

# Everett City Council Agenda

## 6:30 P.M. June 29, 2016

### City Council Chambers

Roll Call

Approval of Minutes: June 22, 2016

Pledge of Allegiance

Mayor's Comments

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

Citizen Comments

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

(1) CB 1606-27- 1st Reading – Adopt the Proposed Ordinance adopting and modifying changes to the Everett City Charter as recommended by the Charter Review Committee, adding new changes, and directing the submittal of these changes to the Snohomish County Auditor for placement on the ballot for November 8, 2016, for consideration by the voters of the City of Everett. (3rd and final reading and public hearing on 7-13-16)

Documents: [CB 1606-27.pdf](#)

CONSENT ITEMS:

(2) Adopt Resolution No. \_\_\_\_ authorizing claims against the City of Everett in the amount of \$ 1,374,072.07 for the period of June 11, 2016 through June 17, 2016.

Documents: [res-92.pdf](#)

(3) Adopt Resolution No. \_\_\_\_ authorizing payroll claims against the City of Everett in the amount of \$3,798,371.70 for the period ending June 11, 2016.

Documents: [payroll-63.pdf](#)

(4) Authorize the closure of a portion of Ridgemont Drive, on July 9, 2016, 3 p.m. to 7 p.m., for a block party.

Documents: [Ridgemont-1.pdf](#)

PUBLIC HEARING:

(5) Adopt a Resolution adopting the Annual Transportation Improvement Program (TIP) update for 2017-2022.

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

ACTION ITEMS:

(6) Award Bid 2016-019 for an Asphalt Patch Body to PB Loader Corporation in the amount of \$173,148.61 including Washington State sales tax.

Documents: [PB Loader.pdf](#)

(7) Authorize the purchase of Toro equipment from Washington State Contract 10212 in the amount of \$105,005.27 including Washington State sales tax.

Documents: [Toro.pdf](#)

(8) Authorize the Mayor to sign First Amendment to the Parking Management Agreement with the Downtown Everett Association for management services at EverPark Garage.

Documents: [Everpark.pdf](#)

(9) Adopt Resolution and Authorize the Mayor to sign Purchase and Sale Agreement with SSLM Properties LLC, in substantially the form as attached and take all other actions necessary for the acquisition of property located at 3600 Smith Avenue in the amount of \$4,000,000.00 plus closing costs.

Documents: [SSLM.pdf](#)

(10) Authorize the Mayor to sign the Mountain Workshops Program Agreement to provide a workshop to Everett Parks and Recreation Adventure day camp participants.

Documents: [Mountain Workshop.pdf](#)

(11) Authorize the Mayor to sign the Application and Agreement with the Washington State Department of Agriculture for Limited Agent Status for aquatic noxious weed control.

Documents: [Agriculture.pdf](#)

(12) Authorize the Mayor to sign the Professional Services Agreement with Perteet, Inc. for biological evaluation supporting the permitting of shoreline improvements at the Green Lantern parcel at Silver Lake in the amount of \$3,518.00.

Documents: [Green Lantern.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](http://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.

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EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

Ordinance adopting and modifying changes to the Everett City Charter as recommended by the Charter Review Committee, adding new changes, and directing the submittal of these changes to the Snohomish County Auditor for placement on the ballot for November 8, 2016, for consideration by the voters of the City of Everett.

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

COUNCIL BILL # CB160627  
 Originating Department Administration  
 Contact Person Bob Bolerjack  
 Phone Number 425-257-8727  
 FOR AGENDA OF June 29, 2016

Initialed by:  
 Department Head \_\_\_\_\_  
 CAA db  
 Council President \_\_\_\_\_

**Location**                      **Preceding Action**                      **Attachments**                      **Department(s) Approval**  
 Resolution No. 6926                      Ordinance                      Administration, Legal

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

**DETAILED SUMMARY STATEMENT:**

On May 26, 2016, the Charter Review Committee submitted to the Mayor and City Council its proposed changes to the Everett City Charter. These changes are included in this Ordinance for consideration by City Council.

These changes and additions include:

- Changes to Section 3.2 regarding City Council meetings, eliminating the requirement that Council meet weekly and making the section consistent with state law and not redundant with state law
- Elimination of outdated language (“hereof”, “thereof”, “heretofore” and the like) and replacement with modern, equivalent language
- Addition of section regarding appointments to City boards, commissions and committees, stating that appointments should consider factors such as geography, gender, ethnicity and age in an effort to better reflect the City’s diversity

**RECOMMENDATION (Exact action requested of Council):**

Authorize the Mayor to sign an Ordinance adopting and modifying changes to the Everett City Charter as recommended by the Charter Review Committee, adding new changes, and directing the submittal of these changes to the Snohomish County Auditor for placement on the ballot for November 8, 2016, for consideration by the voters of the City of Everett.

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

**AN ORDINANCE** of the Everett City Council approving changes to the City Charter to be considered in an election by the residents of Everett and requesting that the Snohomish County Auditor place these Charter ballot measures on the November 8, 2016, General Election.

**WHEREAS**, the Everett City Charter was adopted at a Special Election held June 25, 1968, and amended in 1978, 1982, 1996, and 2006;

**WHEREAS**, the Charter Review Committee was formed to examine the Charter and recommended any changes it felt appropriate; and

**WHEREAS**, the Charter Review Committee met over a period of months and did examine the Charter; and

**WHEREAS**, the Charter Review Committee's evaluation culminated in recommended changes; and

**WHEREAS**, the Council has reviewed the recommended changes to the Charter and, with some modifications and additions, wishes to place these proposed changes on the November 8, 2016 ballot for consideration by the residents of Everett;

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

**Section 1:** The Snohomish County Auditor, as ex officio supervisor of all elections held in Snohomish County, is requested to place the proposed Everett City Charter changes specified below on the ballot for the November 8, 2016, General Election. This request is made in accordance with the authority invested in the City as set forth in Section 16.1 of the City Charter which reads (in part) as follows:

**Amendments Proposed by the Council.**

The council may at any general or special municipal election submit in the form of an ordinance any proposed amendment or amendments to this charter, to be voted upon at such election by the electors...

**Section 2:** The City Attorney is hereby authorized and directed to take action with respect to the proposed changes to the Everett City Charter so that the propositions which below follow each proposed change are:

- A. Consolidated by subject so as the total number of propositions on the ballot are reduced in number, if possible;
- B. Formulated in compliance with state law applicable to local measures (RCW 29A.36.071); and

The City Attorney shall transmit such reformulated and condensed propositions to the Clerk of the City of Everett. The Clerk is authorized and directed to certify to the Snohomish County Auditor the proposed Everett City Charter changes as specified below and as formulated and condensed by the City Attorney. The City Attorney and City Clerk are also each authorized to take whatever additional actions are necessary for the placement of such changes on the November 8, 2016 ballot.

**Section 3:** Changes to Section 3.2. Section 3.2 of the Everett City Charter, which reads as follows:

The city council shall meet regularly, at least once each week at the city hall within the corporate limits of the city at such times as may be fixed by ordinance or resolution. At least one of such regular meetings shall be held each month in the evening after 6:30 p.m. Special meetings may be called by the mayor, the president of the council, or any three members of the council by written notice delivered to each member of the council at least twelve hours before the time specified for the proposed meeting. All council meetings shall be open to the public, except that the council may hold executive sessions from which the public is excluded for purposes other than the final adoption of an ordinance, resolution, rule, regulation, or directive. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting, the date of which is not fixed by ordinance, resolution or rule, unless public notice of such meeting has been given by such notice to the local press, radio, and television, as will be reasonably calculated to inform inhabitants of the city of the meeting. Meetings of the council shall be presided over by the president, selected annually by a majority vote of the council, or in the absence of the president, by a member of the council selected by a majority of the members present at such meeting. Appointment of a council member to preside over the meeting shall not in any way abridge his right to vote on matters coming before the council at such meeting. In the absence of the clerk, or deputy clerk or other qualified person appointed by the clerk, the mayor, or the council, may perform the duties of clerk at such meeting. A journal of all proceedings shall be kept, which shall be a public record.

**is recommended to be changed to:**

The City Council shall meet regularly, ~~at least once each week~~ at the City Hall within the corporate limits of the City at such times as may be fixed by ordinance or resolution. At least one of such regular meetings shall be held each month in the evening after 6:30 p.m. Special and emergency meetings may be called ~~by the mayor, the president of the council, or any three members of the council~~ by written notice delivered to each member of the council at least twelve hours before the time specified for the proposed meeting in accordance with State law. All Council meetings shall be open to the public, except that the Council may hold executive sessions from which the public is excluded in accordance with state law, including the Open Public Meetings Act (Chapter 42.30 RCW), ~~for purposes other than the final adoption of an ordinance, resolution, rule, regulation, or directive. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting, the date of which is not fixed by ordinance, resolution or rule, unless public notice of such meeting has been given by such notice to the local press, radio, and television, as will be reasonably calculated to inform inhabitants of the city of the meeting.~~ Meetings of the Council shall be presided over by the President, selected annually by a majority vote of the Council, or in the absence of the President, by a member of the Council selected by a majority of the members present at such meeting. Appointment of a Council Member to preside over the meeting shall not in any way abridge his or her right to vote on matters coming before the Council at such meeting. In the absence of the Clerk, or Deputy Clerk or other qualified person appointed by the Clerk, the Mayor, or the Council, may perform the duties of Clerk at such meeting. A record journal of all proceedings shall be kept, ~~which shall be a public record.~~

**PROPOSITION # 1**

Shall Everett City Charter Section 3.2 be changed to eliminate the weekly council meeting requirement and to eliminate inconsistency and redundancy with State Law?

CHARTER CHANGE	YES..... <input type="checkbox"/>
CHARTER CHANGE	NO..... <input type="checkbox"/>

**Section 4:** Change to Section 15.9. Section 15.9 of the Everett City Charter which reads as follows:

The City Clerk and the codifiers of this Charter are authorized to make necessary corrections to this Charter including, but not limited to, deletion of the use of terms which are masculine or feminine so that such references shall apply to the opposite gender also, unless the context of such charter provision shall require otherwise, the correction of scrivener, clerical and typographical errors, references, Charter numbering, Section/subsection numbers and any references thereto.

**is recommended to be changed to:**

The City Clerk and the codifiers of this Charter are authorized to make necessary corrections to this Charter including, but not limited to, deletion of the use of terms which are masculine or feminine so that such references shall apply to the opposite gender also, unless the context of such charter provision shall require otherwise, the correction of scrivener, clerical and typographical errors, references, Charter numbering, Section/subsection numbers and any references thereto. The City Clerk and the codifiers of this Charter are also authorized to make corrections to this Charter to eliminate out-of-date language such as “hereof,” “heretofore,” “thereof” and similar terms, and replace them with equivalent, modern language.

**PROPOSITION # 2**

Shall Everett City Charter Section 15.9 be changed to allow the City Clerk to make corrections in the Charter to eliminate archaic terminology such as “hereof,” “heretofore,” “thereof,” and replace such terms with equivalent, modern language?

CHARTER CHANGE                      YES.....   
CHARTER CHANGE                      NO.....

**Section 5:**      New Section 15.10.    Add a new section 15.10 as follows:

Appointments to City boards, commissions and committees should consider factors such as geography, gender, ethnicity and age in an effort to better reflect the City’s diversity.

**PROPOSITION # 3**

Shall the Everett City Charter be changed to add a new Section 15.10 that states that appointments to City boards, commissions and committees should strive to reflect the makeup of the community in demographic terms such as ethnic diversity, gender, age and geography?

CHARTER CHANGE                      YES.....   
CHARTER CHANGE                      NO.....

**Section 6:**      Under Section 16.1 of the Charter, amendments to the Charter proposed under this ordinance that are ratified by a majority of the electors become part of the Charter on the date of the Mayor’s proclamation of those ratified amendments. The Mayor’s proclamation is deemed to occur on the date of the County certification of the election.

\_\_\_\_\_  
RAY STEPHANSON, MAYOR

ATTEST:

\_\_\_\_\_  
SHARON FULLER, CITY CLERK

Passed: \_\_\_\_\_

Valid: \_\_\_\_\_

Effective: \_\_\_\_\_

Published: \_\_\_\_\_



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 June 11, 2016, and checks issued June 17, 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	10,556.07	\$5,545.29
003	Legal	\$59,092.70	20,671.04
004	Administration	45,246.35	13,905.49
005	Municipal Court	52,290.81	20,550.32
007	Personnel	44,518.08	16,332.22
010	Finance	53,326.45	20,676.19
015	Information Technology	49,942.93	18,854.57
021	Planning & Community Dev	43,737.82	13,943.82
022	Neighborhoods & Community Svcs	3,245.51	1,269.17
024	Public Works	145,315.80	56,020.08
026	Animal Shelter	34,086.67	13,025.12
027	Senior Center	13,445.85	5,138.55
031	Police	833,060.77	245,235.40
032	Fire	604,644.17	171,995.13
038	Facilities/Maintenance	63,588.11	28,618.65
101	Parks & Recreation	212,878.45	77,960.46
110	Library	117,127.02	41,171.53
112	Community Theatre	7,930.19	3,279.38
120	Street	68,892.85	28,997.94
153	Emergency Medical Services	171,495.84	49,474.20
197	CHIP	8,060.35	3,723.58
198	Community Dev Block	6,504.95	2,251.01
401	Utilities	679,221.28	262,595.20
425	Transit	364,724.65	154,195.55
440	Golf	34,200.37	11,234.14
501	Equip Rental	61,895.43	25,693.93
507	Telecommunications	9,342.23	3,919.42
		<u>\$3,798,371.70</u>	<u>\$1,316,277.38</u>

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

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

Street Closure – Block Party on \_\_\_\_\_ Briefing  
 Ridgemont Drive \_\_\_\_\_ Proposed Action  
 \_\_\_\_\_ Consent  
 \_\_\_\_\_ Action  
 \_\_\_\_\_ First Reading  
 \_\_\_\_\_ Second Reading  
 \_\_\_\_\_ Third Reading  
 \_\_\_\_\_ Public Hearing

COUNCIL BILL # \_\_\_\_\_  
 Originating Department \_\_\_\_\_ City Clerk  
 Contact Person \_\_\_\_\_ Anna Pankevich  
 Phone Number \_\_\_\_\_ 425-257-8614  
 FOR AGENDA OF \_\_\_\_\_ June 29, 2016

Initialed by:  
 Department Head \_\_\_\_\_  
 CAA \_\_\_\_\_ *db*  
 Council President \_\_\_\_\_

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
4327 Ridgemont Drive		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:**

A local neighborhood is requesting the closure of a portion of Ridgemont Drive, on July 9, 2016, 3 p.m. to 7 p.m., for a block party.

**RECOMMENDATION (Exact action requested of Council):**

Authorize the closure of a portion of Ridgemont Drive, on July 9, 2016, 3 p.m. to 7 p.m., for a block party.

**SPECIAL EVENT APPLICATION**

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

Event Date: July 9, 2016 Event Time: 3-7

Closure Time: 3-7

RECEIVED

Event Description: Block party for Ridgemont Dr. JUN 16 2016

Location of Event: 4327 Ridgemont Dr. CITY OF EVERETT  
City Clerk

Sponsoring Organization: Ridgemont neighbors

Address: 4327 Ridgemont Dr. City & State Everett

Contact Person: Elizabeth Adams Phone No. 425-319-7112

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? door to door

If applicable, answer the following:

Approx. # of participants: 40 Persons  Animals  Vehicles  
Type of Animals —

Assembly area (streets) Ridgemont Dr.

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: 06/29/16

City Council approval:  / /

Permit \_\_\_\_\_

TR # \_\_\_\_\_

BLOCK PARTY STREET CLOSURE NOTIFICATION

JULY 9, 2016

3-7 PM

Name

Address

Elaine W. Fosmire Rundgren	4415 Ridgemont Dr. Everett, WA 98203
ROGER GORHAM	4421 RIDGEMONT DR EVERETT, WA 98203
TAMMY Weisberger	4433 RIDGEMONT DR. Everett 98203
Lynn Nixon	4205 Ridgemont Dr Everett 98203
Nathan Bond	4215 Ridgemont Dr Everett WA 98203
Peter Drummer	4410 " " " " 98203
Elizabeth Adams	4327 Ridgemont
Lil + Warren Crankhite	4403 Ridgemont (252-3936)
Jim Parson	4321 Ridgemont Dr. EV 98203
Bev Sorensen	4309 Ridgemont Dr EV 98203
RALPH AUTORE	4315 RIDGEMONT DR EV. 98203

2

BLOCK PARTY STREET CLOSURE NOTIFICATION

JULY 9, 2016

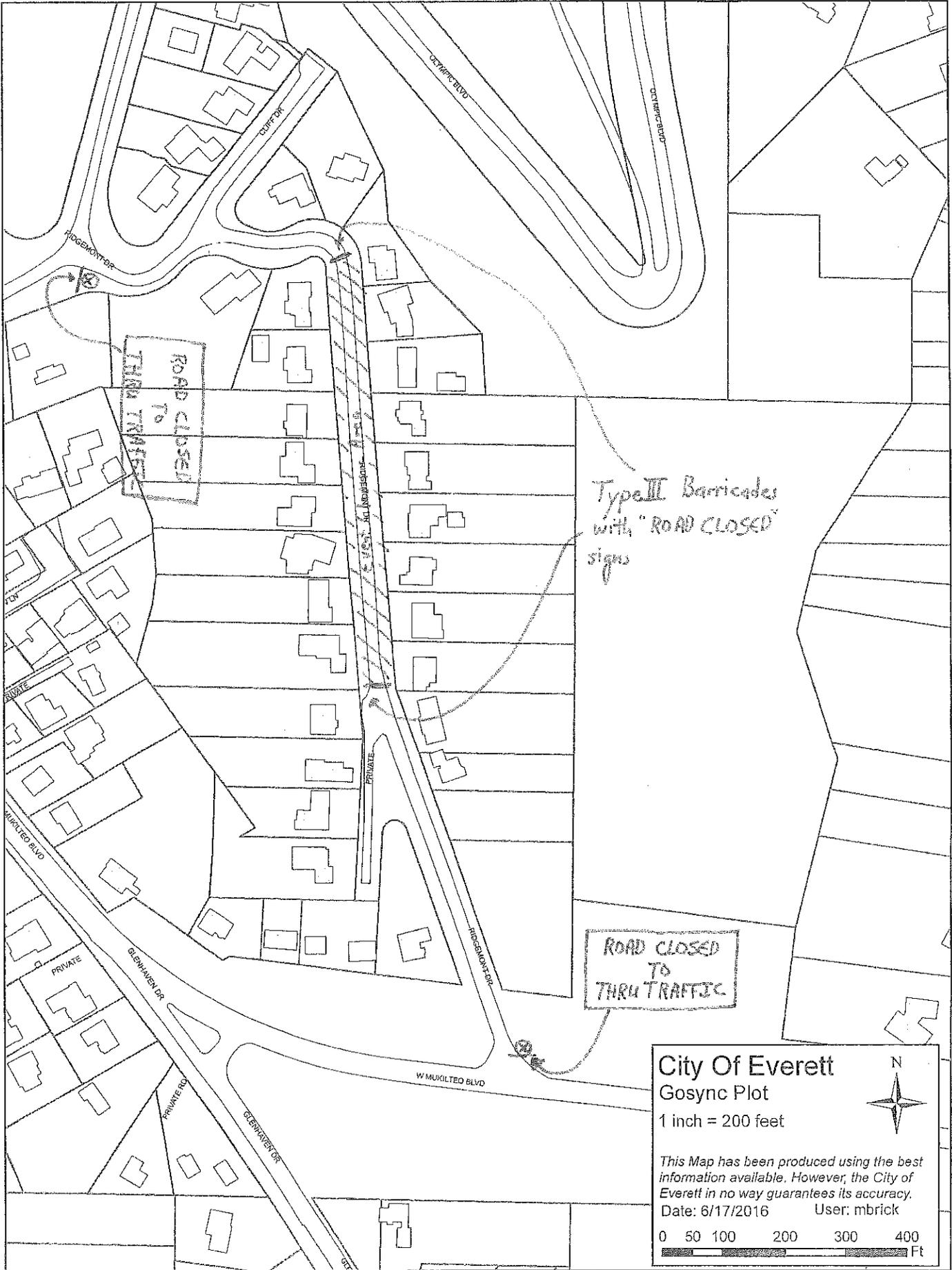
3-7 PM

Name

Address

Jim & Jan Leiskow	4302 Ridgemont Dr.
James D. Ches	4326 Ridgemont Dr.
Stelen Oss	4314 Ridgemont Dr.
M. S. S. S.	4320 Ridgemont Dr.
De Adams	4327 Ridgemont Dr.

Blank lined area for additional entries.



**City Of Everett**  
 Gosync Plot  
 1 inch = 200 feet

*This Map has been produced using the best information available. However, the City of Everett in no way guarantees its accuracy.*  
 Date: 6/17/2016      User: mbrick

0 50 100 200 300 400 Ft

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

A Resolution adopting the Annual Transportation Improvement Program (TIP) update for 2017-2022

- Briefing
- Proposed Action
- Consent
- 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 June 22, 2016  
June 29, 2016

Initialed by:  
 Department Head \_\_\_\_\_  
 CAA db  
 Council President Am

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	May 19, 2016 Transportation Advisory Committee June 7, 2016 Planning Commission	Resolution adopting Six-year TIP, 2017-2022 TIP	Public Works, Transit

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

**DETAILED SUMMARY STATEMENT:**

Each year the City is required by state law to update and adopt its Six-year Transportation Improvement Program (TIP). The TIP lists all the anticipated transportation capital improvements for which the City may pursue some phase of development during the next six years. The TIP includes street and highway improvements, non-motorized projects, and transit investments. It is a financially unconstrained list. The Resolution authorizes city staff to seek funding for the various project phases which could include design, right-of way acquisition, equipment acquisition, construction, or implementation.

The Transportation Advisory Committee and Planning Commission have reviewed the 2017-2022 TIP and recommend its approval.

**RECOMMENDATION (Exact action requested of Council):**

Adopt a Resolution adopting the Annual Transportation Improvement Program (TIP) update for 2017-2022.

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

**A RESOLUTION adopting the Annual Transportation Improvement Program (TIP) update for 2017 to 2022.**

**WHEREAS**, RCW 35.77.010 requires that the legislative body of each city and town shall prepare and adopt a “Comprehensive Transportation Program” for the ensuing six calendar years to serve as a guide in carrying out a coordinated transportation facility construction program, and that said legislative body shall annually thereafter review, amend as necessary, and readopt said Comprehensive Transportation Program; and

**WHEREAS**, in compliance with RCW 35.77.010 there exists such a Comprehensive Transportation Program (known as the Six-year Transportation Improvement Program or TIP) for the City of Everett that identifies various types of transportation improvements needed, and estimated costs; and

**WHEREAS**, The City Council of the City of Everett has reviewed the work accomplished under said program, determined current and future City transportation needs, and based on these findings has prepared a Six-year Transportation Improvement Program for the next six years; and

**WHEREAS**, Everett’s Transportation Advisory Committee and Planning Commission have reviewed and recommended approval of this update; and

**WHEREAS**, the adoption of the update to the City of Everett Transportation Improvement Program enables the City to apply for and receive various state and federal funds to implement the projects in the program; and

**WHEREAS**, after due notice, a hearing on the proposed program was held by the City Council in accordance with RCW 35.77.010; and

**WHEREAS**, the proposed program is consistent with, and implements the City of Everett Comprehensive Plan;

**NOW, THEREFORE, BE IT RESOLVED by the City Council of Everett** that the 2017-2022 annual update of the Six-year Transportation Improvement Program, a copy of which is attached hereto as Exhibit A and incorporated herein as if fully set forth, is adopted and the City Engineer is directed to file a copy of this program with the Washington State Secretary of Transportation pursuant to RCW 35.77.010 and pursue funding for the projects cited in the program wherever available.

\_\_\_\_\_  
Councilmember Introducing Resolution

PASSED and APPROVED this \_\_\_\_ day of June, 2016.

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

# CITY OF EVERETT

## 2017 To 2022 Six-year Transportation Improvement Program

### Interstate

1. I-5 / Downtown Everett Interchange Access Improvements (Everett Ave. Hewitt Ave., US 2, Pacific Ave)
2. I-5 / 100th Street SE HOV Access/Undercrossing
3. NB Everett Mall Way / SB I-5 Onramp
4. I-5 / Smith Island Interchange (12th St. or SR 529)
5. I-5 / East Marine View Drive Interchange Improvements
6. I-5 HOV Lanes (US 2 to SR 528)
7. I-5 / 128th Street Interchange
8. I-5 / 128th Street HOV Ramps (Mariner Park & Ride)
9. I-5 / 112th Street Interchange Study

### Freeways

1. US 2 Improvements (I-5 to SR 204)
2. SR 526/ Hardeson Road Interchange
3. SR 526 Extension (I-5 to US 2)
4. SR 526/Evergreen Way Interchange
5. SR 529/Smith Island Ramps
6. SR 526/40th Avenue W. Intersection Improvements

### Principal Arterials

1. W. Marine View Dr./Rucker/41st Freight Route Improvements
2. Broadway Corridor Improvements (SR 529 to SR 526)
3. SE Everett Mall Way (SR 99 to SR 526)
4. Arterial Safety Projects
5. Evergreen Way Improvements (41st St. to Gibson Road)
6. Evergreen Way Streetscape Improvements
7. I-5 to Port of Everett Truck Route
8. Mukilteo Blvd. Safety Imp. (Friday Ave. to City Limits)
9. Arterial Needs Study

### Minor Arterials

1. 116th Street SE Street Improvements (SR 527 to 35th)
2. 100th Street SW Street Improvements (4th Ave. W. to Airport)
3. Casino Rd. Safety Improvements (Evergreen to 5th Ave.)
4. 4th Avenue West Improvements (104th to 112th)
5. 100th Street SE Improvements (SR 527 to 7th Ave SE)
6. 100th Street SE Improvements (7th Ave to Evergreen)
7. 110th Street SE Improvements (SR 527 to 35th St.)
8. Lenora St./Lowell-River Rd./BNSF Rail Line Xing
9. Minor Arterial Streetscape Improvements

### Collector Arterials

1. East Everett Avenue/BNSF Overcrossing
2. Bond Street Ped/Bike Improvements. (Kromer to Terminal)
3. Chestnut St. /Eclipse Mill Road. Improvements (Pacific to 36th)
4. Silver Lake Road – 121st Street SE Ped. Improvements
5. 37th Street Improvements (Rucker to Broadway)
6. Collector Arterial Streetscape Improvements

### Local Access and Other Projects

1. BNSF RR safety improvements (Safety)
2. Local roadway safety projects (Safety)
3. Safe routes to schools (Safety)

### High Capacity Transit

1. Light Rail – Lynnwood to Everett Extension
2. Light Rail Stations
3. HCT Support Program

### Local Access and Other Projects (continued)

1. Bridge Rehabilitation Program (Maintenance)
2. Annual Street Overlay Program (Maintenance)
3. Sidewalk repair and replacement (Maintenance)
4. Pavement marking projects (Maintenance)

1. 106th Place SE Improvements (Street)
2. 3rd Avenue SE Improvements (Street)
3. Local Street Improvements (Street)
4. Upper & Lower Ridge Rd. Improvements (Street)
5. Riverfront Site Access Improvements (Street)
6. Downtown Streetscape Improvements (Street)

1. Traffic Signal Central Control Repl. (Traffic Signals)
2. Traffic Signal Interconnect (Traffic Signals)
3. Traffic Signal Improvements (Traffic Signals)
4. Traffic Sign Improvements (Traffic Signals)

1. Neighborhood Block Grants (Neighborhoods)
2. Neighborhood Traffic Studies/Project (Neighborhoods)
3. Residential Sidewalks (Neighborhoods)

### Non-Motorized Trail/Path Improvements

1. 36th St. (or vicinity)/BNSF Rail Line Ped/Bike Crossing
2. Smith Island Bike and Pedestrian Improvements
3. Bicycle Master Plan Implementation
4. Riverside Bus Pk. Ped. Trail (16th to N. Broadway)
5. West/East Marine View Drive Bike-Ped Improvements
6. 47th Street Ped Improvements (Evergreen to Black Forest Lane)
7. Pigeon Creek No. 1/BNSF Rail Line Crossing
8. Grand Avenue/North Marina Ped-Bike Connection
9. Shoreline Access Imp. (Various Locations)
10. Snohomish River Bike/Pedestrian Bridge Evaluation
11. Henry M. Jackson Ped. Bridge
12. Pigeon Creek Rd. No. 1 Improvements
13. Everett Non-motorized Projects (Various Locations in Everett)
14. Lowell Snohomish River Road. Bike/Ped Connection
15. Riverfront District Bike/Ped Paths
16. Interurban Trail Bike/Ped Path Improvements
17. Bicycle Detection Signals
18. ADA Signals
19. ADA Ramps
20. *Waterfront Place Esplanade*

### Transit

1. Bus Replacements – 2017 to 2022
2. Implementation of State CTR Law
3. Everett Station Repair and Updates
4. Operation Base Relocation and Construction
5. Broadway Corridor Improvements
6. Safety and Security Enhancements
7. **On Board ITS replacement & upgrade**
8. **Service Planning & Development Software/Hardware**
9. **Next Generation ORCA Project**

### Port - Marine Industrial Transportation Improvements

1. Marine Terminals Maintenance and Expansion (in accordance with adopted Marine Terminals Master Plan)
2. *Marine Terminals: South Terminal Modernization Project*
3. Harbor and Snohomish River Federal Navigation Channel Improvements

**CITY OF EVERETT 2017 TO 2022 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM**

Project Number	PROJECT TYPE	#	PROJECT NAME	TERMINI	PE START	R/W START	CONST. START	Est. 2015-20 Expenditures	LEAD AGENCY	MAP NO.
1	Interstate	1	I-5 Downtown interchange improvements	Pacific, Everett, Hewitt Aves., and US 2	Jan. 17	Jun. 18	Sep. 18	\$28,500,000 *	EVERETT	1
2	Interstate	2	I-5/100th Street SE HOV Access/Undercrossing	I-5 at 100th Street SE	Jul. 17	Jan. 18	Jan. 18	\$68,500,000 *	EVERETT	2
3	Interstate	3	NB Everett Mall Way to SB I-5 Onramp	Everett Mall Way to southbound I-5	Jan. 17		May. 18	\$3,500,000 *	WSDOT	3
4	Interstate	4	I-5 / Smith Island interchange	12th Ave. NE or SR 529	Jan. 17	Jun. 18	Jul. 18	\$10,000,000 *	EVERETT	4
5	Interstate	5	I-5 / East Marine View Drive interchange	I-5 at East Marine View Drive	Jan. 17	Jun. 18	Jun. 18	\$16,000,000 *	EVERETT	5
6	Interstate	6	I-5 HOV Lanes	US 2 to SR 528	Jan. 17	Jun. 17	May. 19	\$5,000,000 *	WSDOT	6
7	Interstate	7	I-5 / 128th Street Interchange	I-5 at 128th Street	Jan. 17	Jan. 19	May. 21	\$2,000,000 *	WSDOT	7
8	Interstate	8	I-5 / 128th Street HOV Ramps (Mariner PNR)	I-5 at 128th Street / Mariner Park and Ride	Jan. 17	Jan. 18	May. 18	\$6,000,000 *	WSDOT	8
9	Interstate	9	I-5 / 112th Street Interchange Study	I-5 at 112th Street SE	Jan. 17			\$3,000,000 *	WSDOT	9
10	Freeway	1	US 2 Improvements	I-5 to SR 204	Jun. 17	Jun. 18	Jun. 18	\$3,000,000 *	WSDOT	10
11	Freeway	2	SR 526/Hardeson Road interchange	SR 526 at Hardeson Road	Jun. 17	Jun. 18	Jun. 18	\$2,000,000 *	WSDOT	11
12	Freeway	3	SR 526 Extension Study	SR 526 to US 2	Jun. 17			\$8,500,000 *	WSDOT	12
13	Freeway	4	SR 526/Evergreen Way Interchange	SR 526 at Evergreen Way	Jun. 17	Jun. 18	Jun. 18	\$38,000,000 *	WSDOT	13
14	Freeway	5	SR 526/40th Avenue West Intersection	SR 526 and 40th Avenue West	Jun. 17	Jun. 18	Jun. 18	\$500,000 *	EVERETT	14
15	Freeway	6	SR 529/Smith Island Ramps	SR 529 at Smith Island	Jun. 17	Jun. 18	Jun. 18	\$250,000 *	WSDOT	15
16	Principal Arterial	1	W. Marine View Dr./Rucker Ave./41st St. Freight	W. Marine View Dr., Rucker Ave, 41st Street	Sep. 11	Jun. 13	Jun. 16	\$42,600,000 *	EVERETT	16
18	Principal Arterial	2	Broadway Corridor Improvements	SR 526 to SR 529	Feb. 18	Feb. 17	Jun. 19	\$4,000,000 *	EVERETT	17
19	Principal Arterial	3	SE Everett Mall Way	SR 99 to SR 526	Feb. 18	Feb. 18	Jun. 18	\$1,000,000 *	EVERETT	18
20	Principal Arterial	4	Arterial Safety Projects (Forest Pk entrances; I-5)	Various Locations	Jan. 17		Mar. 18	\$900,000 *	EVERETT	
21	Principal Arterial	5	Evergreen Way Improvements, 41st to Airport Rd	41st to Airport Road	Jan. 18		Jul. 18	\$1,000,000 *	EVERETT	19
22	Principal Arterial	6	Evergreen Way Streetscape Improvements	41st to Airport Road	Jan. 17	Jan. 18	Jan. 18	\$20,000,000 *	EVERETT	
23	Principal Arterial	7	Interstate 5 to Port of Everett Truck Route Plan	Port of Everett to I-5	Jan. 18			\$200,000 *	EVERETT	
24	Principal Arterial	8	Mukilteo Blvd. Safety Improvements	Friday Avenue to city limits	Feb. 17		Apr. 18	\$3,300,000 *	EVERETT	20
25	Principal Arterial	9	Arterial Needs Study	Various arterials within city limits	Feb. 17			\$200,000 *	EVERETT	
26	Minor Arterial	1	116th Street SE Improvements	SR 527 to 35th Street SE	Jan. 17	Jul. 18	May. 17	\$3,800,000 *	EVERETT	21
27	Minor Arterial	2	100th Street SW Improvements	Airport Road to 4th Avenue West	Feb. 12	Jan. 18	Jun. 17	\$3,600,000 *	EVERETT	22
28	Minor Arterial	3	Casino Road at 5th Ave. W. Road Intersection	Casino Road at Hardeson Road	Mar. 11	Mar. 12	May. 18	\$500,000 *	EVERETT	23
29	Minor Arterial	4	4th Avenue West Widening and Improvement	104th Street to 112th St. SW	Jan. 11	Jan. 12	May. 18	\$9,000,000 *	SNO. CNTY.	24
30	Minor Arterial	5	100th Street SE Improvements	SR 527 to 7th Avenue SE	Jan. 17	Jan. 18	May. 18	\$1,000,000 *	EVERETT	25
31	Minor Arterial	6	100th Street SE Improvements	7th Avenue SE to Evergreen Way	Jan. 17	Jan. 18	May. 18	\$1,000,000 *	EVERETT	26
32	Minor Arterial	7	110th Street SE Improvements	SR 527 to 35th Street SE	Jan. 17	Jan. 18	May. 18	\$2,000,000 *	EVERETT	27
33	Minor Arterial	8	Lenora St./BNSF Rail Line Overcrossing	Lenora St. & Lowell Sno. River Rd.	Jul. 17	Jul. 18	May. 18	\$1,800,000 *	EVERETT	28
34	Minor Arterial	9	Minor Arterial Expansions and Streetscaping	Various Locations	Jan. 17	Jan. 18	May. 18	\$400,000 *	EVERETT	
35	Collector Arterial	1	East Everett Ave./ BNSF Overcrossing	East Grand Ave. to Railway Ave.	Jan. 17	Sep. 18	Jun. 18	\$7,000,000 *	EVERETT	29
36	Collector Arterial	2	Bond Street Ped/Bike Improvements	Kromer to Terminal Ave.	Jun. 17	Jan. 14	Jul. 15	\$100,000 *	EVERETT	30
37	Collector Arterial	3	Chestnut St/Eclipse Mill Rd. Improvements	Pacific Ave. to 36th Street	Jan. 17		Jun. 18	\$3,350,000 *	EVERETT	31
38	Collector Arterial	4	Silver Lake Road-121st St. SE Ped. Improv.	112th Street to SR 527	Jun. 15	Jun. 17	Jul. 18	\$1,800,000 *	EVERETT	32
39	Collector Arterial	5	37th Street improvements and traffic signal	Rucker Avenue to Wetmore Ave.	Jun. 17		Jun. 18	\$500,000 *	EVERETT	33
40	Collector Arterial	6	Collector Arterial Streetscape Improvements	Various Locations	Jan. 17	Jun. 15	Jul. 18	\$400,000 *	EVERETT	
								<b>\$304,200,000</b>		

\* A portion or all of the funding for this project has not yet been committed.  
**NOTE: Projects shown in bold type (if any) were not included in the 2016-2020 Six-Year TIP.**

CITY OF EVERETT 2017 TO 2022 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM

Project Number	PROJECT TYPE	#-	PROJECT NAME	PE START	R/W START	CONST. START	Est. 2015-20 Expenditures	LEAD AGENCY	MAP NO.
42	Local Access-SAF	1	BNSF RR safety improvements	Jan.17		Jun. 16	\$600,000	* EVERETT	
43	Local Access-SAF	2	Local Roadway Safety Projects	Jan.17		Jun.16	\$120,000	* EVERETT	
44	Local Access-SAF	3	Safe Routes to Schools	Jan.17		Apr. 16	\$600,000	* EVERETT	
45	Local Access-PR/M	1	Bridge Rehabilitation Program	Jan.17		Jul.16	\$3,000,000	* EVERETT	
46	Local Access-PR/M	2	Annual Street Overlay Program	Jan.17		Jul.16	\$6,000,000	* EVERETT	
47	Local Access-PR/M	3	Sidewalk repair and replacement	Jan.17		May 16	\$360,000	* EVERETT	
48	Local Access-PR/M	4	Pavement Marking Project	Jan.17		May 16	\$210,000	* EVERETT	
49	Local Access-STR	1	106th Place SE Improvements	Nov.10		Jun. 16	\$650,000	* EVERETT	34
50	Local Access-STR	2	3rd Avenue SE Street Improvements	Jan.17		Apr. 16	\$675,000	* EVERETT	35
51	Local Access-STR	3	Local Street Improvements	Jul.17		May 16	\$580,000	* EVERETT	
52	Local Access-STR	4	Upper & Lower Ridge Rd. Str. Improv.	Aug.17		Jun.16	\$300,000	* EVERETT	36
53	Local Access-STR	5	Simpson Site Access Improvements	Aug.17		Jun.16	\$2,000,000	* EVERETT	37
54	Local Access-STR	6	Downtown Streetscape Improvements	Jul.14	Jan. 15	Apr. 16	\$8,000,000	* EVERETT	38
55	Local Access-SIG	1	Traffic Signal Central Controller Replacement	Jan.17		Jul.15	\$900,000	* EVERETT	
56	Local Access-SIG	2	Traffic Signal Interconnect	Jan.17		May.15	\$240,000	* EVERETT	
57	Local Access-SIG	3	Traffic Signal Improvements	Jan.17		Jun.15	\$900,000	* EVERETT	
58	Local Access-SIG	4	Traffic Sign Improvements	Jan.17		Jun.15	\$500,000	* EVERETT	
59	Local Access-NEI	1	Neighborhood Block Grants	Jan.17		May.15	\$360,000	* EVERETT	
60	Local Access-NEI	2	Neighb. Traffic Mitigation Studies & Projects	Jan.17		May.15	\$2,400,000	* EVERETT	
61	Local Access-NEI	3	Residential Sidewalks	Jan.17		May.15	\$2,400,000	* EVERETT	
64	Local Access-NM	1	38th Street/BNSF Rail Line Ped/Bike Crossing	Jan.08	Nov.16	Jun.18	\$2,800,000	* EVERETT	39
65	Local Access-NM	2	Smith Island Bike/Ped Improvements	Jan.10	Jan.16	May 18	\$1,000,000	* EVERETT	40
66	Local Access-NM	3	Bicycle Master Plan Implementation	Jan.16		Jan.16	\$200,000	* EVERETT	
67	Local Access-NM	4	Riverside Business Park Ped trail	Apr.09		Apr.16	\$700,000	* EVERETT	41
68	Local Access-NM	5	West/East Marine View Drive Bike-Ped Improvements	Aug.09		Apr.16	\$500,000	* EVERETT	42
69	Local Access-NM	6	47th Street Pedestrian Improvements	Jan.17		Jun.16	\$500,000	* EVERETT	43
70	Local Access-NM	7	Pigeon Creek No. 1/BNSF Crossing	Jan.10	Jul. 16	Jan.17	\$925,000	* EVERETT	44
71	Local Access-NM	8	Henry Jackson Park Ped Bridge	Jan.07	May.16	Jul.20	\$2,700,000	* EVERETT	45
72	Local Access-NM	9	Grand Ave./N. Marina Ped-Bike Connection	Jan. 15	Jan. 16	May.17	\$1,050,000	* EVERETT	
73	Local Access-NM	10	Shoreline Access Improvements	Apr.15		Jan.16	\$2,400,000	* EVERETT	
74	Local Access-NM	11	Snohomish River Bike and Ped. Bridge	Nov.01		Jan.16	\$9,000,000	* EVERETT	46
75	Local Access-NM	12	Pigeon Creek Road No. 1 Improvements	Apr.17		Jan.18	\$1,000,000	* EVERETT	47
76	Local Access-NM	13	Lowell Snohomish River Rd. Bike/Ped Connection	May.15	Aug.16	Jan.17	\$1,500,000	* EVERETT	48
77	Local Access-NM	14	Everett Non-Motorized Projects	May.15	Aug.16	Jan.17	\$760,000	* EVERETT	
78	Local Access-NM	15	Riverfront District Bike/Ped Paths	Jul. 09		Jan.16	\$500,000	* EVERETT	
79	Local Access-NM	16	Interurban Trail Bike/Ped Path Improvements	Jul. 10		Jan.16	\$500,000	* EVERETT	
80	Local Access-NM	17	Bicycle Detection Signals	Jan.16		Jan.17	\$200,000	* EVERETT	
81	Local Access-NM	18	ADA Signals	Jan.16		Jan.17	\$200,000	* EVERETT	
82	Local Access-NM	19	ADA Ramps	Jan.16		Jan.17	\$200,000	* EVERETT	

\$57,130,000

NOTE: Projects shown in bold type (if any) were not included in the 2016-2020 Six-year TIP.

\* A portion or all of the funding for this project has not yet been committed.

Codes: SAF = Safety; PR/M = Preservation and Maintenance; STR = Street construction; SIG = Traffic Signal Improvement;

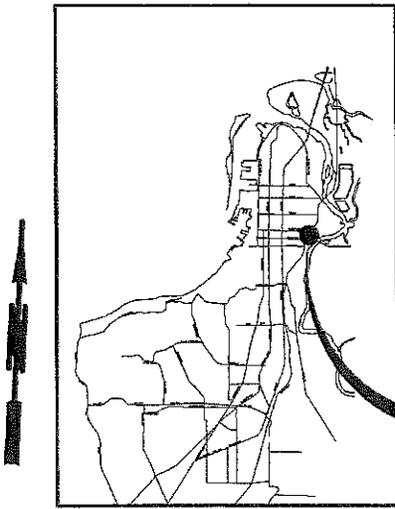
NEI = Neighborhood Projects; LS = Landscaping Project; NM = Non-Motorized Improvement

CITY OF EVERETT 2015 TO 2020 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM

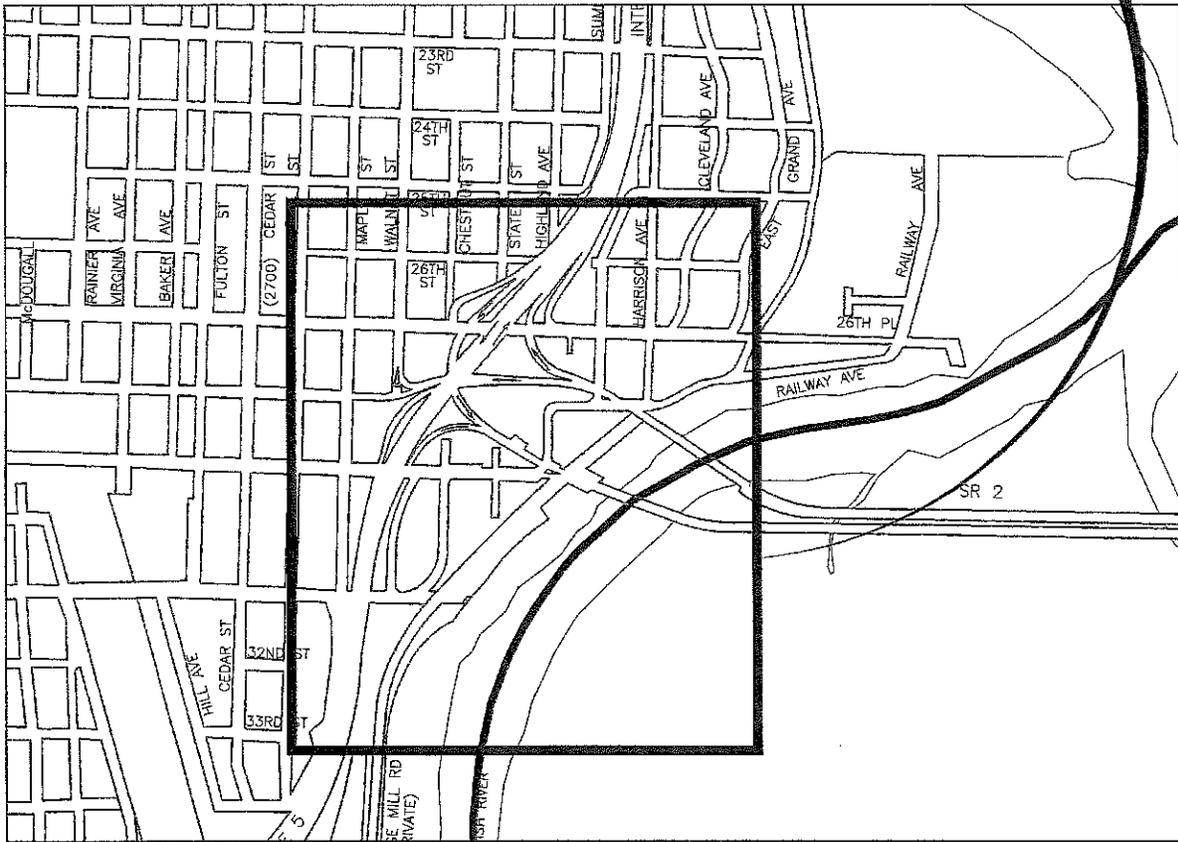
CITY OF EVERETT 2017 TO 2022 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM							
PROJECT		PROJECT	PE	R/W	CONST.	Est. 2016-2021	LEAD
TYPE	PROJECT NAME	LOCATION	START	START	START	Expenditures	AGENCY
Transit Projects	Bus Replacements 2017 - Approx. 6 HD Buses				Jun. 2017	\$4,200,000	Everett Transit
Transit Projects	Bus Replacements 2017 - Approx. 4 HD Buses				Jun. 2017	\$2,800,000	Everett Transit
Transit Projects	Bus Replacements 2017 - Approx. 4 PT Buses				Jun. 2017	\$600,000	Everett Transit
Transit Projects	Bus Replacements 2018 - Approx. 3 HD Buses				Jun. 2018	\$2,100,000	Everett Transit
Transit Projects	Bus Replacements 2018 - Approx. 8 PT Buses				Jun. 2018	\$1,200,000	Everett Transit
Transit Projects	Bus Replacements 2019 - Approx. 5 HD Buses				Jun. 2019	\$3,500,000	Everett Transit
Transit Projects	Bus Replacements 2019 - Approx. 5 PT Buses				Jun. 2019	\$750,000	Everett Transit
Transit Projects	Bus Replacements 2020 - Approx. 4 HD Buses				Jun. 2020	\$2,800,000	Everett Transit
Transit Projects	Implementation of State CTR Law				Jun. 2017	\$300,000	Everett Transit
Transit Projects	Everett Station Repair and Updates	Everett Station			Jun. 2017	\$1,000,000	Everett Transit
Transit Projects	Operations Base Relocation and Construction		Aug. 2016		Jun. 2020	\$30,000,000	Everett Transit
Transit Projects	Broadway Corridor Improvements	Broadway Ave.	Jun. 2016		Jun. 2017	\$3,000,000	Everett Transit
Transit Projects	Safety and Security Enhancements				Apr. 2020	\$500,000	Everett Transit
Transit Projects	<b>On Board ITS replacement &amp; upgrade</b>	<b>Operations</b>			<b>Jun-18</b>	<b>\$500,000</b>	<b>Everett Transit</b>
Transit Projects	<b>Service Planning &amp; Development Software/Hardware</b>	<b>Everett Station</b>			<b>Jun-17</b>	<b>\$200,000</b>	<b>Everett Transit</b>
Transit Projects	<b>Next Generation ORCA Project Cost Share w/region</b>	<b>Regional</b>			<b>Jun-17</b>	<b>\$64,000</b>	<b>Everett Transit</b>
Transit Projects	<b>Next Generation ORCA Hardware/Installation</b>	<b>Operations</b>			<b>19-Jun</b>	<b>\$440,000</b>	<b>Everett Transit</b>
						\$53,954,000	

NOTE: Projects shown in bold type were not included in the 2016-2021 Six-Year TIP.

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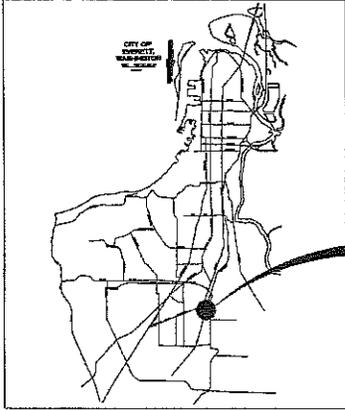
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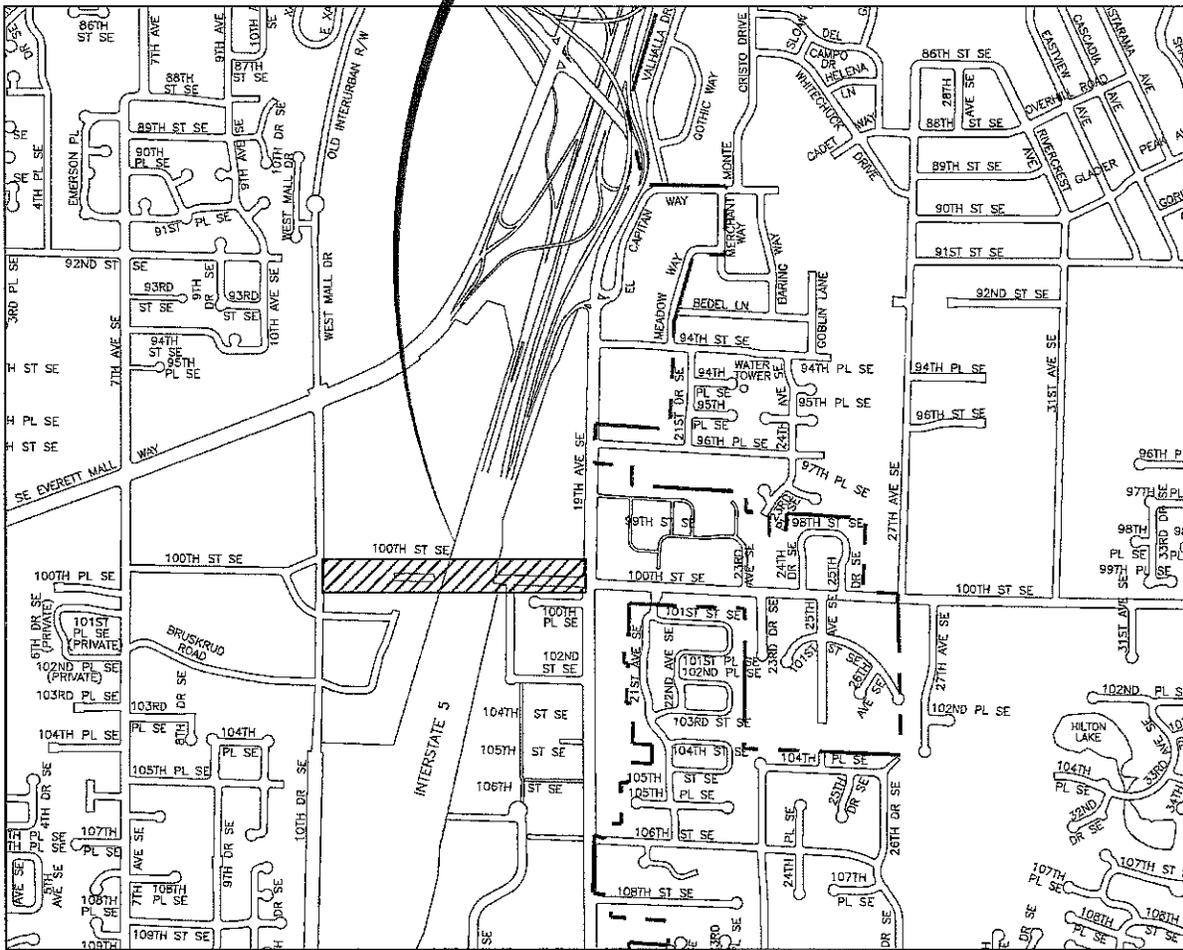
## I-5/DOWNTOWN EVERETT INTERCHANGE IMPROVEMENTS

05-20-09  
date

CITY OF EVERETT – PUBLIC WORKS DEPARTMENT



# PROJECT LOCATION



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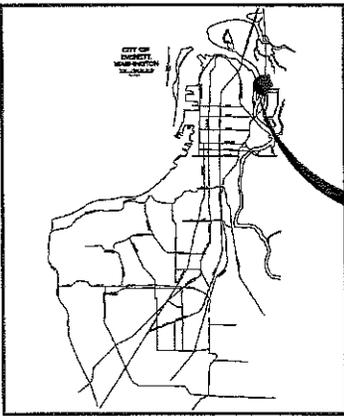
INTERSTATE 5/100TH STREET  
HOV ACCESS/UNDERCROSSING

05-20-09  
date

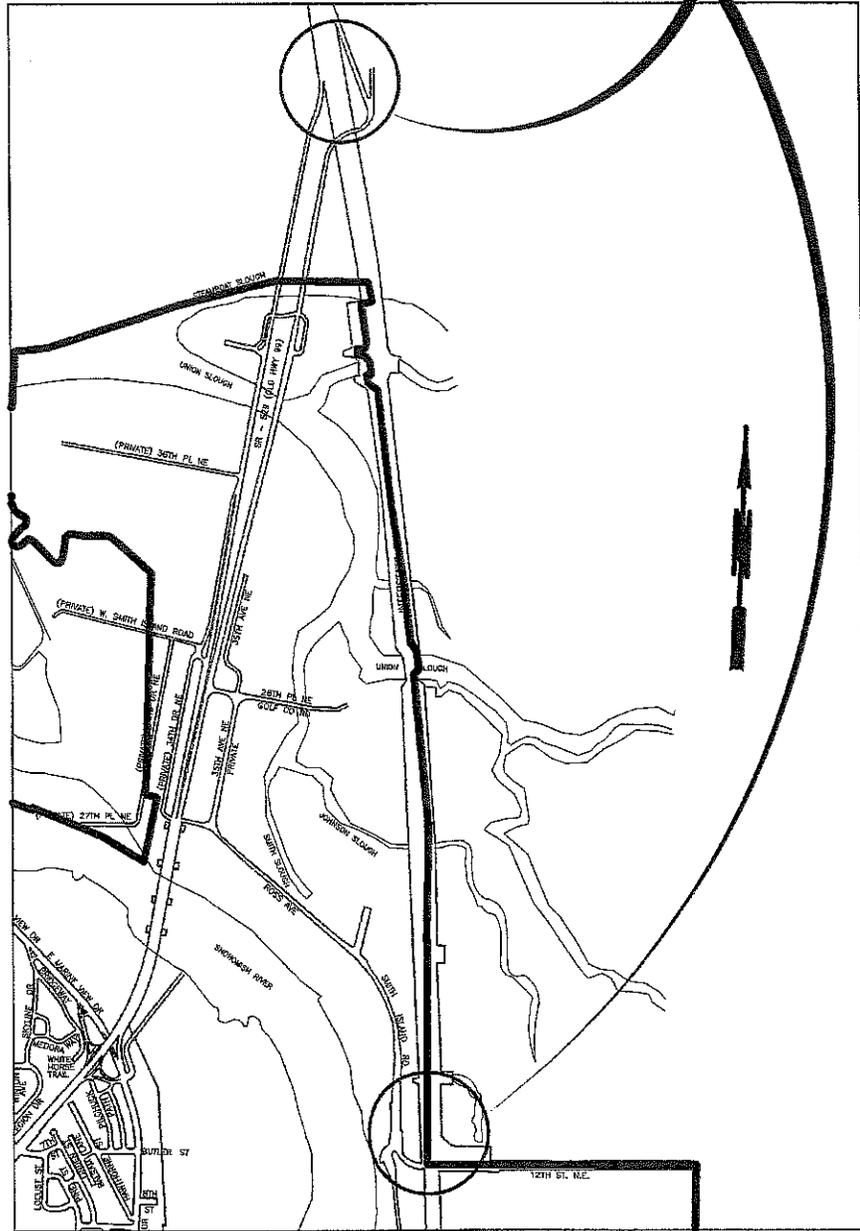
CITY OF EVERETT — PUBLIC WORKS DEPARTMENT



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# PROJECT LOCATIONS

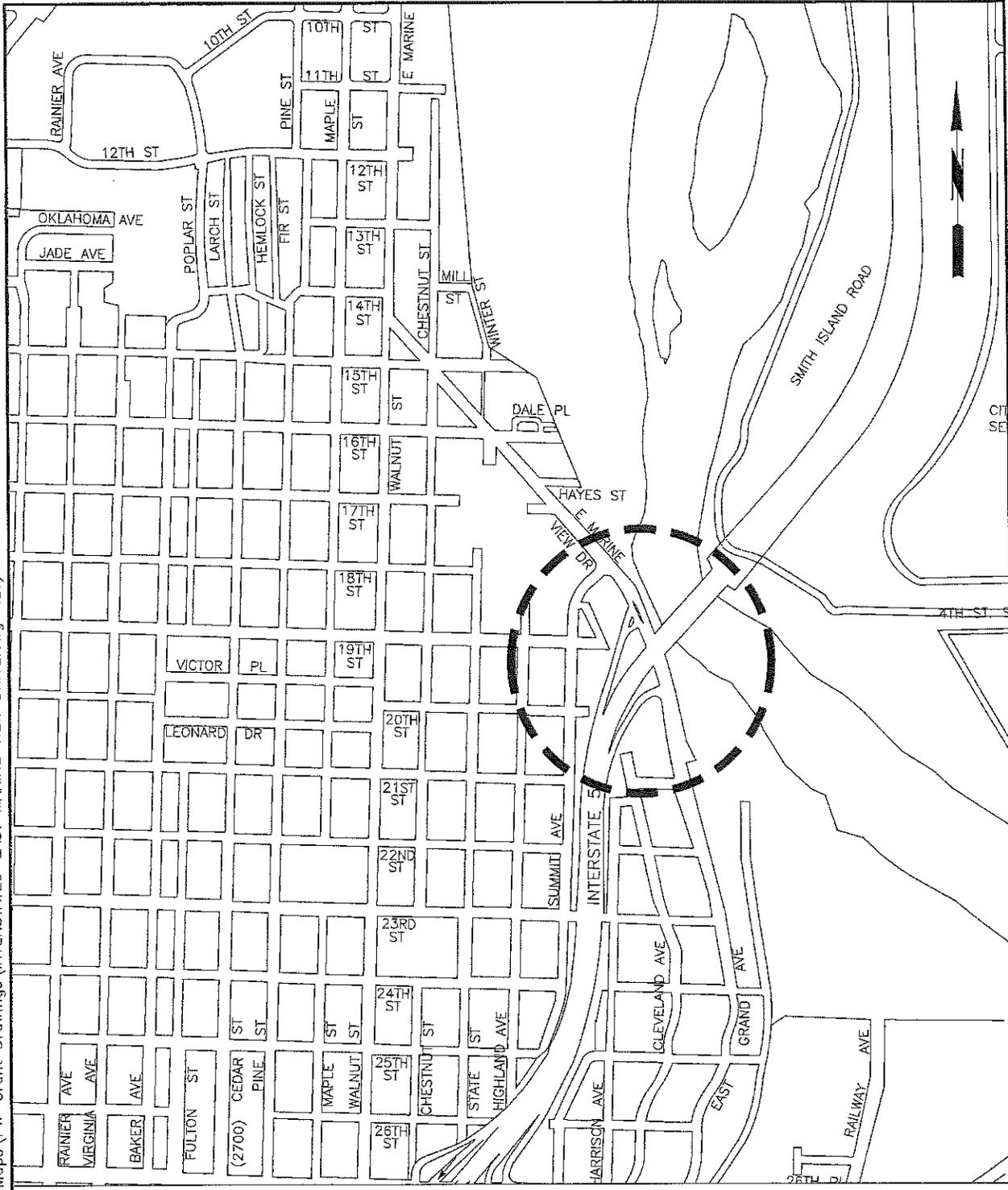


I-5/SMITH ISLAND INTERCHANGE  
(12TH STREET OR SR 529)

05-20-09  
date

CITY OF EVERETT - PUBLIC WORKS DEPARTMENT

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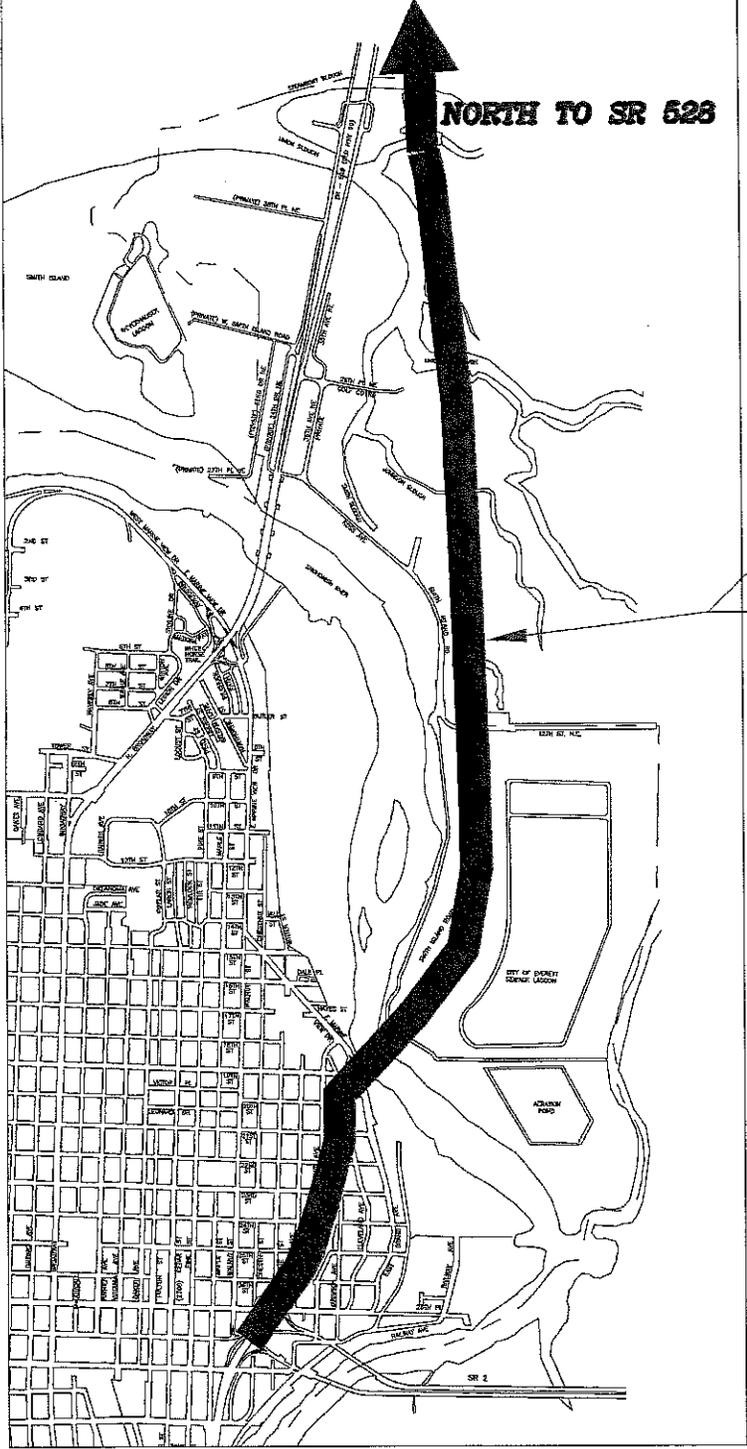


INTERSTATE 5 - EAST MARINE VIEW DRIVE  
INTERCHANGE

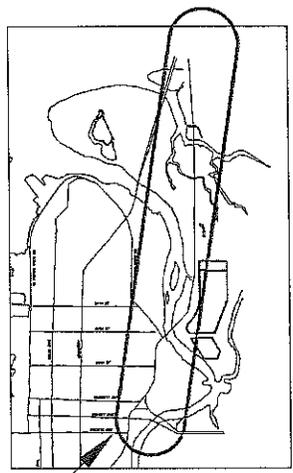
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CITY OF EVERETT - PUBLIC WORKS DEPARTMENT

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**NORTH TO SR 528**



**PROJECT SITE:**

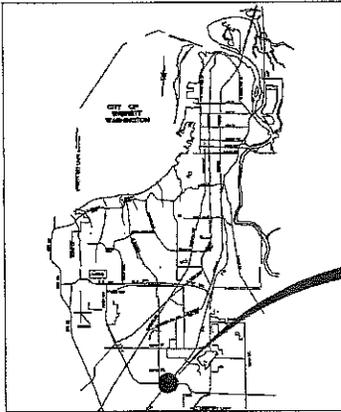


**1-5 HOV LANES  
(US 2 TO SR 528)**

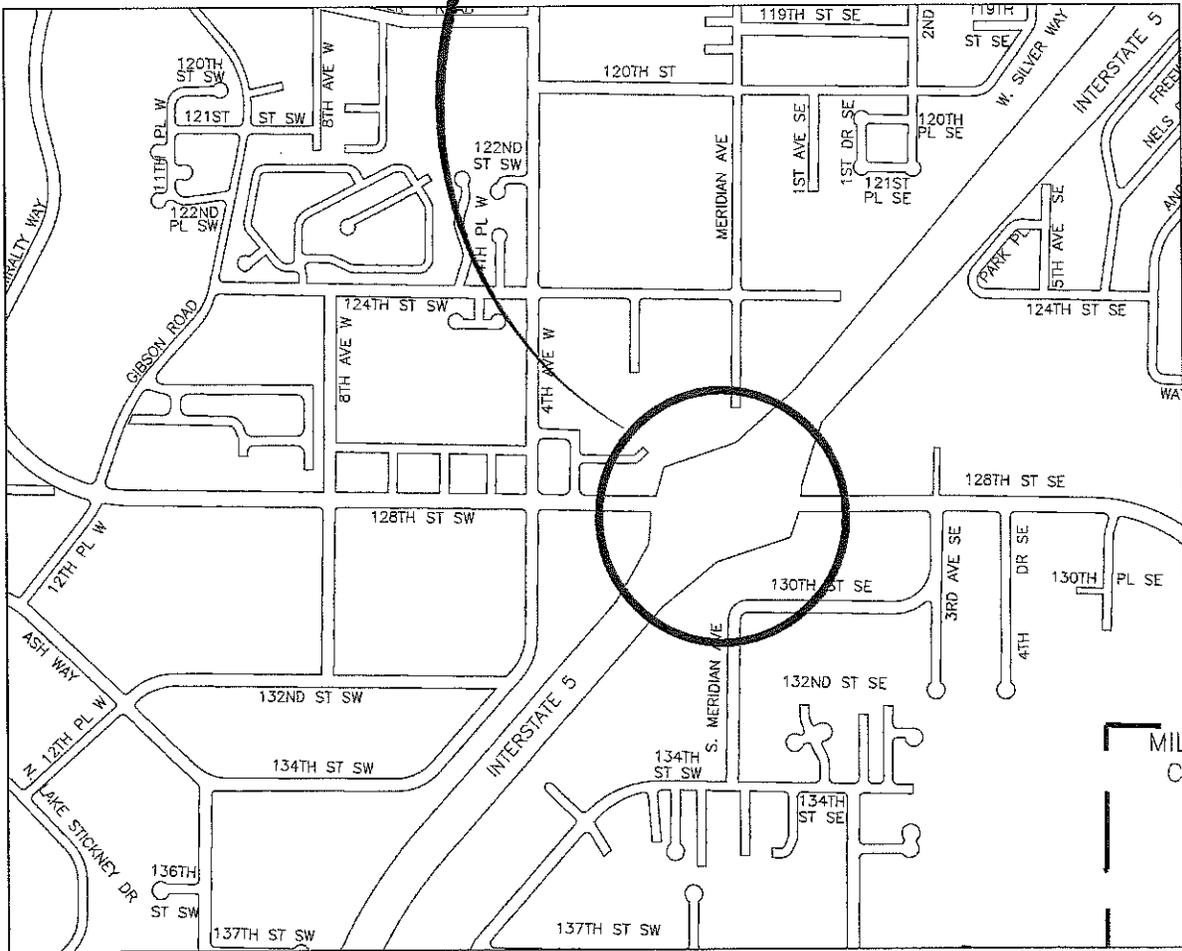
**05-20-09**  
date

**CITY OF EVERETT - PUBLIC WORKS DEPARTMENT**

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# PROJECT LOCATION



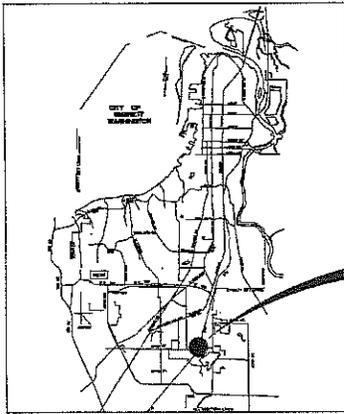
## I-5/128TH STREET INTERCHANGE

05-20-09  
date

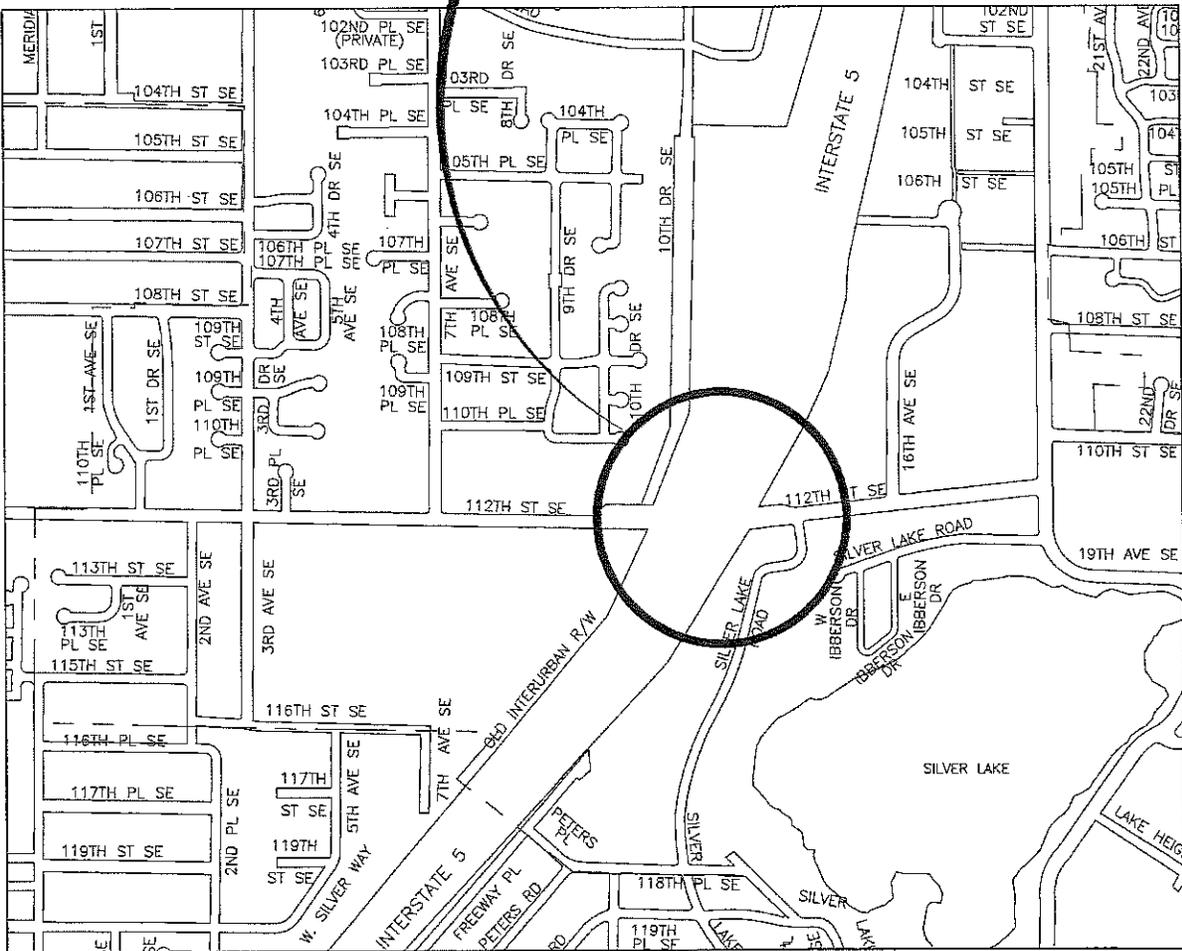
### CITY OF EVERETT - PUBLIC WORKS DEPARTMENT



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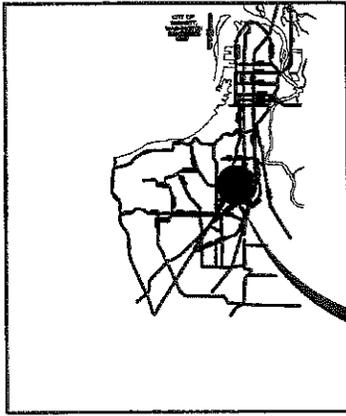


## I-5/112TH STREET INTERCHANGE

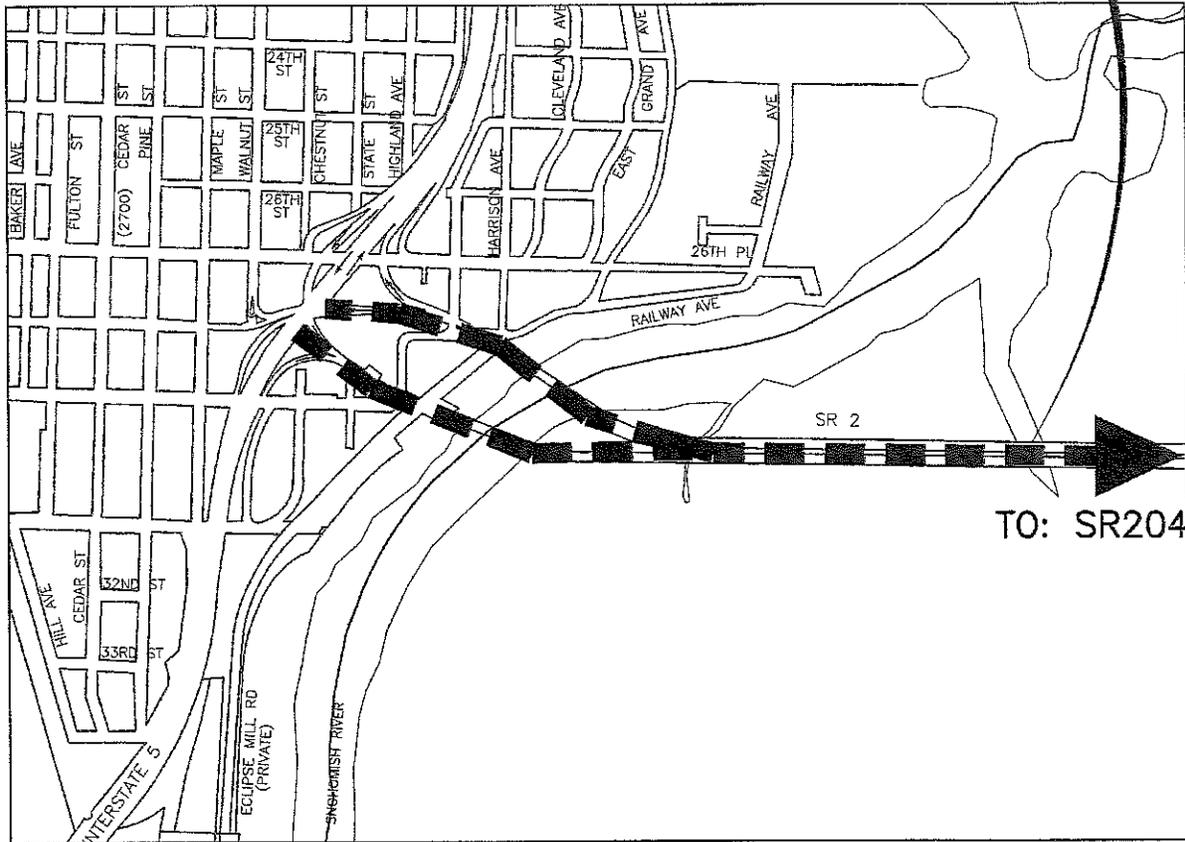
05-20-09  
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### CITY OF EVERETT – PUBLIC WORKS DEPARTMENT

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**PROJECT VICINITY**



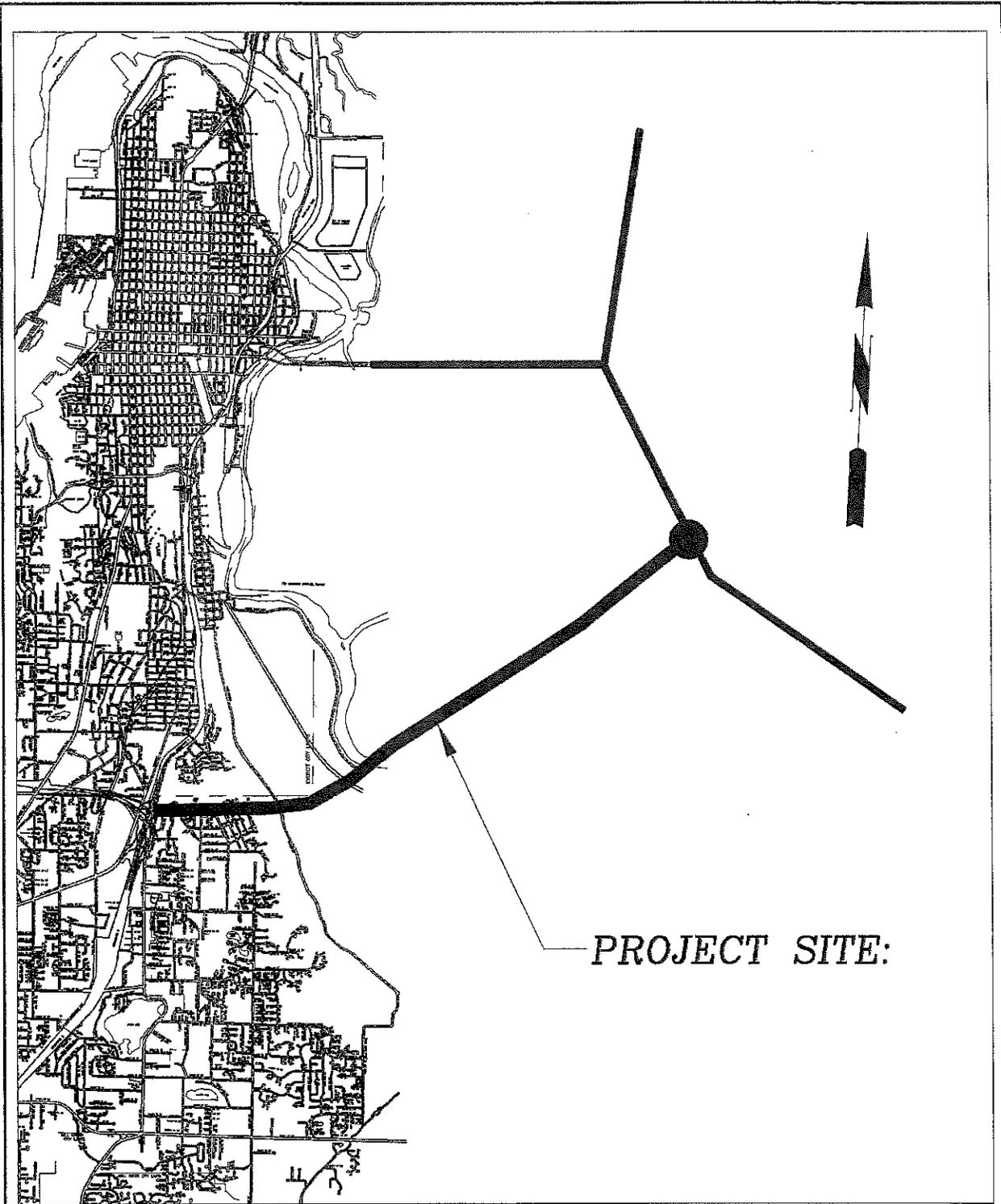
US 2  
I-5 TO SR 204

05-20-09  
date

CITY OF EVERETT – PUBLIC WORKS DEPARTMENT



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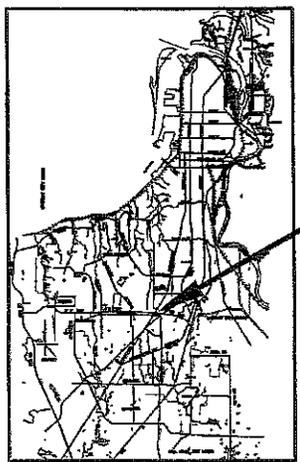


SR 526 EXTENSION  
(INTERSTATE 5 TO US 2)

05-20-09  
date

CITY OF EVERETT – PUBLIC WORKS DEPARTMENT

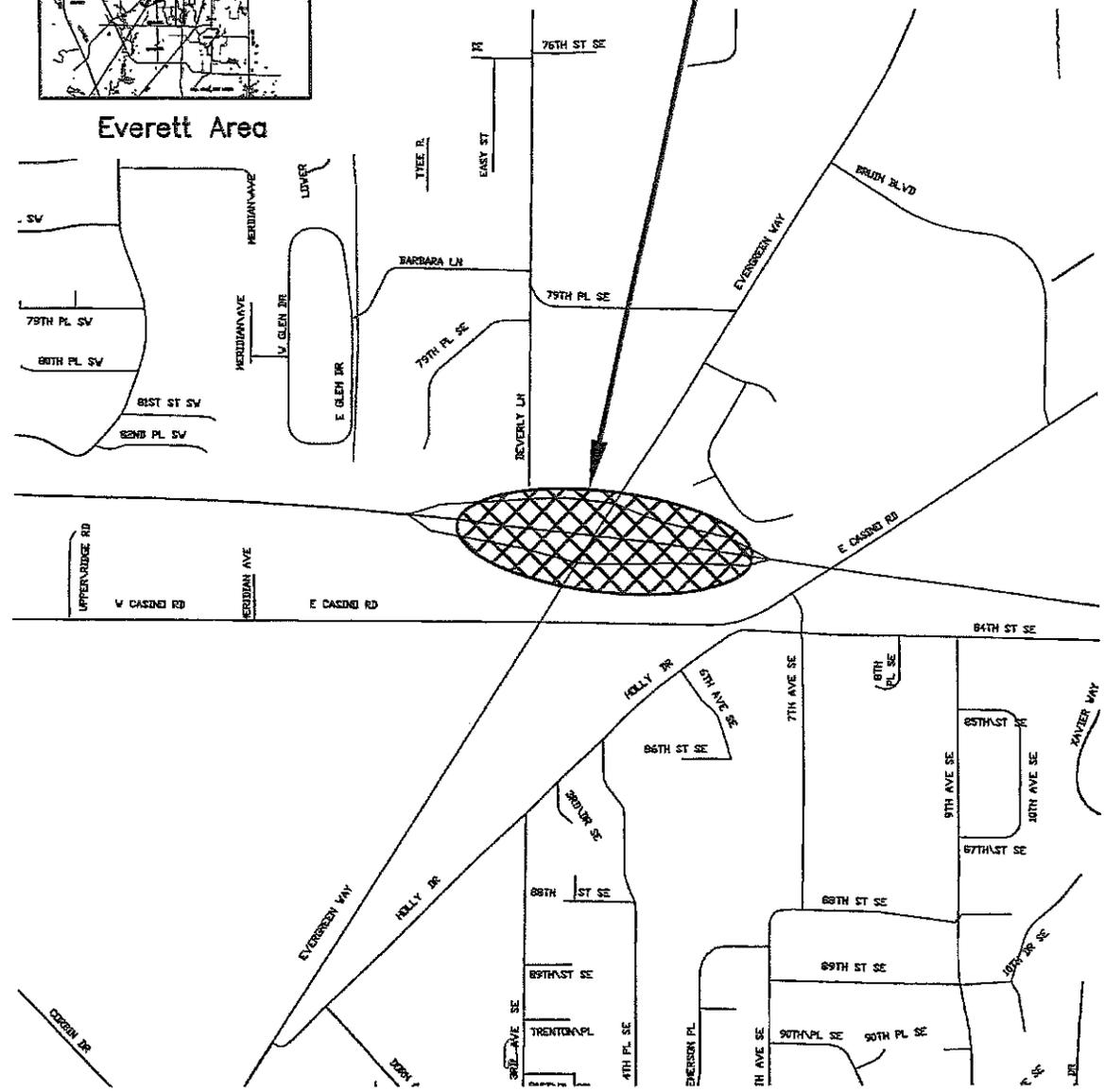
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**PROJECT LOCATION**



**Everett Area**



**Project Site**



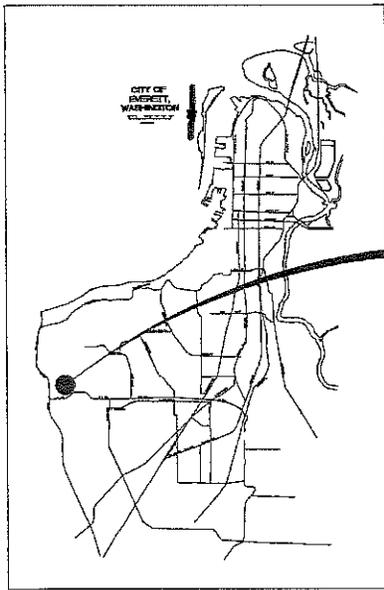
**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**SR 526/EVERGREEN WAY  
INTERCHANGE**

05-20-2009  
date

1  
number

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EVERETT CITY LIMITS

44TH AVE W

76TH ST SW  
78TH ST SW  
BOTH ST SW

SR 526

40TH AVE W

**PROJECT LOCATION**

36 TH AVE W

40-201

40-06

40-04

40-02

40-05

40-03

40-01

40-11

40-12

40-56

40-55

40-54

40-50

40-30

40-31

40-30A

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40-100

40-21

40-51

40-20

45-51

45-01

45-05

45-03

45-04



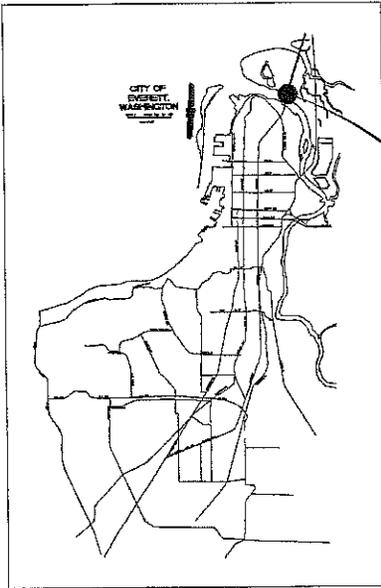
**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC SERVICES DEPARTMENT

**SR 526 & 40TH AVE. WEST INTERSECTION**

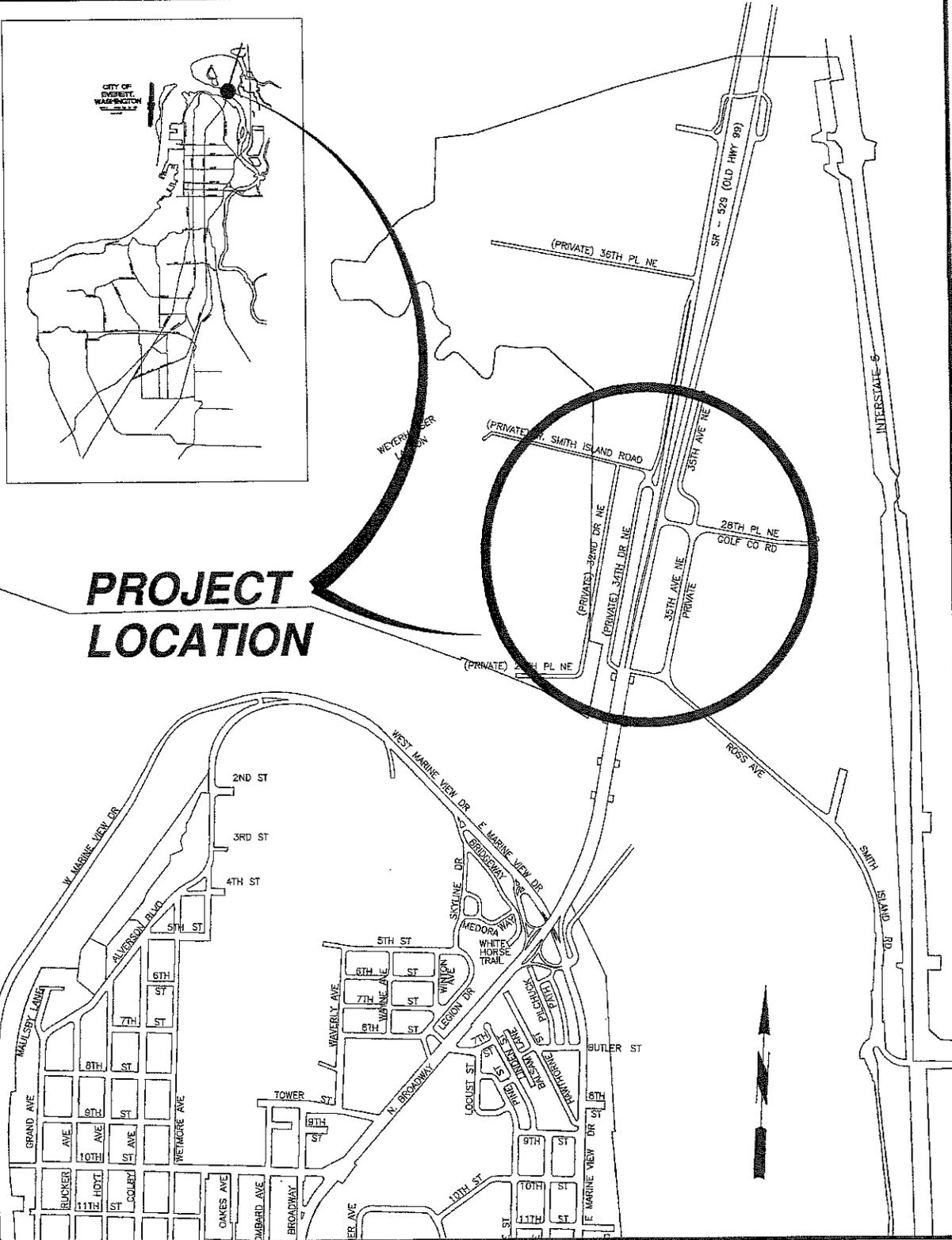
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# PROJECT LOCATION



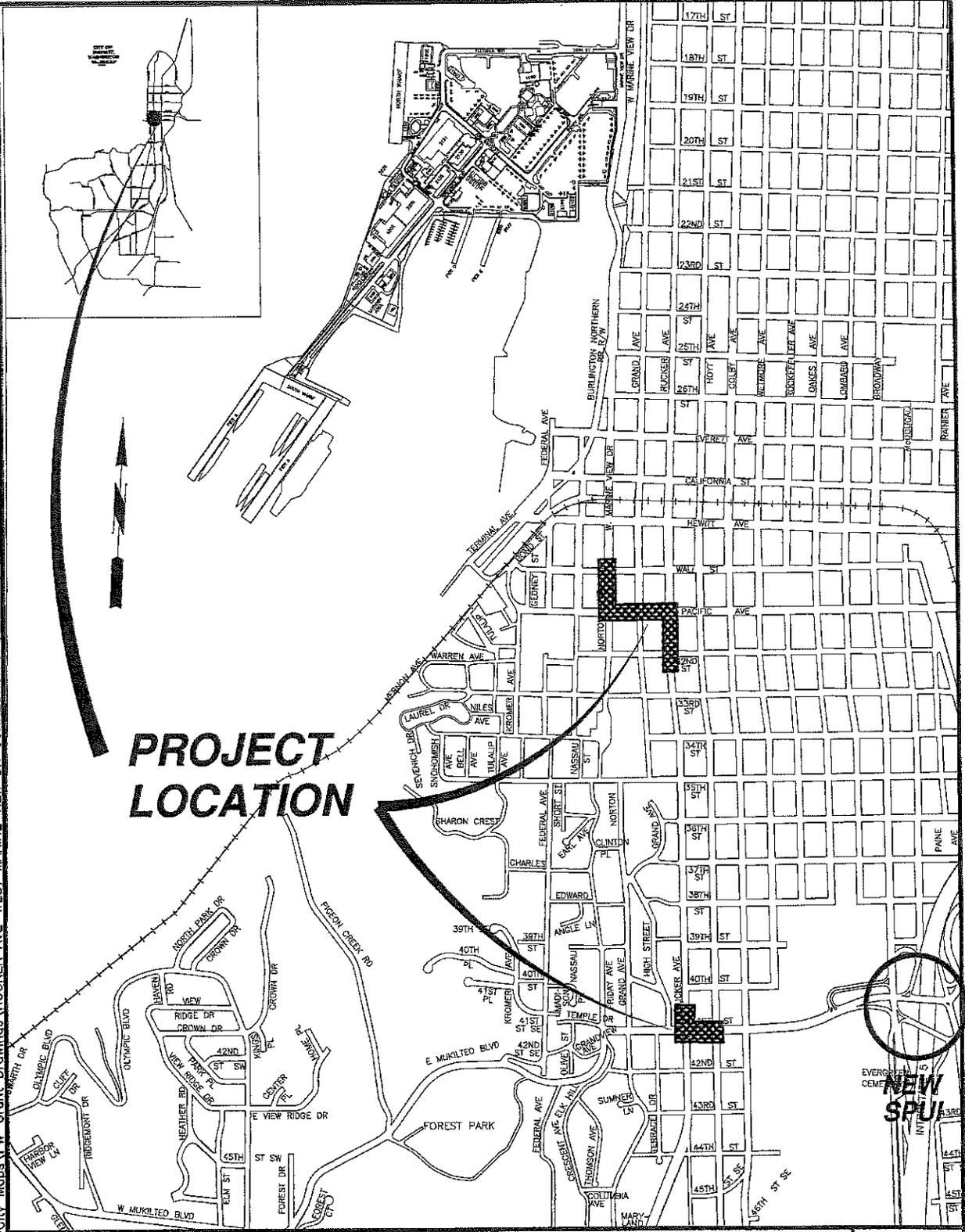
**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**SR 529 / SMITH ISLAND RAMPS**

5-20-2009  
date

1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\RUCKER AVE-WEST MARINE VIEW DR CONNECTION.dwg <Part (Front)> MAY 18 2009 13:29:48



# PROJECT LOCATION

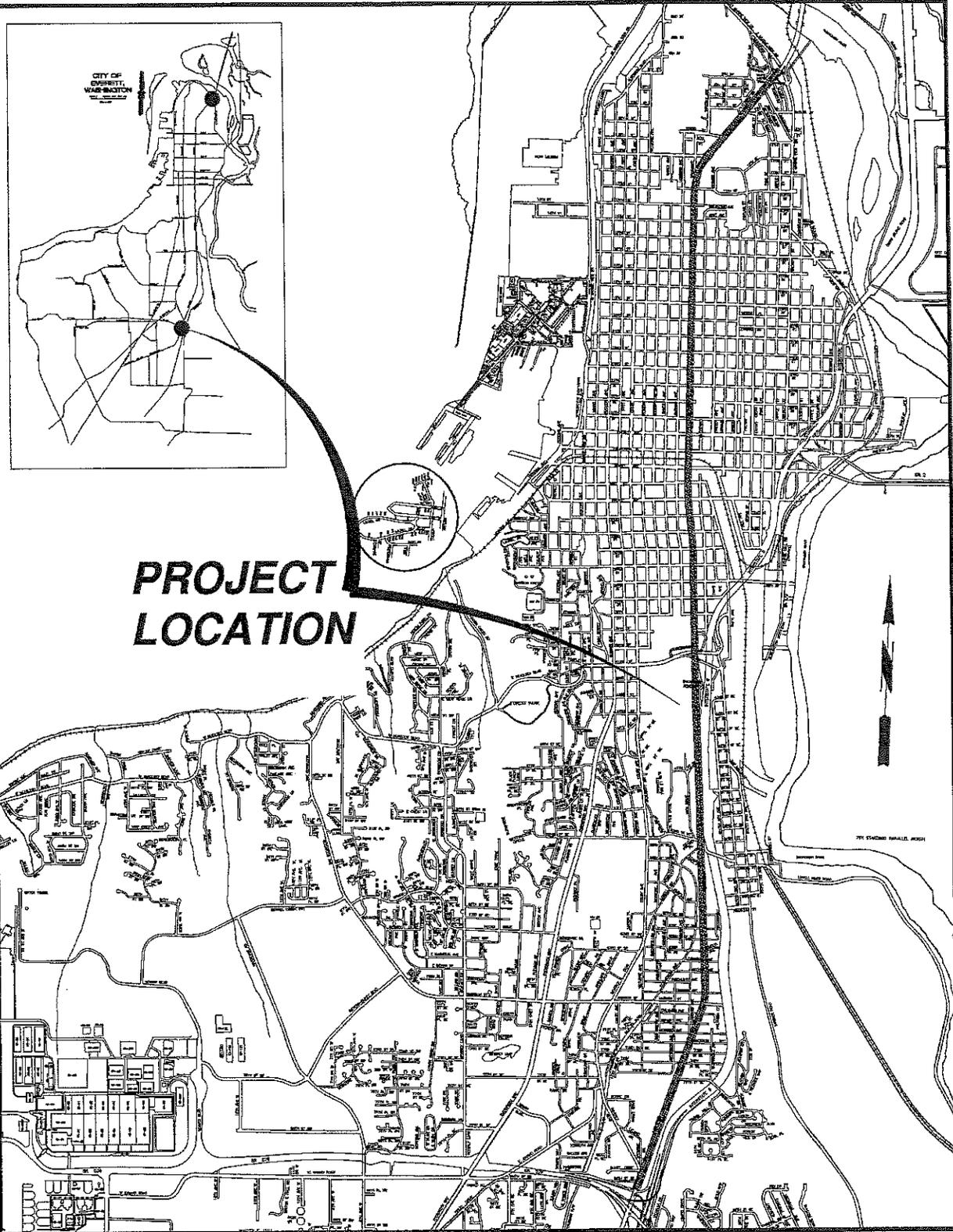


**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC  
 SERVICES DEPARTMENT

**WEST MARINE VIEW DR. /  
 RUCKER AVE. / 41ST ST.**  
 FREIGHT ROUTE IMPROVEMENTS

5-20-2009  
 date  
 1  
 number

T:\Acad\EPS-City\_Maps\Drawings\BROADWAY.DWG <Layout1> MAY 18 2009 15:33:26



**PROJECT  
LOCATION**

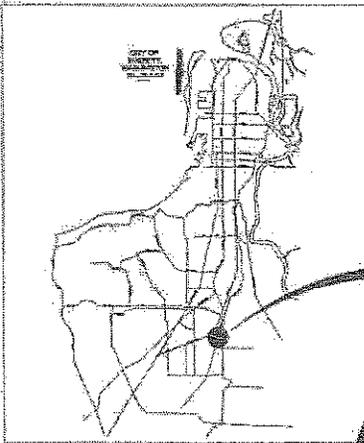


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

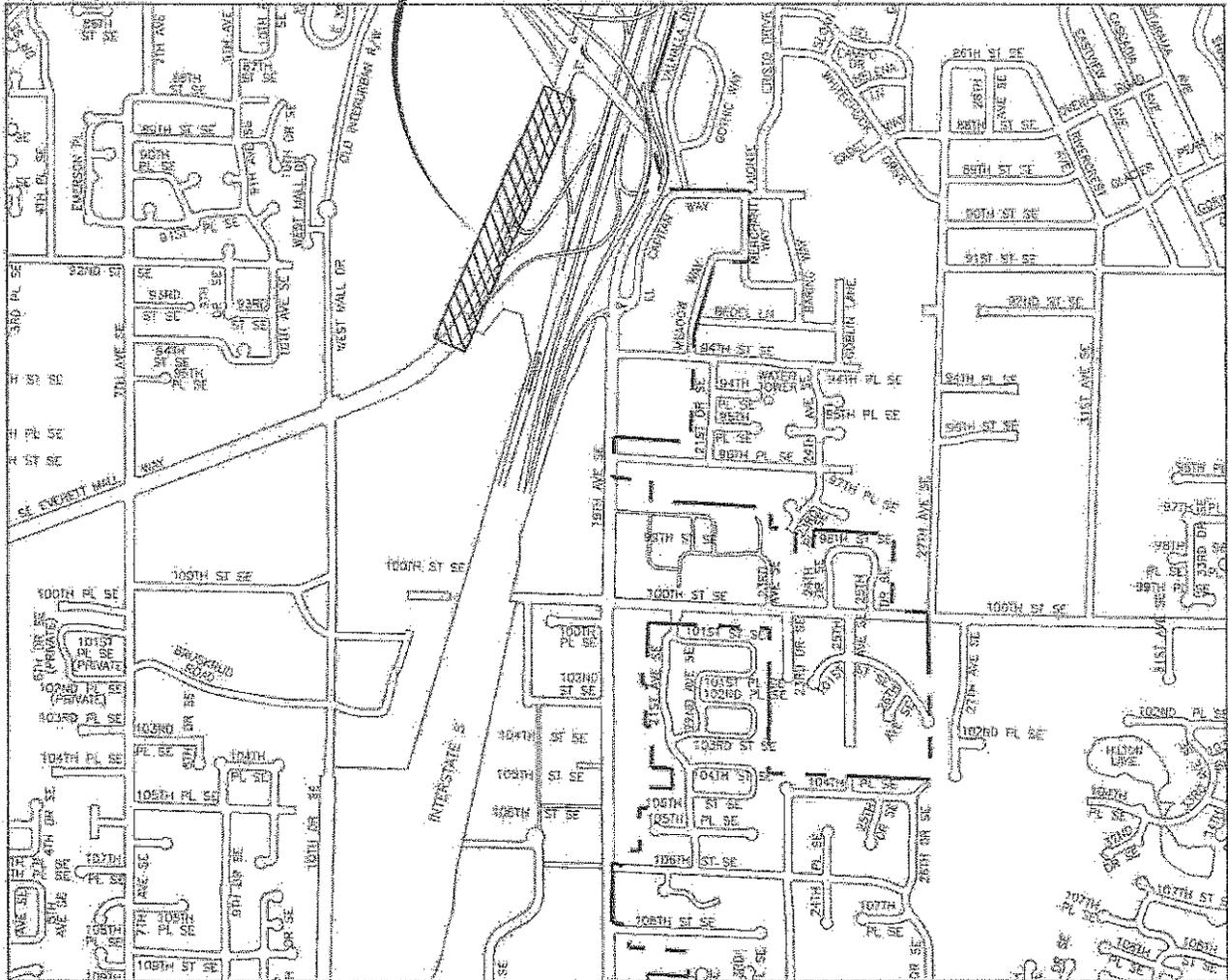
**BROADWAY CORRIDOR IMPS.**  
SR 529 TO SR 526

5-20-2009  
date

1  
number



**PROJECT LOCATION**



P:\Acad\EFB-City Maps\FW-Grant Drawings\SE EVERETT MALL WAY.dwg <Layout1> MAY 09 2011 10:47:28

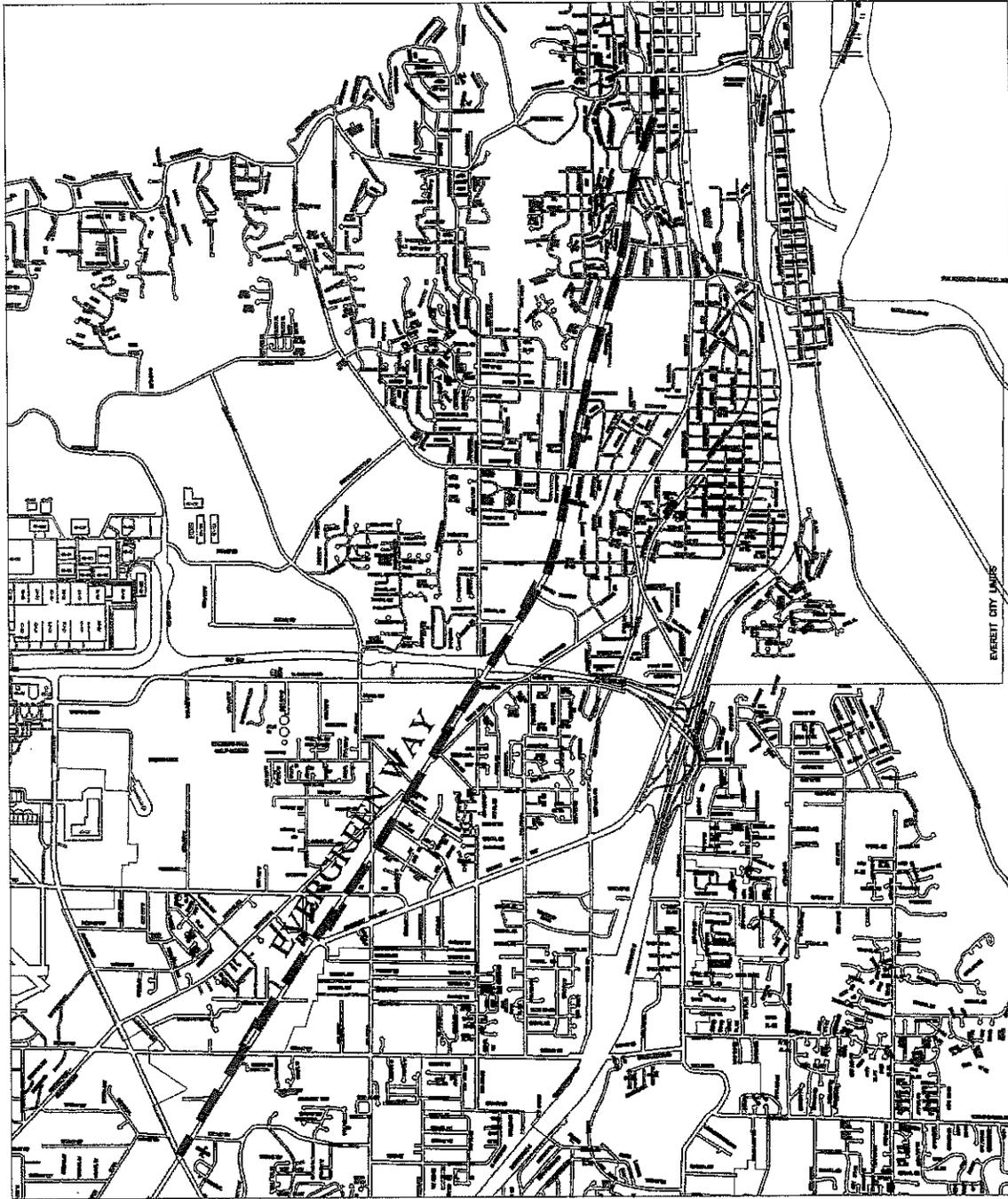


SE EVERETT MALL WAY  
(SSR 99 TO SR 526)

05-09-11  
date

CITY OF EVERETT - PUBLIC WORKS DEPARTMENT

**PROJECT SITE:  
EVERGREEN WAY, 41ST STREET TO AIRPORT ROAD**



T:\ACad\EPS-City Maps\PW-Grant Drawings\EVERGREEN WAY 41ST TO AIRPORT RD.dwg <Layout1 (2)> MAY 18 2009 12:46:34



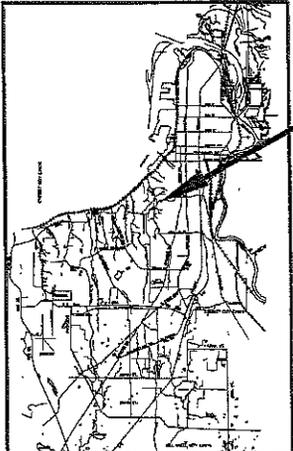
**EVERGREEN WAY IMPROVEMENTS  
41ST STREET TO AIRPORT ROAD**

**05-20-09**  
date

**1**  
number

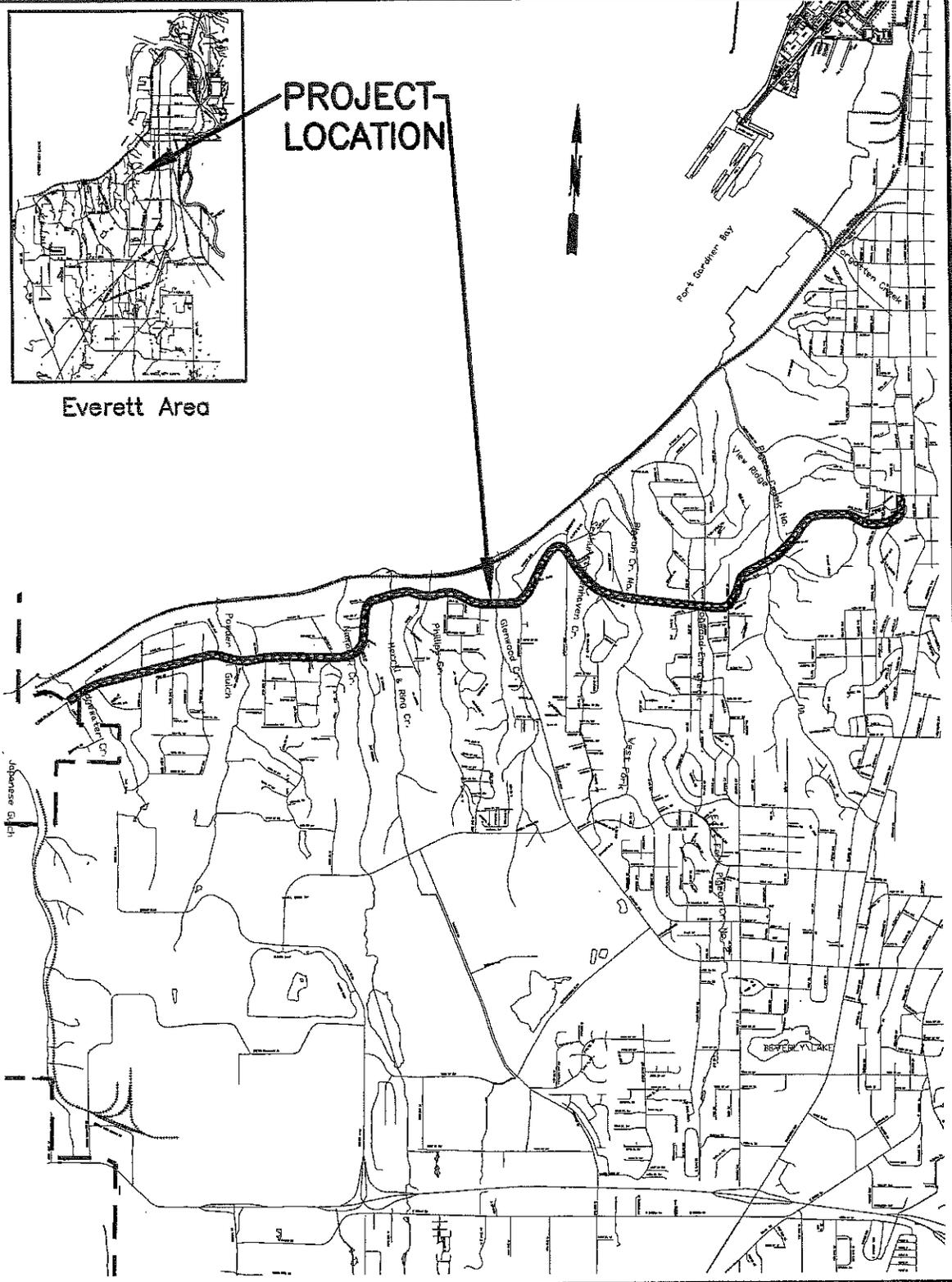
**CITY OF EVERETT - PUBLIC WORKS DEPARTMENT**

T:\Acad\EPS-City Maps\PW-Grant Drawings\MUKILTEO BLVD. SAFETY IMP.S.dwg <Grant App> MAY 18 2009 15:40:15



**PROJECT  
LOCATION**

Everett Area

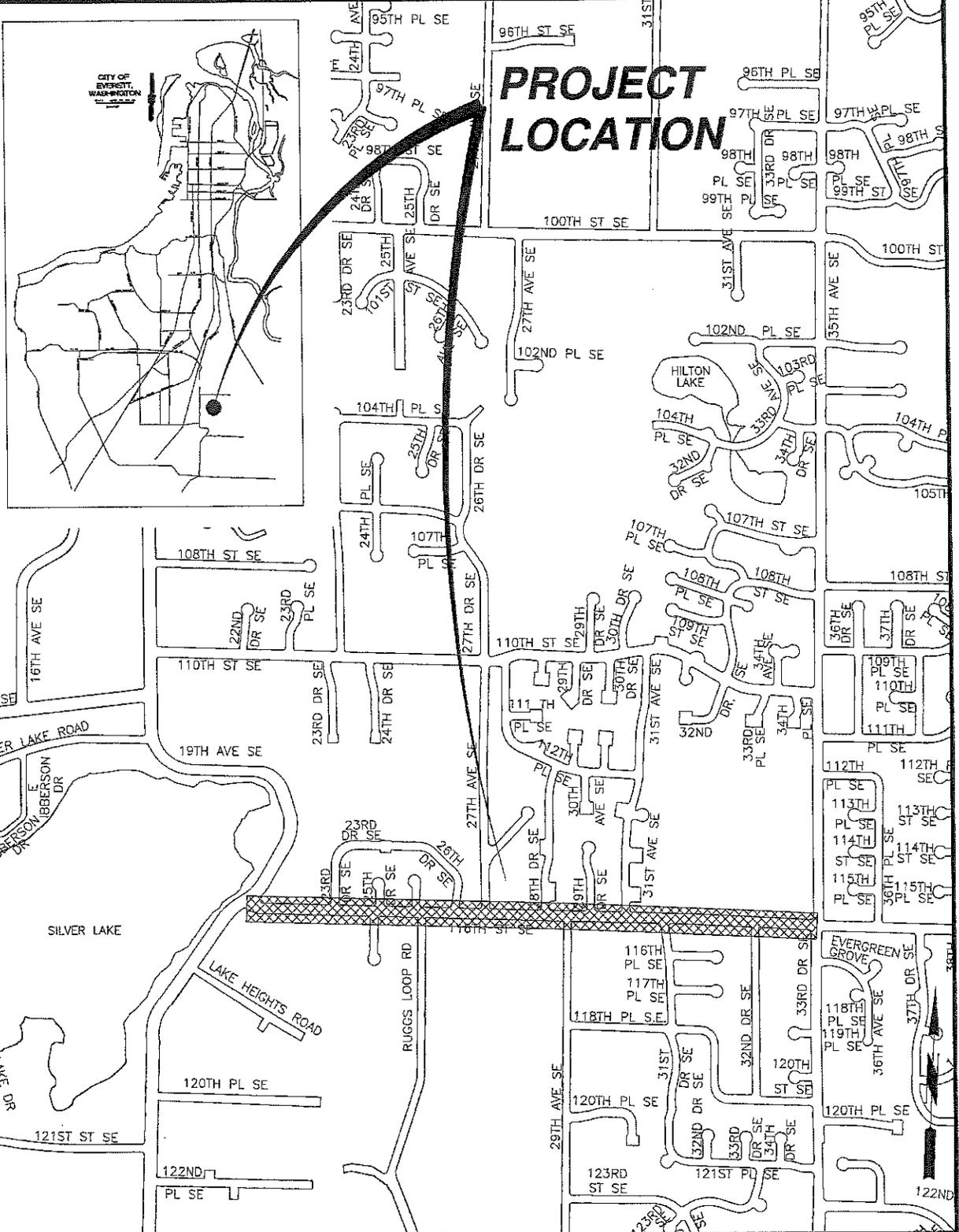


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**MUKILTEO BLVD.  
SAFETY IMP.S.  
(FRIDAY AVE. TO CITY LIMITS)**

**05-20-2009**  
date  
**1**  
number

T:\Acad\EPS-City Maps\116THSTREET.dwg <Layout1> MAY 18 2009 15:44:03



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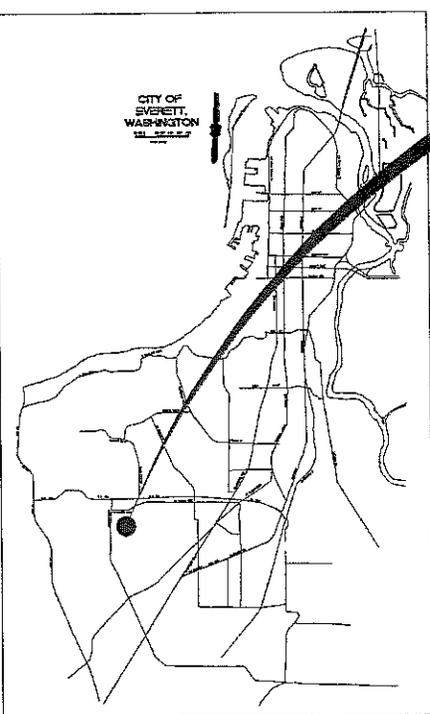


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

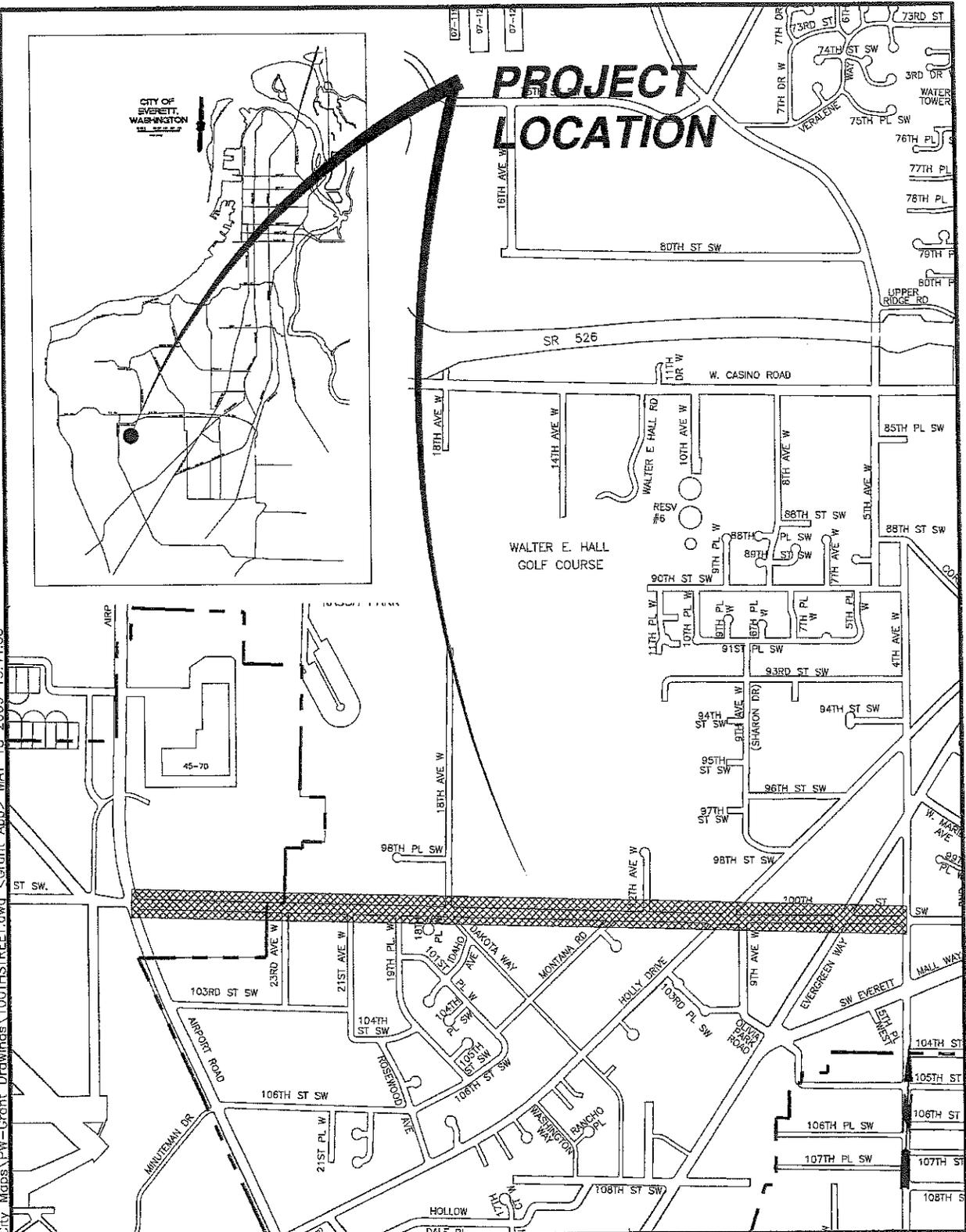
**116TH ST. SE  
IMPROVEMENT PROJECT**

5-20-2009  
date  
1  
number

T:\Acad\EPS-City Maps\PW-Cent Drawings\100THSTREET.dwg <Grant App> MAY 18 2009 15:44:55



# PROJECT LOCATION

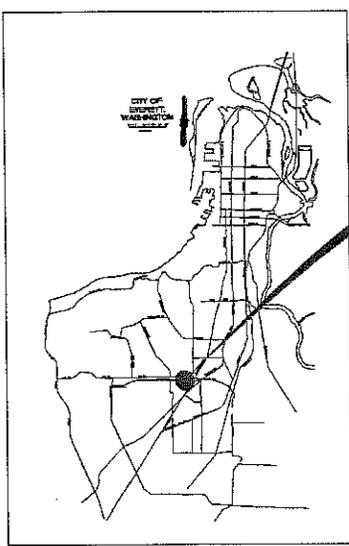


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

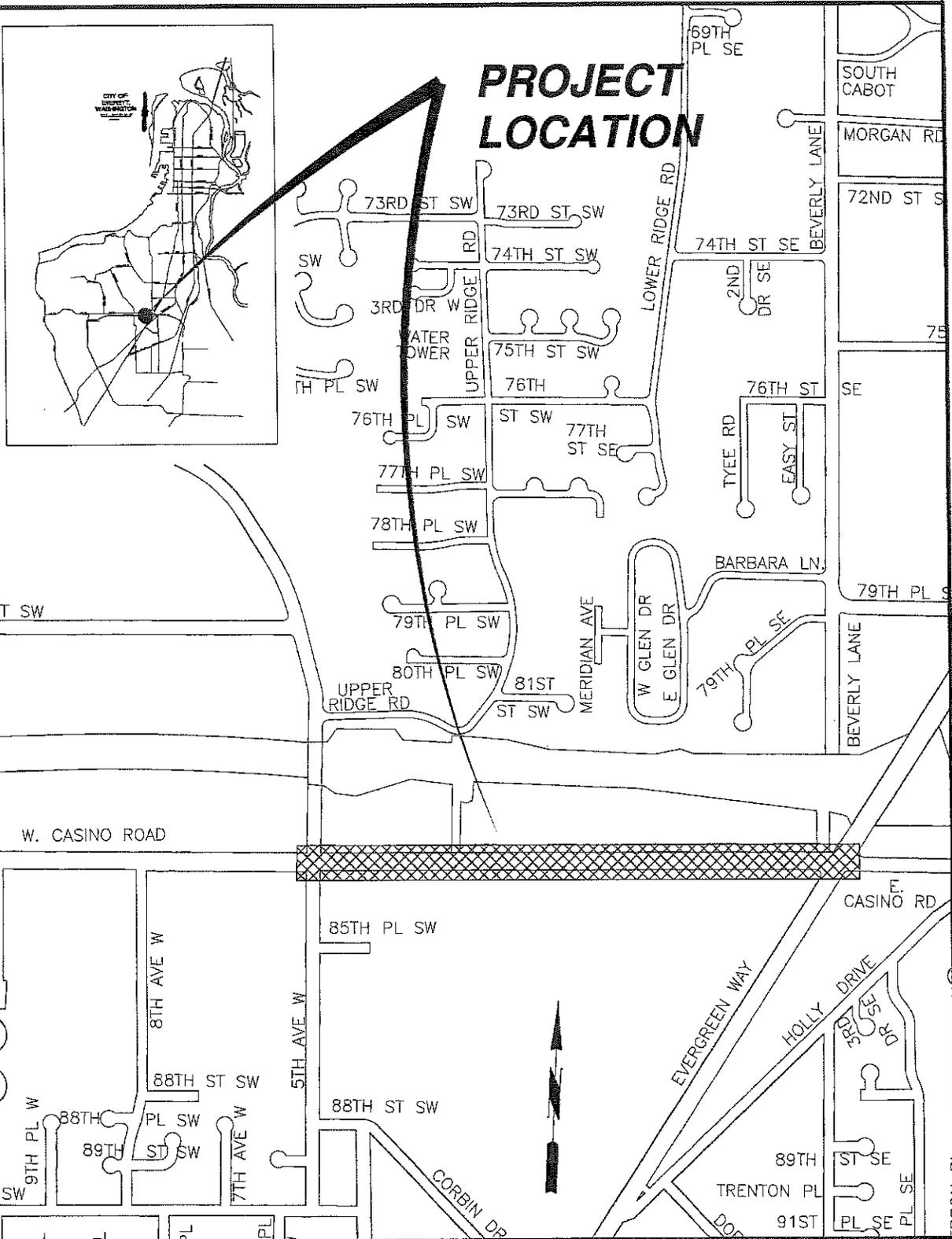
**100TH ST. SW**  
**IMPROVEMENT PROJECT**

5-20-2009  
date  
1  
number

T:\A\Cad\FPS-City Maps\PW-Grant Drawings\Casino Road at Hardison.dwg <Layout> MAY 18 2009 15:46:44



# PROJECT LOCATION

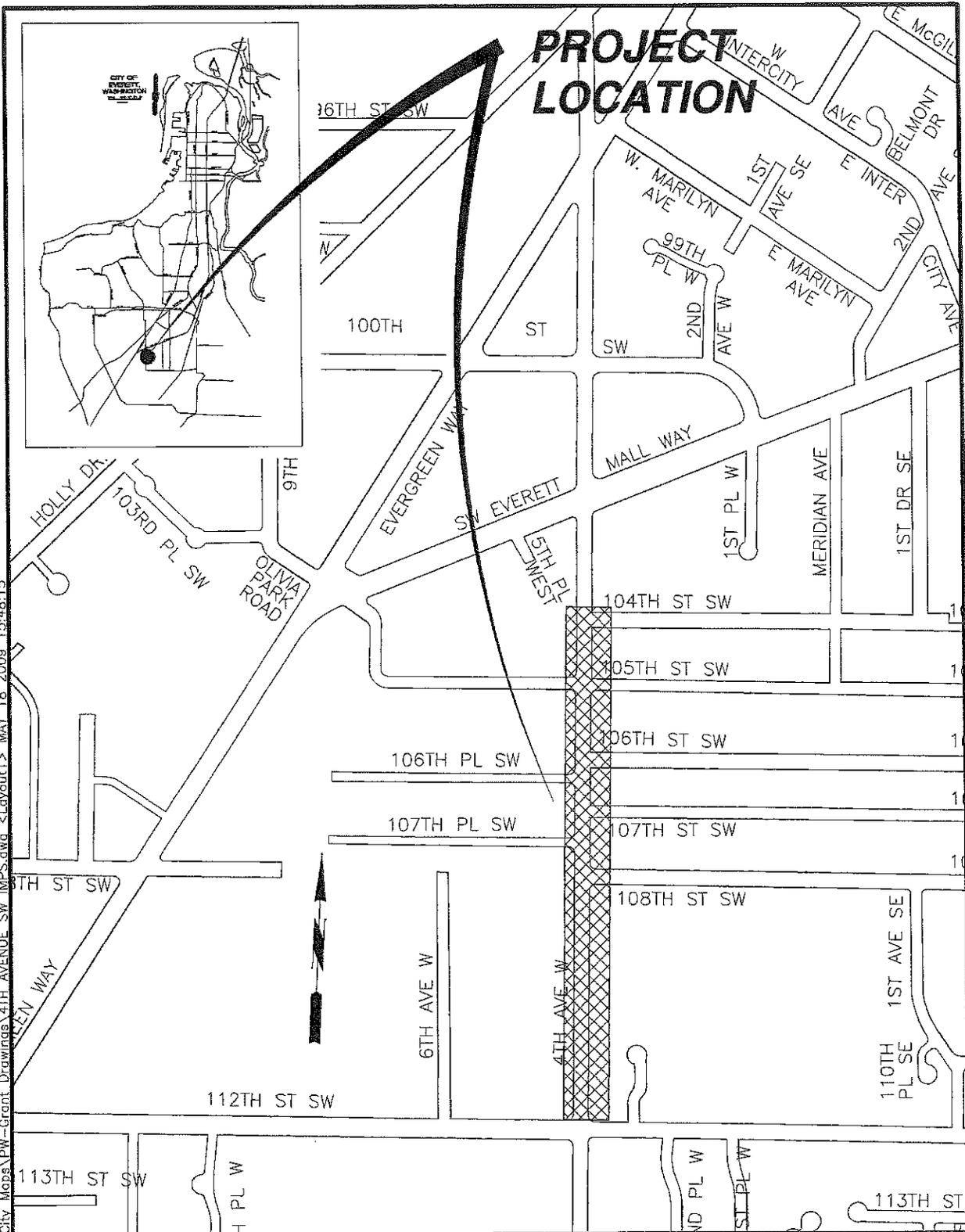


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC SERVICES DEPARTMENT

**CASINO RD. SAFETY & CAPACITY IMPROVEMENTS**  
**EVERGREEN WAY TO 5TH AVE. W**

5-20-2009  
date  
1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\4TH AVENUE SW IMP.SW.dwg <Layout1> MAY 18 2009 15:48:15



# PROJECT LOCATION

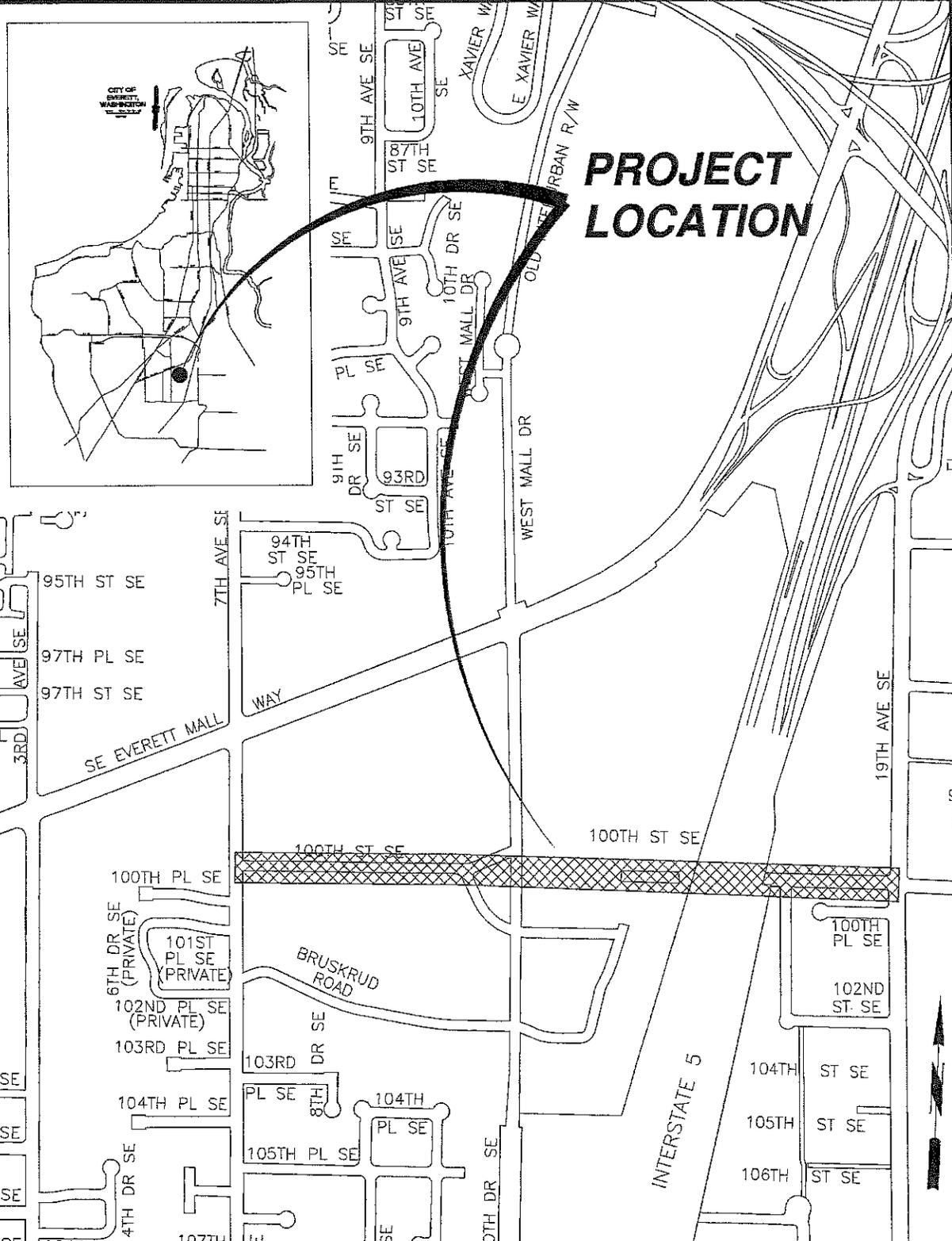


**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC SERVICES DEPARTMENT

**4TH AVE. W IMPROVEMENTS**  
**104TH ST. SW TO 112TH ST. SW**

5-20-2009  
 date  
 1  
 number

T:\ACad\EPS-City\_Maps\PW-Grant Drawings\100TH STREET IMPROVEMENTS.dwg <Layout> MAY 18 2009 15:50:19



**PROJECT LOCATION**



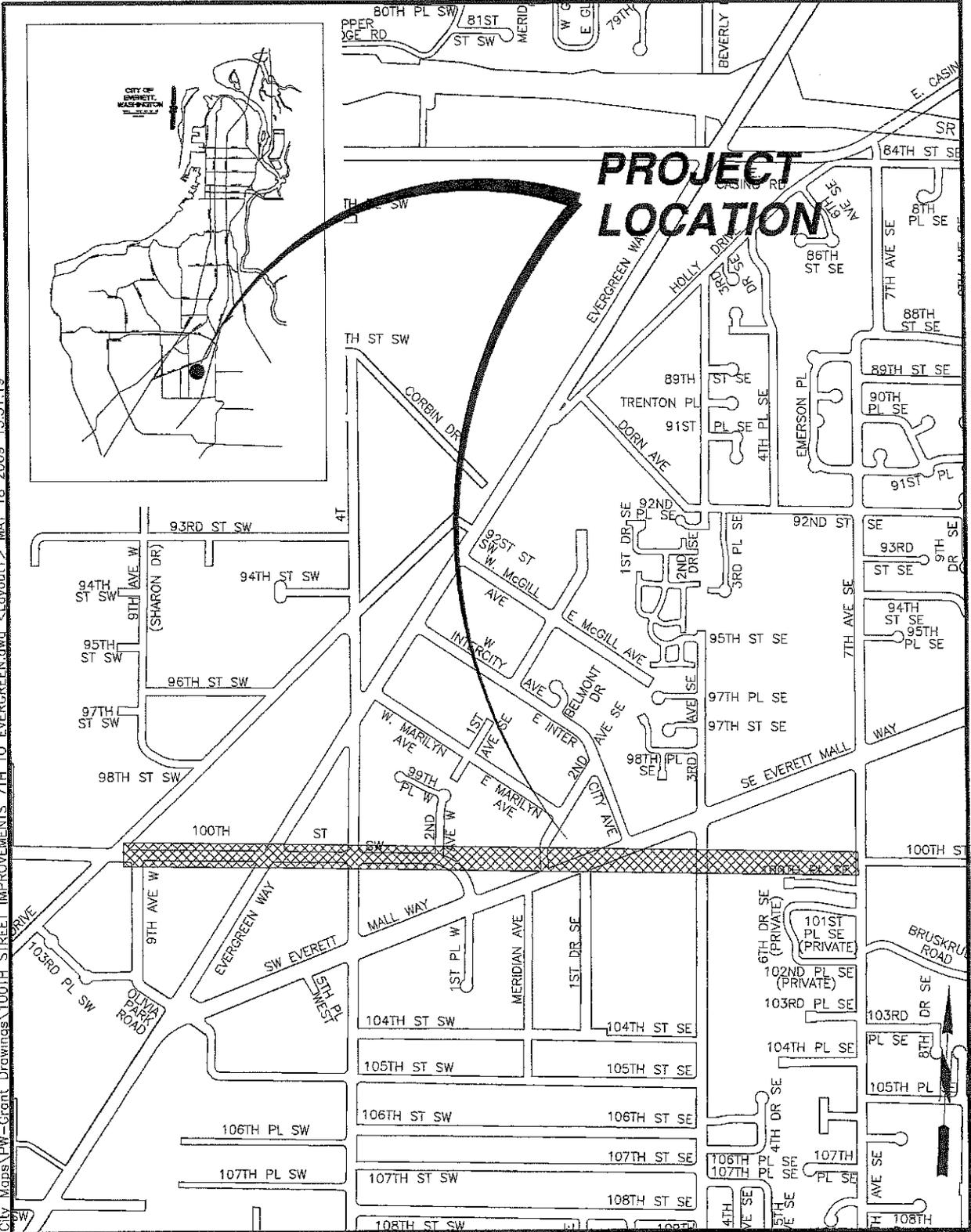
**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC SERVICES DEPARTMENT

**100TH ST. IMPROVEMENTS**  
**SR 527 TO 7TH AVE. SE**

5-20-2009  
 date

1  
 number

T:\ACad\FPS-City Maps\PW-Grant Drawings\100TH STREET IMPROVEMENTS 7TH TO EVERGREEN.dwg <Layout> MAY 18 2009 15:51:19



# PROJECT LOCATION

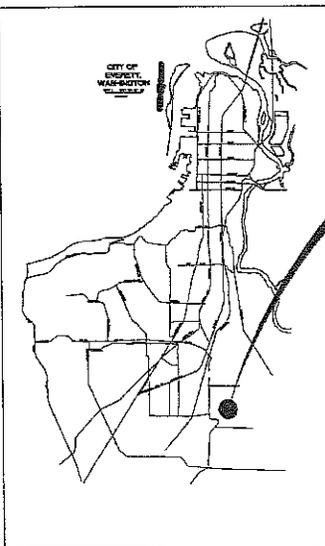


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

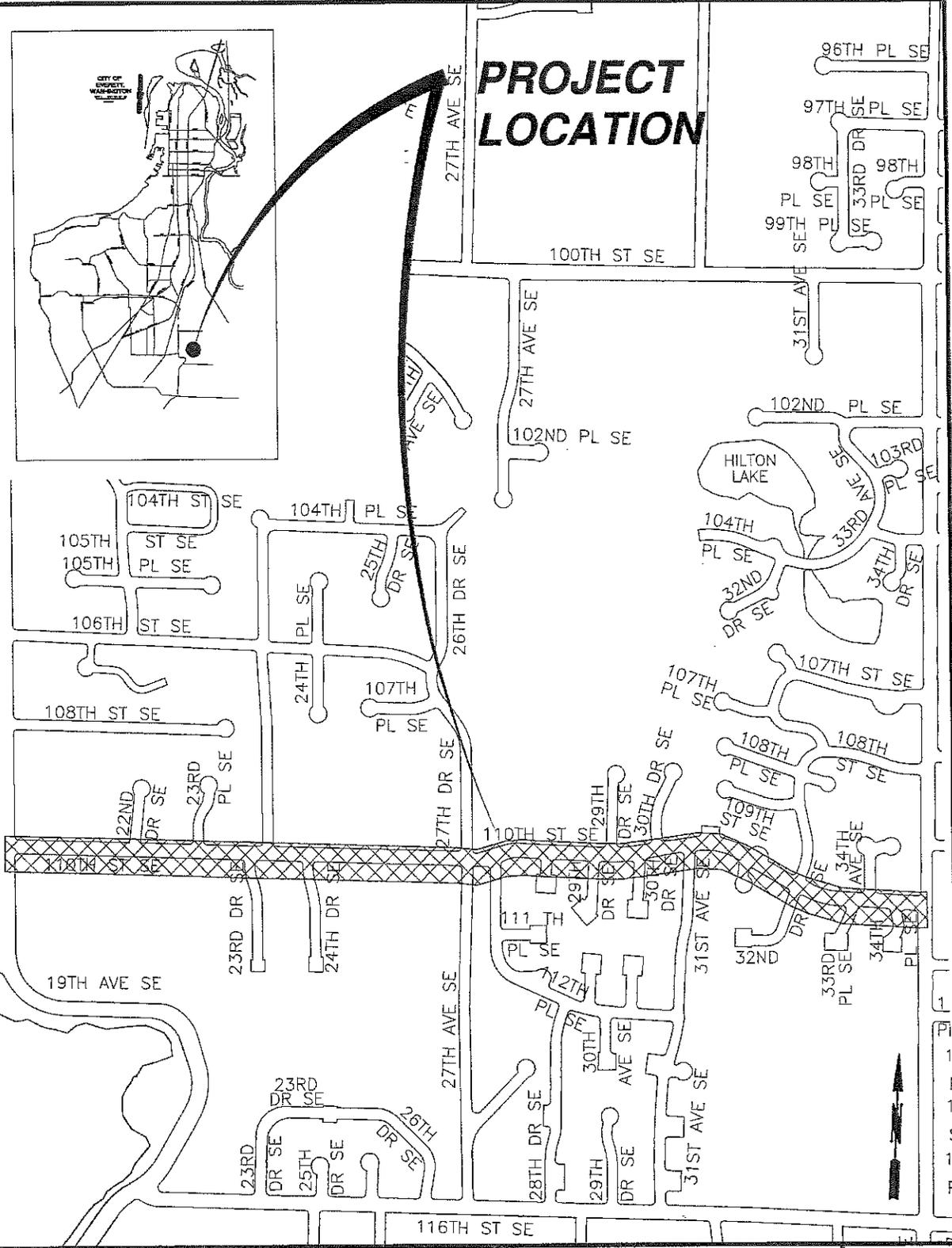
**100TH ST. IMPROVEMENTS**  
**7TH AVE. SE TO EVERGREEN WAY**

5-20-2009  
date  
1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\110TH ST SE IMPS SR527 TO 35TH.dwg <Grant App> MAY 18 2009 15:52:54



# PROJECT LOCATION

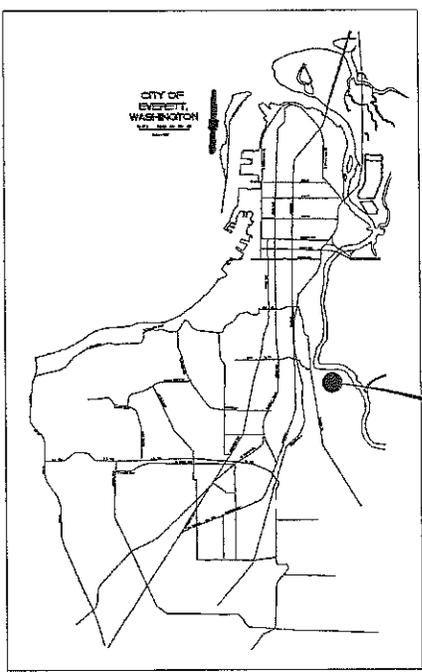


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

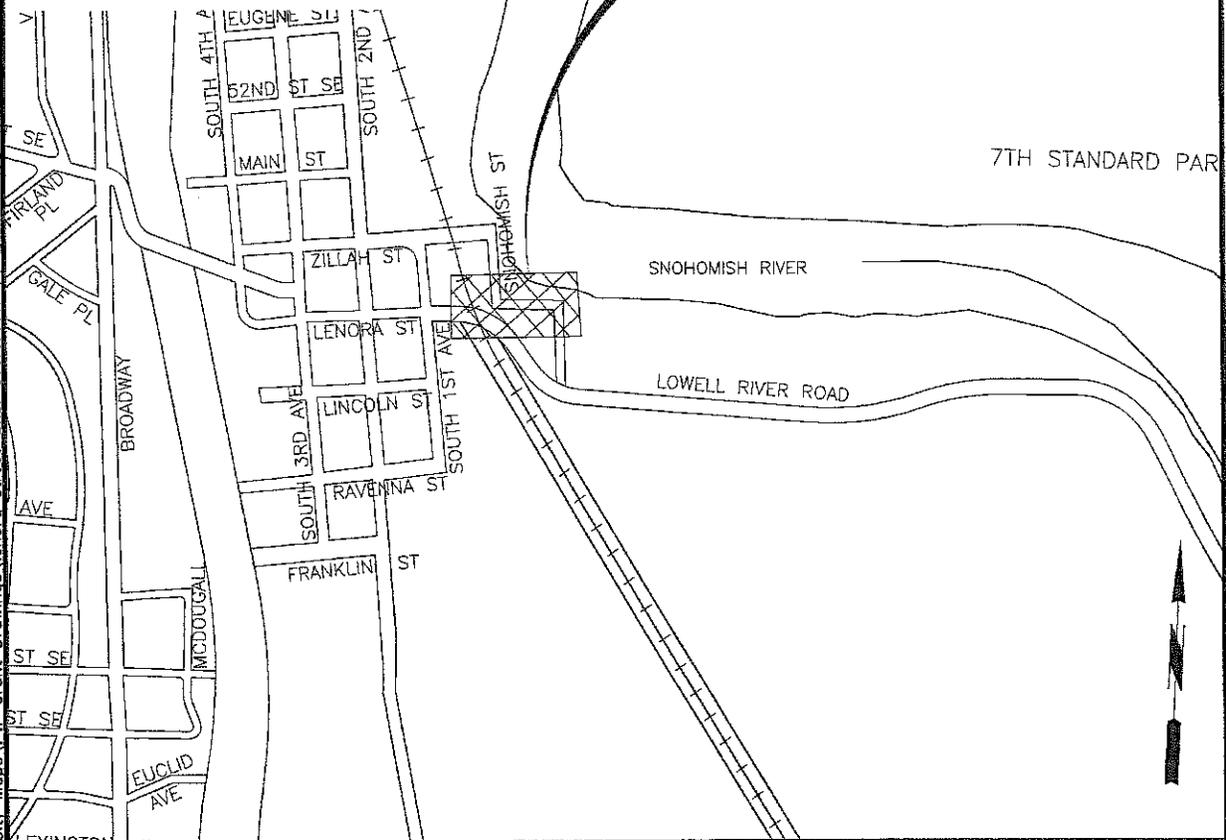
**110TH ST. SE IMPS.**  
**SR 527 TO 35TH ST.**

5-20-2009  
date  
1  
number

T:\Acad\EPS-City Maps\Grant Drawings\lenora\_street-bnsf\_overcrossing.dwg <Port (front)> MAY 18 2009 15:54:01



**PROJECT  
LOCATION**

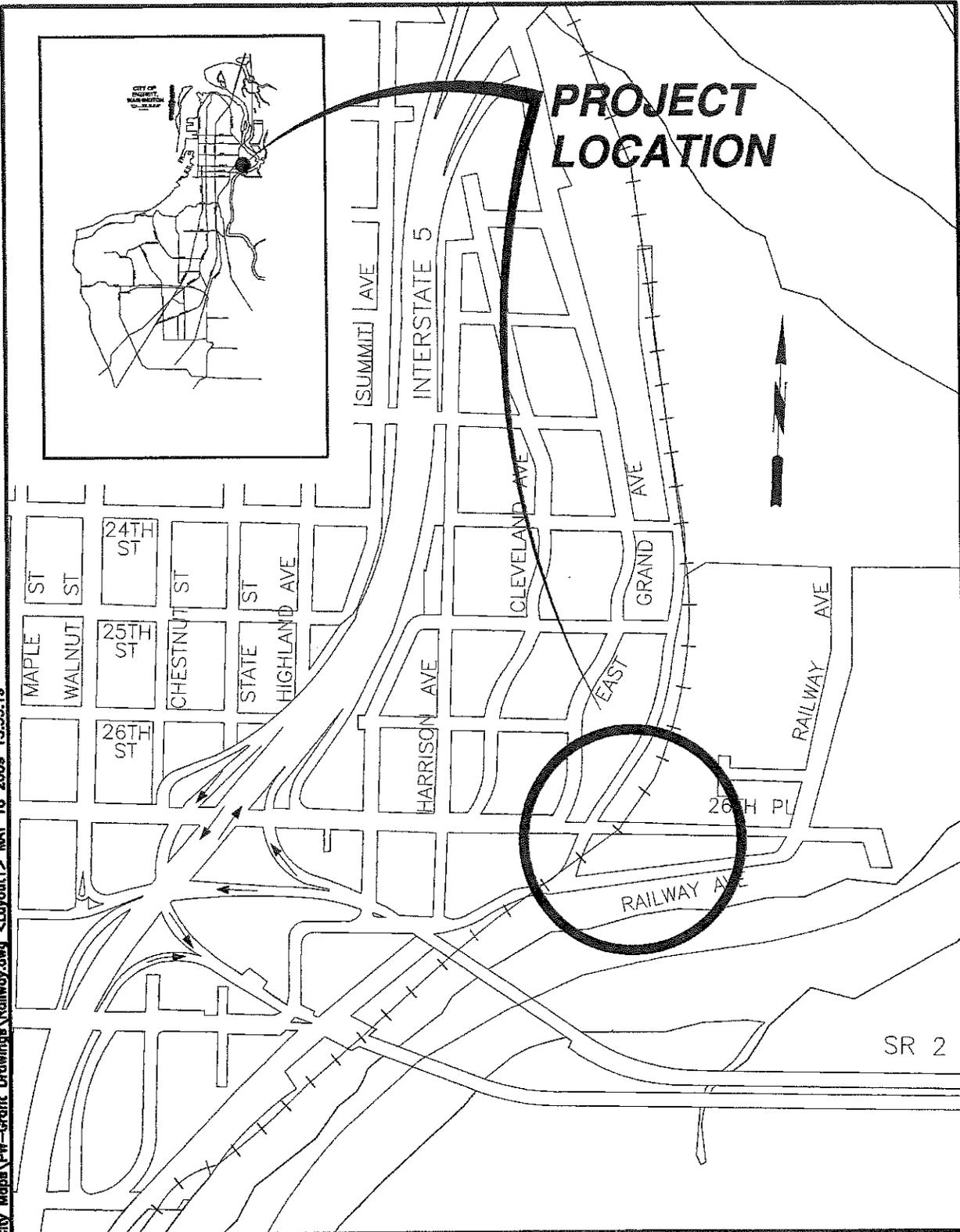


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**LENORA ST./BNSF RAIL LINE  
OVERCROSSING  
LENORA STREET &  
LOWELL SNO. RIVER ROAD**

5-20-2009  
date  
1  
number

T:\Acad\EPS-City Maps\PW-Grant Drawings\Railway.dwg <Layout1> MAY 18 2009 15:55:19

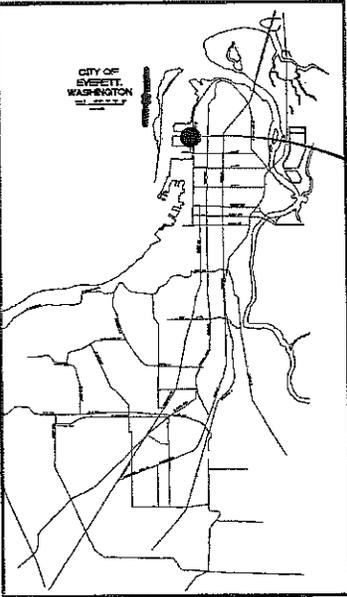



**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC SERVICES DEPARTMENT

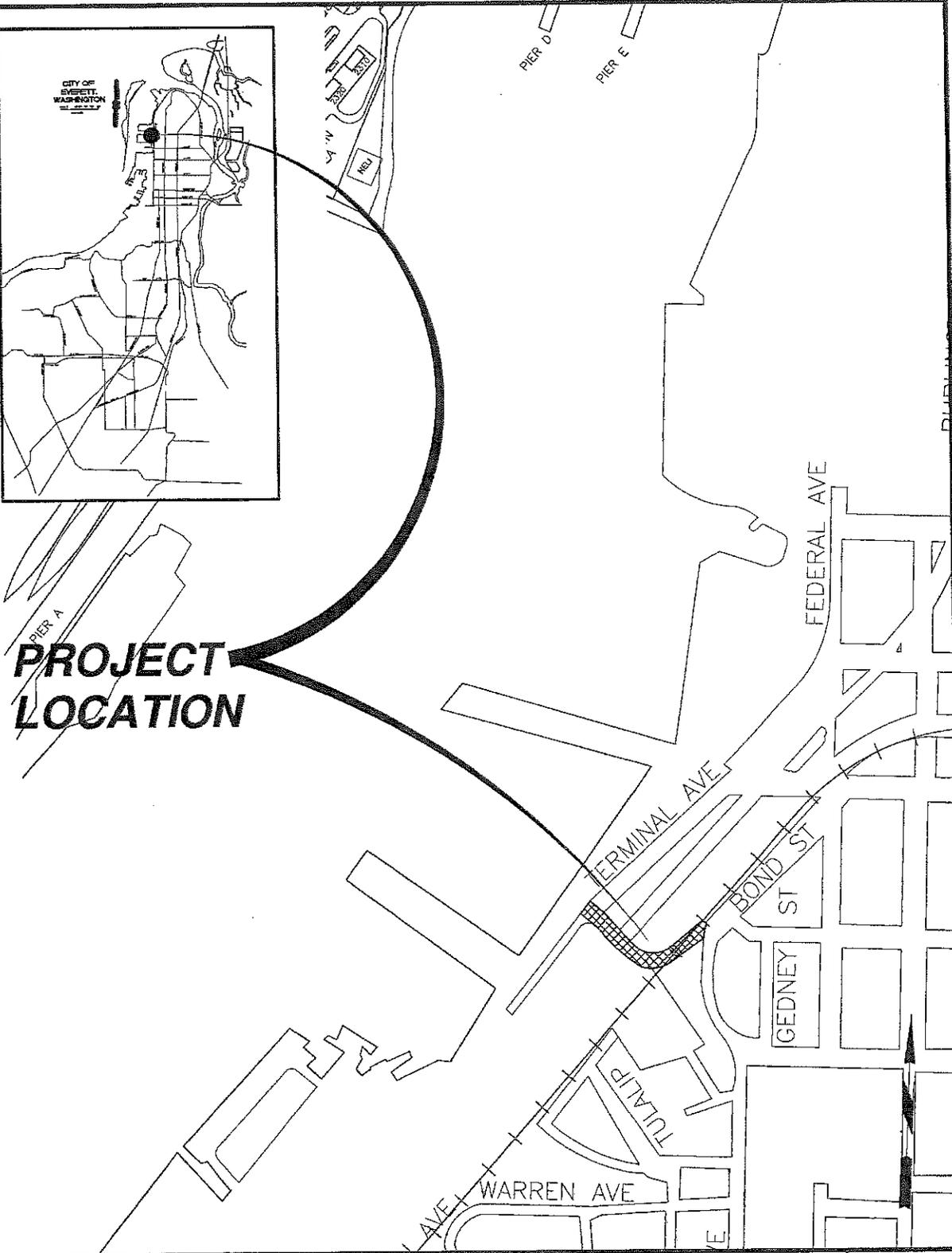
**EAST EVERETT AVENUE/  
 BSNF OVERCROSSING**

5-20-2009  
 date  
 1  
 number

T:\Acad\EPS-City Maps\FW-Grant Drawings\BOND STREET PED OVERCROSSING.dwg <Port (Front)> MAY 19 2009 07:16:30



# PROJECT LOCATION

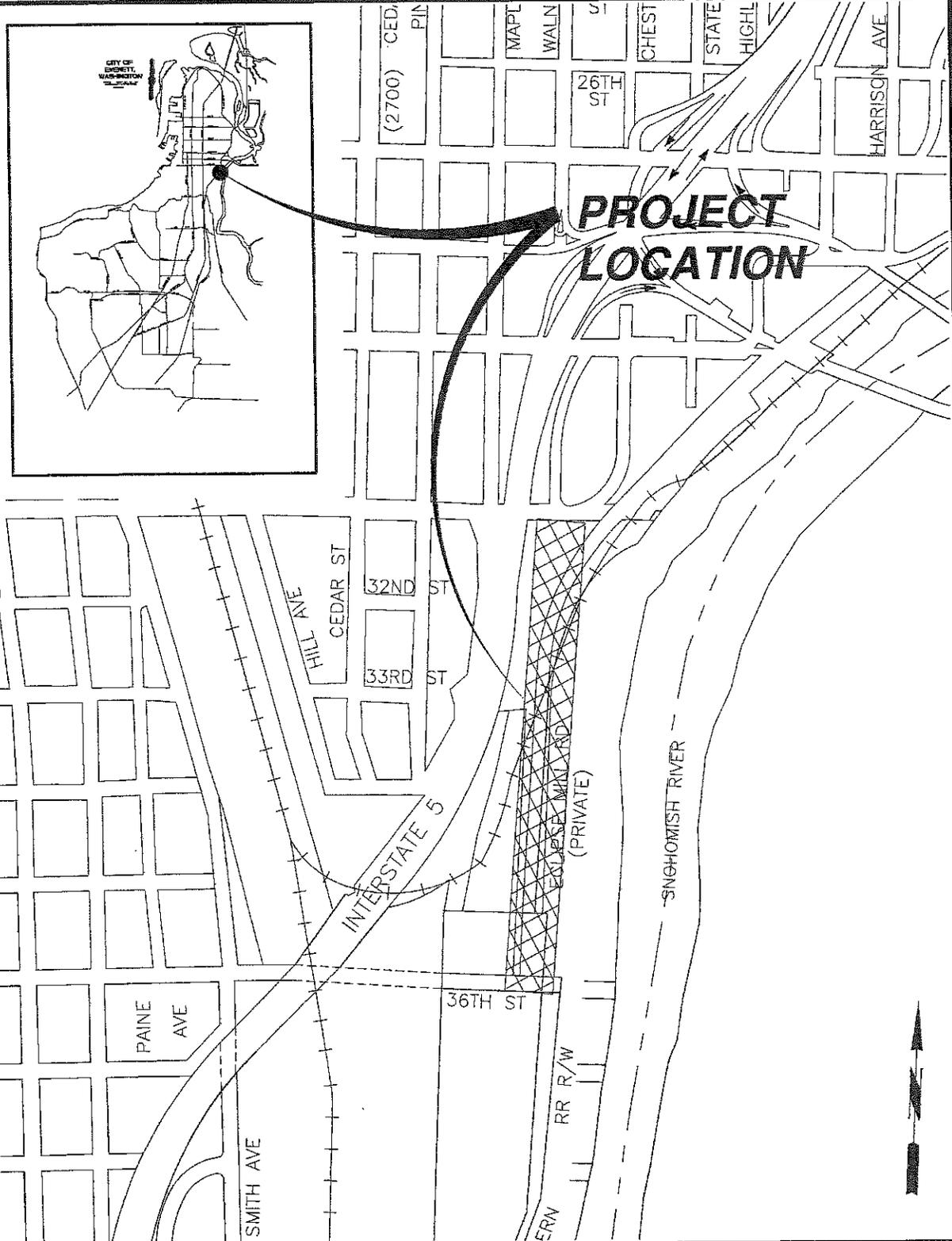


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

## BOND STREET PEDESTRIAN CROSSING

5-20-2009  
date  
1  
number

T:\ACad\EPS--City Maps\pwy--Grant Drawings\CHESTNUT ST--ECLIPSE MILL ROAD IMP.S.dwg\_sPort (Front).MAY 19 2009 07:17:43

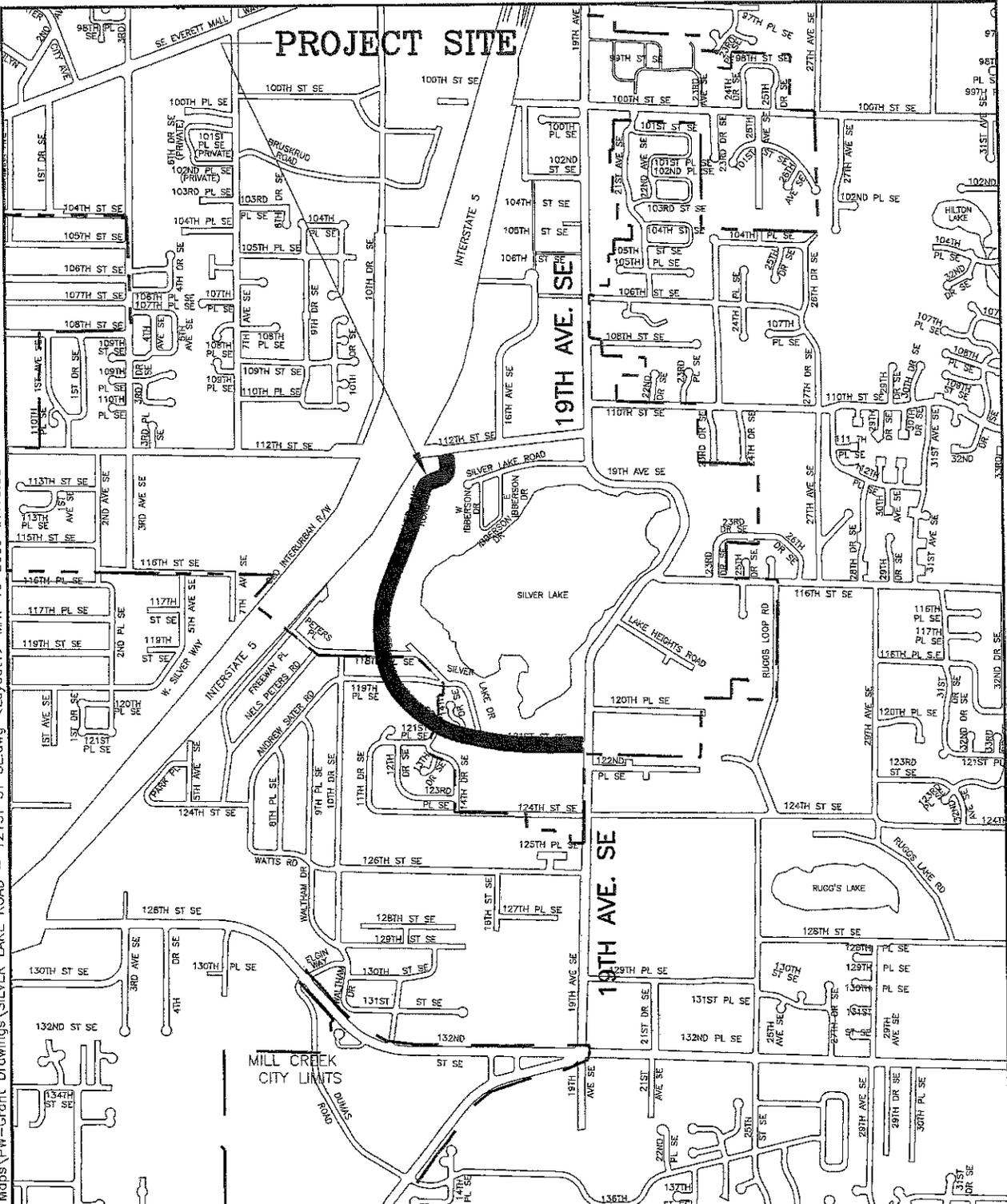


**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC  
 SERVICES DEPARTMENT

**CHESTNUT ST./ECLIPSE MILL RD.**  
**IMPROVEMENTS**  
**PACIFIC AVE. TO 36TH ST.**

5-20-2009  
 date  
 1  
 number

T:\ACad\EPS-City Maps\Grant Drawings\SILVER LAKE ROAD - 121ST ST. SE.dwg <Layout1> MAY 19 2009 07:18:38



PROJECT SITE

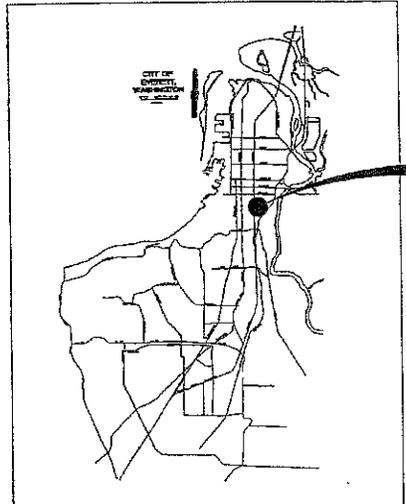
SILVER LAKE ROAD - 121ST ST. SE  
 PEDESTRIAN IMPROVEMENTS

05-20-09  
date

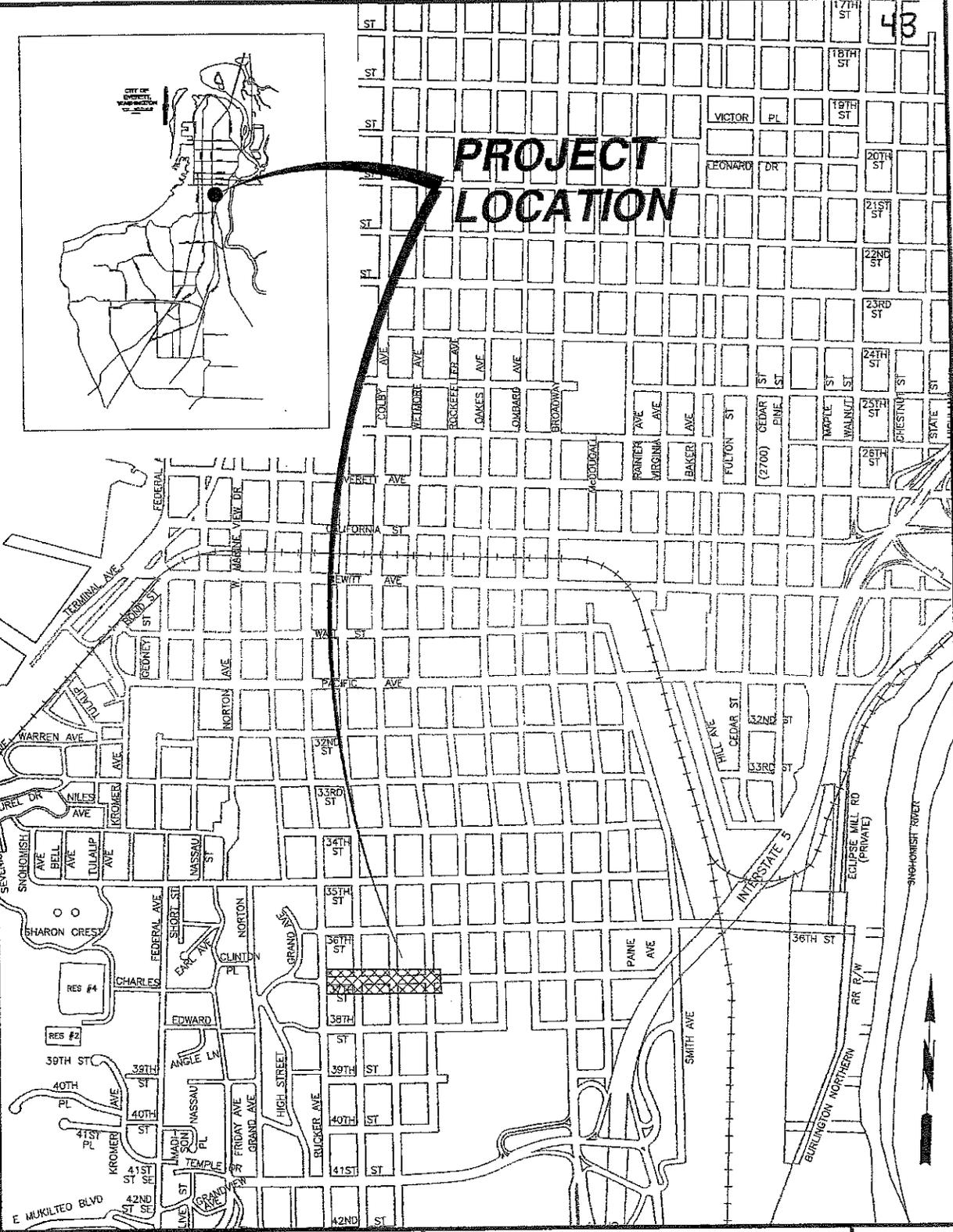


CITY OF EVERETT - PUBLIC WORKS DEPARTMENT

T:\ACed\EPS-City Maps\PW-Grant Drawings\37THIMP.DWG <Layout> MAY 27 2008 08:37:04



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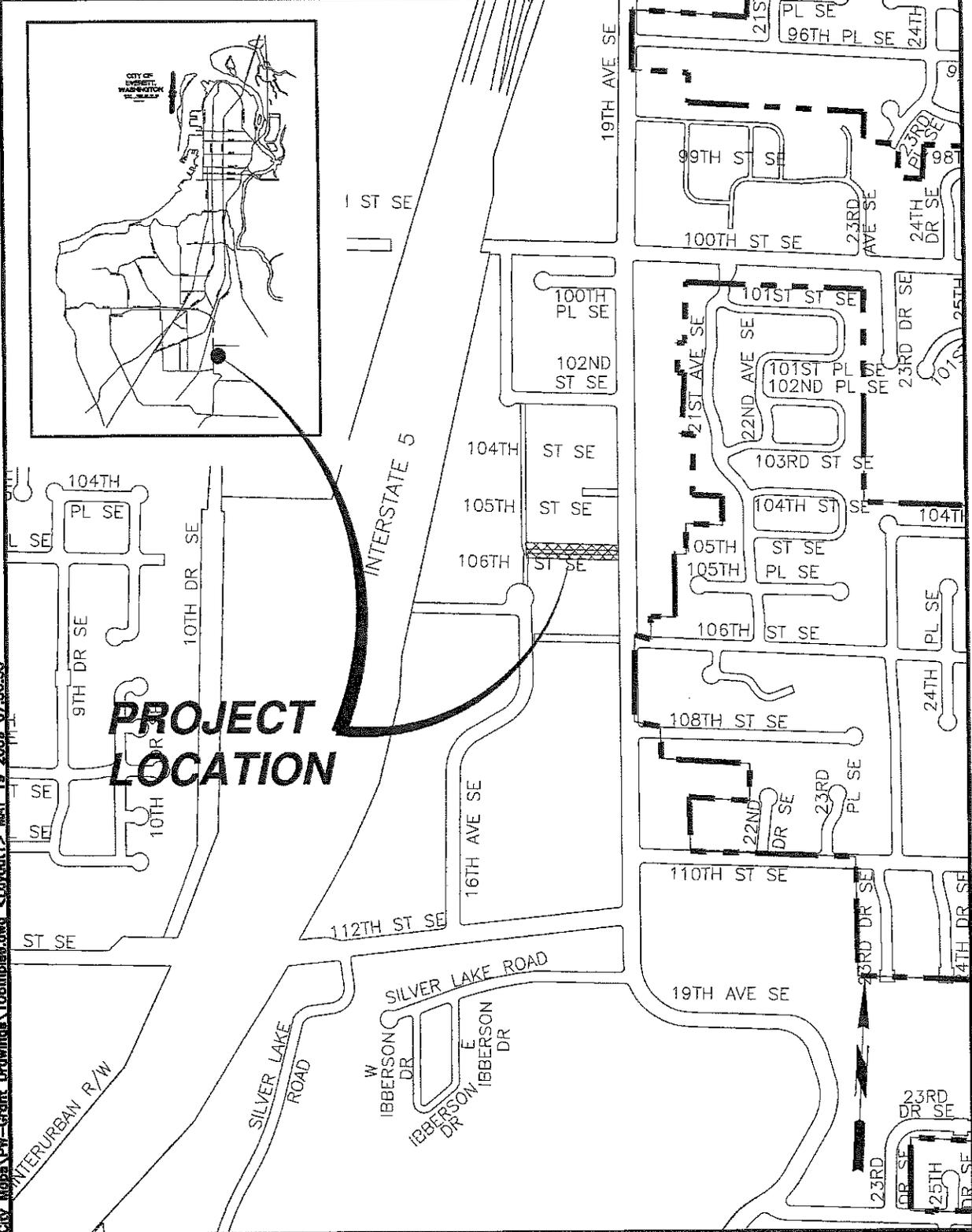
**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**37TH ST. IMPROVEMENTS**  
RUCKER AVE. TO WETMORE AVE.

5-27-2008  
date

1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\106thplse.dwg <1> MAY 19 2009 07:30:55



**PROJECT  
LOCATION**

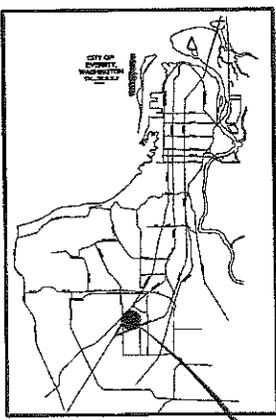


**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC  
 SERVICES DEPARTMENT

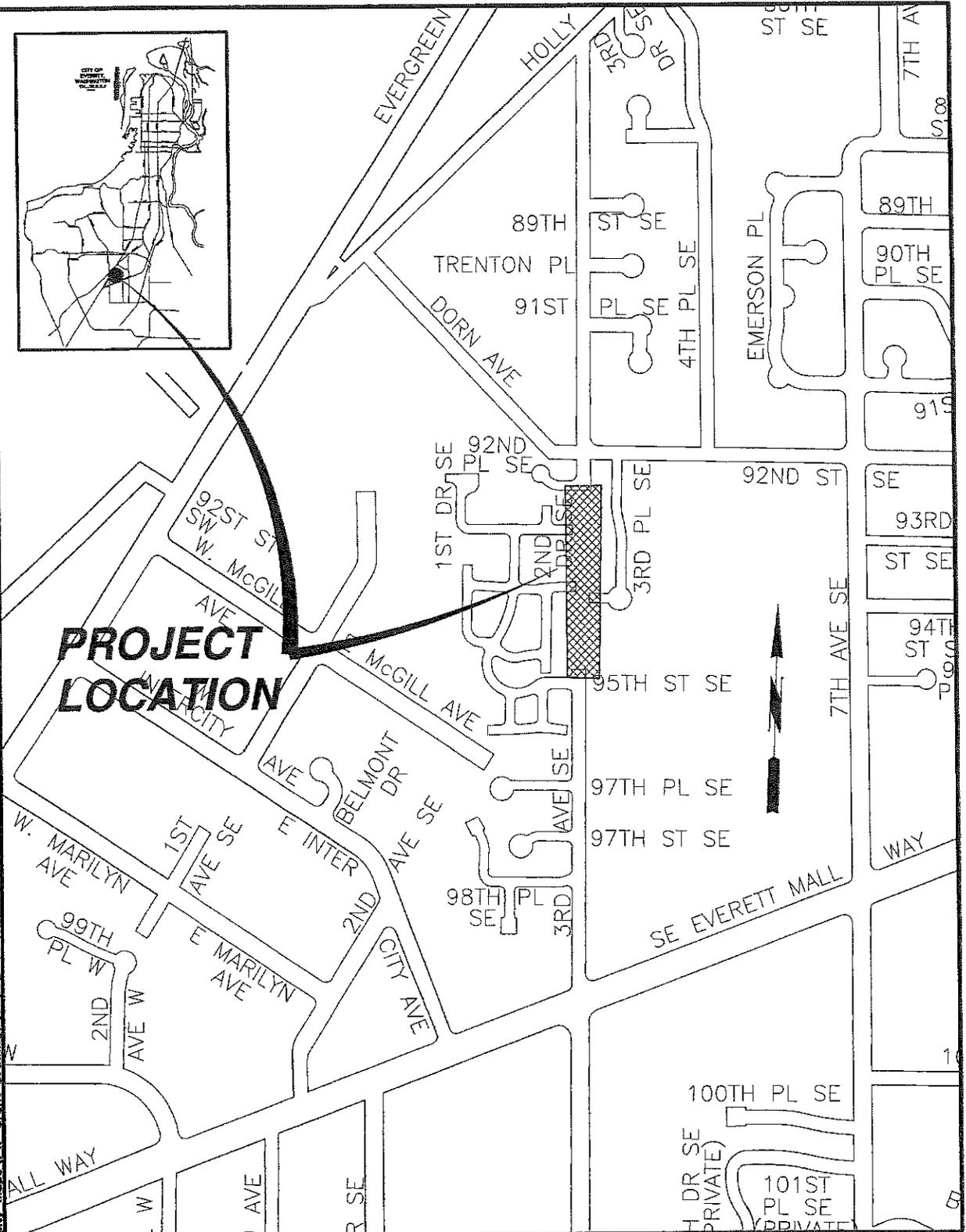
**106TH PLACE SE**  
**(16TH AVE. SE TO SR 527)**

**5-20-2009**  
 date  
**1**  
 number

T:\Acad\EPS-City Maps\PW-Grant Drawings\3RD92-95.DWG <layout1> MAY 19 2009 07:32:15



**PROJECT  
LOCATION**



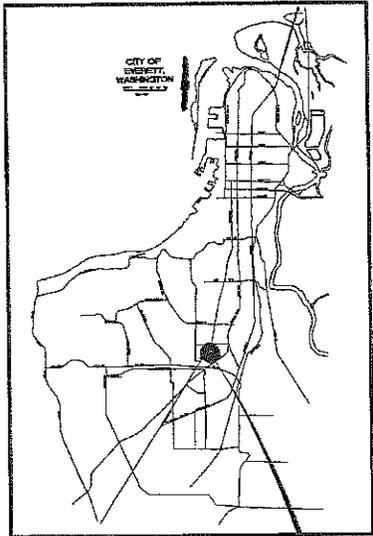

**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC  
 SERVICES DEPARTMENT

**3RD AVENUE SE  
92ND ST. TO 95TH ST. SE**

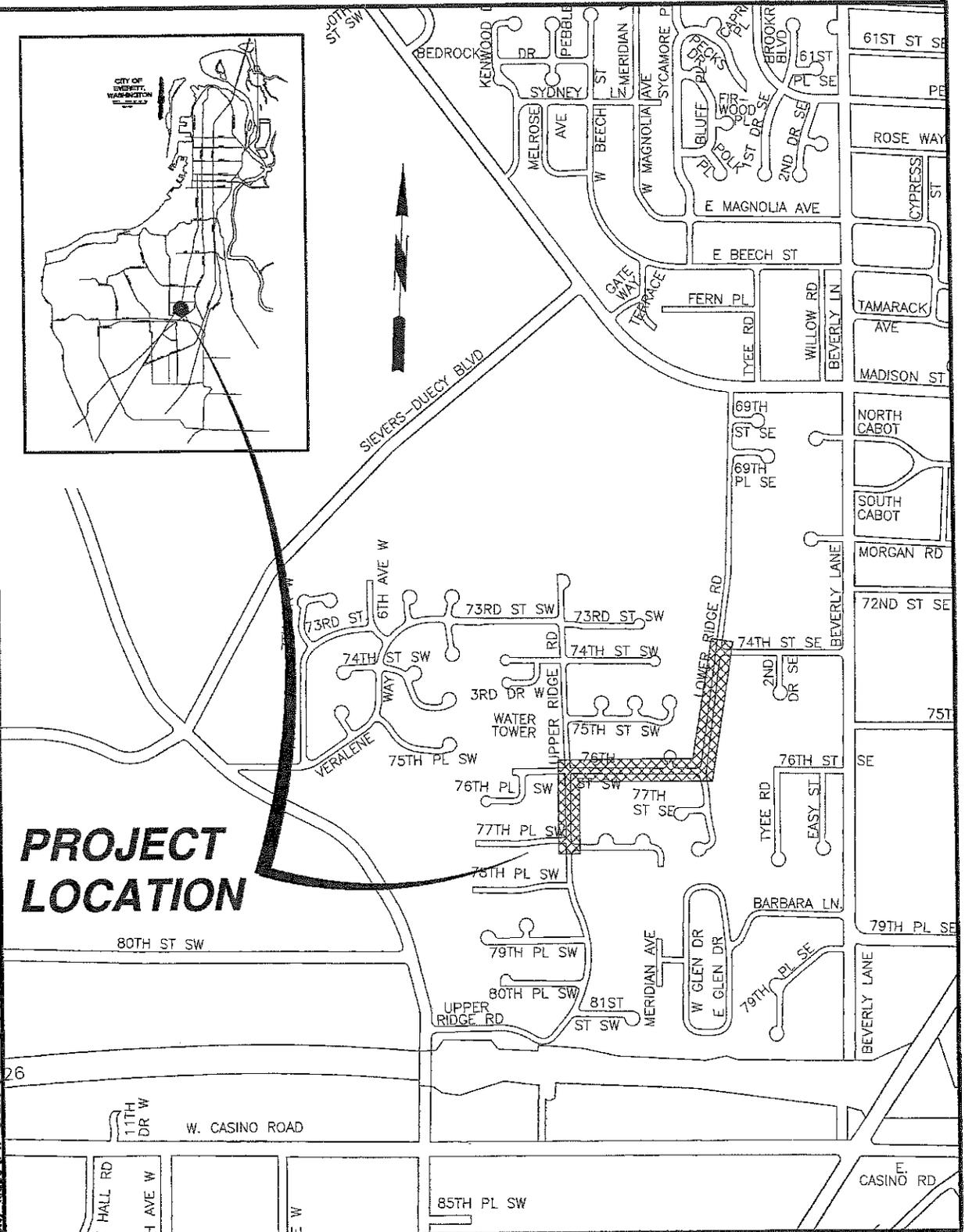
**5-20-2009**  
 date

**1**  
 number

T:\Acad\EPS-City Maps\FW-Grant Drawings\upperidge-loweridge.dwg <layout1> MAY 19 2009 07:33:14



# PROJECT LOCATION

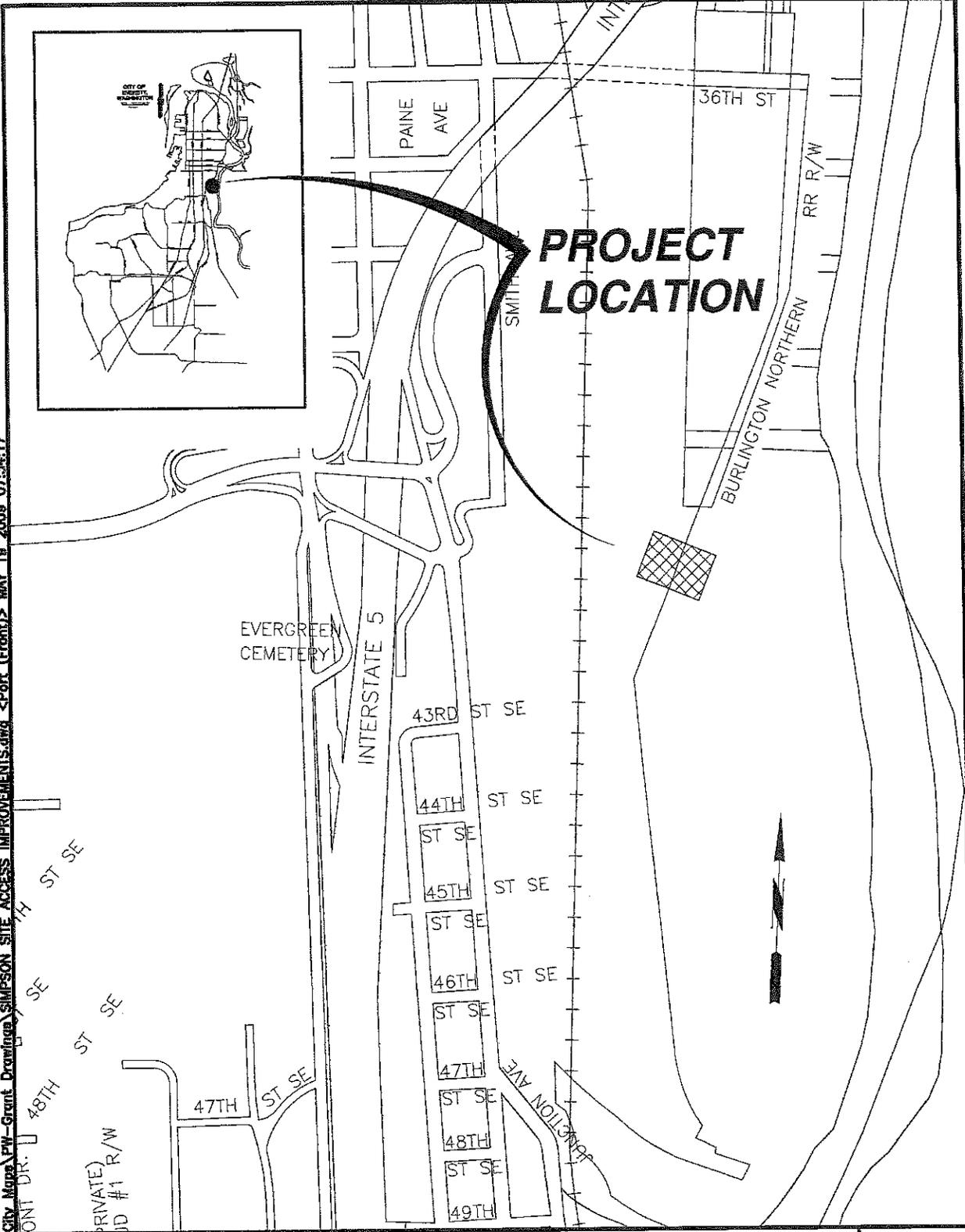
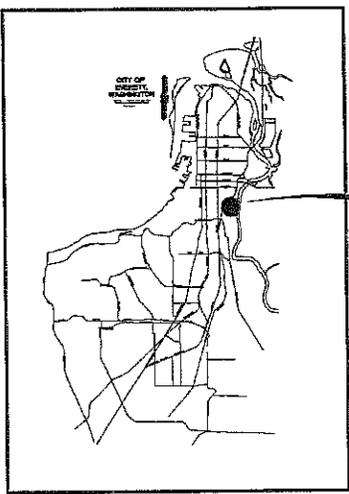


**CITY OF EVERETT  
PUBLIC WORKS**  
EVERETT ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**UPPER RIDGE RD. - 76TH ST. -  
LOWER RIDGE RD. IMPS.**

5-20-2009  
date  
1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\SIMPSON SITE ACCESS IMPROVEMENTS.dwg <Port (Front)> MAY 19 2009 07:34:17



**PROJECT LOCATION**

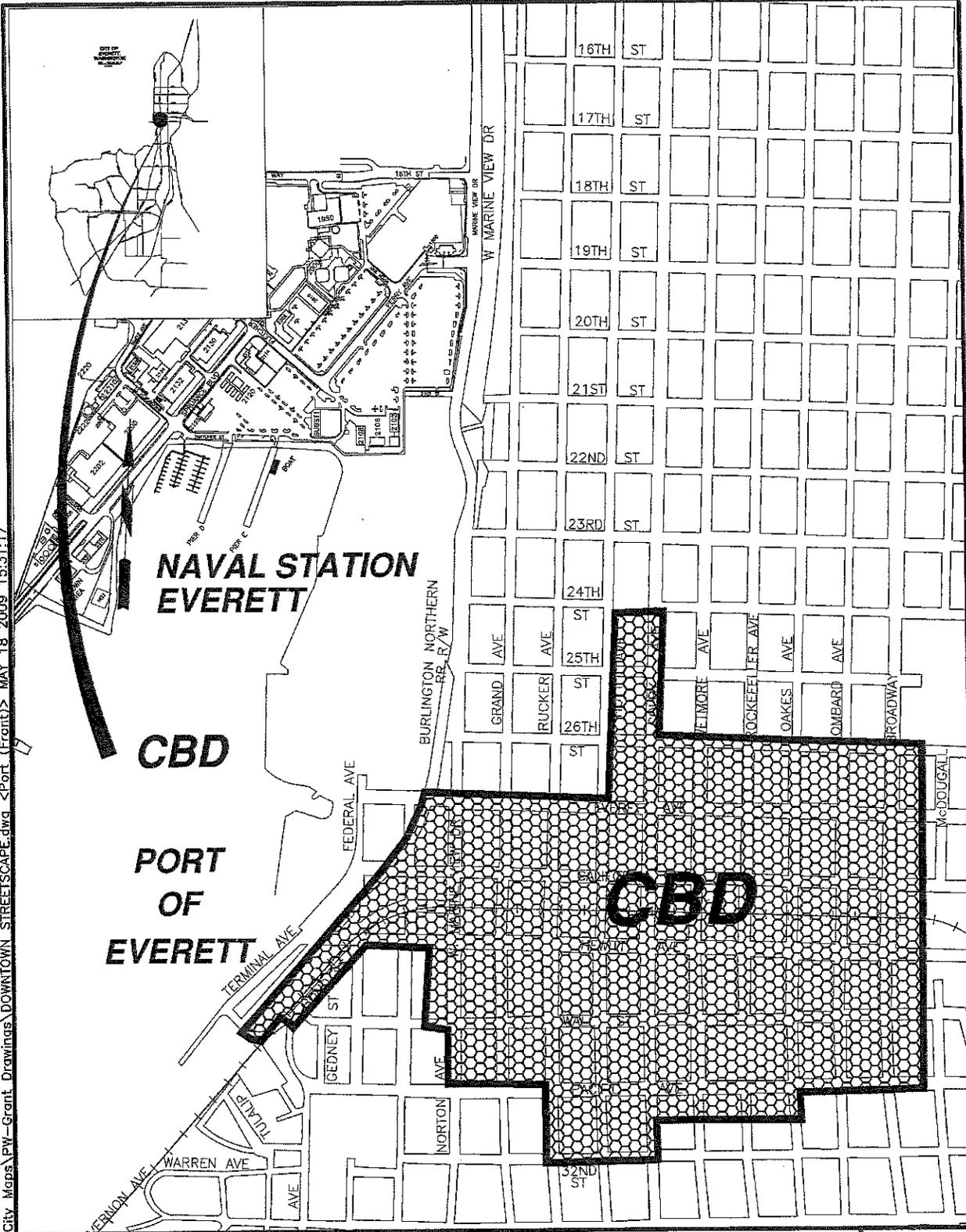


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**SIMPSON SITE,  
ACCESS IMPROVEMENTS  
SIMPSON SITE,  
SNOHOMISH RIVERFRONT**

5-20-2009  
date  
1  
number

T:\Acad\EPS-City Maps\PW-Grant Drawings\DOWNTOWN\_STREETSCAPE.dwg <Port (Front)> MAY 18 2009 15:31:17

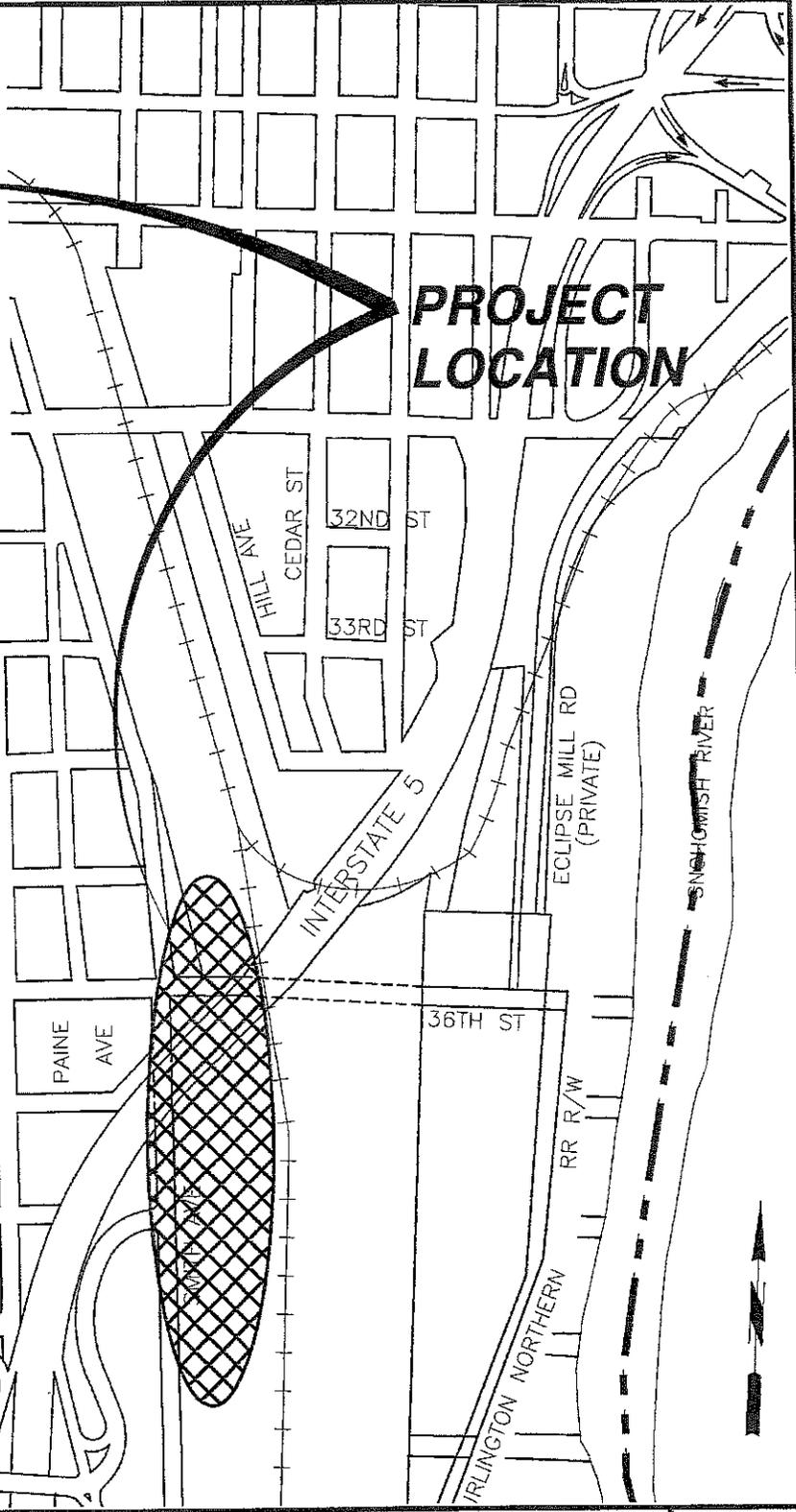
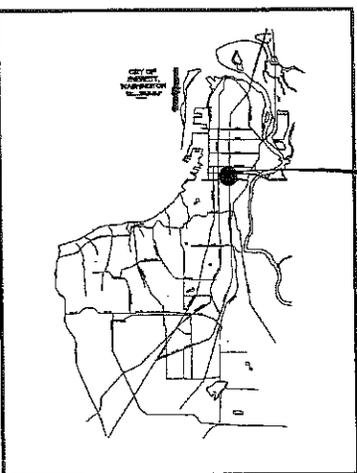


**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC  
 SERVICES DEPARTMENT

**DOWNTOWN  
 STREETSCAPE**

5-20-2009  
 date  
 1  
 number

T:\Acad\EPS-City Mapra\FW-Grant Drawings\36th street-BNSF rail line PED-BIKE UNDERCROSSING.dwg <Port (Front)> MAY 19 2009 07:26:57



**PROJECT  
LOCATION**

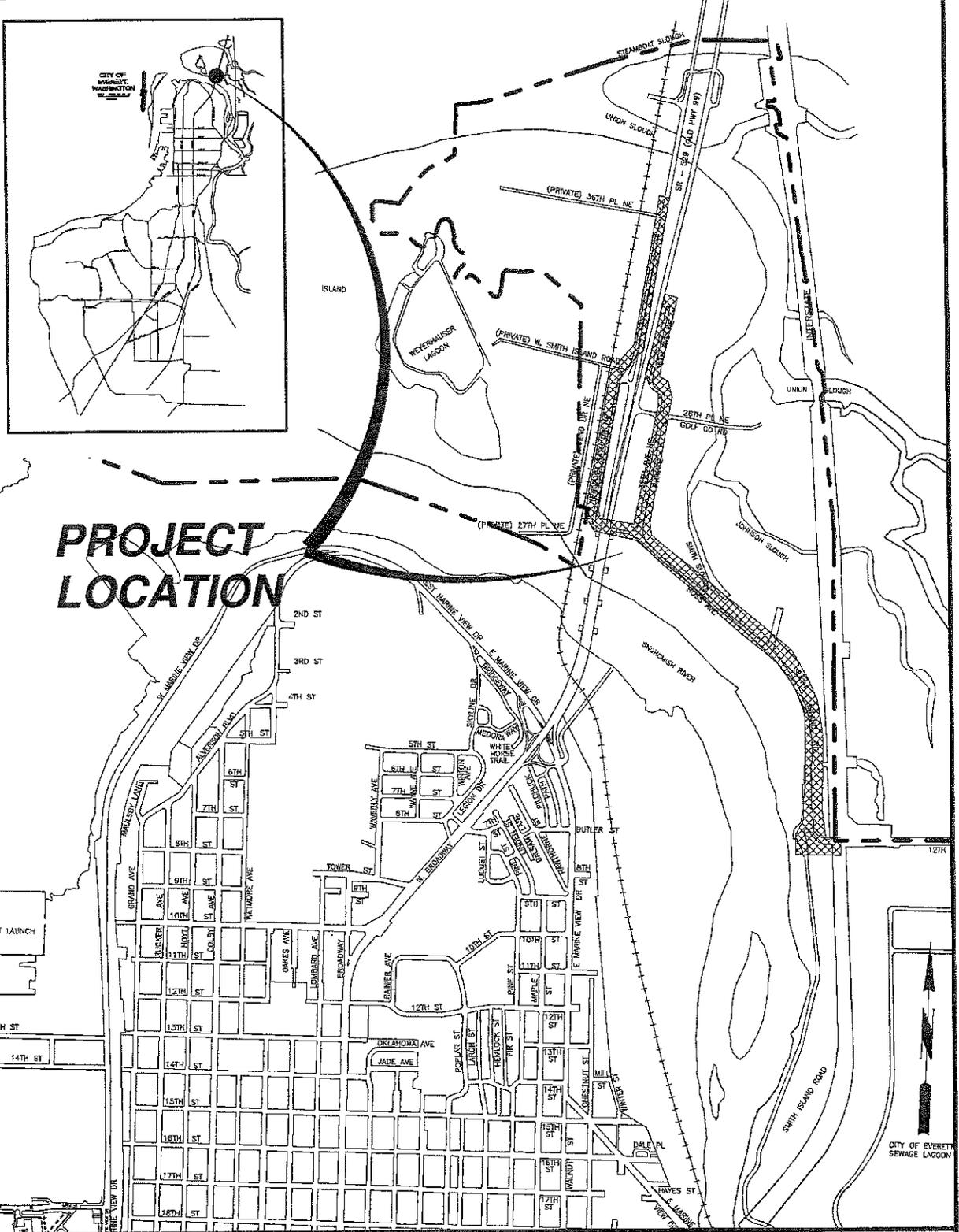


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**36th ST. OR VICINITY/BNSF RAIL  
LINE PED/BIKE CROSSING  
36TH STREET & BNSF RAIL LINE**

**5-20-2009**  
date  
**1**  
number

T:\Acad\EPS-City Maps\PW-Grant Drawings\SMITHISLAND\IMPS.dwg <covout> MAY 19 2009 07:29:52



# PROJECT LOCATION

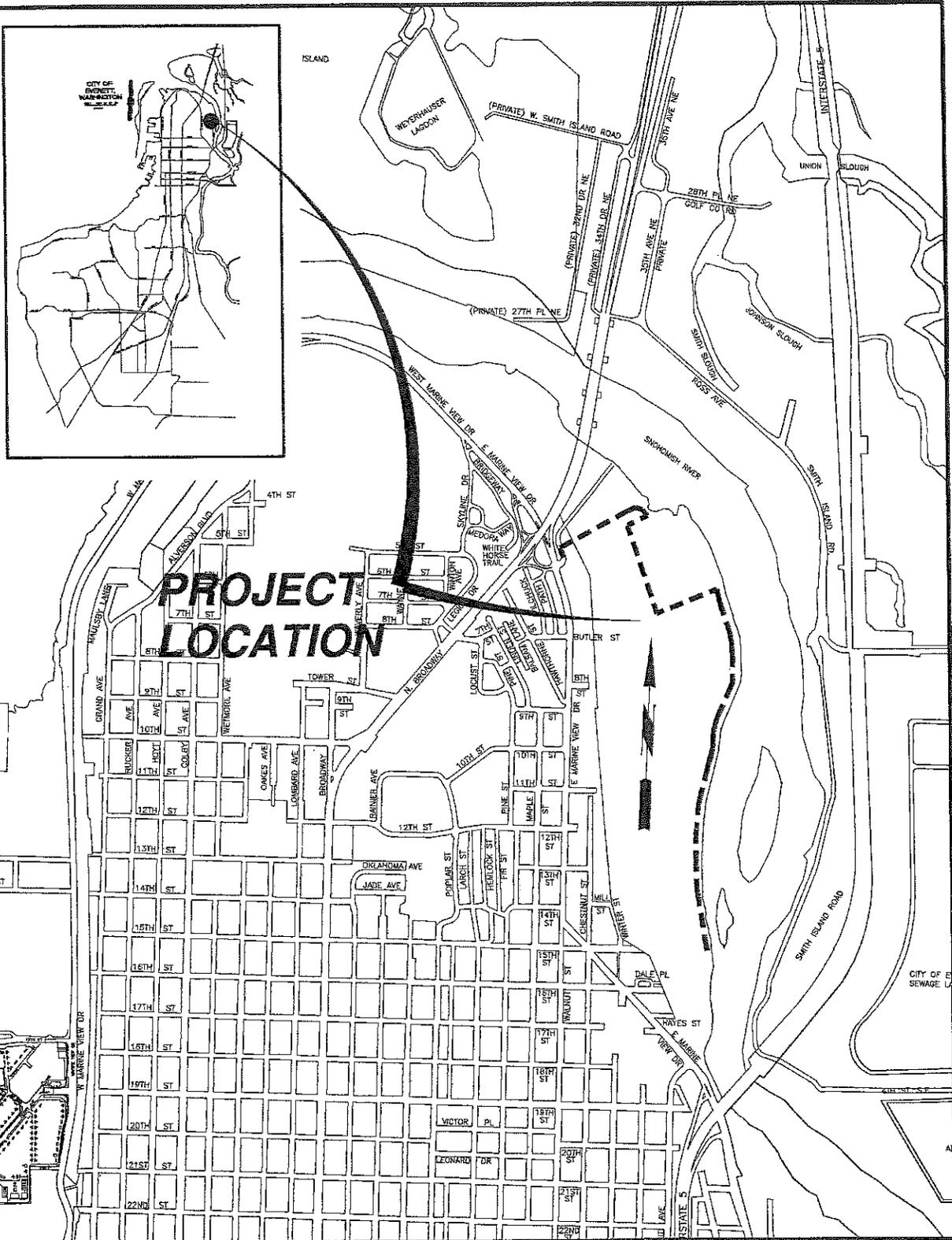


**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC  
 SERVICES DEPARTMENT

## SMITH ISLAND ROAD IMPROVEMENTS

5-20-2009  
 date  
 1  
 number

T:\A\Cod\EPS-City Maps\PW-Grant Drawing\river\side business park ped trail.dwg <layout1> MAY 19 2009 07:49:23



**PROJECT  
LOCATION**

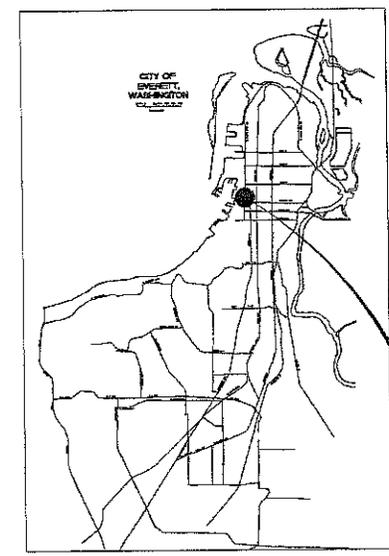


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

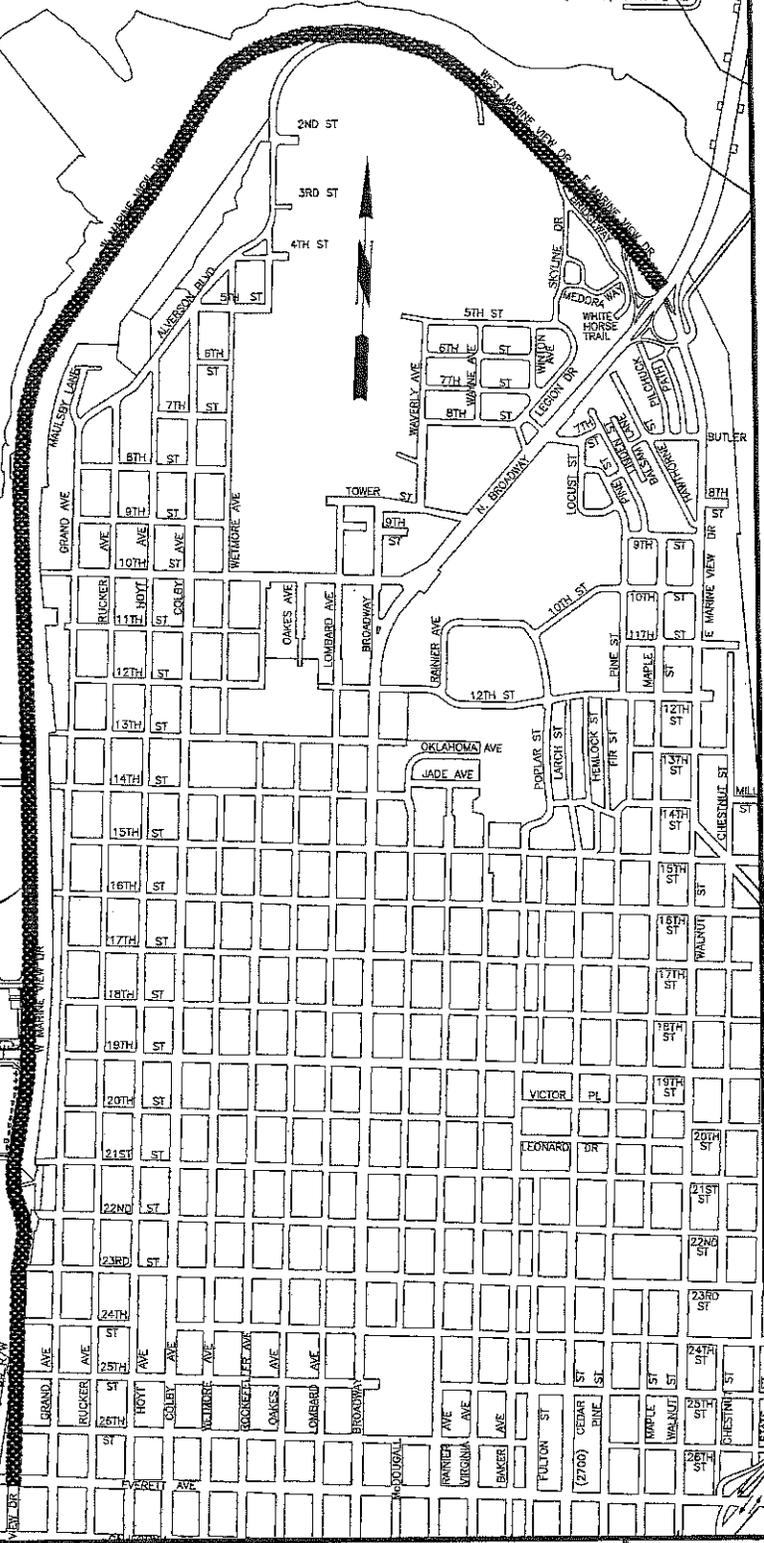
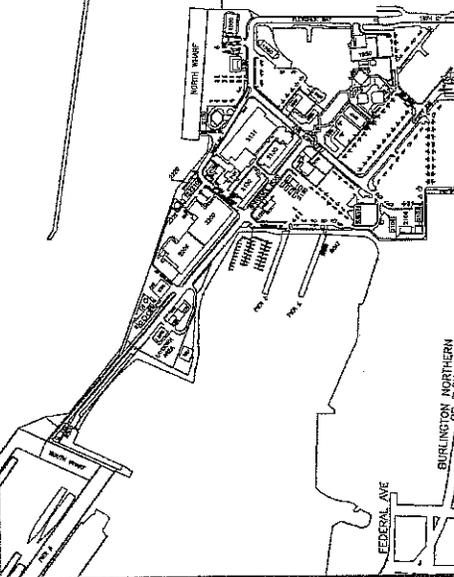
**RIVERSIDE BUSINESS PARK  
PEDESTRIAN TRAIL**

5-20-2009  
date  
1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\West MVD Bike-Ped Separation.dwg <Print> MAY 19 2009 07:51:00



# PROJECT LOCATION

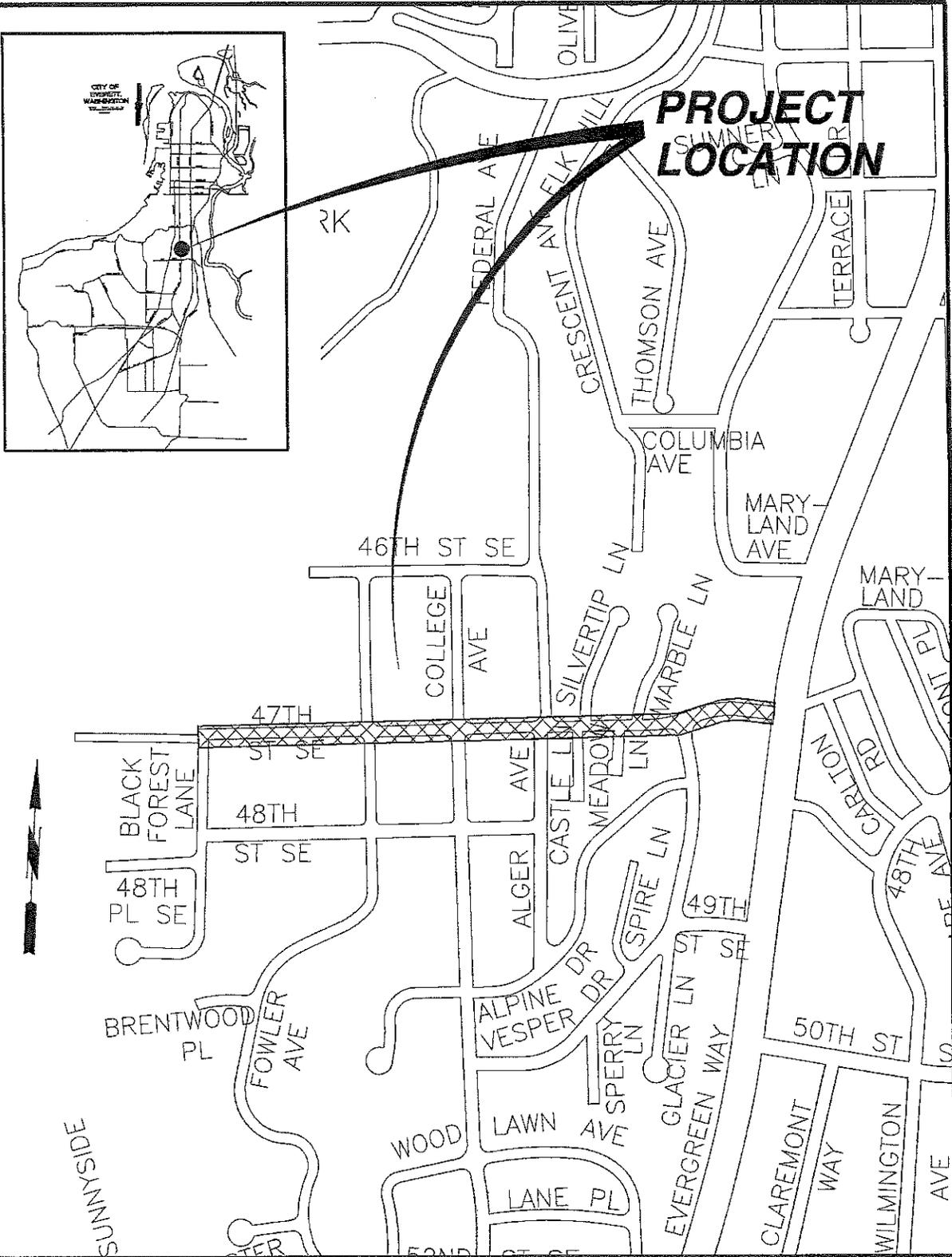
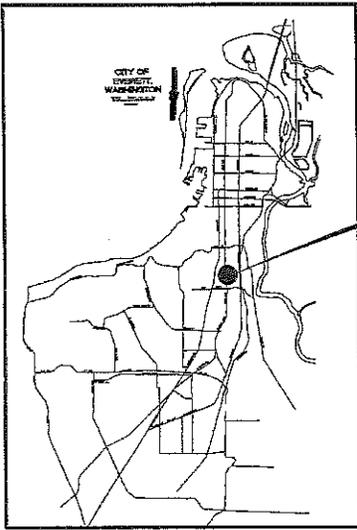


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC SERVICES DEPARTMENT

**WEST/EAST MARINE VIEW DRIVE**  
**BIKE/PED IMPROVEMENTS**  
**EVERETT AVE. TO N. BROADWAY**

5-20-2009  
date  
1  
number

T:\Acad\EPS-City Maps\PW-Grant Drawings\47TH STREET PED IMP.dwg <Port (Front)> MAY 19 2009 07:52:53



**PROJECT LOCATION**

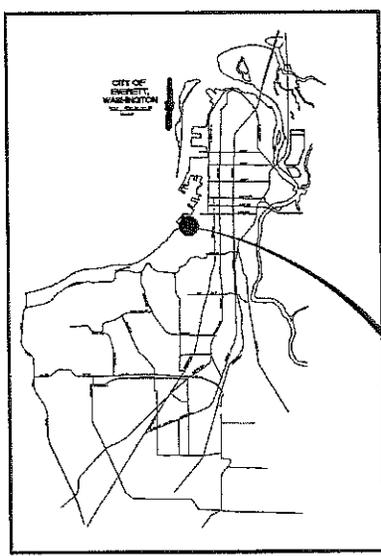


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC SERVICES DEPARTMENT

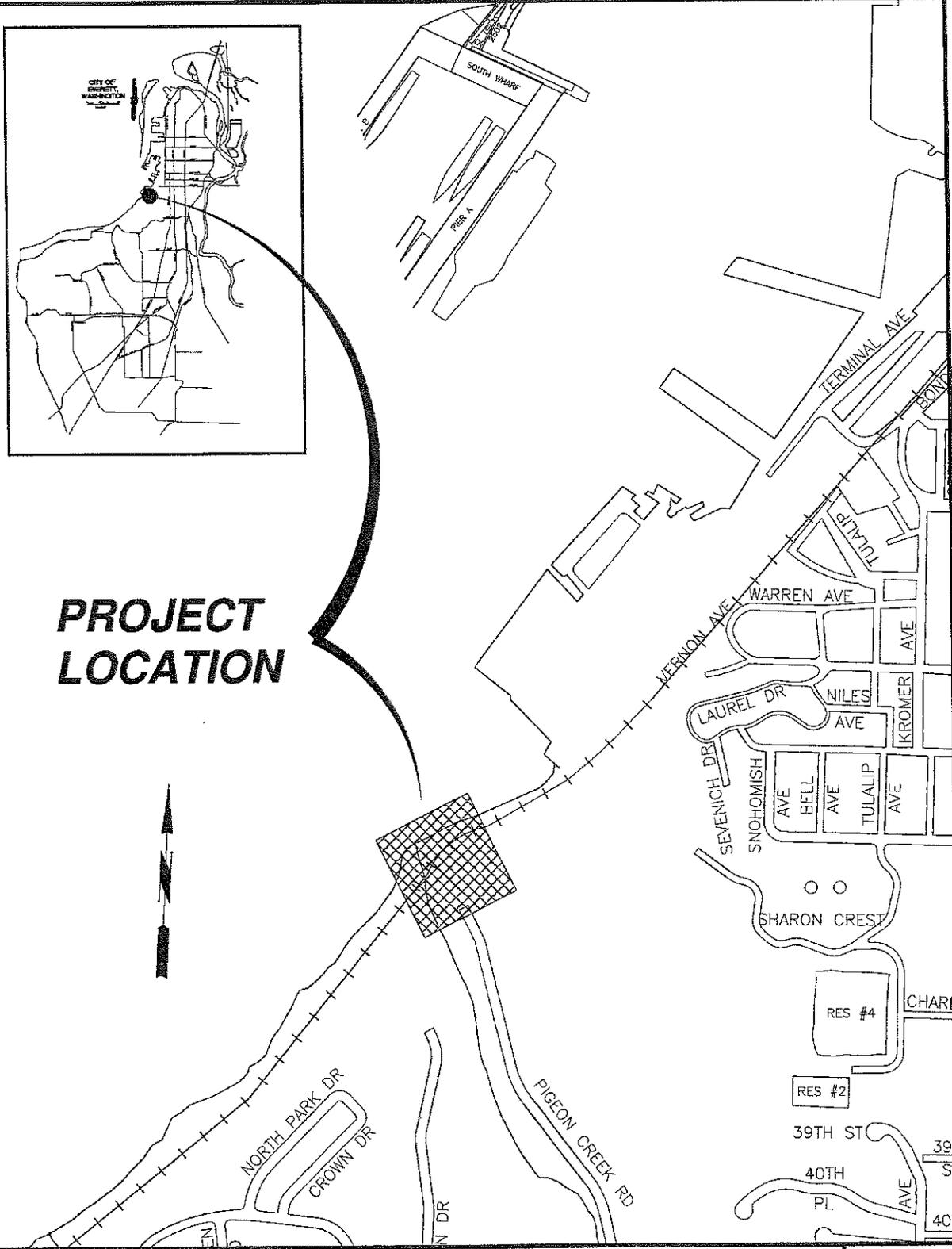
**47TH STREET PEDESTRIAN IMPROVEMENTS**  
**EVERGREEN WY TO BLACK FOREST LN.**

5-20-2009  
date  
1  
number

T:\ACad\EPS-City Maps\PW-Grant Drawings\PIGEON CREEK-BNSF CONNECTION-1.dwg <Port (front)> MAY 19 2009 07:54:46



# PROJECT LOCATION

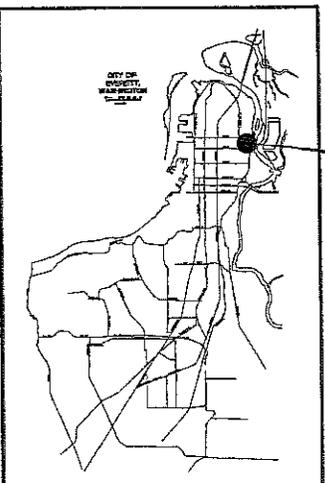


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

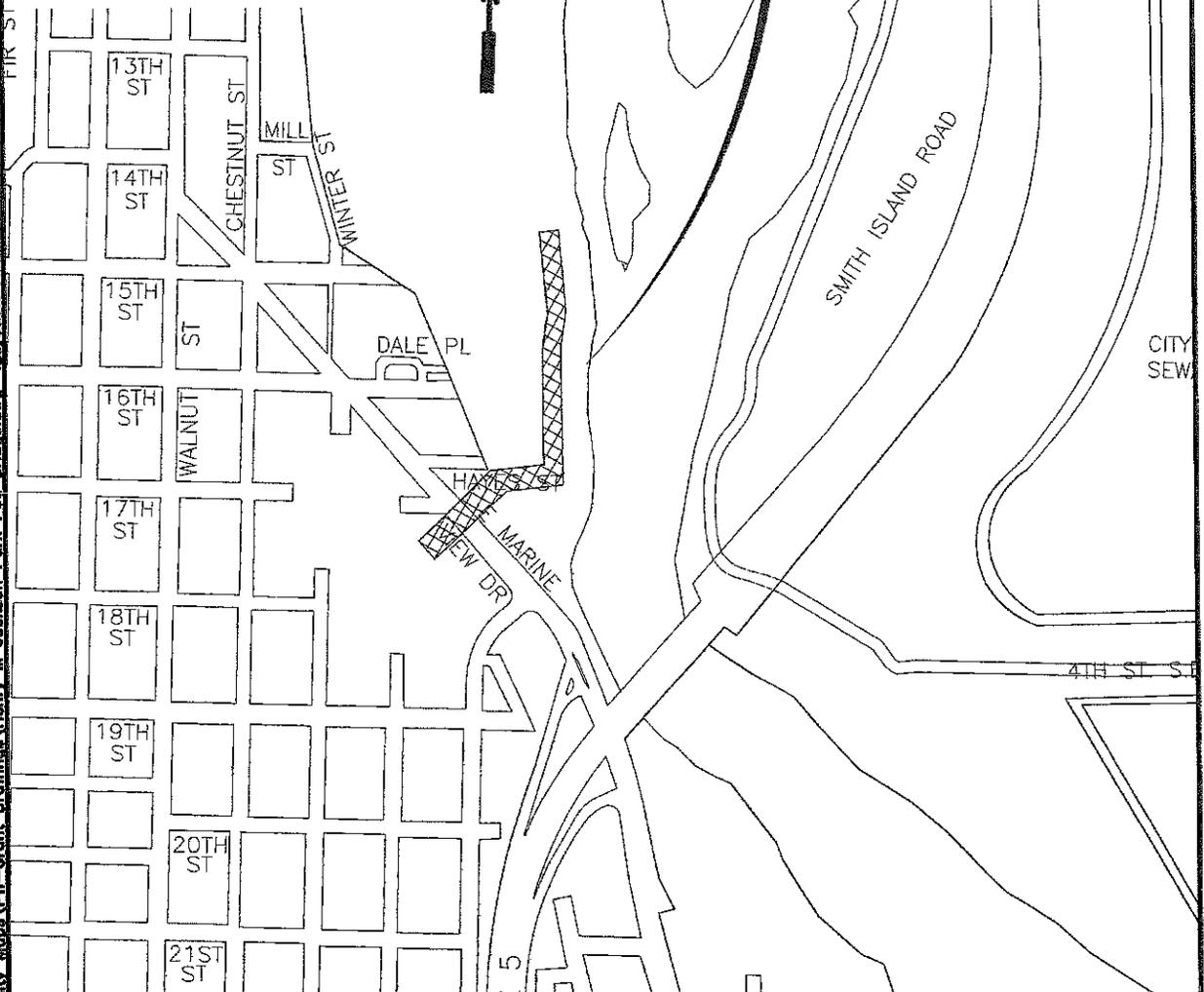
**PIGEON CREEK  
BNSF CROSSING**

5-20-2009  
date  
1  
number

T:\A\Cad\EPS-City Maps\FW-Grant Drawings\Henry M Jackson Park Ped Bridge.dwg <Layout> MAY 19 2009 07:47:37



# PROJECT LOCATION

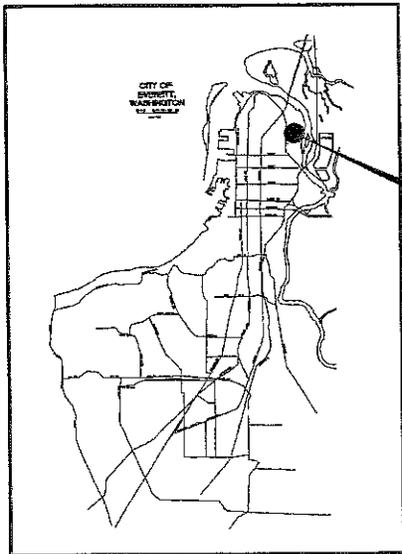


**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

**HENRY M. JACKSON PARK  
PEDESTRIAN BRIDGE**

5-20-2009  
date  
1  
number

T:\ACad\EPS-City Maps\FW-Grant\_Drawing\smohr\shrvr\bridge.dwg <L>out1> MAY 19 2009 07:59:14



**PROJECT  
LOCATION**

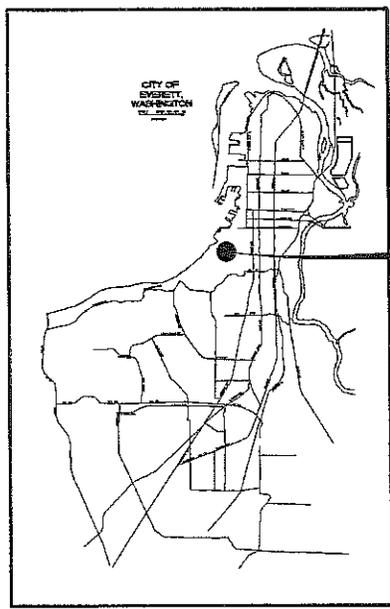


**CITY OF EVERETT  
PUBLIC WORKS**  
ENGINEERING & PUBLIC  
SERVICES DEPARTMENT

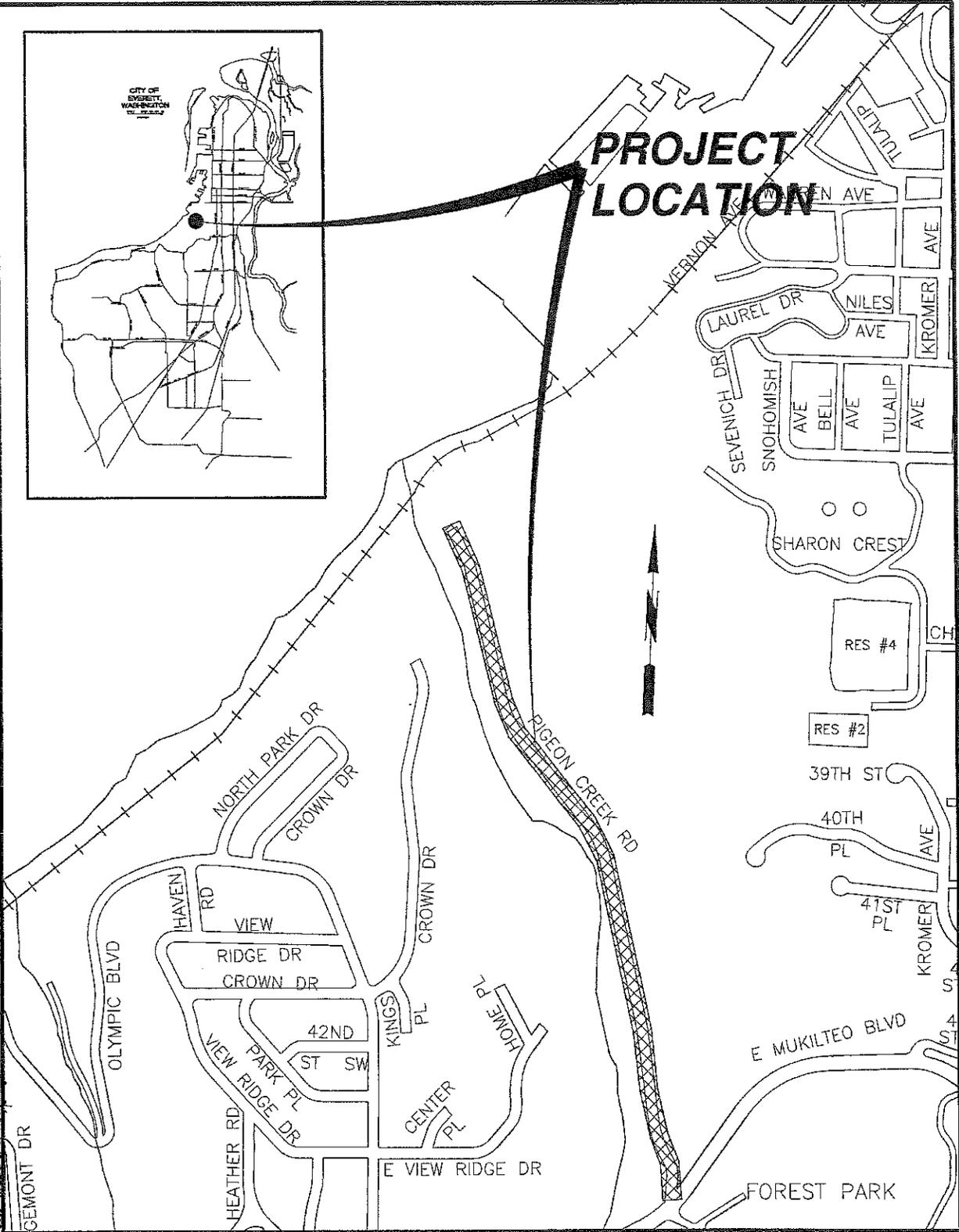
**SNOHOMISH RIVER  
BICYCLE - PEDESTRIAN BRIDGE**

5-20-2009  
date  
1  
number

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# PROJECT LOCATION

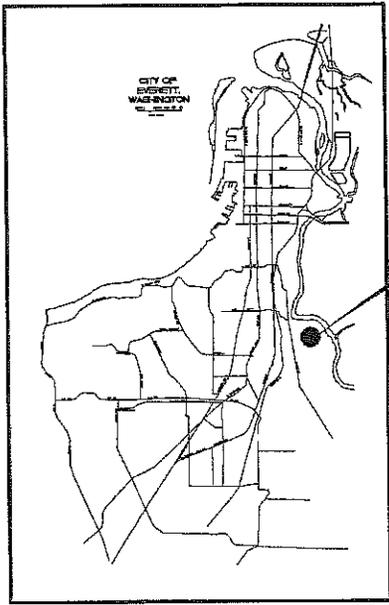



**CITY OF EVERETT**  
**PUBLIC WORKS**  
 ENGINEERING & PUBLIC SERVICES DEPARTMENT

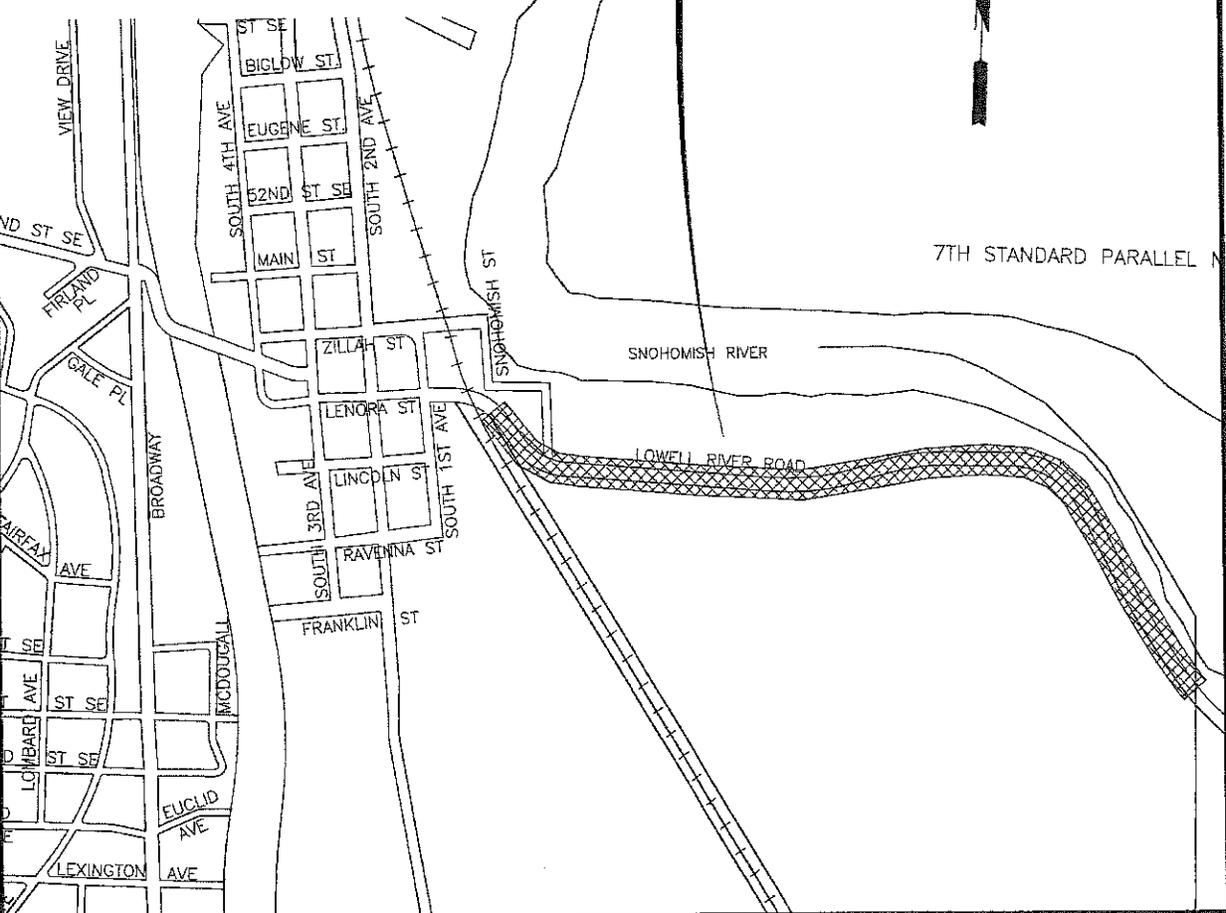
**PIGEON CREEK RD. No.1 IMPROVEMENTS**

5-20-2009  
 date  
 1  
 number

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# PROJECT LOCATION



**CITY OF EVERETT**  
**PUBLIC WORKS**  
ENGINEERING & PUBLIC SERVICES DEPARTMENT

**LOWELL-SNOHOMISH RIVER RD.**  
**BIKE & PEDESTRIAN CONNECTION**  
ROTARY PARK TO EVERETT CITY LIMITS

5-20-2009  
date  
1  
number

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

Award Bid 2016-019 for an Asphalt Patch Body

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

COUNCIL BILL #

Originating Department

Contact Person

Phone Number

FOR AGENDA OF

Finance/Purchasing

Clark Langstraat

425-257-8901

June 29, 2016

Initialed by:

Department Head

CAA

Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Bid Call 2/24/16		Public Works, Motor Vehicle Division, Finance

Amount Budgeted	\$149,604.00	
Expenditure Required	\$173,148.61	Account Number(s): MV6M0081-401-N-640
Budget Remaining		
Additional Required	\$23,544.61	

**DETAILED SUMMARY STATEMENT:**

Public Works has the need to purchase a new Asphalt Patch Body to be mounted on a separately purchased truck chassis. This purchase is approved on the 2016 vehicle replacement list and will replace a 2000 Unibelt PB BC-4 Patch unit. The current unit will be surplusd following delivery of the replacement.

Invitations to bid were sent to potential bidders, advertised in the Herald and posted on the City website. One response was received from PB Loader Corporation. Staff finds this bid to be responsive and competitive and recommends award to PB Loader for \$173,148.61 including Washington State sales tax.

**RECOMMENDATION (Exact action requested of Council):**

Award Bid 2016-019 for an Asphalt Patch Body to PB Loader Corporation in the amount of \$173,148.61 including Washington State sales tax.

**EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET**

**PROJECT TITLE:**

Purchase of Toro Equipment  
for Golf Courses

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

COUNCIL BILL #

Originating Department

Contact Person

Phone Number

FOR AGENDA OF

Finance/Purchasing

Clark Langstraat

425-257-8901

June 29, 2016

Initialed by:

Department Head

CAA

Council President

db

**Location**

Legion and Walter Hall  
Golf Courses

**Preceding Action**

**Attachments**

**Department(s) Approval**

Motor Vehicle Division,  
Parks, Budget

Amount Budgeted	\$105,005.27	
Expenditure Required	\$105,005.27	Account Number(s): Golf
Budget Remaining	-0-	
Additional Required	-0-	

**DETAILED SUMMARY STATEMENT:**

The Parks Department needs to replace aging maintenance equipment with new Toro units for maintenance activities at Legion and Walter Hall golf courses. This purchase will consist of two Greensmaster 3150Q mowers, one ProCore 648 Aerator and one 3040 Sand Pro Sand Rake. This hardware is available from competitively bid Washington State Contract 10212.

The City has an Interlocal Cooperative Purchasing Agreement with the State that allows the City to make purchases from the State's competitively awarded contracts in lieu of the City soliciting bids.

**RECOMMENDATION (Exact action requested of Council):**

Authorize the purchase of Toro equipment from Washington State Contract 10212 in the amount of \$105,005.27 including Washington State sales tax.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

First Amendment to Parking Management Agreement with the Downtown Everett Association for management services at EverPark Garage

\_\_\_\_\_ Briefing  
 \_\_\_\_\_ Proposed Action  
 \_\_\_\_\_ Consent  
6/29/16 Action  
 \_\_\_\_\_ First Reading  
 \_\_\_\_\_ Second Reading  
 \_\_\_\_\_ Third Reading  
 \_\_\_\_\_ Public Hearing  
 \_\_\_\_\_ Budget Advisory

COUNCIL BILL # \_\_\_\_\_  
 Originating Department Facilities/Real Property  
 Contact Person Mike Palacios  
 Phone Number 425-257-8938  
 FOR AGENDA OF June 29, 2016  
 Initialed by:  
 Department Head \_\_\_\_\_  
 CAA db  
 Council President \_\_\_\_\_

<b><u>Location</u></b>	<b><u>Preceding Action</u></b>	<b><u>Attachments</u></b>	<b><u>Department(s) Approval</u></b>
2800 block of Hoyt Avenue	6/19/13 Parking Management Agreement	First Amendment, Agreement	Facilities/Real Property

Amount Budgeted	\$199,356.00/yr	
Expenditure Required	\$199,356.00/yr	Account Number(s): 430-5000-000-410
Budget Remaining	-0-	
Additional Required	-0-	

**DETAILED SUMMARY STATEMENT:**

In July 2013, the City of Everett executed a three year parking management agreement with the Downtown Everett Association (DEA) for the management and day to day operations of the EverPark Parking Garage located in the 2800 block of Hoyt Avenue.

The attached amendment would extend the management agreement with the DEA for an additional six months until the end of this year. City staff will solicit requests for proposals for future management services at the parking garage during the six month extension period.

**RECOMMENDATION:**

Authorize the Mayor to sign First Amendment to Parking Management Agreement with the Downtown Everett Association for management services at EverPark Garage.

**FIRST AMENDMENT TO  
PARKING MANAGEMENT AGREEMENT**

This FIRST AMENDMENT TO PARKING MANAGEMENT AGREEMENT is made this 29<sup>TH</sup> day of June, 2016, by and between the **City of Everett**, a municipal corporation under laws of the State of Washington (herein after referred to as "City"), and the **Downtown Everett Association** (hereinafter referred to as the "Manager"), a Washington nonprofit corporation.

**RECITALS**

**A.** City and Manager are parties to that certain Parking Management Agreement for the day-to-day operation of Everpark Parking Facility dated July 1, 2013, (the "Agreement"), a 500-car parking facility located in the 2800 block of Hoyt Avenue, Everett, Washington.

**B.** City and Manager now wish to amend the Agreement to extend the term of the Agreement for an additional six months subject to and in accordance with the following terms and conditions.

**AGREEMENTS**

In consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties do hereby amend the Agreement as follows:

***That section of the Agreement which currently reads:***

**1. TERM**

The Manager shall provide services, work, improvements and equipment pursuant to this Agreement for a period of three years, commencing on July 1, 2013, and ending June 30, 2016.

***Is hereby amended to read as follows:***

**1. TERM**

The Manager shall provide services, work, improvements and equipment pursuant to this Agreement for the period commencing on July 1, 2013, and ending December 31, 2016.

**No Further Amendment.** Except as expressly modified by this Amendment, all terms, covenants and provisions of the Agreement shall remain unmodified and in full force and effect and are hereby expressly ratified and confirmed.

**Authority.** Each person signing this Amendment on behalf of the respective parties represents and warrants that he or she is authorized to execute and deliver this Amendment, and that this Amendment will thereby become binding upon such parties.

**City of Everett:**

By: \_\_\_\_\_  
Ray Stephanson, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Sharon Fuller, City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
James D. Iles, City Attorney

\_\_\_\_\_  
Date

**Downtown Everett Association:**

By: \_\_\_\_\_  
Craig Skotdal, President

\_\_\_\_\_  
Date

RETURN TO  
EVERETT CITY CLERK  
2930 Wetmore  
Everett, WA 98201

**PARKING MANAGEMENT AGREEMENT**  
**Between the City of Everett and Downtown Everett Association**

**For the day-to-day operation of Everpark Parking Facility**

**THIS AGREEMENT** dated this 1st day of July, 2013, by and between the **City of Everett** (the "City"), a municipal corporation under the laws of the State of Washington, and the Downtown Everett Association (the "Manager"), a Washington nonprofit corporation, whose address is, P.O Box 748, Everett, WA 98206.

**WHEREAS**, the City bought land, subsequently constructed a 500-car parking facility in the 2800 block of Hoyt Avenue, pursuant to LID procedures, and additionally sold revenue bonds to finance the facility; and

**WHEREAS**, the City desires to retain a parking operator as the Manager to conduct the day-to-day operation of the parking facility; and

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained herein, the parties agree as follows:

**1. TERM**

The Manager shall provide services, work, improvements and equipment pursuant to this Agreement for a period of three years, commencing on July 1, 2013, and ending June 30, 2016.

**2. SCOPE**

By this Agreement, the City engages the Manager to operate and maintain the Everpark Garage (the "Garage"). All work, services and improvements relating to this Agreement shall be performed to the satisfaction of the City Representative or his/her designee.

**3. RESPONSIBILITIES**

**A. Manager**

1. Maintain a staff and Garage operation and emergency preparedness plan. (This includes landscaping maintenance around the garage and the "arcade" walkway.)
2. Operate the Garage with uniformed attendant/maintenance personnel on duty Monday through Friday between 7:00 a.m. to 6:00 p.m., providing a total of twenty-four (24) person hours of site staffing, per day, maintaining it in an orderly, clean, safe and sanitary condition at all times. The minimum hours shall be maintained unless otherwise authorized by the City Representative.

3. Maintain 24-hour on-call maintenance support.
4. Maintain a Security Plan (covering vehicles and pedestrians).
5. Staff shall be attired in uniforms approved by the Manager and the City's Representative at all times when the Garage is open to the general public. If a member of the Manager's staff, in the reasonable opinion of the City Representative, fails to exhibit and conform to reasonable standards of courteousness, cleanliness and politeness which reflect favorably on the City, the Manager shall promptly counsel or discipline such employee or remove such employee from the Garage.
6. Collect parking fees and remit them to the City;
7. Make disbursements from parking fees collected as authorized by this Agreement.
8. Coordinate maintenance issues with the City's Facilities Department.
9. Consult with the City regarding parking issues.
10. Maintain a short and long-term promotional plan to increase Garage usage.
11. Maintain a "Customer Service Program" (e.g. flat tires, etc.).
12. Pay all incidental operating expenses not set forth in subsection 3.B., below.
13. Develop and recommend a capital improvement plan by August 1, of each year.
14. Maintain a nighttime collection system for "parkers" who leave the garage on weeknights during non-staffed hours.
15. No vending other than necessary for the parking operation will be allowed in the Garage unless approved by the City Representative.
16. Pay for and obtain all licenses and permits necessary for the operation of the Garage in cooperation with the City Representative.
17. Shall not use or occupy the Garage or permit the use or occupancy of the Garage contrary to any federal, state or local law, rule or regulation or in any manner which would cause a public nuisance or waste in providing its management services under this Agreement. The Manager will conform to all reasonable rules and regulations promulgated by the City which pertain to the Garage and will use all reasonable methods to require customer, clients and all persons using the Garage to observe the same.
18. Clean, repair and properly maintain any City equipment on the premises to the reasonable satisfaction of the City.

19. Provide a fidelity bond, in a form acceptable to the City Attorney, for all employees in the amount of five thousand dollars (\$5,000) for each incident.
20. Allow the City to audit the Manager's operation of the Garage upon request of the City.
21. Provide all necessary supplies and equipment to operate the Garage consistent with the provisions of this Agreement.
22. Work with the downtown merchants for the promotion and operation of the garage for the betterment of downtown Everett and its citizens, including special parking consideration for the physically disabled.
23. Work closely with the Everett downtown merchants, or similar groups, using appropriate validation systems permitting customers to enjoy the benefits of validated free/discounted parking.
24. Provide the following maintenance service during attendant hours:
  - a. Daily cleaning of stairways, elevators, and each parking level. In the event of snow or icy conditions, the stairwells will be promptly cleared to insure the public safety.
  - b. Particular attention must be given to all public access areas, such as elevator, stairways, and arcade walkway. If necessary, the painted access areas should be scrubbed frequently to maintain a fresh appearance. Graffiti shall be immediately cleaned or painted over.
  - c. Employee restroom must be cleaned daily.
  - d. Check the ticket dispensers and automated equipment daily.
25. Will not use main electrical panel room and elevator equipment room for storage space.
26. Secure and protect the facility during attendant hours.
27. Repair any damage caused by Manager.
28. Staff a Customer Service Center that will be open during reasonable and normal business hours. The Customer Service Center will be located in the former Transit Information Center in the Garage. The Customer Service Center and its employee will be used to support the Garage and services and programs benefiting downtown Everett. Upon termination of this Agreement for any reason, improvements that are not easily removable shall remain with the Center and shall be considered the property of the City.

**B. City**

1. Set parking rates, discounts, allowances, and hours of operation.
2. Audit Manager at will.
3. Directly pay for all utilities except for telecommunication and refuse removal expenses.
4. Provide Everett Police Department support as needed.
5. In its sole discretion, manage and fund any major capital improvements (such as painting, car deck resurfacing and light relamping and major emergency repairs).
6. Pay applicable taxes.
7. Maintain and repair of the Garage structure, elevator system, mechanical security doors, lighting, and support utilities. City owned equipment will be the responsibility of the City's Facilities Department.
8. The City Representative shall have the right, exercised reasonably and in good faith, to approve the following: (1) all signs and other such devices visible to the public; and (2) the size, configuration, layout, accessibility, placement, materials, color and architectural character and appearance of anything done to or affecting the Garage.
9. Paint signs and restrooms as and when the City believes necessary.
10. Relamp and replace broken glass.
11. At its sole option, the City may directly enter into agreements with third parties for the use of parking spaces in the Garage; provided however City will consult with the Manager prior to entering into any third party agreement. "Consult" means to confer and does not obligate the City to seek or obtain the Manager's approval or concurrence prior to the City's entering into any third party agreement.
12. The City may make physical changes to the Garage.
13. The City may develop the air rights over the Garage and the Manager agrees to fully cooperate with the City and accommodate its efforts to do so.

#### **4. BUILDING, SIGNING AND ALTERATIONS**

A. The Manager shall not physically alter the parking facilities, but may install necessary portable signs, directional markers, etc. Building walls, sidewalks and landscaped areas may not be altered without written permission of the City. Capital investments and other fixed improvements in excess of \$500 for an individual item will not be made without the prior written approval of the City. Work items shall not be broken down in an effort to evade this threshold.

B. Installation of signs on any wall areas shall be approved in writing by the City Representative. The Manager shall allow no advertising signs on the parking structure or inside except those specifically authorized by the City.

## 5. COMPENSATION

### A. Manager's Fee

The Manager agrees to operate the garage and the City shall pay the Manager as full compensation for everything furnished and done under this Agreement a monthly payment in the amount of Sixteen Thousand Two Hundred Eighty-Five and No/100's Dollars (\$16,285.00) for each of the first twelve months of this Agreement. This amount is to be applied towards the expenses which the Manager is responsible for which includes those set forth in this Agreement and all incidental operating expenses required to operate the Garage under the terms of this Agreement not set forth in the section herein entitled "Owner's Responsibility" (Article 3A). The City will pay the Manager Sixteen Thousand Four Hundred Forty-Eight and No/100's Dollars (\$16,448.00) for each month within the second twelve-month period and Sixteen Thousand Six Hundred Thirteen and No/100's Dollars (\$16,613.00) for each month within the third twelve-month period. Payments will be made by the fifteenth day of the month for services performed in the preceding month, provided that the work required to be performed has been fully and satisfactorily completed pursuant to the terms of this Agreement. The City may withhold payment in whole or in part for damage caused by Manager or Manager's uncured default.

### B. Reimbursable Expenses

The City will reimburse the Manager for the following expenses, provided that the approval of the City Representative is obtained prior to the Manager incurring the expense.

1. Maintenance/repair to the gate equipment, time clocks, and elevator equipment not covered by a maintenance agreement, will be reimbursed at the rate of 100 percent. All maintenance and repair items over Five Hundred Dollars (\$500) require the prior written approval of the City Representative.
2. In the event of snow or icy weather conditions, the Manager will remove snow and ice on the sidewalks that border the Garage. This cleaning should commence at approximately 7:00 a.m. or as soon as practical, and be cleared periodically throughout attendant's hours of work. The City agrees to reimburse the Manager for its actual direct costs incurred to clear the sidewalks.
3. Payment of applicable taxes.

## 6. FINANCIAL CONTROLS

- A. Manager must maintain an Accounting Management Reporting System acceptable to the City's Finance Director.
- B. The Manager shall provide its own change fund.
- C. The Manager shall provide an electronic cash register as stated in its contract proposal.
- D. The Manager shall record all revenue into an electronic cash register at its full value immediately upon receipt and issue a receipt upon conclusion of the transaction.

E. The Manager shall make manual Garage receipts available in numerical sequence to be used in the event electrical service is disrupted or a customer requires a more detailed receipt than is produced by the cash register.

F. All checks received by the Manager shall be immediately restrictively endorsed for deposit only to the "City of Everett" with the endorsement stamp provided by the City Finance Department.

G. The Manager shall reconcile the daily receipts using a worksheet provided and approved by the City's Finance Director. Written explanations must accompany any overages or shortages. The mode of payment totals from the cash register z-tape should match the total of each payment type in the deposit (i.e., cash and checks). If the mode of payment totals does not match, the reason shall be documented by the Manager. The Manager shall organize preprinted parking stubs in numerical sequence and identify any missing/lost tickets. The Manager shall forward daily to the Finance Department the completed worksheet along with a copy of the deposit slip, the cash register z-tape, a bank validation slip, and the day's organized parking ticket stubs.

H. Bank deposits shall be made on a daily basis into the City of Everett's operating account. Deposit slips, provided by the City of Everett Finance Department, will be prepared in duplicate. All receipts will be deposited intact.

I. The Finance Department will record Garage revenue daily in the City's financial system.

J. The Manager shall be responsible for preparing and distributing invoices for monthly parking customers. Invoices for monthly parking customers will be mailed on or before the 15th of each month.

K. The Manager shall submit monthly invoices to the Facilities and Property Management Department of the City for its management fee on or before the first of each month for its services during the prior month.

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

M. City Administration and the Finance Director retain the right to amend or modify these procedures, as needed, with adequate written notice to the Manager.

N. It is the intent of the Parties, and it is agreed, that the Manager is not granted a leasehold interest to exclusively occupy the Garage. The Manager is providing management services as set forth herein and therefore should not be subject to any Leasehold Excise Tax, RCW Chapter 82.29A. However, if it is otherwise determined and the Manager is responsible for said tax, then the Manager is solely responsible for and shall pay the tax.

O. The parking fee schedule may be adjusted by the Manager upon written approval of the City Representative. Parking fees will generally be kept comparable to rates charged by other parking facilities in Everett. This schedule will prevail and will be consistent with the City's most current resolution establishing parking fees as passed by City Council.

P. The Manager will submit in writing any maintenance requests over five hundred dollars (\$500), special request for other use, or promotional coordination with downtown merchant groups. This correspondence will be directed only to the City's representative, who will in turn coordinate the requests within the City.

## **7. RISK MANAGEMENT**

### **A. Indemnity**

Except as otherwise provided in this Section 7.A., the Manager hereby agrees to defend and indemnify the City from any and all Claims arising out of, in connection with, or incident to any negligent or intentional acts, errors, omissions, or conduct by the Manager (or its employees, agents, representatives or subcontractors/subconsultants) relating to this Agreement, whether such Claims sound in contract, tort, or any other legal theory. The Manager is obligated to defend and indemnify the City pursuant to this Section 7.A. whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. The Manager's duty to defend and indemnify pursuant to this Section 7.A. is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of the Manager. The Manager's obligations under this Section 7.A. shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) the Manager, its employees, subcontractors/subconsultants or agents and (b) the City, then the Manager's obligations under this Section 7.A. shall apply only to the extent allowed by RCW 4.24.115. Solely and expressly for the purpose of its duties to indemnify and defend the City, the Manager specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. The Manager recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section 10: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages. If, and to the extent, the Manager employs or engages subconsultants or subcontractors, then the Manager shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify the City to the extent and on the same terms and conditions as the Manager pursuant to this Section 7.A.

### **B. Insurance**

1. The Manager shall comply with the following conditions and procure and keep in force during the term of this Agreement, at the Manager's own cost and expense, the following policies of insurance with companies authorized to do business in

the State of Washington, which are rated at least "A" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.

- a. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Manager shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Manager covers such employees.
  - b. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.
  - c. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.
  - d. Garage Policy Liability Insurance which shall include Garagekeeper's Legal Liability Insurance in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate.
2. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Manager to furnish the required insurance during the term of this Agreement.
  3. Upon written request by the City, the insurer or his/her agent will furnish, prior to or during commencement of the performance of the services pursuant to this Agreement, a copy of any policy cited above, certified to be a true and complete copy of the original.
  4. Prior to the Manager commencing the performance of the services pursuant to this Agreement, the Manager shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. The Manager shall provide the City with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees and agents as Additional Insureds on the Commercial General Liability Insurance policy, the Business Automobile Liability Insurance policy, and the Garage Policy Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Manager's obligations to fulfill the requirements.

5. The Manager certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington which requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. The Manager shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the services pursuant to this Agreement. The Manager shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before commencing the performance of the services pursuant to this Agreement.
6. In case of the breach of any provision of this Section 7.B., the City may, at its option and with no obligation to do so, provide and maintain at the expense of the Manager, such types of insurance in the name of the Manager, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to the Manager under this Agreement or may demand the Manager to promptly reimburse the City for such cost.

## 8. DEFAULT

- A.** Occurrence of any of the following shall constitute a default hereunder by the Manager:
1. The failure or refusal of the Manager to perform any of its the terms, conditions or obligations under this Agreement;
  2. Notice of cancellation or non-renewal of an expired policy of insurance or bond, and the Manager's failure to replace or reinstate the insurance policy or bond prior to the effective date of the cancellation or non-renewal;
  3. The filing or pendency of a petition against the Manager or the voluntary effort of the Manager to seek protection under any applicable bankruptcy, reorganization, arrangement, insolvency, readjustment or debt, dissolution, liquidation or rehabilitation law of any jurisdiction which has not been dismissed within sixty (60) days after filing or which has not been cured by the Manager's acquisition of an alternate security instrument guaranteeing performance of this Agreement satisfactory to the City;
  4. The failure on the part of the Manager to pay all or any amount required to be paid to the City under this Agreement when such amount becomes due and payable, unless it is paid within five (5) days after written demand of the amount by the City.
- B.** In the event of any Default, the nondefaulting party shall notify the defaulting party in writing of the default and describe the default in reasonable detail. The defaulting party shall immediately cure the default, or if the default cannot be cured immediately, then the defaulting party shall notify the nondefaulting party of the steps it will take to cure the default in a commercially reasonable manner and time.

## 9. TERMINATION

### A. For Convenience

Either party may terminate this Agreement without cause at any time by sending written notice of termination to the other party Agent ("Notice"). The Notice shall specify a termination date ("Termination Date") at least sixty (60) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt (whether by fax, mail, delivery or other method reasonably calculated to be received in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Manager shall immediately commence to end the service being provided in a reasonable and orderly manner. Except in the case of the Manager's material breach of this Agreement, in the event of termination of this Agreement, notwithstanding any other language in this Agreement, the Manager is only entitled to payment based upon any unpaid monthly payment due and owing for the period of time prior to the Termination Date and any approved expenses as authorized by this Agreement less all payments previously made. The Notice shall be sent by the United States Mail to the City's and Manager's addresses provided herein, postage prepaid, certified or registered mail, return receipt requested, or by delivery. In addition, the Notice may also be sent by any other method reasonably believed to provide actual notice in a timely manner, such as fax. The City does not by this section waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, City may deduct from the final payment due the Manager (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other back charges or credits.

### B. For Default

Either party may terminate this Agreement the other party's uncured default of its obligations under this Agreement.

### C. Termination Procedure

The terminating party shall send written notice of termination to the other party ("Notice"). The Notice shall specify a termination date ("Termination Date") at least sixty (60) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt (whether by fax, mail, delivery or other method reasonably calculated to be received in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, the parties shall immediately commence to end the service being provided in a reasonable and orderly manner. Except in the case of the Manager's material breach of this Agreement, in the event of termination of this Agreement, notwithstanding any other language in this Agreement, the Manager is only entitled to payment based upon any unpaid monthly payment due and owing for the period of time prior to the Termination Date and any approved expenses as authorized by this Agreement less all payments previously made. The Notice shall be sent by the United States Mail to the City's and Manager's addresses provided herein, postage prepaid, certified or registered mail, return receipt requested, or by delivery. In addition, the Notice may also be sent by any other method reasonably believed to provide actual notice in a timely manner, such as fax. The City does not by this section waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, City may deduct from the final payment due the Manager (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other back charges or credits.

## 10. MISCELLANEOUS

**A. Representations.** The Manager represents that statements of fact contained in its proposal are true and correct, and no material facts were omitted that would be reasonably necessary to make the statements made in the proposal, in the light of the circumstances under which they were made, not misleading. The Manager also represents that it has examined the Garage and can perform the work, services and improvements set forth in the Manager's proposal for this Agreement and the Request for Proposals related to this Agreement.

**B. Venue and Choice of Law.** The law of the State of Washington shall apply to this Agreement and venue for any for any lawsuit arising out of this Agreement shall be Snohomish County Superior Court.

**C. Independent Contractor.** In the performance of this Agreement, the Manager shall provide all services as an independent contractor and personnel operating the Garage shall be employees of the Manager, not of the City. It is not intended by this Agreement to, and nothing contained herein shall, create any partnership, joint venture or other arrangement between the Manager and the City. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation nor shall any such person, firm, organization or corporation have any right or cause of action hereunder.

**D. No Assignment.** The rights, duties and responsibilities in this Agreement shall not be assigned or subcontracted by the Manager to any person, business or entity without the advance written consent of the City.

**E. Notice.** A notice or other communication by either party to this Agreement shall be in writing and shall be given or delivered, if dispatched by regular mail, postage pre-paid to the following:

**To the City Representative:**

Facilities & Property Management Director  
3101 Cedar Street  
Everett, WA 98201

**To the Manager:**

Downtown Everett Association  
P.O. Box 748  
Everett, WA 98206-0748

**F. Integration and Order of Precedence.** This Agreement, the Request for Proposals for the Management and Operation of the Garage with a submittal date of April 14, 2004, and the Manager's proposal dated May 6, 2004, comprise the entire agreement of the parties and are intended as a final expression of the agreement between the Parties. In the event of a conflict between the above identified documents, and for purposes of interpretation to determine the duties, understandings, agreements and responsibilities between the Parties, the priority of the documents is: (1) this Agreement; (2) the Request for Proposals; and (3) Manager's proposal. This Agreement supersedes all other agreements and representation made prior hereto. No

amendment hereof shall be binding on either party unless and until approved in writing by both parties.

**G. Severability.** If any provision of this Agreement or any application hereof shall be found to be invalid or unenforceable, for any reason, the remainder of this Agreement and any application of such provision shall not be affected thereby.

**H. Survival.** The obligations imposed on Manager and all provisions of the Agreement which may reasonably be interpreted or construed as surviving the completion, termination or cancellation of the Agreement shall survive the completion, termination or cancellation of this Agreement. Further, all terms and provision of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the City and the Manager and their respective successors in interest.

**I. Waiver.** The waiver by the City of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or any subsequent breach of the same or of any other term, covenant, or condition herein contained.

**J. Construction** Each party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms. Each party acknowledges that the Agreement should not be strictly construed against one party or the other, but interpreted reasonably and fairly so as to give effect to the manifest intentions of the parties.

**K. Modification.** This Agreement may not be modified except by a written instrument duly executed by the parties hereto. The City may, from time to time, change the scope of services to be provided by Manager this Agreement. Such changes shall: (a) be made only in writing and signed by an authorized City representative, (b) be explicitly identified as a change to this Agreement and (c) become a part of this Agreement. The amount of compensation shall be equitably adjusted.

**L. Compliance with Federal, State and Local Laws** Manager shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder, including, but not limited to, including Title V1, the Civil Right Act of 1964, amended by the Equal Employment Opportunity Act of 1972.

**M. Headings for Convenience.** The section and subsection headings used herein are for referral and convenience only, and shall not enter into interpretation hereof. Any exhibits referred to herein and attached, and to be attached hereto, are incorporated herein to the same extent as if set forth in full herein.

**N. City of Everett Business License** Manager agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.

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

**P. No Interest In Real Estate.** The parties agree that this is an agreement for services only and does not convey any interest in any real estate.

**Q. Effective Date** When duly executed by both the City and Manager, this Agreement shall be effective as of July 1, 2013.

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

CITY OF EVERETT, WASHINGTON

By: Ray Stephanson  
Ray Stephanson, Mayor  
7/5/2013

Date

ATTEST:

Sharon Fuller  
Sharon Fuller, City Clerk  
Date: 7/5/2013

APPROVED AS TO FORM:

James D. Iles  
James D. Iles, City Attorney  
Date: 7/13/13

DOWNTOWN EVERETT ASSOCIATION

By: Timothy Corpus  
Typed/Printed Name: TIMOTHY CORPUS  
Its PRESIDENT  
Date: 7-22-2013

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

Adopt Resolution and authorize the Mayor to sign Purchase and Sale Agreement with SSLM Properties LLC, in substantially the form as attached and take all other actions necessary for the acquisition of property located at 3600 Smith Avenue.

\_\_\_\_\_ Briefing  
 \_\_\_\_\_ Proposed Action  
 \_\_\_\_\_ Consent  
 6/29/16 Action  
 \_\_\_\_\_ First Reading  
 \_\_\_\_\_ Second Reading  
 \_\_\_\_\_ Third Reading  
 \_\_\_\_\_ Public Hearing  
 \_\_\_\_\_ Budget Advisory

COUNCIL BILL # \_\_\_\_\_  
 Originating Department Real Property  
 Contact Person Mike Palacios  
Tom Hingson  
 Phone Number 425-257-8938  
425-257-8939  
 FOR AGENDA OF June 29, 2016  
 Initialed by:  
 Department Head \_\_\_\_\_  
 CAA db  
 Council President \_\_\_\_\_

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
3600 Smith Avenue		Purchase and Sale Agreement, Map	Administration, Legal, Transit, Real Property

Amount Budgeted	\$4,000,000.00 plus closing	
Expenditure Required	\$4,000,000.00 plus closing	Account Number(s): Fund 425
Budget Remaining	-0-	
Additional Required	-0-	

**DETAILED SUMMARY STATEMENT:**

The City proposes to acquire the former Smith Street Mill site located at 3600 Smith Avenue which is adjacent to and immediately south of the Everett Station. The site will be used for Transit operations with the initial use as bus parking allowing Transit to discontinue leasing space at 2911 California Avenue. The site will also provide a potential placeholder for the City to meet its obligation to Sound Transit for a future 100 space parking lot for the Everett Station.

The site is approximately 4.72 acres in size and extends from Everett Station on the north to just south of 37<sup>th</sup> Street and runs along the west side of the BNSF railroad right of way. The purchase agreement provides for a 90-day due diligence period to investigate the condition of the site. Upon the City's satisfaction of its due diligence, the City can exercise its rights and acquire the site for \$4,000,000.00 plus closing costs.

**RECOMMENDATION:**

Adopt Resolution and authorize the Mayor to sign Purchase and Sale Agreement with SSLM Properties LLC, in substantially the form as attached and take all other actions necessary for the acquisition of property located at 3600 Smith Avenue in the amount of \$4,000,000.00 plus closing costs.

## AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

This Agreement of Purchase and Sale of Real Property (this “**Agreement**”) is entered into as of May \_\_, 2016 (the “**Effective Date**”), by and between the CITY OF EVERETT, a municipal corporation (“**Buyer**” or “**City**”), and SSLM PROPERTIES, LLC, a Washington limited liability company (“**Seller**”).

### RECITALS

A. On \_\_\_\_\_, 2016, the Everett City Council adopted Resolution #\_\_\_\_\_, which authorized the Mayor and City staff to negotiate and execute a purchase and sale agreement for the Property (as defined below). The resolution states that in the event that negotiations fail and the transaction does not close by December 31, 2016, the City Council authorizes condemnation for the Property. Seller has received a copy of the resolution, which is attached hereto as **Exhibit A** (the “**Resolution**”).

B. The City and Seller have agreed on the terms of the purchase and sale for the Property as set forth herein.

In consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

### ARTICLE I. PROPERTY

Seller hereby agrees to sell and convey to Buyer pursuant to an imminent threat of condemnation by Buyer as set forth in the Resolution, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, that certain real property in Everett, Washington legally described on **Exhibit B** hereto, together with all rights, privileges and easements to, or used in connection with, such real property, including without limitation all existing appurtenant easements, development rights, permits, applications and licenses appurtenant to or used in connection with such real property (collectively, the “**Property**”).

### ARTICLE II. PURCHASE PRICE AND EARNEST MONEY

2.1 Earnest Money Deposit. Within three (3) business days after the Effective Date, Buyer shall deposit in cash, the sum of One Hundred Thousand Dollars (\$100,000.00) with Rainier Title, 2722 Colby Avenue, Suite 125, Everett, WA 98201

(the “**Title Company**”) as the earnest money deposit (the “**Earnest Money**”). The Earnest Money shall be nonrefundable following the expiration or earlier waiver by Buyer of the Inspection Period contingencies, except in the event of Seller’s default or as otherwise expressly provided for hereunder. The Title Company shall deposit the Earnest Money in an interest-bearing account at a financial institution approved by Buyer and Seller. All interest earned thereon shall be added to and become a part of the Earnest Money.

2.2 Purchase Price. The total purchase price for the Property (the “**Purchase Price**”) shall be Four Million dollars (\$4,000,000.00), subject to the adjustments, if any, as provided for under this Agreement. For closing purposes, Seller and Buyer agree that no portion of the Purchase Price is allocated to personal property.

2.3 Payment of Purchase Price. The Earnest Money and any interest earned thereon shall be credited against the Purchase Price at Closing. Buyer shall pay the remainder of the Purchase Price at Closing in immediately available U.S. funds

### **ARTICLE III. TITLE**

3.1 Review of Title. Buyer has ordered from the Title Company a commitment for an owner’s policy of extended coverage title insurance for the Property (the “**Preliminary Commitment**”), together with copies of any and all instruments referred to in the Preliminary Commitment. Within ten (10) days after the Effective Date, Seller shall deliver to Buyer a copy of any existing survey covering the Property (the “**Existing Survey**”).

(a) Within twenty (20) days after the latter of the Effective Date or Buyer’s receipt of the Preliminary Commitment together with all instruments referred to therein and any Existing Survey, Buyer shall deliver written notice to Seller of any title exception to which it objects (such exceptions, the “**Defects**”); provided, however, that if any new title exception is disclosed by a supplement or amendment to the Preliminary Commitment, then Buyer shall have until the latter of (i) the expiration of the Inspection Period, or (ii) seven (7) business days after Buyer’s receipt of such supplement or amendment to the Preliminary Commitment (together with a copy of all new instruments shown in such supplement or amendment) to deliver to Seller written notice of any new title exceptions appearing in such supplement or amendment to which Buyer objects (the previous Defects and such new exceptions are collectively, the “**Defects**”).

(b) Title will be deemed acceptable to Buyer if (a) Buyer fails to deliver timely written notice of Defects or (b) Buyer delivers timely written notice of Defects and Seller, within seven (7) business days after receipt of the notice (the “**Curative Period**”), cures the Defects or commits in writing to do so at or before

Closing. If Seller does not elect to cure the Defects of which Buyer has timely given written notice in accordance with the provisions of this Section, Buyer will have seven (7) business days after (i) receipt of notice of Seller's unwillingness or inability to cure the Defects or (ii) expiration of the Curative Period, if Seller does not provide such notice and the defects are not cured within the Curative Period, to give written notice to Seller terminating this Agreement (in which event Buyer will receive a refund of all Earnest Money) or accepting title to the Property subject to such Defects (in which event there shall be no reduction in Purchase Price.)

(c) If Buyer does not elect to terminate this Agreement within the Inspection Period (or within such longer period as may be provided in this Section), then any Defects that Seller does not cure or agree to cure shall be permitted to remain on title at Closing (the "**Permitted Encumbrances**").

(d) If required by Title Company for extended coverage, Buyer shall, at its own expense, contract with a licensed surveyor for a new ALTA survey of the Property ("**New Survey**"). Buyer shall have until the expiration of the Inspection Period to review and, in its sole discretion, approve the New Survey of the Property. If Buyer disapproves any matter shown in the Survey, Buyer may by written notice given to Seller prior to the expiration of the Inspection Period, terminate this Agreement and receive a refund of the Earnest Money unless Seller agrees to cure any such matter prior to Closing.

3.2 Title Insurance. Seller shall cause Title Company to deliver to Buyer at Closing an extended coverage owner's policy of title insurance issued by Title Company, insuring Buyer's title to the Property (the "**Title Policy**"). Buyer shall consult directly with Title Company regarding any special endorsements Buyer may require, at Buyer's sole cost and expense, to be included in the Title Policy. Seller shall pay the premium for standard coverage under the Title Policy. Buyer shall pay all costs in excess of the amount of the standard coverage premium for the Title Policy, including, without limitation, the cost of all endorsements requested by Buyer, the cost of the premium increase for extended coverage, and the cost of the New Survey. Prior to or at Closing, Seller shall, if requested by the Title Company, execute and deliver to the Title Company a commercially reasonable form owner's affidavit sufficient to allow Title Company to remove the standard preprinted exceptions for parties in possession and any mechanic's or materialmen's liens.

3.3 Conveyance of Property. At Closing, Seller shall convey to Buyer fee simple title to the Property by execution and delivery of a special warranty deed to the Property in the form of **Exhibit B** hereto (the "**Deed**").

**ARTICLE IV. INSPECTION OF DOCUMENTS,  
EVALUATION OF THE PROPERTY, AND DEMOLITION**

4.1 Seller's Records. Within ten (10) days after the Effective Date, Seller shall furnish Buyer with originals or true copies of any and all of the following materials in the possession or control of, or obtained by Seller in the course of Seller's own due diligence when it acquired the Property or subsequent to Seller's acquisition of the Property ("**Seller's Records**"):

(a) Easements, Licenses, Etc. Any and all easements, licenses, contracts, other agreements and other recorded documents encumbering or affecting the Property.

(b) Environmental, Physical Reports. Any and all documentation in connection with the physical or environmental condition of the Property, including, but not limited to: (i) any environmental, soils or geotechnical reports, studies, assessments or audits, (ii) UST closure reports, (iii) boring logs, (iv) all correspondence received from or submitted to the Washington State Department of Ecology regarding the Property and (v) any code or insurance compliance letters.

(c) Surveys. Any and all surveys, as built plans and specifications and similar documents.

(d) Title. The Preliminary Commitment from the Title Company, including copies of all exceptions to title identified therein.

(e) Claims, Etc. Any written documentation concerning claims, demands, litigation or other disputes received by Seller and relating to or affecting the Property.

(f) Condemnation, Public Improvements. Any other documentation in Seller's possession concerning potential public improvements or condemnation actions relating to or affecting the Property, other than the threat of condemnation by Buyer as set forth in the Resolution.

4.2 Inspection Period. Buyer shall have a period (the "**Inspection Period**") commencing on the Effective Date and expiring at 5:00 p.m. (Pacific) on the date that is ninety (90) days after the Effective Date to undertake and complete its due diligence review of the Property. Buyer shall use the Inspection Period to review and approve the items set forth herein, to inspect the condition of the Property (including, without limitation, performing any Phase I or Phase II environmental assessment), to evaluate the land use, zoning and other laws, regulations, ordinances and restrictions affecting

the Property, and to evaluate and approve the feasibility of the Property for Buyer's intended purposes. Buyer may terminate this Agreement for any reason and for no reason by delivering written notice of such termination ("**Buyer's Termination Notice**") to Seller at any time prior to expiration of the Inspection Period, in which event, the Earnest Money shall be immediately returned to Buyer and the parties shall have no further obligations hereunder other than those obligations that expressly survive by their terms, and Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Article IV. If Buyer fails to deliver Buyer's Termination Notice prior to expiration of the Inspection Period, then subject to Buyer's rights under Section 3.1 above, with respect to any New Defects, the Inspection Period contingency shall be deemed to be satisfied, the Earnest Money shall become non-refundable (except as otherwise specifically provided in this Agreement), this Agreement shall remain in full force and effect and the Closing shall occur in accordance with the terms contained herein.

4.3 Access and Indemnity. During the Inspection Period, Buyer (and its consultants, surveyors, agents, and employees) at Buyer's sole expense, may enter upon the Property in order to, among other things, inspect the physical condition of the Property, verify to its satisfaction the information provided to it and conduct any environmental or other inspections, sampling, surveys and studies as it deems appropriate. Buyer shall indemnify, defend and hold Seller harmless from any and all damages, claims, liens, causes of action that arise out of or are in any way related to Buyer's activities on the Property prior to Closing, including, without limitation, Seller's costs, expenses and attorneys' fees, except to the extent caused or contributed to by the negligence or willful misconduct of Seller and except to the extent that any such damages, claims, liens, causes of action results from, arises out of, or is in connection with any Hazardous Substances (as defined below) at, on, under, over, emanating from or migrating to the Property unless such Hazardous Substances were released by Buyer or Buyer's contractors or agents. Notwithstanding anything to the contrary contained in this Agreement, this indemnity shall survive the termination, expiration and consummation of this Agreement.

4.4 Demolition. Prior to Closing, Seller shall demolish all existing above ground improvements on the Property and remove all personal property (including, for example, all demolition debris and logs) from the Property, as described in Exhibit C (the "**Demolition Work**"). For purposes of clarity, the parties agree that Seller is not required to remove concrete footings or at grade or below grade concrete foundations. If such demolished improvements or debris contains Hazardous Substances (as defined below), Seller shall properly handle and dispose of such Hazardous Substances in accordance with applicable law.

## ARTICLE V. CONDITIONS PRECEDENT TO CLOSING

5.1 Buyer's Conditions Precedent. Buyer's obligations under this Agreement are expressly conditioned on, and subject to satisfaction of, the following conditions precedent:

(a) Performance by Seller. Seller shall have performed all material obligations required by this Agreement to be performed by it.

(b) Title Policy. Title Company shall be ready, willing and irrevocably committed to issue the Title Policy provided Buyer has fulfilled its obligations with respect thereto, which Title Policy shall show Buyer as fee simple owner of the Property, subject only to the Permitted Encumbrances.

(c) Representations and Warranties True. The representations and warranties of Seller contained herein and in each of the documents and instruments to be delivered at Closing shall be true and correct in all material respects, title to the Property shall be as represented and shall be free and clear of any lien, claim or encumbrance.

(d) No Material Change. Except to the extent approved or waived by Buyer in writing, at no time prior to the Closing Date shall there be any change in the physical or environmental condition of the Property that would have a material adverse impact on Buyer's intended use.

(e) No Adverse Actions. There shall exist no actions, administrative proceeding, suits, arbitrations, attachments or other proceedings pending against Seller or the Property that would materially and adversely affect Seller's ability to perform its obligations under this Agreement or the consummation of the transaction contemplated hereby.

(f) Demolition Work. The Demolition Work is complete in accordance with Section 4.4.

The conditions set forth in Section 5.1(a) through (f) above are intended solely for Buyer's benefit. If any of the foregoing conditions are not satisfied as of the Closing Date, Buyer shall have the right as its sole remedy and at its sole election to: (i) waive the condition in question and proceed with the purchase of the Property, or (ii) terminate this Agreement, whereupon the Earnest Money shall be returned to Buyer and the parties shall have no further obligations hereunder other than those obligations which survive the termination of this Agreement by their express terms.

5.2 Seller's Conditions Precedent. Seller's obligations under this Agreement are expressly conditioned on, and subject to satisfaction of, the following conditions precedent:

(a) Performance by Buyer. Buyer shall have performed all material obligations required by this Agreement to be performed by it.

(b) Representations and Warranties True. The representations and warranties of Buyer contained herein shall be true and correct in all material respects.

The conditions set forth in Section 5.2(a) and (b) above are intended solely for Seller's benefit. If any of the foregoing conditions are not satisfied as of the Closing Date, Seller shall have the right at its sole election, either to waive the condition in question and proceed with the sale, or, in the alternative, to terminate this Agreement. No such termination, however, shall waive Seller's right to retain the Earnest Money if Buyer is then in material default under this Agreement.

#### **ARTICLE VI. PROPERTY CONDITION PENDING CLOSING**

6.1 No Leases or Hazardous Substances. At all times prior to the Closing, or the sooner termination of this Agreement, Seller agrees not to lease or rent any portion of the Property, nor to enter into any agreement relating to the Property which agreement is not terminable prior to Closing, and not to intentionally place, store, use or dispose of, nor knowingly permit any other person or party to place, store, use or dispose of, any Hazardous Substances on or under the Property. As used herein, "**Hazardous Substances**" shall mean asbestos (whether or not friable), petroleum and petroleum derivatives and products, and any substance, chemical, waste or other material which is listed, defined or otherwise identified as "hazardous" or "toxic" under any federal, state or local ordinance or law or any administrative agency rule or determination.

6.2 Condition of Title. At all times prior to the Closing, or sooner termination of this Agreement, Seller agrees with respect to all or any portion of the Property: (a) not to enter into any written or oral contracts or agreements that would be binding on Buyer or the Property after Closing without Buyer's prior written consent; and (b) not to enter into any contracts or agreements to sell or otherwise transfer all or any portion of the Property, including options or rights of first refusal or offer, that would be binding on Buyer or the Property after Closing.

## ARTICLE VII. CLOSING AND ESCROW

7.1 Closing. The Closing hereunder (the “**Closing**” or the “**Closing Date**”) shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the Title Company’s offices thirty (30) days after the later of (i) the expiration or earlier waiver by Buyer of the Inspection Period, or (ii) the satisfaction or waiver of the Conditions Precedent set forth in Article V above. If the expiration or earlier waiver of the Inspection Period **and** the satisfaction or waiver of all Conditions Precedent set forth in Article V above do not all occur before 120 days after the Effective Date, unless otherwise extended by mutual written agreement, then either party may terminate this Agreement effective upon written notice to the other party. In the event of such termination, the Earnest Money shall be returned to Buyer, unless the Seller is otherwise entitled to the Earnest Money under this Agreement.

7.2 Delivery by Seller. On or prior to the Closing Date, Seller shall deposit with the Title Company or its agent (the “**Closing Agent**”), the following:

(a) The duly executed and acknowledged Deed ready for recordation on the Closing Date;

(b) A duly executed real estate excise tax affidavit;

(c) Any customary documents, consents, approvals, affidavits or certifications required by Title Company to issue the Title Policy;

(d) If applicable to the Seller, a certificate of non-foreign status signed by Seller, certifying that Seller is not a “foreign person” or “foreign entity” for purposes of Section 1445 of the Internal Revenue Code of 1986, as amended, and meeting the Foreign Investment in Real Property Tax Act requirements for such certification thereunder;

(e) The duly executed Closing Certificate if requested by Buyer (defined in Section 8.1 below).

(f) All other documents executed by Seller necessary for Closing.

7.3 Delivery by Buyer. On or prior to the Closing Date, Buyer shall deposit the Purchase Price with the Closing Agent and all other documents executed by Buyer necessary for Closing.

7.4 Title Policy; Other Instruments. The Title Company shall issue the Title Policy at Closing, or as soon thereafter as practicable. Seller and Buyer shall each deposit with the Closing Agent such other instruments as are reasonably required by the

Title Company or otherwise required to close the escrow and consummate the purchase and sale of the Property in accordance with the terms hereof.

7.5 Pro-rations and Real Property Taxes. All revenues and all expenses of the Property, if any, and excluding insurance premiums, shall be prorated as of 11:59 p.m. on the Closing Date.

7.6 Closing Costs and Expenses. Buyer and Seller shall each pay their own attorney's fees and expenses to perform their obligations hereunder in addition to the following:

- (a) Seller shall pay:
  - (i) That portion of the premium for the Title Policy attributable to standard owner's coverage;
  - (ii) Any excise taxes, fees and charges imposed by governmental entities on the conveyance of the Property;
  - (iii) All recording costs for the Deed; and
  - (iv) One-half of the Closing Agent's fees and charges for escrow services.
- (b) Buyer shall pay:
  - (i) That portion of the premium for the Title Policy attributable to extended coverage and the Survey required in connection therewith and such title endorsements as may be requested by Buyer;
  - (ii) All costs and expenses of Buyer's consultants and investigations during the Inspection Period;
  - (iii) One-half of the Closing Agent's fees and charges for escrow services.

7.7 Closing Statements. The pro-rations shall be on the basis of a written closing statement submitted by the Closing Agent to Buyer and Seller prior to the Closing Date and approved by Buyer and Seller, which approval shall not unreasonably be withheld. In the event any pro-rations or apportionments made hereunder shall prove to be incorrect for any reason, then either party shall be entitled to an adjustment to correct the same. Any item which cannot be prorated because of the unavailability of

information shall be tentatively prorated on the basis of the best data then available and the parties will make any necessary adjustments as soon as the necessary information is available.

7.8 Escrow Instructions. This Agreement is intended by the parties to set forth the escrow instructions to Closing Agent. Seller and Buyer may execute and deliver to Closing Agent any additional instructions as either party deems necessary or convenient to implement the terms of this Agreement and to close the transaction contemplated hereby; provided that any such additional instructions are not inconsistent herewith and shall not in any way modify, amend or supersede this Agreement.

#### **ARTICLE VIII. REPRESENTATIONS AND WARRANTIES**

8.1 General. Except for the representations, warranties and covenants in the Deed and except for the representations, warranties and covenants in this Agreement: (a) the Property is conveyed in its "AS IS-WHERE IS" condition at the time of Closing without any representation, warranty, or covenant of Seller and (b) the Buyer makes no representation, warranty, or covenant regarding the tax treatment or implications of the purchase and sale hereunder, including without limitation no representation, warranty, or covenant regarding federal income tax or real estate excise tax.

8.2 Seller's Representations. Seller represents and warrants to Buyer that, as of the Effective Date and as of Closing:

(a) Status. Seller is a limited liability company, duly formed and validly existing under the laws of the State of Washington and is qualified to transact business in the jurisdiction where the Property is located.

(b) Rights of Third Parties. Seller has not granted any options nor obligated itself in any manner whatsoever to sell the Property or any portion thereof to any party other than Buyer, and there are no contracts or other obligations outstanding regarding the Property or any portion thereof. There are no oral or written leases, rental agreements or other occupancy agreements allowing any person to occupy the Property. Seller has not granted any options nor obligated itself in any manner whatsoever to sell or lease the Property or any portion thereof to any party other than Buyer.

(c) No Liens. All persons and entities supplying labor, materials and equipment to the Property have been paid, and there are no claims of liens as of the date hereof and as of the Date of Closing

(d) Authority. This Agreement and all documents to be executed by Seller at Closing have been duly authorized, executed and delivered by Seller and are

binding on and enforceable against Seller in accordance with their terms. Seller has obtained all authorizations or approvals necessary for Seller to enter into and perform its obligations under this Agreement. The person signing this Agreement on behalf of Seller has the legal power, right and actual authority to bind Seller to the terms and conditions of this Agreement.

(e) Litigation. To Seller's knowledge there are no actions, suits, litigation or proceedings pending or, threatened, which affect the Property or affect the right, power or authority of Seller to enter into and perform this Agreement in accordance with its terms, or the validity or enforceability of this Agreement or of any action taken by Seller under this Agreement, in any court or before any governmental authority, domestic or foreign.

(f) No Violation. The execution of and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Seller on or prior to the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement, are not in violation of any contract, agreement or other instrument to which Seller is a party, any judicial order or judgment of any nature by which Seller is bound.

(g) Non-foreign Person. Seller is not a "foreign person" as that term is defined in Section 1445(f) of the Internal Revenue Code of 1986 and the regulations issued thereby.

(h) Eminent Domain. To Seller's actual knowledge, there are no pending or threatened eminent domain or condemnation actions pertaining to the Property or any portion thereof, except with respect to the Buyer, which is buying the Property under the imminent threat of condemnation as set forth in the Resolution.

(i) Assessments. To the knowledge of Seller, no special assessments (other than those disclosed in the Preliminary Commitment) have been levied against the Property, and Seller has received no written notice of any currently pending or proposed assessments against the Property.

At Closing if requested by Buyer, Seller shall deliver a certificate to Buyer dated as of the Closing Date and certifying as to the truth and accuracy of each of the representations and warranties contained in this Section or the manner in which any such representation or warranty is untrue or inaccurate in any material respect (the "**Closing Certificate**").

8.3 Buyer's Representations. Buyer represents and warrants to Seller as of the Closing Date as follows:

(a) Status. Buyer is a Washington municipal corporation.

(b) Authority. This Agreement and any documents to be executed by Buyer at Closing have been duly authorized, executed and delivered by Buyer and are binding on and enforceable against Buyer in accordance with their terms. Buyer has obtained all authorizations or approvals necessary for Buyer to enter into and perform its obligations under this Agreement. The person signing this Agreement on behalf of Buyer has the legal power, right and actual authority to bind Buyer to the terms and conditions of this Agreement.

8.4 General Provision Regarding Warranties and Representation. If, prior to Closing, either Buyer or Seller discovers a fact or circumstance that might render a representation or warranty inaccurate in any material respect as of the Effective Date, it shall within five (5) days of such discovery advise the other party thereof in writing. If Buyer has actual knowledge before Closing of the falsity of any representation or warranty of Seller, and Buyer closes the purchase of the Property, Buyer shall be deemed to have waived all rights against Seller in connection with such falsity or breach.

#### **ARTICLE IX. LOSS BY CONDEMNATION**

9.1 Taking by Condemnor Other than Buyer. In the event that all or any material portion of the Property is the subject of a taking or condemnation under the provisions of eminent domain law, other than by Buyer, after the Effective Date but prior to the Closing Date, Buyer may terminate this Agreement and the Earnest Money shall be returned to Buyer. If Buyer does not elect to terminate this Agreement, then the Purchase Price shall not be reduced, but Seller shall assign to Buyer its rights to any condemnation proceeds resulting from such taking and shall not make any settlements without Buyer's prior written approval.

9.2 Taking by Buyer as Condemnor. If the Buyer files a petition for condemnation of the Property in the Superior Court of Snohomish County, State of Washington, prior to the expiration of the Inspection Period, then this Agreement automatically terminates, and the Earnest Money shall be returned to Buyer. If the Buyer files a petition for condemnation after satisfaction of the the Inspection Period contingency and this Agreement has not been otherwise terminated, then this Agreement automatically terminates, and, unless Seller is in default hereunder, the Earnest Money shall be delivered to Seller.

## **ARTICLE X. POSSESSION**

Possession of the Property shall be delivered to Buyer on the Closing Date free and clear of any occupants or rights to possession.

## **ARTICLE XI. DEFAULT; REMEDIES**

11.1 Default by Buyer. If Buyer fails, without legal excuse, to complete the purchase of the Property in accordance with the terms of this Agreement or otherwise defaults hereunder, Seller's sole and exclusive remedy shall be to retain the Earnest Money as liquidated damages. Buyer expressly agrees that the delivery to and the retention of the Earnest Money by Seller represents a reasonable estimation of the damages in the event of Buyer's default, that actual damages may be difficult to ascertain and that this provision does not constitute a penalty.

11.2 Default by Seller. If Seller fails, without legal excuse, to complete the sale of the Property in accordance with the terms of this Agreement or otherwise defaults hereunder, Buyer may as its sole and exclusive remedy either: (1) terminate this Agreement and receive a refund of the Earnest Money; (2) seek specific performance; or (3) sue for its actual damages. If Seller defaults under this Agreement by not completing the Demolition Work prior to Closing and Buyer seek specific performance, Buyer's specific performance remedy shall include without limitation conveyance of the Property to Buyer as set forth in this Agreement, but with the Purchase Price reduced by an amount equal to the cost of the City completing the Demolition Work.

11.3 Attorneys' Fees. In the event either party brings an action or any other proceeding against the other party to enforce or interpret any of the terms, covenants or conditions hereof, the party prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party in such amounts as shall be set by the court, at trial and on appeal.

## **ARTICLE XII. MISCELLANEOUS**

12.1 Brokers and Finders. No broker has been used by either Buyer or Seller. In the event of any claim for broker's fee, finder's fee, commission or other similar compensation in connection with this Agreement, Buyer, if such claim is based upon any agreement alleged to have been made by Buyer, hereby agrees to indemnify Seller against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) that Seller may sustain or incur by reason of such claim. Seller, if such claim is based upon any agreement alleged to have been made by Seller, hereby agrees to indemnify Buyer against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees

and costs) that Buyer may sustain or incur by reason of such claim. Notwithstanding anything to the contrary herein, the provisions of this Section shall survive the termination of this Agreement or the Closing.

12.2 Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered personally, (ii) sent by a nationally recognized overnight delivery service, (iii) electronically transmitted (including facsimile) with confirmation sent by another method specified in this Section, or (iv) mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Seller at:                   SSLM Properties, LLC  
6663 SW Beaverton Hillsdale Hwy #133  
Portland, OR 97221  
Attn: Lee Kearney  
Telephone No. 503-676-6625

With a copy to:           Peterson Russell Kelly, PLLC  
10900 NE 4<sup>th</sup> Street, Suite 1850  
Bellevue, Washington 98004  
Attn: Patrick Moran  
Telephone No. 425-257-8938  
Facsimile No. 425-257-8856

Buyer at:                   City of Everett  
3200 Cedar Street  
Everett, WA 98201  
Attn: Mike Palacios/Real Property Manager  
Telephone No. 425-257-8938  
Facsimile No. 425-257-8856

With a copies to:       City of Everett  
Attn: Tim Benedict/Deputy City Attorney  
2930 Wetmore Ave, 9<sup>th</sup> Floor  
Everett, WA 98201

City of Everett  
Attn: Sharon Fuller/City Clerk  
2930 Wetmore Ave, 1<sup>st</sup> Floor

Everett, WA 98201

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

12.3 Survival. All provisions of this Agreement that involve obligations, duties or rights to be performed after the Closing Date or the recording of the Deed, and all covenants, representations and warranties made in or to be made pursuant to this Agreement shall survive the Closing Date and/or the recording of the Deed only to the extent expressly provided herein.

12.4 Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

12.5 Merger of Prior Agreements; Reliance. This Agreement and the exhibits hereto constitute the final and complete agreement between the parties with respect to the purchase and sale of the Property and supersede all prior and contemporaneous agreements, letters of intent and understandings between the parties hereto relating to the subject matter of this Agreement. There are no oral or other agreements, including but not limited to, any representations or warranties, which modify or affect this Agreement. Seller shall not be bound by, or liable for, any warranties, representations or statements of fact or opinion made by any other person, partnership, corporation or other entity, including, without limitation, the Title Company, any surveyor and any consultants. Buyer acknowledges to Seller that in entering into this Agreement, Buyer is not relying on any warranties except those expressly set forth herein or in the Deed.

12.6 No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer and Seller. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

12.7 Governing Law; Time. This Agreement and the rights of the parties hereto shall be governed by and construed in accordance with the internal laws of the State of Washington. "Day" as used herein means a calendar day and "business day" means any weekday on which commercial banks are generally open for business in the State of Washington. Any period of time that would otherwise end on a non-business day shall be extended to the next following business day. Time is of the essence of this Agreement.

12.8 Exhibits. All exhibits attached hereto or referenced herein are incorporated in this Agreement. The following exhibits are attached to this Agreement:

- EXHIBIT A – Council Resolution
- EXHIBIT B – Legal Description of the Property
- EXHIBIT C – Form of Deed
- EXHIBIT D – Demolition

12.9 Severability. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such provisions had not been contained herein.

12.10 Counterparts. This Agreement and the documents to be delivered hereunder may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute one agreement.

12.11 Assignment. Buyer shall have the right to assign its interests hereunder to an affiliate or related entity in which Buyer maintains management and voting control, but such assignment does not release Buyer from any obligation or liability under this Agreement.

12.12 Effective Date. The “**Effective Date**” shall be the date upon which this Agreement has been executed by both Seller and Buyer and such date shall be inserted by the second party to sign this Agreement on the first page of this Agreement.

12.13 Amendment, Waiver. No modification, termination or amendment of this Agreement may be made except by written agreement. No failure by Seller or Buyer to insist upon the strict performance of any covenant, agreement, or condition of this Agreement or to exercise any right or remedy shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. All the terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller’s or Buyer’s permitted successors and assigns.

*[signature pages follow]*

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates below their respective signatures, to be effective as of the Effective Date.

BUYER:

CITY OF EVERETT,  
a Washington municipal corporation

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

Name: Ray Stephanson

Title: Mayor

Approved as to form:

Attest:

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

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

SELLER:

SSLM PROPERTIES, LLC,  
a Washington limited liability company

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

Name: Lee Kearney

Title: Manager

Seller Signature Page

EXHIBIT A  
TO  
AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

City Council Resolution

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

**A RESOLUTION authorizing acquisition of real property located at 3600 Smith Avenue  
by negotiated purchase or by condemnation**

**WHEREAS,**

A. The City Council for the City of Everett, Washington has determined that public health, safety, and convenience require that City for transit operations acquire certain real property located at approximately 3600 Smith Avenue (the "Property").

B. The City Council has determined to authorize the Mayor to execute a purchase and sale agreement to purchase the Property and to close the purchase transaction.

C. In the event that the City is unable to close the purchase of the Property by December 31, 2016, the City Council has determined to authorize the use of eminent domain to acquire the Property.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERETT that:**

**SECTION 1.** The Mayor is authorized to execute a purchase and sale agreement in the amount of \$4,000,000.00 for the Property in substantially the form provided to City Council. The Mayor is further authorized to sign all documents and take all steps necessary to close the purchase. This authorization includes authority to sign amendments to the purchase and sale agreement, so long as such amendments do not increase the purchase price or extend the closing date beyond December 31, 2016.

**SECTION 2.** The City Council finds that the use of the Property by the City for transit purposes is a public use and that the Property is necessary for that public use. Accordingly, if the purchase of the Property authorized under this resolution has not closed by December 31, 2016, the City Council further authorizes the use of eminent domain to acquire the Property and authorizes the City Attorney to take whatever actions are necessary for such acquisition, including without limitation preparation of an ordinance of condemnation for City Council consideration in accordance with Chapter 8.12 RCW.

**Councilperson Introducing Resolution**

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**PASSED and APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

**Council President**

-----

EXHIBIT B  
TO  
AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

Legal Description of the Property

PARCEL A:

THE NORTH HALF OF BLOCK 19, J.S. SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING EAST OF THE ALLEY.

PARCEL B:

PARCEL B, BOUNDARY LINE ADJUSTMENT NO. 2-99 RECORDED UNDER RECORDING NO. 9903110605 AND BY SURVEY RECORDED UNDER RECORDING NO. 9903115004, BEING A PORTION OF NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W M, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL C:

ALL THAT PORTION OF THE WEST ½ OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING NORTH OF 36TH STREET, EAST OF THE WEST LINE OF OLD GREAT NORTHERN RAILROAD RIGHT-OF-WAY, WEST OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY AS DEFINED BY A LINE 40 FEET WEST OF THE CENTERLINE OF THE BURLINGTON NORTHERN RAILROAD MAIN LINE TRACKS EXISTING AND MAINTAINED AS OF MARCH 13, 1990, AND SOUTHEAST OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE CENTERLINE INTERSECTION OF SMITH AVENUE, AS CONSTRUCTED AND MONUMENTED FOR ROAD DEED RECORDED UNDER RECORDING NO 1192858, AND 36<sup>TH</sup> STREET AS PLATTED;

THENCE NORTH 00°45.36" EAST 345.16 FEET ALONG SAID CENTERLINE OF SMITH AVENUE TO THE CENTERLINE OF SAID SECTION 29; THENCE SOUTH 88°18.35" EAST ALONG SAID CENTERLINE OF SECTION 29, A DISTANCE OF 30.06 FEET TO THE EAST LINE OF SAID SMITH AVENUE AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°18.35" EAST 79.37 FEET TO A ½" INSIDE DIAMETER IRON PIPE; THENCE NORTH 04°26.00" WEST 200.00 FEET; THENCE NORTH 86°14.39" EAST 83.40 FEET; THENCE NORTH 76°18.21" EAST 113.80 FEET TO SAID LINE 40 FEET WEST OF THE CENTERLINE OF THE EXISTING BURLINGTON NORTHERN MAINLINE TRACKS AND THE TERMINUS OF SAID LINE.

EXCEPT THAT PORTION DEEDED TO THE STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION, BY DEED RECORDED UNDER RECORDING NUMBER 200602060551.

PARCEL D:

A PARCEL OF LAND IN THE CITY OF EVERETT, COUNTY OF SNOHOMISH, STATE OF WASHINGTON, BEING THAT PORTION OF BNSF RAILWAY COMPANY.S (FORMERLY GREAT NORTHERN RAILWAY COMPANY) PROPERTY LYING IN THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND GOVERNMENT LOT 5 OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF 36TH STREET, ACCORDING TO THE RECORDED PLAT OF SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, WITH SAID RAILWAY COMPANY.S WESTERLY RIGHT OF WAY LINE, SAID POINT BEING THE SOUTHWESTERLY CORNER OF THAT CERTAIN PARCEL 4 DESCRIBED IN CORRECTION DEED DATED JANUARY 30, 1990 FROM BURLINGTON NORTHERN RAILROAD COMPANY TO GLACIER PARK COMPANY, RECORDED AS DOCUMENT NO. 9001310636, IN VOLUME 2305, PAGE 1060, RECORDS OF SAID COUNTY; THENCE EASTERLY, ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL 4, BEING ALONG SAID NORTH RIGHT OF WAY LINE OF 36TH STREET TO A POINT ON A LINE PARALLEL WITH AND 40.0 FEET NORMALLY DISTANT WESTERLY FROM SAID RAILWAY COMPANY.S MAIN TRACK CENTERLINE AS NOW LOCATED AND CONSTRUCTED; THENCE SOUTHERLY, ALONG SAID PARALLEL LINE 321.0 FEET; THENCE SOUTHWESTERLY, ALONG A STRAIGHT LINE, TO THE SOUTHEASTERLY CORNER OF THAT CERTAIN 12-FOOT WIDE NON EXCLUSIVE ROADWAY EASEMENT RESERVED IN DEED DATED FEBRUARY 24, 1998 FROM THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY TO ANT LLC, RECORDED APRIL 27, 1998 AS DOCUMENT NO. 9804270969, RECORDS OF SAID COUNTY, LAST SAID SOUTHEASTERLY CORNER BEING A POINT ON THE EAST LINE OF SAID EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE NORTHERLY, ALONG SAID EAST LINE, 50 FEET, MORE OR LESS, TO THE NORTHEASTERLY CORNER OF THAT CERTAIN PARCEL 01725 DESCRIBED IN SAID DEED TO ANT LLC;

THENCE SOUTHWESTERLY, ALONG THE NORTHWESTERLY BOUNDARY OF SAID PARCEL 01725, A DISTANCE OF 41 FEET, MORE OR LESS, TO THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED FIRST IN EXHIBIT "A" TO DEED DATED NOVEMBER 9, 1967, FROM THE GREAT NORTHERN RAILWAY COMPANY TO THE STATE OF WASHINGTON, LAST SAID SOUTHEASTERLY CORNER BEING A POINT ON A LINE PARALLEL WITH AND 100.0 FEET NORMALLY DISTANT WESTERLY FROM SAID RAILWAY COMPANY.S MAIN TRACK CENTERLINE AS LOCATED ON NOVEMBER 9, 1967; THENCE, ALONG THE BOUNDARY OF SAID PARCEL DESCRIBED FIRST IN EXHIBIT "A" THE FOLLOWING

THREE (3) COURSES: 1) NORTHERLY, ALONG LAST SAID PARALLEL LINE, 310 FEET, MORE OR LESS; THENCE 2) SOUTHWESTERLY, ALONG A LINE DESCRIBED IN LAST SAID DEED AS BEING A LINE PARALLEL WITH AND 75 FEET NORTHWESTERLY FROM THE CENTER LINE OF PRIMARY STATE HIGHWAY NO. 1, TO THE SOUTH RIGHT OF WAY LINE OF SAID 36TH STREET; THENCE 3) WESTERLY, ALONG SAID SOUTH RIGHT OF WAY LINE OF 36TH STREET, 115 FEET, MORE OR LESS TO SAID RAILWAY COMPANY'S WESTERLY RIGHT OF WAY LINE; THENCE NORTHERLY, ALONG SAID WESTERLY RIGHT OF WAY LINE, 80 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL E:

THAT PORTION OF BLOCK 12, J. S. SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING SOUTHEASTERLY OF THAT RIGHT-OF-WAY LINE EXTENDING FROM A POINT OPPOSITE HIGHWAY ENGINEER'S STATION 231+08 59 ON THE L LINE SURVEY SR 5 IN EVERETT, 43RD STREET TO PACIFIC AVENUE AND 160 FEET SOUTHEASTERLY THEREFROM NORTHEASTERLY TO A POINT OPPOSITE HIGHWAY ENGINEER'S STATION L 233+08 59 S T ON SAID LINE SURVEY AND 175 FEET SOUTHEASTERLY THEREFROM AND TERMINUS OF SAID LINE.

PARCEL F:

A PARCEL OF LAND SITUATED IN THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN THE CITY OF EVERETT, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF 37TH STREET WITH THE EAST LINE OF SAID EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE WEST ALONG SAID EASTERLY EXTENSION AND THE NORTH LINE OF BLOCK 19 OF J.S. SINE'S ACRE TRACTS, EVERETT, WASHINGTON, ACCORDING TO THE RECORDED PLAT THEREOF IN THE OFFICE OF THE AUDITOR OF SNOHOMISH COUNTY, WASHINGTON, A DISTANCE OF 148 FEET, MORE OR LESS, TO THE INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND DISTANT 100.0 FEET SOUTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES FROM THE HEREINAFTER DESCRIBED "LINE A"; THENCE NORTHWESTERLY PARALLEL WITH SAID HEREINAFTER DESCRIBED "LINE A" A DISTANCE OF 108 FEET, MORE OR LESS, TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 5; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE A DISTANCE OF 230 FEET, MORE OR LESS, TO THE EAST LINE OF SAID EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH ALONG SAID EAST LINE 255 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

"LINE A" DESCRIPTION:

COMMENCING AT THE NORTHEAST CORNER OF SAID EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE WEST ALONG THE NORTH LINE OF SAID EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 266.4 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTHEASTERLY DEFLECTING AS ANGLE TO THE LEFT OF  $101^{\circ} 23'$ , A DISTANCE OF 1,071.87 FEET AND THERE TERMINATING.

APN: 005760-019-000-04 and 005760-019-000-05 and 005760-019-000-06 and 290529-003-008-00 and 290529-002-012-00 and 005760-043-000-02 and 290529-003-030-00 and 005760-012-000-03 and 290529-003-010-00

Snohomish County, Washington

**The parties agree to update or permit the Closing Agent to update, the legal description to incorporate the boundary line adjustment under Snohomish County Recording No. 20141130168 and as further reflected Quit Claim Deed under Snohomish County Recording No. 20150827012 and make such other required correction and modification consistent with the intention of the parties.**

EXHIBIT C  
TO  
AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

Form of Deed

FILED FOR RECORD AT REQUEST OF  
AND WHEN RECORDED RETURN TO:

**CITY OF EVERETT**  
**REAL PROPERTY MANAGER**  
3200 Cedar Street  
Everett, WA 98201

**SPECIAL WARRANTY DEED**

Grantor: SSLM PROPERTIES, LLC, a Washington limited liability  
company

Grantee: CITY OF EVERETT, a Washington municipal corporation

Abbreviated

Legal Description:

\_\_\_\_\_  
(complete legal description appears on Exhibit A hereto).

Assessor's Tax

Parcel No.:

\_\_\_\_\_

THE GRANTOR, SSLM PROPERTIES, LLC, a Washington limited liability company, for and in consideration of TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid, the receipt and sufficiency of which are acknowledged, bargains, sells and conveys to the CITY OF EVERETT, a Washington municipal corporation, the real estate situated in the County of Snohomish, State of Washington described in Exhibit A attached hereto, subject to those exceptions set forth in Exhibit B attached hereto.

DATED as of \_\_\_\_\_, 2016.

GRANTOR:

SSLM PROPERTIES, LLC,  
a Washington limited liability company,

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

Name: Lee Kearney

Title: Manager

STATE OF OREGON

COUNTY OF \_\_\_\_\_

ss.

I certify that I know or have satisfactory evidence that Lee Kearney is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Manager of SSLM PROPERTIES, LLC, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_\_ day of May, 2016.

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,  
residing at \_\_\_\_\_

My appointment expires \_\_\_\_\_

EXHIBIT D  
TO  
AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

Demolition

Seller shall remove from the Property the following:

*Buildings and other similar structures, provided that the foundations and footings may remain.*

*Equipment, machinery and other similar material tangible property, unless Buyer agrees that such personal property may remain.*

*Debris and garbage and there shall be no piles of debris or garbage*

*Piles of chips, mulch, wood scraps, or other similar organic log materials, provided that such material may be smooth and integrated with the dirt surface*

*Piles of concrete and all broken concrete that is over the size of 12" x 12"*

*Piles of logs and wood scraps and all logs and wood scraps over the size of 12" x 12"*

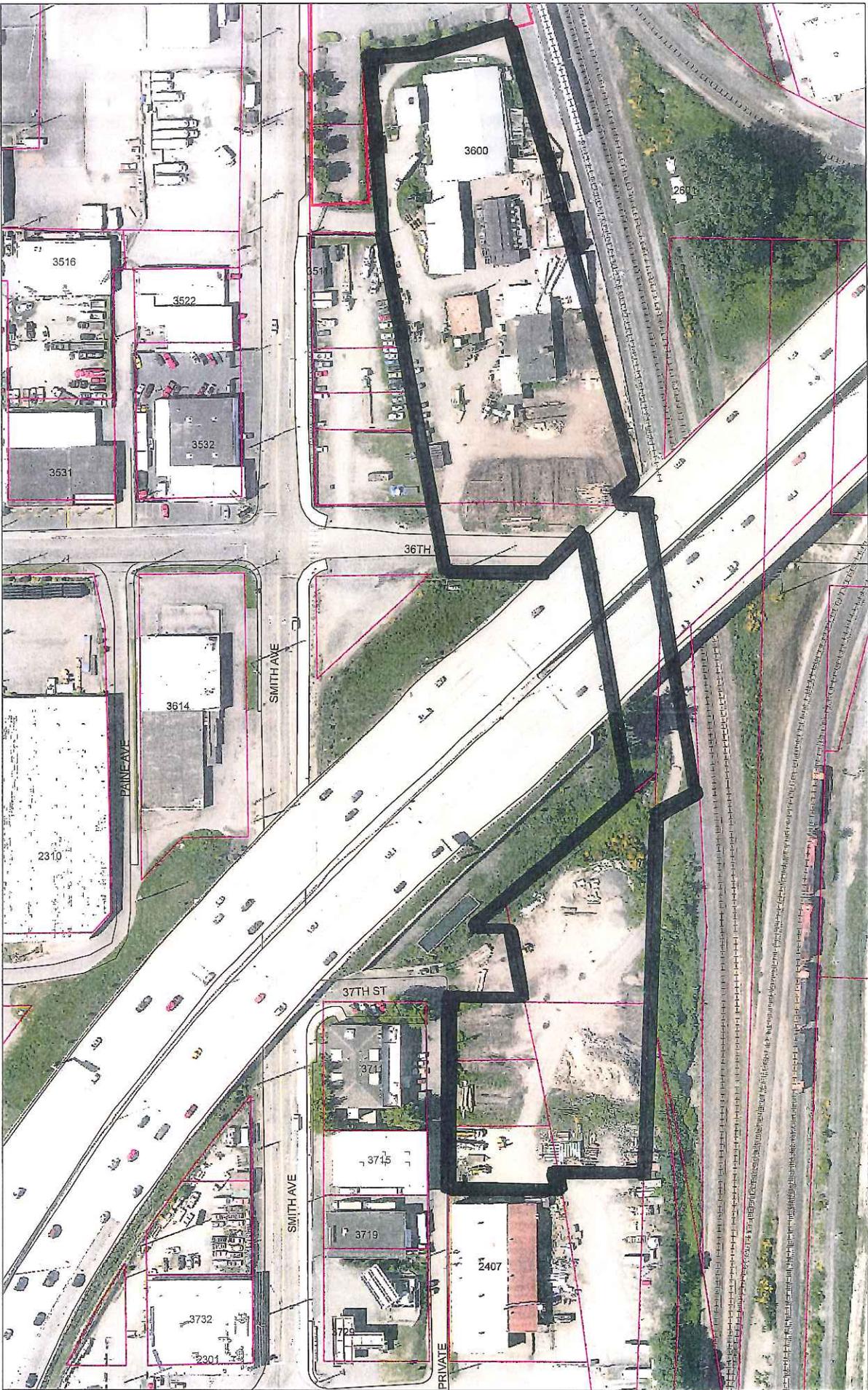
Seller may leave on the Property, the following:

*Electrical Power Pole and transformers.*

*Ecology Blocks.*

*Concrete footings or foundation walls.*

*Concrete or asphalt flatwork.*



N.T.S.



EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

Mountain Workshops Program Agreement to provide a workshop to Everett Parks and Recreation Adventure day camp participants.

\_\_\_\_\_ Consent  
 \_\_\_\_\_ Action   X    
 \_\_\_\_\_ First Reading  
 \_\_\_\_\_ Second Reading  
 \_\_\_\_\_ Third Reading  
 \_\_\_\_\_ Public Hearing

COUNCIL BILL # \_\_\_\_\_  
 Originating Department   Parks    
 Contact Person   Lori Cummings    
 Phone Number   425-257-8353    
 FOR AGENDA OF   June 29, 2016  

Initialed by:  
 Department Head \_\_\_\_\_  
 CAA   db    
 Council President \_\_\_\_\_

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Agreement	<u>Department(s) Approval</u> Parks, Legal, Administration
-----------------	-------------------------	---------------------------------	--

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

**DETAILED SUMMARY STATEMENT:**

The Mountain Workshops Program Agreement will allow the Parks and Recreation Department to work with the Mountaineers non-profit organization to provide Youth Adventure day camp participants an introductory outdoor recreation experience. The agreement has indemnification language requiring Council action.

**RECOMMENDATION (Exact action requested of Council):**

Authorize the Mayor to sign the Mountain Workshops Program Agreement to provide a workshop to Everett Parks and Recreation Adventure day camp participants.



## Mountain Workshops Program Agreement

As a 501(c)(3) non-profit organization, The Mountaineers is committed to our mission to enrich the community by helping people explore, conserve, learn about and enjoy the lands and waters of the Pacific Northwest. We're glad you've decided to participate in a Mountain Workshop with The Mountaineers. To confirm your custom Mountain Workshop, please complete this form and email it to [emilyc@mountaineers.org](mailto:emilyc@mountaineers.org), or fax it to 206-523-6763.

**Group Name:** Everett Parks and Recreation

**Group Contact Name:** Jane Lewis

**Group Contact Email:** [jlewis@everettwa.gov](mailto:jlewis@everettwa.gov)

**Phone Number:** 425-257-8369

**Group Min/Max:** 15-20 -Everett Parks agrees to provide 2-3 mountaineer certified belayers to assist.

	Date	Time	Location
Program 1:Mountain Workshop	August 22, 2016 or August 23 <sup>rd</sup> , 2016	10:30 – 2:45	Sand Point Mountaineers Facility

**Participation costs:** \$275.00

**Program fees include:** Outdoor instruction, use of relevant program equipment (ropes, harnesses, belay devices), safety instruction during activity time

**Your group is expected to provide:** 1 chaperone per 10 youth, lunches, water & snacks, behavior management during program, bringing youth on bathroom breaks, and managing free time. Chaperones will also be responsible for supervising any youth who show up without a waiver.

**To confirm and reserve the Mountain Workshop:** We require a non-refundable deposit of \$50 to be applied to total program fees OR valid credit card to be charged in the event of cancellation with less than 14-days' notice. Deposit is transferrable with 14 days' notice. Complete payment for all participants is due by date of course.

**Indemnification and Hold Harmless**

Each party shall defend, indemnify and hold harmless the Company, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of the services outlined above; except only such injury or damage to the extent caused by the Company.

(Initial) \_\_\_\_\_ The City of Everett certifies that it is self-insured for liability exposures and will provide evidence of its status as a self- insured entity, and will provide signed waivers before or upon arrival in order for our group to participate in the Mountain Workshop, and I understand that my group will not be able to participate if these items are not received in completion, and my deposit will not be refunded.

Please submit changes to group numbers and arrival and departure times no later than 7 days in advance of your program in order for us to best serve your group.

- I have enclosed/mailed a check for \$50 or 10% of the program cost to serve as my non-refundable deposit
- I agree to allow The Mountaineers to charge my credit card \$50 in the event that my group cancels with less than 14 days' notice.

Visa  MasterCard      Card # \_\_\_\_\_

Name on Card: \_\_\_\_\_

Expiration Date: \_\_\_\_\_ Signature: \_\_\_\_\_

"I agree to all terms of this reservation agreement"

Group Leader signature: \_\_\_\_\_

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

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Department of Agriculture for  
Limited Agent Status for  
aquatic noxious weed control

\_\_\_\_\_ Briefing  
\_\_\_\_\_ Proposed Action  
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\_\_\_\_\_ First Reading  
\_\_\_\_\_ Second Reading  
\_\_\_\_\_ Third Reading  
\_\_\_\_\_ Public Hearing

COUNCIL BILL # \_\_\_\_\_  
Originating Department Parks  
Contact Person Lori Cummings  
Phone Number 425-257-8353  
FOR AGENDA OF June 29, 2016

Initialed by:  
Department Head \_\_\_\_\_  
CAA db  
Council President \_\_\_\_\_

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Agreement	<u>Department(s) Approval</u> Parks, Administration, Legal
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Amount Budgeted	\$0	
Expenditure Required	\$0	
Budget Remaining		
Additional Required		

**DETAILED SUMMARY STATEMENT:**

The Washington State Department of Agriculture manages a statewide General National Pollutant Discharge Elimination System (NPDES) permit authorizing the discharge of aquatic pesticides in accordance with the Permit to control noxious, emergent aquatic weeds and quarantine weeds. This Agreement specifies the City's requirements for compliance with the terms and conditions, and identifies the limitations as to which herbicides, adjuvants and marking dyes are used. Direct in-water treatments are not allowed under this permit or through this Agreement.

**RECOMMENDATION (Exact action requested of Council):**

Authorize the Mayor to sign the Application and Agreement with the Washington State Department of Agriculture for Limited Agent Status for aquatic noxious weed control.



**2016**  
**APPLICATION AND AGREEMENT FOR LIMITED AGENT STATUS**  
**FOR AQUATIC NOXIOUS WEED CONTROL**  
**UNDER WSDA'S NATIONAL POLLUTANT DISCHARGE**  
**ELIMINATION SYSTEM GENERAL PERMIT**

AGREEMENT TO COMPLY WITH THE TERMS, CONDITIONS, AND REQUIREMENTS  
OF THE "AQUATIC NOXIOUS WEED CONTROL NATIONAL POLLUTANT  
DISCHARGE ELIMINATION SYSTEM WASTE DISCHARGE GENERAL PERMIT"  
ISSUED TO THE WASHINGTON STATE DEPARTMENT OF AGRICULTURE ON  
FEBRUARY 17, 2012

**Entities acting as limited agents under this agreement will be required to submit a year-end  
summary of pesticide use under this agreement and may be requested to submit copies of  
the associated spray records for program review.**

**I. ENTITY REQUESTING LETTER FOR LIMITED AGENT STATUS**

Name of Entity:	City of Everett Parks and Recreation		
Name:	Anna Heckman		
Mailing Address:	802 E. Mukilteo Blvd		
City:	Everett	State:	WA
ZIP + 4:	98203		
E-Mail Address:	aheckman@everettwa.gov		
Daytime Phone:	425-257-8582	Cell Phone:	425-501-1298

**II. WATERBODY AND HERBICIDE INFORMATION**

<b>Waterbody Name</b>	<b>County</b>	<b>WRIA</b>	<b>Target Weed</b>	<b>Herbicide</b>
Various	Snohomish	7 - Snohomish	Knotweed, loostripe, yellow flag iris, reed canary grass	Adjuvant(s)
Various	Snohomish	8 - Cedar-Sammamish	Knotweed, loostripe, yellow flag iris, reed canary grass	Adjuvant(s)
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Various	Snohomish	8 - Cedar-Sammamish	Knotweed, Loostripe, yellow flag iris	Imazapyr
Various	Snohomish	7 - Snohomish	Knotweed, Loostripe, yellow flag iris, reed canary grass	Imazapyr

Various	Snohomish	7 - Snohomish	Knotweed, Loostrife	Triclopyr TEA
Various	Snohomish	8 - Cedar-Sammamish	Knotweed, Loostrife	Triclopyr TEA

### III. OBLIGATIONS OF APPLICANT IN CONSIDERATION OF LIMITED AGENT STATUS

On February 17, 2012 the Washington State Department of Ecology issued to the Washington State Department of Agriculture (WSDA) a statewide General National Pollutant Discharge Elimination System (NPDES) permit (referred to herein as the Permit) authorizing the discharge of aquatic pesticides in accordance with the Permit to control noxious, emergent aquatic weeds and quarantine weeds. The Permit, in its entirety, is incorporated by reference into this “Application and Agreement for Limited Agent Status for Aquatic Noxious Weed Control Under WSDA’s National Pollutant Discharge Elimination System General Permit” (referred to herein as the “Application for Limited Agent Status”). A copy of the Permit is available from WSDA or at the following website:

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By completing, signing, and submitting this Application for Limited Agent Status to WSDA, the Applicant agrees to comply with the terms, conditions, and requirements of the Permit and to enforce those terms, conditions, and requirements against any person or entity acting on the Applicant’s behalf to control noxious, emergent aquatic and quarantine weeds in Washington. Without limitation, the Applicant specifically agrees to comply and enforce the terms, conditions, and requirements set forth in the following paragraphs:

**A. DISCHARGE LIMITATIONS (SECTION S1, S2, S3 and S4 OF THE PERMIT).** The Applicant specifically agrees to comply with all provisions of the Permit, including all limitations as to which herbicides, adjuvants, and marking dyes may be used, and which aquatic weeds may be targeted. **Direct in-water treatments are not allowed under this permit or through this agreement.**

**B. MONITORING REQUIREMENTS (SECTION S6 OF THE PERMIT).** The Applicant specifically agrees to comply with the monitoring requirements imposed in the Permit as follows:

- WSDA will conduct or coordinate all monitoring of herbicide treatments consistent with the applicable annual monitoring plan prepared pursuant to the Permit. An Applicant proposing herbicide applications with imazamox, bispyribacsodium, penoxsulam, flumioxazin, or carfentrazone-ethyl specifically

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COUNCIL BILL # \_\_\_\_\_  
Originating Department Parks  
Contact Person Lori Cummings  
Phone Number 425-257-8353  
FOR AGENDA OF June 29, 2016

Initialed by:  
Department Head \_\_\_\_\_  
CAA db  
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<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Agreement	<u>Department(s) Approval</u> Parks, Administration, Legal
Amount Budgeted	\$0		
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E-Mail Address:	aheckman@everettwa.gov		
Daytime Phone:	425-257-8582	Cell Phone:	425-501-1298

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By completing, signing, and submitting this Application for Limited Agent Status to WSDA, the Applicant agrees to comply with the terms, conditions, and requirements of the Permit and to enforce those terms, conditions, and requirements against any person or entity acting on the Applicant's behalf to control noxious, emergent aquatic and quarantine weeds in Washington. Without limitation, the Applicant specifically agrees to comply and enforce the terms, conditions, and requirements set forth in the following paragraphs:

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agrees to cooperate with WSDA in implementing any monitoring required under any applicable monitoring plan.

**C. REPORTING AND RECORDKEEPING REQUIREMENTS (SECTION S8 OF THE PERMIT).**

The Applicant specifically agrees to maintain records of all treatments proposed in this Application for Limited Agent Status; to retain those records for at least five years from the date of treatment; and to use the web-based reporting tools on the Secure Access Washington database managed by or the Department of Ecology to record the following information by December 31st of the year in which the treatment occurred:

- The common name of each waterbody (if named) that was treated.
- The WRIA name and number for the waterbody that was treated.
- The species name of the target weed(s).
- The name of the herbicide or herbicides that were to be used and the EPA registration number for each herbicide.
- The actual amount of herbicide (gallons or pounds) used to treat the target weeds at that waterbody.
- The actual number of acres that were treated.

The actual date(s) on which treatments were made are retained on the spray records and need not be reported to the database.

**D. POSTING AND NOTIFICATION REQUIREMENTS (SECTION S5 OF THE PERMIT).** The Applicant specifically agrees to carry out the notification requirements in the Permit (excluding S5.B.1a and 1b) unless WSDA specifically informs the Applicant that notification will be carried out by WSDA.

**E. NONCOMPLIANCE NOTIFICATION (SECTION S8 AND S9 OF THE PERMIT).** The Applicant specifically agrees that, if the Applicant, or any person or entity acting on the Applicant's behalf to control aquatic noxious and quarantine weeds in Washington, is unable to comply with any of the terms, conditions, and requirements in this Application for Limited Agent Status or in the Permit, the Applicant will:

- immediately take action stop, contain, and clean up any unauthorized discharge or other noncompliant activity, and
- immediately notify WSDA of the inability to comply.

**F. REVOCATION OF LIMITED AGENT STATUS BY WSDA.** The Applicant specifically agrees that WSDA may unilaterally revoke its Application of Limited Agent Status to the Applicant if WSDA reasonably finds any of the following:

- That the Applicant, or a person or entity acting on the Applicant's behalf to control aquatic noxious and quarantine weeds in Washington, has violated a term, condition, or requirement of this Application for Limited Agent Status or the Permit.
- That this Application for Limited Agent Status was obtained by misrepresentation or a failure to disclose fully all relevant facts.
- That the Applicant, or a person or entity acting on the Applicant's behalf to control aquatic noxious and quarantine weeds in Washington, has refused or failed to allow WSDA reasonable entry for the purposes specified in this Application for Limited Agent Status.
- That the Applicant, or a person or entity acting on the Applicant's behalf to control aquatic noxious and quarantine weeds in Washington, has violated applicable state or federal law.

- That activities described in this Application for Limited Agent Status are endangering human health or the environment, or significantly contributes to water quality violations.

Revocation is effective as of the date and time the Applicant receives actual or constructive notice of WSDA's revocation. Within five business days of receiving notice of revocation, an Applicant who believes revocation was based on a factual mistake may provide evidence and a written explanation to WSDA. If WSDA agrees revocation was based on a factual mistake, WSDA will notify the Applicant that the Limited Agent Status may be reinstated. That decision of WSDA is final and may not be contested.

WSDA also may unilaterally revoke the Application of Limited Agent Status if the Permit is withdrawn, revoked, or otherwise modified by the Department of Ecology. Such revocation is final and may not be contested.

**G. TRANSFER OF LIMITED AGENT STATUS.** An Application of Limited Agent Status may be transferred to a different Applicant only with WSDA's written consent.

#### **IV. APPLICANT'S ASSUMPTION OF RISK**

By submitting this Application for Limited Agent Status, the Applicant:

- Accepts full and complete responsibility for complying with the applicable terms, conditions, and requirements of this Application for Limited Agent Status, the Permit, and all applicable state and federal laws;
- Acknowledges that it may be liable for any violation of an applicable term, condition, or requirement of this Application for Limited Agent Status, the Permit, or an applicable state or federal law; and
- Agrees that WSDA may enforce the terms, conditions, and requirements of this Application for Limited Agent Status under the contract created by WSDA's acceptance of the Application for Limited Agent Status.

#### **V. APPLICANT AS LIMITED AGENT OF WSDA**

By issuing a Letter of Limited Agent Status in response to this Application for Limited Agent Status, WSDA agrees that Applicant will act as WSDA's agent solely and exclusively to conduct activities described in this Application for Limited Agent Status and to conduct those activities in strict compliance with the applicable terms, conditions, and requirements of this Application for Limited Agent Status, the Permit, and all applicable state and federal laws. WSDA grants no agency of any kind whatsoever to the Applicant to conduct any other activity.

By issuing an Letter of Limited Agent Status in response to this Application for Limited Agent Status, WSDA specifically denies and does not grant the Applicant any power or authority to hold itself out or claim to be an agent of WSDA or the State of Washington for any other activity or purpose, or an officer or employee of WSDA or the State of Washington.

By submitting this Application for Limited Agent Status, the Applicant agrees to all limits and restrictions imposed in this part V and agrees further that it will not make any claim of right, privilege, or benefit that otherwise might accrue to an agent, officer, or employee of WSDA or the State of Washington.

## **VI. RELATIONSHIP TO EXISTING CONTRACT OR AGREEMENT WITH WSDA FOR CONTROL OF AQUATIC NOXIOUS WEEDS**

If the Applicant is a party to an existing contract with WSDA for the control of noxious, emergent aquatic weeds, the existing contract is hereby amended consistent with the terms, conditions, and requirements of this Application for Limited Agent Status, the Permit, and state and federal law. If any conflict is found between an existing contract and the terms, conditions, and requirements of this Application for Limited Agent Status, the Permit, and state and federal law, this Application for Limited Agent Status, the Permit, and state and federal law shall control.

An Applicant's responsibilities and liabilities under this Application for Limited Agent Status shall not be waived or limited by any Interagency Agreement the Applicant may have with WSDA for aquatic noxious weed control.

## **VII. INDEMNIFICATION**

To the fullest extent permitted by law, the Applicant and its agents, employees, principals, successors, and assigns, shall indemnify, defend, and hold harmless WSDA and the State of Washington, and all officials, agents, and employees of WSDA and the State of Washington, from and against all liability, damages, claims, demands, actions, causes of action, attorney's fees (including on appeal), costs and expenses of whatever nature arising directly or indirectly from or relating to actions taken under this Application for Limited Agent Status, including specifically any failure to perform or violation of the terms, conditions, and requirements of this Application for Limited Agent Status, the Permit, or state or federal laws. The Applicant's obligation to indemnify, defend and hold harmless includes any claim by the Applicant's agents, employees, representatives, or any subcontractor or subcontractor's employees, and that obligation includes any liability, demand, claim, action, or cause of action, whether civil, criminal or administrative, threatened or commenced by any third party under the terms of the Permit, the Clean Water Act or the rules promulgated thereunder, the Federal Insecticide, Fungicide and Rodenticide Act, the Endangered Species Act, the state Pesticide Application Act (RCW 17.21), the state Pesticide Control Act (RCW 15.58), or other state or federal law. The Applicant's obligation to indemnify, defend and hold harmless does not extend to any claims caused by or arising from the sole negligence of WSDA or the State of Washington or any official, agent, or employee of WSDA or the State of Washington.

WSDA and the Applicant each shall give the other prompt notice upon receiving any notice, claim, or enforcement action alleging that actions taken or required to be taken under this Application for Limited Agent Status constitute a violation of the Permit, the Clean Water Act or the rules promulgated thereunder, the Federal Insecticide, Fungicide and Rodenticide Act, the Endangered Species Act, the state Pesticide Application Act (RCW 17.21), the state Pesticide Control Act (RCW 15.58), or other state or federal law. WSDA and the Applicant may separately or cooperatively contest, defend, or appeal any such notice, claim, or enforcement action, but WSDA's right to be indemnified and held harmless under this Section VII shall not be diminished thereby.

**VIII. GOVERNANCE**

The contract formed by a Letter of Limited Agent Status issued by WSDA in response to this Application for Limited Agent Status shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought under that contract shall be in the Superior Court for Thurston County.

**IX. SIGNATURE AUTHORITY AND CERTIFICATION**

This application, and all other reports or documentation that must be signed as a requirement of submission under this Application for Limited Agent Status, the Permit, or applicable state or federal law, shall be signed on behalf of the Applicant by an individual with authority to bind the Applicator (the "Applicant's Authorized Representative"). The signature of such individual on this Application for Limited Agent Status constitutes a representation and warranty that the individual has such authority.

By signing this Application for Limited Agent Status, the Applicant's Authorized Representative certifies as follows on behalf of the Applicant:

"I certify under penalty of law, that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiries of the person or persons who manage the system, or those persons directly responsible for gathering the information, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment. Additionally, I certify that I will comply with the terms, conditions, and requirements of the Permit and this Application for Limited Agent Status and will enforce those terms, conditions, and requirements against any person or entity acting on the Applicant's behalf to control aquatic noxious and quarantine weeds in Washington."

Printed Name of Applicant: Anna Heckman

Printed Name of Applicant's Authorized Representative: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Approval from Washington State Department of Agriculture

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

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

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

**PROJECT TITLE:**

Professional Services Agreement with Perteet, Inc. for biological evaluation supporting the permitting of shoreline improvements at the Green Lantern parcel at Silver Lake

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

COUNCIL BILL # \_\_\_\_\_

Originating Department \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone Number \_\_\_\_\_

FOR AGENDA OF \_\_\_\_\_

\_\_\_\_\_ Parks

\_\_\_\_\_ Lori Cummings

\_\_\_\_\_ 425-257-8353

\_\_\_\_\_ June 29, 2016

Initialed by:

Department Head \_\_\_\_\_

CAA \_\_\_\_\_

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

*db*

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Northeast shore of Silver Lake		Professional Services Agreement	Parks, Administration

Amount Budgeted	\$5,000.00	
Expenditure Required	\$3,518.00	Account Number(s): 101 552100000410
Budget Remaining		
Additional Required		

**DETAILED SUMMARY STATEMENT:**

The Professional Services Agreement with Perteet, Inc. provides a biological evaluation in support of Parks Department's United States Army Corps of Engineers Section 404 nationwide permit application to complete proposed shoreline improvements at the Green Lantern parcel at Silver Lake. The Corps of Engineers requires Endangered Species Act compliance for all projects that affect the waters of the United States.

**RECOMMENDATION (Exact action requested of Council):**

Authorize the Mayor to sign the Professional Services Agreement with Perteet, Inc. for biological evaluation supporting the permitting of shoreline improvements at the Green Lantern parcel at Silver Lake in the amount of \$3,518.

**CITY OF EVERETT  
PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** made and entered into on this            day of            ,            , by and between the **CITY OF EVERETT**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the "City," and Perteet, Inc. , whose address is 2707 Colby Avenue, Suite 900, Everett, Wa 98201, hereinafter referred to as the "Service Provider."

**WHEREAS**, the City desires to engage the Service Provider to prepare a United States Army Corps of Engineer's Biological Evaluation that supports the City of Everett Parks and Recreation Department's U.S. Army Corps of Engineer's Section 404 Nationwide Permit application to complete the proposed shoreline improvements at Green Lantern Park located on the NE shores of Silver Lake in Everett Washington.            for the City of Everett; and

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

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

1.     **Engagement of Service Provider.** The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the attached "Exhibit A - Scope of Work". The Scope of Work so identified is hereafter referred to as "Work". Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider's proposal is attached as an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider's design shall be reasonably accurate, adequate and suitable for its intended purpose.
  
2.     **Intellectual Property Rights.** Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
  
3.     **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of execution of this Agreement and shall be completed by August 15, 2016.



4. **Compensation.**

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

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

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

D. Total compensation, including all services and expenses, shall not exceed a maximum of Three Thousand Five Hundred Eighteen Dollars (\$3,518).

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

5. **Method of Payment.**

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

B. All requests for payment should be sent to:

City of Everett  
Attn.: Dean Shaughnessy  
802 E Mukiteo Blvd.  
Everett, WA 98203

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

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

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

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

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

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

## 11. **Insurance.**

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

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

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

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

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

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

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

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

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

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

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

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

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

## 12. Independent Contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. **Notices.**

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

City of Everett  
Attn.: Mr. Dean Shaughnessy  
802 E Mukiteo Blvd  
Everett, WA 98203

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

Perteet, Inc.  
2707 Colby Avenue  
Everett, Wa 98201

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

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

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

**CITY OF EVERETT,  
WASHINGTON**

\_\_\_\_\_  
Ray Stephanson, Mayor

\_\_\_\_\_  
Date

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sharon Fuller, City Clerk

\_\_\_\_\_  
James D. Iles, City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**EXHIBIT A**  
**SCOPE OF WORK**

See Attached Scope of Services



## Exhibit "A" Scope of Services

2707 Colby Avenue, Suite 900, Everett, WA 98201 | P 425.252.7700 | F 425.339.6018

Project: Everett Parks Green Lantern Park Enhancements Biological Evaluation

(Perteet Project Number #20160158.000)

Client: City of Everett Parks and Recreation

### **Task I: Prepare USACE Biological Evaluation (BE)**

The City of Everett Parks and Recreation Department proposes to construct site enhancements that provide for a safer and more enjoyable user experience at Green Lantern Park on the northeast shoreline of Silver Lake in Everett, WA. Among other proposed actions, the City proposes to disturb less than 100 linear feet of Silver Lake's shoreline substrate to remove foreign debris and historic concrete structures that creates an abrupt shoreline and hazardous safety condition to park visitors. The City proposes to replace the excavated zone above and below the waterline with locally sourced alluvial sands to establish a shallow sloped sand beach for that is accessible and safer for park users.

The Consultant shall prepare a Biological Evaluation that supports the City of Everett, Parks and Recreation Department's U.S. Army Corps of Engineer's (Corps) Section 404 Nationwide Permit application to complete the proposed shoreline improvements that create a natural shoreline condition that is safer for park visitors. The Corps requires federal Endangered Species Act (ESA) compliance for all projects that affect waters of the US For small and insignificant projects, the Corps requires the applicant to complete an informal ESA consultation, typically comprised of a standardized form, photos, and project drawings detailing the in- / over-water work or structures.

The consultant proposes to complete the task and provide a deliverable within ten business days of receiving the notification to proceed from the city.

#### Assumptions:

- Unless already prepared for the JARPA application, the Client would provide one CAD drawing using their existing project CAD information to quantify and note the shoreline disturbance location for both the existing and proposed conditions. The Consultant shall provide example / direction via email and phone call on what this figure would include to meet the needs of the Biological Evaluation.
- One brief site visit is proposed by the Client to observe and photograph existing site conditions for the BE.
- No meetings with the Client or permitting agencies are assumed to be necessary or are proposed.
- Informal ESA Consultation for a No-Effect is the level of assumed review by the Corps.
- The Client shall provide the Consultant with a copy of the prepared JARPA form, JARPA drawings, SEPA checklist, and other reports that have been prepared for the proposed action so we can prepare the BE with consistent information.
- Only a 8.5x11 vicinity map showing the approximate Action Area will be provided by the Consultant for the BE. All other project drawings will be provided by the Client.

#### Deliverables:

- One (1) Corps Biological Evaluation for Informal ESA Consultation will be provided to the City electronically via email, in PDF format, draft and final.
- One minor revision is budgeted to address Corps review comments, if necessary.

**EXHIBIT B  
COMPENSATION**

**ALTERNATE A [HOURLY RATE UP TO A MAXIMUM AMOUNT]**

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

Name	Responsibility	Rate

**ALTERNATE B [LUMP SUM]**

The City shall pay Service Provider Three Thousand Five Hundred Eighteen dollars (\$3,518) upon the completion of the Work, subject to the maximum stated in ¶4(D) of this Agreement.

**ALTERNATE C [PROGRESS PAYMENTS]**

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

Task	Amount Paid upon Completion of Task

**ALTERNATE D [BASE REGISTRATION]**

The City shall pay the Service Provider such amounts and in such manner as follows:  
 Fee for service shall be \_\_\_\_\_ percent \_\_\_\_\_ % of the base registration fees collected by the City.  
 Additional fees and/or surcharges levied by the City will be retained 100% by the City.  
 Payments shall be made as stated in Exhibit A – Scope of Work. The base registration fee is listed in Exhibit A – Scope of Work. Compensation shall not exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_).



# Consultant Fee Determination Summary

2707 Colby Avenue, Suite 900, Everett, WA 98201 | P 425.252.7700 | F 425.339.6018

Project: Everett Parks Green Lantern Park Enhancements Biological Evaluation

Client: City of Everett Parks & Recreation

## Hourly Costs

<u>Classification</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Sr. Associate	5	\$190.00	\$950
Planner II	2	\$105.00	\$210
Lead Ecol/Mgr	16	\$140.00	\$2,240
Accountant	1	\$90.00	\$90
<b>Total Hourly Costs</b>	<b>24</b>		<b>\$3,490.00</b>

## Reimbursables

<u>Expenses</u>	<u>Amount</u>
Total Expenses	\$ 0

<u>In-House Costs</u>	<u>Qty</u>	<u>Rate</u>	<u>Amount</u>
Mileage - \$.56	50	\$0.560	\$28
<b>Total In-House Costs</b>			<b>\$28.00</b>

## Subconsultants

<u>Subconsultants</u>	<u>Cost</u>	<u>Markup</u>	<u>Amount</u>
Total Subconsultant Costs	\$ 0		\$ 0

## Other

Management Reserve	\$0
<b>Total Other Costs</b>	<b>\$ 0.00</b>

## Contract Total **\$3,518.00**

Prepared By: Jason T Walker

Date: June 15, 2016



PERTEET, INC.  
 Schedule of 2016 Billing Rates  
 Page 2

<u>Direct Expenses</u>	<u>Rate</u>
Living & travel expenses outside of service area	Cost plus 10 percent
Authorized Subconsultants	Cost plus 10 percent
Outside Services (printing, traffic counts, etc.)	Cost plus 10 percent
CADD Station	\$10.00 per hour
Project Controls / Primavera	\$10.00 per hour
GIS / Traffic Modeling	\$15.00 per hour
Color Copies	\$.80 each
Mileage	@ current federal rate

<u>Survey Classifications</u>	<u>2016 Hourly Rate</u>
Principal Surveyor	185.00
Survey Manager	140.00
Professional Land Surveyor II	120.00
Professional Land Surveyor I	115.00
Office Technician	100.00
Field Technician III	95.00
Field Technician II	80.00
Field Technician I	65.00
One Person Survey Crew	90.00
Two Person Survey Crew	165.00
Three Person Survey Crew	235.00

<u>Direct Survey Expenses</u>	<u>Rate</u>
Dual Frequency GPS Receiver	\$150.00 per unit per day
Robotic Total Station Data Collection System	\$100.00 per day
Digital Level	\$50.00 per day
Laser Scanner	\$65.00 per hour
Survey monuments & cases	Cost plus 10 percent

PERTEET, INC.  
Schedule of 2016 Billing Rates  
Page 3

<u>Construction Classifications</u>	<u>2016 Hourly Rate</u>
Construction Engineering Supervisor	175.00
Construction Engineering Manager	165.00
Construction Manager	120.00
Assistant Construction Manager	120.00
Construction Engineer III	125.00
Construction Engineer II	110.00
Construction Engineer I	85.00
Senior Construction Observer	120.00
Construction Observer II	80.00
Construction Observer I	70.00
Senior Construction Technician	105.00
Construction Technician III	95.00
Construction Technician II	90.00
Construction Technician I	75.00

**EXHIBIT C**  
**REIMBURSABLE EXPENSES**

<b>Type of Expense</b>	<b>Maximum Per Item</b>	<b>Cumulative Maximum</b>
Parking		
Meals		

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

1. Does Service Provider have twenty-five (25) or more employees?  Yes  No  
IF YES: SKIP QUESTION 2, SKIP QUESTION 3, AND SIGN BELOW.  
IF NO: ANSWER QUESTIONS 2 AND 3.
2. If a Service Provider employee will perform Work under this Professional Services Agreement, did that employee retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

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

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

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

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

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

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

Service Provider Name: Pertect, Inc.

Signature: 

Printed Name: Daniel J. Hansen Title: Vice President







**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

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

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

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

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

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

**INSURANCE (Section III)** for this Coverage Part.

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

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

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

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

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

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

COMMERCIAL GENERAL LIABILITY

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

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

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

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

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