

# EVERETT CITY COUNCIL AGENDA

## 6:30 P.M., WEDNESDAY, FEBRUARY 12, 2020

### CITY COUNCIL CHAMBERS

Roll Call

Pledge of Allegiance

Approval of Minutes: February 5, 2020

Mayor's Comments:

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

Public Comment

CONSENT ITEMS:

(1) Adopt Resolution authorizing claims against the City of Everett in the amount of \$3,379,101.55 for the period of January 25, 2020 through January 31, 2020.

Documents:

[res-9.pdf](#)

(2) Adopt Resolution authorizing electronic transfer claims against the City of Everett in the amount of \$7,152,320.48 for the period of November 1, 2019 through November 30, 2019.

Documents:

[Nov elec.pdf](#)

(3) Adopt Resolution authorizing electronic transfer claims against the City of Everett in the amount of \$7,507,009.35 for the period of December 1, 2019 through December 31, 2019.

Documents:

[Dec Elec.pdf](#)

(4) Authorize the Mayor to sign Amendment #6 to the System Supply and Support Agreement with Trapeze Software Group Inc.

Documents:

[Trapeze.pdf](#)

(5) Authorize Call for Bids for Emma Yule Park Project.

Documents:

[Emma Yule Park.pdf](#)

(6) Authorize the Mayor to sign the Professional Services Agreement with BHC Consultants for the Evergreen Pump Station Upgrade Project in an amount not to exceed \$588,788.

Documents:

[BHC Consultants.pdf](#)

ACTION ITEMS:

(7) Award and Authorize the Mayor to sign the contract with Shearer and Associates, Inc. for the design-build construction of the Water Filtration Plant East Clearwell Roof Replacement in the amount of \$3,368,386.91 including Washington State Sales Tax.

Documents:

[Clearwell.pdf](#)

(8) Authorize the Mayor to sign the Repayment Agreement with Homes and Hope Community Land Trust securing reimbursement of City Funds expended to satisfy a LID assessment.

Documents:

[Homes and Hope.pdf](#)

(9) CB 2001-2 –3rd and final Reading - Adopt the Proposed Ordinance creating a Special improvement Project entitled “Trickling Filter Media Replacement” Fund 336, Program 008.

Documents:

[CB 2001-2.pdf](#)

(10) CB 2001-3 –3rd and final Reading - Adopt the Proposed Ordinance creating a Special Improvement Fund entitled “Water Transmission Line Replacement at 91st Avenue SE” Fund 336, Program 009.

Documents:

[CB 2001-3.pdf](#)

(11) CB 2001-4 –3rd and final Reading - Adopt the Proposed Ordinance creating a Special Improvement Project entitled “Evergreen Pump Station Upgrades” Fund 336, Program 007.

Documents:

[CB2001-4.pdf](#)

(12) CB 2001-5 –3rd and final Reading - Adopt the Proposed Ordinance creating a Special Improvement Project entitled “Water Filtration Plant Emergency Generator Replacement” Fund 303, Program 006.

Documents:

[CB 2001-5.pdf](#)

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.)

(13) Downtown Parking Management Study – 2019 update.

Documents:

[Downtown Parking.pdf](#)

(14) CB 2002-7 – 1st Reading - Adopt the Proposed Ordinance increasing the number of permitted Recreational Marijuana Retail Stores to not be more than Eight, amending Section C of Ordinance No. 3486-16 (EMC 19.38.145, as amended). (3rd and final reading and public hearing on 3-4-20)

Documents:

[CB 2002-7.pdf](#)

PROPOSED ACTION ITEMS:

(15) CB 2002-6 – 2nd Reading - Adopt the Proposed Ordinance relating to Stormwater Controls in the Combined Sewer Area, amending Ordinance No. 1506-88. (3rd and final reading on 2-19-20)

Documents:

[CB 2002-6.pdf](#)

Executive Session

Adjourn

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

**Be it Resolved by the City Council of the City of Everett:**

Whereas the claims payable by check against the City of Everett for the period January 25, 2020 through January 31, 2020, having been audited and approved by the proper officers, have been paid and the disbursements made by the same, against the proper funds in payment thereof, as follows:

<u>Fund</u>	<u>Department</u>	<u>Amount</u>	<u>Fund</u>	<u>Department</u>	<u>Amount</u>
001	City Council	499.33	101	Parks & Recreation	16,531.59
002	General Government	486.00	110	Library	1,133.60
003	Legal	109,863.56	115	Gen Govt Special Projects	4,200.00
004	Administration	1,675.89	119	Public Works-Street Improvement	3,478.08
005	Municipal Court	2,404.19	120	Public Works-Streets	16,781.03
007	Human Resources	899.45	126	MV-Equipment Replacement Re	137,658.12
009	Misc Financial Funds	455,531.00	138	Hotel/Motel Tax	100,000.00
010	Finance	22,666.93	146	Property Management	34,270.34
015	Information Technology	241.34	148	Cum Reserve-Parks	6.79
018	Communications, Mktg & Engag	2,074.67	153	Emergency Medical Services	9,666.09
021	Planning & Community Develop	724.37	156	Criminal Justice	7,477.48
024	Public Works-Engineering	4,520.03	162	Capital Projects Reserve	500,000.00
026	Animal Shelter	410.17	197	CHIP Loan Program	154.30
027	Senior Center	956.90	198	Community Dev Block Grants	13,310.49
031	Police	67,796.71	303	PW Improvement Projects	81,319.80
032	Fire	3,373.23	336	Water & Sewer Sys Improv Proj	24,307.67
038	Facilities/Maintenance	23,213.75	342	City Facilities Construction	81,942.79
	<b>TOTAL GENERAL FUND</b>	<b>\$ 697,337.52</b>	354	Parks Capital Construction	136,561.99
			401	Public Works-Utilities	412,171.42
			402	Solid Waste Utility	11,654.12
			425	Public Works-Transit	503,616.74
			430	Everpark Garage	25.00
			440	Golf	71,681.57
			501	MVD-Transportation Services	88,798.64
			503	Self-Insurance	75,477.18
			505	Computer Reserve	188,732.02
			507	Telecommunications	23,503.85
			508	Health Benefits Reserve	8,000.00
			637	Police Pension	23,729.40
			638	Fire Pension	38,323.40
			661	Claims	67,250.53
			<b>TOTAL CLAIMS</b>	<b>\$ 3,379,101.55</b>	

\_\_\_\_\_  
Councilperson introducing Resolution

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020

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



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

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

That the claims made by electronic transfer against the City of Everett for the month November 1 through November 30, 2019, having been audited, be and the same are hereby approved, and the proper officers are hereby authorized and directed to charge claims made by electronic transfer against the proper funds in payment thereof, as follows:

<u>Fund</u>	<u>Department</u>	<u>Amount</u>
002	General Fund	172,948.54
101	Park	43,077.20
110	Library	2,530.55
112	Community Theater	3,348.59
114	Conference Center	3,801.96
120	Streets	5,492.63
126	Moter Vehicle/Equip Repl	4,353.63
138	Hotel/Motel	2,842.39
145	ESCROQ	861.20
146	Parking Lot Reserve	7,162.73
148	Municipal Art Fund	8,213.00
149	Senior Center Reserve	274.48
151	Animal Reserve	11,423.88
152	Library Reserve	297.27
153	EMS	17,499.76
156	Criminal Justice	4,522.14
197	CHIP	413.24
210	General Obligation Bond Debt Serv	38,107.95
336	Water/Sewer System Imprpv	84.49
342	City Facilities Construction	643.22
354	Parks Capital Construction	114.10
401	Utilities	344,502.99
402	Solid Waste Utility	5,163.65
425	Transit	22,921.12
430	Everpark Garage	4,132.66
440	Golf	116,743.74
501	Transportation Services	98,642.61
503	Self-Insurance Fund	167,545.04
505	Computer Reserve Fund	921.18
507	Telecom	696.49
508	Health Benefits Reserve	1,305,886.08
637	Police Pension	58,283.24
638	Fire Pension	140,709.68
661	Payroll Withholding	4,558,159.05
<b>TOTAL CLAIMS</b>		
	<b>BY ELECTRONIC TRANSFER</b>	<b>7,152,320.48</b>

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

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2020

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



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

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

That the claims made by electronic transfer against the City of Everett for the month December 1 through December 31, 2019, having been audited, be and the same are hereby approved, and the proper officers are hereby authorized and directed to charge claims made by electronic transfer against the proper funds in payment thereof, as follows:

<u>Fund</u>	<u>Department</u>	<u>Amount</u>
002	General Fund	96,197.24
101	Park	164,471.83
110	Library	32,893.49
112	Community Theater	1,709.10
120	Streets	474.21
126	Moter Vehicle/Equip Repl	11,270.84
145	ESCROQ	64.00
146	Parking Lot Reserve	2,234.21
148	Municipal Art Fund	4,045.45
149	Senior Center Reserve	624.81
151	Animal Reserve	1,758.94
152	Library Reserve	10.87
153	EMS	2,037.28
156	Criminal Justice	26,285.66
197	CHIP	603.89
336	Water/Sewer System Imprpov	350.42
342	City Facilities Construction	14.26
354	Parks Capital Construction	4,831.83
401	Utilities	209,852.35
402	Solid Waste Utility	133,334.73
425	Transit	64,393.98
430	Everpark Garage	6,984.43
440	Golf	84,768.88
501	Transportation Services	100,650.90
503	Self-Insurance Fund	121,281.78
505	Computer Reserve Fund	1,548.62
507	Telecom	2,323.99
508	Health Benefits Reserve	1,631,577.81
637	Police Pension	59,535.57
638	Fire Pension	93,870.42
661	Payroll Withholding	4,647,007.56

**TOTAL CLAIMS**

**BY ELECTRONIC TRANSFER 7,507,009.35**

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

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2020

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



**Project title:** Amendment #6 to the System Supply and Support Agreement with Trapeze Software Group Inc.

**Council Bill #**

**Consideration:** Amendment #6 to the contract with Trapeze Software Group, Inc.

**Agenda dates requested:**

**Project:** Amendment to adjust for operational use in excess of original terms

2/12/2020

**Partner/Supplier :** Trapeze Software Group Inc.

Briefing

**Location:**

Proposed action

**Preceding action:** Original contract – 12/16/2009, Amendment #4 – 6/21/2016

Consent

**Fund:** 425/Transportation Services

Action

**City Council Agenda Item Cover Sheet**

Ordinance

**Fiscal summary statement:**

Public hearing

Funds associated with this amendment will be paid from the Transit budget. No budget amendment is needed.

Yes  X No

**Budget amendment:**

**Project summary statement:**

Yes  X No

**PowerPoint presentation:**

The City entered into an agreement with Trapeze Software Group Inc. on December 16, 2009 to provide Mobile Data Terminals and an Interactive Voice Response (IVR) system in support of our Paratransit operations. That agreement allowed for support of 399 scheduled trips per day. Amendment #4, dated June 21, 2016, replaced the original IVR system with the Ripple system that is currently in use.

Yes  X No

**Attachments:**

Amendment #6

**Department(s) involved:**

Transportation Services/Legal

Last year Trapeze audited our use of the system and found that we were exceeding the terms of the original agreement. They found that we were over the 399 scheduled trips per day on 258 of the 383 days audited.

**Contact person:**

Bob Hunter

Therefore, Trapeze has issued Amendment #6 to adjust the terms of the agreement to allow for our increased use of the system. Amendment #6 includes a one-time additional license fee of \$18,150.00 plus a first year increase of \$3,630.00 to the annual maintenance fee.

**Phone number:**

425-257-7762

**Email:**

BHunter@everettwa.gov

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

Authorize the Mayor to sign Amendment #6 to the System Supply and Support agreement with Trapeze Software Group Inc.

**Initialed by:**

Department head

Administration

Council President

**CONTRACT AMENDMENT #6**

**THIS AMENDMENT** is made effective this 14<sup>th</sup> day of November 2019 between:

1. **Trapeze Software Group, Inc.** with its place of business at 5265 Rockwell Dr NE, Cedar Rapids, IA 52402 ("Trapeze" or "TripSpark"); and
2. **City of Everett** with its place of business at 3225 Cedar Street, Everett, Washington, U.S.A. 98201("Customer").

**WHEREAS** TripSpark and Customer intend to amend the TripSpark System Supply and Support Agreement made effective December 16, 2009, amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, and Amendment No. 5 (the "Agreement") in order increase the operational characteristics of licensed use for the TripSpark Notifications (Inbound/Outbound) (formerly named TripSpark Ripple Notifications (Inbound/Outbound) Software product under the scope of the Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and undertakings set forth herein, TripSpark and Customer agree as follows:

1. **Amendment to the Agreement**

- (a) The parties agree that the TripSpark Notifications (Inbound/Outbound) Software product is licensed to the Customer under the operational characteristic limitation of up to three hundred and ninety-nine (399) booked paratransit trips per day.
- (b) The parties agree that TripSpark is currently aware that they are exceeding the operational characteristic limitation under the Agreement, and further agree to the terms of this Amendment in order to bring the operational metrics up to current Licensee usage, from up to three hundred and ninety-nine (399) booked paratransit trips per day to up to five hundred and seventy (570) booked paratransit trips per day.
- (c) The Customer agrees to immediately pay an additional license fee in the amount of \$18,150 for TripSpark Notifications (Inbound/Outbound) Software operational license increase pursuant to Section 1(b) above. As a result of the aforementioned increase, the Customer shall pay an additional first year maintenance fee in the amount of \$3,630 (maintenance fees shall be billed on a pro-rated basis to meet a common date with the existing maintenance renewal anniversary date). For all future annual renewals, maintenance fees shall be subject to TripSpark's then current pricing.
- (d) All other terms, conditions, and covenants Agreement remain unchanged.

**IN WITNESS WHEREOF**, the parties have caused this Contract Amendment #6 to be signed by their duly authorized representatives as of the date above.

**TRAPEZE SOFTWARE GROUP, INC.:**

**CITY OF EVERETT:**

By: *Naomi Schellenberg*

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

Name: *Naomi Schellenberg*

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

Title: *Director, Client Services - Transit*

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



Project title: Call for Bids Emma Yule Park Project

City Council Agenda Item Cover Sheet

Council Bill #

Project: Emma Yule Park Project

Partner/Supplier : None

Agenda dates requested:

Location: 4817 Rucker Avenue

February 12, 2020

Preceding action: None

Briefing

Fund: N/A

Proposed action

Consent X

Action

Ordinance

Public hearing

Yes x No

Budget amendment:

Yes x No

PowerPoint presentation:

Yes x No

Attachments:

None

Department(s) involved:

Administration, Parks

Contact person:

Bob Leonard

Phone number:

425 257-8335

Email:

BLeonard@everettwa.gov

Fiscal summary statement:

Staff is seeking authorization to obtain bids for the Emma Yule Park Project. Upon receipt of competitive bids, staff will return to Council seeking a funding ordinance.

Project summary statement:

The bidding and construction documents for the Emma Yule Park Project will be completed by the end of March 2020 and staff will be prepared to proceed with the bidding process.

The project has been prepared by staff to develop a new neighborhood park consisting of: open space, walking paths, benches, game tables, a central meeting area, and a playground. This action authorizes the call for construction bids for the new park project. When bids are received and the most responsive and responsible bidder is determined, staff anticipates that it will prepare a recommendation to City Council to authorize a funding ordinance for the cost of the construction of the Emma Yule Park Project and to award a construction contract.

Initialed by:

Department head

Administration

Council President

Recommendation (exact action requested of Council):

Authorize Call for Bids Emma Yule Park Project.



**Project title:** Professional Services Agreement with BHC Consultants for the Evergreen Pump Station Upgrade project.

### City Council Agenda Item Cover Sheet

**Council Bill #** *interoffice use*

**Agenda dates requested:**  
2/12/2020

Briefing  
Proposed action  
Consent X  
Action  
Ordinance  
Public hearing  
Yes            x    No

**Budget amendment:**  
Yes            x    No

**PowerPoint presentation:**  
Yes            x    No

**Attachments:**  
PSA

**Department(s) involved:**  
Public Works, Legal

**Contact person:**  
John Nottingham

**Phone number:**  
425.257.8844

**Email:**  
jnottingham@everettwa.gov

**Initialed by:**

Department head  
Administration  
Council President

**Consideration:** Professional Services Agreement

**Project:** Evergreen Pump Station Upgrade

**Partner/Supplier :** BHC Consultants

**Location:** 6001 Evergreen

**Preceding action:** Plans & Systems Ordinance: 1/29/20, 2/5/20, 2/12/20

**Fund:** 336 – Utilities Construction Fund

**Fiscal summary statement:**

The funding source for this project will be Fund 401 Water and Sewer Utility Fund. The budget for the initial phase of this project is \$735,000.

**Project summary statement:**

Staff recommends that a professional services agreement with BHC Consultants be entered into for the engineering analysis and design of building and electrical upgrades to the existing potable water pump station.

The Evergreen Pump Station is a critical component of the City’s water distribution system. The 1960’s era pump station transfers water to Reservoir 6 in the City’s 650 & 715 pressure zone, which service the residents and industries in Southern Everett including Boeing. The portion of the existing building that currently houses the pump station’s electrical components, is undersized resulting in a workspace which does not meet current building, worker safety, electrical and seismic codes. In addition, the electrical equipment and systems within the pump station need to be replaced and upgraded.

This project will add a new electrical room onto the existing building that will house the updated electrical components necessary for operation of the station. The larger area and newer electrical equipment will also provide a safer working environment. In addition, the existing building will be evaluated for seismic potential improvements.

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

Authorize the Mayor to sign the Professional Services Agreement with BHC Consultants for the Evergreen Pump Station Upgrade project in the amount not to exceed \$588,785.

**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 BHC Consultants, whose address is 1601 Fifth Avenue, Suite 500, Seattle WA 98101, hereinafter referred to as the “Service Provider.”

**WHEREAS**, the City desires to engage the Service Provider to provide engineering analysis and design of upgrades to a potable water pump station for the City of Everett; and

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

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

1. **Engagement of Service Provider.** The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the attached "Exhibit A - Scope of Work". The Scope of Work so identified is hereafter referred to as “Work”. Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider’s proposal is attached as an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider’s design shall be reasonably accurate, adequate and suitable for its intended purpose.

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

3. **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of execution of this Agreement and shall be completed by December 31st, 2021.

#### 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 Five hundred, Eighty-eight Thousand, Seven hundred and Eighty-five dollars and no cents Dollars (\$588,785.00).

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

#### 5. **Method of Payment.**

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

B. All requests for payment should be sent to:

City of Everett  
Attn.: John Nottingham, P.E.  
3200 Cedar St.  
Everett, WA 98201

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

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

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

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

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

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

## 11. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

## 12. **Independent Contractor.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. **Notices.**

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

City of Everett  
Attn.: John Nottingham, P.E.  
3200 Cedar St.  
Everett, WA 98201

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

John Gillespie, P.E.  
1601 Fifth Avenue, Suite 500  
Seattle WA 98101

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.

28. **Signature.** At the sole discretion of the City, the City may consent to the Service Provider's signature on this Agreement or amendment thereof being by email, fax, photocopy, pdf or other electronic means, in which case such Service Provider signature will be deemed an original signature for all purposes. The City will be deemed to have given such consent effective upon execution of this Agreement or amendment thereof by the Mayor of the City.

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

**CITY OF EVERETT,  
WASHINGTON**

Cassie Franklin, Mayor

\_\_\_\_\_  
Date

ATTEST:

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

\_\_\_\_\_  
Date



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

<b>Corporation</b>	_____ [Service Provider's Complete Legal Name]  By: _____ Typed/Printed Name: _____ Its: _____ Date: _____
<b>Partnership (general)</b>	_____ [Service Provider's Complete Legal Name] a Washington general partnership  By: _____ Typed/Printed Name: _____ General Partner Date: _____
<b>Partnership (limited)</b>	_____ [Service Provider's Complete Legal Name] a Washington limited partnership  By: _____ Typed/Printed Name: _____ General Partner Date: _____
<b>Sole Proprietorship</b>	_____ Typed/Printed Name:  _____ Sole Proprietor: Date: _____
<b>Limited Liability Company</b>	<u>BHC consultants LLC</u> _____ [Service Provider's Complete Legal Name] a Washington limited liability company  By: <u>Ronald A. Dorn</u> Typed/Printed Name: <u>Ronald A. Dorn</u> Managing Member <u>President</u> Date: <u>11/19/2019</u>

**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: BHC consultants, LLC

Signature: Ronald A. Dam Printed Name: Ronald A. Dam Title: president

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



**City of Everett**

**EVERGREEN WAY PUMP STATION MODIFICATIONS  
PROJECT  
WORK ORDER NO. \_\_\_\_\_**

**Scope of Services**

**November 12, 2019**



## EXHIBIT A

# SCOPE OF SERVICES

### Background

The City of Everett, Washington (City) has selected BHC Consultants, LLC (BHC) to provide engineering services for the Evergreen Way Pump Station (EPS) Modifications Project.

The EPS has two pumps that are rated 350 horsepower (hp) and three that are rated 450 hp. The City has spare 450 hp motors. All existing pump motors are rated 2300 Volts (V). Pumps 1 and 2, each rated 350 hp, date from approximately 1998. Pumps 3 and 4, each rated 450 hp, date from approximately 1965. Pump 5 (450 hp) is currently being replaced with a new pump and motor.

The City desires pump station modifications because:

- The City's service agreement with Snohomish County PUD (SnoPUD) requires pump motors for Pumps Nos. 1 and 2 to be upgraded to soft starters or variable frequency drives (VFDs) by 2021;
- The arc flash safety needs to be improved at the facility; and
- The electrical controls and instrumentation are dated and at the end of service life and needs to be updated.

The EPS modifications will include:

- Replacement of all electrical switchgear, motor starters, instrumentation, and supervisory control and data acquisition (SCADA) gear in a new separate electrical and controls building. Building to be arc flash compliant.
- Maintaining service during the construction period

The modifications will be designed in accordance with the requirements of the Washington State Department of Health (DOH), City standards, International Building Code (IBC), National Electrical Code (NEC), Occupational Safety and Health Administration (OSHA) and the Washington Administrative Code (WAC). Also, the modifications will be coordinated and/or permitted from the City of Everett Building Department for building and electrical reviews and permits.

The Project design will include the following elements:

- All structures shall be designed to conform to the 2018 IBC including City Amendments.
- Medium-voltage electrical equipment will be in a separate electrical room with adequate working space and arc flash mitigation measures.
- Control equipment will be in the electrical room with views of the pumps.
- Instrumentation and Controls. New equipment shall be consistent with City standardized equipment.
- Provision for connecting a 480V portable standby power generator-set.
- Revised building and site lighting. All lights shall be LED.
- The required building addition will be designed as a standalone structure separated from the current building by a code required seismic joint.
- Upgrade to surge anticipator system, if needed.

## Scope of Services

### Task 100 – Project Management

#### Objectives

Monitor, control and adjust scope, schedule, and budget as well as provide monthly status reporting, accounting, and invoicing. Also, provide coordination with BHC staff and City personnel.

#### BHC Services

1. Coordinate and manage the project team.
2. Subcontract with and manage project subconsultants.
3. Prepare monthly status reports describing the following:
  - a. Services completed during the month
  - b. Services planned for the next month
  - c. Needs for additional information
  - d. Scope/schedule/budget issues
  - e. Schedule update and financial status summary
  - f. An estimated cash flow (billing) forecast
4. Prepare monthly invoices formatted in accordance with contract terms.
5. Project Manager will attend monthly project management meetings with the client and will review project scope, schedule, and budget issues.
6. Provide QA/QC review of deliverables prior to delivery in accordance with BHC QA/QC policies.
7. Host web-conference meetings, if needed.
8. Project management duties extend through the bidding and construction periods.

#### City of Everett Responsibilities

1. Attend project management meetings.
2. Processing and payment of invoices in accordance with the Professional Services Agreement.
3. Review and process contract change requests and amendments, if needed.

#### Assumptions and Meetings

1. The project duration will be approximately 25 months.
2. One project management meeting will be held via phone per month. One hour of project manager time will be required for each meeting including preparation, attendance, follow-up, and notes.
3. Invoices will be BHC standard invoice format. Each invoice will have a distinct number for tracking purposes.
4. Copies of subconsultant invoice statements will be provided with monthly invoices. Incidental miscellaneous expenses (printing, travel reimbursement, etc.) do not require submittal of backup statements.

#### Deliverables

1. Scope of Services, Schedule (Gantt chart in MS Project), and Budget (e-mailed Adobe PDF file).

2. Monthly reports and invoices (one copy with invoice, e-mailed Adobe PDF file).
3. Monthly project schedule and budget updates (included in monthly project report, emailed PDF file).
4. Written summary notes describing decisions, direction, action items, or issues associated with scope and budget (e-mailed Adobe PDF files).

## Task 200 – Pre-Design Analysis

### Objectives

This effort shall include the analysis of electrical, controls, and SCADA systems, location and layout of building addition for the new electrical and control rooms, and piping modifications. Predesign will also consider the City's current Hazard Mitigation FEMA Grant for a new 800 kW generator for the EPS site and the electrical needs for an auxiliary generator for the EPS. The analysis, results, and recommendations will be included in a Pre-Design Report. Information and decisions made during the pre-design task will be carried forward into the design task.

### BHC Services

1. Determining a preliminary floor plan area needed for the pump station electrical room addition to provide adequate working clearances and arc flash hazard mitigation.
2. Conducting a review of the existing pump station building and site utilities to provide a recommendation on the location for the building addition.
3. Floor plan layouts, egress, lighting, and security.
4. Conduct topographic survey, locate underground utilities, and map area of proposed new building site.
5. Conduct a geotechnical investigation at the new building location. Investigation to include up to two (2) test pits and laboratory index testing of collected soil samples. Prepare a geotechnical engineering report with recommendations for design and construction of a new building based on results of our investigation.
6. Analysis of various switchgear arrangements to allow for generator connection, isolation of 2 or 3 pumps for maintenance, safety, and reliability. Includes power monitoring options.
7. Analysis of replacement or improvement options for the existing 2400V pad-mounted disconnect switch to allow for safe operation (arc flash hazard mitigation).
8. Analysis of building and equipment (VFDs) ventilation.
9. Analysis of security systems, door monitoring, camera, and smoke detection locations.
10. Analysis of control system improvements.
11. Analysis of instrumentation requirements and locations.
12. Analysis of earthquake shut down systems. Also, conduct seismic review of existing EPS building. New building to include seismic review.
13. Review of surge anticipation valving and controls.
14. Review building addition design concepts complimentary to the current building.
15. Review current building HVAC systems for improvements to existing ventilation.
16. Review modification impacts to the current building structure for changes necessary for the new building use and layout.
17. Review upgrading existing flow meter.
18. Review adding new flow meter on the Berry Line.
19. Review and upgrade air valve(s) as needed.
20. Develop draft and final Pre-Design Analysis Report.

21. Quality Assurance/Quality Control (QA/QC): Perform QA/QC review of work products generated during this task.

### City of Everett Responsibilities

1. Provide written review comments of the draft Pre-Design Analysis Report.
2. Provide whatever geotechnical information the City has for the site.

### Assumptions and Meetings

1. City and/or contractor to secure all necessary permits.
2. One (1) review meeting to be held with the City to review draft Pre-Design Analysis Report. Up to three (3) BHC project staff to attend.
3. For the geotechnical investigation at the site, up to two (2) test pits will be dug at the proposed new building location.
4. One (1) site visit for the HVAC engineer.
5. Utility locates, surveying, and geotechnical service to be provided by others but secured and contracted with BHC.

### Deliverables

1. One (1) electronic copy (Adobe PDF format) of agenda and draft and final minutes for meeting.
2. Up to five (5) hard copies and one (1) electronic copy (Adobe PDF format) of each Draft and Final Pre-Design Analysis Report. The Pre-Design Report will contain the geotechnical report.

## Task 300 – Design

### Objectives

To provide bid-ready plans, specifications, and opinion of probable construction costs (OPCC) based on the information and decisions made during the Pre-Design Analysis task.

The City has applied for a FEMA grant to secure a new generator for the pump station. Currently, the grant award is unknown. However, provisions are included in the BHC fee to design an electrical connection point for the generator and provide site work design for the generator if the grant is awarded.

### BHC Services

The design services for this task will be conducted under three (3) separate subtasks (60 percent, 90 percent, and final design). The work to be included under each subtask is as follows:

#### Subtask 301 - Sixty (60) Percent Design:

1. Prepare 60 percent design level plans and specifications.
2. Prepare 60 percent design level opinion of probable construction cost.
3. Prepare estimated project construction schedule.
4. Perform a QA/QC review of the 60 percent design submittals.
5. QA/QC reviews will be performed by the project manager and a senior or principal level engineer not directly involved in the design efforts.

6. Submit 60 Percent Design Submittal including plans, specifications, opinion of probable construction costs estimate, and schedule to City for review.
7. One (1) Site Visit assumed for preparation of 60 Percent Design Submittal.
8. One (1) Meeting with City to review 60 Percent Design Submittal review comments.

**Subtask 302 - Ninety (90) Percent Design:**

1. Prepare 90 percent design level plans and specifications.
2. Prepare 90 percent design level opinion of probable construction cost.
3. Prepare estimated project construction schedule.
4. Perform a QA/QC review of the 90 percent design submittals.
5. QA/QC reviews will be performed by the project manager and a senior or principal level engineer not directly involved in the design efforts. The geotechnical engineer will review for consistency with geotechnical recommendations.
6. Submit 90 Percent Design Submittal including plans, specifications, opinion of probable construction costs estimate, and schedule to City for review.
7. One (1) Site Visit assumed for preparation of 90 Percent Design Submittal.
8. One (1) Meeting with City to review 90 Percent Design Submittal review comments.

**Subtask 303 - Final Construction Bid Documents:**

1. Address 90 Percent Design Submittal City review comments.
2. Prepare and submit a Record of Comment to clearly address the resolution to each City review comment.
3. Prepare construction bid level plans and specifications.
4. Prepare and submit plans and calculations in order to obtain a building permit.
5. Prepare final opinion of probable construction cost.
6. Prepare updated project schedule for the design and construction.
7. Submit electronic copy of the Final Construction Bid Documents prior to engineer's signature to the City for final review, comment and/or acceptance.
8. Perform a QA/QC review of the final design submittals.
9. QA/QC reviews will be performed by the project manager and a senior or principal level engineer not directly involved in the design efforts.

**City of Everett Responsibilities**

1. Provide written comments on the 60 percent, 90 percent, and final deliverables.
2. Provide timely input on all deliverables and information requests from the Consultant. Client reviews shall be completed within two (2) weeks.
3. City to provide Division 00 specification sections.

**Assumptions and Meetings**

1. Project specifications will utilize the Construction Specifications Institute (CSI) format.
2. Up to three (3) BHC staff members to meet with City to review 60, and 90 percent submittals.
3. Up to three (3) site visits by BHC staff and one (1) site visit for the HVAC engineer during the design process.
4. Permitting not included. BHC to provide documents to the City for permits.
5. Surge analysis not included.

**Deliverables**

1. Up to five (5) hard copies and one (1) electronic copy (Adobe PDF format) of 60, and 90 Percent plans, specifications, and OPCC. Plans to be submitted as half-size prints.
2. One (1) electronic copy (Adobe PDF format) of 60 and 90 Percent Design Submittal Record of Comment.
3. Up to five (5) hard copies and one (1) electronic copy (Adobe PDF format) of Final Construction Bid Documents, stamped and signed.
4. One (1) electronic copy (Adobe PDF format) of meeting minutes, as necessary.

**Task 400 – Bid Assistance****Objectives**

This effort shall assist the City during the bidding process.

**BHC Services**

1. Up to three (3) BHC staff personnel to attend pre-bid meeting.
2. Provide technical review and responses to contractor's request for information (RFIs).
3. Submit bid documents to Builder's Exchange.
4. Assist the City in preparing addendums.
5. Assist the City with verifying bids.

**City of Everett Responsibilities**

1. Advertise the project in the DJC and local newspaper(s).

**Assumptions and Meetings**

1. BHC to attend pre-bid meeting.
2. BHC to attend bid opening.
3. BHC to respond up to eight (8) RFIs.
4. BHC to help prepare up to two (2) addendums.

**Deliverables**

1. RFIs.
2. Addendum(s) as needed.

**Task 500 – Engineering Services During Construction****Objective**

Support the City during construction.

**BHC Services**

1. Up to three (3) BHC staff personnel to attend pre-construction meeting.
2. Address RFIs. Respond in writing to up to 30 RFIs.
3. Review technical submittals: Review and respond to up to 30 submittals.

4. As the day-to-day construction manager, the City will have the primary role of preparing and reviewing change orders. BHC will provide technical assistance to the City for the preparation of change orders and will review change order requests prepared by the Contractor.
5. Up to four (4) site visits of approximately five (5) hours each by the geotechnical engineer to observe footing and floor slab subgrade conditions, installation of footing drains (if required), and test in-place density of soil backfill.
6. Develop startup and testing checklist.
7. On-site consultation for start-up and testing to verify and document that the systems are functioning as intended, check input/output signals, check normal, automatic, and manual operation of all equipment and alarm systems. On-site consultation includes four (4) hours for civil/mechanical engineer, eight (8) hours for HVAC engineer for one (1) site visit and one (1) visit during start-up and testing, 16 hours for electrical/controls engineer, and four (4) hours for a senior engineer, including travel time.
8. Punch List: Civil/mechanical and electrical engineer to attend 4-hour site visit, including travel time for punch list preparation. Draft punch list will be delivered to City for final review and submission to the Contractor.
9. Prepare Record Drawings based on Contractors field mark ups.
10. Prepare Operations and Maintenance manual summarizing all major components and operation modes.

### City of Everett Responsibilities

1. Provide construction management and daily site inspections.
2. It is assumed that City's programmer and Contractor's controls system integrator will be on-site for start-up and testing.
3. The City will be responsible for administering the contract and ensuring the contractor is providing the correct and timely documentation required by the contract documents.

### Assumptions and Meetings

1. Total construction period, including startup and testing, assumed to be ten (10) months.
2. Three (3) BHC staff personnel (electrical and structural engineer and project manager) attend the pre-construction meeting.
3. Startup and testing will occur in 1-day increments to minimize travel time.
4. Inspection services not specifically defined in the Scope of Services are excluded.
5. Daily observation services are excluded.
6. Materials testing is excluded.
7. Observation, site visits and construction meetings, including travel time, are estimated by team members broken out per the following:
  - a. Periodic Observation/Construction Meetings: A total of up to twelve (12) site visits for observation and construction meetings. Meetings to be pooled between the Project Manager, Project Electrical Engineer, and Project Structural Engineer, assuming four (4) hours per visit, including travel time, as requested by the City and as required by the Building Department.
8. Contractor to provide marked drawings for record drawings and all equipment manuals for operation and maintenance manual.

### Deliverables

1. Responses to RFIs and submittals.

2. Documents pertaining to Change Orders.
3. Digital files with field reports, photos, and other pertinent field documentation.
4. Start-up and testing checklist.
5. Draft punch list.
6. One (1) hard copy and one (1) electronic copy (Adobe PDF format) of Record Drawings.
7. One (1) hard copy and one (1) electronic copy (Adobe PDF format) of operations and maintenance manual.

## Task 600 – Additional Services as Requested by the Owner

### Objective

This task has been included to cover additional work identified by the City not included in the Scope of Services.

### Fee

The Level of Effort, or consultant fee, estimated for all six (6) tasks, including subconsultants and other direct costs (ODCs) is \$588,785.00. A detailed breakdown of the Level of Effort is attached and labeled Exhibit B.

### Schedule

The schedule lengths for Tasks 100 through 500 are as follows:

- |   |           |
|---|-----------|
| • Task 100: Project Management (total of Tasks 200 – 500) | 25 months |
| • Task 200: Pre-Design Analysis                           | 3 months  |
| • Task 300: Design  |           |
| ○ Subtask 301: Sixty (60) Percent Design                  | 3 months  |
| ○ Subtask 302: Ninety (90) Percent Design                 | 3 months  |
| ○ Subtask 303: Final Design                               | 2 months  |
| • Task 400: Bid Assistance                                | 2 months  |
| • Task 500: Engineering Services During Construction      | 12 months |

A schedule diagram is attached and labeled Exhibit C.

**CITY OF EVERETT - EVERGREEN WAY PUMP STATION MODIFICATIONS PROJECT**  
**PROJECT HOURS, EXPENSES AND FEE ESTIMATE**

Labor Category	Direct Salary Hourly Rates, (\$\$, CC)	HOURS FOR EACH TASK (Whole Hours Only)								Total Hours	Cost	
		Task 1 Project Management	Task 2 Pre-Design Analysis	Task 3 Design	Task 4 Bid Assistance	Task 5 Engineering Services During Construction	Task 6 Additional Services as Requested by the Owner	Task 7	Task 8			
1 Principal in Charge / Contract Manager (J. Gibson)	\$ 79.00	8	16	40	8	16	0	0	0	0	8	\$ 632
2 Project Manager (J. Gillespie)	\$ 74.50	198	4	20	7	40	0	0	0	0	276	\$ 20,562
3 QA (C. Keisley)	\$ 74.50		32	180	24	150	24	96	0	0	24	\$ 1,788
4 Civil Engineer (staff engineer)	\$ 63.50		96	300	24	150	24	96	0	0	570	\$ 43,890
5 Electrical Engineer (J. Gibson)	\$ 77.00		80	280	24	96	24	96	0	0	460	\$ 34,960
6 Structural Engineer Incl. Architecture (K. Dahi)	\$ 76.00											\$ -
7 Cost Estimator	\$ 40.00	40	0	0	0	0	0	0	0	0	40	\$ 1,600
8 Project Administrator (U. Pierson)	\$ 54.00		2	24	0	8	0	0	0	0	34	\$ 1,836
9 CADD Manager (P. Simon)	\$ 41.50		8	882	8	114	0	24	0	0	1,004	\$ 41,666
10 CADD Tech	\$ 35.00	60	8	20	8	24	8	24	0	0	120	\$ 4,200
11 Clerical (S. Siffeman)	\$ 35.00											\$ -
12 Miscellaneous												\$ -
<b>Total Task Hours</b>		304	226	1,746	71	448	0	0	0	0	2,795	\$ 187,381
<b>Subtotal Direct Salary Cost (DSC), \$</b>		18,934	16,194	98,879	4,993	28,591	0	0	0	0	286,325	\$ 21,370
<b>Overhead on DSC (Indirect cost) @ %</b>	152.27%	28,831	24,659	150,663	7,603	43,520	0	0	0	0	152,271	\$ 11,520
<b>Total Labor Cost, \$</b>		47,765	40,853	249,542	12,596	72,111	0	0	0	0	438,596	\$ 32,890
<b>Expenses, \$</b>												
1 Reimbursable Expenses		50	100	100	50	500						\$ 800
2 Communication Charge (3% of labor)												\$ -
3 Expense		0	0	0	0	0						\$ -
4 Per Labor Hr. Tech. Charge		50	100	100	50	500						\$ 800
<b>Total Expenses, \$</b>		50	100	100	50	500						\$ 800
<b>TOTAL LABOR AND EXPENSES</b>		47,815	40,953	249,642	12,646	72,611	0	0	0	0	438,596	\$ 33,690
<b>Subcontractor Expenses, \$</b>												
1 Subcontractor (ADS Utility Locates)			600									\$600
2 Subcontractor (Surveyor)			6,000									\$6,000
3 Subcontractor (Geotechnical Engineering)			9,500									\$9,500
3 Subcontractor (Mechanical - HVAC)			6,000									\$6,000
<b>TOTAL SUBCONTRACTANTS</b>			22,100									\$22,100
Subcontractor Admin Mark-up %	5.00%	0	1,105									\$2,465
Subtotal Cost by Task		47,815	47,815	264,977	12,646	85,726	0	0	0	0	438,596	\$ 33,690
Fee/Profit (as % of Total DSC & Overhead)	12.00%	5,732	4,902	29,933	1,512	6,652	0	0	0	0	50,731	\$ 3,861
Next Year's Labor Escalation*	3.00%	1,444	1,235	7,543	381	2,180	0	0	0	0	12,783	\$ 973
<b>TOTAL ESTIMATED COST AND FEE, \$</b>		54,991	70,295	302,453	14,539	96,558	0	0	0	0	588,785	\$ 44,915

\* Next year's labor escalation was calculated assuming  of the work would be completed next year.

Enter data in yellow & green shaded  cells only. Other formula cells are locked to prevent accidental changes. There is no password protection.

<b>Overall Project Multiplier</b>	2.83
<b>Fee/Profit as a % of DSC Only</b>	30.27%

**EXHIBIT C**  
REIMBURSABLE EXPENSES

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

**Project title:** Award Design-Build Contract for the construction of East Clearwell Roof Replacement**Council Bill #****Consideration:** Award Design-Build Contract**Agenda dates requested:**

2/12/2020

**Project:** East Clearwell Roof Replacement (UP3662)

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

Yes  X No **Partner/Supplier:** Shearer and Associates, Inc.**Location:** Water Filtration Plant, Chaplain Reservoir**Preceding action:** Request for Design-Build Qualifications and Design-Build Proposals**Fund:** 336**Budget amendment:**Yes  X No **Fiscal summary statement:**

The City is working with its insurer regarding coverage for the roof loss. The City expects most, if not all, of the replacement cost will be covered by the insurer.

**PowerPoint presentation:**Yes  X No **Project summary statement:****Attachments:**

Summary

The City received five Statement of Qualifications on November 12, 2019. The top three scoring Design-Build teams were invited to submit proposals on January 21, 2020. Staff completed its evaluation and scoring of the proposals (out of 100 points total) with the results noted in the following table:

**Department(s) involved:**

Public Works

Firm	Score
Shearer Tanks (Shearer & Assoc)	95.6
United Industries Group/Emery Const	94.6
T Bailey Inc	81.0

**Contact person:**

Richard Hefti

The highest scoring firm's base price is \$3,107,368.00. The project is subject to Washington State Sales Tax that in this case amounts to \$261,018.91, bringing the total contract amount to \$3,368,386.91.

**Phone number:**

(425) 257-7215

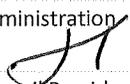
**Email:**

rhefti@everettwa.gov

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

Department head

Administration

  
 Council President

Award to and Authorize the Mayor to sign a Contract with Shearer and Associates, Inc. for the design-build construction of the Water Filtration Plant East Clearwell Roof Replacement in the amount of \$3,368,386.91, which includes Washington State Sales Tax.



**Project title:** Repayment Agreement with Homes and Hope Community Land Trust securing reimbursement of City funds expended to satisfy an LID assessment

**Council Bill #**

**Consideration:**

**Agenda dates**

**requested:** February 5, 2020 February 12 2020

**Project:** Repayment Agreement with Homes and Hope Community Land Trust

**Partner/Supplier:** Homes and Hope Community Land Trust

**Location:** 10200 Block of 3<sup>rd</sup> Avenue SE (Parcel No. 280519-002-001-00)

Briefing X

Proposed action

Consent

Action

Ordinance

Public hearing

Yes  X No

**Preceding action:** 1995 Quit Claim Deed from the City of Everett to the Everett Housing Authority establishing a reimbursement covenant

**Fund:** 299 -LID

### City Council Agenda Item Cover Sheet

**Budget amendment:**

Yes  X No

**Fiscal summary statement:**

- \$90,272.50 reimbursement to City

**Project summary statement:**

**PowerPoint presentation:**

Yes  X No

Homes and Hope Community Land Trust (HHCLT) has entered into a purchase agreement with the Everett Housing Authority (EHA) for a 10-acre parcel located in the 10200 block of 3<sup>rd</sup> Avenue SE (Property). The Property is subject to a covenant regarding reimbursement of \$90,272.50 expended by the City on behalf of the EHA to pay the Property's proportionate share of LID 716A circa 1987.

**Attachments:**

1. Repayment Agreement
2. Deed of Trust

The attached Repayment Agreement, along with the Deed of Trust and Promissory Note, together act to secure the City's interest in reimbursement of those funds.

**Department(s) involved:**

Administration, Legal, Planning, Finance

**Contact person:**

Paul McKee

**Phone number:**

425-257-8938

**Email:**

pmckee@everettwa.gov

**Initialed by:**

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

Authorize the Mayor to sign the Repayment Agreement with Homes and Hope Community Land Trust securing reimbursement of City funds expended to satisfy an LID assessment.

Department head

Administration

Council President

## PROMISSORY NOTE

<b>\$90,272.50</b>	
<b>EVERETT, WA</b>	<b>DATE</b>

FOR VALUE RECEIVED, HOMES AND HOPE COMMUNITY LAND TRUST, a Washington non-profit corporation, hereinafter "Maker" promises to pay to the City of Everett, a Washington municipal corporation, hereinafter "Holder" or order to City Treasurer, 2930 Wetmore Ave, Everett, Washington, 98201, or other such place as may be designated by the Holder from time to time, the principal sum of ninety thousand two hundred and seventy-two dollars and 50/100 U.S. Dollars (\$90,272.50), with interest thereon from date of recording of the Deed of Trust securing this Note

on the unpaid principal at the rate of \_\_\_\_\_THREE\_\_\_\_\_ percent (\_\_\_\_3\_\_\_\_%) per annum as follows:

- 1. NOT USED**
- 2. DUE DATE:** The entire balance of this Note together with any and all interest accrued thereon on (A) December 31, 2024 or (B) the date the Maker leases, transfers, or sells any portion of the Property described in Section 19 below or any living unit located on such Property, whichever of (A) or (B) occurs first
- 3. DEFAULT INTEREST:** After maturity, or failure to make any payment, any unpaid principal shall accrue interest at the rate of \_\_\_\_\_SIX\_\_\_\_\_ percent (\_\_\_\_6\_\_\_\_%) per annum (18% if not filled in) OR the maximum rate allowed by law, whichever is less, during such period of Maker's default under this Note.
- 4. ALLOCATION OF PAYMENTS:** Each payment shall be credited first to any late charge due, second to interest, and the remainder to principal.
- 5. PREPAYMENT:** Maker may prepay all or part of the balance owed under this Note at any time without penalty.
- 6. CURRENCY:** All principal and interest payments shall be made in lawful money of the United States.
- 7. LATE CHARGE:** If Holder receives any installment payment more than \_\_\_\_\_ days (15 days if not filled in) after its due date, then a late payment charge of \$ \_\_\_\_\_, or \_\_\_\_\_ percent (\_\_\_\_%) of the payment (5% of the payment if neither is filled in) shall be added to the scheduled payment.
- 8. NOT USED**
- 9. ACCELERATION:** If Maker fails to make any payment owed under this Note, or if Maker defaults under any Deed of Trust or any other instruments securing repayment of this Note, and such default is not cured within \_\_\_\_\_ days (30 days if not filled in) after written notice of such default, then Holder may, at its option, declare all outstanding sums owed on this Note to be immediately due and payable, in addition to any other

rights or remedies that Holder may have under the Deed of Trust or other instruments securing repayment of this Note.

10. **ATTORNEYS' FEES AND COSTS:** Maker shall pay all costs incurred by Holder in collecting sums due under this Note after a default, including reasonable attorneys' fees, whether or not suit is brought. If Maker or Holder sues to enforce this Note or obtain a declaration of its rights hereunder, the prevailing party in any such proceeding shall be entitled to recover its reasonable attorneys' fees and costs incurred in the proceeding (including those incurred in any bankruptcy proceeding or appeal) from the non-prevailing party.
11. **WAIVER OF PRESENTMENTS:** Maker waives presentment for payment, notice of dishonor, protest and notice of protest.
12. **NON-WAIVER:** No failure or delay by Holder in exercising Holder's rights under this Note shall be a waiver of such rights.
13. **SEVERABILITY:** If any clause or any other portion of this Note shall be determined to be void or unenforceable for any reason, such determination shall not affect the validity or enforceability of any other clause or portion of this Note, all of which shall remain in full force and effect.
14. **INTEGRATION:** There are no verbal or other agreements which modify or affect the terms of this Note. This Note may not be modified or amended except by written agreement signed by Maker and Holder.
15. **CONFLICTING TERMS:** In the event of any conflict between the terms of this Note and the terms of any Deed of Trust or other instruments securing payment of this Note, the terms of this Note shall prevail.
16. **EXECUTION:** Each Maker executes this Note as a principal and not as a surety. If there is more than one Maker, each such Maker shall be jointly and severally liable under this Note.
17. **ORAL AGREEMENTS:** ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, OR TO FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.
18. **DEFINITIONS:** The word Maker shall be construed interchangeably with the words Borrower or Payer or Debtor and the word Holder shall be construed interchangeably with the words Lender or Payee or City. In this Note, singular and plural words shall be construed interchangeably as may be appropriate in the context and circumstances to which such words apply.
19. **PROPERTY:** The Property is legally described as:

The West half of Government Lot 1, Section 19, Township 28 North, Range 5 East, W.M.;

EXCEPT, the North 500 feet thereof, and

EXCEPT, the Westerly 30 feet for street purposes (3rd Ave. S.E.);

SUBJECT to Reservations and encumbrances of record;

Situated in the County of-SNOHOMISH, State of Washington
20. **THIS NOTE IS SECURED BY (X) DEED OF TRUST, ( ) MORTGAGE, ( ) \_\_\_\_\_ OF EVEN DATE.**

Maker (signatures)

HOMES AND HOPE COMMUNITY LAND TRUST, a Washington non-profit corporation

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

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

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

Maker's address for all notices given by Holder under this Note:

Hope and Homes Community Land Trust  
Kimberly Toskey  
10224 53rd Ave W,  
Mukilteo, WA 98275-4302

---

**DO NOT DESTROY THIS NOTE**

WHEN PAID this original Note together with the Deed of Trust securing the same, must be surrendered to the Trustee for cancellation and retention before any reconveyance can be processed.

**REPAYMENT AGREEMENT  
(AFFORDABLE HOUSING)**

This Repayment Agreement (this “*Agreement*”) is entered into as of \_\_\_\_\_, 2019, by and between the CITY OF EVERETT, a Washington municipal corporation (the “*City*”), and the HOMES AND HOPE COMMUNITY LAND TRUST, a Washington nonprofit corporation (the “*Hope Trust*”).

**RECITALS**

A. On February 24, 1995, the City of Everett conveyed certain real property to Housing Authority of the City of Everett (“*Housing Authority*”) by quit claim deed recorded under Snohomish County recording number 9502240123. A copy of the quit claim deed is attached to this Agreement as Exhibit A. The property conveyed by the quit claim deed is referred to in this Agreement as the “*Property*.”

B. The quit claim deed contains the following covenant (the “*LID Covenant*”):

In the event the Housing authority sells the property to a person or organization which is not exempt from payment of LID assessments, proceeds from the sale of the property will be used, as a first priority, to reimburse the City of Everett for all funds expended for the assessment on said property, under LID 716A. The amount of the City's payments total Ninety Thousand Two Hundred Seventy-two Dollars and Fifty Cents (\$90,272.50).

C. The Hope Trust intends to purchase the Property from the Housing Authority for purpose of developing low-income housing. In order to facilitate this, the Hope Trust has requested the City release the LID Covenant and defer payment of the \$90,272.50 until (A) December 31, 2024 or (B) the date the Hope Trust leases, transfers, or sells any portion of the Property or any living unit located on the Property , whichever of (A) or (B) occurs first. In order to facilitate the construction of the affordable housing, the City is willing to do this under the terms and conditions of this Agreement.

**AGREEMENT**

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Release of LID Covenant. The City will provide the Hope Trust a release of the LID Covenant in a form reasonably acceptable to the Hope Trust if all following conditions are fully satisfied:

Condition 1: At the closing of the transfer of the Property to the Hope Trust, the Hope Trust duly executes and delivers a promissory note in the amount of

\$90,272.50 (the “*Note*”) and a deed of trust securing the promissory note (the “*Deed of Trust*”). The Note and Deed of Trust must be in the form provided by the City.

Condition 2. At the Closing of the transfer of the Property to Hope Trust, the Hope Trust records the Deed of Trust in first lien position on the Property and there is no document related to the Property recorded between the deed granting Property title to the Hope Trust and the Deed of Trust.

If the Hope Trust fails to satisfy both conditions, then the City has no obligation to release the LID covenant unless the Hope Trust pays the \$90,272.50 prior to or at the closing of the conveyance of the Property from the Housing Authority.

2. Repayment. The Hope Trust will repay the \$90,272.50 on (A) December 31, 2024 or (B) the date the Hope Trust leases, transfers, or sells any portion of the Property or any living unit located on the Property, whichever of (A) or (B) occurs first.

3. General Provisions.

b. 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.

c. Venue. The parties shall bring any litigation arising out of or relating to this Agreement only before the Snohomish County Superior Court.

d. Complete Agreement. This Agreement constitutes the entire agreement of the parties relating to the subject matter of this Agreement. This Agreement supersedes and replaces all other written or oral agreements thereto.

e. Amendment. No amendment to this Agreement will be effective unless in writing and signed by the Mayor of the City and by the authorized representatives of each other party.

f. Waiver. No waiver of satisfaction of any condition or nonperformance of an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation.

h. Notice. For a notice under this Agreement to be valid, it must be in writing and the sending party must use one of the following methods of delivery: (A) personal delivery to the address stated below; (B) first class postage prepaid U.S. Mail to the address stated below; or (C) nationally recognized courier to the address stated below, with all fees prepaid.

Notice to City	Notice to the Hope Trust
City of Everett Housing & Community Development Program Manager 2930 Wetmore Ave., Suite 8A Everett, WA 98201	Hope and Homes Community Land Trust Kimberly Toskey  10224 53rd Ave W, Mukilteo, WA 98275-4302

A party may change its address by delivering written notice to the other party of the new address.

j. No Third-Party Beneficiaries. The provisions of this Agreement are for the sole benefit of the parties to this Agreement. No other persons have any rights or remedies under this Agreement.

The parties have executed this Agreement as of the date first above written.

**CITY OF EVERETT**

**HOMES AND HOPE COMMUNITY  
LAND TRUST**

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

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

APPROVED AS TO FORM:

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

**EXHIBIT A  
QUIT CLAIM DEED**

RECORDED BY SNOHOMISH AUDITOR-BOB TERWILLIGER, COUNTY AUDITOR

9502240128

After Recording Mail To:

'95 FEB 24 AID 50

Real Property Manager  
Everett Engineering Dept.  
3200 Cedar Street  
Everett, WA 98201

OR 18744-1100-01  
SNOHOMISH COUNTY

W.O. 1752  
E of 3rd Ave + S of Small Mall Way



**QUIT CLAIM DEED**

THE GRANTOR, CITY OF EVERETT, a municipal corporation for and in consideration of MUTUAL BENEFITS DERIVED conveys and quit claims to the HOUSING AUTHORITY OF THE CITY OF EVERETT, a municipal corporation, the following described real estate, situated in the County of SNOHOMISH, State of Washington including any interest therein which grantor may hereafter acquire:

The West half of Government Lot 4, Section 19, Township 28 North, Range 5 East, W.M.;

EXCEPT, the North 500 feet thereof, and;

EXCEPT, the Westerly 30 feet for street purposes (3rd Ave. S.E.)

SUBJECT to reservations and encumbrances of record,

acceptance of the above-described property is subject to the following covenant:

1. In the event the Housing authority sells the property to a person or organization which is not exempt from payment of LID assessments, proceeds from the sale of the property will be used, as a first priority, to reimburse the City of Everett for all funds expended for the assessment on said property, under LID 716A. The amount of the City's payments total Ninety Thousand Two Hundred Seventy-two Dollars and Fifty Cents (\$90,272.50).
2. In the event the Housing Authority improves the property, the Housing Authority will recognize the LID 716A improvements and the costs thereof as a cost of acquisition of said property and improvement and will pursue all reasonable avenues of funding sources to reimburse the City for all City funds expended for said assessment which amounts to Ninety thousand Two Hundred Seventy-two Dollars and Fifty Cents (\$90,272.50). It is recognized that funding sources for Everett Housing Authority improvement of the property may not recognize property acquisition and improvement costs and that if this is the case, such funds may never become available.



APPROVED FOR THE CITY OF EVERETT  
BY: [Signature]  
FEB 24 1995

By: [Signature]  
Deputy

VOL. 3005 PAGE 0250

RECORDED BY SNOHOMISH AUDITOR-BOB TERMILLIGER, COUNTY AUDITOR

DATED this 7<sup>th</sup> day of February, 1995.

GRANTOR

REPRESENTATIVE/CORPORATE

City of Everett

BY: Edward D. Hansen

TITLE: Mayor, Edward D. Hansen

ATTESTED BY:

Sharon D. Maska  
CITY CLERK Deputy

APPROVED AS TO FORM:

McPike  
CITY ATTORNEY

(REPRESENTATIVE ACKNOWLEDGMENT)

STATE OF WASHINGTON)

ss:

COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Edward D. Hansen and Sharon D. Maska signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Mayor and City Clerk of the City of Everett, a municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated February 7, 1995

Signature of Notary Public Janette Nelson

Title Notary Public and State of Washington

My appointment expires: 12-16-97

Above Reimbursement Terms Accepted by Housing Authority of the City of Everett

Chas. R. White  
Authorized Officer

9502240123

When recorded return to:  
City of Everett  
Housing & Community Development Program Manager  
2930 Wetmore Ave., Suite 8A  
Everett, WA 98201

**DEED OF TRUST**  
*(For use in the State of Washington only)*

THIS DEED OF TRUST, made this \_\_\_\_ day of \_\_\_\_\_, 2019 between

as GRANTOR(S), HOMES AND HOPE COMMUNITY LAND TRUST, a Washington non-profit corporation  
whose address is 10224 53RD AVE W, MUKILTEO, WA, 98275-4302, UNITED STATES.

and

as TRUSTEE, Old Republic Title Ltd.  
whose address is 1111 3rd Avenue, Suite 820, Seattle, WA 98101

and

as BENEFICIARY, the City of Everett, a Washington municipal corporation,  
whose address is Housing & Community Development Program Manager, 2930 Wetmore Ave., Suite 8A, Everett,  
WA 98201

WITNESSETH: Grantor(s) hereby bargain(s), sell(s), and convey(s) to Trustee in trust, with power of sale, the  
following described real property in Snohomish County, Washington, including any interest therein  
which Grantor may hereafter acquire:

The West half of Government Lot 1, Section 19, Township 28 North, Range 5 East, W.M.; EXCEPT,  
the North 500 feet thereof, and; EXCEPT, the Westerly 30 feet for street purposes (3rd Ave. S.E.);  
SUBJECT to Reservations and encumbrances of record;  
Situating in the County of-SNOHOMISH, State of Washington

Abbreviated Legal: (Required if full legal not inserted above.)  
Ptn of NW1/4 NW1/4 S19 T28N R5E, W.M.

Tax Parcel Number(s):

28051900200100

which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any wise appertaining, and the rents, issues, and profits thereof.

This Deed of Trust is for the purpose of securing performance of each agreement of Grantor(s) contained in this Deed of Trust, and payment of the sum of ninety thousand two hundred and seventy-two dollars and 50/100 U.S. Dollars (\$90,272.50), with interest, in accordance with the terms of a promissory note of even date herewith, payable to Beneficiary or order, and made by Grantor(s), and all renewals, modifications, and extensions thereof, and also such further sums as may be advanced or loaned by Beneficiary to Grantor(s), or any of Grantor(s)' successors or assigns, together with interest thereon at such rate as shall be agreed upon.

**DUE DATE:** The entire balance of the promissory note secured by this Deed of Trust, together with any and all interest accrued thereon, shall be due and payable in full on (A) December 31, 2024 or (B) the date the Grantor leases, transfers, or sells any portion of the real property described in this security instrument or any living unit located on such property, whichever of (A) or (B) occurs first.

To protect the security of this Deed of Trust, Grantor(s) covenant(s) and agree(s):

1. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure, or improvement being built or about to be built thereon; to restore promptly any building, structure, or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the property.
2. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust.
3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor(s). The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor(s) in insurance policies then in force shall pass to the purchaser at the foreclosure sale.
4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.
5. To pay all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.
6. Should Grantor(s) fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances, or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured by this Deed of Trust shall be paid to Beneficiary to be applied to said obligation.
2. By accepting payment of any sum secured by this Deed of Trust after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.
3. The Trustee shall reconvey all or any part of the property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor(s) and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.
4. Upon default by Grantor(s) in the payment of any indebtedness secured by this Deed of Trust or in the performance of any agreement contained in this Deed of Trust, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary subject to any cure period provided in the note secured by this Deed of Trust. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Deed of Trust; and (3) the surplus, if any, shall be distributed to the persons entitled thereto.
5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser all right, title and interest in the real and personal property which Grantor(s) had or had the power to convey at the time of the execution of this Deed of Trust, and such as Grantor(s) may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrancers for value.
6. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.
7. In the event of the absence, death, incapacity, disability, or resignation of Trustee, or at the discretion of the Beneficiary, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor(s), Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.
8. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on his/her/their heirs, devisees, legatees, administrators, executors, and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.

HOMES AND HOPE COMMUNITY LAND TRUST, a Washington non-profit corporation

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

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

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

STATE OF WASHINGTON  
COUNTY OF SNOHOMISH \_\_\_\_\_

ss.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ 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 \_\_\_\_\_ of the HOMES AND HOPE COMMUNITY LAND TRUST, a non-profit Washington corporation, to be the free and voluntary act of such private non-profit Washington corporation for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

(Legibly Print or Stamp Name of Notary)  
Notary public in and for the state of Washington, residing at

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

REQUEST FOR FULL RECONVEYANCE - *Do not record. To be used only when note has been paid.*

TO: TRUSTEE

The undersigned is the legal owner and holder of the note and all other indebtedness secured by the within Deed of Trust. Said note, together with all other indebtedness secured by said Deed of Trust, has been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said note above mentioned, and all other evidences of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you thereunder.

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



**Project title:** An Ordinance creating a special improvement project entitled "Trickling Filter Media Replacement" Fund 336, Program 008.

### City Council Agenda Item Cover Sheet

**Council Bill #**

CB 2001-2

**Agenda dates requested:**

January 29, 2020

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

Yes  No

**Budget amendment:**

Yes  No

**PowerPoint presentation:**

Yes  No

**Attachments:**

Proposed Ordinance

**Department(s) involved:**

Public Works, Admin

**Contact person:**

John Nottingham

**Phone number:**

(425) 257-8844

**Email:**

jnotting@everettwa.gov

**Consideration:** Plans & Systems Ordinance

**Project:** Trickling Filter Media Replacement

**Partner/Supplier :**

**Location:** Everett Water Pollution Control Facility

**Preceding action:** None

**Fund:** 336

**Fiscal summary statement:**

The funding source for this project will be Fund 401 Water and Sewer Utility Fund. The budget for this project is \$3,000,000.

**Project summary statement:**

The City has three trickling filters which are treatment components within the mechanical portion of the wastewater treatment plant. Two of these large 85' diameter tanks contain the original treatment media which is at the end of its useful life at close to 30 years old. The third filter was constructed in 2015.

This project will replace the media within both trickling filters over a two-year period with one project in the Fall of 2020 and the other in the Fall of 2021. The treatment media and the aging media support system will be replaced along with any necessary concrete and coating repair work within the interior of the tanks.

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

Adopt an Ordinance creating a special improvement project entitled "Trickling Filter Media Replacement" Fund 336, Program 008.

**Initialed by:**

Department head

Administration

Council President



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

An **ORDINANCE** creating a special improvement project entitled “Trickling Filter Media Replacement” Fund 336, Program 008, to accumulate all costs for the improvement.

**WHEREAS,**

- A. The City of Everett is committed to a planned sewer treatment infrastructure replacement program.
- B. The City of Everett has identified the need and obtained funds for the replacement of the trickling filter media at the Everett Water Pollution Control Facility.

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

**Section 1.** A special improvement project is hereby established as Fund 336, Program 008, entitled “Trickling Filter Media Replacement” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

**Section 2.** Authorization is hereby granted for the “Public Works Director” or “City Engineer” under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and doing all things to accomplish the actions authorized in this ordinance

**Section 3.** The sum of \$3,000,000 is hereby appropriated to Fund 336, Program 008, “Trickling Filter Media Replacement” as follows:

A. Estimated Project Costs	\$3,000,000
B. Source of Funds	
Fund 401 – Water/Sewer Utility Fund	\$3,000,000

**Section 4.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 5.** The City Council hereby declares that should any section, paragraph, sentence, clause or

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

**Section 6.** The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 7.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

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

ATTEST:

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

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

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

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

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



An Ordinance creating a special improvement project entitled "Water Transmission Line Replacement at 91<sup>st</sup> Avenue SE" Fund 336, Program 009.

### City Council Agenda Item Cover Sheet

Council Bill # *interoffice use*

*CB 2001-3*

Agenda dates requested:

January 29, 2020

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

..... Yes                      X No

Budget amendment:

..... Yes                      X No

PowerPoint presentation:

..... Yes                      X No

Attachments:

Proposed Ordinance

Department(s) involved:

Public Works, Legal, Admin

Contact person:

Ryan Sass

Phone number:

425.257-8942

Email:

rsass@everettwa.gov

Initialed by:

*RS*  
.....  
Department head

*[Signature]*  
.....  
Administration

*[Signature]*  
.....  
Council President

.....  
**Consideration:** Plans & Systems Ordinance

.....  
**Project:** *Water Transmission Line Replacement at 91<sup>st</sup> Avenue SE*

.....  
**Partner/Supplier:** City of Lake Stevens

.....  
**Location:** 91<sup>st</sup> Avenue SE, south of 20<sup>th</sup> Street, Lake Stevens WA

.....  
**Preceding action:** None

.....  
**Fund:** 336 Water & Sewer System Improvement Fund

#### Financial summary statement:

The funding source for this project will be Fund 336 Water & Sewer System Improvement Fund. The budget for this project is \$700,000.

#### Project summary statement:

The City of Lake Stevens is facilitating extending roadway improvements at 91<sup>st</sup> Avenue SE in Lake Stevens for development of a new Costco store taking access from 20<sup>th</sup> Street SE. This proposed access road extension crosses three City of Everett 48" Water Transmission Lines.

The City of Everett asserts property rights in the form of easements pertaining to the protection of our Water Transmission Line corridor and actively maintains the corridor. This critical infrastructure serves to transport drinking water from Everett's watershed and Water Filtration Plant to over 625,000 residents.

This Plans & Systems Ordinance provides funding authorization for Everett's cost share of the replacement of approximately 125 LF of each of the three Water Transmission Lines in this corridor. This work is required to raise the Water Transmission Lines to a new profile so that they are not negatively impacted by the fill prism of the Lake Stevens 91<sup>st</sup> Ave SE roadway extension. Work must conform to our Transmission Line Right of Way Use Permit requirements.

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

Adopt an Ordinance creating a special improvement fund entitled "Water Transmission Line Replacement at 91<sup>st</sup> Avenue SE" Fund 336, Program 009.



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

An **ORDINANCE** creating a special improvement project entitled “Water Transmission Line Replacement at 91st Avenue SE” Fund 336, Program 009, to accumulate all costs for the improvement.

**WHEREAS,**

- A. The City of Everett is committed to a planned water transmission line infrastructure replacement program.
- B. The City of Everett has identified the need and obtained funds for the replacement of the water transmission lines at 91<sup>st</sup> Avenue SE.

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

**Section 1.** A special improvement project is hereby established as Fund 336, Program 009, entitled “Water Transmission Line Replacement at 91st Avenue SE” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

**Section 2.** Authorization is hereby granted for the “Public Works Director” or “City Engineer” under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and doing all things to accomplish the actions authorized in this ordinance

**Section 3.** The sum of \$700,000 is hereby appropriated to Fund 336, Program 009, “Water Transmission Line Replacement at 91st Avenue SE” as follows:

A. Estimated Project Costs	\$ 700,000
B. Source of Funds	
Fund 401 – Water/Sewer Utility Fund	\$ 700,000

**Section 4.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 5.** The City Council hereby declares that should any section, paragraph, sentence, clause or

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

**Section 6.** The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 7.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

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

ATTEST:

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

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

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

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

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



**Project title:** An Ordinance creating a special improvement project entitled "Evergreen Pump Station Upgrades" Fund 336, Program 007.

**City Council Agenda Item Cover Sheet**

**Council Bill #**  
EB2001-4

**Agenda dates requested:**  
January 29, 2020

Briefing  
Proposed action  
Consent  
Action  
Ordinance  X  
Public hearing  
Yes  No  X

**Budget amendment:**  
Yes  No  X

**PowerPoint presentation:**  
Yes  No  X

**Attachments:**  
Proposed Ordinance

**Department(s) involved:**  
Public Works, Admin

**Contact person:**  
John Nottingham

**Phone number:**  
(425) 257-8844

**Email:**  
jnotting@everettwa.gov

**Initialed by:**  
  
Department head  
  
Administration  
Council President

**Consideration:** Plans & Systems Ordinance  
**Project:** Evergreen Pump Station Upgrades  
**Partner/Supplier :**  
**Location:** Reservoir #3 6001 Evergreen Way  
**Preceding action:** None  
**Fund:** 336

**Fiscal summary statement:**  
The funding source for this project will be Fund 401 Water and Sewer Utility Fund. The budget for the initial phase of this project is \$735,000.

**Project summary statement:**  
The Evergreen Pump Station is a critical component of the City's water transmission and distribution system. The 1960's era pump station transfers water to Reservoir #6 in pressure zones 650 and 715, which serve the residents and industries within South Everett including Boeing. The portion of the existing structure that currently houses the pump station electrical components is undersized, resulting in a work space which does not meet current building, worker safety, electrical and seismic codes. In addition, the electrical equipment and systems within the pump station need to be replaced and upgraded.

This ordinance will provide funding for a professional services agreement to include engineering analysis and design of structural and electrical upgrades to the existing pump station.  
Public Works will evaluate the design proposal and return to City Council with an amending ordinance that will establish the budget for the construction phase when the design phase is complete.

**Recommendation (exact action requested of Council):**  
Adopt an Ordinance creating a special improvement project entitled "Evergreen Pump Station Upgrades" Fund 336, Program 007.



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

An **ORDINANCE** creating a special improvement project entitled “Evergreen Pump Station Upgrades” Fund 336, Program 007, to accumulate all costs for the improvement.

**WHEREAS,**

- A. The City of Everett is committed to a planned water infrastructure upgrade program.
- B. The City of Everett has identified the need and obtained funds to design and construct certain upgrades to the Evergreen Pump Station at Reservoir #3.

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

**Section 1.** A special improvement project is hereby established as Fund 336, Program 007, entitled “Evergreen Pump Station Upgrades” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

**Section 2.** Authorization is hereby granted for the “Public Works Director” or “City Engineer” under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and doing all things to accomplish the actions authorized in this ordinance

**Section 3.** The sum of \$735,000 is hereby appropriated to Fund 336, Program 007, “Evergreen Pump Station Upgrades” as follows:

A. Estimated Project Design Costs	\$735,000
B. Source of Funds	
Fund 401 – Water/Sewer Utility Fund	\$735,000

**Section 4.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 5.** The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it

would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 6.** The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 7.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

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

ATTEST:

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

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

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

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

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



**Project title:** An Ordinance creating a special improvement project entitled "Water Filtration Plant Emergency Generator Replacement" Fund 336, Program 006.

**City Council Agenda Item Cover Sheet**

**Council Bill #**

CB2001-5

**Agenda dates requested:**

January 29, 2020

Briefing

Proposed action

Consent

Action

Ordinance  X

Public hearing

Yes  No  X

**Budget amendment:**

Yes  No  X

**PowerPoint presentation:**

Yes  No  X

**Attachments:**

Proposed Ordinance

**Department(s) involved:**

Public Works, Admin

**Contact person:**

Zach Brown

**Phone number:**

(425) 257-8872

**Email:**

zbrown@everettwa.gov

**Initialed by:**

  
Department Head

  
Administration

  
Council President

**Consideration:** Plans & Systems Ordinance

**Project:** Water Filtration Plant Emergency Generator Replacement

**Partner/Supplier :**

**Location:** Water Filtration Plant

**Preceding action:** Professional Services Agreement with Sazan Group 8/9/2017

**Fund:** 336

**Fiscal summary statement:**

The funding source for this project will be Fund 401 Water and Sewer Utility Fund. The budget for the project is \$10,400,000.

**Project summary statement:**

The Water Filtration Plant (WFP) Emergency Generator system is comprised of two generators which have experienced recent failures and have reached the end of their useful life. The 30+ year old generators are mismatched in size, located at opposite sides of the water plant and their combined output is no longer large enough to meet the demands of the plant. The City approved an agreement with Sazan Group for the engineering and design of two new generators to be housed together in a common location with a dedicated fuel storage facility. Work under the agreement also includes replacement of electrical controls and upgrades to the electrical infrastructure to ensure continuous operation of the plant in the event of a loss of external power.

The design work is in progress and scheduled to be completed in May 2020. To minimize the future construction timeline, early procurement of the generators and other long lead time equipment is proposed to begin in Spring 2020. Delivery of the equipment ordered in the early procurement process will be to the project contractor in the Fall 2020. Advertising, bidding and award of the construction contract will follow standard City procedures and is planned for Summer 2020.

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

Adopt an Ordinance creating a special improvement project entitled "Water Filtration Plant Emergency Generator Replacement" Fund 303, Program 006.



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

An **ORDINANCE** creating a special improvement project entitled “Water Filtration Plant Emergency Generator Replacement” Fund 336, Program 006, to accumulate all costs for the improvement.

**WHEREAS,**

- A. The City of Everett is committed to a resilient water infrastructure program.
- B. The City of Everett had identified the need and obtained funds to purchase and install a new emergency generator at the Water Filtration Plant.

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

**Section 1.** A special improvement project is hereby established as Fund 336, Program 006, entitled “Water Filtration Plant Emergency Generator Replacement” to accumulate all costs for the improvement. Authorization is hereby given to accumulate costs and distribute payments for the improvement project.

**Section 2.** Authorization is hereby granted for the “Public Works Director” or “City Engineer” under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and doing all things to accomplish the actions authorized in this ordinance

**Section 3.** The sum of \$10,400,000 is hereby appropriated to Fund 336, Program 006, “Water Filtration Plant Emergency Generator Replacement” as follows:

A. Estimated Project Costs	\$10,400,000
B. Source of Funds	
Fund 401 – Water/Sewer Utility Fund	\$10,400,000

**Section 4.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 5.** The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 6.** The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 7.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

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

ATTEST:

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

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

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

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

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



**Project title:** Downtown Parking Management Study – 2019 update

### City Council Agenda Item Cover Sheet

**Council Bill #**

**Consideration:** Informational Briefing

**Project:** Downtown Parking Management Study – 2019 update

**Partner/Supplier:** Barney & Worth Inc., Rick Williams Consulting

**Location:** Everett Metro Area

**Preceding action:** PSA 12/19/2018, PSA Amendment #1 12/18/2019

**Fund:** 024 - Engineering

**Agenda dates requested:**

February 12, 2020

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

..... Yes  No

**Budget amendment:**

..... Yes  No

**PowerPoint presentation:**

.....  Yes No

**Attachments:**

n/a

**Department(s) involved:**

Public Works, Administration

**Contact person:**

Ryan Sass

**Phone number:**

425.257-8942

**Email:**

rsass@everettwa.gov

**Fiscal summary statement:**

Funding for study from Fund 024 – Engineering \$164,180

**Project Summary Statement:**

The City of Everett has been conducting a comprehensive downtown parking study that updates previous parking data to prepare for possible changes to the City’s on-street and off-street parking systems in the metro area. The study has engaged with the Downtown Everett Association and other stakeholders with an interest in parking.

Work began in February 2019 by Barney & Worth and is reaching completion. Staff and the consultant team will present the results of the study and associated recommendations.

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

Informational Briefing – No action anticipated. Specific actions related to implementation are anticipated to follow.

**Initialed by:**

  
.....  
Department head

  
.....  
Administration

  
.....  
Council President



**Project title:** An Ordinance Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Eight, Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended)

**City Council Agenda Item Cover Sheet**

**Council Bill #**  
 CB 2002-7

**Consideration:** Ordinance

**Project:** N/A

**Agenda dates requested:**  
 Feb. 12, 19, Mar. 4, 2020

**Partner/Supplier:** N/A

**Location:** City Wide

Briefing X (Feb. 12, 2020)  
 Proposed action  
 Consent  
 Action  
 Ordinance X  
 Public hearing March 4, 2020  
 X Yes No

**Preceding action:** May 9, 2018, Council decided not to increase the number of permitted retail marijuana stores

**Fund:** N/A

**Fiscal summary statement:** N/A

**Project summary statement:**

**Budget amendment:**  
 Yes X No

The Zoning Code limits the number of retail marijuana stores allowed in the City to not be more than five. The Washington State Liquor and Cannabis Board rules will allow up to ten stores.

**PowerPoint presentation:**  
 Yes X No

The Public Safety Subcommittee of the City Council has reviewed information related to tax revenues generated by retail marijuana stores, calls for police service for retail stores in comparison to other types of businesses, and the current regulations for where retail marijuana stores can be located.

**Attachments:**  
 Ordinance

**Department(s) involved:**  
 Admin, Planning, Legal

The Public Safety Subcommittee has asked staff to bring forward an ordinance allowing the number of permitted stores to be increased to not be more than eight and requiring that any retail store hereafter established be certified by the Washington State Liquor and Cannabis Board as a medical marijuana provider.

**Contact person:**  
 Allan Giffen

**Phone number:**  
 425-257-8725

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

**Email:**  
 agiffen@everettwa.gov

Adopt Ordinance Increasing the Number of Permitted Recreational Marijuana Retail Stores to not be more than Eight, Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended).

**Initialed by:**

Department head

Administration

Council President



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

An Ordinance Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Eight, Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended)

**WHEREAS, the City Council finds the following:**

1. The City Council adopted Ordinance No. 3486-16, establishing a limit on the number of permitted recreational marijuana retail stores in the city limits of Everett to not more than five;
2. The Washington State Liquor and Cannabis Board (WSLCB) will allow up to ten recreational marijuana stores within the Everett city limits;
3. Subsection c.13 of Section 2 of Ordinance No. 3486-16, provided for review of the number of retail stores to be permitted by June 1, 2018;
4. The Planning Commission held a public workshop on February 20, 2018, at which they requested additional information from City staff regarding a variety of standards in the City's current regulations for recreational marijuana retail stores, and took public testimony about the current regulations;
5. The Planning Commission held a public hearing on April 3, 2018, to consider information provided by City staff and to take additional public testimony;
6. The Planning Commission recommended that the City Council increase the permitted number of retail marijuana store to ten;
7. The City Council held a public hearing on May 9, 2018, to consider the recommendation of the Planning Commission; but decided at that time not to change the permitted number of recreational marijuana stores or change the minimum separation requirement between stores;
8. In 2019, the Public Safety Committee of the City Council conducted a review of the permitted number of recreational marijuana retail stores, and asked staff to prepare an ordinance for consideration by the full City Council to increase the permitted number of recreational marijuana stores from five to eight, provided that any new store shall commit to being certified by the Washington State Liquor and Cannabis Board as a medical marijuana provider;
9. The City Council held a public hearing on February 19, 2020, to take public testimony concerning the recommendation from the Public Safety Committee.

**WHEREAS, the City Council concludes the following:**

1. Although there are no policies in the Comprehensive Plan related to recreational marijuana retail stores, the proposed amendment to the Zoning Code is not inconsistent with the Everett Growth Management Comprehensive Plan;
2. The proposed amendment bears a substantial relation to public health, safety or welfare;
3. The proposed amendment to the Zoning Code provides for the best long-term interests of the Everett community.

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

**Section 1.** Section 2 of Ordinance No. 3486-16 (EMC 19.39.145.C.13, as amended), which reads, in part, as follows:

C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed five.

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

C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed **five eight**. Any retail marijuana store hereafter established shall be certified as a medical marijuana provider by the Washington State Liquor and Cannabis Board.

**Section 2.** Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

**Section 3.** Severability. Should any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance or its application to any person or situation, be declared unconstitutional, invalid for any reason, or preempted by state or federal law or regulations, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other persons or situations. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or portions be declared unconstitutional, invalid, or preempted.



**Section 4.** General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees, or agents.

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

**Section 6.** Corrections. The City Clerk is authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.

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

ATTEST:

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

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

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

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

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





**Project title:** An Ordinance Relating to Stormwater Controls in the Combined Sewer Area, amending Ordinance No. 1506-88

### City Council Agenda Item Cover Sheet

**Council Bill #** *interoffice use*

*CB2002-06*

**Agenda dates requested:**

Briefing – 2/5/20  
Proposed action  
Consent  
Action – 2/19/20  
Ordinance  
1<sup>st</sup> Reading – 2/5/20  
2<sup>nd</sup> Reading – 2/12/20  
3<sup>rd</sup> Reading – 2/19/20  
Public hearing  
Yes            X    No

**Budget amendment:**  
Yes            X    No

**PowerPoint presentation:**  
Yes            X    No

**Attachments:**  
Proposed Ordinance  
Combined Sewer Area Map  
In-Lieu-of Stormwater  
Control Fee Report

**Department(s) involved:**  
Public Works

**Contact person:**  
Souheil Nasr

**Phone number:**  
425-257-7210

**Email:** snasr@everettwa.gov

**Initialed by:**

Department head

Administration  
*[Signature]*  
Council President

**Project:** Ordinance Relating to Stormwater Controls

**Partner/Supplier :** N/A

**Location:** Combined Sewer Area in North Everett

**Preceding action:** Ordinance No. 1506-88

**Fund:** 401

**Fiscal summary statement:**

The proposed ordinance will establish an option for developers in specific areas that have been separated within the combined sewer area to either provide stormwater control facilities as required or opt for paying a fee in-lieu-of constructing these facilities and connecting directly to the City’s combined sewer system. The proposed one-time fee is \$3.72 for every square ft of new impervious surface created by the development. The first 200 square feet of new impervious surface is exempt from this fee.

No City expenditure will be required.

**Project summary statement:**

In 2011, the City implemented an interim Public Works Policy related to stormwater control in the Combined Sewer Area. The interim policy provides a framework for new development or redevelopment to mitigate the risk of property damage and regulatory violations caused by stormwater in the Combined Sewer Area. Given the change in focus to more regional projects, the City is proposing a change in their stormwater control policy in the Combined Sewer Area and at the same time is proposing the development of a new in-lieu-of stormwater control fee. The purpose of the proposed fee is to assess new development in specific areas within the combined sewer area for a portion of these stormwater control facilities, in-lieu-of requiring developers to build their own on-site stormwater facilities.

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

Adopt an Ordinance Relating to Stormwater Controls in the Combined Sewer Area, amending Ordinance No. 1506-88.



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

An Ordinance Relating to Stormwater Controls in the Combined Sewer Area, amending Ordinance No. 1506-88.

**WHEREAS,**

- A. The City has completed several capital facilities stormwater separation projects, the Backwater Valve Program and Green Stormwater Infrastructure such as rain gardens, pervious pavement and downspout disconnection programs, which have substantially reduced the risk of property damage and flooding in specific sub-basins in the Combined Sewer Area. This ordinance would apply to all development and redevelopment proposals in the Combined Sewer Area as defined and depicted in the City's current "Design and Construction Standards" (DCSS). The remaining improvements needed for the City's combined sewer system are now largely of a regional or centralized nature. Thus, establishing a fee to provide funding for regional or centralized capital infrastructure projects appears reasonable, appropriate and policy-based.
  
- B. The City within specific basins in the Combined Sewer Area has opted for a centralized or regionalized approach to managing stormwater runoff. Under this approach, the City already has and will continue to build various stormwater facilities. In particular, there will be facilities to convey stormwater runoff to stormwater control facilities (e.g. detention facilities). These facilities will benefit both existing customers within the Combined Sewer Area but also new development within the area

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

**Section 1.** Ordinance No. 1506-88 (codified at Chapter 14.08 EMC) is hereby amended by the addition of the following section, to be codified as EMC 14.08.185:

**Establishment of In-Lieu-Of Stormwater Control Fee.**

This Fee shall apply to all new development and redevelopment, within eligible sub-basins in the Combined Sewer Area as defined by the City Engineer and depicted in the City's Combined Sewer Area map, that creates and/or redevelops a net new total of 200 square feet or more of impervious area:

- A. New development or redevelopment in the Combined Sewer Area may be required to provide



additional stormwater controls such that the resulting flow does not result in an increase in Sanitary Sewer Overflows and/or basement flooding in the Combined Sewer Area.

B. All new developments and redevelopments in the Combined Sewer Area that add a net new total of 200 square feet or more of impervious area, are required to provide additional controls and shall comply with either chapter 6 of the City of Everett’s current DCSS or voluntarily pay the City’s In-Lieu-of Stormwater Control Fee as listed in the schedule below. Voluntary payment of the In-Lieu-of Stormwater Control Fee shall eliminate the developer’s facility requirements as stated in chapter 6 of the current DCSS.

C. Public Infrastructure development/redevelopment (such as road and utility construction) within the Public Right of Way is exempt from this fee.

D. No connections of roof drains to side sewers or laterals shall be allowed without prior approval by the City Engineer.

E. In-Lieu-Of Stormwater Control Fee Schedule

Customer Type	In-Lieu-Of Stormwater Control Fee
All Customers/ Parcels in Combined Sewer Area	\$3.72/square foot of net new impervious area. The first net new total of 200 square feet of impervious area is exempt from these fees.

F. All in-lieu-of stormwater control fees collected shall be held in a fund specifically for the benefit of stormwater and combined sewer in the Combined Sewer Area and may be used to pay for capital projects within the Combined Sewer Area and any outstanding debt associated with those capital projects.

G. Such contributions shall not exempt property from monthly stormwater fees (i.e., stormwater rates) used for operations, maintenance and capital construction not covered by this fee.

**Section 2.** Section 4 of Ordinance No. 1506-88 (codified at Chapter 14.08.040 EMC) is hereby amended as follows, with strikeouts deleted and underlining added:

**Storm drainage water connections.**



A. All surface drainage water from roofs, drainage, parking, sales and display lots and other impervious surfaces shall be connected to a storm sewer when such system is available. When such system is not provided, such lots and areas shall provide for surface and storm drainage in accordance with the ordinances of the city.

B. Surface drainage waters may be connected to combined sewers. Combined sewers shall be allowed only in the north end of the city, as shown on Figure 6-10.1 "Combined Sewer Area" of the Design and Construction Standards and Specifications (DCSS) created under Chapter 13.76 EMC, as currently enacted or later amended.~~Exhibit I attached to the ordinance codified in this chapter, on file in the office of the city clerk, located within the following described area:~~

~~Beginning at the intersection of the west bank of the Snohomish River and the north line of Section 32, Township 29, North Range 5, E.W.M.; thence west along the north line thereof to a point of intersection with the westerly right-of-way margin of Broadway as it now exists; thence southerly along said westerly right-of-way to a point of intersection with the northerly right-of-way margin of Lowell Road. Thence southwest along said right-of-way margin to a point of intersection with the northerly projected westerly right-of-way margin of Lombard Avenue; thence southerly along said northerly projection and the westerly right-of-way margin to the northerly right-of-way margin of 60th Street; thence westerly along said northerly right-of-way margin to a point of intersection with the easterly right-of-way margin of Oakes Avenue; thence south along said easterly right-of-way margin to the southerly right-of-way margin of 63rd Street; thence westerly along said right-of-way margin to a point of intersection with the east line of Section 6, Township 28 North Range 5 E.W.M.; thence north along said section line to a point of intersection with the easterly projected north line of the plat of Mountain View Addition according to the plat thereof recorded in Volume 10 of Plats, page 64 records of Snohomish County, Washington; thence westerly along said easterly projection and north plat line to the northwest corner thereof; thence northerly along the northerly projected west line of said plat to a point of intersection with the south line of the northeast one-quarter (NE 1/4) of said Section 6; thence westerly along said south line to the easterly right-of-way margin of Evergreen Way; thence northerly along said right-of-way to the easterly drainage basin of Pigeon Creek No. 1; then northerly to Mukilteo Boulevard easterly to Federal Avenue; and thereafter north on Federal Avenue to 35th and West on 35th to Possession Sound and the terminus of this description.~~

C. Except as provided in subsections A and B of this section, no person(s) or corporation(s) shall connect any source(s) of surface drainage water to a sanitary sewer; provided, that an industrial pretreatment permit may include authorization to discharge surface drainage waters or contaminated effluents from other sources to the Everett municipal sewer system under the terms and conditions therein.

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

**Section 4.** The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it



would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

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

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

ATTEST:

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

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

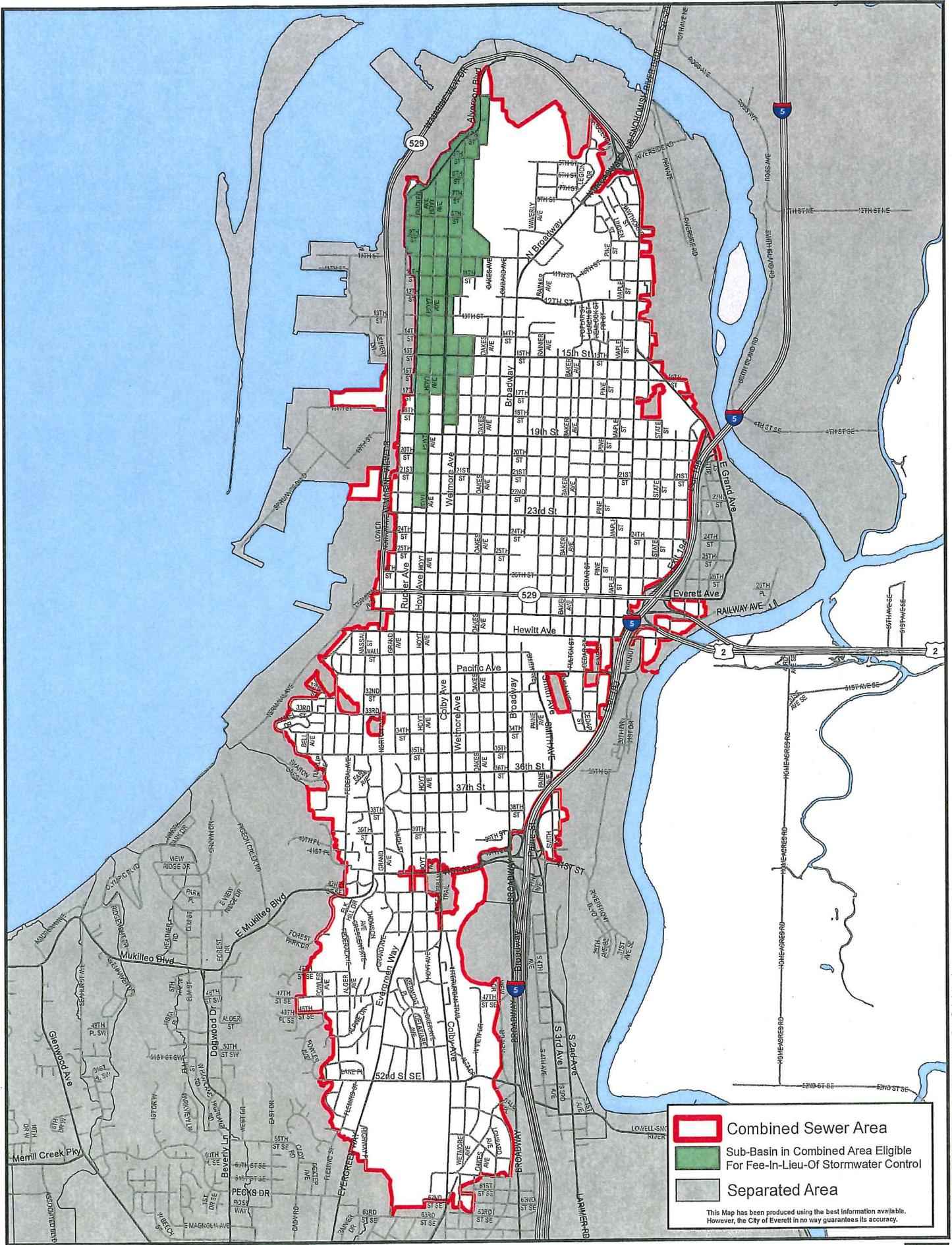
VALID: \_\_\_\_\_

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

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







	Combined Sewer Area
	Sub-Basin in Combined Area Eligible For Fee-In-Lieu-Of Stormwater Control
	Separated Area

This Map has been produced using the best information available. However, the City of Everett in no way guarantees its accuracy.

### LIMITS OF COMBINED SEWER AREA

Date: 1/3/2020



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FINAL REPORT



**City of Everett**  
**Development of the**  
**In-Lieu-Of Surface Water Control Fee**  
December 2018





December 3, 2018

Mr. Matt D. Welborn  
Utilities Finance Manager  
City of Everett  
3200 Cedar Street  
Everett, Washington 98201

**Subject:** City of Everett New In-Lieu-Of Surface Water Control Fee

Dear Mr. Welborn:

HDR Engineering, Inc. (HDR) is pleased to present the final report on the development of a new in-lieu-of surface water control fee and a revised policy for the City of Everett (City). The City has in the past and will continue in the future to make significant investments in surface water control facilities to prevent or minimize combined sewer overflow (CSO) and sanitary sewer overflow (SSO) events. New or expanded development, within the City's combined sewer area, is required to either invest in their own on-site surface water controls or utilize the City's facilities to manage peak volumes of surface water runoff. The proposed in-lieu-of surface water control fee is designed to offset a portion of the City's cost for regional storage facilities.

Our report outlines our findings and recommendations as it relates to the development of the City's in-lieu-of surface water control fee. The analyses contained herein has been prepared using generally accepted fee methodologies. The City's asset data, planning documents, engineering data, and significant input by City management and staff were the primary sources for much of the information contained in this report. HDR would recommend that the City have the fees reviewed by their legal counsel for compliance with any applicable Washington State law.

We appreciate the assistance provided by you and other City staff in the development of this study. More importantly, we appreciate the opportunity to continue our working relationship with the City on this project.

Sincerely yours,  
HDR Engineering, Inc.

A handwritten signature in black ink, appearing to read 'Shawn Koorn', written over a light blue horizontal line.

Shawn Koorn  
Project Manager  
and Associate Vice President



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**Technical Appendices**

**Exhibit A – Map of Service Area**

**Technical Appendix– In -Lieu-Of Fee Exhibits**



# Executive Summary

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## Introduction

The City of Everett (City) owns and operates a combined utility<sup>1</sup> which includes a surface water utility. The City is legally required by the Washington State Department of Ecology to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Stormwater Permit<sup>2</sup> to regulate surface water to reduce and prevent pollution. The City, like most municipalities throughout the Puget Sound region, was built primarily during a time when regulation of surface water and water quality was either limited or didn't exist. Combined sewer systems are sewers that are designed to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipe. Most of the time, the combined sewer system conveys all of the wastewater to the Everett Water Pollution Control Facility, where it is treated and then discharged to either the Snohomish River or Port Gardner Bay. During periods of heavy rainfall or snowmelt on-site or municipal combined sewer overflow (CSO) control facilities are used to help prevent or minimize CSO and Sanitary Sewer Overflow (SSO) events.

In 2011, the City implemented a specific Public Works Policy related to stormwater control in the Combined Sewer Area.<sup>3</sup> The existing policy provides a framework for new development or redevelopment to mitigate the risk of property damage and regulatory violations caused by stormwater in the Combined Sewer Area. Given the change in focus to more regional projects, the City has proposed a change in their stormwater control policy in the Combined Sewer Area and at the same time has proposed the development of a new in-lieu-of surface water control fee to partially fund a portion of the regional or centralized projects.

## Overview of the City's Surface Water Program

Everett's three watersheds include the Port Gardner Bay Watershed, the Lake Washington Watershed and the Snohomish River Watershed. The rain that hits the City's streets and parking lots and runs off is known as stormwater runoff. Surface water management includes managing stormwater runoff, streams, wetlands and lakes. In north Everett, most of the water draining from the streets and parking lots is treated at the City's water pollution control facility. However, in other parts of Everett all of the runoff from neighborhood storm drains is carried directly to creeks, ponds, streams and lakes without the benefit of treatment. The City in recent years has undertaken significant planning and capital infrastructure projects. Among the benefits of these investments is the reduction and control of flooding and drainage, enhancement and restoration of water quality, and improvement of wildlife habitat.

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<sup>1</sup> The City's combined utility is composed of water, sewer and surface water programs (utilities).

<sup>2</sup> The Municipal Stormwater Permit is a requirement of the National Pollutant Discharge Elimination System (NPDES) Permits Program in the Federal Clean Water Act.

<sup>3</sup> Public Works Director Interim Policy #2-11, Stormwater Control in the Combined Sewer Area.

The City of Everett's surface water system is comprised of a southern system and a northern system. The portion of the system in the north is a combined sewer system. That portion of the system was largely constructed between 1890 and 1963. This is the portion of the system that the City has made significant investments in order to minimize CSOs.

## City's Policy on Stormwater Control in the Combined Sewer Area

On August 17, 2011, Public Works Policy #2-11 was signed by the City's Director of Public Works. The background to the development and signing of this policy was heavy storm events, which caused localized surges in the City's combined sewer system, along with flooding of basements and streets in the Combined Sewer Area. The City acknowledges that the "flooding has been disruptive for its citizens, causing damage to homes, creating health concerns and imposing a financial burden on the rate-based utility. Controlling stormwater discharges to the combined sewer system would mitigate these impacts."<sup>4</sup>

Public Works Policy #2-11 states that it shall remain in effect "until the date the Director terminates it in writing or issues a policy expressly superseding this policy [#2-11]." The City is proposing that Public Works Policy #2-11 be terminated and superseded with a new policy. The new policy establishes a new surface water fee to be collected which shall be dedicated to specifically fund stormwater and combined sewer projects in the combined sewer area.

**. . . establishing a fee to provide funding for regional or centralized capital infrastructure projects appears to be reasonable, appropriate and policy-based.**

The basis for this change in policy is that the City has completed several capital facilities stormwater projects and the remaining improvements needed for the City's combined sewer system are now largely of a regional or centralized nature. Thus, establishing a fee to provide funding for regional or centralized capital infrastructure projects appears to be reasonable, appropriate and policy-based.

## Development of the In-Lieu-Of Surface Water Control Fee

The City within the Combined Sewer Area has opted for a centralized or regionalized approach to managing surface water runoff. Under this approach, the City already has and will continue to build various surface water facilities. In particular, there will be facilities to convey stormwater runoff to stormwater facilities (e.g. detention facilities). These facilities will benefit both existing customers within the Combined Sewer Area but also new development within the area. The purpose of the proposed fee is to assess new development for a portion of these stormwater control facilities, in-lieu-of requiring developers to build their own on-site stormwater facilities. In developing a parcel, the developer will incur a cost for stormwater control facilities, either via the City's proposed in-lieu-of fee for municipal stormwater control facilities or via the cost of building their own on-site control facilities.

**The purpose of the proposed fee is to assess new development for a portion of these municipal storm water control facilities, in-lieu-of requiring developers to build their own on-site control facilities.**

<sup>4</sup> City of Everett, Public Works Director Interim Policy #2-11, Stormwater Control in the Combined Sewer Area, p. 1

At its most basic level, a fee is derived by determining the costs associated with the fee and then dividing that total cost by units of use or consumption. This provides a fee on a \$/unit basis. In this case, the in-lieu-of surface water control fee will be determined by reviewing the capital improvement costs associated with the Combined Sewer Area. The portion of the capital improvement costs assigned to future development is then divided by the total square footage of impervious area anticipated by future development. This will result in a \$/square foot in-lieu-of-fee for municipal surface water control.

**Review of the Total Capital Projects** – A review was undertaken of the capital projects associated with the Combined Sewer Area for the projected time period of 2018 – 2027. In total, there are approximately \$52.2 million in capital projects planned which are of a centralized or regional nature. These projects include conveyance, separation and detention projects which are required in order to have the system operate properly.

**Review of the Projected Total Impervious Surface Area** – A review was undertaken of the parcels within the Combined Sewer Area and the proportion of pervious area that may be converted to impervious area over the next ten years. Based on City estimates, this study estimated that over the next ten years, 20% of the 322 acres would be developed and converted from a pervious surface to an impervious surface. This estimate implies that approximately 64.4 acres or 2.8 million square feet will be converted to impervious area over the ten-year period of 2018 – 2027 and potentially subject to this proposed fee.

**Calculation of the In-Lieu-Of Surface Water Control Fee** - The calculation of the in-lieu-of surface water control fee was derived (calculated) by taking the portion of the capital improvement costs associated with the Combined Sewer Area that was assigned to future development (i.e., future impervious area). This assigned cost was then divided by the total square footage of impervious area anticipated by future development which resulted in the proposed \$/square foot in-lieu-of-fee for surface water controls provided by the City.

Table ES-1 Calculation of the City's In-Lieu-Of Surface Water Control Fee		
Description		Total
Portion of Total CIP Assigned to Future Development <sup>[1]</sup>		\$10,432,000
Est. Total Sq. Feet of Future Impervious Development (Table 4-2)		2,805,264
<b>Calculated In-Lieu-of Surface Water Control Fee</b>		<b>\$3.72/Sq. Ft. <sup>[2]</sup></b>

[1] – The City assigned 20% of the capital costs to be consistent with their estimate of the future development of impervious area in the combined service area (See detail, Section 4, Table 4-2).

[2] – The fee is assessed on a \$/square foot of net new impervious area.

In applying the proposed fee, future development within the Combined Sewer Area may be assessed this fee based upon any net new impervious area added to the parcel. This fee could apply to all new development, but also to an existing developed parcel that expands and adds impervious area.

As a matter of policy, the City may adopt a fee which is equal to or less than the fee as calculated. If the City adopts an in-lieu-of fee which is less than the calculated fee then essentially the recovery of capital costs are shifted to existing rate payers and placed within the City's surface water rates.

## **Administration of the In-Lieu-Of Surface Water Control Fee**

While Table ES-1 provided a calculated fee, there will be certain administrative and policy decisions needed before this fee can be implemented.

**Administration/Assessment of the Fee** – The fee is to apply to parcels within specific sub-basins in the Combined Sewer Area that are a part of the City's CSO<sup>5</sup> program. The option to pay a surface water control fee would not be available to parcels outside of these specific sub-basins in the Combined Sewer Area since these parcels are required to provide their own on-site surface water control facilities.

To better understand the proposed fee, it is important to understand that the vast majority of parcels within the Combined Sewer Area can use these municipal surface water control facilities and forego the need to build any on-site surface water control facilities. The developer will incur a relatively significant cost to provide surface water control facilities for the parcel being developed, whether it is provided (built) on-site by the developer or paid for via the City's municipal system of surface water controls. Stated another way, the payment of the in-lieu-of fee eliminates the need for the developer to incur the cost associated with building and maintaining their own on-site stormwater controls.

**Exemption of Square Footage** – While the in-lieu-of fee is calculated on a square footage basis, the intent of the fee is not to assess every small addition of impervious area (e.g. addition of a small deck, driveway, etc.). For a specific parcel, the City is proposing to exempt the first 200 square feet of impervious area in the assessment of the in-lieu-of fee.

**Mandatory or Voluntary Fee** – As a matter of policy, the City will need to decide whether this fee is mandatory or voluntary. The main argument for making the fee mandatory is the City is making significant investments in infrastructure to provide surface water control facilities. It is unclear what decision a developer may make if given the choice of building their own on-site surface water controls or paying the in-lieu-of fee for municipal surface water controls. In addition, if the fee is mandatory, there may be significant push-back from the development community as it relates to a new fee.

If the fee is voluntary, it is presumed that the developer would carefully consider their options for surface water controls; build on-site or pay the in-lieu-of fee. In the development of this fee, careful consideration was given to the potential cost savings compared to on-site surface water control cost of the developer in relationship of the fee to be charged. As is shown below, the City

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<sup>5</sup> See Exhibit A of the Technical Appendix for a map of the area.

believes the fee is very reasonable and appears to be a cost-effective choice when compared to the potential cost associated with building on-site surface water controls.

<b>Table ES-2</b> <b>Comparison of the Estimated Cost Savings Between Payment of the City's In-Lieu-Of Fee to the Cost of Building of On-Site Surface Water Control Facilities</b>		
Description	Cost Components	Cost <sup>[4]</sup>
<b>Payment of City's Proposed In-Lieu-Of Fee –</b>		
Impervious Area	2,500 sq. ft. <sup>[1]</sup>	
Less: Exempted sq. footage	<u>200 sq. ft.</u> <sup>[2]</sup>	
Net Assessed Area	2,300 sq. ft.	
Calculated In-Lieu-Of Stormwater Control Fee	2,300 s.f. x \$3.72 s.f. =	\$8,556
<b>Construct On-Site Controls (1 ISU/2,500 Sq. Ft.)–</b>		
Vault Cost <sup>[3]</sup>	\$4,510	
Design and Installation Cost <sup>[3]</sup>	<u>6,515</u>	
Total On-Site Control Cost		<u>11,025</u>
Cost Savings Compared to Building On-Site Surface Water Control		\$2,469
% Savings Compared to On-Site Option		22.4%

[1] – 2,500 square feet of impervious area is equal to one (1) impervious surface unit (ISU)

[2] – A parcel's first 200 square feet of impervious area is exempted from the in-lieu-of fee

[3] – Estimates of vault cost, design and installation provided by the City.

[4] – Costs and potential savings will vary based upon the specifics of the parcel and the development

In this case, if the developer chose to pay the in-lieu-of fee, the calculated payment would be \$8,556. In comparison, if the developer built their own on-site stormwater controls, the estimated cost is \$11,025 or \$2,469 greater than the payment of the City's proposed in-lieu-of surface water control fee. Presumably, if this fee were voluntary, the developer would make the correct economic decision and pay the City's in-lieu-of fee and avoid the higher cost of building their own on-site stormwater controls.

A more detailed discussion of the calculation of the in-lieu-of fee can be found in Section 4 of the report.

## Development of the Revised Public Works Policy

As a part of this report, a revised policy has been developed to expressly supersede the existing Public Works Policy #2-11. The policy, as proposed, provides the developer with the option of either building on-site surface water facilities or, alternatively, paying the In-Lieu-Of Surface Water Control Fee and avoiding the requirement to build on-site facilities.

In summary form, the key components of the proposed policy include the following:

- The policy shall apply to all new development and redevelopment within the City’s defined Area.
- All new development and redevelopment in the Area that add a net new total of 200 square feet or more of impervious area, and are required to provide additional surface water controls, shall either:
  - ✓ Build sufficient on-site surface water facilities to properly manage the surface water run-off.
  - ✓ Voluntarily pay the City’s In-Lieu-Of Surface Water Control Fee. Voluntary payment of the In-Lieu-of Surface Water Control Fee shall eliminate the developer’s facility requirements as noted above.
- In-Lieu-Of Surface Water Control Fee Schedule

Customer Type	In-Lieu-Of Surface Water Control Fee
All Customers/ Parcels in CSA	\$3.72/square foot of net new impervious area. <sup>1</sup>

[1] - The first net new total of 200 ft<sup>2</sup> of impervious area is exempt from these fees.

- All In-Lieu-Of Surface Water Control Fees collected shall be specifically used to fund surface water and combined sewer projects within the City’s defined Combined Sewer Area.
- The payment of the In-Lieu-Of Surface Water Control Fee shall not exempt the property from monthly fees (i.e., surface water rates).

A copy of the full proposed policy is contained within Section 5 of this report.

## Summary

A revised and updated Public Works Policy for Surface Water Control in the Combined Sewer Area has been proposed by the City. This report has discussed the policy basis for the updated policy, along with the basis for an in-lieu-of surface water control fee. Adoption of the proposed policy and fee will continue the City’s efforts to reduce CSOs and the risks of property damage and flooding in the Combined Sewer Area.

# 1. Introduction

## 1.1 Introduction

The City of Everett (City) owns and operates a combined utility<sup>6</sup> which includes a surface water utility. The surface water utility is designed to manage stormwater runoff. The surface water management programs are designed to regulate surface water to reduce or prevent flooding and pollution to nearby streams and waterways. As a part of that overall surface water program, the City has a Combined Sewer Area in the north areas of Everett. Heavy storms in the past have caused significant damage to citizen's property and created health concerns. In an effort to address those runoff issues the City has, over a number of years, made significant investments in stormwater separation projects. The remaining improvements in the Combined Sewer Area are largely of a regional or centralized nature.

In 2011, the City implemented a specific Public Works Policy related to stormwater control in the Combined Sewer Area.<sup>7</sup> The existing policy provides a framework for new development or redevelopment to mitigate the risk of property damage and regulatory violations caused by stormwater in the Combined Sewer Area. Given the change in focus to more regional projects, the City has proposed a change in their stormwater control policy in the Combined Sewer Area and at the same time has proposed the development of a new fee to partially fund a portion of the regional or centralized projects. To that end, HDR Engineering, Inc. (HDR) was retained by the City of Everett (City) to assist in the development of a proposed fee for the regional or centralized capital projects. This report reflects the findings, conclusions and recommendations of our review and development of the in-lieu-of surface water control fee.

**“ . . .the City has, over a number of years, made significant investments in stormwater separation projects. The remaining improvements in the Combined Sewer Area are largely of a regional or centralized nature.”**

## 1.2 Report Organization

The report provides a detailed discussion of the general approach and methodology used to review and develop the City's proposed in-lieu-of surface water control fee. Our report is organized as follows:

- Section 2 provides an overview of the City's surface water utility and the issue of combined sewer overflows (CSOs).
- Section 3 reviews the legal and policy basis for the City's proposed in-lieu-of surface water control fee.
- Section 4 reviews the development of the in-lieu-of surface water control fee

<sup>6</sup> The City's combined utility is composed of water, sewer and surface water programs (utilities).

<sup>7</sup> Public Works Director Interim Policy #2-11, Stormwater Control in the Combined Sewer Area.

- Section 5 reviews the development of a revised public works policy for stormwater control in the Combined Sewer Area

Technical appendices are attached at the end of this report, which provide a map of the service area under which this policy applies, and the detailed analyses used in the preparation of this report.

### **1.3 Disclaimer**

HDR, in its calculation of the proposed in-lieu-of surface water control fee has used generally accepted rate and fee setting principles and methodologies. This should not be construed as a legal opinion with respect to Washington State law as it pertains to these fees. HDR recommends that the City have its legal counsel review the proposed in-lieu-of surface water control fee as set forth and recommended in this report to ensure compliance with Washington State law.

### **1.4 Summary**

This report reviews the development of the proposed in-lieu-of surface water control fee study prepared for the City. The report has been developed utilizing data, information, records and key assumptions provided by the City.

## 2. Overview of the City's Surface Water Program and Combined Sewer Overflows (CSOs)

### 2.1 Introduction

The City's surface water utility is designed to manage stormwater runoff. The surface water management programs are designed to regulate surface water to reduce or prevent flooding and pollution to nearby streams and waterways. This section of the report provides an overview of the City's surface water system, the issue of combined sewer overflows (CSOs) and the use of storage of stormwater to help mitigate CSOs. This information should be helpful in understanding the issue of CSOs, the benefit of stormwater storage, separation or other controls and the different ways in which that infrastructure can be provided (i.e., on-site or regionally).

### 2.2 Overview of the City's Surface Water System

The City of Everett, like other cities of its size, is required by the Washington State Department of Ecology to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Stormwater Permit<sup>8</sup> to regulate surface water to reduce and prevent pollution. The City, like most municipalities throughout the Puget Sound region, was built primarily during a time when regulation of surface water and water quality was either limited or didn't exist.

Everett's three watersheds include the Port Gardner Bay Watershed, the Lake Washington Watershed and the Snohomish River Watershed. The rain that hits the City's streets and parking lots and runs off is known as stormwater runoff. Surface water management includes managing stormwater runoff, streams, wetlands and lakes. In the north areas of Everett, most of the water draining from the streets and parking lots is treated at the City's water pollution control facility. However, in other parts of Everett all of the runoff from neighborhood storm drains is carried directly to creeks, ponds, streams and lakes without the benefit of treatment. The ultimate destination of this untreated water is the Puget Sound. The City in recent years has undertaken significant planning and capital infrastructure projects in order to:

**In the north, most of the water draining from the streets and parking lots is treated at the City's water pollution control facility.**

- Better reduce and control flooding and drainage
- Better mitigate, enhance and restore water quality and natural functions within the watersheds
- Identify natural drainage systems and low-impact development techniques to better manage surface water flows and water quality as areas redevelop
- Improve wildlife habitat for upland, riparian and marine animals

The City's efforts and investments in these areas of surface water management continue.

<sup>8</sup> The Public Works Department developed a Stormwater Management Program to meet the requirements of the Western Washington Phase II Municipal Stormwater Permit. The Municipal Stormwater Permit is a requirement of the National Pollutant Discharge Elimination System (NPDES) Permits Program in the Federal Clean Water Act.

## 2.3 Overview of Combined Sewer Overflows

An important starting point for this discussion is understanding what a combined sewer system is, and what a combined sewer overflow (CSO) is. The U.S. Environmental Protection Agency (EPA) provides the following discussion and definition:

*“Combined sewer systems are sewers that are designed to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipe. Most of the time, combined sewer systems transport all of their wastewater to a sewage treatment plant, where it is treated and then discharged to a water body. During periods of heavy rainfall or snowmelt, however, the wastewater volume in a combined sewer system can exceed the capacity of the sewer system or treatment plant. For this reason, combined sewer systems are designed to overflow occasionally and discharge excess wastewater directly to nearby streams, rivers, or other water bodies. These overflows, called combined sewer overflows (CSOs), contain not only storm water but also untreated human and industrial waste, toxic materials, and debris. They are a major water pollution concern for the approximately 772 cities in the U.S. that have combined sewer systems. CSOs may be thought of as a type of “urban wet weather” discharge. This means that, like sanitary sewer overflows (SSOs) and storm water discharges, they are discharges from a municipality’s wastewater conveyance infrastructure that are caused by precipitation events such as rainfall or heavy snowmelt.”<sup>9</sup>*

In very simple terms, under heavy discharge conditions (e.g. wet weather storm events), the combined sewer system is unable to handle the total flow and as a result the excess flow is discharged absent any treatment. Environmentally this is not desirable and systems are now required to minimize CSO events. In the mid-1990s, EPA issued a national policy statement entitled “Combined Sewer Overflow (CSO) Control Policy.” This policy established a consistent national approach for controlling discharges from CSOs to the nation’s waters through the National Pollutant Discharge Elimination System (NPDES). As previously noted, the City is subject to the requirements of the NPDES.

**... under heavy discharge conditions (e.g. wet weather storm events), the combined sewer system is unable to handle the total flow and as a result the excess flow is discharged absent any treatment.**

The EPA’s CSO policy was intended to provide a comprehensive and coordinated planning effort. As described by EPA, “The key elements to CSO control is to:

- Eliminate or relocate overflows that discharge to sensitive areas wherever physically possible and economically achievable, and where not possible, provide treatment necessary to meet WQS for full protection of existing and designated uses.
- Coordinate the review and appropriate revision of water quality standards and implementation procedures on CSO-impacted waters with development of long-term CSO control plans.

<sup>9</sup> U.S. EPA; <https://www3.epa.gov/region1/eco/uep/cso.html>

- Evaluate a reasonable range of alternatives for the CSO control plan that could achieve the necessary level of control/treatment, and select the controls to be implemented based on cost/performance evaluations.
- Develop an implementation schedule based on the relative importance of adverse impacts on WQS and designated uses, priority projects identified in the long-term plan LTCP, and on the permittee's financial capability.
- Maximize treatment of wet weather flows at the existing POTW treatment plant."<sup>10</sup>

As can be seen, EPA requires those municipalities subject to NPDES to develop a detailed control plan to address CSOs. As noted previously, the City is subject to the requirements of the NPDES.

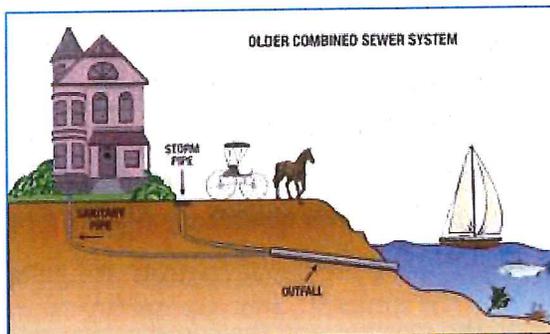
## 2.4 City of Everett Combined Sewer System

The City of Everett's surface water system is comprised of a southern system and a northern system. The City provides the following discussion of their combined sewer system in the north end of the City:

*"The combined sewer system in the north end of the city was largely constructed between 1890 and 1963. The system was designed to convey sewage, horse manure, street and rooftop runoff, and garbage from city streets to the nearest receiving body of water.*

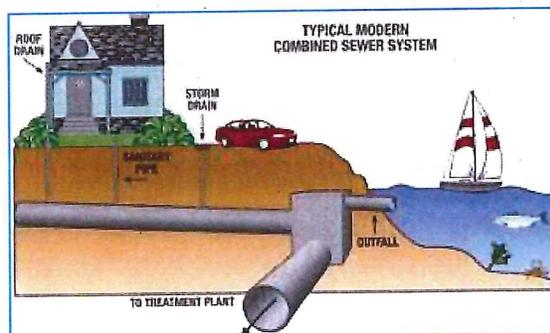
### Old System

Prior to 1960, the combined sewer system discharged directly to Port Gardner Bay and the Snohomish River through numerous outfalls without treatment. A system of gravity sewers, lift stations, force mains, and regulators was constructed in the early 1960s to intercept these outfalls and convey the sewage to treatment lagoons. The interceptor sewers and lift stations were sized to accommodate all of the dry-weather flows and part of the stormwater runoff. Excess combined sewage resulting from stormwater, overflows either to Port Gardner Bay or the Snohomish River.



### Advantages of New System

The advantage of the combined sewer system is that, most of the time when rainfall is low to moderate; both the storm water and waste water go to the treatment plant before being discharged to Puget Sound. The disadvantage is that during heavy rains, untreated stormwater and waste water may be discharged at combined sewer outfall locations."<sup>11</sup>



<sup>10</sup> U.S. EPA, NPDES Compliance Inspection Manual Chapter 12, January 2017, p. 283.

<https://www.epa.gov/sites/production/files/2017-03/documents/npdesinspect-chapter-12.pdf>

<sup>11</sup> City of Everett website: <https://everettwa.gov/614/Causes-of-Combined-Sewer-Overflows>

As is noted above, the new system helps to significantly minimize CSOs, but does not totally eliminate them. The City has made significant progress in reducing combined sewer overflows (CSO) during the first 20 years of the CSO Reduction Program. The annual CSO volume has been reduced by 95% since 1987.<sup>12</sup>

## 2.5 Control of Surface Water Runoff

Generally speaking, the goal of a CSO control project is to manage runoff until storms subside and flows can be routed to sewage-treatment plants. A common conventional method for

**Investments in on-site storage basins or regional storage basins help to manage and mitigate CSO events.**

managing stormwater is a stormwater basin. Basins are meant to collect stormwater runoff and slowly release it at a controlled rate. The basins themselves are important for storing and slowing (attenuating) the runoff from impervious surfaces such as rooftops or pavement. The amount of treatment, or cleaning, of the water is limited. Investments in on-site storage basins or regional storage basins help to manage and mitigate CSO events.

## 2.6 Regional Versus On-Site Control of Surface Water Runoff

There are benefits to regional controls versus privately owned and operated on-site controls. The advantages to regional controls include:

- Planned and coordinated regional project versus an individual, piecemeal, approach
- Reduced construction costs (i.e., economies of scale)
- Reduced long-term operating and maintenance costs
- Higher assurance of proper and adequate maintenance
- Improved water quality

The advantages of regional controls are balanced against the disadvantages of the need for acquisition of sufficient and appropriate land, the up-front capital costs needed to build and operate the facilities and the coordination with multiple property owners. Overall, the benefits of regional controls are generally found to outweigh the disadvantages.

## 2.7 Summary

This section of the report has provided an overview of the City's surface water system, the issue of combined sewer overflows (CSOs) and the use of regional controls of stormwater as a cost-effective means of helping to mitigate CSOs. The next section of the report will discuss the City's policy basis for the proposed in-lieu-of fee.

<sup>12</sup> City of Everett website: <https://everettwa.gov/593/Reduction-Program>

## 3. Legal and Policy Basis for the City's In-Lieu-Of Surface Water Control Fee

### 3.1 Introduction

An important consideration in establishing any fee is the policy basis around which the fee is being proposed. At the same time, consideration must be given to any legal requirements. This section of the report will discuss the policy basis for the City's proposed in-lieu-of surface water control fee and the legal requirements under Washington State law.<sup>13</sup>

### 3.2 Legal Requirements Under Washington State Law

The in-lieu-of surface water control fee is not a connection fee, but rather an in-lieu-of fee for the cost of surface water control, which the developer would otherwise incur by having to build their own on-site controls.

Section 35.92.020 provides to the City the authority to "fix the price of service and facilities . . . for sewerage systems . . ." Specifically, it reads as follows:

#### **RCW 35.92.020**

***Authority to acquire and operate sewerage and solid waste handling systems, plants, sites, or facilities—Classification of services and facilities for rates—Assistance for low-income persons.***

*(1) A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage as defined in RCW 35.67.010, or solid waste handling as defined by RCW 70.95.030. A city or town shall have full authority to manage, regulate, operate, control, and, except as provided in subsection (3) of this section, to fix the price of service and facilities of those systems, plants, sites, or other facilities within and without the limits of the city or town.*

As referenced in Section 35.92.020, the definition of a "sewerage system" is provided in Section 35.67.010 and it specifically defines a system of sewerage as follows:

#### **RCW 35.67.010**

***Definitions—"System of sewerage," "public utility."***

*A "system of sewerage" means and may include any or all of the following:*

*(1) Sanitary sewage collection, treatment, and/or disposal facilities and services, on-site or off-site sanitary sewerage facilities, inspection services and maintenance services for public or private on-site systems, or any other means of sewage treatment and disposal approved by the city;*

<sup>13</sup> This section of the report provides an abbreviated summary of HDR's understanding of the relevant Washington State law and this should not be interpreted as providing a legal opinion as it relates to establishing the City's proposed in-lieu-of surface water control fee.

- (2) Combined sanitary sewage disposal and storm or surface water sewers;
- (3) Storm or surface water sewers;** [emphasis added]
- (4) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;
- (5) Combined water and sewerage systems;
- (6) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a city or town;
- (7) Public restroom and sanitary facilities; and
- (8) Any combination of or part of any or all of such facilities.

The words "public utility" when used in this chapter has the same meaning as the words "system of sewerage."

Based upon the sections cited above, it would appear that the City has broad legal authority under Washington State law to establish rates and fees associated with the surface water utility. Given this broad authority, the City should calculate and set in-lieu-of surface water control fees, which have a clear policy basis, are cost-based and reasonable.

### 3.3 System Planning Criteria as a Policy Basis for the Fee

The use of system planning criteria is one of the more important aspects in the determination of any utility fee. System planning criteria provides the rational nexus between the amount of infrastructure necessary to provide service and the charge to the customer. The rational nexus test requires that there be a connection (nexus) established between new development and the new or expanded facilities required to accommodate new development, and appropriate apportionment of the cost to the new development in relation to benefits reasonably received.

To comply with the rational nexus test the calculated fees require the following:

1. *"A connection be established between new development and the new or expanded facilities required to accommodate such development. This establishes the rational basis of public policy.*
2. *Identification of the cost of these new or expanded facilities needed to accommodate new development. This establishes the burden to the public of providing new facilities to new development and the rational basis on which to hold new development accountable for such costs. This may be determined using the so-called Banberry factors. [Banberry Development Company v. South Jordan City (631 P.2d 899, Utah 1981)].*
3. *Appropriate apportionment of that cost to new development in relation to benefits it reasonably receives. This establishes the nexus between the fees being paid to finance new facilities that accommodate new development and benefit new development receives from such new facilities."*<sup>14</sup>

<sup>14</sup> Arthur C. Nelson, System Development Charges for Water, Wastewater, and Stormwater Facilities, Lewis Publishers, New York, 1995, p. 16 and 17.

The first bullet of the rational nexus test requires the establishment of a rational basis of public policy. This implies the planning and capital improvement studies that are used to establish the need for the facilities. Adopted master plans or facility plans should firmly meet this first test since these plans assess existing facilities and project future requirements and determine the future capital infrastructure and new facilities needed to accommodate new development.

### **3.4 City Public Works Policy #2-11 – Stormwater Control in the Combined Sewer Area**

On August 17, 2011, Public Works Policy #2-11 was signed by the City's Director of Public Works. The background to the development and signing of this policy was heavy storm events which caused localized surges in the City's combined sewer system, along with flooding of basements and streets in the Combined Sewer Area. The City acknowledges that the "flooding has been disruptive for its citizens, causing damage to homes, creating health concerns and imposing a financial burden on the rate-based utility. Controlling stormwater discharges to the combined sewer system would mitigate these impacts."<sup>15</sup>

The City's Public Works Director is authorized to adopt rules and procedures to implement chapters 14.56, Surface Water System, and 14.28 Surface and Storm Drainage. Public Works Policy #2-11 modified the City's Design and Construction Standards and Specifications (Section 4: Storm and Surface Water) and the City's 2010 Stormwater Management Manual by making application of the stormwater manual mandatory in the combined sewer area. Public Works Policy #2-11 specified the following:

***"INTERIM POLICY:*** *The following interim policy shall apply to all new development and redevelopment that creates and/or redevelops a total of 2,000 sq. ft. or more of impervious area:*

- 1. Stormwater in the combined sewer area shall be controlled according to the requirements in the City's 2010 Stormwater Management Manual, with the exception of Minimum Requirement #6 – Runoff Treatment and in Minimum Requirement #7 – Flow Control, the term "a forested land cover" shall be replaced by "the existing site conditions", provided that the resulting stormwater flow shall not increase Combined Sewer Overflows (CSOs) and/or basement flooding in the combined sewer area.*
- 2. The cost of stormwater controls that are required in addition to requirements of the Stormwater Management Manual will be credited against the project's sewer connection charge (EMC 14.08.135). The amount credited shall be based on a bid amount for the additional controls provided to the City by the developer.*
- 3. No connections of roof drains to side sewers or laterals shall be allowed without prior approval of the Director."<sup>16</sup>*

The above policy applies to all applications for project permits submitted after the effective date of the policy (September 17, 2011). The policy is to remain in effect until the Director terminates it in writing or issues a policy expressly superseding the interim policy. In summary, Interim Policy

<sup>15</sup> City of Everett, Public Works Director Interim Policy #2-11, Stormwater Control in the Combined Sewer Area, p. 1

<sup>16</sup> Ibid., p. 2.

#2-11 is intended to reduce stormwater discharges to the combined sewer system and aid in lessening future combined flows throughout the entire combined area.

### **3.5 Terminating Policy #2-11 and Establishing a New Policy and Fee**

As noted above, Public Works Policy #2-11 shall remain in effect until it is terminated or superseded. The City is proposing that Public Works Policy #2-11 be terminated and replaced with a new policy. The new policy establishes a new surface water fee to be collected which shall be dedicated to specifically fund stormwater and combined sewer projects in the combined sewer area.

The City has completed several capital facilities stormwater separation projects, the Backwater Valve Program (BWV) and Green Stormwater Infrastructure (GSI) such as rain gardens, pervious pavement and downspout disconnection programs, which have substantially reduced the risk of property damage and flooding in specific sub-basins in the combined sewer area as depicted in Exhibit A of the Technical Appendix. The City thus recommends that Public Works Policy #2-11 be terminated and replaced by a new policy. The new policy would apply to all development and

**The remaining improvements needed for the City's combined sewer system are now largely of a "regional or centralized" nature.**

redevelopment proposals in the combined sewer area as defined and depicted in the City's current combined sewer area map. The remaining improvements needed for the City's combined sewer system are now largely of a regional or centralized nature. Thus, establishing a fee to provide funding for regional or centralized capital infrastructure projects appears reasonable, appropriate and policy-based. The next section of the report will review and

discuss the development of the proposed fee. The final section of the report will discuss the development of the specific policy language for the revised policy and the establishment of the fee.

### **3.6 Summary**

This section of the report reviewed the legal basis for establishing surface water fees, along with the need for a clear policy basis for any proposed fees. The City has an existing policy statement related to stormwater controls in the combined sewer area. The City is proposing the termination of the existing Public Works Policy #2-11 and replacing it with a new policy statement and a fee to fund regional or centralized improvements within the combined sewer system. The next section of the report provides a detailed discussion of the specific calculation of the proposed in-lieu-of surface water control fee for the City.



## 4. Calculation of the In-Lieu-Of Surface Water Control Fee

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### 4.1 Introduction

The previous section of the report discussed the City's Public Works Policy #2-11, which was adopted to mitigate the risk of property damage and regulatory violations caused by stormwater in the Combined Sewer Area. The City proposes to terminate the existing policy and to establish a new policy and associated fee. The proposed new fee is related to the City's capital projects within the Combined Sewer Area, which are of a regional or centralized nature. This section of the report will review the development of this proposed fee.

### 4.2 Basis for the In-Lieu-Of Surface Water Control Fee

As noted in Subsection 2.6, regional control facilities are a cost-effective means of managing stormwater runoff to minimize combined sewer overflows (CSOs) while also mitigating the risk of property damage and regulatory violations. While similar benefits may be achieved through individual on-site stormwater controls, there are a number of challenges posed by that particular solution. Parcels within the same basin may share similar stormwater problems, but typically, the least effective method of addressing this is to require each parcel to have an on-site control facility. Under that approach, each parcel must have sufficient space to accommodate an on-site control facility, and then, each on-site control facility must be properly maintained by the parcel owner.

The City within specific basins in the Combined Sewer Area has opted for a centralized or regionalized approach to managing surface water runoff. Under this approach, the City already has and will continue to build various surface water facilities. In particular, there will be facilities to convey stormwater runoff to stormwater control facilities (e.g. detention facilities). These facilities will benefit both existing customers within the Combined Sewer Area but also new development within the area.

### 4.3 Determination of the In-Lieu-Of Surface Water Control Fee

At its most basic level, a fee is derived by determining the costs associated with the fee and then dividing that total cost by units of use or consumption. This provides a fee on a \$/unit basis. In this case, the in-lieu-of surface water control fee will be determined by reviewing the capital improvement costs associated with the Combined Sewer Area. This cost will ultimately be shared between existing rate payers and future development. The portion of the capital improvement costs assigned to future development is then divided by the total square footage of impervious area anticipated by future development. This will result in a \$/square foot in-lieu-of-fee for surface water control facilities.

The above discussion has provided an overview of the general approach to be used to calculate the in-lieu-of surface water control fee. Provided below is a more detailed discussion of the development of the in-lieu-of surface water control fee.

**Review of the Total Capital Projects** – The City, as a part of the development of their surface connection fee developed a detailed list of surface water capital improvement projects. These projects related to the planned improvements for the City’s entire surface water service area. This list of capital projects was for the ten-year time period of 2018 – 2027 and totaled approximately \$65.3 million<sup>17</sup>. The list of capital projects became the starting point for the development of the costs associated with the in-lieu-of fee for the Combined Sewer Area.

From the referenced list of surface water capital projects for the entire City, a list of capital projects was extracted which related only to Combined Sewer Area and, more specifically, projects of an area wide or regional nature. Provided below in Table 4-1 is a summary of the total capital improvement projects for the Combined Sewer Area for 2018 – 2027 which were used within the development of the in-lieu-of surface water control fee.

**Table 4-1  
Summary of the Capital Improvement Projects; 2018 - 2027 <sup>[1]</sup>**

Project Description	Combined Sewer Area Total Project Cost
Alverson Stormwater Separation	\$1,540,000
Cleveland Avenue (S.W. Portion – 56%)	3,020,000
Downtown Stormwater Separation	10,000,000
Grand Avenue Park Bridge (SW Portion 33%)	3,700,000
Grand Avenue Utilities Replacement (SW Portion 33%)	2,620,000
Legion G.C. Detention	1,810,000
Port Gardner Wet Weather Storage (K/C Site) (67%)	18,370,000
SRO 7 & 8 Basin Separation & GSI	1,370,000
West Marine View Dr. Stormwater Conveyance	4,670,000
Wetmore Stormwater Separation	<u>5,060,000</u>
<b>Total Capital Improvement Projects</b>	<b>\$52,160,000</b>

[1] – Capital improvement project listing provided by the City based upon the City 2018 – 2027 CIP plan.

As can be seen in Table 4-1, the total projects for the ten-year period is approximately \$52.2 million. These projects include conveyance, separation and detention projects, which are required in order to have the system operate properly.

In viewing Table 4-1, it is important to understand that the in-lieu-of fee will not fully fund these capital projects. Rather, the total costs of the capital improvement projects will be shared between existing rate payers and new development. This aspect of the calculation of the fee is discussed in more detail below.

A more detailed exhibit of Table 4-1 and the capital improvement projects included within the in-lieu-of surface water control fee can be found on Exhibit 1 of the Technical Appendix.

<sup>17</sup> See Table 6 – 3, City of Everett, Development of Water, Sewer and Surface Water Connection Fees, Draft Final, June 2018.

**Review of the Projected Total Impervious Surface Area** – In developing the in-lieu-of surface water control fee, the amount of future impervious area within the Combined Sewer Area must be estimated (projected). The City provided to HDR their estimate of the total area to be converted from pervious to impervious. This estimate is summarized and shown below in Table 4-2.

<b>Table 4-2 City's Estimate of the Total Impervious Development; 2018 – 2027</b>		
Description	Acres Estimate	Source
Total Parcels	552 Acres	City Data Provided
Total Impervious Parcels	230 Acres	City Data Provided
Total Pervious Parcels	322 Acres	
Est. % Change in Pervious to Impervious (2018 – 2027)	20.0%	City Estimate [1]
Acres Converted from Pervious to Impervious (2018 – 2027)	64.4 Acres	
<b>64.4 Acres Converted to Total Square Feet</b>	<b>2,805,264 Sq. Ft.</b>	

[1] – City growth/development estimate and conversion of pervious to impervious surface within the Combined Sewer Area provided by the City of Everett

Table 4-2 has reviewed the parcel data for the Combined Sewer Area and determined that approximately 42% of the total acreage is currently impervious area. This translates to approximately 322 acres of total area that is not impervious, but instead pervious<sup>18</sup>. The City then estimated that over the next ten years, 20% of the 322 acres would be developed and converted from a pervious surface to an impervious surface. This estimate implies that approximately 64.4 acres or 2.8 million square feet will be converted to impervious area over the ten-year period of 2018 – 2027.

The technical exhibit associated with this estimate of the total acres and square footage to be developed into impervious area over the 2018 – 2027 time period can be found on Exhibit 2 of Technical Appendix.

**Calculation of the In-Lieu-Of Surface Water Control Fee** – As noted in the introduction to this section, the calculation of the in-lieu-of surface water control fee is derived (calculated) by taking the portion of the capital improvement costs associated with the Combined Sewer Area that is to be assigned to future development (i.e., future impervious area). This assigned cost when divided by the total square footage of impervious area anticipated by future development results in the proposed \$/square foot in-lieu-of-fee for surface water control facilities. This calculation is summarized below in Table 4-3.

<sup>18</sup> A pervious surface is a surface material that water can infiltrate into or percolate through.

**Table 4-3  
Calculation of the City's In-Lieu-Of Surface Water Control Fee**

Description		Total
<b>Step 1 – Assign Portion of Total CIP to Future Development</b>		
Total Surface Water Capital Improvements (Exh. 4-1)		\$52,160,000
Portion of CIP Assigned to Existing Rate Payers	80.0%	\$41,728,000
<b>Portion of CIP Assigned to Future Development</b>	<b>20.0% <sup>[1]</sup></b>	<b>\$10,432,000</b>
<b>Step 2 – Calculate the In-Lieu-Of Fee</b>		
Portion of Total CIP Assigned to Future Development		\$10,432,000
Est. Total Sq. Feet of Future Impervious Development (Exh. 4-2)		2,805,264
<b>Calculated In-Lieu-of Surface Water Control Fee</b>		<b>\$3.72/Sq. Ft. <sup>[2]</sup></b>

[1] – The City assigned 20% of the capital costs to be consistent with their estimate of the future development of impervious area in the combined service area (Exhibit 4-2)

[2] – The fee is assessed on a \$/square foot of net new impervious area

As can be seen in Table 4-3, the portion of the total capital costs assigned to new development was 20% of the total capital costs, or \$10,432,000. This amount is then divided by the estimated or anticipated new development, stated in square footage, for the ten-year period of 2018 – 2027. An in-lieu-of surface water control fee of \$3.72/square feet of net new impervious area was derived from the costs, projections and assumptions used.

In applying the fee, future development within the Combined Sewer Area may be assessed this fee based upon any net new impervious area added to the parcel. This fee could apply to all new development, but also to an existing developed parcel that expands and adds impervious area.

As a matter of policy, the City may adopt a fee which is equal to or less than the fee as calculated. If the City adopts an in-lieu-of fee which is less than the calculated fee then essentially the recovery of capital costs are shifted to existing rate payers and placed within the City's surface water rates.

#### **4.4 Administration of the In-Lieu-Of Surface Water Control Fee**

Table 4-3 indicated that the calculated in-lieu-of surface water control fee was \$3.72/square foot of any net new impervious area. This subsection will discuss the administration of the fee and policy decisions on the part of the City related to the fee.

**Administration/Assessment of the Fee** – The fee is to apply to parcels within specific basins in the Combined Sewer Area, as shown in Exhibit A, that are a part of the City's CSO program. The fee would not be assessed to parcels outside of these basins since these parcels are required to provide their own on-site surface water control facilities.

To better understand the proposed fee, it is important to understand that the vast majority of parcels within these basins can use these regional conveyance and storage facilities and forego the need to build any on-site surface water control facilities. The developer will incur a relatively significant cost to provide stormwater control facilities for the parcel being developed, whether it is provided (built) on-site by the developer or paid for via the City's regional system of control facilities. Stated another way, the payment of the in-lieu-of fee eliminates the need for the developer to incur the cost associated with building their own on-site control facilities and then properly maintaining it over time.

**Exemption of Square Footage** – While the in-lieu-of fee is calculated on a square footage basis, the intent of the fee is not to assess every small addition of impervious area (e.g. addition of a small deck, driveway, etc.). Administratively, that would likely be untenable. Given that, for a specific parcel, the City has proposed an exemption on the first 200 square feet of impervious area in the assessment of the in-lieu-of fee.

**Mandatory vs. Voluntary Fee** – As a matter of policy, the City will need to decide whether this fee is mandatory or voluntary. The main argument for making the fee mandatory is the City is making significant investments in infrastructure to provide surface water control facilities. It is unclear what decision a developer may make if given the choice of building their own on-site control facilities or paying the in-lieu-of fee for regional control facilities. If developers decide to build their own on-site control facilities, presumably at a lower cost than the fee, then the City will potentially have some stranded investment since regional facilities are sized and designed for the potential stormwater run-off absent significant on-site controls. In addition, if the fee is mandatory, there may be significant push-back from the development community as it relates to a new fee.

If the fee is voluntary, it is presumed that the developer would carefully consider their options for control facilities; build on-site or pay the in-lieu-of fee. In the development of this fee, careful consideration was given to the potential cost savings compared to on-site control facilities' cost to the developer in relationship of the fee to be charged. As is shown below, the City believes the fee is very reasonable and appears to be a cost-effective choice when compared to the potential cost associated with building on-site control facilities.

**Table 4-4  
Comparison of the Estimated Cost Savings Between Payment of the City's  
In-Lieu-Of Fee to the Cost of Building of On-Site Control Facilities**

Description	Cost Components	Cost <sup>[4]</sup>
<b>Payment of City's Proposed In-Lieu-Of Fee –</b>		
Impervious Area	2,500 sq. ft. <sup>[1]</sup>	
Less: Exempted sq. footage	<u>200 sq. ft.</u> <sup>[2]</sup>	
Net Assessed Area	2,300 sq. ft.	
Calculated In-Lieu-Of Control Fee	2,300 s.f. x \$3.72 s.f. =	\$8,556
<b>Construct On-Site Control Facilities (1 ISU/2,500 Sq. Ft.)</b>		
Vault Cost <sup>[3]</sup>	\$4,510	
Design and Installation Cost <sup>[3]</sup>	<u>6,515</u>	
Total On-Site Control Facilities Cost		<u>11,025</u>
Cost Savings Compared to Building On-Site Control Facilities		\$2,469
% Savings Compared to On-Site Option		22.4%

[1] – 2,500 square feet of impervious area is equal to one (1) impervious surface unit (ISU)

[2] – A parcel's first 200 square feet of impervious area is exempted from the in-lieu-of fee

[3] – Estimates of vault cost, design and installation provided by the City.

[4] – Costs and potential savings will vary based upon the specifics of the parcel and the development

As Table 4-4 illustrates, the cost for on-site control facilities includes the cost of the design, the vault, and the installation of the system. In Table 4-4, the costs were compared for a development of 2,500 square feet of net new impervious area. For purposes of connection fees, 2,500 square feet of impervious area is the City's definition of one (1) impervious surface unit and provides a common point of reference for this comparison. In this case, if the developer chose to pay the in-lieu-of fee, the calculated payment would be \$8,556. In comparison, if the developer built their own on-site control facilities the estimated cost is \$11,025 or \$2,469 greater than the payment of the City's proposed in-lieu-of surface water control fee. Presumably, if this fee were voluntary, the developer would make the correct economic decision and pay the City's in-lieu-of fee and avoid the higher cost of building their own on-site control facilities.

Attached as Exhibit 4 is a more detailed exhibit of the cost savings compared to on-site control facilities' cost for various net new impervious areas. As this exhibit shows, even at larger impervious surface areas, the in-lieu-of fee still appears to be a cost-effective option for the developer.

## 4.5 Summary

This section of the report has discussed the calculation of the in-lieu-of surface water control fee. The calculated fee provides a reference point for the other key policy decisions needed for the potential implementation of this fee.

The next section of the report discusses the development of a new Public Works Policy to replace the existing Public Works Policy #2-11.



## 5. Development of the Revised Policy

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### 5.1 Introduction

The previous sections of the report discussed the issue of stormwater management and combined sewer overflows within the City's Combined Sewer Area. The City has a specific policy in place which addresses stormwater control in the Combined Sewer Area. The City has proposed a new policy and fee to expressly supersede the existing Public Works Policy #2-11. The City's proposed (revised) policy was developed and drafted by the City. This section of the report will provide a discussion of the specific policy being proposed by the City and the incorporation of the in-lieu-of surface water control fee within that policy.

### 5.2 Development of the Revised Policy

Provided below is the specific language recommended for the updated Public Works Policy for the Combined Sewer Area and the proposed In-Lieu-Of Surface Water Control Fee. The prior two sections of this report have provided the legal, policy and cost-basis for this proposed policy and fee. The proposed policy language as developed by the City is as follows:

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#### **Stormwater Control in the Combined Sewer Area**

##### **Public Works Policy # \_\_\_\_\_; Supersedes Public Works Policy #2-11**

This policy shall apply to all new development and redevelopment, within the Combined Sewer Area, that creates and/or redevelops a net new total of 200 square feet or more of impervious area:

1. New development or redevelopment in the Combined Service Area may be required to provide additional storm water controls such that the resulting flow does not result in an increase in Sanitary Sewer Overflows (SSOs) and/or basement flooding in the Combined Sewer Area.
2. All new developments and redevelopments in the Combined Sewer Area that add a net new total of 200 square feet or more of impervious area, and are required to provide additional controls, shall either:
  - a) Build sufficient on-site surface water facilities to properly manage the surface water run-off. If Public Works determines that the downstream conveyance capacity is inadequate, the developer shall provide on-site stormwater Best Management Practices (BMPs) as described in Minimum Requirement (MR) 5 and shall provide flow control measures in conformance with the methodologies established in MR 7 as listed in the City's current Stormwater Management Manual. In MR 7 – Flow Control; the term “a forested land cover” shall be replaced by “lawn land cover” also, the “Thresholds” section shall not apply, and shall be replaced with the thresholds listed herein.

- b) Voluntarily pay the City's In-Lieu-of Surface Water Control Fee as listed in the schedule below. Voluntary payment of the In-Lieu-of Surface Water Control Fee shall eliminate the developer's facility requirements as stated in 2.a. above.
- 3. Public Infrastructure development/redevelopment (such as road and utility construction) within the Public Right of Way is exempt from this fee.
- 4. No connections of roof drains to side sewers or laterals shall be allowed without prior approval by the Director.
- 5. In-Lieu-Of Surface Water Control Fee Schedule

Customer Type	In-Lieu-Of Surface Water Control Fee
All Customers/ Parcels in Combined Sewer Area	\$3.72/square foot of net new impervious area. <sup>1</sup>

[1] - The first net new total of 200 ft<sup>2</sup> of impervious area is exempt from these fees.

- 6. All in-lieu-of surface water control fees collected shall be held in a fund specifically for stormwater and combined sewer projects related to the "Exhibit A" area and may be used to pay for capital projects within the Combined Sewer Area and any outstanding debt associated with those capital projects.
- 7. Such contributions shall not exempt property from monthly stormwater fees (i.e., surface water rates) used for operations, maintenance and capital construction not covered by this fee.

**Effective Date of Combined Sewer Area In-Lieu-Of Surface Water Control Fee Policy**

This policy applies to all applications for project permits submitted after the effective date of the policy. The policy shall take effect on the date signed by the City and it will remain in effect until the date the City terminates it in writing or issues a policy expressly superseding this policy. The In-Lieu-Of Surface Water Control Fee policy and fee schedule may be updated periodically by the City, at their discretion.

In viewing the above policy it is important to note a few items. First, this policy entirely and expressly supersedes Policy #2-11. Next, this policy only relates to new development and redevelopment within the Combined Sewer Area (see Exhibit A map within the Technical Appendices). The policy is designed to be a voluntary fee in which the developer is given the choice of either paying for on-site improvements on their parcel (e.g., on-site surface water facilities) or in lieu of making on-site improvements, pay the In-Lieu-Of Surface Water Control Fee. In the development of this fee, consideration was given to the costs associated with on-site improvements versus paying the In-Lieu-Of Surface Water Control Fee.

While the In-Lieu-Of Surface Water Control Fee is voluntary, the amount of the fee is very competitive to the alternative cost the developer would incur to build on-site facilities. Exhibit 4 of the Technical Appendices provides a comparison of the cost of on-site development versus



payment of the fee for various sizes lots/parcels. This exhibit illustrates that, from a pure economic decision perspective a developer, in the vast majority of instances, would appear to incur lower development costs and save money by paying the City's In-Lieu-Of fee. In addition, the economic benefit to the parcel of not having to use a portion of the parcel's area for on-site facilities frees-up that portion of the parcel for other potential uses. Finally, the parcel owner would not incur any maintenance costs associated with on-site control facilities. It is from that perspective that the City believes this fee is reasonable. In summary, the City has invested significantly in facilities in the Combined Sewer Area and the proposed fee is an equitable method of assessing new development and redevelopment for the proportional use of those facilities and its capacity.

The above policy statement is for discussion purposes only and should not be construed as the official or adopted Public Works Policy of the City. The City Council or the Public Works Director will need to take action on a formal policy document. The final proposal may vary from the policy statement provided above.

### **5.3 Summary**

A revised and updated Public Works Policy for Stormwater Control in the Combined Sewer Area has been proposed by the City. This report has discussed the policy basis for the updated policy, along with the basis for an in-lieu-of surface water control fee. Adoption of the proposed policy and fee will continue the City's efforts to reduce CSOs and the risks of property damage and flooding in the Combined Sewer Area.

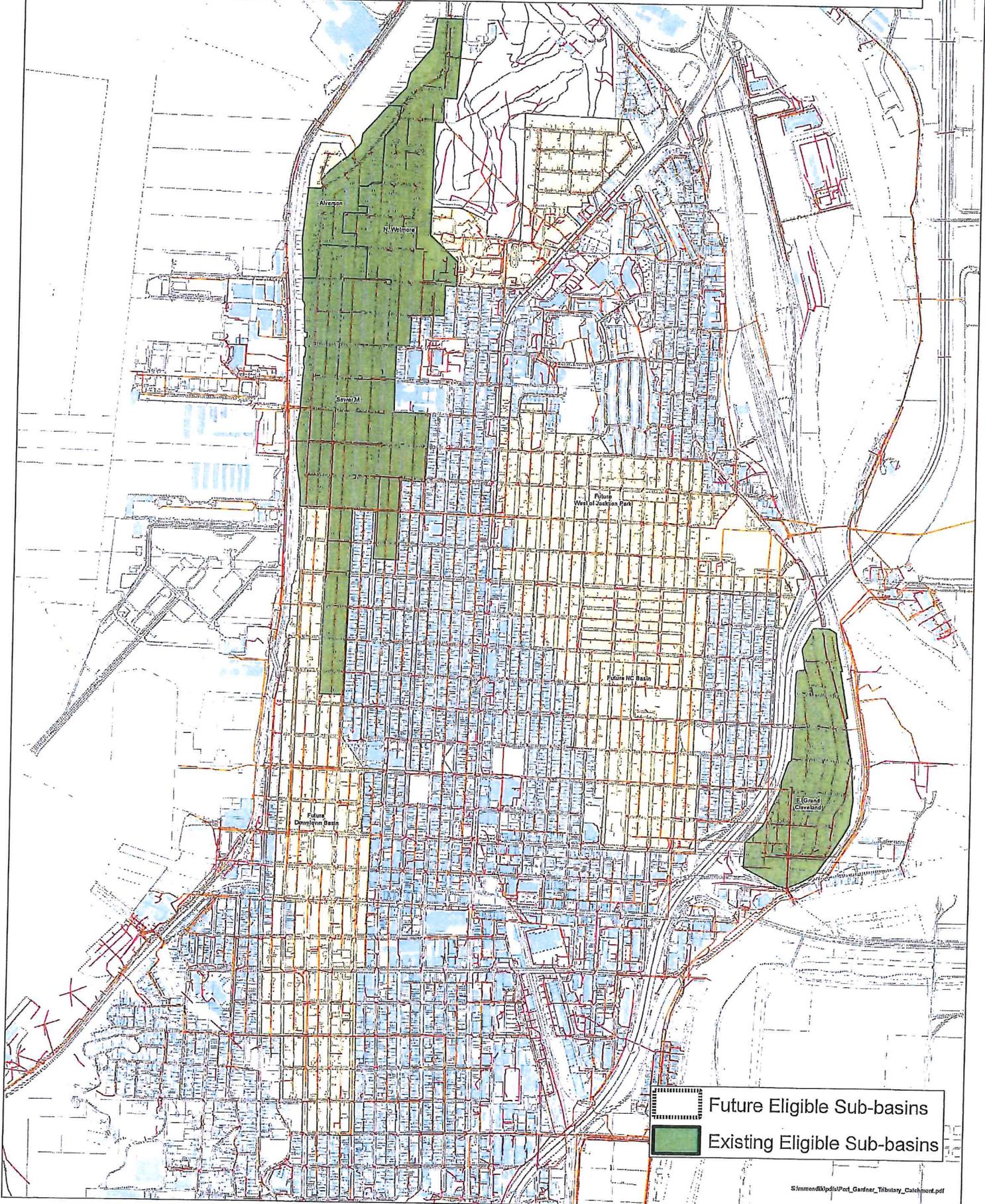


## Exhibit A – Map of Service Area

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# Exhibit A

## Areas Eligible for In Lieu-of Surface Water Control Fee



- Future Eligible Sub-basins
- Existing Eligible Sub-basins



## Technical Appendix – In-Lieu-Of Fee Exhibits

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City of Everett  
 Surface Water In-Lieu-Of Surface Water Control Fee  
 Exhibit 1  
 Capital Improvement Projects

Capital Improvement Projects (1)	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
Alverson Stormwater Separation	\$140,000	\$1,400,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,540,000
Cleveland Ave - (SW Portion 56%)	2,200,000	820,000	0	0	0	0	0	0	0	0	3,020,000
Downtown Stormwater Separation (New)	0	0	0	0	0	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	10,000,000
Grand Ave Park Bridge - (SW Portion 33%)	3,420,000	280,000	0	0	0	0	0	0	0	0	3,700,000
Grand Ave Utilities Replacement (SW Portion 33%) (New)	0	20,000	100,000	1,200,000	1,300,000	0	0	0	0	0	2,620,000
Legion G.C. Detention	1,810,000	0	0	0	0	0	0	0	0	0	1,810,000
Port Gardner Wet Weather Storage (K/C Site) (67%)	100,000	4,670,000	0	1,600,000	2,000,000	5,000,000	0	5,000,000	0	0	18,370,000
SRO 7 & 8 Basin Separation & GSI (New)	70,000	300,000	500,000	500,000	0	0	0	0	0	0	1,370,000
West Marine View Dr Stormwater Conveyance	0	0	0	670,000	0	2,000,000	2,000,000	0	0	0	4,670,000
Wetmore Stormwater Separation	4,560,000	500,000	0	0	0	0	0	0	0	0	5,060,000
<b>Total Capital Improvement Projects</b>	<b>\$12,300,000</b>	<b>\$7,990,000</b>	<b>\$600,000</b>	<b>\$3,970,000</b>	<b>\$3,300,000</b>	<b>\$9,000,000</b>	<b>\$4,000,000</b>	<b>\$7,000,000</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$52,160,000</b>

Notes

(1) - Capital improvement project listing provided by the City based on the City 2018 to 2027 CIP plan.

City of Everett  
 Surface Water In-Lieu-Of Surface Water Control Fee  
 Exhibit 2  
 Total Units Impervious Square Feet Over Next Ten Years

Description	Acres Estimate	Source
Total Parcels	552 Acres	City date provided
Total Impervious Parcels	230 Acres	City date provided
Total Pervious Parcels (1)	322 Acres	
Est. % Change Pervious to Impervious (2018 - 2027)	20.0%	City estimate (1)
Acres Converted from Pervious to Impervious (2018 - 2027) (2)	64.4 Acres	
<b>Acres Converted to Square Feet</b>	<b>2,805,264</b> Sq. Ft.	

**Notes**

- (1) - City growth/development estimate and conversion of pervious to impervious surface water within the Combined Sewer Area provided by the City of Everett.
- (2) - One acre equals 43,560 square feet.

**City of Everett**  
**Surface Water In-Lieu-Of Surface Water Control Fee**  
**Exhibit 3**  
**Calculation of In-Lieu-Of Surface Water Control Fee**

<b>Description</b>	<b>Total</b>	<b>Source</b>
<b>Step 1 - Assign Portion of total CIP to Future Development</b>		
Total Surface Water Capital Improvements	\$52,160,000	See Exhibit 1
Portion of CIP Assigned to Existing Rate Payers	80.0%	
Portion of CIP Assigned to Future Development (1)	20.0%	See Exhibit 2
Total Future Development CIP	\$10,432,000	
<b>Step 2 - Calculate the In-Lieu-Of Surface Water Control Fee</b>		
Portion of CIP Assigned to Future Development	\$10,432,000	
Est. Total Sq. Feet of Future Impervious Development	2,805,264	See Exhibit 2
<b>Calculated In-Lieu-Of Surface Water Control Fee (2)</b>	<b>\$3.72</b>	<b>/ Square Foot</b>

**Notes**

- (1) - The City assigned 20% of the capital costs to be consistent with their estimate of the future development of impervious area in the combined service area. See Exhibit 2.
- (2) - The fee is assessed on a \$/square foot of net new impervious area.

City of Everett  
 Surface Water In-Lieu-Of Surface Water Control Fee  
 Exhibit 4  
 Summary of Cost Savings Compared to On-Site

Net Impervious Area (ft <sup>2</sup> )	100-Yr 24-hr - Discharge (gal)		Required Detention		Utility Vault Model	Volume (ft <sup>3</sup> )	Cost of Vault (1) (\$)	Cost of Installation (\$)	Subtotal (\$)	Design/piping cost @ 25% (\$)	Construction On-Site Cost (\$ (2))	Proposed In-Lieu-Of Surface Water Control Fee @ \$3.72 (3)	Cost Savings Compared to On- Site (\$)
	Existing (C=0.4)	Developed (C=0.9)	(Gal)	(ft <sup>3</sup> )									
1,000	832	1,880	1,048	140	675-LA	156	\$3,350	\$4,310	\$7,660	\$1,915	\$9,575	\$2,976	\$6,599
2,000	1,660	3,750	2,090	279	687-LA	312	4,510	4,310	8,820	2,205	11,025	6,696	4,329
2,500	2,080	4,700	2,620	350	687-LA	312	4,510	4,310	8,820	2,205	11,025	8,556	2,469
3,000	3,300	5,620	2,320	310	687-LA	312	4,510	4,310	8,820	2,205	11,025	10,416	609
4,000	4,200	7,475	3,275	438	612-LA	438	5,250	9,235	14,485	3,621	18,106	14,136	3,970
5,000	5,160	9,330	4,170	557	712-LA	615	6,510	9,235	15,745	3,936	19,681	17,856	1,825
10,000	8,130	18,500	10,370	1,386	818-10-LA 3-sided Box	1,392	19,500	11,390	30,890	7,723	38,613	36,456	2,157
25,000	20,330	46,250	25,920	3,465	16'WX30'LX8'H 3-sided Box	3,602	60,000	24,019	84,019	21,005	105,024	92,256	12,768
50,000	40,660	92,500	51,840	6,930	16'WX60'LX8'H 3-sided Box	7,203	110,000	42,779	152,779	38,195	190,974	185,256	5,718
100,000	81,320	185,000	103,680	13,861	16'WX120'LX8'H	14,406	200,000	83,558	283,558	70,890	354,448	371,256	(16,809)

Notes

- (1) - Estimates of vault cost, design and installation provided by the City.
- (2) - Costs and potential savings will vary based on the specifics of the parcel and the development.
- (3) - Includes all impervious area; a parcel's first 200 square feet of impervious area is exempted from the in-lieu-of surface water control fee.

