



EVERETT

WASHINGTON

Everett City Council Preliminary Agenda 6:30 p.m., Wednesday, October 15, 2025 City Council Chambers

Roll Call

Pledge Of Allegiance

Land Acknowledgment

Approval Of Minutes: October 8, 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 \$1,585,315.24 For The Period Ending September 27, 2025, Through October 3, 2025.

Documents:

[RES_CLAIMS PAYABLE 10.03.25.PDF](#)

(2) Adopt A Resolution Declaring A 2009 Toyota Prius, A0060, Surplus And Authorizing Sale At Public Auction.

Documents:

[RES_2009 TOYOTA PRIUS.PDF](#)

(3) Authorize Mayor To Sign Partial Property Damage Settlements And Releases In The Form Substantially As Provided.

Documents:

[GRAND AVENUE PARTIAL SETTLEMENT.PDF](#)

(4) Authorize The Mayor To Sign The 2025-2029 Washington State Department Of Transportation Green Transportation Grant Agreement.

Documents:

WSDOT MAINTENANCE FACILITY ENGINEERING AND DESIGN.PDF

PROPOSED ACTION ITEMS:

(5) CB 2509-53 – 2nd Reading – Adopt An Ordinance Amending Ordinance 3957-23 Deleting The Expiration Provision So That The Ordinance Providing For Service Facility Buffer Zones Continue In Effect Until December 31, 2027, And Add New Reporting Requirements. (3rd & Final Reading 10/22/25)

Documents:

[CB 2509-53.PDF](#)

(6) CB 2510-54 – 1st Reading – Adopt An Ordinance Creating A Special Improvement Project Entitled "41st Street To Rucker Avenue Corridor Phase 2" Fund 303, Program 123, And Repealing Ordinance No. 3869-22. (3rd & Final Reading 10/29/25)

Documents:

[CB 2510-54.PDF](#)

(7) CB 2510-55 – 1st Reading – Adopt An Ordinance Closing A Special Improvement Project Entitled "41st Street To West Marine View Drive Corridor Improvements" Fund 303, Program 091, As Established By Ordinance No. 3468-15. (3rd & Final Reading 10/29/25)

Documents:

[CB 2510-55.PDF](#)

ACTION ITEMS:

(8) CB 2509-50 – 3rd & Final Reading – Adopt An Ordinance Creating A Special Improvement Project Entitled "Lift Station #24 Conveyance Improvements" Fund 336, Program 050.

Documents:

[CB 2509-50.PDF](#)

(9) CB 2509-51 – 3rd & Final Reading – Adopt An Ordinance Amending Ordinance No. 4010-24 Entitled, "Walter E. Hall Park Community Connections Path", Fund 354, Program 094 To Accumulate All Costs For The Project.

Documents:

[CB 2509-51.PDF](#)

(10) CB 2509-52 – 3rd & Final Reading – Adopt An Ordinance Creating A Special Improvement Project Entitled "RRFB Pedestrian Safety" Fund 303, Program 134, To Accumulate All Costs For The Improvement.

Documents:

[CB 2509-52.PDF](#)

Executive Session

Adjourn

PARTICIPATION IN REMOTE COUNCIL MEETINGS

- Participate remotely via Zoom by registering to speak at 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 and identify the topic you wish to address.
- Provide written public comments by email to Council@everettwa.gov or mail to 2930 Wetmore Avenue, Suite 9A, Everett, WA 98201. Emailing comments 24 hours prior to the meeting will ensure your comment is distributed to councilmembers and appropriate staff.
- Persons seeking to comment on non-agenda items may be asked to submit the comments in writing if the comment does not address an issue of broad public interest.

AGENDAS, BROADCAST AND RECORDINGS

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

CONTACT THE COUNCIL

If you do not wish to participate in the meeting, we provide these other methods of contacting your elected officials: Email the Council at Council@everettwa.gov 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 September 27, 2025 through October 3, 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	5,312.12
002	General Funds	1,928.36
003	Legal	15,777.22
004	Administration	3,639.65
005	Municipal Court	648.38
007	Human Resources	417.52
009	Misc Financial Funds	36,850.12
010	Finance	944.11
015	Information Technology	87.54
018	Communications, Mktg & Engag	3,500.00
021	Planning & Community Dev	974.67
024	Public Works-Engineering	30,510.56
026	Animal Shelter	1,002.82
030	Emergency Management	236.74
031	Police	7,075.53
032	Fire	27,548.74
038	Facilities Maintenance	232.98
TOTAL GENERAL FUND		\$ 136,687.06

Fund	Department	Amount
101	Parks & Recreation	20,089.60
110	Library	4,961.16
112	Municipal Arts	6,212.98
120	Public Works - Streets	12,577.02
126	MV-Equip. Replacement Re:	147,471.93
130	Develop & Const Permit Fee	48.00
145	Cum Res/ Real Prop Acq.	25.95
146	Property Management	5,307.05
148	Cum Res/Parks	9,995.41
151	Fund for Animals	6,367.18
153	Emergency Med Svc	23,024.87
155	Capital Reserve Fund	80,524.44
156	Criminal Justice	302.09
197	CHIP Loan Program	157.18
336	Water & Sewer Sys Improv I	461,471.58
342	City Facilities Const.	13,726.50
401	Public Works-Utilities	436,739.89
425	Public Works-Transit	76,716.07
430	Everpark Garage	16,093.00
440	Golf	61,382.29
501	MVD - Trans Services	6,099.99
503	Self-Insurance	8,518.50
661	Claims	68.00
665	Other Special Agency Funds	50,747.50
TOTAL CLAIMS		1,585,315.24

Councilperson introducing Resolution

Passed and approved this _____ day of _____, 2025

Council President

Project title: Adopt a Resolution Declaring a 2009 Toyota Prius Surplus and Authorizing Sale at Public Auction

Council Bill # *interoffice use*

Agenda dates requested:

Briefing
Proposed action
Consent 10/15/25
Action
Ordinance
Public hearing
Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Resolution

Department(s) involved:

Procurement & Motor
Vehicles

Contact person:

Theresa Bauccio-Teschlog

Phone number:

(425) 257-8901

Email:

tbauccio@everettwa.gov

Initialed by:

HB

Department head

Administration

Council President

Project: Resolution declaring a 2009 Toyota Prius Surplus and Authorizing Sale at Public Auction

Partner/Supplier: N/A

Location: N/A

Preceding action: N/A

Fund: 126 Motor Vehicle Replacement

Fiscal summary statement

Funds received from this surplus sale will be returned to Fund 126 Motor Vehicle Replacement.

Project summary statement:

The Administration Department owns a 2009 Toyota Prius, A0060. A0060, formerly P0315, is being replaced because it is no longer needed. It was moved to the Administration department to support staff when electrical power in the garage was unavailable, making the use of an electric vehicle impossible.

A0060 has an estimated surplus value of \$7,000 and was already replaced by A0064 in 2019.

Recommendation (exact action requested of Council):

Adopt a Resolution declaring a 2009 Toyota Prius, A0060, surplus and authorizing sale at public auction.



RESOLUTION NO. _____

A RESOLUTION declaring a 2009 Toyota Prius (A0060, formerly P0315) surplus and authorizing it for sale at public auction.

WHEREAS,

1. The City has a 2009 Toyota Prius (A0060, formerly P0315) and
2. The above-referenced equipment is no longer of value or use to the City; and
3. Ordinance 2963-06 establishes a procedure and methods for surplus or disposition of City-owned personal property; and
4. Based on the guidelines set forth in EMC 3.88.020, a public auction is the disposition method that best meets the City's interests and
5. The City's Procurement Manager has reported the basis for the estimated value of the surplus property and has recommended the surplus of the above-referenced vehicle and equipment by public auction.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND EVERETT CITY COUNCIL THAT:

1. The City has a 2009 Toyota Prius (A0060, formerly P0315);
2. The disposition of this equipment at a public auction is hereby authorized.

Councilmember introducing Resolution

Passed and approved this _____ day of _____, 2025.

Council President

Project title: Authorize Mayor to Sign Partial Property Damage Settlements and Releases

Council Bill # *interoffice use*

Agenda dates requested:

Briefing
Proposed action
Consent 10/15/25
Action
Ordinance
Public hearing
Yes ☒ No

Budget amendment:
Yes ☒ No

PowerPoint presentation:
Yes ☒ No

Attachments:
Settlement Agreements

Department(s) involved:
Legal; Risk Management;
Public Works

Contact person:
David Hall

Phone number:
425.257.8624

Email:
dhall@everettwa.gov

Initialed by:
DH
Department head

Administration

Council President

Consideration: Partial Property Damage Settlements and Releases

Project: Partial Settlement of Claims

Other Parties: Olson, Siedenburg, Snell, Tanaka

Location: 15th and Grand

Preceding action: None

Fund: Tort Fund

Fiscal summary statement:

Plaintiff	Amount
Olson	\$11,878.34
Siedenburg	\$192,624.26
Snell	\$25,115.62
Tanaka	\$186,235.14
Total	\$415,853.36

Project summary statement:

The City of Everett is the defendant in a lawsuit filed in Snohomish County Superior Court by the owners of four residential properties located at 15th Street and Grand Avenue in Everett. The plaintiffs allege that during severe storms on September 9, 2019, the City's combined sewer and stormwater system overflowed and caused damage to their homes and yards. The plaintiffs assert claims against the City for negligence and inverse condemnation. Although the City denies all liability, it is recommended that the City Council approve partial settlements that will resolve Olson plaintiffs' claims for damage to their homes and for some landscaping damage. The partial settlements do not resolve all plaintiffs' claims, but the partial settlements will allow the City to avoid further litigation with regard to the claims and causes of action being resolved.

Recommendation (exact action requested of Council):

Authorize Mayor to sign Partial Property Damage Settlements and Releases in the form substantially as provided.

PARTIAL PROPERTY DAMAGE SETTLEMENT AND RELEASE

1. Subject to paragraphs 3 and 7 below, the undersigned, Tim Olson, Lorelie Olson, Karl Olson and Michelle Olson (“Releasors”), being of lawful age and for the sole consideration of eleven thousand eight hundred seventy-eight dollars and thirty-four cents (\$11,878.34) (the “Settlement Amount”), for Releasors and for Releasors’ executors, administrators, marital community, agents, insurers, successors and assigns, hereby release, acquit and forever discharge the City of Everett and its past, present and future agents, servants, employees, administrators, representatives, heirs, insurers and successors of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation of any nature whatsoever that Releasors now have or that may hereafter accrue, whether based on a tort, contract, statutory or other theory of recovery, arising from or in any way related to an occurrence on or about June 10, 2018 (the “2018 Occurrence”) or an occurrence on or about September 9, 2019 (the “2019 Occurrence”), at or near 1500 Grand Avenue, Everett, Washington 98201 (the “Property”), including without limitation any and all claims asserted in the Complaint for Negligence, Trespass, Inverse Condemnation, and Declaratory Relief filed against the City of Everett in *Olson, et al. v. City of Everett, et al.*, Snohomish County Superior Court Cause No. 21-2-00185-31 (the “Lawsuit”).

2. Releasors acknowledge and agree that the release set forth above is a general release. Subject to paragraphs 3 and 7 below, Releasors expressly waive and release any and all claims and causes of action for damages that may exist as of the effective date of this Partial Property Damage Settlement and Release (“Partial Settlement”), but that Releasor does not know of or suspect to exist, and which, if known, would materially affect Releasors’ decision to enter into this Partial Settlement.

3. This Partial Settlement specifically applies to and precludes claims and causes of action relating to damage to or destruction of Releasors’ flagstone hardscaping, shared driveway, and HVAC system, for which they are receiving compensation from the City of Everett. This Partial Settlement does not apply to or preclude any other claims or causes of action arising from damage to the Property’s landscaping or rear yard caused by the 2019 Occurrence, including without limitation loss of or damage to the area of real property that sloughed off from, washed away from, or may otherwise have become destabilized along the western bank of the Property. This Partial Settlement does not apply to or preclude any claims or causes of action arising from any loss of use of the Property caused by the 2019 Occurrence. This Partial Settlement does not apply to or limit Releasors’ rights to treble damages, attorneys’ fees, costs, or interest to the extent they are otherwise recoverable in connection with any claims by Releasors that are not released pursuant to this Partial Settlement. In addition, nothing in this Partial Settlement shall be construed as warranting the dismissal of any claims or causes of action in the Lawsuit, that are not hereby released, until after such time as Releasors’ non-released claims are litigated to complete resolution.

4. The City of Everett shall pay the Settlement Amount by delivery of a check to Releasors' counsel, Seth Chastain, at the law offices of Levy | von Beck | Comstock | Chastain | P.S., located at 1200 Fifth Avenue, Suite 1850, Seattle Washington 98101. Said check will be for the Settlement Amount (\$11,878.34), and made payable to "Levy, von Beck, Comstock, Chastain, P.S. Trust Account".

5. It is understood and agreed that this Partial Settlement and payment of the Settlement Amount are not to be construed as an admission of liability on the part of any parties hereby released, and that said releasees expressly deny liability to Releasors and intend merely to avoid litigation with regard to the claims and causes of action resolved hereby. It is understood and agreed that this Partial Settlement, all statements contained herein, all statements and conduct made in the negotiation of this Partial Settlement, and payment of the Settlement Amount will be inadmissible in evidence in the Lawsuit and in any other action or proceeding, except only as may be necessary in an action or proceeding to enforce the terms of this Partial Settlement. It is further understood and agreed that the Lawsuit and any other action or proceeding involving claims or causes of action arising from the 2018 Occurrence or the 2019 Occurrence and not hereby released will be litigated to the jury or other finder of fact without any reference whatsoever to the claims and causes of action released pursuant to this Partial Settlement.

6. Releasors further declare and represent that no promise, inducement or agreement not herein expressed has been made to Releasors, that this Partial Settlement contains the entire agreement between the parties hereto, and that the terms of this Partial Settlement are contractual and not a mere recital.

7. This Partial Settlement is subject to approval by the City of Everett City Council. This Partial Settlement will be placed on the City Council agenda for approval within sixty (60) days after this Partial Settlement is signed by Releasors and transmitted by email to the City of Everett's attorney Duncan Manville at dmanville@fennemorelaw.com. Unless otherwise agreed in a writing signed by Releasors and the Mayor of the City of Everett, this Partial Settlement is void unless approved by the City Council and signed by the Mayor of the City of Everett within such sixty (60) days. The City of Everett will deliver the check for the Settlement Amount in accordance with paragraph 4 no later than twenty (20) days after such approval and signature. The release by Releasors under this Partial Settlement is effective upon the delivery of the Settlement Amount and is not effective until such delivery.

8. This Partial Settlement 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. A party's AdobeSign signature is fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature of any party on this

Partial Settlement will be deemed an original signature and will be fully enforceable as an original signature.

THE UNDERSIGNED HAVE READ THE FOREGOING PARTIAL SETTLEMENT AND RELEASE AND FULLY UNDERSTAND IT.

TIM OLSON Aug 22, 2025

Signed this ____ day of _____, 20____.

Signature:  Tim Olson (Aug 22, 2025 10:47:15 PDT)

Printed Name: Tim Olson

LORELIE OLSON Aug 21, 2025

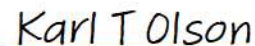
Signed this ____ day of _____, 20____.

Signature:  Lorelie Olson (Aug 21, 2025 15:39:03 PDT)

Printed Name: Lorelie Olson

KARL OLSON Aug 19, 2025

Signed this ____ day of _____, 20____.

Signature:  Karl T Olson (Aug 19, 2025 14:57:07 PDT)

Printed Name: Karl Olson

MICHELLE OLSON Aug 20, 2025

Signed this ____ day of _____, 20__.

Signature: 
Michelle Olson (Aug 20, 2025 16:38:22 PDT)

Printed Name: Michelle Olson

CITY OF EVERETT

Signed this ____ day of _____, 20__.

By: (Signature) _____

By: (Printed Name) _____

Its: (Mayor) _____

PARTIAL PROPERTY DAMAGE SETTLEMENT AND RELEASE

1. Subject to paragraphs 3 and 7 below, the undersigned, Clinton Siedenburger and Tracey Siedenburger ("Releasors"), being of lawful age and for the sole consideration of one hundred ninety-two thousand six hundred twenty-four dollars and twenty-six cents (\$192,624.26) (the "Settlement Amount"), for Releasors and for Releasors' executors, administrators, marital community, agents, insurers, successors and assigns, hereby release, acquit and forever discharge the City of Everett and its past, present and future agents, servants, employees, administrators, representatives, heirs, insurers and successors of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation of any nature whatsoever that Releasors now have or that may hereafter accrue, whether based on a tort, contract, statutory or other theory of recovery, arising from or in any way related to an occurrence on or about June 10, 2018 (the "2018 Occurrence") or an occurrence on or about September 9, 2019 (the "2019 Occurrence"), at or near 1434 Grand Avenue, Everett, Washington 98201 (the "Property"), including without limitation any and all claims asserted in the Complaint for Negligence, Trespass, Inverse Condemnation, and Declaratory Relief filed against the City of Everett in *Olson, et al. v. City of Everett, et al.*, Snohomish County Superior Court Cause No. 21-2-00185-31 (the "Lawsuit").

2. Releasors acknowledge and agree that the release set forth above is a general release. Subject to paragraphs 3 and 7 below, Releasors expressly waive and release any and all claims and causes of action for damages that may exist as of the effective date of this Partial Property Damage Settlement and Release ("Partial Settlement"), but that Releasors do not know of or suspect to exist, and which, if known, would materially affect Releasors' decision to enter into this Partial Settlement.

3. This Partial Settlement specifically applies to and precludes claims and causes of action relating to damage to or destruction of Releasors' home and temporary "stopgap" work that Releasors claim to have performed in connection with the retaining wall on the Property, for which they are receiving compensation from the City of Everett. This Partial Settlement does not apply to or preclude any other claims or causes of action arising from damage to the Property's landscaping or rear yard caused by the 2019 Occurrence, including without limitation damage to the Property's preexisting retaining wall, and loss of or damage to the area of real property that sloughed off from, washed away from, or may otherwise have become destabilized along the western bank of the Property. This Partial Settlement does not apply to or preclude any claims or causes of action arising from any loss of use of the Property caused by the 2019 Occurrence. This Partial Settlement does not apply to or limit Releasors' rights to treble damages, attorneys' fees, costs, or interest to the extent they are otherwise recoverable in connection with any claims by Releasors that are not released pursuant to this Partial Settlement. In addition, nothing in this Partial Settlement shall be construed as

warranting the dismissal of any claims or causes of action in the Lawsuit, that are not hereby released, until after such time as Releasors' non-released claims are litigated to complete resolution.

4. The City of Everett shall pay the Settlement Amount by delivery of a check to Releasors' counsel, Seth Chastain, at the law offices of Levy | von Beck | Comstock | Chastain | P.S., located at 1200 Fifth Avenue, Suite 1850, Seattle Washington 98101. Said check will be for the Settlement Amount (\$192,624.26), and made payable to "Levy, von Beck, Comstock, Chastain, P.S. Trust Account".

5. It is understood and agreed that this Partial Settlement and payment of the Settlement Amount are not to be construed as an admission of liability on the part of any parties hereby released, and that said releasees expressly deny liability to Releasors and intend merely to avoid litigation with regard to the claims and causes of action resolved hereby. It is understood and agreed that this Partial Settlement, all statements contained herein, all statements and conduct made in the negotiation of this Partial Settlement, and payment of the Settlement Amount will be inadmissible in evidence in the Lawsuit and in any other action or proceeding, except only as may be necessary in an action or proceeding to enforce the terms of this Partial Settlement. It is further understood and agreed that the Lawsuit and any other action or proceeding involving claims or causes of action arising from the 2018 Occurrence or the 2019 Occurrence and not hereby released will be litigated to the jury or other finder of fact without any reference whatsoever to the claims and causes of action released pursuant to this Partial Settlement.

6. Releasors further declare and represent that no promise, inducement or agreement not herein expressed has been made to Releasors, that this Partial Settlement contains the entire agreement between the parties hereto, and that the terms of this Partial Settlement are contractual and not a mere recital.

7. This Partial Settlement is subject to approval by the City of Everett City Council. This Partial Settlement will be placed on the City Council agenda for approval within sixty (60) days after this Partial Settlement is signed by Releasors and transmitted by email to the City of Everett's attorney Duncan Manville at dmanville@fennemorelaw.com. Unless otherwise agreed in a writing signed by Releasors and the Mayor of the City of Everett, this Partial Settlement is void unless approved by the City Council and signed by the Mayor of the City of Everett within such sixty (60) days. The City of Everett will deliver the check for the Settlement Amount in accordance with paragraph 4 no later than twenty (20) days after such approval and signature. The release by Releasors under this Partial Settlement is effective upon the delivery of the Settlement Amount and is not effective until such delivery.

8. This Partial Settlement 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. A party's AdobeSign signature is fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature of either party on this Partial Settlement will be deemed an original signature and will be fully enforceable as an original signature.

THE UNDERSIGNED HAVE READ THE FOREGOING PARTIAL SETTLEMENT AND RELEASE AND FULLY UNDERSTAND IT.

CLINTON SIEDENBURG

Signature: *Clinton Siedenburg*
Clinton Siedenburg (Aug 20, 2025 20:06:37 PDT)

Printed Name: Clinton Siedenburg

Signed this Aug 20, 2025
day of _____, 20__.

TRACEY SIEDENBURG

Signature: *Tracey Siedenburg*
Tracey Siedenburg (Aug 21, 2025 16:41:27 PDT)

Printed Name: Tracey Siedenburg

Signed this Aug 21, 2025
day of _____, 20__.

CITY OF EVERETT:

By: (Signature) _____

By: (Printed Name) _____

Its: (Mayor) _____

Signed this _____ day of _____, 20____.

PARTIAL PROPERTY DAMAGE SETTLEMENT AND RELEASE

1. Subject to paragraphs 3 and 7 below, the undersigned, Deborah Snell (“Releasor”), being of lawful age and for the sole consideration of twenty five thousand one hundred fifteen dollars and sixty two cents (\$25,115.62) (the “Settlement Amount”), for Releasor and for Releasor’s executors, administrators, marital community, agents, insurers, successors and assigns, hereby releases, acquits and forever discharges the City of Everett and its past, present and future agents, servants, employees, administrators, representatives, heirs, insurers and successors of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation of any nature whatsoever that Releasor now has or that may hereafter accrue, whether based on a tort, contract, statutory or other theory of recovery, arising from or in any way related to an occurrence on or about June 10, 2018 (the “2018 Occurrence”) or an occurrence on or about September 9, 2019 (the “2019 Occurrence”), at or near 1432 Grand Avenue, Everett, Washington 98201 (the “Property”), including without limitation any and all claims asserted in the Complaint for Negligence, Trespass, Inverse Condemnation, and Declaratory Relief filed against the City of Everett in *Olson, et al. v. City of Everett, et al.*, Snohomish County Superior Court Cause No. 21-2-00185-31 (the “Lawsuit”).

2. Releasor acknowledges and agrees that the release set forth above is a general release. Subject to paragraphs 3 and 7 below, Releasor expressly waives and releases any and all claims and causes of action for damages that may exist as of the effective date of this Partial Property Damage Settlement and Release (“Partial Settlement”), but that Releasor does not know of or suspect to exist, and which, if known, would materially affect Releasor’s decision to enter into this Partial Settlement.

3. This Partial Settlement specifically applies to and precludes claims and causes of action relating to fence, flagpole, landscape/hardscape, irrigation, and mitigation work referenced in prior correspondence between Releasor’s counsel and counsel for the City of Everett, for which Releasor is receiving compensation from the City of Everett. This Partial Settlement does not apply to or preclude any other claims or causes of action for loss of or damage to the area of real property that sloughed off from, washed away from, or may otherwise have become destabilized along the western bank of the Property. This Partial Settlement does not apply to or preclude any claims or causes of action arising from any loss of use of the Property caused by the 2019 Occurrence. This Partial Settlement does not apply to or limit Releasor’s rights to treble damages, attorneys’ fees, costs, or interest to the extent they are otherwise recoverable in connection with any claims by Releasor that are not released pursuant to this Partial Settlement. In addition, nothing in this Partial Settlement shall be construed as warranting the dismissal of any claims or causes of action in the Lawsuit, that are not hereby released, until after such time as Releasor’s non-released claims are litigated to complete resolution.

4. The City of Everett shall pay the Settlement Amount by delivery of a check to Releasor's counsel, Seth Chastain, at the law offices of Levy | von Beck | Comstock | Chastain | P.S., located at 1200 Fifth Avenue, Suite 1850, Seattle Washington 98101. Said check will be for the Settlement Amount (\$25,115.62), and made payable to "Levy, von Beck, Comstock, Chastain, P.S. Trust Account".

5. It is understood and agreed that this Partial Settlement and payment of the Settlement Amount are not to be construed as an admission of liability on the part of any parties hereby released, and that said releasees expressly deny liability to Releasor and intend merely to avoid litigation with regard to the claims and causes of action resolved hereby. It is understood and agreed that this Partial Settlement, all statements contained herein, all statements and conduct made in the negotiation of this Partial Settlement, and payment of the Settlement Amount will be inadmissible in evidence in the Lawsuit and in any other action or proceeding, except only as may be necessary in an action or proceeding to enforce the terms of this Partial Settlement. It is further understood and agreed that the Lawsuit and any other action or proceeding involving claims or causes of action arising from the 2018 Occurrence or the 2019 Occurrence and not hereby released will be litigated to the jury or other finder of fact without any reference whatsoever to the claims and causes of action released pursuant to this Partial Settlement.

6. Releasor further declares and represents that no promise, inducement or agreement not herein expressed has been made to Releasor, that this Partial Settlement contains the entire agreement between the parties hereto, and that the terms of this Partial Settlement are contractual and not a mere recital.

7. This Partial Settlement is subject to approval by the City of Everett City Council. This Partial Settlement will be placed on the City Council agenda for approval within sixty (60) days after this Partial Settlement is signed by Releasor and transmitted by email to the City of Everett's attorney Duncan Manville at dmanville@fennemorelaw.com. Unless otherwise agreed in a writing signed by Releasor and the Mayor of the City of Everett, this Partial Settlement is void unless approved by the City Council and signed by the Mayor of the City of Everett within such sixty (60) days. The City of Everett will deliver the check for the Settlement Amount in accordance with paragraph 4 no later than twenty (20) days after such approval and signature. The release by Releasor under this Partial Settlement is effective upon the delivery of the Settlement Amount and is not effective until such delivery.

8. This Partial Settlement 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. A party's AdobeSign signature is fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature of either party on this

Partial Settlement will be deemed an original signature and will be fully enforceable as an original signature.

THE UNDERSIGNED HAVE READ THE FOREGOING PARTIAL SETTLEMENT AND RELEASE AND FULLY UNDERSTAND IT.

DEBORAH SNELL: Aug 22, 2025

Signed this ____ day of _____, 20__.

Signature: Deborah Snell
Deborah Snell (Aug 22, 2025 16:23:23 PDT)

Printed Name: Deborah Snell

CITY OF EVERETT:

Signed this ____ day of _____, 20__.

By: (Signature) _____

By: (Printed Name) _____

Its: (Mayor) _____

PARTIAL PROPERTY DAMAGE SETTLEMENT AND RELEASE

1. Subject to paragraphs 3 and 7 below, the undersigned, John and Valerie Tanaka (“Releasors”), being of lawful age and for the sole consideration of one hundred eighty six thousand, two hundred and thirty-five dollars and fourteen cents (\$186,235.14) (the “Settlement Amount”), for Releasors and for Releasors’ executors, administrators, marital community, agents, insurers, successors and assigns, hereby release, acquit and forever discharge the City of Everett and its past, present and future agents, servants, employees, administrators, representatives, heirs, insurers and successors of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation of any nature whatsoever that Releasors now has or that may hereafter accrue, whether based on a tort, contract, statutory or other theory of recovery, arising from or in any way related to an occurrence on or about June 10, 2018 (the “2018 Occurrence”) or an occurrence on or about September 9, 2019 (the “2019 Occurrence”), at or near 1502 Grand Avenue, Everett, Washington 98201 (the “Property”), including without limitation any and all claims asserted in the Complaint for Negligence, Trespass, Inverse Condemnation, and Declaratory Relief filed against the City of Everett in *Olson, et al. v. City of Everett, et al.*, Snohomish County Superior Court Cause No. 21-2-00185-31 (the “Lawsuit”).

2. Releasors acknowledge and agree that the release set forth above is a general release. Subject to paragraphs 3 and 7 below, Releasors expressly waive and release any and all claims and causes of action for damages that may exist as of the effective date of this Partial Property Damage Settlement and Release (“Partial Settlement”), but that Releasors do not know of or suspect to exist, and which, if known, would materially affect Releasors’ decision to enter into this Partial Settlement.

3. This Partial Settlement specifically applies to and precludes claims and causes of action relating to damage to or destruction of Releasors’ home, shared driveway, and personal property, for which they are receiving compensation from the City of Everett. This Partial Settlement does not apply to or preclude any other claims or causes of action arising from damage to the Property’s landscaping or rear yard caused by the 2019 Occurrence, including without limitation loss of or damage to the area of real property that sloughed off from, washed away from, or may otherwise have become destabilized along the western bank of the Property. This Partial Settlement does not apply to or preclude any claims or causes of action arising from any loss of use of the Property caused by the 2019 Occurrence. This Partial Settlement does not apply to or limit Releasors’ rights to treble damages, attorneys’ fees, costs, or interest to the extent they are otherwise recoverable in connection with any claims by Releasors that are not released pursuant to this Partial Settlement. Releasors anticipate applying for a remodeling permit in the future, and nothing in this Partial Settlement shall be construed as a limitation of Releasors’ rights as related to any future permitting or land use application. In addition, nothing in this Partial Settlement shall be construed as

warranting the dismissal of any claims or causes of action in the Lawsuit, that are not hereby released, until after such time as Releasors' non-released claims are litigated to complete resolution.

4. The City of Everett shall pay the Settlement Amount by delivery of a check to Releasors' counsel, Seth Chastain, at the law offices of Levy | von Beck | Comstock | Chastain | P.S., located at 1200 Fifth Avenue, Suite 1850, Seattle Washington 98101. Said check will be for the Settlement Amount (\$186,235.14), and made payable to "Levy, von Beck, Comstock, Chastain, P.S. Trust Account".

5. It is understood and agreed that this Partial Settlement and payment of the Settlement Amount are not to be construed as an admission of liability on the part of any parties hereby released, and that said releasees expressly deny liability to Releasors and intend merely to avoid litigation with regard to the claims and causes of action resolved hereby. It is understood and agreed that this Partial Settlement, all statements contained herein, all statements and conduct made in the negotiation of this Partial Settlement, and payment of the Settlement Amount will be inadmissible in evidence in the Lawsuit and in any other action or proceeding, except only as may be necessary in an action or proceeding to enforce the terms of this Partial Settlement. It is further understood and agreed that the Lawsuit and any other action or proceeding involving claims or causes of action arising from the 2018 Occurrence or the 2019 Occurrence and not hereby released will be litigated to the jury or other finder of fact without any reference whatsoever to the claims and causes of action released pursuant to this Partial Settlement.

6. Releasors further declare and represent that no promise, inducement or agreement not herein expressed has been made to Releasors, that this Partial Settlement contains the entire agreement between the parties hereto, and that the terms of this Partial Settlement are contractual and not a mere recital.

7. This Partial Settlement is subject to approval by the City of Everett City Council. This Partial Settlement will be placed on the City Council agenda for approval within sixty (60) days after this Partial Settlement is signed by Releasors and transmitted by email to the City of Everett's attorney Duncan Manville at dmanville@fennemorelaw.com. Unless otherwise agreed in a writing signed by Releasors and the Mayor of the City of Everett, this Partial Settlement is void unless approved by the City Council and signed by the Mayor of the City of Everett within such sixty (60) days. The City of Everett will deliver the check for the Settlement Amount in accordance with paragraph 4 no later than twenty (20) days after such approval and signature. The release by Releasors under this Partial Settlement is effective upon the delivery of the Settlement Amount and is not effective until such delivery.

8. This Partial Settlement 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. A party's AdobeSign signature is fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature of any party on this Partial Settlement will be deemed an original signature and will be fully enforceable as an original signature.

THE UNDERSIGNED HAVE READ THE FOREGOING PARTIAL SETTLEMENT AND RELEASE AND FULLY UNDERSTAND IT.

JOHN TANAKA Aug 22, 2025

Signed this ____ day of _____, 20__.

Signature: *John Tanaka*
John Tanaka (Aug 22, 2025 16:08:03 PDT)

Printed Name: John Tanaka

VALERIE TANAKA Aug 22, 2025

Signed this ____ day of _____, 20__.

Signature: *Valerie Tanaka*
Valerie Tanaka (Aug 22, 2025 16:13:49 PDT)

Printed Name: Valerie Tanaka

CITY OF EVERETT

Signed this ____ day of _____, 20__.

By: (Signature) _____

By: (Printed Name) _____

Its: (Mayor) _____

Project title: 2025-2029 Green Transportation Grant – Everett Transit Maintenance Facility Engineering

Council Bill # *interoffice use*

Agenda dates requested:

Briefing
Proposed action
Consent 10/15/25
Action
Ordinance
Public hearing
Yes X No

Budget amendment:
Yes X No

PowerPoint presentation:
Yes X No

Attachments:
Grant agreement

Department(s) involved:
Transit

Contact person:
Michael Schmieder

Phone number:
(425) 257-7761

Email:
mschmieder@everettwa.gov

Initialed by:
MJS
Department head

Administration

Council President

Project: Engineering for a new maintenance facility for Everett Transit

Partner/Supplier: Washington State Department of Transportation (WSDOT)

Location: To be determined

Preceding action: N/A

Fund: 425/Transit

Fiscal summary statement:

Everett Transit has been awarded the Washington State Department of Transportation (WSDOT) Green Transportation grant in the amount of \$1,976,250 with a 15% match requirement of \$348,750 which will come from fund 425. This grant also includes additional projected grant funds in the amount of \$1,976,250 with a 15% match requirement of \$348,750 depending on appropriation by the state legislature in the 2027-2029 state biennium. No budget amendment is required.

Project summary statement:

Everett Transit's vehicle maintenance facility is more than 60 years old and was originally built as a commercial truck service center. With the development of our fleet and the increased demand for transit services, a new facility is needed. WSDOT funding for design and engineering will help plan for a facility with greater capacity to serve both fixed route and paratransit vehicles, be specifically designed to accommodate the advanced electronic systems and alternative fuels of a modern fleet and meet updated employee and facility safety standards. Additional attention in the design and engineering phase will be given to ensuring the facility is resilient and able to maintain continuity of operations during a natural disaster or emergency.

The location of the maintenance facility site is still to be determined, and a site feasibility study will be conducted prior to the start of engineering. In addition to the state funds awarded in this grant agreement, Everett Transit will be utilizing Federal Transit Administration formula funds to complete engineering for this project.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the 2025-2029 Washington State Department of Transportation Green Transportation Grant Agreement.

WSDOT Contact: Lucas Rogers

WSDOT E-mail: Lucas.Rogers@wsdot.wa.gov

WSDOT Phone: 360-705-7761

Green Transportation Grant Program Construction Grant Agreement		
Agreement Number	PTD1163	Grantee: Everett Transit 3201 Smith Ave.; Suite 200 Everett, WA 98201-4594
Term of Agreement	July 1, 2025 through June 30, 2029	
Vendor #	916001248	
UEI	NB35N2NU35J3	
ALN # / ALN Name	N/A	
Indirect Cost Rate	N/A	
R & D	No	Contact: Amanda Koerber Email: akoerberr@everettwa.gov
Service Area	Snohomish County	

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

WHEREAS, the State of Washington in its Sessions Laws of 2025, ESSB 5161 Sections 221 and 308 authorizes funding for Public Transportation Programs and other special proviso funding as identified in the budget through its 2025-2027 biennial appropriations to WSDOT; and

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

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

SECTION 1 SCOPE OF WORK AND BUDGET

Funding by Project

Project Title: Everett Transit - Maintenance Facility Engineering and Design

UPIN # GT252707

Scope of Work: Perform design for a transit maintenance facility focused on electric vehicles.

Funds	Current Percentage	Current Funds	Projected Funds	Total Funds
Green Transportation - CCA	42.50%	\$1,976,250		\$1,976,250
Projected Grant Funds	42.50%		\$1,976,250	\$1,976,250
Grant Funds	85.00%	\$1,976,250	\$1,976,250	\$3,952,500
Grantee's Funds	15.00%	\$348,750	\$348,750	\$697,500
Total Project Cost	100%	\$2,325,000	\$2,325,000	\$4,650,000

Budget: Current State Funds reflect total funding appropriated by the Washington State Legislature for the 2025-2027 biennium. As applicable, Federal Funds are subject to availability of federal apportionments and obligation by the Federal Transit Administration (FTA). Projected Funds (if applicable) are subject to appropriation by the WA State Legislature; once appropriated, funds will be added to this AGREEMENT by written amendment.

Construction Milestones

Phases	Date
Preliminary Engineering Start Date	Nov-25
Environmental Documents (NEPA/SEPA)	Jul-29
Right of Way Certification	Jan-30
Contract Award Date	Aug-25
Construction Operationally Complete	Jun-34

Section 2

Purpose of Agreement

- A. The purpose of this AGREEMENT is for WSDOT to provide funds to the GRANTEE for the planning, design, acquisition, construction, and/or improvements of capital rolling stock, equipment, facilities, and/or infrastructure to be used in the provision of public transportation services to persons in the State of Washington, referred to as the "Project." Reference to the "Project" shall include all such capital rolling stock, equipment, facilities, and/or infrastructure (collectively, "Project Assets") designed, acquired, constructed, improved, or installed under this AGREEMENT.
- B. If this AGREEMENT includes any federal funding through WSDOT Public Transportation Division, in addition to the requirements of Sections 1 through 47 of the AGREEMENT the GRANTEE will also comply with all requirements imposed by, or pursuant to 49 USC Chapter 53, all other applicable federal laws, regulations and requirements and the requirements set forth in Exhibit I, Summary of Federal Requirements, which is attached hereto and by this reference incorporated into this AGREEMENT.
- C. On projects where WSDOT is providing only state funds and the GRANTEE is using funds received directly from the federal government as their share or part thereof on the Project, the GRANTEE must assume full responsibility for complying with all federal rules and regulations.
- D. If the GRANTEE is found in non-compliance with federal rules and regulations, the GRANTEE shall provide written notification to WSDOT supplying details related to the non-compliance. Both PARTIES will analyze and determine the impact on the scope, schedule, and funding of the Project. Remedies required up to and including the return of funds will be identified to ensure the Project's scope of work is met as intended.

Section 3

Scope of Agreement

- A. The GRANTEE agrees to perform the work and complete the Project as described and detailed in Section 1. The GRANTEE shall complete the Project within the project limits described in Section 1. The GRANTEE shall operate the rolling stock/equipment in the service area as described in Section 1.
- B. **Project Administration:** WSDOT is responsible for the Federal Transit Administration's (FTA) oversight and management functions for FTA-funded projects if FTA funds are awarded through WSDOT Public Transportation Division. The GRANTEE agrees that WSDOT shall have the authority to carry out this responsibility, which includes but is not limited to, access to project-related documents for review, processing, and approval, as applicable, for each Project. For any Project where the GRANTEE requires work or services to be performed by WSDOT for the GRANTEE to be in compliance with state and federal requirements, the GRANTEE agrees to reimburse WSDOT for all of the actual direct and indirect costs incurred by WSDOT for the performance of the work or services.

Section 4

General Compliance Assurance

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

Section 5

Term of Agreement

The Project period of this AGREEMENT shall commence and terminate on the dates shown in the caption space header titled "Term of Agreement" regardless of the date of execution of this AGREEMENT unless terminated as provided herein. The caption space header titled "Term of Agreement" and all caption space headers above are by this reference incorporated herein into the AGREEMENT as if fully set forth in the AGREEMENT.

Section 6

State Review of Project

- A. WSDOT shall review the Project identified in this AGREEMENT as **Section 1- Scope of Work and Budget**, at least semiannually to determine whether the Project is making satisfactory progress. If WSDOT has awarded funds, but the GRANTEE does not report satisfactory activity within one (1) year of the initial grant award, WSDOT shall review the Project to determine whether the grant should be terminated as provided in **Section 33, Termination**.
- B. The GRANTEE shall deliver the scope of the Project as described in **Section 1- Scope of Work and Budget**. WSDOT shall review deviations from the approved scope or non - delivery of a specific phase to determine whether the project still meets the Project intent. If the Project is found in misalignment with the original intent, WSDOT will determine the best course of action including extending the Project's schedule, requesting approval for the change, or requesting repayment. The time for repayment and the amount will be negotiated between WSDOT and the GRANTEE.

Section 7

Project Costs and Minimum GRANTEE's Match Requirement

- A. The reimbursable costs of the Project shall not exceed the amounts detailed in **Section 1- Scope of Work and Budget**. The GRANTEE agrees to expend eligible funds, together with other funds allocated for the Project, in an amount sufficient to complete the Project as detailed in **Section 1**. If at any time the GRANTEE becomes aware that the cost of the Project will exceed or be less than the amount identified in **Section 1**, the GRANTEE shall notify WSDOT in writing within thirty (30) calendar days of making that determination.

- B. The GRANTEE is required to provide a minimum match percentage of funds for the Project as identified in **Section 1 – Scope of Work and Budget**, indicated as GRANTEE's Funds. Any reduction in the match will result in a proportional reduction in grant funds.

Section 8 Energy Credit

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

Section 9 Inspection of the Project

- A. The GRANTEE shall inspect any Project Assets purchased pursuant to this AGREEMENT at the time of delivery to the GRANTEE. The GRANTEE has fifteen (15) calendar days from delivery to either accept or reject the Project Assets. If rejected, the GRANTEE shall provide a written notice specifying the Project Asset deficiencies to its vendor and WSDOT, allowing the vendor a reasonable amount of time to cure the deficiencies or defects. Upon receipt and acceptance of Project Assets, the GRANTEE agrees that it has fully inspected the Project Asset and accepts it as suitable for the purpose under this AGREEMENT, as being in good condition and state of good repair, and that the GRANTEE is satisfied with the Project Asset and that the Project Asset complies with all applicable regulations, rules, and laws. Payment to the vendor must occur within thirty (30) days of the Project Asset acceptance.
- B. The GRANTEE shall inspect the Project to ensure conformity with the approved plans and specifications. WSDOT shall review the completed work to ensure conformity with the Project described and detailed in **Section 1** and state, local, and federal requirements as appropriate. WSDOT shall also review project documentation during various phases, as appropriate, to ensure conformity with state, local, and federal requirements.

Section 10 Provisions for Specific Grant Programs

- A. **Regional Mobility Grant Program.**
1. In accordance with RCW 47.04.290 a transit agency that receives state grant funding for a park and ride lot must establish a process for private transportation providers to apply for the use of the park and ride facility.
 2. A draft Performance Measurement Plan (PMP) must be submitted to WSDOT before submitting the first reimbursement request. If the GRANTEE does not submit a PMP and is nonresponsive to requests from WSDOT for improvements and information, the GRANTEE may be deemed out of compliance.
 3. The GRANTEE must provide annual performance reports for four calendar years after the project is operationally complete, as prescribed in the GUIDEBOOK, and any amendments thereto, or as WSDOT may require, including, but not limited to interim and annual reports. Annual Performance Report must include a summary of overall project performance and supporting data.

B. Public Transit Rideshare Grant Program.

1. All vehicles purchased under this program must be placed into service within twelve (12) months of the vehicle acceptance date.
2. Vehicles that are being replaced must be disposed of by selling, donating, or surplusizing each vehicle within three (3) months of the GRANTEE's written acceptance of the WSDOT funded replacement.

Section 11

Miscellaneous Charges and Conditions

The GRANTEE shall pay and be solely responsible for all storage charges, parking charges, late fees, and fines, as well as any fees (including vehicle registration, license, safety, and emission control inspection fees) and taxes, except applicable state sales or use tax, which may be imposed with respect to the Project by a duly constituted governmental authority as the result of the GRANTEE's use or intended use of the Project and Project Assets. Required visual and road test inspection fees related to the acceptance of vehicles, and software licensing use fees, are eligible for reimbursement. All replacements, repairs, or substitutions of parts for Project Assets shall be at the cost and expense of the GRANTEE.

Section 12

Purchases

The GRANTEE shall make purchases pursuant to this AGREEMENT through written procurement procedures in alignment with the GUIDEBOOK and compliant with state and federal requirements as applicable.

Section 13

Payment

- A. State and/or federal funds may be used to reimburse the GRANTEE for allowable expenses incurred in completing the Project as described in **Section 1**. Allowable Project expenses shall be determined by WSDOT as described in the GUIDEBOOK, and any amendments thereto. In no event shall the total amount reimbursed by WSDOT exceed the Total Project Cost, less any GRANTEE's Funds, identified in **Section 1**.
- B. Payment will be made by WSDOT on a reimbursable basis for actual net Project costs incurred within the timeframe identified in **Section 1**. Such costs to be reimbursed shall be calculated as described in the GUIDEBOOK, and any amendments thereto. WSDOT shall make no payments for costs incurred prior to the beginning or after the end date of the "Term of Agreement" as set forth in the caption space header above. The GRANTEE shall submit a claim reimbursement detailing the costs incurred and necessary supporting documentation. Such claim reimbursements may be submitted no more than once a month and no less than once per quarter as warranted by project expenditures. If approved by WSDOT, said claim reimbursements shall be paid by WSDOT within thirty (30) days of submission to WSDOT. Payment is subject to the submission to and approval by WSDOT of appropriate invoices, reports, and financial summaries. Any financial summaries submitted to WSDOT must include a record of the actual costs.
- C. The GRANTEE shall submit a claim reimbursement for completed work in the same state fiscal year in which it was incurred. Pursuant to RCW 43.88.020(13) "fiscal year" is defined as the year beginning July 1 and ending the following June 30. Reimbursement requests must be received no later than July 15th of the following state fiscal year. If the GRANTEE is unable to provide a claim reimbursement by this date, the GRANTEE shall provide an

estimate of the charges to be billed no later than July 15th so WSDOT may accrue the expenditures in the proper fiscal year. Any claim reimbursement submitted after the timeframe prescribed above may not be eligible for reimbursement.

- D. Progress Payments for Federally Funded Construction:** For federally funded construction contracts, the GRANTEE is required to make progress payments based on a percentage-of-completion method. WSDOT will reimburse the GRANTEE for eligible costs as identified in the claim reimbursement.
- E. Progress Payments for Heavy-Duty Buses:** For heavy-duty transit bus (“bus”) purchases, WSDOT may reimburse the GRANTEE for progress payments made to a bus manufacturer prior to the final delivery of the bus.
1. Progress payments will only be made for the completion of specific, discrete activities necessary for the manufacture of the bus.
 2. Progress payments are only allowable to bus manufacturers that are eligible to receive federal funds. It is the GRANTEE’s responsibility to obtain assurances confirming the manufacturer’s ability to deliver and comply with state and federal regulations and requirements.
 3. The GRANTEE must obtain adequate security for progress payments. The security for progress payments is typically a performance bond or letter of credit in the amount of the payments but there may be other types of security negotiated by the GRANTEE and the bus manufacturer as appropriate, such as receipt of title to the rolling stock at an appropriate point in the manufacturing process.
 4. The GRANTEE shall determine if progress payments are in the best interest of the GRANTEE after negotiating an anticipated delivery date for the bus(es) with the manufacturer. Regardless of whether the GRANTEE pursues progress payments, the GRANTEE shall include an anticipated delivery date for the bus(es) in the Purchase Order (PO) for the bus(es).
 5. To be eligible for reimbursement of progress payments, and prior to issuing a PO, the GRANTEE must negotiate a milestone payment schedule (MPS) with the bus manufacturer as applicable for each vehicle type and specifications. The MPS must identify a limited number of discrete activities whose completion qualifies for a milestone progress payment and an anticipated delivery date for the bus(es). The GRANTEE must submit the MPS to WSDOT for concurrence.
 6. Once the MPS is approved, the GRANTEE will include the MPS in the PO for the bus(es). A copy of the PO with the agreed-upon terms for the manufacturer’s delivery of the bus(es) must be submitted to WSDOT.
 7. During manufacture, if any of the terms of the PO need to be updated, the GRANTEE will implement a change order process. WSDOT concurrence on the change order is required prior to approving any changes to the terms of the PO.
 8. The GRANTEE will submit documentation of completion of each progress milestone when submitting a request for progress payment reimbursement. Images and/or other forms of tangible verification of milestone completion will be required.
 9. The GRANTEE will submit Quarterly Status Reports for the grant while the bus(es) is/are being built and until the final reimbursement is made. WSDOT will make final reimbursement for the bus(es) upon delivery and acceptance of the bus(es), per standard procedures. The GRANTEE is to comply with post-delivery bus purchase requirements.

If a bus(es) is/are not delivered within the terms and conditions of the PO, and WSDOT has reimbursed the GRANTEE for one or more progress payments, the GRANTEE shall reimburse WSDOT for all progress payments incurred.

Section 14

Assignments, Subcontracts, and Leases

- A. The GRANTEE shall submit to WSDOT as requested a copy of any contract, amendment, or change order thereto pertaining to this Project for review and documentation. This includes any completed Project facilities and/or infrastructure under this AGREEMENT, or other actions obligating the GRANTEE in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT, including any leasing and/or lending the Project or any part thereof to be used by anyone not under the GRANTEE's direct supervision.
- B. The GRANTEE agrees to include all applicable sections of the AGREEMENT such as **Section 4 and Sections 15 through 34** of this AGREEMENT in all third-party contracts it enters into for the employment of any individuals, procurement of any materials, or the performance of any work to be accomplished under this AGREEMENT. Third-party contractors must include these sections in any subsequent subcontracts, as applicable.

Section 15

State Interest and Satisfactory Continuing Control

- A. This provision shall survive termination of this AGREEMENT.
- B. WSDOT shall retain a legal interest in all Project Assets, defined as any rolling stock, equipment, facilities, and infrastructure, through the minimum useful life of the assets. For rolling stock purchases, the title of the rolling stock shall designate the GRANTEE as the legal owner and registered owner. Through the end of the minimum useful life, as defined in the GUIDEBOOK, the GRANTEE shall maintain satisfactory continuing control of all Project Assets, defined as the legal assurance that Project Assets will remain available to be used for its authorized purpose until disposition. The GRANTEE shall certify its satisfactory continuing control through the reporting described in Section 16(F) below. The GRANTEE accepts WSDOT's legal interest in all Project Assets during their minimum useful life. The GRANTEE must receive pre-approval from WSDOT to dispose of any Project Asset prior to the end of its minimum useful life. Regardless of the date of disposal, WSDOT will receive the proportional Federal and/or State funded share, as identified in this AGREEMENT, of the value of the disposed asset.
- C. Subject to the GRANTEE's compliance with all terms of this AGREEMENT, WSDOT's legal interest in each Project Asset will be released at the end of the minimum useful life of the Project Asset, as defined in the GUIDEBOOK.

Section 16

Reports and Project Use

- A. This provision shall survive termination of this AGREEMENT.

- B. The GRANTEE agrees that the Project shall be used for the provision of public transportation services within the area indicated in **Section 1** for the duration of the Project Asset's minimum useful life, as set forth in the GUIDEBOOK. The GRANTEE further agrees that it will not use or permit the use of the Project in a negligent manner or in violation of any applicable law, or so as to avoid any insurance covering the same or permit the Project to become subject to any lien, charge, or encumbrance.
- C. The GRANTEE shall maintain comprehensive and collision insurance for vehicles and property insurance for non-vehicle assets adequate to cover the value of the Project Assets prior to vehicles and assets being placed into operation. For vehicles, the GRANTEE shall supply a copy of the Certificate of Insurance specifying such coverage to WSDOT with the first Claim Reimbursement, and supply proof of renewal, annually thereafter until the vehicle depreciates fully. The GRANTEE shall name WSDOT as an additional insured on the insurance through the minimum useful life of the vehicles. If the GRANTEE is self-insured, the GRANTEE shall supply a copy of the Certificate of Self-Insurance specifying such coverage to WSDOT with the first Claim Reimbursement.
- D. Should the GRANTEE unreasonably delay or fail to use the Project during the Project term and reporting period, defined as through the end of the minimum useful life of the Project Assets, the GRANTEE agrees that it may be required to refund up to the entire amount of the "State and/or Federal Funds" expended on the Project. The GRANTEE shall immediately notify WSDOT when any Project Assets are withdrawn from Project use or when the Project or any part thereof is used in a manner substantially different from that identified in **Section 1**. If the Project is permanently removed from public transportation services, the GRANTEE agrees to immediately notify WSDOT of its intentions regarding the disposal of Project Assets or any part of the Project thereof.
- E. **Reports.** The GRANTEE shall submit quarterly status reports to WSDOT for the Term of the Project, regarding the progress of the Project. The GRANTEE shall keep satisfactory written records regarding the use of the Project and shall submit the following reports to, and in a form, and at such times prescribed by WSDOT as set forth in the GUIDEBOOK, and any subsequent amendments thereto:
1. Quarterly status reports for the Term of the Project, regarding the progress of the Project.
 2. Grant program specific reports as prescribed in **Section 10**.
 3. Reports describing the current usage of the Project and other data which WSDOT may request from the GRANTEE by memos, e-mails or telephone requests.
 4. In the event any portion of the Project sustains disabling damage, the GRANTEE shall notify WSDOT immediately after the occasion of the damage, including the circumstances thereof.
 5. The GRANTEE shall collect and submit to WSDOT, at such time as WSDOT may require, such financial statements, data, records, contracts, and other documents related to the Project as may be deemed necessary by WSDOT.
- F. **Asset Management.** The GRANTEE shall submit a Transit Asset Management Plan, Facility Maintenance Plan, Equipment Maintenance Plan, Infrastructure Maintenance Plan, and/or Vehicle Maintenance Plan to WSDOT, as applicable and prescribed in the GUIDEBOOK. Subsequently, the GRANTEE shall submit an Annual Asset Inventory to WSDOT, for the duration of the minimum useful life of the Project Assets.

- G. **Remedies for Misuse or Noncompliance.** If WSDOT determines that the Project has been used in a manner materially different from that described in **Section 1**, or in a “Service Area” different than that described in **Section 1**, WSDOT may require the GRANTEE to repay WSDOT the grant funded share of the Project. WSDOT may also withhold payments should it determine that the GRANTEE has failed to materially comply with any provision of this AGREEMENT.

Section 17

Maintenance of the Project

- A. This provision shall survive termination of this AGREEMENT.
- B. The GRANTEE shall make all necessary repairs and reasonably maintain the Project Assets to assure it remains in good and operational condition until the end of its minimum useful life. The minimum useful life of a constructed project is determined based on the Architectural/Engineering requirements for each type of structure, materials used, industry standards, and other federal and/or state standards and specifications, as described in the GUIDEBOOK. The minimum useful life for rolling stock is defined in FTA Circular 5010.1F, as referenced in the GUIDEBOOK. The minimum useful life for other equipment shall be determined according to provisions in the GUIDEBOOK including manufacturer’s estimated useful life and industry standards. All service, materials, and repairs in connection with the use and operation of the Project during its minimum useful life shall be at the GRANTEE’s expense.
- C. GRANTEES who are transit agencies and/or who receive direct federal funding from FTA must also have a Transit Asset Management Plan submitted to WSDOT that details their plan to maintain the Project. GRANTEES must submit a written Vehicle, Equipment, Facility, and/or Infrastructure Maintenance Plan to WSDOT prior to the occupation and/or operation of the Project, as applicable and prescribed in the GUIDEBOOK. The GRANTEE agrees, at a minimum, to maintain the Project and service or replace parts at intervals recommended in the manuals and/or instructions provided by contractors, vendors, and/or component manufacturers, or sooner if needed. The GRANTEE shall have the Project routinely inspected and make arrangements for any appropriate service and repair under the manufacturer’s warranty, if applicable. WSDOT shall not be liable for repairs. The GRANTEE shall retain records of all maintenance and parts replacement performed on the Project in accordance with Section 25. The GRANTEE shall provide copies of such records to WSDOT, upon request.

Section 18

Compliance with WSDOT Standards and Approval requirements

- A. This provision applies to all projects with construction elements.
- B. The GRANTEE agrees the Project must comply with all applicable Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction M 41-10, and any applicable revisions thereto.
- C. If the GRANTEE receives federal funds through WSDOT Public Transportation Division for this project, the project must comply with WSDOT General Special Provisions, Local Agency (APWA) specifications and Washington State Department of Transportation Construction Manual M41-01, as applicable. WSDOT General Special Provision (GSP) related to Buy America/BABA requirements shall be included in the Plans, Specifications and Estimate

(PS&E). After the DBE goals are determined, the applicable WSDOT General Special Provision (GSP), for the type of goal set, shall be included in the Plans, Specifications and Estimate (PS&E). The GRANTEE shall coordinate with WSDOT for collecting the current version of both GSPs.

D. If the GRANTEE receives federal funds through WSDOT Public Transportation Division for this project, the GRANTEE shall coordinate with WSDOT and provide requested documentation for written approval prior to initiating any of the following classifications of work on this project after agreement execution, as applicable.

1. Preliminary engineering.
2. Right of way acquisition.
3. Final Design.
4. Construction.

E. If the project was initiated prior to agreement execution and the GRANTEE is seeking reimbursement for all or some of those activities up to pre-award authorization date, the GRANTEE shall submit requested documents to WSDOT to confirm federal aid requirements.

Section 19

No Obligations by the State Government

No contract between the GRANTEE and any contractor or subcontractor shall create any obligation or liability of WSDOT with regard to this AGREEMENT without WSDOT's specific written consent, regardless of WSDOT's concurrence in, or approval of, the award of any contract or subcontract or the solicitations thereof. The GRANTEE hereby agrees to include this provision in all contracts it enters into for the design, acquisition, and construction of facilities and/or infrastructure related to the Project, or the performance of any work to be accomplished under this AGREEMENT.

Section 20

Ethics

A. Relationships with Employees and Officers of WSDOT. The GRANTEE shall not extend any loan, gratuity, or gift of money in any form whatsoever to any employee or officer of WSDOT, nor shall the GRANTEE knowingly rent or purchase any Project equipment and materials from any employee or officer of WSDOT.

B. Employment of Former WSDOT Employees. The GRANTEE hereby warrants that it shall not employ on a full, part-time, or another basis during the period of this AGREEMENT, any professional or technical personnel who are or have been, at any time during the period of this AGREEMENT, in the employ of WSDOT without the written consent of WSDOT.

Section 21

Compliance with Laws and Regulations

- A. The GRANTEE agrees to abide by all applicable state and federal laws and regulations including but not limited to, those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence compliance with such federal and state laws and regulations, and retention of all such records. The GRANTEE will adhere to all applicable labor provisions in Title 49 RCW including the nondiscrimination provisions in Chapter 49.60 RCW.
- B. Additionally, the GRANTEE agrees to comply, as applicable, with the following:
 - 1. SB 5974 Move Ahead Washington
 - 2. RCW 70A.02 Healthy Environmental for All (HEAL) ACT
 - 3. RCW 70A. 65.260 Climate Commitment ACT
- C. If the GRANTEE receives federal funds through WSDOT Public Transportation Division for this project, the GRANTEE agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.).
- D. The GRANTEE agrees to comply with all applicable requirements of chapter 43.21C RCW "State Environmental Policy Act" (SEPA) and for federally funded projects, with the "National Environmental Policy Act" (NEPA) 42 U.S.C. § 4321 et seq. The GRANTEE agrees to comply with Washington State Executive Order 21-02, Archaeological and Cultural Resources, and for federally funded projects, with Section 106 of the National Historic Preservation Act of 1966.
- E. **Permitting.** The GRANTEE agrees to be solely responsible for securing all required Federal, State and/or local permits as needed to complete the Project.
- F. Except when a federal statute or regulation preempts state or local law, no provision of the AGREEMENT shall require the GRANTEE to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of state or local law. If any provision or compliance with any provision of this AGREEMENT violates state or local law or would require the GRANTEE to violate state or local law, the GRANTEE agrees to notify WSDOT immediately in writing. Should this occur, WSDOT and the GRANTEE agree to make appropriate arrangements to proceed with or, if necessary, expeditiously, terminate the AGREEMENT.

Section 22

Civil Rights

- A. The GRANTEE shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any WSDOT-assisted contract or in the administration of its public transportation services.
- B. If the GRANTEE receives federal funds through WSDOT Public Transportation Division for this project, when advertising the GRANTEE must notify all bidders that it will affirmatively ensure that disadvantaged business enterprises will be afforded full and fair opportunity to submit bids and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Section 23
Accounting Records

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

Section 24
Audits, Inspection and Retention of Records

- A. This provision shall survive termination of this AGREEMENT.
- B. **Submission of Proceedings, Contracts, Agreements, and Other Documents.** During the Term of the Agreement as discussed in **Section 5** and for six (6) years thereafter, the GRANTEE agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as WSDOT may require. Project closeout does not alter these recording and record-keeping requirements. Should an audit, enforcement, or litigation process be commenced, but not completed, during the aforementioned six (6) year period the GRANTEE's obligations hereunder shall be extended until the conclusion of that pending audit, enforcement, or litigation process.
- C. **General Audit Requirements.** The GRANTEE agrees to obtain any other audits required by WSDOT at the GRANTEE's expense. Project closeout will not alter the GRANTEE's audit responsibilities.
- D. **Inspection.** The GRANTEE agrees to permit WSDOT, and the State Auditor, or their authorized representatives, to inspect all Project work materials, payrolls, maintenance records, and other data, and to audit the books, records, and accounts of the GRANTEE and its contractors pertaining to the Project. The GRANTEE agrees to require each third-party contractor to permit WSDOT, the State Auditor, or their duly authorized representatives, to inspect all work, materials, payrolls, maintenance records, and other data and records involving that third-party contract, and to audit the books, records, and accounts involving that third-party contract as it affects the Project.

Section 25
Loss or Damage to the Project

- A. This provision shall survive termination of this AGREEMENT.
- B. The GRANTEE, at its own expense, shall cover any loss, theft, damage, or destruction of the Project's rolling stock, equipment, facilities, and/or infrastructure for the duration of the Project's useful life using either of the following methods:

1. The GRANTEE shall maintain property insurance for rolling stock, equipment, facilities, and/or infrastructure adequate to cover the value of the Project; the GRANTEE shall supply a copy of the Certificate of Insurance specifying such coverage to WSDOT with the first request for reimbursement, and supply proof of renewal annually thereafter; or
 2. The GRANTEE shall certify that it has self-insurance and provide a written certificate of self-insurance to WSDOT with the first request for claim reimbursement, and annually thereafter. The GRANTEE will cover from its own resources the costs of repairing or replacing any Project facilities, associated equipment, and/or infrastructure if it is stolen, damaged, or destroyed in any manner.
- C. If the damage to the Project does not result in a total loss, payments for damage shall be paid directly to the GRANTEE. The GRANTEE shall, within thirty (30) days, either:
1. Devote all the insurance proceeds received to repair the Project and place it back in service, and the GRANTEE shall, at its own expense, pay any portion of the cost of repair which is not covered by insurance; or
 2. In the event the GRANTEE is certified to self-insurance, devote all funds necessary to repair the Project and place it back into service.
- D. If the Project is a total loss the insurance proceeds or equivalent shall be paid directly to the GRANTEE, and within fifteen (15) days the GRANTEE shall pay WSDOT its proportionate funded share of such proceeds received. The GRANTEE shall within sixty (60) days of loss, theft, or damage, notify WSDOT that it either:
1. Intends to replace the lost rolling stock, equipment, facilities, and/or infrastructure; or
 2. Does not intend to replace the lost rolling stock, equipment, facilities, and/or infrastructure. In this case, WSDOT will require the GRANTEE to reimburse WSDOT for the proportional Federal and/or State funded share of the insurance proceeds.
- E. Coverage, if obtained or provided by the GRANTEE in compliance with this section, shall not be deemed as having relieved the GRANTEE of any liability in excess of such coverage as required by the limitation of liability section of this AGREEMENT, or otherwise.

Section 26

Liens on the Project

- A. This provision shall survive termination of this AGREEMENT.
- B. WSDOT will maintain a copy of vehicle registrations for all funded vehicles under this agreement and oversight responsibility on those vehicles through their minimum useful life. The GRANTEE agrees that it shall not use Project Assets or any portion thereof as collateral, nor shall the GRANTEE encumber the Project in any way without the consent of WSDOT. If the GRANTEE determines to discontinue the use of any Project Asset before the end of its minimum useful life, it shall consult with WSDOT as to appropriate disposition alternatives, including transferring the use of the Project Asset to another agency for purposes consistent with the original grant award or reimbursing WSDOT for its proportional grant funded share of the disposal price. The GRANTEE shall follow the terms stated in **Sections 15 and 16** regarding the use and disposal of the Project and/or any portion thereof.

Section 27
Limitation of Liability

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

Section 28
Personal Liability & WSDOT Advice

- A. **Personal Liability of Public Officers**, no officer or employee of WSDOT shall be personally liable for any acts or failure to act in connection with this AGREEMENT, it being understood that in such matters he or she is acting solely as an agent of WSDOT.
- B. **WSDOT Advice**, the GRANTEE bears complete responsibility for the administration and success of the Project as it is defined by this AGREEMENT and any amendments thereto. If the GRANTEE solicits advice from WSDOT on problems that may arise, the offering of WSDOT advice shall not shift the responsibility of the GRANTEE for the correct administration and success of the Project, and WSDOT shall not be held liable for offering advice to the GRANTEE.

Section 29
Forbearance by WSDOT Not a Waiver

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

Section 30
Lack of Waiver

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

Section 31
Agreement Modifications

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

Section 32
Disputes

- A. **Disputes.** Disputes, arising in the performance of this AGREEMENT, which are not resolved by agreement of the PARTIES, shall be decided in writing by the WSDOT Division's Assistant Director or designee. This decision shall be final and conclusive unless within ten (10) days from the date of GRANTEE'S receipt of WSDOT's written decision, the GRANTEE mails or otherwise furnishes a written appeal to the Director of the WSDOT Public Transportation Division or the Director's designee. The GRANTEE's appeal shall be decided in writing by the Director of the WSDOT Public Transportation Division within thirty (30) days of receipt of the appeal by the Director of the WSDOT Public Transportation Division or the Director's designee. The decision shall be binding upon the GRANTEE, and the GRANTEE shall abide by the decision.
- B. **Performance During Dispute.** Unless otherwise directed by WSDOT, GRANTEE shall continue performance under this AGREEMENT while matters in dispute are being resolved.
- C. **Claims for Damages.** Should either PARTY to this AGREEMENT suffer injury or damage to person, property, or right because of any act or omission of the other PARTY or any of that PARTY's employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other PARTY within thirty (30) days after the first observance of such injury or damage.

- D. **Rights and Remedies.** All remedies provided in this AGREEMENT are distinct and cumulative to any other right or remedy under this document or afforded by law or equity, and may be exercised independently, concurrently, or successively and shall not be construed to be a limitation of any duties, obligations, rights and remedies of the PARTIES hereto. No action or failure to act by WSDOT or GRANTEE shall constitute a waiver of any right or duty afforded any of them under this AGREEMENT, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Section 33 Termination

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

Termination for Default. WSDOT may suspend or terminate this AGREEMENT for default, in whole or in part, and all or any part of the financial assistance provided herein, at any time by written notice to the GRANTEE, if the GRANTEE materially breaches or fails to perform any of the requirements of this AGREEMENT, including:

7. Take any action pertaining to this AGREEMENT without the approval of WSDOT, which under the procedures of this AGREEMENT would have required the approval of WSDOT.
 8. Jeopardizes its ability to perform pursuant to this AGREEMENT, United States of America laws, Washington state laws, or local governmental laws under which the GRANTEE operates.
 9. Failure to perform the Project or any part thereof including, but not limited to:
 - a) Failure to build the Project according to the design specifications and all applicable building code required standards.
 - b) Failure to remedy all material defects in the performance of the Project and correct all faulty workmanship by the GRANTEE or its contractors and subcontractors in a timely manner.
 - c) Failure to take any necessary and reasonable action which could affect the ability of the Project to perform its designated function or takes any action which could shorten its useful life for Project use or otherwise.
 - d) Failure to make reasonable and appropriate use of the Project's real property, facilities, equipment, and/or infrastructure.
 10. Fails to make reasonable progress on the Project or other violation of this AGREEMENT that endangers substantial performance of the Project.
 11. Fails to perform in the manner called for in this AGREEMENT, or fails to comply with or, is in material violation of, any provision of this AGREEMENT. WSDOT shall serve a notice of termination on the GRANTEE setting forth the manner in which the GRANTEE is in default hereunder. If it is later determined by WSDOT that the GRANTEE had an excusable reason for not performing, such as events which are not the fault of or are beyond the control of the GRANTEE, such as a strike, fire or flood, WSDOT may: a) allow the GRANTEE to continue work after setting up a new delivery of performance schedule, or b) treat the termination as a termination for convenience.
- B. WSDOT, in its sole discretion may, in the case of a termination for breach or default, allow the GRANTEE ten (10) business days, or such longer period as determined by WSDOT, in which to cure the defect. In such cases, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the GRANTEE fails to remedy to WSDOT's satisfaction the breach or default within the timeframe and under the conditions set forth in the notice of termination, WSDOT shall have the right to terminate this AGREEMENT without any further obligation to GRANTEE. Any such termination for default shall not in any way operate to preclude WSDOT from also pursuing all available remedies against GRANTEE and its sureties for said breach or default.
- C. In the event that WSDOT elects to waive its remedies for any breach by GRANTEE of any covenant, term, or condition of this AGREEMENT, such waiver by WSDOT shall not limit WSDOT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this AGREEMENT.

Section 34

Venue and Process

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

Section 35

Changed Conditions Affecting Performance

The GRANTEE hereby agrees to immediately notify WSDOT in writing of any change in conditions or law, or of any other event, including any current or prospective dispute, which may adversely affect WSDOT's interest in the Project or affect the GRANTEE's ability to perform the Project in accordance with the provisions of this AGREEMENT.

Section 36

Subrogation

- A. Subrogation. WSDOT may require the GRANTEE to assign to WSDOT all rights of recovery against any person or organization for loss, to the extent of WSDOT's loss. Upon assignment, the GRANTEE shall execute, deliver, and do whatever else is reasonably necessary to secure WSDOT's rights. The GRANTEE shall do nothing after any loss to intentionally prejudice the rights of WSDOT.
- B. Duties of the GRANTEE. If WSDOT has exercised its right of subrogation, the GRANTEE shall cooperate with WSDOT and, upon WSDOT's request, assist in the prosecution of suits and enforce any right against any person or organization who may be liable to WSDOT due to damage of Project Equipment. The GRANTEE shall attend hearings and trials as requested by WSDOT, assist in securing and giving evidence as requested by WSDOT, and obtain the attendance of witnesses as requested by WSDOT.

Section 37

Severability

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

Section 38

Counterparts

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

Section 39

Complete Agreement

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

Section 40
Order of Precedence

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

1. Federal Law
2. Exhibit I, Summary of Federal Requirements, if applicable
3. State Law
4. This AGREEMENT
5. The GUIDEBOOK

Section 41
Agreement Close Out

The GRANTEE shall notify WSDOT if the AGREEMENT is completed prior to the end date set forth in the caption space header titled "Term of Agreement" by written notification and in its capital Quarterly Status Report, as referenced in the GUIDEBOOK, and any amendments thereto, for the quarter in which the project is completed. WSDOT will send a closeout letter to the GRANTEE.

Section 42
Execution

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

Section 43
Binding Agreement

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

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

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

GRANTEE

Authorized Representative
Public Transportation Division,
WSDOT

Authorized Representative

Title

Print Name

Date

Date

EXHIBIT I
Summary of Federal Requirements and Incorporating by Reference Annual List of
Certifications and Assurances for FTA Grants and Cooperative Agreements
("Certifications and Assurances") and Federal Transit Administration Master
Agreement ("Master Agreement")

The term GRANTEE as used in the body of the agreement is defined as a Subrecipient in the federal appendix

Recipient of federal assistance under 49 U.S.C. chapter 53 must submit annually or as part of its application for federal assistance. Recipient and subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the most current approved Certifications and Assurances available at [Certifications & Assurances | FTA](#). The Certifications and Assurances are by this reference incorporated herein.

Recipient further agrees to comply with all applicable requirements included in the most current approved Master Agreement. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available at [FTA Master Agreement \(version 33, April 25, 2025\) | FTA](#)

Note and comply with the following language stated under the master agreement:

"Each provision of this Master Agreement must be interpreted in context with all other provisions of this Master Agreement and the Underlying Agreement. If a single provision is read apart from the rest of this Master Agreement or the Underlying Agreement, that provision might not convey the extent of the Recipient's responsibility to comply with the requirements of this Master Agreement and the Underlying Agreement."

Without limiting the foregoing, the following are some requirements applicable to transactions covered by this AGREEMENT.

1. **Changes to Federal Requirements** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
2. **Civil Rights**- The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- a) Withholding monthly progress payments;
- b) Assessing sanctions;
- c) Liquidated damages; and/or
- d) Disqualifying the contractor from future bidding as non-responsible.

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., , and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

3. **Disadvantaged Business Enterprises** - The recipient's DBE program, as required by [49 CFR Part 26](#) and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the

Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Disadvantaged Business Enterprise (DBE) requirements of [49 CFR Part 26](#) and USDOT's official interpretations (i.e., Questions & Answers) apply to this Contract. As such, the requirements of this Contract are to make affirmative efforts to solicit DBEs, provide information on who submitted a Bid or quote and to report DBE participation. No preference will be included in the evaluation of Bids/Proposals, no minimum level of DBE participation shall be required as a Condition of Award and Bids/Proposals may not be rejected or considered non-responsive on that basis.

4. **ADA Access** - The contractor shall comply with the requirements of FTA C 4710.1 as applicable to this contract. Equal access and the opportunity should be given to individuals with disabilities to fully participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations.
5. **Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.
6. **Buy America and Build America Buy America** - Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. This Contract is subject to the Federal Transit Administration's (FTA's) Buy America requirements in 49 C.F.R. Part 661 and 49 U.S.C. 5323(j). Compliance with FTA's Buy America requirements shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements".
7. **DAVIS-BACON ACT and COPELAND ANTI – KICKBACK ACT** – Construction Contracts over \$2000.00 are subject to the requirements of the Federal Transit Administration's (FTA's) DAVIS - BACON ACT and COPELAND ANTI – KICKBACK ACT. The contractor, other third-party contractors and subcontractors shall comply with the requirements of 40 U.S.C. 3141 et seq. and 29 C.F.R. § 5 as applicable. In addition, Public Works Projects must comply with State and Federal laws as applicable.
8. **Brooks Act**: Grantees shall use competitive proposal procedures based on the Brooks Act when contracting for A&E services and seeking federal reimbursement for the A&E services as defined in 40 U.S.C. Chapter 11: Selection of Architects and Engineers Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services that require performance by a registered or licensed architect or engineer. The Brooks Act requires that:
 - a) An offeror's qualifications be evaluated;
 - b) Price be excluded as an evaluation factor.
 - c) Negotiations be conducted with only the most qualified offeror; and
 - d) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.

9. Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

- a. Procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system is prohibited when such equipment or systems are affiliated with the Government of People's Republic of China or when a product is produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- b. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) is prohibited.

10. Federal Acquisition Regulation (FAR)-Changes Clause - 52.243-4 Changes

- a. The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes— (1) In the specifications; (2) In the method or manner of performance of the work; (3) In the Government-furnished facilities, equipment, materials, services, or site; or (4) Directing acceleration in the performance of the work.
- b. Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances, and source of the order and (2) that the Contractor regards the order as a change order.
- c. Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- d. If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- e. The Contractor must assert its right to an adjustment under this clause within 30 days after
 - i. Receipt of a written change order under paragraph (a) of this clause or
 - ii. The furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

***Note: the changed clause shall not supersede FTA Circular C 4220.1G**

Project title: An Ordinance relating to service facility buffer zones codified under chapter 9.54 EMC, amending Ordinance 3957-23

Council Bill #

CB 2509-53

Agenda dates requested:

Briefing 10/08/25

Proposed action 10/15/25

Consent

Action 10/22/25

Ordinance X

Public hearing

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

Ordinance

Department(s) involved:

Legal

Community Development

Contact person:

Lacey Offutt

Julie Willie

Phone number:

(425) 257-8528

(425)257-7120

Email:loffutt@everettwa.gov

JWillie@everettwa.gov

Initialed by:

JW

Department head

Administration

Council President

Project: Ordinance amending Ordinance [3957-23](#)**Partner/Supplier:** N/A**Location:** Everett, WA**Preceding action:** Adoption of Ordinance 3597-23: [5/3/23](#)**Fund:** N/A**Fiscal summary statement:**

N/A

Project summary statement:

City Council adopted Ordinance 3957-23 on May 3, 2023, creating Service Facility Buffer Zones, codified as Chapter 9.54 EMC. This ordinance included a “sunset clause” that would expire the ordinance on December 31, 2025.

This proposed amendment incorporates a new reporting requirement from City Administration to City Council regarding the status of designated qualifying high-impact locations or designated qualifying service locations, including when new locations are designated.

Recommendation (exact action requested of Council):

Adopt an Ordinance amending Ordinance 3957-23 deleting the expiration provision so that the Ordinance providing for Service Facility Buffer Zones continue in effect until December 31, 2027, and add new reporting requirements.



ORDINANCE NO. _____

An ORDINANCE Relating to Service Facility Buffer Zones codified under chapter 9.54 EMC, AMENDING Ordinance 3957-23.

WHEREAS,

- A.** In May 2023, the City Council adopted Ordinance 3957-23, which created Service Facility Buffer Zones. This ordinance was codified as chapter 9.54 EMC.
- B.** Section 7 of Ordinance 3957-23 is a “sunset clause.” It states that Ordinance 3957-23 “expires on December 31, 2025.”
- C.** The City Council has determined that it is in the public interest that Ordinance 3957-23 not expire and that its sunset clause should be extended until December 31, 2027.
- D.** Moreover, the public interest is served by establishing a process to update City Council on the status of designated qualifying high-impact location and designated qualifying service locations.
- E.** The City of Everett has the power to provide for the punishment of all practices dangerous to public health or safety, and to make necessary for the preservation of public health, peace, and good order, and to provide for the punishment of all persons charged with violating any City ordinance.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 7 of Ordinance 3957-23 states: “This ordinance expires on December 31, 2025.” Ordinance 3957-23 is hereby amended to state: “This ordinance expires on December 31, 2027.” Accordingly, Chapter 9.54 EMC will expire on December 31, 2027. Chapter 9.54 EMC will remain in full force and effect until City Council repeals or otherwise amends it by ordinance.

Section 2. **EMC 9.54 is amended to add the following section as EMC 9.54.060:**

- A.** Whenever the Mayor designates a new designated qualifying high-impact location or designated qualifying service location under EMC 9.54.030, the Mayor or his or her designee shall report such designation to City Council.
- B.** City Administration shall, from time to time, but at least annually, provide a status report to City Council on all designated qualifying high-impact locations and designated qualifying service

locations. The report shall include information on the creation and revocation of designated qualifying high-impact locations and designated qualifying service locations.

Section 3. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



Project title: An Ordinance creating a special improvement project entitled “41st Street to Rucker Avenue Corridor Phase 2” Fund 303, Program 123, and repealing Ordinance No. 3869-22.

Council Bill #

CB 2510-54

Agenda dates requested:

Briefing

Proposed action 10/15/25

Proposed action 10/22/25

Consent

Action 10/29/25

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:

Tom Hood

Phone number:

(425) 257-8809

Email:

thood@everettwa.gov

Initialed by:

RLS

Department head

Administration

Council President

Project: 41st Street to Rucker Avenue Corridor Phase 2

Partner/Supplier: WA State Department of Transportation (WSDOT)

Location: 41st Street to West Marine View Drive

Preceding action: [Ordinance 3836-21, approved on 11/24/21](#)
[Ordinance 3869-22, approved on 4/6/22](#)

Fund: Fund 303 – Public Works Improvement Projects

Fiscal summary statement:

Ordinance 3869-22 authorized an appropriation of \$2,665,200 for the design phase of the project, including \$2,500,000 in state grant funds and \$165,200 in local funds.

The City completed the 41st Street to West Marine View Drive Corridor Improvements project (Fund 303 Program 091), in which the Port of Everett (Port) contributed \$430,000 in funds to the project. Of this contribution, the City spent \$311,386 on the project. The Port mutually agreed to transfer the unspent proceeds totaling \$118,614 to this project.

This Ordinance will repeal Ordinance No. 3869-22, and authorizes the following appropriations to be programmed:

Design Phase (previously programmed)	\$2,665,200
Design Phase – Port of Everett (newly programmed)	118,614
Design Phase – Fund 119 (newly programmed)	<u>216,186</u>
Total Design Costs	\$3,000,000

The programmed available funding for design of the project increased by \$334,800 and is now \$3,000,000. The funding sources for this project will be as follows:

Washington State LEAP Transportation Funds	\$2,500,000
Port of Everett	118,614
Fund 119 – Street Improvements	<u>381,386</u>
Total Funds	\$3,000,000

When the design phase has been completed, the department will bring a subsequent ordinance that will include construction funding for Council consideration.

Project summary statement:

This project is the second phase of a multi-phased project that began with improvements to three intersections that included signal improvements, expanded turn lanes and increased radii to better accommodate freight traffic.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Improvement Project entitled “41st Street to Rucker Avenue Corridor Phase 2” Fund 303, Program 123, and repealing Ordinance No. 3869-22.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project entitled “41st Street to Rucker Avenue Corridor Phase 2” Fund 303, Program 123, to accumulate all costs for the improvement and repealing Ordinance No. 3869-22.

WHEREAS,

- A.** The City of Everett is maintaining and expanding roadway infrastructure to facilitate access to the Port of Everett.
- B.** The City of Everett has identified the need and obtained funds for the design and construction of improvements to the corridor from 41st Street to West Marine View Drive.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special improvement project is hereby established as Fund 303, Program 123, entitled “41st Street to Rucker Avenue Corridor Phase 2” 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 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 \$3,000,000 is hereby appropriated to Fund 303, Program 123, “41st Street to Rucker Avenue Corridor Phase 2” as follows:

A.	Estimated Design Costs	\$3,000,000
B.	Source of Funds	
	Washington State LEAP Transportation Funds	\$2,500,000
	Port of Everett	118,614
	Fund 119 – Street Improvements	<u>381,386</u>
	Total Funds	\$3,000,000

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:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



City Council Agenda Item Cover Sheet

Project title: An Ordinance closing a special improvement project entitled "41st Street to West Marine View Drive Corridor Improvements" Fund 303, Program 091, as established by Ordinance No. 3468-15.

Council Bill # *interoffice use*

CB 2510-55

Agenda dates requested:

Briefing

Proposed action 10/15/25

Proposed action 10/22/25

Consent

Action 10/29/25

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:

Tom Hood

Phone number:

(425) 257-8809

Email:

THood@everettwa.gov

Initialed by:

RLS

Department head

Administration

Council President

Project: 41st Street to West Marine View Drive Corridor Improvements

Partner/Supplier: Multiple

Location: 41st Street to West Marine View Drive

Preceding action: [Ordinance 3241-11, approved on 11/2/11](#)
[Ordinance 3468-15, approved on 11/18/15](#)

Fund: 303 – Public Works Improvement Projects

Fiscal summary statement:

Ordinance No. 3468-15 appropriated \$4,485,264 to Fund 303, Program 091 for the project, which the source of funds includes the following:

Federal Grant – STPUL	\$1,864,304
State Grant – Connecting Washington	1,500,000
Port of Everett	430,000
Freight Mobility Strategic Investment Board	400,000
Fund 119 – Street Improvements	<u>290,960</u>
Total Funds	\$4,485,264

Only \$1,762,702 in STPUL funds were received, resulting in total revenues of \$4,383,662.

The project was completed at a cost of \$3,974,088 and a balance transfer to Fund 119 – Street Improvements Fund in the amount of \$290,960. The Port of Everett mutually agreed to transfer the unspent contribution proceeds totaling \$118,614 to the 41st Street to Rucker Avenue Corridor Phase 2 project (Fund 303 Program 123). Total expenses for the project inclusive of the transfer outs are \$4,383,662.

Project summary statement:

This project designed and constructed improvements to three major intersections: West Marine View Drive & Pacific Avenue, Pacific Avenue & Rucker Avenue, and Rucker Avenue & 41st Street. The project reduced commercial traffic through the Central Business District (CBD), improved the connection between Rucker Avenue and West Marine View Drive, and provide for better accommodation for freight to and from the Port of Everett.

Recommendation (exact action requested of Council):

Adopt an Ordinance closing a Special Improvement Project entitled "41st Street to West Marine View Drive Corridor Improvements" Fund 303, Program 091, as established by Ordinance No. 3468-15.



ORDINANCE NO. _____

An ORDINANCE closing a special improvement project entitled “41st Street to West Marine View Drive Corridor Improvements” Fund 303, Program 091, as established by Ordinance No. 3468-15.

WHEREAS,

- A.** The special improvement project entitled “41st Street to West Marine View Drive Corridor Improvements” Fund 303, Program 091, was established to provide for identified improvements.
- B.** The purpose of the project has been accomplished and there are neither outstanding obligations to be paid nor uncollected revenues to be received.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The special improvement project entitled “41st Street to West Marine View Drive Corridor Improvements” Fund 303, Program 091, as established by Ordinance No. 3468-15 be closed.

Section 2. The final expenses and revenues for the “41st Street to West Marine View Drive Corridor Improvements” Fund 303, Program 091 are as follows:

A. Expense

Design and Construction	\$3,974,088
Remaining Balance Transfer to Fund 119	290,960
Remaining Balance Transfer to Fund 303 Program 123	<u>118,614</u>
Total Expenses	\$4,383,662

B. Source of Funds

Federal Grant – STPUL	\$1,762,702
State Grant – Connecting Washington	1,500,000
Port of Everett	430,000
Freight Mobility Strategic Investment Board	400,000
Fund 119 – Street Improvements	<u>290,960</u>
Total Funds	\$4,383,662

Section 3. There are no financial transactions remaining.

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:

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 "Lift Station #24 Conveyance Improvements" Fund 336, Program 050.

Council Bill # *interoffice use*

CB 2509-50

Agenda dates requested:

1st Reading 10/01/25

Proposed action 10/08/25

Consent

Action 10/15/25

Ordinance

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:

Tom Hood

Phone number:

425-257-8809

Email:

thood@everettwa.gov

Initialed by:

TH FOR RLS

Department head

Administration

Council President

Project: Lift Station #24 Conveyance Improvements

Partner/Supplier: N/A

Location: Lift Station #24

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 design and construction of this project is \$2,650,000.

Project summary statement:

The project will install approximately 2,140 LF of new 8-inch sewer along 115th St SE and 116th St SE from Meridian Ave and Silver Way. Side sewer stubs will be installed at each parcel to be served from the main to the Right of Way boundary. Restoration will include trench backfill, pavement patching, and full overlay. Project allows for sanitary sewage to be conveyed to lift station #24 through City of Everett sewer mains, including multiple parcels that are currently on aging septic systems. Design will be completed by in-house staff, with construction planned in summer of 2026.

Council approval of this ordinance will provide funding for the design and construction phases of the project.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a special improvement project entitled "Lift Station #24 Conveyance Improvements" Fund 336, Program 050.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project entitled “Lift Station #24 Conveyance Improvements” Fund 336, Program 050, to accumulate all costs for the improvement.

WHEREAS,

- A.** The City of Everett is committed to a planned sewer conveyance infrastructure improvement and replacement program.
- B.** The City of Everett has identified the need and obtained funds to construct new improvements near the City’s Lift Station #24.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special improvement project is hereby established as Fund 336, Program 050, entitled “Lift Station #24 Conveyance Improvements” 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 \$2,650,000 is hereby appropriated to Fund 336, Program 050, “Lift Station #24 Conveyance Improvements” as follows:

A. Estimated Project Design & Construction Costs	\$ 2,650,000
B. Source of Funds	
Fund 401 – Water/Sewer Utility Fund	\$ 2,650,000

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:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

Project title: An Ordinance Amending Ordinance No. 4010-24 Entitled, "Walter E. Hall Park Community Connections Path", Fund 354, Program 094 to Accumulate All Costs for the Project

Council Bill #

CB 2509-51

Agenda dates requested:

Briefing

1st Reading 10/01/2025

Proposed action 10/08/2025

Consent

Action 10/15/2025

Ordinance

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Proposed Ordinance

Department(s) involved:

Parks and Facilities

Community Development

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

bleonard@everettwa.gov

Initialed by:

RML

Department head

Administration

Council President

Project: Walter E. Hall Park Community Connections Path

Partner/Supplier: Forma Construction

Location: 1226 W Casino Rd

Preceding action: Funding Ordinance [4010-24](#)

Fund: Fund 354 – Program 094 (CIP-3)

Fiscal summary statement:

On March 20, 2024, City Council adopted an ordinance to fund design and construction services for the Walter E. Hall Park Community Connections Path in the amount of \$350,000. The amending ordinance will provide additional funding necessary to complete physical construction of the project in the amount of \$173,000. This additional construction funding is needed to widen the pathway to allow for Public Works access. The primary source of funds for the project is the Community Development Block Grant which was increased by an additional \$80,000. The project is also supported by Fund 145 – Street and Alley Vacation Funds in the amount of \$78,000 and by a private grant from the AARP Community Challenge program in the amount of \$15,000. The estimated total cost of the project, including design and construction, is \$523,000.

Project summary statement:

The City of Everett will improve non-vehicular access to Walter E. Hall Park by constructing a multi-use path between the park and 90th St. SW. An architectural & engineering services provider will be contracted to provide design, engineering, permitting, and construction documents for the project.

Approximately 1860 LF of ADA accessible paved pathway will link the right-of-way of 90th Street SW to existing amenities within Walter E. Hall Park. This path reduces the walking distance into Walter E. Hall Park for residents of the Westmont and Holly neighborhoods to the east of the park. The project will also install a raised crosswalk where the path crosses the Walter E. Hall Park driveway, improving pedestrian safety within the park. This project is in alignment with the Mayoral Directive on Climate Action and Sustainability, and with the Parks Recreation and Open Space Plan.

Recommendation (exact action requested of Council):

Adopt an Ordinance amending Ordinance No. 4010-24 entitled, "Walter E. Hall Park Community Connections Path", Fund 354, Program 094 to accumulate all costs for the project.



ORDINANCE NO. _____

An Ordinance Amending Ordinance 4010-24 entitled, “Walter E. Hall Park Community Connections Path”, Fund 354, Program 094, to accumulate all costs for the project.

WHEREAS,

- A.** The City Council recognizes the need to maintain and improve City Park amenities.
- B.** The City Council recognizes the value and need to provide Everett residents and visitors with open recreation spaces.
- C.** The City recognizes the need to improve neighborhood walkability and encourage non-motorized forms of transportation.
- D.** The City Council recognizes Ordinance 4010-24 was established as Fund 354, Program 094 entitled “Walter E. Hall Park Community Connections Path” to accumulate all costs for the project.
- E.** The City Council recognizes the need for additional funding to complete construction of the project.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 4 of Ordinance No. 4010-24 which reads as follows:

The sum of \$350,000 is hereby appropriated to Fund 354, Program 094, “Walter E. Hall Park Community Connections Path” project.

A. Use of Funds		
Design and Construction Costs		<u>\$350,000</u>
Total		\$350,000
B. Source of Funds		
Community Development Block Grant		<u>\$350,000</u>
Total		\$350,000

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

The sum of \$523,000 is hereby appropriated to Fund 354, Program 094, “Walter E. Hall Park Community Connections Path” as follows:

A. Use of Funds

Design	\$ 89,496
Construction Costs	<u>\$433,504</u>
Total	\$523,000

B. Source of Funds

Community Development Block Grant	\$430,000
Fund 145 – Street and Alley Vacation Funds	\$ 78,000
AARP Community Challenge Grant	<u>\$ 15,000</u>
Total	\$523,000

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

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

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.



Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



Project title: Adopt an Ordinance creating a Special Improvement Project entitled “RRFB Pedestrian Safety” Fund 303, Program 134, to accumulate all costs for the improvement.

Council Bill #

CB 2509-52

Agenda dates requested:

Proposed action 10/01/25

Proposed action 10/08/25

Consent

Action 10/15/25

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:

Tom Hood

Phone number:

(425) 257-8809

Email:

thood@everettwa.gov

Initialed by:

TH FOR RLS

Department head

Administration

Council President

Project: RRFB Pedestrian Safety

Partner/Supplier: WA State Department of Transportation (WSDOT)

Location: Sievers-Duecy Blvd and E. Marine View Dr at 10th St and Summit Ave

Preceding action: N/A

Fund: Fund 303 – Public Works Improvement Projects

Fiscal summary statement:

The City was awarded a Pedestrian & Bicycle Safety program grant utilizing Climate Commitment Act (CCA) funds through WSDOT.

This ordinance will provide funding authorization for the construction phase of the project. The programmed available funding for the project is \$1,310,000 as follows:

CCA Grant	\$1,286,000
Fund 119 – Street Improvements	<u>24,000</u>
Total Funds	\$1,310,000

Project summary statement:

The primary goal of the Rectangular Rapid Flashing Beacon (RRFB) Pedestrian Safety Project is to enhance safety for pedestrians, cyclists, and individuals with disabilities at key arterial crossings.

This project will include the construction and installation of pedestrian safety devices at three locations:

1. Sievers-Duecy Blvd adjacent to the Phil Johnson Ballfields
2. E. Marine View Drive at Summit Ave adjacent to Jackson Ballfields
3. E. Marine View Drive at 10th St adjacent to the senior retirement complex

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Improvement Project entitled “RRFB Pedestrian Safety” Fund 303, Program 134, to accumulate all costs for the improvement.



ORDINANCE NO. _____

An ORDINANCE creating a special improvement project entitled “RRFB Pedestrian Safety” Fund 303, Program 134, to accumulate all costs for the improvement.

WHEREAS,

- A.** The City of Everett is committed to a planned pedestrian safety program.
- B.** The City of Everett has identified the need and obtained funds to construct new pedestrian facilities at Sievers-Duecy Boulevard and East Marine View Drive.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special improvement project is hereby established as Fund 303, Program 134, entitled “RRFB Pedestrian Safety” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

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

Section 4. The sum of \$1,310,000 is hereby appropriated to Fund 303, Program 134, “RRFB Pedestrian Safety” as follows:

A.	Estimated Construction Costs	\$1,310,000
B.	Source of Funds	
	Climate Commitment Act Grant	\$1,286,000
	Fund 119 – Street Improvements	<u>24,000</u>
	Total Funds	\$1,310,000

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

Section 6. The City Council hereby declares that should any section, paragraph, sentence, clause, or

phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

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

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

Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



EVERETT CITY COUNCIL Public Comment Form

Thank you for being here today. Please fill out this form to speak at the council meeting.

State your name and city of residence when you begin speaking. Each person is asked to limit comments to three minutes. This allows everyone a fair opportunity to speak. Return this form to the council administrator before the meeting begins.

The following comments are not allowed:

- Comments on any kind of campaigning, whether for or against ballot measures or candidates running for office
- Comments focused on personal matters that are unrelated to City business

You can also submit a comment and attend meetings online at everettwa.gov/city-council. Click on "Council meeting public comment sign up form." This must be done at least 30 minutes prior to the meeting. Additional instructions are available on the web page.

City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: 10-15-25

NAME (required): Mary Rellins

CITY (required): Everett ZIP (required): 98203

EMAIL (optional): _____ PHONE (optional): _____

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

Is your topic on today's agenda?

☐ YES – the comment period will follow the agenda item

AGENDA ITEM #: _____

☒ NO – speak during general public comment, topic you would like to speak on:

Rights of the River
given 5 min. by Council Pres.



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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: 10/15/25

NAME (required): Liz Stenning

CITY (required): City of Lake Forest Park ZIP (required): 98155

EMAIL (optional): _____ PHONE (optional): _____

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

Is your topic on today's agenda?

☒ YES – the comment period will follow the agenda item

AGENDA ITEM #: 5

☐ NO – speak during general public comment, topic you would like to speak on:



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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: 10-15-2028

NAME (required): Charles McMurrey

CITY (required): Everett ZIP (required): 98200

EMAIL (optional): cmcmurrey@sbcslobn.net PHONE (optional): 201-923-9461

DISTRICT (circle one): 1 2 3 4 (5) Not sure Don't live in city

Is your topic on today's agenda?

☒ YES – the comment period will follow the agenda item

AGENDA ITEM #: 5 NO SIT NO LIE DOWN Rub

☐ NO – speak during general public comment, topic you would like to speak on:



EVERETT CITY COUNCIL Public Comment Form

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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: 10/16/25

NAME (required): SCOTT SPARLING

CITY (required): EVERETT ZIP (required): 98201

EMAIL (optional): _____ PHONE (optional): _____

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

Is your topic on today's agenda?

☒ YES – the comment period will follow the agenda item
AGENDA ITEM #: 5

☐ NO – speak during general public comment, topic you would like to speak on:
WANT TO SPEAK



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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: 10/15/2025

NAME (required): Bryan Partington

CITY (required): Everett ZIP (required): 98201

EMAIL (optional): _____ PHONE (optional): _____

DISTRICT (circle one): 1 (2) 3 4 5 Not sure Don't live in city

Is your topic on today's agenda?

☒ YES – the comment period will follow the agenda item

AGENDA ITEM #: 5

☐ NO – speak during general public comment, topic you would like to speak on:



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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: Oct. 15, 2025
NAME (required): Karen Nelson
CITY (required): Everett ZIP (required): 98204
EMAIL (optional): ktnelson512@comcast.net PHONE (optional): _____

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

Is your topic on today's agenda?

☐ YES – the comment period will follow the agenda item

AGENDA ITEM #: _____

☒ NO – speak during general public comment, topic you would like to speak on:

Fred Meyer Closure

1 SAMPLE COMPLAINT THAT IDENTIFIES THE ISSUES AT HAND TO SEEK AN INJUNCTION BY EVERETT,
2 THE STATE OF WASHINGTON, OR A CONSUMER, OR ALL OF THE ABOVE TO PREVENT KROGER FROM
3 SHUTTING DOWN THE EVERETT FRED MEYER.
4
5
6

7)
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22)
23)
24)
25)
26)
27)
28)

Petitioner,
vs.
KROGER,
Respondent.

INTRODUCTION

Kroger is engaging in anti-competitive market consolidation at the expense of some of the most vulnerable individuals in society and needs to be stopped.

AUTHORITY

KROGER is attempting to deprive consumers of choice. This action outlines the intentional market manipulation that reduces consumer welfare by Kroger in GROSS VIOLATION of WASHINGTON STATES ROBUST CONSUMER PROTECTION LAWS.

KROGER'S attempted action of closing down stores as outlined herein is a clear violation of FEDERAL ANTITRUST LAWS (SHERMAN ACT § 2 which prevents anticompetitive conduct that reduces consumer choice.

1
2 Additionally the store closure(Especially the Casino Road Fred Meyer in Everett that
3 is a necessity for the vulnerable-foot-traffic consumer base without other means of
4 transportation) effectively deprives community members of essential access to basic
5 necessities, creating a de facto taking of economic opportunity. While relief in the
6 form of an injunction is more firmly planted on solid ground via the Washington State
7 Consumer Protection Laws and the Sherman Act § 2 the rational and protections
8 underpinning the taking's clause of the 5th amendment to the Constitution is abundantly
9 persuasive in this matter.

10
11 *Vulnerable populations deserve protection including from Corporate Greed who's actions*
12 *are anti-competitive in intention and nature at the expense of the consumer and*
13 *therefore a direct violation of STATE AND FEDERAL LAW.*

14
15 As addressed herein the most similar clear cut case given the facts is:

16
17
18 In re: Tenet/CHS Hospital Antitrust Litigation, No. 3:13-cv-0040-TJC-TJM (M.D. Fla.)

19 **Case Background**

20
21 In 2010, a private equity firm, Cerberus Capital Management, acquired a controlling
22 interest in a group of hospitals in Florida. This acquisition was made through a
23 company called Community Health Systems (CHS). The acquisition included 7 hospitals in
24 a specific geographic area.

25 **Allegations and Litigation**

26 The acquisition and subsequent actions were challenged under Florida state antitrust
27 laws and federal antitrust laws, including the Sherman Act. The plaintiffs alleged
28

1 that the acquisition and the shutdown of two hospitals in the area constituted
2 anticompetitive behavior.

3 **Relevant Law and Court**

4
5 The case was brought under:

- 6 • **Florida Statutes § 501.201**, which prohibits anticompetitive practices.
- 7 • **Sherman Act, 15 U.S.C. § 1**, which prohibits contracts, combinations, and
8 conspiracies that restrain interstate or international trade.

9 The case was heard in the **United States District Court for the Middle District of**
10 **Florida**.

11 **Findings and Outcome**

12
13 The court found that the acquisition and shutdown of the hospitals did indeed
14 constitute anticompetitive behavior. The court ruled that the defendants had engaged
15 in an anticompetitive scheme to monopolize the market for acute inpatient hospital
16 services in the relevant geographic area.

17 **Felonies and Penalties**

18
19 The corporation and its executives were charged with various felonies, including:

- 20 • **Conspiracy to commit anticompetitive practices** (a felony under the Sherman Act)
- 21 • **Attempted monopolization** (a felony under the Sherman Act)

22 The company and certain executives pleaded guilty to charges related to
23 anticompetitive conduct and were required to pay significant fines and penalties.

24 **In re: Tenet/CHS Hospital Antitrust Litigation, No. 3:13-cv-0040-TJC-TJM (M.D. Fla.)**
25
26
27
28

1 Kroger should be stopped by the Court from shutting down it's grocery store on
2 Evergreen way which it is attempting to do for Unlawful-Anticompetitive reasons.
3 Kroger has unambiguously conspired to commit anti competitive practices.

4
5
6 #FACTUAL ALLEGATION #1
7

8 Kroger should never have been permitted to own two large competing grocery chains(QFC
9 and Fred Meyers) in the same geographical market. The risk(Why that merger shouldn't
10 have been attempted or permitted in the first place and which they likely promised at
11 the time no anticompetitive actions would arise from that merger) is always anti-
12 competitive activity. Anticompetitive activity can be in the form of price fixing or
13 "Downsizing the Combined Map;" Combined being the operative word.

14
15 An example of Downsizing the Combined map would be a large company(Like the hospital
16 version of Kroger listed above; *In re: Tenet/CHS Hospital Antitrust Litigation*) that
17 buys up 7 individual hospitals in a geographic region all operating at 65% to 70% bed
18 capacity then proceeds to shut down two of them.

19
20 None of the hospitals would have been shut down absent anticompetitive behavior. Now
21 the 5 hospitals are operating at close to 100% bed capacity, the public gets worse
22 service and are further away from emergency rooms which is ESPECIALLY concerning for
23 those without cars.

24
25 FACTUAL ALLEGATION #2
26

27 Kroger has demonstrated it's outright anti-competitive mindset in their recent failed
28 attempt to FURTHER COMBINE THE MAP in trying to merge with Albertsons(Which owns BOTH

1 Albertsons and Safeway.) No matter what Kroger cannot try to argue with an honest and
2 straight face that it doesn't have anticompetitive intent in its actions(Yielding
3 unlawful results) because it has already tried to form a true full market monopoly and
4 the Court Blocked that move by Kroger.

5
6 However, in Kroger's anticompetitive mind the story wasn't over--as part of that
7 attempted full-fledged market monopoly, during that analysis of the 'Options' it would
8 give them--Kroger ran the numbers on all the stores they could shutdown post-merger and
9 although the merger failed--Based on that same anti-competitive analysis Kroger ran--
10 some stores were identified as ones Kroger could shutdown anyway as fruit of the
11 leftover anti-competitive-poisonous-tree analysis---AN ANALYSIS THAT NOTABLY WAS BORN
12 OUT OF PURE ANTICOMPETITIVE INTENT.

13
14 FACTUAL ALLEGATION #3

15
16 When viewing the combined map-->All stores being shutdown in WA state have a sister
17 store in their vicinity. Tellingly, NOWHERE is both a Fredmeyer and QFC being
18 shutdown. ALWAYS, in ALL 5 CASES either one or the other is being shutdown NEVER BOTH
19 with the other being nearby. There can not be a more clear demonstration of a
20 combined-map-anticompetitive action.

21
22 FACTUAL ALLEGATION #4

23
24 The Everett Fred Meyer on Casino Road receives a lot of foot traffic from single
25 mothers and one parent homes who do not have a vehicle. The closest grocery store is
26 over a mile away and is across the highway. Rainy winters would present the closure of
27 this store as a huge(Potentially in some cases insurmountable) burden to already
28

1 heavy-ladened individuals that need protection from this type of predatory action
2 (Because they do not have the means or tools to protect themselves).

3
4 A Federal Court can stop this. The Attorney General in Washington state is being asked
5 to also intervene and have a heart for these vulnerable, disadvantaged, communities
6 that is comprised of many single parents with children who are already straddling the
7 door of homelessness.

8
9 FACTUAL ALLEGATION #5

10
11 Evidence demonstrates that at least at this store which Kroger had slotted for
12 shutting down (And likely others) that the store was receiving lower quality products
13 with lower quality standards (Clearly visible in the produce for example vs. the
14 produce in the Mill Creek Fred Meyers which Kroger had intentions of keeping open.)
15 Kroger Also allowed the store in Everett not to be up-kept to the same standards—then
16 after intentionally affecting the profits by differing store presentations and food
17 qualities for the same price, Kroger now claims that those stores that were less kept
18 up and given less quality ingredients were less profitable.

19
20 It is likely this store is running at a profit already(A Fact Kroger would be very
21 uncomfortable giving numbers for) and but for that disparate siphoning of worse
22 ingredients and intentional failure to upkeep to the same uniform standards IT WOULD
23 HAVE BEEN EVEN MORE PROFITABLE.

24
25 FACTUAL ALLEGATION #6

26
27 To mask their anti-competitive actions and intent Kroger has presented false
28 narratives and calculated disinformation that has wholly been demonstrated to be

1 false. Kroger at first said the reason for the shut down was was because of rising
2 crime. The Everett Police department has now reported that actually the crime has
3 fallen year over year for the past 5 years!!
4
5

6 CONCLUSION
7

8 Kroger can't just do something for anticompetitive reasons because in doing so it
9 oversteps both Federal and State laws preventing the very behavior Kroger is
10 attempting to pull off. If Fred Meyer's was owned by itself only(So Long as it didn't
11 violate the takings Clause of the 5th amendment to the Constitution) it could downsize
12 or upsize or whatever it wants--when however, one company owns two of the biggest
13 grocery store chains in the same geographic region and they say lets see how we can
14 manipulate the combined map, which was an analysis we arrived at based on monopolistic
15 intent while running the numbers because we were trying to combine the 4 biggest
16 grocery store chains in the market--And oh by the way we spent a billion dollars
17 trying to force that monopoly through and a Federal Court said no way and now are are
18 pivoting trying to say that due to that billion dollars we spent on our own volition
19 trying to create a full market monopoly with our nose upturned at all relevant law in
20 the process; that-that billion dollars we wasted is a reason for us to site diminished
21 profits for this year as a basis to engage in anti-competitive market consolidation at
22 the expense of some of the most SEVERELY ECONOMICALLY DISADVANTAGED AND VULNERABLE
23 members of society. NO ABSOLUTELY NOT.
24
25
26
27
28

One Voice Snohomish County

October 15, 2025



Mayor Cassie Franklin and City Council
City of Everett
2930 Wetmore Avenue
Everett, WA 98201

Dear Mayor Franklin, Council President
Schwab and Councilmembers,

“Human life is inseparable from the natural world that sustains us, alongside every other being.” (<https://celdf.org/rights-of-nature>, 2025)

A recent win for the Snohomish River Watershed within Everett (Initiative 24-03) was passed with the overwhelming support of Everett residents in November 2024. Now this win is in danger of being overturned in court because a lawsuit has been filed by powerful and well-funded opponents. The people of Everett deserve representation against this challenge. Our vote means nothing when anyone with enough money can undo the will of the residents of our community.

Legal standing allows residents to hold malefactors accountable and ensures that harm can be addressed BEFORE it becomes irreversible. The law enables residents, scientists, educators and community members to act as watchdogs for the watershed. Humans, with the ongoing push from industry, are continuing to harm the very world that we inhabit. We do not have a Planet B. If we continue on our current path there is no recovery. With

our current path, there is no recovery. With I24-03, the citizens of Everett came out in force to say “ENOUGH.”

We have since learned that the city attorney has expressed a legal opinion in opposition to defending I24-03. To this we respond that it is inadequate for our elected leadership to rely solely on the city attorney staff for legal opinions, especially when that opinion encourages a refusal to defend a voter-approved initiative. The city attorney's refusal may reflect a limited or conflicted interpretation of the law, rather than the will of the people or the broader interests of the community. In cases such as this, the Mayor and Council have a duty to seek independent legal counsel. This counsel should have expertise in relevant specialized areas of the law, to ensure that the democratically expressed intent of the voters receives a fair and competent defense. Relying solely on the city attorney staff under these circumstances undermines public trust and weakens the principle of representative governance.

To give the watershed within our borders the right to be a clean, living ecosystem, without harm caused by government or industry, is prudent and righteous. The law ensures that development will follow environmental safeguards. It prevents loopholes from being exploited. Further, I24-03 gives communities the legal authority to protect their natural resources directly.

When we continue to distress our natural world, the voices of people who advocate for the Rights of Nature will grow more insistent. We have the opportunity to be champions for a vibrant healthy natural environment.

With respect, we ask you to:

- Support the mechanisms that allow the public to enforce environmental protection without relying solely on governmental agencies.
- Empower the community by recognizing that citizens have the power to enact and enforce local environmental protections.
- Assist Everett residents to balance growth with protecting the health of our environment.

Please support the citizen voters and protect both our vote and the Watershed.

In unity,

John Agyapong

John Agyapong, President
Snohomish County Branch of the NAACP

Anita Dietrich

Anita Dietrich, Founder/Director
Snohomish County Indivisible

Mary Rollins

Mary Rollins, Co-Leader
350-Everett

From: John Hull <JHull@egmission.org>
Sent: Wednesday, October 8, 2025 5:16 PM
To: DL-Council; Angela Ely
Cc: Lacey Offutt; Jennifer Gregerson; Julie Willie
Subject: [EXTERNAL] Support of buffer zone continuance

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.

City of Everett Council Members,

I understand that the city's buffer zones are being considered for continuance. For discontinuance, please accept the following comments as support for continuance.

Subject: A few benefits of buffer zones around the 2020 shelter operated at the United Church of Christ.

Having the buffer zones around the shelter has decreased activity around the property. It has reduced the unintended impact of having a drop in shelter in the neighborhood by preventing encampment, picnicking, and entrenchment that disempower the neighbors and adds to the perception that they are not safe in their own community...including those that stay at the shelter.

For our staff it provides a tool when engaging our unhoused neighbors who aren't clearing out of the zone. Without the buffer an undue burden is put on our staff who are not equipped to enforce our good neighbor policy with those who are not staying at the shelter.

Finally, and all too often, those staying in our shelters are confused with unhoused neighbors who are not staying in our shelters who are creating negative effects in the neighborhood. This increases "Not in my Back Yard" problems for future development of helpful services in our community.

Thank you for your support to a healthy and flourishing city.

John Hull, CEO
Everett Gospel Mission

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: dawsonator47@gmail.com
Sent: Friday, October 10, 2025 8:46 AM
To: DL-Council
Subject: [EXTERNAL] No sit, no lie law

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I encourage you to extend the no sit, no lie law.

Thank you,
Jerry Dawson
8918 10th DR SE
Everett, WA 98208
425-623-7214

From: HOLLY POHLAND <hpohland@msn.com>
Sent: Sunday, October 12, 2025 3:34 PM
To: DL-Council
Subject: [EXTERNAL] Buffer Zone Ordinance Support

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 Everett City Councilmembers,

I am writing to express support for CB 2509-53, extending the buffer zone ordinance before it expires this year.

As a downtown business and property owner, I've seen significant improvements downtown with increased cleanliness. The buffer zones have helped with this momentum and continue to be an important way to increase the vibrancy and well-being of our community.

My customers have noticed a positive difference and mention they are starting to feel safer walking into my store.

We must support our business community, residents, and vulnerable population. Establishing buffer zones supports community members living and working near these locations and creates a safe environment for those receiving assistance.

Thank you for your attention to these matters. I urge you to vote in favor of Council Bill 2509-53

Regards -
Holly Burkett-s Pohland
Owner - Burkett's

Sent from [Outlook](#)

From: Craig Skotdal <craig@skotdal.com>
Sent: Monday, October 13, 2025 2:51 PM
To: DL-Council
Cc: Angela Ely
Subject: [EXTERNAL] Support CB 2509-53 | Buffer Zone Ordinance

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 Everett City Councilmembers,

I am writing to express support for CB 2509-53, extending the buffer zone ordinance before it expires this year.

As a downtown business and property owner, I've seen significant improvements in the urban center with increased cleanliness, foot traffic, and an overall positive environment. The buffer zones have helped with this momentum and continue to be an important way to increase the vibrancy and well-being of our community.

Many of the essential services that help people challenged by mental illness, addiction, and homelessness are provided through tax revenues from businesses and properties in economic development zones. Downtown Everett is one of the most important zones for attracting, retaining, and expanding economic opportunities in our community ... and funding essential services.

We must support our business community, residents, and vulnerable population. Establishing buffer zones supports community members living and working near these locations and creates a safe environment for those receiving assistance.

Thank you for your attention to these matters. ***I urge you to vote in favor of Council Bill 2509-53***

Sincerely,
Craig



Craig Skotdal
President | Portfolio Management
craig@skotdal.com

Skotdal Real Estate
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From: Karen <ktnelson512@comcast.net>
Sent: Wednesday, October 15, 2025 1:36 AM
To: Cassie Franklin; DL-Council
Subject: [EXTERNAL] Kroger.pdf
Attachments: Kroger.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Franklin and Everett City Council Members,

As a follow up to my email yesterday evening, I am submitting this information, PDF, as written communication, for tonight's city council meeting. I would like to have time to comment at the meeting and will arrive early to sign in. This relates to ongoing city projects as one of Mayor Cassie's top priorities is creating a prosperous city and to respond to street level issues. This topic is especially concerning because it has consequences for our vulnerable population - the elderly and low income residents.

I will bring additional copies of the sample injunction for tonight's meeting.

Thank you!

Karen Nelson
602-93rd St SW
Everett, WA 98204
425-404-1340

1 SAMPLE COMPLAINT THAT IDENTIFIES THE ISSUES AT HAND TO SEEK AN INJUNCTION BY EVERETT,
2 THE STATE OF WASHINGTON, OR A CONSUMER, OR ALL OF THE ABOVE TO PREVENT KROGER FROM
3 SHUTTING DOWN THE EVERETT FRED MEYER.
4
5
6

7)
8 ,)
9 Petitioner,)
10 vs.)
11 KROGER,)
12 Respondent.)

13
14 INTRODUCTION

15
16 Kroger is engaging in anti-competitive market consolidation at the expense of some of
17 the most vulnerable individuals in society and needs to be stopped.
18
19

20 AUTHORITY

21
22 KROGER is attempting to deprive consumers of choice. This action outlines the
23 intentional market manipulation that reduces consumer welfare by Kroger in GROSS
24 VIOLATION of WASHINGTON STATES ROBUST CONSUMER PROTECTION LAWS.
25

26 KROGER'S attempted action of closing down stores as outlined herein is a clear
27 violation of FEDERAL ANTITRUST LAWS (SHERMAN ACT § 2 which prevents anticompetitive
28 conduct that reduces consumer choice.

1
2 Additionally the store closure(Especially the Casino Road Fred Meyer in Everett that
3 is a necessity for the vulnerable-foot-traffic consumer base without other means of
4 transportation) effectively deprives community members of essential access to basic
5 necessities, creating a de facto taking of economic opportunity. While relief in the
6 form of an injunction is more firmly planted on solid ground via the Washington State
7 Consumer Protection Laws and the Sherman Act § 2 the rational and protections
8 underpinning the taking's clause of the 5th amendment to the Constitution is abundantly
9 persuasive in this matter.

10
11 *Vulnerable populations deserve protection including from Corporate Greed who's actions*
12 *are anti-competitive in intention and nature at the expense of the consumer and*
13 *therefore a direct violation of STATE AND FEDERAL LAW.*

14
15 As addressed herein the most similar clear cut case given the facts is:

16
17
18 **In re: Tenet/CHS Hospital Antitrust Litigation, No. 3:13-cv-0040-TJC-TJM (M.D. Fla.)**

19 **Case Background**

20
21 In 2010, a private equity firm, Cerberus Capital Management, acquired a controlling
22 interest in a group of hospitals in Florida. This acquisition was made through a
23 company called Community Health Systems (CHS). The acquisition included 7 hospitals in
24 a specific geographic area.

25 **Allegations and Litigation**

26
27 The acquisition and subsequent actions were challenged under Florida state antitrust
28 laws and federal antitrust laws, including the Sherman Act. The plaintiffs alleged

1 that the acquisition and the shutdown of two hospitals in the area constituted
2 anticompetitive behavior.

3 **Relevant Law and Court**

4
5 The case was brought under:

- 6 • **Florida Statutes § 501.201**, which prohibits anticompetitive practices.
- 7 • **Sherman Act, 15 U.S.C. § 1**, which prohibits contracts, combinations, and
8 conspiracies that restrain interstate or international trade.

9 The case was heard in the **United States District Court for the Middle District of**
10 **Florida**.

11 **Findings and Outcome**

12
13 The court found that the acquisition and shutdown of the hospitals did indeed
14 constitute anticompetitive behavior. The court ruled that the defendants had engaged
15 in an anticompetitive scheme to monopolize the market for acute inpatient hospital
16 services in the relevant geographic area.

17 **Felonies and Penalties**

18
19 The corporation and its executives were charged with various felonies, including:

- 20 • **Conspiracy to commit anticompetitive practices** (a felony under the Sherman Act)
- 21 • **Attempted monopolization** (a felony under the Sherman Act)

22 The company and certain executives pleaded guilty to charges related to
23 anticompetitive conduct and were required to pay significant fines and penalties.

24 **In re: Tenet/CHS Hospital Antitrust Litigation, No. 3:13-cv-0040-TJC-TJM (M.D. Fla.)**
25
26
27
28

1 Kroger should be stopped by the Court from shutting down it's grocery store on
2 Evergreen way which it is attempting to do for Unlawful-Anticompetitive reasons.
3 Kroger has unambiguously conspired to commit anti competitive practices.

4
5
6 #FACTUAL ALLEGATION #1
7

8 Kroger should never have been permitted to own two large competing grocery chains(QFC
9 and Fred Meyers) in the same geographical market. The risk(Why that merger shouldn't
10 have been attempted or permitted in the first place and which they likely promised at
11 the time no anticompetitive actions would arise from that merger) is always anti-
12 competitive activity. Anticompetitive activity can be in the form of price fixing or
13 "Downsizing the Combined Map;" Combined being the operative word.

14
15 An example of Downsizing the Combined map would be a large company(Like the hospital
16 version of Kroger listed above; *In re: Tenet/CHS Hospital Antitrust Litigation*) that
17 buys up 7 individual hospitals in a geographic region all operating at 65% to 70% bed
18 capacity then proceeds to shut down two of them.

19
20 None of the hospitals would have been shut down absent anticompetitive behavior. Now
21 the 5 hospitals are operating at close to 100% bed capacity, the public gets worse
22 service and are further away from emergency rooms which is ESPECIALLY concerning for
23 those without cars.

24
25 FACTUAL ALLEGATION #2
26

27 Kroger has demonstrated it's outright anti-competitive mindset in their recent failed
28 attempt to FURTHER COMBINE THE MAP in trying to merge with Albertsons(Which owns BOTH

1 Albertsons and Safeway.) No matter what Kroger cannot try to argue with an honest and
2 straight face that it doesn't have anticompetitive intent in its actions(Yielding
3 unlawful results) because it has already tried to form a true full market monopoly and
4 the Court Blocked that move by Kroger.

5
6 However, in Kroger's anticompetitive mind the story wasn't over—as part of that
7 attempted full-fledged market monopoly, during that analysis of the 'Options' it would
8 give them—Kroger ran the numbers on all the stores they could shutdown post-merger and
9 although the merger failed—Based on that same anti-competitive analysis Kroger ran—
10 some stores were identified as ones Kroger could shutdown anyway as fruit of the
11 leftover anti-competitive-poisonous-tree analysis---AN ANALYSIS THAT NOTABLY WAS BORN
12 OUT OF PURE ANTICOMPETITIVE INTENT.

13
14 FACTUAL ALLEGATION #3

15
16 When viewing the combined map-->All stores being shutdown in WA state have a sister
17 store in their vicinity. Tellingly, NOWHERE is both a Fredmeyer and QFC being
18 shutdown. ALWAYS, in ALL 5 CASES either one or the other is being shutdown NEVER BOTH
19 with the other being nearby. There can not be a more clear demonstration of a
20 combined-map-anticompetitive action.

21
22 FACTUAL ALLEGATION #4

23
24 The Everett Fred Meyer on Casino Road receives a lot of foot traffic from single
25 mothers and one parent homes who do not have a vehicle. The closest grocery store is
26 over a mile away and is across the highway. Rainy winters would present the closure of
27 this store as a huge(Potentially in some cases insurmountable) burden to already
28

1 heavy-ladened individuals that need protection from this type of predatory action
2 (Because they do not have the means or tools to protect themselves).

3
4 A Federal Court can stop this. The Attorney General in Washington state is being asked
5 to also intervene and have a heart for these vulnerable, disadvantaged, communities
6 that is comprised of many single parents with children who are already straddling the
7 door of homelessness.

8
9 FACTUAL ALLEGATION #5

10
11 Evidence demonstrates that at least at this store which Kroger had slotted for
12 shutting down (And likely others) that the store was receiving lower quality products
13 with lower quality standards (Clearly visible in the produce for example vs. the
14 produce in the Mill Creek Fred Meyers which Kroger had intentions of keeping open.)
15 Kroger Also allowed the store in Everett not to be up-kept to the same standards—then
16 after intentionally affecting the profits by differing store presentations and food
17 qualities for the same price, Kroger now claims that those stores that were less kept
18 up and given less quality ingredients were less profitable.

19
20 It is likely this store is running at a profit already(A Fact Kroger would be very
21 uncomfortable giving numbers for) and but for that disparate siphoning of worse
22 ingredients and intentional failure to upkeep to the same uniform standards IT WOULD
23 HAVE BEEN EVEN MORE PROFITABLE.

24
25 FACTUAL ALLEGATION #6

26
27 To mask their anti-competitive actions and intent Kroger has presented false
28 narratives and calculated disinformation that has wholly been demonstrated to be

1 false. Kroger at first said the reason for the shut down was was because of rising
2 crime. The Everett Police department has now reported that actually the crime has
3 fallen year over year for the past 5 years!!

6 CONCLUSION

7
8 Kroger can't just do something for anticompetitive reasons because in doing so it
9 oversteps both Federal and State laws preventing the very behavior Kroger is
10 attempting to pull off. If Fred Meyer's was owned by itself only(So Long as it didn't
11 violate the takings Clause of the 5th amendment to the Constitution) it could downsize
12 or upsize or whatever it wants--when however, one company owns two of the biggest
13 grocery store chains in the same geographic region and they say lets see how we can
14 manipulate the combined map, which was an analysis we arrived at based on monopolistic
15 intent while running the numbers because we were trying to combine the 4 biggest
16 grocery store chains in the market--And oh by the way we spent a billion dollars
17 trying to force that monopoly through and a Federal Court said no way and now are are
18 pivoting trying to say that due to that billion dollars we spent on our own volition
19 trying to create a full market monopoly with our nose upturned at all relevant law in
20 the process; that-that billion dollars we wasted is a reason for us to site diminished
21 profits for this year as a basis to engage in anti-competitive market consolidation at
22 the expense of some of the most SEVERELY ECONOMICALLY DISADVANTAGED AND VULNERABLE
23 members of society. NO ABSOLUTELY NOT.

From: Quynh Devitte <qdevitte@innventures.com>
Sent: Wednesday, October 15, 2025 1:45 PM
To: DL-Council
Subject: [EXTERNAL] Buffer Zone Ordinance - Everett City Council Action

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 Everett City Councilmembers,

I am writing to express support for CB 2509-53, extending the buffer zone ordinance before it expires this year.

As a downtown business, I've seen significant improvements downtown with increased cleanliness, foot traffic, and an overall positive environment. The buffer zones have helped with this momentum and continue to be an important way to increase the vibrancy and well-being of our community. My team and I feel safe coming in to work every day.

We must support our business community, residents, and vulnerable population. Establishing buffer zones supports community members living and working near these locations and creates a safe environment for those receiving assistance.

Thank you for your attention to these matters. I urge you to vote in favor of Council Bill 2509-53

Quynh Devitte
GENERAL MANAGER
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EVERETT, WA 98201
www.marriott.com/SEAEV

The logo for Inn Ventures, featuring a stylized 'Inn' in a script font followed by 'VENTURES' in a bold, sans-serif font.

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