



**Everett City Council Preliminary Agenda**  
**12:30 p.m., Wednesday, April 30, 2025**  
**City Council Chambers**

Roll Call

Pledge Of Allegiance

Land Acknowledgment

Approval Of Minutes: April 23, 2025

Mayor's Comments

Public Comment

Council Comments

Administration Update

City Attorney

**CONSENT ITEMS:**

(1) Adopt Resolution Authorizing Claims Against The City Of Everett In The Amount Of \$5,694,492.35 For The Period Ending April 12, 2025 Through April 18, 2025.

Documents:

[RES\\_CLAIMS PAYABLE 4.18.25.PDF](#)

(2) Adopt Resolution Approving Amendments To The Snohomish County 911 Interlocal Agreement.

Documents:

[RES\\_SNO911 INTERLOCAL AGREEMENT 2025 UPDATES.PDF](#)

(3) Award And Authorize The Mayor To Sign The Purchase Of Playground Equipment And Installation From Landscape Structures, Inc. Using The King County Directors' Association Contract #22-315/City Of Everett #2022-069 In The Amount Of \$574,960.10, Including Washington State Sales Tax.

Documents:

[2022-069 LANDSCAPE STRUCTURES\\_LOWELL PARK PLAYGROUND REPLACEMENT PURCHASE AGREEMENT.PDF](#)

(4) Approve The Seattle Outboard Association Application To Hold A Boating Regatta On Silver Lake.

Documents:

[2025 ANNUAL SEATTLE OUTBOARD REGATTA HYDROPLANE RACES AT SILVER LAKE.PDF](#)

(5) Authorize The Mayor To Sign The Professional Services Agreement (PSA) With Applied Professional Services, Inc. For On-Call Utility Potholing And Utility Locating.

Documents:

[APPLIED PROFESSIONAL SERVICES-ON-CALL BORING AND POTHOLING-PSA.PDF](#)

(6) Authorize The Mayor To Sign The Interlocal Agreement With The City Of Mukilteo Relating To Mukilteo Lane.

Documents:

[CITY OF MUKILTEO-MUKILTEO LANE-ILA.PDF](#)

(7) Authorize The Mayor To Sign Change Order No. 1 For The Everett Transit Inductive Charging Infrastructure Project.

Documents:

[CO1-INDUCTIVE CHARGING INFRASTRUCTURE FIELD INSTALLATION.PDF](#)

(8) Authorize The Mayor Or Designee To Sign Amendment No. 1 To The Professional Services Agreement With MxM Landscape Architecture, LLC, To Provide Additional Architecture And Engineering Services For The Edgewater Park Renovation In Substantially The Form Provided.

Documents:

[EDGEWATER PARK RENOVATION PSA AMENDMENT NO. 1.PDF](#)

(9) Accept The Construction Of The Police Facilities Upgrades Project As Complete And Authorize The Mayor To Sign The Certificate Of Completion With Viking Construction Group In The Amount Of \$433,842.95.

Documents:

[POLICE FACILITIES UPGRADES CERTIFICATE OF COMPLETION.PDF](#)

(10) Authorize The Mayor To Sign Change Order No. 3 To Close The Eclipse Mill Park Inductive Charging Infrastructure Project.

Documents:

[TRMILL-650\\_ECLIPSE MILL PARK\\_CHANGE ORDER NO. 3.PDF](#)

#### PROPOSED ACTION ITEMS:

(11) CB 2504-25 – 1st Reading - Adopt An Ordinance Creating A Special Improvements Project Entitled "Later Phase Eclipse Mill Park", Fund 308, Program 083, To Accumulate Construction Costs For The Eclipse Mill Park Project In The Amount Of \$4,400,000. (3rd & Final Reading 5/14/25)

Documents:

[CB 2504-25.PDF](#)

(12) CB 2504-26 – 1st Reading - Adopt An Ordinance Creating A Special Improvement Project Entitled "WPCF FEN Meter Replacement" Fund 336, Program 048. (3rd & Final Reading 5/14/25)

Documents:

[CB 2504-26.PDF](#)

Executive Session

Adjourn

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- 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. You may contact the Council office at 425.257.8703 or [aely@everettwa.gov](mailto:aely@everettwa.gov) and identify the topic you wish to address.
- 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.
- Persons seeking to comment on non-agenda items may be asked to submit the comments in writing if the comment does not address an issue of broad public interest.

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- 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) or call the Council offices at 425.257.8703.

*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->.*



Whereas the claims payable by check against the City of Everett for the period April 12, 2025 through April 18, 2025, having been audited and approved by the proper officers, have been paid and the disbursements made by the same, against the proper funds in payment thereof, as follows:

Fund	Department	Amount
001	City Council	164.19
002	General Funds	(1,539.93)
003	Legal	16,092.71
005	Municipal Court	3,202.23
007	Human Resources	35.26
009	Misc Financial Funds	92,581.11
010	Finance	527.44
015	Information Technology	68.88
018	Communications, Mktg & Engage	500.00
021	Planning & Community Dev	680.88
024	Public Works-Engineering	207,569.64
026	Animal Shelter	1,572.79
030	Emergency Management	276.30
031	Police	10,835.78
032	Fire	4,577.61
038	Facilities / Maint.	1,413.58
TOTAL GENERAL FUND	\$	338,558.47

Fund	Department	Amount
101	Parks & Recreation	30,298.02
110	Library	21,063.53
112	Municipal Arts	885.24
119	Public Works - Str Imp	2,990.00
120	Public Works - Streets	5,346.51
126	MV-Equip. Replacement Re:	14,862.44
130	Develop & Const Permit Fee	254.22
145	Cum Res/ Real Prop Acq.	56,922.66
146	Property Management	57,716.79
148	Cum Res/Parks	99.53
149	Senior Center Reserve	20,833.33
151	Fund for Animals	3,280.00
152	Cum Res/Library	31.94
153	Emergency Med Svc	26,850.68
155	Capital Reserve Fund	241,209.22
156	Criminal Justice	7,904.28
162	Capitol Projects Reserve	4,143.50
197	CHIP Loan Program	91,243.23
198	Comm Dev Block Grants	24,554.28
303	Public Works Impr. Projects	1,330,877.13
336	Water & Sewer Sys Improv I	2,717,168.45
354	Parks Capital Const.	8,248.03
401	Public Works-Utillities	485,597.33
402	Solid Waste Utility	3,788.13
425	Public Works-Transit	46,175.98
430	Everpark Garage	1,123.60
440	Golf	38,985.81
501	MVD - Trans Services	86,010.74
503	Self-Insurance	1,867.50
508	Health Benefits Reserve	13,778.58
637	Police Pension	1,229.45
638	Fire Pension	87.45
661	Claims	8,631.30
663	Investment Earnings	1,875.00
TOTAL CLAIMS		5,694,492.35

Councilperson introducing Resolution

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2025

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



## City Council Agenda Item Cover Sheet

**Project title:** Resolution approving amendments to the Snohomish 911 Interlocal Agreement

**Council Bill #** *interoffice use*

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 04/30/25  
Action  
Ordinance  
Public hearing  
Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Summary letter  
Resolution  
Amended ILA

**Department(s) involved:**

Fire, Police, Legal

**Contact person:**

Dave DeMarco

**Phone number:**

425-257-8101

**Email:**

DDeMarco@everettwa.gov

**Initialed by:**

DD

Department head

Administration

Council President

**Project:** Amended and Restated Snohomish County Regional Public Safety Communications Agency Interlocal Agreement

**Partner/Supplier:** Snohomish County 911

**Location:** N/A

**Preceding action:** Original ILA approved by council 11/22/2017

**Fund:** N/A

**Fiscal summary statement:**

The proposed amendment does not include and changes to how fee assessments are calculated.

**Project summary statement:**

The City of Everett is a principal member of Snohomish County 911 (SNO911) and party to the Regional Public Safety Communications Interlocal Agreement (ILA) since January 1, 2018. The SNO911 governing board is comprised of representatives from participating agencies and has authority to make de minimus changes to the ILA, however certain changes require preapproval from each principal members' legislative body prior to board action.

The substantive change in this amendment allows SNO911 expanded contracting authority between member agencies and third parties who serve member agencies. Specifically in this case it allows SNO911 to enter negotiations with, and upon mutual agreement provide administrative services and office space to the newly formed Snohomish County Emergency Medical Services Agency (SCEMSA.)

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

Adopt Resolution approving amendments to the Snohomish County 911 Interlocal Agreement.



# ACTION REQUESTED for Proposed Amendments to the SNO911 Interlocal Agreement

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**Date:** March 28, 2025  
**To:** Principals of Snohomish County 911  
**From:** Terry Peterson, Deputy Director/Board Secretary  
**RE:** Legislative Action Requested – Updated Interlocal Agreement

Enclosed are proposed amendments to the Snohomish County 911 (SNO911) Interlocal Agreement (ILA). These amendments have been reviewed and approved by the SNO911 Board and now require formal approval from each Principal's legislative body by **May 15, 2025**, unless this authority has been delegated within your jurisdiction.

## Summary of Proposed Changes

### 1. Expanded Contracting Authority:

The amendments authorize the SNO911 board to enter into contracts for Additional Services with both member agencies and third parties (who serve member agencies). This adjustment supports the collaborative efforts of the Snohomish County EMS Joint Task Force.

### 2. Preparation for Future EMS Partnership:

These changes support the newly established Snohomish County EMS Agency (SCEMSA). Once operational, SCEMSA's governing board is expected to negotiate a Service Level Agreement (SLA) with SNO911 for the provision of: dedicated staff, support services (e.g., financial management, HR, and IT), and office space within SNO911's future headquarters. The changes do not bind SNO911 to enter into the agreement, but allow it to occur if and when the SNO911 Board approves it in the future.

A redlined version of the ILA reflecting these updates is attached for your review.

**Action is requested by your legislative body to approve the changes by May 15, 2025.**

If you would like to provide comment to the Board, we welcome your participation. This item is on the agenda for discussion at Regular Board Meetings in April 2025. The SNO911 Board Meets Monthly on the third-Thursday of the month at 0830. Meeting notice and details are posted on our website at [www.sno911.org](http://www.sno911.org).

If your agency has any comments or questions regarding the proposed amendments, you can reach me at [tpeterson@sno911.org](mailto:tpeterson@sno911.org) or (425) 407-3905.



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

**A RESOLUTION Approving Amendments to the Snohomish County 911 Interlocal Agreement**

**WHEREAS,**

- A. On November 29, 2017, the City Council authorized the Mayor to sign the Snohomish County Regional Public Safety Communications Agency Interlocal Agreement. This agreement established Snohomish County 911, made Everett a member, and has been amended from time-to-time since 2017 (as amended, the "SNO911 Agreement").
- B. The Governing Board of Snohomish County 911 has requested certain amendments to the SNO911 Agreement regarding the Governing Board and other matters, which are amendments that must be approved by the legislative bodies of the members of Snohomish County 911. The proposed amendments are shown in Exhibit A to this Resolution. The purpose of this amendment is to accomplish this approval.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

The amendments to the SNO911 Agreement as shown in the attached Exhibit A are hereby approved. The Mayor is authorized to sign any document(s) necessary to implement this approval, including signing if necessary a replacement SNO911 Agreement in substantially the form attached as Exhibit A.

\_\_\_\_\_  
Councilmember introducing resolution

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

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

**AMENDED AND RESTATED  
SNOHOMISH COUNTY REGIONAL PUBLIC SAFETY  
COMMUNICATIONS AGENCY  
INTERLOCAL AGREEMENT**

**REVISED AUGUST 2, 2018; SEPTEMBER 19, 2019; NOVEMBER 21, 2019;  
AUGUST 20, 2020; APRIL 21, 2022, JUNE 20, 2024, MAY 15, 2025**



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AMENDED AND RESTATED SNOHOMISH COUNTY REGIONAL PUBLIC  
SAFETY COMMUNICATIONS AGENCY INTERLOCAL AGREEMENT

THIS AMENDED AND RESTATED SNOHOMISH COUNTY REGIONAL PUBLIC SAFETY COMMUNICATIONS AGENCY INTERLOCAL AGREEMENT (this “Agreement”), incorporating all exhibits hereto, is authorized by the parties to the Snohomish County Regional Public Safety Communications Agency Interlocal Agreement effective as of June 20, 2024.

RECITALS

WHEREAS, pursuant to chapters 24.03 and 24.06 of the Revised Code of Washington (“RCW”), the Snohomish County Regional Public Safety Communications Agency Interlocal Agreement, deemed adopted and effective as of January 1, 2018, including the exhibits thereto (the “Original Agreement”), and the Articles of Incorporation Due to Consolidation filed on October 18, 2017 (the “Articles of Consolidation”), the governing boards of the Southwest Snohomish County Public Safety Communication Agency, a municipal instrumentality of its members, jointly organized by such members as a nonprofit corporation under chapter 24.03 RCW as expressly authorized by RCW 39.34.030(3)(b) (“SNOCOM”), and the Snohomish County Police Staff and Auxiliary Services Center, a municipal instrumentality of its members, jointly organized by such members as a nonprofit corporation under chapter 24.06 RCW as expressly authorized by RCW 39.34.030(3)(b) (“SNOPAC”), voted to consolidate SNOCOM and SNOPAC into a new single corporation under chapter 24.06 RCW known as the “Snohomish County Regional Public Safety Communications Agency” (“Snohomish County 911”); and

WHEREAS, the governing boards of Snohomish County 911 and the Snohomish County Emergency Radio System, a municipal instrumentality of its members, jointly organized by such members as a nonprofit corporation under chapter 24.06 RCW as expressly authorized by RCW 39.34.030(3)(b) (“SERS”), voted to merge SERS into Snohomish County 911 effective January 1, 2019; and

WHEREAS, Snohomish County 911 provides emergency communication services on behalf of its member agencies throughout Snohomish County; and

WHEREAS, the Original Agreement was amended on August 2, 2018; September 19, 2019; November 21, 2019; August 20, 2020; and April 21, 2022;

WHEREAS, by this Amended and Restated Agreement effective as of the date stated above, the Governing Board of Snohomish County 911 desires to create procedural

efficiencies and remove historical provisions that are no longer applicable from this Agreement;

WHEREAS, this Agreement is authorized by the Interlocal Cooperation Act (chapter 39.34 RCW) and the Nonprofit Miscellaneous and Mutual Corporations Act (chapter 24.06 RCW);

NOW THEREFORE, in consideration of the promises and agreements contained in this Agreement and subject to the terms and conditions set forth herein, it is mutually understood and agreed by the parties as follows:

#### **SECTION 1. CREATION OF SNOHOMISH COUNTY 911; MERGER.**

a. Creation of Snohomish County 911. Pursuant to Resolution No. 2017-02 adopted by the SNOCOM Board of Directors on October 12, 2017 and Resolution No. 2017-02 adopted by the SNOPAC Board of Directors on October 12, 2017, at least two-thirds of each Board voted in favor of consolidating SNOCOM and SNOPAC as described in the Original Agreement and approved a plan of consolidation (the “Plan of Consolidation”) as required by chapters 24.03 and 24.06 RCW. Subsequent to such approval, representatives of SNOCOM and SNOPAC executed the Articles of Consolidation and filed such Articles with the Secretary of State. As permitted by RCW 23.95.210, the effective date for the consolidation was January 1, 2018 (the “Consolidation Effective Date”). As of the Consolidation Effective Date:

i. SNOCOM and SNOPAC became a single corporation to be known as “Snohomish County 911.” Snohomish County 911 was organized as a municipal instrumentality of its Principals pursuant to RCW 39.34.030 and as a nonprofit corporation under chapter 24.06 RCW as authorized by chapter 39.34 RCW.

ii. SNOCOM, SNOPAC and each party to the Original Agreement (listed in **Exhibit C** attached hereto) delegated to Snohomish County 911 the authority to provide emergency communication services as provided herein.

iii. The separate existence of SNOCOM and SNOPAC, except as formed as Snohomish County 911, ceased.

iv. As a result, Snohomish County 911 possesses all the rights, privileges, immunities, and franchises, of both a public and private nature, of each of SNOCOM and SNOPAC; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of SNOCOM and SNOPAC, were

taken and deemed transferred to and vested in Snohomish County 911 without further act or deed; and title to any real estate, or any interest therein, vested in Snohomish County 911.

v. Snohomish County 911 is responsible and liable for all the liabilities and obligations of each of SNOCOM and SNOPAC, and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such consolidation had not taken place, or Snohomish County 911 may be substituted in its place. Neither the rights of creditors nor any liens upon the property of SNOCOM or SNOPAC shall be impaired by such consolidation.

vi. Snohomish County 911, as successor to SNOCOM and SNOPAC, has all rights, privileges, interest, defenses and indemnity protections of all insurance providers for SNOCOM and SNOPAC, including past and current providers, that existed prior to consolidation.

b. Merger of SERS and Snohomish County 911. Pursuant to Resolution No. 18-01 adopted by the SERS Board of Directors on October 4, 2018 and Resolution No. 2018-17 adopted by the Snohomish County 911 Board of Directors on October 18, 2018, at least two-thirds of each Board voted in favor to merge SERS into Snohomish County 911 as described in this Agreement and approved a plan of merger (the “Plan of Merger”) as required by chapter 24.06 RCW. Subsequent to such approval, representatives of SERS and Snohomish County 911 executed the Articles of Merger and filed such Articles with the Secretary of State. As permitted by RCW 23.95.210, the effective date for the merger was January 1, 2019 (the “Merger Effective Date”). As of the Merger Effective Date:

i. SERS was merged into Snohomish County 911 as provided in the Articles of Merger.

ii. The separate existence of SERS ceased.

iii. Snohomish County 911 thereupon and thereafter possessed all the rights, privileges, immunities, and franchises, of both a public and private nature, of SERS; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to SERS, were and shall be taken and deemed to be transferred to and vested in Snohomish County 911 without further act or deed; and the title to any real estate, or any interest therein, vested in Snohomish County 911 shall not revert or be in any way impaired by reason of such merger.

iv. Snohomish County 911 was and shall be responsible and liable for all the liabilities and obligations of SERS, and any claim existing or action or proceeding pending by or against any of such corporation may be prosecuted as if such merger had not taken place, or Snohomish County 911 may be substituted in its place. Neither the rights of creditors nor any liens upon the property of SERS shall be impaired by such merger.

v. Snohomish County 911, as successor to SERS, has all rights, privileges, interest, defenses and indemnity protections of all insurance providers for SERS, including past and current providers, that existed prior to merger.

vi. All amounts held in reserve funds held by SERS as of the Merger Effective Date were transferred to Snohomish County 911 to be placed in a Radio System reserve fund or funds at Snohomish County 911.

vii. The statements set forth in the Articles of Merger shall be deemed to be the articles of incorporation of Snohomish County 911, and shall amend and restate, in their entirety, the Articles of Consolidation.

viii. This Agreement shall govern the Snohomish County 911.

ix. Snohomish County 911 has and shall continue to have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a nonprofit corporation organized under chapter 24.06 RCW.

## **SECTION 2. TERM OF AGREEMENT.**

This Agreement shall carry forward the initial 6-year term provided for in the Original Agreement. The initial term of this Agreement, therefore, shall be from the Merger Effective Date through December 31, 2023 (the “Initial Term”). Thereafter, this Agreement shall be of infinite duration, subject to termination provisions contained herein. During the Initial Term no Principal may withdraw from this Agreement, provided that a Principal may convert or be converted to Subscriber status as provided in Sections 12 and 14, may annex to or join with another Principal as described in Section 6.q, or may upon action of the Governing Board be terminated from participation in this Agreement as provided in Section 12.

## **SECTION 3. DEFINITIONS.**

Capitalized terms used in this Agreement shall have the following meanings:

a. Additional Services. “Additional Services” are optional services provided by Snohomish County 911 that assist Participating Agencies in the performance of their

emergency services duties but are outside the scope of Emergency Communications Services as defined in Section 4.a., for example and without limitation, managed mobile computer services. Additional Services may be offered to all Participating Agencies ~~Principals and Subscribers and third parties that serve one or more Participating Agencies~~ from time to time by separate contract. Terms of agreement for provision of Additional Services are to be negotiated between Snohomish County 911 and ~~a Participating Agency~~ the other party to the contract and require Simple Majority Vote approval of the Governing Board; except that an agreement with a non-Participating Agency requires a Supermajority Vote. Fees for Additional Services are not part of the Assessment Formula and are not considered User Fees.

b. Agreement. “Agreement” means this Amended and Restated Snohomish County Regional Public Safety Communications Agency Interlocal Agreement, as it may hereafter be further amended or modified from time to time, together with all exhibits and appendices hereto, as they may hereafter be amended or modified.

c. Ancillary Services. “Ancillary Services” are services that are part of the overall array of Emergency Communications Services, and related to the core functioning of Emergency Communications Services, for example and without limitation, Police Records Services and school panic button monitoring. Ancillary Services are provided by Snohomish County 911 to all Principals and Subscribers and the costs of Ancillary Services are incorporated into User Fees and Assessments.

d. Articles of Consolidation. “Articles of Consolidation” mean the Articles of Incorporation Due to Consolidation of Snohomish County 911 as defined in Section 1.

e. Articles of Merger. “Articles of Merger” mean the Articles of Incorporation Due to Merger of Snohomish County 911 as defined in Section 1.

f. Assessments. “Assessments” mean the portion of User Fees charged to Principals for Emergency Communication Services in accordance with the Assessments formula as provided for in **Exhibit B**. Assessments are a subset of User Fees. Changes to the Assessment formula require Supermajority Approval of the Governing Board.

g. Associate Agency. “Associate Agency” is a unit of local government that has agreed to the terms of this Agreement from time to time who is not a Direct Provider and is not Directly Served by Snohomish County 911 but which receives police and/or fire/EMS services through a contract with a Principal or Subscriber of Snohomish County 911. Associate Agencies participate in the selection of a non-voting Governing Board Member as described in **Exhibit A**. A list of the Associate Agencies as of the Merger Effective Date is included in **Exhibit C**.

h. Consolidation Effective Date. “Consolidation Effective Date” means January 1, 2018.

i. Directly Served. “Directly Served” means Principals and Subscribers who receive Emergency Communication Services from Snohomish County 911 and pay User Fees to Snohomish County 911 in exchange for such services. A Principal or Subscriber may operate both fire/EMS service and police service but elect to have only one or the other service Directly Served by Snohomish County 911.

j. Direct Provider. “Direct Provider” means a Participating Agency that provides fire/EMS services and/or police services directly, rather than through contract with another agency.

k. EMS. “EMS” means Emergency Medical Services as described in RCW 84.52.069(5), as now or later amended, including the provision by the Participating Agencies of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or EMS.

l. Enhanced Police Records Services. “Enhanced Police Records Services” are services in addition to Police Records Services, and include computer searches and actions to enter, modify or delete computer police records associated with: misdemeanor warrants, orders of protection and other orders and directives; stolen property, vehicles, guns or missing persons; performing 20-minute warrant hit confirmations; and serving as the legal holder of records on behalf of a Police Agency for such records.

m. Executive Director. The “Executive Director” is the chief executive officer for Snohomish County 911 appointed by and serving at the pleasure of the Governing Board.

n. Emergency Communication Services. “Emergency Communication Services” mean those services described in Section 4.a.

o. Emergency Public Safety Radio System. The “Emergency Public Safety Radio System” or “Radio System” is the Snohomish County emergency radio system developed, owned and operated by SERS prior to the Merger Effective Date, including all additions, replacement and improvements thereto, and shall include the Emergency Radio System Replacement Project.

p. Emergency Public Radio System Replacement Project. The “Emergency Public Radio System Replacement Project” or “Radio System Replacement Project” is the project to (i) replace and upgrade the Radio System as it exists as of the Merger Effective



Date, including all equipment, improvements and real and personal property necessary to accomplish such project, (ii) provide for an initial replacement of the existing subscriber equipment for public safety agencies within Snohomish County, and (ii) replace the existing alpha-numeric paging system.

q. Fire Agency. A “Fire Agency” is a Principal that is a Direct Provider of fire and/or EMS services.

r. Fire/EMS Technical Advisory Committee. The “Fire/EMS Technical Advisory Committee” is the advisory board composed of Representatives from Principal and Subscriber fire and EMS departments or agencies as described in Section 7.

s. Governing Board. The “Governing Board” is the body described in Section 6 and shall be the governing body of Snohomish County 911.

t. Initial Term. “Initial Term” shall have the meaning set forth in Section 2 of this Agreement.

u. Merger Effective Date. The “Merger Effective Date” is January 1, 2019.

v. Member. A “Member” or “Governing Board Member” is the individual representing a Principal on the Governing Board, or his or her designated alternate.

w. Original Agreement. “Original Agreement” means the Snohomish County Regional Public Safety Communications Agency Interlocal Agreement, deemed adopted and effective as of January 1, 2018, including the exhibits thereto. The parties to the Original Agreement were Principals of Snohomish County 911 as of the Consolidation Effective Date and will continue to be Principals of Snohomish County 911 as of the Merger Effective Date. A list of the Principals as of the Merger Effective Date is included in **Exhibit C**.

x. Participating Agencies or Participants. “Participating Agencies” or “Participants” refer to Principals and all Subscribers, as they may be so constituted from time to time, and individually referred to as a “Participating Agency” or “Participant.”

y. Plan of Consolidation. “Plan of Consolidation” means the plan approved by SNOPAC and SNOCOM as required by chapters 24.03 and 24.06 RCW.

z. Plan of Merger. “Plan of Merger” means the plan approved by Snohomish County 911 and SERS as required by chapter 24.06 RCW.

aa. Police Agency. A “Police Agency” is a Principal that is a Direct Provider of policing services.

bb. Police Records Services. “Police Records Services” include performing computer searches and entries to locate and/or clear of public safety database records (WACIC/NCIC) including but not limited to stolen articles, stolen vehicles, stolen guns, missing persons and warrants, as well as entry and dissemination of State ACCESS system administrative messages.

cc. Police Technical Advisory Committee. The “Police Technical Advisory Committee” is the advisory board composed of Representatives from Principal and Subscriber police, sheriff or similar departments or agencies as described in Section 7.

dd. Principal. A “Principal” is a general purpose municipal corporation or government agency, a fire district, a Public Safety Interlocal Operation, a regional fire protection service authority created pursuant to chapter 52.26 RCW, or a State agency created under the laws of State, which is a Direct Provider of police services or fire/EMS services or both, and which is a party to the Original Agreement, has executed this Agreement, or has agreed in writing to the terms of this Agreement. The Principals of Snohomish County 911 as of the Merger Effective Date are listed in **Exhibit C**.

ee. Public Safety Interlocal Operation. “Public Safety Interlocal Operation” includes a joint operation of fire districts and cities for provision of public fire and EMS services entered into and operating pursuant to chapter 39.34 RCW, and may also include a public development authority created pursuant to RCW 35.21.730 et. seq. or a regional fire protection service authority created pursuant to chapter 52.26 RCW, or a nonprofit corporation created for the purpose of facilitating a joint operation between fire districts and cities pursuant to RCW 39.34.030(3).

ff. Radio System. “Radio System” means the Emergency Public Safety Radio System.

gg. Radio Unit. A “Radio Unit” is a mobile (vehicular), portable (handheld) or control station (desktop) radio which has been authorized and programmed to operate on the Emergency Public Safety Radio System.

hh. Representative. “Representative” refers to the individual representing a Principal or a Subscriber on the Police Technical Advisory Committee or Fire/EMS Technical Advisory Committee, or his or her designated alternate.

ii. SERS. “SERS” was the Snohomish County Emergency Radio System agency created pursuant to chapters 39.34 and 24.06 RCW and an interlocal agreement effective July 1, 1999, as thereafter amended.

jj. Simple-Majority Vote. A “Simple-Majority Vote” of the Governing Board means a majority of the votes of the Members present constituting a quorum and voting.

kk. Single-Service Principal. A “Single-Service Principal” is a Principal that is formed as a city or town under the laws of State that (1) directly provides either fire/EMS service or police service, but not both, and (2) receives the service it does not directly provide from a Principal or Subscriber.

ll. SNOCOM. “SNOCOM” was the Southwest Snohomish County Public Safety Communication Agency, formed pursuant to chapters 39.34 and 24.03 RCW.

mm. Snohomish County 911. “Snohomish County 911” refers to the intergovernmental agency formed as of the Consolidation Effective Date pursuant to chapters 39.34 and 24.06 RCW, the Original Agreement (as amended and restated by this Agreement) and the Articles of Consolidation.

nn. SNOPAC. “SNOPAC” was the Snohomish County Police Staff and Auxiliary Services Center formed pursuant to chapters 39.34 and 24.06 RCW.

oo. State. “State” means the state of Washington.

pp. Subscriber. A “Subscriber” is a public or private entity or agency that has agreed to pay Snohomish County 911 for Emergency Communication Services or other services as offered at a rate or rates according to such terms and conditions as may be established by Snohomish County 911 as evidenced by separate contract between Snohomish County 911 and such entity. A “Subscriber” may also be a Principal that is converted to Subscriber status as provided in Sections 12 and 14.

qq. Supermajority Vote. A “Supermajority Vote” means Governing Board approval of an item accomplished by securing affirmative votes of both: (1) not less than seventy percent (70%) of all Members of the Governing Board present constituting a quorum and voting, and (2) not less than one voting Governing Board Member representing a Principal Fire Agency or Agencies.

rr. Technical Advisory Committees. “Technical Advisory Committees” are the Police Technical Advisory Committee and the Fire/EMS Technical Advisory Committee established by Section 7.

ss. User Fees. “User Fees” are fees for service charged to Participating Agencies for all services for Emergency Communication Services provided by Snohomish County 911 whether provided to Principals or Subscribers. User Fees exclude fees for Additional Services and nominal annual membership fees charged to Associate Agencies. User Fees charged to Subscribers may be approved by Simple Majority Vote of the Governing Board.

tt. 911 Calls. “911 Calls” are those calls received or dispatched via the statewide emergency communication network of telephone or via other communications means as described in chapter 38.52 RCW.

#### **SECTION 4. SNOHOMISH COUNTY 911 SERVICES.**

a. Snohomish County 911 has the responsibility and authority for providing Emergency Communication Services and all related incidental functions for communicating and dispatching services between the public and Participating Agencies in the furtherance of improved public safety and emergency response, including the following more specifically described services (collectively, “Emergency Communication Services”):

i. Receiving 911 Calls and non-emergency public safety calls for police, fire and medical services;

ii. Notifying, dispatching, directing, supporting and coordinating public safety personnel response, including dispatching emergency police, fire, medical and other special or supporting specialized emergency responses services and resources (for example and without limitation, SWAT response);

iii. Hosting, configuring, and administering public safety technology networks, systems and applications in support of the delivery of Emergency Communications Services;

iv. Updating, maintaining and managing radio communications systems (excluding, unless specifically approved by Governing Board, the Emergency Public Safety Radio System), computer systems, support files and resource materials necessary to accomplish the above;

v. Police Records Services;

vi. Establishing and updating from time to time standard protocols for communications to and from personnel in the field;

vii. Providing certain Ancillary Services; and

viii. Upon a Supermajority Vote of the Governing Board (which approval was received at the time of approval of this Agreement and shall become effective as of the Merger Effective Date), providing services previously provided by SERS together with all necessary or advisable additional services and actions directly related to the Emergency Public Radio System.

b. Beginning January 1, 2022, Enhanced Police Records Services shall be provided as an Additional Service to former SNOCOM Police Agencies in recognition of those agencies' prior receipt of those services from SNOCOM prior to the Consolidation Effective Date.

c. Snohomish County 911 may also, ~~when authorized by a Simple Majority Vote of the Governing Board,~~ provide Additional Services, when authorized by a Simple Majority Vote for services offered directly to Participating Agencies or Supermajority Vote for services offered to third parties that serve one or more Participating Agencies. Additional Services will be offered by separate contract as optional services to Participating Agencies or to third parties that serve one or more Participating Agencies. Charges for Additional Services, if any, shall be accounted for separately and shall not be included in the calculation of User Fees.

## **SECTION 5. SNOHOMISH COUNTY 911 POWERS.**

Snohomish County 911, through its Governing Board, shall have all powers allowed by law for interlocal agencies created under RCW 39.34.030 and chapter 24.06 RCW, as they now exist or may hereafter be amended, and as authorized, amended, or removed by the Governing Board, as provided for in this Agreement, and including but not limited to the following:

- a. Recommend action to the legislative bodies of the Participating Agencies;
- b. Review and approve budgets for Snohomish County 911;
- c. Establish policies for expenditures of budget items for Snohomish County 911;
- d. Review and adopt personnel policies for Snohomish County 911;
- e. Review and approve operating policies and procedures for Snohomish County 911, its programs and Emergency Communication Services provided pursuant to this Agreement;
- f. Establish a fund or special fund or funds as authorized by RCW 39.34.030 for the operation of the Snohomish County 911;

g. Conduct regular and special meetings as may be designated by the Governing Board consistent with the State Open Public Meetings Act (chapter 42.30 RCW);

h. Maintain and manage records in accordance with the State Public Records Act (chapter 42.56 RCW and chapter 40.14 RCW) and other applicable State applicable and federal records laws and regulations;

i. Determine what services (including but not limited to Emergency Communication Services and Additional Services) shall be offered and under what terms they shall be offered;

j. Retain, terminate, direct and supervise the Executive Director;

k. Create committees to review and make recommendations for purposes and duties of committees;

l. Approve strategic plans;

m. Approve the addition of new Principals and Subscribers and the terms of their participation in Snohomish County 911 and receipt of Emergency Communication Services;

n. Enter into agreements with or make purchases from third parties for goods, assets, property and/or services necessary to fully implement the purposes of this Agreement;

o. Establish fees and charges for services provided to Participating Agencies;

p. Direct and supervise the activities of any advisory board or committee established by the Governing Board;

q. Enter into agreements with, and receive and distribute funds, from any federal, state or local agencies;

r. To the extent permitted by law, accept loans or grants of funds from any federal, state, local or private agencies and receive and distribute such funds;

s. Receive all funds allocated to Snohomish County 911 for services provided pursuant to this Agreement;

t. Purchase, take, receive, lease, take by gift, or otherwise acquire, own, hold, construct, improve, use and otherwise deal in and with real or personal property, or any interest therein, in the name of Snohomish County 911;

u. Sell, convey, lease, exchange, transfer, and otherwise dispose of all of its real and personal property and assets;

v. Sue and be sued, complain and defend, in all courts of competent jurisdiction in Snohomish County 911's name;

w. Make and alter bylaws for the administration and regulation of its affairs consistent with this Agreement;

x. Hold radio frequency licenses and software and other licenses to enable Snohomish County 911 to operate radio communications and dispatch systems to meet its public safety responsibilities;

y. Enter into contracts with Subscribers and other relevant parties to provide Emergency Communication Services and Additional Services pursuant to this Agreement;

z. Any and all other acts necessary to further Snohomish County 911's goals and purposes; and

aa. Except as expressly provided above or in Section 13, Snohomish County 911 shall not have the power or authority to issue debt in its own name.

## **SECTION 6. GOVERNING BOARD: COMPOSITION AND OPERATION.**

a. Composition. Snohomish County 911 shall be governed by a Governing Board composed of fifteen (15) voting members. Ten (10) of the Governing Board voting member seats shall be allocated to Police Agencies and five (5) Governing Board voting member seats shall be allocated to Fire Agencies. Governing Board Members and their alternates shall be selected in the manner described in **Exhibit A**.

b. Qualifications to Serve. A Governing Board Member, or his or her alternate must be duly selected in the manner described in **Exhibit A** and must be either: an elected official; chief administrative officer; chief law enforcement officer or fire chief from a Principal, or a person directly-reporting to the chief law enforcement officer or fire chief; or in the case of Snohomish County, the Snohomish County Executive or a person reporting directly to the Snohomish County Executive.

c. Terms of Office. Governing Board Members are elected every two (2) years by caucuses no later than the April Governing Board meeting of that year, as described further in **Exhibit A**. The terms of the newly elected Board Members commence with the first Governing Board meeting in May.

d. Election to Receive Service From Snohomish County 911; Impact on Governing Board Representation. Each Principal shall determine which of its respective public service departments or operations will be Directly Served by Snohomish County 911. The initial election by each Principal as to which of their respective departments or operations will receive services from Snohomish County 911 will be recorded by the submittal by each Principal of a completed service election form. The service election form determines whether a Principal participates in a caucus to select either or both a Police Agency Governing Board Member or a Fire Agency Governing Board Member. Single Service Principals shall also participate in the caucus for the non-voting Governing Board Member. Each Principal shall promptly provide written notice to Snohomish County 911 of any changes in its services impacting its qualification as a Police Agency or Fire Agency.

e. Conditions for Serving on Governing Board. All Governing Board Members and their alternates shall serve without compensation from Snohomish County 911. However, Snohomish County 911 may pay for or reimburse Governing Board Members and alternates for reasonable out-of-pocket costs related to service on the Governing Board. Members may only serve for such time as they meet the qualification of a Governing Board Member for the Principals with which they served of the start date of their then current term on the Governing Board.

f. Alternates. Alternates shall be selected and shall serve in the absence of Governing Board Members in the manner described in **Exhibit A**. Alternates must meet the same qualifications as Governing Board Member.

g. Quorum. A simple majority of the voting Members (or their alternates) in number (excluding any Member that represents a Principal which been terminated by vote of the Governing Board, or which has given notice of withdrawal and is not permitted to vote per terms of Section 17.f) shall constitute a quorum of the Governing Board for purposes of doing business on any issue.

h. Voting. The Board shall strive to operate by consensus. All Board decisions on items not listed in Section 6.i require a Simple Majority Vote for approval. A Governing Board Member may not split his or her vote on an issue and there shall be no weighted voting. No voting by proxies or mail-in ballots is allowed. Voting by a designated alternate is not considered a vote by proxy. A Governing Board Member representing a Principal that has given notice of withdrawal or which has been terminated by vote of the Governing Board shall be authorized to cast votes at the Governing Board only on budget items to be implemented prior to the withdrawal or termination date.

i. Items Requiring Supermajority Vote for Approval. A Supermajority Vote of the Governing Board shall be required in order to approve the following items or actions:



- i. Amendment to the Principals' Assessment formula(s);
  - ii. Approval of a budget that exceeds the prior approved budget by a percentage in excess of the most recently published Consumer Price Index – Urban for the Seattle/ Tacoma/Bremerton metropolitan area, June - June, calculated by the Federal Bureau of Labor Statistics, or its successor index, plus 4% (adjusted as necessary to accomplish the same annual cost increase limitation in the event Snohomish County 911 transitions to a biennial budget).
  - iii. A decision to acquire assets, equipment, real or personal property valued at over \$500,000;
  - iv. Admission of a new Principal (other than admission of an Associate Agency as a Principal, or a Principal created by the merger, consolidation or other process as described in Section 6.r);
  - v. Reinstatement of a Principal that has been converted to Subscriber;
  - vi. Appointing the Executive Director (a Simple Majority Vote is required for removal of the Executive Director);
  - vii. Expansion of the scope of services provided by Snohomish County 911 within the Scope of Section 4.a and 4.b;
  - viii. Adoption or amendment of any bylaws, or amendment of the Articles;
  - ix. Merger, consolidation, sale of all or substantially all assets of the Snohomish County 911 per Section 19;
  - x. Modification of this Agreement (except for those items requiring approval of all legislative bodies of the Principals per Section 18);
  - xi. Termination or dissolution of Snohomish County 911 per Section 20;
  - xii. Approval of debt pursuant to Section 13; and
  - xiii. Any other action requiring a two-thirds or sixty six-percent (66%) supermajority vote under chapter 24.06 RCW.
- j. Officers. The Governing Board shall have four officers, a President and Vice-President, Secretary and Treasurer, who will serve two (2) year terms, coterminous with Governing Board Member elections. It will be the function of the President to preside

at the meetings of the Governing Board. The Vice-President shall assume this role in absence of the President. Immediately following the election of Governing Board Members, at the first meeting of the Governing Board, the officers shall be elected by Simple Majority Vote of the Members. In the event of a vacancy in the President position, the Vice-President shall assume the President position for the balance of the term of the departed President. In the event of a vacancy in the Vice-President position, the Governing Board shall by Simple Majority Vote elect a new Vice-President to serve to the balance of the term of the departed Vice-President. Any officer appointed by the Governing Board may be immediately removed by Simple Majority Vote of the Governing Board, with or without cause, in which event the Governing Board shall promptly elect a new officer who shall serve for the remainder of the unexpired two-year term. The Governing Board may appoint persons to serve as Secretary and Treasurer of Snohomish County 911; provided, that such persons shall not be Members of the Governing Board. The duties of all officers shall be further described in the Snohomish County 911 Bylaws.

k. Staffing. The Executive Director shall assign agency staff to support the Governing Board as he or she deems appropriate.

l. Meetings. The Governing Board shall meet not less than four (4) times per year, at least once each calendar quarter, at a time and place designated by the President of the Governing Board or by a majority of its Members. Regular meetings shall be held pursuant to a schedule adopted by the Governing Board. Special meetings may be called by the President or a majority of Governing Board Members upon giving all other Members notice of such meeting in accordance with chapter 42.30 RCW (which, as of the date of this Agreement, requires written notice to be provided to each Member at least twenty-four (24) hours prior to the meeting). Notwithstanding the foregoing, the President or Members calling a special meeting will, in good faith, attempt to provide at least ten (10) days prior written notice of a special meeting, however, failure to do so will not invalidate any otherwise legal action taken at a meeting where the proper notice was provided in accordance with chapter 42.30 RCW. In an emergency, the Governing Board may dispense with written notice requirements for special meetings, but must, in good faith, implement best efforts to provide fair and reasonable notice to all Governing Board Members. Members of the Governing Board may participate in a meeting through the use of any means of communication by which all Members and members of the public participating in such meeting can hear each other during the meeting. Any Governing Board Members participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

m. Bylaws. The Governing Board shall be authorized to establish bylaws that govern procedures of the Governing Board.

n. Parliamentary Authority. Robert's Revised Rules of Order shall govern any proceeding of the Governing Board to the extent not inconsistent with this Agreement or the bylaws adopted by the Governing Board.

o. Consultation with Technical Advisory Committees. It is the intent of this Agreement that the Governing Board shall seek the active participation and advice of Participating Agencies in the determination of Snohomish County 911 operating policies. The Technical Advisory Committees shall have the opportunity to provide reports at each regular Governing Board meeting. The Governing Board shall consider input from the Technical Advisory Committees in its deliberations.

p. Boundary Changes or Service Territory Changes. It is the responsibility of each Participating Agency to provide reasonable advance notice to Snohomish County 911 of any boundary changes, or service territory changes that may occur due to annexation, merger, or other reason, so that Snohomish County 911 may accurately dispatch calls, accurately track calls for service data and accurately assess User Fees; provided, however, until such time as Snohomish County 911 has sufficiently accurate data (such as an official population estimate from the State) by which to calculate User Fees for the Participating Agencies(s) involved, Snohomish County 911 shall continue to bill each Participating Agency on the basis of Snohomish County 911's most accurate data and the parties involved in the boundary or service territory change shall amongst themselves address any User Fee allocation issues.

q. Service Changes; Merger or Annexation of a Participating Agency; Formation of New Public Safety Interlocal Operation. It is the responsibility of each Participating Agency to provide reasonable advance notice to Snohomish County 911 of any boundary changes, or service territory changes that may occur due to annexation, merger, or other reason.

In the event a Participating Agency merges or annexes to a Principal or becomes a member agency of a Public Safety Interlocal Operation that is a Principal, the merged or annexed Participating Agency's rights and obligations under this Agreement shall be assumed in full by the Principal without further action by the Governing Board.

In the event that Participating Agencies, which meet the qualifications of this paragraph, join together to create a new Public Safety Interlocal Operation (for example and without limitation, creation of a new regional fire authority under chapter 52.26 RCW), and as a result of such formation the fire/EMS operation or police operation of such Participating Agencies are no longer Directly Served by Snohomish County 911, then after all of the necessary assignments and agreements are executed related to the creation of the Public Safety Interlocal Operation, the newly created Public Safety Interlocal Operation shall become a Principal and a party to this Agreement without further action of the Governing

Board. At such time the rights and obligations of the forming Participating Agencies shall be assumed by the Public Safety Interlocal Operation. Notwithstanding the foregoing, in order for the newly created Public Safety Interlocal Operation to become a Principal and a party to this Agreement without further action of the Governing Board, each Participating Agency at the time of formation of the newly created Public Safety Interlocal Operation must (i) be a current Principal and party to this Agreement, or (ii) have previously been a member of SNOCOM or SNOFAC and otherwise independently qualifies as a Principal under this Agreement.

Notwithstanding anything in this paragraph to the contrary, if a merged or annexed Principal retains a separate public safety operation that is Directly Served by Snohomish County 911, then that Principal shall maintain its status and shall retain all its rights and obligations under this Agreement with respect to its Directly Served public safety operation.

r. Associate Agencies. Associate Agencies shall be charged a nominal annual membership fee at a level set from time to time by Simple Majority Vote of the Governing Board. An Associate Agency which stops contracting for police and/or fire/EMS services from a Principal and requests to be Directly Served by Snohomish County 911 shall be approved by the Governing Board as a Principal per Section 14.d and shall not be subject to any latecomer fees in making this transition.

## **SECTION 7. TECHNICAL ADVISORY COMMITTEES.**

a. Creation and Membership. Two Technical Advisory Committees shall be created to serve in an advisory capacity to the Governing Board and Executive Director.

i. Police Technical Advisory Committee. The Police Technical Advisory Committee shall consist of the chief or his or her designee from each Principal and Subscriber police department or equivalent agency or operation Directly Served by Snohomish County 911.

ii. Fire/EMS Technical Advisory Committee. The Fire/EMS Technical Advisory Committee shall consist of the chief or his or her designee from each Principal and Subscriber with a Fire/EMS department or equivalent agency or operation Directly Served by Snohomish County 911.

b. Technical Advisory Committee Representatives. Persons serving on either Technical Advisory Committee shall serve without compensation from Snohomish County 911. However, Snohomish County 911 may pay for or reimburse Representatives and alternates for reasonable out-of-pocket costs related to service on the Technical Advisory Committees.

c. Alternates. Each Representative serving on a Technical Advisory Committee may designate one alternate, confirmed in writing, to serve when such Representative is absent or unable to serve provided that such alternates must have operational responsibilities within their respective agencies. Written notice of the appointment of an alternate shall be provided to the Chair the applicable Technical Advisory Committee prior to the alternate serving in the absence of the Representative.

d. Powers. Each Technical Advisory Committee shall meet individually as frequently as their members deem appropriate, but not less than twice each year, for the purpose of promoting interagency collaboration and cooperation, information sharing, discussion and review of agency operating policy and such other matters as the Governing Board may request. The Technical Advisory Committees shall provide advice, information, and recommendations to the Governing Board and the Executive Director.

e. Quorum. One-quarter of the Representatives of each Technical Advisory Committee (or any alternates present and participating in place of a Representative) shall constitute a quorum for meetings of such Committee.

f. Voting. All actions and recommendations of the Technical Advisory Committees shall be approved by majority vote of those present and voting. Each Representative shall have one vote. There will be no weighted voting, proxy voting, or mail-in voting.

g. Officers. Each Technical Advisory Committee shall have two officers, a Chair and Vice-Chair. It will be the function of the Chair to preside at the meetings of his/her respective Technical Advisory Committee, and the Vice-Chair shall assume this role in absence of the Chair. The officers shall be annually elected by vote of the Committee Representatives.

h. Staffing. The Technical Advisory Committees shall be staffed by the Executive Director, or his or her designee, and such additional agency staffing as the Executive Director may deem appropriate.

i. Meetings. All meetings of each Technical Advisory Committee shall be open to the public if and to the extent required by chapter 42.30 RCW. Regular meetings shall be held pursuant to a schedule approved by the Technical Advisory Committee. Special meetings may be called by the Chair of the Technical Advisory Committee or a majority of the Representatives of the Technical Advisory Committee. Members of the Technical Advisory Committees may participate in meetings through the use of any means of communication by which all Representatives and members of the public participating in such meeting can hear each other during the meeting. Any Representatives participating

in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

## **SECTION 8. ANNUAL AGENCY REPORT.**

a. Contents. The Executive Director shall prepare an Annual Agency Report no later than April of each year. The report shall include a description of:

- i. Activities of Snohomish County 911 for the previous calendar year;
- ii. The proposed work program and significant events in the current calendar year; financial condition of Snohomish County 911;
- iii. Results of Governing Board adopted performance benchmarks; and
- iv. The proposed budget policy for the upcoming year.

b. Availability. The Executive Director shall ensure that the Annual Agency Report is distributed to the Governing Board and Principals and made available the general public each year.

## **SECTION 9. EXECUTIVE DIRECTOR.**

The Governing Board shall be responsible for the appointment and termination of the Executive Director. An interim Executive Director may be appointed to serve in such capacity until a permanent Executive Director is appointed by the Governing Board. A Supermajority Vote of the Governing Board is required to appoint the Executive Director of Snohomish County 911.

The Executive Director shall be responsible to the Governing Board and shall advise it from time to time on a proposed budget and other appropriate matters in order to fully implement the purposes of this Agreement. The Executive Director shall administer Snohomish County 911 in its day-to-day operations, including but not limited to: approving and overseeing the administration of all operating procedures and public records management procedures consistent with Governing Board policies; and appointing persons to fill other staff positions in the Snohomish County 911 and overseeing the evaluation and discipline, hiring and firing of employees, and administration of collective bargaining agreements and other personnel contracts consistent with Governing Board policies.

Only the Governing Board shall be authorized to hire or retain legal counsel and independent accountants and auditors. Other consultants or legal counsel for specialized purposes within the Executive Director's signing authority as it may be defined by the Board from time to time may be designated in such manner as the Governing Board may determine subject to Sections 5 and 6.

The Executive Director shall have experience in technical, financial and administrative fields and his or her appointment shall be on the basis of merit only. The Executive Director is an "at will" employee and may be terminated upon the Simple Majority Vote of the Governing Board.

#### **SECTION 10. PERSONNEL POLICY**

The Executive Director shall, as necessary from time to time, submit to the Governing Board a proposed personnel policy for the Governing Board's approval, rejection or modification. All modifications or revisions to such personnel policies must be approved by the Governing Board if and to the extent required in such policies.

#### **SECTION 11. OPERATIONAL POLICY AND SYSTEM EVALUATION; RADIO SYSTEM OPERATIONS.**

- a. Operational Effectiveness. The Executive Director shall actively consider and evaluate means and opportunities toward the enhancement of operational effectiveness of emergency services. The Executive Director shall present his or her recommendations to the Technical Advisory Committees and the Governing Board from time to time.
- b. Operational Standards for Radio System. The Governing Board shall adopt operation and maintenance standards for the Radio System. The Technical Advisory Committees shall submit to the Governing Board recommendations regarding operation and maintenance standards for the Radio System.
- c. Radio System Use. Each Participating Agency shall use the Radio System exclusively for approved Radio System purposes and in strict accordance with all applicable federal law and regulations. Principals hereby agree, and Subscribers shall agree in their applicable contract to agree, to abide by all Federal Communication Commission rules and regulations concerning the use of shared radio facilities.
- d. Radio System Access Priorities. Principals shall have priority access to the Radio System. Upon approval by the Governing Board, access may be provided by contract to Subscribers in the following priority:

- i. Priority 1: public safety (police, fire and emergency medical services) Subscribers; Subscribers able to interact with control stations in public school districts and public hospitals within Snohomish County; and other public agencies served by compatible radio communication systems;
- ii. Priority 2: other public agencies with emergency response duties; and
- iii. Priority 3: other entities, as determined by the Governing Board.

Emergency Public Safety Radio System Replacement Project. Notwithstanding anything in this Agreement to the contrary, no Participating Agency assumes the obligation to fund capital costs related to the design, development, construction or maintenance of the Radio System Replacement Project, and neither the full faith and credit or taxing power is pledged by a Participating Agency for such purpose, except as such obligation may be agreed to and specifically set forth in a separate agreement between the Participating Agency and Snohomish County. **SECTION 12. BUDGET; ASSESSMENT FORMULA; PAYMENT OF ASSESSMENTS; DELINQUENCIES; RESERVE FUNDS.**

a. Budget Fiscal Year. The Snohomish County 911 budget fiscal year shall be either the calendar year, or two calendar years, as the Governing Board may determine.

c. Budget Approval. The Executive Director shall present a proposed budget to the Governing Board by no later than **August 1** preceding the next budget period and the Governing Board shall approve its budget by no later than **September 25**. Thereafter and in no event later than **September 30**, Participating Agencies shall be advised on the programs and objectives contained in the proposed budget, of any changes in the User Fee formula(e), and of the required financial participation for each Principal and Subscriber for the following year(s) based upon the proposed budget. Participation by each Principal and Subscriber is contingent upon subsequent legislative appropriation for the following fiscal year. Principals and Subscribers shall promptly notify Snohomish County 911 if it does not approve its budget allocation. Any Principal not approving its full budget allocation (Assessment and cost of any Additional Services it has agreed to purchase) shall be automatically converted to Subscriber status effective the first day of the budget year (whether biennial or annual) for which the Principal did not approve its budget allocation, and subject to penalty as described in Section 12.

d. User Fee Formula. The User Fee formula applicable to Principals for Emergency Communications Services referred to as the “Assessment formula”, shall be initially approved as set forth in **Exhibit B** to this Agreement. The Assessment formula(e) may be changed from time to time as part of the budget process, and any such changes shall be approved by Supermajority Vote of the Governing Board in accordance with Section 6.i. Additional Services require only Simple Majority Vote of the Governing



Board to approve. The Assessment formula(e) for Principals may be different from the User Fee formula applicable to Subscribers. It is expressly contemplated that Participating Agencies may become subject to differential User Fee formulae (including differential Assessment formula(e)) over time based upon the benefit conferred to such agencies.

e. Payment of Assessments. Assessments shall be payable not less frequently than quarterly on or before such dates as the Governing Board may determine.

f. Delinquent Assessments. Snohomish County 911 shall, within seven (7) business days of the due date, send notice to any delinquent Principal and provide a 60-day cure period from the original due date of the payment. If such Assessments, are not paid in full within 60 (sixty) days of the original due date, then the Principal delinquent in payment of Assessments shall upon such 60th day be deemed immediately converted to the status of a Subscriber as described in Section 14. In the event a Principal converted to Subscriber status due to non-payment of fees shall not have paid in full all Assessments owing by six (6) months after the original due date, then the Governing Board may terminate services to such Subscriber, which termination shall not absolve the Subscriber of its obligation to pay all Assessments past due, together with all accrued interest, calculated at 1.5% per month from the date the Assessment was originally due.

g. Terms of Subscriber Contracts. Snohomish County 911 may enter into contracts with Subscribers from time to time for the purpose of providing Emergency Communication Services and other services as provided herein. Subscriber contracts may provide for the same or different payment schedules and payment formulas as those which apply to Principals; provided that, a Subscriber which, at the time it determined to become a Subscriber, was qualified to become a Principal but elected not to, shall be subject to payment of a risk premium of not less than six percent of its annual User Fees, or such other greater amount as the Governing Board may determine. Revenues from such risk premium shall be placed in Snohomish County 911 reserves.

Subscriber contracts shall provide that User Fees not paid when due by a Subscriber shall begin to accrue interest on the date the User Fee was originally due and shall continue until the User Fee is paid (together with all accrued interest) in full at the Federal Prime Rate plus 3%. Snohomish County 911 shall, within seven (7) business days of the due date, send notice to any delinquent Subscriber. In the event a Subscriber does not pay in full all User Fees plus accrued interest within six (6) months from the date of initial delinquency, the Governing Board may terminate services to such Subscriber. Any such termination shall not absolve the Subscriber of its obligation to pay any amounts owing to Snohomish County 911, including any accrued interest.

h. Reserve Funds. The Governing Board shall establish capital and operating reserve funds or accounts at the times and in the amounts necessary to ensure funds are

on hand to reasonably address planned and unforeseen capital and operating expenses and to minimize the need for large increases in Assessments and/or User Fees from year to year as a result of acquisition or replacement of capital assets or equipment, and to fund the timely replacement of aging technology, equipment and systems.

### **SECTION 13. ISSUANCE OF DEBT.**

Except as otherwise provided in Section 5, Snohomish County 911 shall not have the power to issue obligations or to incur debt. However, it is anticipated that Snohomish County 911 may require capital funding from time to time to support facilities, technology and equipment needs. Bonds, notes or other evidences of indebtedness may be issued from time to time by one or more Participating Agencies or by another issuer pursuant to a separate agreement between one or more Participating Agencies and Snohomish County 911 in order to provide capital financing for Snohomish County 911 on terms as agreed upon by the parties thereto. The security and sources of payment for any such debt will be determined at the time of issuance, which may include User Fees and/or capital contributions from the Principals. Any User Fees and/or capital contributions for such purposes shall be approved by Supermajority Vote of the Governing Board. Further, in the event that any Principal is obligated to make a capital contribution, such obligation shall be subject to approval by its legislative authority.

To the extent that any bonds or other debt is issued on a tax-exempt basis under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), the Participating Agencies agree to not (1) make any use of the proceeds from the sale of such bonds or other debt that will cause the bonds or other debt to be “arbitrage bonds” within the meaning of the Code, or (2) act or fail to act in a manner that will cause the bonds or other debt to be considered obligations not described in Section 103(a) of the Code.

Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to amend or otherwise modify any terms or conditions of a separate agreement between a Participating Agency and Snohomish County (or other Participating Agency or Agencies) with respect to capital contributions, guarantees or the repayment of debt.

### **SECTION 14. CONVERSION OF STATUS OF PARTICIPATING AGENCIES; ADDITION OF NEW PRINCIPALS OR SUBSCRIBERS; PROVISION OF ADDITIONAL SERVICE TO PRINCIPALS.**

a. As described in Sections 12.c and 12.f hereof, a Principal may be converted to Subscriber status for failure to approve its share of the budget or for nonpayment or delinquency in payment of User Fees. On the date of such conversion, said former Principal shall:

- i. lose its right to participate in a caucus for selecting a voting Governing Board member;
- ii. lose its right to receive a share of Snohomish County 911 assets upon dissolution of Snohomish County 911;
- iii. become subject to payment of User Fees in accordance with the then applicable User Fee formula for Subscribers; and
- iv. be bound by the terms of the applicable Subscriber service contract(s).

The conversion of a Principal to Subscriber shall not discharge or relieve any Principal of its outstanding obligations to Snohomish County 911.

b. A Principal may alternately elect to convert to Subscriber status effective the first day of the next budget period (whether Snohomish County 911 is operating under an annual or biennial budget) by giving notice of its intent to the Governing Board not less than nine (9) months in advance of such effective date. Such conversion shall be effective as proposed without further action of the Governing Board, barring any basis for terminating the Principal and action thereon by the Governing Board.

c. A governmental entity otherwise meeting the qualifications of a Principal in Section 3 hereof may be admitted as a Principal of Snohomish County 911 upon Supermajority Vote of the Governing Board as required under Section 6.j. Similarly, a Subscriber may apply to the Governing Board to be converted to Principal status. As a condition of becoming a Principal, whether by conversion or new admission, the Governing Board may require payment or other contributions or actions by the new Principal as the Governing Board may deem appropriate, and may set such start date for service as it deems appropriate, it being the intention of this provision that the addition of new Principals shall not cause the then-current Participants to incur additional cost. Upon such conversion or new admission, such new Principal shall execute this Agreement or agree in writing to the term of this Agreement in its capacity as Principal and shall thereafter be subject to all provisions of this Agreement applicable to Principals.

d. Notwithstanding anything to the contrary in this Agreement, an Associate Agency meeting the qualifications of a Principal may become a Principal effective the first day of the next budget year, without making any latecomer payment or contribution, upon giving notice of its intent to the Governing Board not less than nine (9) months in advance of such effective date. Such conversion shall be become effective on such date without further action of the Governing Board.

e. The determination of whether to accept new Subscribers shall be made by the Governing Board in a manner similar, and subject to such terms and conditions, as that for accepting new Principals, it being the intention that the addition of new Subscribers shall not cause pre-existing Participating Agencies to incur additional cost.

f. A Principal wishing to receive service from Snohomish County 911 for an operating department in addition to a department already served by Snohomish County 911 may make application to the Governing Board in the same manner as, and be subject to such conditions and approvals as the Governing Board may deem appropriate for, an entity (other than an Associate Agency) seeking admission as a new Principal.

#### **SECTION 15. RETAINED POWERS OF PARTICIPATING AGENCIES.**

Each Participating Agency shall retain the responsibility and authority for its operational departments and for such equipment and services as are required at its place of operation to interconnect to Snohomish County 911's operations. Interconnecting equipment and services necessary to the provision of authorized Snohomish County 911 services may be funded through Snohomish County 911's budget and operational programs.

#### **SECTION 16. INVENTORY AND PROPERTY.**

Equipment, vehicles and furnishings for Snohomish County 911's operation shall be acquired as provided by law. If any Participating Agency provides equipment or furnishings for Snohomish County 911's use, title to the same shall rest with the respective local entity unless that equipment or furnishing is acquired by Snohomish County 911. The Executive Director shall maintain and bi-annually update an inventory of equipment and furnishings owned by, leased or temporarily assigned to Snohomish County 911, and the values thereof. In event of dissolution or termination of Snohomish County 911, assigned or loaned items shall be returned to the lending entity and all other items or funds derived from the sale thereof shall be distributed to Principals as described in Section 20.

#### **SECTION 17. WITHDRAWAL BY OR TERMINATION OF PRINCIPAL.**

a. Any Principal may withdraw its membership and terminate its participation in this Agreement by providing written notice and serving that notice on the Governing Board on or before June 30 in any year. After providing appropriate notice as provided in this Section, that Principal's membership withdrawal shall become effective on the last day of the calendar year following the year in which the notice is given. A Principal that has given notice of its intent to terminate must meet with the Executive Director or his or her designee to develop a departure plan. The departure plan is intended to ensure an orderly separation of the Principal from New Agency and ensure minimal disruption in 911 Calls response for the public. The departure plan may include the transfer of funds and equipment

or other assets and must be approved by Simple Majority Vote of the Board. Notwithstanding anything herein to the contrary, Principals shall be prohibited from withdrawing their membership and terminating their participation in this Agreement during the Initial Term; provided, a Principal may give appropriate notice of its intent to withdraw pursuant to this Section during the Initial Term, and in such event that Principal's membership withdrawal shall become effective on the last day of the calendar year that coincides with the end of the Initial Term.

b. Notwithstanding the foregoing, a Principal may be terminated at any time by action of the Governing Board for delinquencies of at least six (6) months in payment of Assessments and interest per Section 12.f.

c. Time is of the essence in giving notice of termination and/or withdrawal.

d. A terminating and/or withdrawing Principal is deemed to forfeit any and all rights it may have to Snohomish County 911's personal or real property, or any other ownership in Snohomish County 911, unless otherwise provided by the Governing Board; provided further that this forfeit of rights shall not apply to personal property on loan to Snohomish County 911 from the terminating or withdrawing Principal.

e. The termination and/or withdrawal of a Principal shall not discharge or relieve any Principal of its outstanding obligations to Snohomish County 911.

f. A Governing Board Member representing a Principal that (i) has given notice of withdrawal, or (ii) has been terminated by vote of the Governing Board which termination is effective at a future date, shall be authorized to cast votes at the Governing Board only on budgets items to be implemented prior to the withdrawal or termination date.

## **SECTION 18. AMENDMENT OF AGREEMENT.**

The following terms of this Agreement may only be amended in writing after receipt of the approval of the legislative authorities of all Principals:

- a. Expansion of the scope of services provided by the Snohomish County 911 beyond the scope of Section 4.
- b. The composition of the Governing Board and terms of office as provided in Sections 6.a and 6.d.
- c. Voting rights of Governing Board Members.
- d. Powers of the Governing Board.

- e. Hold harmless and indemnification requirements.
- f. Provisions regarding duration, termination or withdrawal.
- g. The conditions of this Section.

The parties to this Agreement acknowledge and agree that provisions in this Agreement that are not specifically identified in (a) through (g) above reflect the Principals' direction as to the initial operational and administrative policies and procedures to be implemented by the Governing Board. With the exception of the foregoing items that require affirmative approval of the legislative authorities of all Principals, the parties to this Agreement authorize the Governing Board to modify this Agreement from time to time in order to carry out the corporate purposes of Snohomish County 911. Any such modification shall be in writing and executed by the President of the Governing Board after providing not less than thirty (30) days' advance written notice to all Principals of such proposed modification, and upon approval of a Supermajority Vote of the Governing Board.

Nothing in this Section shall be construed to require legislative authority consent for the addition of a new Principal, conversion of an Associate Agency to a Principal, or agreement to serve an additional Subscriber.

#### **SECTION 19. MERGER, CONSOLIDATION OR SALE OF ALL OR SUBSTANTIALLY ALL ASSETS.**

Approval of the merger or consolidation of Snohomish County 911 with another entity, or the sale of all or substantially all assets of Snohomish County 911, shall require a Supermajority Vote of the Governing Board.

#### **SECTION 20. TERMINATION OF AGREEMENT; DISSOLUTION.**

a. Generally. This Agreement may be terminated upon the approval of a Supermajority Vote of the Governing Board. The termination shall be by direction of the Governing Board to wind up business by a date specified by the Governing Board, which date shall be at least one (1) year following the date of the vote to terminate. Upon the final termination date, this Agreement shall be fully terminated.

b. Distribution of Property on Termination of Agreement. Upon termination of this Agreement, all property acquired during the life of this Agreement remaining in ownership of Snohomish County 911 shall be disposed of in the following manner:

- i. Real or Personal Property. All real or personal property purchased pursuant to this Agreement and all unexpended funds or reserve funds, net of all outstanding Snohomish County 911 liabilities, shall be distributed to those

Principals still participating in the Snohomish County 911 on the day prior to the termination date and shall be apportioned between Principals based on the ratio that the average of each Principals' contributions to the operating budget over the preceding five (5) years bears to the total of all then remaining Principals' User Fees paid during such five-year period. The Governing Board shall have the discretion to allocate the real or personal property and funds as it deems appropriate, and the apportionment, determined consistent with the preceding sentence, need not be exact.

ii. Loaned Property. In the event of dissolution or termination of the Snohomish County 911, assigned or loaned assets shall be returned to the lending entity.

iii. Allocation of Liabilities. In the event outstanding liabilities of the Snohomish County 911 exceed the value of personal and real property and funds on hand, all Principals shall contribute to retirement of those liabilities in the same manner as which they would share in the distribution of properties and funds.

c. Notwithstanding the foregoing, this Agreement may not be terminated if to do so would abrogate or otherwise impair any outstanding obligations of the Snohomish County 911, unless provision is made for those obligations.

## **SECTION 21. DISPUTE RESOLUTION.**

a. Whenever any dispute arises between a Principal or the Principals or between the Principals and the Snohomish County 911 (referred to collectively in this Section as the "parties") under this Agreement which is not resolved by routine meetings or communications, the parties agree to seek resolution of such dispute by the process described in this Section, which shall also be binding on Subscribers.

b. The parties shall seek in good faith to resolve any such dispute or concern by meeting, as soon as feasible. The meeting shall include the President of the Governing Board, the Executive Director, and a representative(s) of the Principal(s), if a Principal(s) is involved in the dispute, and/or a person designated by the Subscriber(s), if a Subscriber(s) is involved in the dispute.

c. If the parties do not come to an agreement on the dispute or concern, any party may request mediation through a process to be mutually agreed to in good faith between the parties within 30 days, which may include binding or nonbinding decisions or recommendations (whichever is mutually agreed to). The mediator(s) shall be mutually agreed upon and shall be skilled in the legal and business aspects of the subject matter of

this Agreement. The parties shall share equally the costs of mediation and assume their own costs.

## **SECTION 22. INSURANCE.**

The Governing Board, Executive Director, and Technical Advisory Committees shall take such steps as are reasonably practicable to minimize the liability of the Participating Agencies, including but not limited to the utilization of sound business practice. The Governing Board shall determine which, if any, insurance policies or self-insurance programs for governmental entities authorized in the State of Washington may be reasonably and practicably acquired to cover liability exposures and other potential losses arising from the operations of the Snohomish County 911 and the activities of the parties pursuant to this Agreement (which may include Directors and Officers, Commercial General Liability, Auto, Workers' Compensation, Stop Gap/Employer's Liability, errors and omissions, crime/ fidelity insurance, CyberRisk, property damage or loss), and shall direct the acquisition of same.

## **SECTION 23. INDEMNIFICATION AND HOLD HARMLESS.**

a. Each Principal shall defend, indemnify and hold other Principals, their officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Principal's negligent acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries or damages are caused solely by the acts of a Principal; provided, that if any such Claim is based on the concurrent negligence of more than one Principal, then the indemnifying party's obligation hereunder applies only to the extent of its negligence.

b. Each Principal shall defend, indemnify and hold the Snohomish County 911 and its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Principal's negligent acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries and damages are caused solely by the acts of the Snohomish County 911; provided, that if any such Claim is based on the concurrent negligence of Snohomish County 911 and Principal, then the indemnifying party's obligation hereunder applies only to the extent of its negligence.

c. As provided in its Articles, the Snohomish County 911 shall defend, indemnify and hold each Principal its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of the Snohomish County 911's acts or omissions in connection with the



performance of its obligations under this Agreement, except to the extent the injuries and damages are caused solely by the acts of any Principal;; provided, that if any such Claim is based on the concurrent negligence of Snohomish County 911 and a Principal, then the indemnifying party's obligation hereunder applies only to the extent of its negligence.

d. The Snohomish County 911 will hold harmless, indemnify and defend its officers, officials, employees and volunteers from any and all legal liability, claims or lawsuits of any kind for injuries, damages, losses of any kind occurring to another, including attorney fees, which may arise out of the good faith performance of their duties to the Snohomish County 911 and performed in the scope of their employment or service to the Snohomish County 911, except to the extent the injuries, losses and/or damages are caused by the intentional and knowing wrongful acts of any of the Snohomish County 911's officers, officials, employees or volunteers.

e. Subscribers shall be required to agree to indemnify and hold harmless each Principal and the Snohomish County 911, their officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of Subscriber's negligent acts or omissions in connection with the receipt of services from Snohomish County 911. To such degree as the Governing Board determines to be reasonable, appropriate, and consistent with applicable law and to be in the best interests of Snohomish County 911, Snohomish County 911 may also indemnify and hold harmless Subscribers.

f. In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of a party hereto and the Snohomish County 911, its officers, officials, employees, and volunteers, the party's liability hereunder shall be only to the extent of the party's negligence. It is further specifically and expressly understood that the indemnification provided in this Section constitutes the party's waiver of immunity under Industrial Insurance Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Section shall survive the expiration or termination of this Agreement.

g. Each party shall give the other parties proper notice as provided herein of any claim or suit coming within the purview of these indemnities. Termination of this Agreement, a Principal's withdrawal from the Snohomish County 911, or a Principal's conversion to Subscriber status (collectively for purposes of this subparagraph "Termination"), shall not affect the continuing obligations of each of the parties as indemnitors hereunder with respect to those indemnities and which shall have occurred prior to such Termination.

## **SECTION 24. INTERGOVERNMENTAL COOPERATION.**

The Snohomish County 911 shall cooperate with local, state and federal governmental agencies in order to maximize the utilization of any grant funds for equipment and operations and to enhance the effectiveness of the Snohomish County 911's operations and minimize costs of service delivery.

## **SECTION 25. NOTICE.**

Notices required to be given to Snohomish County 911 under the terms of this Agreement shall be directed to the following unless all Principals are otherwise notified in writing:

President of the Governing Board and Executive Director, Snohomish County 911  
c/o Snohomish County 911  
1121 S.E. Everett Mall Way, Suite 200  
Everett, WA 98208

Notices to Principals, Subscribers, Associate Agencies, Governing Board Members or Representatives required hereunder may be given by mail, overnight delivery, facsimile or email, or personal delivery. Each Principal shall provide the President of the Governing Board written notice of the address for providing notice to said Principal. Any Principal wishing to change its mail or email address shall promptly notify the President of the Governing Board. Notice or other written communication shall be deemed to be delivered at the time when the same is postmarked in the mail or overnight delivery services, sent by facsimile or email (with confirmation of transmission), or received by personal delivery.

## **SECTION 26. COMPLIANCE WITH LAWS.**

During the term of this Agreement, the parties hereto agree to comply with all federal, State, and local laws as necessary to carry out the terms of this Agreement. Further, to the extent that any Emergency Communication Services and/or Additional Services involve the retention, security, confidentiality or other handling of certain "protected" health information under the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations thereunder by the U.S. Department of Health and Human Services and other applicable laws including chapter 70.02 RCW, the Washington Uniform Health Care Information Act, as amended, the parties agree to comply with such laws and execute documents as necessary to implement the requirements under such laws.

## **SECTION 27. VENUE.**

The venue for any action related to this Agreement shall be in the Superior Court in and for Snohomish County, Washington at Everett, Washington, or if applicable, in Federal District Court, Western District of Washington.

## **SECTION 28. NO THIRD PARTY BENEFICIARIES.**

There are no third-party beneficiaries to this Agreement. No person or entity other than a party to this Agreement shall have any rights hereunder or any authority to enforce its provisions, and any such rights or enforcement must be consistent with and subject to the terms of this Agreement. In addition to the foregoing, nothing in this Agreement is intended to create a special relationship or other basis for third party liability.

## **SECTION 29. SEVERABILITY.**

The invalidity or any clause, sentence, paragraph, subdivision, section or portion of this Agreement shall not affect the validity of the remainder of this Agreement.

## **SECTION 30. RATIFICATION.**

All prior acts taken by the Principals and Snohomish County 911 consistent with this Agreement are hereby ratified and confirmed.

## **SECTION 31. EXECUTION, COUNTERPARTS, AMENDMENT AND RESTATEMENT OF ORIGINAL AGREEMENT, AND EFFECTIVE DATE.**

The Original Agreement was executed on behalf of each Principal by its duly authorized representative following approval of the Original Agreement by motion, resolution or ordinance of its legislative authority. Pursuant to the terms of the Original Agreement and except for certain amendments as provided in Section 18 of the Original Agreement, the Original Agreement may be amended from time to time by Supermajority Vote of the Governing Board of Snohomish County 911 without further approval of legislative authorities of the Principals.

Pursuant to Section 4, Section 6.j and Section 18 of the Original Agreement, after giving 30 days' notice to each Principal as required by Section 18 of the Original Agreement, the Governing Board of Snohomish County 911, by Supermajority Vote of its Principals, authorized the amendment and restatement of the Original Agreement by the execution and delivery of this Agreement.

This Agreement shall be deemed adopted and effective as of June 20, 2024, and as of such date, this Agreement shall control the operations and governance of Snohomish County 911. This Agreement shall be filed and/or posted as required by chapter 39.34 RCW.

This Agreement shall be executed by the President of the Governing Board, and attested to by the Secretary of the Governing Board.

IN WITNESS WHEREOF, this Agreement shall be effective as of the date set forth above.

**Snohomish County 911**

By: \_\_\_\_\_  
Jon Nehring  
Board President

**Attest:**

By: \_\_\_\_\_  
Terry Peterson  
Board Secretary

**Approved as to Form:**

By: \_\_\_\_\_  
Attorney for Snohomish County 911

## EXHIBIT A

### Process for Selecting Governing Board Members and Alternates

Governing Board Members are selected every two (2) years in April, through the process described below.

If not defined in this **Exhibit A**, capitalized terms have the meaning stated in the Agreement.

As used in this **Exhibit A**:

- **Population Served** means the residential population of all territory Directly Served by a Principal Police Agency or Fire Agency, according to the most recent annual report issued by the State Office of Financial Management each year determining the population of each jurisdiction.
- **Administration and Technology Cost Center** means all costs allocated to this cost center that are not otherwise attributed to another cost center as defined in Exhibit B.

#### Step 1. Police Agencies are divided into four (4) caucuses

- a. Rank each Police Agency by **the pro rata share of the Administration and Technology Cost Center for each Police Agency** from smallest to largest, *provided, however*, that to avoid double counting, Population Served shall be based on the population for which the Police Agency has general policing responsibilities; contracts for special services (such as bomb squad or SWAT responses only) are not included in the calculation of Population Served.
- b. Snohomish County shall be its own caucus (until and unless it is no longer the largest Police Agency in terms of pro rata share of the Administration and Technology Cost Center, in which case all four caucuses shall be determined as per Subsection c below).
- c. The remaining Police Agencies shall be divided into three roughly equal caucuses based on pro rata share of the Administration and Technology Cost Center, starting from the smallest Police Agency and working up to agencies serving more population. In deciding where to divide caucuses, the following rules shall apply:
  - i. No Police Agency shall be divided into two caucuses.
  - ii. Caucuses with the smallest agencies (the two caucuses with three Governing Board Member seats, referred to as Small and Medium

Police Agencies on the Police Agencies Table below) shall be sized by rounding up (exceeding the pro rata share target to the extent necessary to completely include the pro rata share target and not divide any Police Agency between caucuses), and the larger Police Agency caucus (two Governing Board Member seats, referred to as Next Largest Police Agencies in the Police Agencies Table below) shall be rounded down.

## **Step 2. Fire Agencies are divided into three (3) caucuses**

- a. Rank each Fire Agency by **Population Served**, from the smallest to the largest, *provided, however*, that to avoid double counting, Population Served shall be based on fire suppression responsibility; contracts for limited services (such as BLS/ALS response/transport) are not included in the calculation of Population Served.
- b. Divide the Fire Agencies into three (3) caucuses based on whether they are small, medium or large agency, defined as follows:
  - i. A Large Fire Agency is defined as an agency serving 14% or more of the total Population Served by all Fire Agencies.
  - ii. A Medium Fire Agency is defined as an agency serving more than 3% and less than 14% of the total Population Served by all Fire Agencies.
  - iii. A Small Fire Agencies is defined as an agency serving 3% or less of the total Population Served by all Fire Agencies.

## **Step 3. Each Caucus selects Board Members**

- a. In April, designated representatives from each Principal in each Police Agency caucus and each Fire Agency caucus shall meet together and select Governing Board Members to represent them on the Governing Board for the next two-year term. Caucuses may determine their own rules for nominating and selecting Governing Board Members, provided that the following rules shall apply:
  - i. Representatives to the caucus shall be designated by the legislative body of the Principal they represent (or by such other person as local codes may require). Designated representatives must be qualified to serve as a Governing Board Member.
  - ii. An individual need not attend the caucus in order to be selected as a Governing Board Member, so long as the person otherwise meet the qualifications of a Governing Board Member.
  - iii. Each Principal within a caucus shall have an equal vote in selecting each Governing Board Member.

- iv. Any Principal who has designated more than one representative to the caucus, and is unable to unanimously decide where to place their vote, at the time the vote is called, shall forfeit their vote.
- v. Voting by proxy will not be allowed.
- vi. No Principal may have an elected official or staff member hold more than one (1) Governing Board seat in a single caucus unless there are more seats than Principals in the caucus.
- vii. The Secretary shall record the votes of the caucus, confirming the individuals to whom the caucus's Board seats are to be allocated for the next term of office. This record shall be included in the next regularly scheduled board meeting packet.

- b. The number of Governing Board Members to be selected by each caucus shall be as follows:

**Police Agencies (10 Board Members)**

<b>Caucus 1:</b> Largest Agencies (Currently Snohomish County is the only member)	2 Governing Board Members, one of which must be the County Sheriff or an assistant or deputy sheriff directly reporting to the Sheriff – unless or until the County is no longer the Largest Policy Agency (in terms of Population Served), in which case the two board members shall be selected as per Caucus 2.
<b>Caucus 2:</b> Next Largest Police Agencies	2 Governing Board Members, of which one must be operational staff and one must be an elected official
<b>Caucus 3:</b> Medium Police Agencies	3 Governing Board Members, of which one must be an operational staff and one must be an elected official
<b>Caucus 4:</b> Small Police Agencies	3 Governing Board Members, of which one must be an operational staff and one of must be an elected official

**Fire Agencies (5 Board Members)**

<b>Caucus 1: Large Fire/EMS Agencies</b>	3 Governing Board Members
<b>Caucus 2: Medium Fire/EMS Agencies</b>	1 Governing Board Member
<b>Caucus 3: Small Fire/EMS agencies</b>	1 Governing Board Member

**Step 4. Each Caucus Selects a Slate of Designated Alternates, in Priority Order.**

- a. Each caucus shall select a slate of designated alternates in a number equal to the number of Governing Board seats allocated to that caucus.
- b. Each caucus shall prioritize its alternates to determine the order in which the alternates are called upon to participate at a Governing Board meeting in the event of an absence of any Governing Board member representing the caucus.

Caucuses may determine their own rules for nominating and selecting Board Alternates, provided that the rules set forth in Step 3.a for selecting of Board Members shall apply.

**Vacancies**

Any vacancies shall be promptly filled by the appointing caucus, which shall meet either in person or telephonically to select a replacement Board Member and/or Alternate to serve the remainder of the vacant position's unexpired term. Such selection process shall be subject to the rules outlined in **Step 3**.



## **EXHIBIT B**

### **Principal Assessment Formula**

Assessments are calculated and charged separately for each Emergency Communications Service provided for each Principal that has elected to receive such service. A Principal that has elected to receive both Police and Fire/EMS Emergency Communications Services will pay one Assessment for service to its Police agency and one Assessment for service to its Fire/EMS agency. A Principal that has elected to receive only police **or** Fire/EMS Emergency Communications Services from Snohomish County 911 only pays an Assessment for the service so received.

Capitalized terms used in **Exhibit B** not defined in this **Exhibit B** have the meaning set forth in the body of the Interlocal Agreement.

#### **Description of the formula to derive Assessments for individual Principals.**

##### **Step 1: Divide the Net Adopted Budget into four cost pools:**

- **Administration and Technology**
- **Call Takers**
- **Police Dispatch**
- **Fire Dispatch**

The costs allocable to each cost pool are further defined below (see “Definitions”)

##### **Step 2: Apply Revenues to cost pools according to the following guidelines:**

- E-911 Tax Revenues will first be applied to offset all costs associated with the **Call Takers** cost pool. Any E-911 Tax Revenues over and above the amount necessary to fund all costs in the **Call Takers** cost pool will be applied to fund permissible costs for such revenues within the **Administration, Technology, and Wireless Technology** cost pool.
- Emergency Communications and Facility Tax Revenues will be applied to fund permissible costs for such revenues within the Administration, Technology, and Wireless Technology cost pool. Revenues that exceed the Administration, Technology, and Wireless Technology cost pool will be applied to member assessments using the formula assigned to this cost pool.
- The portion of Subscriber Contract revenues attributable to all Emergency Communications Services *except* revenues attributable to the Wireless Technology cost pool will be applied to the **Police Dispatch** and/or **Fire Dispatch** cost pool, based on the services billed to the Subscriber. For example, revenues from a Subscriber contract for Emergency Communications Services with the Stillaguamish Tribe to service its Police Agency will be applied to reduce the size of the Police Dispatch cost pool, except for any increment of such revenue charged for Wireless Technology cost pool items.

- The portion of any Subscriber Contract revenues attributable to Radio System services will be applied to the Administration, Technology, and Wireless Technology cost pool, including but not limited to any revenues attributable to cell tower leases and other non-Assessment revenue attributable to the Radio System.
- Additional Services revenues will be applied to the Administration and Technology, Police Dispatch, Fire Dispatch, and/or Wireless Technology cost pool, based upon where the costs of those services are allocated.

**Step 3: Divide the Administration and Technology, Call Taker, Police Dispatch and Fire Dispatch cost pools between Police Agencies and Fire Agencies:**

- Amounts in the **Administration and Technology** cost pool will be divided based on the ratio of dispatch workstations assigned to each service (initially, 8 police dispatch stations and 5 fire stations)
  - Police 62%
  - Fire 38%

If the Board approves deployment of an additional dispatch work station to serve Police or Fire Agencies, this ratio will automatically change (the change is not considered a formula change requiring Governing Board approval).

- Amounts in the **Call Taker** cost pool will be divided based on a ratio that reflects an assessment of actual time spent by call takers processing each type of call:
  - Police 75%
  - Fire 25%

A change in this ratio requires Supermajority Vote of the Governing Board.

- Calculate a **Cost per Console** by dividing total Police Dispatch and Fire Dispatch Costs by the total number of dispatch stations.
- Amounts in the **Police Dispatch** cost pool are allocated to Police Agencies and are further separated out on a **Cost-per-Console** basis as between Shared Dispatch Station costs and Dedicated Dispatch Station costs. (In 2017, of the 8 Initial Police Dispatch stations, 5 were shared and 3 were dedicated—1 to Marysville Police, and 2 to Everett Police).
- Amounts in the **Fire Dispatch** cost pool are allocated to Fire Agencies and are further separated out on a **Cost-per-Console** basis as between Shared Dispatch Station costs and Dedicated Dispatch Station costs (In 2017, there were 5 Shared Dispatch Stations in the Fire Dispatch cost pool and no Dedicated Dispatch Stations).

**Step 4: Allocate costs to individual Principals, calculating Fire and Police Agency assessments separately as follows:**

- **Police Agency Principal Assessments:**

1. Calculate the sum of costs allocated to all Police Agencies in the **Administration and Technology** Cost pool plus the **Call Taker** cost pool, and *subtract* Police Agency Subscriber contract revenues. Allocate the resulting total amount between all Police Agency Principals based on the **Shared Cost Allocation Calculation**. The total Police Agency Principal Assessment for any individual Principal is this amount *plus* the individual dispatch cost allocation derived from *either* item 2 or 3 below as applicable to the individual Principal:
2. **For Principal Police Agencies assigned to Shared Police Dispatch stations:** Each such Principal is allocated a shared of all Shared Police Dispatch Station costs based on the **Shared Cost Allocation Calculation**.
3. **For Principal Police Agencies with Dedicated Police Dispatch stations:** Each such Principal is allocated a cost equivalent to the **Cost per Console** multiplied by the number of dedicated Police Dispatch stations for which they have contracted.

- **Fire Agency Principal Assessments:**

1. Calculate the sum of costs allocated to all Fire Agencies in the **Administration and Technology** Cost pool plus the **Call Taker** cost pool, and *subtract* Fire Agency Subscriber contract revenues. Allocate the resulting total amount between all Fire Agency Principals based on the **Shared Cost Allocation Calculation**. The total Fire Agency Principal Assessment for any individual Principal is this amount *plus* the individual dispatch cost allocation derived from *either* item 2 or 3 below as applicable to the individual Principal.
2. **For Principal Fire Agencies assigned to Shared Fire Dispatch stations:** Each such Principal is allocated a shared of all Shared Fire Dispatch Station costs based on the **Shared Cost Allocation Calculation**.
3. **For Principal Fire Agencies with Dedicated Fire Dispatch stations:** Each such Principal is allocated a cost equivalent to the **Cost per Console** multiplied by the number of dedicated Fire Dispatch stations for which they have contracted.

- **Shared Cost Allocation Calculation:**

Take the total sum to be allocated and divide it up based on three different factors:

1. 54% of total costs are allocated based on the percentage share of a Principal's Calls for Service as compared to total Calls for Service of all such agencies (police or fire—including Principals and Subscribers). Calls for Service shall be calculated as an annual average based on the most recent 8 calendar quarters (see definition of Call Calculation Period).
2. 23% of costs are allocated based on the percentage share of a Principal's Assessed Value as compared to the total Assessed Value of all such agencies (police or fire, Principals and Subscribers).
3. 23% of costs are allocated based on the percentage share of a Principal's Population Served as compared to the total Population of all such agencies (police or fire, Principals and Subscribers).

Principals who were "SERS Phase II" agencies and have a contract with Snohomish County whereby the Principals remit operations and maintenance expenses for SERS to the County to be passed through to SERS will continue to pay operation and maintenance expense of the Radio System under such existing agreements until such agreements are modified to permit direct payment of these charges, or such until such agreements expire, whichever is first.

#### **DEFINITIONS**

**Fire Agency or Fire Agencies:** unless expressly noted otherwise, in this Exhibit these terms include both Principals and Subscribers Directly Providing fire and medical services that are Directly Served by Snohomish County 911.

**Police Agency or Police Agencies:** unless expressly noted otherwise, in this Exhibit these terms include both Principals and Subscribers Directly Providing police services that are Directly Served by Snohomish County 911.

**Cost-Per-Console** Total labor costs to staff all police and fire dispatch consoles divided by the number of consoles.

**Net Adopted Budget** means the budget approved by the Governing Board after action by all individual Principals, applicable in the time period for which the **Assessment** is payable, *less* **Other Revenues**.

**Other Revenues** mean revenues received by Snohomish County 911 from sources other than User Fees, E-911 tax revenues and Additional Services, including without limitation Associate Agency fees, other miscellaneous revenues, grants, or awards that may be available from time to time to offset the operating and capital costs of Snohomish County 911.

**Administration and Technology Costs** include all costs associated with providing the supervision, management, facilities costs, insurance, reserve contributions, etc., of running the public safety dispatch center and technologies including wireless technologies, and all other expenditures in the Net Adopted Budget not included in the definition of Call Taker Costs and Dispatch Costs.

**Call Taker Costs** include all **labor costs** associated with the prescribed number of operational staff assigned to staff the call taking function.

**Police Dispatch Costs** include all **labor costs** associated with the prescribed number of operational staff assigned to all dispatch workstations designated for serving Police Agencies.

**Fire Dispatch Costs** include all labor costs associated with the prescribed number of operational staff assigned to all dispatch workstations designated for serving Fire Agencies.

**Shared Dispatch Stations** are dispatch stations that not dedicated by agreement (as opposed to workload allocation) to serve a single Principal or Subscriber.

**Dedicated Dispatch Stations** are dispatch stations that are dedicated by agreement to serve a single Principal or Subscriber.

**Labor Costs** are direct costs of salary and benefits.

**E-911 tax revenues** mean revenues received by Snohomish County 911 from Snohomish County pursuant to State law.

**Calls for Service** are defined on Appendix B-1, *provided* that until Snohomish County 911 has been in operation for more than three years, the calculation of the number of **Calls for Service** shall be determined in whole or in part (to the extent necessary to determine the two-year average number of calls for service) based on the number of **Calls for Service** by each **Charged Operation** as reported by the records of the dispatch agency previously serving each **Charged Operation**, and consistent with the definition of **Calls for Service** in **Appendix B-1**.

**Charged Operation** refers to an individual Principal's fire/EMS agency/operation, being charged under the **Assessment** formula.

The **Call Calculation Period** is defined as the first calendar quarter of the preceding budget year, and the 7 calendar quarters preceding that. (For example, in 2019, the Call Calculation Period be the first quarter of 2018, plus the preceding 7 calendar quarters—all of 2017, and the last three quarters of 2016).

**Population Served** has the meaning set forth in **Exhibit A**.

**Assessed Value** is the **Assessed Value** of taxable real property in an individual Principal or Subscriber's or Snohomish County 911 **Service Territory** for the **Charged Operation** (as applicable) for the most recently available tax year, as published by the State Office of Financial Management or Snohomish County Assessor.

**"Service Area"** means the geographic area of all territory Directly Served by a Principal Police Agency or Fire Agency, with the County's Service Area excluding incorporated areas that are Directly Served by another Police Agency.

## **Appendix B-1**

### **Definition of “Calls for Service”**

The purpose of this Exhibit is to define Calls for Service for purposes of billing/funding calculations.

Snohomish County 911 will bill each Principal based on the User Fee formula, which incorporates consideration of Calls for Service as defined in this Exhibit.

**Section 1. Call for Service Defined:** Snohomish County 911 defines a Call for Service for workload analysis and User Fee calculation as any request for service or unit initiated activity resulting in creation of a Computer Aided Dispatch System (CAD) incident that requires oversight by or interaction with Snohomish County 911 personnel, with the exception of the following:

- a. Any **mutual aid incident** where another Snohomish County 911 Principal within the same classification (police/fire/medic) is dispatched as the primary responding agency. *For example*, a police department that responds into another police department’s jurisdiction to provide assistance does not constitute a Call for Service charged to the mutual aid responder. However, an incident involving both police and fire/EMS would result in a Call for Service for both classifications. Similarly, any mutual aid request dispatched to a location outside the Snohomish County 911 service area shall not constitute a Call for Service.
- b. Any incident that is a **duplicate** of another Call for Service, or **associated** with another Call for Service. *For example*, multiple calls about a single brush fire incident will result in only one Call for Service for the fire/EMS responder.
- c. Any incident that is **cancelled** by Snohomish County 911 personnel due to an error or similar internal reasons. *This does not include “cleared incidents”*, which are incidents that are cancelled when the requesting party calls back to cancel the response after the incident has been entered into CAD.
- d. Any **informational broadcast** including but not limited to CAD entries type codes of NOTICE, NOTICEP & INFO.
- e. Any **informational incident** used for tracking non police or Fire/EMS activity created by dispatchers solely for the purpose of assisting the dispatcher in tracking such activity, *for example*, utility call-outs.

**Section 2: Assignment of CFS:** As a general rule, CAD incidents are assigned to a Principal when the incident occurs within its authorized dispatch area (geo-verified location) and service discipline (Police/Fire) with the following exceptions:

- a. **Transit, Fire Marshall, Narcotics Task Force:** these incidents are assigned to the responsible countywide agency regardless of location.

b. **Traffic Stops:** assigned to the initiating agency.

c. **Non-geo verified incidents, in County:** assigned to initiating agency.

If there are significant anomalies in the manner calls have been measured by SNOCOM and SNOPAC, those anomalies shall be adjusted in a manner determined reasonable by the Governing Board (Supermajority Vote item) in order to develop a fair means for determining the number of calls across all agencies.



## **EXHIBIT C**

### **Principals and Associate Agencies of Snohomish County 911**

#### **PRINCIPALS:**

SNOHOMISH COUNTY  
CITY OF ARLINGTON  
CITY OF BRIER  
CITY OF EDMONDS  
CITY OF EVERETT  
CITY OF LAKE STEVENS  
CITY OF LYNNWOOD  
CITY OF MARYSVILLE  
CITY OF MILL CREEK  
CITY OF MONROE  
CITY OF MOUNTLAKE TERRACE  
CITY OF MUKILTEO  
CITY OF WOODWAY  
MARYSVILLE FIRE DISTRICT  
NORTH COUNTY REGIONAL FIRE AUTHORITY  
SNOHOMISH REGIONAL FIRE AND RESCUE  
SNOHOMISH COUNTY FIRE DISTRICT NO. 4  
SNOHOMISH COUNTY FIRE DISTRICT NO. 5  
SNOHOMISH COUNTY FIRE DISTRICT NO. 15  
SNOHOMISH COUNTY FIRE DISTRICT NO. 16  
SNOHOMISH COUNTY FIRE DISTRICT NO. 17  
SNOHOMISH COUNTY FIRE DISTRICT NO. 19  
SNOHOMISH COUNTY FIRE DISTRICT NO. 21  
SNOHOMISH COUNTY FIRE DISTRICT NO. 22  
SNOHOMISH COUNTY FIRE DISTRICT NO. 24  
SNOHOMISH COUNTY FIRE DISTRICT NO. 25  
SNOHOMISH COUNTY FIRE DISTRICT NO. 26  
SNOHOMISH COUNTY FIRE DISTRICT NO. 27  
SOUTH SNOHOMISH COUNTY FIRE & RESCUE REGIONAL FIRE AUTHORITY

**ASSOCIATE AGENCIES:**  
CITY OF DARRINGTON  
CITY OF GOLD BAR  
CITY OF GRANITE FALLS  
CITY OF SNOHOMISH  
CITY OF STANWOOD  
CITY OF SULTAN

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

**Council Bill #** *interoffice use*

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 4/30/2025  
Action  
Ordinance  
Public hearing  
Yes x No

**Budget amendment:**  
Yes x No

**PowerPoint presentation:**  
Yes x No

**Attachments:**  
Quote & Contract

**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:**  
*HB*  
Department head

Administration

Council President

**Project:** Lowell Park Playground Replacement

**Partner/Supplier:** Landscape Structures, Inc.

**Location:** 4605 S. 3<sup>rd</sup> Street, Everett, Washington

**Preceding action:** 3/12/25 Final Adoption of Ordinance creating a Special Improvement Project entitled "Lowell Park Playground Replacement"

**Fund:** Fund 354, Program 104

## Fiscal summary statement:

The City Council approved the funding ordinance for this project on March 12, 2025. This created a special improvement project titled "Lowell Park Playground Replacement" Fund 354, Program 104, to accumulate all costs for the project. Ordinance No. 4080-25 was enacted on March 27, 2025.

The total cost of this project is \$574,960.10, including Washington state sales tax. This purchase is brought before the Council for award in compliance with the Procurement Policy.

## Project summary statement:

The playground is twenty years old and exceeds the City of Everett Park's life-cycle standard of fifteen years. The Parks & Facilities Department intends to construct a new playground to replace the existing equipment, update it to current industry standards, and add options for accessible play.

Landscape Structures, Inc.'s quotation includes all playground equipment, installation services, products, and surfacing.

The equipment and labor are available for purchase from Landscape Structures, 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 Mayor to sign the purchase of playground equipment and installation from Landscape Structures, Inc. using the King County Directors' Association contract #22-315/City of Everett #2022-069 in the amount of \$574,960.10, including Washington state sales tax.

# Lowell Park Playground

Quote / Worksheet #2409-12463-03-02



To:

**City of Everett Parks & Facilities**

802 E Mukilteo Blvd

Everett, WA 98203

Lolly Huggins | Capital Projects Coordinator

LHuggins@everettwa.gov | 425.626.3605

**Project Location:**

**Lowell Park**

4605 S. 3rd St.

Everett, WA 98203

## APPROVAL

signature

date

PO#

**Concept  
C.2**

Date

Lead Time

Terms

Quoted By

April 10, 2025

~ 8-12 weeks\*

see attached

Adam Basich 206.932.6366

## PLAY EQUIPMENT

	CUST23-38	<b>Playground Equipment Package CUST23-38</b> Composite and Freestanding Playground Equipment per attached Equipment List. Manufactured by Landscape Structures in Delano, MN'		\$ 153,000.00
		Playground Freestanding Swing Package including Single Post Direct Bury 52" #177344, Single Post Additional Bay 52" #177345, x4 #174018 Belt Seats, x 1 Full Bucket Seat for Toddler Swing #175038, and Toddler Swing Beam #177337		\$ 4,799.00

## INSTALLATION

		Installation of <b>Playground Equipment Package CUST23-38</b> Composite and Freestanding Playground Swing Equipment by Locally Based certified and factory trained installation crew		\$ 76,500.00

## SAFETY SURFACING

7,290	Square Feet	ForeverLawn Playground Grass Ultra 2" PlayPadPro Envirofill Infill per product specifications. Composite edge nailer. All associated and required items (seaming tape, etc.) includes installing, cutting, seaming and edging.	\$ 26.50	\$ 193,185.00
Based on Materials Required				
6,168	Square Feet	Supply & Install Compacted Crushed Rock Base Surface 7-1/2" depth as sub-base for unitary surfacing	\$ 8.15	\$ 50,269.20

## SITEWORK/DEMOLITION

		Demolition and Disposal of all existing Play Equipment- 6 Post Swing Set, 3 Footer Spring Balance Beam, Structure (32 Posts at \$425 per + 32 footers at \$355)		\$ 24,960.00
229	cubic yards	Demolition and Disposal of existing EWF approx 12" Depth, 229 cubic yards of material at 99.45 per y <sup>3</sup>		\$ 22,774.05

**To Place Order : Sign Approval Line + Color Approval Sheet, then**

**Purchasing Contract Discount  
KCDA Contract #22-315**

\$ (31,529.24)

### Issue Purchase Order To:

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.c

206.932.6366



<b>Sub Total</b>	\$ 493,958.02
<b>Freight</b>	\$ 12,510.33
<b>Tax 9.9%</b>	\$ 50,140.37
<b>Sub Total</b>	\$ 556,608.71
<b>Bond</b>	\$ 16,698.26
<b>Tax on Bond</b>	\$ 1,653.13
<b>Total</b>	\$ 574,960.10



- Pricing valid for 90 day
- Quote based on current pricing

# Lowell Park Playground

Quote / Worksheet #2409-12463-03-02



## To:

### City of Everett Parks & Facilities

802 E Mukilteo Blvd

Everett, WA 98203

Lolly Huggins | Capital Projects Coordinator

LHuggins@everettwa.gov | 425.626.3605

## Project Location:

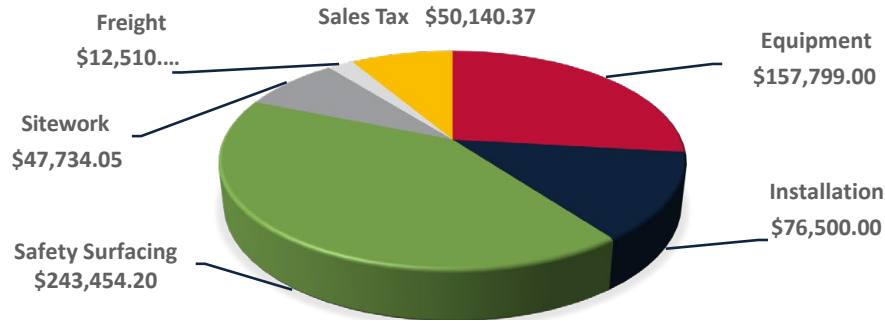
### Lowell Park

4605 S. 3rd St.

Everett, WA 98203

**Concept  
C.2**

## SCOPE COST BREAKDOWN



## PLAY EQUIPMENT

All Play Equipment is manufactured to order at our employee owned facility in Delano, Minnesota.

[Click Here to view Landscape Structures Product Warranty](#)



## INSTALLATION

Play Equipment Deluxe Installation by our locally based factory trained installation crew.

All footings to be dug through dirt/earth sub base. If there are concrete or other surfaces present in the installation area additional charges will be required.

## SAFETY SURFACING

ForeverLawn PlaygroundGrass Ultra 2" PlayPadPro Envirofill Infill per product specifications. Composite edge nailer boards. All associated and required items that accompany this (seaming tape, etc.) includes installing the safety pad, trimming around existing structures and obstacles, seaming of product and edging, manufactured and installed by our partners at ForeverLawn. This total includes all freight associated with the delivery of the product.

Total shown includes the material and installation for the Crushed Rock Sub base

[Click Here to view ForeverLawn's Product Warranty](#)

## SITework/DEMOLITION

Demolition and disposal of all existing play equipment in both play areas shown in drawing# **118890-03-02**

All existing Wood Chip surfacing to be removed and disposed of in a location approved by client onsite, to be reused elsewhere by others.

All footings to be dug through dirt/earth sub base. If there are concrete or other obstructions present in the installation area additional charges will be required.

## FREIGHT

Play Equipment Ships from Delano, MN to Jobsite location unless otherwise specified.

## SALES TAX/BONDS

Sales tax was calculated based on project location and tax rate at time of order.

A performance bond has been included as part of this scope of work.

## PROJECT NOTES



This quote was compiled utilizing Prevailing Wage requirements.

This quote includes a Performance Bond but may be removed and a new worksheet total can be issued upon request.



PROUDLY Representing:





# Equipment List

Date: 1/09/2025

Organization: PlayCreation, Inc.

Drawing No: 1188890-03-02

By: John Larson

Contact: JohnL@PlayCreation.com | 206.940.1108

Project: Lowell Playground – Design C.2

Location: Everett, WA

## CUST23-39 Equipment Package

- Custom [5-12] PlayBooster Structure

## Swing Play Area

- **Swing Play Area Including:**
  - X4 Belt Seats #174018
  - X1 Full Bucket Seat Toddler Beam Height
  - X1 Toddler Swing Single Seat Post
  - X1 Single Post Swing Frame 52" Bury 8' Beam Height
  - X1 Single Post Swing Additional Frame 52" Bury 8' Beam Height

## Freestanding Equipment List

- X1 Saddle Spinners (included in Cust23-39 Total)
- X1 Curva Spinner (included in Cust23-39 Total)



## QUOTE CONDITIONS AND ACCEPTANCE:

It is the Buyers responsibility to verify quantities and description of items quoted. Once your order has been placed, any changes including additions, deletions or color changes, will delay your shipment.

## EXCLUSIONS:

Unless specified, this quote specifically excludes the following:

Required Permits; Davis Bacon wages, Certified Payroll or Prevailing Wage fees (unless specified on the quote)  
Performance/Payment Bonds  
Site work and landscaping  
Removal of existing equipment  
Unloading; Receiving of inventory or equipment; Storage of equipment (unless specified on the quote)  
Equipment assembly and/or installation (unless specified on the quote)  
Safety surfacing (unless specified on the quote); Borders or drainage requirements  
Gmax Testing, and/or independent initial audits (which should be done by an independent third party)

## FREIGHT AND DELIVERY:

Shipping is FOB Origin.

Delivery is based on the nature of the equipment. For example, custom orders can take up to 36 weeks and standard orders may be shipped in as little 14 to 16 weeks. Unless otherwise noted, all equipment is delivered unassembled.

A materials list, detailing all items shipped, will be included with the shipment.

Buyer is responsible for ensuring the Sales Order and Item Numbers on all boxes and pieces match the Check List.

Shortages or damages must be noted on the driver's delivery receipt. Shortages or damages not noted become the buyer's financial responsibility.

Damaged Freight must be refused. Please notify PlayCreation immediately of any damages.

Please report Shortages and Concealed Damage to PlayCreation within 10 days of delivery.

A reconsignment fee will be charged for any changes made to delivery address after order has been placed.

## TAXES:

All orders delivering in Washington are subject to applicable sales tax unless a tax exemption or Reseller Permit is on file at the time the order is placed.

## PAYMENT TERMS:

An approved Credit Application is required for new customers. **50% down payment is due at the time of order** with balance due upon delivery, unless other credit terms have been approved. Interest may be charged on past due balances at an annual rate of 18%. A 3% charge will be added to all credit card orders

## RESTOCKING:

Items canceled, returned or refused will be subject to a minimum 40% restocking fee. All return freight charges are the responsibility of the Buyer.

## MAINTENANCE/WARRANTY:

Manufacturer's standard product warranties apply and cover equipment replacement and freight costs only; labor is not included.

No additional warranties are provided by PlayCreation (unless specified on the quote).

Maintenance of the equipment and safety surfacing is the responsibility of the customer.

The warranty will be voided in the event of unauthorized alterations or modifications to the equipment (including layout).

## INSTALLATION: (if Applicable):

A private locate service for underground utilities will need to be completed before your scheduled installation.

The site will need to be level and free of loose debris (this includes ground cover/chips).

A minimum 6 foot opening with good access will be needed at the site for delivery trucks and tractor.

An onsite dumpster may be required for disposal of packaging materials.

Please arrange in advance for the disposal of dirt/rocks from within the installation area.

Please arrange in advance for the removal/disposal of existing equipment.

Additional charges may apply if large rocks or concrete are found beneath the surface.

PlayCreation will need access to power and water.

Site supervision is quoted in 8-hour days.

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

**This AGREEMENT** is made as of the 8<sup>th</sup> day of September, 2025, 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 4147945 (“Purchase Order”) for the Client.

A general description of the Project is:

Playground replacement work includes demolition of the existing playground, removal of the engineered wood fiber surfacing system, construction of a new forever lawn surfacing system, and installation of the new playground equipment.

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 11/21/2025 and Final Completion no later than 12/31/2025, 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 five hundred twenty-three thousand one hundred sixty-six dollars and sixty cents (\$523,166.60), 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 April 10, 2025, and is made up of the following components: Worksheet #2409-12463-03-02.

**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 4147945.

**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: 9/8/2025

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. Contractor warrants its goods under the attached warranty.

**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, including equipment manufactured or in process; 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

Landscape Structures Inc. ("Manufacturer") warrants that all playstructures and/or equipment sold will conform in kind and in quality to the specifications manual for the products identified in the Acknowledgment of Order and will be free of defects in manufacturing and material. Manufacturer further warrants:

**100-Year Limited Warranty** On all PlayBooster® and PlayShaper® aluminum posts, stainless steel fasteners, clamps, beams and caps against structural failure due to corrosion/natural deterioration or manufacturing defects, and on PlayBooster steel posts against structural failure due to material or manufacturing defects.

**15-Year Limited Warranty** On all Evos® and Weevos® steel arches, all plastic components (including TuffTimbers™ edging), all aluminum and steel components not covered above, Mobius® climbers, Rhapsody® Outdoor Musical Instruments, decks and TenderTuff™ coatings (except Wiggle Ladders, Chain Ladders and Swing Chain) against structural failure due to material or manufacturing defects.

**10-Year Limited Warranty** On concrete products against structural failure due to natural deterioration or manufacturing defects. Does not cover minor chips, hairline cracks or efflorescence.

**8-Year Limited Warranty** On Aeronet® climbers and climbing cables against defects in materials or manufacturing defects.

**5-Year Limited Warranty** On Rhapsody cables and mallets against defects in materials or manufacturing defects and on polycarbonate panels against defects in materials or manufacturing defects.

**3-Year Limited Warranty** On all other parts, i.e. all swing seats and hangers, all swing chain and cables, ZipKrooz® cables, Track Ride trolleys and bumpers, Mobius Climber handholds, Wiggle Ladders, Chain Ladders, all rocking equipment including Sway Fun® gliders, belting material, LSI Flexx™ flexible cable netting, HeathBeat® resistance mechanisms, Seesaws, etc., against failure due to corrosion/natural deterioration or manufacturing defects.

The environment near a saltwater coast can be extremely corrosive. Some corrosion and/or deterioration is considered "normal wear" in this environment. Product installed within 500 yards (457 meters) of a saltwater shoreline will only be covered for half the period of the standard product warranty, up to a maximum of five years, for defects caused by corrosion. Products installed in direct contact with saltwater or that are subjected to salt spray are not covered by the standard warranty for any defects caused by corrosion.

This warranty does not include any cosmetic issues or wear and tear from normal use of the product, or misuse or abuse of the product. It is valid only if the playstructures and/or equipment are erected to conform with Landscape Structures' installation instructions and maintained according to the maintenance procedures furnished by Landscape Structures Inc.



## 2025 Play Equipment Warranty

You have our word.

All the warranties commence on date of Manufacturer's invoice. Should any failure to conform to the above express warranties appear within the applicable warranty period, Manufacturer shall, upon being notified in writing promptly after discovery of the defect and within the applicable warranty period, correct such nonconformity either by repairing any defective part or parts, or by making available a replacement part within 60 days of written notification. Manufacturer shall deliver the repaired or replacement part or parts to the site free of charge, but will not be responsible for providing labor or the cost of labor for the removal of the defective part or parts, the installation of any replacement part or parts or for disposal costs of any part or parts. Replacement parts will be warranted for the balance of the original warranty.

THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

ANY SURETY BONDS ISSUED PURSUANT TO ANY CONTRACT OR SELLER'S INVOICE SHALL NOT INCLUDE COVERAGE FOR THIS GUARANTEE OR WARRANTY BEYOND ONE YEAR.

The remedies hereby provided shall be the exclusive and sole remedies of the purchaser. Manufacturer shall not be liable for any direct, indirect, special, incidental or consequential damages.

Manufacturer neither assumes nor authorizes any employee, representative or any other person to assume for Manufacturer any other liability in connection with the sale or use of the structures sold, and there are no oral agreements or warranties collateral to or affecting this agreement. The warranties stated above are valid only if the structures and/or equipment are erected in conformance with Landscape Structures' installation instructions and maintained according to the maintenance procedures furnished by Landscape Structures Inc.; have been subjected to normal use for the purpose for which the goods were designed; have not been exposed to saltwater or salt spray; have not been subject to misuse, negligence, vandalism, or accident; have not been subjected to addition or substitution of parts; and have not been modified, altered, or repaired by persons other than Manufacturer or Manufacturer's designees in any respect which, in the judgement of Manufacturer, affects the condition or operation of the structures.

To make a claim, send your written statement of claim, along with the original job number or invoice number to: Landscape Structures Inc. 601 7th Street South, Delano, Minnesota, 55328-8605.

Signed:  President Date: 01/01/2025





## Terms of Sale

**PRICING:** Landscape Structures' list prices do not include delivery and handling charges. Prices are subject to change without notice.

**TERMS:** To tax-supported institutions and those with established credit: net 30 days from the date of the invoice. 1.5% per month thereafter; freight charges are prepaid and applied to the invoice.

**TAXES:** Landscape Structures' list prices do not include applicable taxes, if any.

**WEIGHTS:** Weights are approximate and may vary.

**DELIVERY:** If delivery of the equipment is by common carrier, and there is damage or a shortage, notify the carrier at once and sign delivery documents provided by the carrier noting the damage or shortage. Most products are delivered on large pallets and will require a forklift or similar equipment to unload as a unit on the site.

**INSTALLATION:** All playstructures and/or equipment are delivered unassembled and packaged with recyclable materials. For a list of factory-certified installers in your area, please contact your Landscape Structures playground consultant.

**SERVICE:** We have knowledgeable, qualified playground consultants throughout the world who are available to help you before, during and after the sale. Landscape Structures has exclusive design software that features all of our parts and pieces in pull-down menus. With this software, your playground consultant can design a playground layout that meets not only your needs, but ASTM and CPSC standards as well. In addition, we have a full staff of CPSI-certified designers, along with 2D and 3D drawing capabilities and custom capabilities to assist you with your playground plans.

**RETURN POLICY:** As an indication of our commitment to our customers, Landscape Structures will accept returns of new structures and/or new equipment purchased within 60 days of the original invoice date. Advance notification is necessary to ensure proper credit. Parts not included in this return policy are custom parts (including PlayShaper® posts), as well as used or damaged parts. A 20% restock fee plus all return freight charges will apply to all product returns. NOTE: All parts are subject to inspection upon return. Parts returned damaged may not receive a full credit. For this reason, it is important that all returned parts are properly packaged to prevent damage while in transit. Please contact your Landscape Structures playground consultant for the shipping address.

**PRODUCT CHANGES:** Because of our commitment to safety, innovation, and value, we reserve the right to change specifications at any time.

### PLEASE CONTACT US AT:

Landscape Structures Inc.  
601 7th St. South  
Delano, MN 55328-8605  
888.438.6574 (*inside the U.S.A.*)  
763.972.5200 (*outside the U.S.A.*)  
playlsi.com





## City Council Agenda Item Cover Sheet

**Project title:** Seattle Outboard Association application to hold a Boating Regatta on Silver Lake

**Council Bill #**

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 04/30/2025  
Action  
Ordinance  
Public hearing  
Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Special Use Application

**Department(s) involved:**

Parks and Facilities  
Administration

**Contact person:**

Bob Leonard

**Phone number:**

425 257-8335

**Email:**

bleonard@everettwa.gov

**Initialed by:**

RML

Department head

Administration

Council President

**Project:** 2025 Annual Seattle Outboard Regatta Hydroplane Races at Silver Lake

**Partner/Supplier:** Seattle Outboard Association

**Location:** 3210 89<sup>th</sup> Ave. E. Edgewood, WA 98371

**Preceding action:** Park Board Recommendation 4/1/25

**Fund:** N/A

**Fiscal summary statement:**

No expenditure required.

**Project summary statement:**

In accordance with Ordinance 1183-85, the Seattle Outboard Association submitted a formal application to hold its 2024 Boating Regatta on Silver Lake. A Regatta has been held annually on Silver Lake since 1954. The Seattle Outboard Association has applied for the same event to be held in 2025.

In late February, the public hearing process was initiated. As required by the ordinance the public hearing was promoted through the Everett Herald and signage was put up throughout Silver Lake. Parks staff solicited public input and comments leading up to the public hearing. The Board of Park Commissioners held a public hearing on April 1 and voted to recommend to Council that the Seattle Outboard Association's application to hold its annual Boating Regatta on June 6 and 7, 2025 be approved.

Ordinance 1183-85 requires City Council approval. The City Council has approved the Association's request, on an annual basis. This is the only event of this type held at Silver Lake during the year.

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

Approve the Seattle Outboard Association application to hold a boating regatta on Silver Lake.





**SPECIAL USE REQUEST APPLICATION—PARKS & FACILITIES DEPARTMENT**

This application for a reservation and special use permit is TO BE USED FOR groups, organizations, persons requesting special use of any park, park area or facility. A reservation in the form of a written permit is required prior to the day of use and required when:

- Groups or assemblies are calculated to attract a large number of people, relative to the size and capacity of the park or facility. Group must, prior to the event, reserve the space. A large group or assembly is that which would occupy one-tenth or more of the user capacity of the park or facility. (Park Code 9.06.104)
- A park code is requested to be waived for a special event or activity. (Park Code 9.06.108 and 9.06.112)
- Additional park resources, equipment or staffing are requested
- **Use of designated areas within a park i.e. open spaces, trails, etc. (fees may apply for use)**
- Requesting partial or full fee reductions for park areas or facilities (fundraisers are not eligible)

**RECEIVED**  
**OCT 04 2024**

(Separate applications must be filed for each type of activity or event for which you are requesting space)

BY: .....

Applicants are encouraged to submit this special use request application 30-90 days or more in advance to allow adequate time for review and, if approved, to allow applicants adequate time to meet requirements established by the city. Applicants are required to submit this application at least 14 business days prior to the date of the intended use.

**Application Fee: Parks charges a non-refundable Special Use Request Application fee of \$25.**

**SECTION 1**

Name of Organization Seattle Outboard Association  
 Main Contact Person Travis Kauth  
 Address 15 164th St. Sw. Apt. A36  
 City, State, Zip Code Bothell, WA 98012  
 Phone (Area Code) (425) 361-6937 Email commodore@seattleoutboard.org  
 Date/s of Event/s 06/06/2025 - 06/08/2025 Time (IN) 12:00 (OUT) 20:00  
 Park, Facility (Shelter, Hall), or Park Area Requested Thorton A. Sullivan Park, Silver Hall, Silver Lake.  
Beach line and park areas similar to previous years.

Detailed description of activity or event. (Attach additional pages if necessary)  
Seattle Outboard hydroplane regatta similar to previous years

Estimated attendance 200 Target age group All Ages  
 Is the activity/event open to the public? Yes ☒ No ☐ If yes, please complete section 2 on next page.  
 Will a fee be charged for event participation? Yes ☒ No ☐ What will fee/s be? SOA Entry Fee Structure  
 How will money be collected? Designated official, racers only. Free to public  
 Will you be asking for donations? Yes ☐ No ☒ Is the event recreationally oriented? Yes ☒ No ☐

**SECTION 1, continued**

Is this a fundraiser? Yes ☐ No ☒ If yes, please complete section 2.

Do you plan to close off any park area/s for your activity/event? Yes ☒ No ☐

Please specify area Beach line, beach areas, docks, boat ramp, and lake similar to previous years

How many vehicles do you anticipate? 75

Are you planning to amplify music or sound at your activity/event? Yes ☒ No ☐ Describe \_\_\_\_\_

PA Announcing system

Please note: Performer conduct and performance content, live or recorded, must be appropriate for families and general audiences. Profane, lewd, indecent or slanderous conduct or content is unacceptable.

Will tents or other temporary structures be erected in the park or park area? Yes ☒ No ☐

Will vehicles need to be driven on turf? Yes ☒ No ☐

Will food be served to general public? Yes ☐ No ☒

If so, have you consulted with the Snohomish County Health Department to ensure your activity/event is in compliance with their regulations? Yes ☐ No ☐

- Attach a site map to this application
- Provide a list of vendors, if any, participating in your event
- Attach a parking plan, if needed

- **SECTION 2** *Must be completed if:*
  - \* Your event is open to the public
  - \* You are fundraising or charging a fee
  - \* You are requesting a full or partial fee reduction (not eligible for fundraisers)

1-Give a brief history of your organization and its mission/intent:

Seattle Outboard Association has a long history of boat racing on Silver Lake. Our mission is to put on a safe and fun racing event for us racers and the spectators around us. Silver Lake is a key race site for the racer competing at a national level.

2-List name and title of current officers and/or board members:

Travis Kauth - Commodore, Kyle Bahl - Vice Commodore, Kelsie Eagon - Secretary, Doug Martin - Treasurer, Trey Marquard - Sargent at Arms, Ron Magnuson - BOD, and Five addition BOD voted in November

3-How will the public be notified of this activity/event: Newspaper Advertisement ☐ Press Release ☐

Radio/TV ☐ Other ☒ Please explain Flyers, Facebook, Seattleoutboard.org, APBA.org

4-Provide a budget summary of projected revenue and expenses for this event (attach additional pages if necessary):

Previous Years attached - expect similar.

*Please note that fundraisers cannot be considered for partial or reduced fees and will be required to pay full rental fees on facilities. Events must not discriminate because of age, sex, marital status, race, creed, color, national origin or presence of sensory, mental or physical disability. No events serving alcohol will be co-sponsored by the City of Everett.*

Please allow 10/+ business days for processing your request. Thank you.



## SPECIAL USE HOLD HARMLESS

### Agreement:

In consideration of allowing this organization to hold its special event at the City of Everett Parks & Facilities, the organization hereby accepts full responsibility and agrees to release, indemnify and promise to defend and save harmless the City of Everett, its officers, employees and agents from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees, incurred by the City of Everett, its officers, employees and agents in defense thereof, for both personal and/or property damage resulting from or connected directly or indirectly to the execution of this event, provided, however, the undersigned organization will not be required to hold the City of Everett, its officers, employees and agents harmless from the sole negligence of the City, its officers, employees and agents.

This organization also agrees to accept full responsibility for all damages to any equipment or property owned by the City of Everett. I, as an authorized agent on behalf of this organization, understand that my organization may be banned from use of Parks facilities for failure to comply with all specified rules/regulations including but not limited to cleaning requirements for parks and facilities and additionally I, as an authorized agent on behalf of this organization, also understand that all City of Everett ordinances and Park codes apply to this event/function application. I, on behalf of this organization, acknowledge that I have received the information on this form in the Park codes to ensure compliance.

TK (Initial here)

I understand that I am required to pay all required fees within 10 days of approval notification by the City of Everett. Failure to do so will result in revocation of my permit and reservation.

TK (Initial here)

I hereby declare the name and address and all other information given on this application to be true and correct. If the information is found to be false, I understand that I could be subject to prosecution and be fined up to \$5,000 under RCW 9A.76.175

TK (Initial here)

Insurance: Depending on the size or activity of your group, you may be required to be covered by bodily injury and property damage liability insurance in an amount ascertained by the City of Everett, naming the City of Everett as an additional insured. Prior to the event, the organization will be responsible for obtaining said insurance and notifying the proper officials.

I certify that I have read the foregoing statements and that I have the authority as an official and/or authorized agent of the aforementioned organization to sign on behalf of said organization.

Signed by: [Signature] Date signed 10/03/2024  
Signature of person in charge 070937FFF0424DF...

OFFICE USE ONLY	
<input type="checkbox"/> Approved	<input type="checkbox"/> Application Fee paid
<input type="checkbox"/> Approved w/noted stipulations	
<input type="checkbox"/> Unapproved	Staff Liaison to event (if applicable) _____
Authorized Approving Signature _____	Date _____
Notes: _____ _____ _____	



Run On 10/07/2024 11:21 AM

Run By Susan Fuller

From 06/06/2025 12:00 AM

To 06/08/2025 11:59 PM

Facilities Multiple (7)

## Facility Reservations by Date

### Fri Jun 6th, 2025

Location/Facility	Rental Time	Description	User	Phone 1	Email
1. Thornton A Sullivan Park Beach North of Boat Dock	12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
<b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)					
2. Thornton A Sullivan Park Beach South of Fishing Dock	12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
<b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)					
3. Thornton A Sullivan Park Silver Hall Meeting Room	12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
<b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)					
4. Thornton A Sullivan Park Silver Lake Beach Shelter	12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
<b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)					
5. Thornton A Sullivan Park Silver Lake Dock Shelter	12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
<b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)					
6. Thornton A Sullivan Park Silver Lake South	12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org



**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

7. Thornton A Sullivan 12:00 PM - Internal Reservation: Seattle Outboard Seattle 425- commodore@seattleoutboard.org  
Park Swimming 08:00 PM hydroplane regatta; exp. 200; Travis Outboard 361-  
Beach Kauth / 425.361.6937; alt contact Association 6937  
Kelsie Eagon / 360.761.8062; SUA  
submitted 10/4/2024 (sf)

**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

## Sat Jun 7th, 2025

- | Location/Facility  | Rental Time            | Description   | User  | Phone 1              | Email                         |
|--|------------------------|---|---|----------------------|-------------------------------|
| 1. Thornton A Sullivan<br>Park Beach North of<br>Boat Dock   | 06:00 AM -<br>08:00 PM | Internal Reservation: Seattle Outboard<br>hydroplane regatta; exp. 200; Travis<br>Kauth / 425.361.6937; alt contact<br>Kelsie Eagon / 360.761.8062; SUA<br>submitted 10/4/2024 (sf) | <u>Seattle</u><br><u>Outboard</u><br><u>Association</u> | 425-<br>361-<br>6937 | commodore@seattleoutboard.org |
| <b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf) |                        |   |   |                      |                               |
| 2. Thornton A Sullivan<br>Park Beach South of<br>Fishing Dock  | 06:00 AM -<br>08:00 PM | Internal Reservation: Seattle Outboard<br>hydroplane regatta; exp. 200; Travis<br>Kauth / 425.361.6937; alt contact<br>Kelsie Eagon / 360.761.8062; SUA<br>submitted 10/4/2024 (sf) | <u>Seattle</u><br><u>Outboard</u><br><u>Association</u> | 425-<br>361-<br>6937 | commodore@seattleoutboard.org |
| <b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf) |                        |   |   |                      |                               |
| 3. Thornton A Sullivan<br>Park Silver Hall<br>Meeting Room   | 06:00 AM -<br>08:00 PM | Internal Reservation: Seattle Outboard<br>hydroplane regatta; exp. 200; Travis<br>Kauth / 425.361.6937; alt contact<br>Kelsie Eagon / 360.761.8062; SUA<br>submitted 10/4/2024 (sf) | <u>Seattle</u><br><u>Outboard</u><br><u>Association</u> | 425-<br>361-<br>6937 | commodore@seattleoutboard.org |
| <b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf) |                        |   |   |                      |                               |
| 4. Thornton A Sullivan<br>Park Silver Lake<br>Beach Shelter  | 06:00 AM -<br>08:00 PM | Internal Reservation: Seattle Outboard<br>hydroplane regatta; exp. 200; Travis<br>Kauth / 425.361.6937; alt contact<br>Kelsie Eagon / 360.761.8062; SUA<br>submitted 10/4/2024 (sf) | <u>Seattle</u><br><u>Outboard</u><br><u>Association</u> | 425-<br>361-<br>6937 | commodore@seattleoutboard.org |
| <b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf) |                        |   |   |                      |                               |
| 5. Thornton A Sullivan<br>Park Silver Lake<br>Dock Shelter   | 06:00 AM -<br>08:00 PM | Internal Reservation: Seattle Outboard<br>hydroplane regatta; exp. 200; Travis<br>Kauth / 425.361.6937; alt contact<br>Kelsie Eagon / 360.761.8062; SUA<br>submitted 10/4/2024 (sf) | <u>Seattle</u><br><u>Outboard</u><br><u>Association</u> | 425-<br>361-<br>6937 | commodore@seattleoutboard.org |
| <b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf) |                        |   |   |                      |                               |
| 6. Thornton A Sullivan<br>Park Silver Lake<br>South  | 06:00 AM -<br>08:00 PM | Internal Reservation: Seattle Outboard<br>hydroplane regatta; exp. 200; Travis<br>Kauth / 425.361.6937; alt contact<br>Kelsie Eagon / 360.761.8062; SUA<br>submitted 10/4/2024 (sf) | <u>Seattle</u><br><u>Outboard</u><br><u>Association</u> | 425-<br>361-<br>6937 | commodore@seattleoutboard.org |
| <b>Note:</b> Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf) |                        |   |   |                      |                               |

7. Thornton A Sullivan Park Swimming Beach	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

## Sun Jun 8th, 2025

Location/Facility	Rental Time	Description	User	Phone 1	Email
1. Thornton A Sullivan Park Beach North of Boat Dock	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org

**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

2. Thornton A Sullivan Park Beach South of Fishing Dock	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

3. Thornton A Sullivan Park Silver Hall Meeting Room	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

4. Thornton A Sullivan Park Silver Lake Beach Shelter	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

5. Thornton A Sullivan Park Silver Lake Dock Shelter	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

6. Thornton A Sullivan Park Silver Lake South	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)

7. Thornton A Sullivan Park Swimming Beach	06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle</u> <u>Outboard</u> <u>Association</u>	425- 361- 6937	commodore@seattleoutboard.org
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**Note:** Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)



Run On 10/07/2024 11:56 AM

Run By Susan Fuller

From 06/06/2025 12:00 AM

To 06/08/2025 11:59 PM

Facilities Multiple (2)

## Facility Reservations by Facility

### Thornton A Sullivan Park Boating Dock

Rental Date/Time	Description	User
1. 06/06/2025 12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle Outboard Association</u>
Note: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)		
2. 06/07/2025 06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle Outboard Association</u>
Note: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)		
3. 06/08/2025 06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle Outboard Association</u>
Note: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)		

### Thornton A Sullivan Park Fishing Dock

Rental Date/Time	Description	User
1. 06/06/2025 12:00 PM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle Outboard Association</u>
Note: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)		
2. 06/07/2025 06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle Outboard Association</u>
Note: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)		
3. 06/08/2025 06:00 AM - 08:00 PM	Internal Reservation: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)	<u>Seattle Outboard Association</u>
Note: Seattle Outboard hydroplane regatta; exp. 200; Travis Kauth / 425.361.6937; alt contact Kelsie Eagon / 360.761.8062; SUA submitted 10/4/2024 (sf)		





## City Council Agenda Item Cover Sheet

**Project title:** Professional Services Agreement (PSA) with Applied Professional Services, Inc. for on-call utility potholing and locating for various Utility projects during the design phase

**Council Bill #** *interoffice use*

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 4/30/25  
Action  
Ordinance  
Public hearing  
Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Proposed Agreement

**Department(s) involved:**

Public Works

**Contact person:**

Candice Au-Yeung

**Phone number:**

425-257-7215

**Email:**

cauyeung@everettwa.gov

**Initialed by:**

RLS

Department head

Administration

Council President

**Project:** Multiple Utility projects

**Partner/Supplier:** Applied Professional Services, Inc.

**Location:** Citywide

**Preceding action:** N/A

**Fund:** Fund 401 – Water & Sewer Utility

**Fiscal summary statement:**

The source of funds for this PSA will be Fund 401 – Water & Sewer Utility. Total compensation is not to exceed \$125,000. As these services will be used in the design of several utility projects, each individual task will be part of the individual capital project.

**Project summary statement:**

There are several utility projects currently under design that will need sub-surface vacuum-excavating, utility potholing services, and occasional use of ground-penetrating radar (GPR). Specific projects that may need these services include Watermain Replacement Z, Grand Avenue Sewer Replacement from 41<sup>st</sup> to 46<sup>th</sup> Street, 100<sup>th</sup> Street Regional Stormwater Facility, Ross Avenue improvements, and Dorn & Marilyn drainage improvements. The services of Applied Professional Services, Inc. will supplement the services Public Works crews can provide with equipment the City does not own.

Considering that several projects may need these services, it is more efficient to do a single adequately sized PSA than several smaller ones.

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

Authorize the Mayor to sign the Professional Services Agreement (PSA) with Applied Professional Services, Inc. for on-call utility potholing and utility locating.





## 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	Applied Professional Services, Inc.
	43530 SE North Bend Way North Bend, WA 98045
	ChrisD@apslocates.com
City Project Manager	Candice Au-Yeung
	City of Everett – Public Works 3200 Cedar St Everett, WA 98201
	CAuYeung@everettwa.gov
Brief Summary of Scope of Work	On-call contract for utility exploratory vacuum-excavation (utility potholing) and utility locating for various utility projects during the design phase
Completion Date	December 31, 2027
Maximum Compensation Amount	\$125,000

BASIC PROVISIONS	
Service Provider Insurance Contact Information	Bethany Dunn
	425-888-2590
	BethanyD@apslocates.com
State Retirement Systems (must answer both questions)	<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>
Willful Wage Violation Certification	<p>By signing this Agreement, the Service Provider certifies that, within the five-year period immediately preceding the date of Service Provider’s signature, the Service Provider has not been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW. This certification covers any entity, however organized, that is substantially identical to Service Provider. Submission of an untrue certification by Service Provider is a material breach and cause for Agreement termination.</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**

**APPLIED PROFESSIONAL SERVICES, INC.**

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

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

Name of Signer: Chris Dunham

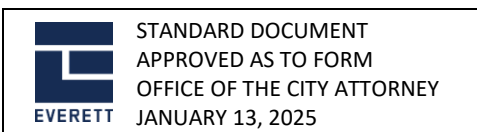
Signer's Email Address: ChrisD@apslocates.com

Title of Signer: General Manager

\_\_\_\_\_  
Date

ATTEST

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



**ATTACHMENT**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(GENERAL PROVISIONS v.1.13.25)**

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. Any reuse by the City of these reports, drawings, plans, specifications and intangible property for purposes other than in connection with the Work is at the sole risk of the City. 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 of this Section. No statement on a third-party website (such as a Trustlayer) that a requirement is "waived" or "overridden" is a waiver of Service Provider's obligations to fulfill the requirements of this Section.
  - 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/Prevailing Wages.** 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. If any Work by Service Provider or a subcontractor is subject to prevailing wages under chapter 39.12 RCW, all wages to

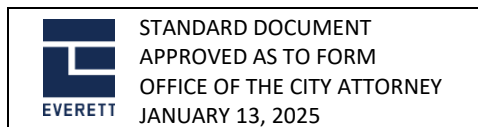
workers, laborers, or mechanics employed in the performance of such work shall be not less than prevailing wages under chapter 39.12 RCW. State of Washington prevailing wage rates published by the Washington State Department of Labor and Industries (L&I) are obtainable from the L&I website address: <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>, and the effective prevailing wage date is the same date as the date of last signature on this Agreement. A copy of the applicable prevailing wage rates are also available for viewing at Owner's office located at City of Everett Public Works, 3200 Cedar St, Everett, WA, and the City will mail a hard copy of the prevailing wage rates upon written request.

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. The title of this Agreement and the headings used in this Agreement, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.
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 of either party 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.1.13.25)**



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



**Applied Professional Services, INC.**

**April 17, 2025**

## Project Scope: Potholing

APS, Inc. will utilize our Air Vacuum Excavation System to verify utilities at selected test-hole locations determined by **City of Everett**. This process is being performed to obtain utility and depth information for the projects design.

- APS, Inc. shall air vacuum excavate test-holes on existing underground utilities, as authorized by the written task order by the city of Everett.
- Scope assumes that the utility will be between 0' and 10' in depth unless noted otherwise.
- If a test-hole falls in the hard surface APS, Inc. shall **jackhammer** the existing asphalt or concrete.
- APS, Inc. shall backfill all test-holes with a material approved by the local jurisdiction (5/8" select, sand or pea gravel).
- CDF backfill and permanent asphalt repair are excluded from this scope. If the local jurisdiction requires CDF backfill and/or permanent asphalt repair additional fees will be required.
- Collect utility and test-hole data, and photograph all found utilities.
- This estimate is based on design engineering rates in which case prevailing wages do not apply.
- Restoration is assumed at this time to be 5/8" crushed rock back fill or native fill and an EZ-street patch, which carries a 2-year warranty from the date the test-hole was completed.
- Grind and overlay of the existing roadway is not covered in this scope. Should the local jurisdiction require additional restoration, other than what is included in the scope, then additional fees will be required.
- All bonding and/or ROE will be obtained prior to APS arriving on site.

## Deliverables: Potholing

- Test-hole data sheets, which include Top, Bottom, Width, Diameter and Direction of the utility.
- Excel spread sheet containing all test-hole data for the project.
- Google Earth RM map with interactive link accompanied with an SHP File.
- Photo of all Found Utilities.
- One and a quarter inch zinc washer left at grade where utility was found with measurements stamped into it.

SERVICE PROVIDED	2025	2026	2027	
AIR VACUUM POTHOLING (portal-to-portal)	\$ 390.00	\$405.00	\$ 415.00	PER HOUR
PROJECT COORDINATION	\$ 110.00	\$155.00	\$ 170.00	PER HOUR
CORING (per hole)	\$ 550.00	\$565.00	\$ 575.00	PER EA
TRAFFIC CONTROL PLANS	\$ 200.00	\$250.00	\$ 250.00	PER HOUR
CONDUCTABLE LOCATES	\$ 115.00	\$145.00	\$ 150.00	PER HOUR
GPR LOCATES	\$ 190.00	\$200.00	\$ 215.00	PER HOUR
NON CONDUCTABLE LOCATES	\$ 265.00	\$275.00	\$ 285.00	PER HOUR
DUMPING FEE (per hole)	\$ 25.00	\$30.00	\$ 35.00	PER EA
FLAGGING & TC (plus 5%)	\$ 235.00	\$240.00	\$ 245.00	PER HOUR
POLICE FLAGGING (plus 5%)	\$ 115.00	\$125.00	\$ 135.00	PER HOUR
PERMIT FEES (plus 5%)	\$ 1,500.00	cost + 5%	cost + 5%	PER EA

### Project Site Address

- Various Locations

### Contact Information:

#### CLIENT :

**City of Everett**

**3200 Cedar St.**

**Everett, WA 98201**

**(425) 257-7215**

### Authorization to Proceed

The undersigned hereby acknowledges the terms and conditions of this agreement and authorizes APS, Inc. to proceed according to the project scope and cost.

### City of Everett

Name: \_\_\_\_\_

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

**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.

**Project title:** Interlocal Agreement (ILA) with the City of Mukilteo Relating to Mukilteo Lane

**Council Bill #**

**Agenda dates requested:**

Briefing  
 Proposed action  
 Consent 04/30/2025  
 Action  
 Ordinance  
 Public hearing  
 Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Interlocal Agreement

**Department(s) involved:**

Public Works, Legal, Admin

**Contact person:**

Tom Hood

**Phone number:**

(425) 257-8809

**Email:**

Thood@everettwa.gov

**Initialed by:**

RLS

Department head

Administration

Council President

**Consideration:** Interlocal Agreement with City of Mukilteo

**Project:** Interlocal Agreement with the City of Mukilteo Relating to Mukilteo Lane

**Partner/Supplier:** City of Mukilteo

**Location:** Mukilteo Lane

**Preceding action:** ILA approved [7/13/22](#) for Geotechnical Study

**Fund:** 024 – Engineering and Public Services

**Fiscal summary statement:**

This interlocal agreement provides for funding of Plans, Specifications, and Estimates (PS&E) for roadway structural improvements to Mukilteo Lane. The agreement is to be jointly funded 50/50 by the City of Everett and the City of Mukilteo. The source of funds for the City of Everett's portion will be Fund 024 – Engineering and Public Services for \$200,000.

**Project summary statement:**

Mukilteo Lane is a local access roadway that provides sole access to multiple Mukilteo residences. Everett and Mukilteo corporate boundaries split the Mukilteo Lane roadway right of way (R/W) resulting in joint and adjacent operating and maintenance responsibilities. Roadway structural improvements are needed to ensure preservation of, and access from Mukilteo Lane.

This interlocal agreement advances the previous agreement for a geotechnical study that was completed on a portion of Mukilteo Lane from approximately 1315 Mukilteo Lane to its intersection with Mukilteo Boulevard. This current agreement will include the selection of an engineering firm, and the development of PS&E for a public works improvement project for the stabilization of the roadway.

The City of Mukilteo and the City of Everett have agreed to jointly fund the engineering and design of these roadway improvements.

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

Authorize the Mayor to sign the Interlocal Agreement with the City of Mukilteo Relating to Mukilteo Lane.

**INTERLOCAL AGREEMENT BETWEEN  
CITY OF EVERETT AND CITY OF MUKILTEO  
RELATING TO MUKILTEO LANE**

**1. PARTIES**

This Interlocal Agreement Between the City of Everett and City of Mukilteo Relating to Mukilteo Lane (this “**Agreement**”) is made by and between City of Everett, a Washington municipal corporation (“**Everett**”), and City of Mukilteo, a Washington municipal corporation (“**Mukilteo**”). Throughout this Agreement, Everett and Mukilteo are each sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”

**2. PURPOSE**

The Parties agree that:

- Mukilteo Lane is a local access roadway that provides sole access to multiple Mukilteo residences
- Everett and Mukilteo corporate boundaries split the Mukilteo Lane Right of Way (R/W) creating joint and adjacent operating and maintenance responsibilities
- Plans, Specifications, and Estimates (PS&E) are needed for the roadway structural improvements to ensure ongoing preservation of and access from Mukilteo Lane
- Everett and Mukilteo would mutually benefit from PS&E for the needed improvements
- Everett and Mukilteo have each budgeted or programmed \$200,000 in 2025 toward funding PS&E of up to \$400,000 to outline the needed improvements.

**3. PLANS, SPECIFICATIONS, AND ESTIMATES**

Public Works staff from Mukilteo and Everett will work together to select an engineering consultant, with Mukilteo complying with applicable requirements for contracting for such services under Chapter 39.80 RCW or other applicable law. Mukilteo will execute a professional services contract with the selected consultant. The scope of work for the contract is for the consultant to develop plans, specifications and estimates for a public works project to preserve the portion of Mukilteo Lane under joint Right of Way control from approximately 1315 Mukilteo Lane to its intersection with Mukilteo Boulevard. Public Works staff from both Parties by mutual agreement will add further detail to the scope of work during the contracting process.

**4. THIRD PARTY BENEFICIARIES**

There are no third-party beneficiaries to this Agreement, and this Agreement shall not be interpreted to create any third-party beneficiary rights.

**5. EFFECTIVE DATE, DURATION, AND TERMINATION**

(a) Effective Date. As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has: (i) been duly executed by both Parties, and (ii) has either been filed with the Parties interlocal agreements website or recorded with the Snohomish County Auditor.

(b) Duration. This Agreement shall remain in effect through the completion of the PS&E development unless the Parties in writing determine otherwise by amending or terminating this Agreement. A Party seeking to terminate this Agreement shall give ten days' written notice to the other Party. If the Agreement is terminated, the terminating party shall be liable only for performance rendered prior to the effective date of the termination.

## **6. INTERLOCAL ACT PROVISIONS**

No separate legal or administrative entity is created by this Agreement. To the extent required by applicable law, each Party is responsible for financing and maintaining a budget for its activities under this Agreement. Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein. To the extent required by applicable law, each Party shall act as its own administrator for its activities under this agreement.

Mukilteo agrees to administer the PS&E Professional Services contract. Everett agrees to reimburse Mukilteo for one-half of the total of each invoice from the engineering consultant up to \$200,000 cumulative total. Everett will pay its portion of the invoice within thirty days of receipt of the invoice.

## **7. AMENDMENTS TO THIS AGREEMENT**

Any amendment to this Agreement must be mutually agreed upon and executed in writing by the Parties.

## **8. OTHER AGREEMENTS**

To the extent that any other contradictory agreements exist between Everett and Mukilteo regarding Mukilteo Lane PS&E work, this Agreement governs.

## **9. SIGNATURES**

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. Execution and delivery of this Agreement by the parties shall be legally valid and effective through any combination of: (i) executing and delivering a paper copy, (ii) transmitting the executed paper copy by email in pdf format or other electronically scanned format, or (iii) execution and transmittal by AdobeSign or DocuSign or other e-signature method by one or both Parties.

DATED (for reference purposes only): \_\_\_\_\_, 2025

*[Signature pages follow.]*



*[Signature page to Interlocal Agreement]*

Having received appropriate authorization from their respective governing bodies, the officials signing below have executed this Agreement on the date(s) set forth below.

CITY OF EVERETT:

By: \_\_\_\_\_

Name: Cassie Franklin

Title: Mayor

Dated: \_\_\_\_\_

Attest:

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

*[Signature pages continue on next page.]*

*[Signature page to Interlocal Agreement]*

CITY OF MUKILTEO:

By: \_\_\_\_\_

Name: Joe Marine

Title: Mayor

Dated: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**Project title:** Change Order No. 1 for the Inductive Charging Infrastructure Project

**Council Bill #** *interoffice use*

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 4/30/2025  
Action  
Ordinance  
Public hearing  
Yes X No

**Budget amendment:**  
Yes X No

**PowerPoint presentation:**  
Yes X No

**Attachments:**

**Department(s) involved:**  
Transit

**Contact person:**  
Michael Schmieder

**Phone number:**  
425-257-7761

**Email:**  
mschmieder@everettwa.gov

**Initialed by:**  
*MJS*  
Department head

Administration

Council President

**Project:** Inductive Charging Infrastructure Project

**Partner/Supplier:** Valdez Construction

**Location:** Seaway and College Transit Stations

**Preceding action:** Original Council Approval 08/27/2023

**Fund:** Transit 425

## Fiscal summary statement:

Due to equipment and supply chain delays and minor design modifications there is an increase in the overall Contract Sum of the project and timeline for completion. The increase in the contract sum of \$47,718.62 includes additional materials, unforeseen utility installation costs and insurance extension due to time delay.

Original Contract Sum (incl. WSST)	\$3,548,359.98
Change Order Amount (incl. WSST)	\$ 47,718.62
Contract Sum after this Change Order (incl. WSST)	\$3,596,078.60

Due to supply chain delays related to electrical switch gear and transformer availability the project experienced a delay of 70 weeks.

Original Contract Time	365 calendar days
Adjustment to time by this change order	332 calendar days
New Contract Time	697 calendar days

The project is funded in part through a Washington State Department of Transportation -Green Transportation Grant in the amount of \$1,824,000. Everett Transit local funds are allocated for the balance of construction costs.

## Project summary statement:

Everett Transit's Inductive Charging Infrastructure Project provides for the installation of on-demand inductive charging capability in support of the City's green infrastructure goals and expansion of its electric bus fleet. Four inductive charging locations will be installed at two primary station hubs: two charging bays at College Station at Everett Community College and two charging bays at Seaway Transit Station in partnership with Community Transit. Each 300KW charging bay will allow electric buses to continuously charge during layover periods, thereby maintaining a consistent level of charge throughout the day. Since 2018, Everett Transit's electric buses have: Traveled more than 1.39 million clean miles; Cut diesel fuel use by more than 290,000 gallons; Eliminated significant noise pollution.

Everett Transit is committed to creating a sustainable fleet while maintaining and strengthening its reliability. This project directly supports these goals.

## Recommendation (exact action requested of Council):

Authorize the Mayor to sign Change Order No. 1 for the Everett Transit Inductive Charging Infrastructure Project.

SECTION 00 63 63 - CHANGE ORDER - AGREED

Change Order No. \_\_\_\_\_

Change Order Effective Date: \_\_\_\_\_

CITY OF EVERETT  
Change Order

Project Title

Department

Work Order No.

Contractor:

Contract Award Date:

City Staff Contact:

Change Order No.

Change Order  
Effective Date

CONTRACT SUM

	Original Contract Sum	Total of Previous Change Orders	This Change Order	Contract Sum After this Change Order
Amount	\$	\$	\$	\$
+ WSST	\$	\$	\$	\$
Total	\$	\$	\$	\$

CONTRACT TIME

Original Contract Time 365	Working Days <input type="checkbox"/> / Calendar Days <input type="checkbox"/>
Date of Notice to Proceed	
Cumulative adjustment to time by <i>prior</i> Change Orders	
Adjustment to time by <i>this</i> Change Order	
New Contract Time ( <i>including</i> this Change Order)	

---

Change Order No. \_\_\_\_\_

Change Order Effective Date: \_\_\_\_\_

Contractor and City agree as follows:

1. The scope of Work shall be changed to the extent described in Exhibit A.
2. The amount of this Change Order for the changes described in Exhibit A, represents complete compensation for the changes described in Exhibit A, including all direct and indirect costs and impacts. The Contract Sum shall be adjusted as described in this Change Order.
3. Everett Municipal Code 3.80.050 sets forth the threshold amounts below which the Mayor or his designee is authorized to direct Contractor to perform additional work. In calculating such threshold amounts, Washington State sales tax, if applicable to the Work, has been considered.
4. The Contract Time of the Contract shall be adjusted to the extent described in this Change Order.
5. Contractor waives and releases any and all claims arising out of, or related to, this Change Order, the work described in Exhibit A, and all work and actual or constructive changes that occurred or began prior to the date of this Change Order, including, but not limited to, claims for equitable adjustment of time and compensation, delay, impact, overhead, or inefficiencies. This provision does not apply to requests for equitable adjustment of time or price for which the Contractor timely and properly provided notice of a differing site condition, protest, dispute, claim or Contract Claim as required by the Contract Documents. If the Contract Documents establish a time period for notice of a differing site condition, protest, dispute, claim, or Contract Claim that ends after the date of this Change Order, but relates to work performed prior to the date of this Change Order, then this provision does not apply if the Contractor timely and properly submits such notice.
6. This Change Order only changes the contract between Contractor and City to the extent explicitly provided herein.
7. Signature(s) on this Change Order may be by pdf, email, fax or other electronic means, in which case such signature(s) will have the same effect as an original ink signature. This Change Order 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.

CITY			
    _____ Mayor Date: _____		Attest:    _____ City Clerk Date: _____	
Standard Document Approved as to Form Office of the City Attorney (2.17.22)			
Recommended By:			
Construction Manager (if applicable)    _____ Date: _____	Project Manager (if applicable)    _____ Date: _____	Engineering Manager (if applicable)    _____ Date: _____	Department Director    _____ Date: _____
CONTRACTOR			
    By _____ Officer			
Date: _____			

**Exhibit A—Description of Changed Work**

see attached

**END OF SECTION 00 6363**



## Change Order Proposal

To: City Of Everett Department Transit  
3201 Smith Avenue Suite 215 Everett WA 98201  
Inductive Charging Infrastructure

**COP #:** 1  
**Date:** 7/1/2024  
**Attn:** Brad Chenoweth

**Project:** 23-08 CHG Ind Inductive Charging Infrastructure For Field Installation

### Description:

Supply and install additional Polyslick per the owners request  
Sea Way 12LFT  
Collage 133LFT

Authored By:

### Cost Breakdown:

Labor:	Hours		Rate		Item Total
Project Manager	5	\$	85.00	\$	425.00
Labor	30	\$	66.16	\$	1,953.04

Material & Equipment:	Qty.		Cost		Item Total
Sea Way additional Polyslick	12	\$	33.40	\$	400.80
Collage additional Polyslick	133	\$	33.40	\$	4,442.20
	-	\$	-	\$	-

Cost Summary:			Amount:
Labor:		\$	2,378.04
Material & Equipment:		\$	4,843.00
Subtotal:		\$	7,221.04
Overhead:	10.0%	\$	722.10
Profit:	5%	\$	397.16
<b>COP Total:</b>		<b>\$</b>	<b>8,340.30</b>

Total does not include WA State Sales Tax

Work will not proceed until this COP is included in an executed change order updating the contract price.

This COP:	\$	8,340.30
Other Pending COP's:		
Total Pending COP's:	\$	8,340.30

**Reservation of Rights.** This change order proposal is based solely on direct cost elements such as labor, material, and normal markups, and does not include any amount for changes in the sequence of work, delays, disruption, rescheduling, extended overhead acceleration, and/or impact costs which are not possible to assess at the present time. Right is expressly reserved to make claim for any and all of these related items of compensable cost overrun prior to final settlement of this Contract.



To: City Of Everett Department Transit  
 3201 Smith Avenue Suite 215 Everett WA 98201  
 Eclipse Mill Park Inductive Charging Infrastructure

**COP #:** 02  
**Date:** 7/23/2024  
**Attn:** Brad Chenaweth

**Project:** 23-08 CHG Inductive Charging Infrastructure For Field Installation

## Description:

COP #2 is to up grade the SNOPUD vault per Kevin Doolittles detail sent on 7/22/2024 Figure 4-46:30. This COP includes additional labor, materail, disposal, and equipment to insta larger vault. Speced vault was 4' 8" x 4' 8" x 3' 6" new vault size is 7' 0" x 4' 8" x 4' 0"

Authored By:

## Cost Breakdown:

Labor:	Hours		Rate		Item Total
Project Manager	2	\$	85.00	\$	170.00
Labor/ operator	3	\$	86.00	\$	258.00

Material & Equipment:	Qty.		Cost		Item Total
Minie Ex	2	\$	85.00	\$	127.50
Dump Truck	1	\$	125.00	\$	125.00
Old casilOldcastle Vaults College and Seaway	2	\$	8,534.00	\$	17,068.00
Credit for spec vault	2	\$	(2,807.00)	\$	(5,614.00)

Cost Summary:	Amount:
Labor:	\$ 428.00
Material & Equipment:	\$ 11,706.50
Subtotal:	\$ 12,134.50
Overhead:	10.0% \$ 1,213.45
Profit:	5% \$ 667.40

**COP Total:** \$ **14,015.35**

Total does not include WA State Sales Tax

Work will not proceed until this COP is included in an executed change order updating the contract price.

This COP:	\$	14,015.35
Other Pending COP's:	\$	8,340.30
Total Pending COP's:	\$	22,355.65

**Reservation of Rights.** This change order proposal is based solely on direct cost elements such as labor, material, and normal markups, and does not include any amount for changes in the sequence of work, delays, disruption, rescheduling, extended overhead acceleration, and/or impact costs which are not possible to assess at the present time. Right is expressly reserved to make claim for any and all of these related items of compensable cost overrun prior to final settlement of this Contract.



## Change Order Proposal

To: City Of Everett Department Transit  
3201 Smith Avenue Suite 215 Everett WA 98201  
Inductive Charging Infrastructure

**COP #:** 03  
**Date:** 9/24/2024  
**Attn:**

**Project:** 23-08 CHG Inductive Charging Infrastructure For Field Installation

**Description:**

*The below cost is for the policy extension from 09/30/24 – 03/01/25 (Cal. Days = 152):  
Builders Risk, as required per (00 7200-53) 15.3.14.2*

Authored By: Peter Uzunov

**Cost Breakdown:**

Labor:	Hours	Rate	Item Total
Project Manager	3	\$ 85.00	\$ 255.00
Labor	-	\$ -	\$ -

Material & Equipment:	Qty.	Cost	Item Total
Propel Insu 1	1	\$ 2,983.00	\$ 2,983.00
	-	\$ -	\$ -
	-	\$ -	\$ -

Cost Summary:	Amount:
Labor:	\$ 255.00
Material & Equipment:	\$ 2,983.00
Subtotal:	\$ 3,238.00
Overhead: 10.0%	\$ 323.80
Profit: 5%	\$ 178.09
<b>COP Total:</b>	<b>\$ 3,739.89</b>

*Total does not include WA State Sales Tax*

Work will not proceed until this COP is included in an executed change order updating the contract price.

This COP:	\$ 3,739.89
Other Pending COP's:	\$ 22,355.65
Total Pending COP's:	\$ 26,095.54

Authorized Signature: \_\_\_\_\_  
Owner or Owner's Representative

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

Authorized Signature: \_\_\_\_\_  
Valdez Construction, Inc.

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

**Reservation of Rights.** This change order proposal is based solely on direct cost elements such as labor, material, and normal markups, and does not include any amount for changes in the sequence of work, delays, disruption, rescheduling, extended overhead acceleration, and/or impact costs which are not possible to assess at the present time. Right is expressly reserved to make claim for any and all of these related items of compensable cost overrun prior to final settlement of this Contract.



## An Employee-Owned Company

<b>COP #:</b>	<b>04R3</b>
Date:	12/6/2024
Attn:	Brad Chenoweth

Project: 23-08 CHG Inductive Charging Infrastructure For Field Installation

**Description:**

*This work is to assist in the installation of the new PUD pull box per EW one-line drawing provided by SnoPud dated 9/20/2024. Valdez will saw cut, remove & replace in-kind the 4" concrete walkway approximately 96sf. Remove & restore in-kind existing landscape areas including irrigation impacted by work. Provide and install new 6" & 4" conduits per plan identified in section A & B from pull box to transformers. Pull box is supplied by PUD. Install bedding and backfill per code. Price includes all equipment, labor, and materials as described above.*

Authored By: Peter Uzunov

### Cost Breakdown:

Labor:	Hours	Rate	Item Total
PM	5	\$85.00	\$425.00
Superintendent	4	\$75.00	\$300.00
Forman	12	\$86.00	\$1,032.00
Labor	12	\$66.16	\$793.92
		Direct Labor Costs	\$2,550.92
		Small tools 3%	\$76.53
		<b>Labor Subtotal</b>	<b>\$2,627.45</b>
Equipment:	Hours	Rate	Item Total
Super Truck	4	\$9.38	\$37.52
		<b>Equipment Subtotal</b>	<b>\$37.52</b>
Material	Qty.	Cost	Item Total
Bedding and backfill material	1	\$650.00	\$650.00
Conduits and conector	1	\$250.00	\$250.00
		<b>Material Subtotal</b>	<b>\$900.00</b>
		Subtotal-Labor, Equip, Mat.	\$3,564.97
		overhead, 16%	\$570.40
		profit 6%	\$221.03
		<b>Self Perform TOTAL-Labor, Equip, Mat.</b>	<b>\$4,356.39</b>
Subcontractor Work	Qty.	Cost	Item Total
LangCo Concrete	1	\$2,250.00	\$2,250.00
CNI Utility Locates	1	\$895.00	\$895.00
Landscape Repair	1	\$2,500.00	\$2,500.00
		<b>Subcontract subtotal</b>	<b>\$5,645.00</b>
		overhead 6%	\$338.70
		profit 4%	\$225.80
			<b>\$6,209.50</b>
	<b>Cost Summary:</b>		<b>Amount:</b>
		<b>Subcontract Total</b>	<b>\$6,209.50</b>
		<b>Contractor Total</b>	<b>\$4,356.39</b>
	<b>COP Total:</b>		<b>\$10,565.89</b>
	<i>Total does not include WA State Sales Tax</i>		

Work will not proceed until this COP is included in an executed change order updating the contract price.

This COP: \$	10,565.89
Other Pending COP's: \$	26,098.54
Total Pending COP's: \$	36,664.43

Authorized Signature: \_\_\_\_\_  
Owner or Owner's Representative

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

Authorized Signature: \_\_\_\_\_  
Valdez Construction, Inc.

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

**Reservation of Rights.** This change order proposal is based solely on direct cost elements such as labor, material, and normal markups, and does not include any amount for changes in the sequence of work, delays, disruption, rescheduling, extended overhead acceleration, and/or impact costs which are not possible to assess at the present time. Right is expressly reserved to make claim for any and all of these related items of compensable cost overrun prior to final settlement of this Contract.

<div>VALDEZ CONSTRUCTION</div> <div>An Employee-Owned Company</div>		Change Order Proposal	
To: City Of Everett Department Transit 3201 Smith Avenue Suite 215 Everett WA 98201		COP #:	05
		Date:	3/6/2025
		Attn:	Brad Chenoweth
Project: 23-08 CHG Inductive Charging Infrastructure For Field Installation			
Description:			
This work is to assist in the installation of the new PUD pull box per EW one-line drawing provided by SnoPud dated 9/20/2024. Valdez will saw cut, remove & replace in-kind the 4" concrete walkway approximately 96sf. Remove & restore in-kind existing landscape areas including irrigation impacted by work. Provide and install new 6" & 4" conduits per plan identified in section A & B from pull box to transformers. Pull box is supplied by PUD. Install bedding and backfill per code. Price includes all equipment, labor, and materials as described above.			
Authored By: Peter Uzunov			
Cost Breakdown:			
Labor:	Hours	Rate	Item Total
PM	4	\$85.00	\$340.00
Superintendent	4	\$75.00	\$300.00
Forman	8	\$86.00	\$688.00
Labor	8	\$66.16	\$529.28
		Direct Labor Costs	\$1,857.28
		Small tools 3%	\$55.72
		Labor Subtotal	\$1,913.00
Equipment:	Hours	Rate	Item Total
Superintendent Truck	4	\$9.38	\$37.52
		Equipment Subtotal	\$37.52
Material	Qty.	Cost	Item Total
Backfill Material (top soil cost per yard)	5	\$162.50	\$812.50
Misc. parts-fencing, restroom	1	\$250.00	\$250.00
		Material Subtotal	\$1,062.50
		Subtotal-Labor, Equip, Mat.	\$3,013.02
		overhead, 16%	\$482.08
		profit 6%	\$186.81
		Self Perform TOTAL-Labor, Equip, Mat.	\$3,681.91
Subcontractor Work	Qty.	Cost	Item Total
LangCo Concrete	1	\$1,500.00	\$1,500.00
Builders Risk	1	\$1,297.00	\$1,297.00
	1		\$0.00
		Subcontract subtotal	\$2,797.00
		overhead 6%	\$167.82
		profit 4%	\$111.88
			\$3,076.70
		Cost Summary:	Amount:
		Subcontract Total	\$3,076.70
		Contractor Total	\$3,681.91
		COP Total:	\$6,758.61
		Total does not include WA State Sales Tax	
Work will not proceed until this COP is included in an executed change order updating the contract price.			
		This COP:	\$6,758.61
		Other Pending COP's: \$	36,661.43
		Total Pending COP's: \$	43,420.04
Authorized Signature:		Date:	
	Owner or Owner's Representative		
Authorized Signature:		Date:	
	Valdez Construction, Inc.		
Reservation of Rights. This change order proposal is based solely on direct cost elements such as labor, material, and normal markups, and does not include any amount for changes in the sequence of work, delays, disruption, rescheduling, extended overhead acceleration, and/or impact costs which are not possible to assess at the present time. Right is expressly reserved to make claim for any and all of these related items of compensable cost overrun prior to final settlement of this Contract.			

**Project title:** Amendment No. 1 to Professional Services Agreement with MxM Landscape Architecture, LLC, to Provide Additional Architectural and Engineering Services for the Edgewater Park Renovation Project.

**Council Bill #**

**Agenda dates requested:**

Briefing  
 Proposed action  
 Proposed action  
 Consent 04/30/2025  
 Action  
 Ordinance  
 Public hearing  
 Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

PSA Amendment No. 1  
 PSA Scope Amendment  
 Attachment

**Department(s) involved:**

Parks & Facilities

**Contact person:**

Bob Leonard

**Phone number:**

425-257-8335

**Email:**

bleonard@everettwa.gov

**Initialed by:**

RML

Department head

Administration

Council President

**Project:** Edgewater Park Renovation Project

**Partner/Supplier:** MxM Landscape Architecture, LLC.

**Location:** 3731 Mukilteo Blvd.

**Preceding action:** Amendment to Ordinance [3916-22](#)

**Fund:** Fund 354, Program 084 (CIP 3)

**Fiscal summary statement:**

Amendment No. 1 will amend the total compensation of the Professional Service Agreement (PSA) to provide additional architectural and engineering services with MxM Landscape Architecture, LLC.

The source of funds for the added services is CIP-3. The original amount of the PSA was \$159,037. Amendment No. 1 to the PSA increases total compensation by \$184,392 to complete design services for the completion of Edgewater Park Renovation Phase One and Phase Two construction. The revised total compensation of the agreement is not to exceed \$343,429.

The City has applied for grant funding through the Washington State Recreation and Conservation Office to support construction of this project. The City has already been awarded a 2020 RCO grant in the amount of \$224,841 to support construction of the sport court.

**Project summary statement:**

This project will renovate Edgewater Park after the construction of the Edgewater Bridge Replacement Project is completed. The project will also develop the parcel adjacent to the existing with new park amenities and will improve and enhance opportunities for recreation in the Boulevard Bluffs neighborhood.

The renovations will include a new play area, sport court, park amenities, signage, and landscaping. The renovated park will also feature an ADA accessible walking path to connect all park elements. Improved accessibility is a priority for the redevelopment of the park.

Additional A&E services are needed to support design, permitting, and construction. Geotechnical analysis completed in April 2024 found partial feasibility for infiltration and the design consultant proposed an appropriate infiltration plan on the western portion of the site. It was determined that further geotechnical analysis is required to permit infiltration of the stormwater as proposed. The best course of action requires revision to the site's stormwater plan and creating a sub-grade detention facility in lieu of infiltration. The amendment supports revisions to stormwater management plans including detention facility, Phase One and Phase Two construction documents, Phase One and Phase Two bid and construction support services, and production of final record drawings. Staff will return to council at a future date to amend the ordinance to fund Phase One construction.

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

Authorize the Mayor or designee to sign amendment No. 1 to the Professional Services Agreement with MxM Landscape Architecture, LLC, to provide additional architecture and engineering services for the Edgewater Park Renovation in substantially the form provided.



**AMENDMENT NO. 1  
PROFESSIONAL SERVICES AGREEMENT**

This Amendment to Professional Services Agreement ("***Amendment***") is effective as of the date of the Mayor's signature below, and is between the City of Everett, a Washington municipal corporation (the "***City***"), and the person identified as the Service Provider below ("***Service Provider***"). The City and Service Provider are parties to the Professional Services Agreement described below, as may be previously amended ("***Agreement***"). In consideration of the covenants, terms and conditions set forth below, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Service Provider agree to amend the Agreement as set forth below:

<b>Service Provider</b>	MxM Landscape Architecture, LLC
<b>City Project Manager</b>	Katherine Phillips
	kphillips@everettwa.gov
<b>Original Agreement Date</b>	1/20/2023

<b>AMENDMENTS</b>		
<b>New Completion Date</b>	If this Amendment changes the Completion Date, enter the new Completion Date: 12/31/2027  If no new date is entered, this Amendment does not change the Completion Date.	
<b>New Maximum Compensation Amount</b>	If this Amendment changes compensation, complete the following table. If the table is not completed, this Amendment does not change compensation.	
	Maximum Compensation Amount Prior to this Amendment	\$159,037.00
	Compensation Added (or Subtracted) by this Amendment	\$184,392.00
	<b>Maximum Compensation Amount After this Amendment</b>	<b>\$343,429.00</b>

<b>Changes to Scope of Work</b>	<p>Scope of Work is changed by ADDING the work in the attachment to this Amendment  </p> <p>Leaving selection as "Click for Dropdown Menu" means no change to Scope of Work.</p>
<b>Other Amendments</b>	<p>Enter other changes to the Agreement, if any.</p>
<b>Standard Amendment Provisions</b>	<p>Regardless of the date(s) on which this Amendment is signed by the parties, and regardless of any Agreement completion date(s) that may have been in the Agreement prior to this Amendment, the parties agree that the Agreement is deemed continuously in effect since the Original Agreement Date.</p>
	<p>This Amendment may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. AdobeSign signatures are fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Amendment will be deemed an original signature and will be fully enforceable as an original signature.</p>
	<p>All provisions in the Agreement shall remain in effect except as expressly modified by this Amendment. From and after the effective date of this Amendment, all references to the Agreement in the Agreement are deemed references to the Agreement as modified by this Amendment.</p>

**SIGNATURES ON FOLLOWING PAGE**

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

**CITY OF EVERETT  
WASHINGTON**

**MXM LANDSCAPE ARCHITECTURE, LLC**

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

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

Name of Signer: Brice Maryman

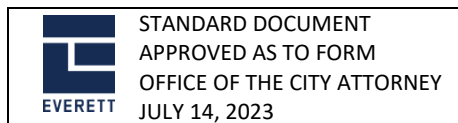
Signer's Email Address: brice@mxmla.com

Title of Signer: Principal

\_\_\_\_\_  
Date

ATTEST

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





## Edgewater Park Renovation

### PSA Amendment No. 1

#### Amendment to Project Service Description:

MxM Landscape Architecture (MxM) to provide Architecture & Engineering services for the renovation of Edgewater Park, located at 3802 Shore Ave., Everett, WA. Additional services are required to revise plans and specifications as needed per the results of geotechnical site investigation and to undertake value engineering with the goal of reducing project construction costs.

#### Project services will include:

- Value engineering exercise including one meeting with City and up to 6 hours of plan revision by the MxM
- Updated stormwater management approach
- Updated Drainage Report
- Updated drainage plans, details, and specifications
- Production of final construction documents to reflect City review comments
- Phase 1 bid and construction support services
- Production of a reconciled Phase 2 construction set, taking into account site conditions following the construction of Phase 1 and the status of the Edgewater Bridge Replacement and Lift Station #15 projects.
- Phase 2 bid and construction support services
- Record drawings

#### PSA Scope History:

Original PSA scope assumed no change to stormwater management on site. Previously completed geotechnical analysis did not include infiltration study. Project was found to require infiltration analysis, drainage report, and long form SWPPP, necessitating change in scope and use of PSA contingency, approved by project manager in 2023.

Additional geotechnical study found that infiltration is infeasible on the eastern portion of the site most distal to steep slopes. City of Everett Surface Water Management examined the proposed infiltration facility on the western portion of the site and determined that further geotechnical analysis was needed. Areas of concern were 1) Destabilizing effects of groundwater flows on nearby slopes and 2) Need to monitor facility after construction to confirm performance, given the high potential for soil compaction during Edgewater Bridge construction activities currently taking place.

Completing this analysis to support infiltration approach to stormwater is cost and schedule prohibitive. City of Everett project manager determined that directing the A&E consultants to change stormwater management approach to detention was the best course of action to keep the project moving forward.

Compensation:

Project will be billed hourly not to exceed.

Total compensation will be as follows:

Additional Design, Bid, and Construction Support Services for Edgewater Park.....\$153,172.00

Design Contingency (10%).....\$ 31,220.00

Total Not to Exceed.....\$184,392.00

**Contingency may be used for issues that surface during the project ONLY as approved in writing by the authorized City representative.**

**Project title:** Accept the Construction of the Police Facilities Upgrades Project as Complete and Authorize the Mayor to Sign the Certificate of Completion for Viking Construction Group, in the Amount of \$433,842.95

**Council Bill #**

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 4/30/2025  
Action  
Ordinance  
Public hearing  
Yes X No

**Budget amendment:**  
Yes X No

**PowerPoint presentation:**  
Yes X No

**Attachments:**  
Certificate of Completion

**Department(s) involved:**  
Parks and Facilities

**Contact person:**  
Bob Leonard

**Phone number:**  
425-257-8335

**Email:**  
[bleonard@everettwa.gov](mailto:bleonard@everettwa.gov)

**Initialed by:**  
RML

Department head

Administration

Council President

**Project:** Police Facilities Upgrades

**Partner/Supplier:** Viking Construction Group

**Location:** 3010 Grand Avenue

**Preceding action:** Award of Construction Contract – June 26, 2024 signed August 2, 2024

**Fund:** Fund 342, Program 032

**Fiscal summary statement:** n/a

**Project summary statement:**

The source of funds for the Police Facilities Upgrades is CIP 1. The base bid for the project was \$336,756.00. The total of change order for the project was \$58,005.41. Total sales tax for the project was \$39,081.54. The total contract amount is \$433,842.95.

The City is withholding 5% retainage and will release when authorization is provided by the Washington State Department of Revenue, Washington Employment Security Department and the Washington Department of Labor & Industries.

**Project summary statement:**

The original scope of work included upgrades to the South Precinct Locker Rooms, and upgrades to several offices including the 3<sup>rd</sup> floor conference room at Police Headquarters.

Viking Construction Group has completed the Police Facilities Upgrades Project in accordance with the plans and specifications and to the satisfaction of the Parks and Facilities Department.

Acceptance of the construction of the Police Facilities Upgrades Project as complete will allow the Mayor to sign the Certificate of Completion.

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

Accept the construction of the Police Facilities Upgrades Project as complete and authorize the Mayor to sign the Certificate of Completion with Viking Construction Group in the Amount of \$433,842.95.

## SECTION 00 65 19 - CERTIFICATE OF COMPLETION FORM

CONTRACTOR: Viking Construction Group  
ADDRESS: 3010 Grand Avenue, Suite A  
CITY: Everett STATE: WA  
PROJECT TITLE: Police Facilities Upgrades  
PROJECT NO. FAC 2022-0315  
DATE WORK COMPLETED: January 10, 2025  
FINAL CONTRACT SUM: \$ 433,842.95

## 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 Everett, nor have I rented or purchased any equipment or materials from any employee of the City of Everett; that the attached final statement 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 statement 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 the attached statement.

DATED at          Everett, WA                  this 10<sup>th</sup> day of January 2025.  
                              (City, State)

x *Ron Neff*

X

Ron Neff, Project Manager  
CONTRACTOR AUTHORIZED  
SIGNATURE

Joan Olsen  
Capital Project Coordinator

**DEPARTMENT CERTIFICATION**

APPROVED DATE: \_\_\_\_\_

I certify the attached final  
statement to be true and correct  
to the best of my knowledge.

X \_\_\_\_\_  
Joan Olsen, Project Manager

X \_\_\_\_\_  
Bob Leonard, Director

**ADMINISTRATION USE ONLY**

Date of Final Acceptance \_\_\_\_\_

By: X \_\_\_\_\_  
Cassie Franklin, Mayor

Standard Document  
Approved as to Form  
Office of the City Attorney  
(10.22.21)

**INSTRUCTIONS**

The Affidavit of Wages Paid must be prepared by the prime contractor, all subcontractors,  
and all subcontractor's agents.

Contractor's Claims, if any, must be included and the Contractor's Certification must be  
labeled indicating a claim attached.

**END OF SECTION 00 65 19**



## City Council Agenda Item Cover Sheet

**Project title:** Eclipse Mill Park Inductive Charging Infrastructure Project Change Order No. 3

**Council Bill #** *interoffice use*

**Agenda dates requested:**

Briefing  
Proposed action  
Consent 4/30/2025  
Action  
Ordinance  
Public hearing  
Yes X No

**Budget amendment:**  
Yes X No

**PowerPoint presentation:**  
Yes X No

**Attachments:**

**Department(s) involved:**  
Transit

**Contact person:**  
Michael Schmieder

**Phone number:**  
425-257-7761

**Email:**  
mschmieder@everettwa.gov

**Initialed by:**

*MJS*  
Department head

Administration

Council President

**Project:** Eclipse Mill Park Inductive Charging Infrastructure Project

**Partner/Supplier:** Valdez Construction

**Location:** Eclipse Mill Park

**Preceding action:** Bid Award: [5/10/2023](#)

**Fund:** Transit 425

### Fiscal summary statement:

Change Order Three consolidates additional construction expenses related to securing on site equipment, restoring the site to pre-construction conditions. The net change order includes a credit for work not performed under the construction contract to close the project.

Original Contract Sum (incl. WSST)	\$923,272.10
Total of Previous Change Orders (incl WSST)	\$117,314.37
This Change Order (incl. WSST)	(\$-58,412.44)
Contract Sum after this Change Order (incl. WSST)	\$982,174.03

Due to supply chain delays related to electrical switch gear along and preparing for site testing and monitoring, the project was delayed an additional 180 days.

Original Contract Time	365 calendar days
Adjustments by <i>prior</i> change orders	160 calendar days
Adjustment to time by this change order	180 calendar days
New Contract Time	705 calendar day

The project is funded in part through a Washington State Commerce Grant in partnership with Snohomish PUD in the amount of \$728,780.00. Everett Transit local funds are allocated for the balance of construction costs.

### Project summary statement:

Everett Transit is committed to creating a sustainable fleet while maintaining and strengthening its reliability. Transit's Inductive Charging Infrastructure Projects provide for the installation of bus charging capability in support of the City's green infrastructure goals and expansion of its electric bus fleet.

As part of this initiative, one inductive charging location was to be located at the future Eclipse Mill Park. Due to unforeseen site conditions discovered at the Park in July 2024 a decision was made to not proceed further with the installation of the charging infrastructure at the Park. This charging infrastructure project will re-locate to an alternative location in 2025/2026.

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

Authorize the Mayor to sign Change Order No. 3 to close the Eclipse Mill Park Inductive Charging Infrastructure Project.

SECTION 00 63 63 - CHANGE ORDER - AGREED

Change Order No. \_\_\_\_\_

Change Order Effective Date: Date of the Mayor's signature

CITY OF EVERETT  
Change Order

Project Title

Department

Work Order No.

Contractor:

Contract Award Date:

City Staff Contact:

Change Order No.

Change Order  
Effective Date

CONTRACT SUM

	Original Contract Sum	Total of Previous Change Orders	This Change Order	Contract Sum After this Change Order
Amount	\$	\$	\$	\$
+ WSST	\$	\$	\$	\$
Total	\$	\$	\$	\$

CONTRACT TIME

Original Contract Time	365	Working Days <input type="checkbox"/> / Calendar Days <input type="checkbox"/>
Date of Notice to Proceed		
Cumulative adjustment to time by <i>prior</i> Change Orders		
Adjustment to time by <i>this</i> Change Order		
New Contract Time ( <i>including</i> this Change Order)		

---

Change Order No. \_\_\_\_\_Change Order Effective Date: Date of the Mayor's signature

Contractor and City agree as follows:

1. The scope of Work shall be changed to the extent described in Exhibit A.
2. The amount of this Change Order for the changes described in Exhibit A, represents complete compensation for the changes described in Exhibit A, including all direct and indirect costs and impacts. The Contract Sum shall be adjusted as described in this Change Order.
3. Everett Municipal Code 3.80.050 sets forth the threshold amounts below which the Mayor or his designee is authorized to direct Contractor to perform additional work. In calculating such threshold amounts, Washington State sales tax, if applicable to the Work, has been considered.
4. The Contract Time of the Contract shall be adjusted to the extent described in this Change Order.
5. Contractor waives and releases any and all claims arising out of, or related to, this Change Order, the work described in Exhibit A, and all work and actual or constructive changes that occurred or began prior to the date of this Change Order, including, but not limited to, claims for equitable adjustment of time and compensation, delay, impact, overhead, or inefficiencies. This provision does not apply to requests for equitable adjustment of time or price for which the Contractor timely and properly provided notice of a differing site condition, protest, dispute, claim or Contract Claim as required by the Contract Documents. If the Contract Documents establish a time period for notice of a differing site condition, protest, dispute, claim, or Contract Claim that ends after the date of this Change Order, but relates to work performed prior to the date of this Change Order, then this provision does not apply if the Contractor timely and properly submits such notice.
6. This Change Order only changes the contract between Contractor and City to the extent explicitly provided herein.
7. Signature(s) on this Change Order may be by pdf, email, fax or other electronic means, in which case such signature(s) will have the same effect as an original ink signature. This Change Order 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.



CITY			
    _____ Mayor Date: _____		Attest:    _____ City Clerk Date: _____	
Standard Document Approved as to Form Office of the City Attorney (2.17.22)			
Recommended By:			
Construction Manager (if applicable)    _____ Date: _____	Project Manager (if applicable)    _____ Date: _____	Engineering Manager (if applicable)    _____ Date: _____	Department Director    _____ Date: _____
CONTRACTOR			
    By _____ Officer			
Date: _____			

**Exhibit A—Description of Changed Work**

see attachments

**END OF SECTION 00 6363**

An Employee-Owned Company

To: City Of Everett Department Transit  
3201 Smith Avenue Suite 215 Everett WA 98201

**COP #:** .05  
**Date:** 10/28/2024  
**Attn:** Brad Chenoweth

**Project:** 23-06-ECL Eclipse Park Charging Station

### Description:

*Supply and Install 1 temporally perinate security fence 8' x 14' with 1 4' man gate*

Authored By: Peter Uzunov

### Cost Breakdown:

Labor:	Hours	Rate	Item Total
PM	3	\$85.00	\$255.00
Superintendent	2	\$75.00	\$150.00
Forman	0	\$86.00	\$0.00
Labor	0	\$66.16	\$0.00
		Direct Labor Costs	\$405.00
		Small tools 3%	\$12.15
		<b>Labor Subtotal</b>	<b>\$417.15</b>

Equipment:	Hours	Rate	Item Total
Super Truck	2	\$9.38	\$18.76
		\$4.00	\$0.00
		<b>Equipment Subtotal</b>	<b>\$18.76</b>

Material	Qty.	Cost	Item Total
	0	\$0.00	\$0.00
	0	\$0.00	\$0.00
		<b>Material Subtotal</b>	<b>\$0.00</b>

Subtotal-Labor, Equip, Mat.	\$435.91
overhead, 16%	\$69.75
profit 6%	\$27.03

**Self Perform TOTAL-Labor, Equip, Mat. \$532.68**

Subcontractor Work	Qty.	Cost	Item Total
Discount Fence	1	\$2,000.00	\$2,000.00
			\$0.00
		<b>Subcontract subtotal</b>	<b>\$2,000.00</b>
		overhead 6%	\$120.00
		profit 4%	\$80.00
			<b>\$2,200.00</b>

**Cost Summary: Amount:**

**Subcontract Total \$2,200.00**

**Contractor Total \$532.68**

**COP Total: \$2,732.68**

*Total does not include WA State Sales Tax*

Work will not proceed until this COP is included in an executed change order updating the contract price.

This COP: \$	<b>2,732.68</b>
Other Pending COP's:	
Total Pending COP's: \$	<b>2,732.68</b>

499 NE Midway Blvd. Ste. 2, Oak Harbor, WA 98277

Phone: (360) 679-3000 Fax: (360) 679-2589



To: City Of Everett Department Transit	<b>COP #:</b>	<b>06</b>
3201 Smith Avenue Suite 215 Everett WA 98201	Date:	2/28/2025
	Attn:	Brad Chenoweth

Authored By: Peter Uzunov

Labor:	Hours	Rate	Item Total
PM	30	\$85.00	\$2,550.00
Superintendent	40	\$75.00	\$3,000.00
Operator	40	\$88.26	\$3,530.40
Truck Driver	24	\$78.56	\$1,885.44
Labor	40	\$66.16	\$2,646.40
		Direct Labor Costs	\$13,612.24
		Small tools 3%	\$408.37

Equipment:	Hours	Rate	Item Total
Super Truck	40	\$9.38	\$375.20
Excavator, Dump Truck, Forklift, Trailer, & Compactor 1 WK	1	\$5,210.00	\$5,210.00
		\$4.00	\$0.00

<b>Equipment Subtotal</b>	<b>\$5,585.20</b>
---------------------------	-------------------

Material	Qty.	Cost	Item Total
Screened Pit Run/Barrow	4	\$21.00	\$84.00
	0	\$0.00	\$0.00

<b>Material Subtotal</b>	<b>\$84.00</b>
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	Subtotal-Labor, Equip, Mat.	\$19,689.81
	overhead, 16%	\$3,150.37
	profit 6%	\$1,220.77

<b>Self Perform TOTAL-Labor, Equip, Mat.</b>	<b>\$24,060.95</b>
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Subcontractor Work	Qty.	Cost	Item Total
Getchell	1	\$3,587.85	\$3,587.85
Lang CO	1	\$5,800.00	\$5,800.00
Asphalt North west.	1	\$529.00	\$529.00

<b>Subcontract subtotal</b>	<b>\$9,916.85</b>
-----------------------------	-------------------

overhead	6%	\$595.01
profit	4%	\$396.67

**\$10,908.53**

Cost Summary:

Subcontract Total	\$10,908.53
Contractor Total	\$24,060.95
<b>COP Total:</b>	<b>\$34,969.48</b>

*Total does not include WA State Sales Tax*

Work will not proceed until this COP is included in an executed change order updating the contract price.

This COP: \$	34,969.48
Other Pending COP's: \$	2,732.68
Total Pending COP's: \$	37,702.16

### SOV from Last Billing in December

SOV Item #	Description	Scheduled Value	Billed to Date	Balance to Bill	Final Billed	
001	GC's	21,750.00	21,097.50	652.50	21,750.00	Still needs to be billed. This is for closeout, not picked up in the final change order.
002	Mobilization/Survey/Layout	9,152.00	9,152.00	-	9,152.00	
003	Bonding & Insurance	13,415.00	13,415.00	-	13,415.00	
004	Excavation & Backfill	50,006.00	47,505.70	2,500.30	50,006.00	Still needs to be billed. Won't be in final change order.
005	Concrete Work	56,842.00	56,842.00	-	56,842.00	
006	Electrical-Phase 1-Underground	140,550.00	140,550.00	-	140,550.00	
007	Electrical-Phase 2-Equip Install	525,700.00	446,845.00	78,855.00	525,700.00	Must bill original SOV to 100%, deduction picked up in CO below
008	Polyslick Curbing/Bollards/Misc	18,724.00	3,744.80	14,979.20	18,724.00	Still needs to be billed. Won't be in final change order.
009	B&O Tax	3,963.00	3,883.73	79.27	3,963.00	Still needs to be billed. Won't be in final change order.
901	CO #01	94,208.00	94,208.00	-	94,208.00	
902	CO #02	12,538.47	12,538.47	-	12,538.47	
Totals		<b>946,848.47</b>	<b>849,782.20</b>	<b>97,066.27</b>	<b>946,848.47</b>	
Final Change Order (see below)		(53,150.54)		(53,150.54)		
Final Contract Amount		<b>893,697.93</b>		<b>43,915.73</b>	Final Bill Amount	
				-		
COP #5	Site Fencing (Already Approved)	2,732.68				
COP #6	Site Restore & Closeout	34,969.48				
Delete	All Remaining Work from Original Contract	(90,852.70)				
Final Adjustment to Contract		<b>(53,150.54)</b>				

An Ordinance Creating a Special Improvements Project Entitled "Later Phase Eclipse Mill Park", Fund 308, Program 083, to Accumulate Construction Costs for the Eclipse Mill Park Project in the Amount of \$4,400,000

**Project title:****Council Bill #**

CB 2504-25

**Agenda dates requested:****Briefing**

Proposed action 04/30/25

Proposed action 05/07/25

**Consent**

Action 05/14/25

**Public hearing**Yes ☒ No**Budget amendment:**Yes ☒ No**PowerPoint presentation:**Yes ☒ No**Attachments:**

Ordinance Amendment

**Department(s) involved:**

Parks &amp; Facilities

Finance

**Contact person:**

Bob Leonard

**Phone number:**

425-257-8335

**Email:**

bleonard@everettwa.gov

**Initialed by:**

RML

Department head

Administration

Council President

**Project:** Later Phase Eclipse Mill Park Construction**Partner/Supplier:** TBD**Location:** Riverfront Development Area**Preceding action:** Funding Ordinance [3986-23](#)**Fund:** Fund 308, Program 083**Fiscal summary statement:**

On December 13, 2023, City Council adopted an ordinance to fund design and construction support services for the Eclipse Mill Park and Riverfront Trail Projects in the amount \$1,113,752. This ordinance will provide the funding necessary to complete physical construction of the Later Phase Eclipse Mill Park project. The source of funds for the project is 2025 Limited-Tax General Obligation (LTGO) Series B bond proceeds. The funding needed for the construction of the Later Phase Eclipse Mill Park project is \$4,400,000.

**Project summary statement:**

The work at Eclipse Mill Park will develop the waterside portion of the future park, the site of a former lumber mill. Completed amenities include a river overlook deck, gangway and personal watercraft floating boarding dock on the Snohomish River, debris deflector, and access trail in the lowland park area.

The project will lay back and stabilize the riverbank and install stone column ground improvements. Relic timber piles, concrete debris, and other associated debris will be removed from the riverbank. The shoreline will be restored with native plantings and aquatic habitat which will be enhanced with streambed sediment and large woody debris.

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

Adopt an Ordinance creating a special improvements project entitled "Later Phase Eclipse Mill Park", Fund 308, Program 083, to accumulate construction costs for the Eclipse Mill Park Project in the amount of \$4,400,000.



**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance creating a special improvement project entitled "Later Phase Eclipse Mill Park", Fund 308, Program 083, to accumulate construction costs for the Eclipse Mill Park Project in the amount of \$4,400,000.**

**WHEREAS,**

- A. The City of Everett is committed to a planned parks capital improvement program as part of the City of Everett Parks & Recreation Comprehensive Plan.
- B. The City of Everett is committed to the construction of the Later Phase Eclipse Mill Park Project in advance of the Eclipse Mill Park by Shelter Holdings.
- C. The Later Phase Eclipse Mill Park Project shall include stabilization of the Snohomish riverbank, river overlook, gangway and personal watercraft floating boarding dock and debris deflector.
- D. Ordinance 3839-21 established Fund 354, Program 073 to accumulate design costs for the project in the amount of \$600,000.
- E. Ordinance 3986-23 was established amending Ordinance 3839-21, Fund 354, Program 073, to accumulate design, bid, and construction support services for the project in the amount of \$1,113,752.
- F. Additional funding is required to construct the Later Phase Eclipse Mill Park amenities.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** A special improvement project is hereby established as Fund 308, Program 083, and shall be entitled "Later Phase Eclipse Mill Park" to accumulate all construction costs for the improvement project.

**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 construction is \$4,400,000.

**Section 4.** The sum of \$4,400,000 is hereby appropriated to Fund 308, Program 083, "Later Phase



Eclipse Mill Park” as follows.

The sum of \$4,400,000 is hereby appropriated to Fund 308, Program 083, “Later Phase Eclipse Mill Park”

A. Use of Funds	
Construction	<u>\$4,400,000</u>
Total Costs	\$4,400,000
B. Source of Funds	
2025 LTGO Series B Bond Proceeds	<u>\$4,400,000</u>
Total Costs	\$4,400,000
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.

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Cassie Franklin, Mayor



ATTEST:

\_\_\_\_\_  
Marista Jorve, City Clerk

PASSED: \_\_\_\_\_

VALID: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_





## City Council Agenda Item Cover Sheet

**Project title:** An Ordinance creating a special improvement project entitled "WPCF FEN Meter Replacement" Fund 336, Program 048.

**Council Bill #** *interoffice use*

CB 2504-26

**Agenda dates requested:**

Briefing  
1<sup>st</sup> Reading 04/30/25  
2<sup>nd</sup> Reading 05/07/25  
Action 05/14/25  
Ordinance X  
Public hearing  
Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Proposed Ordinance

**Department(s) involved:**

Public Works, Admin

**Contact person:**

Jeff Marrs

**Phone number:**

425-257-8967

**Email:**

jmarrs@everettwa.gov

**Initialed by:**

RLS

Department head

Administration

Council President

**Project:** WPCF FEN Meter Replacement

**Partner/Supplier:** N/A

**Location:** Water Pollution Control Facility (WPCF)

**Preceding action:** None

**Fund:** 336 - Water & Sewer System Improvements Fund

**Fiscal summary statement:**

The funding source for this project will be Fund 401 Water and Sewer Utility Fund.

The programmed available funding for engineering assessment and design of this project is \$250,000.

**Project summary statement:**

The existing WPCF Final Effluent North (FEN) pump station flow metering system is beyond its useful life and inaccurate at certain flow rates. Accuracy and/or calibration issues have the potential to become Department of Ecology (DOE) permit compliance issues. WPCF staff have shelf ready parts and can keep the current metering system in service for the next two to three years; however, additional replacement parts are no longer available. The proposed project will replace the FEN metering system with a more appropriate metering system to ensure that WPCF remains in compliance with DOE permitting requirements. The new system may require reconfiguring the pump station outlet piping and possible work within adjacent wetland areas.

Council approval of this ordinance will provide funding for engineering assessment and design phase of the project.

Public Works will return with a subsequent funding ordinance when design is substantially complete and detailed construction cost estimates are available.

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

Adopt an Ordinance creating a special improvement project entitled "WPCF FEN Meter Replacement" Fund 336, Program 048.



**ORDINANCE NO. \_\_\_\_\_**

**An ORDINANCE creating a special improvement project entitled “WPCF FEN Meter Replacement” Fund 336, Program 048, to accumulate all costs for the improvement.**

**WHEREAS,**

- A.** The City of Everett is committed to a planned sewer treatment infrastructure improvement and replacement program.
- B.** The City of Everett has identified the need and obtained funds to construct new improvements at the Water Pollution Control Facility.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** A special improvement project is hereby established as Fund 336, Program 048, entitled “WPCF FEN Meter Replacement” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

**Section 2.** Authorization is hereby granted for the “Public Works Director” or “City Engineer” under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and doing all things to accomplish the actions authorized in this ordinance.

**Section 3.** The sum of \$250,000 is hereby appropriated to Fund 336, Program 048, “WPCF FEN Meter Replacement” as follows:

A. Estimated Project Assessment & Design Costs	\$ 250,000
B. Source of Funds	
Fund 401 – Water/Sewer Utility Fund	\$ 250,000

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

**Section 5.** The City Council hereby declares that should any section, paragraph, sentence, clause,

or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

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

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

---

Cassie Franklin, Mayor

ATTEST:

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Marista Jorve, City Clerk

PASSED: \_\_\_\_\_

VALID: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

**From:** [Josh Brown](#)  
**To:** [Angela Ely](#)  
**Subject:** Re: [EXTERNAL] Neighborhood Commercial Corner Lot Buildings  
**Date:** Thursday, April 24, 2025 11:16:42 AM  
**Attachments:** [image001.png](#)  
[image001.png](#)

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Is this okay?

Josh Brown

Everett, WA 98204

On Thu, Apr 24, 2025, 8:32 AM Angela Ely <[AEly@everettwa.gov](mailto:AEly@everettwa.gov)> wrote:

Category 2: Sensitive information

You can respond to this email with the information, and I can submit your comment at next weeks Council meeting for the record.

Thank you!  
Angela

Category 2: For official use only / disclosure permissible by law.

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**From:** Josh Brown <[the.inimitable.josh@gmail.com](mailto:the.inimitable.josh@gmail.com)>  
**Sent:** Wednesday, April 23, 2025 4:29 PM  
**To:** Angela Ely <[AEly@everettwa.gov](mailto:AEly@everettwa.gov)>  
**Subject:** Re: [EXTERNAL] Neighborhood Commercial Corner Lot Buildings

How do I provide confirmation?

On Wed, Apr 23, 2025, 8:52 AM Angela Ely <[AEly@everettwa.gov](mailto:AEly@everettwa.gov)> wrote:

Category 2: Sensitive information

Thank you for submitting your email to Council.

If you are wanting your email to be submitted as written comment for the record at the April 23 Council meeting, I would need confirmation of your full name and 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.



**Angela Ely**

Executive Assistant | Everett City Council

425.257.8703 | [2930 Wetmore Ave, Ste 9A, Everett, WA 98201](https://www.everettwa.gov)

[everettwa.gov](https://www.everettwa.gov) | [Facebook](#) | [Twitter](#)

Note: Emails and attachments sent to and from the City of Everett are public records and may be subject to disclosure pursuant to the Public Records Act.

Category 2: For official use only / disclosure permissible by law.

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**From:** Josh Brown <[the.inimitable.josh@gmail.com](mailto:the.inimitable.josh@gmail.com)>

**Sent:** Friday, April 18, 2025 5:01 PM

**To:** DL-Council <[Council@everettwa.gov](mailto:Council@everettwa.gov)>

**Subject:** [EXTERNAL] Neighborhood Commercial Corner Lot Buildings

**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.

Absolutely pass these changes, the more convenient it is to access corner stores, the better the economy of Everett will be!

**From:** [Ben Zarlingo](#)  
**To:** [DL-Council](#)  
**Cc:** [Jennifer Gregerson](#); [Yorik Stevens-Wajda](#)  
**Subject:** Fw: Request for Zoning Overlay for; 55+ Fairway Estates Mobile Home Park  
**Date:** Tuesday, April 29, 2025 3:06:27 PM

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Category 2: Sensitive information

Councilmembers, Angie, Yorik,

This email was not sent to the full Council, but I believe that is the intent. Perhaps it should be included as public comment, as the identity and city of residence is given, along with a specific request and rationale. The message content is generally consistent with other public comment at our recent Council meeting and the prior meeting of the Planning Commission.

I will let Ken know that I have forwarded this message and inquire about his desire with respect to public comment.

Best regards,  
Ben

Category 2: For official use only / disclosure permissible by law.

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**From:** kenpierson@comcast.net <kenpierson@comcast.net>  
**Sent:** Tuesday, April 29, 2025 1:37 PM  
**To:** Cassie Franklin <CFranklin@everettwa.gov>  
**Cc:** Ben Zarlingo <BZarlingo@everettwa.gov>; KEN PIERSON <kenpierson@comcast.net>; JEANETTE BURTON <burton.jeanette@comcast.net>  
**Subject:** [EXTERNAL] Request for Zoning Overlay for; 55+ Fairway Estates Mobile Home Park

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Franklin and Coity Council Member Zarlingo,  
We are requesting that the City of Everett Support and Approve a Zoning Overlay for Fairway Estates, a 55 + Manufactured Mobile Home Park.

- **WHO we Are:**
- Fairway Estates Home Owners Alliance (FEHOA) is a Non-Profit Corporation whose function is to Facilitate Rent Stabilization and move for Getting Fairway Estates a 55+ Manufactured Mobile Home Park a Manufactured Housing Zoning Overlay. Located at 1427 100<sup>th</sup> SW, Everett WA. 98204, ½ mile East of Paine Field on 100th St. SW.



Fairway Estates Mobile Home Park has 171 units with 259 voting age residents, most of whom are in their late 60's, 70's, 80's & 90's

- We have many, special need residents, veterans, & single widows & widowers.

### **WHY WE ARE ASKING For Manufactured Housing Zoning Overlay.**

- Exorbitated Rent Increases since purchase of Fairway Estates by the Carlyle Group (a private Equity Group that owns 4, 55+ manufactured Mobile Home Parks in Snohomish Co.) The rents have gone up approx. 10% each year for the past 3 years and are now presented to be almost 100% increase from 3 years ago. January 2025 rents will be from \$1625-\$1675 per month with some discounts. Carlyle and other Private Equity groups keep these "Parks" for 5-6 years then sell them for the Highest & Best use of the land; be it Apartments, Townhomes, Condominiums, or Commercial Use.
- Most of our residents rely on Social Security as their only source of income. For the widows, widowers, disabled & Veterans this new rent will leave them with little or nothing to live on. Forced to sell, it will therefore exacerbate the affordable housing crisis in Everett by leaving those selling, homeless, with very little places to go.

What makes the Manufactured Mobile Home Park home owners different from Apartments, condominiums and Townhomes rentals is the fact that the manufactured mobile home is **purchased** by the home owners who pays and are **responsible** for All Home and yard ("PAD") maintenance, just like Residential Real Estate, Including paying for Personal Property Taxes These increased rents have made our homes hard to sell, thus devaluing our homes for resale.

We fear for our future and ability to (in our case) to remain Everett residents, as many of us have been for years. If no action is taken by the City Council & Mayor the future for most residents will be displacement, possibly homelessness. We have 55 (30%) out of our 171 units occupied by singles; Widows, Widowers, Handicapped, & Veterans. As you are keenly aware we already have an Affordable Housing Crisis in Everett. Not passing this will only exacerbate the current housing situation in Everett. We hope the Planning Department, the Planning Commissioners, the Council & the Mayor will act to preserve the affordability that Fairway Estates 55+ Manufactured Mobile Home Park and (maybe other Manufactured Mobile Home Parks) represent by Approving the Zoning Overlay. Please see attached references from other cities in WA. State.

- **Reason:** Fairway Estates a 55+Manufactured Mobile Home Park needs to **REMAIN** a 55+ Manufactured Mobile Home Park. This will keep low-income housing for seniors in the South Everett area and will not place additional burdens on the Housing Market already struggling to meet the demand for affordable housing.

Respectfully Submitted,

Ken

Ken Pierson

Chairman of Board of Directors for FEHOA

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## **Mobile Home parks Overlay**

### **Sequim**

Recently approved a manufactured home park overlay to preserve existing parks. <https://www.sequimgazette.com/news/council-votes-for-overlay-to-keep-manufactured-home-parks-intact/>

Other cities in Washington State that have adopted manufactured home park zoning include:

### **Bothell**

Uses a Mobile Home Park Overlay zone to preserve parks as a source of affordable housing

### **Deer Park**

Created a Mobile Home Park Zone that only allows manufactured homes, trailers, and modular homes

### **Ellensburg**

Established a Manufactured Home Park Zone code to protect the residential character of the zone

### **Bellingham**

Adopted code amendments to provide protection for manufactured home parks

### **City of Kenmore**

Has a webpage with information about their mobile home park preservation effort: [Manufactured Housing Communities/Mobile Home Park Project | City of Kenmore Washington](#)

(MRSC) The Municipal Research and Services Center is a nonprofit organization that helps local governments across Washington State better serve their communities by providing legal and policy guidance on any topic. At MRSC, we believe the most effective local government is a well-informed one, and as cities, counties, and special purpose districts face rapid changes and significant challenges, we are here to help.

[MRSC - Manufactured Housing Regulation and Preservation](#)

[MRSC - Manufactured Housing Regulation and Preservation](#)

### **City of Seattle has the following in the works:**

Chapter 23.70 - MOBILE HOME PARK OVERLAY DISTRICT

23.70.002 - Purpose and intent

The purpose of this Chapter 23.70 is to implement the Comprehensive Plan and provide for the preservation of existing mobile home parks. Mobile home parks provide a source of lower-cost, medium-density housing that provides a range of land tenancy options. The Mobile Home Park Overlay District supports the long-term viability of mobile homes located in mobile home parks, while allowing a variety of other uses.

(Ord. 126519, § 2, 2021.)

23.70.004 - Mobile Home Park Overlay District established

There is hereby established, pursuant to Chapter 23.59, the Mobile Home Park Overlay District as shown on page 14 of the Official Land Use Map, Chapter 23.32, and Map A for 23.70.004.

**City of Kenmore** has a webpage with information about their mobile home park preservation effort: [Manufactured Housing Communities/Mobile Home Park Project | City of Kenmore Washington](#)