

Everett City Council Agenda

12:30 P.M. April 27, 2016

City Council Chambers

Roll Call

Pledge of Allegiance

Approval of Minutes: April 20, 2016

Mayor's Comments

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

Citizen Comments

COUNCIL BRIEFING AGENDA: (These items come before the City Council serving as a Council Committee of the Whole and are likely to be scheduled at a future meeting.)

(1) CB 1604-20– 1st Reading –Ordinance adding portion of Waterfront Place Redevelopment area to Multiple Family Property Tax Exemption Program. (3rd and final reading and public hearing on 5-11-16).

Documents: [CB 1604-20.pdf](#)

(2) CB 1604-21– 1st Reading –Ordinance related to Disclosing Intimate Images, amending and adding a new section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC) and amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC). (3rd and final reading on 5-11-16).

Documents: [CB 1604-21.pdf](#)

PROPOSED ACTION ITEMS:

(3) CB 1604-16– 2nd Reading –Ordinance relating to the Inchoate Crimes of Criminal Attempt, Criminal Solicitation, and Criminal Conspiracy, amending and adding a new section to Ordinance No. 1145-85, as amended (Chapter 10.10 EMC). (3rd and final reading on 5-4-16).

Documents: [CB 1604-16.pdf](#)

(4) CB 1604-17– 2nd Reading –Ordinance creating a Special Construction Fund entitled "Main Library-Window Replacement", Fund 342, Program 019, authorizing the design and construction to replace the existing wood windows.(3rd and final reading

Documents: [CB 1604-17.pdf](#)

(5) CB 1604-18– 2nd Reading –Ordinance closing a Special Improvement Project entitled "Pedestrian Signals at Casino Road and Rucker Avenue, "Fund 303, Program 086, as established by Ordinance No. 3160-09. (3rd and final reading on 5-4-16).

Documents: [CB 1604-18.pdf](#)

(6) CB 1604-19– 2nd Reading –Ordinance closing Special Improvement Project entitled, “Evergreen Way and Pecks Drive – Intersection Safety,” Fund 303, Program 099, as established by Ordinance No. 3321-13. (3rd and final reading on 5-4-16).

Documents: [CB 1604-19.pdf](#)

CONSENT ITEMS:

(7) Resolution No. ____ authorizing claims against the City of Everett in the amount of \$1,684,001.11 for the period of April 9, 2016 through April 16, 2016.

Documents: [res-84.pdf](#)

ACTION ITEMS:

(8) Adopt the Resolution declaring the City’s intention to designate a portion of the Waterfront Place Urban Center under the Multiple Family property Tax Exemption provisions of R.C. W. Chapter 84.14 and setting May 11, 2016 as the date of the public hearing.

Documents: [Urban Center-2.pdf](#)

(9) Authorize the Mayor to sign the Professional Services Agreement with Perteeet, Inc to provide construction inspection services for HMA Overlay 2016 Project in an amount not to exceed \$57,839.00.

Documents: [HMA Overlay-1.pdf](#)

(10) Authorize the Mayor to sign the Professional Services Agreement with HWA GeoSciences, Inc. for the Beverly Lake Sanitary Sewer Replacement Project in the amount of \$52,401.00.

Documents: [Beverly Lake.pdf](#)

(11) Authorize the Mayor to sign the contract with CORT Party Rentals for the 4th of July Festival in the amount of \$2,946.35 including Washington State sales tax.

Documents: [4th of July.pdf](#)

(12) Authorize the Mayor to sign the contract with CORT Party Rentals for the Sorticulture event in the amount of \$405.35 including Washington State sales tax.

Documents: [Sorticulture.pdf](#)

(13) Authorize the Mayor to sign the application for Fiscal Year 2016 Bulletproof Vest Partnership award funding from the U. S. Department of Justice in the amount of \$24,072.00 as well as all related documentation to accept any funding.

Documents: [Vest Partnership-1.pdf](#)

(14) Authorize the Mayor to sign the Professional Services Agreement, Software Licensing Agreement, Software Maintenance Agreement and related Addenda with CourtView Justice Solutions in the amount of \$66,277.34 including Washington State sales tax.

Documents: [CourtView.pdf](#)

Executive Session

Adjourn

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EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Adding a portion of the Waterfront Place redevelopment area to the Multiple Family Property Tax Exemption program, and Amending Ordinance No. 2347-98, as amended (EMC Chapter 3.78)

_____	Briefing
_____	Proposed Action
_____	Consent
<u>05/11/16</u>	Action
<u>04/27/16</u>	First Reading
<u>05/04/16</u>	Second Reading
<u>05/11/16</u>	Third Reading
<u>05/11/16</u>	Public Hearing

COUNCIL BILL #	<u>CB1604-20</u>
Originating Department	<u>Planning</u>
Contact Person	<u>Allan Giffen</u>
Phone Number	<u>(425) 257-8725</u>
FOR AGENDA OF	<u>April 27, 2016</u>
	<u>May 4, 2016</u>
	<u>May 11, 2016</u>

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Port of Everett Waterfront Place Redevelopment	City Council master plan approval January 21, 2015	Ordinance	Planning, Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The City Council approved the master plan for Waterfront Place in January, 2015. The master plan includes areas where residential development is allowed. The Port of Everett has asked the City to establish the Multiple Family Property Tax Exemption area for a portion of the redevelopment plan (two parcels) that will be developed with mixed use retail and housing in the next phase of development. The cost of constructing rental housing on a fill site, combined with the plan to locate the required off-street parking within a parking structure, makes residential development infeasible in the current and foreseeable rental housing market in Everett. The property tax exemption would appear to make development of multiple-family housing economically viable.

The proposed ordinance establishes an "urban center" for the entire Waterfront Place development area, and a "residential targeted area" in a portion of the urban center in which the property tax exemption would apply.

RECOMMENDATION (Exact action requested of Council):

Adopt Ordinance Adding a portion of the Waterfront Place redevelopment area to the Multiple Family Property Tax Exemption program, and Amending Ordinance No. 2347-98, as amended (EMC Chapter 3.78).



ORDINANCE NO. _____

An Ordinance Adding a portion of the Waterfront Place redevelopment area to the Multiple Family Property Tax Exemption program, and Amending Ordinance No. 2347-98, as amended (EMC Chapter 3.78)

WHEREAS, the City Council finds the following:

1. In January, 2015, the Everett city council adopted Planned Development Overlay Zone and master plan for the Waterfront Place redevelopment area on property owned by the Port of Everett.
2. The purpose of the Waterfront Place redevelopment plan is to transform the waterfront property from its former industrial use to a high quality mixed use neighborhood with substantial public open space and public access to the shoreline, commercial, residential and public uses in a master planned new neighborhood.
3. The approved master plan includes areas for the development of up to 660 multiple family dwellings in various locations within the redevelopment area.
4. Housing is an integral component to the overall development, including the economic viability of the non-residential elements of Waterfront Place, such as restaurant and retail uses.
5. The Port of Everett development strategy for the first phase of housing within Waterfront Place is to sell land to a private housing developer for the purpose of building multiple family dwellings within mixed use buildings containing commercial uses on the ground floor and housing on upper floors.
6. The entire 65 acre upland area within Waterfront Place consists of fill that has been placed on former tidelands that has been used for maritime related industrial uses for decades.
7. The Port of Everett has cleaned up soils contaminated by the previous industrial uses of the area and replaced contaminated materials with clean fill.
8. Construction of multiple story buildings on this type of fill requires more costly foundation systems than constructing on native soils.
9. This more costly method of construction creates an economic challenge to the viability of building housing in the Waterfront Place redevelopment area, given the projected rents that can be supported by the Everett rental market for the near to mid-term future.
10. The City established the Multiple Family Property Tax Exemption program in 1998 to encourage residential redevelopment in the downtown urban center, which has resulted in

- the construction of nearly 1,000 housing units in an area that had experienced little housing development in the preceding twenty years prior to the creation of the program.
11. RCW 84.14.010 defines areas eligible for designation as “urban centers” where the Multiple Family Property Tax Exemption is intended to be used to stimulate housing development in targeted areas where a mix of uses and adequate urban infrastructure exists.
 12. As a planned new mixed use neighborhood, the area lacks sufficient desirable residential housing despite the need for additional housing in Everett.
 13. The City has been asked by the Port of Everett to expand the City’s Multiple Family Property Tax Exemption program to the first phase of planned housing development in Waterfront Place in order to make redevelopment of multiple family housing within the corridor more viable financially.
 14. Expanding the eligible area for the Multiple Family Property Tax Exemption program to include the area will create a financial incentive to develop quality housing as intended by EMC Chapter 3.78.
 15. The area proposed to be included in the Multiple Family Property Tax Exemption program is limited to the first phase of housing development within Waterfront Place.
 16. Certain amendments to EMC Chapter 3.78 are necessary to expand the City’s Multiple Family Property Tax Exemption program to this area to encourage the development of housing that will benefit Everett.
 17. RCW 84.14.040 requires the City to adopt a Resolution to establish a hearing date, and to provide public notice of the public hearing a minimum of 7 days and not more than 30 days prior to the date the City Council will consider the Ordinance to establish the North Broadway Urban Center.
 18. Notice of the City Council public hearing was provided in the Daily Herald within the time frame required by RCW 84.14.040.

WHEREAS, the City Council concludes the following:

1. The notice for public hearing has met the requirements of RCW 84.14.040.
2. The proposed amendments to EMC Chapter 3.78 will encourage the development of desirable residential housing in the planned Waterfront Place mixed use urban center.
3. The areas within the designated urban center area lack sufficient available, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the urban center, if such places to live were available.
4. The additional housing opportunity in the targeted area will assist in achieving the stated purposes of RCW 84.14.007, to encourage increased residential opportunities within the targeted area of the city, and stimulate the construction of new multifamily housing that will increase and improve residential opportunities within the urban centers.

5. The proposed amendment is consistent with the policies of the Everett Growth Management Comprehensive Plan and will promote densities called for in this Planned Development Overlay zone.
6. The proposed amendment is consistent with RCW Chapter 84.14.
7. The proposed amendment is in the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 3 of Ordinance No. 2347-98, as amended (EMC Chapter 3.78.030.M, Definition of “Urban center”), which reads as follows:

“Urban center” means (1) the Downtown Area, (2) the compact identifiable sections of the E-1 MUO zones, and (3) the North Broadway Urban Center, as each is described in Section 3.78.150 of this chapter, where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies, transit service, and a mixture of uses and activities that may include housing, recreation, cultural activities, commercial or office uses.

is hereby amended to read as follows:

“Urban center” means (1) the Downtown Area, (2) the compact identifiable sections of the E-1 MUO zones, ~~and~~ (3) the North Broadway Urban Center, ~~and~~ (4) the Waterfront Place Urban Center, as each is described in Section 3.78.150 of this chapter, where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies, transit service, and a mixture of uses and activities that may include housing, recreation, cultural activities, commercial or office uses.

Section 2. Section 7.D of Ordinance No. 2347-98, as amended (EMC 3.78.070.D), which reads as follows:

D. Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:

1. Location. The project must be located within the residential targeted area as designated pursuant to Section 3.78.150.
2. Tenant Displacement—Building Code Deficiency.
 - a. Tenant Displacement. If the property proposed to be rehabilitated is not vacant prior to application, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.
 - b. Building Code Deficiency. Existing dwelling units proposed for rehabilitation must fail to comply with one or more requirements of the State Building Code as adopted by the city or the

International Property Maintenance Code as adopted by the city as each are set forth in EMC Title [16](#).

3. Size. The project must include a minimum of:

a. Eight multifamily housing units in the downtown urban center, twenty multifamily housing units in the E-1 MUO urban centers, and twenty multifamily housing units in the North Broadway urban center; or

b. Eight units of rehabilitated multifamily housing; provided, that conversion of buildings originally constructed as single-family dwellings to multiple-family dwellings shall not be eligible for the property tax exemption provided herein; and further provided, that existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least eight units of rehabilitated multifamily housing.

4. Permanent Residential Housing. At least fifty percent of the space designated for multifamily housing must be provided for permanent residential occupancy, as defined in Section [3.78.030\(J\)](#) and only that portion of the space designated for multifamily housing shall be eligible for the exemption provided for herein.

5. Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application, plus any extension of time granted under Section [3.78.090\(B\)](#).

6. Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, housing and zoning codes, design guidelines, and any other applicable regulations in effect at the time the applicant submits a fully completed application to the director. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building and housing ordinance requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. The project must also comply with any other standards and guidelines adopted by the city for the residential targeted area in which the project will be developed.

7. Off-Street Parking.

a. The project must provide all required parking spaces on site, unless otherwise specifically authorized by the city council as a pilot program or demonstration project, or as may be allowed by a master plan adopted under the Institutional Overlay Zone as provided by Chapter [19.33B](#).

b. The parking requirements for multiple-family dwellings of the Everett zoning code are applicable to multifamily residences provided for in this chapter.

c. The term “parking spaces on site” means that all the parking required under applicable city codes and requirements shall be off-street parking and provided on the property subject to the application for tax exemption hereunder or on any contiguous parcel owned by the applicant and not separated by a street, alley, other public right-of-way, or property not owned by the applicant. The planning director may authorize the parking area for a multifamily residence which is subject to the application for tax exemption hereunder to be located on a contiguous parcel which is separated from the multifamily residence site by an alley, if topographic, environmental or space constraints prevent vehicle parking and maneuvering from being placed on the location otherwise required by this chapter. In approving the on-site parking on any parcel contiguous to the multifamily residence site, including any approved parcel separated by an alley, the planning director shall require the owner to execute and record a covenant running with the land, acceptable to the city attorney, dedicating such parking area to parking use, to terminate only in the event that the owner’s use which created the need for the parking on the owner’s property is abandoned, discontinued or otherwise terminated, or the owner provides parking in a contiguous alternate location which is acceptable to and approved by the city.

8. Building Materials. The planning director shall have the authority to, in consultation with the building official, promulgate minimum standards for the quality of building materials to be used on projects seeking the property tax exemption.

9. Design Requirements within the Downtown Area.

a. A project outside the B-3 zone, and any project in the B-3 zone that does not otherwise use at least two bonus elements provided in Section [19.22.020\(E\)](#) to qualify for floor area ratio or building height bonuses, shall include one bonus element provided in Section [19.22.020\(E\)](#) for each ten dwelling units or portion thereof, up to a maximum of three bonus elements. Any bonus element constituting a use that is not otherwise permitted in the zone in which the property is located may not be used to satisfy this requirement.

b. Projects in the B-3 zone that use at least two of the bonus elements in Section [19.22.020\(E\)](#) to qualify for floor area ratio or building height bonuses shall provide one additional bonus element provided in Section [19.22.020\(E\)](#) for each twenty dwelling units or portion thereof, up to a maximum of three additional bonus elements, unless the director determines that it is infeasible and the building otherwise provides high quality architectural design and building materials.

c. As an alternative to the bonus elements provided in subsection (D)(9)(a) or (D)(9)(b) of this section, the applicant may propose other design elements that enhance the livability of the project and/or the city’s urban center. Such proposals shall be subject to approval by the planning director, and the director shall have the authority to require changes to the proposed alternative to promote design quality and further the goals and objectives of the downtown plan. Such improvements or design measures must be in addition to the requirements of the city’s zoning, building or housing codes, including but not limited to:

- (1) Special treatment or use of specific architectural elements on building facades;
- (2) Special emphasis to accentuate building entrances;
- (3) Special treatment to enhance the streetscape;
- (4) Special treatment of building lobbies or foyers for the comfort, convenience and safety of residents;
- (5) Cleaning, repair, painting, or other functional improvements to existing buildings;
- (6) Removal of nonconforming signs from buildings or lots;
- (7) Preservation and/or restoration of historical elements of existing buildings in accordance with the Secretary of the Interior's standards for historic buildings;
- (8) Special design treatment to promote or enhance compatibility with the function, design or location of improvements on surrounding properties.

10. Design Requirements within the E-1 MUO (Mixed Use Overlay) Zone and the North Broadway Urban Center.

a. A multiple-family housing development within the E-1 MUO (Mixed Use Overlay) zone or the North Broadway urban center with a minimum of twenty dwelling units shall be eligible for the property tax exemption as provided in this chapter, provided it meets all of the standards of this chapter and at least two of the following requirements:

- (1) It provides a minimum of two hundred square feet of on-site common open space per dwelling unit accessible to the residents of the development. A minimum of one-half of this space shall be provided at or near the ground level, and shall be improved as required by the zone in which the property is located. The remainder of this open space area may be provided in one or more roof-top or terrace open space areas having a minimum horizontal dimension of twenty feet measured in any direction.
- (2) It provides a minimum of two hundred square feet of on-site common space per dwelling unit accessible for general use by residents and customers of mixed use commercial and residential development on site, improved as required by the zone in which the property is located.
- (3) It locates all required off-street parking for the residential dwelling units within a parking structure either below or above grade.
- (4) It provides off-site pedestrian-oriented street frontage improvements consistent with the standards of the zone in which the property is located on at least one adjacent site equivalent to

the amount of frontage that the subject property has on Evergreen Way or Broadway, as applicable. This section shall only apply for off-site improvements to properties that do not already meet the standards of the zone in which the property is located.

(5) For properties in the E-1 MUO zone, it provides, with the authorization of other owners of affected properties, a new pedestrian connection through other properties to abutting neighborhoods in a manner that, in the judgment of the planning director and city engineer, substantially improves pedestrian circulation between Evergreen Way and the abutting neighborhood. Such pedestrian connections shall be improved to standards appropriate for the safety of pedestrians and the security of abutting properties, as determined by the city engineer.

(6) It provides a minimum of ten percent of all dwelling units as affordable to households with a household income at or below fifty percent of median family income, adjusted for size, and a minimum of ten percent of all dwelling units as affordable to households with a household income between fifty percent and eighty percent of median family income, adjusted for size. Rental rates in such affordable housing shall not exceed thirty percent of the household's monthly income for rent and utilities, excluding telephone, Internet and television utility services.

b. **Combination of Amenities.** An applicant may propose a combination of amenities using a different standard than those described in subsection (D)(10)(a) of this section, and the planning director may approve a combination of amenities if such a combination results in a benefit to the public and/or the residents of the development at least equivalent to providing only one of the amenities listed in subsection (D)(10)(a) of this section. For example, an applicant may propose one hundred fifty square feet of open space per dwelling unit and seventy-five percent of the required off-street parking within a structure for consideration by the planning director. The director must evaluate the quality of the proposed design of the combination of two or more amenities to determine if they provide benefits to the public or residents that are at least as great as providing just a single amenity listed in subsection (D)(10)(a) of this section.

is hereby amended to read as follows:

D. **Project Eligibility.** A proposed project must meet the following requirements for consideration for a property tax exemption:

1. **Location.** The project must be located within the residential targeted area as designated pursuant to Section [3.78.150](#).

2. **Tenant Displacement—Building Code Deficiency.**

a. **Tenant Displacement.** If the property proposed to be rehabilitated is not vacant prior to application, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.

b. Building Code Deficiency. Existing dwelling units proposed for rehabilitation must fail to comply with one or more requirements of the State Building Code as adopted by the city or the International Property Maintenance Code as adopted by the city as each are set forth in EMC Title 16.

3. Size. The project must include a minimum of:

a. Eight multifamily housing units in the downtown urban center, twenty multifamily housing units in the E-1 MUO urban centers, and twenty multifamily housing units in the North Broadway urban center or the Waterfront Place urban center; or

b. Eight units of rehabilitated multifamily housing; provided, that conversion of buildings originally constructed as single-family dwellings to multiple-family dwellings shall not be eligible for the property tax exemption provided herein; and further provided, that existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least eight units of rehabilitated multifamily housing.

4. Permanent Residential Housing. At least fifty percent of the space designated for multifamily housing must be provided for permanent residential occupancy, as defined in Section 3.78.030(J) and only that portion of the space designated for multifamily housing shall be eligible for the exemption provided for herein.

5. Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application, plus any extension of time granted under Section 3.78.090(B).

6. Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, housing and zoning codes, design guidelines, and any other applicable regulations in effect at the time the applicant submits a fully completed application to the director. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building and housing ordinance requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. The project must also comply with any other standards and guidelines adopted by the city for the residential targeted area in which the project will be developed.

7. Off-Street Parking.

a. The project must provide all required parking spaces on site, unless otherwise specifically authorized by the city council as a pilot program or demonstration project, or as may be allowed by a master plan adopted under the Institutional Overlay Zone as provided by Chapter 19.33B, or as may be allowed by a master plan adopted under the Planned Development Overlay Zone as provided by Chapter 19.29.

b. The parking requirements for multiple-family dwellings of the Everett zoning code are applicable to multifamily residences provided for in this chapter, except as may be allowed by a master plan adopted under the Institutional Overlay Zone as provided by Chapter 19.33B, or as may be allowed by a master plan adopted under the Planned Development Overlay Zone as provided by Chapter 19.29.

c. The term “parking spaces on site” means that all the parking required under applicable city codes and requirements shall be off-street parking and provided on the property subject to the application for tax exemption hereunder or on any contiguous parcel owned by the applicant and not separated by a street, alley, other public right-of-way, or property not owned by the applicant. The planning director may authorize the parking area for a multifamily residence which is subject to the application for tax exemption hereunder to be located on a contiguous parcel which is separated from the multifamily residence site by an alley, if topographic, environmental or space constraints prevent vehicle parking and maneuvering from being placed on the location otherwise required by this chapter. In approving the on-site parking on any parcel contiguous to the multifamily residence site, including any approved parcel separated by an alley, the planning director shall require the owner to execute and record a covenant running with the land, acceptable to the city attorney, dedicating such parking area to parking use, to terminate only in the event that the owner’s use which created the need for the parking on the owner’s property is abandoned, discontinued or otherwise terminated, or the owner provides parking in a contiguous alternate location which is acceptable to and approved by the city.

8. Building Materials. The planning director shall have the authority to, in consultation with the building official, promulgate minimum standards for the quality of building materials to be used on projects seeking the property tax exemption.

9. Design Requirements within the Downtown Area.

a. A project outside the B-3 zone, and any project in the B-3 zone that does not otherwise use at least two bonus elements provided in Section 19.22.020(E) to qualify for floor area ratio or building height bonuses, shall include one bonus element provided in Section 19.22.020(E) for each ten dwelling units or portion thereof, up to a maximum of three bonus elements. Any bonus element constituting a use that is not otherwise permitted in the zone in which the property is located may not be used to satisfy this requirement.

b. Projects in the B-3 zone that use at least two of the bonus elements in Section 19.22.020(E) to qualify for floor area ratio or building height bonuses shall provide one additional bonus element provided in Section 19.22.020(E) for each twenty dwelling units or portion thereof, up to a maximum of three additional bonus elements, unless the director determines that it is infeasible and the building otherwise provides high quality architectural design and building materials.

c. As an alternative to the bonus elements provided in subsection (D)(9)(a) or (D)(9)(b) of this section, the applicant may propose other design elements that enhance the livability of the project and/or the city's urban center. Such proposals shall be subject to approval by the planning director, and the director shall have the authority to require changes to the proposed alternative to promote design quality and further the goals and objectives of the downtown plan. Such improvements or design measures must be in addition to the requirements of the city's zoning, building or housing codes, including but not limited to:

- (1) Special treatment or use of specific architectural elements on building facades;
- (2) Special emphasis to accentuate building entrances;
- (3) Special treatment to enhance the streetscape;
- (4) Special treatment of building lobbies or foyers for the comfort, convenience and safety of residents;
- (5) Cleaning, repair, painting, or other functional improvements to existing buildings;
- (6) Removal of nonconforming signs from buildings or lots;
- (7) Preservation and/or restoration of historical elements of existing buildings in accordance with the Secretary of the Interior's standards for historic buildings;
- (8) Special design treatment to promote or enhance compatibility with the function, design or location of improvements on surrounding properties.

10. Design Requirements within the E-1 MUO (Mixed Use Overlay) Zone and the North Broadway Urban Center.

a. A multiple-family housing development within the E-1 MUO (Mixed Use Overlay) zone or the North Broadway urban center with a minimum of twenty dwelling units shall be eligible for the property tax exemption as provided in this chapter, provided it meets all of the standards of this chapter and at least two of the following requirements:

- (1) It provides a minimum of two hundred square feet of on-site common open space per dwelling unit accessible to the residents of the development. A minimum of one-half of this space shall be provided at or near the ground level, and shall be improved as required by the zone in which the property is located. The remainder of this open space area may be provided in one or more roof-top or terrace open space areas having a minimum horizontal dimension of twenty feet measured in any direction.
- (2) It provides a minimum of two hundred square feet of on-site common space per dwelling unit accessible for general use by residents and customers of mixed use commercial and

residential development on site, improved as required by the zone in which the property is located.

(3) It locates all required off-street parking for the residential dwelling units within a parking structure either below or above grade.

(4) It provides off-site pedestrian-oriented street frontage improvements consistent with the standards of the zone in which the property is located on at least one adjacent site equivalent to the amount of frontage that the subject property has on Evergreen Way or Broadway, as applicable. This section shall only apply for off-site improvements to properties that do not already meet the standards of the zone in which the property is located.

(5) For properties in the E-1 MUO zone, it provides, with the authorization of other owners of affected properties, a new pedestrian connection through other properties to abutting neighborhoods in a manner that, in the judgment of the planning director and city engineer, substantially improves pedestrian circulation between Evergreen Way and the abutting neighborhood. Such pedestrian connections shall be improved to standards appropriate for the safety of pedestrians and the security of abutting properties, as determined by the city engineer.

(6) It provides a minimum of ten percent of all dwelling units as affordable to households with a household income at or below fifty percent of median family income, adjusted for size, and a minimum of ten percent of all dwelling units as affordable to households with a household income between fifty percent and eighty percent of median family income, adjusted for size. Rental rates in such affordable housing shall not exceed thirty percent of the household's monthly income for rent and utilities, excluding telephone, Internet and television utility services.

b. **Combination of Amenities.** An applicant may propose a combination of amenities using a different standard than those described in subsection (D)(10)(a) of this section, and the planning director may approve a combination of amenities if such a combination results in a benefit to the public and/or the residents of the development at least equivalent to providing only one of the amenities listed in subsection (D)(10)(a) of this section. For example, an applicant may propose one hundred fifty square feet of open space per dwelling unit and seventy-five percent of the required off-street parking within a structure for consideration by the planning director. The director must evaluate the quality of the proposed design of the combination of two or more amenities to determine if they provide benefits to the public or residents that are at least as great as providing just a single amenity listed in subsection (D)(10)(a) of this section.

11. Design Requirements in the Waterfront Place Urban Center. A multiple family housing development within the Waterfront Place Urban Center is eligible for the property tax exemption provided in this chapter provided it meets the development standards and design guidelines of the approved master plan adopted under the Planned Development Overlay Zone process of Chapter 19.29.

Section 3. Section 15 of Ordinance No. 2347-98, as amended (EMC 3.78.150) is amended by the addition of the following, which shall be codified as EMC 3.78.150.D. For the purposes of clarity and consistency with prior ordinances, the exhibit attached to this ordinance is marked as Exhibit D.

D. Waterfront Place Urban Center. The area declared the Waterfront Place urban center of the city of Everett is legally described below, and depicted as the Waterfront Place Urban Center on Exhibit D of this ordinance.

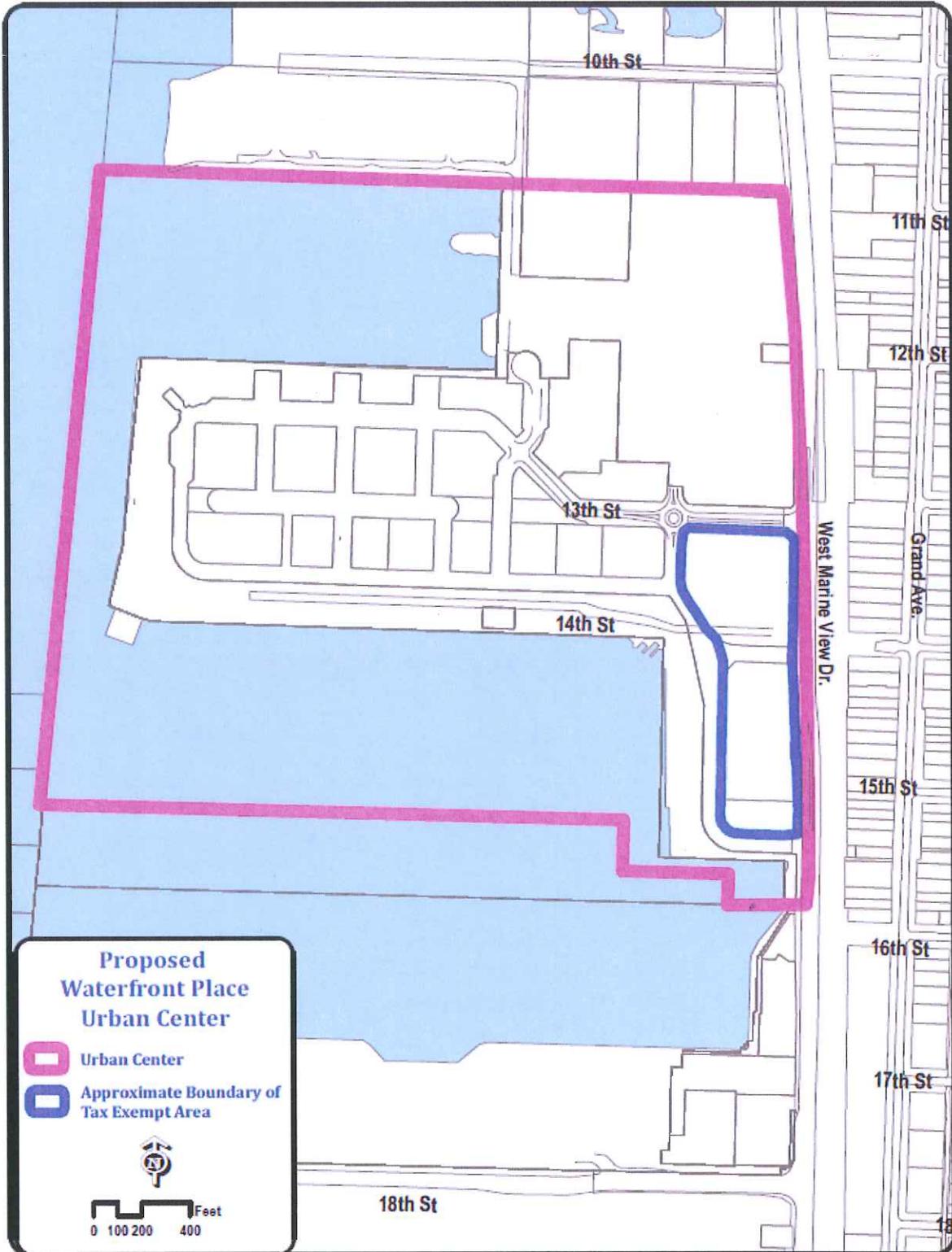
LEGAL DESCRIPTION

That portion of Tide Lands conveyed to The Everett Land Company by the State of Washington in that certain instrument recorded in Volume 30 of Deeds starting at page 162, under Auditor's File No. 24048, records of Snohomish County, Washington, in and fronting Government Lots 2 and 3 of Section 18, Township 29 North, Range 5 East of the Willamette Meridian, described as follows: Commencing at the Standard City Monument at the intersection of 14th Street and Grand Avenue, which monument is shown on Plat of Everett, Division "R", according to the Plat thereof recorded in Volume 6 of Plats, page 33, records of Snohomish County, Washington, and which monument is positioned 14.00 feet North and 22.00 feet East of the intersection of the center lines of said streets, and from said monument the Standard City Monument at the intersection of 14th Street and Rucker Avenue, as shown on said plat, bears South 89°52'00" East a distance of 354.13 feet, and from said monument the Standard City Monument at the intersection of 14th Street and Wetmore Avenue, as shown on said plat, bears South 89°52'00" East a distance of 1396.16 feet; thence North 89°52'00" West, along the monument line of 14th Street projected Westerly, which monument line is 14.00 feet North of the center line of 14th Street, as measured at right angles to said center line, a distance of 369.16 feet to the center line of that certain road known as Marine View Drive; thence continuing North 89°52'00" West a distance of 217.29 feet to the point of intersection of said monument line with the Westerly Margin of the Northern Pacific Railway Company right of way; thence North 1°15'00" West, along said Westerly Margin, a distance of 1481.43 feet to the True Point of Beginning; thence North 89°52'00" West a distance of 2154.56 feet to the point of intersection with the Government Pierhead Line; thence South 3°41'45" West, along said Government Pierhead Line, a distance of 2124.28 feet; thence North 89°41'40" East a distance of 1950.45 feet; thence South 0°18'20" East a distance of 170.62 feet; thence North 89°41'40" East a distance of 354.78 feet; thence South 0°18'20" East a distance of 102.17 feet; thence North 89°41'40" East a distance of 215.66 feet to the point of intersection with the Westerly Margin of said Marine View Drive; thence in a Northerly direction, along said Westerly Margin of Marine View Drive, on the following courses: North 0°26'58" West a distance of 263.60 feet, North 1°44'43" West a distance of 285.96 feet, South 88°15'17" West a distance of 6.00 feet, North 1°44'43" West a distance of 230.62 feet, South 89°50'10" East a distance of 6.00 feet, North 1°44'43" West a distance of 46.00 feet, North 89°52'00" West a distance of 6.00 feet, North 1°44'43" West a distance of 64.00 feet, South 89°52'29" East a distance of 6.00 feet, North 1°44'43" West a distance of 3.00 feet to the point of intersection of said Westerly Margin with said Monument line of 14th Street projected Westerly; thence North 1°44'43" West, along said Westerly Margin, a distance of 26.01 feet to the point of intersection of said Westerly Margin with the North Margin of said 14th Street projected Westerly; thence in a Northerly direction, along said Westerly Margin of Marine View Drive, on the following courses: North 1°44'29" West a distance of 17.10 feet, North 89°52'29" West a distance of 6.00 feet, North 1°44'29" West a distance of 295.04 feet; thence North 1°52'10" East a distance of 95.27 feet; thence North 1°44'29" West, along said Westerly Margin, a distance of 215.66 feet; thence on a curve, to the left, of said Westerly Margin, having a radius of 11314.19 feet, through a central angle of 4°07'25", an arc distance of 814.25 feet; thence North 5°51'54" West, along said Westerly Margin, a distance of 5.13 feet to the North Margin of 11th Street projected Westerly; thence North 89°52'00" West, along said North Margin projected Westerly, a distance of 135.01 feet to said Westerly Margin of the Northern Pacific Railway Company right of way; thence North 1°15'00" West, along said Westerly Margin, a distance of 15.01 feet to the True Point of Beginning. All containing 119.62 acres, more or less.

SUBJECT TO Easements of Record, Also SUBJECT TO City Street Rights of Way. 082003, 231920, CML-LS

Exhibit D

Waterfront Place Urban Center and Proposed Multi-Family Property Tax Exemption Area



Section 4. The residential targeted area in which the property tax exemption shall apply is the area within the Waterfront Place Urban Center depicted on Exhibit D of this ordinance labeled as “Approximate Boundary of Tax Exempt Area,” which is proposed Parcel A9 and Parcel A10 of a tentative Binding Site Plan and which comprises a portion of Section 18 of T.29N, R. 5E, W.M., situated in the city of Everett, Washington. However, the residential targeted area and its property tax exemption shall not become effective until a Binding Site Plan is recorded with the Snohomish County Auditor, and a legal description of the recorded parcels within the residential targeted area is provided to the City Clerk and approved by the Planning Director. Such approval shall not be given if any of parcels so legally described are located outside of the area marked as “Approximate Boundary of Tax Exempt Area” in Exhibit D to this ordinance. Upon such approval, the legal description of the residential targeted area parcels shall be added to the codified version of Exhibit D to this ordinance. Accordingly, Section 15.D of Ordinance No. 2347-98, as amended (EMC 3.78.070.D), which reads as follows:

D. Residential Targeted Area Designated. The areas hereby declared to be the residential targeted area of the city of Everett are the areas depicted on Exhibits A, B and C, which are attached to the ordinances codified in this section, and which are legally described in subsections A, B and C of this section.

is hereby amended to read as follows, and shall be codified as EMC 3.78.150.E:

E. Residential Targeted Area Designated. The areas hereby declared to be the residential targeted area of the city of Everett are:

(1) the areas depicted on Exhibits A, B, and C, which are attached to the ordinances codified in this section, and which are legally described in subsections A, B and C of this section;
and

(2) the area depicted as the Tax Exempt Area in Exhibit D to this ordinance.

Section 5. Severability. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6. Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 7. Corrections. 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 number and any references thereto.

Section 8. General Duty. 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.

Ray Stephanson, Mayor

ATTEST:

CITY CLERK

Passed: _____

Valid: _____

Published: _____

Effective Date: _____

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Relating to Disclosing Intimate Images, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC), and Amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC)

- _____ Briefing
- _____ Proposed Action
- _____ Consent
- _____ Action
- _____ First Reading
- _____ Second Reading
- _____ Third Reading
- _____ Public Hearing

COUNCIL BILL #
 Originating Department
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1604-21

 Legal

 Flora Diaz

 425-257-7012

 April 27, 2016

Initialed by:
 Department Head
 CAA
 Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance (final, redlined)	<u>Department(s) Approval</u> Legal
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Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This proposed ordinance adopts into the Everett Municipal Code (EMC) a new gross misdemeanor crime created in the 2015 legislative session (RCW 9A.86.010) regarding the wrongful disclosure of intimate images, colloquially referred to as "revenge pornography."

As a gross misdemeanor, it is punishable by a maximum penalty of 364 days in jail and a \$5,000.00 fine.

This proposed ordinance would also incorporate the new wrongful disclosure of intimate images crime into the City's definition of Harassment (EMC 10.23.050). This means that the municipal court may better protect the public by issuing protection orders restraining a person charged with the crime of wrongful disclosure of intimate images from contacting the victim.

Finally, this proposed ordinance would adopt a new misdemeanor crime pursuant to EMC 10.18.020 for aiding/abetting the commission of the new wrongful disclosure of intimate images crime.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to Disclosing Intimate Images, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC), and Amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC).

ORDINANCE No. _____

AN ORDINANCE Relating to Disclosing Intimate Images, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC), and Amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC).

Whereas, in the 2015 legislative session, the State of Washington created a new law criminalizing the wrongful disclosure of intimate images, RCW 9A.86.010. Commission of this crime under State law is a gross misdemeanor; and

Whereas, 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 ordinances; and

Whereas, this new criminal law is related to existing criminal laws against Telephone Harassment and Cyberstalking, Chapter 10.18 EMC, and the Everett City Council therefore deems it appropriate to codify this new criminal law within Chapter 10.18 EMC; and

Whereas, the Everett City Council deems it appropriate for the City of Everett criminal laws to incorporate corresponding State law, that the City of Everett may prosecute such crimes;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Ordinance No. 1145-85, as amended by Ordinance No. 3067-08, Section 1 and by Ordinance No. 2449-00, Section 1, is hereby amended by the addition of the following section which will be codified as EMC 10.18.027:

Disclosing intimate images.

A. A person commits the crime of disclosing intimate images when the person knowingly discloses an intimate image of another person and the person disclosing the image:

1. Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private;
2. Knows or should have known that the depicted person has not consented to the disclosure; and
3. Knows or reasonably should know that disclosure would cause harm to the depicted person.

B. This section does not apply to:

1. Images involving voluntary exposure in public or commercial settings; or

2. Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment.

C. This section does not impose liability upon the following entities solely as a result of content provided by another person:

1. An interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2);
2. A provider of public or private mobile service, as defined in section 13-214 of the public utilities act; or
3. A telecommunications network or broadband provider.

D. It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

E. For purposes of this section:

1. "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer;

2. "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

a. Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

b. A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or post-pubescent female nipple.

F. The crime of disclosing intimate images is a gross misdemeanor.

G. Nothing in this section is construed to:

1. Alter or negate any rights, obligations, or immunities of an interactive service provider under 47 U.S.C. Sec. 230; or

2. Limit or preclude a plaintiff from securing or recovering any other available remedy.

Section 2. Section 33 of Ordinance No. 1145-85, as amended by Section 2 of Ordinance No. 3067-08 (EMC 10.18.020), which reads as follows:

Permitting telephone or electronic communications device to be used for telephone harassment or cyberstalking.

Any person who knowingly permits any telephone or electronic communications device under his control to be used for any purpose prohibited by Section 10.18.010 or section 2 of this Ordinance shall be guilty of a misdemeanor.

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

Permitting telephone or electronic communications device to be used for telephone harassment, ~~or cyberstalking,~~ or disclosure of intimate images.

Any person who knowingly permits any telephone or electronic communications device under his control to be used for any purpose prohibited by Section 10.18.010, ~~or section 2 of this Ordinance 10.18.025,~~ or section 1 of this ordinance shall be guilty of a misdemeanor.

Section 3. Section 1 (part) and Section 6 of Ordinance No. 1521-88, as amended by Section 5 of Ordinance No. 3067-08 (EMC 10.23.050), which reads as follows:

Crimes included in harassment.

As used in this chapter, “harassment” may include but is not limited to any of the following crimes:

- A. Harassment (Chapter 10.23);
- B. Telephone Harassment (Section 10.18.010);
- C. Assault (Section 10.16.040);
- D. Reckless Endangerment (Section 10.16.040);
- E. Coercion (Section 10.16.040);
- F. Criminal Trespass in the First Degree (Section 10.68.030);
- G. Criminal Trespass in the Second Degree (Section 10.68.040);
- H. Criminal Mischief (Section 10.66.040);
- I. Interference with Property (Section 10.66.020);
- J. Stalking (Section 10.16.050);

K. Cyberstalking (Section 3 of this Ordinance).

L. Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW).

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

Crimes included in harassment.

As used in this chapter, “harassment” may include but is not limited to any of the following crimes:

A. Harassment (Chapter 10.23);

B. Telephone Harassment (Section 10.18.010);

C. Assault (Section 10.16.040);

D. Reckless Endangerment (Section 10.16.040);

E. Coercion (Section 10.16.040);

F. Criminal Trespass in the First Degree (Section 10.68.030);

G. Criminal Trespass in the Second Degree (Section 10.68.040);

H. Criminal Mischief (Section 10.66.040);

I. Interference with Property (Section 10.66.020);

J. Stalking (Section 10.16.050);

K. Cyberstalking (Section ~~3 of this Ordinance~~ 10.18.025);

L. Disclosing Intimate Images (Section 1 of this Ordinance).

LM. Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW).

Section 4. Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation. The City Council of the City of Everett hereby

declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. General Duty

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

Section 6. Savings

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. Corrections

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 references thereto.

Ray Stephanson, Mayor

ATTEST:

City Clerk

Passed:

Valid:

Published:

Effective Date:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Relating to the _____ Briefing
 Inchoate Crimes of Criminal _____ Proposed Action
 Attempt, Criminal Solicitation, _____ Consent
 and Criminal Conspiracy, _____ Action
 Amending and Adding a New _____ First Reading
 Section to Ordinance No. _____ Second Reading
 1145-85 as amended (Chapter _____ Third Reading
 10.10 EMC) _____ Public Hearing

COUNCIL BILL # CB11004-16
 Originating Department Legal
 Contact Person Hil Kaman
 Phone Number 425-257-8762
 FOR AGENDA OF April 20, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President [Signature]

Location Preceding Action Attachments Department(s) Approval
 Ordinance (final, redlined) Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

State law has changed since our ordinance relating to the inchoate crimes of criminal attempt, criminal solicitation, and criminal conspiracy was last updated.

This proposed ordinance would adopt the Revised Code of Washington sections relating to criminal attempt, criminal solicitation, and criminal conspiracy to make this section of the Everett Municipal Code consistent with State law.

Case law has also changed since this ordinance was last updated, requiring the addition of a new section regarding Class C felonies in the Revised Code of Washington. This update is important because criminal attempt of a class C felony is a gross misdemeanor.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to the Inchoate Crimes of Criminal Attempt, Criminal Solicitation, and Criminal Conspiracy, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.10 EMC).

ORDINANCE No. _____

AN ORDINANCE Relating to the Inchoate Crimes of Criminal Attempt, Criminal Solicitation, and Criminal Conspiracy, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.10 EMC).

Whereas, state law and case law regarding the inchoate crimes of criminal attempt, criminal solicitation, and criminal conspiracy have changed since this ordinance was last updated; and

Whereas, 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 ordinances; and

Whereas, the Everett City Council deems it appropriate for the City of Everett criminal laws to match corresponding State law;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Ordinance No. 1145-85, Section 28, as amended by Ordinance No. 2369-99, Section 1 (EMC 10.10.010), ~~which reads~~ **hereby amended** as follows:

Criminal attempt.

- A. A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.
- B. If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.
- C. An attempt to commit a crime is a:
 - 1. Gross misdemeanor when the crime attempted is a class C felony;
 - 2. Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor.

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

Criminal attempt.

~~A.—A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.~~

~~B.— If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.~~

~~C.— An attempt to commit a crime is a:~~

~~1.— Gross misdemeanor when the crime attempted is a class C felony;~~

~~2.— Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor.~~

The following Revised Code of Washington (RCW) section is adopted by reference in all respects as though such section was set forth herein in full, as currently enacted or as hereafter amended or recodified: Chapter 9A.28.020 RCW, entitled “Criminal attempt.”

Section 2. Ordinance No. 1145-85, Section 29 (EMC 10.10.020), ~~which reads~~ **is hereby amended** as follows:

Criminal solicitation.

A. A person is guilty of criminal solicitation when, with intent to promote or facilitate the commission of an offense under the ordinances of the city, he offers to give or gives money or thing of value to another to engage in specific conduct which would constitute such offense or which would establish complicity of such other person in its commission or attempted commission had such offense been attempted or committed.

B. Criminal solicitation is a misdemeanor.

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

~~A.— A person is guilty of criminal solicitation when, with intent to promote or facilitate the commission of an offense under the ordinances of the city, he offers to give or gives money or thing of value to another to engage in specific conduct which would constitute such offense or which would establish complicity of such other person in its commission or attempted commission had such offense been attempted or committed.~~

~~B.— Criminal solicitation is a misdemeanor.~~

The following Revised Code of Washington section is adopted by reference in all respects as though such section was set forth herein in full, as currently enacted or as hereafter amended or recodified: Chapter 9A.28.030 RCW, entitled “Criminal solicitation.”

Section 3. Ordinance No. 1145-85, Section 30 (EMC 10.10.030), ~~is which reads~~ **is hereby amended** as follows:

Criminal conspiracy.

A. A person is guilty of criminal conspiracy when, with intent that conduct constituting an offense under the ordinances of the city be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

B. It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:

1. Has not been prosecuted or convicted; or
2. Has not been convicted of a different offense; or
3. Is not amenable to justice; or
4. Has been acquitted; or
5. Lacked the capacity to commit an offense.

C. Criminal conspiracy is a misdemeanor.

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

Criminal conspiracy.

~~A.—A person is guilty of criminal conspiracy when, with intent that conduct constituting an offense under the ordinances of the city be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.~~

~~B.—It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:~~

- ~~1.— Has not been prosecuted or convicted; or~~
- ~~2.— Has not been convicted of a different offense; or~~
- ~~3.— Is not amenable to justice; or~~
- ~~4.— Has been acquitted; or~~
- ~~5.— Lacked the capacity to commit an offense.~~

~~C.—Criminal conspiracy is a misdemeanor.~~

The following Revised Code of Washington (RCW) section is adopted by reference in all respects as though such section was set forth herein in full, as currently enacted or as hereafter amended or recodified: Chapter 9A.28.040 RCW, entitled "Criminal conspiracy."

Section 4. Ordinance No. 1145-85, as amended by Ordinance No. 2369-99, Section 1, is hereby amended by the addition of the following section which will be codified as EMC 10.10.040:

Adoption of RCW sections not specifically set forth.

All class C felony crimes set forth in the Revised Code of Washington (RCW) are hereby adopted by reference for the purposes of charging a gross misdemeanor for a violation of any of the crimes set forth in Chapter 10.10 EMC.

Section 5. Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation. The City Council of the City of Everett hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. General Duty

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

Section 7. Savings

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. Corrections

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 references thereto.

Ray Stephanson, Mayor

ATTEST:

City Clerk

Passed:

Valid:

Published:

Effective Date:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance creating the special construction fund entitled "Main Library – Window Replacement", Fund 342, Program 019, authorizing the design and construction to replace the existing wood windows

_____ Consent
 _____ Action
 4/20/16 First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing

COUNCIL BILL # CB1604-17
 Originating Department Facilities
 Contact Person Chris Lark
 Phone Number 425-257-8846
 FOR AGENDA OF April 20, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President _____

Location 2702 Hoyt Avenue Preceding Action None Attachments Ordinance Department(s) Approval Facilities, Library

Amount Budgeted	\$325,000.00	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	Fund 342, Program 019
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The existing wood windows at the Main Library date back to its original construction in the 1934. Time and the elements have taken their toll on the windows and they have rotted out to the point that water is infiltrating the building and damaging the existing plaster. This project is intended to replace all existing wood windows. Since the Main Library is on the Washington Heritage Register but not listed on the National Register or Everett Register, a formal review process of the replacements is not required. Facilities Department will, however, present the window design to the Everett Historical Commission prior to engaging in the bid process.

The estimated cost of the project is as follows:

Design	\$ 24,000
Construction	\$ 300,000
<u>Project Costs</u>	<u>\$ 1,000</u>
TOTAL	\$ 325,000

The source of funds will be CIP 1.

RECOMMENDATION:

Adopt an Ordinance creating the special construction fund entitled "Main Library – Window Replacement", Fund 342, Program 019, authorizing the design and construction to replace the existing wood windows.

ORDINANCE NO. _____



AN ORDINANCE creating the special construction fund entitled "Main Library Window Replacement Project", Fund 342, Program 019, authorizing the design and construction to replace the existing wood windows at the Main Library.

WHEREAS, the City Council has recognized the need to replace the existing wood windows located at 2702 Hoyt Avenue.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: A special construction fund is hereby established as Fund 342, Program 019 entitled "Main Library Window Replacement Project" to accumulate the design and construction costs required to replace the existing wood windows.

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

Section 3: The estimated cost of the project, including costs related to design, construction, equipment, and contract administration shall be determined at the completion of design development.

Section 4: The sum of \$325,000.00 is hereby appropriated to Fund 342, Program 019 "Main Library Window Replacement Project".

A. Use of Funds	
Design	\$ 24,000
Construction	300,000
Project Costs	<u>1,000</u>
Total	\$ 325,000

B. Source of Funds	
CIP 1	\$325,000

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

Section 5: The City Treasurer of the City of Everett is hereby authorized to negotiate a reasonable rate of interest and obtain temporary financing to satisfy interim construction costs. Temporary financing shall be redeemed as soon as reimbursement is received.

Section 6: Severability. If any provision of this ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that this ordinance would have been enacted without the provision so held unconstitutional or invalid and the remainder of this ordinance shall not be affected as a result of said part being unconstitutional or invalid.

CITY OF EVERETT

Ray Stephanson, Mayor

Attest:

Sharon Fuller, City Clerk

Passed:

Valid:

Published:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance closing a special improvement project entitled "Pedestrian Signals at Casino Road and Rucker Avenue," Fund 303, Program 086, as established by Ordinance No. 3160-09

- _____ Briefing
- _____ Proposed Action
- _____ Consent
- _____ Action
- _____ First Reading
- _____ Second Reading
- _____ Third Reading
- _____ Public Hearing
- _____ Budget Advisory

COUNCIL BILL # CB1604-18
 Originating Department Public Works
 Contact Person Ryan Sass
 Phone Number (425) 257-8942
 FOR AGENDA OF April 20, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President [Signature]

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Casino Road and Rucker Avenue	Ordinance No. 3160-09	Proposed Ordinance	Public Works

Amount Budgeted	\$ 540,000	
Expenditure Required	\$ 539,999	Account Number(s): PW 3405
Budget Remaining	\$ 1	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This project provided for the design and construction of two pedestrian traffic signals to improve the safety of transit riders crossing two high-volume arterial streets. One signal enhanced what was only a striped crosswalk across Casino Road, adjacent to the Swift Bus Rapid Transit (BRT) station on Evergreen Way.

The second signal was installed midblock on Rucker Avenue, adjacent to the Swift BRT station at the Everett Clinic. In addition to the two traffic signals, the project also constructed curb bulb-outs, Americans with Disability Act compliant curb ramps, and minor drainage work.

Total costs include design and construction of \$442,874 and remaining balance transfer to Fund 119 of \$97,125 for a total of \$539,999.

The funding sources for the project were:

State Grant – HLP-PB09(008)	\$ 399,999
Fund 119 – Street Improvements	<u>140,000</u>
Total Funds	\$ 539,999

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance closing a special improvement project entitled "Pedestrian Signals at Casino Road and Rucker Avenue," Fund 303, Program 086, as established by Ordinance No. 3160-09.



ORDINANCE NO. _____

AN ORDINANCE closing a special improvement project entitled, "Pedestrian Signals at Casino Road and Rucker Avenue," Fund 303, Program 086, as established by Ordinance No. 3160-09

WHEREAS, the special improvement project entitled "Pedestrian Signals at Casino Road and Rucker Avenue" Fund 303, Program 086, was established to provide for identified improvements; and

WHEREAS, the purpose of the fund has been accomplished; and

WHEREAS, there are neither outstanding obligations of the fund to be paid nor uncollected revenues to be received;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1:

That the special improvement project entitled "Pedestrian Signals at Casino Road and Rucker Avenue" Fund 303, Program 086, as established by Ordinance No. 3160-09, be closed.

Section 2:

That the final expenses and revenues for the "Pedestrian Signals at Casino Road and Rucker Avenue" Fund 303, Program 086, are as follows:

A. Expenses

Design and Construction	\$ 442,874	
Remaining Balance Transfer	<u>97,125</u>	
Total Expenses		\$ 539,999

B. Source of Funds

State Grant – HLP-PB09(008)	\$399,999	
Fund 119 – Street Improvements	<u>140,000</u>	
Total Revenues		\$ 539,999

Section 3:

There are no financial transactions remaining.

RAY STEPHANSON, MAYOR

ATTEST:

CITY CLERK

Passed:

Valid:

Published:

Effective:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance closing a special improvement project entitled, "Evergreen Way and Pecks Drive - Intersection Safety," Fund 303, Program 099, as established by Ordinance No. 3321-13

_____ Briefing
 _____ Proposed Action
 _____ Consent
 _____ Action
 _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # CB1604-19
 Originating Department Public Works
 Contact Person Ryan Sass
 Phone Number (425) 257-8942
 FOR AGENDA OF April 20, 2016

Initialed by:
 Department Head _____
 CAA ds
 Council President [Signature]

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Evergreen Way and Pecks Drive	Final Acceptance: October 22, 2014	Proposed Ordinance	Public Works

Amount Budgeted	\$411,000	
Expenditure Required	\$268,209	Account Number(s): PW 3544
Budget Remaining	\$142,791	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This project constructed pedestrian and traffic signal safety improvements at the intersection of Evergreen Way and Pecks Drive. These improvements included left turn arrows, new traffic signal poles, traffic signal backplate visibility improvements, accessible pedestrian signals, street lighting improvements, pavement marking improvements, and Americans with Disability Act compliant curb ramps.

The project cost was significantly under the engineer's estimate due to utilizing existing conduits where available which avoided cutting and restoration expenses.

The funding source for this project was:

Federal Grant – Highway Safety Improvements (HSIP) \$ 268,209

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance closing a special improvement project entitled, "Evergreen Way and Pecks Drive - Intersection Safety," Fund 303, Program 099, as established by Ordinance No. 3321-13.



ORDINANCE NO. _____

AN ORDINANCE closing a special improvement project entitled, "Evergreen Way and Pecks Drive - Intersection Safety," Fund 303, Program 099, as established by Ordinance No. 3321-13

WHEREAS, the special improvement project entitled "Evergreen Way and Pecks Drive - Intersection Safety" Fund 303, Program 099, was established to provide for identified improvements; and

WHEREAS, the purpose of the fund has been accomplished; and

WHEREAS, there are neither outstanding obligations of the fund to be paid nor uncollected revenues to be received;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1:

That the special improvement project entitled "Evergreen Way and Pecks Drive - Intersection Safety" Fund 303, Program 099, as established by Ordinance No. 3321-13, be closed.

Section 2:

That the final expenses and revenues for the "Evergreen Way and Pecks Drive - Intersection Safety" Fund 303, Program 099, are as follows:

A. Expenses

Design and Construction	<u>\$ 268,209</u>
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Total Expenses	\$ 268,209
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B. Source of Funds

Federal Grant – HSIP – 2791(005)	<u>\$ 268,209</u>
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Total Revenues	\$ 268,209
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Section 3:

There are no financial transactions remaining.

RAY STEPHANSON, MAYOR

ATTEST:

CITY CLERK

Passed:

Valid:

Published:

Effective:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

A Resolution declaring the City's intention to designate Waterfront Place as an Urban Center under the Multiple Family Property Tax Exemption provisions of RCW Chapter 84.14, and setting May 11, 2016 as the date for a public hearing	04/13/16	Briefing	COUNCIL BILL #	
		Proposed Action	Originating Department	Planning
		Consent	Contact Person	Allan Giffen
	04/27/16	Action	Phone Number	(425) 257-8725
		First Reading	FOR AGENDA OF	04/13/16
		Second Reading		04/27/16
		Third Reading		
		Public Hearing		

Initialed by:
 Department Head
 CAA
 Council President

db


<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Port of Everett Waterfront Place Redevelopment	City Council master plan approval January 21, 2015	Proposed Resolution and map	Planning, Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT: The City Council approved the master plan for Waterfront Place in January, 2015. The master plan includes an area where residential development is allowed. The Port of Everett has asked the City to establish the Multiple Family Property Tax Exemption area for a portion of the redevelopment plan (two parcels) that will be developed with mixed use retail and housing in the next phase of development. The cost of constructing rental housing on a fill site, combined with the plan to locate the required off-street parking within a parking structure, makes residential development infeasible in the current and foreseeable rental housing market in Everett. The property tax exemption would appear to make development of multiple-family housing economically viable.

State law requires the City to adopt a Resolution stating its intention to establish the area as an urban center, and to establish a public hearing date. Adopting the attached Resolution sets the date for that public hearing on May 11, 2016.

RECOMMENDATION (Exact action requested of Council): Adopt Resolution declaring the City's intention to designate a portion of the Waterfront Place Urban Center under the Multiple Family Property Tax Exemption provisions of RCW Chapter 84.14, and setting May 11, 2016 as the date for a public hearing.

RESOLUTION NO. _____

A Resolution declaring the City's intention to designate Waterfront Place as an Urban Center under the Multiple Family Property Tax Exemption provisions of RCW Chapter 84.14, and setting May 11, 2016 as the date for a public hearing

WHEREAS, RCW Chapter 84.14 provides for the establishment of "urban centers" in which qualifying multiple family housing developments are exempt from the payment of property taxes for a limited period of time; and

WHEREAS, it is the purpose of RCW Chapter 84.14 to encourage increased residential opportunities, and to stimulate the construction of new multifamily housing, including affordable housing, in urban centers having insufficient housing opportunities.

WHEREAS, RCW 84.14.040 requires a city to adopt a Resolution declaring its intention to designate or modify the boundaries of an urban center under RCW Chapter 84.14 and establish the time and place of a public hearing to be held for such purposes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EVERETT DOES HEREBY RESOLVE THE FOLLOWING:

1. A Public Hearing will be held on Wednesday, May 11, 2016, at the regular meeting of the City Council, which begins at 6:30 pm, in the City Council Chambers of the William E. Moore Historic City Hall, 3002 Wetmore Avenue.
2. A vicinity map identifying the area proposed to be designated as an urban center is attached hereto as Exhibit A.
3. The area to be eligible for the property tax exemption is the area depicted on Exhibit A as "Approximate Boundary of Tax Exempt Area."

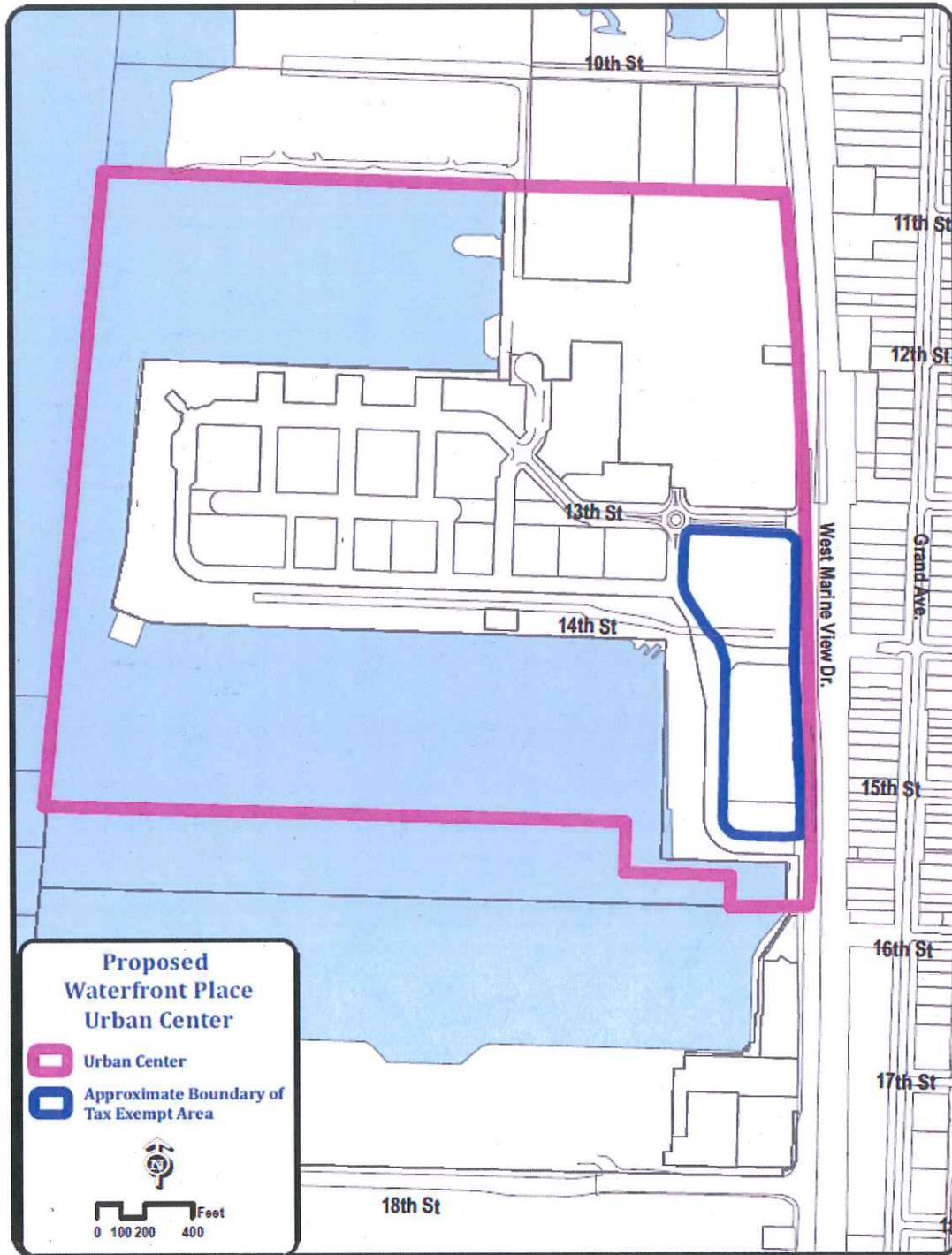
Councilmember Introducing Resolution

Date

City Council President

Exhibit A

Waterfront Place Multi-Family Property Tax Exemption Area



EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Professional Services Agreement with Perteet, Inc to provide construction inspection services for the HMA Overlay 2016 Project

- Briefing
- Proposed Action
- Consent
- Action
- First Reading
- Second Reading
- Third Reading
- Public Hearing
- Budget Advisory

COUNCIL BILL # _____
 Originating Department Public Works
 Contact Person Mike Kangas
 Phone Number 425-257-7731
 FOR AGENDA OF April 27, 2016

Initialed by:
 Department Head _____
 CAA _____
 Council President dlb

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Various locations as required for HMA Overlay 2016		Professional Services Agreement, Location Map	Public Works, Legal

Amount Budgeted	\$100,000.00	
Expenditure Required	\$57,839.00	Account Number(s): PW 3619
Budget Remaining	\$42,161.00	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This agreement will provide supplemental construction inspection and reporting services including but not limited to construction observation and reporting with minor amounts of personnel management, administrative support and accounting for the HMA Overlay 2016 Project, in the amount of \$57, 839.

The additional observation and reporting will primarily be utilized for night shift work, supplementing City staff tasked with covering day shift work.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Professional Services Agreement with Perteet, Inc to provide construction inspection services for the HMA Overlay 2016 Project, in an amount not to exceed \$57,839.00.

**CITY OF EVERETT
PROFESSIONAL SERVICES AGREEMENT**

This Professional Service Agreement (this "Agreement") is dated _____ 20____, and is between the City of Everett, a Washington municipal corporation and Perteet, Inc (the "Service Provider").

1. Engagement of Service Provider. Service Provider shall provide the services described in the attached Exhibit A (the "Scope of Work" or the "Work"). The Service Provider shall perform the Work in a competent and professional manner. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider's design shall be reasonably accurate, adequate and suitable for its intended purpose.

2. Parts of the Agreement. This Agreement consists of this signed document, the Scope of Work attached as Exhibit A, the compensation provisions attached as Exhibit B, the reimbursable expenses provisions attached as Exhibit C, and the General Conditions attached as Exhibit D. If the Service Provider's proposal is attached as an exhibit or as part of an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into the Agreement between the City and Service Provider.

3. Date of Contract Completion: December 31, 2016

4. Maximum Total Compensation Amount: \$ 57,839.00

5. Service Provider Notice Address:

Perteet, Inc
2707 Colby, Suite 900
Everett, WA 98201

6. City Notice Address:

City of Everett
Attn: Mike Kangas
3101 Cedar Street
Everett, WA 98201

7. City Billing Address:

City of Everett
Attn: Mike Kangas
3101 Cedar Street
Everett, WA 98201

The City and Service Provider have executed this Agreement as of the date first above written.

**CITY OF EVERETT,
WASHINGTON**

Ray Stephanson, Mayor

Date

ATTEST:

Sharon Fuller, City Clerk

Date

APPROVED AS TO FORM:

James D. Iles, City Attorney

Date

SERVICE PROVIDER: Please fill in the spaces and sign in the box appropriate for your business entity.

Corporation

Full Legal Name **Perteet, Inc.**

Signature: 

Name of Signer: **Crystal L. Donner**

Title of Signer: **President**

Partnership

Full Legal Name:

Signature: _____, Partner

Name of Signer:

Sole Proprietor

Signature: _____, Sole Proprietor

Name:

Limited Liability Company

Full Legal Name

Signature: _____, Managing Member

Name of Signer:

EXHIBIT A
SCOPE OF WORK

The scope of work is to provide supplement inspection services including but not limited to construction observation and reporting with minor amounts of personnel management, administrative support and accounting for the HMA Overlay 2016 Project, work order #PW 3619. Total cost estimate is presented as EXHIBIT B.1, Supplemental Inspection Cost Summary. Service provider payment will occur in accordance with Alternate A in EXHIBIT B and mileage expenses in accordance with EXHIBIT C.

The supplemental observation and reporting will primarily be utilized for night shift work supplementing city forces tasked with covering normal day shift work.

**EXHIBIT B
COMPENSATION**

ALTERNATE A [HOURLY RATE UP TO A MAXIMUM AMOUNT]

The City shall pay the Service Provider a sum equal to the amount of hours actually worked multiplied by the rate identified herein for the staff performing the Work, subject to the maximum stated in ¶4(D) of the General Conditions.

NAME	TITLE	RATE
	Principle	\$225.00 per hour
	Senior Associate	\$190.00 per hour
	Const. Eng. III	\$125.00 per hour
	Contract Admin	\$95.00 per hour
	Accountant	\$90.00 per hour

ALTERNATE B [LUMP SUM]

The City shall pay Service Provider \$ _____ upon the completion of the Work, subject to the maximum stated in ¶4(D) of the General Conditions.

ALTERNATE C [PROGRESS PAYMENTS]

The City shall pay the Service Provider the following amounts upon the completion of the following tasks, subject to the maximum stated in ¶4(D) of the General Conditions:

TASK	PAYMENT AT TASK COMPLETION

Exhibit B.1



Project: Everett, 2016 Construction Inspection Services Contract Start Date: 4/18/2016 Last Update date: 4/11/2016
 Client: City of Everett Contract End Date: 12/31/2016 Perteet Project No.: 20160070.000
 PM: William Mitchell Contract Duration: 8 Months

Task	Billing Rate	Principal	Sr. Associate	Construction Engineer III	Contracts Administrator	Accountant	Total Hours	Labor Dollars
		\$225.00	\$190.00	\$125.00	\$95.00	\$90.00		
Project Management		2.00	24.00		4.00	8.00	38.00	6,110.00
Total Project Management		2.00	24.00		4.00	8.00	38.00	6,110.00
Construction Inspection				408.00			408.00	51,000.00
Total Construction Inspection				408.00			408.00	51,000.00
Total Hours		2.00	24.00	408.00	4.00	8.00	446.00	
Total Dollars		\$450.00	\$4,560.00	\$51,000.00	\$380.00	\$720.00		\$57,110.00

Expenses:	1,350 miles	
Mileage - \$.54		729
Totals:		729

SUMMARY		
Labor		57,110.00
Expenses		729.00
Subconsultants		
CONTRACT TOTAL		57,839.00

**EXHIBIT C
EXPENSES**

TYPE OF EXPENSE	MAX PER ITEM	CUMULATIVE MAX
Mileage at .54 per mile	\$729.00	\$729.00

**EXHIBIT D
GENERAL CONDITIONS**

1. Scope of Work. Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work.

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

3. Time of Beginning and Completion of Performance. The Agreement shall commence as of the Date of Contract Commencement and shall be completed by the Date of Contract Completion.

4. Compensation.

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

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

C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those types and amounts of expenses either listed in Exhibit C or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. If Exhibit C is either blank or not attached, expenses may not be reimbursed unless prior written approval was obtained from the City. An expense shall not be reimbursed if: (1) the expense is not identified in Exhibit C; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified in Exhibit C; or (3) the expense was not approved in writing by an authorized City representative prior to the Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for the Service Provider.

D. Total compensation, including all services and expenses, shall not exceed the Maximum Total Compensation Amount.

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

5. Method of Payment.

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

B. All requests for payment should be sent to the payment address on the first page of the Agreement.

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

7. Termination of Contract. City reserves the right to terminate the Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by fax, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, the Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section 7 shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, certified or registered mail, return receipt requested, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as fax. The City does not by this Section 7 waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of the Agreement. At its sole option, City may deduct from the final payment due the Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.

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

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

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

11. Insurance.

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

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

2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

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

4. Professional Errors and Omissions Insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 in the annual aggregate. Such coverage may be written on a claims made basis. If both parties agree that the Work does not warrant Service Provider providing Professional Errors and Omissions Insurance, this Section 11.A.4 may be stricken and initialed by both parties.

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

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

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

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

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

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

12. Independent Contractor.

A. The Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under the Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section 12. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.

B. In addition to the other requirements of this Section 12, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with the Agreement, by certifying to the following:

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

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

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

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

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

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

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

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

13. Employment. The Service Provider warrants that he had not employed or retained any company or person, other than a bona fide employee working solely for the Service Provider, to solicit or secure the Agreement and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, the City shall have the right to annul the Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

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

15. City of Everett Business License. Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to the Agreement.

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

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

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

19. Compliance with the Washington State Public Records Act. Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to the Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to the Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under the Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section 18.

20. Equal Employment Opportunity. Service Provider shall not discriminate against any employee, applicant for employment, independent Service Provider, or proposed independent Service Provider, on the basis of race, color, religion, sex, age, disability, marital state, or national origin.

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

22. Complete Agreement. The Agreement contains the complete and integrated understanding and Agreement between the parties and supersedes any understanding, Agreement or negotiation whether oral or written not set forth herein.

23. Modification of Agreement. The Agreement may be modified as provided in ¶8, or by a writing explicitly identified as a modification of the Agreement that is signed by authorized representatives of the City and the Service Provider.

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

25. Notices.

A. Notices to the City of Everett shall be sent to the notice address on the first page of the Agreement.

B. Notices to the Service Provider shall be sent to the notice address on the first page of the Agreement.

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

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

Client#: 326377

PERTEINC

ACORDTM

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/13/2016

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

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

PRODUCER Kibble & Prentice, a USI Co PR 601 Union Street, Suite 1000 Seattle, WA 98101	CONTACT NAME: PHONE (A/C, No, Ext): 206 441-6300		FAX (A/C, No): 610-362-8528
	E-MAIL ADDRESS: pl.certrequest@kpc.com		
INSURED Perteet, Inc. P.O. Box 1186 Everett, WA 98206-1186	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Travelers Indemnity Company of		25682
	INSURER B : Travelers Casualty and Surety C		31194
	INSURER C :		
	INSURER D :		
	INSURER E :		
INSURER F :			

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			6809A973147	06/27/2015	06/27/2016	EACH OCCURRENCE	\$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COM/OP AGG	\$2,000,000
								\$
GEN'L AGGREGATE LIMIT APPLIES PER:								
<input type="checkbox"/>	POLICY	<input checked="" type="checkbox"/>	PRO-JECT	<input type="checkbox"/>	LOC			\$
A	AUTOMOBILE LIABILITY			BA9A974666	06/27/2015	06/27/2016	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS		<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS		<input checked="" type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB		<input type="checkbox"/> OCCUR				EACH OCCURRENCE	\$
	EXCESS LIAB		<input type="checkbox"/> CLAIMS-MADE				AGGREGATE	\$
	DED		RETENTION \$					\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			6809A973147 (WA Stop Gap)	06/27/2015	06/27/2016	WC STATU-TORY LIMITS	<input checked="" type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$1,000,000
							E.L. DISEASE - POLICY LIMIT	\$1,000,000
B	Professional Liability			106321064	06/27/2015	06/27/2016	\$2,000,000 per claim \$2,000,000 annl aggr.	

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

RE: City of Everett 2016 Construction Inspection Services.

The General Liability policy includes an automatic Additional Insured endorsement that provides Additional Insured status to the City of Everett, only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured.

CERTIFICATE HOLDER City of Everett Attn: Mark Kangas 3101 Cedar Street Everett, WA 98201	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to WHO IS AN INSURED (Section II):

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- e. This insurance does not apply to the rendering of or failure to render any "professional services".
- f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the **LIMITS OF**

INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily

COMMERCIAL GENERAL LIABILITY

injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Cov-

erage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Professional Services
 Agreement with HWA
 GeoSciences Inc. for the
 Beverly Lake Sanitary Sewer
 Replacement project

- Briefing
- Proposed Action
- Consent
- Action
- First Reading
- Second Reading
- Third Reading
- Public Hearing
- Budget Advisory

COUNCIL BILL # _____
 Originating Department Public Works
 Contact Person Ed Fisher, P.E.
 Phone Number 425-257-8932
 FOR AGENDA OF April 27, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
75 th St. SW and Evergreen Way	None	Professional Services Agreement	Public Works, Legal

Amount Budgeted	\$170,000.00	
Expenditure Required	\$52,401.00	Account Number(s): UP3529-1
Budget Remaining	\$93,343.00	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This project involves replacement of various sanitary sewer mains located adjacent to Beverly Lake near 75th Street SW and Evergreen Way. Existing lines are in poor condition and have experienced grease and sewer backups resulting in frequent maintenance.

This Professional Services Agreement includes geotechnical engineering services for evaluating existing site conditions and providing design recommendations. Services include field verification, data compilation, laboratory testing and submission of various geotechnical engineering reports, and will cost the City an amount not to exceed \$52,401.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Professional Services Agreement with HWA GeoSciences Inc. for the Beverly Lake Sanitary Sewer Replacement project, in the amount not to exceed \$52,401.00.

**CITY OF EVERETT
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT made and entered into on this _____ day of _____, _____, by and between the **CITY OF EVERETT**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the “City,” and HWA GeoSciences Inc., whose address is 21312 30th Drive SE, Suite 110, Bothell, WA 98021, hereinafter referred to as the “Service Provider.”

WHEREAS, the City desires to engage the Service Provider to provide geotechnical engineering services for Beverly Lake Sewer Replacement project for the City of Everett; and

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

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

1. **Engagement of Service Provider.** The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the attached "Exhibit A - Scope of Work". The Scope of Work so identified is hereafter referred to as “Work”. Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider’s proposal is attached as an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider’s design shall be reasonably accurate, adequate and suitable for its intended purpose.
2. **Intellectual Property Rights.** Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
3. **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of execution of this Agreement and shall be completed by December 31, 2017.

4. Compensation.

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

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

C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those types and amounts of expenses either listed in Exhibit C or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. If Exhibit C is either blank or not attached, expenses may not be reimbursed unless prior written approval was obtained from the City. An expense shall not be reimbursed if: (1) the expense is not identified in Exhibit C; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified in Exhibit C; or (3) the expense was not approved in writing by an authorized City representative prior to the Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for the Service Provider.

D. Total compensation, including all services and expenses, shall not exceed a maximum of fifty two thousand four hundred and one Dollars (\$52,401.00).

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

5. Method of Payment.

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

B. All requests for payment should be sent to:

City of Everett
Attn.: Ed Fisher, P.E.
3200 Cedar Street
Everett, WA 98201

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

7. **Termination of Contract.** City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by fax, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, the Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section 7 shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, certified or registered mail, return receipt requested, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as fax. The City does not by this Section 7 waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, City may deduct from the final payment due the Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.

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

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

10. **Indemnification.** Except as otherwise provided in this Section 10, the Service Provider hereby agrees to defend and indemnify the City from any and all Claims arising out of, in

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

11. Insurance.

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

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

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

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

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

4. Professional Errors and Omissions Insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 in the annual aggregate. Such coverage may be written on a claims made basis. If both parties agree that the Work does not warrant Service Provider providing Professional Errors and Omissions Insurance, this Section 11.A.4 may be stricken and initialed by both parties.

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

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

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

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

F. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title.

Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

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

12. Independent Contractor.

A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section 12. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.

B. In addition to the other requirements of this Section 12, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:

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

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

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

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

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

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

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

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

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

13. Employment. The Service Provider warrants that he had not employed or retained any company or person, other than a bona fide employee working solely for the Service Provider, to solicit or secure this Agreement and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

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

15. City of Everett Business License. Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.

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

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

18. **Compliance with the Washington State Public Records Act.** Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section 18.

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

20. **Equal Employment Opportunity.** Service Provider shall not discriminate against any employee, applicant for employment, independent Service Provider, or proposed independent Service Provider, on the basis of race, color, religion, sex, age, disability, marital state, or national origin.

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

22. **Complete Agreement.** This Agreement contains the complete and integrated understanding and Agreement between the parties and supersedes any understanding, Agreement or negotiation whether oral or written not set forth herein.

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

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

25. **Notices.**

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

City of Everett
Attn.: Ed Fisher, P.E.
3200 Cedar Street
Everett, WA 98201

B. Notices to the Service Provider shall be sent to the following address:

HWA GeoSciences Inc
21312 30th Drive SE, Suite 110
Bothell, WA 98021

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

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

IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement as of the date first above written.

**CITY OF EVERETT,
WASHINGTON**

Ray Stephanson, Mayor

Date

ATTEST:

APPROVED AS TO FORM:

Sharon Fuller, City Clerk

James D. Iles, City Attorney

Date

Date

EXHIBIT A
SCOPE OF WORK

Exhibit A – All Design Scope of Services including Optional Services (Analytical Testing) for Project (UP 3529) are included as noted in the attached "Exhibit A", provided by HWA GeoSciences Inc.

Exhibit B – Compensation

The City shall pay the Service Provider a sum equal to the amount of hours actually worked multiplied by the rate identified herein for the staff performing the Work, subject to the maximum stated in ¶4(D) of this Agreement. See attached HWA GeoSciences Inc. Exhibit B, "Project Cost Estimate" (Including all Scope of Services' costs itemized by Task with labor hour estimates).

Exhibit C – Reimbursable Expenses

These expenses are included on Exhibit B as "ODCs or Subconsultant Services"



HWA GEOSCIENCES INC.

Geotechnical & Pavement Engineering • Hydrogeology • Geoenvironmental • Inspection & Testing

Exhibit A

April 12, 2016

HWA Project No. 2016-P044-21

City of Everett

3200 Cedar Street

Everett, Washington 98201

Attention: Ed Fisher, P.E.

Subject: **Geotechnical Engineering Services
Beverly Lake Sewer Improvements
Everett, Washington**

Dear Ed:

As requested, HWA GeoSciences Inc. (HWA) is pleased to present this scope of work to provide geotechnical engineering services for the assessment of the Beverly Lake Sewer Improvements in Everett, Washington.

PROJECT UNDERSTANDING

It is our understanding that the City of Everett would like to reconstruct portions of the sewer lines serving the apartment and condo buildings situated along the eastern end of Beverly Lake. We understand that the current sewer system consists of a series of gravity lines and associated manholes. A review of the geologic map of the area suggests that the Beverly Lake area is underlain by very dense glacial till soils. However, we expect that the near surface soils in the vicinity of Beverly Lake consist of soft and potentially compressible bog soil materials. This assumption is supported by the fact that consolidation settlement of the portions of the system, located near the edge of the lake, has occurred. Settlement of the system has resulted in the need for chronic maintenance of the system. We understand that the City has developed several possible improvement alternatives that could serve to alleviate the need to regular maintenance of the system. These alternatives include improvements such as changing the alignment of the utilities, adding lift stations and small grinder pumps to improve the functionality of the system.

We understand that the City of Everett desires to evaluate the soil and slope conditions in the vicinity of the system to help in developing and designing a preferred sewer improvement alternative.

21312 30th Drive SE
Suite 110
Bothell, WA 98021.7010

Tel: 425.774.0106
Fax: 425.774.2714
www.hwageo.com

April 12, 2016

HWA Project No. 2016-P044-21

GEOTECHNICAL ENGINEERING SERVICES

- **Review Available Geotechnical Information:** HWA will review existing readily-available geotechnical and geologic information in the project area. This will include a review of online databases and geologic maps.
- **Plan Field Exploration Program:** HWA shall plan an appropriate field exploration program HWA shall coordinate with local drillers to determine the best drilling equipment for each exploration, given the site constraints and exploration objectives.
- **Generate Field Exploration Memo:** HWA shall generate a field exploration memo that outlines our proposed field exploration program. This memo will be used to convey critical information to the city for permitting and approval processes. The memo will include a narrative explaining the type, depth, location and timing of our proposed field explorations. A figure showing the locations of our proposed field explorations, laydown areas and access points will be provided.
- **Conduct Utility Locates:** Prior to conducting our field explorations HWA will call for utility locates. In addition, HWA will also retain a private utility locating service to clear the proposed exploration locations on private property and coordinate with the owner's representative regarding utility layout
- **Conduct Steep Slope Reconnaissance:** An HWA geologist and geotechnical engineer will conduct a one day reconnaissance of the steep slope areas to the east of the lake. This reconnaissance will include a detailed evaluation of existing slope features and the advancement of hand explorations at strategic locations to further classify the soils conditions along the slope. The approximate locations of the proposed hand borings are indicated in Figure 1. This effort will be focused on evaluating the stability of the near surface soils along the ravine in the vicinity of the bridge structure.
- **Conduct Subsurface Explorations:** Upon approval, HWA shall conduct the proposed field exploration program, which includes a total of ten (10) borings. The approximate location of our proposed limited access machine drilled borings are indicated in Figure 1. Each of these borings will be drilled with a limited access rubber tracked bobcat mounted drill rig or a tripod mounted drill rig. Each boring will be drilled to a depth of 25 feet or 5 feet into very dense glacial soils, which ever is less. We expect that drilling these borings will take approximately 3 days to complete. Groundwater monitoring wells will be installed in three (3) of the ten (10) borings. During drilling and sampling the observed soils will be screened for visual signs or odors indicating the potential of contaminated soils. If the presence of potentially contaminated soils are observed, the samples will be collected and sent to a laboratory for analytical analysis. Any analytical

April 12, 2016

HWA Project No. 2016-P044-21

testing of potentially contaminated soils will be completed under a management reserve budget and not the primary approved budget.

- **Groundwater monitoring:** Upon completion of each of the groundwater monitoring wells, HWA will install groundwater monitoring transducers to collect groundwater data for a period of at least 8 weeks. HWA assumes two site visits to download and collect the transducer data throughout the project.
- **Generate Boring Logs and Assign Laboratory Testing:** HWA shall prepare summary boring logs and perform laboratory testing to evaluate relevant physical properties of the site soils. Laboratory testing will include moisture contents, grain-size distribution, and Atterberg Limits. All laboratory testing will be performed in general accordance with the corresponding ASTM procedures.
- **Develop Geologic Cross-Section:** From the results of our slope reconnaissance and existing subsurface data, HWA will develop geologic profiles where appropriate. These preliminary profiles will show near surface soil conditions and will be provided in the preliminary geotechnical report.
- **Complete Preliminary Geotechnical Engineering Assessment:** HWA will complete preliminary geotechnical analysis to assess the geotechnical conditions of the site and identify any geotechnical issues that will need to be addressed during design. This assessment will be conceptual in nature and will exclude any and all soil structure interaction analysis.
- **Preliminary Geotechnical Engineering Report:** HWA will generate a preliminary geotechnical engineering report that will contain the results of the geotechnical engineering investigation, including description of surface and subsurface conditions; a site plan showing exploration locations and other pertinent features; summary boring logs; and laboratory test results. The report will provide a narrative and geotechnical recommendations for each of the above described geotechnical aspects of the project.
- **Project Coordination Meetings:** HWA will attend up to one project coordination meeting at the City of Everett offices. This meeting will be meant to convey the geotechnical considerations of the site to the City and possible design team.
- **Final Design Geotechnical Engineering:** HWA will complete geotechnical engineering analysis required to provide design recommendations for the project. These analysis will include slope stability analysis, settlement analysis, lateral earth pressure analysis, bearing capacity analysis, temporary shoring analysis and dewatering recommendations.

April 12, 2016

HWA Project No. 2016-P044-21

- **Final Geotechnical Engineering Report:** Upon receiving review comments from the City and the design team, HWA will finalize and stamp our geotechnical engineering report.
- **Task Management:** HWA will prepare monthly invoices, and progress reports if required. We will correspond with the City of Everett and possible design team in the form of emails, fax, and telephone calls, as necessary.

ASSUMPTIONS:

- The CITY will obtain permission to access the proposed boring locations.
- Any required street use, and other permit fees will be paid by others.

DELIVERABLES:

- Exploration Memorandum
- Preliminary geotechnical report
- Draft Geotechnical Report
- Final Geotechnical report

COST ESTIMATE

Based on our understanding of the project and assumed site conditions, we propose to provide the above geotechnical engineering scope of services on a time and materials basis not to exceed **\$42,026**. However, if during the project unexpected conditions are revealed that require alteration of our work scope, or the Client or Owner request analyses and evaluations which would require a level of effort beyond the scope of our proposed study and budget, we will contact you immediately to discuss any necessary modifications to our scope of services and/or budget estimate. A summary of our estimated costs are presented on the attached spreadsheet.

OPTIONAL SERVICES

Analytical Soil Testing: In the event that evidence of soil contamination is observed during geotechnical drilling, HWA will collect environmental samples and send them to a laboratory for environmental testing. This optional effort shall be held in management reserve and consist of the following tasks.

April 12, 2016

HWA Project No. 2016-P044-21

- **Sample Collection:** In the event that potentially contaminated soils are encountered during our explorations, an environmental geologist will be onsite to properly collect samples for analytical testing.
- **Sample Handling and Test Requests:** All environmental soil samples will be processed and handled by an HWA environmental geologist. The samples will be recorded and properly transported to a third party analytic laboratory for the appropriate testing.
- **Reporting:** HWA will document the results of any analytic testing conducted on soil samples in our draft and final geotechnical report. The report will also include a discussion of implications and recommendations associated with contaminated soils if encountered.

OPTIONAL SERVICES COST ESTIMATE

In the event that potentially contaminated soils are observed, we propose to provide the above optional services scope on a time and materials basis not to exceed about **\$10,315**. However, if during the project unexpected conditions are revealed that require alteration of our work scope, or the Client or Owner request analyses and evaluations which would require a level of effort beyond the scope of our proposed study and budget, we will contact you immediately to discuss any necessary modifications to our scope of services and/or budget estimate. A summary of our estimated costs are presented on the attached spreadsheet.



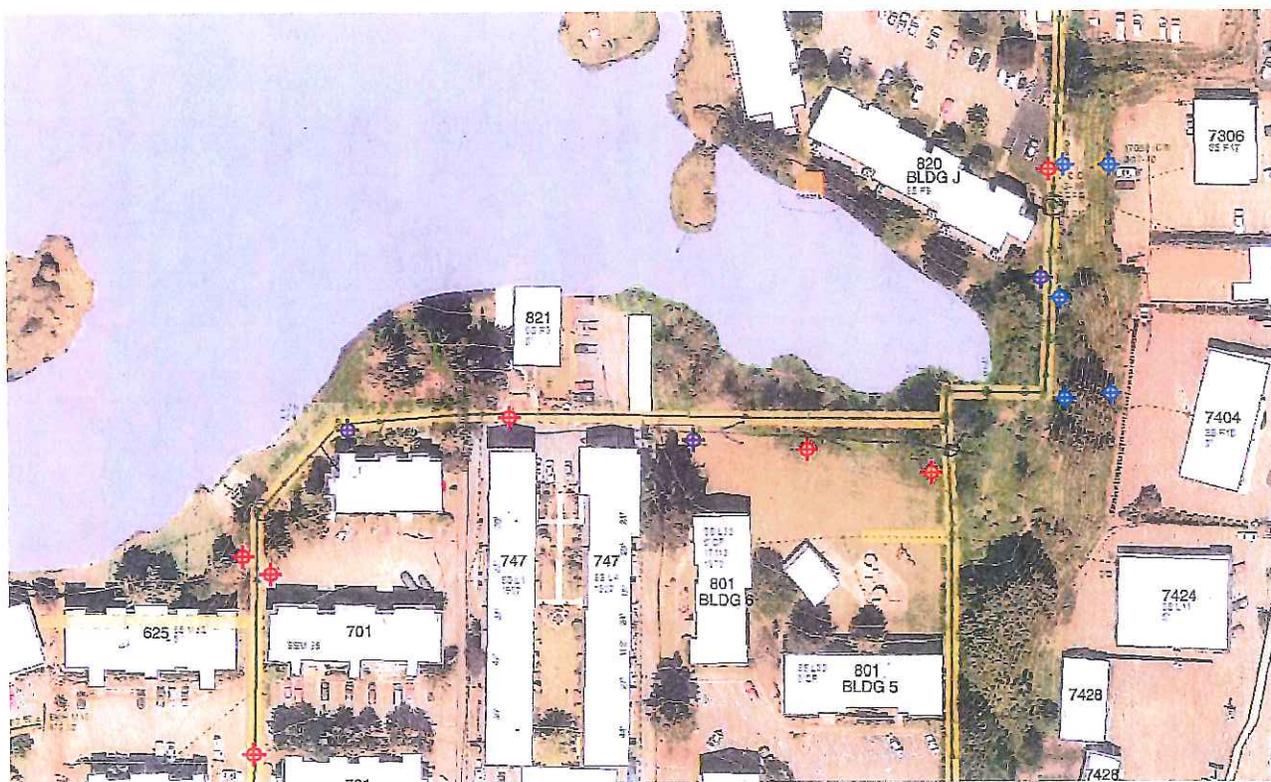
We appreciate the opportunity to provide geotechnical engineering services on this project. Please feel free to call if you have any questions or need additional information.

Sincerely,

HWA GEOSCIENCES INC.

A handwritten signature in cursive script that reads "Donald J. Huling".

Donald J. Huling, P.E.
Geotechnical Engineer, Principal



- ◆ Proposed Limited Access Machine Drilled Borings
- ◆ Proposed Limited Access Machine Drilled Borings with Well
- ◆ Proposed Hand Borings Conducted During Slope Recon



HWA GEOSCIENCES INC.

PROPOSED BORING LOCATIONS

GEOTECHNICAL ENGINEERING SERVICES
BEVERLY LAKE SEWER IMPROVEMENTS
EVERETT, WASHINGTON

FIGURE NO.

1

PROJECT NO.

2016-P044

Project Cost Estimate
Geotechnical Engineering Services
Beverly Lake Sewer Improvements
Everett, Washington

PROPOSED WORK SCOPE:
See Scope Document

Geotechnical Engineering Services

ESTIMATED HWA LABOR:

WORK TASK DESCRIPTION	2016 PERSONNEL & HOURLY RATES										TOTAL HOURS	TOTAL AMOUNT
	Principal IX Garris \$250.00	Principal VIII Sugar \$250.00	Geotechnical Engineer VI Hullig \$170.00	Geotechnical Engineer IV Jackson \$140.00	Geotechnical Engineer I Sijani \$105.00	Geologist IV Thurber \$115.00	Geologist IV Kapisa \$130.00	CAD Kinney \$75.00	Clerical Fisk \$72.00			
Phase I Geotechnical Engineering Services												
Review existing geotechnical and geologic data												\$105
Plan exploration program												\$110
Generate field exploration memo for drilling permit												\$750
Conduct utility locates												\$313
Conduct steep slope reconnaissance												\$1,760
Conduct infrastructure explorations												\$3,150
Conduct Groundwater Monitoring												\$840
Generate boring logs and design lab testing												\$770
Develop geologic cross sections												\$2,300
Preliminary geotechnical engineering analysis												\$1,240
Team Meetings (estimate 1)												\$2,925
Preliminary geotechnical engineering report												\$3,280
Geotechnical Engineering Analysis												\$1,840
HWA QA/QC												\$3,452
Final geotechnical engineering report												\$1,207
Final geotechnical engineering report												\$2,800
Project Management												\$36,601
Task Management												
TOTAL LABOR:	13	0	20	20	0	0	0	0	0	0	225	\$28,601

LABORATORY TESTING ESTIMATE:

TEST	Est. No.	Unit Test		Total
		Tests	Cost	
Atterberg Limits	6	6	\$840	\$840
Organic Content	6	6	\$360	\$360
Natural Moisture Content	15	15	\$180	\$180
Grain Size Analysis	10	10	\$900	\$900
LABORATORY TOTAL:				\$2,400

ESTIMATED DIRECT EXPENSES:

Mileage IRS Table	\$125
TOTAL DIRECT EXPENSES:	\$125

ESTIMATED PROJECT TOTALS AND SUMMARY:

Total Labor Cost	\$28,601
Laboratory Testing	\$2,400
Janitorial Access Drilling Subcontractor	\$9,000
Drilling Mark up to cover labor and fees	\$300
Drilling Subcontractor	\$500
Drilling Materials	\$500
Direct Expenses	\$125
ESTIMATED TOTAL:	\$42,026

Optional Services (Analytical Testing)

ESTIMATED HWA LABOR:

WORK TASK DESCRIPTION	2016 PERSONNEL & HOURLY RATES										TOTAL HOURS	TOTAL AMOUNT
	Principal IX Garris \$250.00	Principal VIII Sugar \$250.00	Geotechnical Engineer VI Hullig \$170.00	Geotechnical Engineer IV Jackson \$140.00	Geotechnical Engineer I Sijani \$105.00	Geologist IV Thurber \$115.00	Geologist IV Kapisa \$130.00	CAD Kinney \$75.00	Clerical Fisk \$72.00			
Phase I Geotechnical Engineering Services												
Review existing geotechnical and geologic data												\$105
Plan exploration program												\$110
Generate field exploration memo for drilling permit												\$750
Conduct utility locates												\$313
Conduct steep slope reconnaissance												\$1,760
Conduct infrastructure explorations												\$3,150
Conduct Groundwater Monitoring												\$840
Generate boring logs and design lab testing												\$770
Develop geologic cross sections												\$2,300
Preliminary geotechnical engineering analysis												\$1,240
Team Meetings (estimate 1)												\$2,925
Preliminary geotechnical engineering report												\$3,280
Geotechnical Engineering Analysis												\$1,840
HWA QA/QC												\$3,452
Final geotechnical engineering report												\$1,207
Final geotechnical engineering report												\$2,800
Project Management												\$36,601
Task Management												
TOTAL LABOR:	13	0	20	20	0	0	0	0	0	0	225	\$28,601

ESTIMATED DIRECT EXPENSES:

Mileage IRS Table	\$125
TOTAL DIRECT EXPENSES:	\$125

ESTIMATED PROJECT TOTALS AND SUMMARY:

Total Labor Cost	\$28,601
Laboratory Testing	\$2,400
Janitorial Access Drilling Subcontractor	\$9,000
Drilling Mark up to cover labor and fees	\$300
Drilling Subcontractor	\$500
Drilling Materials	\$500
Direct Expenses	\$125
ESTIMATED TOTAL:	\$42,026

EXHIBIT C
REIMBURSABLE EXPENSES

Type of Expense	Maximum Per Item	Cumulative Maximum
Parking	\$0.54/mile	\$125
Meals		0.00
Lab Testing	Varies	\$2,400
Transducer Rental	\$500	\$500
Driller	\$9,900	\$9,900
Utility Locator	\$500	\$500

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

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

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

3. Answer the appropriate question below for Service Provider's business organization:

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

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

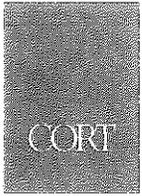
Limited Liability Company. If a member will perform Work under this Professional Services Agreement, did that member retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters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

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

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

Service Provider Name: HWA GeoSciences Inc.

Signature:  Printed Name: Donald J. Huling Title: Vice President



CORT PARTY RENTAL

6101 Associated Blvd Ste 102
 Everett, WA 98203
 www.cortpartyrental.com
 425-493-6969 Phone
 425-493-1227 Fax

Status: Reservation

Contract #: 43734-1

Event Beg: Mon 7/ 4/2016 8:00AM

Event End: Mon 7/ 4/2016 5:00PM

Operator: Tiffany Sabin

Terms: On Account

Customer #: 1239

Everett, City of

425-257-8700 Phone
 425-258-8945 Fax

3225 Cedar Street
 Everett, WA 98201

Job Descr: 4th of July Freedom Festival

PO #: 4th of July

Ordered By: Newland, Lisa 425-257-7107

Salesman: Tiffany Sabin tiffany.sabin@cort.com

Delivery and Pickup

Delivery: Sun 7/ 3/2016

Contact: Barbara Roberts

Pickup Date: Tue 7/ 5/2016 8:00AM - 9:00AM

Phone: 425-314-6603

Location: Legion Park

Used at Address: 145 Alverson Blvd ; Everett, WA 98201

Delivery Notes: After Hours Delivery Sunday 7/3 12pm-4pm arrival

NEED DIAGRAM for tent/stage placement

Timed Pickup Tuesday 7/5 8-9am arrival

Tent Cancellation Policy:

If Cancelled up to 7 days before delivery a 50% fee is charged

If Cancelled Within 7 days of delivery a 100% fee is charged

All other Non Tent Related Cancellations should be made 72 hours prior to delivery to avoid fees

Qty	Items Rented	Status	Each	Price
Stage				
1	Hi Peak Tent, 20x20 White *Surface: Going Over Stage Use Weight/ Natural Ties *Wall (y/n): None *Lighting (y/n): None	Reserved	\$360.00	\$360.00
4	Tent Leg Extender 1-36" (twin tube) to adjust legs over 24" stage	Reserved	\$10.00	\$40.00
400	Tent Ballast Pkg per SQ FT 20x20-Required when stakes cannot be used to secure tenting	Reserved	\$0.15	\$60.00
25	Stage, 4x4 Steel Frame Wood Top *Width x Length x Height: 20 x 20 x 24" high *What Type of Surface Is it Going On?: Grass *Is It Level?: Yes *Where Will it Be Placed?: Under Tent	Reserved	\$28.00	\$700.00
36	Stage Leg, 24"	Reserved	\$0.00	\$0.00
8	Stage Skirt Black 8' x 25" Skirt Front and Sides Only	Reserved	\$11.00	\$88.00
64	Clips, Stage Skirt for Bil Jax Stage	Reserved	\$0.00	\$0.00
1	Stair Unit, 24-32" 3 Step,Rails Detach Set Step to Back of Stage	Reserved	\$40.00	\$40.00
Hospitality Tent				
1	Hi Peak Tent, 20x30 White *Surface: Grass *Weight or Stakes: Weights *Wall (y/n): No *Lighting (y/n):Yes	Reserved	\$540.00	\$540.00
600	Tent Ballast Pkg per SQ FT 20x30-Required when stake cannot be used to secure tenting	Reserved	\$0.15	\$90.00
100	LED String Lights,1.5" White, Per Ft. *What is the Configuration in the Tent?: Inside Perimeter	Reserved	\$1.00	\$100.00
1	Ext. Cord, White 50' Triple Tap 12 Gauge	Reserved	\$3.75	\$3.75
Fire & Safety				
2	Fire Extinguisher, Standard 3-A:40-B:C	Reserved	\$18.00	\$36.00
2	No Smoking Sign, Hanging w/Velcro	Reserved	\$6.00	\$12.00

Qty	Items Rented	Status	Each	Price
	Install/Removal			
1	Delivery / Pickup Fee 98201	Selling	\$80.00	\$80.00
1	After Hours Delivery per Truck	Selling	\$250.00	\$250.00
1	Timed Pickup	Selling	\$50.00	\$50.00

Please note new address for remittance

Rental Contract

This is a confirmed reservation. Tent/Tent Accessories require a 50% Non-Refundable Deposit with 100% Charge if Cancelled within 10 days prior to Delivery.
All other Changes / Cancellations need to be made 10 days prior to the delivery or will call date.

Delivery Service includes drop off within 20ft of truck access. Transport and Carry requirements must be requested one week in advance of event date. Fees will apply.

Rental:	\$2,069.75
Damage Waiver:	\$248.37
Delivery Charge:	\$380.00
Subtotal:	\$2,698.12
3105 Everett:	\$248.23
Total:	\$2,946.35
Paid:	\$0.00
Amount Due:	\$2,946.35

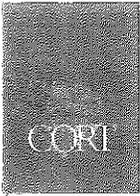
Signature: _____

Everett, City of

RENTAL CONTRACT TERMS AND CONDITIONS

1. I do hereby acknowledge receipt for the Lessor the equipment and / or articles identified on this Rental Contract. It is understood and agreed that the equipment listed on this Rental Contract is leased to me. The Lessee, by said Lessor. It is further understood that said property is personally inspected and examined by me and found to be in good working condition and repair and that I fully understand its proper use.
2. Rental is charged for the time equipment is in Lessee's possession. No allowance will be made for Sunday's, holidays, overnight or time in transit, or for any period of time equipment may not be in actual use while in Lessee's possession, unless arrangements are made to the contrary and such arrangements are accepted in writing by the Lessor. Lessee and any person, to whom, with Lessor's written consent, Lessee directs the charges incurred under this agreement to be billed, are jointly and severally responsible for payment for all such charges. Lessee represents having the authority to direct such charges to be billed to that person.
3. Lessee agrees that equipment usage is not to exceed 8 hours per 24 hours period or 40 hours for a 7 day consecutive period. Any additional hours of usage exceeding the maximum allowed will be charged at 1/8th of the daily rental rate per each additional hour. All weekly or monthly rates are quoted contingent upon prompt payment. In the event that the Lessor desires to extend this Rental Contract beyond the due date originally agreed upon and as written on this Rental Contract, Lessee agrees to notify the Lessor of said desire before said date and time to obtain Lessor's written approval and terms of said extension. In the absence of an agreed extension, rental rates will accrue of the daily rate for each additional hour, beyond the first 24 hour period, not to exceed, however, the rate listed for each 24 hour period.
4. Lessee understands that renting of equipment does not carry the option to purchase unless the Lessor and Lessee agree in writing upon same prior to rental of such equipment. **DISCLAIMER OF WARRANTIES** on purchased equipment. The Lessee who purchases equipment accepts the goods in their present condition unless otherwise noted and **CERT BUSINESS SERVICES MAKES NO EXPRESS GUARANTEES OR WARRANTIES** of any kind representing the goods or their performance, quality or characteristics, their potential for profit, savings, rental income, or resale. **NOR ANY IMPLIED WARRANTIES** respecting their **SUITABILITY FOR A PARTICULAR PURPOSE EXCEPT** as represented in any printed sales material furnished to the Recipient.
5. All said equipment shall remain personal property and title thereto shall remain in Lessor exclusively, Lessee shall keep equipment free from any and all liens and claims and do or permit no act or thing whereby Lessor's title or rights may be encumbered or impaired, Lessee shall not make any alterations, additions, or improvements to the equipment without the prior written consent of Lessor. Lessee agrees to pay the amount necessary to return the equipment to its former condition (see paragraph #15 regarding repair cost). All additions and improvements of whatsoever kind of nature made to the equipment shall belong to and become the property of Lessor upon the expiration or earlier termination of this Rental Contract. Lessee will not change or remove any insignia or lettering on the equipment and shall conspicuously identify each item of the equipment to indicate the Lessor's ownership.
6. This Rental Contract becomes effective immediately on the date and time listed hereon and remains in effect until the return of the merchandise and equipment and full payment for rental and other charges incurred under the terms of this Rental Contract have been made. Equipment returned after normal business hours does not constitute cause for termination of this Rental Contract, and therefore all the rates and terms of this Rental Contract remain in effect until the Lessee appears in person at Lessor's place of business to return the equipment during normal business hours.
7. An event of default shall occur if (a) any rental payment or any other amount owed by Lessee to Lessor is not paid when due, (b) Lessee fails to perform any other obligation of Lessee hereunder, (c) Lessee ceases doing business as a going concern, admits in writing its inability to pay its debts as they become due, is insolvent or makes an assignment for the benefit of creditors, (d) any property of Lessee is attached, (e) there is instituted by or against Lessee any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, or insolvency law of any jurisdiction, or for the appointment of a receiver or trustee in respect to any of Lessee's property, (f) Lessee reasonably deems itself insecure or the equipment in danger of misuse, neglect, seizure, confiscation, levy or attachment or (g) falsity of any representation of Lessee. Lessee warrants that he/she is solvent and able to pay for the equipment being rented hereunder in accordance with the payment terms.
8. If any event of default occurs, all sums due and to become due to Lessor as rental payments and otherwise, shall at the option of Lessor, become payable immediately and Lessor may without notice, or liability to Lessee, enter into any premises of or under control of Lessee or any agent of Lessee where the equipment may be located or by Lessor is believed to be located, and repossess the equipment, disconnecting and separation the same from any other property and using all force necessary and permitted by applicable law to do so. Lessee waives any right to a hearing before repossession of the equipment or to receive any notice of legal process, as a precondition of Lessor recovering the Equipment. All transportation or trucking charges are to be paid by the Lessee. Upon any such repossession, this Rental Contract shall be terminated and be of no further force of effect, and Lessee hereby expressly waives all further rights to possession of the equipment and all claims for injuries suffered through or loss caused by such repossession. Nothing herein shall be construed to prevent Lessor from taking any other action at law or in equity to enforce performance of this Rental Contract nor any interest therein is assignable or transferable by operation of law.
9. The Lessee agrees that the Lessor may, at its own discretion, report as stolen all personal property not returned within the date listed as the "Due Date" on this Rental Contract, or, if conditions and circumstances indicate theft, before that time.
10. Lessee agrees that said equipment will be used by the Lessee only at the job address designated on this Rental Contract for the stated period of time solely for the purpose for which said equipment was manufactured and intended. Where no address is specified the job address is take to be the same as the Lessee's home or mailing address. Equipment (except trailers) is not to be removed from the job address or home address of Lessee without the written consent of the Lessor, except while in transit directly to or from the Lessee's premises. Rented property is not to be removed from the State of Washington without the written consent of the Lessor.
11. As a service to our customers, Lessor may agree to pick up the equipment that is subject to this Rental Contract and return it to Lessor's business location, or deliver the equipment to Lessee's job address, provided that arrangements for Delivery/Pick-Up (including the date, time and address) have been agreed to in writing by the Lessor, and Lessee agrees to pay the Delivery/Pick-Up fee. Lessee expressly waives any and all claims, credit or offsets against Lessor for delays or other problems relation to the Delivery/pick-Up of equipment by Lessor. Lessee shall be responsible for the equipment and this Rental Contract shall remain in full force and effect until such time as Lessor has picked up the equipment and removed it from its then present location. Although time charged for the rental fee shall cease when the Lessee notifies Lessor in writing that the equipment is ready and available for pick-up, such notice does not terminate Lessee's other obligations herein, including, but not limited to, the obligation to care for and protect the equipment from damage, theft, or other loss.
12. Lessee agrees to indemnify and hold Lessor harmless from any liability whatsoever resulting from the use, maintenance and/or delivery of said equipment during the duration of this Rental Contract. Lessee and Lessor expressly understand that such indemnification shall extend to all claims, personal, commercial or otherwise by any person or persons, and that the same shall be operative without the necessity of Lessor first defending any such claim. The indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Lessee under the Worker's Compensation Acts, disability benefit acts or other employee benefit acts and Lessee expressly waives the immunity of Chapter RCW 51. Lessor does not warrant that the equipment is suited for the Lessee's intended use. Lessor has no control over where the equipment is used, and hereby disclaims any OSHA requirements. If the Lessor's employees assist in loading or unloading the equipment, the Lessee agrees to assume the risk of, and hold the Lessor harmless for any property damage or personal injuries.
13. Lessee agrees to immediately discontinue the use of said equipment should at any time become unsafe or in a state of disrepair, and will immediately notify the Lessor of said facts. If notice is not given within one hour after said failure of equipment, Lessee understands and agrees that the rental will be charged, unless arrangements are made to the contrary, and the Lessor accepts such arrangements in writing. Lessee is not authorized to incur for Lessor's account any expense, or to expand any money in repairing said equipment.
14. Lessee understands that the use of equipment in the following circumstances is prohibited and will constitute a breach of Rental Contract (a) Use for an illegal purpose or in an illegal manner. (b) Improper, unintended use or misuse. (c) Use by anyone other than the Lessee or his/her employees, without the Lessor's written permission. (d) Use at any location other than the address furnished the Lessor without the Lessor's written permission, except trailers. Lessee further agrees that all usage of Lessor's equipment shall be in compliance with all applicable federal, state and local laws.
15. Lessor agrees to be absolute insurer of the listed equipment and merchandise during the duration of this Rental Contract, including fire, theft, and mysterious disappearance. Lessee agrees to pay for any damages to or loss of equipment, as an insurer, regardless of the cause, except reasonable wear and tear, while equipment is out of the possession of the Lessor. Lessee's responsibility includes, and is not limited to, the replacement cost of the equipment at the time it is lost or damaged, plus an administrative fee and Lessor's related expenses, such as loss of use, appraisal fees of recovery costs. **THE COST OF LABOR FOR SUCH REPAIRS WILL BE EITHER LESSOR'S THEN PREVAILING HOURLY RATE FOR LABOR, WHICH INCLUDES LOSS OF USE, POSTED AT THE LESSOR'S BRANCH WHERE THE EQUIPMENT IS TO BE REPAIRED, OR THE REPAIRER'S HOURLY RATE FOR LABOR CHARGED TO LESSOR FOR SUCH REPAIRS AS THE CASE MAY BE. PARTS WILL BE CHARGED AT LESSOR'S COST PLUS A RETAIL MARKUP.** It is understood that repair or replacement does not relieve Lessee from the rental charges incurred. Accrued rental charges cannot be applied against the purchase or cost of repair of damaged or lost equipment.
16. A rental deposit of cash, check or a credit card will be required at the time of rental except where prior payment terms have been established. Said deposit will be applied towards payment of any accrued rental and/or other charges upon termination of the rental period. Lessor reserves the right to complete open checks left for deposit and/or to finalize any open credit card transactions. Lessor's credit terms for established accounts are Net 30, all other payments are due and payable upon the termination of the rental period. **INTEREST** at the periodic rate of 1 1/2% per month (18% per annum) will be charged on all past due invoices, with a minimum charge of \$1.00 per month. Any complaint, or dispute regarding contract amounts, must be registered in writing with the lessor within 15 days of receipt of the rental invoice or waived, Lessee may also be charged a fee for any check used hereunder that is returned unpaid.
17. Lessee agrees to pay upon demand all Lessor's costs and expenses, including attorney fees, legal expenses and collection costs incurred by Lessor in connection with collection of any amounts owed to the Lessor. Lessor may pay someone else to help enforce this Rental Contract, and Lessee agrees to pay the cost and expenses of such enforcement. Cost and expenses include but are not limited to collection agency fees which are not to exceed 50% of the principal balance, lien fees, legal expenses and/or cost, incurred by a law firm or attorney, or persons hired by a law firm or attorney, and their costs and expenses. Lessee agrees to pay costs and expenses whether or not a lawsuit is initiated, including, but not limited to, preparation, lawsuit, appeal, post-judgment collection or enforcement for bankruptcy proceeding, in the event that a lawsuit is commenced, Lessee waives the right to a jury trial on any or all issues. At the sole option of the Lessor, jurisdiction and venue in connection with any claims arising out of this Rental Contract shall be had in Everett, Snohomish County, Washington.
18. No change, modification, or alteration of the terms hereof will be effective as against the Lessor, nor will the terms hereof will be effective as against the Lessor, nor will the terms and conditions of purchase order and/or rental agreements different from the terms contained herein become part of this Rental Contract unless specifically approved in writing by an authorized representative of the Lessor.
19. The provisions of this Rental Contract shall be severable so that the invalidity, unenforceability or waiver of any of the provisions shall not affect the remaining provisions.

CORT Business Services 2016



PARTY RENTAL

6101 Associated Blvd Ste 102
 Everett, WA 98203
 www.cortpartyrental.com
 425-493-6969 Phone
 425-493-1227 Fax

Status: Reservation

Contract #: 43733-1

Event Beg: Sat 6/11/2016 8:00AM

Event End: Sun 6/12/2016 6:00PM

Operator: Tiffany Sabin

Terms: On Account

Everett, City of

3225 Cedar Street

Everett, WA 98201

Customer #: 1239

425-257-8700 Phone

425-258-8945 Fax

Job Descr: Sorticulture

PO #: Sorticulture 2016

Ordered By: Newland, Lisa 425-257-7107

Salesman: Tiffany Sabin tiffany.sabin@cort.com

Delivery and Pickup

Delivery: Wed 6/ 8/2016

Pickup Date: Mon 6/13/2016

Location: American Legion Park

Used at Address: 145 Alverson Blvd ; Everett, WA 98201

Delivery Notes: Anytime Delivery Wednesday 6/08

*CALL LISA 30 MIN OUT TO MEET

Deliver/Pickup from storage area

Anytime Pickup Monday 6/13

Contact: Lisa Newland

Phone: 425-876-8164

Cancellations/Reductions should be made 72 hours prior to delivery to avoid fees

Qty	Items Rented	Status	Each	Price
20	Table, 30" Round 30" High Standard table height	Reserved	\$10.25	\$205.00
5	Stage Skirt Black 8' x 25" Client to provide "prickly" velcro to attach	Reserved	\$11.00	\$55.00
1	Delivery / Pickup Fee 98201	Selling	\$80.00	\$80.00

Please note new address for remittance

Rental Contract

This is a confirmed reservation. Tent/Tent Accessories require a 50% Non-Refundable Deposit with 100% Charge if Cancelled within 10 days prior to Delivery.

All other Changes / Cancellations need to be made 10 days prior to the delivery or will call date.

Delivery Service includes drop off within 20ft of truck access. Transport and Carry requirements must be requested one week in advance of event date. Fees will apply.

Rental:	\$260.00
Damage Waiver:	\$31.20
Delivery Charge:	\$80.00
Subtotal:	\$371.20
3105 Everett:	\$34.15
Total:	\$405.35
Paid:	\$0.00
Amount Due:	\$405.35

Signature: _____

Everett, City of

RENTAL CONTRACT TERMS AND CONDITIONS

1. I do hereby acknowledge receipt for the Lessor the equipment and / or articles identified on this Rental Contract. It is understood and agreed that the equipment listed on this Rental Contract is leased to me. The Lessee, by said Lessor. It is further understood that said property is personally inspected and examined by me and found to be in good working condition and repair and that I fully understand its proper use.
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3. Lessee agrees that equipment usage is not to exceed 8 hours per 24 hours period or 40 hours for a 7 day consecutive period. Any additional hours of usage exceeding the maximum allowed will be charged at 1/8th of the daily rental rate per each additional hour. All weekly or monthly rates are quoted contingent upon prompt payment. In the event that the Lessor desires to extend this Rental Contract beyond the due date originally agreed upon and as written on this Rental Contract, Lessee agrees to notify the Lessor of said desire before said date and time to obtain Lessor's written approval and terms of said extension. In the absence of an agreed extension, rental rates will accrue of the daily rate for each additional hour, beyond the first 24 hour period, not to exceed, however, the rate listed for each 24 hour period.
4. Lessee understands that renting of equipment does not carry the option to purchase unless the Lessor and Lessee agree in writing upon same prior to rental of such equipment. **DISCLAIMER OF WARRANTIES** on purchased equipment. The Lessee who purchases equipment accepts the goods in their present condition unless otherwise noted and **CORT BUSINESS SERVICES MAKES NO EXPRESS GUARANTEES OR WARRANTIES** of any kind representing the goods or their performance, quality or characteristics, their potential for profit, savings, rental income, or resale. **NOR ANY IMPLIED WARRANTIES** respecting their **SUITABILITY FOR A PARTICULAR PURPOSE EXCEPT** as represented in any printed sales material furnished to the Recipient.
5. All said equipment shall remain personal property and title thereto shall remain in Lessor exclusively, Lessee shall keep equipment free from any and all liens and claims and do or permit no act or thing whereby Lessor's title or rights may be encumbered or impaired, Lessee shall not make any alterations, additions, or improvements to the equipment without the prior written consent of Lessor. Lessee agrees to pay the amount necessary to return the equipment to its former condition (see paragraph #15 regarding repair cost). All additions and improvements of whatsoever kind of nature made to the equipment shall belong to and become the property of Lessor upon the expiration or earlier termination of this Rental Contract. Lessee will not charge or remove any insignia or lettering on the equipment and shall conspicuously identify each item of the equipment to indicate the Lessor's ownership.
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8. If any event of default occurs, all sums due and to become due to Lessor as rental payments and otherwise, shall at the option of Lessor, become payable immediately and Lessor may without notice, or liability to Lessee, enter into any premises of or under control of Lessee or any agent of Lessee where the equipment may be located or by Lessor is believed to be located, and repossess the equipment, disconnecting and separation the same from any other property and using all force necessary and permitted by applicable law to do so. Lessee waives any right to a hearing before repossession of the equipment or to receive any notice of legal process, as a precondition of Lessor recovering the Equipment. All transportation or trucking charges are to be paid by the Lessee. Upon any such repossession, this Rental Contract shall be terminated and be of no further force of effect, and Lessee hereby expressly waives all further rights to possession of the equipment and all claims for injuries suffered through or loss caused by such repossession. Nothing herein shall be construed to prevent Lessor from taking any other action at law or in equity to enforce performance of this Rental Contract nor any interest therein is assignable or transferable by operation of law.
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12. Lessee agrees to indemnify and hold Lessor harmless from any liability whatsoever resulting from the use, maintenance and/or delivery of said equipment during the duration of this Rental Contract. Lessee and Lessor expressly understand that such indemnification shall extend to all claims, personal, commercial or otherwise by any person or persons, and that the same shall be operative without the necessity of Lessor first defending any such claim. The indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Lessee under the Worker's Compensation Acts, disability benefit acts or other employee benefit acts and Lessee expressly waives the immunity of Chapter RCW 51. Lessor does not warrant that the equipment is suited for the Lessee's intended use. Lessor has no control over where the equipment is used, and hereby disclaims any OSHA requirements. If the Lessor's employees assist in loading or unloading the equipment, the Lessee agrees to assume the risk of, and hold the Lessor harmless for any property damage or personal injuries.
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14. Lessee understands that the use of equipment in the following circumstances is prohibited and will constitute a breach of Rental Contract (a) Use for an illegal purpose or in an illegal manner. (b) Improper, unintended use or misuse. (c) Use by anyone other than the Lessee or his/her employees, without the Lessor's written permission. (d) Use at any location other than the address furnished the Lessor without the Lessor's written permission, except trailers. Lessee further agrees that all usage of Lessor's equipment shall be in compliance with all applicable federal, state and local laws.
15. Lessor agrees to be absolute insurer of the listed equipment and merchandise during the duration of this Rental Contract, including fire, theft, and mysterious disappearance. Lessee agrees to pay for any damages to or loss of equipment, as an insurer, regardless of the cause, except reasonable wear and tear, while equipment is out of the possession of the Lessor. Lessee's responsibility includes, and is not limited to, the replacement cost of the equipment at the time it is lost or damaged, plus an administrative fee and Lessor's related expenses, such as loss of use, appraisal fees of recovery costs. **THE COST OF LABOR FOR SUCH REPAIRS WILL BE EITHER LESSOR'S THEN PREVAILING HOURLY RATE FOR LABOR, WHICH INCLUDES LOSS OF USE, POSTED AT THE LESSOR'S BRANCH WHERE THE EQUIPMENT IS TO BE REPAIRED, OR THE REPAIRER'S HOURLY RATE FOR LABOR CHARGED TO LESSOR FOR SUCH REPAIRS AS THE CASE MAY BE. PARTS WILL BE CHARGED AT LESSOR'S COST PLUS A RETAIL MARKUP.** It is understood that repair or replacement does not relieve Lessee from the rental charges incurred. Accrued rental charges cannot be applied against the purchase or cost of repair of damaged or lost equipment.
16. A rental deposit of cash, check or a credit card will be required at the time of rental except where prior payment terms have been established. Said deposit will be applied towards payment of any accrued rental and/or other charges upon termination of the rental period. Lessor reserves the right to complete open checks left for deposit and/or to finalize any open credit card transactions. Lessor's credit terms for established accounts are Net 30, all other payments are due and payable upon the termination of the rental period. INTEREST at the periodic rate of 1 1/2% per month (18% per annum) will be charged on all past due invoices, with a minimum charge of \$1.00 per month. Any complaint, or dispute regarding contract amounts, must be registered in writing with the lessor within 15 days of receipt of the rental invoice or waived. Lessee may also be charged a fee for any check used hereunder that is returned unpaid.
17. Lessee agrees to pay upon demand all Lessor's costs and expenses, including attorney fees, legal expenses and collection costs incurred by Lessor in connection with collection of any amounts owed to the Lessor. Lessor may pay someone else to help enforce this Rental Contract, and Lessee agrees to pay the cost and expenses of such enforcement. Cost and expenses include but are not limited to collection agency fees which are not to exceed 50% of the principal balance, lien fees, legal expenses and/or cost, incurred by a law firm or attorney, or persons hired by a law firm or attorney, and their costs and expenses. Lessee agrees to pay costs and expenses whether or not a lawsuit is initiated, including, but not limited to, preparation, lawsuit, appeal, post-judgment collection or enforcement for bankruptcy proceeding, in the event that a lawsuit is commenced, Lessee waives the right to a jury trial on any or all issues. At the sole option of the Lessor, jurisdiction and venue in connection with any claims arising out of this Rental Contract shall be had in Everett, Snohomish County, Washington.
18. No change, modification, or alteration of the terms hereof will be effective as against the Lessor, nor will the terms hereof will be effective as against the Lessor, nor will the terms and conditions of purchase order and/or rental agreements different from the terms contained herein become part of this Rental Contract unless specifically approved in writing by an authorized representative of the Lessor.
19. The provisions of this Rental Contract shall be severable so that the invalidity, unenforceability or waiver of any of the provisions shall not affect the remaining provisions.

CORT Business Services 2016

Mon - Sat 8am - 5pm Sundays Closed

Printed On Tue 3/15/2016 11:28:56AM

Software by Point-of-Rental Software www.point-of-rental.com

Modification # 1

Contract-Params.rpt (18)

SUBMIT APPLICATION



Application Profile



Sub Application



NIJ Approved Vests



Submit Application

PLEASE NOTE: Applications for funding may be submitted for the purchase of any armor that meets the established NIJ ballistic or stab standards ordered on or after April 1, 2016. Once the open application period closes, funding levels will be established and all applicants will be notified.

APPLICATION PROFILE

Participant	EVERETT CITY
Fiscal Year	2016
Number of Agencies Applied	1
Total Number of Officers for Application	206
Number of Officers on Approved Sub-Applications	206

SUB-APPLICATION PROFILE

Fiscal Year 2016

Vest Replacement Cycle 5

Number of Officers 206

Emergency Replacement Needs **Stolen or Damaged** 0

Needs **Officer Turnover** 20

SUBMIT APPLICATION FOR FUNDING FOR BVP APPROVAL

Application for Funding

Name	Quantity	Extended Cost	Tax, S&H*	Total Cost
EVERETT CITY	64	\$48,000.00	\$144.00	\$48,144.00
Grand Totals	64	\$48,000.00	\$144.00	\$48,144.00

Requested BVP Portion of Total Cost, up to: \$24,072.00

* Total Taxes, Shipping and Handling Cost for each Application

SUBMIT APPLICATION FOR BVP APPROVAL

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time for all components of a jurisdiction to complete and file this Application for Funding form is two hours. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you may use the Suggestions e-mail option on this BVP web site, or you may write to the BVP, c/o Bureau of Justice Assistance, 810 Seventh Street NW, Washington, DC, 20531.

MANDATORY WEAR POLICY

Since 2011, the Department of Justice's BVP Program has included an application requirement to ensure that agencies receiving funding for reimbursement of body armor purchases have a written Mandatory Wear Policy for uniformed patrol officers in place. Your agency has applied for BVP funding and certified that a wear policy is in place. The Bureau of Justice Assistance requests that you provide a copy of your agency's Mandatory Wear Policy for vests which were reported.

MANDATORY WEAR POLICY

[Mandatory Wear Policy File Upload](#)

CURRENT UPLOADED MANDATORY WEAR POLICY

Upload Date	Upload User	Upload Comments	Action
04/13/2016 12:55:02 PM	tversteeg@ci.everett.wa.us		<u>View</u>

PREVIOUSLY UPLOADED MANDATORY WEAR POLICIES

Upload Date	Upload User	Upload Comments	Action
03/05/2015 04:18:06 PM	tversteeg@ci.everett.wa.us		<u>View</u>
03/05/2015 04:18:19 PM	tversteeg@ci.everett.wa.us		<u>View</u>

6.4 PROTECTIVE VESTS

Officers assigned to administrative and investigative duty (primarily plain clothes) are encouraged to wear the protective vest but it is at the discretion of the immediate supervisor; it must be available at the department for instant use if necessary.

The protective vest shall be worn when executing search warrants and making planned arrests.

It is the policy of the Everett Police Department that all officers in uniform will wear a protective vest with both front and back panels.

EXCEPTION: Medical conditions may preclude the wearing of a vest but must be verified in writing by a physician submitted through the Chain of Command.

EXEMPTION: Officers assigned to the Marine Unit are exempt from this policy while engaged in on the water activities.

Officers wearing the ceremonial dress uniform are exempt from this policy.

CEO CERTIFICATION



Application Profile



Sub Application



NIJ Approved Vests



Submit Application

CERTIFICATION

Chief Executive Certification

As chief executive officer (or authorized designee) of this jurisdiction, my submission of this Application for Funding Form under the Bulletproof Vest Partnership Grant Act, represents my legally binding acceptance of the terms set forth on this form; and the program's statutory and programmatic requirements, restrictions, and conditions, including the following:

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided, using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American - made equipment and products.

The recipient acknowledges that this grant is for Federal preparedness assistance. Therefore, the recipient agrees that it will implement and comply with the National Incident Management System (NIMS) as required by Homeland Security Presidential Directive 5 (HSPD-5). <http://www.fema.gov/nims>. The recipient acknowledges that the Secretary of Homeland Security will develop standards and guidelines for determining whether a State or local entity has adopted the NIMS. Finally, the recipient further acknowledges that the Secretary of Homeland Security will determine compliance with the NIMS and the recipient agrees to abide by the Secretary's decision on compliance.

The applicant will give the sponsoring agency or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers or documents related to this application and any

subsequent payments received as a result of this application. The applicant agrees that documentation to support the BVP vest application and payment requests will be kept for at least a three year period.

The applicant acknowledges that Justice Assistance Grant (JAG) funds or other federal funding sources may not be used to pay for that portion of the bullet proof vest (50%) that is not covered by BVP funds. JAG or other federal funds may be used to purchase vests for an agency, but they may not be used as the 50% match for BVP purposes.

I acknowledge and accept the Chief Executive Certification

CERTIFICATION

Funding Limits Certification

If the submission of this application for funding is in conjunction with transactions for the purchase of vests, I understand and agree to abide by the following:

I understand that all funding awards will be subject to the availability of funds and I acknowledge that there is no guaranteed level of funding associated with the submission of this application to the BVP program.

I agree to meet my financial and contractual obligations associated with any purchase transactions, regardless of the amount of funding received through this application purposes.

I certify to the best of my knowledge and belief, all information in this application is true and correct.

I acknowledge and accept the Funding Limits Certification

CERTIFICATION

Mandatory Wear Policy Certification

As Chief Executive Officer (or authorized designee) of this jurisdiction, I hereby acknowledge that submission of this application for funding, under the Bulletproof Vest Partnership (BVP) Grant Act, represents this jurisdiction's binding acceptance of the terms set forth in this form and the program's statutory and programmatic requirements, restrictions, and conditions for use of the BVP funds, including, but not limited to, the following:

I certify that the applicant jurisdiction has a written, mandatory wear policy that establishes general requirements for law enforcement and corrections officers, assigned to uniformed functions, to wear, subject to appropriate exceptions as determined by the applicant jurisdiction, bullet-resistant vests and that this policy is in effect on the date this application is submitted to the BVP program office for funding.

In making this certification, the jurisdiction hereby agrees to give the funding agency or the Office of the Inspector General, through any authorized representative, access to and the right to examine such policy as set forth the mandatory wearing of protective vests.

I certify to the best of my knowledge and belief that, at the time this application is submitted, this jurisdiction is in compliance with the "Mandatory Wear Policy" requirement.

I acknowledge that a false statement in this certification or in the grant application that it supports may be subject to criminal prosecution, including under 18 U.S.C. § 1001 and 42 U.S.C. § 3795a. I also acknowledge that Office of Justice Programs grants, including certifications provided in connection with such grants, are subject to review by the Office of Justice Programs and/or by the Department of Justice's Office of the Inspector General.

I acknowledge and accept the Mandatory Wear Policy Certification

SIGNATURE

As the chief executive officer (or designee), authorized to submit this application,
I hereby enter my full name in the space provided below:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Professional Services Agreement, Software Licensing Agreement, Software Maintenance Agreement and related Addenda with CourtView Justice Solutions Inc. for Migration to JWorks Case Management Software

- Briefing
- Proposed Action
- Consent
- Action
- First Reading
- Second Reading
- Third Reading
- Public Hearing

COUNCIL BILL # _____
 Originating Department Information Technology
 Contact Person Steven Hellyer
 Phone Number 425-257-8686
 FOR AGENDA OF April 27, 2016

Initialed by:
 Department Head _____
 CAA dh
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Legal		Professional Services Agreement, Software Licensing Agreement, Software Maintenance Agreement and Addenda	Legal, Information Technology, Purchasing

Amount Budgeted	\$73,000	
Expenditure Required	\$66,277.34	Amount: \$8,019.65 Account: 505-5130000640 Amount: \$3,307.69 Account: 505-5100000480 Amount: \$54,950 Account: 505-5130000410
Budget Remaining	\$6,723	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The Prosecutor's Office currently uses Damion case management software from CourtView Justice Solutions. To maintain software support and access additional functionality it is necessary to migrate to CourtView's new product, JWorks.

The costs are:

- \$54,950 – Professional Services Agreement (no applicable tax)
- \$7,344 – Software Licensing Agreement (\$8019.65 with Washington State sales tax)
- \$3029 – Software Maintenance Agreement (\$3307.69 with Washington State sales tax)

The total cost of all agreements is \$66,277.34

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Professional Services Agreement, Software Licensing Agreement, Software Maintenance Agreement and related Addenda with CourtView Justice Solutions at a cost to the City of \$66,277.34 including Washington State sales tax.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is entered into as of the ____ day of _____, 2016 ("Effective Date") by and between CourtView Justice Solutions Inc., a Delaware corporation, with offices at 4825 Higbee AVE NW, Canton, OH 44718 ("CJS"), City of Everett, with offices at 2930 Wetmore Avenue Everett, WA 98201, ("CUSTOMER"), and describes the terms and conditions pursuant to which CJS shall provide professional services to CUSTOMER.

1. Scope of Services

CJS will perform the professional services ("Services") and deliver the deliverables ("Deliverables") described in Exhibit A and such additional Statements of Work as mutually agreed on by the parties.

2. Place of Performance

Unless otherwise provided in this Agreement, CJS may perform the Services in whole or in part at CJS's place of business, CUSTOMER's place of business, and/or such other locations as CJS selects.

3. Effective Date/Term

This Agreement shall be effective as of the date first above written (the "Effective Date"), and shall continue in full force and effect until December 31, 2017 or the Agreement has been terminated in accordance with this Agreement, whichever first occurs.

4. Price and Payment Terms

- (a) CUSTOMER will pay CJS on a "time and materials" basis for labor expended and costs and expenses incurred, as described in the Statement of Work and Exhibit B. CJS will use good faith efforts to complete the Services and deliver the Deliverables within the estimated price ("Estimated Price") set forth in Exhibit B, but does not guarantee that the Services can be completed or the Deliverables can be delivered within the Estimated Price.
- (b) CUSTOMER shall pay to CJS for labor expended in performing the Services an amount computed by multiplying the applicable hourly billing rate set forth in Exhibit B by the number of hours worked. Fractional parts of an hour shall be payable on a prorated basis.
- (c) In addition to paying for labor expended, CUSTOMER shall reimburse CJS for the cost of all goods and materials purchased exclusively for use in performing the Services or which are incorporated into any Deliverable, as well as for all reasonable travel expenses and miscellaneous out-of-pocket expenses incurred in performing the Services. Such costs and expenses shall be subject to the administrative and overhead charge, if any, provided in Exhibit B.
- (d) CUSTOMER shall have no obligation to pay CJS more than the Estimated Price. CJS shall have no obligation to provide labor or incur costs or expenses having a combined value more than the Estimated Price, even if the Services have not been completed or

the Deliverables delivered, or the results desired by CUSTOMER have not been achieved. The parties may, by mutual written agreement, increase the Estimated Price.

- (e) CUSTOMER shall make payment to CJS according to the schedule and provisions of Exhibit B. CJS shall have a lien upon and may retain or repossess any and all Deliverables if CUSTOMER does not make full payment to CJS.
- (f) Invoiced amounts are due and payable 30 days from the date of the invoice.
- (g) If CUSTOMER's action or inaction results in non-receipt of payment by CJS for the total amount of an invoice within fifteen (15) days of the due date of such invoice, interest compounded at the rate of one and one half percent (1.5%) per month, or the maximum rate permitted by law if lower, shall thereafter be added to all amounts unpaid and outstanding. If CUSTOMER's action or inaction results in non-receipt of payment by CJS, CJS shall have the right exercisable in CJS's sole discretion, in addition to its other rights and remedies, to cease further performance of the Services hereunder.
- (h) Bill To Address. The invoice will be mailed to:

City of Everett
IT Director
2930 Wetmore Avenue, Suite 6A
Everett, WA 98201

5. Resources to be Provided by CUSTOMER

- (a) CUSTOMER shall provide, maintain, and make available to CJS, at CUSTOMER's expense and in a timely manner, the resources described in this section 5, and such other additional resources as CJS may from time to time reasonably request in connection with CJS's performance of the Services. Delays in the provision of these resources may result in delays in the performance of the Services, or an increase in the Price.
- (b) CUSTOMER will designate qualified CUSTOMER personnel or representatives to consult with CJS on a regular basis in connection with the Services. CUSTOMER will furnish such documentation and other information as is reasonably necessary to perform the Services.
- (c) CUSTOMER shall furnish access to CUSTOMER's premises, and appropriate workspace for any CJS personnel working at CUSTOMER's premises, as necessary for performance of those portions of the Services to be performed at CUSTOMER's premises.

6. Confidentiality

Concurrently with the execution of this Agreement, the parties shall execute a Non-Disclosure Agreement in the form and content of Exhibit C attached hereto. The Non-Disclosure Agreement and its attached Addendum is independent of this Agreement and shall survive the termination of this Agreement. Nothing in this Agreement or in any such

Non-Disclosure Agreement shall be deemed to restrict or prohibit CJS from providing to others services and deliverables the same as or similar to the Services and Deliverables.

7. Intellectual Property

- (a) CUSTOMER and CJS shall each retain ownership of, and all right, title, and interest in and to, their respective pre-existing Intellectual Property. No license therein, whether express or implied, is granted by this Agreement or as a result of the Services performed hereunder. To the extent the parties wish to grant to the other rights or interests in pre-existing Intellectual Property, separate license agreements on mutually acceptable terms will be executed.
- (b) CJS grants to CUSTOMER a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any CJS Intellectual Property incorporated into any Deliverable, solely for CUSTOMER's use of that Deliverable for its internal business purposes. CJS shall retain ownership of and unrestricted right to use any Intellectual Property derived in any fashion or manner hereunder, including from its pre-existing Intellectual Property. The Services performed and any Deliverables produced pursuant to this Agreement are not "works for hire."
- (c) As used herein, "Intellectual Property" shall mean inventions (whether or not patentable), works of authorship, trade secrets, techniques, know-how, ideas, concepts, algorithms, and other intellectual property incorporated into any Deliverable whether or not first created or developed by CJS in providing the Services.

8. Taxes

- (a) In no event whatsoever shall CJS be liable for sales, use, business, gross receipts or any other tax that may be levied by any State or Federal Government entity against a contractor to such governmental entity other than taxes upon income earned by CJS for the goods and/or services provided pursuant this Agreement. This exclusion of tax liability is also applicable to any goods and/or services that may be provided by CJS under any later amendment hereto regardless of changes in legislation or policy.
- (b) In the event a taxing authority conducts an audit of this Agreement and determines that an additional tax should have been imposed on the Services or Deliverables provided by CJS to CUSTOMER (other than those taxes levied on CJS's income), CUSTOMER shall reimburse CJS for any such additional tax, including interest and penalties thereon. Similarly, if a taxing authority determines that a refund of tax is due as it relates to the Services or Deliverables provided by CJS to CUSTOMER (except those taxes relating to CJS's income), CJS shall reimburse CUSTOMER such refund, including any interest paid thereon by the taxing authority.

9. Termination for Default

- (a) Either party may terminate this Agreement if (i) the other party fails to perform a material obligation of the Agreement and such failure remains uncured for a period of 30 days after receipt of notice from the non-breaching party specifying such failure, or (ii) a party ceases to conduct business, becomes or is declared insolvent or bankrupt, is the subject of any proceeding relating to its liquidation or insolvency

which is not dismissed within 90 days or makes an assignment for the benefit of creditors. In addition, CJS may terminate this Agreement effective immediately upon written notice to CUSTOMER if CUSTOMER fails to make any payment in full as and when due hereunder.

- (b) Upon termination for whatever reason and regardless of the nature of the default (if any), CUSTOMER agrees to pay CJS in full for all goods and/or services provided to, and accepted by, CUSTOMER under this Agreement and/or any task order hereto as of the effective date of the Agreement within 30 days of the invoice date.

10. Indemnification

CJS agrees to defend, indemnify, and hold harmless CUSTOMER from and against third party claims, judgments, and awards, as well as the reasonable costs related thereto (hereinafter collectively referred to as "Damages") to the extent such Damages result from the gross negligence or willful acts or omissions of CJS occurring in the performance of its obligations hereunder; provided, such defense and payments are conditioned on the following: (1) that CJS shall be notified in writing by CUSTOMER within 5 business days following its receipt of any such claim, and (2) that CJS shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise. CJS shall not be responsible for any Damages or liability resulting, in whole or in part, from the negligence or willful misconduct of CUSTOMER its employees, consultants or agents.

11. Limited Warranty

- (a) CJS warrants that the Services provided under this Agreement shall be performed with that degree of skill and judgment normally exercised by recognized professional firms performing the same or substantially similar services. In the event of any breach of the foregoing warranty, provided CUSTOMER has delivered to CJS timely notice of such breach as hereinafter required, CJS shall, at its own expense, at its discretion either (1) re-perform the non-conforming Services and correct the non-conforming Deliverables to conform to this standard, or (2) refund to CUSTOMER that portion of the Price received by CJS attributable to the non-conforming Services and/or Deliverables. No warranty claim shall be effective unless CUSTOMER has delivered to CJS written notice specifying in detail the non-conformities within 90 days after performance of the non-conforming Services or tender of the non-conforming Deliverables. The remedy set forth in this section 11(a) is the sole and exclusive remedy for breach of the foregoing warranty.
- (b) **CJS SPECIFICALLY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED STANDARDS, GUARANTEES, OR WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE, ANY WARRANTY OF ERROR-FREE PERFORMANCE, OR ANY WARRANTY OF THIRD PARTY PRODUCTS, OR FUNCTIONALITY OF THE CUSTOMER'S HARDWARE, SOFTWARE, FIRMWARE, OR COMPUTER SYSTEMS.**

- (c) CUSTOMER represents and warrants to CJS that CUSTOMER has the right to use and furnish to CJS for CJS's use in connection with this Agreement any information, specifications, data or Intellectual Property that CUSTOMER has provided or will provide to CJS in order for CJS to perform the Services and to create the Deliverables identified in Exhibit A.

12. Limitation of Liability

- (a) CUSTOMER hereby agrees that CJS's total liability to CUSTOMER for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed fees paid to CJS during the previous 12-month period. The parties acknowledge and agree to the foregoing liability risk allocation. Any claim by CUSTOMER against CJS relating to this Agreement must be made in writing and presented to CJS within six (6) months after the date on which this Agreement expires or is otherwise terminated.
- (b) In no event shall either CJS or CUSTOMER be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption of data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss, and notwithstanding any failure of essential purpose of any limited remedy.

13. Notices

Any communication or notice permitted under the terms of this Agreement or required by law must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt, (ii) when sent by e-mail, (iii) when delivered by overnight express, or (iv) three (3) days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a party at its address for notices. Each party's address for notices is stated below. Such address may be changed by a notice delivered to the other party in accordance with the provisions of this Section.

Customer
City of Everett
IT Director
2930 Wetmore Avenue, Suite 6A
Everett, WA 98201
Tel. No.

Copy to:
ITNotices@everettwa.gov

CourtView Justice Solutions Inc.
Jeffrey Harmon
General Manager
4825 Higbee Ave NW
Canton, OH 44718
Tel. No. (330) 470-4280

Copy to:
CourtView Justice Solutions Inc.
Director of Contracts
4825 Higbee Ave NW
Canton, OH 44718

14. Rights and Remedies Not Exclusive

Unless otherwise expressly provided herein, no right or remedy of a party expressed herein shall be deemed exclusive, but shall be cumulative with, and not in substitution for, any other right or remedy of that party.

15. Severability

If any term, condition or provision in this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties shall work in good faith to agree such modification that will to the maximum extent possible preserve the original intention of said term, condition, or provision. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

16. Assignment

Neither party may sell, assign, transfer, or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party, except for the sale of assets, merger, or consolidation. Notwithstanding the foregoing, CJS may, without violation of this paragraph, engage the services of independent contractors to assist in the performance of its duties hereunder.

17. Governing Law; Venue

This Agreement shall be governed by and construed under the laws of the State of Delaware, without regard to its laws relating to conflict or choice of laws.

18. Interpretation

The captions and headings used in this Agreement are solely for the convenience of the parties, and shall not be used in the interpretation of the text of this Agreement. Each party has read and agreed to the specific language of this Agreement; therefore no conflict, ambiguity, or doubtful interpretation shall be construed against the drafter.

19. Disputes

The parties will seek a fair and prompt negotiated resolution within ten (10) days of the initial notice of the dispute (“Dispute”). If the Dispute has not been resolved after such time, the parties will escalate the issue to more senior levels. If the parties are unable to resolve any dispute at the senior management level, then any controversy, claim or Dispute arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Before commencing any such arbitration, the parties agree to enter into negotiations to resolve the Dispute. If the parties are unable to resolve the Dispute by good faith negotiation, either party may refer the matter to arbitration. The arbitrator(s) shall be bound to follow the provisions of this Agreement in resolving the Dispute, and may not award any damages excluded by this Agreement. The decision of the arbitrator(s) shall be final and binding on the parties, and any award of the arbitrator(s) may be entered or enforced in any court of competent jurisdiction. The prevailing party will be

entitled to recover its reasonable attorneys' fees and costs, in addition to any other relief ordered by the arbitrator(s). Such fees and costs will include those incurred in connection with the enforcement of any resulting judgment or order, and any post judgment order will provide for the right to receive such attorneys' fees and costs. Any request for arbitration of a claim by either party against the other relating to this Agreement must be filed no later than six (6) months after the date on which CJS concludes performance under this Agreement.

Nothing herein shall prevent either party from seeking a preliminary or permanent injunction to preserve the status quo or prevent irreparable harm during the arbitration process.

20. Multiple Copies or Counterparts of Agreement

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the parties of at least one set of the counterparts.

21. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays. Neither party shall be liable to the other for any liability claims, damages, or other loss caused by or resulting from a Force Majeure Occurrence.

22. Relationship of Parties

CJS is an independent contractor in all respects with regard to this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, agency, or other relationship other than that of contractor and customer.

23. Third Party Beneficiaries

This Agreement does not create, and shall not be construed as creating, any rights or interests enforceable by any person not a party to this Agreement.

24. Waiver or Modification

Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Delay or failure by either party to exercise any right hereunder, or to enforce any provision of this Agreement will not be considered a waiver thereof and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action. No single waiver will constitute a continuing or subsequent waiver, nor shall a waiver of any one provision of the Agreement be deemed to be a waiver of any other provision.

25. Entire Agreement; Conflicting Provisions

The Agreement and any schedules and exhibits thereto contain the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous proposals, discussions, agreements, CUSTOMER issued purchase order or document of like intent or purpose, understandings, commitments, representations of any kind, whether oral or written, relating to the subject matter hereof or the Services to be provided hereunder. It is expressly agreed that if CUSTOMER issues a purchase order or other document for the services provided under this Agreement, such instrument will be deemed for CUSTOMER's internal use only, and no terms, conditions, or provisions contained therein shall have any effect on the rights, duties or obligations of the parties under, or in any way modify, this Agreement, regardless of any failure by CJS to object to such terms, conditions or provisions. In the event that any provision in any attachment conflicts with any provision of this Agreement, then this Agreement shall be deemed to control, and such conflicting provision to the extent it conflicts shall be deemed removed and replaced with the governing provision herein.

26. Authorization

Each of the parties represents and warrants that the Agreement is a valid and binding obligation enforceable against it and that the representative executing the Agreement is duly authorized and empowered to sign the Agreement.

28. Survival

All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have entered into this Agreement as of the Effective Date.

COURTVIEW JUSTICE SOLUTIONS INC

CUSTOMER

By: 

By: _____

Title: General Manager

Title: _____

Date: April 10, 2016

Date: _____

Exhibit A – Statement of Work

Scope of Services

Please see attached Statement of Work, dated December 3, 2015.

Exhibit B – Price and Payment

	Estimated Hours	Hourly Rate	Estimated Total
PROFESSIONAL SERVICES			
Project Startup and Management (WBS 1)	40	\$118	\$4,720
System Installation (WBS 2)	32	\$118	\$3,776
Systems Set-up / Testing (WBS 3)	52	\$118	\$6,136
Data Migration (WBS 4)	122	\$118	\$14,396
Image / File Migration (WBS 5)	20	\$118	\$2,360
Document Template Migration (WBS 6)	16	\$118	\$1,888
Report Migration (WBS 7)	16	\$118	\$1,888
Training / Documentation (WBS 8)	70	\$118	\$8,260
Go-Live Support (WBS 9)	64	\$118	\$7,552
Estimated Services Subtotal		432	\$50,976
Estimated Travel Expenses			\$3,974
Estimated Services Total			\$54,950

Notes

- 1 Pricing is based on a Time and Materials estimate of services.
- 2 Amounts exclude all applicable taxes.
- 3 JWorks requires a compatible web server and other infrastructure, in addition to the existing servers. Server HW, third-party software, other infrastructure, and installation costs are not included.
- 4 License, Maintenance, and Services pricing is based on CJS Standard Contract terms.

Future Services Rates

The Rates noted above in this contract are discounted to reflect a total project cost. Future rates for services beyond the above scope and beyond the current term will be at CJS then-current rate, unless otherwise agreed by the parties. CJS reserves the right to adjust these rates without prior notification to the CUSTOMER. All rates quoted do not include travel expenses. The CUSTOMER will be responsible for all travel expenses.

EXHIBIT C – NON-DISCLOSURE AGREEMENT

This Nondisclosure Agreement (“Agreement”) is entered into as of the ___ day of _____, 2015 (“Effective Date”) by and between CourtView Justice Solutions Inc., a Delaware corporation, with offices at 4825 Higbee AVE NW, North Canton, OH 44720 (“CJS”), City of Everett, with offices at 2930 Wetmore Avenue Everett, WA 98201, (“CUSTOMER”), and describes the terms and conditions pursuant to which CJS and CUSTOMER will confidential information.

WHEREAS, this Agreement is subject to the Washington Public Records Act and incorporates by reference the attached Addendum regarding Washington State Transparency Laws.

WHEREAS, the parties have entered into a Professional Services Agreement and each party (the “Disclosing Party”) desires to disclose certain confidential and proprietary information to the other party (the “Receiving Party”) in connection therewith.

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties agree as follows:

1. Confidential Information. For purposes of this Agreement, “Confidential Information” means inventions, ideas, intellectual property, formulae, patterns, compilations, programs, methods, techniques, processes, data, designs, algorithms, source code, object code, research plans, business plans, financial forecasts, business opportunities, agreements, vendor lists, pricing lists, customer lists, personnel lists, financial statements, and similar information, whether written or oral, that derives independent economic value from not being generally known to the public and is the subject of reasonable efforts to maintain its secrecy. Notwithstanding the foregoing, Confidential Information shall not include information that (a) is or becomes generally available to the public other than as a result of disclosure thereof by the Receiving Party, (b) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which is not prohibited from disclosing such Confidential Information to the Receiving Party by a legal, contractual or fiduciary obligation to the Disclosing Party, or (c) Receiving Party can demonstrate is independently developed by Receiving Party without use, directly or indirectly, of any Confidential Information. Disclosing Party shall designate Confidential Information as such prior to, during or immediately after disclosure. Disclosing Party shall mark any physical materials as Confidential Information and shall identify any oral information as Confidential Information at the time of disclosure. The foregoing notwithstanding, the terms of this Agreement also pertain to information not otherwise identified as Confidential Information if Receiving Party otherwise knows or should reasonably be expected to know of its confidential nature.

2. Restrictions on Use and Disclosure. Confidential Information furnished directly or indirectly by the Disclosing Party to the Receiving Party or to any directors, officers, employees, agents, attorneys, accountants, advisors, affiliates, and other representatives and potential financing sources of the Receiving Party (collectively, “Representatives”), whether obtained by or furnished to the Receiving Party prior, contemporaneously, or subsequent to the date hereof, shall be kept confidential and shall not, without the Disclosing Party’s express prior written consent, be disclosed by the Receiving Party or its Representatives in any manner whatsoever, in whole or in part, and shall not be used by the Receiving Party or its Representatives other than in connection with the Proposed Transaction. Without limitation of the foregoing, each party agrees that it will not use the Confidential Information independently or with third parties, directly or indirectly, to

solicit the business of any person or entity, to provide services to any person or entity, or otherwise to compete with the Disclosing Party. The obligations of this paragraph shall survive for five (5) years from date that Disclosing Party first discloses such Confidential Information to the Receiving Party.

3. Standard of Care. Each party agrees to reveal the Confidential Information only to its Representatives who need to know the Confidential Information for the purpose of the Proposed Transaction, who are informed of the confidential nature of the Confidential Information and who agree to act in accordance with the terms and conditions of this Agreement. The Receiving Party shall be responsible for any breach of this Agreement by its Representatives. Each party agrees to take all reasonable precautions necessary to safeguard the Confidential Information from disclosure to any person or entity other than its Representatives. The parties agree that no disclosure of Confidential Information under this Agreement shall constitute a waiver of any applicable privilege, including but not limited to the privileges pertaining to attorney-client communications and attorney work product. Each party also agrees not to use or disclose any Confidential Information in violation of securities or insider trading laws and to take reasonable steps to ensure compliance by its employees and agents. The Receiving Party shall be responsible for compliance with laws pertaining to the export of the Confidential Information.

4. Term. This Agreement shall be effective as of the date written in the introductory paragraph hereof and shall continue until the earliest of (a) the termination of the Proposed Transaction, (b) notice of termination by one party to the other, or (c) the one-year anniversary hereof. Any termination or expiration of this Agreement shall be subject to the survival provision below.

5. Records. Each party to this Agreement shall keep a written record of Confidential Information furnished to it by the Disclosing Party and of the location of such Confidential Information. All copies of the Confidential Information shall be returned to the Disclosing Party immediately (a) in the event the Proposed Transaction is not consummated, (b) upon the termination of this Agreement, or (c) at any other time upon the Disclosing Party's request.

6. No Ownership or Warranty. Nothing contained in this Agreement shall be construed as granting any ownership rights, by license or otherwise, in any Confidential Information disclosed by a party. The Receiving Party acknowledges that the Disclosing Party makes no express or implied representation or warranty as to the accuracy or completeness of the Confidential Information, and the Receiving Party agrees that the Disclosing Party shall have no liability hereunder with respect to the Confidential Information, or errors or omissions therein. The Receiving Party agrees that it is not entitled to rely on the accuracy or completeness of the Confidential Information and shall be entitled to rely solely on the representations and warranties, if any, made to it by the Disclosing Party in any final written agreement regarding the Proposed Transaction.

7. Compelled Disclosure. Each Party to this Agreement acknowledges the competitive value and confidential nature of the Confidential Information and that use of such Confidential Information by Receiving Party or disclosure thereof to any third party could be competitively harmful to the Disclosing Party. In the event the Receiving Party or any party to which it transmits the Confidential Information pursuant to this Agreement becomes legally compelled to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt notice so that the Disclosing Party may seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, the Receiving Party shall furnish only that portion of the Confidential Information which it is advised by written opinion of counsel is legally required, and the Receiving Party shall exercise

reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

8. Remedies. Each party to this Agreement acknowledges and agrees that, given the nature of the Confidential Information and the competitive damage that would result if the Confidential Information is used by the Receiving Party other than as is provided for herein or disclosed to any third party, money damages would not be a sufficient remedy for any breach of this Agreement, and that, in addition to all other remedies, the aggrieved party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. The parties further agree to waive any requirement for the securing or posting of any bond in connection with such remedy.

9. Miscellaneous.

9.1. **The obligations assumed by the parties pursuant to paragraphs 2, 3, 6, 7, 8, 9.4, 9.8 and 9.9 hereof shall survive the expiration or earlier termination of this Agreement.**

9.2. In the event suit is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reasonable attorneys' fees to be fixed by the Court.

9.3. No provision of this Agreement may be waived unless in writing, signed by all of the parties hereto. Waiver of any one provision of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other provision. This Agreement may be modified or amended only by a written agreement executed by all of the parties hereto.

9.4. This Agreement shall be governed and construed in accordance with the laws of the State of Delaware, without regard to choice of law principles.

9.5. Neither this Agreement nor any duties or obligations hereunder shall be assigned or transferred by a party without the prior written approval of the other party, which approval shall not be unreasonably conditioned, withheld, or denied.

9.6. All notices under this Agreement will be in writing and will be delivered by personal service, facsimile or certified mail, postage prepaid, or overnight courier to such address as may be designated from time to time by the relevant party, which initially shall be the address set forth on the signature page to this Agreement. Any notice sent by certified mail will be deemed to have been given five (5) days after the date on which it is mailed. All other notices will be deemed given when received. No objection may be made to the manner of delivery of any notice actually received in writing by an authorized agent of a party.

9.7. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any manner.

9.8. Neither party shall make any public announcement concerning this Agreement or the Proposed Transaction without the advance approval of the other party. Notwithstanding the foregoing, if the parties are unable to agree on a mutually acceptable announcement, a party may nevertheless issue a press release if it is advised by counsel that such release is necessary to comply with applicable securities or similar laws.

9.9 Each party represents and warrants that the person signing on its behalf has the requisite authority to bind the respective party to the terms and conditions contained herein.

9.10. This Exhibit C contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations, and understandings, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the day and year set forth above.

COURTVIEW JUSTICE SOLUTIONS INC

CUSTOMER

By:  _____

By: _____

Title: General Manager _____

Title: _____

Date: April 10, 2016 _____

Date: _____

ADDENDUM

(WASHINGTON STATE TRANSPARENCY LAWS)

The City of Everett ("City") and CourtView Justice Solutions Inc. ("Vendor") are parties to an agreement entitled "Professional Services Agreement" (the "Agreement"). The parties agree that the provisions of this addendum control all provisions of the Agreement:

- A. Scope. Regardless of anything to the contrary in the Agreement, all provisions in the Agreement that require the City to not disclose information or otherwise preserve confidentiality are strictly limited to the following:

database structure
source code
report design, content, and layout
screen design, content, and layout
business processes within the application
business rules within the application
interface designs and business logic
software documentation
(the "Confidential Records").

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

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

C. Venue. The exclusive venue for any dispute regarding the subject matter of this addendum is Snohomish County Superior Court.

CITY:

RAY STEPHANSON, MAYOR

VENDOR:



By: Jeffrey Harmon

Title: General Manager

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

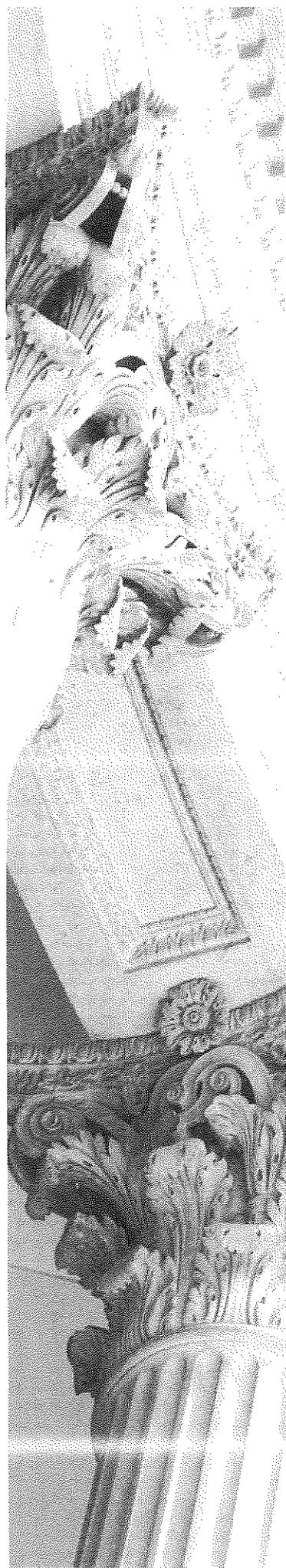


Statement of Work
JWorks Attorney Case Management System

Prepared for
City of Everett, WA - Attorney Office

© CourtView Justice Solutions Inc.

Document Version 1.0 – December 3, 2015



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Introduction

CourtView Justice Solutions Inc. (CJS) is pleased to have the opportunity to team with the City of Everett (City) for the implementation of the CJS JWorks® Attorney Case Management System (CMS). This Statement of Work (SOW) defines the services required to implement the CMS project.

CJS has outlined a series of required tasks and activities to successfully deliver the CMS project. CJS has also included a draft elapsed-time project plan which will be completed jointly with the City as one of the first project activities.

The major tasks in this project and their corresponding project plan work-breakdown-structure (WBS) are:

- Project Startup and Management (WBS 1)
- System Installation (WBS 2)
- Systems Setup / Testing (WBS 3)
- Data Migration (WBS 4)
- Image / File Migration (WBS 5)
- Document Templates Migration Assistance (WBS 6)
- Reports Migration Assistance (WBS 7)
- Training / Documentation (WBS 8)
- Go-Live Support (WBS 9)

The objective is for CJS to provide the professional services, advice, data conversion, interfaces and training to ensure a complete installation and implementation of the CMS at the City's location. The goal is for the City to be conversant with the application and capable of performing system administration tasks including ad hoc report design, document template development, security roles and system backup. Ongoing support will be provided by CJS as part of the annual maintenance agreement.

Each of these major tasks and associated efforts are described in the following sections.

Project Startup and Management (WBS 1)

CJS in conjunction with the City will provide project management and oversight services to coordinate the project. The CJS project manager will coordinate activities with the City project manager as well as coordinate internal CJS technical, data conversion, integration, testing and training resources to ensure a successful project. CJS will provide the following project management services:

- Coordination of project resources and work so that milestones are achieved in an efficient manner; tasks will be designed so as to minimize implementation time and cost while taking into consideration resource and time constraints
- Serve as the main point of contact for the City's project manager
- Provide updates to the work plan and project budget as appropriate
- Participate in project status meeting and steering committee meetings
- Provide monthly project status reports
- Update risk and issue management document as appropriate
- Process project invoices
- Obtain City acceptance of project deliverables

The CJS project manager will ensure that sufficient CJS resources are available to implement the system in accordance with the project requirements. The CJS project manager will monitor the project resources to ensure quality delivery of services and that the Deliverables are completed in accordance with the project requirements.

CJS requires that the City assign a project manager and appoint a core project team with representatives from all functional and/or operational areas of the business. This core project team must have the authority and charter to make appropriate decisions regarding the CMS project. The core project team representatives should have complete knowledge and familiarity with the City's operations and objectives related to the Attorney's Office. The City project team will define their roles and responsibilities and establish project standards and controls.

The City project manager will lead the overall City project team and be responsible for the City personnel and City resources on the project. The City project manager and project leads will be responsible for the CMS configuration, operational procedure development and for facilitating decisions among the core project team.

Project Kickoff:

The CJS project manager will work with the City project manager to plan the project kick-off meetings. CJS will accommodate a kick-off meeting which is project and stakeholder focused. It is assumed that the scheduling and arrangement of the kickoff sessions will be completed by the City project manager. As part of the kick-off meeting CJS will review the project approach, statement of work and timeline with the City.

Planning Deliverables:

The CJS project manager will work with the City and the City Project Manager to establish and define the upfront plans that will help guide a project of this magnitude. The primary scope of these activities is to produce plans defining processes and procedures which will help guide the project team to success. CJS will produce several planning deliverables as described below:

Statement of Work:

One of the first activities will be to review and update this Statement of Work to ensure that it represents any agreed-to changes as part of the agreement process as well as any other required and agreed upon adjustments.

Project Plan:

The CJS Project Manager will update the Microsoft Project Plan submitted with this Statement of Work to adjust for any changes agreed to as part of the agreement process as well as any other required and agreed upon adjustments. The deliverable will be an updated Microsoft Project Plan.

Deliverables for Project Management/Planning:

- Project Status Reports (ongoing throughout the project)
- Statement of Work
- Project Plan

Deliverable Review (applies to all deliverables in this Statement of Work):

All deliverables will have a five (5) business day customer review cycle. Deliverables are automatically accepted if no feedback is received within five business days.

There will be one update cycle for deliverables except in cases where CJS did not make the changes as identified by the City. CJS expects one set of consolidated feedback on deliverables.

Software Installation (WBS 2)

Software Installation includes the City's installation of the Host Environment and the CJS-provided applications:

- JWorks Attorney Case Management System
- JWorks Reporting
- JWorks DMS (Document Management)

Installation of Host Environment:

The City will be responsible for the installation of the host environment. The host environment will be comprised of the necessary hardware, operating system software and database software.

The host environment must be prepared in compliance with minimum requirements provided by CJS. These minimum requirements will be set forth in the **Host Environment Specification** which will be furnished by CJS. CJS assumes the host environment will be available prior to the commencement of the application installation activities.

The City will make remote high speed connectivity to the host environment available to CJS for the purposes of the software installation and for ongoing support of the CMS software application and database. A CJS technical specialist will perform a validation of the host environment prior to installation of the application and database software. Should the host environment not meet the minimum requirements, a list of deficiencies will be provided. The City will mitigate any deficiencies prior to the commencement of application and database installation activities.

The City will install the test and production environments per the minimum requirements. A CJS technical specialist will perform a validation of the host environment prior to installation of the software applications. Should the environment not meet the minimum specification requirements, a list of deficiencies will be provided. The City will mitigate any deficiencies prior to the commencement of application installation activities.

It is critical that at least one of these parts of the hosting environments (Test) is ready prior to start of **Systems Setup / Testing (WBS 3)**, as this environment will be utilized for these activities.

Application Installation:

CJS technical specialists will install the base JWorks applications in the City's host environment. Software installation will be performed remotely.

During the installation, CJS will copy the software applications into the City's host environment. The databases will be installed and files and file structures created. The CJS technical specialist will validate the installation through a set of structured validation steps. Once validation is completed, an administrator account will be created for the City and a successful administrator login validated by City staff.

The Application will be installed in up to three (3) environments: Test, Training and Production.

CJS has allocated **2 service days** for application installation.

Perform Initial Application Configuration:

CJS will perform an initial configuration of the JWorks applications. As a starting point, CJS will utilize a base application template.

CJS has allocated **2 service days** for initial application configuration.

Deliverables for Installation:

- Host Environment Specification
- Installation of JWorks software applications

System Setup / Testing (WBS 3)

There are four major activities which prepare JWorks for Go-Live:

- Business Process Review
- JWorks Code and Case Management Configuration / Setup
- Verify and Test Configuration / Setup
- Go-Live Planning and Preparation

Business Process Review

A CJS Analyst will validate the JWorks base templates and configuration and application templates against any specific site implementation requirements.

As part of this process the Analyst will provide base JWorks training and walk through the current version of the JWorks application. As part of this walk through, the Analyst will use JWorks to validate against functional specific requirements through a gap/fit review.

The gap/fit review will include the following:

- Review and confirmation of functional requirements
- Interview with Division Units:
 - Walk through of Unit operations
 - Review of documents and forms by Unit
 - Review of reporting requirements by Unit

The review will conclude with the delivery of a high level report capturing the outcomes of the business process review. It is expected that the **Business Process Review Report** is a Microsoft Word document of approximately five pages.

CJS has allocated up to **1 service day** for Business Process Review.

JWorks Code and Case Management Configuration / Setup Assistance

JWorks is a very flexible application that allows tailoring through codes and business rules. CJS will facilitate interactive work-sessions with the City to configure and set up the JWorks application, including the application templates and business rules. We will use the JWorks baseline (delivered) configuration and application templates for the configuration and setup tasks and assume that doing so will provide significant reuse. CJS staff will walk through the various JWorks options and configurations with the City.

CJS staff will explain the pros and cons of various options so that the City can make decisions on configuration and complete the actual entry/setup using the JWorks application. The sessions will be interactive and it is expected that the City's business decision makers will attend sessions in their applicable area. CJS staff will be available for assistance and support during the period allotted in the project schedule to complete the Code Configuration / Setup.

The City is expected to complete the configuration during the period allotted in the project schedule to keep the project on track.

As part of these activities, CJS staff will provide a JWorks overview in the functional areas of the product where specific configuration is expected such as:

- Screen layout design
- Screen Panel Field Definitions
 - Define field attributes: prompts / display / hide, etc.

- Code Configuration
 - Populate maintenance tables with customer values / descriptors
 - Set default values
- Workflow Setup
- Business Rules
- Template definitions (reports, documents, etc.)
- User Roles / Security
 - Identifying all staff members
 - Associating all staff members with a job description or organizational role
 - Associating JWorks fields, and window screen access (query/update) with job descriptions
- Calendars
- Other setup

CJS has allocated **1 ½ service days** for assisting with the Code and Case Management Configuration / Setup.

Verify and Test Configuration / Setup:

Prior to the start of training, CJS in conjunction with the City will walk through the system to ensure that the configurations work as expected prior to start of training.

CJS has allocated **1 ½ service days** for assisting with the verification and Testing of the Configuration / Setup.

Acceptance Test:

CJS will provide JWorks software releases to the City. Each one of the releases has time allocated for City testing. CJS has also included a final system acceptance test. The final acceptance test will be scheduled to coincide with a mock data conversion to allow testing using a fully loaded system. CJS will provide assistance with the creation of the acceptance test plan.

CJS has allocated **1 ½ service days** for assisting with the User Acceptance Test.

Go-Live Planning and Preparation:

As part of planning and preparing for go-live, CJS will conduct planning meetings with the City to assess readiness, document go-live and cut-over activities, define go-live contingency plans, and identify production support roles and responsibilities. CJS will document these sessions in the form of a **Go-Live Plan**. It is expected that the Go-Live Plan is a Microsoft Word document of approximately five pages.

CJS has allocated **1 service day** for go-live planning and preparation.

Deliverables for Systems Setup / Testing:

- Business Process Review Report
- Completed JWorks Code Configuration / Setup (CJS advise/assist and City implement)
- Go-Live Plan

Data Migration (WBS 4)

Data Migration enables the City to retain the electronic case histories that have been assembled over time in legacy systems and/or processes. This legacy data is processed and mapped to fit within the JWorks data structures.

Data Conversion Overview:

CJS has identified that legacy data currently exists in DAMION

Note: For this effort, CJS has included services to migrate data from Oracle to SQL Server.

The conversion process will require City review of legacy data and will provide the opportunity for the City to perform data analysis and clean-up, plus mapping of data elements to the JWorks data structures prior to moving data into the JWorks product.

Conversion Plan:

This Statement of Work includes a high-level overview of the proven strategy that CJS utilizes for data conversion of legacy data into the JWorks database. CJS will expand on this as well as update specific plans for the conversion effort. Part of the planning effort will be to make final decisions as to what legacy data will be converted through an automated data conversion effort. CJS will facilitate a data conversion planning session(s) with staff and provide a Conversion Plan deliverable for review and approval. This will occur once for the entire project, representing all implementation phases.

The CJS conversion methodology includes seven (7) distinct steps:

- Data Mapping Business Rules
- Script Development
- Data Checking
- Sample Data Load
- Mock Implementation / Run
- Final Conversion Implementation / Run
- Stabilization

The activities of each of these conversion steps are described briefly below.

CJS has included ½ **service day** for the completion of a data conversion plan.

Data Mapping Business Rules:

CJS and the City will analyze the legacy system data model and determine which data needs to be transported to JWorks and where it will be viewed within the application. The City is required to place its existing data into the CJS conversion data model. Detailed worksheets will be provided outlining the format of these files.

The City is responsible for providing the data extraction files in the required format. Detailed worksheets will be provided which outline the attributes that are required for each file.

All files must be in ASCII text files having fixed length data attributes, as outlined in the CJS Standard Format worksheets. CJS will provide Standard Format worksheets as part of the conversion effort.

Note: The data conversion estimate does not include effort for identity consolidation. CJS can provide an estimated cost for identity consolidation technical services if the City desires to have CJS perform this service.

Some extraction files may be excluded depending on the specifications of the existing legacy system. In addition, during the extraction process, data exceptions will be discovered, allowing the City to identify potential data constraints and cleanse legacy data.

The code set-up must be completed prior to the initial mock conversion, including the **Conversion Mapping Utility**, which allows the City to map its legacy codes to the corresponding JWorks codes. It is assumed that CJS will provide the on-line mapping utility and that the City will use this utility to complete the actual code value mapping.

Once all rules and mappings are established, a formal acceptance document is generated outlining the decisions reached. This document is used as a guideline throughout the conversion life cycle. Any items outside the outlined scope will go through the Change Management Process.

It is expected that the City will complete detailed worksheets for each of the legacy systems as applicable. CJS also assumes that the City will complete the required code mapping for all legacy systems to incorporate legacy codes into one consolidated use of code values in the JWorks system.

*Note: The data migration estimates will be updated as part of the **Data Mapping Business Rules** activity and may result in a project change request if the data conversion efforts are different than currently assumed.*

CJS has included **1 service day** for the support of data mapping business rules.

Script Development:

Script development (refinement) might be necessary where the City has specific business requirements for handling legacy data than for what CJS provides out-of-the box support. The scripting process is made up of separate scripts from each of the primary components of the JWorks application.

This involves implementing all necessary business logic for JWorks as well as legacy rules, and data mappings established to this point. The mappings and rules utilized for the Script Development were defined in the Data Mapping Business Rules step. The output of this step is the completed data conversion scripts.

CJS has included **1 service day** for the update of data load scripts.

Data Checking:

Once data has been provided in the agreed upon format, the data is loaded into conversion work tables for data checking exercises. Referential integrity, correct date values, correct numeric values, and required values are all checked during this process. A **Data Issues Report** identifying all issues is then sent to the City. There are two main sections on the report. The first one (titled 'Stop Issues') shows the issues that must be corrected before the data conversion can move forward. This may require correction of extract programs by the City and a new set of files to be provided. The second section (titled 'Observations') shows issues that may affect the quality of the data but do not necessarily have to be corrected in order for the conversion to continue. City may decide to move forward with current data and cleanup observation issues at a later time.

During the data checking phase, codes will also be validated against existing JWorks code values. If a given code does not have a matching value in JWorks, the City will have the opportunity to

create a matching code or “map to” an already existing code. All codes must have a matching value, a mapped value, or a default value before the conversion can continue.

CJS has included **1 service day** for data checking.

Test Data Load:

CJS will perform two (2) Test Data Load iterations with limited volume case data provided by the City.

Once the data conversion scripts have been developed, the City will provide a sample data set of approximately 1,000 cases which will be provided as per the Data Mapping Business Rules. CJS will run a test data load on this data set and provide a **Data Issues Report** detailing any required modification to source data and scripts. CJS will rerun the Test Data Load process with a new set of sample test data after identified issues have been remedied.

CJS has included **2 service days** to support test data load.

Mock Implementation / Run:

Two (2) mock conversions will be performed emulating the final implementation. Each mock conversion will be performed per the project schedule. For each conversion, the City will provide files of data extracted from the legacy systems, formatted according to CJS specifications.

Detailed statistics by script, source table and JWorks table guarantee accounting for each row of data. Benchmarks are set utilizing time estimates from each mock conversion run. Additional critical comments are tracked in order to ensure they are executed during implementation.

Once the mock conversion is completed, the City will be required to review converted data and document corrections needed. As necessary corrections are found, they will be submitted to the CJS Project Manager and conversion team. Corrections may also be required for the source data. These corrections are the responsibility of the City.

Detailed statistics by script, source table and JWorks table guarantee that the conversion effort has accounted for each row of data. A **Data Statistics Report** will be provided for each mock conversion. Benchmarks are set utilizing time estimates from each mock conversion run. Additional critical comments are tracked in order to ensure they are executed during implementation.

CJS has included **2 ½ service days** to support mock data conversion.

Final Conversion Implementation / Run:

A final conversion will happen when all agreed upon data is migrated to the City's production environment. During the week of implementation, a conference call will take place to review the conversion steps, determine the resources required, and solidify outstanding conversion items. This will include reviewing all resource responsibility, acceptance documents and time estimates for the conversion.

CJS will also be loading the incremental images since the image migration during Mock Implementation / Run and update the image index with this information.

The database backups must be re-scheduled, and a final review of the database configurations is required. At the previously scheduled time, the affected City legacy databases must be shut down, and data entry will cease in preparation for the final data extract. When backups are completed, the conversion process will begin.

In order to ensure that the conversion runs smoothly during the live run, the City may be requested to stop day-to-day operations on the Thursday and Friday prior to the scheduled (weekend) conversions. This provides CJS and City the time needed to effectively implement the conversion process.

City resources must be available to validate the data the day prior to go-live and formally approve the data for go-live. The City will not utilize JWorks to support production business process until such time as the City has validated and approved the data conversion for go-live.

Data conversion does not include any effort for CJS staff fixing or scrubbing the City source data.

CJS has included **2 service days** to support final data conversion.

Stabilization:

Following the final conversion acceptance, the stabilization period begins. This typically lasts one week and includes performance analysis and general clean up. Table and index statistics are updated to ensure efficient data entry and retrieval. Any data attributes that are missing or formatted incorrectly will be addressed. Pending review of these documents, resolution will be determined, and the attributes will be corrected. Any remedy outside the outlined scope will go through the Change Management Process.

CJS has included **1 service days** to support production stabilization.

Deliverable for Data Conversion:

- Data Conversion Plan
- Data Conversion Mapping Spreadsheet (City)
- Data Code Value Mapping (City)
- Data Files (City)
- Data Issues Report
- Data Statistics Report
- Data Loaded in JWorks

Image / File Migration (WBS 5)

The Image / File Migration enables the City to retain the electronic documents / files that have been assembled over time in one or more legacy systems and/or processes. This legacy data is processed and mapped to fit within the JWorks DMS data structures.

Image / File Migration Overview:

CJS has identified that legacy Images / Files currently exists in the following systems:

- DAMION Discovery Module

The migration process will require City review of legacy Images / Files and will provide the opportunity for the City to perform image / file analysis and clean-up.

Migration Plan:

This Statement of Work includes a high-level overview of the proven strategy that CJS utilizes for Image / File migration into the JWorks database. CJS will expand on this as well as update specific plans for the conversion effort. Part of the planning effort will be to make final decisions as to what legacy images / files will be converted through an automated image / file migration effort. CJS will facilitate an image / file migration planning session with staff.

The migration methodology includes six (6) distinct steps:

- Migration Preparation
- Image / File Checking
- Sample Image / File Load
- Mock Implementation / Run
- Final Conversion Implementation / Run
- Stabilization

The activities of each of these migration steps are described briefly below.

CJS has included ½ **service day** for the migration plan assistance.

Migration Preparation:

CJS will provide preparation assistance to the City in relation to retention requirements, image reconciliation and image association to cases.

CJS has included ½ **service day** for the migration preparation assistance.

Image / File Checking:

Once the images / files have been loaded, the data is loaded into migration work tables for checking exercises.

CJS has included ½ **service day** for image / file checking.

Test Image / File Load:

CJS will perform one (1) Test Image / File Load iteration for a limited volume of cases.

CJS has included ½ **service day** to support test data load.

Mock Implementation / Run:

One (1) mock migration will be performed emulating the final implementation. CJS will extract the full image set from the legacy system, according to CJS specifications.

Once the mock migration is completed, the City will be required to review converted images / files and document corrections needed. As necessary corrections are found, they will be submitted to the CJS Project Manager and conversion team. Corrections may also be required for the source data. These corrections are the responsibility of the City.

CJS has included ½ **service day** to support the mock migration.

Final Implementation / Run:

A final migration will happen when all agreed upon images / files are migrated to the City's production environment.

City resources must be available to validate the images / files the day prior to go-live and formally approve them for go-live. The City will not utilize JWorks to support production business process until such time as the City has validated and approved the migration for go-live.

CJS has included ½ **service day** to support final migration.

Deliverables for Migration:

- Image / File Migration Plan
- Image / File Index
- Images / Files
- Issues Report
- Statistics Report

Document Template Migration Assistance (WBS 6)

Document configuration is available through JWorks and allows an Administrator to upload document templates (from Microsoft Word), configure data 'tokens' or placeholders for automatic merging with JWorks data, define whether a document is to be printed, emailed or both, and set other default values for automatic or manual document generation. JWorks allows the user to 'test generate' documents from the configuration page so changes can be made as necessary without opening multiple screens. The automated upload capabilities in the JWorks document administration screens will reduce the risk and overall level of effort required to migrate the document templates. The intent is to reuse the existing templates to the degree possible while leverage additional JWorks document features and functions.

Migration Preparation:

CJS will provide preparation assistance to the City in relation to document migration.

The migration should only include those documents actually used. The City should take this opportunity to clean-up and eliminate unused documents.

CJS will provide a preliminary document inventory for City review. The City will reconcile the document inventory to establish the final set of documents which require migration.

CJS has included ½ **service day** to provide migration preparation assistance.

Incremental Test Assistance:

The City will perform incremental tests on the uploaded documents utilizing the 'test generation' functionality. CJS will provide assistance to ensure the City has the necessary knowledge to successfully complete the testing.

CJS has included ½ **service day** to provide incremental test assistance.

Mock Document Template Migration Assistance:

One (1) mock template migration will be performed emulating the final migration. The mock migration will be performed per the project schedule. For the mock migration, CJS will utilize the full set of document templates.

CJS has included ½ **service day** to assist with the mock document template migration.

Final Document Template Migration Assistance:

A final migration will happen when all agreed upon document templates are migrated to the City's production environment. During the week of implementation, a conference call will take place to review the migration steps, determine the resources required, and solidify outstanding migration items. This will include reviewing all resource responsibility, acceptance documents and time estimates for the migration.

CJS has included ½ **service day** to assist with the final document template migration.

Report Migration Assistance (WBS 7)

Migration Preparation:

CJS will provide preparation assistance to the City in relation to report migration. The migration should only include those reports actually used. The City should take this opportunity to clean-up and eliminate unused reports.

The City will establish a report inventory (including samples) of their current reports which require migration.

CJS has included $\frac{1}{2}$ **service day** to provide migration preparation assistance.

Incremental Test Assistance:

The City will perform incremental tests on the reports utilizing the JWorks Reports. CJS will provide assistance to ensure the City has the necessary knowledge to successfully complete the testing.

CJS has included $\frac{1}{2}$ **service day** to provide incremental test assistance.

Mock Report Migration Assistance:

One (1) mock report migration will be performed emulating the final migration. The mock migration will be performed per the project schedule. For the mock migration, CJS will utilize the full set of reports.

CJS has included $\frac{1}{2}$ **service days** to assist with the mock report migration.

Final Report Migration Assistance:

A final migration will happen when all agreed upon reports are migrated to the City's production environment. During the week of implementation, a conference call will take place to review the migration steps, determine the resources required, and solidify outstanding migration items. This will include reviewing all resource responsibility, acceptance documents and time estimates for the migration.

CJS has included $\frac{1}{2}$ **service day** to assist with the final report migration.

Training / Documentation (WBS 8)

CJS Trainers will help provide guidance as to training strategy, provide training preparation, and deliver training to the City in use of the various applications provided. CJS will provide training to City staff for the following topic areas:

- JWorks System Administration Training
- JWorks End User Training
- JWorks Reports Training

The training program provided to the City will include CJS providing training to IT administrators, system administrators, staff users and attorney users prior to the JWorks system go-live.

CJS proposes an End User training approach. We have assumed training will need to be provided for up to the following number of users:

- 2 System Administrators / Technical Support Staff
- 12 End Users (General User, Supervisor/Manager)

Develop Training Documentation:

CJS will provide existing JWorks User Documentation for use in training sessions. As no custom development work is in scope for this project, this documentation will not be updated or amended to incorporate specific changes for City.

CJS will provide handouts specific to each class including sample exercise scenarios. CJS will work with City to configure the training environment prior to the start of training.

CJS has included **1 service days** to provide Training Documentation.

JWorks System Administration Training:

JWorks System administration training will prepare the City to provide day to day system administration of JWorks. This training will include the following content areas:

- User System Administration (security, roles, etc.)
- Workflow Setup / Administration
- Technical System Administration
- Systems Operations Activities

CJS will provide up to **3 service days** of JWorks Systems Administration Training for up to three (3) City System Administrators. Training facilities will be provided by City.

Deliver JWorks End User Training:

CJS provides a wide variety of classes in the use of all aspects of the JWorks application. Based on the project needs, CJS can also deliver custom variations to the classes listed below; however this has not been included in the estimates:

- JWorks Introduction / Dashboard
- Case Initiation
- Calendar / Scheduling I / II
- DCM I / II
- Forms Generation I / II
- Case Management (general)
- Reporting I / II
- Document Management
- Victim / Witness

- DMS / Discovery

CJS will provide up to **4 service days** of JWorks End User Training for up to 12 City end users for the implementation. Training facilities will be provided by the City.

JWorks Reports Training:

JWorks Reports training will prepare the City to create reports. This training will include the following content areas:

- Data Model
- Report Writer (report creation)

CJS will provide up to **½ service day** of JWorks Report Training for up to two (2) City report writers. Training will be provided remotely through a webinar.

Deliverables for Training:

- Training Strategy
- Training Documentation
- Provision of the standard JWorks System Administration classroom training class
- Provision of standard JWorks End User classroom training classes
- Provision of the standard JWorks Reports webinar training class

The City is responsible for all deliverables not specifically included above.

Go-Live Support (WBS 9)

When the City commences live operations using JWorks, CJS staff will be on-site to provide “go live” assistance for the City operation. This step is critical to success.

On-site go-live support will be provided for the go-live. During this time, CJS will provide refresher training and hands-on help to make sure the transition is as smooth as possible. This time includes verification of proper use of equipment and system performance, adherence to defined processes, and tracking and resolving system issues that arise.

Go-Live support will be provided on-site for the first week of system use. For the week of the go-live we will provide one CJS resource (**8 service days**) experienced with go-live support to ensure a smooth and successful go-live.

CJS resources will be available to assist with application related questions or issues that may arise during the initial use. Supplement support will be provided by the CJS Help Desk.

During the post-implementation period, CJS will provide support during normal working hours. When possible and agreed, CJS will provide support to multiple shifts on a given day (e.g., by covering the last four (4) hours of one shift and the first four (4) hours of a second shift).

Deliverable for Go-Live Support:

- Go-Live support per the project plan

Preliminary Project Schedule

CJS has included a preliminary proposed schedule for the implementation of JWorks. CJS will work with the City to finalize this schedule as part of the project planning activities.

CJS has included a complete preliminary project plan in Appendix A.

Project Assumptions

The following additional assumptions apply to this Statement of Work:

1. The proposal and this SOW is valid through **December 1, 2015**.
2. Professional Services quoted are time and materials based on the scope provided. Actual effort and costs may be greater than those quoted if there is increase in scope.
3. CJS' consulting estimates do not include installation and/or configuration of any computer hardware and peripheral equipment. The City will be responsible for installing and configuring computer hardware and peripheral equipment such as printers and bar code equipment (if applicable).
4. City will purchase all hardware and software necessary for implementation.
5. City will have all of the necessary and appropriate personnel at all of the meetings for the purpose of defining the requirements of the system.
6. City will appoint a single point of contact for the duration of the project. This person should have project management responsibilities and decision-making authority. This person will be the focal point of contact for CJS' project manager.
7. City will make appropriate technical resources available to CJS staff.
8. City will implement this solution using a single production database.
9. This proposal includes only the interfaces stated in this Statement of Work between the CJS application and other systems. CJS will provide estimates for other interfaces as may be required on an as-needed basis.
10. This Statement of Work does not include any costs associated with 3rd party vendors or software that may be needed to complete the implementation, other than those specifically described.
11. City commits to training appropriate functional and technical resources as required.
12. City is responsible for all manual data entry.
13. City remains responsible for all integration effort not described in this Statement of Work.
14. The project schedule may be contingent upon the timely attainment of external milestones that are outside the control of CJS. Examples include but are not limited to the actions of third party vendors, acquisition of the requisite software licenses and hardware and the approval of requisite capital appropriation requests as required.
15. Circumstances may necessitate changes to the tasks and/or time estimates, at which time CJS and City will discuss these changes in good faith at their earliest opportunity.
16. If project is cancelled prior to completion, all effort costs expended through the date of cancellation will be due and payable.

Project Management and Risk Factors

17. The City project manager will be responsible for obtaining any required authorizations, approvals and/or signoffs by City related to project deliverables and project progression in a timeframe in alignment with the project work plan. Delays to this process as well as any City tasks not completed within the work plan timeframe will be subject to the Change Order Management process, delayed deadlines, and increased services fees.

18. This Statement of Work does not include the expenses associated with City or City resources assigned to the project.
19. The project schedule is contingent upon the timely attainment of several external milestones that are outside the control of CJS. Examples include but are not limited to the acquisition of the requisite software licenses and hardware and the approval of requisite capital appropriation requests as required.
20. Circumstances may necessitate changes to the tasks and/or time estimates, at which time CJS and City will discuss these changes in good faith at their earliest opportunity.

Infrastructure

21. System, server(s), and workstation backups are the responsibility of City. This includes the development and execution of the system backups and recovery programs.
22. City personnel assume the responsibility for applying software patches.
23. Acquisition, installation, testing, support, and tuning of any additional required application software, hardware, RDBMS, other software, peripherals and communications infrastructure will be the responsibility of City.
24. City will be responsible for deploying access to the CJS system and for providing all supporting software, hardware, and connectivity for the servers.
25. The following services are not included in this Statement of Work: network connections; telecommunications network(s); operating system, network and database administration; disaster recovery planning; the acquisition, installation, testing and tuning of any required hardware, operating software, peripherals and communications infrastructure.

City Resources

26. All key City project team resources will be committed to the project as of the project start date.
27. City will provide the following resources to ensure a successful implementation of the products.
 - Project Manager - A Project Manager will be assigned with appropriate decision-making authority.
 - Subject Matter Experts - These resources will be considered part of the core project team and will participate in tasks including Project Team training. Often these experts consist of Functional Leads in their respective areas of expertise, as well as other supporting personnel from the various departments. The resources designated for these roles should have a good working knowledge of how City processes are performed and understand the reasons for the current processes.
 - Technical Experts – A team of Technical Experts will be involved in the technical duties that come with a CJS implementation. Examples include a Technical Lead for system administration, database administration, web administration, printer administration, software patches, etc.

Appendix A – Preliminary Project Plan

Agreement No.:

SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is entered into as of the ___ day of _____, 2015 ("Effective Date") by and between CourtView Justice Solutions Inc., a Delaware corporation, with offices at 4825 Higbee Ave NW, Canton, OH 44718 ("CJS"), and City of Everett, with offices at 2930 Wetmore Avenue Everett, WA 98201 ("CUSTOMER"), and describes the terms and conditions pursuant to which CJS shall license to CUSTOMER certain CJS Software (as defined below).

ARTICLE I - DEFINITIONS

- A. "Confidential Information" means this Agreement and all its schedules, any amendment hereto signed by both parties, all software listings, Documentation, information, data, drawings, benchmark tests, specifications, trade secrets, object code and machine-readable copies of the CJS Software, source code relating to the CJS Software, and any other proprietary information supplied to CUSTOMER by CJS, including all items defined as "confidential information" in any other agreement between CUSTOMER and CJS whether executed prior to or after the date of this Agreement.
- B. "Documentation" means any instructions manuals or other materials, and on-line support files regarding the Use of the CJS Software that is provided by CJS.
- C. "CJS Software" means the computer software programs specified in Schedule 1 and licensed by CJS hereunder.
- D. "Site" means the physical location of one or more CPUs at which CUSTOMER is entitled to Use the CJS Software.
- E. "Software" means CJS Software and Third Party Software provided by CJS.
- F. "Software Maintenance", if purchased by CUSTOMER, means the services described in the separate Maintenance Agreement.
- G. "Third Party Software" means software licensed by a third party, other than CJS, and is provided by CJS subject to such the license of such third party.
- H. "Update" means error corrections or fixes to the version of the CJS Software specified in Schedule 1.
- I. "Use" means utilization of the Software by CUSTOMER for its own internal information processing services and computing needs.

ARTICLE II - GRANT OF LICENSE

- A. Upon receipt by CJS of the License Fee agreed to by the parties and subject to the terms and conditions of this Agreement, CJS hereby grants to CUSTOMER a non-exclusive, perpetual, limited, non-transferable license for the number of users specified in Schedule 1 (“Users”) to: (1) Use the CJS Software in the CUSTOMER’s database servers and application servers designated in Article XI (the database servers and application servers shall be referred to as the “Enterprise”), and (2) use the Documentation in connection with Use of the CJS Software. The CUSTOMER may copy, in whole or in part, any printed material relative to the CJS Software that may be provided by CJS under this Agreement solely for its internal purposes in connection with its use of the CJS Software. Additional copies provided by CJS will be billed to CUSTOMER at CJS’ standard rates. CUSTOMER may replace any component of the Enterprise by giving CJS prior written notice of the new servers. Except as provided above, use of CJS Software in excess of limits defined in Schedule 1 or other than on the Enterprise requires additional fees. CUSTOMER’s license is to use the CJS Software in its own business. CUSTOMER has no right to use the CJS Software in processing work for third parties.
- B. The CUSTOMER agrees to keep the original and any copies of that CJS Software at the same location as the CUSTOMER’s designated servers, except that a machine-readable copy of the CJS Software may be kept at another facility for archive or emergency restart purposes only. However, if any part of the Enterprise becomes temporarily inoperative the license may be extended to backup servers until such time as the Enterprise becomes operative again at which time all CJS Software will be deleted from the backup servers and returned to the Enterprise.
- C. CJS shall issue to CUSTOMER, as soon as practicable after the Effective Date, the number of machine-readable copy or copies of the CJS Software set forth in Schedule 1 for Use at the Sites only, along with the accompanying Documentation.
- D. CUSTOMER shall have the right to use only one copy or image of the CJS Software for production purposes to manage up to the number of Users identified in the Product Schedule (Schedule 1) and shall not copy or use the CJS Software for any other purpose except: (i) for archival purposes, (ii) in connection with a disaster recovery program, and (iii) for the purpose of testing the operation of the CJS Software and/or training on the CJS Software, provided such copies shall not be used in a live production environment. CUSTOMER may not otherwise copy the CJS Software, except as permitted by this Agreement. All copies of the CJS Software will be subject to all terms and conditions of this Agreement. Whenever CUSTOMER is permitted to copy or reproduce all or any part of the CJS Software, all titles, trademark symbols, copyright symbols and legends, and other proprietary markings must be reproduced.
- E. CUSTOMER may increase the number of authorized Users by modification of this Agreement and paying in full the applicable fees. Upon signing the modification and paying in full the applicable fees, CJS shall have the right to monitor the revised number of Users as set forth in that modification.

- F. All of CUSTOMER's records with regard to the Software Use shall be made available to CJS at all reasonable times at CJS' request, and CUSTOMER shall certify to the truth and accuracy thereof.
- G. If any Third Party Software is provided to CUSTOMER pursuant to this Agreement, such license shall be in accordance with terms of that Third Party Software license, or such additional terms as set forth in Schedule 1.

ARTICLE III – ADDITIONAL SOFTWARE

In the event the CUSTOMER decides to acquire CJS Software in addition to that indicated in Schedule 1 of this Agreement as of the Effective Date (the "Additional Software"), the parties shall modify this Agreement to include the Additional Software on Schedule 1 and associated license fee(s) and make any other changes necessary for coverage of the Additional Software hereunder. The terms and conditions of this Software License Agreement shall apply to the Additional Software upon execution of such modification.

ARTICLE IV - LICENSE RESTRICTIONS

CUSTOMER agrees that it will not itself, or through any parent, subsidiary, affiliate, agent or other third party:

- A. Sell, lease, license or sublicense the CJS Software or the Documentation, except as authorized by CJS,
- B. Decompile, disassemble, or reverse engineer the CJS Software, in whole or in part,
- C. Allow access to the CJS Software by any User other than CUSTOMER's employees for CUSTOMER's internal purposes, except as authorized by CJS,
- D. Write or develop any derivative software of any other software program based upon the CJS Software or any Confidential Information,
- E. Use the CJS Software to provide processing services to third parties, or otherwise use the CJS Software on a 'service bureau' basis,
- F. Provide, disclose, divulge or make available to, or permit use of the CJS Software by any third party without CJS's prior written consent, or
- G. Modify the CJS Software.

ARTICLE V - FEES AND PAYMENTS

- A. In consideration of the license granted pursuant to Article II, CUSTOMER agrees to pay CJS the fees specified in Schedule 1. All license fees are due and payable in full upon the Effective Date.
- B. CUSTOMER shall reimburse CJS for all taxes and charges assessed or imposed with respect to amounts payable hereunder, including, without limitation, state and local,

occupation, sales, VAT, GST, use or excise taxes paid or payable by CJS, exclusive, however, of taxes imposed on CJS' net income by the United States or any political subdivision thereof.

- C. CJS reserves the right to apply a late payment charge of 1.5% per month to amounts outstanding more than thirty (30) days after the due date of the invoice.

ARTICLE VI - NON-DISCLOSURE

- A. CUSTOMER acknowledges that the Confidential Information constitutes valuable trade secrets and CUSTOMER agrees that it shall use Confidential Information solely in accordance with the provisions of this Agreement and will not disclose, or permit to be disclosed, the same, directly or indirectly, to any third party without CJS's prior written consent. CUSTOMER agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. However, CUSTOMER bears no responsibility for safeguarding information that is publicly available, already in CUSTOMER's possession and not subject to a confidentiality obligation, obtained by CUSTOMER from third parties without restrictions on disclosure, independently developed by CUSTOMER without reference to Confidential Information, or required to be disclosed by order of a court or other governmental entity.
- B. CJS acknowledges that, in the course of its performance of this Agreement, it may become privy to certain information that CUSTOMER deems proprietary and confidential. CJS agrees to treat all such information that is identified as proprietary and confidential in a confidential manner and will not disclose or permit to be disclosed the same, directly or indirectly, to any third party without CUSTOMER's prior written consent. However, CJS bears no responsibility for safeguarding information that is publicly available, already in CJS's possession and not subject to a confidentiality obligation, obtained by CJS from third parties without restrictions on disclosure, independently developed by CJS without reference to such information, or required to be disclosed by order of a court or other governmental entity.
- C. In the event of actual or threatened breach of the provisions of A and B above, the parties acknowledge that the non-breaching party may have no adequate remedy at law and will be entitled to seek immediate injunctive and other equitable relief.
- D. The parties acknowledge that this Agreement is subject to the Washington Public Records Act ("Act"). The Addendum attached is hereby incorporated through reference.

ARTICLE VII – LIMITED WARRANTY AND LIMITATION OF LIABILITY

- A. Limited Warranty. CJS warrants for a period of ninety (90) days following the date of delivery of the CJS Software to CUSTOMER that the CJS Software will substantially operate according to the specifications set forth in the Documentation. If it is determined by CUSTOMER that the CJS Software does not substantially operate according to such specifications, CJS may, at its option and expense, apply commercially reasonable efforts to designing, coding and implementing programming changes to the source code to correct reproducible errors or correcting misstatements and omissions in the User's Guide and code documentation. Licensee shall report all errors or other defects in the CJS Software to CJS immediately upon their discovery. It is acknowledged that the CJS Software is inherently

complex and may contain errors and CJS cannot and does not guarantee to correct all such errors. The remedies set forth in this Article VII, paragraph A constitutes CUSTOMER's sole and exclusive remedy for breach of this Warranty. CJS does not warrant Third Party Software. CJS will transfer any warranty provided by the licensor of the Third Party Software to CUSTOMER.

- B. NO OTHER WARRANTIES. CJS MAKES NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT, INCLUDING MAINTENANCE AND SUPPORT. CJS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING.**
- C. LIMITATION ON LIABILITY. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT, IN NO EVENT WILL CJS BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE CJS SOFTWARE OR SERVICES PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF CJS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, CJS WILL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY OR FURNISHING THE SOFTWARE OR SAID SERVICES. CJS'S LIABILITY UNDER THIS AGREEMENT FOR DAMAGES WILL NOT, IN ANY EVENT, EXCEED THE LICENSE FEE PAID BY CUSTOMER TO CJS UNDER THIS AGREEMENT.**

THE PROVISIONS OF THIS ARTICLE VII ALLOCATE RISKS UNDER THIS AGREEMENT BETWEEN CUSTOMER AND CJS. CJS'S PRICING REFLECTS THIS ALLOCATION OF RISKS AND LIMITATION OF LIABILITY.

NO ACTION ARISING OUT OF ANY BREACH OR CLAIMED BREACH OF THIS AGREEMENT OR TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY MORE THAN SIX (6) MONTHS AFTER THE CAUSE OF ACTION HAS ACCRUED. FOR PURPOSES OF THIS AGREEMENT, A CAUSE OF ACTION WILL BE DEEMED TO HAVE ACCRUED WHEN A PARTY KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE BREACH OR CLAIMED BREACH.

NO EMPLOYEE, AGENT, REPRESENTATIVE OR AFFILIATE OF CJS HAS AUTHORITY TO BIND CJS TO ANY ORAL REPRESENTATIONS OR WARRANTY CONCERNING THE CJS SOFTWARE. ANY WRITTEN REPRESENTATION OR WARRANTY NOT EXPRESSLY CONTAINED IN THIS AGREEMENT WILL NOT BE ENFORCEABLE.

ARTICLE VIII – INDEMNIFICATION FOR INFRINGEMENT

- A. CJS shall, at its expense, defend or settle any claim, action or allegation brought against CUSTOMER that the CJS Software infringes any copyright, trade secret or other similar proprietary right of any third party and shall pay any final judgments awarded or settlements entered into, provided that CUSTOMER gives prompt written notice to CJS of any such claim, action or allegation of infringement and gives CJS the authority to proceed as contemplated herein. CJS will have the exclusive right to defend any such claim, action, or allegation and make settlements thereof at its own discretion, and CUSTOMER may not settle or compromise such claim, action or allegation, except with prior written consent of CJS. CUSTOMER shall give such assistance and information as CJS may reasonably require to settle or oppose such claims. In the event any such infringement, claim, action, or allegation is brought or threatened, CJS may, at its sole option and expense:
1. Procure for CUSTOMER the right to continue Use of the CJS Software or infringing part thereof, or
 2. Modify or amend the CJS Software or infringing part thereof or replace the CJS Software or infringing part thereof with other software having substantially the same or better capabilities; or, if neither of the foregoing is commercially practicable,
 3. Terminate this Agreement and repay to CUSTOMER the License Fee. CJS and CUSTOMER will then be released from any further obligation to the other under this Agreement, except for the obligations of indemnification provided for above and such other obligations that survive termination.
- B. The foregoing obligations shall not apply to the extent the infringement arises as a result of modifications to the CJS Software made by any party other than CJS or CJS's authorized representative or CUSTOMER's unauthorized use or combination of the CJS Software with software or data not supplied by CJS as part of the CJS Software.
- C. The foregoing states the entire liability of CJS with respect to infringement of any copyright, trade secret or other proprietary right.

ARTICLE IX – TERMINATION

- A. This Agreement may be terminated by CUSTOMER upon thirty (30) days' prior written notice to CJS, with or without cause, provided that no such termination will entitle CUSTOMER to a refund of any portion of the License Fee.
- B. CJS may, by written notice to CUSTOMER, terminate this Agreement and the License granted under Section 2.1 if any of the following events ("Termination Events") occur:
1. CUSTOMER fails to pay any amount due CJS within thirty (30) days after CJS gives CUSTOMER written notice of such nonpayment, or
 2. CUSTOMER is in material breach of any nonmonetary term, condition or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after CJS gives CUSTOMER written notice of such breach, or

3. CUSTOMER (i) terminates or suspends its business, (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes.
 4. If any Termination Event occurs, termination will become effective immediately or on the date set forth in the written notice of termination. Termination of this Agreement will not affect the provisions regarding CUSTOMER's or CJS's treatment of Confidential Information, provisions relating to the payment of amounts due, or provisions limiting or disclaiming CJS's liability, which provisions will survive termination of this Agreement.
- C. Within thirty (30) days after the date of termination or discontinuance of this Agreement for any reason whatsoever, CUSTOMER shall return the CJS Software and all copies, in whole or in part, all Documentation relating thereto, and any other Confidential Information in its possession that is in tangible form. CUSTOMER shall furnish CJS with a certificate signed by an executive officer of CUSTOMER verifying that the same has been done.

ARTICLE X - ASSIGNMENT

Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred by either party, in whole or in part, whether voluntary or by operation of law, except by way of sale of assets, merger or consolidation, without the prior written consent of the other party, such consent will not be unreasonably withheld, and any attempted assignment without such consent shall be void. No assignment of this Agreement shall be valid until and unless consented to in writing by the non-assigning party and assumed by the assignee in writing. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assignees.

ARTICLE XI – CUSTOMER’S ENTERPRISE

CUSTOMER’s application server(s) and database server(s) are as follows:

<u>Server(s)</u>	<u>Location(s)</u>
Application Server(s): Up to two Environments	Customer Premise
Database Server(s): Up to two Environments	Customer Premise

ARTICLE XII - ENTIRE AGREEMENT

This Agreement and any schedules, exhibits or addendums attached thereto contain the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous proposals, discussions, agreements, CUSTOMER issued purchase order, or document of like intent or purpose, understandings, commitments, representations of any kind, whether oral or written, relating to the subject matter hereof, except as provided in Article I, paragraph B with respect to the definition of “Confidential

Information.” It is expressly agreed that if CUSTOMER issues a purchase order or other document for the products provided under this Agreement, no terms, conditions or provisions contained therein shall have any effect on the rights, duties or obligations of the parties under, or in any way modify, this Agreement, regardless of any failure by CJS to object to such terms, conditions or provisions. This Agreement sets forth the sole and entire understanding between CJS and CUSTOMER with respect to the subject matter. No amendments to this Agreement, either at the execution or subsequently, shall be binding on CJS or CUSTOMER unless agreed to in writing by both parties.

ARTICLE XIII – SCHEDULE(S)

The following Schedule(s) are hereby incorporated into the Agreement:

Schedule 1 (Software License(s) and Fee(s));

ARTICLE XIV – GENERAL TERMS

All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.

- A. CUSTOMER may not export or re-export the Software without the prior written consent of CJS and without the appropriate United States and foreign government licenses.
- B. Any waiver of the provisions of this Agreement or of a party’s rights or remedies under this Agreement must be in writing to be effective. Delay or failure by either party to exercise any right hereunder, or to enforce any provision of this Agreement will not be considered a waiver thereof and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party’s right to take subsequent action. No single waiver will constitute a continuing or subsequent waiver, nor shall a waiver of any one provision of the Agreement be deemed to be a waiver of any other provision.
- C. If any term, condition or provision in this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties shall work in good faith to agree such modification that will to the maximum extent possible preserve the original intention of said term, condition or provision. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.
- D. This Agreement shall be governed by the laws of the State of Delaware, without regard to its laws relating to conflict or choice of laws.
- E. Any communication or notice permitted under the terms of this Agreement or required by law must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt, (ii) when sent by e-mail, (iii) when delivered by overnight express, or (iv) three (3) days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a party at its address for notices. Each party's address for notices is stated below. Such address may be

changed by a notice delivered to the other party in accordance with the provisions of this Section.

Customer
City of Everett
IT Director
2930 Wetmore Avenue, Suite 6A
Everett, WA 98201
Tel. No.

CourtView Justice Solutions Inc.
Jeffrey Harmon
General Manager
4825 Higbee Ave NW
Canton, OH 44718
Tel. No. (330) 470-4280

Copy to:
ITNotices@everettwa.gov

Copy to:
CourtView Justice Solutions Inc.
Director of Contracts
4825 Higbee Ave NW
Canton, OH 44718

- F. The parties will seek a fair and prompt negotiated resolution within ten (10) days of the initial notice of the dispute (“Dispute”). If the Dispute has not been resolved after such time, the parties will escalate the issue to more senior levels. If the parties are unable to resolve any dispute at the senior management level, then any controversy, claim, or Dispute arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Before commencing any such arbitration, the parties agree to enter into negotiations to resolve the Dispute. If the parties are unable to resolve the Dispute by good faith negotiation, either party may refer the matter to arbitration. The arbitrator(s) shall be bound to follow the provisions of this Agreement in resolving the Dispute, and may not award any damages excluded by this Agreement. The decision of the arbitrator(s) shall be final and binding on the parties, and any award of the arbitrator(s) may be entered or enforced in any court of competent jurisdiction. The prevailing party will be entitled to recover its reasonable attorneys' fees and costs, in addition to any other relief ordered by the arbitrator(s). Such fees and costs will include those incurred in connection with the enforcement of any resulting judgment or order, and any post judgment order will provide for the right to receive such attorneys' fees and costs. Any request for arbitration of a claim by either party against the other relating to this Agreement must be filed no later than six (6) months after the date on which CJS concludes performance under this Agreement.

Nothing herein shall prevent either party from seeking a preliminary or permanent injunction to preserve the status quo or prevent irreparable harm during the arbitration process.

- G. Neither party will incur any liability to the other party on account of any loss or damage resulting from any failure to perform or any delay in performing any of its obligations hereunder if such failure or delay is due, in whole or in part, to events, circumstances or causes beyond its reasonable control and without its fault (Force Majeure), including without limitation, any natural catastrophe, fire, war, riot, strike, or any general shortage or unavailability of materials, components or transportation facilities, or any governmental action or inaction, but the failure to meet financial obligations is expressly

excluded. Upon the occurrence of such event of Force Majeure, the affected party will immediately give notice to the other party with relevant details, and will keep the other party informed of related developments.

- H. CUSTOMER acknowledges that CJS may desire to use its name in press releases, product brochures and financial reports indicating that CUSTOMER is a customer of CJS, and CUSTOMER agrees that CJS may use its name in such a manner, subject to CUSTOMER's consent, which consent shall not be unreasonably withheld.
- I. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have entered into this Agreement as of the Effective Date.

COURTVIEW JUSTICE SOLUTIONS INC

CUSTOMER

By:  _____

By: _____

Title: General Manager

Title: _____

Date: April 10, 2016

Date: _____

SCHEDULE 1 – SOFTWARE LICENSE(S) AND FEE(S)

Item	Users	Unit Price	Net Price
SOFTWARE			
New Modules/Software			
JWorks Enhancement Module, Named Users	12	\$900	\$10,800
JWorks Discovery Module	N/A		\$7,560
Software Subtotal			\$18,360
Discount			60%
			\$11,016
Software Total			\$7,344

ADDENDUM

(WASHINGTON STATE TRANSPARENCY LAWS)

The City of Everett ("City") and CourtView Justice Solutions Inc. ("Vendor") are parties to an agreement entitled "Software License Agreement" (the "Agreement"). The parties agree that the provisions of this addendum control all provisions of the Agreement:

- A. Scope. Regardless of anything to the contrary in the Agreement, all provisions in the Agreement that require the City to not disclose information or otherwise preserve confidentiality are strictly limited to the following:

database structure
source code
report design, content, and layout
screen design, content, and layout
business processes within the application
business rules within the application
interface designs and business logic
software documentation
(the "Confidential Records").

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

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

C. Venue. The exclusive venue for any dispute regarding the subject matter of this addendum is Snohomish County Superior Court.

CITY:

RAY STEPHANSON, MAYOR

VENDOR:



By: Jeffrey D. Harmon

Title: General Manager

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

SOFTWARE MAINTENANCE AGREEMENT

This Software Maintenance Agreement ("Agreement") is entered into as of the ____ day of _____, 2015 ("Effective Date") by and between CourtView Justice Solutions Inc., (CJS) with offices at 4825 Higbee Avenue NW, Suite 101, Canton, Ohio 44718 ("CJS"), and City of Everett, with offices at 2930 Wetmore Avenue Everett, WA 98201, ("Customer"), and describes the terms and conditions pursuant to which CJS shall provide software maintenance services to Customer for certain Software (as defined below). Intending to be legally bound, the parties hereby mutually agree to the following terms and conditions:

A. BACKGROUND

1. CJS and Customer are parties to a Software License Agreement pursuant to which Customer has licensed certain software products ("Software") from CJS. "Software" expressly excludes software licensed by a third party.
2. The Software paid-up license fee includes a warranty without charge as set forth in the Software License Agreement. In addition, support and maintenance ("Maintenance") for the Software is available. Maintenance includes bug fixes and telephone support and may include, if they are made available by CJS, software updates and enhancements.
3. The purpose of this Agreement is to set forth the terms and conditions upon which the parties have agreed Maintenance will be provided to the Customer for the Software, and to which the Customer, at its option, may subscribe annually to Maintenance from CJS. Except as expressly provided in this Agreement, CJS does not provide Maintenance for third party software that is licensed by a party other than CJS.

B. TERMS AND CONDITIONS

1. Term

Maintenance shall commence on May 1, 2016, and shall have an initial term of twelve (12) months ("Initial Term"). The term shall automatically renew each year thereafter on the anniversary of the Effective Date for an additional twelve (12) month period ("Subsequent Term") unless terminated as set forth below.

2. Scope of Maintenance Services

CJS will provide the Maintenance as described in Schedule 2. Pursuant to this Agreement, Customer may request additional services beyond Maintenance at CJS then current time and materials rates. CJS will provide tier one support for third party software purchased from CJS; tier two support, tier three support, revisions, and upgrades may be provided by the manufacturer of such third party software.

All software development, design, documentation, and programs necessary to operate and maintain the systems described herein that were produced by CJS shall remain the proprietary property of CJS. Restriction of this proprietary property does not limit the Customer from making such copies of programs, documentation, and software-related materials for internal use. Subject to the attached addendum, disclosure of such materials to third parties or other contractors is strictly forbidden without the express written consent of CJS.

3. Customer Responsibility for Environment

To operate the supported software, CJS will provide Customer with a definition of minimum requirements for the Customer's environment, infrastructure and related applications, which include, but are not limited to, Customer's operating system, database tools, and other support tools. CJS will provide Customer with at least ninety (90) days written notice of changes to those minimum requirements. Customer must meet those minimum requirements or CJS may decline to provide Maintenance. CJS has no obligations to upgrade the supported software because of Customer's changes to its environment, infrastructure and related applications, including, but are not limited to, Customer's operating system, database tools and other supported tools, that are not in compliance with the CJS provided requirements for the Customer's environment. For Microsoft software components, minimum Microsoft software requirements for supported software will be within the Microsoft Mainstream Support End Date as defined in the Microsoft Support Lifecycle policy.

4. Software Maintenance Fee – Paid Up License

In consideration of the Maintenance services to be provided for the initial term, Customer shall pay to CJS the Maintenance Fee in Schedule 1. For each Subsequent Term, CJS reserves the right to change the annual Maintenance fee by providing Customer written notice of the increase at least forty-five (45) days prior to start date for any Subsequent Term.

5. Additional Software – Paid Up License

In the event the Customer requires maintenance for additional Software (the "Additional Software"), the parties may mutually agree to modify this Agreement to include the Additional Software on Schedule 1 and make any other changes necessary for coverage of the Additional Software hereunder. The Software Maintenance Fee due under this Agreement shall also be modified to include a prorated amount of the annual maintenance fee for the Additional Software covering the term remaining under then current term of this Agreement. The Maintenance Fee for this initial period of coverage shall be in an amount equal to twenty two percent (22%) of the non-discounted license fee paid for the Additional Software. For the first Subsequent Term, the amount due for the Additional Software shall be of the full value of the 22% of the non-discounted cost of the license fee. Thereafter, any change in the amount of annual Maintenance Fee due shall be provided as set out in this Agreement

6. Other Fees and Expenses

If onsite maintenance is required, Customer will pay reasonable travel and living expenses of CJS' employees or agents, which shall be billed and paid as the expenses are incurred. Onsite labor shall be provided on an hourly rate basis at the then current rates. Travel and living expenses shall be incurred in accordance with CJS' standard travel policy.

7. Payment Terms

- a. Payment for Maintenance for initial and subsequent terms is due and payable within thirty (30) days of the date of each billing. Upon thirty days written notice to Customer of the intent to suspend Maintenance, CJS may, at its sole election and without prejudice to other remedies herein, suspend support under this agreement if Customer fails to pay invoice by the ninety day after the invoice date. Restatement of Maintenance under this agreement requires all overdue payments to be paid in full.

- b. CJS reserves the right to apply a late payment charge of 1.5% per month to amounts outstanding more than thirty (30) days after the payment due date.

8. Default and Termination

- a. The Customer shall have the right to terminate Maintenance upon delivery of written notice at least thirty (30) days prior to start date of any Subsequent Term.
- b. Either party may terminate this Agreement if: (i) the other party fails to perform a material obligation of this Agreement, and if such failure remains uncured 30 days after receipt of written notice from the non-breaching party specifying the failure; or (ii) a party ceases to conduct business, becomes or is declared insolvent or bankrupt, is the subject of any proceeding relating to its liquidation or insolvency which is not dismissed within 90 days or makes an assignment for the benefit of creditors. In addition, CJS may terminate this Agreement effective upon thirty (30) days written notice to Customer if Customer fails to make any payment in full as and when due hereunder and does not cure within that thirty (30) days.
- c. In the event that Maintenance is terminated by CJS, CJS shall have no continuing obligations to the Customer of any nature whatsoever with respect to Maintenance. Furthermore, termination by CJS pursuant to the provisions hereof shall be without prejudice to any right or recourse available to CJS, and without prejudice to CJS' right to collect any amounts, which remain due to it hereunder.

9. Limited Warranties

- a. Software. CJS warrants for a period of ninety (90) days following the date of delivery of any software under this agreement that it will substantially operate according to the documentation and product literature provided by CJS. If it is determined by Customer that the software does not substantially operate according to such documentation provided by CJS. CJS may, at its option and expense, apply commercially reasonable efforts to designing, coding and implementing programming changes to the source code to correct reproducible errors or correcting misstatements and omissions in the User's Guide and code documentation. Customer shall report all errors or other defects in the software to CJS immediately upon their discovery. It is acknowledged that the Software is inherently complex and may contain errors and CJS cannot and does not guarantee to correct all such errors. The remedies set forth in this section constitutes Customer's sole and exclusive remedy for breach of this Warranty. CJS does not warrant Third Party Software. CJS will transfer any warranty provided by the licensor of the Third Party Software to Customer. Third Party Software is software that is not proprietary to CJS.
- b. Services. CJS warrants that the Services provided under this Agreement shall be performed with that degree of skill and judgment normally exercised by recognized professional firms performing the same or substantially similar services. In the event of any breach of the foregoing warranty, provided Customer has delivered to CJS timely notice of such breach as hereinafter required, CJS shall, at its own expense, in its discretion either (1) re-perform the non-conforming Services and correct the non-conforming Deliverables to conform to this standard; or (2) refund to Customer that portion of the Price received by CJS attributable to the non-conforming Services and/or Deliverables. No warranty claim shall be effective unless Customer has delivered to CJS written notice specifying in detail the non-conformities within 90 days after performance of the non-conforming Services or tender of the non-conforming Deliverables. The remedy set forth in this section is the sole and exclusive remedy for breach of the foregoing warranty.

- c. **NO OTHER WARRANTIES. CJS MAKES NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT, INCLUDING MAINTENANCE AND SUPPORT. CJS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING.**

10. Limitation of Liability

- a. Customer hereby agrees that CJS' total liability to Customer for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed fees paid to CJS hereunder during the previous 12-month period. The parties acknowledge and agree to the foregoing liability risk allocation. Any claim by Customer against CJS relating to this Agreement must be made in writing and presented to CJS within six (6) months after the date on which this Agreement expires or is otherwise terminated.
- b. In no event shall either party be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss and notwithstanding any failure of essential purpose of any limited remedy.

11. General Terms

- a. Neither party may sell, assign, transfer, or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party except in the event of sale of assets, merger or consolidation. Notwithstanding the foregoing, CJS may without violation of this paragraph engage the services of independent contractors to assist in the performance of its duties hereunder.
- b. All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.
- c. Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Delay or failure by either party to exercise any right hereunder, or to enforce any provision of this Agreement will not be considered a waiver thereof and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.. No single waiver will constitute a continuing or subsequent waiver, nor shall a waiver of any one provision of the Agreement be deemed to be a waiver of any other provision.
- d. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any manner. If any term, condition or provision in this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties shall work in good faith to agree such modification that will to the maximum extent possible preserve the original intention of said term, condition or provision. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be

severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

- e. This Agreement shall be governed by the laws of the State of Delaware, without regard to its laws relating to conflict or choice of laws. Subject to paragraph g below, the parties agree that the sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and U.S. Federal courts in the State of Delaware. Both parties consent to the jurisdiction of such courts and waive any objections regarding venue in such courts.
- f. Any communication or notice permitted under the terms of this Agreement or required by law must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt; (ii) when sent by e-mail; (iii) when delivered by overnight express; or (iv) three (3) days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a party at its address for notices. Each party's address for notices is stated below. Such address may be changed by a notice delivered to the other party in accordance with the provisions of this Section.

Customer

City of Everett
IT Director
2930 Wetmore Avenue, Suite 6A
Everett, WA 98201

Tel No.

CourtView Justice Solutions, Inc

Jeffrey Harmon
General Manager
4825 Higbee Avenue NW
Suite 101
Canton, Ohio 44718
Tel. No. 330.470.4280
Fax No. 330.494.2483

Copy to:

ITNotices@everettwa.gov

Copy to:

CourtView Justice Solutions Inc.
Attn: Director of Contracts
4825 Higbee Avenue NW
Suite 101
Canton, Ohio 44718

- g. The parties will seek a fair and prompt negotiated resolution within ten (10) days of the initial notice of the dispute ("Dispute"). If the Dispute has not been resolved after such time, the parties will escalate the issue to more senior levels. If the parties are unable to resolve any dispute at the senior management level, then any controversy, claim or Dispute arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Before commencing any such arbitration, the parties agree to enter into negotiations to resolve the Dispute. If the parties are unable to resolve the Dispute by good faith negotiation, either party may refer the matter to arbitration. The arbitrator(s) shall be bound to follow the provisions of this Agreement in resolving the Dispute, and may not award any damages excluded by this Agreement. The decision of the arbitrator(s) shall be final and binding on the parties, and any award of the arbitrator(s) may be entered or enforced in any court of competent jurisdiction. The prevailing party will be entitled to recover its reasonable attorneys' fees and costs, in addition to any other relief ordered by the arbitrator(s). Such fees and costs will include those incurred in connection with the enforcement of any resulting judgment or order, and any post judgment order will provide for the right to receive such attorneys' fees and

costs. Any request for arbitration of a claim by either party against the other relating to this Agreement must be filed no later than six (6) months after the date on which CJS concludes performance under this Agreement.

Nothing herein shall prevent either party from seeking a preliminary or permanent injunction to preserve the status quo or prevent irreparable harm during the arbitration process.

- h. Neither party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.
- i. This Agreement and any schedules or exhibits attached thereto contain the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous proposals, discussions, agreements, Customer issued purchase order or document of like intent or purpose, understandings, commitments, representations of any kind, whether oral or written, relating to the subject matter hereof. It is expressly agreed that if Customer issues a purchase order or other document for the services provided under this Agreement, such instrument will be deemed for Customer's internal use only, and no terms, conditions or provisions contained therein shall have any effect on the rights, duties or obligations of the parties under, or in any way modify, this Agreement, regardless of any failure by CJS to object to such terms, conditions or provisions. This Agreement sets forth the sole and entire understanding between CJS and Customer with respect to the subject matter.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have entered into this Agreement as of the Effective Date.

COURTVIEW JUSTICE SOLUTIONS INC

CUSTOMER

By:  _____

By: _____

Title: General Manager

Title: _____

Date: April 10, 2016

Date: _____

SCHEDULE 1

SOFTWARE COVERED UNDER THIS MAINTENANCE AGREEMENT

Software	Support Period	Amount	Billing Frequency
JWorks Enhancement Module, 12 Named Users JWorks Discovery Module	May 1, 2016 – April 30, 2017	\$3,029	Annually, in advance

SCHEDULE 2

MAINTENANCE TERMS

1. SUPPORT SERVICES

Customer will authorize and identify a reasonable number of contacts who may initiate support with CJS. These named users must be technically capable and familiar with the products covered under this agreement. Customer will perform basic troubleshooting before contacting CJS to eliminate issues caused by other variables such as applications, power, hardware, security, infrastructure, and environment. CJS reserves the right to decline support to Customer named users not authorized to initiate support.

CJS will provide support after confirming Customer has been unable to resolve the issue through its own troubleshooting. Once the reported problem can be reproduced and documented, and resolution identified such as assistance provided over the phone, application working as documented, configuration change, or programming change, the ticket will be closed. If a programming change is required, the ticket will remain open until the updated fix is delivered in a future release.

Maintenance includes bug fixes and telephone support and may include, if they are made available by CJS, software updates.

2. CORRECTION OF DEFECTS

In the event the Customer encounters an error and/or malfunction ("Defect") in the CJS Software because it is not conforming to documentation provided by CJS, it shall communicate the circumstances and any supporting information to CJS. Upon receipt, CJS will respond as follows:

- A. In the event that, in the mutual and reasonable opinion of CJS and the Customer, there exists a Defect that does not constitute a serious impediment to the normal intended use of the CJS Software, CJS will correct the Defect and distribute the correction to the Customer in accordance with CJS' normal software revision schedule.
- B. In the event that, in the mutual and reasonable opinion of CJS and the Customer, there exists a Defect that does constitute a serious impediment to the normal intended use of the CJS Software, CJS will take such steps as are reasonably required to correct the Defect promptly.

3. SOFTWARE REVISIONS AND NEW VERSIONS

- A. CJS Software may be revised by CJS as a result of (i) emergency correction of Defect, (ii) periodic correction of Defects and/or (iii) the release of upgrades or improvements or modifications designed to improve the performance of the CJS Software and/or to increase the capabilities of the CJS Software (hereafter "Revisions").

Revisions will be provided at no additional charge during the term of the Software Maintenance Agreement.

- B. New versions ("New Versions") of the CJS Software may be issued by CJS from time to time (excluding 3rd party software). A New Version substantially changes the architecture and/or coding structure of the application, and the New Version is not

written as an add-on to the current software code base. CJS will, from time to time, release new products (including New Versions) and/or modules, which CJS will make available to Customer at the then-current price(s).

- C. All Revisions and New Versions will be transmitted to the Customer electronically unless otherwise mutually agreed. The Customer shall be solely responsible for executing the appropriate instructions in order to transfer the Revisions or New Versions onto to its system unless otherwise mutually agreed in writing.
- D. If Customer reports a Defect to CJS that can be resolved through upgrading to a New Version, Customer must upgrade to said New Version and CJS is not obligated to correct the Defect through remediation of the older version unless otherwise mutually agreed in writing.
- E. CJS Software is designed as standard products and not as customized systems. CJS recognizes the need for some Customer customization; however, CJS reserves the right to control the design, performance, and integration of CJS products and, as a result, may reject Customer requests for modifications or enhancements that are inconsistent with CJS' product strategy.
- F. CJS will use commercially reasonable efforts to modify the CJS Software in order to maintain its existing functionality and provide functionality required as a result in changes to the law, regulations, or rules of the Customer's State jurisdiction. A change to the law, regulations, or rules of the Customer's State jurisdiction that requires new functionality is an enhancement. CJS, at its sole discretion, may elect to add such enhancements to the product as a revision. If Customer requires such enhancement prior to CJS decision, if any, to add to the product, the Customer will be required to pay for such additional services at CJS' then current time and materials rate. In either case, the Customer shall timely notify CJS in writing of all requested legislative updates. The notice shall contain a summary of the modifications, identifying the applications and functions to be modified as well as detailed specification of the required changes. The Customer shall also provide a complete text, including effective date, of the legislation and/or order mandating the modifications. CJS shall then prepare a detailed functional specification for approval by Customer and the timeline required for implementation. Nothing in this provision requires CJS to undertake extraordinary efforts to complete the legislative updates or provide new functionality except as Additional Services. Customer agrees to cooperate with other customers in the jurisdiction to agree upon appropriate specifications.

4. TECHNICAL LITERATURE

CJS shall make available to the Customer technical literature that CJS considers relevant to the CJS Software and its use within the scope of Customer's operations.

5. REMOTE DIAGNOSTIC ACCESS

The Customer shall provide appropriate remote access capabilities by which CJS may, with the permission of the Customer, remotely access the CJS Software for the purpose of remote diagnostics and support.

6. PROPER USE

- A. The Customer agrees that all reasonable effort shall be taken to ensure that neither the CJS Software nor data files are misused.

- B. In the event that the Customer or its agents misuses the CJS Software or data files, including, but not limited to, inserting, updating, deleting or otherwise modifying data through a means other than the CJS Software, although CJS is not obligated to correct such misuse, CJS may attempt to correct the situation, if possible, at Customer's expense.
- C. In the event that diagnostic assistance is provided by CJS, which, in the reasonable opinion of CJS, relates to problems not caused by a Defect in the CJS Software, such assistance shall be at the Customer's expense.

7. ADDITIONAL SERVICES

- A. The Customer may desire to have additional modifications or minor enhancements performed; the fees for these services shall be in accordance with CJS' then current time and materials rates. Specific services include requirements analysis, preparation of functional and programming specifications, software development, testing, documentation, installation, file conversion, training, and help desk support. CJS shall provide an estimate of cost prior to performing any of the above services. CJS is available to perform these modifications within the scope of this Agreement or under a separate agreement.
- B. Additional support outside the scope of the support services described in this Agreement may be available to the Customer upon request. These services shall be performed on a time and materials basis.

8. RESPONSE TIMES AND AVAILABILITY

- A. Definition. The Customer Support Department is the primary means of communication between the Customer and CJS regarding all CJS software issues. Customer Support provides the most efficient means to track, manage, and resolve all CJS software issues.
- B. Response Time. CJS target average response to Customer's request for assistance via the Customer Support Department is within four (4) business hours of receipt. Response time is defined as the time it takes CJS to provide the Call Tracking Number to the Customer.
- C. Resolution Time. Resolution time will vary depending on the severity and complexity of the reported problem. Resolution time is defined as the time it takes CJS to sufficiently remedy the problem or return the system to operational status. Resolution may mean that a temporary fix has been provided to correct a problem until a permanent solution can be delivered. Elapsed time for development effort is not included in Resolution time.
- D. Hours of Operation. CJS shall be available for support services Monday through Friday, 8 A.M. to 5 P.M. Eastern Time, except for CJS-observed holidays, which may be revised from time to time.

ADDENDUM

(WASHINGTON STATE TRANSPARENCY LAWS)

The City of Everett ("City") and CourtView Justice Solutions Inc. ("Vendor") are parties to an agreement entitled "Software Maintenance Agreement" (the "Agreement"). The parties agree that the provisions of this addendum control all provisions of the Agreement:

- A. Scope. Regardless of anything to the contrary in the Agreement, all provisions in the Agreement that require the City to not disclose information or otherwise preserve confidentiality are strictly limited to the following:

database structure
source code
report design, content, and layout
screen design, content, and layout
business processes within the application
business rules within the application
interface designs and business logic
software documentation
(the "Confidential Records").

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

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

C. Venue. The exclusive venue for any dispute regarding the subject matter of this addendum is Snohomish County Superior Court.

CITY:

RAY STEPHANSON, MAYOR

VENDOR:



By: Jeffrey Harmon

Title: General Manager

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY