, PE**

PanGEO Inc., Principal Geotechnical Engineer

**Years with Firm:** 24

**Project Role:** *Principal-in-Charge, Geotechnical Engineering*

Siew L. Tan, PE will service as Principal-in-Charge for geotechnical tasks. He has over 33 years of local experience in a wide range of public and private projects. As principal-in-charge, Mr. Tan will administer the engineering services contracts, participate in the management of individual projects, and provide oversight for all services completed.



**Andrew Jonsson**

DCW Cost Management, Senior Project Leader

**Years with Firm:** 8

**Project Role:** *Cost Estimating*

Andrew and DCW have completed multiple project types for over 200 federal projects, from feasibility through design, the stage gate process, and delivery. He has significant experience with renovation or new construction for public spaces, systems upgrades, exterior upgrades, site improvements including security and monitoring measures, seismic retrofits for public buildings including law enforcement, courthouses, and public safety buildings. Andrew will manage the cost report development, the product cost research, and confirm accuracy of all deliverables. He will also engage deeply in the reconciliation process, and provide the reconciliation documentation to the team. He will manage the coordination of all client communication.

## 2. Approach & Capability

Walter E Hall Park is a well-established park with a long history in the community. Surrounded by dense housing, there is high demand for public space of this size and character to meet the diverse recreational needs of the growing community. The City's Park Recreation and Open Space Plan (PROS) plan outlines a vision to better serve the community with multi-modal trails that create safe and accessible opportunities to link the community with their park and their desired program opportunity or activity. Our role is to help bring this vision to life. We know how important it is to tailor park programs to the constituencies they serve, and see many opportunities for this project to meet the changing needs of the neighborhood.

We believe achieving a successful project is only possible when we can deliver it on schedule and on budget while also building a strong, collaborative relationship with the City.

### **Collaboration**

A strong working relationship built on trust and respect is foundational to the success of your project. We've built our reputation through dedicated, client and community-focused service, with transparent processes that are well-managed and take the guesswork out of planning milestones, task coordination, budget, and schedules. Communication is key to our success and carries through our entire process.

### **On Schedule**

We have the capacity to meet your project requirements. Our project team leads a process that builds on the micro scale while keeping the big picture in mind, with an eye toward shepherding your project beyond conceptual design, and into further design development, construction, and, eventually, ribbon cutting.

### **On Budget**

One way we assess your project is by how closely we are meeting your financial goals. Project tracking software supports weekly budget analysis, alongside in-person check-ins to ensure the project budget and schedule are aligned with the contract. Real-world experience and close relationships with contractors means we're able to provide order-of-magnitude pricing at all phases of the project. We regularly recalibrate our estimates by reviewing current public bid results and can propose quality and economy-based changes based on your goals.

## A. Availability

Our team is deeply rooted in the Puget Sound region, with locations in Seattle, Bellevue, Bothell, Edmonds, and Snohomish. We are available per the denoted design period in the Request for Qualifications.

## B. Project Approach

### **Site Analysis**

We compile existing documentation like plans, surveys, GIS data, aerial photos, and historical data, sharing information across the team to facilitate collaborative problem solving. Our approach includes technical expertise from our entire consultant team to ensure designs are technically feasible and well-coordinated. This results in seamless, elegant, and regulatory-compliant design solutions from the beginning, allowing for more opportunities to focus on the goals and vision of the community.

### **Permitting & Environmental Review**

Our team has experience working with various regulatory bodies on many local projects with accessibility, building, grading and drainage, environmental, and cultural resource requirements. Our team's intimate knowledge of Everett's code, as well as state and federal permitting agencies, will advance project designs and fulfill future regulatory requirements. We conduct focused, regulatory studies of the site to determine the likely permitting pathway. The resulting feasibility narrative provides estimated regulatory schedule and milestones, identifies additional studies or reports that may be required, and discusses significant challenges or variables to consider during design development and implementation.

### **Budget & Cost Analysis**

Our approach to cost planning begins with a comprehensive understanding of the stakeholder's project goals. We take the time to engage with all project stakeholders and understand their unique concerns and priorities. This approach enables us to develop cost plans that represent a complete perspective, ensuring that all project requirements are taken into account.

Our approach involves going into the market and confirming material availabilities and lead times, labor skill sets, and contractor availability based solely on the attributes of this project. Based on this information, we provide risk observations and recommend contingencies specific to each risk item, which are outlined in our risk register. This approach is especially important in construction, where the availability and cost of material and labor can be very volatile, and risks need to be accounted for and mitigated as early as possible. We constantly monitor our risk register and update it as required, ensuring you have access to a living document that accurately reflects the current risks involved in the project and their associated contingencies. This approach ensures that we are always up-to-date on the latest risk factors involved in the project and can mitigate them accordingly. By taking a proactive and comprehensive approach to cost planning, we can ensure that construction projects are completed successfully, on time, and within budget.

### **Trail Design**

A key factor when considering design opportunities for the multi-use path will be identifying where visitors will most want to go, and then allowing that to happen with the landscape as the framework. We understand that although a straight line is the most direct, there is benefit and cost savings to working with the grades, allowing opportunity for drainage, aspect, and slope to work in our favor for accessibility, site lines, and comfort on the body. A good trail capitalizes on building interest by engaging with park destinations, viewpoints, other access points, and intersections with other visitors, while recognizing and accommodating desire lines. We will start our planning efforts with first understanding how this trail will serve the neighborhood, and then identifying how the trail fits into the larger park. This will allow us to create a cohesive Connections Path that best reflects the needs of the community.

### **Sustainability**

We share the City's goal of minimizing environmental impact for the benefit of future generations. Our modeling software tools can help evaluate environmental impacts, enabling comprehensive sustainable designs that comply with the City's Climate Action Plan, facilitate code requirements and sustainability goals, and complement the City's maintenance requirements.

### **Universal Design**

Our team approaches our work with universal, barrier free design as a building principle, not an afterthought. We create innovative spaces where people of all ages and abilities can recreate, relax, and explore safely at their own pace – a universally-accessible experience for all.



### **Placemaking**

We celebrate a site's history, its underlying natural processes, its civic elements, and its role in contributing to our environment, cultural well-being, and climate resiliency. Allowing a site to inform the design process results in lower environmental impacts and costs, and produces inviting, resilient public spaces the whole community can enjoy. Our process prioritizes the continuing health of the park system, which relies on the City's sound management policies, ongoing park maintenance, and periodic park renovation.

Our team's experience with not only trail and boardwalk design, as well as active and passive recreation opportunities, such as sport courts, playfields, picnic areas, nature trails and even places to observe nature, will facilitate designs that offer a wide array of programming elements to meet the needs of a diverse range of user experiences, ages, and abilities, while allowing flexibility for future expansion as the community grows and program needs change.

### **Quality Assurance/Quality Control**

We include a Quality Review role by an experienced staff member independent of the project to get fresh eyes and additional expertise at regular intervals and in advance of major milestones or deliverables. Our process tracks markups and resolved issues, assigns tasks to team members, and prioritizes tasks based on milestone and deliverable for added efficiency.

## **C. Risks**

Overall, we see few risks associated with your project. Minor risks will likely be alleviated once we have more information about the specific project site and boundaries so we can better tailor our scope, such as extents of topographic mapping, utility locations, surveying, and geotechnical evaluation. One major risk is whether additional partners will be necessary such as an arborist or critical area specialist.

## **D. Ability to Estimate & Forecast Construction Cost**

Our team has provided cost planning services for many parks and recreation projects, totaling over 90 projects in the past seven years throughout Washington and Oregon, with additional projects nationwide. Our expertise includes sports fields, play areas, community facilities, display gardens, trails, water features, overlook/respice areas, the assessment of earthwork, landscaping, wetland mitigation and stormwater management, open meadows, and forested areas. Our services extend beyond direct construction costs, as we provide our clients with total project cost development including soft costs, O&M and help define elements for fundraising opportunities. We know the contractor and supply chain communities in Washington and understand how to manage costs through the evolving construction markets including jurisdictional cost pressures. Our benchmarking is based on our very current experience within the market, since we often negotiate guaranteed maximum pricing (GMP) at a very granular level. Additionally, we achieve great results by partnering with the team to recommend both functional ways to deliver projects and the timing in which to deliver them.

### 3. Performance

#### Westside Park Renovation & Master Plan Updates

<b>Dates</b>	2018 – 2022	<b>Client</b>	City of Redmond
<b>Project Team</b>	Board & Vellum	<b>Reference</b>	Carrie Hite, Director
<b>Project Address</b>	5810 156th Avenue NW Redmond, WA 98052		Parks & Recreation Strategy
<b>Project Services</b>	Master Planning, Public Outreach, Consultant Coordination, Construction Contract Administration	<b>Telephone</b>	360 379 2979
		<b>Email</b>	chite@cityofpt.us
		<b>Contract Value</b>	\$1.9M (Initial Budget) \$1.5M (Construction Value)



Board & Vellum’s role on Westside Park’s renovation included thoughtfully revising a decade-old Master Plan to better serve the contemporary neighborhood. Improvements included expanding the park’s connection with the Bridle Crest Trail system with additional multi-modal trails and loop paths, creating a more challenging play area for all ages and abilities, developing a larger sport court, updating drainage and surfacing in a large open space fields all while protecting and celebrating several wetlands and streams.

We landed on a program that was met with community approval while remaining sensitive to Parks Department needs and the site’s constraints. Close collaboration between city, community, and other stakeholders resulted in a highly programmed neighborhood park with something for everyone. Two years to the date from the first community meeting, Westside Park opened to the public.



## Discovery Park Visitors Center Accessibility Improvements

<b>Dates</b>	2020 – 2024; Complete	<b>Client</b>	Seattle Parks & Recreation
<b>Project Team</b>	Board & Vellum	<b>Reference</b>	Janice Liang Senior Capital Projects Coordinator
<b>Project Address</b>	Seattle, WA 98199	<b>Telephone</b>	206 507 3058
<b>Project Services</b>	Landscape Architecture	<b>Email</b>	janice.liang@seattle.gov
		<b>Contract Value</b>	\$1,489,000 (Construction Value)



Seattle Parks & Recreation adopted new accessibility codes that required updates to existing facilities to encourage universal access. The Discovery Park Visitors Center recently underwent building and site upgrades to meet these new goals. At the heart of a trail network, the Visitors Center is a hub of paths that lead out into the park. Several of these trails were updated to accommodate lower slopes, wider clearances, and to include companion seating. A new multi-use trail offers a meandering path along the forest edge with an accommodating grade, maintaining maintenance access, while companion seating areas and additional site benches offer moments to sit and enjoy nature. Visitors have better access to and around the trail head kiosk, as well as to the sport courts, while the amphitheater now hosts companion seating in the heart of the show, all softened with plantings that reflect the local forest.

## Laurelhurst Community Center Accessibility Improvements

<b>Dates</b>	2020 – 2024; Under Construction	<b>Client</b>	City of Seattle
<b>Project Team</b>	Board & Vellum	<b>Reference</b>	Steve Levengood Senior Capital Project Manager
<b>Project Address</b>	Seattle, WA 98199	<b>Telephone</b>	206 386 4556
<b>Project Services</b>	Landscape Architecture	<b>Email</b>	Stephen.Levengood@seattle.gov
		<b>Contract Value</b>	\$1,753,462 (Construction Value)



Laurelhurst Community Center is an historic building centered in a large park with sprawling open space that includes large canopy mature trees, large play fields, tennis courts, a playground, trails and even a fire pit. Our role was to update pedestrian access to the community center, and throughout the park via accessible trails and paths. The site posed many challenges with steep slopes and major grade changes as well as large mature trees that could be impacted with trail updates. Long, meandering paths proved to be the solution to the grade changes, while an elevated boardwalk lifts a portion of the trail above tree roots, providing much desired access between the playground and comfort station. We are always exploring solutions for achieving universal access while balancing sensitive site features, maintenance, and sustainability.

# North Portwalk and Seawall Reconstruction

<b>Dates</b>	2023 – Present	<b>Client</b>	Port of Edmonds
<b>Project Team</b>	CG Engineering	<b>Reference</b>	Brian Menard
<b>Project Address</b>	300 – 336 Admiral Way Edmonds, WA 98020		Director of Facilities & Maintenance
<b>Project Services</b>	Civil Engineering & Structural Design	<b>Telephone</b>	425 673 2010
		<b>Email</b>	bmenard@portofedmonds.org
		<b>Contract Value</b>	\$30M



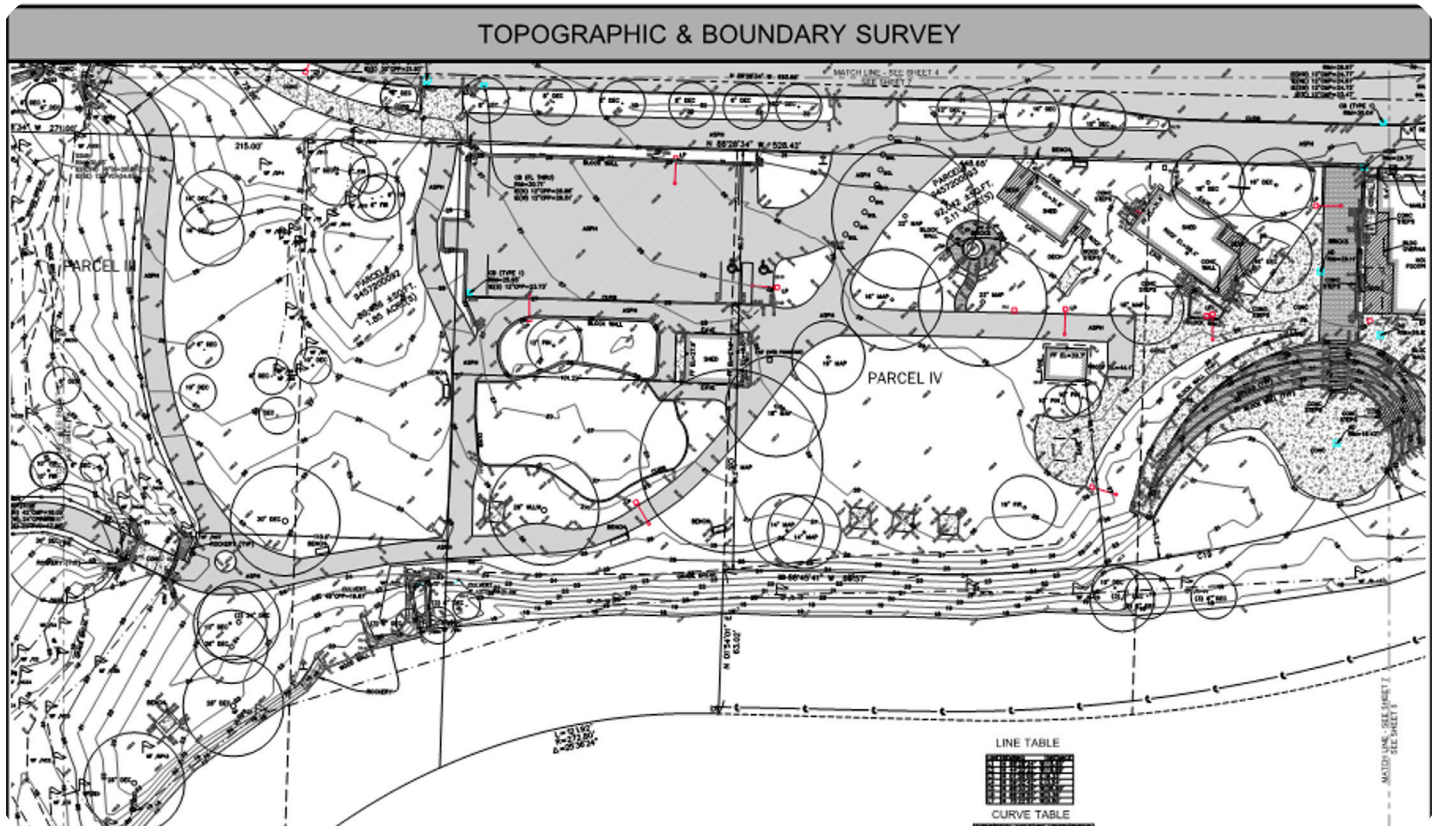
CG Engineering is working on the civil and structural design for a new Seawall and Portwalk along the waterfront in Edmonds, WA. The Portwalk area being replaced is 950 feet long and will provide an improved public access experience and increase tenant usability. CG Engineering. Working with the design team and with the Port of Edmonds, the civil engineering plans will work to provide utilities serving the boat parking areas below and the facilities added along the walking path. Plaza areas, parking lots, lighting, landscaping and restroom buildings will be added along the route to enhance the look of the area and the user experience.



## The Park at Bothell Landing

**Dates** 2023 – Present  
**Project Team** Terrane  
**Project Address** 9929 NE 180th Street  
Bothell, Washington 98011  
**Project Services** Boundary & Topographic Survey

**Client** City of Bothell  
**Reference** Vinita Sidhu, Principal  
Site Workshop  
**Telephone** 206 285 3026  
**Email** vinitas@siteworkshop.net  
**Contract Value** \$25K



For this Master Plan project, Terrane computed parcels for boundary determination, plotted bearings and dimensions, established survey control to site, and performed a full boundary survey staking exterior lot corners. Our working included locating lines of occupation/fences and plot encroachments, if any. Additionally, we're performing a full topographic survey within the provided markup (2-foot contours, NAVD 88 Datum). Topography to include, but is not limited to, spot elevations, structures, finish floor and peak elevations, eaves, decks, stairs, walls, rockeries, improvements, surfaces, wetland flagging, wetland and stream location, significant trees and drip-lines, street, high voltage lines fronting site with elevation of lines at pole, property lines and at the sag point with time and temperature, visible utilities and inverts, etc. Revisions are currently in progress as we wait on the City for Title Report.

## Chambers Creek Park

**Dates** 2020 – 2024  
**Project Team** PanGEO, Inc.  
**Project Address** 6320 Grandview Drive West  
University Place, WA 98467  
**Project Services** Geotechnical Investigation

**Client** Pierce County  
**Reference** Roger Kuydendal  
Gray & Osborne  
**Telephone** 360 454 5490  
**Email** rkuykendall@g-o.com  
**Contract Value** \$47,419



PanGEO prepared the geotechnical report and geologic hazards assessment for the construction of new trails, boardwalks and two pedestrian bridges at this 900-acre park. Our service scope included providing a slope stability reconnaissance of the park slopes and existing trails to assist with determining potential trail alignments and routes in areas that are more stable. We also prepared recommendations to stabilize marginally stable slopes in the immediate area of the pedestrian bridge abutments using micropiles.

## Northgate Park Accessibility Improvements

**Dates** 2021  
**Project Team** DCW Cost Management  
**Project Address** 9415 N Geneva Avenue  
Portland, OR 97203  
**Project Services** Cost Estimation


**Client** Portland Parks & Recreation  
**Reference** Taj Hanson, Project Manager  
Walker Macy  
**Telephone** 503 425 1128  
**Email** thanson@walkermacy.com  
**Contract Value** \$325K (Initial Budget)



The intent of this project is to remediate all the barriers noted on the ADA Transition Plan Site Map for Northgate Park. In general, the project design includes but is not limited to: remove and replace most of the existing pathways, construct new accessible spectator and player seating areas at the ballfields, construct new pathways to some of the picnic areas and replace some of the picnic tables and pads, replace two curb ramps, and fixing the accessible parking space in the parking lot, and replace concrete pads around benches and/or trash cans so that they meet accessibility requirements.

City of Everett  
**REQUEST FOR QUALIFICATIONS**  
 RFQ No. 2023-164  
**Walter E. Hall Park Community Connections Path**

The undersigned hereby declares that he or she is duly authorized to complete and submit this Statement of Qualifications and that the statements contained herein are true and correct as of the date set forth below. Incomplete, incorrect, or misleading information may be a reason for a determination of non-responsibility by the City of Everett.

Company Name: <b>Board &amp; Vellum</b>		
Company Address: <b>115 15th Avenue East</b>		
City: <b>Seattle</b>	State: <b>WA</b>	ZIP: <b>98112</b>
Tax ID #: <b>27-5565006</b>	UBI #: <b>603090966</b>	
Legal status of supplier organization, i.e., corporation, partnership, sole proprietorship. <b>LLC</b>		
Diversity Certification (if applicable): <input type="checkbox"/> <b>Disadvantaged Business Enterprise (DBE)</b> <input type="checkbox"/> <b>Minority Business Enterprise (MBE)</b> <input type="checkbox"/> <b>Women Business Enterprise (WBE)</b> <input type="checkbox"/> <b>Minority Women Business Enterprise (MWBE)</b> Certification number:		
Website: <b>www.boardandvellum.com</b>	City of Everett Business License #	
Supplier Contact Name (if different from Authorizing Official): <b>Leslie Batten</b>	Supplier Contact Title: <b>Senior Associate</b>	
Supplier Contact Email: <b>leslie@boardandvellum.com</b>	Supplier Contact Direct Phone: <b>206-673-2450</b>	
Supplier Contact Address (if different from above):		
City:	State:	ZIP:
Authorizing Official Name: <b>Zack Thomas</b>	Authorizing Official Title: <b>Principal</b>	
Authorizing Official Email: <b>zack@boardandvellum.com</b>	Authorizing Official Phone: <b>206-829-8587</b>	
Authorizing Official Signature* and Date: <div style="display: flex; align-items: center; justify-content: space-between;">  <span>February 14, 2024</span> </div>		
<small>*A signature means an original signature, a copy of an original signature, a PDF scan of an original signature, or a DocuSign/AdobeSign electronic signature.</small>		

City of Everett  
**REQUEST FOR QUALIFICATIONS**

RFQ No. 2023-164

**Walter E. Hall Park Community Connections Path**

**CERTIFICATE OF NONDEBARMENT / SUSPENSION**

- To be completed by the Prime Contractor of this bid and any Subcontractors that will be affiliated with the work in this bid.
- Return the completed form with the original bid package.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER  
INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS

The Lower Tier Participant (Applicant for a third party subcontract or subgrant under an FTA project),  
Board & Vellum hereinafter referred to as *Vendor*, certifies, by  
submission of this document, that neither it nor its principals is presently debarred, suspended,  
proposed for debarment, declared ineligible or voluntarily excluded from participation in this  
transaction by any federal department or agency.

Where the Vendor is unable to certify to any of the statements in this certification, such Vendor shall  
attach an explanation to this submittal.

**The Vendor,** Board & Vellum, **certifies or affirms the truthfulness and  
accuracy of the contents of the statements submitted on or with this certification and  
understands that the provisions of 31 U.S.C. Section 3801 et seq. are applicable thereto.**



\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
February 14, 2024

\_\_\_\_\_  
Date

**THIS FORM SHALL BE COMPLETED BY THE PRIME CONTRACTOR AND ANY  
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Where the Vendor is unable to certify to any of the statements in this certification, such Vendor shall attach an explanation to this submittal.

The Vendor, CG ENGINEERING, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801 et seq. are applicable thereto.

Changchao  
Signature of Authorized Official

MANAGING PRINCIPAL  
Title of Authorized Official

2/15/24  
Date

**THIS FORM SHALL BE COMPLETED BY THE PRIME CONTRACTOR AND ANY SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID. RETURN ALL COMPLETED FORMS WITH ORIGINAL BID PACKAGE.**

City of Everett  
REQUEST FOR QUALIFICATIONS

RFQ No. 2023-164

Walter E. Hall Park Community Connections Path

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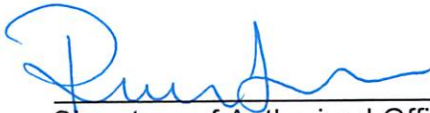
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LOWER TIER COVERED TRANSACTIONS

The Lower Tier Participant (Applicant for a third party subcontract or subgrant under an FTA project), Terrane, Inc. hereinafter referred to as *Vendor*, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the Vendor is unable to certify to any of the statements in this certification, such Vendor shall attach an explanation to this submittal.

The Vendor, Terrane, Inc., certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801 et seq. are applicable thereto.



Signature of Authorized Official

CRO

Title of Authorized Official

2/15/24

Date

**THIS FORM SHALL BE COMPLETED BY THE PRIME CONTRACTOR AND ANY SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID. RETURN ALL COMPLETED FORMS WITH ORIGINAL BID PACKAGE.**



City of Everett  
REQUEST FOR QUALIFICATIONS

RFQ No. 2023-164

Walter E. Hall Park Community Connections Path

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CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER  
INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS

The Lower Tier Participant (Applicant for a third party subcontract or subgrant under an FTA project),  
PanGeo Inc hereinafter referred to as *Vendor*, certifies, by  
submission of this document, that neither it nor its principals is presently debarred, suspended,  
proposed for debarment, declared ineligible or voluntarily excluded from participation in this  
transaction by any federal department or agency.

Where the Vendor is unable to certify to any of the statements in this certification, such Vendor shall  
attach an explanation to this submittal.

The Vendor, PanGeo, Inc., certifies or affirms the truthfulness and  
accuracy of the contents of the statements submitted on or with this certification and  
understands that the provisions of 31 U.S.C. Section 3801 et seq. are applicable thereto.



Signature of Authorized Official

Principal Geotechnical Engineer  
Title of Authorized Official

Feb. 15, 2024  
Date

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SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID. RETURN ALL  
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City of Everett  
**REQUEST FOR QUALIFICATIONS**

RFQ No. 2023-164

**Walter E. Hall Park Community Connections Path**

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INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS**

The Lower Tier Participant (Applicant for a third party subcontract or subgrant under an FTA project), DCW Cost Management hereinafter referred to as *Vendor*, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the Vendor is unable to certify to any of the statements in this certification, such Vendor shall attach an explanation to this submittal.

**The Vendor, DCW Cost Management, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801 et seq. are applicable thereto.**



\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Managing Director

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
2/15/2024


\_\_\_\_\_  
Date

**THIS FORM SHALL BE COMPLETED BY THE PRIME CONTRACTOR AND ANY SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID. RETURN ALL COMPLETED FORMS WITH ORIGINAL BID PACKAGE.**

City of Everett <b>REQUEST FOR QUALIFICATIONS</b> RFQ No. 2023-164 <b>Walter E. Hall Park Community Connections Path</b>
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## CERTIFICATION REGARDING CONFLICT OF INTEREST

The Vendor is required to certify that performance of the work will not create any conflicts of interest or disclose any actual or potential conflicts of interest by completing and signing one of the following statements:

The Vendor hereby certifies under penalty of perjury under the laws of the State of Washington that to the best of its knowledge and belief, performance of the services described in the Scope of Work will not create any conflicts of interest for the Vendor, any affiliates, any proposed subconsultants or key personnel of any of these organizations.		
Vendor/Company Name: <b>Board &amp; Vellum</b>		
Authorizing Official Name: <b>Zack Thomas</b>	Authorizing Official Title: <b>Principal</b>	
Authorizing Official Signature: 	Date: <b>February 14, 2024</b>	

**OR**

Name of Individual/Company to which potential conflict of interest might apply:		
Nature of potential conflict of interest:		
Proposed Remedy:		
Vendor/Company Name:		
Authorizing Official Name:	Authorizing Official Title:	
Authorizing Official Signature:	Date:	

RFQ No. 2023-164

Walter E. Hall Park Community Connections PathCERTIFICATION REGARDING  
LOBBYING BY CONTRACTOR

Pursuant to 40 CFR Part 20 (which is by this reference incorporated herein), the undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL *Disclosure Form to Report Lobbying*, in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Board & Vellum, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Zack Thomas

Signature of Contractor

Print Name Zack Thomas

Principal

Title

115 15th Avenue East

Address

February 14, 2024

Date

Seattle  
City

WA  
State

98112  
Zip

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

0348-0046

(See next page for instructions.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <div style="display: flex; justify-content: space-between;"> <span>Prime</span> <span>Subawardee</span> </div> Tier _____, if known :   Congressional District, if known : <sup>4c</sup>		<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>    Congressional District, if known :
<b>6. Federal Department/Agency:</b>   	<b>7. Federal Program Name/Description:</b>   CFDA Number, if applicable :	
<b>8. Federal Action Number, if known :</b>  	<b>9. Award Amount, if known :</b> \$	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

# CERTIFICATION REGARDING LOBBYING BY SUBCONTRACTOR

Form 8.06 is only required for any subcontract that exceeds \$100,000.

Pursuant to 40 CFR Part 34 (which is by this reference incorporated herein), the undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, *Disclosure Form to Report Lobbying*, in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Contractor

Print Name

Title

Address

Date

City

State

Zip

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**THIS FORM MUST BE COMPLETED BY ANY SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID FOR CONTRACTS THAT EQUAL OR EXCEED \$100,000.00. FORMS MUST BE PROVIDED PRIOR TO AWARD.**



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Signature of Contractor

Rachel Ferguson

Print Name

CRO

Title

10801 Main Street, Ste 102

Address

2/15/24

Date

Bellvue

City

WA

State

98004

Zip

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

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- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, *Disclosure Form to Report Lobbying*, in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
\_\_\_\_\_  
Signature of Contractor

Print Name Michael Xue

Principal Geotechnical Engineer  
\_\_\_\_\_  
Title

3213 Eastlake Ave E, Ste B  
\_\_\_\_\_  
Address

2/15/2024  
\_\_\_\_\_  
Date

Seattle  
\_\_\_\_\_  
City

WA  
\_\_\_\_\_  
State

98102  
\_\_\_\_\_  
Zip

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**THIS FORM MUST BE COMPLETED BY ANY SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID FOR CONTRACTS THAT EQUAL OR EXCEED \$100,000.00. FORMS MUST BE PROVIDED PRIOR TO AWARD.**

# CERTIFICATION REGARDING LOBBYING BY SUBCONTRACTOR

**Form 8.06 is only required for any subcontract that exceeds \$100,000.**

Pursuant to 40 CFR Part 34 (which is by this reference incorporated herein), the undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, *Disclosure Form to Report Lobbying*, in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Trish Drew

Signature of Contractor

Print Name

Managing Director

415 1st Ave N, #9671,

Title

Address

2/15/2024

Seattle,

WA

98109-4503

Date

City

State

Zip

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**THIS FORM MUST BE COMPLETED BY ANY SUBCONTRACTORS THAT WILL BE AFFILIATED WITH THE WORK IN THIS BID FOR CONTRACTS THAT EQUAL OR EXCEED \$100,000.00. FORMS MUST BE PROVIDED PRIOR TO AWARD.**

**Exhibit B**  
**CDBG Project Provisions**  
**Scope of Services, Time of Performance, and  
Payment**

**I. Scope of Service**

**A. Activities/Project Description**

The City will be responsible for administering the project as described in the Agreement in a manner consistent with any standards required as a condition of the project. The project will include activities eligible under the Community Development Block Grant Program and incorporated into the agreement for project management, payment submission, accomplishment tracking, and additional responsibilities as needed for City monitoring. In these exhibits, the terms “project” and “program” and “Work” all refer to Service Provider’s activities under this Agreement.

**B. National Objectives**

The City certifies that the activities carried out with funds provided under this Agreement will meet CDBG National Objectives, as identified by the City of Everett, “Benefit low/moderate income persons” - as defined in [24 CFR Part 570.208](#).

**C. Not Used.**

**D. Performance Monitoring**

The City will monitor the performance of the project against the goals and performance standards required herein through quarterly reports and on-site and/or virtual site visits. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken within a reasonable period of time, as determined by the City and after being notified by the City, contract suspension or termination procedures will be initiated.

**E. Levels of Accomplishment - Goals and Performance Measures**

Residents of the City of Everett, Washington must benefit from the services funded in accordance with this Agreement. For the purposes of this Agreement, a resident of the City of Everett is a person who resides within the City limits established by the City’s Planning and Zoning maps.

The City agrees to track performance accomplishments as required by the U.S. Department of Housing and Urban Development (HUD) and the City. The City will report the accomplishments quarterly.

**F. Not Used.**

**II. Time of Performance**

The term "Project Period" as used in this Agreement means the period of time between the beginning date stated in the Basic Provisions and the completion date stated in the Basic Provisions.

City staff shall commence work at the completion of Environmental Determination by the City of Everett's Community Development staff or at the beginning of the Program Year, whichever shall occur latter.

The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the City staff remain in control of CDBG funds or other assets committed to this activity, including program income.

**III. Not Used.**

**IV. Payment**

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed the Maximum Compensation Amount (stated in the Basic Provisions) for undertaking the Project.

Payments may be contingent upon certification of financial management systems in accordance with the standards specified in 2 CFR 200 Uniform Administrative Requirements.

**V. Not Used.**

**VI. Not Used**

**Exhibit C**  
**CDBG General Terms and Conditions**

**I. General Conditions**

**A. General Compliance**

The Service Provider agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)), including subpart K of these regulations, except that (1) the Service Provider does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Service Provider does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Service Provider also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. The Service Provider further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

**B. Not Used**

**C. Not Used**

**D. Insurance & Bonding**

In addition to insurance requirements elsewhere in this Agreement, Service Provider shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Service Provider shall comply with the bonding and insurance requirements of 2 CFR 200 Uniform Administrative Requirements for Bonding and Insurance.

**E. Funder Recognition**

The Service Provider shall ensure recognition of the role of the City in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Service Provider will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

**F. Amendments**

The City and Service Provider may amend this Agreement at any time provided as set forth in the General Provisions. Such amendments shall not invalidate this Agreement nor relieve or release the City or Service Provider from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Service Provider.

G. Agreement Suspension or Termination

In accordance with 2 CFR 200 Uniform Administrative Requirements, the City may, in addition to City's suspension and/or termination rights elsewhere in this Agreement, suspend or terminate this Agreement if the Service Provider materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Service Provider to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Service Provider to the City reports that are incorrect or incomplete in any material respect.

In accordance with 2 CFR 200 Uniform Administrative Requirements, this Agreement may also be terminated for convenience by either the City or the Service Provider, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City may terminate the award/this Agreement in its entirety.

H. Termination for Withdrawal, Reduction or Limitation of Funding

In the event that funding from the Federal government is withdrawn, reduced or limited in any way after the effective date of this Agreement, and prior to its normal completion, the City may, in addition to the City's other termination rights under this Agreement, summarily terminate this Agreement as to the funds reduced or limited, notwithstanding any other termination provision of this Agreement. If the level of funding so reduced or limited is so great that the City deems that the continuation of the program covered by this Agreement is no longer in the best interest of the public, the City may summarily terminate this Agreement in whole notwithstanding any other termination

provisions of this Agreement. Termination under this Section shall be effective upon receipt of written notice by the Service Provider or its representative.

The City agrees to promptly notify the Service Provider of any proposed reduction in funding by Federal or other officials. The Service Provider agrees that upon receipt of such notice it shall take appropriate and reasonable action to reduce its spending in the affected funding area so that expenditures do not exceed the funding level which would result if said proposed reduction became effective.

I. Hold Harmless

In addition to the Service Provider's defense, indemnity, and hold harmless obligations elsewhere in this Agreement, the Service Provider shall hold harmless, defend and indemnify the City from any and all claims, actions, suits, liability, charges, losses and judgments whatsoever that arise out of the Service Provider's performance or nonperformance of the services or subject matter called for in this Agreement.

II. **Administrative Requirements**

A. Financial Management

1. Accounting Standards: The Service Provider agrees to comply with 2 CFR 200 Uniform Administrative Requirements and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
2. Cost Principles: The Service Provider shall administer its program in conformance with 2 CFR 200 Uniform Administrative Requirements as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained: The Service Provider shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
  - a. Records providing a full description of each activity undertaken;
  - b. Records demonstrating that each activity undertaken meets the National Objective and subcategory of the CDBG program listed in the Basic Provisions;
  - c. Records required to determine the eligibility of activities;
  - d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
  - e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR 200 Uniform Administrative Requirements; and
  - g. Other records necessary to document compliance with Subpart K of 24 CFR 570.
2. Retention: The Service Provider shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of seven (7) years. The retention period begins on the date of the submission of the City's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the seven-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the seven-year period, whichever occurs later.
  3. Client Data: If applicable, the Service Provider shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or its designees for review upon request.
  4. Disclosure: If applicable, the Service Provider understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Service Provider's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, or unless required by law.
  5. Property Records: The Service Provider shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.
  6. Close-Outs: The Service Provider's obligations to the City under this Agreement shall not end until all close-out requirements determined as necessary by the City are completed, notwithstanding any expiration or termination of this Agreement. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Service Provider has control over CDBG funds, including program income.

In the event that this Agreement is terminated in whole or part for any reason, unless otherwise determined by the City, the following provisions shall apply:



- a. Upon written request by the Service Provider, the City shall make or arrange for payment to the Service Provider of allowable reimbursable costs not covered by previous payments.
  - b. The Service Provider shall submit within thirty (30) days after the date of expiration of this Agreement all financial, performance and other reports required by this Agreement, and in addition, will cooperate in a program audit by the City of Everett or its designee.
  - c. In the event a financial audit has not been performed prior to close-out of this Agreement, the City retains the right to withhold a just and reasonable sum from the final payment to the Service Provider after fully considering the recommendation on disallowed costs resulting from the final audit.
7. Audits & Inspections: In addition to any other audit provisions elsewhere in the Agreement, all Service Provider records with respect to any matters covered by this Agreement shall be made available to the City, its designees or the Federal Government, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Service Provider within 30 days after receipt by the Service Provider. Failure of the Service Provider to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Service Provider hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Service Provider audits and, as applicable, 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

C. Reporting and Payment Procedures

1. Program Income: The Service Provider shall report quarterly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Service Provider shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Service Provider may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the City.
2. Indirect Costs: If indirect costs are charged, the Service Provider will develop an indirect cost allocation plan for determining the appropriate Service Provider's share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City.
3. Payment Procedures and Timing: The City will pay to the Service Provider funds available under this Agreement based upon information submitted by the Service Provider and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Service Provider, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Service Provider accounts. The

Service Provider agrees to submit payment request at least quarterly. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Service Provider.

D. Procurement

1. Compliance: The Service Provider shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.
2. OMB Standards: Unless specified otherwise within this agreement, the Service Provider shall procure all materials, property, or services in accordance with the requirements of 2 CFR 200 Uniform Administrative Requirements.
3. Travel: The Service Provider shall obtain written approval from the City for any travel outside the Seattle/Everett area with funds provided under this Agreement.
4. Build America, Buy America (BABA): The Service Provider must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR 200 Uniform Administrative Requirements and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Service Provider shall transfer to the City any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Service Provider's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the City deems appropriate]. If the Service Provider fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Service Provider shall pay the City an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute

program income to the City. The Service Provider may retain real property acquired or improved under this Agreement after the expiration of the five-year period [or such longer period of time as the City deems appropriate].

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Service Provider for activities under this Agreement shall be (a) transferred to the City for the CDBG program or (b) retained after compensating the City [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

### **III. Relocation, Real Property Acquisition and One-for-One Housing Replacement**

To the extent applicable to the project, the Service Provider agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Ant displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in § 570.606(d) governing optional relocation policies. The Service Provider shall provide relocation assistance to persons, as defined by 24 CFR 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Service Provider also agrees to comply with applicable City resolutions and policies concerning the displacement of persons from their residences.

### **IV. Personnel & Participant Conditions**

#### **A. Civil Rights**

1. Compliance: The Service Provider agrees to comply with Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968, as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975; Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12086, and 12107.
2. Nondiscrimination: The Service Provider agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.
3. Land Covenants: This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Service Provider shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon,

providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Service Provider, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504: The Service Provider agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The City shall provide the Service Provider with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement

B. Affirmative Action

1. Affirmative Action Plan: The Service Provider agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
2. Women and Minority Owned Businesses W/MBE: The Service Provider will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Service Provider may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
3. Access to Records: The Service Provider shall furnish and cause each of its own contractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.
4. Notifications: The Service Provider will send to each labor union or representative of workers with which it has a collective bargaining Agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Service Provider's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement: The Service Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Service Provider, state that it is an Equal Opportunity or Affirmative Action employer. The Service

Provider will include the appropriate Equal Opportunity logo and/or slogan in their institutional brochures.

The goal is the use of the Equal Opportunity logo or slogan as a part of the outreach effort which will help affirmatively further fair housing.

C. Employment Restrictions

1. Prohibited Activity: The Service Provider is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.
2. Labor Standards: The Service Provider agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C 327 *et seq.*), and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Service Provider agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Service Provider shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Service Provider agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all Service Providers engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Service Provider of its obligation, if any, to require payment of the higher wage. The Service Provider shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

Washington State Prevailing Wages: The Service Provider shall comply with all applicable provisions of Chapter 39.12 of the Revised Code of Washington concerning prevailing wages, shall provide the City with all documents required therein, and shall pay not less than the prevailing rate of wage to such laborers, workers, or mechanics in each trade or occupation required for the work, whether performed by the Service Provider, subcontractors, or other persons doing or contracting to do the whole or any part of the work subject to prevailing wages and contemplated by this Agreement. The execution date of this Agreement shall be the effective date for any prevailing wages required to be paid under this Agreement. The State of Washington prevailing wage rates applicable for this project, which is located in Snohomish County, may be found at the following website address of the Department of Labor and Industries:

<https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>.

### 3. "Section 3" Clause

#### a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the City, the Service Provider and any of the Service Provider's subcontractors. Failure to fulfill these requirements shall subject the City, the Service Provider and any of the Service Provider's subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Service Provider certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Service Provider further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701) and as implemented by the regulations set forth in 24 CFR 75. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to Section 3 workers within the metropolitan area in which the project is located, and where feasible, given to Section 3 workers residing within the service area or the neighborhood of the project and to participants in Youth Build programs. Furthermore, that contracts for work awarded in connection with the Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing in the metropolitan area in which the project is located and, where feasible, to Section 3 workers within the service area or the neighborhood of the project and Youth Build programs."

The Service Provider further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons particularly those who receive government assistance for housing and/or residents of the project area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities

for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Service Provider certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Service Provider agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Service Provider will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Service Provider will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability: The Service Provider shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Service Provider from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts:

- a. Approvals

The Service Provider shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such Agreement.

- b. Monitoring

The Service Provider will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports



and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Service Provider shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Service Provider shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Debarment

The Service Provider shall not contract with any business who has been debarred, suspended, or deemed ineligible to work with Federal funds as set forth in 24 CFR 570.609

3. Hatch Act: The Service Provider agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.
4. Conflict of Interest: The Service Provider agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Service Provider further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Service Provider hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Service Providers which are receiving funds under the CDBG Entitlement program.
5. Lobbying:

The Service Provider hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such persons shall certify and disclose accordingly:
- d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright: If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.
7. Religious Organization: The Service Provider agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

## **V. Environmental Conditions**

### **A. Air and Water**

The Service Provider agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C., 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Service Provider shall assure that for activities located in an area identified by Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Service Provider agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

D. Historic Preservation

The Service Provider agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

**VI. Notice to Proceed**

No work on the program shall occur prior to the notice to proceed without written approval from the City. The City shall furnish the Service Provider with written notice to proceed upon release of funds from HUD related to the project pursuant to 24 CFR Part 58.

**VII. Licensing and Program Standards**

The Service Provider agrees to comply with all applicable Federal, State, County or Municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services.

**VIII. Local Financial Support**

This Agreement shall not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

**IX. Assignment and/or Subcontracting**

The Service Provider shall not assign or subcontract any portion of the services provided within the terms of this Agreement without obtaining prior written approval from the City. All terms and conditions of this Agreement shall apply to any approved subcontract or assignment related to the contract.

**X. Standards for Fiscal Accountability**

- A. The Service Provider agrees to maintain books, records, documents, accounting procedures, and practices which accurately reflect all direct and indirect costs related to the performance of this Agreement. Such fiscal books, records, documents, reports and other data shall be retained in a manner consistent with the "Budgeting, Accounting, Reporting System for Counties and Cities, and Other Local Governments", hereinafter referred to as "BARS", as issued by the Office of State Auditor, State of Washington. The Service Provider further agrees that the City shall have the right to monitor and audit the fiscal components of the organization to ensure that actual expenditures remain consistent with the terms of this Agreement. The Service Provider shall retain all books, records, documents and other material relevant to the Agreement for three (3) years after settlement of this Agreement. The Service Provider agrees that the City, the U.S. Department of Housing and Urban Development, the Washington State Auditor, or their designees, shall have full access to and right to examine any of said materials at all reasonable times during said period.
- B. The Service Provider agrees that any contributions or payments made for services furnished under this Agreement shall be used for the sole benefit of this program.

**XI. Covenant Against Contingent Fees**

The Service Provider warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an Agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the Service Provider for the purpose of securing business. The City of Everett shall have the right, in the event of breach of this clause by the Service Provider, 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 commissioner, percentage, brokerage or contingent fee.

**XVI. Conflict of Interest**

- A. In the event this Agreement is terminated because it is determined by the City that gratuities in the form of entertainment, gifts, or otherwise offered or given by the Service Provider, or agent or representative of the Service Provider, to any officer or employee of the City of Everett, with a view towards securing this Agreement or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to this Agreement.
- B. The City shall be entitled to pursue the same remedies against Service Provider as it could pursue in the event of a breach of the Agreement by the Service Provider. The rights and remedies of the City provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

**XVII. Non assignability of Claims**

No claim arising under this Agreement shall be transferred or assigned by the Service Provider without written consent of the City.

**XVIII. Rights in Data**

The City may duplicate, use and disclose in any manner and for any purposes whatsoever, and have others so do, all data delivered under this Agreement. The Service Provider hereby grants to the City a royalty-free, non-exclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all data now or hereafter covered by copyright, provided, that with respect to data not originated in the performance of this Agreement, such license shall be only to the extent that the Service Provider has the right to grant such license without becoming liable to pay compensation to others because of such grant. The Service Provider shall exert all reasonable effort to advise the City at the time of delivery of data furnished under this Agreement, of all invasions of the right of privacy contained therein and of all portions of such data copied from work not composed or produced in the performance of this Agreement and not licensed under this clause. The Service Provider shall report to the City promptly and in written detail each notice or claim of copyright infringement received by the Service Provider with respect to all data delivered under this Agreement. The Service Provider shall not affix any restrictive markings upon any data, and if such markings are affixed, the City shall have the right at any time to modify, remove, obliterate, or ignore such markings.

**XIX. Not Used**

**XX. Program Property**

Any personal property having a useful life of more than one year and purchased wholly or in part with sub-grant funds from this Agreement at a cost of three hundred dollars (\$300) or more per item shall upon its purchase or receipt become the property of the City. The Service Provider shall be responsible for all such property, including its care and maintenance, and shall comply with the following procedural requirements:

- A. Property records shall be maintained accurately and provide for: A description of the property; manufacturer's serial number of other identification number; acquisition date and cost; source of the property; percentage of block grant funds used in the purchase of property; location, use, and condition of the property.
- B. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.
- C. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of the property shall be investigated and fully documented.
- D. Adequate maintenance procedures shall be implemented to keep the property in good condition.
- E. If the Service Provider elects to capitalize and depreciate such non-expendable personal property in lieu of claiming the acquisition cost as a direct item of cost, title to such property shall remain with the Service Provider. An election to capitalize and depreciate or claim acquisition cost as a direct item of cost shall be irrevocable.
- F. Non-expendable personal property purchased by the Service Provider under the terms of this Agreement, in which title is vested in the City or Federal Government, shall not be rented, loaned, or otherwise passed to any person, partnership, corporation, association or organization without the prior express approval of the Department.
- G. Any non-expendable personal property furnished to, or purchased by, the Service Provider, title to which is vested in the City or federal government, shall, unless otherwise provided herein or approved by the City, be used only for the performance of activities defined in this Agreement.
- H. The Service Provider shall be responsible for any loss or damage to the property of the City of Everett or federal government (including expenses entered thereunto) which results from negligence, willful misconduct, or lack of good faith on the part of the Service Provider to maintain and administer in accordance with sound management practices that property, to ensure that the property will be returned to the City or federal government in like condition to that in which condition the property was acquired by purchase, fair wear and tear accepted.

**XXI. Rule of Construction**

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved in accordance with the Order of Precedence in the Basic Provisions.

**XXII. Not Used**

**XXIII. Not Used**

**XXIV. Open Public Board Meetings**

All Board meetings of the Service Provider in which a quorum of the board is present shall be open and all interested persons shall be permitted to attend. This does not include parts of meetings which deal with issues concerning matters including personnel, legal and property. Board meetings will be held at regularly scheduled times as determined by the Board.

**XXV. Board Membership**

The following information about the organization's Board of Directors/Trustees will be made available in a timely manner to those who request such information: (1) Name of Board Members; (2) Terms of appointment; and (3) the procedure for selection of Board Membership. Every effort will be made by the contracting agency to have local representation on their board.

**XXVI. Minimum Length of Time for Intended Use**

In order to meet the Department of Housing and Urban Development National Objections, property purchased or improved with CDBG funds must remain in the intended use for at least five years.

**XXVII. Compliance with City Ordinance**

The Service Provider must comply with all City ordinances. No variance may be applied for property purchased or rehabilitated with funds provided through this Agreement. Those agencies using these funds to place people in housing will not refer or use units which are substandard or illegally created.

**XXVIII. Hold Harmless - Indemnification**

In addition to any other indemnification, defense, or hold harmless provision elsewhere in this Agreement:

All services to be rendered or performed under this Agreement will be performed or rendered entirely at the Service Provider's own risk and the Service Provider expressly agrees, to the maximum extent allowed by law and in addition to any other obligation in this Agreement, to indemnify, defend and hold harmless the City and all of its officers, agents, an employees, from any and all liability, claims, suits, charges, judgements, loss or damage, including reasonable cost of defense they may suffer as a result of claims, demands, actions, or damages to any and all persons or property, costs or judgments against the City, its officers, agents and/or employees which result from, arise out of, or are in any way connected with this Agreement or the services to be performed by the Service Provider under this Agreement or the subject matter called for in this Agreement. This section shall survive the expiration or termination of this Agreement.

This section is specifically and expressly intended to constitute a waiver of Service Provider 's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide the City with a full and complete indemnity from claims made by Service Provider and its employees, to maximum extent allowed by law. THE SERVICE PROVIDER AND CITY ACKNOWLEDGE



THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

**XXIX. Not Used**

**XXX. Not Used**

**XXXI. Not Used**

Your advocate for  
great **architecture**,  
**interior design**, and  
**landscape architecture**,  
large and small.

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**EXHIBIT C**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(ATTACHED)**

**Exhibit C**  
**CDBG Project Provisions**  
**Scope of Services, Time of Performance, and  
Payment**

**I. Scope of Service**

A. Activities/Project Description

The City will be responsible for administering the project as described in the Agreement in a manner consistent with any standards required as a condition of the project. The project will include activities eligible under the Community Development Block Grant Program and incorporated into the agreement for project management, payment submission, accomplishment tracking, and additional responsibilities as needed for City monitoring. In these exhibits, the terms “project” and “program” and “Work” all refer to Service Provider’s activities under this Agreement.

B. National Objectives

The City certifies that the activities carried out with funds provided under this Agreement will meet CDBG National Objectives, as identified by the City of Everett, “Benefit low/moderate income persons” - as defined in [24 CFR Part 570.208](#).

C. Not Used.

D. Performance Monitoring

The City will monitor the performance of the project against the goals and performance standards required herein through quarterly reports and on-site and/or virtual site visits. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken within a reasonable period of time, as determined by the City and after being notified by the City, contract suspension or termination procedures will be initiated.

E. Levels of Accomplishment - Goals and Performance Measures

Residents of the City of Everett, Washington must benefit from the services funded in accordance with this Agreement. For the purposes of this Agreement, a resident of the City of Everett is a person who resides within the City limits established by the City’s Planning and Zoning maps.

The City agrees to track performance accomplishments as required by the U.S. Department of Housing and Urban Development (HUD) and the City. The City will report the accomplishments quarterly.

F. Not Used.

**II. Time of Performance**

The term "Project Period" as used in this Agreement means the period of time between the beginning date stated in the Basic Provisions and the completion date stated in the Basic Provisions.

City staff shall commence work at the completion of Environmental Determination by the City of Everett's Community Development staff or at the beginning of the Program Year, whichever shall occur latter.

The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the City staff remain in control of CDBG funds or other assets committed to this activity, including program income.

**III. Not Used.**

**IV. Payment**

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed the Maximum Compensation Amount (stated in the Basic Provisions) for undertaking the Project.

Payments may be contingent upon certification of financial management systems in accordance with the standards specified in 2 CFR 200 Uniform Administrative Requirements.

**V. Not Used.**

**VI. Not Used**

**EXHIBIT D**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(ATTACHED)**

**Exhibit D**  
**CDBG General Terms and Conditions**

**I. General Conditions**

A. General Compliance

The Service Provider agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)), including subpart K of these regulations, except that (1) the Service Provider does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Service Provider does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Service Provider also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. The Service Provider further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Not Used

C. Not Used

D. Insurance & Bonding

In addition to insurance requirements elsewhere in this Agreement, Service Provider shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Service Provider shall comply with the bonding and insurance requirements of 2 CFR 200 Uniform Administrative Requirements for Bonding and Insurance.

E. Funder Recognition

The Service Provider shall ensure recognition of the role of the City in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Service Provider will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

F. Amendments

The City and Service Provider may amend this Agreement at any time provided as set forth in the General Provisions. Such amendments shall not invalidate this Agreement nor relieve or release the City or Service Provider from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Service Provider.

G. Agreement Suspension or Termination

In accordance with 2 CFR 200 Uniform Administrative Requirements, the City may, in addition to City's suspension and/or termination rights elsewhere in this Agreement, suspend or terminate this Agreement if the Service Provider materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Service Provider to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Service Provider to the City reports that are incorrect or incomplete in any material respect.

In accordance with 2 CFR 200 Uniform Administrative Requirements, this Agreement may also be terminated for convenience by either the City or the Service Provider, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City may terminate the award/this Agreement in its entirety.

H. Termination for Withdrawal, Reduction or Limitation of Funding

In the event that funding from the Federal government is withdrawn, reduced or limited in any way after the effective date of this Agreement, and prior to its normal completion, the City may, in addition to the City's other termination rights under this Agreement, summarily terminate this Agreement as to the funds reduced or limited, notwithstanding any other termination provision of this Agreement. If the level of funding so reduced or limited is so great that the City deems that the continuation of the program covered by this Agreement is no longer in the best interest of the public, the City may summarily terminate this Agreement in whole notwithstanding any other termination



provisions of this Agreement. Termination under this Section shall be effective upon receipt of written notice by the Service Provider or its representative.

The City agrees to promptly notify the Service Provider of any proposed reduction in funding by Federal or other officials. The Service Provider agrees that upon receipt of such notice it shall take appropriate and reasonable action to reduce its spending in the affected funding area so that expenditures do not exceed the funding level which would result if said proposed reduction became effective.

I. Hold Harmless

In addition to the Service Provider's defense, indemnity, and hold harmless obligations elsewhere in this Agreement, the Service Provider shall hold harmless, defend and indemnify the City from any and all claims, actions, suits, liability, charges, losses and judgments whatsoever that arise out of the Service Provider's performance or nonperformance of the services or subject matter called for in this Agreement.

II. **Administrative Requirements**

A. Financial Management

1. Accounting Standards: The Service Provider agrees to comply with 2 CFR 200 Uniform Administrative Requirements and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
2. Cost Principles: The Service Provider shall administer its program in conformance with 2 CFR 200 Uniform Administrative Requirements as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained: The Service Provider shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
  - a. Records providing a full description of each activity undertaken;
  - b. Records demonstrating that each activity undertaken meets the National Objective and subcategory of the CDBG program listed in the Basic Provisions;
  - c. Records required to determine the eligibility of activities;
  - d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
  - e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR 200 Uniform Administrative Requirements; and
  - g. Other records necessary to document compliance with Subpart K of 24 CFR 570.
- 2. Retention: The Service Provider shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of seven (7) years. The retention period begins on the date of the submission of the City's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the seven-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the seven-year period, whichever occurs later.
- 3. Client Data: If applicable, the Service Provider shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or its designees for review upon request.
- 4. Disclosure: If applicable, the Service Provider understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Service Provider's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, or unless required by law.
- 5. Property Records: The Service Provider shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.
- 6. Close-Outs: The Service Provider's obligations to the City under this Agreement shall not end until all close-out requirements determined as necessary by the City are completed, notwithstanding any expiration or termination of this Agreement. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Service Provider has control over CDBG funds, including program income.

In the event that this Agreement is terminated in whole or part for any reason, unless otherwise determined by the City, the following provisions shall apply:

- a. Upon written request by the Service Provider, the City shall make or arrange for payment to the Service Provider of allowable reimbursable costs not covered by previous payments.
  - b. The Service Provider shall submit within thirty (30) days after the date of expiration of this Agreement all financial, performance and other reports required by this Agreement, and in addition, will cooperate in a program audit by the City of Everett or its designee.
  - c. In the event a financial audit has not been performed prior to close-out of this Agreement, the City retains the right to withhold a just and reasonable sum from the final payment to the Service Provider after fully considering the recommendation on disallowed costs resulting from the final audit.
7. Audits & Inspections: In addition to any other audit provisions elsewhere in the Agreement, all Service Provider records with respect to any matters covered by this Agreement shall be made available to the City, its designees or the Federal Government, at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Service Provider within 30 days after receipt by the Service Provider. Failure of the Service Provider to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Service Provider hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Service Provider audits and, as applicable, 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

C. Reporting and Payment Procedures

1. Program Income: The Service Provider shall report quarterly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Service Provider shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Service Provider may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the City.
2. Indirect Costs: If indirect costs are charged, the Service Provider will develop an indirect cost allocation plan for determining the appropriate Service Provider's share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City.
3. Payment Procedures and Timing: The City will pay to the Service Provider funds available under this Agreement based upon information submitted by the Service Provider and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Service Provider, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Service Provider accounts. The

Service Provider agrees to submit payment request at least quarterly. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Service Provider.

D. Procurement

1. Compliance: The Service Provider shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.
2. OMB Standards: Unless specified otherwise within this agreement, the Service Provider shall procure all materials, property, or services in accordance with the requirements of 2 CFR 200 Uniform Administrative Requirements.
3. Travel: The Service Provider shall obtain written approval from the City for any travel outside the Seattle/Everett area with funds provided under this Agreement.
4. Build America, Buy America (BABA): The Service Provider must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR 200 Uniform Administrative Requirements and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Service Provider shall transfer to the City any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Service Provider's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the City deems appropriate]. If the Service Provider fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Service Provider shall pay the City an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute

program income to the City. The Service Provider may retain real property acquired or improved under this Agreement after the expiration of the five-year period [or such longer period of time as the City deems appropriate].

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Service Provider for activities under this Agreement shall be (a) transferred to the City for the CDBG program or (b) retained after compensating the City [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

### **III. Relocation, Real Property Acquisition and One-for-One Housing Replacement**

To the extent applicable to the project, the Service Provider agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Ant displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in § 570.606(d) governing optional relocation policies. The Service Provider shall provide relocation assistance to persons, as defined by 24 CFR 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Service Provider also agrees to comply with applicable City resolutions and policies concerning the displacement of persons from their residences.

### **IV. Personnel & Participant Conditions**

#### **A. Civil Rights**

1. Compliance: The Service Provider agrees to comply with Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968, as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975; Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12086, and 12107.
2. Nondiscrimination: The Service Provider agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.
3. Land Covenants: This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Service Provider shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon,

providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Service Provider, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504: The Service Provider agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The City shall provide the Service Provider with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement

B. Affirmative Action

1. Affirmative Action Plan: The Service Provider agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
2. Women and Minority Owned Businesses W/MBE: The Service Provider will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Service Provider may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
3. Access to Records: The Service Provider shall furnish and cause each of its own contractors or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.
4. Notifications: The Service Provider will send to each labor union or representative of workers with which it has a collective bargaining Agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Service Provider's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement: The Service Provider will, in all solicitations or advertisements for employees placed by or on behalf of the Service Provider, state that it is an Equal Opportunity or Affirmative Action employer. The Service

Provider will include the appropriate Equal Opportunity logo and/or slogan in their institutional brochures.

The goal is the use of the Equal Opportunity logo or slogan as a part of the outreach effort which will help affirmatively further fair housing.

C. Employment Restrictions

1. Prohibited Activity: The Service Provider is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.
2. Labor Standards: The Service Provider agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C 327 *et seq.*), and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Service Provider agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Service Provider shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Service Provider agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all Service Providers engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Service Provider of its obligation, if any, to require payment of the higher wage. The Service Provider shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

Washington State Prevailing Wages: The Service Provider shall comply with all applicable provisions of Chapter 39.12 of the Revised Code of Washington concerning prevailing wages, shall provide the City with all documents required therein, and shall pay not less than the prevailing rate of wage to such laborers, workers, or mechanics in each trade or occupation required for the work, whether performed by the Service Provider, subcontractors, or other persons doing or contracting to do the whole or any part of the work subject to prevailing wages and contemplated by this Agreement. The execution date of this Agreement shall be the effective date for any prevailing wages required to be paid under this Agreement. The State of Washington prevailing wage rates applicable for this project, which is located in Snohomish County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the City, the Service Provider and any of the Service Provider's subcontractors. Failure to fulfill these requirements shall subject the City, the Service Provider and any of the Service Provider's subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Service Provider certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Service Provider further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701) and as implemented by the regulations set forth in 24 CFR 75. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to Section 3 workers within the metropolitan area in which the project is located, and where feasible, given to Section 3 workers residing within the service area or the neighborhood of the project and to participants in Youth Build programs. Furthermore, that contracts for work awarded in connection with the Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing in the metropolitan area in which the project is located and, where feasible, to Section 3 workers within the service area or the neighborhood of the project and Youth Build programs."

The Service Provider further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons particularly those who receive government assistance for housing and/or residents of the project area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities



for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Service Provider certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Service Provider agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Service Provider will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Service Provider will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability: The Service Provider shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Service Provider from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts:

- a. Approvals

The Service Provider shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such Agreement.

- b. Monitoring

The Service Provider will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports

and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Service Provider shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Service Provider shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Debarment

The Service Provider shall not contract with any business who has been debarred, suspended, or deemed ineligible to work with Federal funds as set forth in 24 CFR 570.609

3. Hatch Act: The Service Provider agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest: The Service Provider agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Service Provider further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Service Provider hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Service Providers which are receiving funds under the CDBG Entitlement program.

5. Lobbying:

The Service Provider hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such persons shall certify and disclose accordingly:
- d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- 6. Copyright: If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.
- 7. Religious Organization: The Service Provider agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

## **V. Environmental Conditions**

### **A. Air and Water**

The Service Provider agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C., 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Service Provider shall assure that for activities located in an area identified by Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Service Provider agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

D. Historic Preservation

The Service Provider agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

**VI. Notice to Proceed**

No work on the program shall occur prior to the notice to proceed without written approval from the City. The City shall furnish the Service Provider with written notice to proceed upon release of funds from HUD related to the project pursuant to 24 CFR Part 58.

**VII. Licensing and Program Standards**

The Service Provider agrees to comply with all applicable Federal, State, County or Municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services.

**VIII. Local Financial Support**

This Agreement shall not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

**IX. Assignment and/or Subcontracting**

The Service Provider shall not assign or subcontract any portion of the services provided within the terms of this Agreement without obtaining prior written approval from the City. All terms and conditions of this Agreement shall apply to any approved subcontract or assignment related to the contract.

**X. Standards for Fiscal Accountability**

- A. The Service Provider agrees to maintain books, records, documents, accounting procedures, and practices which accurately reflect all direct and indirect costs related to the performance of this Agreement. Such fiscal books, records, documents, reports and other data shall be retained in a manner consistent with the "Budgeting, Accounting, Reporting System for Counties and Cities, and Other Local Governments", hereinafter referred to as "BARS", as issued by the Office of State Auditor, State of Washington. The Service Provider further agrees that the City shall have the right to monitor and audit the fiscal components of the organization to ensure that actual expenditures remain consistent with the terms of this Agreement. The Service Provider shall retain all books, records, documents and other material relevant to the Agreement for three (3) years after settlement of this Agreement. The Service Provider agrees that the City, the U.S. Department of Housing and Urban Development, the Washington State Auditor, or their designees, shall have full access to and right to examine any of said materials at all reasonable times during said period.
- B. The Service Provider agrees that any contributions or payments made for services furnished under this Agreement shall be used for the sole benefit of this program.

**XI. Covenant Against Contingent Fees**

The Service Provider warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an Agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the Service Provider for the purpose of securing business. The City of Everett shall have the right, in the event of breach of this clause by the Service Provider, 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 commissioner, percentage, brokerage or contingent fee.

**XVI. Conflict of Interest**

- A. In the event this Agreement is terminated because it is determined by the City that gratuities in the form of entertainment, gifts, or otherwise offered or given by the Service Provider, or agent or representative of the Service Provider, to any officer or employee of the City of Everett, with a view towards securing this Agreement or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to this Agreement.
- B. The City shall be entitled to pursue the same remedies against Service Provider as it could pursue in the event of a breach of the Agreement by the Service Provider. The rights and remedies of the City provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

**XVII. Non assignability of Claims**

No claim arising under this Agreement shall be transferred or assigned by the Service Provider without written consent of the City.

**XVIII. Rights in Data**

The City may duplicate, use and disclose in any manner and for any purposes whatsoever, and have others so do, all data delivered under this Agreement. The Service Provider hereby grants to the City a royalty-free, non-exclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all data now or hereafter covered by copyright, provided, that with respect to data not originated in the performance of this Agreement, such license shall be only to the extent that the Service Provider has the right to grant such license without becoming liable to pay compensation to others because of such grant. The Service Provider shall exert all reasonable effort to advise the City at the time of delivery of data furnished under this Agreement, of all invasions of the right of privacy contained therein and of all portions of such data copied from work not composed or produced in the performance of this Agreement and not licensed under this clause. The Service Provider shall report to the City promptly and in written detail each notice or claim of copyright infringement received by the Service Provider with respect to all data delivered under this Agreement. The Service Provider shall not affix any restrictive markings upon any data, and if such markings are affixed, the City shall have the right at any time to modify, remove, obliterate, or ignore such markings.

**XIX. Not Used**

**XX. Program Property**

Any personal property having a useful life of more than one year and purchased wholly or in part with sub-grant funds from this Agreement at a cost of three hundred dollars (\$300) or more per item shall upon its purchase or receipt become the property of the City. The Service Provider shall be responsible for all such property, including its care and maintenance, and shall comply with the following procedural requirements:

- A. Property records shall be maintained accurately and provide for: A description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage of block grant funds used in the purchase of property; location, use, and condition of the property.
- B. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.
- C. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of the property shall be investigated and fully documented.
- D. Adequate maintenance procedures shall be implemented to keep the property in good condition.
- E. If the Service Provider elects to capitalize and depreciate such non-expendable personal property in lieu of claiming the acquisition cost as a direct item of cost, title to such property shall remain with the Service Provider. An election to capitalize and depreciate or claim acquisition cost as a direct item of cost shall be irrevocable.
- F. Non-expendable personal property purchased by the Service Provider under the terms of this Agreement, in which title is vested in the City or Federal Government, shall not be rented, loaned, or otherwise passed to any person, partnership, corporation, association or organization without the prior express approval of the Department.
- G. Any non-expendable personal property furnished to, or purchased by, the Service Provider, title to which is vested in the City or federal government, shall, unless otherwise provided herein or approved by the City, be used only for the performance of activities defined in this Agreement.
- H. The Service Provider shall be responsible for any loss or damage to the property of the City of Everett or federal government (including expenses entered thereunto) which results from negligence, willful misconduct, or lack of good faith on the part of the Service Provider to maintain and administer in accordance with sound management practices that property, to ensure that the property will be returned to the City or federal government in like condition to that in which condition the property was acquired by purchase, fair wear and tear accepted.

**XXI. Rule of Construction**

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved in accordance with the Order of Precedence in the Basic Provisions.

**XXII. Not Used**

**XXIII. Not Used**

**XXIV. Open Public Board Meetings**

All Board meetings of the Service Provider in which a quorum of the board is present shall be open and all interested persons shall be permitted to attend. This does not include parts of meetings which deal with issues concerning matters including personnel, legal and property. Board meetings will be held at regularly scheduled times as determined by the Board.

**XXV. Board Membership**

The following information about the organization's Board of Directors/Trustees will be made available in a timely manner to those who request such information: (1) Name of Board Members; (2) Terms of appointment; and (3) the procedure for selection of Board Membership. Every effort will be made by the contracting agency to have local representation on their board.

**XXVI. Minimum Length of Time for Intended Use**

In order to meet the Department of Housing and Urban Development National Objectives, property purchased or improved with CDBG funds must remain in the intended use for at least five years.

**XXVII. Compliance with City Ordinance**

The Service Provider must comply with all City ordinances. No variance may be applied for property purchased or rehabilitated with funds provided through this Agreement. Those agencies using these funds to place people in housing will not refer or use units which are substandard or illegally created.

**XXVIII. Hold Harmless - Indemnification**

In addition to any other indemnification, defense, or hold harmless provision elsewhere in this Agreement:

All services to be rendered or performed under this Agreement will be performed or rendered entirely at the Service Provider's own risk and the Service Provider expressly agrees, to the maximum extent allowed by law and in addition to any other obligation in this Agreement, to indemnify, defend and hold harmless the City and all of its officers, agents, an employees, from any and all liability, claims, suits, charges, judgements, loss or damage, including reasonable cost of defense they may suffer as a result of claims, demands, actions, or damages to any and all persons or property, costs or judgments against the City, its officers, agents and/or employees which result from, arise out of, or are in any way connected with this Agreement or the services to be performed by the Service Provider under this Agreement or the subject matter called for in this Agreement. This section shall survive the expiration or termination of this Agreement.

This section is specifically and expressly intended to constitute a waiver of Service Provider 's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide the City with a full and complete indemnity from claims made by Service Provider and its employees, to maximum extent allowed by law. THE SERVICE PROVIDER AND CITY ACKNOWLEDGE



THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

**XXIX. Not Used**

**XXX. Not Used**

**XXXI. Not Used**

**EXHIBIT E**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(ATTACHED)**

***City of Everett***  
**Request for Qualifications**

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**RFQ No. 2023-164**

**Request for Qualifications**

**Walter E. Hall Park Community Connections Path**

City of Everett  
Procurement Division  
2930 Wetmore Avenue, #9E  
Everett WA 98201  
(425) 257-8901

City of Everett  
**REQUEST FOR QUALIFICATIONS**  
RFQ No. 2023-164  
Walter E. Hall Park Community Connections Path

**INTRODUCTION & SUBMITTAL LOCATION**

Statements of Qualifications will be received at the City of Everett Procurement Office, Monday – Friday from 8:00 a.m. – 3:30 p.m., **2930 Wetmore Avenue, #9E, Everett, Washington 98201.**

This RFQ contains three sections.

- Section One contains a description of the proposed project.
- Section Two contains general information, including the RFQ schedule and contact information, including the e-mail and phone number of the RFQ Coordinator.
- Section Three contains submittal requirements and explains how the city will evaluate Statements of Qualifications.

**OBJECTIVE**

The City of Everett intends to improve non-vehicular access to Walter E. Hall Park by constructing a multi-use path connection between the park and 90<sup>th</sup> Street SW. The scope of work includes preparing design, engineering, permitting, and construction documents for approximately 1800 linear feet of asphalt path.

As described in more detail in Section One, the city requests statements of qualifications from Architects and Engineers with experience in parks and trail design to prepare design, engineering, permitting, and construction documents for a public bid.

**SCHEDULE**

The following anticipated schedule contains major milestones and may be modified:

January 8, 2024	Release of Request for Statement of Qualifications
February 14, 2024	Submittals Due
February 15, 2024	Provide an electronic copy of the submittal no later than the date listed.
March 8, 2024	Potential Interviews of Shortlisted firms between Noon – 4:00
March, 2024	Selection of Preferred Architect or Engineer

**NUMBER OF COPIES REQUIRED**

Proposers must submit one unbound **original statement of qualifications and one bound copy in a sealed envelope.** Flash drives will not be accepted. The project name must be clearly indicated on the outside package. One electronic copy in Adobe Acrobat PDF file format must be e-mailed to the RFQ coordinator and received no later than one day after submittals are due.

## **SECTION ONE**

### **PROPOSED PROJECT**

#### **1.1 PROPOSED PROJECT OBJECTIVE**

The City of Everett intends to improve non-vehicular access to Walter E Hall Park by constructing a 6 - 8' wide multi-use path connection between the park and 90<sup>th</sup> Street SW. The scope includes preparation of design and engineering, including survey and geotechnical investigation, permitting, and construction documents for approximately 1800 linear feet of asphalt path.

#### **1.2 PROJECT DESCRIPTION**

Goal 9.7 in the City of Everett's 2022 PROS (Parks, Recreation & Open Space) Plan prioritizes access to recreational amenities by creating better connections to parks with trails, sidewalks, and bike lanes. PROS Plan Policy 9.7.3 supports the development of trails and greenways to connect residents to parks. Additionally, The City of Everett's 2020 – 2024 Consolidated Plan has identified pedestrian improvements in the Walter E. Hall Park area as a priority for funding. The Community Development Block Grant, a federal funding source, provides funding for this project.

- A City-owned parcel adjacent to Walter E Hall Park has been identified to receive a section of multi-use path connecting the park to 90<sup>th</sup> St SW. This area is not currently open to the public.
- The existing fence that blocks access to this corridor will be removed, and appropriate signage with directions and distance to the park will be installed.
- Existing vegetation within the proposed trailway will be removed, and new trees should be sited adjacent to the trail to provide shade, screening, and frame views.
- A preliminary project schedule is as follows:
  - Survey & Geotechnical investigation      April 2024
  - 60% Design      May 2024
  - 90% Design & Permitting      June 2024
  - Bid      October to November 2024
  - Build      April - June 2025
- The estimated Maximum Allowable Construction Cost (MACC) is:
  - \$205,000 – which includes all materials, equipment, and labor.

#### **1.3 SCOPE OF SERVICES**

Services shall consist of the following:

- Site Investigation & Pre-Design
  - Survey and geotechnical work must be completed in support of project goals and to standards required by the City of Everett.
- Schematic Design
  - Schematic Design Phase – The Architect or Engineer (A/E) must provide the services necessary

to prepare schematic design documents illustrating the general scope, scale, and relationship of project components for approval by the City.

- A construction cost estimate is required.
- Design Development
  - Design Development Phase – the A/E must provide those services necessary to prepare 60% design documents, the design development documents consisting of drawings, and other documents to fix and describe the size and character of the entire project for approval by the City.
  - A construction cost estimate is required.
- Construction Documents
  - Construction Documents Phase – the A/E must provide the services necessary to prepare construction documents from the approved design development drawings for approval by the City.
  - Construction documents must consist of drawings, specifications, and other documents describing the requirements for construction of the project; and bidding and contracting for the construction of the project.
- Bidding
  - Bidding Phase – the A/E, following the City's approval of the Construction documents and the most recent statement of probable construction cost, must provide those services necessary for the A/E to assist the City in obtaining bids and awarding the construction contract.
- Construction Contract Administration
  - Construction Contract Administration Phase – the A/E must provide services necessary for the construction contract administration as set forth in the General Conditions and the Contract for Construction.
- Project Closeout
  - Services were initiated upon notice that the work is substantially complete, consisting of a detailed inspection for conformity of the work to the contract documents and issuance of a list of remaining work required - punch list, final inspections, and permits.
  - Record Documents (As-Builts) Receive and review the contractor's marked-up field records. Supply the record documents to the City. This includes transferring the contractor's record of field changes to the original record drawings, which may be authorized by the City as an additional service.

Services shall include cost estimating at the following design stages:

- Cost Estimating
  - 30% Cost Estimate (Schematic Design level)
    - Services consist of developing a probable construction cost from quantity surveys and unit costs of building elements for the project.
    - Parametric costs reflect the level of the 30% design documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program.

- Assist the City with analyzing scope, schedule, and budget options to stay within the MACC.
- 60% Cost Estimate (Design Development level)
  - Services consist of developing a probable construction cost from quantity surveys and unit costs of building elements for the project.
  - Parametric costs reflect the level of the 60% design documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program.
  - Assist the City with analyzing scope, schedule, and budget options to stay within the MACC.
- 90% Cost Estimate (Pre-Bid Construction Documents level)
  - Services consist of developing a probable construction cost from quantity surveys and unit costs of building elements for the project.
  - Parametric costs reflect the level of the 90% design documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program.
  - Assist the City with analyzing scope, schedule, and budget options to stay within the MACC.

#### **1.4 CONDITIONS OF THE AGREEMENT**

- The City has not prepared a detailed scope for the design phase work to be performed under this contract. The City will provide a scope of work outline to the selected consultant. The selected consultant will enter into a Professional Services Agreement, which will establish a maximum contract amount. The City will authorize some or all of the work elements described above on a task basis.
- The contract form used for this project is the City of Everett standard Professional Services Agreement.
- The Professional Services Agreement is included in the Appendix.

## **SECTION TWO**

### **GENERAL INFORMATION**

#### **2.1 RFQ COORDINATOR**

Upon release of this Request for Qualifications (RFQ), all communications concerning this process must be directed to the RFQ Coordinator listed below:

Theresa Bauccio-Teschlog, MBA, NIGP-CPP, CPPB  
City of Everett Procurement  
2930 Wetmore Avenue - #9E, Everett, WA 98201  
Phone: (425) 257-8901  
tbauccio@everettwa.gov

After issuance of the RFQ, unauthorized contact regarding the RFQ with other City of Everett employees may result in disqualification. Any oral communications will be considered unofficial and non-binding by the City of Everett. Proposers must only rely on written statements issued by the RFQ Coordinator.

#### **2.2 ADDENDA**

Changes to this RFQ will be made only by formal written addenda issued by the RFQ Coordinator named above.

Respondents are responsible for checking the City of Everett website for the issuance of any addenda prior to submitting a Statement of Qualifications.

The address is <https://www.everettwa.gov/2713/Bid-opportunities>

#### **2.3 STATEMENT RESPONSE DATE AND LOCATION**

The consultant's Statement of Qualifications must be submitted in a sealed envelope, in its entirety, not later than the date and time, and at the location listed on page one of this RFQ. Statements arriving after the deadline may be returned unopened to their senders. All statements and accompanying documentation will become the property of the City of Everett and may not be returned.

Senders assume the risk of the method of dispatch chosen. The City of Everett assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for the actual statement receipt. Statements will not be accepted late, nor will additional time be granted to any proposer. Statements may not be delivered by facsimile transmission or other telecommunication or by electronic means.

#### **2.4 NON-ENDORSEMENT**

As a result of the selection of a proposer, the City of Everett is neither endorsing nor suggesting that the proposer's service is the best or only solution. The proposer agrees to make no reference to the City of



Everett in any literature, promotional material, brochures, sales presentation, or the like without the express written consent of the City of Everett.

## **2.5 PUBLIC DISCLOSURE**

### **1. Property of the City of Everett**

All materials (including, for example, proposals and statements of qualification) submitted in response to this RFQ shall become the property of the City of Everett. Selection or rejection of a proposal does not affect this. In this section, the term “proposal” is generic and refers to proposals, statements of qualification, letters of interest, and any other material submitted in response to this RFQ.

### **2. Proposals are Public Records**

Pursuant to Chapter 42.56 RCW and other statutes regarding public agencies, all materials (including, for example, proposals) submitted under this RFQ shall be considered public records and, with limited exceptions, will be available for inspection and copying by the public. Except to the extent protected by state and or federal laws, proposals shall be considered public documents and available for review and copying by the public.

### **3. Public Records Exemption**

Trade secrets (as defined in RCW 19.108.010) or other proprietary information submitted by a Proposer in connection with this RFP might not be subject to public disclosure under chapter 42.56 RCW if the proposer specifically states in writing the reasons why protection from disclosure is necessary and identifies the data or materials to be protected. Proposers shall specifically designate and clearly label as “CONFIDENTIAL” any and all such materials or portions thereof that they deem to contain trade secrets or other proprietary information. Proposers should carefully consider what is truly confidential and should not mark an entire proposal as confidential. The proposer shall provide the legal basis for the exemption to the City upon request. Proposers are advised that this exemption is subject to judicial review, and the proposer’s designation of confidential may or may not be upheld by a Court.

### **4. Proposals Not Marked as Confidential**

If a proposal or other material does not clearly identify the “CONFIDENTIAL” portions, the City will not notify the proposer that its proposal will be made available for inspection and copying, and the City may publicly disclose such non-clearly identified portion with no liability whatsoever to the proposer.

### **5. Process for Disclosing Information**

If a request is made for disclosure of material or any portion marked “CONFIDENTIAL,” the City will determine whether the material should be made available under the law. If the City determines that the material is subject to disclosure, the City will seek to notify the Proposer of the request and allow the proposer ten (10) business days after such notification to take appropriate legal action in Snohomish County Superior Court at the proposer’s sole expense and liability. If the proposer does not, within such ten (10) business days, serve the Office of the City Attorney with a copy of an order entered by the Superior Court that expressly prohibits the City

from disclosure of the material marked "CONFIDENTIAL," then the proposer will be deemed to have consented to the public disclosure of the material marked "Confidential," and the City may publicly disclose such material without any liability whatsoever to proposer.

## **6. Indemnification by Proposer**

To the extent that the City withholds from disclosure all or any portion of the proposer's material marked "CONFIDENTIAL," the proposer, by submitting a proposal in response to this RFP, agrees to indemnify, defend, and hold harmless the City of Everett from all lawsuits, liabilities, losses, damages, penalties, attorneys' fees and costs the City incurs arising from or relating to such withholding from disclosure.

## **7. Consent to Procedure**

Proposers, by submission of materials marked "CONFIDENTIAL," acknowledge and agree that the City will have no obligation to advocate for nondisclosure in any forum and has no liability whatsoever to any proposer for the disclosure of any material or record of any kind when that disclosure is in accordance with applicable law or in accordance with an order applying applicable law entered by the Snohomish County Superior Court or a Washington appellate court. By submitting a proposal, the proposer consents to the procedure in this Section as its sole remedy and waives and releases all claims against the City arising from the City's actions taken in accordance with this procedure.

### **2.6 NO OBLIGATION TO BUY**

The City of Everett reserves the right to refrain from contracting with any proposer. The release of this RFQ does not compel the City of Everett to purchase.

### **2.7 COST OF PREPARING STATEMENTS**

The City of Everett is not liable for any costs incurred by proposers in the preparation and presentation of statements and demonstrations submitted in response to this RFQ.

### **2.8 CONDITIONAL COMMITMENT OF FUNDS**

Notwithstanding any provision of this RFQ, by submission of a proposal, the proposer agrees and acknowledges that this RFQ does not constitute a commitment of funds or site approval.

### **2.9 PROTESTS**

All protests regarding this RFQ are governed by EMC 3.46 "Bid Protest Procedures."

## **SECTION THREE**

### **SUBMITTAL REQUIREMENTS AND EVALUATION**

#### **3.1 SUBMITTAL INFORMATION**

The statements of qualifications must be limited to fifteen (15) pages, which does not include the grant clauses or required forms. Single-sided printing is not required. The front and back cover are not considered a page. No additional information or pamphlets will be considered by the selection committee. **Contact information, including contact person, e-mail, and phone number, should be provided on the first page of the submittal.** Include the executed Community Development Block Grant clauses and federal forms with the submission.

Title each page with your name or company name and note the section number for each response.

**Statements of Qualifications must include the Signed Authorization contained on the last page of this RFQ, or they may be deemed non-responsive and may not be evaluated.**

#### **3.2 SUBMITTAL FORMAT**

Statements of Qualification will be evaluated on the completeness of the information supplied in the submittal.

Submit Statements of Qualification with the following three-section format. Failure to clearly and completely provide all the information below may result in rejection as non-responsive.

##### **1. QUALIFICATIONS & EXPERIENCE**

Provide a general overview of your organization. At a minimum, answer the following questions:

- a) Describe your company. Include how long the company has been in business. Describe the qualifications of your company, its business experience, and achievements.
- b) Who are you proposing to be the project manager if awarded this contract? What is their experience with this work and other aspects pertinent to this project? What are their years of experience, years in the profession, years with the firm, years of applicable licenses, etc.? Provide a list of three major projects that person has been involved in and their role. Full resumes are discouraged from being included.
- c) Provide names, tenure, roles, and responsibilities for each key team member engaged in providing the related services.
- d) Describe relevant team member experience with permitting, designing, and constructing federally funded projects.

##### **2. APPROACH & CAPABILITY**

- a) Where is the staff associated with this project located, and what is the firm's availability to complete the work within the stated time period?

- b) Describe your approach to the project. What achievements would you use to determine project success?
- c) What risks do you foresee with this project?
- d) Describe your ability to estimate and forecast construction costs on similar projects.

### 3. PERFORMANCE

- a) Submit no more than seven (7) completed relevant project experiences within the past five years that demonstrate successful contract performance similar in size and scope as described in this RFQ, including any government experience. Companies are encouraged to emphasize experience with multi-use path or trail projects completed within the past ten (10) years and experience with completed federally funded projects. Include the following for each reference:
  - Company name and full address
  - Point of contact name, title, e-mail address, and phone number
  - Contract title, number, start and completion dates
  - Contract value, description, and order/service details

### 3.3 EVALUATION

A numerical scale will be used to score each section for the written submittal. These track the submittal format on the previous two pages. The total score for each section will not exceed the maximum number of points set. Scoring will be as follows:

Qualifications & Experience	35
Approach & Capability	35
Performance	30
Total	100

**Oral Interview:** The City may conduct interviews after the City reviews written submittals. If the City elects to do this, identical questions will be prepared and distributed to each team to be interviewed, as well as questions that are customized for each team. Additional questions for and to the team may be addressed during oral interviews. Each team's demonstrated experience, qualifications, completeness, clarity, and professionalism, as demonstrated through its oral presentation and answers to questions, will be used in ranking teams in order of preference.

City of Everett  
**REQUEST FOR QUALIFICATIONS**  
 RFQ No. 2023-164  
**Walter E. Hall Park Community Connections Path**

The undersigned hereby declares that he or she is duly authorized to complete and submit this Statement of Qualifications and that the statements contained herein are true and correct as of the date set forth below. Incomplete, incorrect, or misleading information may be a reason for a determination of non-responsibility by the City of Everett.

Company Name:		
Company Address:		
City:	State:	ZIP:
Tax ID #:	UBI #:	
Legal status of supplier organization, i.e., corporation, partnership, sole proprietorship.		
Diversity Certification (if applicable): <input type="checkbox"/> <b>Disadvantaged Business Enterprise (DBE)</b> <input type="checkbox"/> <b>Minority Business Enterprise (MBE)</b> <input type="checkbox"/> <b>Women Business Enterprise (WBE)</b> <input type="checkbox"/> <b>Minority Women Business Enterprise (MWBE)</b> Certification number:		
Website:	City of Everett Business License #	
Supplier Contact Name (if different from Authorizing Official):	Supplier Contact Title:	
Supplier Contact Email:	Supplier Contact Direct Phone:	
Supplier Contact Address (if different from above):		
City:	State:	ZIP:
Authorizing Official Name:	Authorizing Official Title:	
Authorizing Official Email:	Authorizing Official Phone:	
Authorizing Official Signature* and <b>Date</b> :          <small>*A signature means an original signature, a copy of an original signature, a PDF scan of an original signature, or a DocuSign/AdobeSign electronic signature.</small>		



## City Council Agenda Item Cover Sheet

**Project title:** Everpark Garage Ordinance relating to Fund 430 and repealing Ordinance 97-70

**Council Bill #** *interoffice use*

CB 2405-09

**Agenda dates requested:**

1<sup>st</sup> Reading 05/29/24

2<sup>nd</sup> Reading 06/05/24

Consent

Action 06/12/24

Ordinance X

Public hearing

Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Ordinance

**Department(s) involved:**

Economic Development

**Contact person:**

Dan Eernisse, Director

**Phone number:**

425-257-8681

**Email:**

deernisse@everettwa.gov

**Initialed by:**

DE

Department head

Administration

Council President

**Project:** Fund 430 Everpark Garage Ordinance

**Partner/Supplier:** NA

**Location:** 2815 Hoyt Avenue

**Preceding action:** Ordinance 97-70

**Fund:** 430/Everpark Garage

**Fiscal summary statement:**

Adoption of this ordinance will have no General Fund impact. Fund 430 will continue to be the Enterprise Fund for Everpark Garage revenue, accumulated interest, and expenditures with a priority given to maintenance.

**Project summary statement:**

In October 1970, the Everett City Council, recognizing the need for off-street parking in downtown Everett, adopted Ordinance 97-70 that provided the bond financing for the construction of what is now called the Everpark Garage and established "special funds and accounts" to construct the garage. All debt has long since been retired, and the special funds and accounts established in Ordinance 97-70 have been superseded by Fund 430 ("Everpark Garage").

Since 1970 expenditures from Fund 430 have been restricted to operation, maintenance, repair, and capital improvement of the Everpark Garage. Downtown Everett has significant parking needs, and an adequate supply of well-managed parking is a key driver of the economic health of the downtown.

This proposed Ordinance reestablishes the purposes for which the revenues in Fund 430 Everpark Garage may be expended. While keeping Everpark maintenance as the priority, it also allows expenditures of surplus funds to improve downtown parking. As the debt issued under Ordinance 97-70 is long retired, this Ordinance also repeals Ordinance 97-70. This repeal will eliminate any confusion about whether Ordinance 97-70 still affects City management or use of Everpark Garage.

The briefing on this proposed Ordinance was given to the Council's Parks & Quality of Life Committee at its meeting on May 15, 2024.

**Recommendation (exact action requested of Council):**

Adopt an Ordinance relating to Everpark Garage and Fund 430 Everpark Garage, and repeal Ordinance 97-70.



**ORDINANCE NO.** \_\_\_\_\_

**An ORDINANCE relating to Everpark Garage and Fund 430 Everpark Garage, and repealing Ordinance 97-70**

**WHEREAS,**

A. In 1969-1970, the City of Everett City Council, recognizing the need for off-street parking in downtown Everett, adopted ordinances that provided the financing for the construction of what is now called the Everpark Garage.

B. Ordinance 97-70, adopted in October 1970, directed the issuance of bonds for Everpark Garage construction. Section 12 of Ordinance 97-70 also established four “special funds and accounts,” including accounts for revenue, for bond and interest sinking fund, for repair and replacement reserve, and for construction.

C. The Everpark Garage was built with the proceeds of the bonds issued under Ordinance 97-70 and from other revenue sources.

D. All debt issued under Ordinance 97-70 or otherwise related to the construction of Everpark Garage has been long retired. In addition, the accounts created in Section 12 of Ordinance 97-70 have long since been superseded by Fund 430 (entitled “Everpark Garage”).

E. Fund 430 receives revenue from Everpark Garage parking fees and accumulated interest. Expenditures from Fund 430 have since 1970 been only for operation, maintenance, repair and capital improvement of the Everpark Garage.

F. Downtown Everett has significant parking needs, both on-street and off-street. Parking is a key driver of the economic health of the downtown.

G. This Ordinance reestablishes the purposes for which the revenues in Fund 430 Everpark Garage may be expended, to include both downtown off-street and downtown on-street purposes.

H. As the debt issued under Ordinance 97-70 is long retired, this Ordinance also repeals Ordinance 97-70. This repeal will eliminate any confusion about whether Ordinance 97-70 still affects City use of Everpark Garage revenue.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** Fund 430 Everpark Garage is hereby revised as follows:

- A. Fund 430 Everpark Garage revenues will continue to be derived from Everpark Garage revenues, including without limitation parking receipts collected from garage customers and interest on the invested fund balance.

B. Fund 430 Everpark Garage expenditures may include, in accordance with the City budget, the following expenditures:

1. Expenditures for the Everpark Garage, including without limitation its operation, maintenance, repair, or capital improvement; or
2. After reasonable provision for the requirements of the Everpark Garage are met, then expenditures for purposes related to publicly owned off-street and on-street parking in the downtown Everett area bounded by Broadway on the east, 32<sup>nd</sup> Street on the south, West Marine View Drive on the west, and 25<sup>th</sup> Street on the north.

**Section 2.** Ordinance 97-70 is hereby repealed.

**Section 3.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 4.** The City Council hereby declares that should any section, paragraph, sentence, clause, or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 5.** 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 6.** 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.

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Cassie Franklin, Mayor

ATTEST:

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Marista Jorve, City Clerk



PASSED: \_\_\_\_\_

VALID: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

**Project title:** An Ordinance Creating a Special Improvement Project Entitled, "Clark Park Renovation and Off Leash Dog Area", Fund 354, Program 101, to Accumulate All Costs for the Project

**Council Bill #**

CB 2405-08

**Agenda dates requested:**Briefing & 1<sup>st</sup> Reading 5/22/24

Proposed action 5/29/24

Consent

Action 6/5/24

Ordinance X

Public hearing

Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

X Yes No

**Attachments:**

- Funding Ordinance
- Historical Commission Review Process Memo
- Historical Commission Letter

**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:** Clark Park Renovation and Off Leash Dog Area**Partner/Supplier:** N/A**Location:** 2400 Lombard Ave.**Preceding action:** None**Fund:** Fund 354, Program 101 (CIP 3)**Fiscal summary statement:**

The source of funds for the project is CIP-3. The City was awarded a grant from Snohomish County in the amount of \$10,000 to help fund the project. This County grant was a Small Capital Project Partnership Grant, applied for in partnership with the Bayside Neighborhood and the City.

The amount of the construction and project costs is estimated to be \$360,000.

**Project summary statement:**

This project will construct a new 29,700 sq. ft. off leash dog area. The construction of the off-leash dog area will include installation of a 5' high ornamental metal fence with 2 gates in the sally port and a double 4' gate for the maintenance entrance. This project will also include park renovations adding lighting upgrades, removal and storage of the gazebo, interpretive signage, and tree protection measures.

**Recommendation (exact action requested of Council):**

Adopt an Ordinance creating a Special Improvement Project entitled, "Clark Park Renovation and Off Leash Dog Area", Fund 354, Program 101, to accumulate all costs for the project.



**ORDINANCE NO. \_\_\_\_\_**

An Ordinance creating a special improvements project entitled “Clark Park Renovations and Off Leash Dog Area”, Fund 354, Program 101, to accumulate all costs for the project.

**WHEREAS,**

- A. The City Council recognizes the desire of the Bayside neighborhood to have an off-leash dog area in their neighborhood.
- B. The City Council has recognized the need for Clark Park renovations and construction of a neighborhood 29,700 sq. ft. off leash dog area.
- C. The City has received a Snohomish County grant in the amount of \$10,000 as a contribution to fund the construction of an off-leash dog area at Clark Park.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** A special improvement project fund is hereby entitled “Clark Park Renovations and Off Leash Dog Area” Fund 354, Program 101.

**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, permitting, and construction is \$360,000.

**Section 4.** The sum of \$360,000 is hereby appropriated to Fund 354, Program 101, “Clark Park Renovations and Off Leash Dog Area”, project

A. Use of Funds	
<u>Repair and Construction</u>	<u>\$360,000</u>
Total	\$360,000
B. Source of Funds	
CIP-3	\$350,000
<u>Snohomish County SCPP Grant</u>	<u>\$ 10,000</u>
Total	\$360,000

- 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: \_\_\_\_\_



**TO:** Everett Historical Commission  
**FROM:** David Hall, City Attorney  
**DATE:** April 17, 2024  
**SUBJECT:** Historical Commission review process for Clark Park project

Everett Parks initiated a project in Clark Park in response to a desire among the community for more dog parks and active recreation opportunities and in response to unacceptable levels of crimes and park rule violations that often occur in, around, or related to the gazebo structure. The project scope includes installation of a dog park, removal of the gazebo structure, and lighting improvements.

The Everett historical commission requested more information on whether the proposed project would require a certificate of appropriateness or a waiver of a certificate of appropriateness.

## BACKGROUND

Under EMC 19.28, changes to properties on the Everett Register of Historic Places requires a review by the historical commission, which applies to all features of the property that contribute to its designation as identified on the nomination form.

As part of that review, the historical commission may recommend a **certificate of appropriateness** for the *use, construction of any new building or structure, or reconstruction, alteration, restoration, remodeling, repairing, or moving* the register property. The decision concerning the granting or denial of a certificate of appropriateness is made by the planning director.

The historical commission may also issue a **waiver of a certificate of appropriateness** for *demolition or partial demolition* of a register property, including potential conditions of the waiver. The commission may also recommend that the property be removed from the register upon demolition. The decision concerning the waiver of certificate of appropriateness is made by the city council.

## CLARK PARK REGISTER PROPERTY

On [July 7, 1993](#), the City Council placed the Clark Park site on the Everett Register of Historic Places. The nomination references Clark Park's significance as Everett's first park and as an early example of civic concern for creating public spaces in the new city.

**Significance:** Clark Park is significant as Everett's first park and as an early example of civic concern for creating public spaces in the new city. The name is also important as a way of honoring and remembering people who have contributed to Everett's development.

The nomination also reflects the evolution of the park over the years and laments the state of disrepair, at the time, of the popular bandstand. The recommendation notes that the park would be the first non-structure site on the register.

**Historical Commission Recommendation:** Clark Park certainly qualifies for recognition as an Everett Register property. It will be the first non-structure site to be put on the Register and is a good example of the types of sites that are valuable to the history of the City of Everett.



Features noted in the register nomination for Clark Park include: large, significant, and historic trees, newer tennis courts and fitness track, a bandstand (gazebo), the park's name, the diagonal sidewalks, and the wide lawns.

## CONCLUSION

The Clark Park Everett Historic Register property is a site. Site means “the spatial location of an actual or planned structure or set of structures (such as a building, town, or monuments)”, or “a space of ground occupied or to be occupied by a building”, or “the place, scene, or point of an occurrence or event”<sup>1</sup>.

While it is possible to alter (“to make different without changing into something else”<sup>1</sup>) a site, one cannot demolish (“tear down”, or “raze” <sup>1</sup>) a spatial location, space, place, scene, or point. In this case the planning director correctly determined that the proposed project – installation of a dog park, removal of the gazebo structure, and lighting improvements – affects features of the site which are noted in the register nomination and that the project should be reviewed by the Historical Commission. The planning director also correctly characterized the project as an *alteration of the Clark Park site*, which requires a certificate of appropriateness under EMC [19.28.140\(C\)\(3\)](#).

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<sup>1</sup> Merriam-Webster



## EXHIBIT 1 – EVERETT MUNICIPAL CODE: EVERETT REGISTER OF HISTORIC PLACES

### EMC 19.28.130 Everett register of historic places.

A. *[Criteria for Placement on the Everett Register]*

B. *[Process for Designating Properties or Districts to the Everett Register]*

C. *Removal of Properties from the Register.* In the event that any property is no longer deemed appropriate for designation to the Everett register of historic places, the commission or property owner may initiate removal from such designation by the same procedure as provided for in establishing the designation, subsection (B) of this section.

D. *Effects of Listing on the Register.*

1. Listing on the Everett register of historic places is an honorary designation denoting significant association with the historic, archaeological, engineering or cultural heritage of the community.
2. Prior to the commencement of any work on a register property, excluding painting, and emergency measures, the owner must request a certificate of appropriateness from the commission for the proposed work. Violation of this rule shall be grounds for the commission to review the property for removal from the register.
3. As a certified local government (CLG), the commission may grant special tax valuation for the rehabilitation of properties listed on the Everett register of historic places.
4. Prior to whole or partial demolition of a register property, the property owner must request and receive a waiver of a certificate of appropriateness.

### EMC 19.28.140 Changes to properties on Everett register of historic places.

A. *Review Required.* No person shall change the use, construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move or demolish any existing property on the register without review by the historical commission and issuance of a certificate of appropriateness, or in the case of demolition a waiver as a result of the review. The review shall apply to all features of the property that contribute to its designation as identified on the nomination form.

B. *Exemption.* This section shall have no application to ordinary repair and maintenance, including painting, nor to emergency repairs.

C. *Review Process.*

1. *Requests for Review and Issuance of a Certificate of Appropriateness or Waiver.* The building official shall report any application for a permit to work on a designated Everett register property to the commission staff, who shall notify the applicant of the commission review requirements. The commission shall review the application for certificate of appropriateness or waiver prior to the building official granting a permit. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. If conditions are not met, the certificate of appropriateness may be revoked or, in the case of a waiver involving demolition, the city may take such action it deems appropriate including issuance of stop-work orders and/or suspension of permits.
2. *Commission Review.* The owner or their agent shall apply to the commission for a review of the proposed changes to a register property or within a register historic district and request a



certificate of appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by such information as is required by the commission established in its rules for the proper review of the proposed project.

3. *Commission Procedures.* The commission shall meet with the applicant and review the proposed work according to the requirements set forth in this chapter, and, in the case of reconstruction, alteration, restoration, remodel, repair or moving, the design review criteria established in the Washington State Advisory Council's Standards for Rehabilitation and Maintenance of Historic Properties. The commission's recommendation shall state the findings of fact and reasons relied upon in reaching its decision. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. The decision concerning the granting or denial of a certificate of appropriateness shall be made by the planning director on the advice of the commission according to the standards established in the commission's rules. Once a decision is rendered, it shall be transmitted to the building official. The building official may then issue the permit provided the proposed work meets all other appropriate regulations.

4. *Demolition.* A waiver of the certificate of appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Everett register property. The owner or their agent shall apply to the commission for review of the proposed demolition and request a waiver. When there is no feasible alternative to demolition, then either the significant historic character defining features should be saved and incorporated as part of the new design, or the new design should, in some measure, preserve or recognize the historic character or provide reasonable mitigation. The commission shall make a recommendation to the city council. The commission may recommend that: (a) the waiver be granted; (b) the waiver be granted with conditions; or (c) the waiver be denied. In addition, the commission may recommend that the property be removed from the register upon demolition. Conditions, in the case of a recommendation waiving a certificate of appropriateness involving demolition, may include a recommendation that the owner provide reasonable mitigation for the loss of the Everett register property. Reasonable mitigation for the loss may include a demolition that: (1) saves significant facade features and incorporates them into the design of the structure; (2) incorporates identified character defining features into the design of the new structure; or (3) such other alternatives found acceptable to the historical commission or the city council.

#### **EMC 19.28.150 Review and monitoring of properties for special property tax valuation.**

A. The class of properties eligible for special valuation shall be limited to properties listed on the Everett register of historic places.

B. Applications for special property tax valuation in connection with substantial improvement of historic properties, as defined in Chapter 84.26 RCW, shall be submitted to the commission by the county assessor within ten days of filing.

C. The commission shall approve applications for special valuation if the property meets the provisions of Chapter 84.26 RCW and is not altered in a way which adversely affects those elements which contribute to its designation and the owner(s) enters into an agreement with the commission which requires the owner(s) for the ten-year period of classification to:

1. Monitor the property for its continued qualification for special valuation;
2. Comply with rehabilitation plans and maintenance as defined in the agreement;





3. Make the historic aspects of the property accessible to public view one day a year, if the property is not visible from the public right-of-way;
  4. Apply to the commission for approval or denial of any demolition or alteration; and
  5. Comply with all other provisions in the original agreement.
- D. Owners of Everett register properties that have been granted special valuation must execute an historic preservation agreement with the city. This agreement covers the owner's obligation for maintenance, repair or alteration of the historic structure. Any breach of this historic preservation agreement may result in the loss of special valuation.
- E. Once an agreement between an owner and the commission has become effective, there shall be no changes in standards of maintenance, public access, alteration or report requirements, or any other provisions of the agreement, during the period of the classification without the approval of all parties to the agreement.
- F. An application for classification as an eligible historic property shall be approved or denied by the commission before December 1st of the calendar year in which the application is made.
- G. The commission shall notify the county assessor and the applicant of the approval or denial of the application.
- H. If the commission determines that the property qualifies as an eligible historic property, the commission shall certify the fact in writing and shall file a copy of the certificate with the county assessor within ten days of the determination and no later than December 31st.
- I. Any decision of the commission acting as the local review board on any application for classification as historic property, eligibility for special valuation, may be appealed to superior court.



Everett Historical Commission

April 23<sup>rd</sup>, 2024

Everett City Council and Mayor Franklin,

After much consideration, the Historical Commission has decided to indefinitely postpone the City's request for a certificate of appropriateness to demolish the Clark Park gazebo and build a dog park. This is because the commission strongly feels that a certificate of appropriateness is not the appropriate mechanism for this request. We believe that a *waiver of a certificate of appropriateness* would have been the correct path.

The first sentence of the Everett Municipal Code section on Demolition (EMC 19.28.140.C.4) states: "A waiver of the certificate of appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated Everett register property." We believe this is abundantly clear at face value, and is not in need of creative explanations.

Furthermore, the Historical Commission would also like to draw the Council's attention to the following facts:

- The dog park would likely be an excellent way to activate the park. However, demolition of the gazebo is not strictly necessary to build the dog park. In fact, the existing gazebo could be thoughtfully integrated into the design of the dog area.
- The City has acknowledged that demolishing the gazebo won't stop crime in Clark Park. Furthermore, it's very possible that activating the park with dogs and their owners will go a long way towards mitigating those issues, rendering demolition unnecessary. Therefore, there is no particular urgency to demolish the gazebo.
- Although the City claims that the gazebo isn't made of the original wood, it has apparently been rehabilitated in accordance with the Secretary of the Interior Standards as the Everett Register requires. Therefore, it maintains its historical integrity.
- It was the clear intent of the 1993 nomination of the park to the Everett Register that the gazebo be protected. Since the park has always been owned by the City and there are no tax benefits to be gained by anybody, protection would have been the primary motivation for placing it on the register.
- The 1993 Everett Register nomination form for the park listed Architecture, Landscape Architecture, and Community Development as the three areas of significance. At the time, there was the gazebo, a bandstand, and a cannon in the park. The gazebo is now the only remaining structure within Clark Park that offers any sense of architectural significance. Its demolition would rob the park of a major reason why it was put on the register in the first place. Without it, its historical status would be a mere technicality, and it would lose any visible sense of its identity.

- The purpose of the Everett Register is to encourage preservation of our heritage. Demolitions or radical alterations of Everett Register properties are contrary to this goal. As such, they should be approved only in highly exceptional circumstances. For example, if a structure were to be destroyed by fire, or if there is an overwhelmingly obvious public benefit (like the hospital expansion a few years ago). The current proposal is not a compelling enough reason for such radical action. It should surprise no one that this commission is not predisposed to endorse such exceptions.
- The City of Everett is a Certified Local Government (CLG) under the National Historic Preservation Act (NHPA). This is essentially a sort of National Park Service accreditation. The City has held this designation since the 1980s. Under the State of Washington Certified Local Governments Program Requirements and Procedures Amended 2002, the NHPA requires that all CLGs “*Enforce appropriate state or local legislation for the designation and protection of historic properties*” [Section 101(c)(1)(A)]. By demolishing one of its own historic properties, the City of Everett would be flagrantly disregarding its obligations as a CLG, and would also be setting a bad precedent for other owners of historic properties.

In conclusion, we understand and appreciate that the City is trying to reduce crime and create a healthy environment for its residents, under very difficult financial circumstances. We also believe that the best way to achieve these goals is to collaborate with the Historical Commission on possible solutions, rather than trying to simply force your will upon it. The commission remains willing to entertain less drastic alternatives, if and when they are proposed by the City.

Respectfully,

Patrick Hall

Chair, Everett Historical Commission

**From:** Alexis <alexis.boies@gmail.com>  
**Sent:** Wednesday, June 5, 2024 8:15 AM  
**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 Council and Administration Team,

My name is Alexis Boies and I live in Everett, Port Gardner neighborhood.

I'm writing to support the neighbors of Clark Park and ask you to vote to remove the structure. Neighborhood associations are liaisons for their neighborhood and listening to their needs and requests is imperative.

I bought my 114 year old home in Everett five years ago. I think most North Everett residents move here because of all the old homes and buildings and all the charm it brings.

When buying my house five years ago, I looked around the area and checked out the schools my child would be attending, North Middle and Everett High School. I was immediately struck by Clark Park. I worried about my 6th grader having to walk by it to get home everyday. I went so far as to get on Nextdoor to see what people were saying about it, thinking... maybe I'm overreacting. I was not. There are posts going back years discussing safety concerns at the park. The parks proximity to both schools and the ongoing issues with drug use and loitering is not ok. Please think about all the students who walk by and all the kids who can't play there.

I have watched all the council meetings and read all the articles regarding the gazebo. I see neighbors directly affected asking for a reprieve and the removal of the gazebo. I see members of the Historical society fighting for a structure theve never used, besides a photo op for media.

Historical societies are imperative, too. I appreciate their determination to preserve history, but the era of bandstands is long over. I don't understand the processes and procedures the city us supposed to go through, and they say you've gone about this the wrong way. I hope the issues between you get resolved. It doesn't change the needs of the community and the structure needs to go.

Last week the history of park was brought up. The founders wanted a place for people to gather, be social, and bring the community together. This has rarely been the case the last few decades. Outside of the wonderful events the neighborhood association has put on there, when have you thought... I'm gonna take my family to Clark Park? It's the largest central park in our community and a greater amount people do want to use it versus the small amount of people who are preventing it.

Removing the structure won't solve the street level issues, but it will bring relief. I trust that our cities homeless coordinators and community development teams will be involved and offer assistance and services to the people who reside there. We are exceptionally fortunate to have these teams. The work they do is outstanding. If services are refused, they are refused, and there's nothing more to be done till that person wants help. They aren't entitled to the space anymore than the neighbors are. It's intended for everyone. You will see a more vibrant space when it's removed. I will for sure be there with my family and dog. Along with many other people on my block.

Please vote yes to removing the structure. Times have changed and it's not being used for the intended purpose. Honor it with all the designs and plaques the planners have included. Give the neighbors the opportunity to breathe a little easier and enjoy their space. Give the downtown community a beautiful space to enjoy.

Thank you in advance for your consideration,

-Alexis Boies

**From:** Bayside Neighborhood <info.bayside.na.wa@gmail.com>  
**Sent:** Wednesday, June 5, 2024 7:31 AM  
**To:** Angela Ely  
**Cc:** Henry Cotter  
**Subject:** [EXTERNAL] Updated Petition Signatures for 2405-08  
**Attachments:** 06052024\_Petition.pdf

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.

Good Morning,  
We have additional signatures as of June 5 2024. The attached is the updated list of signatures.

Thank you,

John Phillips  
Vice-Chari

--



Bayside Neighborhood Association  
[www.baysidena.yolasite.com](http://www.baysidena.yolasite.com)

**Agenda item 2405-08 June 5, 2024**

**Petition from Bayside Neighborhood**

Please find a petition of Everett citizens expressing their concerns over the status of the Clark Park Gazebo. Over the last thirty years, the gazebo has been an ongoing issue for the public enjoyment of the park by the neighbors, the people who live in the immediate vicinity of Clark Park.

The gazebo is a focal point of crime. The crime includes vandalism, drug use, and drug sales. There has also been violent crime within the last two years including a stabbing. A user of the gazebo started a fire in February 2024. Neighbors do not feel safe bringing their children to the park.

Our ultimate goal is for the park to be used by everyone. And for everyone to feel comfortable and safe using Clark Park. We strongly support the actions of the Parks Department to remove the gazebo from Clark Park for the betterment of our neighborhood, the Everett community at large, and the equitable enjoyment for all.

<b>Petition Purpose</b>	<b>Removal of Clark Park Gazebo</b>		
<b>Petition Background</b>	<p>The undersigned citizens of Everett wish to express their concerns over the status of the Clark Park Gazebo. Over the last thirty years, the gazebo has been an ongoing issue for the public enjoyment of the park by the neighbors, the people who live in the immediate vicinity of Clark Park.</p> <p>The gazebo is a focal point of crime. The crime includes vandalism, drug use, and drug sales. There has also been violent crime within the last two years including a stabbing. A user of the gazebo started a fire in February 2024. Neighbors do not feel safe bringing their children to the park.</p> <p>Our ultimate goal is for the park to be used by everyone. And for everyone to feel comfortable and safe using Clark Park. We strongly support the actions of the Parks Department to remove the gazebo from Clark Park for the betterment of our neighborhood, the Everett community at large, and the equitable enjoyment for all.</p>		
<b>Name</b>	<b>Address (Optional)</b>	<b>City</b>	
MAGALY Quinones	2406 Oaks Ave	Everett, WA 98201	
Kathleen Smith	2406 Oaks Ave	Everett, WA 98201	
John Stejer	2314 Lombard #A	Everett 98201	
Molly Deardoff	1517 Rainier	Everett, WA	
Christina Myers	2010 Lombard Ave	Everett, WA	
Jennifer Wenzel	1807 22 <sup>nd</sup> St	Everett, WA	



<b>Petition Purpose</b>	<b>Removal of Clark Park Gazebo</b>
<b>Petition Background</b>	<p>The undersigned citizens of Everett wish to express their concerns over the status of the Clark Park Gazebo. Over the last thirty years, the gazebo has been an ongoing issue for the public enjoyment of the park by the neighbors, the people who live in the immediate vicinity of Clark Park.</p> <p>The gazebo is a focal point of crime. The crime includes vandalism, drug use, and drug sales. There has also been violent crime within the last two years including a stabbing. A user of the gazebo started a fire in February 2024. Neighbors do not feel safe bringing their children to the park.</p> <p>Our ultimate goal is for the park to be used by everyone. And for everyone to feel comfortable and safe using Clark Park. We strongly support the actions of the Parks Department to remove the gazebo from Clark Park for the betterment of our neighborhood, the Everett community at large, and the equitable enjoyment for all.</p>

Name	Address (Optional)	City
JAMES <del>SMITH</del>		Everett
Taylor Roberts		Everett
Michelle Myers		Everett
Bibi Penland		Everett
Ron J. Motte		EVERETT, 98201
Mohamed Mettaly		Everett, 98201
Makenzie Best		Everett, 98203
Carmen Gatzkiewicz		Everett, 98208
Jennifer Gray		Everett, 98208
James Lee		Everett



Petition Purpose	Removal of Clark Park Gazebo
Petition Background	<p>The undersigned citizens of Everett wish to express their concerns over the status of the Clark Park Gazebo. Over the last thirty years, the gazebo has been an ongoing issue for the public enjoyment of the park by the neighbors, the people who live in the immediate vicinity of Clark Park.</p> <p>The gazebo is a focal point of crime. The crime includes vandalism, drug use, and drug sales. There has also been violent crime within the last two years including a stabbing. A user of the gazebo started a fire in February 2024. Neighbors do not feel safe bringing their children to the park.</p> <p>Our ultimate goal is for the park to be used by everyone. And for everyone to feel comfortable and safe using Clark Park. We strongly support the actions of the Parks Department to remove the gazebo from Clark Park for the betterment of our neighborhood, the Everett community at large, and the equitable enjoyment for all.</p>

Name	Address (Optional)	City
Lisa Phillips		Everett
Adam Goldstein		Everett
Angie [Signature]		Everett
[Signature]		Everett
Regina Naughtlin		Everett
Dana Smith [Signature]		Everett
JASON Smith		Everett
John Thellock		Everett
[Signature]		Everett
Michelle Wilde		Everett

<b>Petition Purpose</b>	<b>Removal of Clark Park Gazebo</b>	
<b>Petition Background</b>	<p>The undersigned citizens of Everett wish to express their concerns over the status of the Clark Park Gazebo. Over the last thirty years, the gazebo has been an ongoing issue for the public enjoyment of the park by the neighbors, the people who live in the immediate vicinity of Clark Park.</p> <p>The gazebo is a focal point of crime. The crime includes vandalism, drug use, and drug sales. There has also been violent crime within the last two years including a stabbing. A user of the gazebo started a fire in February 2024. Neighbors do not feel safe bringing their children to the park.</p> <p>Our ultimate goal is for the park to be used by everyone. And for everyone to feel comfortable and safe using Clark Park. We strongly support the actions of the Parks Department to remove the gazebo from Clark Park for the betterment of our neighborhood, the Everett community at large, and the equitable enjoyment for all.</p>	
<b>Name</b>	<b>Address (Optional)</b>	<b>City</b>
Steven Beckmann	1810 24 <sup>th</sup> ST	Everett
Melissa Beckmann	11	11
Rachel Dahlquist	1815 20 <sup>th</sup> St.	Everett
Sarah Lang	2511 Lombard Ave	Everett
Diana Tiland	2518 Lombard Ave	Everett
Chad Larson	2518 Lombard Ave	Everett
Anna Pennington	2520 Lombard Ave	Everett
Mon Sheikh	2518 Lombard Ave	Everett
PASHA GRANT	2508 Lombard Ave	Everett
Brett Grant	2508 Lombard Ave	Everett

Petition Purpose	Removal of Clark Park Gazebo
Petition Background	<p>The undersigned citizens of Everett wish to express their concerns over the status of the Clark Park Gazebo. Over the last thirty years, the gazebo has been an ongoing issue for the public enjoyment of the park by the neighbors, the people who live in the immediate vicinity of Clark Park.</p> <p>The gazebo is a focal point of crime. The crime includes vandalism, drug use, and drug sales. There has also been violent crime within the last two years including a stabbing. A user of the gazebo started a fire in February 2024. Neighbors do not feel safe bringing their children to the park.</p> <p>Our ultimate goal is for the park to be used by everyone. And for everyone to feel comfortable and safe using Clark Park. We strongly support the actions of the Parks Department to remove the gazebo from Clark Park for the betterment of our neighborhood, the Everett community at large, and the equitable enjoyment for all.</p>

Name	Address (Optional)	City
KRYSTYNA SIMM	2300 Blk Oakes Ave	Everett
Aislinn Simm	2330 Oakes Ave.	Everett
JACK GOODRICH	OAKES AVE	EVERETT
Gorden Noedhouse	2327 oakes Ave.	Everett
E. Sim	2331 Oakes Ave	Everett
Mary Reimann	2402 Oakes Ave	Everett
M. H. Hejazi	24114 Oakes Ave	Everett
Somayeh Banaei	2411 Oakes Ave	Everett
Jesus Garcia	2420 OAKES AVE	Everett
Waseem Aindary	2509 Oakes Ave	Everett



Petition Purpose	Removal of Clark Park Gazebo
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Name	Address (Optional)	City
Henry Cotter	2824 Grand Ave	Everett
Dwight Stowt	2824 Grand Ave	Everett
Jane McClure	2510 Rucker <sup>#6</sup>	Everett
Don McClure	2510 Rucker Ave <sup>#6</sup>	Everett
Lexis Shute	2623 96 <sup>th</sup> Pl SE	Everett
Jessica Schafer	427 85 <sup>th</sup> Dr SE	LAKE STEVENS
Kathy Mott	(425) 387-8473	Everett WA
Idea Carpenter	20321 24 <sup>th</sup> AVE W	Everett WA
Daniel Seat	425-399-6660	Everett
Ky Taylor	2121 Hoyt Ave	Everett

Danielle Armstrong Oakes Ave Everett



Petition Purpose	Removal of Clark Park Gazebo	
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Name	Address (Optional)	City
Sharon Gunnors		Everett
Alissa Sherburne		Everett
Brian Hauman		Everett
Brandon Severns		Everett
Kevin Bergeron		Everett
Kyle Roscoe		Everett
Gus Houten		EV
Chris Cook		Everett
Wicki		Everett
Chris Glaze		Everett



<b>Petition Purpose</b>	<b>Removal of Clark Park Gazebo</b>
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Name	Address (Optional)	City
Sandy Neal	1002 Maple St	Everett
Elizabeth Mullen	2501 Grand Ave	Everett
Naomi Storbakken	1312 25th St	Everett
Kay D Haggard		Everett
Patty Robinson	525 51st St SW Everett WA 98203	Everett
Alicia Bucio		Everett



[illegible]



**From:** rockinw1 <rockinw1@frontier.com>  
**Sent:** Tuesday, June 4, 2024 8:39 PM  
**To:** Angela Ely  
**Subject:** RE: [EXTERNAL] Clark Park Gazebo

My city is Lake Stevens.

Thank you..  
Marilyn Webber

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Angela Ely <AEly@everettwa.gov>  
Date: 6/4/24 3:49 PM (GMT-08:00)  
To: Bill & Marilyn <rockinw1@frontier.com>  
Subject: RE: [EXTERNAL] Clark Park Gazebo

Category 2: Sensitive information

Hello Marilyn,

Thank you for submitting your email to Council.


If you are wanting your email to be submitted as written comment for the record at this evenings Council meeting, I would need confirmation of your city of residence.

The written comment process consists of your email being shared with the city clerk, legal, and administration. The city clerk would include it in the online packet that they post online and would become a permanent record. We typically submit written communication pertaining to a current agenda item as written comment, but it is not required.

If your purpose was mainly to share your thoughts with Council, then there is no additional information needed from you.

Sincerely,

Angela

 **Angela Ely**  
Executive Assistant | Everett City Council  
425.257.8703 | 2930 Wetmore Ave, Ste 9A, Everett, WA 98201  
**EVERETT** [everettwa.gov](https://www.everettwa.gov) | [Facebook](#) | [Twitter](#)

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**From:** Bill & Marilyn <rockinw1@frontier.com>  
**Sent:** Tuesday, June 4, 2024 12:42 PM  
**To:** DL-Council <Council@everettwa.gov>  
**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.

I can't believe the City of Everett is actually considering doing anything other than maintaining the Clark Park Gazebo. The Gazebo is part of Everetts history. I saw the first article in the Herald and couldn't believe the City was considering tearing it down, now the Herald is reporting an even crazier idea to move it and store it away. Who would of thought the City would go to such an extreme as to hire an attorney to say technically the Gazebo is not part of the park. Thank goodness the Historical Society has common sense and understands and respects the role the Gazebo plays in Clark Park.

Has the City no respect for the past? And to think the City wants to remove it for a dog park, how is that even realistic. The land it sits on is small.

My grandfather played many concerts from the gazebo. My Dad had wonderful stories and great memories of the fun times listening to music, having family picnics, just having fun in the park. We need to bring back some of these simpler life activities. More stories and great memories could be created there today.

Wake up and smell the roses. Keep the Gazebo as a historical icon of the past. Schedule events there. Put it to use as it was in the early 1920's.

Sincerely,  
Marilyn Webber

**From:** Anna Pennington <abrooksp@uw.edu>  
**Sent:** Tuesday, June 4, 2024 2:18 PM  
**To:** DL-Council  
**Cc:** Mary Fosse  
**Subject:** [EXTERNAL] Action Item 9 Public Comment  
**Attachments:** 20240605 Action Item 9 Public Comment - Pennington.pdf

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 would like to comment on Action Item 9, CB 2405-08 for the 3rd and Final Reading scheduled for June 5, 2024. Please see the attached written comments.

Thank you!

Anna Pennington

**Everett City Council**  
**June 5, 2024**

Action Item 9, CB 2405-08 – 3rd & Final Reading, Adopt An Ordinance Creating A Special Improvement Project Entitled, “Clark Park Renovation And Off Leash Dog Area”, Fund 354, Program 101, To Accumulate All Costs For The Project

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Dear Everett City Council and Mayor Franklin,

I appreciate the opportunity to provide a few written comments on the proposed dog park. I live one block adjacent to Clark Park and also own a dog whom I frequently take to dog parks.

**Water Infiltration**

The City should take into account water infiltration while designing the dog park, as increased traffic will reduce grass coverage, and result in a very muddy park. Even with abundant shade and grass coverage, water can be observed to flow over the sidewalk on the southeast corner of Clark Park. The two dog parks in Lowell are not very popular among Everett residents due to the quantity of mud.

**Dog Park Amenities**

The City should consider amenities offered by other dog parks, particularly the dog park located in the northwest corner of Senator Henry M. Jackson Park. The usage at this park is reduced due to the lack of amenities such as accessible trash, bag dispensers, shade, signage, benches, etc. Many Everett residents prefer to travel further to other dog parks with these amenities.

**Parking Options**

The City should consider parking options for dog park users as nearby residents are already limited to the number of available parking spots, especially if an event is scheduled at the events center. Although the park is intended for local residents, the City should expect the park visitors to include those not within walking distance.

**Pilot Program**

The City should consider piloting a summer pop-up dog park similar to the City of Bothell. This would inform the City's decision to build a permanent dog park and whether the City's expectations are achievable.

Thank you for taking time to consider my comments.

Respectfully,



Anna Pennington  
Bayside resident, City of Everett

**From:** Dulcy Stout <dulcy.stout@gmail.com>  
**Sent:** Friday, May 31, 2024 8:23 AM  
**To:** DL-Council  
**Cc:** Cassie Franklin; Angela Ely  
**Subject:** [EXTERNAL] Clark Park gazebo  
**Attachments:** DulcyStout\_ClarkPark.docx

**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.

Hello Council Members,

Please see the attached letter.

Thank you,  
Dulcy Stout

My name is Dulcy Stout. I live in the Bayside Neighborhood, and I am a member of the Bayside Neighborhood Association (BNA). I support the removal of the gazebo from Clark Park.

Parks are an important social center of neighborhoods. They provide a green space where people can get out of their homes, into nature, and gather with others to connect and create community. Parks are also a great place where people can be physically active, walking, playing ball, or practicing yoga. A safe, accessible park; supportive social relationships; and opportunities for physical activity are examples of social determinants of health (SDOH). SDOH are the nonmedical factors that influence our health, well-being, and quality of life. The CDC defines SDOH as “the conditions in which people are born, grow, work, live, and age. SDOH also include the broader forces and systems that shape everyday life conditions.” It is widely recognized throughout health care and many government agencies that SDOH have a significantly greater influence on our health than either genetic factors or access to healthcare. Fifty percent of modifiable health factors can be traced to our zip codes, i.e., community safety, education, income, and the physical environment. Whereas health care accounts for 20% of our health outcomes.

Clark Park is a great resource within Bayside where we could have an opportunity to participate in activities to meet our health-related social needs. The only playground within Bayside is in this park. Bayside residents who live in apartments and condo buildings often do not have their own outdoor space. Unfortunately, the reality is that Clark Park is not a safe place for children to play and residents to socialize. I understand that safety has been a concern at Clark Park for decades. BNA has held numerous events at Clark Park, and we have used the gazebo, with the hope of revitalizing the park. This has not been enough to re-energize the park and make the neighbors feel safe going there. We are doing what we can as a neighborhood association and will continue to volunteer and spend evenings and weekends gathering for neighborhood meetings and planning events because it is our collective wish that Clark Park once again becomes a community asset. I do not believe this will be realized unless the gazebo is removed.

I respect the history of Clark Park, knowing that it is Everett’s oldest park. I am certain it was the center of life at one time. I have heard people speak about their fond memories of Clark Park and the gazebo and I empathize with the significance the park played in their and their family’s lives. But Clark Park is not what it used to be. BNA spoke to many of the residents surrounding Clark Park, the ones who are most directly impacted by the deteriorating conditions, and the majority support the removal of the gazebo. They wish to see the park revitalized as a safe place for them, their children, and grandchildren.

The decision you must make is significant not just for the current residents of Bayside but for all future generations. Choosing to remove the gazebo is a positive action to improve our SDOH. The greater public benefit is that addressing SDOH advances progress toward health equity, a state in which every person has the opportunity to attain their highest level of health. While deliberating over whether or not to vote for removal of the gazebo, I ask that you prioritize the health, well-being, and quality of life of current and future Bayside residents.

## References:

Healthy People 2030 <https://health.gov/healthypeople>

Hood, C. M., K. P. Gennuso, G. R. Swain, and B. B. Catlin. 2016. County health rankings: Relationships between determinant factors and health outcomes. *American Journal of Preventive Medicine* 50(2):129-135. <https://doi.org/10.1016/j.amepre.2015.08.024>

Keeping It Real: A Different Approach to Discussing the Social Determinants of Health  
<https://www.nrpa.org/parks-recreation-magazine/2019/december/keeping-it-real-a-different-approach-to-discussing-the-social-determinants-of-health/#:~:text=Research%20demonstrates%20over%20and%20over,productive%20and%20have%20improved%20focus.&text=Parks%20and%20recreation%20has%20an%20exceptional%20ability%20to%20bring%20people%20together>

Social Determinants of Health | Public Health Gateway | CDC  
[https://www.cdc.gov/public-health-gateway/php/about/social-determinants-of-health.html?CDC\\_AAref\\_Val=https://www.cdc.gov/publichealthgateway/sdoh/index.html](https://www.cdc.gov/public-health-gateway/php/about/social-determinants-of-health.html?CDC_AAref_Val=https://www.cdc.gov/publichealthgateway/sdoh/index.html)



From: Monique Holt <monique\_holt15@yahoo.com>  
Sent: Wednesday, May 29, 2024 8:05 PM  
To: DL Council  
Subject: [EXTERNAL] Re-activate Clark Park  
Follow Up Flag: Follow up  
Flag Status: Completed

# Help us re-activate Clark Park!

"I support Everett Parks & Facilities plans to revitalize Bayside's Clark Park. The plans are for a beautifully fenced, off-leash dog park, with a arched gated entrance, and new park lighting.

I support having the gazebo removed and placed in storage until funds can be raised for its rehabilitation and relocation at a future date."

Please show your support by emailing or texting the message above to:

**[council@everettwa.gov](mailto:council@everettwa.gov)**

Thank you,  
Bayside Neighborhood Association







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Sent from my iPhone

**From:** r g <rhondarey75@yahoo.com>  
**Sent:** Thursday, May 30, 2024 1:53 PM  
**To:** DL-Council  
**Subject:** [EXTERNAL] Clark Park

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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We live at 2315 Lombard avenue,

I completely support Everett parks and facilities plans to revitalize bayside's clark park. The plans are for a beautifully fenced, off-leash dog park, with an arched gated entrance, and new park lighting.

I support having the gazebo removed and placed in storage until funds can be raised for its rehabilitation and relocation at a future date.

Thank you,

Rhonda MedicineWater, EAMP  
MedicineWater's Healing Oasis  
<http://www.mwHealingOasis.com>  
(206) 504-8669

**From:** Bill & Marilyn <rockinw1@frontier.com>  
**Sent:** Tuesday, June 4, 2024 12:42 PM  
**To:** DL-Council  
**Subject:** [EXTERNAL] Clark Park Gazebo

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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I can't believe the City of Everett is actually considering doing anything other than maintaining the Clark Park Gazebo. The Gazebo is part of Everetts history. I saw the first article in the Herald and couldn't believe the City was considering tearing it down, now the Herald is reporting an even crazier idea to move it and store it away. Who would of thought the City would go to such an extreme as to hire an attorney to say technically the Gazebo is not part of the park. Thank goodness the Historical Society has common sense and understands and respects the role the Gazebo plays in Clark Park. Has the City no respect for the past? And to think the City wants to remove it for a dog park, how is that even realistic. The land it sits on is small. My grandfather played many concerts from the gazebo. My Dad had wonderful stories and great memories of the fun times listening to music, having family picnics, just having fun in the park. We need to bring back some of these simpler life activities. More stories and great memories could be created there today. Wake up and smell the roses. Keep the Gazebo as a historical icon of the past. Schedule events there. Put it to use as it was in the early 1920's.

Sincerely,  
Marilyn Webber



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*City staff may wish to contact you for follow up, therefore, your contact information is appreciated.*

DATE: 6/5/24

NAME (required): Balder family

CITY (required): Everett ZIP (required): 98208

EMAIL (optional): dbalder@gmail.com PHONE (optional): 425-319-0884

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: invite the council to Grand opening of event center

**Public Comment forms are public records and are subject to disclosure pursuant to the Public Records Act (RCW 42.56) and may be posted online with City archived records.**



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*City staff may wish to contact you for follow up, therefore, your contact information is appreciated.*

DATE: 6/5/27

NAME (required): Alan Miller

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 #: Stop signs at 21st & Rucker

☒ During the general public comment. Please state the topic you would like to

speak on: Stop sign needed 21st & Rucker





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DATE: 6/5/24

NAME (required): EVAN REED

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: STUFF



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DATE: 6/5/24

NAME (required): Lisa Phillips

CITY (required): Everett ZIP (required): 98201

EMAIL (optional): PHILLIPS@msn.com PHONE (optional): 425-760-8950

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 #: 2405-08 #9

☐ During the general public comment. Please state the topic you would like to speak on: \_\_\_\_\_



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DATE: 6/5/24

NAME (required): Jane C. McClure

CITY (required): EVERETT ZIP (required): 98201

EMAIL (optional): Jcmclure01@gmail.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 #: 9

☐ During the general public comment. Please state the topic you would like to speak on: REMOVAL of gazebo.





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DATE: 6-5-24

NAME (required): Dwight Stout

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 #: CB 2405-08 #9

☐ During the general public comment. Please state the topic you would like to speak on: \_\_\_\_\_



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DATE: June 5, 2024

NAME (required): Theresa Gommer

CITY (required): Everett ZIP (required): 98201

EMAIL (optional): remmegenna@outlook.com 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 #: 9

☐ During the general public comment. Please state the topic you would like to speak on: \_\_\_\_\_



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DATE: 6/5/24

NAME (required): PATRICK HALL

CITY (required): EVERETT ZIP (required): 98201

EMAIL (optional): PHALL@UW.EDU PHONE (optional): 425-870-5598

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 #: 9

☐ During the general public comment. Please state the topic you would like to speak on: \_\_\_\_\_





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DATE: June 5 2024

NAME (required): HENRY COTTER

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 #: 2405-08 #9

☐ During the general public comment. Please state the topic you would like to speak on: \_\_\_\_\_



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DATE: 6/5/24

NAME (required): Kristie Anderson

CITY (required): Everett ZIP (required): 98201

EMAIL (optional): \_\_\_\_\_ PHONE (optional): 425 257 5747

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

Is your topic on today's agenda?

☒ YES – the comment period will follow the agenda item  
AGENDA ITEM #: 9

☐ NO – speak during general public comment, topic you would like to speak on:

\_\_\_\_\_

\_\_\_\_\_



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DATE: 6/5/24

NAME (required): KRYSTYNA SIMM

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

Is your topic on today's agenda?

☒ YES – the comment period will follow the agenda item

AGENDA ITEM #: CB 2405-08

☐ NO – speak during general public comment, topic you would like to speak on:

\_\_\_\_\_  
\_\_\_\_\_



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DATE: 6/5

NAME (required): JEAN SATTI-HEWAT

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 #: 9

☐ During the general public comment. Please state the topic you would like to speak on: \_\_\_\_\_





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DATE:

6-5-24

NAME (required):

Michelle Pondergrass

CITY (required):

Everett

ZIP (required):

98201

EMAIL (optional):

mpgrassRN@gmail.com

PHONE (optional):

206-303-0723

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 #:

Clark park dog park - (about amenities) (Not the gazebo)

☐

During the general public comment. Please state the topic you would like to speak on:









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DATE: 6/27/24

NAME (required): A Tucker

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 #: 9

☐ During the general public comment. Please state the topic you would like to speak on: pls - at end of speakers