

Everett City Council Agenda
6:30 P.M. June 1, 2016
City Council Chambers

Approval of Minutes: May 25, 2016

Mayor's Comments - Swearing in Everett Police Officers Casey Metzger and Josh Freeman

Roll Call

Pledge of Allegiance

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) Award Request for Proposal 2015-097 for Ambulance Transport Services and Authorize the Mayor to sign the Contract with Platinum Nine Holdings LLC, doing business NW Ambulance in the amount of \$158,167.04, substantially in the form provided.

Documents: [NW Ambulance.pdf](#)

(2) CB 1605-26 – 1st Reading – Adopt the Proposed Ordinance amending the Comprehensive Plan Map Designation with a Rezone for the North Portion of Community Health Center of Snohomish County's Property located at 1019 112th St. SW, amending Ordinance No's 2021-94 and 1671-89, as amended. (3rd and final reading and public hearing on 6-15-16)

Documents: [CB 1605-26.pdf](#)

PROPOSED ACTION ITEMS:

(3) CB 1605-25 – 2nd Reading – Adopt the Proposed Ordinance authorizing "Supportive Housing" in various residential and commercial zones, amending Ordinance No. 1671-89 (EMC Title 19, Zoning) and 2530-01 (EMC Title 15, Local Project Review Procedures), as amended (3rd and final reading and public hearing on 6-8-16)

Documents: [CB 1605-25.pdf](#)

CONSENT ITEMS:

(4) Adopt Resolution No. ____ authorizing claims against the City of Everett in the amount of \$1,882,938.39 for the period of May 14, 2016 through May 20, 2016.

Documents: [res-88.pdf](#)

(5) Adopt Resolution No. ____ authorizing payroll claims against the City of Everett in the amount of \$3,698,299.29 for the period ending May 14, 2016.

Documents: [payroll-61.pdf](#)

(6) Authorize the closure of California Street, between Baker Avenue and Virginia Avenue on June 18, 2016, from 2 p.m. to 9 p.m. for a Youth Summer Jam Block party sponsored by the Second Baptist Church Youth Ministry.

Documents: [Summer Jam.pdf](#)

(7) Authorize the street closure starting at 6613 Larimer Road on June 11, 2016, from 8 a.m. to 12 p.m., for a 1.5 mile Fun Run benefiting Children's Hospital sponsored by the Communities Caring for Kids.

Documents: [Childrens .pdf](#)

(8) Accept the 2015 Hot Mix Asphalt Overlay Project as complete and Authorize the Mayor to sign the Certificate of Completion with Granite Construction.

Documents: [Hot Mix Asphalt.pdf](#)

PUBLIC HEARING:

(9) CB 1605-23 –3rd and final Reading – Adopt the Proposed Ordinance amending the City's Multifamily Housing Property Tax Exemption Regulations, Section 1 of Ordinance No. 2408-99, Section 8 of Ordinance No. 2347-98, as amended (EMC 3.78.080).

Documents: [CB 1605-23.pdf](#)

ACTION ITEMS:

(10) Authorize the Mayor to sign the Agreement with Wells Fargo for Custody Services as provided for through the Washington Statewide Custody Provider Program in the amount of \$4,000.00 annually.

Documents: [Wells Fargo.pdf](#)

(11) Adopt Resolution waiving public bidding requirements and approve sole source purchase of calcium nitrate solution (Bioxide) from Evoqua Water Technologies, LLC in the estimated annual amount of \$458,000 including Washington State Sales tax.

Documents: [Evoqua.pdf](#)

(12) CB 1605-24 – 3rd and final Reading – Adopt the Proposed Ordinance relating to Regulation of Vessels, amending Ordinance 3135-09, Section 14 and Ordinance No. 1246-86, Section 1 part) as amended (Chapter 12.02.125 and 12.02.130 EMC)

Documents: [CB 1605-24.pdf](#)

(13) Authorize the Mayor to sign the Water Quality Combined Financial Assistance Agreement with the Washington State Department of Ecology to improve water quality in the Snohomish River in the amount of \$1,000,000 with a local share of \$333,333.00.

Documents: [Water Quality.pdf](#)

(14) Award the bid for the Hawthorne Elementary Safe Routes to School Project to Pellco Construction, Inc. in the amount of \$378,958.25 including Washington State sales tax.

Documents: [Hawthorne-3.pdf](#)

(15) Authorize the Mayor to sign Change Order #5 with McClure & Sons, Inc., for the Riverfront Development Sanitary Sewer Lift Station Improvements Project in the amount

of \$82,246.09, not including Washington State sales tax.

Documents: [McClure-2.pdf](#)

(16) Select Low Barrier Supportive Housing Provider and Authorize the Mayor to sign an Exclusive Negotiating Agreement with the selected provider in substantially the form provided.

Documents: [Supportive Housing.pdf](#)

Executive Session

Adjourn

Everett City Council agendas can be found, in their entirety, on the City of Everett Web Page at www.everettwa.gov/citycouncil.

Everett City Council meetings are recorded for rebroadcast on the [Everett Channel](#), Comcast Channel 21 and Frontier Channel 29, at 12:00 p.m. on Monday and Tuesday; 2 p.m. and 7:00 p.m. Thursday; 7 p.m. Friday and Sunday; 10:00 a.m., Saturday.

The City of Everett does not discriminate on the basis of disability in the admission or access to, or treatment in, its programs or activities. Requests for assistance or accommodations can be arranged by contacting the Everett City Council Office at 425 257-8703.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Award Request for Proposal
2015-097 for Ambulance
Transport Services to
Platinum Nine Holdings,
LLC dba NW Ambulance

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

COUNCIL BILL # _____
Originating Department Finance/Purchasing
Contact Person Clark Langstraat
Phone Number 425-257-8901
FOR AGENDA OF June 1, 2016

Initialed by:
Department Head _____
CAA _____
Council President 

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Authorize Request for Proposal	Contract	Fire, Purchasing

Amount Budgeted	\$158,167.04	
Expenditure Required	\$158,167.04	Account Number(s): Fire/EMS
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The Fire Department Emergency Medical Services (EMS) Division is seeking a single vendor to provide transport for Basic Life Support patients to area hospitals. This vendor will replace the rotation of several private ambulance companies currently providing transport services. The selected ambulance company will provide transport only after EMS has responded to the initial call.

The Request for Proposal (RFP) was sent to all area ambulance companies, advertised in the Herald and posted on the City's website. One response was received, from NW Ambulance. Fire has reviewed this response and found that it is responsive to the RFP and complies with the stated requirements. Staff is recommending award of the RFP to NW Ambulance.

RECOMMENDATION (Exact action requested of Council):

Award Request for Proposal 2015-097 for Ambulance Transport Services and Authorize the Mayor to Sign a Contract with Platinum Nine Holdings LLC, dba NW Ambulance in the amount of \$158,167.04, substantially in the form provided.

CITY OF EVERETT

**CONTRACT FOR
BASIC LIFE SUPPORT AMBULANCE SERVICES**

This Contract is made effective _____ (the “Effective Date”), and entered into by and between the City of Everett (“Everett” or “City”), a Washington municipal corporation; and Platinum Nine Holdings, LLC dba NW Ambulance (“Contractor”), a Domestic Limited Liability Company of the State of Washington, and authorized to do business in the State of Washington.

Contractor Business	Platinum Nine Holdings, LLC dba NW Ambulance
Name of Representative	Jeremy Yoder, General Manager
Contractor Address	706 Cedar Ave, Marysville WA 98270
Contractor Phone	425-877-3417
Contractor Fax	360-386-8426
Contractor E-mail	jyoder@nwamb.us

WHEREAS, the purpose of this contract is to provide the City of Everett with Ambulance Services; and

WHEREAS, Contractor was selected as a result of a Request for Proposal 2015-097;

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made a part hereof, Everett and Contractor mutually agree as follows:

Contractor shall provide city-wide ambulance transport services for Basic Life Support (BLS) patients that have been screened and medically evaluated by the Everett Fire Department (EFD) and transferred to the Contractor for transport to an appropriate medical facility. The EFD will remain the first responder for all 9-1-1 calls, will perform triage and interrogation of all patients and provide Advanced Life Support (ALS) treatment and transport.

1.0 Definitions:

“At Scene Time” means the point in time when the ambulance unit is physically stopped or staged at the correct scene. In situations where the unit has been directed to respond to a location other than the scene, e.g., staging areas for hazardous materials/violent crime incidents, or non-secured scenes, “at scene time” shall be the point in time the ambulance unit reports it has arrived at the designated staging location. In instances when an ambulance unit fails to report when it

has arrived “at scene,” “at scene time” shall mean the point in time of the first communication or status transmission from a mobile data terminals verifiably transmitted from the scene by that ambulance unit.

“City” means the City of Everett, Washington.

“Contractor” means **NW Ambulance**.

“Critical care transport” or “CCT” means the inter-facility transport of a patient whose condition requires ALS services.

“EFD” means the Everett Fire Department

“Request Received” means the point in time when the incident address is confirmed by the Contractor’s dispatcher.

“Response Time” means the time interval from the time when the Contractor’s data records system electronically time stamps the call requesting service to the time an ambulance unit arrives at the scene of the incident.

“Unit Hours” means amount of time calculated in hours that a fully staffed and equipped apparatus is available for service.

2.0 Patient Care Performance

2.1 Standards: The Contractor shall continuously meet or exceed the patient care performance standards set forth in State law and the Snohomish County EMS Pre-Hospital Care Treatment Guidelines, Protocols and Procedures. Additionally the Contractor shall have its own medical direction and performance review programs.

2.2 Transport Protocols:

2.2.1 EFD will provide the rapid initial response to all requests for emergency medical assistance within the City. Except in limited circumstances, the Contractor shall not provide rapid initial response or ALS to medical emergencies within the City.

2.2.3 When the Contractor arrives at an incident scene in response to a EFD request, the Contractor’s personnel shall report to the ranking EFD official or his or her designee in charge of the emergency who shall, when appropriate, designate the mode of transportation and the hospital to be utilized. Patients in a life-threatening or potentially life-threatening condition shall be transported to area hospitals as directed by EFD.

2.2.4 The Contractor shall immediately request an EFD response if the Contractor receives a request for assistance from a citizen for any medical emergency.

2.2.5 Critical Care Transport (CCT) of patients. The Contractor will record and routinely review with EFD all direct requests from medical providers to transport critical but stable patients between medical facilities for the purpose of assessing which were subsequently picked up by EFD. The Contractor shall refer to EFD all requests for inter-hospital transportation involving critically ill, unstable patients.

2.2.6 In the event the Contractor's dispatcher determines an EFD rapid initial response is required, the call will be immediately patched back to EFD.

2.2.7 In the event the Contractor's unit arrives on-scene and determines that an ALS response is required, the Contractor shall immediately notify EFD.

2.2.8 Due to the nature of BLS transport within the City of Everett EMS system, all transports to area hospitals from the scene of an incident shall be non-priority (Non-Code - without lights and sirens) unless the patient's condition is actively deteriorating in which case, EFD dispatch should be immediately notified. If transport subsequently becomes priority (Code – with lights and sirens) the incident should be reported in the next monthly performance report for an exception from liquidated damages.

2.2.9 In the event that a BLS transport being handled by the Contractor becomes an emergency requiring the services of an ALS technician, the Contractor shall immediately request the services of EFD.

2.3 Patient Care Performance Standards Monitoring

The Contractor shall ensure its personnel complete documents related to responses and patient care, including, but not limited to: electronic Pre-hospital Care Reports (e-PCRs); Against Medical Advice (AMA) Summary Audits; and ambulance response failure/ unusual occurrence forms and other forms needed for providing such patient care. Such documents shall be made available to the City upon request. The City reserves the right to require the use of certain forms or to approve the content of any Contractor forms, if, in the City's judgment, the Contractor forms are not adequate to provide the information needed for quality patient care, The Contractor shall provide to EFD by the 10th day of each calendar month a report summarizing its patient care performance during the preceding month. The Contractor and EFD shall meet monthly to discuss matters of concern and to review adherence to patient care performance standards and transport protocols. The purpose of these meetings will be to maintain open and proactive communications, resolve problems, and to provide a forum to confer about patient care performance on the part of the Contractor or EFD.

2.3.1 ESO Solutions. Patient Care Reports (PCRs) shall be recorded electronically, referred to as an electronic Patient Care Report or ePCR. The required ePCR software is ESO Solutions. The Contractor will assure that each ambulance is equipped with ePCR capable recording equipment to maintain patient care reports on Everett Fire patient transports. The Contractor is responsible to assure all Snohomish County ePCR requirements are met regarding standards of acceptable reporting and time limits for

finalizing and submitting electronic reports. The Contractor will also assure that information can be electronically transmitted from the contractor's ePCR software to and from Everett Fire's ePCR software.

3.0 Response Time Performance

3.1 Requirements

In order to reliably track and report on response time performance, the Contractor is required to transmit response data to SNOPAC via direct electronic transfer facilitated by Mobile Data Terminal (MDT) or over the radio. Response data will include at a minimum: Time of dispatch; time in route; time of arrival at scene; time of arrival at patient; time of initiation of transport; time of transport complete and time in service. The Contractor shall meet or exceed the response time standards set forth in subsection 3.2 and 3.3. Response times shall be measured in minutes and seconds, and shall be timed-stamped by the SNOPAC computer aided dispatch (CAD) system. Liquidated damages for exceeding the response time standard will be assessed as provided in Section 11 (Finance).

Recognizing that operations are impacted by weather and other occurrences of nature as well as the state of regional and national disasters, EFD has established two operational levels with different standards for response time and/or liquidated damages. Regardless of operational level, Code will mean responses made with both lights and sirens in operation while Non-Code means without either lights or siren in operation.

3.2 Normal Operations

Normal Operations is defined as that time during which there is no extraordinary weather or heightened circumstances due to manmade threat or natural disasters either locally or nationally. Normal Operation needs no special declaration. It is the baseline which may be changed by EFD to Modified Operations.

3.1.1.1.1.1.1.1.1 3.2.1 "Code" Response Performance Standard. The Contractor shall respond to ninety percent (90%) of all "Code" requests which have not been exempted from such time performance standards within 9:59 minutes. Liquidated damages for late arrival on scene will be assessed per minute for up to five minutes after which liquidated damages for a non-response will be assessed.

3.1.1.1.1.1.1.1.1 3.2.2 “Non-Code” Response Performance Standard – The Contractor shall respond to ninety percent (90%) of all “Non-Code” requests which have not been exempted from such time performance standards within 14:59 minutes. Liquidated damages for late arrival on scene will be assessed per minute for up to five minutes after which liquidated damages for a non-response will be assessed.

3.1.1.1.1.1.2 3.3 Modified Operations

3.1.1.1.1.1.3 Modified Operation includes times of severe weather, other natural conditions or circumstance that impede routine delivery of service that are beyond the control of the Contractor and are typically effecting the entire City. The Fire Chief shall determine when Modified Operations commence and when Modified Operations return to Normal Operations.

3.1.1.1.2 3.3.1 “Code” Response Performance Standard – The Contractor shall respond to ninety percent (90%) of all “Code” requests which have not been exempted from such time performance standards within 14:59 minutes. Liquidated damages for late arrival on scene will be assessed per minute for up to five minutes at which time the request is considered non-responsive and liquidated damages for a non-response will be assessed.

3.1.1.1.2.1.1.1 3.3.2 “Non-Code” Response Performance Standard. The Contractor shall respond to ninety percent (90%) of all “Non-Code” requests which have not been exempted from such time performance standards within 19:59. Liquidated damages for late arrival on scene will be assessed per minute for up to five minutes at which time the request is considered non-responsive and liquidated damages for a non-response will be assessed.

3.4 Natural or Man-made Disasters

During periods of time determined to be natural or man-made disasters as declared by the State of Washington all liquidated damages are waived until such time as Normal Operations can continue.

3.5 Performance Incentive

For any calendar month, EFD will waive liquidated damages for late arrivals that are not considered non-responsive, if the Contractor meets or exceeds the response time standards for ninety five percent (95%) of requests which have not been exempted from such time performance standards Citywide.

3.1.1.1.2.2

3.6 Response Time Performance Monitoring

Performance reports created by the Contractor are to be based on verifiable data from the SNO-PAC CAD system. The Contractor shall provide to EFD by the 10th day of each calendar month a draft report detailing its response time performance citywide. Along with this report, the Contractor is to submit any requests for exemptions from the imposition of liquidated damages. The Contractor shall document each instance wherein a response was in excess of the response

performance standard and for which a liquidated damage exemption is being sought and shall detail the reasons for such an exemption request based on the guidelines for exemptions in Section 11 (Finance). EFD will respond to requests for exemption within five business days of receipt of the exemption request. The Contractor shall submit the final report or request further review of denied exemptions within 5 business days of receipt of the EFD response. Failure by the Contractor to meet submission dates will result in automatic waiver of exemption requests.

3.7 Quality Improvement Program

The Contractor shall take all steps necessary to eliminate causes of poor response time performance and upon request shall provide the City with a summary of such corrective actions. In addition to the Quality Improvement reviews described in Patient Care Performance (Section 2.3 above), the reporting in Response Time Performance (Section 3 above) and its program for Quality Improvement for Dispatch Communications (Section 5.3 below), the Contractor shall develop and maintain a Quality Improvement Program that includes, at a minimum:

3.7.1 Review of incident reports with EFD and other governmental agencies to evaluate Contractor's performance;

3.7.2 Establishment of a Quality Improvement peer review committee designed to review documentation and performance of pre-hospital care personnel;

3.7.3 Observation and evaluation of EMTs in the field, including patient assessment, diagnosis, protocol selection and compliance, and procedural competency.

3.8 Inquiries and Complaints

The Contractor shall provide prompt written responses and follow-up to inquiries and complaints. Such responses shall be subject to the limitations imposed by patient confidentiality restrictions. Contractor shall, on a monthly basis, submit to EFD a list of all complaints received and their respective dispositions. Copies of such complaints will be made available to the City upon request. Any complaint received by the City shall be forwarded to the Contractor for action and the Contractor shall forward the disposition of the complaint to the City within fifteen business days of receipt.

4.0 Factors of Production

All equipment, supplies, facilities, locally assigned personnel, and other production factors utilized by the Contractor in performing the services under the Contract resulting from this solicitation, whether furnished by the City or not, shall be devoted to the services under the Contract.

4.1 Initial Coverage Plan

During the first three (3) months of operations, the Contractor shall adhere to the initial coverage plans submitted in its proposal or a modification of that plan which is approved by the City. Thereafter, in the Contractor's discretion, the plan

of coverage may be altered by the Contractor to produce the required response time performance with the greatest possible efficiency.

4.2 System Status Management Plan/Unit Hour Utilization

The Contractor is encouraged to be innovative in developing and implementing sophisticated techniques for maximizing unit hour utilization. The Contractor shall submit to the City for review, its system status management plan detailing its deployment methods and unit levels to provide coverage within the City of Everett service area.

4.3 Dispatch and Communications

4.3.1 City Provided Radio Frequency: The City shall provide radio frequency for use between the EFD and the Contractor. The City will provide the primary EFD –to – Contractor communication system channel for Contractor's use including authorization to use a designated channel of the Everett/Snohomish County 800 MHz radio and repeater system.

4.3.2 Furnishing of Dispatch/Communication Equipment and Personnel: The Contractor shall furnish, operate, maintain, and replace or upgrade all dispatch and communication equipment, radios, telephone equipment, computer aided dispatch (“CAD”) system equipment, including hardware and software supporting the interface and security technology, communication infrastructure enhancements (such as CAD upgrades, mobile data terminals, automatic vehicle locators, etc.) and all other equipment and software necessary for the provision of emergency and non-emergency BLS services. All personnel employed as dispatchers shall be trained in an appropriate manner.

4.3.3 Computer Aided Dispatching: The Contractor shall provide a CAD system to record dispatch information for all requests for services and install and maintain an interface to the EFD CAD system. This system must meet the following requirements:

4.3.3.1 Allow SNOPAC Dispatchers to electronically transmit 9-1-1 call and incident information from the EFD CAD system directly to the Contractor’s CAD system.

4.3.3.2 Transmit the real time status and location (geo-coordinates) for all Contractor ambulances that serve the City.

4.3.3.3 Record the EFD incident number for every ambulance dispatched to an EFD incident and includes the EFD incident number and other unique key data with the status and location information.

4.3.3.4 The Contractor will provide all networking, firewall and other communications equipment necessary to support the interface and will provide all network connections whether leased from a commercial carrier or otherwise.

4.3.3.5 The Contractor will provide the technology described herein to ensure 99.99% availability of the network connecting the two CAD systems and 99.99% availability of the technology maintained at the Contactor's premise.

4.3.3.6 Operation and availability of the interface will not excuse the Contractor from meeting the performance and other standards described in this solicitation.

4.3.3.7 New World Systems. The preferred dispatching and tracking software will be New World Systems. The Contractor will provide all networking, firewall and communication equipment necessary (including mobile data terminals) to support the New World Systems

5.0 Dispatch and Communications

The Contractor shall record and maintain for a minimum of 365 days by tape or other voice recording media all radio and telephone communications with and between persons/agencies requesting ambulance service, its units, personnel, and the Contractor's EMS Communications Center, including time track. Such recordings and records shall be made available to the City upon request.

5.1 Emergency Alerting Devices:

The Contractor shall equip each ambulance unit with emergency alerting devices and installed radio communications equipment capable of notifying ambulance personnel of response needs. In addition, each ambulance unit shall contain at least one portable two-way radio to provide the driver or attendant with alerting and two-way communications capabilities when away from the ambulance unit.

5.2 Cooperation in Upgrading City's System: The Contractor shall cooperate with the City during its planning and implementation of upgrades and enhancements to the City's dispatch and communications system.

5.3 Quality Improvement Program for Dispatch and Communications: The Contractor shall develop and maintain an internal Quality Improvement (QI) program for its dispatch/communications center, which shall, at a minimum, include a mechanism for the identification and resolution of problems or potential problems related to dispatch and communications; and a dispatch/communications center QI committee that meets regularly to consider the following issues: receipt of call, compliance with prescribed call triage guidelines, appropriate dispatch procedures, unit coverage and unit utilization, system status management plan including posting locations, all call response time elements, and crew/dispatch rapport.

6.0 Ambulance Vehicles

The Contractor shall furnish, operate, maintain and replace as necessary any and all ambulance vehicles, equipment and supplies.

6.1 Vehicle Specifications

Vehicles shall be of a Type I, II, or III and shall meet or exceed the higher of the current Federal KKK-A-1822 standards and applicable State of Washington requirements. Vehicles must be of a condition and mileage consistent with section 6.4 below to be able to fulfill the BLS patient care and transport requirements of the contract. Replacement vehicles shall meet the then current Federal KKK standards at the time of the vehicle being placed into service, except where such standards conflict with State of Washington standards, in which case the higher standards shall prevail.

6.2 Vehicle Report

The Contractor shall maintain and provide to the City a complete listing of all vehicles including reserve vehicles used in the performance of the Contract, including their license and vehicle identification numbers, and the name and address of the lien holder, if any. Changes in the lien holder, as well as the transfer of ownership, purchase, or sale of vehicles used under the contract shall be reported to the City within ten (10) calendar days of such occurrences.

6.3 Minimum Inventory of Vehicles

The Contractor shall furnish a sufficient number of ambulances equipped for emergency and non-emergency BLS ambulance services to maintain a surplus of ambulances in excess of peak hour coverage requirements in the region. The Contractor shall maintain a minimum vehicle inventory and on-board equipment equal to 125% of peak ambulance coverage.

6.4 Vehicle Replacement Program

The Contractor shall develop and implement a vehicle replacement program that incorporates provisions to rotate older vehicles out of front line service. Gasoline powered units shall be replaced with units that comply with 6.1 prior to 125,000 miles and diesel powered units shall be replaced prior to 250,000 miles with vehicles in compliance with 6.1.

6.5 Vehicle Equipment and Supplies

Each ambulance unit shall, at all times, maintain an equipment and supply inventory sufficient to meet Snohomish County EMS Pre-Hospital Care Treatment Guidelines, Protocols and Procedures (see Appendix A).

6.6. Ambulance Unit Maintenance

All vehicles, equipment and supplies shall be maintained in a clean, sanitary, and safe mechanical condition at all times. The Contractor shall provide a vehicle maintenance program that is designed and conducted to achieve high standards of reliability appropriate to a modern emergency and non-emergency BLS ambulance service by utilizing appropriately trained personnel knowledgeable in the maintenance and repair of ambulances, developing and implementing standardized maintenance practices, and incorporating an automated maintenance

program record keeping system.

6.7 Vehicle Markings and Advertising Restrictions

All advertising and markings on ambulance units shall emphasize the "9-1-1" emergency telephone number. The advertising of other telephone numbers for any type of emergency service is not permitted.

6.8 [Not Used]

6.9 Bariatric Response Unit

The Contractor shall provide a Bariatric Response Unit that meets the standards identified in 6.1 above and is suitable for transporting patients identified to be of greater weight than is suitable for the normal fleet of ambulances. Exhibit A contains includes a description of both the bariatric response vehicle itself, the minimum equipment inventory to be stored in it, and a description of the mechanism that will be used for inventorying and assessing the ongoing usefulness of such equipment.

6.10 Vehicle Collision Reporting

The Contractor shall report monthly all vehicle collisions involving Contractor's vehicles.

7.0 Contractor's Personnel

7.1 Staffing

Each ambulance unit responding to requests for BLS service shall have at least two personnel who are certified and accredited as Basic Life Support Emergency Medical Technicians, as defined in RCW 18.73 and WAC 246-976 as now or hereafter amended.

7.2 Driver Training and Area Knowledge

Prior to driving any ambulance pursuant to this Contract, the Contractor's ambulance operators must successfully complete an Emergency Vehicle Operator's Course. Additionally each driver shall have knowledge of the geographic area of the City of Everett and the ability to read maps prior to driving any ambulance units.

7.3 Safety Program

The Contractor shall take actions necessary to minimize the risk of disease or injury to all employees, and provide a safety and risk program that instructs all employees in safety practices and prepares them to avoid risks. The Contractor shall establish a safety committee that is representative of all departments of the Contractor's local operation, with the exception of strictly administrative ones, that meets on a regular basis to review and make recommendations regarding the Contractor's operations as it applies to issues of risk and safety. The EFD shall be

invited to participate in all safety committee meetings.

7.4 Work Schedules/Working Conditions

The Contractor shall utilize reasonable work schedules and shift assignments that provide adequate working conditions. The primary concern is patient care, and the Contractor shall utilize management principles that ensure that field personnel working extended shifts, part-time jobs, voluntary overtime, or mandatory overtime, are not exhausted to an extent that may impair judgment or motor skills.

Because of the wide variety of management practices utilized throughout the industry, no specific requirements or restrictions regarding work schedules and working conditions shall apply. The City reserves the right to view schedules prior to implementation and to review them at any time.

If events warrant such action, the City may require revision of the established work schedule to address rest periods for extended shifts and standards limiting the use of back-to-back shifts and mandatory overtime, as deemed necessary to protect patients from the possibility of error caused by exhaustion of field personnel.

7.5 Compensation and Fringe Benefits

The Contractor shall provide its employees with compensation and fringe benefits to promote a professional and motivated work force. The combined compensation and fringe benefit program for field personnel, on-site management, and EMS dispatch personnel should provide a financial benefit to those personnel that is, at least, substantially equivalent to the average rate of compensation for similar private sector field personnel in similar sized and cost-of-living areas of the United States. These specific wage or salary packages should be structured so that the overall combination of wages, benefits, shift schedules, working conditions, and factors related to job satisfaction will work to reduce employee turnover. Other employee incentives such as retirement savings programs are encouraged.

7.6 New Employee Recruitment, Screening, and Orientation Program

The Contractor shall operate an aggressive, stringent, and comprehensive program of initial and ongoing personnel recruitment, screening, and orientation designed to attract, select, and thoroughly orient, prior to field or EMS dispatch placement, individuals who are among the industry's most qualified candidates for EMS employment.

The recruitment, selection and retention of high quality on-site management personnel are paramount to the success of this program. Therefore, Contractor is highly encouraged to select such personnel carefully.

The Contractor will provide a reasonable opportunity for the work force of the previous provider

to seek employment opportunities with the Contractor.

7.7 Employee Training and Orientation of City's EMS System

The Contractor shall coordinate with EFD to provide supervisory, field, and dispatch personnel assigned to the City with an orientation on the City's EMS System prior to field assignment. This program shall be subject to the review and approval of the EFD. Additionally, the Contractor shall grant EFD access to information regarding the Contractor's personnel, equipment and operation to assure compliance with contract terms for these areas.

7.8 Character and Competence of Personnel

The Contractor shall ensure that its personnel conduct themselves in a professional and courteous manner. The Contractor's personnel shall be competent, holders of required permits or certificates in their respective trades or professions and shall undergo background checks and drug testing as a condition of employment. The City may demand the removal of any employee or subcontractor of the Contractor for misconduct or incompetent or negligent performance. Such persons shall not be allowed to perform services on this contract with the City without the written consent of the City.

8.0 Additional Contactor Responsibilities

8.1 Outside Work

The Contractor may do other work within the City limits (e.g., scheduled transports, non-ambulance medical transportation, special event standby coverage, HMO/Government contract work, etc.), provided the outside work does not negatively affect the Contractor's peak load capacity, disaster readiness, and overall efficiency, and does not detract from the Contractor's contractual obligations to the City.

Requests for service and/or contractual obligations outside of the city in other regions which would draw down the Contractor's resources below 125% of peak coverage will be subject to approval by EFD.

8.2 Major Emergency and Disaster Response within the City of Everett Limits

The Contractor acknowledges that the City is entering into an Contract with the Contractor for the benefit of the public. The Contractor shall consider the City as its first priority and shall make its best effort to provide BLS services to the City in a timely manner. The Contractor shall develop a plan for the immediate recall of personnel to staff units during multi-casualty situations; times of peak overload, or major emergency and disaster situations. This plan shall include the ability of the Contractor to alert off-duty personnel.

The Contractor shall participate in training programs and exercises designed to upgrade, evaluate, and maintain readiness of the City's EMS system's disaster and multi-casualty response system.

8.3 Public Information and Education

The Contractor shall participate in Everett and regional EMS system public education and information programs including press relations, explanations regarding rates, regulations and system operations, increasing public awareness and knowledge of the EMS system, injury/mortality prevention/reduction, and general health and safety promotion.

8.4 Integration of Services

Contractor shall integrate its services with the services of other EMS System participants including first responder agencies, public safety agencies, hospitals, other health professionals, and neighboring ambulance provider agencies. In addition to the other provisions set forth in this RFP, Contractor shall be an active participant in the Regional EMS System.

8.5 Mutual Aid Agreements

The Contractor may enter into and use mutual aid agreements with other private ambulance providers to augment the Contractor's services during peak load periods (e.g. sporting events) or during major emergency and disaster responses. Prior to execution of such mutual aid agreements, the Contractor shall submit the agreement to EFD for review and approval.

9.0 Local Administrative Office

The Contractor shall maintain an administrative office within twenty miles of EFD Headquarters, 2930 Wetmore Ave, Everett, WA 98201. This office will be established within 60 days after the Effective Date.

10.0 Inspections

At any time during normal business hours, and as often as may reasonably be deemed necessary, the City representatives and the EMS Medical Director(s), may observe the Contractor's operations. Additionally, the Contractor shall make available for their examination and audit, all contracts, invoices, materials, payrolls, inventory records, records of personnel (with the exception of confidential personnel records), daily logs, conditions of employment, all operational and procedure policy manuals, excerpts or transcripts from such records, all relevant fiscal records and other data related to all matters covered by this contract.

City representatives and the EMS Medical Director(s), may, at any time, and without notification, directly observe Contractor's operation of its EMS Communications Center, maintenance facility, or any ambulance post location, and a City representative and the EMS Medical Director(s), may, at any time, ride as a third person on any of the Contractor's ambulance units, provided however, that in exercising this right to inspection and observation, such representatives shall conduct themselves in a professional and courteous manner, shall not interfere in any way with

Contractor's employees in the performance of their duties, and shall, at all times, be respectful of Contractor's employer/employee relationship.

The City's right to observe and inspect Contractor's business office operations or records shall be restricted to normal business hours, and reasonable notification shall be given by Contractor in advance of any such visit.

The Contractor will cooperate with and respond to the Everett Fire Department, the EMS Medical Director and the City on all matters related to the provision of emergency and non-emergency BLS ambulance services.

11.0 Finance

11.1 Billing, Collections and Reporting

The Contractor shall be responsible for all billing and collection functions related to BLS transport services. The Contractor shall perform all such billing and collection functions in a professional and courteous manner and in accordance with applicable federal, state and local laws, regulations, procedures and policies including, without limitation, collection and credit reporting laws.

The Contractor will not attempt to collect fees at the scene, in route, or upon delivery of the patient to a health facility for services rendered.

The Contractor shall maintain billing and accounts receivable information. The Contractor shall provide, within ninety (90) days after the end of each of the Contractor's fiscal years, data that clearly identify collection rates and compliance with rate structure, and the preliminary balance sheet and income statement for its operations within the City. The City shall have the right to examine/audit financial records at any reasonable time. The City will maintain confidentiality of submitted financial records and statements, subject to the requirements of law.

The contractor shall provide a City of Everett Notice of Privacy Practices (NPP) with every billing unless the contractor has proof of receipt (signature) of such NPP from prior service provision to patient. The contractor will provide a new NPP to each patient at time of billing whenever that policy is updated.

11.2 Contractor Payments to the City

11.2.1 Monthly Payment: The Contractor shall make an annual payment of \$158,167.04 payable in equal monthly payments of \$13,180.59 to the City to cover the City's costs of administering the Contract and providing resources to support BLS transport. Such costs include and are not limited to:

11.2.1.1 The costs associated with the dispatch of and communication with EMS providers, including the Contractor's use of the City's radio frequency and the City's equipment, hardware, software, and maintenance to support such frequency;

11.2.1.2 The City's incremental cost associated with monitoring Contractor's compliance with the Contract; and,

11.2.1.3 The City's incremental cost associated with medical control and quality assurance.

11.2.1.4 This payment amount shall be adjusted annually for inflation.

11.3 Compensation and Rates

11.3.1 Compensation: The Contractor's sole financial compensation for services rendered under the Contract shall be the rates billed and collected from patients and responsible third parties. The City, local tax support, or subsidy shall not fund any services provided by Contractor.

11.3.2 Rates: The Contractor's rates proposed on Fee Proposal form shall be inclusive of all Contractor's costs. Contractor shall not separately charge, separately invoice, or separately itemize on invoices disposable supplies, equipment usage, or recoupment of payments made including liquidated damages to the City pursuant to Sections 11.2 and 11.4.

Except as required by law, the Contractor shall charge customers resulting from the scope of this Contract the rates not to exceed those proposed on Fee Proposal Form. Except as required by law or as approved by the City, the Contractor shall charge all customers for BLS transports resulting outside the scope of this Contract and occurring within the City limits rates no less than the rates proposed on Fee Proposal form. Upon request of the Contractor, EFD may authorize an increase based on CPI of the rates on the Fee Proposal form.

11.4 Liquidated Damages

This Contract provides for the payment by the Contractor of liquidated damages in certain circumstances of nonperformance, breach and default. Each party agrees that the damaged party's actual damages in each such circumstance would be difficult or impossible to ascertain and that the liquidated damages provided for herein with respect to each such circumstance are intended to place the damaged party in the same economic position as it would have been in had the circumstance not occurred. Nothing in this Section shall be construed to limit any remedies, including termination, provided for herein with respect to any nonperformance, breach or default by the Contractor. The Contractor shall pay liquidated damages to the City for failure to meet patient care standards and response time standards described in Section 2 which details performance standards for the two operational levels. Every call that does not adhere to the performance standards shall first be classified as an alleged performance failure. Each alleged performance failure shall be investigated by the Contractor and evaluated by the City. The City shall determine whether there were appropriate or acceptable extenuating circumstances that caused or significantly contributed to the performance failure. The Contractor shall pay liquidated damages to the City for all performance failures that are determined to be the fault of

the Contractor and not the result of an extenuating circumstance. All payments for liquidated damages shall be payable to "City of Everett".

3.1.1.2 11.4.1 For each Normal Operations "Non-Code" request that exceeds 14:59 minutes, the Contractor shall be assessed liquidated damages at a rate of fifty dollars (\$50) per minute or fraction thereof for each minute late up to five minutes. For any response greater than 5 minutes late, the Contractor shall be deemed to have failed to respond to the request and a total of five hundred dollars (\$500) in liquidated damages will be assessed for a failed response.

3.1.1.3

3.1.1.4 11.4.2 For each Normal Operations "Code" request that exceeds 9:59 minutes, the Contractor shall be assessed liquidated damages at a rate of fifty dollars (\$50) per minute or fraction thereof for each minute late up to five minutes. For any response greater than 5 minutes late, the Contractor shall be deemed to have failed to respond to the request and a total of five hundred dollars (\$500) in liquidated damages will be assessed for a failed response.

3.1.1.5

3.1.1.6 11.4.3 For each Modified Operations "Non-Code" request that exceeds 19:59 minutes the Contractor shall be assessed liquidated damages at a rate of fifty dollars (\$50) per minute or fraction thereof for each minute up to five minutes. For any response greater than 5 minutes late, the Contractor shall be deemed to have failed to respond to the request and a total of five hundred dollars (\$500) in liquidated damages will be assessed for a failed response.

3.1.1.7 11.4.4 For each Modified Operation "Code" request that exceeds 14:59 minutes, the Contractor shall be assessed liquidated damages at a rate of fifty dollars (\$50) per minute or fraction thereof for each minute up to five minutes. For any response greater than 5 minutes late, the Contractor shall be deemed to have failed to respond to the request and a total of five hundred dollars (\$500) in liquidated damages will be assessed for a failed response.

11.4.5 Liquidated Damages for Dropping Below 125% of Peak Coverage: For any day that the Contractor fails to have adequate vehicle inventory to cover 125% of peak coverage, the Contractor shall be assessed liquidated damages at a rate of five thousand dollars (\$5,000) per day.

11.4.6 Liquidated Damages for Failure to Properly Equip/Staff Unit: Any deployed unit failing to meet the minimum required equipment, supplies and staffing shall be assessed liquidated damages as a missed call at a rate of \$600. Such units must be immediately removed from service until the deficiency is corrected.

11.4.7 Liquidated Damages for Failure to Furnish Required Documentation: In the event Contractor fails to furnish required information, reports, or documentation, the City shall notify the Contractor of such failure. If the Contractor does not furnish the information, report, or document within the time period specified, the City may, at its option, impose liquidated damages of sixty dollars (\$60.00) per day for each item of such information, report, or document until the requested item is provided. Such liquidated damages shall not be applied in cases where the cause of such reporting deficiency was beyond the Contractor's reasonable control.

11.4.8 Liquidated Damages for Mechanical Failure: If an ambulance experiences a mechanical failure (breakdown) while transporting a patient to a hospital, liquidated damages of six hundred Dollars (\$600) will be assessed for each occurrence.

11.4.9 Liquidated Damages for Failure of Crew to Report: Liquidated damages of six hundred dollars (\$600) will be assessed for failure of the ambulance crew to report its on-scene arrival to the dispatch center.

11.4.10 Liquidated Damages for False Report: Liquidated damages of six hundred dollars (\$600) will be assessed for each incident where the City determines that the crew, dispatchers, or management personnel of the Contractor reported a false on-scene arrival time.

11.4.11 Liquidated Damages for Improper Code Transport: Liquidated damages for not transporting "Non-Code" (without lights and sirens) as required by subsection 2.2.7 will be assessed at one hundred dollars (\$100) per incident.

12.0 Liquidated Damages Exemptions

The Contractor may apply and the City may grant exemptions to liquidated damages resulting from situations beyond the Contractor's control that cause unavoidable delay or no response. EFD shall examine each request for exemption and shall take into consideration the Contractor's system status management plan, staffing levels, dispatch times, in-service times, traffic, street blockages, and other influencing factors. If EFD determines the circumstances warrant, EFD shall grant an exemption to liquidated damages resulting from the response time performance standards. To be eligible for such an exemption, the Contractor shall apply for the exemption in accord with the terms of section 3.6.

12.1 Concurrent Responses: In the event three or more units are simultaneously committed to one incident and two or more additional units are concurrently responding to at least two other separate incidents, EFD may grant an exemption for each unit starting with the third incident.

12.2 Declared disaster: In the event an emergency is officially declared, EFD may grant exemption to liquidated damages resulting from response time performance standards for all units during the declared emergency.

12.3 Multiple Unit Response: In the event two or more units are simultaneously committed to one incident, the first arriving unit shall be held to the response time standard. EFD may grant an exemption for each unit starting with the second unit provided the units arrive at the scene within 19:59 minutes.

12.4 Response Location Errors: In the event EFD provides an inaccurate address, or if the location does not exist, EFD shall grant a response time exemption.

12.5 Response Location Change: In the event EFD changes the incident location and the change delays the unit's response time because the unit must reroute farther than one city block to respond to the call, EFD may grant an exemption.

12.6 Canceled Request: In the event a request is canceled prior to or at the unit's arrival on scene for reasons other than exceeding the maximum response time standard, EFD may grant an exemption.

12.7 Response Delayed by Accident: In the event the unit is involved in an accident and cannot continue to respond to the call, EFD will grant an exemption provided the accident is not the fault of the ambulance unit.

12.8 Reduced/Upgraded Response: In the event EFD reduces the priority of the response from Code to Non-Code or upgrades the response from Non-Code to Code, the response shall be considered a Non-Code response.

13.0 Invoicing and Payment of Liquidated Damages

No more frequently than monthly and at least quarterly, the City shall invoice Contractor for any liquidated damages assessed during the prior period. The Contractor shall pay the liquidated damages within 30 days of receipt of invoice.

13.1 Appeal of Liquidated Damages Assessment

In instances when the City's Contract Administrator, at the request of the Contractor, has reviewed the circumstances for imposing liquidated damages, and determined that the grounds are sufficient to justify the imposition of the liquidated damages, the Contract Administrator shall report the Contractor's appeal and the reasons for denial to the Everett Fire Chief. The Contractor shall have the right to appeal such ruling to the Everett Fire Chief within 2 weeks. The determination of the Fire Chief shall be final.

13.2 Liquidated Damages Waived for Start-Up Period

The City may waive the liquidated damages for the first three (3) months of the Contract.

13.3 Liquidated Damages Adjustment

Liquidated damages may be adjusted annually by the City in an amount not to exceed the rate of inflation for the period since the last adjustment.

14.0 Breach of Contract

The City considers any breach of the Contract a serious situation and will seek remedies commensurate with the severity and magnitude of the event. Remedies could include but are not limited to corrective measures, liquidated damages, probation or suspension, or termination of the Contract. It is the intent and desire of the City to maintain a good working relationship with the Contractor while at the same time ensuring service to the community.

15.0 Aggregated Failure

Without limiting the breadth of Section 14, if in any contract year the Contractor maintains a response time performance level at less than 90% monthly compliance in any four (4) months or two (2) consecutive months, the City shall have the right to terminate the Contract.

16.0 Taxes, Fees and Licenses

16.1 Taxes, Fees and Licenses: The Contractor shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.

16.2 Licenses and Similar Authorizations: The Contractor, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

17.0 Contract Notices, Deliverable Materials and Invoices Delivery

Contract notices shall be delivered to the City at the following address (or such other address as the City may designate in writing):

[Insert]

Contract notices shall be delivered to the Contractor at the address on the first page of this Contract (or such other address as the Contractor may designate in writing):

[Insert]

18.0 Representations

Contractor represents and warrants that it has the requisite training, skill and experience necessary to perform all its obligations under this Contract and is appropriately accredited and licensed by all applicable agencies and governmental entities.

19.0 Inspection.

The BLS Ambulance service at all times, shall be subject to inspection by and approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Work in accordance with this Contract, notwithstanding Everett's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. Contractor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

20.0 Performance.

Acceptance by Everett of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach, nor terminate the Contract, nor constitute a waiver of requirements for satisfactory performance of any obligation to be performed by Contractor.

21.0 Non-Discrimination.

22.0 Contractor take all steps necessary to comply with all federal, state, and local laws and policies regarding non-discrimination and equal employment opportunities

23.0 Equal Employment Opportunity.

All Contractors must comply with federal Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

24.0 Civil Rights Act Title VI.

The Contractor must comply with the provisions of the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to, discrimination under any program or activity receiving federal financial assistance.

25.0 Publicity.

No news release, advertisement, promotional material, tour, or demonstration related to Everett's use of the Contractor's services performed pursuant to this Contract shall be produced, distributed, or take place, without the prior, specific written approval of the City's Project Manager or his/her designee.

26.0 Proprietary and Confidential Information

25.1 Contractor understands that any records (including but not limited to its proposal submittals, this Contract, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. The Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

25.2 If the City receives a public disclosure request made pursuant to RCW Chapter 42.56, the City will not assert an exemption from disclosure on behalf of the Contractor. For materials that the Contractor has properly marked, the City will notify the Contractor of the request and postpone disclosure for ten business days to allow the Contractor the opportunity to file a lawsuit seeking an injunction to prevent the release of documents pursuant to RCW 42.56.540. Any notification is provided as a courtesy and is not an obligation on behalf of the City. Unless the Contractor obtains and serves an injunction upon the City before the close of business on the tenth business day after the date of the notification, the City may release the documents. It is the Contractor's discretionary decision whether to file the lawsuit.

25.3 In order to request that material not be disclosed until receipt of notification of a public disclosure request, you must identify the specific materials and citations very clearly on the each page of the material that you believe is exempt from disclosure.

25.4 If the Contractor does not obtain and serve an injunction upon the City within 10 business days of the date of the City's notification of the request, the Contractor is deemed to have authorized releasing the record.

25.5 [Not Used].

25.6 Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Contract or (b) the Contractor's obligations under this Contract.

25.7 The Contractor will fully cooperate with the City in identifying and assembling records in the event of any public disclosure request.

27.0 General Legal Requirements

- A. General Requirement: Contractor, at no expense to Everett, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of Everett; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Without limiting the generality of this paragraph, the Contractor shall specifically comply with the following requirements of this section.
- B. Licenses and Similar Authorizations: Contractor, at no expense to Everett, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.
- C. Taxes: The Contractor shall pay, before delinquency, all taxes, import duties, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.

28.0 American with Disabilities Act

Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs or activities to Everett employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities, to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

29.0 OSHA/WISHA.

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued there under and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless the City from all damages assessed against the City as a result of Contractor's failure to comply with the acts and standards there under and for the failure of the items furnished under this order to so comply.

30.0 Contract Work Hours and Safety Standards.

For all contracts that employ mechanics or laborers, the Contractor and all subs shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each Contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provide that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

31.0 Indemnification

To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, or trade secret arising out of the work performed or goods

provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of the City. As to the City of Everett, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker's Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

32.0 Insurance

Contractor shall maintain at its own expense at all times during the term of this Contract the following insurance, as well as any other additional coverage requirements issued by the City.

31.1. Minimum Coverage and Limits of Liability. Contractor shall at all times during the term of this Contract maintain continuously, at its own expense, minimum insurance coverage and limits of liability as specified below:

A. Commercial General Liability (CGL) insurance, including:

- Premises/Operations
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap/Employers Liability

With minimum limits of liability of \$1,000,000 each occurrence combined single limit bodily injury and property damage ("CSL"), except:

- \$1,000,000 Personal/Advertising Injury
- \$2,000,000 Products/Completed Operations Aggregate
- \$2,000,000 General Aggregate
- \$1,000,000 Each accident/disease/employee Stop Gap/Employer's

Liability

- B. Automobile Liability** insurance, including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of \$1,000,000 CSL.
- C. Umbrella/Excess Liability** insurance as may be required to demonstrate minimum CGL and Automobile Liability total limits requirement of \$5,000,000, which may be satisfied with primary limits or any combination of primary and/or Umbrella/Excess limits.
- D. Medical Errors & Omissions (E&O)** insurance with a minimum limit of liability of \$1,000,000 each claim.
- E. Worker's Compensation** covering industrial injury to Contractor's employees in accordance with the provisions of Title 51 of the Revised Code of Washington.

31.2. City as Additional Insured. The City of Everett shall be included as an additional insured under CGL and Automobile Liability insurance for primary and non-contributory limits of liability.

31.3 No Limitation of Liability. The limits of liability specified herein in subparagraph 1.A., 1.B. and 1.C. are minimum limits of liability only and shall not be deemed to limit the liability of Contractor or any Contractor insurer except as respects the stated limit of liability of each policy. Where required to be an additional insured, the City of Everett shall be so for the full limits of liability maintained by Contractor, whether such limits are primary, excess, contingent or otherwise.

31.4. Minimum Security Requirement. All insurers must be rated A- VII or higher in the current A.M. Best's Key Rating Guide and licensed to do business in the State of Washington unless coverage is issued as surplus lines by a Washington Surplus lines broker.

31.5. Self-Insurance. Any self-insured retention not fronted by an insurer must be disclosed. Any defense costs or claim payments falling within a self-insured retention shall be the responsibility of Contractor.

31.6. Evidence of Coverage. Prior to performance of any scope of work under paragraph 1, Contractor shall provide certification of insurance acceptable to the City evidencing the minimum coverage's and limits of liability and other requirements specified herein. Such certification must include a copy of the policy provision documenting that the City of Everett is an additional insured for commercial general liability insurance on a primary and non-contributory basis.

33.0 Audit.

Upon request, Contractor shall permit Everett, and any other governmental agency involved in the funding of the Work ("Agency"), to inspect and audit all pertinent books and records of Contractor, any subcontractor, or any other person or entity that performed work in connection with or related to the work or services performed, at any and all times deemed necessary by Everett or Agency, including up to six years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in Snohomish County, Washington or other such reasonable location as Everett or Agency selects. The Contractor shall supply Everett with, or shall permit Everett to make, a copy of any books and records and any portion thereof. The Contractor shall ensure that such inspection, audit and copying right of Everett and Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work under this Contract.

34.0 Contractual Relationship

The relationship of Contractor to Everett by reason of this Contract shall be that of an independent contractor. This Contract does not authorize Contractor to act as the agent or legal representative of Everett for any purpose whatsoever. Contractor is not granted any express or

implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of Everett or to bind Everett in any manner or thing whatsoever.

35.0 Assignment and Subcontracting

Contractor shall not assign or subcontract any of its obligations under this Contract without Everett's written consent, which may be granted or withheld in Everett's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except for Equal Benefit provisions. Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions. Everett's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.

36.0 Transition Plan:

In recognition of the potential adverse impact on the public's health and safety resulting from even a temporary cessation of the provision of ambulance services as set forth in this Contract, the parties recognize the need for there to be an orderly transition in ambulance operations at the end of the term of this Contract or extensions thereof. Six months prior to the expiration of the term of the Contract or any extension thereof, the Contractor shall present a transition plan to the City for approval. Such plan shall fully address the transfer of ambulance operations to the subsequent ambulance service provider or the City as the case may be. At a minimum, the transition plan shall address the following issues and meet the following minimum requirements:

- A. The Contractor shall continue to meet all its obligations under this Contract, including specifically, the response time standards. The transition plan shall specifically address the steps that the Contractor will take to ensure full compliance with the performance requirements of the Contract.
- B. Unless requested by the City, the transition plan shall be based on the same operation plan that the Contractor has utilized successfully to date during the term of the Contract.
- C. Employment. The transfer plan shall address the Contractor's plans to relocate, layoff, terminate, etc. its then current work force. Recognizing that some of the Contractor's employees may seek other employment as a result of the upcoming transition, the transition plan shall address how the Contractor intends to maintain/retain qualified personnel to meet its performance obligations under the Contract.
- D. Records. The transition plan shall provide for an orderly transfer of all records, data, files or other information, regardless of source, kept by the Contractor arising out of this Contract to the subsequent service provider or the City. No records, data, or information, regardless of source, shall be erased, discarded, removed from the premises or modified without the specific written approval of the City. Any information, spreadsheets, or data sets which may be required by this Contract, whether in hard copy, tape or other electronic media, shall become the property of the

City at the conclusion of the Contract. Any loss or damage to such records, materials or information, for any reason, shall be replaced /recreated by the City and the cost for such restoration shall be paid by the Contractor. This requirement shall not include materials proprietary to the Contractor except those items necessary to satisfy reporting and other requirements of this Contract.

- E. The transition plan shall address the Contractor's plan, if any, to "wind down" its operations in anticipation of the transfer of its operations to a subsequent service provider or the City as the case may be; provided that, in no event shall the Contractor be relieved from full compliance with the performance requirements of the Contract. The transition plan shall address the Contractor's plans, if any: to begin to reduce inventory; and to terminate, assign or sublease existing equipment, vehicle, service and facility leases, contracts, and subcontracts.
- F. Vehicles: To the extent the Contractor expects to transfer vehicles, equipment and/or facilities to a subsequent service provider or the City, the transition plan shall address the schedule(s) for such transfers and the transfer of all relevant records related thereto. Such records shall include but not be limited to leases, contracts, maintenance records, operating manuals, warranties, financing documents, and any other documents or records related to the vehicles, equipment and/or facilities to be transferred.

The City shall have thirty (30) days to accept or reject the transition plan. In the event that the City rejects the transition plan, the City shall advise the Contractor of the changes to the transition plan that must be made by the Contractor to meet the requirements of this Subsection. The Contractor shall make the necessary changes to the transition plan within thirty (30) days. If the Contractor cannot or will not make the necessary changes, the City may make the changes, and the cost of the City in performing this work shall be the responsibility of the Contractor.

Both parties shall operate in accordance with the approved transition plan for the remainder of the term of the Contract. Any approved changes to the transition plan shall be documented in writing signed by both parties.

In the event of termination of the Contract, the City may require that the Contractor prepare a transition plan in the accordance with some or all of the requirements of this section 36.0

37.0 Federal Debarment for Primes and all Subcontractors.

Contractor shall immediately notify the City of any suspension or debarment or other action that excludes the Contractor and any subcontractor from participation in Federal contracting. Contractor shall verify all subcontractors that are intended and/or used by the Contractor for performance of City work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.epls.gov/eplsearch.do>. The Contractor shall keep proof of such verification within the Contractor records.

38.0 Supervision and Coordination.

Contractor shall:

- Competently and efficiently, supervise and direct the implementation and completion of all contract requirements specified herein.
- Designate to Everett, a representative(s) with the authority to legally commit Contractor's firm. All communications given or received from the Contractor's representative shall be binding on the Contractor.
- Promote and offer to Purchasers only those materials, equipment and/or services as stated herein and allowed for by contractual requirements. Violation of this condition will be grounds for contract termination.

39.0 Involvement of Former City Employees

Contractor shall promptly notify Everett in writing of any person who is expected to perform any of the Work and who, during the twelve (12) months immediately prior to the expected commencement date of such work or subcontract, was a City officer or employee. .

40.0 Anti-Trust Overcharges.

Everett maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore the Contractor hereby assigns to Everett any and all claims for such overcharges except overcharges which result from antitrust violations commencing after the price is established under this contract and which are not passed on to Everett under an escalation clause.

41.0 No Conflict of Interest.

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

42.0 No Gifts or Gratuities.

Contractor shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official, that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Contractor. Promotional items worth less than \$25 may be distributed by the contractor to City employees if the Contractor uses the items as routine and standard promotions for business. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

43.0 Current and Former City Employees, Officers, and Volunteers.

Throughout the life of the contract, Contractor shall provide written notice to City Purchasing and the City Project Manager of any current or former City employees, officials or volunteers that are working or assisting on solicitation of City business or on completion of the awarded contract.

44.0 Intellectual Property Rights.

43.1 Patents: Contractor hereby assigns to Everett all rights in any invention, improvement, or discovery, together with all related information, including but not limited to, designs, specifications, data, patent rights and findings developed in connection with the performance of this Contract or any subcontract hereunder. Notwithstanding the above, the Contractor does not convey to Everett, nor does Everett obtain, any right to any document or material utilized by Contractor that was created or produced separate from this Contract or was preexisting material (not already owned by Everett), provided that the Contractor has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the Contractor grants Everett an irrevocable, non-exclusive, fully paid, royalty-free right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

43.2 Copyrights: For materials and documents prepared by Contractor in connection with the Work, Contractor shall retain the copyright (including the right of reuse) whether or not the Work is completed. Contractor grants to Everett a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the Contractor for Everett under this Contract. If requested by Everett, a copy of all drawing, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs and other storage facilities), software programs or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials which are developed solely for, and paid for by, Everett in connection with the performance of the Work, shall be promptly delivered to Everett.

Everett may make and retain copies of such documents for its information and reference in connection with their use on the project. The Contractor does not represent or warrant that such documents are suitable for reuse by Everett, or others, on extensions of the project, or on any other project. Contractor represents and warrants that it has all necessary legal authority to make the assignments and grant the licenses required by this Section.

45.0 Key Persons.

Contractor shall not transfer or reassign any individual designated in this Contract as essential to the Work, without the express written consent of Everett, which consent shall not be unreasonably withheld. If, during the term of this Contract, any such individual leaves the Contractor's employment, the Contractor shall present to Everett one or more individual(s) with greater or equal qualifications as a replacement, subject to Everett's approval, which shall not be unreasonably withheld. Everett's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

46.0 Disputes.

The parties shall endeavor to resolve any dispute or misunderstanding that may arise under this Contract concerning Contractor's performance, if mutually agreed to be appropriate, through negotiations between the Contractor's Project Manager and Everett's Project Manager, or if mutually agreed, referred to the City's named representative and the Contractor's senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes including termination as allowed for within the contract, or

may by mutual agreement pursue other dispute alternatives such as alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the contract for cause or convenience.

Notwithstanding the above, if Everett believes in good faith that some portion of Work has not been completed satisfactorily, Everett may require Contractor to correct such work prior to Everett payment. In such event, Everett will provide to Contractor an explanation of the concern and the remedy that Everett expects. Everett may withhold from any payment that is otherwise due, an amount that Everett in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, Everett may retain the amount equal to the cost to Everett for otherwise correcting or remedying the work not properly completed.

47.0 Term of Contract/Termination

47.1 Term of Contract

The term of this Contract is five years, beginning on the Effective Date. The Contract will automatically renew without any action of the parties for an additional two years, unless either (1) the City provides Contractor with written notice prior to the fifth anniversary of the Effective Date that the City will not renew the Contract or (2) the Contractor provides written notice no later than the fourth anniversary of the Effective Date that the Contractor will not renew the Contract.

47.2 Termination

- A. For Cause:** Everett may terminate this Contract if the Contractor is in material breach of any of the terms of this Contract, and such breach has not been corrected to Everett's reasonable satisfaction in a timely manner.
- B. For City's Convenience:** **Everett may terminate this Contract at any time, without cause and for any reason including Everett's convenience, upon written notice to the Contractor.**
- C. Nonappropriation of Funds:** Everett may terminate this Contract at any time without notice due to nonappropriation of funds, whether such funds are local, state or federal grants, and no such notice shall be required notwithstanding any notice requirements that may be agreed upon for other causes of termination.
- D. Acts of Insolvency:** Everett may terminate this Contract by written notice to Contractor if the Contractor becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise.
- E. Termination for Gratuities:** Everett may terminate this Contract by written notice to Contractor if Everett finds that the Contractor either is in violation of the Gifts and

Gratuities section 41.

- F. **Notice:** Everett is not required to provide advance notice of termination. Notwithstanding, Everett may issue a termination notice with an effective date later than the termination notice itself. In such case, the Contractor shall continue to provide products and services as required by Everett until the effective date provided in the termination notice.
- G. **No Compensation from the City for Termination:** In the event of termination by the City for any reason, the Contractor shall have no entitlement for any compensation whatsoever from the City relating to such termination. This includes without limitation no compensation for expenses due prior to or after the termination date, and no compensation for Contractor ambulance or other equipment lease obligations due prior to or after the termination date, and no compensation for any expenses related to personnel due prior to or after the termination date. However, effective upon the termination date, the Contractor is no longer required to pay the monthly fee under section 11.2 above, which shall be prorated to the date of termination.
- H. **Transition Plan.** Upon notice of termination for any reason, Contractor shall, to the extent required by the City, comply with the Transition Plan requirements in section 36 above.

48.0 Force Majeure – Suspension and Termination.

This section applies in the event that either party is unable to perform the obligations of this Contract because of a Force Majeure event as defined herein, to the extent that the Contract obligations must be suspended in full. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body, which prevents performance.

Force Majeure under this Section shall only apply in the event that performance is rendered not possible by either party or its agents

Should either party suffer from a Force Majeure event and is unable to provide performance, such party shall give notice to the other party as soon as practical and shall do everything possible to resume performance.

Upon receipt of such notice, the party shall be excused from such performance as is affected by the Force Majeure Event for the period of such Event. If such Event affects the delivery date or warranty provisions of this Contract, such date or warranty period shall automatically be extended for a period equal to the duration of such Event.

49.0 [Not Used]

50.0 [Not Used]

51.0 Workers Right to Know.

“Right to Know” legislation required the Department of Labor and Industries to establish a program to make employers and employees more aware of the hazardous substances in their work environment. WAC 296-800-180 requires among other things that all manufacturers/distributors of hazardous substances, include completed Material Safety Data Sheets (MSDS) for each hazardous material with each delivery. Additionally, each container of hazardous material must be appropriately labeled with: the identity of the hazardous material, appropriate hazardous warnings, and the Name and Address of the chemical manufacturer, importer or other responsible party.

Labor and Industries may levy appropriate fines against employers for noncompliance and agencies may withhold payment pending receipt of a legible copy of the MSDS. OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to “carcinogenic ingredients: and “routes of entry” of the product(s) in question.

52. Miscellaneous Provisions.

- A. Amendments:** No modification of this Contract shall be effective unless in writing and signed by the Mayor of the City, except as otherwise authorized herein. The City shall issue change notices to Contractor, and such notices shall take effect under the signature of the City unless written objection of the notice is received by the Contractor upon Contractor receipt of the change notice.
- B. Conflict:** In the event of conflict between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford Everett the maximum benefits.
- C. Liens, Claims and Encumbrances:** All materials, equipment, or services shall be free of all liens, claims or encumbrances of any kind and if Everett requests a formal release of same shall be delivered to Everett.
- D. Binding Contract:** This Contract shall not be binding until signed by both parties. The provisions, covenants and conditions in this Contract shall bind the parties, their legal heirs, representatives, successors, and assigns.
- E. Applicable Law/Venue:** This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for Snohomish County, Washington
- F. Remedies Cumulative:** Rights under this Contract are cumulative and nonexclusive of any other remedy at law or in equity.
- G. Captions:** All titles, including sections or subsections, are for convenience only and do not define or limit the contents.

- H. **Severability:** Any term or provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Contract.

- I. **Waiver:** No covenant, term, or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by Everett of any performance by the Contractor after the time the same shall have become due nor payment to the Contractor for any portion of the Work shall constitute a waiver by Everett of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Everett, in writing. The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.

- J. **Entire Contract:** This document, along with any attachments and work orders, constitutes the entire agreement between the parties with respect to the Work. No verbal agreement or conversation between any officer, agent, associate or employee of Everett and any officer, agency, employee or associate of the Contractor prior to the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.

- K. **Negotiated Contract:** The parties acknowledge that this is a negotiated Contract, that they have had the opportunity to have this Contract reviewed by respective legal counsel, and those terms and conditions are not construed against any party on the basis of such party's draftsmanship thereof.

- L. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Contract by having their authorized representatives affix their signatures below.

**CITY OF EVERETT
WASHINGTON**

CONTRACTOR

By: _____
Ray Stephanson, Mayor

By: \ _____

Date

Name

Title

Date

ATTEST:

Sharon Fuller, City Clerk

Date: _____

APPROVED AS TO FORM:

James D. Iles, City Attorney

Date: _____

EXHIBIT A

Bariatric Response Unit

[Insert description agreed from proposal: see Contract section 6.9]

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance
Amending the
Comprehensive Plan
Map Designation
With a Rezone for the North
Portion of Community
Health Center of Snohomish
County's Property Located at
1019 112th St SW,
Amending Ordinance No's.
2021-94 and 1671-89, As
Amended

<u>6/1/16</u>	Briefing
	Consent
<u>6/15/16</u>	Action
<u>6/1/16</u>	First Reading
<u>6/8/16</u>	Second Reading
<u>6/15/16</u>	Third Reading
<u>6/15/16</u>	Public Hearing

COUNCIL BILL #
Originating Dept.
Contact Person
Phone Number
FOR AGENDA OF

CB1605-26
Planning
Allan Giffen
425-257-8725
May 1, 2016
May 8, 2016
May 15, 2016

Initialed by:
Department Head
CAA
Council President

AG
AG

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
1019 112th Street Southwest Everett, WA 98204	Planning Commission Resolution 16-05	Ordinance	Legal, Planning

Amount Budgeted	N/A	
Expenditure Required	N/A	
Budget Remaining	N/A	
Additional Required	N/A	

DETAILED SUMMARY STATEMENT:

The City received a request to amend the land use designation of the Comprehensive Plan with concurrent rezone for a portion of property that was recently acquired through a boundary line adjustment. The proposed Comprehensive Plan change is from multiple family to mixed use commercial/multiple family. The proposed zoning change is from R-3, multiple housing to E-1MUO, Evergreen Way Mixed-Use Overlay. The Planning Commission held a public workshop on April 5, 2016 to discuss and consider the proposed request. The Planning Commission held a public hearing on April 19, 2016 to consider public testimony, and recommends that the City Council approve the attached ordinance.

A separate background packet with Planning Commission minutes and resolution will be provided to City Council.

RECOMMENDATION (Exact action requested of Council):

Adopt the Ordinance Amending the Comprehensive Plan Map Designation with a Rezone for the North Portion of Community Health Center of Snohomish County's Property Located at 1019 112th St SW, Amending Ordinance No's. 2021-94 and 1671-89, As Amended.

ORDINANCE NO. _____

**An Ordinance Amending the Comprehensive Plan Map Designation
With a Rezone for the North Portion of Community
Health Center of Snohomish County's Property Located at 1019 112th St SW,
Amending Ordinance No's. 2021-94 and 1671-89, As Amended**

WHEREAS, the City Council finds the following:

1. The Washington State Growth Management Act (GMA) requires counties and cities to prepare comprehensive plans pursuant to RCW 36.70A; and
2. The City adopted a Comprehensive Plan in August, 1994, in conformance with the Washington State Growth Management Act, and completed its 10 year update to the Comprehensive Plan on October 21, 2015; and
3. RCW 36.70A allows for comprehensive plans to be amended on an annual basis; and
4. The City of Everett initiated its 2015 – 2016 annual comprehensive plan amendment process in July of 2015, which included consideration of Land Use Map amendments and rezone applications initiated by property owners and the Everett Planning Commission; and
5. In order to carry out the recommended change, the Comprehensive Plan designation on the north portion of the subject property must be amended from 1.6: Multiple Family to 4.4: Mixed-Use Commercial/Multiple Family, see Exhibit "A", and the zoning must be changed from R-3: Multiple Family Medium Density to E-1 MUO: Evergreen Way Mixed-Use Overlay; and
6. Staff did meet with the Twin Creeks and Cascade View neighborhoods regarding this proposal on September 21, 2015, and has discussed the change with the property owner; and
7. The Planning Commission held a public hearing on the matter on April 19, 2016, at which time it heard from the public and staff, and considered the the proposal and did recommend approval for a single and appropriate Comprehensive Plan designation and zone on the property, consistent with its commercial use, that reflects zoning on adjacent and nearby properties; and.

WHEREAS, the City Council concludes the following:

1. The purpose for the requested Comprehensive Plan land use map amendment is to provide consistency between the Comprehensive Plan map and the zoning map, and to provide the designation and zone for this property match its anticipated use;

2. The Planning Commission held a public meeting April 5, 2016, and a public hearing on this proposal on April 19, 2016, and passed Resolution 16-05, recommending adoption of this action by City Council;
3. The requested action is supported by, or consistent with, the Comprehensive Plan because Chapter V of the Land Use element (C) Guide to Decision Making, "All zoning decisions must by law be consistent with the comprehensive Plan." This action is specifically intended to make the subject area's zoning and comprehensive plan designation consistent, and the same as the designation and zone on the remaining portion of the property, after the proposed changes are made;
4. The changed circumstances and new information related to the property justify the changes to the land use designation;
5. The proposed designation is consistent with the existing designation of abutting properties to the south and west;
6. The change promotes and ensures a desired land use pattern because the use will support the current use;
7. The proposed land use designation should not be applied to other properties in the vicinity without first meeting the policies of the Comprehensive Plan on their own merit and considered separately from this action. Therefore, approval of this application would not constitute a granting of special privilege; .
8. This action would have no additional impacts on other properties in the vicinity;
9. The change of the land use designation will not pressure other properties in the vicinity to do the same;
10. The proposed changes provide for the public health, safety and welfare; and.
11. This proposed Comprehensive Plan amendment and rezone promotes the best long term interest of the Everett Community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Amendment of the Land Use Map of the Comprehensive Plan. The Comprehensive Plan land use map designation for the north portion of the property at 1019 112th St SW is hereby amended from 1.6: Multiple Family to 4.4: Mixed-Use Commercial/Multiple Family, amending Ordinance No. 2021-94, as amended and as depicted in Exhibit "A".

Section 2: Approval of Rezone. The zoning for the property is changed from R-3: Multiple Family Medium Density to E-1 MUO: Evergreen Way Mixed-Use Overlay, amending Ordinance No. 1671-89, as amended and as depicted in Exhibit "B".

Section 3: Legal Description. The legal description of the area affected by this action is described in Exhibit "C", which is attached hereto and incorporated herein by reference. Any conflict between the legal description and map shall be resolved by referring to the map.

Section 4: Incorporation. Exhibits A, B, and C are hereby made part of this approval and incorporated herein by reference.

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: _____

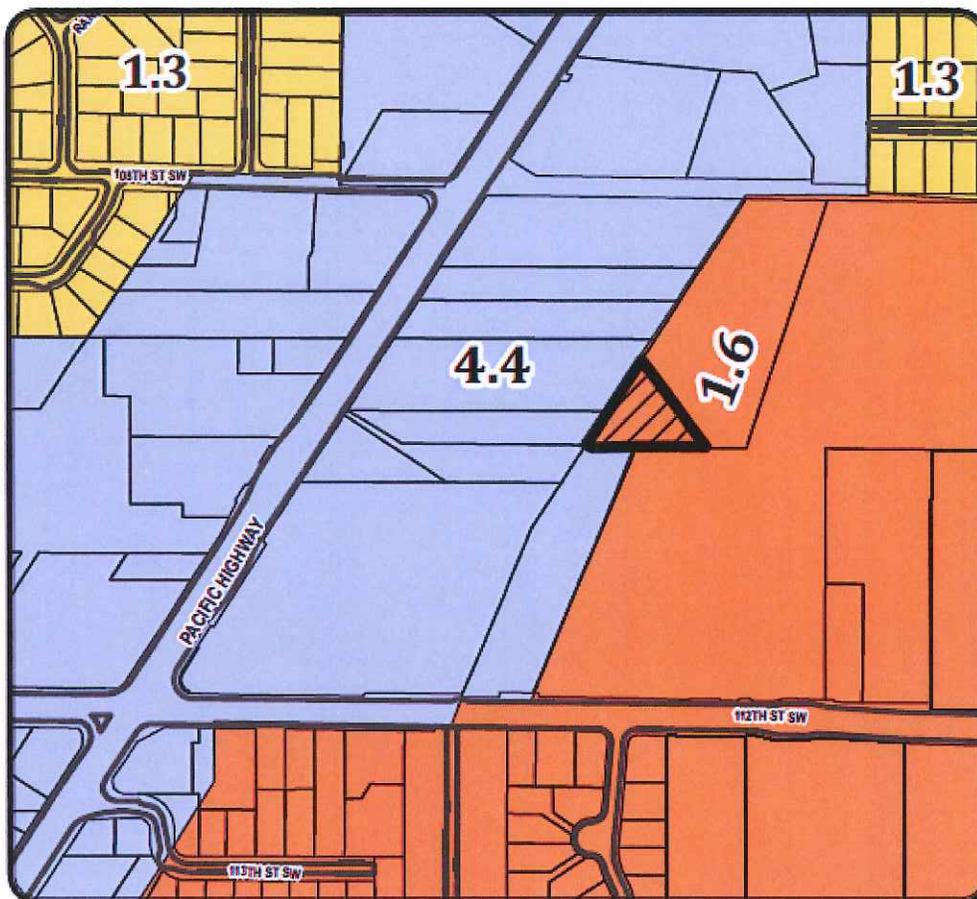
Published: _____

Effective Date: _____

Exhibit A

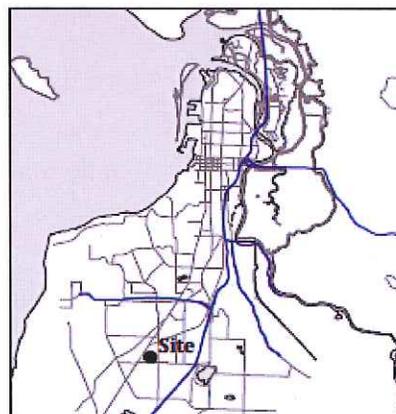
**Community Health Center of Snohomish County
Comprehensive Plan Amendment**

From: 1.6 Multiple Family, 20-29 dwellings per gross acre
To: 4.4 Mixed Use Commercial, Multiple Family



Comprehensive Plan Legend:

-  1.3 Single Family Detached, 10-12 DUA
-  1.6 Multiple Family, 20-29 DUA
-  4.4 Mixd Use Commercial, Multiple Family
-  Action Area



March 2016

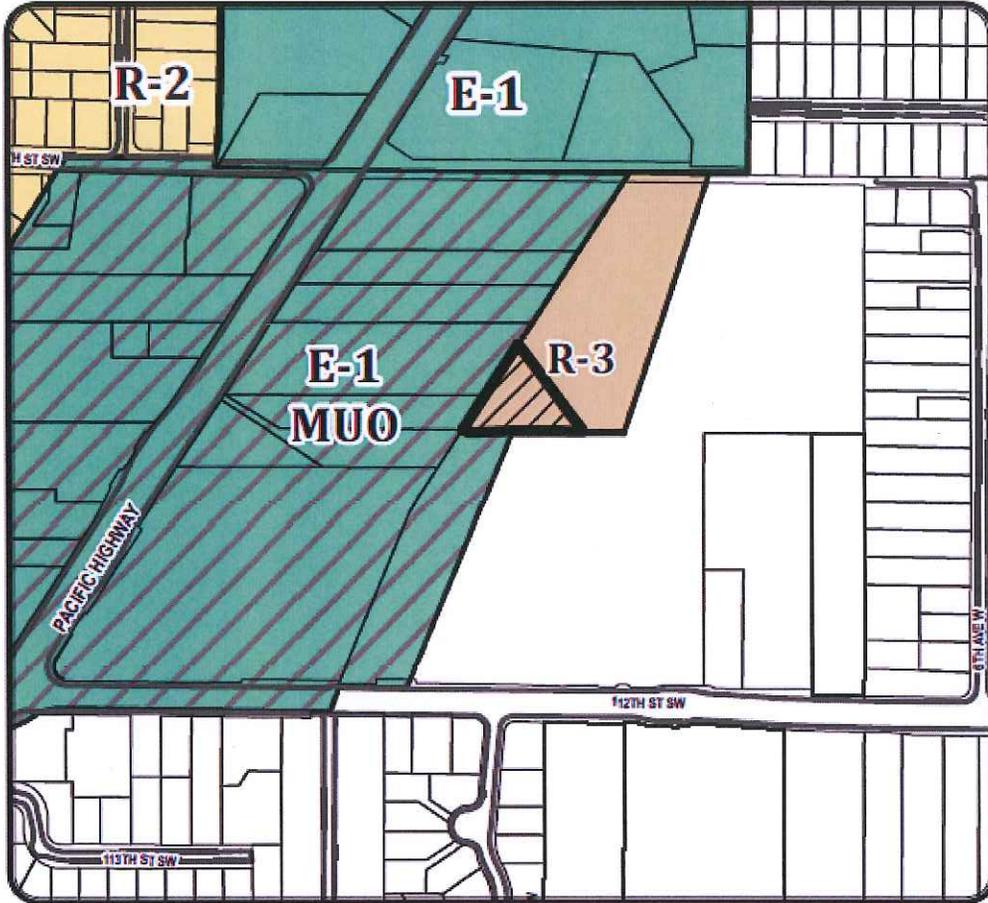
Exhibit B

Community Health Center of Snohomish County

Rezone

From: R-3 Multiple Family, Med Density to

To: E-1 MUO Evergreen Way Mixed Use Overlay



Zoning Legend:

-  R-2 Single Family, Med. Density
-  R-3 Multiple Family, Med Density
-  E-1 Evergreen Way Zone
-  E-1 MUO E-1 Evergreen Way Zone Overlay
-  Action Area



March 2016

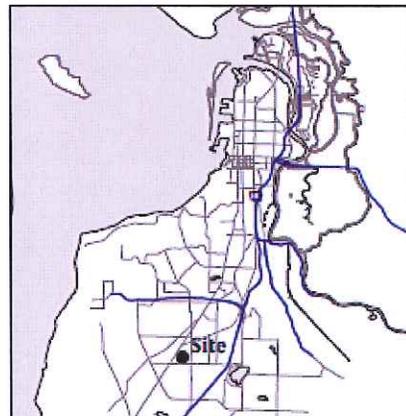


Exhibit C

Legal Description

Commencing at the southeast corner of Lot 8, Block 1, Fairmount, as per plat recorded in Volume 10 of Plats, page 91, records of Snohomish County, Washington; thence west along the south line of said Lot 8, a distance of 100.31 feet to the Point of Beginning; thence N $36^{\circ}20'07''$ W a distance of 276.07 feet to a point on the westerly line of said Lot 8; thence S $32^{\circ}54'48''$ W, along said westerly line, a distance of 264.94 feet; thence N $89^{\circ}59'43''$ E a distance of 307.53 feet to the Point of Beginning. Situate in County of Snohomish, State of Washington.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance authorizing "Supportive Housing" in various residential and commercial zones, amending Ordinance Nos. 1671-89 (EMC Title 19, Zoning) and 2530-01 (EMC Title 15, Local Project Review Procedures), as amended

_____	Briefing
_____	Consent
<u>6/8/16</u>	Action
<u>5/25/16</u>	First Reading
<u>6/1/16</u>	Second Reading
<u>6/8/16</u>	Third Reading
_____	Public Hearing

COUNCIL BILL #
 Originating Dept.
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1605-25
Planning
Allan Giffen
425-257-8725
May 25, 2016
June 1, 2016
June 8, 2016

Initialed by:
 Department Head
 CAA
 Council President

db
jm

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Planning Commission Resolution 16-03	Ordinance	Legal, Planning

Amount Budgeted	N/A	
Expenditure Required	N/A	
Budget Remaining	N/A	
Additional Required	N/A	

DETAILED SUMMARY STATEMENT:

On March 1, 2016 the Planning Commission agreed to initiate consideration of a code change related to supportive housing which can be used in a Housing First model to develop low barrier housing. The potential amendments would be included in multiple sections of the Zoning Code as outlined in the proposed ordinance. These provisions address specific components of a supportive housing development and how it should fit into existing neighborhoods.

The Planning Commission held a public workshop on March 14, 2016 to discuss and consider potential amendments to the Zoning Code related to supportive housing. The Planning Commission held a public hearing on April 19, 2016 to consider public testimony, and recommends that the City Council approve the proposed ordinance. Planning and Legal staff are further recommending a modification to proposed Special Regulation 27 of Table 5-1 shown in underlined below subsequent to the Planning Commission recommendation:

(27) Permitted only on land owned by a public agency or that the public agency has transferred to another entity for the purpose of developing supportive housing.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance authorizing "Supportive Housing" in various residential and commercial zones, amending Ordinance Nos. 1671-89 (EMC Title 19, Zoning) and 2530-01 (EMC Title 15, Local Project Review Procedures), as amended.



ORDINANCE NO. _____

An Ordinance authorizing “Supportive Housing” in various residential and commercial zones, amending Ordinance Nos. 1671-89 (EMC Title 19, Zoning) and 2530-01(EMC Title 15, Local Project Review Procedures), as amended.

WHEREAS, the City Council finds the following:

1. The Everett Zoning Code contains regulations for certain types of residential uses.
2. It is necessary from time to time to update zoning regulations to provide clarification or create additional standards related to specific uses or add new uses as the need arises.
3. The proposed amendments to the Zoning Code will provide for supportive housing as a new use with a definition and appropriate development standards and guidelines.

WHEREAS, the City Council concludes the following:

1. The proposed amendment is consistent with the applicable provisions of the Everett Growth Management Comprehensive Plan; and
2. The proposed amendment bears a substantial relation to the public health, safety and welfare; and
3. The proposed amendment promotes the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 4 of Ordinance No. 1671-89, as amended (EMC 19.4.020), is hereby amended by the addition of the following:

“Supportive Housing” means a combination of housing, including low barrier housing, and services intended as a cost-effective way to help people live more stable and productive lives. The housing type is a multiple-family dwelling owned or sponsored by a qualified nonprofit provider or government entity, designed for occupancy by persons that are either (A) experiencing or at risk of experiencing homelessness ; (B) are experiencing a disability that presents barriers to employment and housing stability; or (C) generally require structured supportive services such as case management and 24-hour on-site facility management to be successful living in the community and is intended to provide long-term, rather than transitional, housing.

Section 2. Section 5 through of Ordinance No. 1671-89, as amended (EMC 19.5, Table 5.1), which reads as follows:

Table 5.1 Residential uses.

ZONE USE	A-1	R-S	R-1	R-2	R-1(A)	R-2(A)	R-3(L)	R-3	R-4	R-5	B-1	B-2	B-2(B)	B-3	BMU	E-1	MUO	C-1	C-1R	C-2	C-2ES	W-C	M-S	M-M	M-1	M-2
Accessory dwelling unit (21)	I(1)	I(1)	I(1)	I(1)		I(1)																				
Adult family home	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I					
Assisted living facility																										
Boarding or rooming	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)						
Boardinghouse or roominghouse					I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)						
Caretaker, watchman's quarters (4)																				I	I	I	I	I	I	I
Congregate care facility							I	I	I	I	I	I	I	I	I	I	I	I	I							
Convalescent or nursing home								I	I	I	I	I	I	I	I	I	I	I	I							
Dwelling, single-family detached	I	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)					I(5)	I(5)			I(5)				
Dwelling, single-family attached		III(6)	III(6)	III(6)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)			I	I	I(7)	I(7)			I(7)				
Dwelling, two-family (duplex) (21)			I(8)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)					I(9)	I(9)			I(9)				
Dwelling, rear yard infill				I(25)				I(25)	I(25)	I(25)	I(25)	I(25)	I(25)					I(25)	I(25)							
Dwelling, cottage housing								I(26)	I(26)																	
Dwelling, multiple-family					I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)			I	I	I(7)	I(7)			I(7)				
Dwelling, live/work											I(23)	I(23)	I(23)			I	I(23)	I(23)	I(23)			I(23)				
Group home, Class I.A	I	I	I	I	I	I	I	I	I	I	I	I	I			I	I	I	I							
Group home, Class I.B	I						I	I	I	I	I	I	I			I	I	I	I							
Group home, Class I.C							I	I	I	I	I	I	I			I	I	I	I							
Group home, Class II.A, II.B, II.C													III(13)	III(13)	III(13)	III(13)			III(13)							
Home occupation	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)			I(14)	I(14)	I(14)	I(14)			I(14)				

ZONE USE	A-1	R-S	R-1	R-2	R-1(A) R-2(A)	R-3(L)	R-3	R-4 R-5	B-1 B-2(B)	B-2 B-3	BMU	E-1	MUO	C-1 C-1R	C-2	C-2ES	W-C	M-S	M-M	M-1	M-2
Senior citizen housing					I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I	I	I(7)	I		I(7) (24)				
Manufactured home (15)	I	I	I	I	I	I	I	I	I	I				I							
Mobilehome park (16)		III	III	III	III	II	II														
Secure community transition facility (19)																			III(19)	III (19)	III (19)
Temporary shelter home		III(17)	III(17)	III(17)	III(17)	III(17)	III(18)	III(18)	III(18)	III(18)	III(18)	III(18)	III(18)	III(18)							

Is hereby amended to read as follows:

Table 5.1 Residential uses.

ZONE USE	A-1	R-S	R-1	R-2	R-1(A) R-2(A)	R-3(L)	R-3	R-4 R-5	B-1 B-2(B)	B-2 B-3	BMU	E-1	MUO	C-1 C-1R	C-2	C-2ES	W-C	M-S	M-M	M-1	M-2
Accessory dwelling unit (21)	I(1)	I(1)	I(1)	I(1)	I(1)																
Adult family home	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I						
Assisted living facility						I	I	I	I	I	I	I	I	I							
Boarding or rooming	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)	I(2)							
Boardinghouse or roominghouse						I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)	I(3)							
Caretaker, watchman's quarters (4)															I	I	I	I	I	I	I
Congregate care facility																					
Convalescent or nursing home							I	I	I	I	I	I	I	I							
Dwelling, single-family detached	I	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)	I(5)				I(5)			I(5) (24)				
Dwelling, single-family attached		III(6)	III(6)	III(6)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)			I	I(7)			I(7) (24)				
Dwelling, two-family (duplex) (21)			I(8)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)	I(9)				I(9)			I(9) (24)				
Dwelling, rear yard infill				I(25)			I(25)	I(25)	I(25)	I(25)											
Dwelling, cottage housing							I(26)	I(26)													

ZONE USE	A-1	R-S	R-1	R-2	R-1(A) R-2(A)	R-3(L)	R-3	R-4 R-5	B-1	B-2 B-2(B)	B-3	BMU	E-1	MUO	C-1 C-1R	C-2	C-2ES	W-C	M-S	M-M	M-1	M-2
Dwelling, multiple-family						I(7)	I(7)	I(7)(20)	I(10)	I(7)	I(7)	I(7)	I	I	I(7)		I(22)	I(7) (24)				
Dwelling, live/work									I(23)	I(23)	I(23)	I	I(23)	I(23)	I(23)		I(22)	I(23) (24)				
Group home, Class I.A	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I							
Group home, Class I.B	I					I	I	I	I	I	I	I	I	I	I							
Group home, Class I.C						I	I	I		I	I	I	I	I	I							
Group home, Class II.A, II.B, II.C											III (13)	III (13)	III (13)		III(13)							
Home occupation	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)	I(14)					
Senior citizen housing						I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I(7)	I	I	I(7)	I		I(7) (24)				
Manufactured home (15)	I	I	I	I	I	I	I	I	I	I					I							
Mobilehome park (16)		III	III	III	III	II	II													III(19)	III (19)	III (19)
Secure community transition facility (19)																						
Supportive Housing		III(18) (27)	III(18) (27)	III(18) (27)	III(18) (27)	II(7)	II(7)	II(7) (20)	II(10)	II(7)	II(7)	II(7)	II(7)	II(7)	II(7)		II(22)	II(7) (24)				
Temporary shelter home		III(17)	III(17)	III(17)	III(17)	III(17)	III(18)	III(18)		III(18)		III(18)	III(18)	III(18)	III(18)							

Section 3. Section 5 through 14 of Ordinance No. 1671-89, as amended (EMC 19.5, Table 5.1), which reads as follows:

SPECIAL REGULATIONS FOR ZONING CODE TABLE NO. 5.1

(7) All residential development must comply with the applicable development standards and guidelines, which may include standards in the B-3 zone (Chapter 22), core residential area (Chapter 33G), multiple-family development standards (Chapter 15), BMU zone (Chapter 31A), Everett Station Area (Chapter 25), E-1 and MUO, and/or any applicable overlay design standards and guidelines. Multiple-family development standards of Chapter 15 and multiple-family design guidelines established by city council Resolution No. 4618 shall apply to single-family attached dwelling developments and multiple-family dwelling developments containing three or more dwelling units where standards and guidelines are not otherwise specified.

Is hereby amended to read as follows:

(7) All residential development must comply with the applicable development standards and guidelines except as otherwise provided by Section 39.155 for Supportive Housing, which may include standards in the B-3 zone (Chapter 22), core residential area (Chapter 33G), multiple-family development standards (Chapter 15), BMU zone (Chapter 31A), Everett Station Area (Chapter 25), E-1 and MUO, and/or any applicable overlay design standards and guidelines. Multiple-family development standards of Chapter 15 and multiple-family design guidelines established by city council Resolution No. 4618 shall apply to single-family attached dwelling developments and multiple-family dwelling developments containing three or more dwelling units where standards and guidelines are not otherwise specified.

Section 4. Section 5 through 14 of Ordinance No. 1671-89, as amended (EMC 19.5, Table 5.1), is amended by the addition of the following special regulations:

(27) Permitted only on land owned by a public agency or that the public agency has transferred to another entity for the purpose of developing supportive housing.

Section 5. Section 34 of Ordinance No. 1671-89, as amended (EMC 19.5, Table 34-1 RESIDENTIAL USES), which reads in part:

TABLE No. 34-1	
Off-Street Parking for All Zones Except the B-3 Zone	
Use	Parking Requirement
RESIDENTIAL USES	
Accessory dwelling units	1 additional space for accessory dwelling
Adult family home	3 per home
Assisted living facilities	1 per each 4 residents

Boarding or rooming	no additional parking required
Boardinghouse, roominghouse	1 per room
Caretaker's quarters	2 per dwelling
Congregate care facilities	0.8 per dwelling
Convalescent or nursing home	1 per each 4 residents
Dwelling, single-family attached	2 per dwelling in R-1(A) and R-2(A) zones; see Section 15.060 for other zones
Dwelling, single-family detached	2 per dwelling
Dwelling, two-family (duplex)	2 per dwelling
Dwelling, rear yard infill	See subsection B of this section
Dwelling, cottage	1.5 spaces per dwelling
Dwelling, multiple-family	See subsection B of this section
Group homes, Class I.A	3 per dwelling
Group homes, Class I.B	3 per dwelling
Group homes, Class I.C	2 plus 1 per each staff person
Group homes, Class II.A	2 plus 1 per each staff person
Group homes, Class II.B	2 plus 1 per each staff person
Group homes, Class II.C	2 plus 1 per each staff person
Live/work unit	2 per unit
Mobilehome park	See Title 17 of the Everett Municipal Code
Senior citizen housing	See Section 34.020.B.1.e
Temporary shelter homes	See Section 34.030

Is hereby amended to read as follows:

**TABLE No. 34-1
Off-Street Parking for All Zones Except the B-3 Zone
Parking Requirement**

Use	Parking Requirement
RESIDENTIAL USES	
Accessory dwelling units	1 additional space for accessory dwelling
Adult family home	3 per home

Assisted living facilities	1 per each 4 residents
Boarding or rooming	no additional parking required
Boardinghouse, roominghouse	1 per room
Caretaker's quarters	2 per dwelling
Congregate care facilities	0.8 per dwelling
Convalescent or nursing home	1 per each 4 residents
Dwelling, single-family attached	2 per dwelling in R-1(A) and R-2(A) zones; see Section 15.060 for other zones
Dwelling, single-family detached	2 per dwelling
Dwelling, two-family (duplex)	2 per dwelling
Dwelling, rear yard infill	See subsection B of this section
Dwelling, cottage	1.5 spaces per dwelling
Dwelling, multiple-family	See subsection B of this section
Group homes, Class I.A	3 per dwelling
Group homes, Class I.B	3 per dwelling
Group homes, Class I.C	2 plus 1 per each staff person
Group homes, Class II.A	2 plus 1 per each staff person
Group homes, Class II.B	2 plus 1 per each staff person
Group homes, Class II.C	2 plus 1 per each staff person
Live/work unit	2 per unit
Mobilehome park	See Title 17 of the Everett Municipal Code
Senior citizen housing	See Section 34.020.B.1.e
Supportive Housing	See Section 34.020.B.1.f
Temporary shelter homes	See Section 34.030

Section 7. Section 34 of Ordinance No. 1671-89, as amended (EMC 19.34.020), which reads in part:

B. Off-Street Parking Requirements for Multiple-Family Dwellings and Rear Yard Infill Dwellings. The intent of this section is to require off-street parking for the residents of multiple-family developments to be provided on the development site, and to recognize differences between areas which should have a lesser need for automobile use due to availability of transit service, adequate pedestrian facilities, and the proximity of services within walking distance. The intent is also to provide incentive to retain existing historic structures or other residential dwellings.

1. Parking for multiple-family dwellings shall be provided according to the location of the property, as provided herein. For purposes of this section, any room other than a kitchen, bathroom, living room or dining room, such as a den, study, office or other similar room, shall be considered a bedroom.

a. Lots located within area A on Map Number 34-1 shall provide a minimum of one parking space per dwelling unit.

b. Lots located within area B on Map Number 34-1 and rear yard infill dwellings in the R-2H zones shall provide a minimum of:

(1) One infill unit only: one parking space per dwelling unit;

(2) More than one infill unit and multiple-family units: one parking space per dwelling unit for units with one or fewer bedrooms and one and one-half parking spaces per dwelling unit for units with two or more bedrooms.

c. Lots in areas outside of the areas designated on Map Number 34-1 shall provide a minimum of two parking spaces per dwelling unit, except:

(1) In mixed-use developments in which at least twenty-five percent of the gross floor area of the development is provided in a permitted nonresidential use, a minimum of one and one-half spaces per dwelling unit with two or fewer bedrooms shall be provided. Parking for nonresidential uses shall be provided as otherwise required by this title.

(2) In multiple-family developments with more than one hundred dwelling units, a minimum of two parking spaces shall be provided for the first one hundred dwellings with two or fewer bedrooms, and a minimum of one and one-half parking spaces shall be provided for each dwelling with two or fewer bedrooms in excess of the first one hundred dwellings. A minimum of two spaces shall be provided for each dwelling with three or more bedrooms.

d. Developments in the R-1(A) and R-2(A) zones shall provide a minimum of two parking spaces per dwelling unit.

e. Senior citizen housing developments shall provide a minimum of one parking space per dwelling unit, except in the C-2 ES zone and E-1 MUO zone, the minimum requirement shall be 0.75 off-street parking space per dwelling unit. The applicant shall provide a covenant in a form acceptable to the city which runs with the land stating that the housing units shall be limited to occupancy by senior citizens. Conversion to nonsenior citizen housing shall not be permitted unless meeting the parking standards of this section.

Is hereby amended to read:

B. Off-Street Parking Requirements for Multiple-Family Dwellings and Rear Yard Infill Dwellings. The intent of this section is to require off-street parking for the residents of multiple-family developments to be provided on the development site, and to recognize differences between areas which should have a lesser need for automobile use due to availability of transit service, adequate pedestrian facilities, and the proximity of services within walking distance. The intent is also to provide incentive to retain existing historic structures or other residential dwellings.

1. Parking for multiple-family dwellings shall be provided according to the location of the property, as provided herein. For purposes of this section, any room other than a

kitchen, bathroom, living room or dining room, such as a den, study, office or other similar room, shall be considered a bedroom.

a. Lots located within area A on Map Number 34-1 shall provide a minimum of one parking space per dwelling unit.

b. Lots located within area B on Map Number 34-1 and rear yard infill dwellings in the R-2H zones shall provide a minimum of:

(1) One infill unit only: one parking space per dwelling unit;

(2) More than one infill unit and multiple-family units: one parking space per dwelling unit for units with one or fewer bedrooms and one and one-half parking spaces per dwelling unit for units with two or more bedrooms.

c. Lots in areas outside of the areas designated on Map Number 34-1 shall provide a minimum of two parking spaces per dwelling unit, except:

(1) In mixed-use developments in which at least twenty-five percent of the gross floor area of the development is provided in a permitted nonresidential use, a minimum of one and one-half spaces per dwelling unit with two or fewer bedrooms shall be provided. Parking for nonresidential uses shall be provided as otherwise required by this title.

(2) In multiple-family developments with more than one hundred dwelling units, a minimum of two parking spaces shall be provided for the first one hundred dwellings with two or fewer bedrooms, and a minimum of one and one-half parking spaces shall be provided for each dwelling with two or fewer bedrooms in excess of the first one hundred dwellings. A minimum of two spaces shall be provided for each dwelling with three or more bedrooms.

d. Developments in the R-1(A) and R-2(A) zones shall provide a minimum of two parking spaces per dwelling unit.

e. Senior citizen housing developments shall provide a minimum of one parking space per dwelling unit, except in the C-2 ES zone and E-1 MUO zone, the minimum requirement shall be 0.75 off-street parking space per dwelling unit. The applicant shall provide a covenant in a form acceptable to the city which runs with the land stating that the housing units shall be limited to occupancy by senior citizens.

Conversion to nonsenior citizen housing shall not be permitted unless meeting the parking standards of this section.

f. Supportive Housing Developments shall provide a minimum of one parking space per 4 dwelling units. The Planning Director may approve a modification to this standard if a parking study for the use of the lot is prepared by a professional with expertise in preparing traffic and parking analysis demonstrates to the satisfaction of the Director that a lesser standard is adequate. The applicant shall provide a covenant in a form acceptable to the City which runs with the land stating that the supportive housing units shall be limited to occupancy by low income households. Conversion to non-supportive housing shall not be permitted unless meeting the parking standards of this section.

Section 8. Section 39 of Ordinance No. 1671-89, as amended (EMC 19.39), is amended by the addition of the following, which shall be codified as EMC 19.39.155:

39.155 Supportive Housing

A. Permanent Supportive Housing shall comply with the development standards and design guidelines for Multiple Family Development for the zone in which such housing is located except as specified herein.

1. The allowed density shall be the number of units that can be placed on the site while meeting the dimensional standards and all other required standards of the zone in which the project is located except that in single-family zones, building height shall be determined during the review process based upon compatibility with surrounding uses.

2. Access to transit must be available within 500 feet of the development.

3. A written management plan shall be provided for the review and approval of the planning director. At a minimum, a management plan shall address the following components:

a. Specify the nature of the supportive housing project and its intended occupants;

b. Identify potential impact(s) on nearby residential uses and proposed methods to mitigate those impacts;

c. Include a neighborhood outreach plan that addresses how the applicant will communicate with and inform the neighborhood before and after project approval.

d. Identify the project management or agency to whom support staff are responsible and who will be available to resolve concerns pertaining to the facility. The plan shall specify procedures for updating any changes in contact information;

e. Identify staffing, supervision and security arrangements appropriate to the facility.

A 24-hour on-site manager is required;

f. On-site services shall be for residents of the facility only;

g. The Management Plan will contain requirements for updating all contact information to the city when changes occur;

h. If the planning director determines at any time there is evidence of fraud in obtaining the permit; concealment or misrepresentation of any material fact on the application or on any subsequent applications or reports; or that the supportive housing project is found to be in violation of the approved plans, conditions of approval, or the terms of the permit or management plan, and the owner has failed to correct the violation after proper notice thereof; then the City may initiate compliance proceedings as provided by EMC Chapter 1.20.

5. A use compliance inspection or report may be required periodically by the City as determined by the Planning Director. If a permanent supportive housing project is discontinued or abandoned, future use of the property shall be in conformance with the use and development standards of the underlying zone or overlay zone.

Section 9. Chapter 4 of Section 3(B) of Ordinance No. 2530-01, as amended (EMC 15.16.080A), is amended by the addition of the following:

Supportive housing development as provided in Section 19.39.155.

Section 10. Chapter 4 of Section 4(B) of Ordinance No. 2530-01, as amended (EMC 15.16.110A), is amended by the addition of the following:

Supportive housing development as provided in Section 19.39.155.

Section 11. 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 12. 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 13. 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 14. 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: _____

RESOLUTION NO. _____



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

That the payroll of the employees of the City of Everett as of May 14, 2016, and checks issued May 20, 2016, having been audited, be and the same is hereby approved and the proper officers are hereby authorized and directed to charge checks on the Payroll Fund in payment thereof:

Fund	Department	Gross Payroll	Employer Contributions
001	Legislative	10,556.08	\$2,966.48
003	Legal	\$56,169.25	20,924.28
004	Administration	55,615.08	17,471.90
005	Municipal Court	52,311.80	20,995.48
007	Personnel	44,438.09	16,333.60
010	Finance	52,510.18	20,527.13
015	Information Technology	49,859.80	18,843.38
021	Planning & Community Dev	38,180.06	13,071.16
022	Neighborhoods & Community Svcs	3,245.52	1,270.34
024	Public Works	145,074.73	55,982.68
026	Animal Shelter	32,078.71	12,629.58
027	Senior Center	13,788.07	5,117.90
031	Police	820,413.21	245,363.95
032	Fire	577,437.36	169,944.23
038	Facilities/Maintenance	66,729.56	29,554.42
101	Parks & Recreation	195,645.30	74,151.58
110	Library	116,417.24	41,068.30
112	Community Theatre	7,149.38	2,858.76
120	Street	71,110.41	29,128.01
153	Emergency Medical Services	158,630.16	48,639.62
197	CHIP	9,033.99	3,908.68
198	Community Dev Block	6,504.96	2,252.13
401	Utilities	652,367.27	256,417.64
425	Transit	361,857.18	153,626.63
440	Golf	32,474.32	10,910.77
501	Equip Rental	59,359.34	25,361.51
507	Telecommunications	9,342.24	3,923.37
		<u>\$3,698,299.29</u>	<u>\$1,303,243.51</u>

Councilperson Introducing Resolution

Passed and approved this _____ day of _____, 2016.

Council President

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Street Closure – Youth
Summer Jam Block Party

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

COUNCIL BILL # _____
Originating Department City Clerk
Contact Person Anna Pankevich
Phone Number 425-257-8609
FOR AGENDA OF June 1, 2016

Initialed by:
Department Head _____
CAA db
Council President JT

<u>Location</u> California Street, between Baker Avenue and Virginia Avenue	<u>Preceding Action</u>	<u>Attachments</u> Special Event Application	<u>Department(s) Approval</u> Police, Fire, Streets, Traffic Engineering, Transit
---	--------------------------------	---	---

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

DETAILED SUMMARY STATEMENT:

The Second Baptist Church Youth Ministry is requesting the closure of California Street, between Baker Avenue and Virginia Avenue on June 18, 2016, from 2 p.m. to 9 p.m., for a Youth Summer Jam Block Party.

RECOMMENDATION (Exact action requested of Council):

Authorize the closure of California Street, between Baker Avenue and Virginia Avenue on June 18, 2016, from 2 p.m. to 9 p.m., for a Youth Summer Jam Block Party sponsored by the Second Baptist Church Youth Ministry.

SPECIAL EVENT APPLICATION

Event Type: Street Closure Parade Walk/Run Other ()
Event Date: June 18, 2016 Event Time: 4:00-7:00 PM

Explain Event: Youth Summer Jam Block Party

Location of Event: 2801 Virginia Ave (Corner of California/Virginia)
Second Baptist Church Youth Ministry

Sponsoring organization: _____

Address: 2801 Virginia Ave. City & State Everett, WA

Contact Person: Vi Jackson Phone No. 360-913-7877

We require that you inform the neighborhood of the street closure prior to approval.

What method will be used to inform the neighborhood of the street closure? Flyer/ door-to-door

If applicable answer the following:

Approx. # of participants: > 100 Persons Animals Vehicles
Type of Animals _____

Assembly area (streets) Streets, church community center

Portion of street to be used: _____ Full width California Half _____ Other _____

*Attach a map showing route of parade or run/walk.

Official Use

	<u>Admin.</u>	<u>Traffic</u>	<u>Police</u>	<u>Fire</u>	<u>Transit</u>	<u>Streets</u>
Approved:	_____	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
Rejected:	_____	_____	_____	_____	_____	_____

Special Conditions: _____

Comments: _____

Council agenda date: / /

City Council approval: / /

Permit _____

TR # _____

Indemnification, Hold Harmless, and Certification

As a material consideration to the City granting this approval, and without which the City would not do so, the Applicant, on behalf of the sponsoring organization, hereby agrees to defend, indemnify and hold harmless the City from and against any and all Claims for personal injury, death, property damage or destruction, arising from, relating to, or resulting from the Event that is the subject to this approval.

"City" shall mean the City of Everett, its officers, employees, agents, and volunteers.
"Claims" shall mean any actions, demands, suits, obligation or liability for payment of damages, fees, and costs, including, but not limited to, attorney's fees, expert witness fees, court costs and other legal expenses.

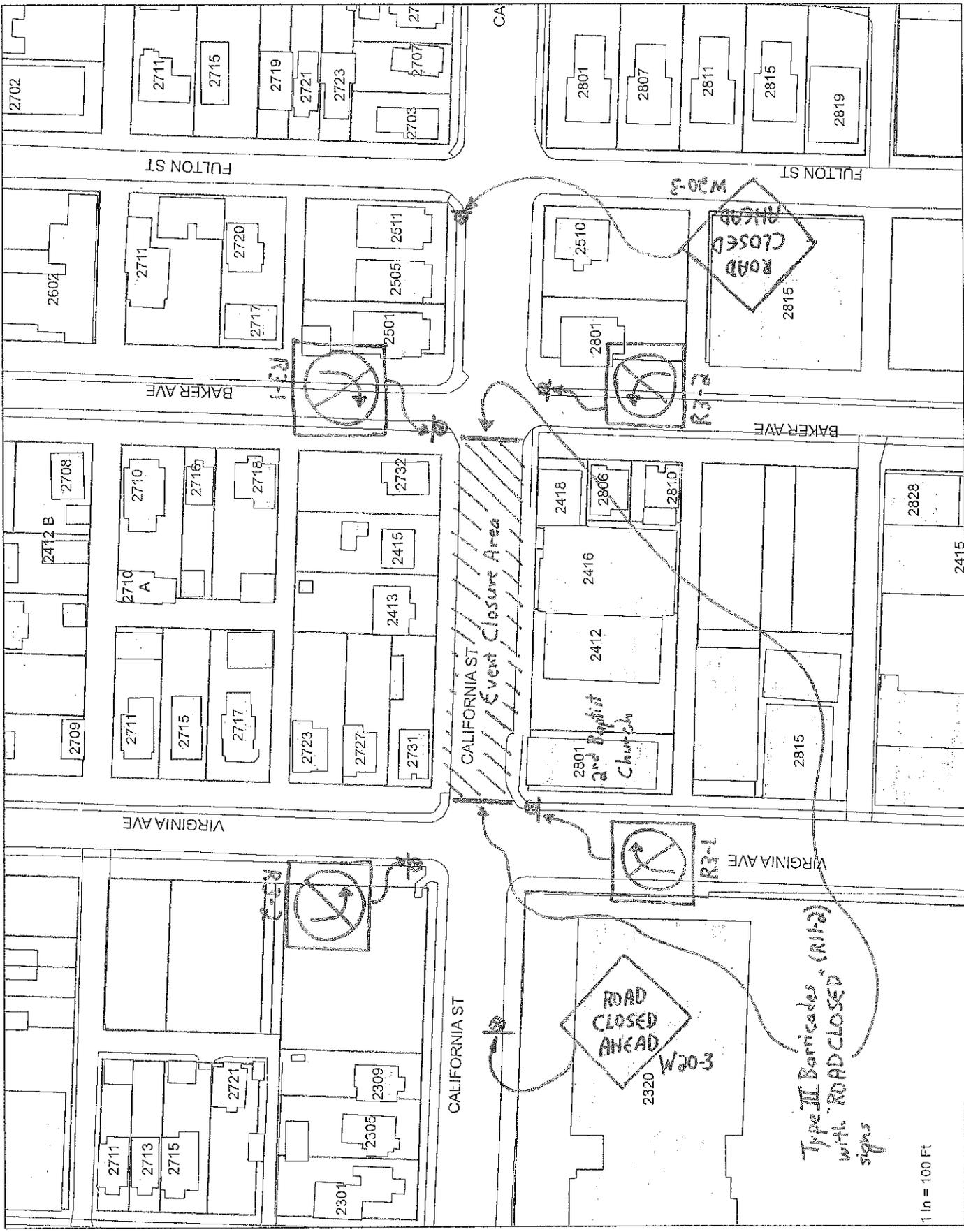
Provided, however, this agreement to defend, indemnify and hold harmless the City shall not apply to Claims arising out of bodily injury or death or property damage or destruction caused by the sole negligence or willful misconduct of the City.

As Applicant, I certify that 1) the information provided on this application is true and correct; and 2) I am duly authorized by the sponsoring organization to make this application and enter into this agreement, on behalf of the sponsoring organization, to defend, indemnify and hold harmless the City.

	<u>5/11/16</u>
Signature	Date
<u>Vi Jackson</u>	<u>vijackson63@gmail.com</u>
Printed Name	Email
<u>Second Baptist Youth Ministry</u>	<u>360-913-7877</u>
Organization Representing	Phone No(s).

List businesses impacted by the Event and ask them to sign off if they concur with the closure.

Business	Signature of Approval
1. <u>PUD</u>	<u>Senta Braun</u>
2. <u>Impression Design</u>	<u>Or-y L - -</u>
3. <u>Northwest Software</u>	
4. _____	
5. _____	
6. _____	
7. _____	



CALIFORNIA ST

VIRGINIA AVE

BAKER AVE

FULTON ST

CALIFORNIA ST
Event Closure Area

ROAD
CLOSED
AHEAD

R3-1

R3-2

ROAD
CLOSED
AHEAD

Type II Barricades (R1A)
with ROADCLOSED
signs

1 in = 100 Ft

CA

2702

2711

2715

2719

2721

2723

2703

2707

2801

2807

2811

2815

2819

2602

2711

2720

2717

2501

2505

2511

2510

2801

2815

2412 B

2710 A

2715

2716

2718

2732

2415

2413

2412

2416

2418

2806

2810

2709

2711

2715

2717

2723

2727

2731

2418

2416

2412

2801
2nd Baptist
Church

2815

2815

2815

2828

2415

2711

2713

2715

2721

2301

2305

2309

2320

W20-3

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Street Closure – Fun Run	_____	Briefing	COUNCIL BILL #	_____
Benefiting Children’s Hospital	_____	Proposed Action	Originating Department	City Clerk
	_____	Consent	Contact Person	Anna Pankevich
	_____	Action	Phone Number	425-257-8614
	_____	First Reading	FOR AGENDA OF	June 1, 2016
	_____	Second Reading		
	_____	Third Reading		
	_____	Public Hearing		

Initialed by:
 Department Head _____
 CAA _____
 Council President 

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
6613 Larimer Road		Special Event Application	Police, Fire, Streets, Traffic Engineering, Transit

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

DETAILED SUMMARY STATEMENT:

The Communities Caring for Kids is requesting a street closure starting at 6613 Larimer Road on June 11, 2016, from 8 a.m. to 12 p.m., for a 1.5 mile Fun Run benefiting Children’s Hospital.

RECOMMENDATION (Exact action requested of Council):

Authorize the street closure starting at 6613 Larimer Road on June 11, 2016, from 8 a.m. to 12 p.m., for a 1.5 mile Fun Run benefiting Children’s Hospital sponsored by the Communities Caring for Kids.

SPECIAL EVENT APPLICATION

Event Type: Street Closure Parade Walk/Run Other ()

Event Date: 10.11.2016 Event Time: 10:00 am

Closure Time: 8:00 am - 12:00 pm

Event Description: Fun run benefiting Children's Hospital

Location of Event: 16613 Larimer Rd

Sponsoring Organization: Communities Caring for Kids

Address: 11214 39th Ave SE City & State Everett WA

Contact Person: Michael Rinner Phone No. 425.366.0928

We require that you inform the neighborhood and businesses of the street closure prior to obtaining approval.

What method will be used to inform the impacted parties of the street closure? home visits, flyers, neighborhood meeting

If applicable, answer the following:

Approx. # of participants: 350 Persons Animals Vehicles
Type of Animals N/A

Assembly area (streets) N/A Private property

Portion of street to be used: Full width Half Other

*Attach a map showing route of parade or run/walk.

Official Use

	<u>Admin.</u>	<u>Traffic</u>	<u>Police</u>	<u>Fire</u>	<u>Transit</u>	<u>Streets</u>
Approved:	<input type="checkbox"/>	<input checked="" type="checkbox"/>				
Rejected:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Special Conditions: _____

Comments: _____

Council agenda date: / /

City Council approval: / /

Permit _____ TR # _____

Indemnification, Hold Harmless, and Certification

As a material inducement and consideration for the City granting this approval, the Applicant, on behalf of the sponsoring organization, hereby agrees to defend, indemnify and hold harmless the City from and against any and all Claims for personal injury, death, property damage or destruction, arising from, relating to, or resulting from the Event that is the subject of this approval.

"City" shall mean the City of Everett, its officers, employees and agents.

"Claims" shall mean any actions, demands, suits, obligation or liability for payment of damages, fees, and costs, including, but not limited to, attorney's fees, expert witness fees, court costs and other legal expenses.

Provided, however, this agreement to defend, indemnify and hold harmless the City shall not apply to Claims arising out of bodily injury or death or property damage or destruction caused by the sole negligence or willful misconduct of the City.

As Applicant, I certify that 1) the information provided on this application is true and correct; and 2) I am duly authorized by the sponsoring organization to make this application and enter into this agreement, on behalf of the sponsoring organization, to defend, indemnify and hold harmless the City.



Signature

05.09.16

Date

Michael Rinner

Printed Name

Communities Caring for Kids 425.366.0928

Organization Representing

Phone No.

List businesses/residences impacted by this event. You must also obtain an approval signature from each business/resident indicating they concur with the closure.

Business/Residence	Signature of approval
1. Rinner residence	Arlene Rinner
2. Glen Gyle Farm Wilson's	Eva Wilson
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____

JUNE 11TH ROAD CLOSURE

for the purpose of HIPPIE RUN 2K16

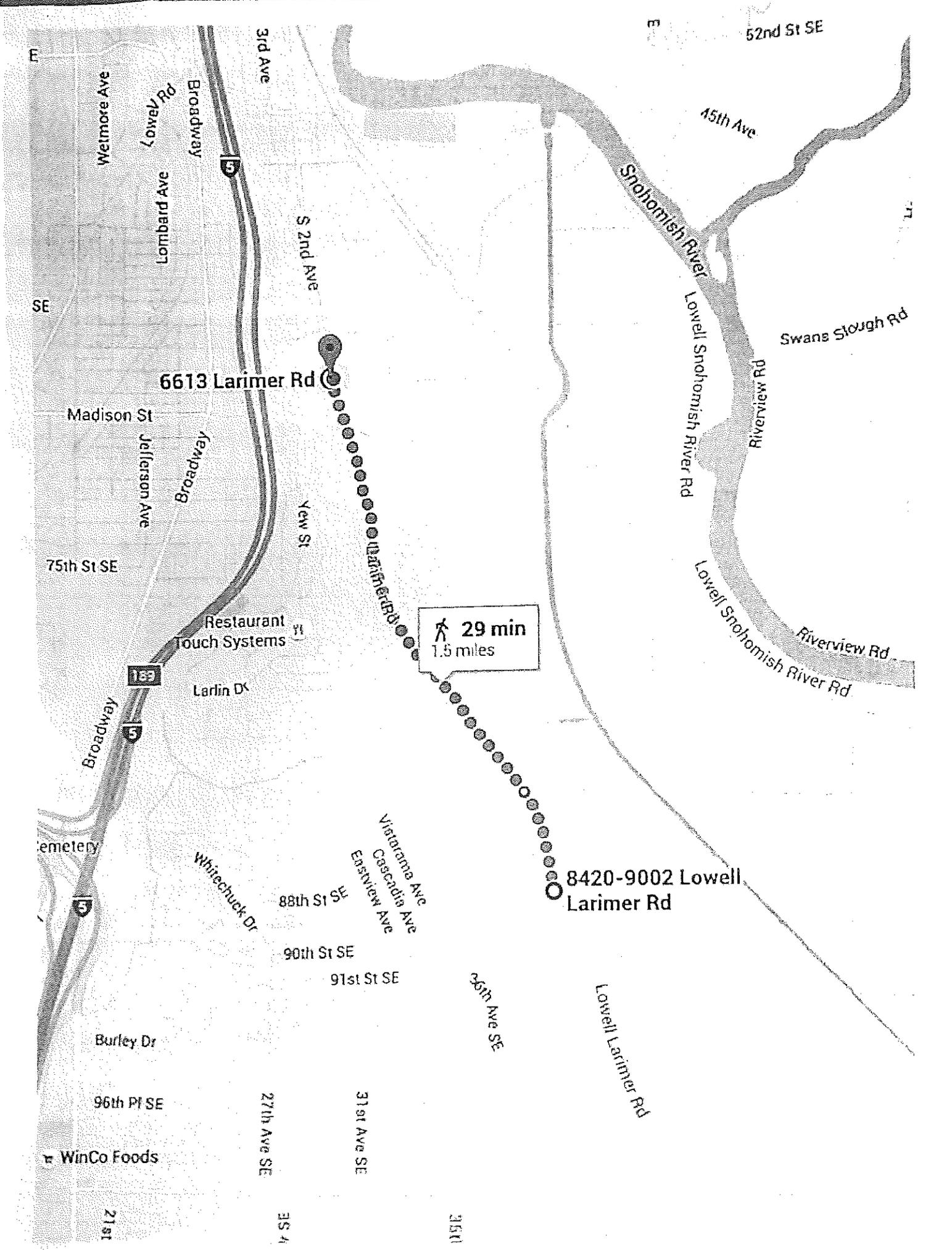


Resident signatures concerning their approval of the June 11th Road Closure of Lowell Larimer Rd.

Resident Name	Date	Resident Signature	Resident Email
8627	4/30	No answer	
8525	4/30	No answer	
8003	4/30	Verbal Approval	
7725-Quigley	" "	" " " "	
7725-Quigley	4/30	[Signature]	
7214			
7119	4/30	[Signature]	

Benefiting





52nd St SE

45th Ave

Snohomish River

Swans Slough Rd

Lowell Snohomish River Rd

Riverview Rd

Lowell Snohomish River Rd

Riverview Rd

8420-9002 Lowell Larimer Rd

Lowell Larimer Rd

6613 Larimer Rd

29 min
1.5 miles

Restaurant Touch Systems

Larlin Dr

88th St SE

90th St SE

91st St SE

35th Ave SE

Vistarama Ave
Cascadia Ave
Eastview Ave

Whitechuck Dr

Burley Dr

96th Pl SE

WinCo Foods

21st

27th Ave SE

31st Ave SE

35th

35th

Wilmore Ave

Orlando Ave

Broadway

3rd Ave

S 2nd Ave

Yew St

Madison St

Jefferson Ave

75th St SE

Broadway

Cemetery

F

SE

Tr

JUNE 11TH ROAD CLOSURE

8:30AM-12:30PM

••••

South of 6613-
North of 9002

Dear Lowell Larimer resident,

My whole life I have been lucky enough to call Larimer Road, "Home." Where else in the county could we enjoy the wide open spaces, the beautiful valley views, and that great, "Country Sense," you get while passing through? That's not to mention the fact that we are just minutes from the wonderful Cities that surround us. It's because of this I want to share our great roadway with the community...

I am the director of Hippie Run, a 100% non-profit fundraising event benefiting Seattle Children's, and I would like your permission to use a 1.5 mile strip of Lowell Larimer Rd as a running route in our upcoming 2016 event. I hope you'll join me in supporting Seattle Children's, an organization that has impacted the lives of hundreds of thousands of children across Washington State. If I didn't catch you in person, please call or email me at your convenience.

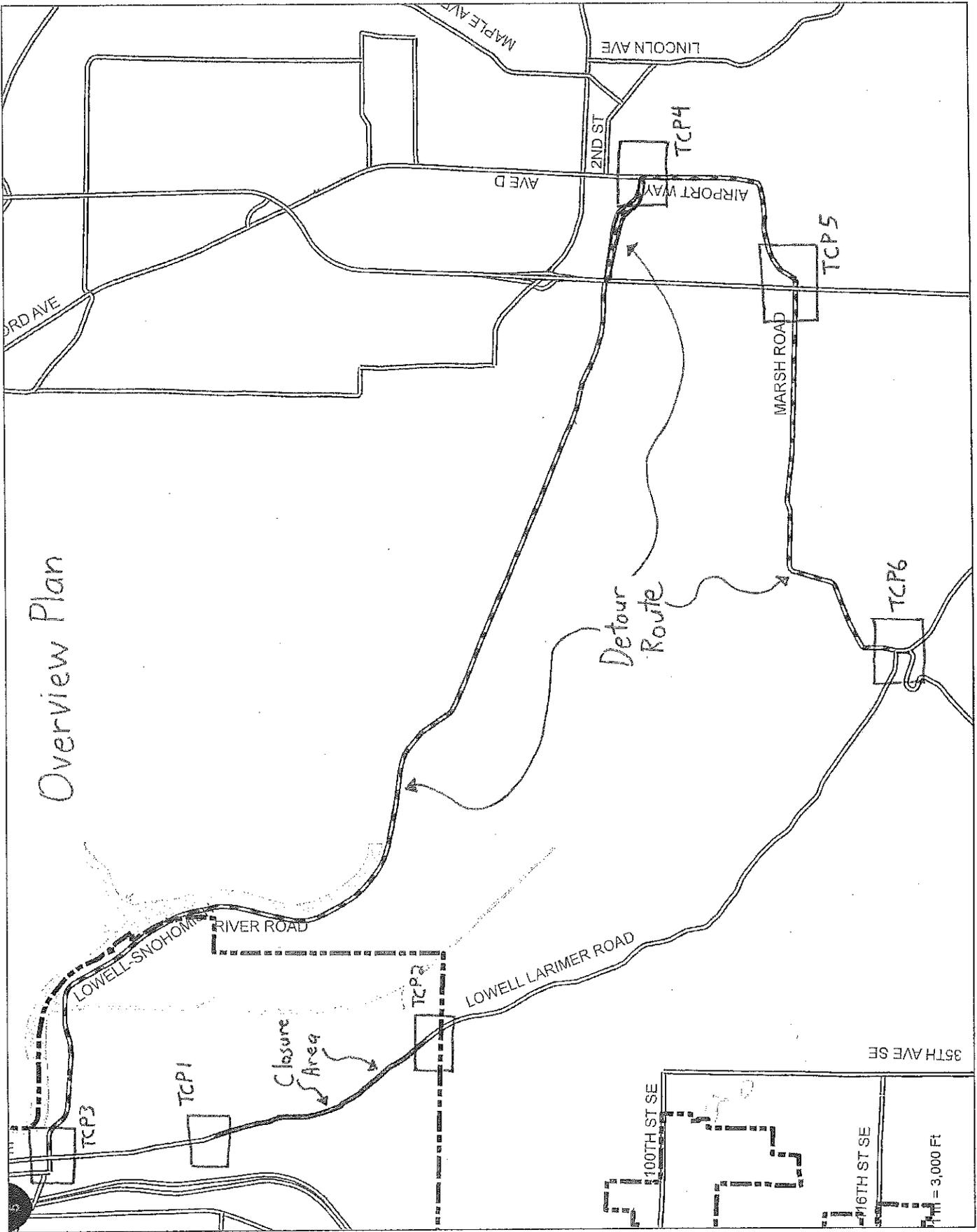
Michael Rimmer
(917) 945-1940
michael@hippie-run2k16.com

Benefiting



Seattle Children's
HOSPITAL • RESEARCH • FOUNDATION

Overview Plan



TCP 1

6314

ROAD WORK AHEAD

5931

6404

350'

6419

ROAD CLOSED AHEAD

350'

LARIMER RD

6526

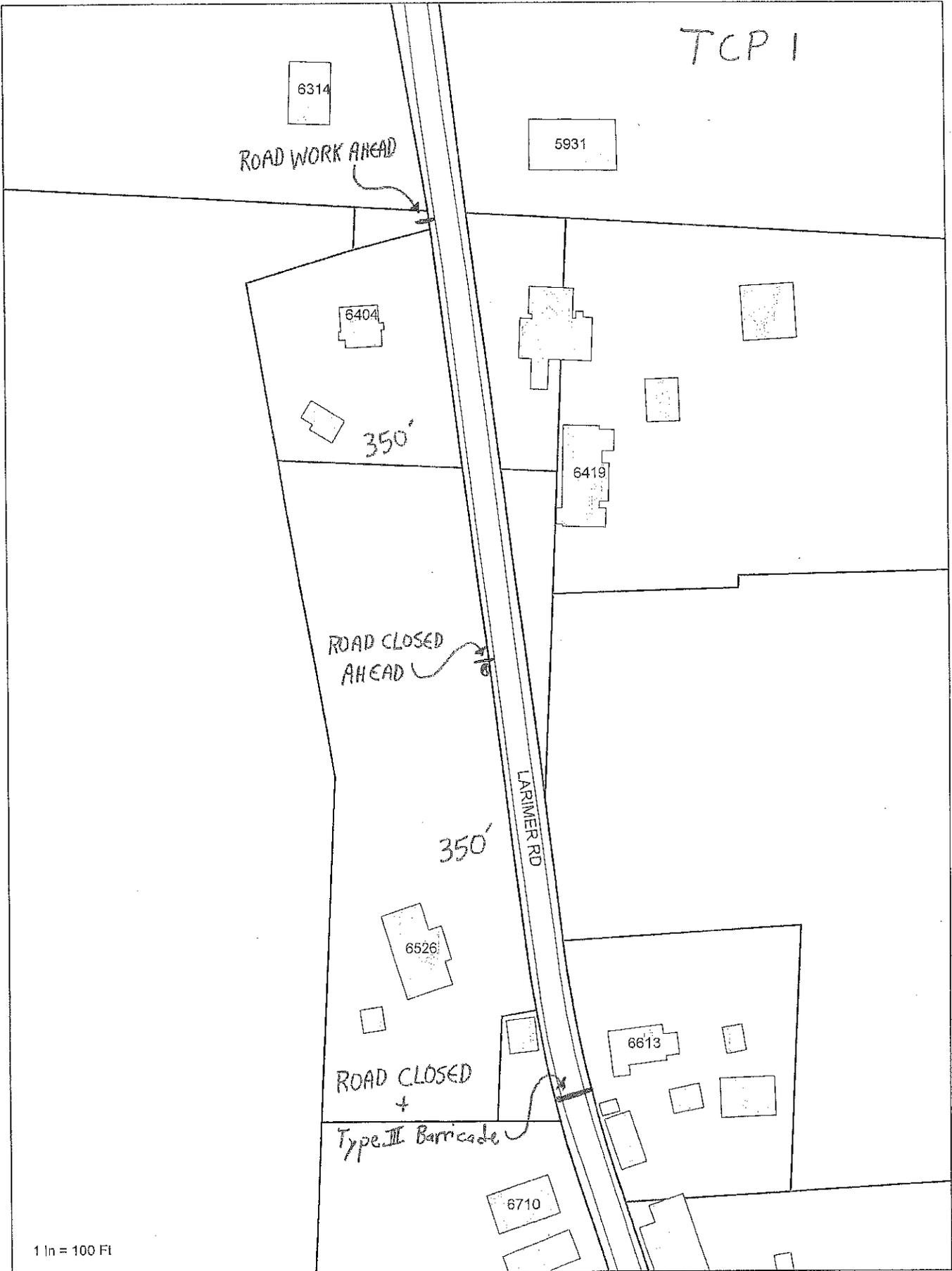
ROAD CLOSED +

Type III Barricade

6613

6710

1 in = 100 Ft

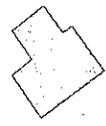


TCP 2

8003

8120

8218



350'

ROAD CLOSED AHEAD

8314

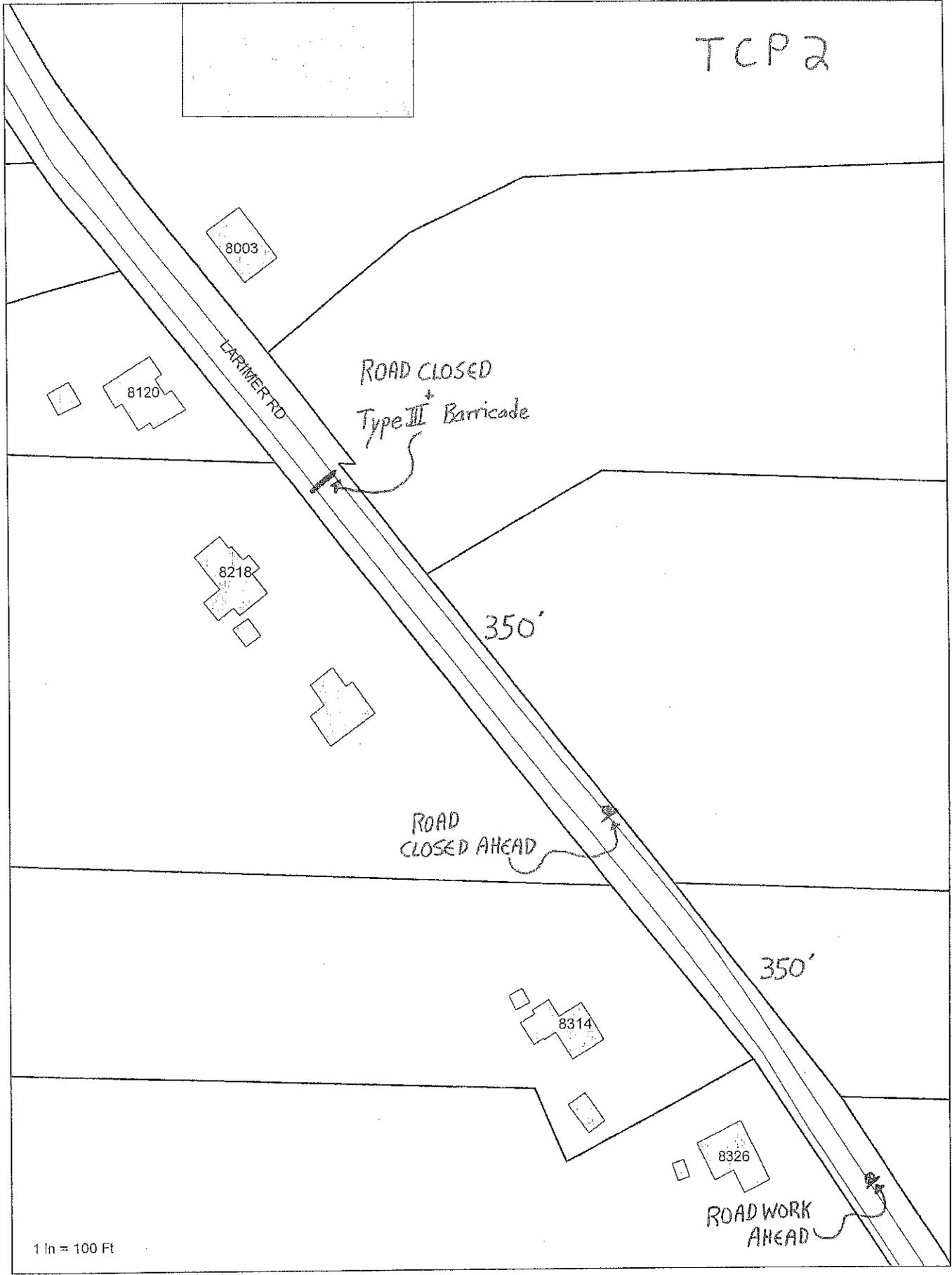
350'

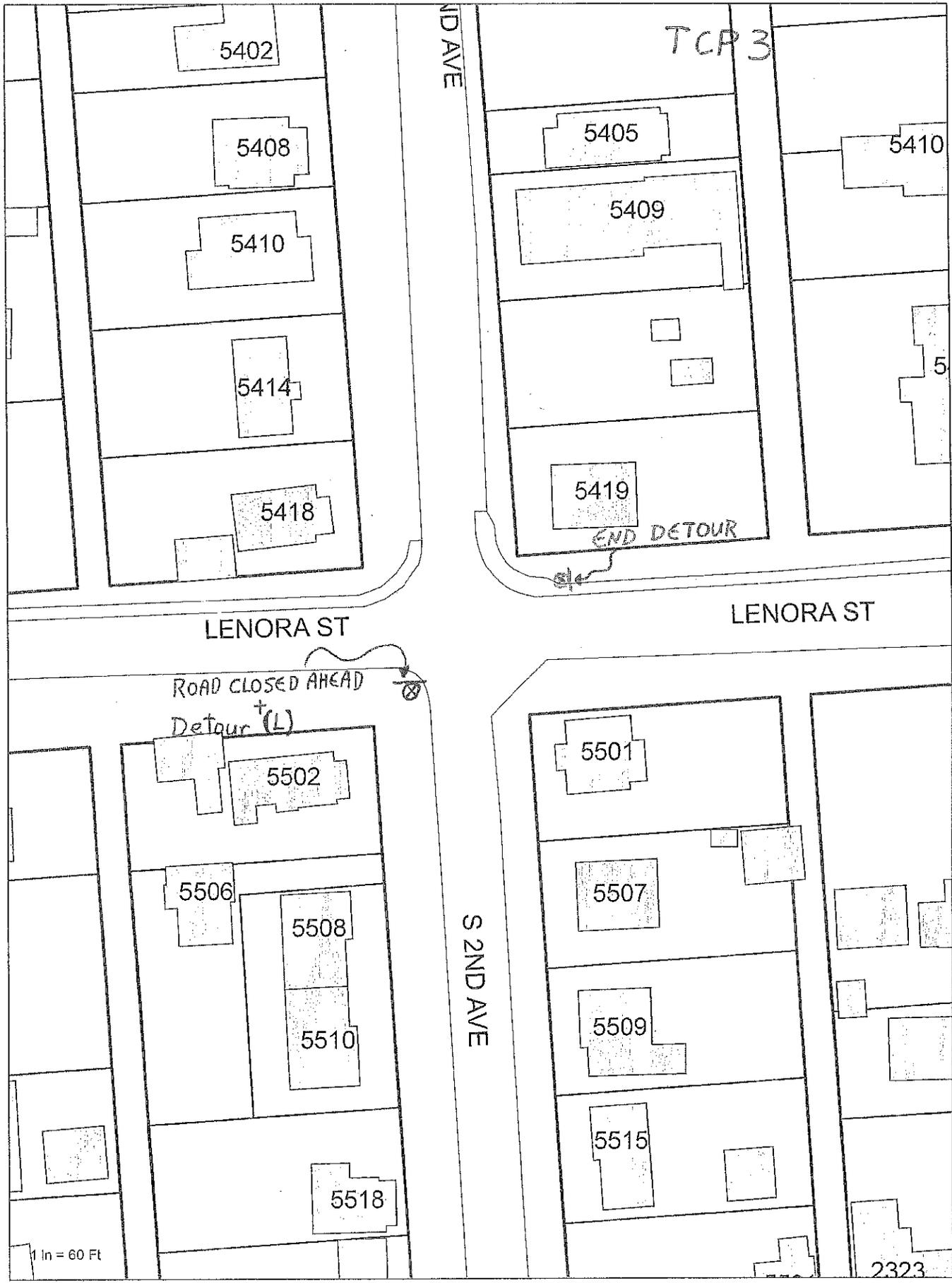
8326

ROAD WORK AHEAD

LARIMER RD

1 in = 100 Ft





5402

5408

5410

5414

5418

2ND AVE

TCP 3

5405

5409

5419

5410

5

END DETOUR

LENORA ST

LENORA ST

ROAD CLOSED AHEAD
Detour (L)

5502

5506

5508

5510

5518

S 2ND AVE

5501

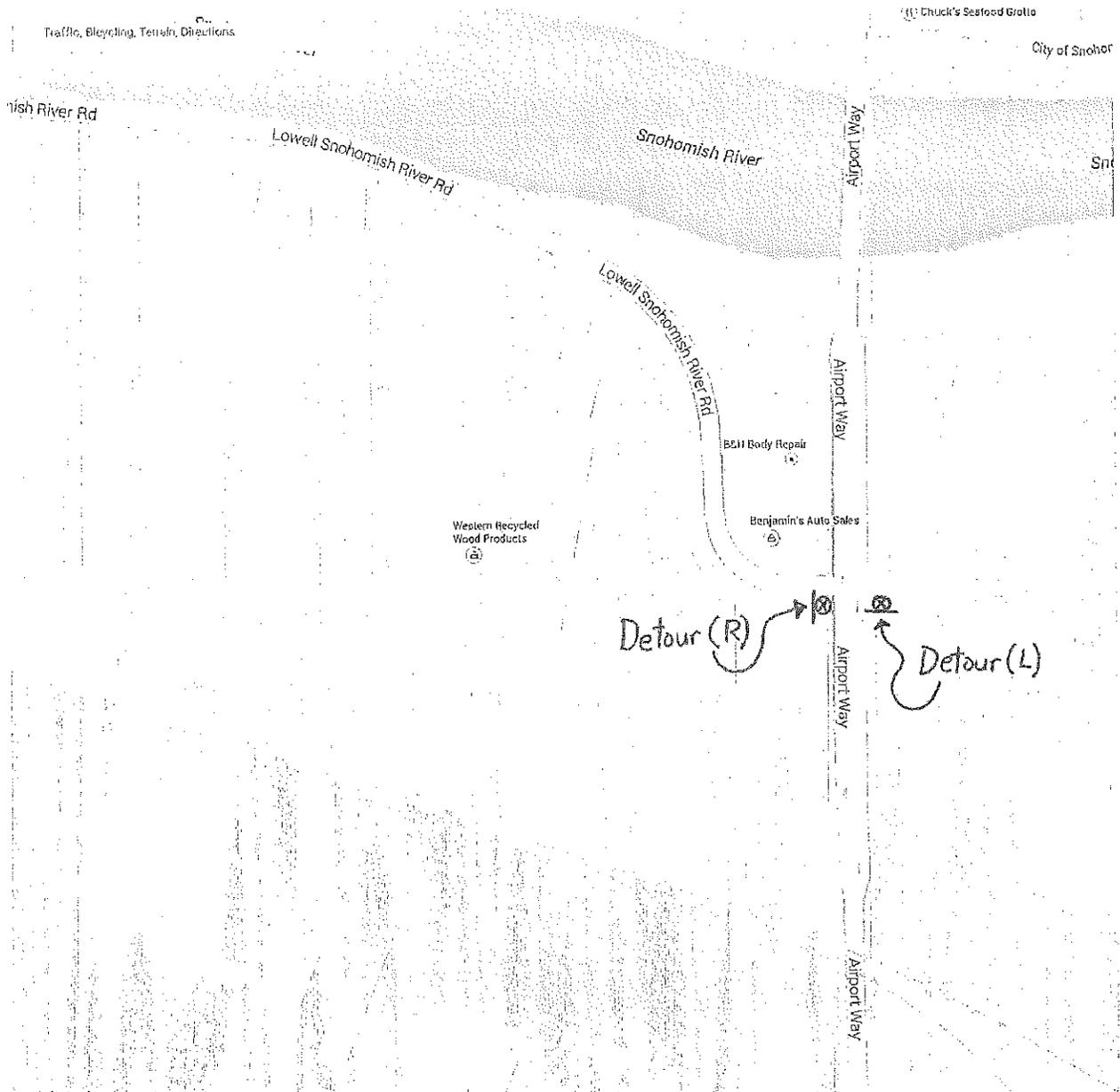
5507

5509

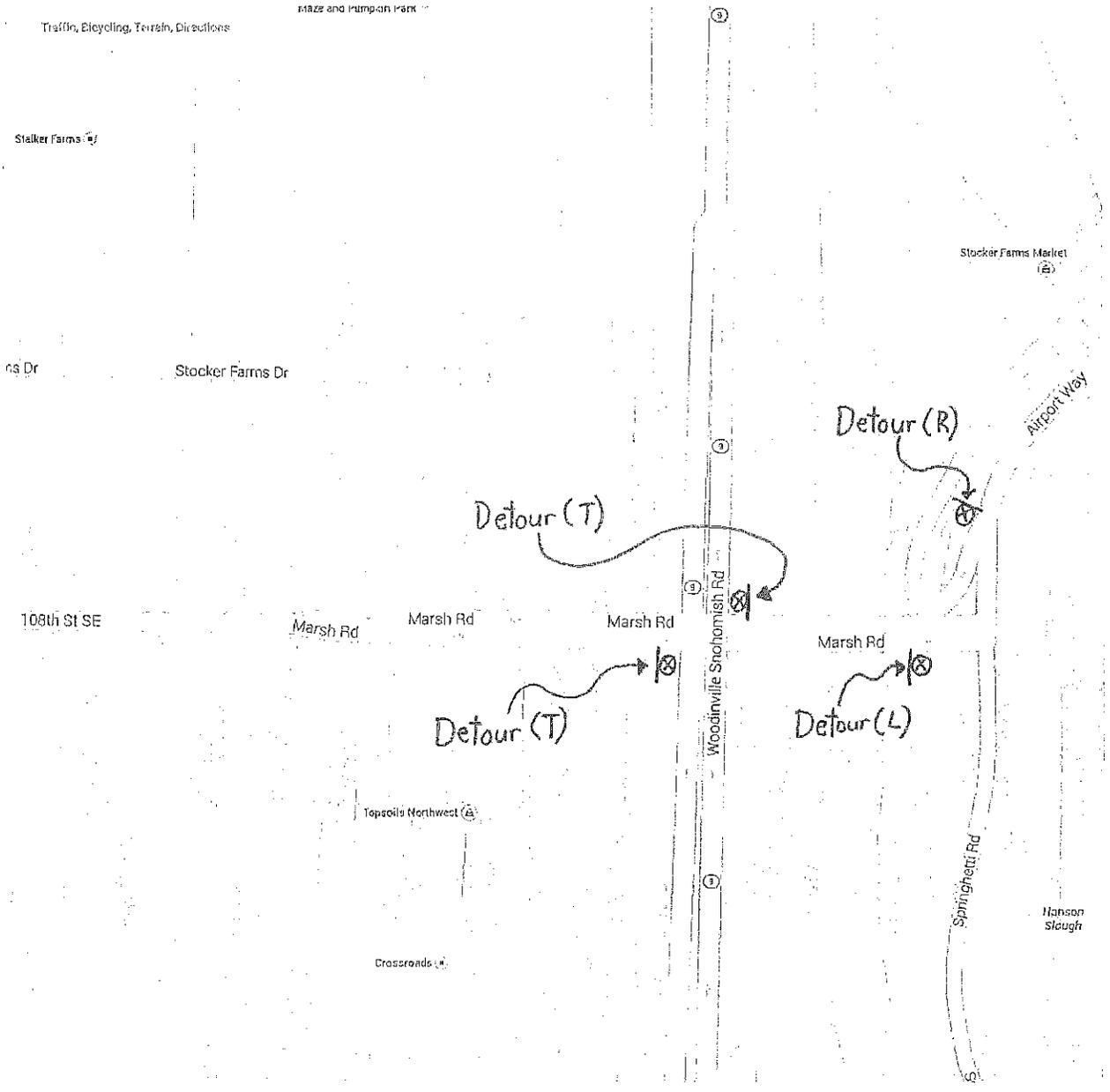
5515

1 in = 60 Ft

2323

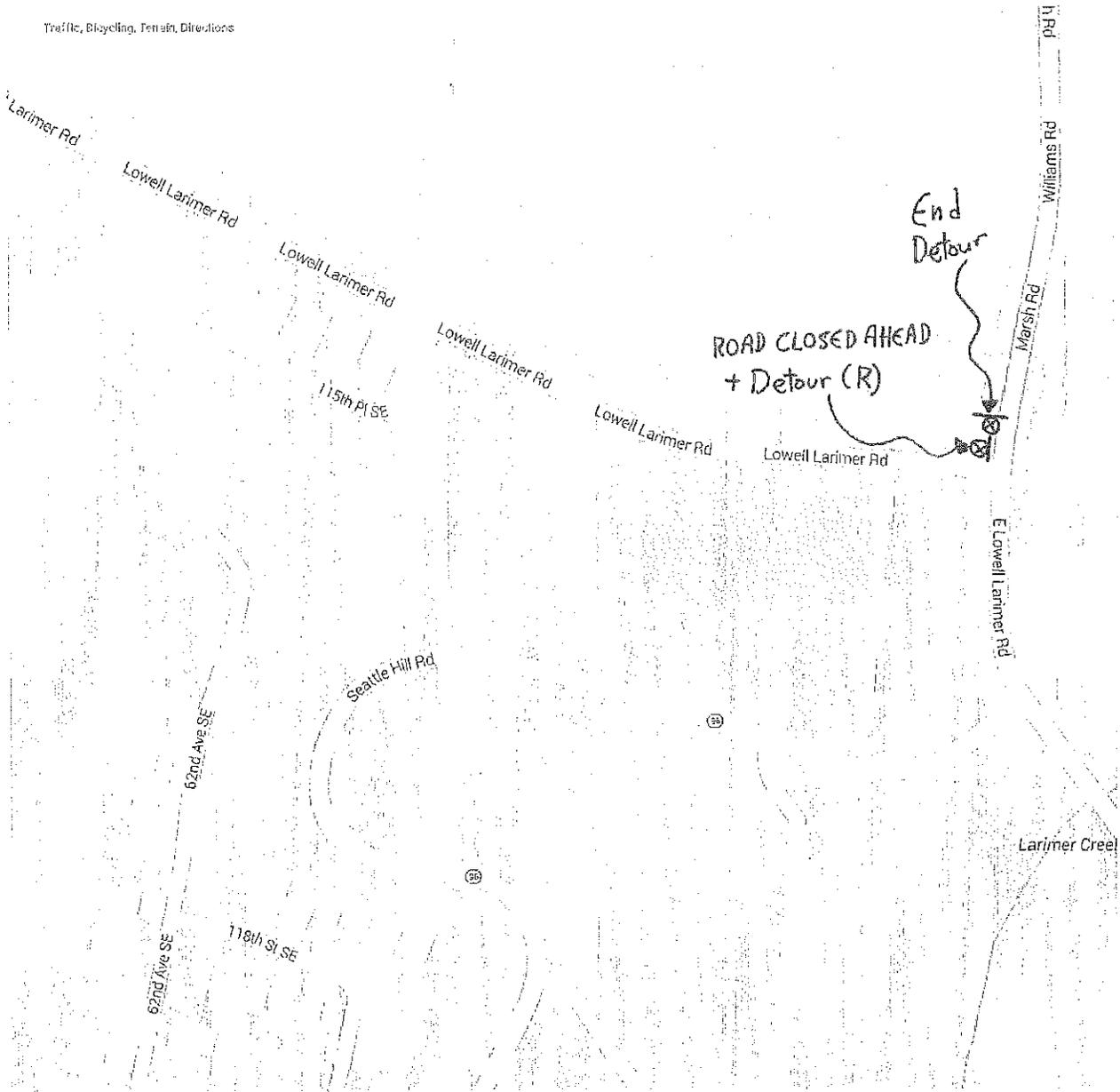


TCP4



TCP 5

Traffic, Bicycling, Transit, Directions



TCP 6

Map data ©2015 Google 100 ft

Traffic Control Device Inventory

Quantity	MUTCD Sign Number	Sign Description
3	W20-3	ROAD CLOSED AHEAD
2	W20-1	ROAD WORK AHEAD
2	R11-2	ROAD CLOSED
3	M4-9 (L)	DETOUR (L)
3	M4-9 (R)	DETOUR (R)
2	M4-9 (T)	DETOUR (T)
2	M4-8A	END DETOUR
2	N/A	Type III Barricades

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Final Acceptance &
Certification of Completion
with Granite Construction for
the 2015 Hot Mix Asphalt
Overlay Project

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

COUNCIL BILL # _____
Originating Department Public Works
Contact Person Tom Fuchs
Phone Number 425-257-8931
FOR AGENDA OF June 1, 2016

Initialed by: _____
Department Head _____
CAA db
Council President JT

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
See attached Selected City Street List	7/9/2013 Bid 7/24/2013 Award Change Orders #1-2	Final Contract Voucher Certification, Certificate of Completion, Final Estimate	Public Works

Amount Budgeted	\$4,970,928.62	Account Number: WO# PW3596
Expenditure Required	\$4,970,297.57	
Budget Remaining	\$631.05	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This is for the Final Acceptance and Certification of Completion for the 2015 Hot Mix Asphalt Overlay Project. The general contractor, Granite Construction, completed the 2015 Hot Mix Asphalt Overlay Project in accordance with the plans and specifications and to the satisfaction of the Public Works Department.

The amounts paid to the contractor under this contract are as follows:

Original Contract Amount:	\$4,776,428.62
Change Orders 1-2:	<u>\$194,500.00</u>
Total Contract Amount:	\$4,970,928.62
Retainage Withheld:	\$0.00
Contract total paid to date:	\$4,970,297.57

RECOMMENDATION (Exact action requested of Council):

Accept the 2015 Hot Mix Asphalt Overlay Project as complete and authorize the Mayor to sign the Certificate of Completion with Granite Construction.

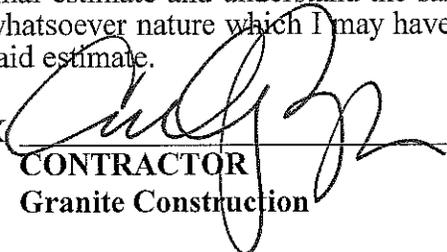
CITY OF EVERETT
FINAL CONTRACT VOUCHER CERTIFICATION

DATE: February 8, 2016
CONTRACTOR: Granite Construction
PROJECT TITLE: 2015 Hot Mix Asphalt Overlay
DATE WORK COMPLETE: January 7, 2016

ADDRESS: PO Box 742478
CITY/STATE: Los Angeles, CA
WORK ORDER NO. PW3596
FINAL AMOUNT: \$ 4,970,297.57
Exclusive of State Sales Tax

CONTRACTOR'S CERTIFICATION

I, the undersigned, having first been duly sworn, certify that the attached bill is a proper charge for work performed and material furnished to the City of Everett, that the same or any part thereof has not been paid, and that I am authorized to sign for the claimant; that I have not rented or purchased any equipment or materials from any employee of the City; I further certify that the attached final estimate is a true and correct statement showing all the monies due me from the City of Everett under this contract; that I have carefully examined said final estimate and understand the same and that I hereby release the City of Everett from any and all claims of whatsoever nature which I may have, arising out of the performance of said contract, which are not set forth in said estimate.

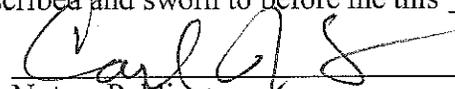
X 

CONTRACTOR
Granite Construction

X 

TITLE

Subscribed and sworn to before me this 7 day of March, 2016

X 

Notary Public

in and for the State of Washington, residing at Lynnwood

Notary Public
State of Washington
Carol L. Johnson
Commission Expires 06-08-2018

PUBLIC WORKS DEPARTMENT CERTIFICATION

I Certify the attached final estimate to be based upon actual measurements and to be true and correct.

X 

Construction Manager
Tom Fuchs

APPROVED Date: 5/17/16

X 

Public Works Director
Dave Davis

INSTRUCTIONS

The Affidavit of Wages Paid must be prepared by the prime contractor, all subcontractors, and all subcontractor's agents and forwarded with the Final Contract Voucher Certification.

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

CERTIFICATE OF COMPLETION

Project: 2015 Hot Mix Asphalt Overlay
Contractor: Granite Construction

Work Order No. PW3596

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

The Contractor physically completed the project, within the time allowed in the contract.

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

Recommended by:

JOHN McCLELLAN for Dave Davis

Public Works Director
Dave Davis

5/17/16
Date

Approved by:

Mayor, City of Everett
Ray Stephanson

Date

Attest:

City Clerk
Sharon Fuller

APPROVED AS TO FORM

By: _____
Jim Iles, City Attorney

Date

Run Date: 1/29/2016

Time: 11:56 AM

Project: 327

2015 Hot Mix Asphalt Overlay
WO 3596A BID: \$4,146,986.44
TOTAL BID: \$4,970,928.62

City of Everett - Public Works Department

Contract Estimate Voucher

For Work Order #3596A

Estimate #7

Contractor: GRANITE CONSTRUCTION

PO BOX 742478
LOS ANGELOS, CA 90074

Cutoff Date: 1/15/2016

	Total Amt	Previous Amt	Present Amt
Contract Totals to Date	\$4,204,056.19	\$4,113,081.42	\$90,974.77
Retained Amounts	\$0.00	\$0.00	\$0.00
State Tax Amounts	\$0.00	\$0.00	\$0.00
Amounts Paid	\$4,204,056.19	\$4,113,081.42	
Amount to be Paid This Estimate			\$90,974.77

RECORD DRAWING CHECKOFF

Inspector: Mike Kanwats Date: 1-29-16

Contractor: _____ Date: _____
Work Order Number: 3596A

Checked By: Mike Kanwats
Recommended By: [Signature]
Public Works Director: [Signature]

Date: 1-29-16
Date: 2/1/16
Date: 2/5/16

FINAL

Run Date: 1/29/2016

Time: 11:56 AM

City of Everett - Public Works Department

Cutoff Date: 1/15/2016

Project: 327

Contract Estimate Voucher
For Work Order #3596A
Estimate #7

Contractor: GRANITE CONSTRUCTION
PO BOX 742478
LOS ANGELES, CA 90074

2015 Hot Mix Asphalt Overlay
WO 3596A BID: \$4,146,986.44
TOTAL BID: \$4,970,928.62

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0001	Mobilization	LS	134,900.00	1.00	1.0000	1.0000	0.0000	134,900.00	134,900.00	0.00
0002	Flaggers & Spotters	HR	70.00	3,132.00	8,417.1300	8,417.1300	0.0000	589,199.10	589,199.10	0.00
0003	Temporary Traffic Control	LS	88,122.00	1.00	1.0000	1.0000	0.0000	88,122.00	88,122.00	0.00
0004	HMA Class 1/2" PG 64-22	TN	70.50	24,880.00	23,862.7700	23,862.7700	0.0000	1,682,325.29	1,682,325.29	0.00
0005	Remove/Replace Old Inlet	EA	3,562.64	3.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0006	Adjust Manhole to Grade	EA	200.00	128.00	48.0000	48.0000	0.0000	9,600.00	9,600.00	0.00
0007	Adjust Catch Basin/ Inlet to Grade	EA	200.00	224.00	47.0000	47.0000	0.0000	9,400.00	9,400.00	0.00
0008	Adjust Valve Box to Grade	EA	200.00	120.00	89.0000	89.0000	0.0000	17,800.00	17,800.00	0.00
0009	Adjust Existing Monument Casing to Grade	EA	200.00	37.00	18.0000	18.0000	0.0000	3,600.00	3,600.00	0.00
0010	Planting Bituminous Pavement 2 Inch Depth	SY	2.75	200,097.00	211,206.0000	211,206.0000	0.0000	580,816.50	580,816.50	0.00
0011	Vehicle Loop Detectors	LF	21.00	27,085.00	24,980.0000	24,980.0000	0.0000	524,580.00	524,580.00	0.00
0012	Temp Pavement Markings	LF	0.10	191,272.00	391,422.0000	391,422.0000	0.0000	39,142.20	39,142.20	0.00
0013	Plastic Wide Line	LF	2.00	40,985.00	54,598.0000	54,598.0000	0.0000	109,178.00	109,178.00	0.00
0014	Plastic Traffic Arrow	EA	142.00	171.00	216.0000	216.0000	0.0000	30,672.00	30,672.00	0.00
0015	24" Plastic Crosswalk Stripe	LF	11.00	5,020.00	6,097.0000	5,944.0000	153.0000	67,067.00	65,384.00	1,683.00
0016	24" Plastic Stop Line	LF	11.00	2,082.00	2,172.8000	2,140.8000	32.0000	23,900.80	23,548.80	352.00
0017	Paint Line	LF	0.20	23,210.00	10,735.0000	11,908.0000	-1,173.0000	2,147.00	2,381.60	-234.60
0018	Profiled Plastic Line	LF	0.70	88,460.00	85,430.0000	67,421.0000	18,009.0000	59,801.00	47,194.70	12,606.30
0019	Plastic Traffic Letter	EA	120.00	5.00	49,975.0000	44,418.0000	5,557.0000	74,962.50	66,627.00	8,335.50
0020	Plastic Aerial Survey Marker	EA	99.00	1.00	1.0000	1.0000	0.0000	99.00	99.00	0.00
0021	Plastic HDV Lane Symbol	EA	93.00	54.00	54.0000	54.0000	0.0000	5,022.00	5,022.00	0.00
0022	Plastic Bicycle Lane Symbol	EA	260.00	24.00	18.0000	18.0000	0.0000	4,680.00	4,680.00	0.00
0023	Painted Curb	LF	6.70	1,030.00	1,500.0000	1,500.0000	0.0000	1,050.00	1,050.00	0.00
0024	Loop Lead-In Detector Cable	LF	5.00	8,400.00	5,124.0000	5,124.0000	0.0000	25,620.00	25,620.00	0.00
0025	Raised Pavement Marker Type 2	EA	11.00	30.00	64.0000	64.0000	0.0000	704.00	704.00	0.00
0026	Traffic Signal System Airport Rd / Evergreen	LS	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00

Run Date: 1/29/2016

Time: 11:56 AM

Project: 327

2015 Hot Mix Asphalt Overlay
 W/O 3596A BID: \$4,146,986.44
 TOTAL BID: \$4,970,928.62

City of Everett - Public Works Department

Contract Estimate Voucher

For Work Order #3596A

Estimate #7

Contractor: GRANITE CONSTRUCTION

PO BOX 742478
 LOS ANGELES, CA 90074

Cutoff Date: 1/15/2016

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0028	Street Cleaning	HR	130.00	100.00	172.0000	172.0000	0.0000	22,360.00	22,360.00	0.00
0029	Resolve Above Ground Conflicts	FA	1.00	17,500.00	11,930.2300	11,930.2300	0.0000	11,930.23	11,930.23	0.00
0030	Spill Prevention Control Plan	LS	500.00	1.00	1.0000	1.0000	0.0000	500.00	500.00	0.00
0031	Portable Changeable Message Sign	HR	2.00	2,040.00	5,235.5000	5,235.5000	0.0000	10,471.00	10,471.00	0.00
0032	Conduit Pipe, 2" dia.	LF	54.00	180.00	101.0000	101.0000	0.0000	5,454.00	5,454.00	0.00
0033	Additional Planting - Bituminous Pavement	FA	1.00	15,000.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0034	LS Mobilization Partial Cost from SCH B/C	LS	9,981.28	1.00	1.0000	1.0000	1.0000	9,981.28	0.00	9,981.28
0035	LS Traf. Control Partial Cost from SCH B/C	LS	58,251.29	1.00	1.0000	0.0000	1.0000	58,251.29	0.00	58,251.29
Work Order Totals:								4,204,056.19	4,113,081.42	90,974.77

Run Date: 1/29/2016

Time: 11:57 AM

Project: 327

2015 Hot Mix Asphalt Overlay

WO 3596B BID: \$769,176.89

TOTAL BID: \$4,970,928.82

City of Everett - Public Works Department

Contract Estimate Voucher

For Work Order #3596B

Estimate #7

Contractor: GRANITE CONSTRUCTION

PO BOX 742478

LOS ANGELOS, CA 90074

Cutoff Date: 1/15/2016

	Total Amt	Previous Amt	Present Amt
Contract Totals to Date	\$739,248.33	\$771,454.39	(\$32,206.06)
Retained Amounts	\$0.00	\$0.00	\$0.00
State Tax Amounts	\$0.00	\$0.00	\$0.00
Amounts Paid	\$739,248.33	\$771,454.39	
Amount to be Paid This Estimate			(\$32,206.06)

Checked By Mike KAVONS BS
 Recommended By Don Trickett
 Public Works Director ADW

Date 1-29-16
 Date 2/1/16
 Date 2/5/16

FINAL

RECORD DRAWING CHECK

Inspector: M. KAVONS Date: 1-29-16

Work Order Number: 3596B

Run Date: 1/29/2016
 Time: 11:57 AM
 Project: 327
 2015 Hot Mix Asphalt Overlay
 WO 3596B BID: \$769,175.69
 TOTAL BID: \$4,970,928.62

City of Everett - Public Works Department
 Contract Estimate Voucher
 For Work Order #3596B
 Estimate #7

Contractor: GRANITE CONSTRUCTION
 PO BOX 742478
 LOS ANGELES, CA 90074

Cutoff Date: 1/15/2016

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0001	Mobilization	LS	37,300.00	1.00	1.0000	1.0000	0.0000	37,300.00	37,300.00	0.00
0002	Flaggers & Spotters	HR	70.00	576.00	1,528.4900	1,528.4900	0.0000	106,994.30	106,994.30	0.00
0003	Temp Traffic Control	LS	52,874.00	1.00	1.0000	1.0000	0.0000	52,874.00	52,874.00	0.00
0004	HMA Class 1/2" P/G 64-22	TN	70.50	5,305.00	4,675.8600	4,675.8600	0.0000	329,648.13	329,648.13	0.00
0005	Deleted		0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0006	Adjust Manhole to Grade	EA	200.00	10.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0007	Adjust Catch Basin Inlet to Grade	EA	200.00	45.00	2.0000	2.0000	0.0000	400.00	400.00	0.00
0008	Adjust Valve Box to Grade	EA	200.00	5.00	1.0000	1.0000	0.0000	200.00	200.00	0.00
0009	Adjust Existing Monument Casing to Grade	EA	200.00	2.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0010	Planting Bituminous Pavement, 2" Depth	SY	2.75	42,779.00	42,036.0000	42,036.0000	0.0000	115,599.00	115,599.00	0.00
0011	Vehicle Loop Detectors	LF	21.00	3,260.00	1,783.7500	1,783.7500	0.0000	37,458.96	37,458.96	0.00
0012	Temp Pavement Markings	LF	0.10	23,740.00	23,740.0000	23,740.0000	0.0000	2,374.00	2,374.00	0.00
0013	Plastic Wide Line	LF	2.00	16,335.00	16,335.0000	16,335.0000	0.0000	32,670.00	32,670.00	0.00
0014	Plastic Traffic Arrow	EA	142.00	30.00	30.0000	30.0000	0.0000	4,260.00	4,260.00	0.00
0015	24" Plastic Crosswalk Stripe	LF	11.00	550.00	550.0000	550.0000	0.0000	6,050.00	6,050.00	0.00
0016	24" Plastic Stop Line	LF	11.00	166.00	166.0000	166.0000	0.0000	1,826.00	1,826.00	0.00
0017	Paint Line	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0018	Plastic Line	LF	0.70	9,020.00	9,020.0000	9,020.0000	0.0000	6,314.00	6,314.00	0.00
0019	Prolled Plastic Line	LF	1.50	8,950.00	8,950.0000	8,950.0000	0.0000	12,525.00	12,525.00	0.00
0020	Plastic Traffic Letter	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0021	Plastic Aerial Survey Marker	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0022	Plastic HOV Lane Symbol	EA	93.00	26.00	26.0000	26.0000	0.0000	2,418.00	2,418.00	0.00
0023	Plastic Bicycle Lane Symbol	EA	260.00	2.00	2.0000	2.0000	0.0000	520.00	520.00	0.00
0024	Painted Curb	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0025	Loop Lead-In Detector Cable	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0026	Raised Pavement Marker, Type 2	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0027	Traffic Signal System Airport Rd/Evergreen	LS	16,000.00	1.00	1.0000	1.0000	0.0000	16,000.00	16,000.00	0.00

Run Date: 1/29/2016

Time: 11:57 AM

City of Everett - Public Works Department

Cutoff Date: 1/15/2016

Project: 327

Contract Estimate Voucher

For Work Order #3596B

Estimate #7

Contractor: GRANITE CONSTRUCTION

PO BOX 742478

LOS ANGELOS, CA 90074

2015 Hot Mix Asphalt Overlay

WO 3596B BID: \$769,175.69

TOTAL BID: \$4,970,928.62

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0028	Street Cleaning	HR	130.00	18.00	31.5000	31.5000	0.0000	4,095.00	4,095.00	0.00
0029	Resolve Above Ground Conflicts	FA	1.00	2,500.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0030	Spill Prevention Control Plan	LS	10.00	1.00	1.0000	1.0000	0.0000	10.00	10.00	0.00
0031	Portable Changeable Message Sign	HR	2.00	288.00	959.0000	959.0000	0.0000	1,918.00	1,918.00	0.00
0032	Conduit Pipe, 2" dia.	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0033	Additional Planing - Bituminous Pavement	FA	1.00	8,000.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0034	LS Mobilization Partial Cost to SCH A	LS	-8,464.51	1.00	1.0000	0.0000	1.0000	-8,464.51	0.00	-8,464.51
0035	LS Traf. Control Partial Cost to SCH A	LS	-23,741.55	1.00	1.0000	0.0000	1.0000	-23,741.55	0.00	-23,741.55
Work Order Totals:								739,248.33	771,454.39	-32,206.06

Run Date: 1/29/2016

Time: 11:57 AM

Project: 327

2015 Hot Mix Asphalt Overlay
WO 3596C BID: \$54,766.49
TOTAL BID: \$4,970,928.62

City of Everett - Public Works Department

Contract Estimate Voucher

For Work Order #3596C

Estimate #7

Contractor: GRANITE CONSTRUCTION

PO BOX 742478
LOS ANGELOS, CA 90074

Cutoff Date: 1/29/2016

	Total Amt	Previous Amt	Present Amt
Contract Totals to Date	\$26,993.05	\$63,019.56	(\$36,026.51)
Retained Amounts	\$0.00	\$0.00	\$0.00
State Tax Amounts	\$0.00	\$0.00	\$0.00
Amounts Paid	\$26,993.05	\$63,019.56	
Amount to be Paid This Estimate			(\$36,026.51)

pc

Checked By Miles Kouras
 Recommended By Stan Fisher
 Public Works Director Will W

Date 1-25-16
 Date 2/1/16
 Date 2/5/16

FINAL

RECORD DRAWING CHECKOFF

Inspector Miles Kouras Date 1-24-16

Date _____

Work Order Number: 3596C

Run Date: 1/29/2016

Time: 11:57 AM

City of Everett - Public Works Department

Cutoff Date: 1/29/2016

Project: 327

Contract Estimate Voucher

Contractor: GRANITE CONSTRUCTION

2015 Hot Mix Asphalt Overlay

W/O 3596C BID: \$54,766.49

TOTAL BID: \$4,970,928.62

For Work Order #3596C

PO BOX 742478

LOS ANGELOS, CA 90074

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0001	Mobilization	LS	2,200.00	1.00	1.0000	1.0000	0.0000	2,200.00	2,200.00	0.00
0002	Flaggers & Spotters	HR	70.00	128.00	49.5600	49.5600	0.0000	3,469.20	3,469.20	0.00
0003	Temp Traffic Control	LS	35,200.00	1.00	1.0000	1.0000	0.0000	35,200.00	35,200.00	0.00
0004	HMA Class 1/2" PG 64-22	TN	70.50	315.00	117.3100	117.3100	0.0000	8,270.36	8,270.36	0.00
0005	Deleted	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0006	Adjust Manhole to Grade	EA	200.00	4.00	1.0000	1.0000	0.0000	200.00	200.00	0.00
0007	Adjust Catch Basin/ Inlet to Grade	EA	200.00	2.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0008	Adjust Valve Box to Grade	EA	200.00	6.00	4.0000	4.0000	0.0000	800.00	800.00	0.00
0009	Adjust Existing Manhole Casing to Grade	EA	200.00	1.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0010	Planing Bituminous Pavement, 2" Depth	SY	2.75	2,550.00	996.0000	996.0000	0.0000	2,739.00	2,739.00	0.00
0011	Vehicle Loop Detectors	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0012	Temp Pavement Markings	LF	0.10	1,610.00	1,610.0000	1,610.0000	0.0000	161.00	161.00	0.00
0013	Plastic Wide Line	LF	2.00	480.00	480.0000	480.0000	0.0000	960.00	960.00	0.00
0014	Plastic Traffic Arrow	EA	142.00	2.00	2.0000	2.0000	0.0000	284.00	284.00	0.00
0015	24" Plastic Crosswalk Stripes	LF	11.00	340.00	340.0000	340.0000	0.0000	3,740.00	3,740.00	0.00
0016	24" Plastic Stop Line	LF	11.00	110.00	110.0000	110.0000	0.0000	1,210.00	1,210.00	0.00
0017	Paint Line	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0018	Plastic Line	LF	0.70	320.00	320.0000	320.0000	0.0000	224.00	224.00	0.00
0019	Profiled Plastic Line	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0020	Plastic Traffic Letter	EA	120.00	28.00	28.0000	28.0000	0.0000	3,360.00	3,360.00	0.00
0021	Plastic Aerial Survey Marker	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0022	Plastic HOV Lane Symbol	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0023	Plastic Bicycle Lane Symbol	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0024	Printed Curb	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0025	Loop Lead-in Detector Cable	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0026	Raised Pavement Marker, Type 2	EA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0027	Traffic Signal System Airport Rd / Evergreen	LS	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00

Run Date: 1/29/2016

Time: 11:57 AM

City of Everett - Public Works Department

Cutoff Date: 1/29/2016

Project: 327

2015 Hot Mix Asphalt Overlay

MO 3596C BID: \$54,766.49

TOTAL BID: \$4,970,928.62

Contract Estimate Voucher

For Work Order #3586C

Estimate #7

Contractor: GRANITE CONSTRUCTION

PO BOX 742478

LOS ANGELES, CA 90074

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0028	Street Cleaning	HR	130.00	4.00	1.0000	1.0000	0.0000	130.00	130.00	0.00
0029	Resolve Above Ground Conflicts	FA	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0030	Spill Prevention Control Plan	LS	10.00	1.00	1.0000	1.0000	0.0000	10.00	10.00	0.00
0031	Portable Changeable Message Sign	HR	2.00	72.00	31.0000	31.0000	0.0000	62.00	62.00	0.00
0032	Conduit Pipe, 2" dia.	LF	0.00	0.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0033	Additional Planing - Bituminous Pavement	FA	1.00	2,000.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0034	LS Mobilization Partial Cost to SCH A	LS	-1,516.77	1.00	1.0000	0.0000	1.0000	-1,516.77	0.00	-1,516.77
0035	LS Traf. Control Partial Cost to SCH A	LS	-34,509.74	1.00	1.0000	0.0000	1.0000	-34,509.74	0.00	-34,509.74
Work Order Totals:								26,993.05	63,019.56	-36,026.51

2015 Hot Mix Asphalt Overlay Project - Selected Streets

1. Airport Road – West Casino Road to Home Depot Entrance
2. Evergreen Way – East Casino Road to 75th Street SE
3. Evergreen Way – 100th Street SW to 4th Avenue W
4. Evergreen Way – 52nd Street SE to 46th Street SE
5. 110th Street SE – 19th Avenue SE to Everett City Limits
6. 112th Street SW – Evergreen Way East to Everett City Limits
7. Beverly Lane – Madison Street to Pecks Drive
8. Hardeson Road – West Casino Road to 75th Street SW
9. Larimer Road – Everett City Limits to #7312 Larimer Road
10. 102nd Street SE – 19th Avenue to Cul- De- Sac
11. Lake Street – Evergreen Way to Rainier Drive
12. 100th Street SW – Airport Road to Everett City Limits

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Amending the City's Multifamily Housing Property Tax Exemption Regulations, Section 1 of Ordinance No. 2408-99, Section 8 of Ordinance No. 2347-98, as amended (EMC 3.78.080).

<u>5/18/16</u>	Briefing
<u> </u>	Proposed Action
<u> </u>	Consent
<u> </u>	Action
<u>5/18/16</u>	First Reading
<u>5/25/16</u>	Second Reading
<u>6/1/16</u>	Third Reading
<u>6/1/16</u>	Public Hearing

COUNCIL BILL #	<u>CB1605-23</u>
Originating Department	<u>Planning</u>
Contact Person	<u>Allan Giffen</u>
Phone Number	<u>(425) 257-8725</u>
FOR AGENDA OF	<u>May 18, 2016</u>
	<u>May 25, 2016</u>
	<u>June 1, 2016</u>

Initialed by:
 Department Head _____
 CAA do
 Council President gpm

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance, Letter	<u>Department(s) Approval</u> Planning, Legal
-----------------	-------------------------	---	--

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

DETAILED SUMMARY STATEMENT:

This is a request to adopt an Ordinance amending the City's Multifamily Housing Property Tax Exemption Regulations, Section 1 of Ordinance No. 2408-99 and Section 8 of Ordinance No. 2347-98.

In 2015 the City Council established the North Broadway Urban Center, in part, to encourage the development of student housing near Everett Community College and Washington State University through the property tax exemption incentive under Everett Municipal Code Chapter 3.78.

Koz Development has secured building permits and is currently constructing a building, to be leased by Everett Community College for student housing, within the North Broadway Urban Center. Koz mistakenly believed that the project would be exempt from property taxes under RCW 84.36.050, and did not apply to the City for the property tax exemption. EMC 3.78.080.A requires the application for tax exemption to be filed prior to submitting an application for the building permit.

The City has received correspondence from Everett Community College requesting an amendment to EMC 3.78.080 to allow for consideration of the Koz Development property for the property tax exemption. Their letter states that the building lease will not be economically feasible for the college without the tax exemption. The ordinance would allow a project located in the Institutional Overlay Zone to file an application for tax exemption prior to issuance of a Certificate of Occupancy. The ordinance would become void on January 1, 2017.

RECOMMENDATION (Exact action requested of Council):

Adopt Ordinance Amending the City's Multifamily Housing Property Tax Exemption Regulations, Section 1 of Ordinance No. 2408-99, Section 8 of Ordinance No. 2347-98, as amended (EMC 3.78.080).

Ordinance No. _____

An Ordinance Amending the City's Multifamily Housing Property Tax Exemption Regulations, Section 1 of Ordinance No. 2408-99, Section 8 of Ordinance No. 2347-98, as amended (EMC 3.78.080).

WHEREAS, the City Council finds the following:

1. The City adopted Ordinance No. 2347-98 establishing the Multiple Family Property Tax Exemption program in 1998 to support the development of housing in designated urban centers under RCW Chapter 84.14, as codified in EMC Chapter 3.78;
2. The City has periodically amended the Multiple Family Property Tax Exemption program by adding areas to the program and amending the requirements of EMC Chapter 3.78;
3. In 2015, the City Council added the North Broadway Urban Center area, which includes the Everett Community College Institutional Overlay Zone, to encourage the development of student housing by private property owners;
4. EMC 3.78.080.A requires an applicant for the property tax exemption to submit an application therefore prior to filing an application for building permits;
5. In 2015, Koz EvCC LLC obtained approval of building permits for a student housing building within the North Broadway Urban Center area, to be occupied by students through a master lease agreement with Everett Community College;
6. Koz EvCC LLC had been advised by the Department of Revenue that the master lease agreement with Everett Community College would make the property exempt from property taxes pursuant to RCW 84.36.050, and therefore did not apply for the property tax exemption prior to application for building permits;
7. The State Attorney General's office has determined that the Koz EvCC LLC property is not exempt from property taxes pursuant to RCW 84.36.050;
8. Everett Community College has indicated that the property tax exemption is necessary for the building to be economically feasible for the college; and

WHEREAS, the City Council concludes the following:

1. The City is supportive of the development of student housing in the vicinity of Everett Community College, and established the North Broadway Urban Center, in part, to encourage such housing in the urban center;
2. An amendment to EMC 3.78.080.A is necessary to allow the City to consider a request for the property tax exemption after the applicant has made application for a building permit;

3. A limited amendment to EMC 3.78.080 will allow for the Koz Development student housing building to be eligible for the property tax exemption.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 1 of Ordinance No. 2408-99 and paragraph A Section 8 of Ordinance No. 2347-98, as amended, which reads as follows:

Application procedures. A property owner who wishes to propose a project for a tax exemption shall comply with the following procedures:

A. Prior to the application for any building permit therefor, the applicant shall submit an application to the director, on a form established by the director along with the required fees. The initial application fees to the city shall consist of a base fee of five hundred dollars, plus twenty-five dollars per multifamily unit. An additional one hundred fifty dollar fee to cover the Snohomish County assessor's administrative costs shall also be paid to the city. If the application is approved, the city shall pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application shall result in a denial by the city, the city shall retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.

Is hereby amended to read as follows:

Application procedures. A property owner who wishes to propose a project for a tax exemption shall comply with the following procedures:

A. Prior to the application for any building permit therefor, the applicant shall submit an application to the director, on a form established by the director along with the required fees. The initial application fees to the city shall consist of a base fee of five hundred dollars, plus twenty-five dollars per multifamily unit. An additional one hundred fifty dollar fee to cover the Snohomish County assessor's administrative costs shall also be paid to the city. If the application is approved, the city shall pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application shall result in a denial by the city, the city shall retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant. Notwithstanding the above, an applicant for a project located strictly within an Institutional Overlay Zone may submit an application along with the required fees to the director subsequent to the application for any building permit therefor, but prior to issuance of a Certificate of Occupancy for the project.

Section 2. This Ordinance shall become void on January 1, 2017.

Section 3. 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 4. 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 5. 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 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.

RAY STEPHANSON, MAYOR

ATTEST: _____

CITY CLERK

Passed: _____

Valid: _____

Published: _____

Effective Date: _____

RECEIVED

APR 22 2016

CITY OF EVERETT
PLANNING DEPT



2000 Tower Street • Everett, WA • 98201-1390 • 425.388.9100

Office of the President
P 425.388.9572 – f 425.388.9531

April 19, 2016

Allan Giffen
Planning Director
City of Everett
2930 Wetmore Avenue, Suite 8A
Everett, WA 98201

Dear Allan,

Everett Community College requests the City of Everett amend the Everett Municipal Code Section 3.78.080 which addresses the timing of the application for the conditional certificate of property tax exemption.

The College was supportive of the previous City Council adoption of the multi-family tax exemption (MFTE) for the development of student housing. New student housing, in close proximity to the campus, will be needed to support the growth of both the EvCC International Programs and the Washington State University Everett Academic Center.

Koz Development is currently constructing a 120 unit student housing facility for the College. They had intended to submit at the time of the building permit the MFTE application. Unfortunately, Koz mistakenly misinterpreted RCW 84.36.050 (tax-exempt RCW for non-profit colleges and schools) and believed this RCW was applicable to their properties for the project. Additional investigation with Department of Revenue and the Department of Enterprise Services AAG resulted in a finding that this RCW wasn't applicable.

The property tax exemption is necessary for the building to be economically feasible for the College. Therefore, the College is requesting the MFTE ordinance be amended so Koz Development can submit their application.

Thank you for your consideration on this request.

Sincerely,

A handwritten signature in black ink that reads "David N. Beyer". The signature is written in a cursive style.

David N. Beyer
President

**WASHINGTON STATEWIDE
CUSTODY PROVIDER PROGRAM**

Agreement

for

Custody Services

APRIL 1, 2016

**WASHINGTON STATEWIDE CONTRACT
FOR SECURITY CUSTODY SERVICES**

Table of Contents

GENERAL PROVISIONS.....	1
1. CONTRACTING PARTIES	1
2. HEREBY WITNESSETH	1
3. ADDITIONAL SERVICES	1
4. ENTIRE AGREEMENT; MODIFICATION; AMENDMENT	1
5. DEFINITIONS	2
6. APPOINTMENT OF CUSTODIAN	3
7. PERSONAL LIABILITY	3
8. LIABILITY AND HOLD HARMLESS	3
9. SEVERABILITY	4
10. NONDISCRIMINATION AND AFFIRMATIVE ACTION	4
11. GIFTS AND GRATUITIES	5
12. RIGHTS AND REMEDIES	5
13. PERFORMANCE	6
14. GOVERNING LAW; JURY TRIAL	6
15. SUBCONTRACT/ASSIGNMENT	6
16. SCOPE OF SERVICES	6
AGREEMENT TERM AND TERMINATION	7
17. TERM OF AGREEMENT AND SURVIVORSHIP OF TERMS	7
18. TERMINATION AND REMEDIES	7
19. FORCE MAJEURE	10
20. CONFLICT OF INTEREST	10
CONTRACT ADMINISTRATION	11
21. INCORPORATED DOCUMENTS	11
22. ORDER OF PRECEDENCE	11
23. ENTIRE AGREEMENT	11
24. LIMITATION OF AGENCY'S AUTHORITY	12
25. AGENCY CONTRACT ADMINISTRATOR	12
26. BANK'S ACCOUNT MANAGER	12
27. AMENDMENTS	12
28. DISPUTES	12
29. CONSENT	13
BANK RESPONSIBILITIES	13
30. RESPONSIBILITY OF BANK	13
31. CONFIDENTIALITY OF AGENCY RECORDS	14
32. AUDITING	15

33.	COMMITMENTS, WARRANTIES, AND REPRESENTATIONS	15
34.	PRICE INCREASES	17
35.	ANCILLARY SERVICES	17
36.	PROPER INSTRUCTIONS AND EVIDENCE OF AUTHORITY	17
37.	SECURITY CODES.....	18
38.	REGISTRATION WITH THE DEPARTMENT OF REVENUE	18
39.	LICENSING AND ACCREDITATION STANDARDS	18
40.	WORKERS' COMPENSATION INSURANCE COVERAGE	18
41.	ADVERTISING	18
CUSTODY PROVISIONS.....		19
42.	CUSTODY OF SECURITIES.....	19
43.	NOTICES	22
PAYMENT PROVISIONS		23
44.	PAYMENTS	23
45.	TAXES.....	23
46.	INDEPENDENT CAPACITY	24
47.	ADVANCE PAYMENTS PROHIBITED	24
48.	AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35.....	24
49.	ATTORNEY'S FEES.....	24
50.	COPYRIGHT PROVISIONS.....	24
51.	COVENANT AGAINST CONTINGENT FEES.....	25
52.	DISALLOWED COSTS.....	25
53.	DUPLICATE PAYMENT.....	25
54.	TREATMENT OF ASSETS.....	25
55.	PRIVACY.....	26
56.	WAIVER.....	27
57.	SEVERABILITY.....	27
MISCELLANEOUS.....		27
58.	COUNTERPARTS.....	27
CONTRACT EXECUTION		28
59.	RELATIONSHIP BETWEEN THE PARTIES	28
60.	SIGNATURE BLOCKS.....	28

**WASHINGTON STATEWIDE AGREEMENT
FOR CUSTODY SERVICES**

GENERAL PROVISIONS

1. CONTRACTING PARTIES

THIS AGREEMENT is entered into by and between _____, hereinafter referred to as the "Agency" and Wells Fargo Bank, N.A. hereinafter referred to as the "Bank."

2. HEREBY WITNESSETH

The State of Washington, acting by and through the OFFICE OF THE STATE TREASURER of the STATE OF WASHINGTON, issued a Request for Proposal (RFP), dated October 30, 2015, for the purpose of obtaining proposals for providing statewide custody services.

As a result of that process, the State Treasurer has designated the Bank as the provider of statewide custody services ("Statewide Custodian"), and the Bank has agreed to provide Statewide Custody Services, hereinafter referred to as the "Services," as described in Bank's proposal, attached hereto at the prices stated therein, in accordance with the terms of this Agreement.

3. ADDITIONAL SERVICES

The Parties agree that additional services, appropriate to the scope of this Agreement, may be added to this Agreement by written amendment and only with the written consent of both parties. Such writing shall include a specific description of the additional services, pricing, and additional terms and conditions as relevant. The additional services shall be available under the same terms and conditions established herein except as specifically amended between the parties.

4. ENTIRE AGREEMENT; MODIFICATION; AMENDMENT

The Agency and the Bank agree that this Agreement is the complete and exclusive agreement between the parties which supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

Unless otherwise agreed in writing, all amendments, addenda, and orders signed during the life of this Agreement shall be governed by these General Provisions.

5. DEFINITIONS

Definitions as used throughout this Agreement shall have the meanings set forth below:

"Bank" shall mean Wells Fargo Bank, N.A. It shall also include any Subcontractor retained by the Bank as permitted under the terms of this Agreement.

"Bank's Account Manager" shall mean an employee of the Bank who is permanently assigned as the primary contact person with whom the Agency Contract Administrator shall work for the duration of this Agreement.

"Book-Entry System" shall mean the Federal Reserve/Treasury book-entry system for receiving and delivering securities, its successors and nominees.

"Business Day" shall mean any day on which the Bank, Book-Entry System and relevant Depositories are open for business.

"Custody Services" may also be referred to as "Services," and shall be inclusive of all services, including associated support services and maintenance provided pursuant to this Agreement.

"Depository" shall include the Book-Entry System, the Depository Trust Company (DTC), and any other securities depository, book-entry system, or clearing agency (and their respective successors and nominees) authorized to act as a securities depository, book-entry system, or clearing agency pursuant to applicable law.

"Exhibit A" shall mean the Request for Proposal (RFP) for Statewide Custody Services issued by the Office of the State Treasurer, dated October 30, 2015.

"Exhibit B" shall mean the Bank's proposal in response to the State RFP for Statewide Custody Services.

"Exhibit C" shall mean the Bank's schedule of fees for all Services provided under this Agreement.

"RCW" shall mean the Revised Code of Washington (Washington State law).

"Agency Contract Administrator" shall mean the staff person appointed by the Agency to administer this Agreement on behalf of the Agency.

"Subcontractor" shall mean one not in the employment of the Bank, who is performing all or part of those Services under this Agreement under a separate

contract with the Bank. The term "Subcontractor" means Subcontractor(s) of any tier.

6. APPOINTMENT OF CUSTODIAN

The Agency, in accordance with RCW 43.08.015, hereby appoints the Bank as Custodian for certain assets of the Agency and authorizes the Bank to hold such assets in registered form in its name or the name of its nominees. All property delivered to the Bank, its agents, or Subcustodians, shall be held and dealt with as herein provided. The Bank hereby accepts this appointment.

7. PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the Agency be in any way personally liable or responsible for any covenant or agreement herein contained, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Agreement.

8. LIABILITY AND HOLD HARMLESS

8.1 The Bank shall be liable to the Agency for any direct money damages that are caused by the Bank's own negligence, fraud, or failure to exercise Due Care as defined in Section 30, in the Bank's performance of its duties under this Agreement. For the purposes of this Agreement, direct money damages shall include, but not be limited to, those situations where interest charges are incurred by the Agency or any loss of earnings occurs that would otherwise have been realized by the Agency through an overnight investment of funds, and where such interest charges or loss of earnings are caused by the Bank's own negligence, fraud, or failure to exercise Due Care, as defined in Section 30. In no event shall the Bank be liable to the Agency or any third party for special, indirect or consequential damages, or lost profits or loss of business, arising in connection with this Agreement.

8.2 Each party to this Agreement agrees to hold harmless the other party, to the extent authorized by law, from all losses (excluding attorneys' fees and expenses) which relate to or result from lawsuits brought by non-parties to this Agreement from activities covered by this Agreement from:

8.2.1 A failure by a party or its subsidiaries, affiliates, agents, Subcontractors, representatives, or employees to comply with any applicable federal, state, or local law, rule, or regulation;

8.2.2 A negligent act or omission or the breach of this Agreement (as defined in subsection 18.3) by a party, its subsidiaries, affiliates, agents, Subcontractors, representatives, or employees; or a failure to exercise Due Care as defined in subsection 30.1 herein (“Covered Lawsuit”).

8.3 Nothing in this section shall be construed to mean either party is prevented from commencing a legal action against the other.

8.4 Any right to indemnification is contingent on the party claiming indemnification (“Indemnitee”) providing: the party from whom payment is claimed (“Indemnitor”) with: timely notice of the Covered Lawsuit and; the right to meaningful participation (at Indemnitor’s expense) in any defense or settlement proceedings.

9. SEVERABILITY

Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the document.

10. NONDISCRIMINATION AND AFFIRMATIVE ACTION

During the performance of this Agreement, the Bank shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

10.1 Nondiscrimination in Employment. The Bank shall not discriminate against any employee or applicant for employment in violation of RCW 49.60.

10.2 Nondiscrimination in Client Services. The Bank shall not in violation of RCW 49.60:

10.2.1 Deny an individual any services or other benefits provided under this Agreement;

10.2.2 Provide any service(s) or other benefits to an individual which are different, or are provided in a different manner, from those provided to others under this Agreement;

10.2.3 Subject an individual to segregation or separate treatment in any manner related to the receipt of any service(s) or other benefits provided under this Agreement; or

10.2.4 Deny any individual an opportunity to participate in any program provided by this Agreement through the provision of services or otherwise, or afford any opportunity which is different from that afforded others under this Agreement.

10.3 The Bank, in determining (1) the types of services or other benefits to be provided; or (2) the class of individuals to whom, or the situation in which, such services or other benefits will be provided; or (3) the class of individuals to be afforded an opportunity to participate in any services or other benefits, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination in violation of RCW 49.60.

10.4 Noncompliance With Nondiscrimination Requirements. In the event of the Bank's noncompliance or refusal to comply with the nondiscrimination requirements, this Agreement may be rescinded, canceled, or terminated in whole or in part, and the Bank may be declared ineligible for further contracts with the Agency. The Bank shall, however, be given a reasonable time in which to cure the noncompliance. Any dispute may be resolved in accordance with the Disputes section set forth in this Agreement.

11. GIFTS AND GRATUITIES

11.1 In accordance with RCW 42.52, Ethics in Public Service Act, it is unlawful for any person to accept, directly or indirectly, any compensation, gratuity, or reward in connection with this Agreement from any person beneficially interested therein. The Bank is required at all times to comply with all provisions of RCW 42.52.

11.2 The Agency may terminate this Agreement, by written notice to the Bank, if it is found after due notice and examination that there is a violation by the Bank of the Ethics in Public Service Act, RCW 42.52, or any other similar statute involving the Bank in its performance under this Agreement.

In the event this Agreement is terminated as provided in sub-section 11.2 above, the Agency shall be entitled to pursue the same remedies against the Bank as it could pursue in the event of a breach of this Agreement by the Bank. The rights and remedies of the Agency provided by this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

12. RIGHTS AND REMEDIES

In the event of any claim for default or breach of contract, no provision in this document nor in the Bank's proposal for services shall be construed, expressly or

by implication, as a waiver by the Agency of any right to insist upon the strict performance of any term or condition of the Agreement or to exercise or delay the exercise of any right or remedy provided in the Agreement or by law, or as the acceptance of (or payment for) materials, equipment, or services, or to release the Bank from any responsibilities or obligations imposed by this Agreement or by law.

13. PERFORMANCE

Acceptance by the Agency of unsatisfactory performance with or without objection or reservation shall neither waive the right to claim damage for breach nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by the Bank.

14. GOVERNING LAW; JURY TRIAL

This Agreement shall be governed in all respects by, and construed in accordance with, the law and statutes of the state of Washington. The venue of any action hereunder shall be exclusively in the Superior Court for _____ County, Washington. The Bank, by execution of this Agreement, acknowledges the jurisdiction of the courts of the State of Washington in this matter.

15. SUBCONTRACT/ASSIGNMENT

The Bank shall not subcontract or assign its obligations under this Agreement without the prior written consent of the Contract Administrator. The Bank shall be responsible to ensure that all requirements of the Agreement shall be communicated to any and all Subcontractors.

Substitution of another financial institution to act as the Bank under this Agreement may occur in the event of a takeover, merger, or acquisition. In this event, the successor bank shall provide an automatic continuation of all terms of this Agreement, provided the successor bank can meet all required terms of the Agreement. However, the Agency reserves the right to terminate the Agreement in the event a successor bank is substituted, after providing 60 calendar days' written termination notice.

16. SCOPE OF SERVICES

The Bank agrees to provide custody, record keeping, and cash management, as further described in the Office of the State Treasurer RFP (Exhibit A) and the Bank's Proposal (Exhibit B), under the terms of this Agreement, subject to the provisions of Section 4 - Consideration.

AGREEMENT TERM AND TERMINATION

17. TERM OF AGREEMENT AND SURVIVORSHIP OF TERMS

This Agreement shall commence on _____ and continue until March 31, 2020 (or thereafter pursuant to extensions provided for in this paragraph), unless the Bank is no longer serving as Statewide Custodian, in which case this Agreement shall terminate upon the termination or expiration of the Bank's service as Statewide Custodian. Annually the term of this Agreement will be automatically extended for a period of one year, with the total contract period including extensions not to exceed eight years.

The Bank is not obliged to offer this contract for a time period of less than one year.

18. TERMINATION AND REMEDIES

18.1 Termination for Convenience. The Agency may terminate this Agreement, in whole or in part, at any time and for any reason by giving 90 calendar days' written termination notice to the Bank. The Bank may terminate this Agreement, by giving 180 days' written termination notice to the Agency.

18.2 Termination for Reduction of Funding or Withdrawal of Authority. In the event that either funding from the Agency or other sources is withdrawn, reduced, or limited, or the authority of the Agency to perform any of its duties is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to its normal completion, the Agency may terminate this Agreement, in whole or in part, at any time by giving 60 calendar days' written termination notice to the Bank.

18.3 Termination for Breach. Except in the case of delay or failure resulting from circumstances beyond the control of and without the fault or negligence of the Bank or of the Bank's suppliers or Subcontractors, the Agency shall be entitled, by written or verbal notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms herein, and to retain all other rights against the Bank by reason of the Bank's breach as provided by law.

A breach shall mean one or more of the following events: (1) the Bank fails to perform the services by the time and date required and such failure is not caused by a force majeure event; (2) the Bank breaches any warranty, or fails to perform or comply with any term in the Agreement; (3) the Bank fails to exercise Due Care as to any aspect of this Agreement, with Due Care being defined in subsection 30.1; or (4) the Bank makes any general assignment of the assets held pursuant to this Agreement for

the benefit of creditors; If it is subsequently found that the Bank was not in breach, the rights and obligations of the parties shall be the same as if a Notice of Termination had been issued pursuant to subsection 18.1.

The Agency Contract Administrator shall issue a written notice of breach providing a period not to exceed 30 days in which the Bank shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate the Bank's liability for damages.

If the breach remains after the Bank has been provided the opportunity to cure, the Agency may do one or more of the following:

18.3.1 Exercise any remedy provided by law;

18.3.2 Terminate this Agreement and any related contracts or portions thereof, by written or verbal notice;

18.3.3 Seek damages.

18.4 Termination by Mutual Agreement. The Agency and the Bank may terminate this Agreement in whole or in part, at any time, by mutual agreement.

18.5 Termination Procedure. Upon termination of this Agreement, the Agency, in addition to any other rights provided in this Agreement, may require the Bank to deliver to the Agency any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

The Agency shall pay to the Bank the agreed upon price, if separately stated, for completed work and services accepted by the Agency, and the amount agreed upon by the Bank for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by the Agency, and (d) the protection and preservation of property, unless the termination is for default, in which case the Agency shall determine the extent of the liability of the Agency. Failure to agree with such determination shall be a dispute within the meaning of Section 28, "Disputes" of this Agreement. The Agency may withhold from any amounts due to the Bank such sum as the Agency determines to be necessary to protect the Agency against potential loss or liability.

The rights and remedies of the Agency provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

18.6 Termination-Related Obligations Antecedent to Date of Termination.

Upon nearing the end of the final term of this Agreement, and without respect to either the cause or time of such termination, the Bank shall take all reasonable and prudent measures to facilitate the transition to a successor custodian's system.

The Bank shall provide, at any time during the nine (9) months preceding termination, such non-proprietary, non-confidential information about the Bank's systems as will be reasonably required by the Agency and/or the successor for purposes of planning the transition and conversion to the successor's system.

18.7 Obligations Upon Termination. After receipt of a notice of termination, and except as otherwise directed by the Agency Contract Administrator, the Bank shall:

18.7.1 Stop work under the Agreement on the date, and to the extent, specified in the notice;

18.7.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;

18.7.3 Assign to the Agency, in the manner, at the times, and to the extent directed by the Agency Contract Administrator all of the rights, titles, and interest of the Bank under the orders and subcontracts so terminated, in which case the Agency has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

18.7.4 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agency Contract Administrator to the extent he or she may require, which approval or ratification shall be final for all the purposes of this clause;

18.7.5 Transfer title to the Agency and deliver in the manner, at the times, and to the extent, if any, as directed by the Agency Contract Administrator, any property which, if the Agreement had been completed, would have been required to be furnished to the Agency;

18.7.6 Complete performance of such part of the work as shall not have been terminated; and

18.7.7 Take such action as may be necessary, or as the Agency Contract Administrator may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Bank and in which the Agency has or may acquire an interest and to transfer that property to the successor Bank.

By such termination, neither the Agency nor the Bank may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

19. FORCE MAJEURE

19.1 Definition. Neither party shall be liable to the other or deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising Due Care. Force majeure shall include acts of God, war, riots, strikes, fire, floods, earthquakes, epidemics, or other similar occurrences.

19.2 Allocation of Service. When force majeure affects only part of the Bank's capacity to perform, the Bank may allocate services among its customers, including regular customers not included in this Agreement, in any manner which is fair and reasonable.

19.3 Notification. If either party is delayed by force majeure, said party shall provide reasonable notice that there will be delay or non-delivery of reports or services. The notification shall provide evidence of the force majeure to the reasonable satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement.

19.4 Rights Reserved. The Agency reserves the right to cancel the Agreement and/or purchase services from the best available source during the time of force majeure, and Bank shall have no recourse against the Agency.

20. CONFLICT OF INTEREST

The Bank warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

CONTRACT ADMINISTRATION

21. INCORPORATED DOCUMENTS

This Agreement shall consist of the terms and conditions as set forth herein, and the following documents which are incorporated herein by reference:

- 21.1 “**Exhibit A**” - The Request for Proposal (RFP) for Statewide Custody Services, dated October 30, 2015.
- 21.2 “**Exhibit B**” - The Bank's proposal in response to the State RFP for Statewide Custody Services.
- 21.3 “**Exhibit C**” - The Bank's schedule of fees for all Services provided under this Agreement.

22. ORDER OF PRECEDENCE

- 22.1 The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions.
- 22.2 If any provision of this Agreement shall be deemed to be in conflict with state or federal law, such provisions shall be deemed modified to conform with said law. In the event of any inconsistency in this Agreement, the inconsistency shall be resolved in the order of precedence stated below:
 - 22.2.1 Applicable Federal and State Statutes and Regulations.
 - 22.2.2 The Terms and Conditions of this Agreement.
 - 22.2.3 **Exhibit A** - The Request for Proposal (RFP) for Statewide Custody Services issued by the Office of the State Treasurer, dated October 30, 2015.
 - 22.2.4 **Exhibit B** - The Bank's proposal in response to the State RFP for Statewide Custody Services.
 - 22.2.5 **Exhibit C** - The Bank's schedule of fees for all Services provided under this Agreement.

23. ENTIRE AGREEMENT

This document, including all addenda and subsequent amendments, comprises the entire agreement between the Agency and the Bank and shall be governed by the laws of the State of Washington incorporated herein by reference.

24. LIMITATION OF AGENCY'S AUTHORITY

Only the Agency Contracting Officer, or delegate by writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by the Agency and the Bank unless otherwise provided herein.

25. AGENCY CONTRACT ADMINISTRATOR

The Agency shall appoint an individual who will be the Contract Administrator for this Agreement and will provide oversight of the activities conducted hereunder. The Agency Contract Administrator will manage this Agreement on behalf of the Agency, and will be the Agency point of contact for the Bank concerning the Bank's performance hereunder. The Agency shall notify the Bank, in writing, when there is a change in staffing and a new Contract Administrator is assigned to this Agreement.

26. BANK'S ACCOUNT MANAGER

The Bank shall appoint an individual who will be the Account Manager for the Agency account. The Bank's Account Manager will be the principal point of contact for the Agency concerning the Bank's performance hereunder. The Bank's Account Manager will also serve as the focal point for business matters, support coordination, and administrative activities. The Bank shall notify the Agency in writing if a new Account Manager is assigned.

27. AMENDMENTS

No modifications or amendments to this Agreement shall be effective unless it is in a written amendment signed by an authorized officer of the Bank and an individual duly authorized on behalf of the Agency.

28. DISPUTES

28.1 Except as otherwise provided in this Agreement, when a bona fide dispute concerning a question of fact arises between the Agency and the Bank and it cannot be resolved, either party may initiate the dispute resolution procedure provided herein.

28.2 Time is of the essence in resolving disputes. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party must respond in writing within two (2) Agency working days. Then, both parties shall have three (3) Agency working days to negotiate in good faith to resolve the dispute.

28.3 Both parties agree to exercise good faith in dispute resolution and to avoid arbitration and litigation whenever reasonably possible. Nothing in this Agreement shall prevent either party, after the expiration of the three (3) day period in subsection 28.2, from pursuing other methods of dispute resolution.

28.4 The Agency and the Bank agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Agreement which are not affected by the dispute.

29. CONSENT

Both parties agree that whenever a party's consent is required under the terms of this Agreement, that consent shall not be unreasonably delayed or withheld.

BANK RESPONSIBILITIES

30. RESPONSIBILITY OF BANK

30.1 The Bank shall perform its duties hereunder with "Due Care." For the purposes of this agreement, "Due Care" shall mean the degree of care and skill demonstrated by agents acting in like capacity as a safekeeping custodian. The Bank shall not be responsible for the title, validity, or genuineness, including good deliverable form, of any property or evidence of title thereto received by it or delivered by it pursuant to this Agreement. The Bank may at its discretion appoint and remove agents or Subcustodians to carry out such of the provisions of this Agreement as the Bank may from time to time direct; provided, however, that such appointment shall not relieve the Bank of its responsibilities or liabilities under this Agreement, and provided further that any depository selected with Due Care by the Bank shall not be deemed for purposes of this Agreement an agent or Subcustodian of the Bank.

30.2 Provided always that the Bank and its agents and Subcustodians act in good faith and with the exercise of Due Care in performance of such duties as would ordinarily be expected of a financial institution in the relevant market and subject to the terms of the Agreement:

30.2.1 It is not liable for any loss or damage caused by the delay or failure of any central bank, any depository, or any commercially prevalent payment or clearing system to deliver to or for the Bank or its Subcustodians securities purchased or sold, or to make or receive and remit, any payment in connection with purchases or sales of securities, for delays or failures in providing corporate action notices, or for delays or inability by the Bank to perform its duties

due to acts or omissions of any depository or to disorder in market infrastructure with respect to any particular security, security exchange, central depository, or clearing system; and

- 30.2.2** It is not liable for any delay or failure of any non-parties, company, corporation, or other body in charge of registering or transferring securities in the name of the Bank, any customer of the Bank, or the Subcustodian, its nominee or agent, or for any consequential losses arising out of such delay or failure to transfer such securities including non-receipt of bonus, dividends, and rights and other accretions or benefits.
- 30.2.3** The Bank's performance under this Agreement is subject to any relevant regulations, as well as the rules, operating procedures and practices of any relevant stock exchange, clearing systems or depositories or market where or through which Proper Instructions are to be carried out and to which the Bank is subject and as exist in the market in which any securities or cash are held.
- 30.2.4** The Bank shall be under no obligation to take action to collect any amount payable on securities in default, or if payment is refused after due demand and presentment. The Bank shall have no duty or responsibility to inquire into, make recommendations, supervise, or determine the suitability of any transactions affecting any of the Agency's accounts ("Account").
- 30.2.5** The Bank may debit the Account for fees and expenses payable hereunder which remain in arrears for over 60 days.
- 30.2.6** The Bank shall have no duties or responsibilities whatsoever except such duties and responsibilities as are specifically set forth in this Agreement, and no covenant or obligation shall be implied against the Bank in connection with this Agreement.

31. CONFIDENTIALITY OF AGENCY RECORDS

- 31.1** The Bank acknowledges that material and information which has or will come into its possession or knowledge in connection with this Agreement or its performance, may consist of confidential and proprietary data, the disclosure of which to, or use by, third parties could be damaging.
- 31.2** Access to information concerning the Agency or individual recipients of the Agency's services shall not be granted except as authorized by law or in writing by the Agency.

31.3 The Bank, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this Agreement, to release it only to authorized employees requiring such information, and not to release or disclose it to any other party.

31.4 Notwithstanding anything apparently to the contrary in the preceding provisions of this section, the Bank may release the material and information described in this section to authorized bank examiners and to its internal and external auditors for official use and may also release it pursuant to a subpoena or other order issued by a court of competent jurisdiction, as otherwise required by law or regulation, and to its attorneys, agency or affiliates having the need to know the same, provided that the Bank advises such recipient of the confidential nature of the information being disclosed. The Bank shall promptly notify the Agency of any such subpoena or order upon its receipt.

32. AUDITING

The Bank shall permit representatives of the Agency, an auditor selected by the Agency, and/or the Auditor of the State of Washington or their authorized assistant to examine the records of the Bank relating to the services rendered under this Agreement, including securities transactions. Such audits may include, but are not limited to, examination of the securities themselves. If the Bank has contracted for deposit of the securities with another bank, the Bank shall require its Subcontractor to provide similar access to the designated Agency officials or their representatives. Any audits required by this section which do not necessitate the compilation of records in addition to those which are otherwise required by other sections of this Agreement may be conducted without notice. Any audits required by this section which require the compilation of records in addition to those which are otherwise required by this Agreement may be conducted upon reasonable written notice from the Agency to the Bank. The provisions of this section shall remain in effect for eighteen (18) months after the expiration, or sooner termination, of this Agreement. Records of Agency transactions must be kept and maintained by the Bank for a period of no less than seven (7) years from the date of the transaction.

33. COMMITMENTS, WARRANTIES, AND REPRESENTATIONS

33.1 Any written commitment by the Bank within the scope of this Agreement shall be binding upon the Bank. Failure of the Bank to fulfill such a commitment may constitute breach and shall render the Bank liable for damages due the Agency under the terms of this Agreement.

33.2 For purposes of this Agreement, a commitment by the Bank, which must be in writing, includes: (1) prices and options committed to remain in

force over a specified period(s) of time; (2) any warranty or representation made by the Bank in a proposal as to Service performance; (3) any warranty or representation made by the Bank concerning the characteristics of items in (2) above, contained in any literature, descriptions, or specifications accompanying or referred to in a proposal; (4) any modification of or affirmation or representation as to the above which is made by the Bank in writing whether or not incorporated into a formal amendment to the proposal in question; and (5) any representation by the Bank in a proposal, supporting documents or amendments thereto as to services to be performed, prices, and options committed to remain in force over a fixed period of time, or any other similar matter regardless of the fact that the duration of such commitment may exceed the duration of this Agreement.

33.3 The Agency hereby represents and warrants, which representations and warranties shall be continuing and shall be deemed to be reaffirmed upon each Proper Instruction given by the Agency, that:

(a) The Agency is duly organized and existing under the laws of the jurisdiction of its organization, with full power to carry on its business as now conducted, to enter into this Agreement and to perform its obligations hereunder;

(b) This Agreement has been duly authorized, executed and delivered by the Agency, constitutes a valid and legally binding obligation of the Agency, enforceable in accordance with its terms, and no statute, regulation, rule, order, judgment or contract binding on the Agency prohibits the Agency's execution or performance of this Agreement; and

(c) Either the Agency owns the securities in the Account free and clear of all liens, claims, security interests and encumbrances (except those granted herein) or, if the securities are owned beneficially by others, the Agency has the right to pledge such securities to the extent necessary to secure the Agency's obligations hereunder, free of any right of redemption or prior claim by the beneficial owner. The Bank's security interest pursuant to Section 42.3.4.1 hereof shall be a first lien and security interest subject to no setoffs, counterclaims or other liens prior to or on a parity with it in favor of any other party (other than specific liens granted preferred status by statute), and the Agency shall take any and all additional steps which are required to assure the Bank of such priority and status, including notifying third parties or obtaining their consent to, the Bank's security interest.

34. PRICE INCREASES

34.1 The Bank agrees to provide the Services at the costs, rates, and fees set forth in **Exhibit C**, Custody Fee Schedule. No other costs, rates, or fees shall be payable to the Bank for services covered under this Agreement.

35. ANCILLARY SERVICES

35.1 Contingency Plan. The Bank shall have a comprehensive contingency plan for timely disaster recovery in the event systems are rendered inoperative due to fire, flood, or other disaster.

35.2 Pricing Services. To the extent that the Bank provides values of, and pricing information with respect to, securities, the Bank is authorized to utilize generally recognized pricing services (including brokers, dealers, and market makers). The Bank shall not be liable or responsible for or be under any duty to inquire into, nor be deemed to make any assurances or warranties with respect to, the accuracy or completeness of such values or information, even if the Bank, in performing services for itself and others, including services similar to those performed for the Agency, receives different valuations of the same or similar securities of the same issuer. In the event such services are unable to provide a value of or pricing information with respect to securities, and the Bank, nevertheless, provides values and pricing information, the Bank shall so advise the Agency, but shall have no other obligation or liability with respect to such valuation or pricing information.

36. PROPER INSTRUCTIONS AND EVIDENCE OF AUTHORITY

The term "Proper Instructions" shall mean instructions received by the Bank from the Agency or any person duly authorized by it. Such instructions may be in writing signed by the authorized person or may be in a tested communication or in a communication utilizing access codes effected between electro-mechanical or electronic devices or may be by such other means as may be agreed to from time to time by the Bank and the party giving such instructions (including, without limitation, oral instructions if so agreed). The Agency shall cause its duly authorized officer to certify to the Bank in writing the names and specimen signatures of persons authorized to give proper instructions. The Bank shall be entitled to rely upon the identity and authority of such persons until it receives notice from the Agency to the contrary.

The Bank shall be protected in acting upon any instructions, notice, request, consent, certificate, instrument, or paper reasonably believed by it to be genuine and to have been properly executed or otherwise given by or on behalf of the Agency. The Bank may receive and accept a certificate from the Agency as conclusive evidence (i) of the authority of any person to act in accordance with

such certificate or (ii) of any determination or of any action by the Agency as described in such certificate, and such certificate may be considered as in full force and effect until receipt by the Bank of written notice to the contrary.

37. SECURITY CODES

If the Bank has issued security codes or passwords to the Agency in order that the Bank may verify that certain transmissions of information, including proper instructions, have been originated by the Agency, the Bank shall, to the extent authorized by law, be without liability to the Agency for any action taken or omitted by it in reliance upon receipt by the Bank of transmissions of information with the proper security code or password, including instructions purporting to be proper instructions, which the Bank reasonably believes to be from the Agency.

38. REGISTRATION WITH THE DEPARTMENT OF REVENUE

The Bank shall complete registration with the Department of Revenue, Olympia, Washington 98504, and be responsible for payment of all taxes due on payments made under this Agreement.

39. LICENSING AND ACCREDITATION STANDARDS

The Bank shall comply with all applicable federal and state licensing requirements and standards necessary in the performance of this Agreement.

40. WORKERS' COMPENSATION INSURANCE COVERAGE

The Bank shall provide or purchase applicable workers' compensation insurance coverage prior to performing work under this Agreement. The Agency will not be responsible for payment of industrial insurance premiums for the Bank or any Subcontractor or employee of the Bank, which might arise under the workers' compensation insurance laws during performance of duties and services under this Agreement. Should the Bank fail to secure workers' compensation insurance coverage or fail to pay premiums on behalf of its employees, the Agency may deduct the amount of premiums owing from the amounts payable to the Bank under this Agreement and transmit the same to the appropriate workers' compensation insurance fund.

41. ADVERTISING

The Bank shall not advertise or publish information concerning this Agreement in any form or media without prior written consent from the Agency.

CUSTODY PROVISIONS

42. CUSTODY OF SECURITIES

42.1 Custodial Services. The Bank shall take custody of the securities owned by the Agency and tendered for transfer to its custody; provide safekeeping services for them and accept complete responsibility as an agent for their safekeeping from the moment of delivery to it and/or its transfer agent until their safe return and delivery to the Agency or its designated agent upon expiration or sooner termination of this Agreement.

When ownership of a security is manifested by a certificate, bond, note, or other physical document, the Bank will verify proper registration of the security in the name of the Agency or nominee of Bank; keep the physical specimen in a secure vault, safe from destruction, damage, embezzlement, and/or other loss; readily available to the Agency; and in a condition suitable for sale or transfer. When ownership is reflected in a book entry on official records only, the Bank shall be shown on the books of the Federal Reserve System, DTC, or other depository agencies, as custodian of the Agency's book-entry security; the Bank shall verify the proper registration, evidenced by an entry in the Bank's books reflecting that the Bank holds those particular securities (or a quantity of securities that are part of a fungible bulk of government book-entry securities) as custodian for the Agency; and the Bank shall obtain and maintain the confirmatory documents in a secure area and unless expressly authorized by the Agency, keep the securities ready for immediate sale or transfer free and clear of all encumbrances.

With respect to securities issued in the United States, the Shareholders Communications Act of 1985 (the "Act") requires the Bank to disclose to the issuers, upon their request, the name, address and securities position of its customers who are (a) the "beneficial owners" (as defined in the Act) of the issuer's securities, if the beneficial owner does not object to such disclosure, or (b) acting as a "respondent bank" (as defined in the Act) with respect to the securities. (Under the Act, "respondent banks" do not have the option of objecting to such disclosure upon the issuers' request.) The Act defines a "beneficial owner" as any person who has, or shares, the power to vote a security (pursuant to an agreement or otherwise), or who directs the voting of a security. The Act defines a "respondent bank" as any bank, association or other entity that exercises fiduciary powers which holds securities on behalf of beneficial owners and deposits such securities for safekeeping with a bank, such as the Bank. Under the Act, the Agency is either the "beneficial owner" or a "respondent bank."

The Agency is the "beneficial owner," as defined in the Act, of the securities to be held by the Bank hereunder.

The Agency is not the beneficial owner of the securities to be held by the Bank, but is acting as a "respondent bank," as defined in the Act, with respect to the securities to be held by the Bank hereunder.

IF NO BOX IS CHECKED, THE BANK SHALL ASSUME THAT THE AGENCY IS THE BENEFICIAL OWNER OF THE SECURITIES.

For beneficial owners of the securities only:

The Agency objects

The Agency does not object

to the disclosure of its name, address and securities position to any issuer which requests such information pursuant to the Act for the specific purpose of direct communications between such issuer and the Agency.

IF NO BOX IS CHECKED, THE BANK SHALL RELEASE SUCH INFORMATION UNTIL IT RECEIVES A CONTRARY WRITTEN INSTRUCTION FROM THE AGENCY.

42.2 Inventory; Delivery and Redelivery. The Bank shall keep an accurate, current inventory of all securities held within its custody for the Agency. The inventory will contain precise identification of each security including, when applicable, the date of purchase and maturity date; CUSIP numbers; and other sources of identification.

42.3 Transactions. The Bank shall assist the purchase of securities and the sale of securities within its possession, owned by the Agency. When so instructed, the Bank will:

42.3.1 Take possession of securities purchased by the Agency, and when authorized, make payment from the clearing accounts as established under this Agreement therefor;

42.3.2 Deliver securities sold or transferred by the Agency to the appropriate entity or person versus payment;

42.3.3 Register in its name or in its name as the Bank, securities owned by the Agency and held in its physical custody or those securities indicated on the records of the Federal Reserve System, DTC, or another depository, provided that adequate records are maintained to identify the actual ownership of the securities by the Agency

and all rights to interest and sale proceeds are vested in the Agency;

42.3.4 Credit or debit the appropriate money account of the Agency in connection with the purchase, sale, maturity, redemption, income, dividends, or other disposition of securities and other assets held for the time being on behalf of the Agency in said accounts on a contractual settlement basis. The Bank reserves the right to reverse any such crediting at any time before actual receipt of the item associated with the credit when the Bank determines that actual receipt will not be received in due course for such an item.

42.3.4.1 In order to secure repayment of an advance of funds made in connection with a purchase of securities, the Bank shall have a purchase money security interest in, and a security entitlement with respect to, all of the Agency's right, title, and interest in and to the securities acquired with such advance (including proceeds thereof). The Bank shall, with respect to such purchase money security interest, be entitled to all the rights and remedies of a pledgee and secured creditor under applicable laws, rules, or regulations as then in effect.

42.4 Agency Clearing Account. The Bank shall establish clearing accounts for the Agency, as directed by the Agency. These accounts shall accurately reflect transactions of all kinds, with respect to securities of the Agency. These accounts are not to be construed as Depository Accounts.

The Bank shall, on a contractual basis, credit or debit the Agency account on the contractual settlement date in connection with all trading transactions, income and principal payments to include, but not be limited to purchases, sales, maturities, redemptions, interest, or any other principal and income event.

At the close of each business day, there shall be no "public funds" (as defined in RCW 39.58.010(16) now or as hereafter amended) in the clearing accounts.

All "public funds" (as defined above) in an account shall be returned to the Agency prior to the close of business.

42.4.1 The Agency retains the exclusive authority to manage the assets of the Agency within the Bank's custody. This includes the determination of which investments shall be made, what and when securities shall be sold or encumbered, the terms or conditions of any transaction, and the disposition of cash on hand. The Bank

shall make no transaction without instructions from the Agency, except the advance crediting of principal, interest, and other proceeds to the Agency's clearing account.

43. NOTICES

Notices and other writings shall be delivered by the most expeditious means available, with due regard given to the time sensitivity of the notice or demand being made:

To the Agency:

To the Bank:

Wells Fargo Bank, N.A.
999 3rd Ave
11th Floor, MAC P6540-11H
Seattle, WA 98104-4019
Attention: Cindy M. Parsons

or to such other address as the Agency or the Bank may hereafter specify in writing. Telephone and facsimile notices shall be sufficient if communicated to the party entitled to receive such notice at the following numbers:

If to the Agency:

Telephone:

Fax:

If to the Bank:

Telephone: : 206-292-3469

Fax: 206-292-3682

or to such other numbers as either party may furnish the other party by written notice under this section.

The Bank agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Bank shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Agency elects to give the Bank e-mail or facsimile instructions (or instructions by a similar electronic method) and the Bank in its discretion elects to act upon such instructions, the Bank's reasonable understanding of such instructions shall be deemed controlling.

The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with instructions

provided by the Agency pursuant to this Agreement. This includes, but is not limited to, Bank's reliance upon instructions that may later conflict or be inconsistent with subsequent written instructions. The Agency agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Bank, including the risk of the Bank acting on unauthorized instructions by an individual purporting to be a designated person on the incumbency certificate, and the risk of interception and misuse by third parties.

Notwithstanding the foregoing, the Bank will accept transaction requests that it reasonably believes to be from Authorized Signers by telephone, letter, facsimile, or E-mail. However, in order to prevent fraud related activity, the Bank prohibits the use of public, non-firewall protected E-mail domain names (e.g. aol, hotmail, gmail, yahoo, etc.) as a method for submitting transaction requests.

PAYMENT PROVISIONS

44. PAYMENTS

Quarterly, after the last business day of each calendar quarter, the Bank shall submit to the Agency an invoice containing an itemized list of all costs and expenses incurred by the Bank in connection with this Agreement. The first payment will be for the calendar quarter ending _____.

The Agency will forward payment for service charges to the Bank, after the Agency verifies all activity and charges, within thirty (30) days of receipt of the invoice, provided there are no significant unreconciled differences.

In the event services are rendered for less than a calendar quarter, or this Agreement is terminated prior to the end of a calendar quarter, the Agency shall pay the Bank's fee prorated for the portion of the calendar quarter such services are rendered or the Agreement is in effect, plus any costs and expenses incurred by the Bank for the Accounts up to or subsequent to the date of termination.

If the Bank does not meet its Service obligations, the Bank shall be required to negotiate a settlement with the Agency Contract Administrator for an appropriate reduction in charges. Such settlement shall be in addition to other rights and remedies available to the Agency under law and this Agreement.

45. TAXES

It is mutually agreed and understood that all payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for the Bank's staff shall be the sole liability of the Bank.

46. INDEPENDENT CAPACITY

The parties intend that an independent contractor relationship will be created by this Agreement. The Bank, the Bank's employees, and subcontractors performing under this Agreement are not employees of the Agency. The Bank will not hold itself out as, nor claim to be, an officer or an employee of the Agency by reason hereof, nor with the Bank make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Bank.

47. ADVANCE PAYMENTS PROHIBITED

No advance payment shall be made for services furnished by the Bank pursuant to this Agreement.

48. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35

The Bank must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in areas of employment, public accommodations, state and local government services, and telecommunications.

49. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the terms of this Agreement, each party agrees to bear its own attorney fees and costs.

50. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Agency. The Agency shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Bank hereby irrevocably assigns all right, title and interest in Materials, including all intellectual property rights, to the Agency effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under this Agreement but that incorporate pre-existing materials not produced under this Agreement, the Bank hereby grants to

the Agency a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Bank warrants and represents that it has all rights and permissions, including intellectual property rights, moral rights, and rights of publicity, necessary to grant such a license to the Agency.

The Bank shall exert all reasonable effort to advise the Agency, at the time of delivery of Materials furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. The Agency shall receive prompt written notice of each notice or claim of infringement received by the Bank with respect to any data delivered under this Agreement.

51. COVENANT AGAINST CONTINGENT FEES

The Bank warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Bank for the purpose of securing business. The Agency shall have the right, in the event of breach of this clause by the Bank, to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or recover by other means the full amount of such commission, percentage, or brokerage or contingent fee.

52. DISALLOWED COSTS

The Bank is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

53. DUPLICATE PAYMENT

The Agency shall not pay the Bank, if the Bank has charged or will charge the Agency or any other party under any other contract or agreement for the same services or expenses.

54. TREATMENT OF ASSETS

A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property furnished by the Bank, for the cost of which the Bank is entitled to be reimbursed as a direct item of cost under this Agreement, shall pass to and vest in the Agency upon delivery of such property by the Financial Advisor. Title to other property, the cost of which is reimbursable to the Agency under this Agreement shall pass to and vest in

the Agency upon (i) issuance for use of such property in the performance of this Agreement or (ii) commencement of use of such property in the performance of this Agreement, or (iii) reimbursement of the cost thereof by the State, in whole or in part, whichever first occurs.

- B. Any property of the Agency furnished to the Bank shall, unless otherwise provided herein or approved by the Agency, be used only for the performance of this Agreement.
- C. The Bank shall be responsible for any loss or damage to property of the Agency which results from the negligence of the Bank or which results from the failure on the part of the Bank to maintain and administer that property in accordance with sound management practices.
- D. If any Agency property is lost, destroyed or damaged, the Bank shall immediately notify the Agency and shall take all reasonable steps to protect the property from further damage.
- E. The Bank shall surrender to the Agency all property of the Agency prior to settlement upon completion, termination or cancellation of this Agreement.
- F. All reference to the Bank under this clause shall also include Bank's employees, agents or Subcontractors.

55. PRIVACY

Personal information collected, used or acquired in connection with this Agreement shall be used solely for the purposes of this Agreement. Bank and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as provided by law. Bank agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The Agency reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the Bank through this Agreement. The monitoring, auditing or investigating may not include "salting" by the Agency. Bank shall certify the return or destruction of all personal information upon expiration of the Agreement. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of the provisions may result in termination of the Agreement and the demand for return of all personal information. The Bank agrees to indemnify and hold harmless the Agency for any damages related to Bank's unauthorized use of personal information.

The Agency's right to monitor, audit, or investigate shall be subject to the Bank's right to limit those activities that are prohibited by its internal policies or that the

Bank, in good faith, believes will compromise the security of its systems or the rights of other customers of Bank.

56. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by authorized representatives of the Agency.

57. SEVERABILITY

The provisions of this Agreement are to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

MISCELLANEOUS

58. COUNTERPARTS

This Agreement is to be executed in duplicate originals and each duplicate shall be deemed an original copy of the Agreement signed by each party, for all purposes.

CONTRACT EXECUTION

59. RELATIONSHIP BETWEEN THE PARTIES

The parties hereto agree that in performing hereunder, the Bank is acting solely on behalf of the Agency and no contractual or service relationship shall be deemed to be established hereby between the Bank and any other person.

60. SIGNATURE BLOCKS

IN WITNESS WHEREOF the parties hereto, having read this Agreement in its entirety, including all attachments hereto, do agree in each and every particular.

APPROVED:

APPROVED:

Date

Date



Exhibit C Institutional Retirement and Trust Trust and Custody Fee Agreement

Method of Payment: Bill Client

TRUST AND CUSTODY PER ANNUM FEES

Domestic Administration

<u>Annual Tiered Flat Fee</u>	<u>Market Value</u>	<u>Annual Fee</u>
Tier I	\$0 - 50 Million	\$3,000.00
Tier II	\$50 - 100 Million	\$3,500.00
Tier III	\$100 - 250 Million	\$4,000.00
Tier IV	\$250 - 750 Million	\$4,500.00
Tier V	\$750 Million - 1.250 Billion	\$5,500.00
Tier VI	Greater than \$1.250 Billion	\$6,000.00

Accounting & Reporting

Web-Based On-line Daily Access – TPR, TID

Per Account

Included

DOMESTIC TRANSACTIONS

SECURITY SETTLEMENTS & MONEY MOVEMENT

Per Transaction

Repurchase Settlements
(overnight repos)

\$ 5.00

Other

Sub Account Charge
(any entity requiring additional sub accounts)

Per Account

\$ 750.00

Owner Acknowledgement

Fees and expenses described in this Fee Agreement, together with any fees described in other agreements and/or disclosures, constitute amounts payable to Wells Fargo Bank, N.A. ("Wells Fargo") for services provided to the Owner on the Account.

Wells Fargo shall be paid the fees as described above at the time such services are rendered. If such fees are not paid by the Account, such payment shall be made by the Owner. Wells Fargo may deduct fees

due for services rendered directly from the Account assets. Fees for services rendered shall be payable upon presentation of invoices by Wells Fargo and may be subject to late payment penalties. Past due fees may be deducted from the Account assets. Wells Fargo, in its sole discretion, may suspend services during any period in which any unpaid amounts are 90 days overdue or may deduct such amounts from the Trust.

No Asset Based Domestic Administration fee nor fund settlement transaction fees will be assessed for assets held in a Wells Fargo Proprietary Fund or Wells Fargo Deposit Account. There is no charge for the collection of interest income and dividends.

The Owner has identified all assets held in the Account to Wells Fargo. Should there be any material change to the Account's structure or asset base, or should the Owner fail to transfer any assets scheduled for receipt to Wells Fargo within 60 days of the Effective Date of this Fee Agreement, Wells Fargo reserves the right to redefine fees and/or service conditions.

Wells Fargo shall be entitled to charge additional fees for any additional services requested by the Owner that are outside the Statement of Work in Exhibit A .

On a Quarterly basis, Wells Fargo will send an invoice to the Owner for fees and expenses due with respect to the Account. The invoice will denote Account fees to be "billed" that are payable by the Owner and/or Account fees to be "deducted" that have been deducted from Account assets held in the Trust. Such amounts, if billed, shall be due not later than 30 days following the billing date. Additional services not detailed in this Fee Agreement may be negotiated by and between Wells Fargo and the Owner at normal prevailing rates. Wells Fargo retains the right to revise its fee schedule from time to time.

If the Owner wishes to have the Account pay any fees or expenses, or wishes to be reimbursed by the Account for any fees or expenses previously paid by the Owner, the Owner shall be responsible for determining which fees and expenses may properly be paid or reimbursed by the Account and provide appropriate written direction certifying this to Wells Fargo.

Initial term of Agreement is for 4 years, effective April 1, 2016, with the option to renew the Agreement.

RESOLUTION NO. _____

A RESOLUTION waiving public bidding requirements and approving a sole source purchase of calcium nitrate solution (Bioxide) from Evoqua Water Technologies LLC.

WHEREAS, the City has chosen and used calcium nitrate solution for lift station odor control since 2002; and

WHEREAS, the City has tested similar products available from other manufacturers; and

WHEREAS, Evoqua Water Technologies LLC is the only supplier capable of providing the required product and associated technical services;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERETT that because there is clearly and legitimately only one source capable of supplying calcium nitrate solution (Bioxide); the City hereby waives competitive bidding requirements and authorizes the purchase of Bioxide from Evoqua Water Technologies LLC.

Councilperson Introducing Resolution

PASSED and APPROVED this _____ day of _____, 2016.

Council President

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Relating to Regulation of Vessels, Amending Ordinance 3135-09, Section 14 and Ordinance 1246-86, Section 1 (part) as Amended (Chapter 12.02.125 and 12.02.130 EMC).

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

COUNCIL BILL # CB160524
 Originating Department Legal
 Contact Person Hil Kaman
 Phone Number 425-257-8762
 FOR AGENDA OF May 18, 2016

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

Location Preceding Action Attachments Department(s) Approval
 _____ _____ Ordinance Legal, Police

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

DETAILED SUMMARY STATEMENT:

State law has changed since the last update of our ordinance relating to 1) operation of a vessel in a reckless manner, and 2) operation of a vessel while under the influence of intoxicating liquor or drugs, sometimes referred to as Boating Under the Influence.

This proposed ordinance would adopt by reference the Revised Code of Washington (RCW 79A.60.040) relating to operation of a vessel in a reckless manner and operation of a vessel while under the influence of intoxicating liquor, marijuana, or drugs to make this section of the Everett Municipal Code (EMC) consistent with State law. Under State law, operating a vessel in a reckless manner constitutes a misdemeanor, while operating a vessel under the influence constitutes a gross misdemeanor.

Because this proposed ordinance adopts the boating RCW provisions by reference, it will automatically update if there is a change to the RCWs, keeping the EMC consistent with State law.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to Regulation of Vessels, Amending Ordinance 3135-09, Section 14 and Ordinance 1246-86, Section 1 (part) as Amended (Chapter 12.02.125 and 12.02.130 EMC).

ORDINANCE No. _____

AN ORDINANCE Relating to Regulation of Vessels, Amending Ordinance 3135-09, Section 14 and Ordinance 1246-86, Section 1 (part) as Amended (Chapter 12.02.125 and 12.02.130 EMC).

Whereas, in the 2014 legislative session, the State of Washington amended the Boating Under the Influence statute, RCW 79A.60.040, which makes it a misdemeanor/gross misdemeanor to operate a vessel in a reckless manner or while under the influence of intoxicating liquor, marijuana, or any drug; and

Whereas, the Everett City Council deems it appropriate for the city's vessel regulations to be consistent with State vessel regulations;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 14 of Ordinance No. 3135-09 (EMC 12.02.125), which reads as follows:

Operation of vessel in a reckless manner—Penalty.

- A. It is unlawful for any person to operate a vessel in a reckless manner.
- B. A violation of this section is a misdemeanor, punishable by up to ninety days in jail and by a fine of not more than one thousand dollars. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense. (Ord. 3135-09 § 14, 2009)

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

Operation of vessel in a reckless manner—Penalty.

~~A.—It is unlawful for any person to operate a vessel in a reckless manner.~~

~~B.—A violation of this section is a misdemeanor, punishable by up to ninety days in jail and by a fine of not more than one thousand dollars. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.~~

The following section of Washington state law is adopted by reference in all respects, as currently enacted or later amended, as though such section was set forth herein in full:

Chapter 79A.60.040 RCW.

Section 2. Section 1 (part) of Ordinance No. 1246-86, as amended by Section 1 of Ordinance No. 2415-99, as amended by Section 15 of Ordinance No. 3135-09, as amended by Section 2 of Ordinance of Ordinance No. 3337-13 (EMC 12.02.130), which reads as follows:

Operation of a vessel while under the influence of intoxicating liquor, marijuana, or any drug—Penalty.

A. It is unlawful for any person to operate a vessel while under the influence of intoxicating liquor, marijuana, or any drug. A person is considered to be under the influence of intoxicating liquor, marijuana, or any drug if, within two hours of operating a vessel:

1. The person has an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or
2. The person has a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or
3. The person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or
4. The person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

B. The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

C. Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath or blood for the purpose of determining the alcohol concentration, THC concentration, or presence of any drug in the person's breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor, marijuana, or any drug. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood. An arresting officer may administer field sobriety tests when circumstances permit.

D. The test or tests of breath must be administered pursuant to RCW 46.20.308. Where the officer has reasonable grounds to believe that the person is under the influence of a drug, or where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample, or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility, a blood test must be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall warn the person that if the person refuses to take the test, the person will be issued a class 1 civil infraction under RCW 7.80.120.

E. A violation of this section is a gross misdemeanor, punishable by up to three hundred sixty-four days in jail and by a fine of not more than five thousand dollars. In addition to the statutory penalties imposed, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

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

Operation of a vessel while under the influence of intoxicating liquor, marijuana, or any drug—Penalty.

~~A.—It is unlawful for any person to operate a vessel while under the influence of intoxicating liquor, marijuana, or any drug. A person is considered to be under the influence of intoxicating liquor, marijuana, or any drug if, within two hours of operating a vessel:~~

~~1.—The person has an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or~~

~~2.—The person has a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or~~

~~3.—The person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or~~

~~4.—The person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.~~

~~B.—The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.~~

~~C.—Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath or blood for the purpose of determining the alcohol concentration, THC concentration, or presence of any drug in the person's breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor, marijuana, or any drug. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood. An arresting officer may administer field sobriety tests when circumstances permit.~~

~~D.—The test or tests of breath must be administered pursuant to RCW 46.20.308. Where the officer has reasonable grounds to believe that the person is under the influence of a drug, or where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample, or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility, a blood test must be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall~~

~~warn the person that if the person refuses to take the test, the person will be issued a class 1 civil infraction under RCW 7.80.120.~~

~~E.— A violation of this section is a gross misdemeanor, punishable by up to three hundred sixty-four days in jail and by a fine of not more than five thousand dollars. In addition to the statutory penalties imposed, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.~~

The following section of Washington state law is adopted by reference in all respects, as currently enacted or later amended, as though such section was set forth herein in full:

Chapter 79A.60.040 RCW.

Section 3. 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 4. 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 5. 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 6. 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:

Cleveland Avenue Sewer
Replacement and Stormwater
Separation, Grant Agreement
with Washington State
Department of Ecology

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

COUNCIL BILL # _____
Originating Department Public Works
Contact Person Richard Tarry
Phone Number (425) 257-8922
FOR AGENDA OF May 25, 2016

Initialed by:
Department Head _____
CAA _____
Council President 

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Northeast Everett, Riverside Neighborhood		Ecology Agreement No. WQC-2016-EverPW-00014	Legal, Public Works

Amount Budgeted	\$6,554,400	
Expenditure Required	\$333,333	Account Number(s): UP 3398-29
Budget Remaining	\$6,221,067	
Additional Required	-0-	

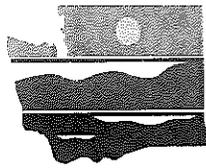
DETAILED SUMMARY STATEMENT:

In 2011, the Cleveland Avenue Sewer Replacement and Stormwater Separation Project (WO# UP 3398-29) was submitted for Washington State Department of Ecology Stormwater Grants which fund stormwater and sewer system improvements that would improve water quality in the Snohomish River and Puget Sound. This project will reduce combined sewer overflows that have been discharging into the Snohomish River. The Department of Ecology has offered grant funding for eligible work associated with this project.

The grant award is \$1,000,000 and requires a local 25% match which is \$333,333. The estimated total cost is \$6,554,400 and includes at least \$1,333,333 in eligible costs. The expiration date of this Agreement is December 31, 2018.

RECOMMENDATION:

Authorize the Mayor to sign the Water Quality Combined Financial Assistance Agreement with the Washington State Department of Ecology to improve water quality in the Snohomish River in the amount of \$1,000,000 with a local share of \$333,333.



DEPARTMENT OF
ECOLOGY
State of Washington

Agreement No. WQC-2016-EverPW-00014

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF EVERETT - PUBLIC WORKS DEPARTMENT

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

GENERAL INFORMATION

Project Title:	Cleveland Ave. Sewer Replacement and Stormwater Separation
Total Cost:	\$6,554,400.00
Total Eligible Cost:	\$1,333,333.00
Ecology Share:	\$999,999.75
Recipient Share:	\$333,333.25
The Effective Date of this Agreement is:	07/01/2015
The Expiration Date of this Agreement is no later than:	12/31/2018
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Snohomish River through installation of a stormwater collection network and stormwater treatment units at Riverside neighborhood between I-5, Route 2 and the Snohomish River in the City of Everett. This project will provide treatment for Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper and Dissolved Zinc and will also reduce flows to Snohomish River by providing stormwater detention.

Project Long Description:

This project primarily reduces Combined Sewer Overflows (CSO) into the Snohomish River from Everett's combined sewer system by providing a separate stormwater collection and treatment system. Stormwater from a fully-developed mix of residential and non-residential area currently discharges into combined sewers where it is conveyed to the wastewater treatment plant. During significant rain events, capacity of the existing combined system is periodically exceeded resulting in discharge of combined sewage into the Snohomish River at SRO4. During 2013, 43 CSO discharge events totaling 6 million gallons were reported at SRO4. In 2014 (January

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

through August), 80 CSO discharge events totaling 6.2 million gallons volume occurred.

This project is the second phase of a two phase project to add drainage pipe and water quality treatment facilities to provide full stormwater separation from a 27 acre combined sewer area. Approximately 30 stormwater treatment units (e.g. Filterra and Contech Stormfilter) and one bioretention swale will be installed. The project also includes 7 acres of combined sewer area, south of Everett Avenue, which will be converted to partial separation with water quality flows continuing to be directed to the RECIPIENT's Water Pollution Control Facility for treatment. Separated and treated stormwater from the full stormwater separation area and higher stormwater flows from the partial separation area will discharge to the Snohomish River. Benefits to the Snohomish River and Puget Sound, including reductions in fecal coliform and TSS will be achieved by reducing the number and severity of CSO events.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

RECIPIENT INFORMATION

Organization Name: City of Everett - Public Works Department

Federal Tax ID: 91-6001248
 DUNS Number: 608909156

Mailing Address: 3200 Cedar St
 Everett, WA 98201

Physical Address: 3200 Cedar St
 Everett, Washington 98201

Organization Email: everettpw@everettwa.gov

Contacts

Project Manager	<p>Dave Voigt</p> <p>3200 Cedar St. Everett, Washington 98201 Email: dvoigt@everettwa.gov Phone: (425) 257-8983</p>
Billing Contact	<p>Suzanne Soule Financial Analyst</p> <p>3200 Cedar St Everett, Washington 98201 Email: ssoule@everettwa.gov Phone: (425) 257-8971</p>
Authorized Signatory	<p>Richard Tarry Engineering Services Manager</p> <p>3200 Cedar St. Everett, Washington 98201 Email: rtarry@everettwa.gov Phone: (425) 257-8922</p>

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

ECOLOGY INFORMATION

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

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

Contacts

<p>Project Manager</p>	<p>Heather Khan 3190 160th Ave SE Bellevue, Washington 98008-5452 Email: hkha461@ecy.wa.gov Phone: (425) 649-7003</p>
<p>Financial Manager</p>	<p>Janel Bistrika P.O. Box 47600 Olympia, Washington 98504-7600 Email: janel.bistrika@ecy.wa.gov Phone: (360) 407-6424</p>
<p>Technical Advisor</p>	<p>Douglas Howie Senior Stormwater Engineer P.O. Box 47600 Olympia, Washington 98504-7600 Email: douglas.howie@ecy.wa.gov Phone: (360) 407-6444</p>

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

Ray Stephanson

Mayor

Date

Attest:

Sharon Fuller, City Clerk

Date

Approved As To Form:

James D. Iles, City Attorney

Date

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

SCOPE OF WORK

Task Number: 1 **Task Cost: \$0.00**

Task Title: Project Administration/Management

Task Description:

- A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).
- B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.
- C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

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

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Dave Voigt

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

SCOPE OF WORK

Task Number: 2 **Task Cost: \$45,333.00**

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT will ensure the following items are completed and provide the associated deliverables to ECOLOGY.

A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.

B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.

C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:

1. Submit a Department of Archaeology and Historic Preservation (DAHP) EZ-1 Form, Ecology Historic and Cultural Resource Project Review Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).

2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found at:

<http://www.ecy.wa.gov/programs/wq/funding/FundPrgrms/CWSRF/CWSRFres/TemplateInadvDiscPlan060915.doc>

Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.

D. The RECIPIENT will develop a project design. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

E. The RECIPIENT will submit one hard copy and one digital copy of the items listed below to ECOLOGY for acceptance. Design figures must be reduced to 11x17 inches in size and must be legible.

1. Design Report. For a complete list of required design report elements refer to:
<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWDesignDeliv081315.pdf>

2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

For current bid inserts refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramBidInsert032515.pdf>

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

For the current bid specification clause refer to:

<http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/SWProgramSpecClauses052912.pdf>

F. The RECIPIENT agrees to respond to ECOLOGY comments prior to proceeding to 90 percent design and/or project advertisement/bid and construction. At its discretion, ECOLOGY may require the RECIPIENT to resubmit revised documents for further ECOLOGY review prior to accepting the project design.

G. All materials submitted to ECOLOGY for acceptance must be approved by the RECIPIENT prior to submittal to ECOLOGY.

H. The RECIPIENT will submit to ECOLOGY a digital copy of the Final Bid Package including: project plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

Recipient Task Coordinator: Dave Voigt

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Complete DAHP EZ-1 Form or Ecology Historic and Cultural Resource Project Review Form; Submit supplemental cultural resources documentation if available. Upload to EAGL and notify ECOLOGY when upload is complete. Cultural Resource surveys should be submitted directly to the ECOLOGY Project Manager and should not be uploaded to the EAGL system.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of Design Report to ECOLOGY Engineer.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 percent Design Plans, Bid Specifications, and Engineer's Estimate. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one hard copy of 90 percent Design Plans, Bid Specifications, and Engineer's Estimate to ECOLOGY Engineer.	
2.8	Responses to ECOLOGY 90 percent Design Plan Comments. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Final Bid Package (Include Project Plans, Specifications, Engineer's Estimate and Project Construction Schedule. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 **Task Cost: \$0.00**

Task Title: Construction Management

Task Description:

- A. The RECIPIENT will provide construction oversight and management of the project.
- B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY before the start of construction. This plan must describe how adequate and competent construction oversight will be performed.
- C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.
- D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The project schedule will be revised and/or updated whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, revised cash flow projections must also be submitted to ECOLOGY.
- E. Prior to execution, the RECIPIENT will submit any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications in writing for ECOLOGY review and acceptance for payment. Ecology must review and accept all change orders that impact grant eligible activities prior to implementation. All other change orders must be reviewed by ECOLOGY for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.
- F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance plan for all stormwater treatment, flow control, and low impact development (LID) features. The operation and maintenance plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The operation and maintenance plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.
- G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:
1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found at: <http://www.ecy.wa.gov/programs/wq/funding/Res/Forms/FY11SWConstCompForm082415.doc>
 2. GIS compatible project area data in an ECOLOGY-approved format.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Dave Voigt

Construction Management**Deliverables**

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Revised Cash Flow Estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.4 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Copy of Facility Operation and Maintenance Plan. Upload to EAGL using naming convention D3.6 OPANDMAINTENANCE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.7	Stormwater Construction Completion Form. Upload to EAGL using naming convention D3.7 SWCONSTRUCTIONCOMPLETIONFORM and notify ECOLOGY when upload is complete.	
3.8	Project Area Shapefile or ECOLOGY-Approved Equivalent. Upload to EAGL and notify ECOLOGY when upload is complete.	

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

SCOPE OF WORK

Task Number: 4 **Task Cost: \$1,288,000.00**

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-reviewed plans and specifications, complete construction of the project. The construction project will include installation of a stormwater collection network and stormwater treatment units to mitigate runoff from a minimum of 27 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix N of the funding guidelines for State Fiscal Year 2016 Combined Water Quality Financial Assistance Program or other ECOLOGY-approved method.

Task Goal Statement:

Project will be constructed in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in (LIST PARAMETERS FROM SHORT PROJECT DESCRIPTION)

Recipient Task Coordinator: Dave Voigt

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in quarterly reports.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

BUDGET

Funding Distribution EG160705

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

Funding Title: Stormwater Financial Assistance Program (SFFunding Type: Grant
 Funding Effective Date: 07/01/2015 Funding Expiration Date: 12/31/2018

Funding Source:

Title: SFAP - SFY16
 Type: State
 Funding Source %: 100%
 Description: Environmental Legacy Stewardship Account (ELSA) - State

Approved Indirect Costs Rate: Approved State Indirect Rate: 25%
 Recipient Match %: 25%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

Stormwater Financial Assistance Program (SFAP)	Task Total
Project Administration/Management	\$ 0.00
Design Plans and Specs, Environmental Review	\$ 45,333.00
Construction Management	\$ 0.00
Construction	\$ 1,288,000.00

Total: \$ 1,333,333.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Stormwater Financial Assistance Program (SFAP)	25.00 %	\$ 333,333.25	\$ 999,999.75	\$ 1,333,333.00
Total		\$ 333,333.25	\$ 999,999.75	\$ 1,333,333.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY’s ADMINISTRATIVE REQUIREMENTS FOR RECIPIENTS OF ECOLOGY GRANTS AND LOANS at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defeasement” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

“Ecology Administration of Grants and Loans” or “EAGL” means the electronic system Ecology uses to manage grants and loans.

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY's Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account of that name created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed.

“Project Schedule” means that schedule for the project specified in the agreement.

“Reserve Account” means, for a loan that constitutes Revenue-Secured Debt, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

State of Washington Department of Ecology

Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments shall include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to ECOLOGY.

B. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY’s Water Quality Program funding website.

C. Cultural and Historic Resources Protection Compliance with Environmental Laws and Regulations. The RECIPIENT shall:

1) The RECIPIENT shall comply with all applicable federal, state and local environmental laws, statutes, regulations, executive orders, and permits.

2) The RECIPIENT shall comply with Ecology’s Archaeological Resource and Historic Property review process. The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin

State of Washington Department of Ecology

Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

until provisions of this process are complied with. The RECIPIENT is responsible for developing a complete Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery. The RECIPIENT shall implement the procedures in the IDP, and immediately notify ECOLOGY, the Department of Archeology and Historic Preservation (DAHP), and tribal representatives if human remains, cultural, or archeological resources are discovered in the course of construction. For more details regarding requirements under this provision, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State's Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the registration process online at <http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process also allows The RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If The RECIPIENT have questions about the vendor registration process or setting up direct deposit payments contact DES at the Payee Help Desk at (360) 664-7779 or payeehelpdesk@des.wa.gov.

E. Equipment Purchase: Equipment not included in the scope of work or a construction plan and specification approval must be pre-approved by ECOLOGY's project manager before purchase.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3 for Section 319 funded projects or 7 for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY upon request.

G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State. However, ECOLOGY may accept as eligible technical assistance, proposed practices, or project designs that do not meet these standards if approved in writing by the NRCS and ECOLOGY.

SECTION 3: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND ONLY CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. Clean Water Act Section 319 Initial Data Reporting Sheet or the "Section 319 Initial Data Reporting" form in EAGL.

A. Data Reporting: The RECIPIENT must complete and submit the "Clean Water Act Section 319 Initial Data Reporting Sheet" form in EAGL prior to Ecology signing the agreement.

B. Load Reduction Reporting: The RECIPIENT shall complete the "Section 319 Annual Load Reduction Reporting" form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on pollutant load reduction for each best management practice (BMP) installed as a part of this project.

C. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA's assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

B. Archaeological Resources and Historic Properties (Section 106): See Section 2.C of the terms and conditions of this agreement, the RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800)

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

C. Consultant Cap: The RECIPIENT shall ensure that grant or loan funds provided under this agreement to be used to reimburse for costs incurred by individual consultants (excluding overhead) is limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed. Contracts for services awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the RECIPIENT with responsibility for the selection, direction, and control of the individuals who shall be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.36(j) for additional information.

D. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTs shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that the organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

E. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including, but not limited to Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part, and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTs, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.

2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.

3) Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.

4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.

5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT also agrees to submit ECOLOGY's MBE/WBE participation report "Form D" with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

F. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology's Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

“This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

G. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a

H. Trafficking In Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons during the period of time this agreement is effective. This includes, but is not limited to the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

SECTION 5: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Opinion of RECIPIENT's Legal Council
2. Authorizing Ordinance or Resolution
3. Federal Funding Accountability and Transparency Act (FFATA) Form
4. State Revolving Fund (SRF) Federal Reporting Information form available in EAGL
5. Fiscal Sustainability Plan Certification (only required if the project includes construction of a wastewater or stormwater facility construction.)

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a “treatment works” as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves,

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager before this agreement will be signed by ECOLOGY.

D. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

E. Free Service: The RECIPIENT shall not furnish utility service to any customer free of charge if providing that free service affects the RECIPIENT's ability to meet the obligations of this agreement.

F. Insurance: The RECIPIENT shall at all times carry fire and extended coverage, public liability and property damage, and such other forms of insurance with responsible insurers and with policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

G. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments semiannually over the term of this loan "Loan Term" as outlined in this agreement.

H. Loan Repayment:

Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all of the other agreements and obligations on its part contained herein shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

- (i) The Loan Amount with interest
- (ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology
 Cashiering Unit
 P.O. Box 47611
 Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a formal amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the Fiscal Office.

I. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Reserve Requirement: For loans that are Revenue-Secured Debt with terms greater than five years, the RECIPIENT must accumulate a reserve for the loan equivalent to at least the Average Annual Debt Service on the loan during the first five years of the repayment period of the loan. This amount shall be deposited in a Reserve Account in the Loan Fund in approximately equal annual payments commencing within one year after the initiation of operation or the project completion date, whichever comes first.

“Reserve Account” means, for a loan that constitutes Revenue-Secured Debt, an account of that name created in the Loan Fund to secure the payment of the principal and interest on the loan. The amount on deposit in the Reserve Account may be applied by the RECIPIENT (1) to make, in part or in full, the final repayment to ECOLOGY of the loan amount or, (2) if not so applied, for any other lawful purpose of the RECIPIENT once the Loan Amount, plus interest and any other amounts owing to ECOLOGY, have been paid in full.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the loan Fund and used to pay the principal of and interest on the loan. The ULID Assessments in the ULID may be deposited into the Reserve Account to satisfy a Reserve Requirement if a Reserve Requirement is applicable.

J. Maintenance and Operation of a Funded Utility: The RECIPIENT shall at all times maintain and keep a funded Utility in good repair, working order and condition and also shall at all times operate the Utility and the business in an efficient manner and at a reasonable cost.

K. Opinion of RECIPIENT’s Legal Counsel: The RECIPIENT must submit an “Opinion of Legal Counsel to the RECIPIENT” to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

L. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and make such records available for review upon request.

M. Litigation; Authority: No litigation is now pending, or to the RECIPIENT’s knowledge, threatened, seeking to restrain, or enjoin:

(i) the execution of this agreement; or

(ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or

(iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or

(iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

N. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT which has not been disclosed in writing to ECOLOGY.

Existence Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

O. Sale or Disposition of Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the Utility or any real or personal property comprising a part of the Utility unless:

1. The facilities or property transferred are not material to the operation of the Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the Utility or are no longer necessary,

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

material, or useful to the operation of the Utility; or

2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the Utility; or

3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.

4. Expressed written agreement by ECOLOGY.
The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

P. Sewer-Use Ordinance or Resolution: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater.
- 3) Require that new sewers and connections be properly designed and constructed.
- 4) Require connections necessary to meet debt obligations associated with the planning and construction of this facility as well as the expected costs of operation and maintenance.

Q. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration shall incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff)

State of Washington Department of Ecology

Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

R. User-Charge System: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the utility, to establish a reserve to pay for replacement, to establish the required Loan Reserve Account, and to repay the loan.

WQC TERMS AND CONDITIONS LAST UPDATED 12/15/2015

GENERAL FEDERAL CONDITIONS

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

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

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

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

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

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

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

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

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

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

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

State of Washington Department of Ecology
Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

GENERAL TERMS AND CONDITIONS

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

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT’s activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

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

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

4. ASSIGNMENT

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

5. COMMUNICATION

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

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

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

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

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

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

8. CONFLICT OF INTEREST

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

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

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

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

10. DISPUTES

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

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

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

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

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

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

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

11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

12. GOVERNING LAW

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

13. INDEMNIFICATION

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

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

14. INDEPENDENT STATUS

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

15. KICKBACKS

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

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

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

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

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

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved

Agreement No: WQC-2016-EverPW-00014
Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
Recipient Name: City of Everett - Public Works Department

by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

19. PROGRESS REPORTING

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

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic

State of Washington Department of Ecology
 Agreement No: WQC-2016-EverPW-00014
 Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation
 Recipient Name: City of Everett - Public Works Department

materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.

d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.

e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:

a. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.

b. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.

g) Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

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

All records shall:

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

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

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

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

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

22. RECOVERY OF FUNDS

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

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

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

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

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

23. SEVERABILITY

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

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

25. SUSPENSION

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

26. SUSTAINABLE PRACTICES

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

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

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

27. TERMINATION

a) For Cause

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

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

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

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

b) For Convenience

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

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

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

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

c) By Mutual Agreement

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

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other

State of Washington Department of Ecology

Agreement No: WQC-2016-EverPW-00014

Project Title: Cleveland Ave. Sewer Replacement and Stormwater Separation

Recipient Name: City of Everett - Public Works Department

materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

28. THIRD PARTY BENEFICIARY

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

29. WAIVER

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

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/25/2015

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Award the Bid for the Hawthorne Elementary Safe Routes to School Project to Pellco Construction, Inc.

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

COUNCIL BILL # _____
 Originating Department Public Works
 Contact Person Ryan Sass
 Phone Number (425) 257-8942
 FOR AGENDA OF June 1, 2016

Initialed by:
 Department Head _____
 CAA _____
 Council President 

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Hawthorne Elementary School	Call for Bids 5/13/15	Bid Summary	Public Works

Amount Budgeted	\$ 378,958.25	
Expenditure Required	\$ 378,958.25	Account Number(s): PW 3540
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

Construction bids for the Hawthorne Elementary Safe Routes to School Project opened on April 12, 2016 and two bids were received. The lowest responsive and responsible bid was from Pellco Construction, Inc. for \$378,958.25 including Washington State sales tax.

This project will construct pedestrian safety improvements in the vicinity of Hawthorne Elementary School in North Everett. The improvements will include sidewalk, curb, gutter, crosswalk markings, curb ramps, flashing beacons, educational materials and speed emphasis patrols.

The funding sources for this project are:

Federal Grant – Safe Routes (TAP(SR))	\$200,000.00
Fund 119 – Street Improvements	<u>\$178,958.25</u>
Total Funds:	\$378,958.25

RECOMMENDATION (Exact action requested of Council):

Award the bid for the Hawthorne Elementary Safe Routes to School Project to Pellco Construction, Inc. in the amount of \$378,958.25 including Washington State sales tax.

BID SUMMARY

HAWTHORNE ELEMENTARY SAFE ROUTES TO SCHOOL

W.O.#PW 3450 FED. AID # SRTS-0420(021)

Date 4/13/2016

For: Grace Kane, Project Engineer

Bidder Name:	Bidder Totals:
ENGINEER'S ESTIMATE	\$389,450.00
Pellco Construction Inc.	\$378,958.25
Kamins Construction Inc.	\$387,783.74
#REF!	#REF!
#REF!	#REF!
Bidder #5	\$0.00
Bidder #6	\$0.00
Bidder #7	\$0.00
Bidder #8	\$0.00

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Riverfront Development _____ Briefing
 Sanitary Sewer Lift Station _____ Proposed Action
 Improvements Project- Change _____ Consent
 Order #5 with McClure & _____ X Action
 Sons, Inc. _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # _____
 Originating Department Public Works
 Contact Person Tom Fuchs
 Phone Number 425-257-8931
 FOR AGENDA OF June 1, 2016

Initialed by:
 Department Head _____
 CAA _____
 Council President 

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Riverfront Site at 36 th Street and on Landfill	Bid 3/3/15 Award 3/25/15 CO #1 1/22/16 CO #2 2/1/16 CO #3 4/8/16 CO #4 5/9/16	Change Order #5	Public Works

Amount Budgeted	\$6,500,000.00	Account Number(s): UP 3597 / RD 3314
Expenditure Required	\$82,246.09	
Budget Remaining	\$250,000.00	
Additional Required	\$0.00	

DETAILED SUMMARY STATEMENT:

The Riverfront Development Sanitary Sewer Lift Station Improvements Project includes construction of new sewage Lift Station 43 (LS43) and reconstruction of existing Lift Station 33 (LS33). LS33 is located at 36th Street and Eclipse Mill Road and LS43 is located at the 41st Street extension and roundabout.

Change Order #5 adds money to LS33 and LS43 force account bid items to reimburse overruns and pay for future force account work, pays for cost differences for instrumentation changes at LS33 and LS43, approves installation of additional electrical work at LS33 not accounted for in the plans or specifications, and removes the drywall work at LS33 and LS43 Control Building.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign Change Order #5 with McClure & Sons, Inc. for the Riverfront Development Sanitary Sewer Lift Station Improvements Project in the amount of \$82,246.09, not including Washington State sales tax.

**CITY OF EVERETT
Change Order**

Project Title Riverfront Development Sanitary Sewer Lift Station Improvements

Department Public Works Construction Management

Work Order No. RD 3314-21, UP 3597-3

Contractor: McClure & Sons, Inc.

Contract Award Date: March 25, 2015

City Staff Contact: Keith Alewine

Change Order No. 5

Change Order Effective Date April 22, 2016

CONTRACT PRICE (exclusive of Wash. State Sales Tax)

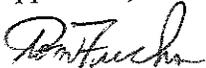
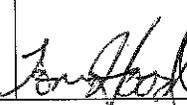
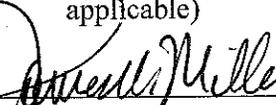
Original contract price	\$5,372,126.00
Cumulative Amount of prior change orders	\$602,465.58
Total Contract Price including prior change orders	\$5,974,591.58
Amount of this Change Order	\$82,246.09
Total Contract Price including this Change Order	\$6,056,837.67

CONTRACT TIME

Original Contract Duration 275	Working Days <input checked="" type="checkbox"/>
Date of Notice to Proceed	May 11, 2015
Cumulative adjustment to duration by <i>prior</i> Change Orders	42
Adjustment to duration by <i>this</i> Change Order	2
New Contract Duration (<i>including</i> this Change Order)	319

Contractor and City agree as follows:

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

CITY			
_____ Mayor Date: _____	Attest: _____ City Clerk Date: _____	Approved As to Form: _____ City Attorney Date: _____	
Recommended By:			
Construction Manager (if applicable) 	Project Engineer (if applicable) 	Engineering Manager (if applicable) 	Department Director

<i>Ponterchia</i> Date: <u>5/12/16</u>	Date: _____	Date: _____	Date: _____
CONTRACTOR			
By <i>[Signature]</i> Officer		Date: <u>5/5/16</u>	

Exhibit A—Description of Changed Work

This change order # 5 adds three (3) new bid items to Schedule “A”, adds two (2) new bid items to Schedule “B” , modifies one (1) existing bid item in Schedule “A”, and modifies one (1) existing bid items in Schedule “B” as shown below.

Added Bid Items

Schedule “A” Bid Item # 205 – Lift Station 33 Electrical and Instrument Modifications. Add new bid item # 205, entitled “Lift Station 33 Electrical and Instrument Modifications” at the agreed to lump sum price of \$3,022.24, resulting in a \$3,022.24 increase to the Contract price.

Schedule “A” Bid Item # 206 – Lift Station 33-Eliminate Gypsum Wallboard. Add new bid item # 206, entitled “Lift Station 33-Eliminate Gypsum Wallboard” at the agreed to cost credit of \$10,300.00, resulting in a \$10,300.00 decrease to the Contract price.

Schedule “A” Bid Item # 207 – Lift Station 33 PUD Power Installation. Add new bid item # 207, entitled “Lift Station 33 PUD Power Installation” at the agreed to lump sum price of \$9,501.61, resulting in a \$9,501.61 increase to the Contract price.

Schedule “B” Bid Item # 107 – Lift Station 43 Electrical and Instrument Modifications. Add new bid item # 107, entitled “Lift Station 43 Electrical and Instrument Modifications” at the agreed to lump sum price of \$3,022.24, resulting in a \$3,022.24 increase to the Contract price.

Schedule “B” Bid Item # 108 – Lift Station 43-Eliminate Gypsum Wallboard. Add new bid item # 108, entitled “Lift Station 43-Eliminate Gypsum Wallboard” at the agreed to cost credit of \$3,000.00, resulting in a \$3,000.00 decrease to the Contract price.

Modified Bid Items

Schedule "A" Bid Item # 22 – Force Account. Modify existing bid item # 22 entitled, "Force Account" by adding \$40,000.00 to the Contract, resulting in a \$40,000.00 increase to the Contract price.

Schedule "B" Bid Item # 104 – Force Account. Modify existing bid item # 104 entitled, "Force Account" by adding \$40,000.00 to the Contract, resulting in a \$40,000 increase to the Contract price.

Exhibit B—Justification

Schedule "A" Bid Item # 205 – Lift Station 33 Electrical and Instrument Modifications.

Schedule "B" Bid Item # 107 – Lift Station 43 Electrical and Instrument Modifications.

The City of Everett directed the contractor to install different instrumentation equipment than was required in the contract. These bid items are being added to account for costs to pay for instrumentation equipment to be installed, minus credits to the City of Everett for materials originally specified for this work at Lift Station 33 and 43.

Schedule "A" Bid Item # 206 – Lift Station 33-Eliminate Gypsum Wallboard.

Schedule "B" Bid Item # 108 – Lift Station 43-Eliminate Gypsum Wallboard.

The City of Everett directed the contractor to eliminate Gypsum Wallboard from the Contract because it is not a necessary material for the inside of a Sewer Lift Station Structure. The Contractor is providing an equitable adjustment cost credit to the City of Everett for the elimination of Gypsum Wallboard, and these bid items are being added to account for those cost credits.

Schedule "A" Bid Item # 207 – Lift Station 33 PUD Power Installation. Snohomish County PUD required the installation of electrical conduit, and vaults before they would agree to provide power to Lift Station 33. This bid item is being added to account for costs to pay for work required by PUD.

Schedule "A" Bid Item # 22 – Force Account.

Schedule "B" Bid Item # 104 – Force Account.

These bid items have overrun their plan quantities and are being modified to account for and pay for costs incurred by the quantities overrun plus future increases to these bid items.

This Change Order # 5 results in an increase to the Contract price of \$82,246.48.

Exhibit C—Contract Time

Two (2) working days are added to the Contract time resulting from Change Order # 5 to account for additional electrical power work that was not part of the Contract.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

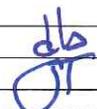
Select Low Barrier Supportive Housing Service Provider and Authorize Mayor to Sign Exclusive Negotiating Agreement

Consent Action 6/1/16
 First Reading
 Second Reading
 Third Reading Briefing

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

Planning/Legal/Purchasing
 Becky Abelman McCrary
 David Hall
 Clark Langstraat
 425-257-7113
 425-257-8624
 425-257-8901
 June 1, 2016

Initialed by:
 Department Head
 CAA
 Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Near Pecks Drive & Evergreen Way	Streets Initiative, Request for Qualifications May 11, 2016	Draft Exclusive Negotiating Agreement	Planning, Legal, Administration, Purchasing

Amount Budgeted	TBD	
Expenditure Required	TBD	
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

As part of the City's Safe Streets initiative, the City intends to facilitate the construction of a supportive low-barrier housing facility to house chronically homeless individuals. The preferred location is on property currently owned by the City near Reservoir 3, located near the intersection of Pecks Drive and Evergreen Way, subject to completion of environmental review required by state and federal law.

On May 11, 2016 the City Council authorized the issuance of a Request for Qualifications (RFQ) for the purpose of selecting a provider with experience developing and operating such facilities. Submittals were due no later than May 31, 2016. At the Council meeting on June 1, 2016, City staff will discuss the results of the submittals and will make a selection recommendation. As part of the selection recommendation, City staff will recommend that the City enter into an exclusive negotiating agreement with the selected provider. Attached is the draft agreement, which sets up a nine month period for City staff and the selected provider to negotiate the agreements necessary to transfer (or lease) property and to operate the facility. After the negotiations are completed, the agreements will be brought to Council for approval. It should be emphasized that the exclusive negotiating agreement does not obligate the City to transfer the property. It only obligates the City to talk exclusively with the selected provider for nine months, after which the City is free to do whatever it wants.

The reason for the accelerated pace of this RFQ selection is to coordinate this action with the Everett Housing Authority's Request for Proposals currently on the street for Section 8 Vouchers. The proposal deadline for that competition is mid-June 2016, and it would be very beneficial for the financing of the City project if the City-selected provider could succeed in that competition. Accordingly, it makes sense for the City to select a provider now, so that the selected provider can represent in its proposal for Section 8 Vouchers that it is the City's selected provider and has secured exclusive negotiating rights for the property.

RECOMMENDATION:

Select Low Barrier Supportive Housing Provider and Authorize the Mayor to Sign an Exclusive Negotiating Agreement with the Selected Provider in Substantially the Form Provided.

EXCLUSIVE NEGOTIATING AGREEMENT

This Exclusive Negotiating Agreement (the "*Agreement*") dated and effective as of June ___, 2016, is by and between the CITY OF EVERETT, a Washington municipal corporation (the "*City*") and _____, a _____ ("*Low Barrier Service Provider*").

RECITALS

A. As part of the City's Safe Streets initiative, the City intends to facilitate the construction of a supportive low-barrier housing facility to house chronically homeless individuals (the "*Housing Facility*"). The preferred location is on property currently owned by the City near Reservoir 3, located near the intersection of Pecks Drive and Evergreen Way (the "*Property*"), subject to completion of environmental review required by state and federal law. The Property is approximately shown in the attached Exhibit A.

B. The Housing Facility is intended to include approximately 60 to 70 residential units, office space for on-site support services for the residents (for example, case management, chemical dependency counseling, mental health treatment, and medical care), and front-desk staff to provide 24 hour, seven-days-per-week secure access. A portion of the units will be reserved for individuals identified through the City's CHART (chronic utilizer alternative response team) program.

C. On May 11, 2016, the City Council directed the City to issue a Request for Qualifications (the "*RFQ*"), for the purpose of selecting a provider with experience developing and operating such facilities and for purpose of entering into contract negotiations with the selected provider.

D. The RFQ submittals were due no later than May 31, 2016. Based on the submissions, City staff has recommended that City Council select Low Barrier Service Provider and that the City begin contract negotiations with Low Barrier Service Provider.

E. The purpose of the Agreement is to confirm Low Barrier Service Provider's selection and to create a framework for upcoming contract negotiations, which are anticipated to require no more than nine months, beginning on the effective date of this Agreement (the "*Negotiation Period*").

AGREEMENT

The parties agree as follows:

A. Contract Negotiations

The City and Low Barrier Service Provider agree for the Negotiation Period to negotiate diligently and in good faith to negotiate the following agreements (the “*Negotiated Agreements*”):

1. Property Land Transfer or Lease Agreement. The City and Low Barrier Service Provider will negotiate a land transfer or lease agreement, under which the City will transfer the Property to Low Barrier Service Provider, by deed or ground lease or other mechanism. The agreement will include the design of the Housing Facility or specific design parameters, so that the City and Low Barrier Service Provider clearly understand what will be built.

a) Low Barrier Service Provider acknowledges that, if the Property is transferred to the Low Barrier Service Provider in fee, the City will require that the Property be subject to covenants perpetually binding the property to be exclusively used for low-barrier supportive housing and activities in support of low-barrier supportive housing, and the City will require that any deed of trust or other lien be expressly subordinated to those covenants.

b) Low Barrier Service Provider acknowledges that, if the Property is transferred to the Low Barrier Service Provider in a ground lease, the City will require that the ground lease restrict the use of Property to exclusive use for low-barrier supportive housing and activities in support of low-barrier supportive housing, and the City will require that any deed of trust or other lien be expressly subordinated to those ground lease provisions.

2. Housing Facility Operation Agreement. The City and Low Barrier Service Provider will negotiate an agreement for the operation of the Housing Facility. This agreement will include, among other things, the scope of services to be provided, the population to be served, and related matters. In addition, the City anticipates that the operation agreement will include a certain number of guaranteed beds in the facility for persons designated by the City. The goal will be to negotiate an agreement that allows the City to get the needed services from the Project, while at the same time preserving the Housing Facility’s long-term financial feasibility for the Low Barrier Service Provider.

B. Exclusive Negotiation / Duration of Agreement

1. Exclusive. The City agrees for the Negotiation Period not to negotiate with any other person or entity regarding the sale, lease or development of the Property or any portion the Property or regarding the Housing Facility. Nothing in this Agreement shall prevent or constrain the City from continuing the City’s current use of the Property

and its currently existing improvements.

2. Termination of Agreement. This Agreement automatically terminates upon expiration of the Negotiation Period.

C. Limitations / No Liability if Negotiated Agreements Are Not Executed

By its execution of this Agreement, the City is not committing itself to or agreeing to undertake the transfer of the Property to Low Barrier Service Provider. This Agreement does not constitute a transfer or other disposition of the Property. Execution of this Agreement by the City is only an agreement to enter into a period of exclusive negotiation according to the terms of this Agreement, reserving final and complete discretion to the City Council as to the final approval of the Negotiated Agreements.

Neither party to this Agreement has any claim against the other party in the event that the Negotiated Agreements are never executed. For example, this means that any funds spent by either party in anticipation the execution of the Negotiated Agreements are spent at the sole risk of the spending party.

D. Notices

All notices under this agreement shall be delivered to the following addresses, which may be changed upon written notice:

City:

Becky Abelman McCrary
City of Everett
2930 Wetmore Avenue,
Everett, WA 98201

Low Barrier Service Provider:

E. Real Estate Commissions

The City warrants that it has not engaged any broker, agent or finder in connection with this transaction, and the City will indemnify, defend and hold harmless Low Barrier Service Provider from any claim by a broker, agent or finder alleging to be retained by the City relating to the Property. The Low Barrier Service Provider warrants that it has not engaged any broker, agent or finder in connection with this transaction, and the Low Barrier Service Provider will indemnify, defend and hold harmless City from any claim by a broker, agent or finder alleging to be retained by the Low Barrier Service Provider relating to the Property.

F. General Provisions

This Agreement is not assignable by either party. This Agreement is governed by the law of State of Washington. Exclusive venue for disputes is Snohomish County Superior Court. No provision of this Agreement shall be construed against any party by reason of such party's drafted the provision. Except for the RFQ issued by the City, this Agreement constitutes the entire understanding and agreement of the parties and supersedes any prior negotiations, discussions and previous agreements between City and Low Barrier Service Provider concerning the subject matter of this Agreement. No modification to this Agreement shall be made except by a written agreement executed by the Mayor of the City and by an authorized signer for Low Barrier Service Provider.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates below their respective signatures, to be effective as of the date entered first above.

CITY:

CITY OF EVERETT,
a Washington municipal corporation

By: _____
Name: Ray Stephanson
Title: Mayor

Approved as to form:

Attest:

City Attorney

City Clerk

LOW BARRIER SERVICE PROVIDER: _____,
a _____

By: _____
Name: _____
Title: _____

EXHIBIT A

THE PROPERTY



The Property is approximately bounded by the red box. The parties acknowledge that the final size and orientation of the Property may be different than as shown.