

EVERETT CITY COUNCIL AGENDA

6:30 P.M., WEDNESDAY, APRIL 15, 2020

CITY COUNCIL CHAMBERS

Roll Call

Approval of Minutes: April 8, 2020

Mayor's Comments:

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

CONSENT ITEMS:

(1) Adopt Resolution authorizing claims against the City of Everett in the amount of \$1,412,571.56 for the period of March 28, 2020 through April 3, 2020.

Documents:

[res.pdf](#)

(2) Authorize the Mayor to sign all necessary documents involved in the application for the FY-2020 Port Security Grant.

Documents:

[Port Security Grant.pdf](#)

(3) Authorize the Mayor to sign Addendum No. 3 to the Interlocal Agreement related to the Everett Events Center as presented.

Documents:

[Everett Event Center ILA.pdf](#)

(4) Authorize the Mayor to sign the Settlement Agreement and Site Release with Safety National Casualty Corporation.

Documents:

[Safety National Casualty.pdf](#)

(5) Authorize the Mayor to execute Purchase and Sale Agreement for Boathouse at Port of Everett Marina for use by the City of Everett Police Department.

Documents:

[Boathouse.pdf](#)

ACTION ITEMS:

(6) Authorize the Mayor to execute Real Estate Purchase and Sale Agreement for the sale of City owned property located at 1409 East Marine View Drive.

Documents:

[1409 Mariner View Drive.pdf](#)

PROPOSED ACTION ITEMS:

(7) CB 2004-25 – 1st Reading – Adopt the Proposed Ordinance relating to Domestic Violence Definitions, amending Ordinance No. 1145-85 as amended. (3rd and final reading on 4-29-20).

Documents:

[CB 2004-25.pdf](#)

Executive Session

Adjourn

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

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

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



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 March 28, 2020 through April 3, 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>
002	General Government	1,651.15	101	Parks & Recreation	49,995.33
003	Legal	381.84	110	Library	10,762.21
004	Administration	3,951.00	112	Community Theater	13,433.30
005	Municipal Court	451.93	119	Public Works-Street Improve	470.40
009	Misc Financial Funds	27,653.80	120	Public Works-Streets	35,059.54
010	Finance	65.88	146	Property Management	16,244.69
015	Information Technology	13,950.00	148	Cum Reserve-Parks	11,119.25
021	Planning & Community Develop	208.80	151	Fund for Animals	2,908.33
024	Public Works-Engineering	317.74	153	Emergency Medical Services	8,620.24
026	Animal Shelter	176.69	197	CHIP Loan Program	89.38
027	Senior Center	176.69	336	Water & Sewer Sys Improv Proje	970.00
031	Police	6,719.46	354	Parks Capital Construction	219,887.38
032	Fire	2,479.92	401	Public Works-Utilities	698,100.97
038	Facilities/Maintenance	2,430.69	402	Solid Waste Utility	13,816.31
	TOTAL GENERAL FUND	\$ 60,615.59	425	Public Works-Transit	88,360.04
			440	Golf	1,094.76
			501	MVD-Transportation Services	27,790.51
			505	Computer Reserve	20,375.15
			637	Police Pension	35.97
			661	Claims	132,822.21
				TOTAL CLAIMS	\$ 1,412,571.56

Councilperson introducing Resolution

Passed and approved this _____ day of _____, 2020

Council President

Project title: FY 2020 Port Security Grant

Council Bill # *interoffice use*

Agenda dates requested:
4/8/2020

Briefing
Proposed action
Consent
Action
Ordinance
Public hearing
 Yes No

Budget amendment:
 Yes No

PowerPoint presentation:
 Yes No

Attachments:

Department(s) involved:
Police & Legal

Contact person:
Mark St. Clair

Phone number:
425-257-8432

Email:
mstclair@everettwa.gov

Initialed by:

Department head

Administration

Council President

Project: Port Security Grant

Partner/Supplier : FEMA & Dept. of Homeland Security

Location: N/A

Preceding action: N/A

Fund: 156/Criminal Justice

Fiscal summary statement:

This grant will help fund 2 Unmanned Aerial System (UAS,) the project is expected to cost a total of \$108,616. 75% will be covered by the grant for a total of \$81,462 and the other 25%, total of \$27,154, will be paid with Vessel Registration Funds. The VRF funds represent the required 25% match of the grant. There will need to be a budget amendment.

Project summary statement:

This grant will help fund a project to enhance EPDs Port Security abilities through the purchase of 2 Unmanned Aerial Systems. These UASs would be used by the Marine Unit for Port Security and disaster recovery. While the main focus of the UAS program will be for port security the UAS devices may also be used in other areas of the Police Department. Pending policy approval, other possible uses are: Crime Scene reconstruction by both Major Crimes and the Traffic Safety Unit, Search and Rescue efforts, emergency management and K-9 tracking. The total project cost is estimated at \$108,616. This includes 2 UAS devises, backup batteries, cameras, PA system and training.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign all necessary documents involved in the application for the FY 2020 Port Security Grant.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION	
<input style="width: 100%;" type="text" value="City of Everett"/>	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <input style="width: 100px;" type="text"/>	* First Name: <input style="width: 150px;" type="text" value="Cassie"/> Middle Name: <input style="width: 150px;" type="text"/>
* Last Name: <input style="width: 250px;" type="text" value="Franklin"/>	Suffix: <input style="width: 80px;" type="text"/>
* Title: <input style="width: 250px;" type="text" value="Mayor"/>	
* SIGNATURE: <input style="width: 250px;" type="text" value="Tracey L Landry"/>	* DATE: <input style="width: 150px;" type="text" value="03/06/2020"/>

DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
CONTROLLED EQUIPMENT REQUEST

OMB Control Number:1660-0141
Expiration: 06-30-2020

PAPERWORK BURDEN DISCLOSURE NOTICE
FEMA Form 087-0-0-1

Public reporting burden for this data collection is estimated to average 45 minutes per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and submitting this form. This collection of information is required to obtain or retain benefits. You are not required to respond to this collection of information unless a valid OMB control number is displayed on this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472-3100, Paperwork Reduction Project (1660-0141) NOTE: Do not send your completed form to this address.

A. General Information

Name of Applicant or Recipient: City of Everett - Police Department		State or Tribe: WA
Program: Port Security Grant Program	Program Fiscal Year FY2020	Award or Application Number (If known): EMW-2020-PU-APP-00030
Other Program:		
Project Title: Small Unmanned Aerial System		Investment Justification Number:
Project Number:	Is this a law enforcement agency? Yes	Project Address: 3002 Wetmore Ave., Everett, WA 98201

B. Applicant or Recipient Point(s) of Contact

Name: Jeff Hendrickson	Name: Tracey L. Landry
Address: 3002 Wetmore Ave., Everett, WA 98201	Address: 3002 Wetmore Ave., Everett WA 98201
Phone: (425) 257-7528	Phone: (425) 257-8447
E-mail: JHendrickson@everettwa.gov	E-mail: TLandry@everettwa.gov

C. Sub recipient - General Information (If applicable)

Name of Sub recipient (If applicable): N/A	
Project Title:	Investment Justification Number:
Project Number:	Is this a law enforcement agency?
Point of Contact:	Address:
Phone:	E-mail:

D. Policies

Law Enforcement Agencies only - Does the Requesting Agency have policies on the following?

Community Policing: Yes	Community Input: Yes
Constitutional Policing: Yes	Impact Considerations: Yes

ALL Requesting Organizations - Are the following policies in place for the requested controlled equipment?

Appropriate Use: Will implement before acquisition	Effectiveness Evaluation: Will implement before acquisition
Supervision of Use: Will implement before acquisition	Auditing and Accountability: Yes
Unmanned Aircraft Systems: Will implement before acquisition	NOTE: Unmanned Aircraft Systems. Applicants requesting to purchase Unmanned Aircraft Systems (UAS) with FEMA grant funding must have in place, prior to expending funds, policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties.
Transparency and Notice Consideration:	

Does the Requesting Organization have Record Keeping policies on the following?

Training on the use of the controlled equipment: Will implement before acquisition	Significant Incidents: Will implement before acquisition
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E. Controlled Equipment Information

Category of requested equipment: Unmanned Aerial Vehicles	Authorized Equipment List Number (If known): 03OE-07-SUAS
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Provide a detailed description of the equipment and the justification for acquiring the requested controlled equipment

This project will consist of a complete unmanned aerial system, to include multiple aircraft and equipment to allow continued flight operations over an extended period. The aircraft would be fitted with Forward-Looking Infrared and high definition cameras, spotlights and a public address system.

This new capability will significantly enhance our ability to detect and confront security threats through better situational awareness, provide real-time surveillance day or night, while being portable. It will have the ability to be transported by vehicle or boat, and easily deployed anywhere in the region to assist during times of emergencies, whether man-made or natural disaster.

The UAS will provide critical maritime domain awareness enhancement with the ability to scan large areas of water or waterfront for small boats that are possibly transporting nuclear material. A more secure and resilient port will be provided with the deployment of the system to supplement existing port surveillance assets based off intelligence on the most current threat.

Number of units requested: 2	Number of units currently in inventory: 0
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List all categories of controlled equipment acquired by the organization through federal programs in the last three (3) years that are currently in inventory.

Fiscal year: N/A	Fiscal year:	Fiscal year:

Any additional that is not listed above (Please include category type and fiscal year acquired):

Can the requested controlled equipment be reasonably accessed by other means?	No
Has the requesting organization provided training to users of the controlled equipment?	Will implement before acquisition

F. Organization Information

Does the requesting organization have written approval from their governing body for the proposed acquisition of the requested controlled equipment? Yes
Has the requesting organization previously requested, have a pending request for, or been denied for this category of controlled equipment by another federal agency? No

If previously denied, provide an explanation of why the request was denied, including which federal agency made the denial:

Has the requesting organization ever been in violation of a federal civil rights statute, nondiscrimination provision of any federal program statute (e.g., Sec. 308 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988), or any other programmatic term or condition related to nondiscrimination (e.g., requirements to produce civil rights complaint data or a signed civil rights assurance), or entered into a remedial agreement as a result of a civil rights investigation during the past 3 years?

No

If yes, specify the disposition and/or corrective action that was ordered and/or was, or will be, provided. Accordingly, applicants must disclose any finding by a Federal court or a Federal government agency, including an agency's civil rights office or the Civil Rights Division of the U.S. Department of Justice, and any efforts taken to cure the violation(s), as well as information regarding any remedial agreements. Applicants must also disclose any admissions of liability they have made regarding violations of Federal civil rights laws in their policing functions.

G. Regional Sharing Agreement

Will the requested controlled equipment provide a regional or multi-jurisdictional capability? No

If yes, provide the following information regarding the controlled equipment:

Regional Geographic size to be served (sq mi):	Regional Population to be served:
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Provide the number of individuals with access:

Have all entities within the regional sharing agreement implemented all required protocols, training, records keeping, and information collection and retention requirements prior to their personnel using the requested controlled equipment?

H. Certification Statement

By signing below, the authorized official certifies that the requesting organization:

- Has adopted the required Policies and Protocols Requirements;
- Meets the Training Requirements;
- Will adhere to the Records Keeping Requirements;
- Will adhere to After-Action Report Requirements;
- If applicable, all entities within the regional sharing agreement have implemented or will implement all required protocols, training, records keeping, and information collection and retention requirements prior to acquisition of the controlled equipment.
- Will abide by all applicable federal, state, local, and tribal laws, regulations, programmatic terms and conditions, and all requirements outlined in the Grant Programs Directorate Information Bulletin 407.

Authorizing Official (Print Name): Cassie Franklin	Signature:	Date:
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I. FEMA Grant Programs Directorate Staff only

<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Signature:	Date:
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Controlled Equipment Request -- Instructions

A. General Information - The information in this section provides background and context for the investment(s) requested or awarded.

- **Program Fiscal Year:** Fiscal year of the grant award or application. (Ex. If you have a 2014 grant award the Program FY is 2014 or if you are applying for a 2016 Grant Award your Program FY is 2016).
- **Recipient:** A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include sub-recipients. See also §200.69 Non-Federal entity. (2 CFR § 200.86).

B. Applicant or Recipient Point of Contact - Identify the organization's Authorizing Official, and primary point of contact for management of the project(s), including contact information.

- **Authorizing Official:** Authorize to sign grant agreement on behalf of the organization.

C. Sub-recipient - Identify sub-recipient if applicable.

- **Sub-recipient:** A non-Federal entity that receives a sub-award from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A sub-recipient may also be a recipient of other Federal awards directly from a Federal awarding agency. (2 CFR § 200.93).

D. Policies - Law Enforcement Agencies and other requesting organizations identify the following policies.

- **Community Policing:** The concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in Law Enforcement Agencies and, in turn, enhances Law Enforcement Agencies ability to investigate crimes and keep the peace. (Recommendations Pursuant to Recommendations Pursuant to Executive Order 13688, page 19).
- **Constitutional Policing:** Protocols emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies must include protocols on First Amendment, Fourth Amendment, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with Federal and State civil rights laws. (Recommendations Pursuant to Executive Order 13688, page 19).
- **Community Input and Impact:** Protocols must identify mechanisms that Law Enforcement Agencies will use to engage the communities they serve to inform them and seek their input about Law Enforcement Agencies' actions, role in, and relationships with the community. Law enforcement exists to protect and serve the community, so it is axiomatic that the community should be aware of and have a say in how they are policed. Law Enforcement Agencies should make particular efforts to seek the input of communities where controlled equipment is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the Law Enforcement Agency's regular interactions with the public through community forums, town halls, or meetings with the Chief or community outreach divisions. (Recommendations Pursuant to Executive Order 13688, page 19).
- **After-Action Review:** (1) Requesting organizations must collect and retain "Required Information" (described below) when law enforcement activity that involves a "Significant Incident" requires, or results in, the use of any Federally-acquired controlled equipment in the requesting organization's inventory (or any other controlled equipment in the same category as the Federally-acquired controlled equipment). (2) When unlawful or inappropriate police actions are alleged and trigger a Federal compliance review, and the Federal agency determines that controlled or prohibited equipment was used in the law enforcement activity under review, the requesting organization must produce or generate a report(s) containing Required Information. (Recommendations Pursuant to Executive Order 13688, page 22).
- **Record-Keeping Requirement:** Requesting Organizations must retain "Significant Incident" reports and Required Information for a period of at least three (3) years and must provide a copy of these records, upon request, to the Federal agency that supplied the equipment/funds. This information also should be made available to the community the requesting organization serves in accordance with applicable policies and protocols including considerations regarding the disclosure of sensitive information. (Recommendations Pursuant to Executive Order 13688, page 23).

- **Appropriate Use of Controlled Equipment:** Requesting organizations should examine scenarios in which controlled equipment will likely be deployed, the decision-making processes that will determine whether controlled equipment is used, and the potential that both use and misuse of controlled equipment could create fear and distrust in the community. Protocols should consider whether measures can be taken to mitigate that effect (e.g., keep armored vehicles at a staging area until needed) and any alternatives to the use of such equipment and tactics to minimize negative effects on the community, while preserving officer safety. (Recommendations Pursuant to Executive Order 13688, pages 19 - 20).
- **Supervision of Use:** The protocols must specify appropriate supervision of personnel operating or utilizing controlled equipment. Supervision must be tailored to the type of equipment being used and the nature of the engagement or operation during which the equipment will be used. Policies must describe when a supervisor of appropriate authority is required to be present and actively overseeing the equipment's use in the in the field. (Recommendations Pursuant to Executive Order 13688, page 20).
- **Effectiveness Evaluation:** The protocols must articulate that the requesting organization will regularly monitor and evaluate the effectiveness and value of controlled equipment to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. Requesting organizations should routinely review after-action reports and analyze any data on, for example, how often controlled equipment is used or whether controlled equipment is used more frequently in certain law enforcement operations or in particular locations or neighborhoods. (Recommendations Pursuant to Executive Order 13688, page 20).
- **Auditing and Accountability:** There must be strong auditing and accountability provisions in the protocols which state that the requesting organization's personnel will agree to and comply with and be held accountable if they do not adhere to agency, State, local, Tribal, and Federal policies associated with the use of controlled equipment. (Recommendations Pursuant to Executive Order 13688, page 20).
- **Unmanned Aircraft Systems (UAS):** Presidential Memorandum, *Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties, in Domestic Use of Unmanned Aircraft Systems*, issued February 20, 2015, requires that State, local, tribal, and territorial government recipients of Federal grant funding for the purchase or use of UAS for their own operations have in place policies and procedures to safeguard individuals' privacy, civil rights, and civil liberties prior to expending funds. (Section 1(c)(vi) <https://federalregister.gov/a/2015-03727>).
- **Transparency and Notice:** The protocols must articulate that the requesting organization will engage the community regarding acquisition of controlled equipment, policies governing its use, and review of Significant Incidents (see Recommendation 2.3 below), with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures. (Recommendations Pursuant to Executive Order 13688, page 20).
- **Significant Incident:** Any law enforcement operation or action that involves (a) a violent encounter among civilians or between civilians and the police; (b) a use-of-force that causes death or serious bodily injury; (c) a demonstration or other public exercise of First Amendment rights; or (d) an event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed. (Recommendations Pursuant to Executive Order 13688, pages 22 - 23).

E. Controlled Equipment Information - Applicant or recipient/sub-recipient identify and describe the requested equipment.

- **Authorized Equipment List:** The Authorized Equipment List (AEL) is a list of approved equipment types allowed under FEMA's preparedness grant programs. <https://www.fema.gov/authorized-equipment-list>.
- **Number of units in inventory:** Is defined as the total number in inventory regardless of how they were acquired.

F. Organization Information - Describe any pending, denied, or current requests for controlled equipment.

- **Corrective Action:** Action taken by the auditee that:
 - (a) Corrects identified deficiencies;
 - (b) Produces recommended improvements; or
 - (c) Demonstrates that audit findings are either invalid or do not warrant auditee action. (2 CFR § 200.26).
- **Governing Body:** The term "governing body" is defined as the institution or organization that has direct budgetary oversight or fiscal/financial control over the requesting organization. For law enforcement agencies where the chief executive is popularly elected (e.g., Sheriffs) such requesting organizations must provide official written notice to, but are not required to obtain approval from their civilian governing body at least 30 days in advance of any request to acquire controlled equipment from the Federal Government.

G. Regional Sharing - Identify regional sharing amongst entities.

- **Regional Sharing:** The requesting organization must indicate whether the requested controlled equipment is being acquired to provide a regional or multi-jurisdictional capability. (Recommendations Pursuant to Executive Order 13688, pages 28 - 29).
- **Regional Geographic:** The geographic size of the area supported by the regional sharing agreement should be given in square miles (sq mi).

H. Certification Statement - Authorizing Official Certification Statement.

- **Authorizing Official:** The Certification Statement is to be completed and signed by the Authorizing Official for the grant recipient or applicant and not the sub-grant recipient.

DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency

**SENSITIVE
SECURITY
INFORMATION**

OMB Control Number: 1660-0114
Expiration: 05/31/2020

PORT SECURITY GRANT PROGRAM INVESTMENT JUSTIFICATION

Warning: Please follow the Notice of Funding Opportunity Guidance while completing this form.

PART I - INVESTMENT HEADING

ORGANIZATION NAME (Legal Name Listed On The SF-424): City of Everett		STATE OR TERRITORY IN WHICH THE PROJECT WILL BE IMPLEMENTED: WA	
TYPE OF ORGANIZATION: Local Agency	STATE OR LOCAL AGENCY: First Responder – Law Enforcement	OTHER:	
PROJECT'S CAPTAIN OF THE PORT ZONE: Puget Sound	INVESTMENT JUSTIFICATIONS (Ex. 1 of 1): 1 of 1		

PART II - BASIC PROJECT INFORMATION

PROJECT TITLE: Small Unmanned Aerial System
PROJECT SERVICE(S)/EQUIPMENT SUMMARY: Purchase and acquisition of two (2) small unmanned aerial systems (UAS). The aircraft will be fitted with forward-looking infrared and high definition cameras, spotlights and a public address system.
IS THIS PROJECT EXEMPT FROM THE REQUIRED COST SHARE OUTLINED IN 46 U.S.C. 70107? No
IF YES, IDENTIFY THE COST SHARE EXEMPTION:
FEDERAL SHARE: \$81462.00 COST SHARE: \$27154.00 TOTAL PROJECT COST: 108,617
(Total Project Cost x 0.75) (Total Project Cost x 0.25) (Fed Share/0.75; or Cost Share/0.25)
PROJECT CATEGORY: Equipment NEW CAPABILITY OR MANAGEMENT/SUSTAINMENT: New Capability

PART III - ELIGIBILITY INFORMATION

PLEASE REVIEW THE NOTICE OF FUNDING OPPORTUNITY AND 46 U.S.C. 70107

WHICH PLAN(S) APPLIES TO YOUR ORGANIZATION?:	AREA MARITIME SECURITY PLAN: <input checked="" type="checkbox"/>	FACILITY SECURITY PLAN: <input type="checkbox"/>
	PORT-WIDE RISK MANAGEMENT PLAN: <input type="checkbox"/>	VESSEL SECURITY PLAN: <input type="checkbox"/>
IF NONE OF THE ABOVE ARE APPLICABLE, PLEASE LIST OTHER PORT RELATED SECURITY PLANS OR CIRCUMSTANCES THAT APPLY TO THIS PROJECT AND YOUR ORGANIZATION:		<input type="checkbox"/> N/A
ACTIVE PARTICIPANT OF AN AREA MARITIME SECURITY COMMITTEE? Yes	IS THIS APPLICATION ON BEHALF OF ANOTHER ENTITY OR SUBMITTED AS A CONSORTIUM? No	
IS THE PROJECT SITE OWNED BY YOUR ORGANIZATION? Yes	IF THE PROJECT SITE IS NOT OWNED OR OPERATED BY YOUR ORGANIZATION, PLEASE EXPLAIN YOUR ORGANIZATION'S RELATION TO THE PROJECT SITE: <input type="checkbox"/> N/A	
IS THE PROJECT SITE OPERATED BY YOUR ORGANIZATION? Yes		
IS THE PROJECT SITE A FACILITY OR VESSEL THAT IS REGULATED UNDER THE MARITIME TRANSPORTATION SECURITY ACT (MTSA) OF 2002, AS AMENDED?		Yes
STATE AND LOCAL AGENCIES ONLY - IS YOUR AGENCY REQUIRED TO PROVIDE PORT SECURITY SERVICES TO MTSA REGULATED FACILITIES?		Yes
STATE AND LOCAL AGENCIES ONLY - ARE YOU THE PRIMARY RESPONDING AGENCY TO MTSA REGULATED FACILITY?		Yes

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

SENSITIVE SECURITY INFORMATION

PART IV - POINT(S) OF CONTACT FOR ORGANIZATION

SIGNATORY AUTHORITY FOR ENTERING INTO A GRANT AWARD AGREEMENT		AUTHORIZED REPRESENTATIVE FOR THE MANAGEMENT OF THE PROJECT	
NAME:	Cassie Franklin	NAME:	Jeff Hendrickson
ORGANIZATION:	City of Everett	ORGANIZATION:	City of Everett Police Department
ADDRESS:	2930 Wetmore Ave Everett, WA 98201	ADDRESS:	3002 Wetmore Ave Everett, WA 98201
PHONE:	(425) 257-7112	PHONE:	(425) 257-7528
E-MAIL:	CFranklin@everettwa.gov	E-MAIL:	JHendrickson@everettwa.gov

PART V - PHYSICAL LOCATION OF PROJECT

The intent of this section is to verify the primary location the project is being implemented to address the PSGP and port area priorities. The applicant's primary area of responsibility for utilizing the project should be identified. This includes training, exercises, interoperable systems, vessel equipment and regionally beneficial projects. Secondary areas of responsibility are not considered the project location. Please identify the location from which the project will be implemented/deployed (the applicant facility address), such as fire or police departments or MTSA regulated facility.

PHYSICAL ADDRESS OF THE PROJECT LOCATION:		BRIEF DESCRIPTION OF THE PROJECT LOCATION:	
Street Address:	3002 Wetmore Ave	Urban area of the City of Everett, the Port of Everett and surrounding waters, Snohomish County, WA.	
City:	Everett		
State: WA	Zip Code: 98201		
LATITUDE & LONGITUDE: 47.9790N, 122.2021W			

STATE AND LOCAL AGENCIES ONLY - ROLE IN PROVIDING LAYERED PROTECTION OF REGULATED ENTITIES

DESCRIBE YOUR ORGANIZATION'S SPECIFIC ROLES, RESPONSIBILITIES AND ACTIVITIES IN DELIVERING LAYERED PROTECTION.

- The Everett Police Department is the first responder to any and all reports of criminal activity, fire, disaster, or other like emergencies in the port of Everett. The Everett Police Department Marine Operations Unit has been established since 1968 and is responsible for port area security activities and emergency response.
- The Everett Police Department Marine Operations Unit provides emergency response to all police and fire emergencies to the Port of Everett, which is a MTSA regulated, multi-modal terminal serving foreign vessels.
- With the construction of the new Mukilteo Ferry Terminal, the ferry dock is approximately 200 yards from the city limits. The local jurisdiction where the ferry landing will be located, Mukilteo Police Department, does not have a marine response capability. The Everett Police Department has responded to active threats on the ferry at Mukilteo. All Officers and Sergeants with the Everett Police Department receive regular training in active threat / shooter.
- The Port of Everett is in the process of a major expansion that will include venues for larger public gatherings. The Everett Police Department will be the primary responder for emergencies in these new venues.
- The Everett Police Department participates in the Domestic Nuclear Detection Office Maritime Project in direct support of the DHS Small Vessel Security Strategy.

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SENSITIVE SECURITY INFORMATION

PART VI - ALL AGENCIES/ORGANIZATION - IMPORTANT FEATURES

DESCRIBE ANY OPERATIONAL ISSUES YOU DEEM IMPORTANT TO THE CONSIDERATION OF YOUR APPLICATION (e.g., interrelationship of your operations with other eligible high-risk ports, Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA), Etc.). **PLEASE LIST ALL AGENCIES WITH WHOM YOU HAVE A MARITIME SECURITY MOU OR MOA.**

- The City of Everett provides all police and fire response to the Port of Everett facilities, which is a MTSA regulated, Multi-modal terminal serving foreign vessels. The City of Everett Police Department will operate and maintain this UAS.
- The Marine terminal at the Port of Everett handles hazardous cargo and is the only port terminal in the area able to handle the oversized cargo necessary to support the Boeing aircraft production supply chain. The Port of Everett's Mount Baker Terminal is utilized for aerospace cargo and is critical infrastructure for the Boeing aerospace industry. The port of Everett is the 2nd largest port in Washington and the fifth largest on the West coast of the USA in export value. The Port of Everett is also the third largest marine shipping container facility in the state of Washington. The Port of Everett has also accommodated ships that are involved in the oil exploration and drilling, as well as support for military equipment shipments. The Port is in the process of expanding to accommodate larger container vessels that will only increase the activity at the port.
- The Washington state ferry runs between Mukilteo and Clinton, which is adjacent to the City limits. The ferry terminal is approx. 200 yards from city limits. The Ferry will enter the City of Everett on ingress and egress from the new ferry terminal.
- The Port of Everett has the largest public marina on the west coast of the United States with more than 2300 permanent and guest moorage slips. Adjacent to the marina, the port operates the largest boat launch in the state.
- The Everett Police Department is National Incident Management System (NIMS) compliant, with all personal trained in the Incident Command System (ICS).
- The Port of Everett is currently in the process of adding 660 residential units along with outdoor venues to the marina. This increase of public events and residents will increase the number of people in and around the port. With no secure access point to these areas, these gatherings will present a soft target that would be difficult to detect a potential attack.
- The Everett Police Department currently has MOU's with the Port of Everett and the Captain of the Port for security. The Everett Police Department also has a interlocal agreement with the Everett Fire Department for response to marine based emergencies.
- The Everett Police Department currently has a MOU and is a member of the Region One Special Weapons And Tactics Team. This is a regional Special Weapons and Tactics team that is made up of The Snohomish County Sheriff's Office, The Everett Police Department, and the Lake Steven's Police Department. Region One Special Weapons and Tactics Team is the primary tactical response unit for the Port of Everett and surrounding areas. This project would support the operations of the Region One Special Weapons and Tactical Team by providing better situational awareness through aerial video for any operations.

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SENSITIVE SECURITY INFORMATION

PART VII - INVESTMENT JUSTIFICATION ABSTRACT

WHAT WILL THIS PROJECT INVESTMENT FUND (i.e. vessels, radios, cameras, construction, contracts, fencing, etc.)?

A Small Unmanned Aerial System (2 UAS) with required training to establish an effective team.

ARE ANY PROJECT ITEMS ON THE CONTROLLED EQUIPMENT LIST
(please reference **FEMA Information Bulletin 407**):

Yes

IF YES, PLEASE PROVIDE THE AUTHORIZED EQUIPMENT LIST (AEL) NUMBER(S) FOR CONTROLLED EQUIPMENT:

SUMMARIZE THE PROPOSED INVESTMENT JUSTIFICATION.

THE FOLLOWING MUST BE INCLUDED:

- DESCRIBE HOW THIS INVESTMENT ADDRESSES THE CAPTAIN OF THE PORT'S PRIORITIES
- EXPLAIN HOW THIS INVESTMENT WILL ACHIEVE A MORE SECURE AND RESILIENT PORT AREA
- IDENTIFY ASSETS BEING REQUESTED
- IDENTIFY SIMILAR ASSETS THAT ALREADY EXIST

The funds that we are requesting will be used in the establishment of a Small Unmanned Aerial System capability for the Everett Police Department. This new capability will significantly enhance our ability to detect and confront security threats through better situational awareness, provide real-time observations day or night, while being portable. The system that we are requesting will be transported by vehicle or boat, and easily deployed anywhere in the region to assist during times of emergencies. The Small Unmanned Aerial System will include the capability to provide constant observations over an area for an extended time. The proposal includes sensors that will allow us to detect potential threats day or night.

As a current and long-term participant of the Department of Nuclear Detections Small Boat Program, this project will provide critical maritime domain awareness enhancement in the event that a potential small boat threat is located. This project will allow us an ability to scan large areas of water or waterfront for small boats that are possibly transporting nuclear material. The increased ability to detect suspicious boats over a larger area in combination of the radiation detection equipment that we are currently in possession of will make us a more effective partner in meeting the mission of the region.

This project will help provide a more secure and resilient port in several ways. Due to the portable nature of this project we would be able to deploy the system to supplement existing port assets based off intelligence on the most current threat. In the event of a man-made or natural disaster, this system would be able to respond and still provide real-time video of current conditions where the fixed camera systems likely would not be functional. The ability to deploy after a disaster in primitive conditions would allow for better emergency response, further threat identification, and post incident assessment. The ability to gather this data would provide port officials with better information, allowing more effective planning, and the best opportunity to return the port to effective operations.

With the ability to transport and deploy the system to a large event or soft targets, within the law and policy, it would allow a means to detect threats when other infrastructure is not in place. This could include the ferry terminal that is just south of the City of Everett jurisdiction, an event at the Port of Everett, or anywhere else in the region.

The aircraft would have the ability to transport small items and have a public address system. In an emergency the ability to transport small items to first responders or victims in locations that could be difficult to reach is an ability that has been shown to be effective in past emergencies and a capacity that do not currently have. Some of those items that could be transported are first aid supplies, radios, batteries, or food and water. With a portable public address system, we could provide information over a large area in emergencies or during large events or gatherings.

This project will consist of a minimum of 2 Small Unmanned Aircraft, ground control units, Daytime and Forward-Looking Infrared cameras, extra batteries, battery chargers, search lights, protective cases, and a public address system. This project also includes a 40 hour training that will be focused on the Federal Aviation Administration part 107 remote pilot's license, the constitutional restriction on the use of a Small Unmanned Aerial System, and the operation of the aircraft. This class will be opened to members of other agencies throughout the region. Currently there are no other similar assets in the City of Everett, or Port of Everett. This system would have capabilities that no other agency in Snohomish County possess. This system would allow longer flight times, larger lift capabilities, and better ability to identify threat individuals vs police that are looking for them. This system will be fitted with a camera system that will allow it to identify individual officers that are fitted with infer-red strobes. There are no other sUAS systems in the area that has that capability. With the longer flight time we would be able to provide situational awareness over a larger area due to less down time due to battery change out. With the higher lift capacity we could transport more items to first responders to allow for a more effective response.

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SENSITIVE SECURITY INFORMATION

PART VIII - NATIONAL PRIORITIES

IDENTIFY ONE NATIONAL PRIORITY THIS INVESTMENT MOST CLOSELY SUPPORTS:

Enhancing Maritime Domain Awareness

DESCRIBE HOW, AND THE EXTENT THIS INVESTMENT JUSTIFICATION MEETS ONE OR MORE OF THE NATIONAL PRIORITIES.

THE FOLLOWING MUST BE INCLUDED:

- HOW THIS INVESTMENT ADDRESSES VULNERABILITIES IDENTIFIED WITHIN AN AREA MARITIME SECURITY PLAN, FACILITY SECURITY PLAN, VESSEL SECURITY PLAN, OR OTHER IDENTIFIED PLAN(S).

This project will address several of the national priorities:

Protection of soft targets and crowded places.

With the continued development of the Port of Everett there will be an increase in the number of people in or around the port. As part of the development there will be venues for larger gatherings such as markets, concert and other events. With the ability of this project to provide real time video coverage of large areas that lack camera infrastructure. We would be able to provide a significant enhancement of the situational awareness leading to better security. This increased situational awareness would increase our ability to detect and prevent a threat to one of the large gatherings in the area of the port. If there was an emergency, natural or man-made, during an event this system would allow a better assessment of damage infrastructure and victims to provide better real time information to the incident commander to allow for the best possible response. This system could also be deployed to the area of the Mukilteo Ferry docks or the new passenger terminal at Pain Field in the event of an emergency. One of the largest gathering of people that we have in the city is the Boeing Production Facility, where over 30,000 employees work. This system would allow us an enhanced ability to respond to an active threat in this vital national infrastructure.

Addressing Emerging threats – WMD / UAS

The Everett Police Department is part of the Department of Nuclear Detection Small Boat Program. This project will allow us to locate, identify, and interdict small boats that are a potential threat. With the ability to transport this system anywhere in the region it could provide wide area video coverage to assist in the locating of vessels that are transporting hazardous material. If, through the use of the radiation equipment that we currently are using, a potential radiation threat is located this system will allow for remote real time video of the area to provide better information to the incident commander to coordinate the most effective response. This system could also be used to locate and coordinate the arrest of suspect involved in the illegal transportation of nuclear material, as well as provide documentation to assist with the investigation after an incident.

With the enhanced camera system that the UAS will be fitted with, combined with the ability to provide mobile video coverage over a larger area, this project will be a useful tool in detecting malicious drones in the area of the port and other critical infrastructure. With the ability to identify and track these potential threatening drones, this system would provide an enhanced level of security at the port and large gatherings. Currently we do not have the capability to track malicious drones other than through ground observations. This system could also be used to locate the operators of these potentially hazardous drones, mitigating further threats.

Planning

With the combination of the small unmanned aerial system with a standard computer program we would be able to provide scale 3-d diagrams of critical areas around the port in a short amount of time. These diagrams could be used in development of response plans for large gatherings, critical infrastructure, or in a response to any updated threat information. These diagrams could also be used in the risk and disaster resilience planning.

Training

As a part of this project there will be a 40-hour class that will focus on the Federal Aviation Administration part 107 remote pilot certification, constitutional imitations of the use of small unmanned aircraft, and the operation of small unmanned aircraft systems. This training will be open to other agencies throughout the region. This training will ensure the effective use of small unmanned aircraft as well as provide a foundation for the operational coordination of multiple agencies throughout the region of small unmanned aircraft through joint training.

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SENSITIVE SECURITY INFORMATION

PART IX - NATIONAL PREPAREDNESS GOAL

IDENTIFY ONE CORE CAPABILITY THIS INVESTMENT MOST CLOSELY SUPPORTS:

On-Scene Security, Protection, and Law Enforcement

PART X - IMPLEMENTATION PLAN

PROVIDE A HIGH-LEVEL TIMELINE OF MILESTONES FOR THE IMPLEMENTATION OF THIS INVESTMENT, SUCH AS PLANNING, TRAINING, EXERCISES, AND MAJOR ACQUISITIONS OR PURCHASES. UP TO 10 MILESTONES MAY BE SUBMITTED.

THE FOLLOWING MUST BE INCLUDED:

- MAJOR MILESTONES OR RELEVANT INFORMATION THAT IS CRITICAL TO THE SUCCESS OF THE INVESTMENT
- MAJOR TASKS THAT WILL NEED TO OCCUR (E.G. DESIGN AND DEVELOPMENT, CONTRACTUAL AGREEMENTS, PROCUREMENT, DELIVERY, INSTALLATION AND PROJECT COMPLETION)

- With the award of the grant the Mayor and the City Council of the City of Everett will accept the grant award within 30 days, per city policy.
- Once city administrative acceptance of the grant is completed, the Marine Operation Chain of Command will assemble a committee of end users to review and finalize specifications of the project. This process will be completed within 60 days from the time of administrative acceptance. This committee will focus on ensuring that all grant requirements are met, the equipment meets the needs of the mission it is to perform with the most value for the investment.
- Also, at the time of the administrative acceptance, the process for application to the Federal Aviation Administration for a Certificate of Authorization will begin, if it has not been started at this point. The application will be started within 30 days of administrative acceptance.
- Once final project specifications are approved, a detailed list of equipment to be purchased will be forwarded to the City of Everett Purchasing Division. The Purchasing Agent for the city will create a request for proposals based off the equipment list that was created. The request for proposals will be posted within 60 days of the purchasing agent receiving the equipment list.
- At the closing date of the request for proposals the committee of end users and the Marine Operations Chain of Command will evaluate the proposals that were submitted by vendors. The committee will recommend a vendor based off the proposals and submit it to the Chain of Command. The chain of command will approve the selection of the vendor within 30 days of receiving the proposals from the vendors.
- Once the equipment has been ordered, the vendor for the 40 hour training will be identified. The training plan will be reviewed by the chain of command to ensure that it meets the requirements of the grant and department policy. The training will be completed once the equipment has been obtained.
- On acceptance of the Small Unmanned Aerial System from the vendor, the 40 hour training will be conducted. The training will be completed, and the system will be deployable for field use before the end of the 36 month period of performance.
- Over the life of the program there will be ongoing training to maintain currency of all operators. There will be month audits of flight logs by an administrative officer to ensure that the policy and best practices are being followed for the use of the Unmanned Aerial System. Maintenance will be performed based off recommendation of the manufacturer.

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City Council Agenda Item Cover Sheet

Council Bill # *interoffice use*

Agenda dates requested:
April 15, 2020

Briefing
Proposed action
Consent X
Action
Ordinance
Public hearing
 Yes No

Budget amendment:
 Yes No

PowerPoint presentation:
 Yes No

Attachments:
Addendum 3, ILA

Department(s) involved:
Finance/Administration

Contact person:
Nick Harper

Phone number:
425-257-8608

Email:
nharper@everettwa.gov

Initialed by:

Department head

Administration

Council President

Consideration: Authorize the Mayor to Sign Addendum 3 to the ILA related to the Everett Events Center

Project:

Partner/Supplier : Snohomish Co., Snohomish County PFD, and Everett PFD

Location:

Preceding action: Addendum 2

Fund:

Project summary statement:

Snohomish County, Snohomish County Public Facilities District, City of Everett and Everett Public Facilities District are parties to an interlocal agreement entered into in 2001 relating to the development of the Everett Events Center – now generally known as Angel Of The Winds Arena. This agreement included funding provided from the Snohomish County PFD through a sales and use tax to assist in payment of debt service on bonds issued to finance the development of the Events Center.

The sales and use tax proceeds to the Snohomish County PFD were higher than originally anticipated which left a surplus, so a second allocation (Tier II) was created to fund the Everett Events Center and the other 3 PFD's in the County. This second allocation was to be provided semi-annually – in May and November.

Due to Covid-19 containment regulations that have resulted in a substantial decrease in revenue to the Everett Public Facilities District, this Addendum No. 3 provides for the early distribution of Tier II funds to assist in meeting the Everett Public Facilities District's financial needs.

RECOMMENDATION: Authorize the Mayor to sign Addendum No. 3 to the Interlocal Agreement related to the Everett Events Center as presented.

ADDENDUM NO. 3 TO INTERLOCAL AGREEMENT FOR DEVELOPMENT OF THE EVERETT EVENTS CENTER

This Addendum No. 3 (“**Addendum No. 3**”) is made and entered into as of the ___ day of April, 2020 among the City of Everett, a city duly organized and existing under and by virtue of the laws of the State of Washington (“**City**”); the Snohomish County Public Facilities District, a municipal corporation duly organized and existing under the laws of the State of Washington (“**County PFD**”); Snohomish County, a political subdivision of and duly organized and existing under the laws of the State of Washington and the Charter of Snohomish County (“**County**”); and the Everett Public Facility District, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Washington, established by the City of Everett (“**City PFD**”). The City, County PFD, County, and City PFD are collectively referred to herein as the “**Parties**”.

RECITALS

A. The Parties entered into an Interlocal Agreement dated December 20, 2001 (“**Interlocal Agreement**”) to provide for the development of a Regional Center as defined in RCW 35.57.020 known as the “**Everett Events Center**” (“**Regional Center**”).

B. The County PFD, under the authority of RCW 82.14.930, has imposed a Sales and Use Tax (“**Sales and Use Tax**”), a portion of which the County PFD has allocated and agreed to contribute through intergovernmental project payments to the payment of debt service on the bond issued to finance the Regional Center in accordance and subject to the terms and conditions of the Interlocal Agreement (“**Tier 1 Allocation**”).

C. The County PFD entered into similar interlocal agreements to provide funding for three (3) other regional centers pursuant to which the County PFD has allocated and committed contributions from the Sales and Use Tax for the payment of debt service on the respective bonds issued to finance the development of the regional centers thereof, which when added to the Tier 1 Allocation shall be referred to herein as the “**Aggregate Tier 1 Allocations.**” The Aggregate Tier 1 Allocations are in a fixed amount.

D. Thereafter, the County PFD experienced actual Sales and Use Tax revenue collection substantially in excess of the Aggregate Tier 1 Allocations. As a result, the County PFD allocated additional Sales and Use Tax revenues among the Regional Center and the three (3) other regional centers (“**Aggregate Tier 2 Allocations**”).

E. On February 25, 2009, the Parties to the Interlocal Agreement entered into Addendum No. 1 to the Interlocal Agreement (“**Addendum No. 1**”) whereby the County PFD allocated a portion of the Aggregate Tier 2 Allocations to the City PFD (“**Tier 2 Allocation**”). Addendum No. 1 provides for semi-annual payments of the Tier 2 Allocation on May 1 and November 1 of every year so long as the bond indebtedness incurred to finance the Regional Center remains outstanding.

F. Pursuant to legislative authorization that extended the time period for the Sales and Use Taxes imposed under RCW 82.14.390 from a maximum 25-year term to a maximum 40-year

term, the Parties amended the Interlocal Agreement through Addendum No. 2 to the Interlocal Agreement (“**Addendum No. 2**”).

G. On January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency for COVID-19. On February 29, 2020, Governor Jay Inslee proclaimed a state of emergency within the State of Washington due to COVID-19. On March 1, 2020, the President of the United States proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency. On March 4, 2020, Snohomish County Executive Dave Somers proclaimed a state of emergency within Snohomish County due to COVID-19. On March 4, 2020, the Snohomish County Health Officer declared a public health emergency in Snohomish County due to COVID-19. On March 10, 2020, the Snohomish County Health District Board of Health declared a public health emergency. On March 11, 2020, the Snohomish County Health Officer reduced large gathering limits to 250 people and placed restrictions on gatherings of fewer than 250 attendees. On March 16, 2020, Governor Jay Inslee mandated a two week closure of all restaurants, bars, entertainment and recreational facilities, and reduced large gathering limits to 50 people.

H. As a result of the above-described responses to COVID-19, the City PFD has suffered a significant decrease in revenue. This revenue decrease is anticipated to continue into the foreseeable future, as upcoming events continue to be cancelled.

I. To assist the City PFD in meeting its financial obligations during this challenging time, the Parties desire to amend the Interlocal Agreement by this Addendum No. 3 to provide for the early distribution of the Tier 2 Allocation distributions currently scheduled for May 1, 2020 and November 1, 2020.

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

1. The Tier 2 Allocation distribution schedule as described in Addendum No. 1 shall be amended as follows:

- a. Distribution of May 1, 2020 Tier 2 Allocation shall occur within seven (7) days of the Effective Date (as defined below) of this Addendum No. 3.
- b. Distribution of the November 1, 2020 Tier 2 Allocation may occur on July 31, 2020, if the Snohomish County Public Facilities District Board of Directors determines it is financially feasible after reviewing the revenue available for Tier 2 Allocation.

2. Except as otherwise stated, all other terms and conditions of the Tier 2 Allocation distribution schedule as described in Addendum No. 1 shall remain in full force and effect.

3. This Addendum No. 3 shall become effective upon execution by each party and filing with the Snohomish County Auditor as provided in RCW 39.34.040.

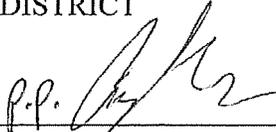
SNOHOMISH COUNTY PUBLIC FACILITIES
DISTRICT



By: Steven Shelton, President

Date: 3/27/20

EVERETT PUBLIC FACILITIES
DISTRICT



By: Gary Weikel, Chair of the Board of Directors

Date: 4/1/2020

CITY OF EVERETT

By: Cassie Franklin, Mayor

Date: _____

Attested:

By: _____, City Clerk

Approved as to Form:

By: _____, City Attorney

SNOHOMISH COUNTY

By: Dave Somers, County Executive

Date: _____



Project title: Authorize Mayor to Sign Settlement Agreement and Site Release with Safety National Casualty Corporation

City Council Agenda Item Cover Sheet

Council Bill # *interoffice use*

Agenda dates requested:

April 15, 2020

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

Yes No

Budget amendment:

Yes No

PowerPoint presentation:

Yes No

Attachments:

Settlement Agreement

Department(s) involved:

Public Works, Real Property, Legal

Contact person:

Tim Benedict

Phone number:

425.257.8669

Email:

TBenedict@everettwa.gov

Initialed by:

Department head

Administration

Council President

Consideration: Approve Settlement Agreement and Site Release

Project: Settlement of Insurance Coverage Claim

Other Parties : Safety National Casualty Corporation

Location: GTS Parcel

Preceding action: None

Fund: None

Fiscal summary statement:

None

Project summary statement:

This item concerns the GTS parcel, which is north of the Riverfront landfill site on the north side of 36th Street. Over the years, the City has spent about \$950,000 in clean-up of the parcel.

Safety National is an insurer that issued a liability insurance policy to the City in 1985. After extensive negotiations, Safety National has offered to pay \$500,000 for the City to release the City's insurance claims regarding the GTS parcel under the 1985 policy.

Recommendation (exact action requested of Council):

Authorize Mayor to Sign Settlement Agreement and Site Release with Safety National Casualty Corporation

SETTLEMENT AGREEMENT AND SITE RELEASE

This SETTLEMENT AGREEMENT AND SITE RELEASE (“Agreement”) is entered into (as of the Execution Date, as hereinafter defined) and effective (as of the Effective Date, as hereinafter defined) by and between: (i) City of Everett (“City”) (on behalf of the “City Releasees” as hereinafter defined); and (ii) Safety National Casualty Corporation (on behalf of the “Safety National Releasees” as hereinafter defined).

I. RECITALS

WHEREAS, the City of Everett is the owner and/or operator of property located at 2731 36th St., Everett, WA, consisting of three tax parcels identified as follows: Parcel 2905290040100 (a 1.39 acre parcel owned by the City of Everett); Parcel 29052900400800 (a 0.55 acre portion of the 36th Street right-of-way); and the 1.50-acre Parcel 2905290040150. These three tax parcels, generally addressed at 2731 36th St., Everett, WA, potentially include properties addressed or otherwise referred to as “2815 36th Street SE”, and “2931 36th Street,” and are collectively referred to herein as the “GTS Site.” The GTS Site has allegedly been contaminated with various hazardous substances that are recognized to come within the substantive requirements of the Model Toxics Control Act, RCW 70.105D.080 *et seq.*;

WHEREAS, as a result of the alleged Environmental Contamination (as hereinafter defined) at and around the GTS Site (as hereinafter defined), the City of Everett allegedly has incurred and allegedly will continue to incur environmental investigation and remediation costs and other costs;

WHEREAS, in or around October 2009, the City of Everett submitted an application for inclusion of the GTS Site in the Voluntary Cleanup Program of the Washington Department of Ecology (“Ecology”) with respect to alleged pollution at the GTS Site; and by letter dated June

10, 2010, Ecology issued a letter to the City of Everett acknowledging its VCP Claim submissions and containing Ecology's opinions regarding the completion of proposed cleanup under authority of the Model Toxics Control Act (collectively referenced below as the "VCP Claim");

WHEREAS, Safety Mutual Casualty Corporation, now known as Safety National Casualty Corporation, issued or is alleged to have issued certain insurance policies to the City of Everett;

WHEREAS, on or about August 10, 2018, the City of Everett tendered the VCP Claim and the alleged site contamination at the GTS Site to Safety National (as hereinafter defined) for defense and indemnity, including pre-tender costs, under one or more of the Policies (as hereinafter defined);

WHEREAS, a dispute exists between the City of Everett and Safety National concerning whether Safety National is obligated, in whole or in part, to defend or indemnify the City of Everett in connection with the VCP Claim, to pay any costs relating to, arising out of and/or in connection with Environmental Contamination at, around, or emanating from the GTS Site or otherwise, and whether Safety National has any obligation to the City of Everett under the certain alleged insurance policies;

WHEREAS, the Parties (as hereinafter defined) believe it is in their best interests to fully and finally resolve all disputes and any and all past, present and future disputes, without further litigation, relating to, arising out of and/or in connection with the GTS Site, the VCP Claim, and any and all alleged obligations of the Policies with respect to Claims concerning the GTS Site and the VCP Claim;

WHEREAS, the Parties acknowledge their belief that confidentiality is not feasible for a

public entity such as the City of Everett and accordingly, the Parties have determined not to include confidentiality provisions in this Agreement; and

WHEREAS, the Parties acknowledge that this Agreement's effectiveness is explicitly made contingent on approval by the Everett City Council, such that the Everett City Council's failure to approve this Agreement will render this Agreement (i) null and void, and (ii) improper for either Party to subsequently refer to for any reason.

NOW THEREFORE, intending to be legally bound, and in consideration of the mutual promises and other good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

II. DEFINITIONS

The definitions contained herein apply only to this Agreement and will not apply to any other agreement, including without limitation any policy of insurance, nor will they be used in evidence, except with respect to the enforcement of this Agreement. Each defined term stated in a singular form includes the plural form, and vice versa; and each defined term stated in the masculine includes the feminine, and vice versa.

A. "Agreement" means this Settlement Agreement and Release.

B. "City of Everett" means the City of Everett, Washington, a municipality organized and existing under the laws of the State of Washington.

C. "City Releasees" means:

(i) the City of Everett, Washington, a municipality organized and existing under the laws of the State of Washington;

(ii) all elected and appointed officials and employees of the City of Everett, Washington;

- (iii) all districts, divisions, agencies, departments, boards, commissions, branches, predecessors, successors, transferees and assigns of the City of Everett, Washington;
- (iv) all the predecessors and successors of the Persons mentioned in this Paragraph II.C., and all the past, present, and future assigns of such Persons; and
- (v) all Agents and Affiliates of the Persons mentioned in any of the subparagraphs of this Paragraph II.C.

D. “Claims” means all actual, potential, threatened or alleged past, present or future claims, actions, counts, cross-claims, counter-claims, rights, obligations, liabilities, duties, demands, requests, suits, lawsuits, direct actions, administrative proceedings, demands for contribution, Potentially Responsible Party letters, Notices of Responsibility, governmental or administrative information requests, judgments, settlements, statutory or regulatory obligations (including, without limitation, fines and penalties), governmental agency claims, orders, demands or directives, arbitrations, mediations, causes of action and any other assertions or allegations of injury, damage, liability or responsibility of any kind, type or description whether legal or equitable, and whether currently known or unknown, asserted or unasserted, fixed or contingent, mature or unmatured, liquidated or unliquidated, direct or consequential, foreseen or unforeseen and whether sounding in tort, toxic tort, contract, equity, nuisance, trespass, negligence, strict liability, product liability or any other statutory, regulatory, administrative or common law cause of action of any sort.

E. “Effective Date” means February 26, 2020.

F. “Execution Date” means the last date on which this Agreement is executed by all

of the Parties, as reflected by the latest date on the signature page(s) of this Agreement.

G. “Environmental Contamination” means known or unknown, potential, actual, threatened or alleged pollution, contamination, or damage to any air (whether indoor, outdoor, ambient or otherwise), atmosphere, land, soil, water, water course, body of water, surface water, groundwater or other tangible thing or resource, arising out of the actual, potential, alleged or threatened discharge, dispersal, release, emission, seepage, or escape of any pollutant, contaminant or hazardous waste, including but not limited to smoke, vapors, soot, fumes, acids, alkalis, asbestos, chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants, whether or not harmful, hazardous or toxic.

H. “GTS Site” means the three tax parcels, generally addressed at 2731 36th St., Everett, WA, and potentially including properties addressed or otherwise referred to as “2815 36th Street SE”, and “2931 36th Street”, Everett, WA, consisting of (i) Parcel 2905290040100 (a 1.39 acre parcel owned by the City of Everett); (ii) Parcel 29052900400800 (a 0.55 acre portion of the 36th Street right-of-way); and (iii) Parcel 2905290040150 (a 1.50-acre owned or formerly owned by Burlington Northern Santa Fe Railway). See Exhibit A.

I. “Parties” means the City of Everett and Safety National (as defined below). “Party” means either of the individual Parties.

J. “Person” means any natural person, class or group of natural persons, corporation, proprietorship, partnership, association, trust or any other entity or organization, including without limitation, insurance entities, exchanges, “names” or underwriters; and any federal, provincial, tribal, state, county, city or municipal governmental or quasi-governmental body, and/or any political subdivision, department, agency or instrumentality thereof.

K. “Policies” means any and all policies of insurance, whether known or unknown,

whether primary, umbrella, excess or otherwise, and whether liability, first party, environmental hazard, environmental impairment, inland marine liability, bumbershoot, automobile or otherwise, issued or allegedly issued by Safety National: (i) to the City of Everett; or (ii) under which the City of Everett claims it is entitled to insurance, rights or benefits.

L. “Safety National” means Safety National Insurance Company, formerly named Safety Mutual Insurance Company;

M. “Safety National Releasees” means:

- (i)** Safety National; and
- (ii)** each of its present and future, direct and indirect parents, subsidiaries, partners, joint ventures, and affiliates;
- (iii)** the past, direct and indirect parents, subsidiaries, partners, joint ventures, reinsurers, and affiliates of any of the foregoing but only if an entity described in (i) or (ii) above has the power or authority to act on such Person’s behalf;
- (iv)** the past, present and future officers, directors, employees, representatives, agents, and/or administrators, members, principals, authorized claims handling agents, attorneys and shareholders of any of the foregoing but only in their capacity as such; and
- (v)** the predecessors, successors and assigns of any of the foregoing.

Notwithstanding the foregoing, “Safety National Releasees” shall not include any Person that is first acquired by, first acquires, or first merges into Safety National (as constituted on the Effective Date) after the Effective Date other than with respect to Claims against such Person under, arising from or relating to Policies issued by Safety National as constituted on or before

the Effective Date.

III. SETTLEMENT PAYMENT

A. Subject to all the terms, provisions and conditions in this Agreement (and in order to resolve, *inter alia*, the insurance claim made by the City of Everett in connection with the VCP Claim and Environmental Contamination associated with the GTS Site), Safety National will pay to the City of Everett the sum of \$500,000 (referred to hereinafter as the “Settlement Amount”) within 30 days of this Agreement’s date of execution on behalf of City of Everett.

B. The Parties agree and jointly represent that the consideration paid and the waivers and releases given pursuant to this Agreement constitute fair and adequate consideration for the releases granted and other terms of this Agreement.

C. The Parties agree that the settlement payment made under this Section III may be allocated to Safety National’s policies as Safety National deems appropriate.

IV. RELEASES

Upon the Effective Date, and in consideration of the promises and obligations set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and subject to all of the terms and conditions in this Agreement:

A. The City of Everett, on its own behalf and on behalf of the City Releasees, hereby fully, finally and completely acquits, releases and forever discharges the Safety National Releasees, and each of them, from and covenant not to sue the Safety National Releasees, or any of them, for any and all Claims, expenses and compensation of any kind and nature whatsoever, relating to, arising out of, and/or in connection with the Policies which arise from or relate to: (a) the GTS Site; (b) the VCP Claim; (c) any other property or location onto which Environmental Contamination has actually or allegedly emanated from, migrated from or been transported,

moved or in any way released from the GTS Site, but only to the extent of Environmental Contamination from the GTS Site; (d) the negotiation and execution of this Agreement; and (e) relating to the GTS Site, any alleged bad faith, alleged violation of any statute or regulation, including, but not limited to, Unfair Claim Practices Acts (specifically including the Insurance Fair Conduct Act), Consumer Protection Acts, or other similar statutes of each of the fifty (50) states (when applicable) based upon any act or omission of the Safety National Releasees, or any of them, whether sounding in breach of contract, breach of express or implied warranty, breach of any duty of good faith and fair dealing, breach of statutory duties, actual or constructive breach of fiduciary duty, actual or constructive fraud, unfair insurance acts or practices, unfair or deceptive acts or trade practices, or any other theory relating to any alleged misconduct or wrongdoing of any kind by the Safety National Releasees, or any of them. All Claims released by this Section IV.A. will be referred to hereinafter as the “City of Everett Released Claims.”

B. The City of Everett, on its own behalf and on behalf of the City Releasees, hereby withdraws all requests, demands and tenders for indemnity, defense or any and all other reimbursement made to the Safety National, and each of them, relating to the GTS Site, including but not limited to any and all Claims under the Policies relating to the GTS Site, including but not limited to any alleged defense or indemnity obligation concerning the GTS Site, or the DOE Claim and hereby covenants and agrees to forever relinquish and abandon any and all rights and Claims against the Safety National Releasees, and each of them, with respect to such Claims relating to the GTS Site.

C. Safety National hereby fully, finally and completely acquits, releases and forever discharges the City Releasees, and each of them, from and covenant not to sue the City Releasees or any of them, for any and all Claims, expenses and compensation of any kind and nature

whatsoever, relating to, arising out of, and/or in connection with the Policies and arising from or related to: (a) the GTS Site; (b) the VCP Claim; (c) any other property or location onto which Environmental Contamination has actually or allegedly emanated from, migrated from or been transported, moved or in any way released from the GTS Site, but only to the extent of Environmental Contamination from the GTS Site; (d) the negotiation and execution of this Agreement.

V. THIRD PARTIES

A. Except as otherwise set forth in this Agreement, no actions taken or payments made pursuant to this Agreement will constitute a release of, or be construed as relieving, any third party of any financial or other obligation it had, presently has or may have in the future.

B. Nothing herein shall in any way preclude or prohibit Safety National from bringing or pursuing any Claims against any of its reinsurers and/or retrocessionaires; notwithstanding anything to the contrary in this Agreement, Safety National retains all of its rights to pursue reinsurance and to enforce any and all contracts with reinsurers and/or retrocessionaires.

VI. JUDGMENT REDUCTION / CREDIT OFFSET

The City of Everett warrants that as of the Effective Date it does not have a judgment against any other Person in connection with any of the Claims released under this Agreement. If the City of Everett makes a Claim or obtains a judgment against any Person or settles any Claim with any Person with respect to City of Everett Released Claims, and in the further event that such other Person asserts any Claim against any of the Safety National Releasees for contribution, subrogation or indemnification relating to such Claims, the City of Everett will offer to voluntarily reduce its settlement, judgment or Claim against such other Person, or will

return or reimburse any collected judgment or other monies paid by such other Person to the same extent that Safety National Releasees would otherwise have to pay such other Person with respect to City of Everett Released Claims, or will otherwise engage in any conduct that is authorized by Everett City Counsel and reasonably geared to ensure that Safety National will not be obligated to pay any contribution, subrogation or indemnification to such other Person with respect to City of Everett Released Claims. Nothing in this Section VI precludes any Party from asserting a Claim to enforce this Agreement.

VII. CLAIM BAR

Within sixty (60) business days of any request by Safety National that it do so, the City of Everett shall file with a court of competent jurisdiction a Complaint for Declaratory Relief, accompanied by a Motion for entry of a claims or contribution bar order seeking a ruling that, as a result of this Agreement and/or the settlement referenced therein, Safety National is entitled to a bar with respect to any potential claims by other insurance companies relating to the VCP Claim and/or with respect to any Claims relating to Environmental Contamination at or emanating from, migrating from, transported, moved or in any way released from the GTS Site. The City's costs incurred shall be paid by Safety National, provided that Safety National will receive advance notice of the identity and hourly rates charged by any attorneys proposed to assist in the City of Everett's compliance with this provision.

VIII. GENERAL REPRESENTATIONS AND WARRANTIES

A. Each Party represents and warrants that the individual executing this Agreement for that Party is fully authorized to do so.

B. To the extent applicable, each Party represents and warrants that it has taken all necessary corporate and/or internal legal actions to duly approve the making and performance of

this Agreement and no further corporate or other internal approval is necessary.

C. To the extent applicable, each Party represents and warrants that the making and performance of this Agreement will not violate any provision of law or of that Party's respective articles of incorporation, charter or by-laws.

D. Each Party represents and warrants that this Agreement has been negotiated in good faith and is the product of arms' length negotiations and informed negotiations between the Parties (including their representatives and counsel) and involves compromises of previously-stated legal positions.

E. The City of Everett represents and warrants that it will not tender any further Claims under the Policies regarding Environmental Contamination at or emanating from the GTS Site.

IX. THE CITY OF EVERETT'S REPRESENTATIONS AND WARRANTIES RE: USE OF SETTLEMENT PAYMENTS AND MEDICARE

The City of Everett represents and warrants that it is not aware of any past or present Claims for bodily injury arising out of or relating to the GTS Site. The City of Everett further represents and warrants that it is not using and will not use any portion of Safety National's payment received under Section III of this Agreement to pay any past, present or future Claims for bodily injury that could potentially trigger any obligations as required by 42 USC §1395y(b) and the rules and regulations promulgated thereunder (including, without limitation, 42 CFR §§411 *et seq.*) (collectively, the "Medicare Secondary Payor Statutes"). The City of Everett acknowledges and agrees that, if and to the extent that the foregoing representations and warranties are breached at any time, such breach irrebuttably will be deemed to be a material breach of this Agreement. If the Safety National Releasees, or any one of them, seek remedies under this Agreement for such a material breach of this Agreement or arising out of the City of

Everett's actual or alleged failure to comply with any obligation under the Medicare Secondary Payor Statutes, then Safety National shall be entitled to liquidated damage sums up to and equal to the Settlement Amount, which liquidated damage sum shall be paid to Safety National within 30 days. The Parties agree that this liquidated damage sum is not a penalty but is reasonable given the inability of the Parties to predict with certainty the amount of damages resulting from the City of Everett's material breach or alleged breach.

X. NO ASSIGNMENT AND AGREEMENT NOT TO ASSIGN

A. The City of Everett represents and warrants that, as of the Effective Date, it has not assigned any of its rights against any of the Safety National Releasees arising from the GTS Site or the VCP Claim to any Person.

B. The Parties each agree not to assign any of their rights under the Policies in connection with the GTS Site or the VCP Claim, or to delegate any of their duties under this Agreement without first obtaining all other Parties' written consent; provided, however, that this provision will not prohibit any assignment by any Party due to purchase, sale, merger, consolidation, operation of law or to a Person who succeeds to all or substantially all of such Party's assets. Subject to the foregoing, this Agreement will extend to and be binding upon the successors and assigns of the Parties.

XI. CONSTRUCTION OF THE AGREEMENT; MISCELLANEOUS

A. **No Admission.** This Agreement is the result of a compromised settlement of disputed claims and defenses. Nothing in this Agreement is to be construed as an admission or concession of coverage, responsibility, liability, non-liability or wrongdoing by either Party. This Agreement is the product of informed negotiations between the Parties and their representatives, including counsel, and involves compromises of previously stated legal

positions. This Agreement is not, and must not be construed as, an acknowledgment of coverage under the Policies, or as a waiver of any policy terms or conditions or any defenses to coverage available to Great American arising out of any Claims. Nothing in this paragraph is to be interpreted to restrict the right of either Party to introduce evidence predicated on a breach of this Agreement or to provide proof as to the fact of settlement provided herein. With respect to rights and obligations regarding all matters outside the scope of this Agreement or regarding any non-Party, the Parties each reserve all positions and all rights, defenses and privileges.

B. No Precedential Effect. This Agreement will have no precedential effect and is not, and must not be used as, evidence regarding the rights, obligations or defenses of any Party as to any other Claims. This Agreement is a negotiated settlement of disputed Claims and is not intended to and must not be construed as an insurance policy. Rather, it is in the interest of the Parties in entering into this Agreement merely to resolve this matter and to avoid incurring further expenses in connection with this dispute. This Agreement is intended to fall within the protection afforded compromises and offers to compromise by Rule 408 of the Federal Rules of Evidence and corresponding state rules.

C. Integration. This Agreement, including its exhibits, represents an integrated agreement and constitutes the entire agreement and understanding between the Parties. The Parties expressly agree that this Agreement shall prevail over and supersede any prior communications, correspondence, memorializations of agreement and/or previous agreements regarding the matters contained herein. Except as explicitly set forth in this Agreement, no representations, warranties or inducements, whether oral or written, express or implied, shall in any way affect or condition the validity or interpretation of this Agreement. Notwithstanding the foregoing, the Parties agree that this Agreement shall not modify, supplement, revise or replace

any prior agreement between the Parties to the extent such prior agreement contains a broader release, hold harmless provision or other protection of the Insurers.

D. No Presumptions of Agreement. This Agreement was reviewed and approved as to form by attorneys for each of the Parties, and the Parties intend that there be no presumption or construction against either Party. Neither Party will be deemed to be the drafter of this Agreement or of any particular provision, and no part of this Agreement is to be construed against a Party based on the Party's identity as an insurance company or as the drafter of any part of this Agreement.

E. No Modification. This Agreement may not be amended or modified other than by written agreement agreed to and signed on behalf of both Parties.

F. Additional Documents. The Parties hereby agree to promptly execute, deliver, file and record any and all other and further instruments and documents which may be necessary to give full force and effect to the terms and intent of this Agreement and/or to cure any defect in the execution and delivery of this Agreement and the documents referenced herein.

G. Counterparts & Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and each of which will represent the executing Party's commitment to the entire Agreement. The Parties agree that a facsimile or electronic signature (e.g. PDF signature) shall have the same effect as an original "wet" signature.

H. Section Headings. Section headings herein are for organizational purposes only and are not intended to be construed to give meaning to any provision of this Agreement.

XII. NOTICE

Any notice required pursuant to this Agreement will be sent by U.S. Mail or overnight

delivery service (and by e-mail to counsel) as follows, or as the Parties may subsequently direct in writing:

If to: City of Everett

Tim Benedict
City of Everett
3200 Cedar Street
Everett, WA 98201

And

Real Property Manager
City of Everett
3200 Cedar Street
Everett, WA 98201

With copy in the above manner and/or by email to:

Matthew Cockrell
Matthew Cockrell & Associates
300 Meadowbrook
Northfield, IL 60093
Email: mcockrell@CockrellLegal.com
Phone: (847) 386-6803

If to: Safety National

Brent A. Bates, JD
Director of Umbrella Claims
Safety National Casualty Corporation
1832 Schuetz Road
St. Louis, MO 63146

With copy in the above manner and/or by email to:

Carl E. Forsberg
Michael D. Handler
Forsberg & Umlauf, P.S.
901 Fifth Ave., Suite 1400
Seattle, WA 98164
Email: cforsberg@foum.law; mhandler@foum.law
Phone: (206) 689-8500

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AGREED, UNDERSTOOD AND ACCEPTED by the Parties and IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year as set forth below.

CITY OF EVERETT
(On behalf of all Persons within the definition of "City Releasees")

SAFETY NATIONAL CASUALTY CORPORATION
(On behalf of all Persons within the definition of "Safety National Releasees")

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

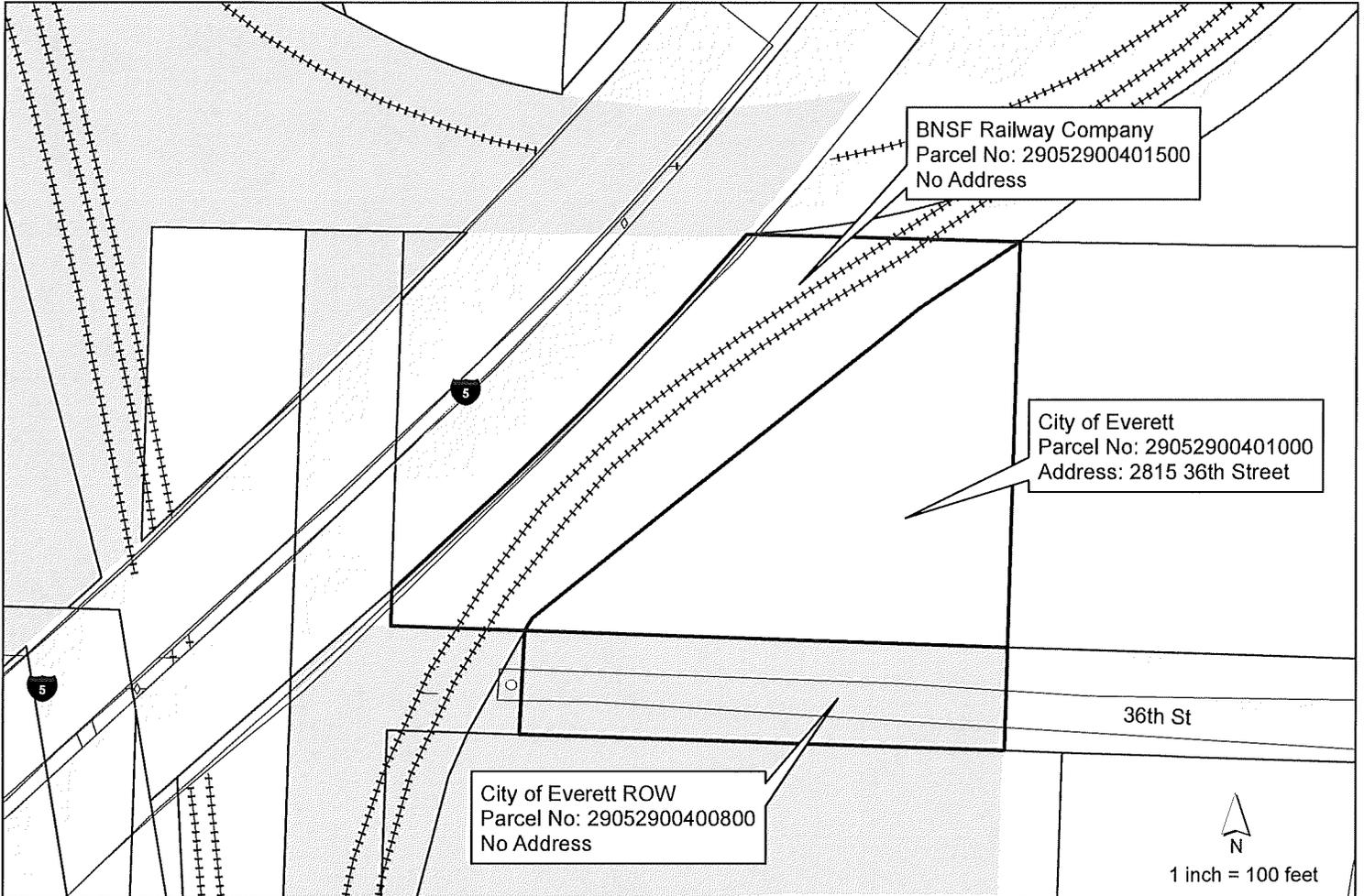
Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A.



**Exhibit A:
Settlement Agreement Parcels
City of Everett and
Safety National Casualty Corporation**

The data provided on this map may be inaccurate, incomplete or out-of-date. If you rely on this data, you do so at your sole risk. The City of Everett is not liable for any damage resulting from use of the data. You must obtain independent verification. The City of Everett makes no warranties, and the data is provided strictly "AS-IS." THE CITY OF EVERETT MAKES NO WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, EITHER EXPRESS OR IMPLIED OR STATUTORY, REGARDING THIS DATA.



Project title: Purchase and Sale Agreement for Boathouse at Port of Everett Marina for use by the City of Everett Police Department

City Council Agenda Item Cover Sheet

Council Bill #

Consideration: Purchase and Sale Agreement

Project: Boathouse for City of Everett Police Department

Partner/Supplier: Vincent Preach

Location: Port of Everett Marina

Preceding action: None

Fund: 156

Agenda dates requested:

4/15/2020

Briefing

Proposed action

Consent

Action X

Ordinance

Public hearing

..... Yes X No

Budget amendment:

..... Yes X No

PowerPoint presentation:

..... Yes X No

Attachments:

- 1. Purchase and Sale Agreement

Department(s) involved:

Real Property

Contact person:

Darcie Byrd

Phone number:

425-257-7294

Email:

dbyrd@everettwa.gov

Fiscal summary statement:

The City of Everett seeks to enter into a Purchase and Sale Agreement (“PSA”) for a purchase in the amount of \$150,000 of a boathouse located at the Port of Everett Marina to house its Marine Operations Unit vessel and related equipment. The final purchase price is subject to inspection and confirmation appraisal. In no event would the purchase price exceed \$150,000. The first \$130,000 of the purchase price will be paid from the 156 Criminal Justice Fund. Any remaining balance will be paid from the Vessel Registration Fund.

Project summary statement:

The City’s Police Department seeks to purchase a boathouse to serve as a secured location for its Marine Operations Unit vessel, “Marine II”, and its dive locker.

The PSA provides for an inspection and appraisal period during which the City may confirm or condition its satisfaction of the boathouse. Generally, boathouses rarely come on the market. Transfer of boathouse ownership at the Port of Everett Marina is a rare occurrence.

During the Port of Everett’s redevelopment of the Marina, Marine II was displaced from a boathouse that it had occupied through an agreement with the Port of Everett for many years. Marine II is currently docked at covered slip at the Marina. However, because the vessel does not have a cabin it cannot be fully secured. Also, the Police dive locker is housed at the Yacht Club at the Marina, which is schedule for demolition as part of the Port’s continued redevelopment of the site. The dive locker must be relocated by July 2020. The City’s ownership of a boathouse will provide a central operations location to secure Marine II and maintain an easily deployable dive locker which are both essential to the function of the Marine Operations Unit.

Recommendation (exact action requested of Council):

Authorize the Mayor to execute Purchase and Sale Agreement for Boathouse at Port of Everett Marina for use by the City of Everett Police Department.

Initialed by:

.....
Department head

.....
Administration

.....
Council President



Project title: Real Estate Purchase and Sale Agreement for the sale of City owned property located at 1409 East Marine View Drive.

City Council Agenda Item Cover Sheet

Council Bill #

Consideration: Real Estate Purchase and Sale Agreement

Project: Sale of City owned property located at 1409 E. Marine View Drive

Partner/Supplier: J. Lee & A. Choi

Location: 1409 E. Marine View Drive

Preceding action: 11/14/18 Resolution No. 7309 declaring city owned property as surplus and authorizing its sale.

Fund: 146 – Property Management Fund

Agenda dates requested:

Briefing

Proposed action

Consent

Action 4/15/2020

Ordinance

Public hearing

Yes No

Budget amendment:

Yes No

PowerPoint presentation:

Yes No

Attachments:

- 1. Real Estate Purchase and Sale Agreement

Department(s) involved:

Real Property

Contact person:

Paul McKee

Phone number:

425-257-8938

Email:

pmckee@everettwa.gov

Fiscal summary statement:

Proceeds to Fund 146 – Property Management Fund

Project summary statement:

Following a Public Hearing on November 14, 2018, the Everett City Council passed Resolution No. 7309 declaring certain City owned properties as surplus to the City’s needs and authorizing the sale of the properties. One of the properties listed for surplus in the Resolution is the city owned lot located at 1409 E. Marine View Drive.

The property is zoned R-2 Single Family Residential. The site is approximately 4280 sq. ft. and is a remnant of a property acquired in 2006 for the East Marine View Drive improvement and widening project. The site was purchased for \$280,000 and the residential structure on the site was demolished to accommodate the street widening project.

The attached agreement provides for the proposed sale of the property subject to a cash sales price of \$135,000.00 with no feasibility period required and closing to occur on or before 30 days after the effective date of the agreement. The city would be responsible for its broker fee of 3% of the sales price, a fixed buyer’s broker fee of \$3,000.00, and typical half closing costs.

As required by Resolution No. 7309, the proposed sales price is not less than 100% of the appraised value (\$125,000.00) of the property.

Recommendation (exact action requested of Council):

Authorize the Mayor to execute Real Estate Purchase and Sale Agreement for the sale of City owned property located at 1409 East Marine View Drive.

Initialed by:

Department head

Administration

Council President

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement (the “**Agreement**”) is entered into by and between **JUSTIN S LEE and ANGELA J CHOI**, a married couple (“**Buyer**”) and the **City of Everett**, a Washington municipal corporation (“**Seller**”).

RECITALS

A. The Everett City Council by resolution has determined that the Property (defined below) is surplus and should be sold.

B. In response to a request for proposals from Seller, Buyer submitted the best offer to Seller to purchase the Property. Seller has determined to accept Buyer’s offer as set forth herein.

AGREEMENT

Seller and Buyer agree as follows:

1. **Property.** Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth in this Agreement, the following:

a) Real property

The real property located in Snohomish County, Washington, legally described as set forth on Exhibit A attached hereto, together with all Seller’s right, title and interest in and to any rights, licenses, privileges, reversions and easements pertinent to the real property, including, without limitation all development rights, air rights, and water rights relating to the real property, and all rights to utilities serving the property, as well as any other easements, rights of way or appurtenances used in connection with the beneficial use and enjoyment of the real property (collectively, the “**Real Property**”).

b) Tangible personal property

All tangible personal property owned by Seller and located on, within, over or under the Real Property that is attached or otherwise affixed to the Real Property, including without limitation all fixtures.

c) Intangible personal property

All intangible personal property owned by Seller and used in the ownership, financing, operation or maintenance of the Real Property or the tangible personal property, or any portion of either. The intangible personal property includes, but is not limited to, licenses and permits issued by any federal, state, or local authorities relating

to the use, maintenance, occupancy or operation of the Real Property, reports and studies, including but not limited to physical and engineering inspections, soil studies, utility and zoning studies, traffic studies, environmental assessment reports, government correspondence, orders or data relating to any hazardous materials on the Real Property and any other documented information relating exclusively to the Real Property.

The Real Property, the tangible personal property, and the intangible personal property are collectively referred to in this Agreement as the “**Property.**”

2. Purchase Price. The total purchase price (the “**Purchase Price**”) for the Property shall be **\$135,000.** The Purchase Price, less the credit for the Deposit paid under Section 3, shall be paid to Seller in cash through escrow upon Closing. Payment in cash means payment by wire transfer of immediately available funds

3. Deposit. Together with the full execution and delivery of this Agreement (the date that the later of Buyer and Seller execute this Agreement, the “**Effective Date**”), Buyer is depositing with Closing Agent (as defined in Section 7.1) cashier’s check or wire transfer of immediately available funds in the amount of **\$10,000** as an earnest money deposit (the “**Deposit**”). The entire Deposit shall be non-refundable, except (A) in the event of a Seller default or (B) pursuant to Section 6 below. The Deposit shall be applied to the Purchase Price at closing.

4. Conveyance of Title/Recording of Easement. At closing, Seller shall convey to Buyer fee simple title to the Real Property by duly executed and acknowledged bargain and sale deed (the “**Deed**”), subject to those exceptions defined as “Permitted Exceptions” pursuant to Section 5 below. The Easement (defined below and the form of which is attached hereto as Exhibit C) will be recorded immediately after the Deed is recorded, without any intervening document.

5. Title Insurance.

5.1 Preliminary Commitment. Buyer has been provided and reviewed to its satisfaction an ALTA Commitment for Title Insurance issued by Commonwealth Land Title Insurance Company through its agent, Rainier Title LLC located at 2722 Colby Avenue, Suite 125, Everett, WA 98201 (“**Title Company**”). A copy of such preliminary commitment is attached to this Agreement as Exhibit B (the “**Preliminary Commitment**”).

5.2 Permitted Exceptions. Except for monetary encumbrances (see Section 5.3 below), Buyer hereby approves all those exceptions to title listed on the Preliminary Commitment. All such approved non-monetary exceptions are defined for this Agreement as “**Permitted Exceptions.**”

5.3 Monetary Encumbrances. Seller hereby agrees to remove any exceptions to title arising out of financial or monetary encumbrances such as deeds of trust, liens, judgments, mortgages and past due taxes and assessments.

5.4 Title Policy. Seller shall cause Title Company to issue an owner's policy of title insurance acceptable to Buyer, subject only to the Permitted Exceptions (the "**Title Policy**"). At closing, Seller will pay the cost for a standard owner's policy of title insurance insuring Buyer's title to the Real Property in the full amount of the Purchase Price. Buyer shall pay the costs of extended coverage and any endorsements specified by Buyer or its counsel. Issuance of the standard coverage Title Policy shall be a condition of closing. Issuance of an extended coverage Title Policy is not a condition of closing.

6. Closing Conditions.

6.1 Mutual Closing Conditions. The respective obligations of Seller and Buyer to close the transaction contemplated in this Agreement are subject to the satisfaction at or prior to Closing of the following conditions precedent (the "**Mutual Closing Conditions**"):

(i) **Adverse Proceedings.** No litigation or other court action shall have been commenced seeking to obtain an injunction or other relief from such court to enjoin the consummation of the transaction described in this Agreement, and no preliminary or permanent injunction or other order, decree, or ruling shall have been issued by a court of competent jurisdiction or by any governmental authority, that would make illegal or invalid or otherwise prevent the consummation of the transaction described in this Agreement; provided if any of the foregoing shall occur or be in effect as a direct or indirect result of Seller's or Buyer's acts or omissions taken or omitted by such party, the failure of such party to close by reason of any of the foregoing shall constitute a default by such party hereunder, entitling the other party to its rights and remedies hereunder.

(ii) **Adverse Law.** No law, statute, rule, or regulation shall have been enacted that would make illegal or invalid or otherwise prevent the consummation of the transaction described in this Agreement.

If any of the Mutual Closing Conditions is not satisfied at Closing, then each party shall have the right to terminate this Agreement by providing written notice to the other party, in which case the Earnest Money shall be refunded to Buyer, and the parties shall have no further rights or obligations under this Agreement, except for those which expressly survive such termination.

6.2 Seller Closing Conditions. In addition to the Mutual Closing Conditions, Seller's obligations to close the transactions contemplated in this Agreement are subject to the satisfaction at or prior to Closing of the following conditions precedent (the "**Seller Closing Conditions**"):

(i) **Receipt of the Purchase Price.** Buyer shall have paid to Seller or deposited with escrow with written direction to disburse the same to Seller at Closing, the Purchase Price.

(ii) **Buyer's Escrow Deposits.** All of the Buyer Escrow Deposits shall have been delivered to escrow at Closing.

(iii) **Representations and Warranties.** The representations and warranties of Buyer in Section 9 of this Agreement shall be true and correct in all material respects as of the Closing (or as of such other date to which such representation or warranty expressly is made).

(iv) **Covenants and Obligations.** The covenants and obligations of Buyer in this Agreement shall have been performed in all material respects.

If any of the Seller Closing Conditions is not satisfied at Closing, then Seller shall have the right to (a) terminate this Agreement by providing written notice to Buyer, in which case the Earnest Money shall be disbursed to Buyer, and the parties shall have no further rights or obligations under this Agreement, except those which expressly survive such termination, or (b) waive any of the Seller Closing Conditions at or prior to Closing.

6.3 Buyer Closing Conditions. In addition to the Mutual Closing Conditions, Buyer's obligations to close the transactions described in this Agreement are subject to the satisfaction at or prior to Closing of the following conditions precedent (the "**Buyer Closing Conditions**"):

(i) **No Material Change.** No material change in the condition of the Property between the Effective Date and the Closing Date.

(ii) **Seller's Escrow Deposits.** All of the Seller Escrow Deposits shall have been delivered to escrow at Closing.

(iii) **Representations and Warranties.** The representations and warranties of Seller in Section 9 of this Agreement shall be true and correct in all material respects as of the Closing (or as of such other date to which such representation or warranty expressly is made).

(iv) **Covenants and Obligations.** The covenants and obligations of Seller in this Agreement shall have been performed in all material respects.

If any of the Buyer Closing Conditions is not satisfied at Closing, then Buyer shall have the right (a) to terminate this Agreement by providing written notice to Seller, in which case the Earnest Money shall be refunded to Buyer, and the parties shall have no further rights or obligations under this Agreement, except those which expressly survive such termination, or (b) to waive any of the Buyer Closing Conditions at or prior to Closing.

7. Closing.

7.1 Time for Closing. The sale shall be closed in the office of Rainier Title, 2722 Colby Ave., Ste. 125, Everett, WA 98201 ("**Closing Agent**") on or before thirty (30) calendar days after the Effective Date; or such other date as Seller's real property manager and Buyer may agree in writing. At least one (1) business day prior to closing, Buyer and Seller shall deposit in escrow with Closing Agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. As used herein, "**closing**" or "**date of closing**" or "**Closing Date**" means the date on which all appropriate documents are recorded and proceeds of sale are available for disbursement to Seller. If closing does not occur on or before sixty (60) days after the Effective Date, or any later date mutually agreed to in writing by the Seller's real property manager and Buyer, Closing Agent shall immediately terminate the escrow, forward the Deposit to the party entitled to receive it as provided in this Agreement and return all documents to the party that deposited them.

7.2 Seller's Escrow Deposits. On or before the Closing Date, Seller shall deposit into escrow the following:

- a) the duly executed and acknowledged Deed;
- b) a duly executed and completed Real Estate Excise Tax affidavit;
- c) a nonforeign affidavit pursuant to Section 1445 of the Internal Revenue Code
- d) any other documents, instruments, records, correspondence and agreements Seller is obligated under this Agreement to provide that have not been previously delivered;
- e) any other documents that may be reasonably required by Buyer or the Title Company or Closing Agent to close this transaction, duly executed (provided however, no such additional document shall expand any obligation, covenant, representation, or warranty of Seller or result in any new or additional obligation, covenant, representation, or warranty of Seller under this Agreement beyond those already set forth in this Agreement).
- f) keys to the Property, if any.
- g) Seller's counterpart to the easement (the "**Easement**"), in the form attached as Exhibit C, duly executed and acknowledged by Seller.

7.3 Buyer's Escrow Deposits. On or before the Closing Date, Buyer shall deposit into escrow the following:

- a) cash in an amount sufficient to pay the Purchase Price, plus Buyer's share of closing costs;
- b) a duly executed and completed Real Estate Excise Tax affidavit;
- c) a nonforeign affidavit pursuant to Section 1445 of the Internal Revenue Code; and
- d) any other documents, instruments, records, correspondence and agreements Buyer is obligated under this Agreement to provide that have not been previously delivered.
- e) any other documents that may be reasonably required by Seller or the Title Company or Closing Agent to close this transaction, duly executed (provided however, no such additional document shall expand any obligation, covenant, representation or warranty of Buyer or result in any new or additional obligation, covenant, representation or warranty of Buyer under this Agreement beyond those already set forth in this Agreement).
- f) Buyer's counterpart to the Easement, duly executed and acknowledged by Buyer.

7.4 Additional Instruments and Documentation. Seller and Buyer shall each deposit any other instruments and documents that are reasonably required by Closing Agent or otherwise required to close the escrow and consummate the purchase and sale of the Property in accordance with this Agreement.

7.5 Closing Costs. On closing, Seller shall pay real estate excise taxes, if any; sales tax, if any; half of the Closing Agent's escrow fee; and shall pay the premium for a standard coverage owner's policy of title insurance. Buyer shall pay half Closing Agent's escrow fee and recording fee for the deed. Additionally, Seller shall pay applicable prorated items as set forth in Section 7.6 below. Buyer and Seller shall prepare a real estate excise tax affidavit as required to close the sale.

7.6 Prorations. All normal and customarily pro-ratable items, including without limitation real estate and personal property taxes and utility bills, shall be prorated as of the date of closing, on the basis of a 365 day year, with Seller being charged and credited for all of same up to the closing date and Buyer being charged and credited for all of same on and after such date. If the actual amounts to be prorated are not known as of the closing, the prorations shall be made on the basis of the best evidence then available, and thereafter, when actual figures are received, a cash settlement will be made between Seller and Buyer.

7.7 Possession. Buyer shall be entitled to possession on closing.

7.8 Certification of Warranties and Representations. By closing the purchase of the Property, Buyer certifies and reaffirms that as of the Closing Date that all of Buyer's representations and warranties under this Agreement are true and correct. By closing the sale of the Property, Seller certifies and reaffirms that as of the Closing Date that all of Seller's representations and warranties under this Agreement are true and correct.

8. Seller's Activities Prior to Closing. After the Effective Date until the closing:

8.1 Maintenance. Except as otherwise approved by the Buyer in writing, Seller shall operate and maintain the Property in accordance with Seller's current practices, including performing all necessary repairs and maintenance to preserve the Property in at least as good a condition as exists on the Effective Date.

8.2 No Alterations. Except as otherwise approved by the Buyer in writing, Seller shall not alter the Property in any material manner.

8.3 Tenants. Seller shall not permit any tenants to occupy the Property.

9. Representations and Warranties.

9.1 Seller's Representations and Warranties. In addition to other representations herein, Seller represents and warrants to Buyer as of the Effective Date and as of the date of closing that:

9.1.1 Seller is duly organized and validly existing under the laws of the State of Washington with the full power and authority to perform its obligations hereunder.

9.1.2 The execution, delivery, and performance by Seller of this Agreement has been duly and validly authorized by all requisite action on the part of the Seller. This Agreement constitutes the legal, valid, and binding obligation of Seller, enforceable against it in accordance with its terms.

9.1.2 The Property is not subject to any leases or service contracts that will be in effect after the Closing Date.

9.1.3 Seller is in compliance with the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (September 23, 2001) (the "Order") and other similar requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and in any enabling legislation or other Executive Orders or regulations in respect thereof (the Order and such other rules, regulations, legislation, or orders are collectively called the "Orders"). Neither Seller nor any beneficial owner of Seller: (A) is listed on the Specially Designated Nationals and

Blocked Persons List maintained by OFAC pursuant to the Order or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred to as the "Lists"); (B) is a person who has been determined by competent authority to be subject to the prohibitions contained in the Orders; or (C) is owned or controlled by, or acts for or on behalf of, any person on the Lists or any other person who has been determined by competent authority to be subject to the prohibitions contained in the Orders.

9.2 Buyer's Representations and Warranties. In addition to other representations herein, Buyer represents and warrants to Seller as of the Effective Date and as of the date of closing:

9.2.1 Buyer is duly organized and validly existing under the laws of the State of Washington with the full power and authority to perform its obligations hereunder.

9.2.2 None of the execution, delivery, or performance of this Agreement by Buyer does or will, with or without the giving of notice, lapse of time, or both, violate, conflict with, constitute a default under, or result in a loss of rights under or require the approval or waiver of any entity under (i) the organizational documents of Buyer or any material agreement, instrument, or other document to which Buyer is a party or by which Buyer is bound, or (ii) any judgment, decree, order, statute, injunction, rule, regulation, or the like of a governmental unit applicable to Buyer.

9.2.3 The execution, delivery, and performance by Buyer of this Agreement has been duly and validly authorized by all requisite action on the part of the Buyer. This Agreement constitutes the legal, valid, and binding obligation of Buyer, enforceable against it in accordance with its terms.

9.2.4 Buyer is in compliance with the requirements of the Orders. Neither Buyer nor any beneficial owner of Buyer: (a) is on the Lists; (b) is a person who has been determined by competent authority to be subject to the prohibitions contained in the Orders; or (c) is owned or controlled by, or acts for or on behalf of, any person on the Lists or any other person who has been determined by competent authority to be subject to the prohibitions contained in the Orders.

9.2.5 There is no bankruptcy, insolvency, rearrangement, or similar action or proceeding, whether voluntary or involuntary, pending or, to the Buyer's knowledge, threatened against Buyer.

10. Casualty Loss/Eminent Domain. Seller shall immediately give notice to Buyer: (a) after the occurrence of any event causing material damage to the Property or any portion of the Property or (b) after the receipt by Seller of any notice of eminent domain proceedings with respect to the Property or any portion of the Property. Buyer may, by delivery of written termination notice within ten (10) business days after receipt

of such notice from Seller, terminate this Agreement, in which case the Deposit shall be refunded to Buyer.

11. Default.

11.1 Default by Seller. If Seller breaches or otherwise fails to perform any of its obligations under this Agreement, then Buyer as its exclusive remedy will be entitled to terminate this Agreement by written notice and to receive refund of the entire Deposit.

11.2 Default by Buyer.

IN THE EVENT THE BUYER FAILS, WITHOUT LEGAL EXCUSE, TO COMPLETE THE PURCHASE OF THE PROPERTY, THE DEPOSIT SHALL BE FORFEITED TO THE SELLER AS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO THE SELLER FOR SUCH FAILURE.

	JL	AC	03/31/2020
Seller Initials	Buyer Initials		

12. Notices; Time.

12.1 Notices. All notices shall be in writing and shall be (1) personally delivered, (2) sent by U.S. Mail to the addressee’s mailing address set forth below, or (3) sent to the addressee’s email address(es) below. Either party hereto may, by proper notice to the other, designate any other address for the giving of notice. Any notice shall be deemed effective upon earlier of actual receipt or three (3) days after mailing or emailing.

Seller: City of Everett
Real Property Manager
3200 Cedar Street
Everett, WA 98201

Buyer: **JUSTIN S LEE and ANGELA J CHOI**
19620 35th Dr SE
Bothell, WA 98012

12.2 Calculation of Time Periods. Time is of the essence of this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday. The final day of

any such period shall be deemed to end at 5 p.m., Pacific Standard or Daylight time, as applicable.

13. General.

13.1 This is the entire agreement of Buyer and Seller with respect to the matters covered hereby and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers hereunder must be in writing.

13.2 No waiver of any right or remedy in the event of default hereunder shall constitute a waiver of such right or remedy in the event of any subsequent default.

13.3 This Agreement shall be governed by the laws of the State of Washington. Exclusive venue for any dispute arising out of this Agreement is Snohomish County Superior Court.

13.4 This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and binds the heirs, personal representatives, successors and assigns of the parties hereto. Buyer may not assign this Agreement without Seller's prior written consent in its sole discretion.

13.5 The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof. This Agreement was negotiated, and the language in all parts will be given its fair meaning and will not strictly for or against either party.

13.6 Neither party (nor any of their respective agents or representatives) shall record this Agreement (or any memorandum or short form of this Agreement) without the prior written consent of the other.

13.7 "**Business Day**" means a date that is not a Saturday, Sunday, or holiday observed by federally chartered banks in the State where the Property is located. Whenever any determination is to be made or action to be taken on a date specified in this Agreement, if the date falls upon a date that is not a Business Day, the date for the determination or action shall be extended to the first Business Day immediately thereafter.

14. Limitation of Representations and Warranties.

14.1 As-Is. Except as expressly set forth in Section 9, Buyer acknowledges and agrees that Buyer is purchasing the Property in an "as-is" condition, "with all faults," and without any warranties, representations, or guarantees, either express or implied, of any nature whatsoever from or on behalf of Seller, including, without limitation, those of fitness for a particular purpose and use.

14.2 No Reliance. Buyer acknowledges and agrees that (i) Buyer has had an adequate opportunity to make such legal, factual, and other inquiries and investigation

as Buyer deems necessary, desirable, or appropriate with respect to the Property, (ii) except as otherwise expressly set forth in Section 9 of this Agreement the purchase of the Property will be on the basis of Buyer's own investigation of the physical, environmental and other condition of the Property and the condition of the physical improvements, including subsurface conditions, and (iii) except as otherwise expressly set forth in Section 9 of this Agreement, neither Seller, nor anyone acting for or on behalf of Seller, has made any representation, warranty, promise, or statement, express or implied, to Buyer, or to anyone acting for or on behalf of Buyer, concerning the Property or the condition, use, or development thereof. Buyer represents that, in entering into this Agreement, Buyer has not relied on any representation, warranty, promise, or statement, express or implied, of Seller, or anyone acting for or on behalf of Seller, other than as expressly set forth in Section 9 of this Agreement.

15. Real Estate Broker or Agent Commissions. Buyer and Seller represent and warrant to each other that no real estate commissions, finders' fees, or brokers' fees have been or will be incurred in connection with the sale of the Property by Seller to Buyer other than a commission payable by Seller to **Lee & Associates Commercial Real Estate Services, LLC** (the "Seller's Broker") pursuant to a separate agreement between Seller and Broker and a commission in the fixed amount of \$3,000 payable by Seller to **John Kim, Best Choice Realty, LLC** ("Buyer's Broker") pursuant to a separate agreement between Buyer and Buyer's Broker. Each party represents to the other that, except as set forth above, it has not authorized any broker or finder to act on its behalf in connection with the sale and purchase under this Agreement and that it has not dealt with any broker or finder purporting to act on behalf of any other party. Buyer and Seller each hereby agree to indemnify, defend, and hold the other harmless from any claim, liability, obligation, cost, or expense (including attorneys' fees and expenses) for fees or commissions relating to Buyer's acquisition of the Property asserted against either party by any broker or other person (other than the Seller's Broker and the Buyer's Broker) claiming by, through, or under the indemnifying party or whose claim is based on the indemnifying party's acts. The provisions of this Section 15 shall survive the Closing or any termination of this Agreement.

16. Form 17 Waiver. Buyer waives the right to receive a seller disclosure statement if required by RCW Ch. 64.06 (the "**Form 17**," with RCW Ch. 64.06 referred to as the "**Seller Disclosure Statute**"); provided, however, that unless the sale of the Property is exempt from the Seller Disclosure Statute (pursuant to RCW § 64.06.010 or otherwise), if the answer to any of the questions in the section of the Form 17 entitled "Environmental" would be "yes," then Buyer does not waive the receipt of the "Environmental" section of the Form 17, and such section of the Form 17 is attached to this Agreement. Buyer acknowledges and agrees that (i) neither the Form 17 nor any information or statements set forth therein comprise part of the Agreement and (ii) pursuant to RCW § 64.06.070, neither the Seller Disclosure Statute nor the Form 17 gives Buyer any additional rights or remedies except for the right of rescission exercised on the basis and within the time limits provided by the Seller Disclosure Statute.

17. Counterparts /Fax/.pdf documents. This Agreement may be executed in counterparts, all of which together shall constitute one agreement. Signatures and

documents by fax or .pdf shall be binding and shall be considered the same as original signatures.

18. Effective Date. The Effective Date shall be the date an original of this Agreement (or original counterparts of this Agreement) is executed by both Seller and Buyer and each party has received a fully executed copy thereof.

[SIGNATURE PAGES FOLLOW]

EXECUTED to be effective as of the Effective Date.

BUYER:

Authentisign


3/31/2020 9:58:19 AM PDT
JUSTIN S LEE

Date: 03/31/2020 _____

Authentisign


3/31/2020 10:00:45 AM PDT
ANGELA J CHOI

Date: 03/31/2020 _____

SELLER:

CITY OF EVERETT

By: _____
CASSIE FRANKLIN, MAYOR

Date: _____

ATTEST:

By: _____
CITY CLERK

APPROVED AS TO FORM:

By: _____
CITY ATTORNEY

**EXHIBIT A
LEGAL DESCRIPTION**

Lot 15, Block 260, Plat of Everett Division "O", according to the plat thereof, as recorded in Volume 6 of Plats, at Page 9, records of Snohomish County, Washington. Situate in the County of Snohomish, State of Washington.

EXHIBIT B

Preliminary Title Commitment

(see attached)

EXHIBIT C
Form of Easement

After recording mail to:
Real Property Manager
Facilities/Property Management Department
3200 Cedar Street
Everett, WA 98201

Grantor: JUSTIN S LEE and ANGELA J CHOI

Grantee: City of Everett

Tax Account Number: 00438326001500

Abbreviated Legal Description: PTN of Lot 15, Block 260, Plat of Everett Division "O"

Additional Legal on page ____ of document.

E A S E M E N T

THIS AGREEMENT is made this ____ day of _____, 2020,
between **JUSTIN S LEE and ANGELA J CHOI**, a married couple, hereinafter referred to as
"Grantor," and the City of Everett, a municipal corporation under the laws of the State of
Washington, hereinafter referred to as "City."

In consideration of mutual benefits to be derived and in consideration of the performance of the covenants, terms and conditions hereinafter set forth, Grantor hereby conveys the following easement:

An exclusive perpetual easement across, along, in, upon and under Grantor's property described below for the purpose of constructing, reconstructing, operating, maintaining and repairing a right-of-way corridor, including and not limited to street, alley, and sidewalk use, and utility facilities; and including all appurtenances attached thereto, together with the right of ingress to and egress from said property and across adjacent property of the Grantor and the right to use adjacent property of the Grantor for the purpose of conforming grades, piling dirt and providing trench stabilization during the construction, reconstruction, operation, maintenance and repair of aforesaid improvements or facilities.

The easement is over and across a tract of land situated in the County of Snohomish, State of Washington, and the easement is described as follows:

See Attached Exhibit A to Easement

This easement is granted subject to and conditioned upon the following terms, conditions and covenants:

1. Grantor shall at all times conduct its activities and all other activities conducted on Grantor's property so as not to interfere with, obstruct or endanger the usefulness of any improvements, or other facilities, now or hereafter maintained upon the easement, or in any way interfere with, obstruct or endanger the City's use of the easement.

2. Prior to any construction, work or any other activity by Grantor within the easement, notification and plans for the same shall be submitted in writing to the City by Grantor and no such construction, work or activity by Grantor shall be commenced without City's prior written agreement that the Grantor's proposed construction, work or activity will not

interfere with the City's easement granted herein; PROVIDED, HOWEVER, any changes or revisions in the plans shall also be subject to City's prior agreement. The City's review of the Grantor's plans under this easement shall not be deemed to impose any duty or obligation on the City to determine the adequacy or sufficiency of Grantor's plans and designs nor whether Grantor's construction, work or activity is in conformance with other applicable plans, codes and regulations. Further, agreement by the City to such construction, work or activity shall not in any manner be considered as imposing any obligation, duty or liability upon the City as to the safety or propriety of such construction, work or activity.

3. Grantor hereby authorizes City to cut, trim and remove any and all brush, trees, other vegetation or debris upon the easement and the right of access for such purposes. Grantor also authorizes the City to cut, trim and remove any and all brush, trees, other vegetation and debris on Grantor's property which, in the City's reasonable judgment, constitutes a hazard to the easement and the right of access for such purposes.

4. The Grantor agrees that title to all brush, trees, other vegetation or debris trimmed, cut and removed from the easement pursuant to this Agreement, and also all brush, trees, other vegetation or debris trimmed, cut and removed from Grantor's land pursuant to this Agreement is vested in the City, and that the consideration paid for conveying said easement and rights herein described is accepted as full compensation for all damages incidental to the exercise of any of said rights.

5. In the event Grantor places any improvements on or in the easement or constructs anything within the easement without first having obtained the written approval of the City Engineer, the Grantor shall cease all such activity and remove any and all improvements placed therein without the written agreement of the City Engineer. In the event Grantor fails to obtain prior approval, Grantor hereby authorizes the City to remove any and all improvements placed or constructed therein and hold the City, its officers, employees and agents harmless from damage caused to said improvements from removal thereof. Grantor

further agrees to pay the City for any and all costs incurred by the City in removing the improvements. This right is in addition to any other right the City may have at law or in equity.

6. Grantor does release, indemnify and promise to defend and save harmless the City, its officers, employees and agents from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by the City, its officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of or out of Grantor's use or activity within the above-described easement. This paragraph does not purport to indemnify the City against liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the sole negligence of the City, its officers, employees and agents; provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) the Grantor, its agents, successors or assigns, and (b) the City, its officers, employees or agents, this indemnity provision shall be valid and enforceable to the extent permitted by law. The Grantor specifically and expressly waives any immunity under Industrial Insurance, Title 51 RCW, and acknowledges that this waiver has been mutually negotiated by the parties.

7. The Grantor also covenants to the City that Grantor is lawfully seized and possessed of the land aforesaid; has a good and lawful right and power to sell and convey same; that same is free and clear of encumbrances, except as above indicated; and that Grantor will forever warrant and defend the title to said easement and the quiet possession thereof against the lawful claims and demands of all persons whomsoever.

8. The rights and obligations of the Grantor and City shall inure to the benefit of and be binding upon their respective heirs, successors and assigns.

Executed as of the date hereinabove set forth.

FORM 17

GRANTOR(S)

Authentisign

3/31/2020 9:59:21 AM PDT
JUSTIN S LEE

Date: 03/31/2020

Authentisign

3/31/2020 10:00:46 AM PDT
ANGELA J CHOI

Date: 03/31/2020

The terms and conditions of this easement are hereby accepted and approved by the City as of the date hereinabove set forth.

CITY OF EVERETT

By: _____

Title: _____

STATE OF WASHINGTON)
 :SS.
County of Snohomish)

I certify that I know or have satisfactory evidence that **JUSTIN S LEE and ANGELA J CHOI**, signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____
Signature of
Notary Public: _____
Notary (print name) _____
Residing at _____
My appointment expires: _____

Exhibit A to Easement

LEGAL DESCRIPTION FOR THE CITY OF EVERETT RIGHT OF WAY EASEMENT ACROSS A PORTION OF LOT 15 BLOCK 260 PLAT OF EVERETT DIV. "O" IN THE EAST MARINE VIEW DRIVE (formerly Grand Ave.) ROADWAY

That portion of **Lot 15, Block 260, Plat of Everett Division "O"**, according to the plat thereof, as recorded in Volume 6 of Plats, at Page 9, records of Snohomish County, Washington, described as follows;

Commencing at the Northeast corner of said Lot 15; thence West, along the north line thereof, a distance of 114 feet to the East line of that certain right of way conveyed to the City of Everett by Statutory Warranty Deed, as recorded under Auditors File No. 200604130864, records of Snohomish County, Washington being the **True Point of Beginning**; thence continuing West, along said north line, a distance of 6 feet to the Northwest corner of said Lot 15; thence South, along the west line thereof, a distance of 40 feet to the Southwest corner thereof; thence East, along the south line thereof, a distance of 20 feet to the east line of that parcel of land conveyed to the City of Everett by Statutory Warranty Deed, as recorded under Auditors File No. 200605020775, records of said county; thence Northwesterly, a distance of 42.37 feet to the **True Point of Beginning**.

Containing an area of 521 square feet.

FORM 17 DISCLOSURE STATEMENT – ENVIRONMENTAL SECTION

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY THAT IS LOCATED AT 1409 E MARINE VIEW DRIVE, EVERETT, WASHINGTON, AND LEGALLY DESCRIBED AS FOLLOWS (THE "**PROPERTY**");

Lot 15, Block 260, Plat of Everett Division "O", according to the plat thereof, as recorded in Volume 6 of Plats, at Page 9, records of Snohomish County, Washington.
Situate in the County of Snohomish, State of Washington.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS

FORM 17

YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller ____ is/ X is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

ENVIRONMENTAL

- Yes No Don't know *A. Has there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?
- Yes No Don't know *B. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?
- Yes No Don't know *C. Are there any shorelines, wetlands, floodplains, or critical areas on the property?
- Yes No Don't know *D. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?
- Yes No Don't know *E. Is there any soil or groundwater contamination?
- Yes No Don't know *F. Has the property been used as a legal or illegal dumping site?
- Yes No Don't know *G. Has the property been used as an illegal drug manufacturing site?

*See attached for further information

SELLER:

THE CITY OF EVERETT,
a municipal corporation of the State of Washington

By _____
Name: Paul McKee
Its: Real Property Manager
Date: _____

NOTICE TO BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this Statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.
- F. By its signature below, Buyer waives its right to rescind its purchase and sale agreement with Seller based on Seller's delivery of this document to Buyer.
- G. Buyer waives its right to receive Sections 1 – 5 and 7 of the Real Property Transfer Disclosure Statement.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

[Signature on following page.]

BUYER(S):

Authentisign


2020/03/31 09:52:22 AM EDT
JUSTIN S LEE

Date: 03/31/2020

Authentisign


2020/03/31 10:00:48 AM EDT
ANGELA J CHOI

Date: 03/31/2020



Project title: An ORDINANCE relating to Domestic Violence Definitions, amending Ordinance No. 1145-85 as amended.

City Council Agenda Item Cover Sheet

Council Bill #
CB 2004-25

Consideration: Ordinance

Project:

Agenda dates requested:

Partner/Supplier:

Location:

Briefing –
Proposed action
Consent

Preceding action:

Fund:

Action –
Ordinance
1st Reading –
2nd Reading –
3rd Reading –
Public hearing

Project summary statement:

In the 2020 legislative session, the State Legislature passed SHB 2473. This bill amended some definitions relating to crimes of Domestic Violence. This bill was passed by the State Legislature with special findings so that it would go into effect immediately instead of after the normal three-month waiting period.

Yes No

The Everett Municipal Code needs to be updated to continue to match the State Law definitions regarding crimes of Domestic Violence, because certain convictions under our Everett Municipal Code count as priors for felonies when certain definitions are met. For example: if a defendant has two convictions for Assault in the 4th Degree Domestic Violence under the Everett Municipal Code and the judge found that “domestic violence” as defined by State Law was pled and proven at sentencing in those cases, subsequent crimes of Assault in the 4th Degree Domestic Violence by the same defendant within a ten-year period can be charged as felonies instead of as gross misdemeanors.

Budget amendment:
Yes No

The proposed ordinance adopts the State Law definitions by reference so that future amendments by the State Legislature to these Domestic Violence definitions will be automatically incorporated into the Everett Municipal Code.

PowerPoint presentation:
Yes No

Recommendation (exact action requested of Council):

Adopt the Proposed Ordinance relating to Domestic Violence Definitions, amending Ordinance No. 1145-85 as amended.

Attachments:
Proposed Ordinance
SHB 2473

Department(s) involved:
Legal

Contact person:
Flora Diaz

Phone number:
425-257-8658

Email:
fdiaz@everettwa.gov

Initialed by:

Department head

Administration

Council President



ORDINANCE NO. _____

An Ordinance Relating to Domestic Violence Definitions, amending Ordinance No. 1145-85 as amended.

WHEREAS,

- A. In the 2020 Legislative Session the Washington State Legislature passed SHB 2473, which amended certain definitions relating to enforcement against crimes of Domestic Violence.
- B. Certain crimes of Domestic Violence enforced under the Everett Municipal Code count as priors for felonies under State Law if certain definitions are pled and proven by the City prosecutors. When those definitions are met, these priors elevate certain subsequent repeat crimes of Domestic Violence from gross misdemeanors to felonies.
- C. The Everett City Council deems it appropriate to adopt the revisions proposed herein to keep the Everett Municipal Code definitions consistent with State Law definitions in relation to enforcement against crimes of Domestic Violence.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 14 (part) of Ordinance No. 1145-85, as amended by Section 2 of Ordinance No. 3234-11 (codified at EMC 10.02.068), is amended as follows, with strikeouts deleted and underlining added:

Dating relationship.

"Dating relationship" has the same meaning as in RCW 26.50.010 as currently enacted or later amended. ~~means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.~~

Section 2. Section 14 (part) of Ordinance No. 1145-85, as amended by Section 3 of Ordinance No. 3234-11 (codified at EMC 10.02.075), is amended as follows, with strikeouts deleted and underlining added:

Domestic violence.

"Domestic violence" has the same meaning as in RCW 9.94A.030 as currently enacted or later amended. ~~means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault~~

~~of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 or EMC 10.16.050 of one family or household member by another family or household member. For purposes of this subsection, "assault" includes, but is not limited to, an intentional touching of another person that is harmful or offensive regardless of whether any physical injury is done to the person.~~

Section 3. Section 14 (part) of Ordinance No. 1145-85, as amended by Section 5 of Ordinance No. 3234-11 (codified at EMC 10.02.087), is amended as follows, with strikeouts deleted and underlining added:

Family or household members.

"Family or household members" has the same meaning as in RCW 26.50.010 as currently enacted or later amended. ~~means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.~~

Section 4. Section 14 (part) of Ordinance No. 1145-85, as amended by Section 6 of Ordinance No. 3234-11 (codified at EMC 10.02.280), is amended as follows, with strikeouts deleted and underlining added:

Victim.

"Victim" has the same meaning as in RCW 10.99.020 as currently enacted or later amended. ~~means a family or household member who has been subjected to domestic violence.~~

Section 5. Section 14 (part) of Ordinance No. 1145-85, as previously amended, is amended to add the following section, which shall be codified at EMC 10.02.107:

Intimate Partner.

"Intimate partner" has the same meaning as in RCW 26.50.010 as currently enacted or later amended.

Section 6. 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 7. 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 8. 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 9. 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: _____



CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2473

Chapter 29, Laws of 2020

66th Legislature
2020 Regular Session

DOMESTIC VIOLENCE--VARIOUS PROVISIONS

EFFECTIVE DATE: March 18, 2020

Passed by the House February 12, 2020
Yeas 96 Nays 0

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate March 3, 2020
Yeas 48 Nays 1

CYRUS HABIB

President of the Senate

Approved March 18, 2020 10:32 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2473** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 18, 2020

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2473

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2020 Regular Session

By House Public Safety (originally sponsored by Representatives Goodman and Wylie)

READ FIRST TIME 01/27/20.

1 AN ACT Relating to domestic violence; amending RCW 7.77.060,
2 7.77.080, 9.41.340, 9.41.345, 9A.36.041, 10.14.055, 10.22.010,
3 10.66.010, 10.95.020, 26.09.015, 41.04.655, 48.18.550, 70.83C.010,
4 and 74.34.145; reenacting and amending RCW 9.41.010, 9.41.040,
5 10.31.100, and 9.96.060; prescribing penalties; and declaring an
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 7.77.060 and 2013 c 119 s 7 are each amended to read
9 as follows:

10 During a collaborative law process, a tribunal may issue
11 emergency orders to protect the health, safety, welfare, or interest
12 of a party or of a family or household member or intimate partner, as
13 defined in RCW 26.50.010.

14 **Sec. 2.** RCW 7.77.080 and 2013 c 119 s 9 are each amended to read
15 as follows:

16 (1) Except as otherwise provided in subsection (3) of this
17 section, a collaborative lawyer is disqualified from appearing before
18 a tribunal to represent a party in a proceeding related to the
19 collaborative matter.

1 (2) Except as otherwise provided in subsection (3) of this
2 section and RCW 7.77.090, a lawyer in a law firm with which the
3 collaborative lawyer is associated is disqualified from appearing
4 before a tribunal to represent a party in a proceeding related to the
5 collaborative matter if the collaborative lawyer is disqualified from
6 doing so under subsection (1) of this section.

7 (3) A collaborative lawyer or a lawyer in a law firm with which
8 the collaborative lawyer is associated may represent a party:

9 (a) To ask a tribunal to approve an agreement resulting from the
10 collaborative law process; or

11 (b) To seek or defend an emergency order to protect the health,
12 safety, welfare, or interest of a party, or family or household
13 member or intimate partner, as defined in RCW 26.50.010, if a
14 successor lawyer is not immediately available to represent that
15 person.

16 (4) If subsection (3)(b) of this section applies, a collaborative
17 lawyer, or lawyer in a law firm with which the collaborative lawyer
18 is associated, may represent a party or family or household member or
19 intimate partner only until the person is represented by a successor
20 lawyer or reasonable measures are taken to protect the health,
21 safety, welfare, or interest of the person.

22 **Sec. 3.** RCW 9.41.010 and 2019 c 243 s 1 are each reenacted and
23 amended to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Antique firearm" means a firearm or replica of a firearm not
27 designed or redesigned for using rim fire or conventional center fire
28 ignition with fixed ammunition and manufactured in or before 1898,
29 including any matchlock, flintlock, percussion cap, or similar type
30 of ignition system and also any firearm using fixed ammunition
31 manufactured in or before 1898, for which ammunition is no longer
32 manufactured in the United States and is not readily available in the
33 ordinary channels of commercial trade.

34 (2) "Barrel length" means the distance from the bolt face of a
35 closed action down the length of the axis of the bore to the crown of
36 the muzzle, or in the case of a barrel with attachments to the end of
37 any legal device permanently attached to the end of the muzzle.

38 (3) "Bump-fire stock" means a butt stock designed to be attached
39 to a semiautomatic firearm with the effect of increasing the rate of

1 fire achievable with the semiautomatic firearm to that of a fully
2 automatic firearm by using the energy from the recoil of the firearm
3 to generate reciprocating action that facilitates repeated activation
4 of the trigger.

5 (4) "Crime of violence" means:

6 (a) Any of the following felonies, as now existing or hereafter
7 amended: Any felony defined under any law as a class A felony or an
8 attempt to commit a class A felony, criminal solicitation of or
9 criminal conspiracy to commit a class A felony, manslaughter in the
10 first degree, manslaughter in the second degree, indecent liberties
11 if committed by forcible compulsion, kidnapping in the second degree,
12 arson in the second degree, assault in the second degree, assault of
13 a child in the second degree, extortion in the first degree, burglary
14 in the second degree, residential burglary, and robbery in the second
15 degree;

16 (b) Any conviction for a felony offense in effect at any time
17 prior to June 6, 1996, which is comparable to a felony classified as
18 a crime of violence in (a) of this subsection; and

19 (c) Any federal or out-of-state conviction for an offense
20 comparable to a felony classified as a crime of violence under (a) or
21 (b) of this subsection.

22 (5) "Curio or relic" has the same meaning as provided in 27
23 C.F.R. Sec. 478.11.

24 (6) "Dealer" means a person engaged in the business of selling
25 firearms at wholesale or retail who has, or is required to have, a
26 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
27 does not have, and is not required to have, a federal firearms
28 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
29 makes only occasional sales, exchanges, or purchases of firearms for
30 the enhancement of a personal collection or for a hobby, or sells all
31 or part of his or her personal collection of firearms.

32 (7) "Family or household member" (~~means "family" or "household~~
33 ~~member" as used~~) has the same meaning as in RCW ((10.99.020))
34 26.50.010.

35 (8) "Felony" means any felony offense under the laws of this
36 state or any federal or out-of-state offense comparable to a felony
37 offense under the laws of this state.

38 (9) "Felony firearm offender" means a person who has previously
39 been convicted or found not guilty by reason of insanity in this
40 state of any felony firearm offense. A person is not a felony firearm

1 offender under this chapter if any and all qualifying offenses have
2 been the subject of an expungement, pardon, annulment, certificate,
3 or rehabilitation, or other equivalent procedure based on a finding
4 of the rehabilitation of the person convicted or a pardon, annulment,
5 or other equivalent procedure based on a finding of innocence.

6 (10) "Felony firearm offense" means:

7 (a) Any felony offense that is a violation of this chapter;

8 (b) A violation of RCW 9A.36.045;

9 (c) A violation of RCW 9A.56.300;

10 (d) A violation of RCW 9A.56.310;

11 (e) Any felony offense if the offender was armed with a firearm
12 in the commission of the offense.

13 (11) "Firearm" means a weapon or device from which a projectile
14 or projectiles may be fired by an explosive such as gunpowder.
15 "Firearm" does not include a flare gun or other pyrotechnic visual
16 distress signaling device, or a powder-actuated tool or other device
17 designed solely to be used for construction purposes.

18 (12) "Gun" has the same meaning as firearm.

19 (13) "Intimate partner" has the same meaning as provided in RCW
20 26.50.010.

21 (14) "Law enforcement officer" includes a general authority
22 Washington peace officer as defined in RCW 10.93.020, or a specially
23 commissioned Washington peace officer as defined in RCW 10.93.020.
24 "Law enforcement officer" also includes a limited authority
25 Washington peace officer as defined in RCW 10.93.020 if such officer
26 is duly authorized by his or her employer to carry a concealed
27 pistol.

28 ~~((+14+))~~ (15) "Lawful permanent resident" has the same meaning
29 afforded a person "lawfully admitted for permanent residence" in 8
30 U.S.C. Sec. 1101(a)(20).

31 ~~((+15+))~~ (16) "Licensed collector" means a person who is
32 federally licensed under 18 U.S.C. Sec. 923(b).

33 ~~((+16+))~~ (17) "Licensed dealer" means a person who is federally
34 licensed under 18 U.S.C. Sec. 923(a).

35 ~~((+17+))~~ (18) "Loaded" means:

36 (a) There is a cartridge in the chamber of the firearm;

37 (b) Cartridges are in a clip that is locked in place in the
38 firearm;

39 (c) There is a cartridge in the cylinder of the firearm, if the
40 firearm is a revolver;

1 (d) There is a cartridge in the tube or magazine that is inserted
2 in the action; or

3 (e) There is a ball in the barrel and the firearm is capped or
4 primed if the firearm is a muzzle loader.

5 (~~(18)~~) (19) "Machine gun" means any firearm known as a machine
6 gun, mechanical rifle, submachine gun, or any other mechanism or
7 instrument not requiring that the trigger be pressed for each shot
8 and having a reservoir clip, disc, drum, belt, or other separable
9 mechanical device for storing, carrying, or supplying ammunition
10 which can be loaded into the firearm, mechanism, or instrument, and
11 fired therefrom at the rate of five or more shots per second.

12 (~~(19)~~) (20) "Manufacture" means, with respect to a firearm, the
13 fabrication or construction of a firearm.

14 (~~(20)~~) (21) "Nonimmigrant alien" means a person defined as such
15 in 8 U.S.C. Sec. 1101(a)(15).

16 (~~(21)~~) (22) "Person" means any individual, corporation,
17 company, association, firm, partnership, club, organization, society,
18 joint stock company, or other legal entity.

19 (~~(22)~~) (23) "Pistol" means any firearm with a barrel less than
20 sixteen inches in length, or is designed to be held and fired by the
21 use of a single hand.

22 (~~(23)~~) (24) "Rifle" means a weapon designed or redesigned, made
23 or remade, and intended to be fired from the shoulder and designed or
24 redesigned, made or remade, and intended to use the energy of the
25 explosive in a fixed metallic cartridge to fire only a single
26 projectile through a rifled bore for each single pull of the trigger.

27 (~~(24)~~) (25) "Sale" and "sell" mean the actual approval of the
28 delivery of a firearm in consideration of payment or promise of
29 payment.

30 (~~(25)~~) (26) "Secure gun storage" means:

31 (a) A locked box, gun safe, or other secure locked storage space
32 that is designed to prevent unauthorized use or discharge of a
33 firearm; and

34 (b) The act of keeping an unloaded firearm stored by such means.

35 (~~(26)~~) (27) "Semiautomatic assault rifle" means any rifle which
36 utilizes a portion of the energy of a firing cartridge to extract the
37 fired cartridge case and chamber the next round, and which requires a
38 separate pull of the trigger to fire each cartridge.

1 "Semiautomatic assault rifle" does not include antique firearms,
2 any firearm that has been made permanently inoperable, or any firearm
3 that is manually operated by bolt, pump, lever, or slide action.

4 ((~~27~~)) (28) "Serious offense" means any of the following
5 felonies or a felony attempt to commit any of the following felonies,
6 as now existing or hereafter amended:

7 (a) Any crime of violence;

8 (b) Any felony violation of the uniform controlled substances
9 act, chapter 69.50 RCW, that is classified as a class B felony or
10 that has a maximum term of imprisonment of at least ten years;

11 (c) Child molestation in the second degree;

12 (d) Incest when committed against a child under age fourteen;

13 (e) Indecent liberties;

14 (f) Leading organized crime;

15 (g) Promoting prostitution in the first degree;

16 (h) Rape in the third degree;

17 (i) Drive-by shooting;

18 (j) Sexual exploitation;

19 (k) Vehicular assault, when caused by the operation or driving of
20 a vehicle by a person while under the influence of intoxicating
21 liquor or any drug or by the operation or driving of a vehicle in a
22 reckless manner;

23 (l) Vehicular homicide, when proximately caused by the driving of
24 any vehicle by any person while under the influence of intoxicating
25 liquor or any drug as defined by RCW 46.61.502, or by the operation
26 of any vehicle in a reckless manner;

27 (m) Any other class B felony offense with a finding of sexual
28 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

29 (n) Any other felony with a deadly weapon verdict under RCW
30 9.94A.825;

31 (o) Any felony offense in effect at any time prior to June 6,
32 1996, that is comparable to a serious offense, or any federal or out-
33 of-state conviction for an offense that under the laws of this state
34 would be a felony classified as a serious offense; or

35 (p) Any felony conviction under RCW 9.41.115.

36 ((~~28~~)) (29) "Short-barreled rifle" means a rifle having one or
37 more barrels less than sixteen inches in length and any weapon made
38 from a rifle by any means of modification if such modified weapon has
39 an overall length of less than twenty-six inches.

1 (~~(+29)~~) (30) "Short-barreled shotgun" means a shotgun having one
2 or more barrels less than eighteen inches in length and any weapon
3 made from a shotgun by any means of modification if such modified
4 weapon has an overall length of less than twenty-six inches.

5 (~~(+30)~~) (31) "Shotgun" means a weapon with one or more barrels,
6 designed or redesigned, made or remade, and intended to be fired from
7 the shoulder and designed or redesigned, made or remade, and intended
8 to use the energy of the explosive in a fixed shotgun shell to fire
9 through a smooth bore either a number of ball shot or a single
10 projectile for each single pull of the trigger.

11 (~~(+31)~~) (32) "Transfer" means the intended delivery of a firearm
12 to another person without consideration of payment or promise of
13 payment including, but not limited to, gifts and loans. "Transfer"
14 does not include the delivery of a firearm owned or leased by an
15 entity licensed or qualified to do business in the state of
16 Washington to, or return of such a firearm by, any of that entity's
17 employees or agents, defined to include volunteers participating in
18 an honor guard, for lawful purposes in the ordinary course of
19 business.

20 (~~(+32)~~) (33) "Undetectable firearm" means any firearm that is
21 not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-
22 through metal detectors or magnetometers commonly used at airports or
23 any firearm where the barrel, the slide or cylinder, or the frame or
24 receiver of the firearm would not generate an image that accurately
25 depicts the shape of the part when examined by the types of X-ray
26 machines commonly used at airports.

27 (~~(+33)~~) (34) "Unlicensed person" means any person who is not a
28 licensed dealer under this chapter.

29 (~~(+34)~~) (35) "Untraceable firearm" means any firearm
30 manufactured after July 1, 2019, that is not an antique firearm and
31 that cannot be traced by law enforcement by means of a serial number
32 affixed to the firearm by a federally licensed manufacturer or
33 importer.

34 **Sec. 4.** RCW 9.41.040 and 2019 c 248 s 2, 2019 c 245 s 3, and
35 2019 c 46 s 5003 are each reenacted and amended to read as follows:

36 (1)(a) A person, whether an adult or juvenile, is guilty of the
37 crime of unlawful possession of a firearm in the first degree, if the
38 person owns, has in his or her possession, or has in his or her
39 control any firearm after having previously been convicted or found

1 not guilty by reason of insanity in this state or elsewhere of any
2 serious offense as defined in this chapter.

3 (b) Unlawful possession of a firearm in the first degree is a
4 class B felony punishable according to chapter 9A.20 RCW.

5 (2)(a) A person, whether an adult or juvenile, is guilty of the
6 crime of unlawful possession of a firearm in the second degree, if
7 the person does not qualify under subsection (1) of this section for
8 the crime of unlawful possession of a firearm in the first degree and
9 the person owns, has in his or her possession, or has in his or her
10 control any firearm:

11 (i) After having previously been convicted or found not guilty by
12 reason of insanity in this state or elsewhere of any felony not
13 specifically listed as prohibiting firearm possession under
14 subsection (1) of this section, or any of the following crimes when
15 committed by one family or household member against another or by one
16 intimate partner against another, committed on or after July 1, 1993:
17 Assault in the fourth degree, coercion, stalking, reckless
18 endangerment, criminal trespass in the first degree, or violation of
19 the provisions of a protection order or no-contact order restraining
20 the person or excluding the person from a residence (RCW 26.50.060,
21 26.50.070, 26.50.130, or 10.99.040);

22 (ii) After having previously been convicted or found not guilty
23 by reason of insanity in this state or elsewhere of harassment when
24 committed by one family or household member against another or by one
25 intimate partner against another, committed on or after June 7, 2018;

26 (iii) During any period of time that the person is subject to a
27 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
28 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

29 (A) Was issued after a hearing of which the person received
30 actual notice, and at which the person had an opportunity to
31 participate;

32 (B) Restrains the person from harassing, stalking, or threatening
33 the person protected under the order or child of the person or
34 protected person, or engaging in other conduct that would place the
35 protected person in reasonable fear of bodily injury to the protected
36 person or child; and

37 (C) (I) Includes a finding that the person represents a credible
38 threat to the physical safety of the protected person or child and by
39 its terms explicitly prohibits the use, attempted use, or threatened

1 use of physical force against the protected person or child that
2 would reasonably be expected to cause bodily injury; or

3 (II) Includes an order under RCW 9.41.800 requiring the person to
4 surrender all firearms and prohibiting the person from accessing,
5 obtaining, or possessing firearms;

6 (iv) After having previously been involuntarily committed for
7 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
8 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
9 jurisdiction, unless his or her right to possess a firearm has been
10 restored as provided in RCW 9.41.047;

11 (v) After dismissal of criminal charges based on incompetency to
12 stand trial under RCW 10.77.088 when the court has made a finding
13 indicating that the defendant has a history of one or more violent
14 acts, unless his or her right to possess a firearm has been restored
15 as provided in RCW 9.41.047;

16 (vi) If the person is under eighteen years of age, except as
17 provided in RCW 9.41.042; and/or

18 (vii) If the person is free on bond or personal recognizance
19 pending trial, appeal, or sentencing for a serious offense as defined
20 in RCW 9.41.010.

21 (b) (a)(iii) of this subsection does not apply to a sexual
22 assault protection order under chapter 7.90 RCW if the order has been
23 modified pursuant to RCW 7.90.170 to remove any restrictions on
24 firearm purchase, transfer, or possession.

25 (c) Unlawful possession of a firearm in the second degree is a
26 class C felony punishable according to chapter 9A.20 RCW.

27 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
28 as used in this chapter, a person has been "convicted", whether in an
29 adult court or adjudicated in a juvenile court, at such time as a
30 plea of guilty has been accepted((~~τ~~)) or a verdict of guilty has been
31 filed, notwithstanding the pendency of any future proceedings
32 including, but not limited to, sentencing or disposition, post-trial
33 or post-fact-finding motions, and appeals. Conviction includes a
34 dismissal entered after a period of probation, suspension, or
35 deferral of sentence, and also includes equivalent dispositions by
36 courts in jurisdictions other than Washington state. A person shall
37 not be precluded from possession of a firearm if the conviction has
38 been the subject of a pardon, annulment, certificate of
39 rehabilitation, or other equivalent procedure based on a finding of
40 the rehabilitation of the person convicted or the conviction or

1 disposition has been the subject of a pardon, annulment, or other
2 equivalent procedure based on a finding of innocence. Where no record
3 of the court's disposition of the charges can be found, there shall
4 be a rebuttable presumption that the person was not convicted of the
5 charge.

6 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
7 person convicted or found not guilty by reason of insanity of an
8 offense prohibiting the possession of a firearm under this section
9 other than murder, manslaughter, robbery, rape, indecent liberties,
10 arson, assault, kidnapping, extortion, burglary, or violations with
11 respect to controlled substances under RCW 69.50.401 and 69.50.410,
12 who received a probationary sentence under RCW 9.95.200, and who
13 received a dismissal of the charge under RCW 9.95.240, shall not be
14 precluded from possession of a firearm as a result of the conviction
15 or finding of not guilty by reason of insanity. Notwithstanding any
16 other provisions of this section, if a person is prohibited from
17 possession of a firearm under subsection (1) or (2) of this section
18 and has not previously been convicted or found not guilty by reason
19 of insanity of a sex offense prohibiting firearm ownership under
20 subsection (1) or (2) of this section and/or any felony defined under
21 any law as a class A felony or with a maximum sentence of at least
22 twenty years, or both, the individual may petition a court of record
23 to have his or her right to possess a firearm restored:

24 (i) Under RCW 9.41.047; and/or

25 (ii)(A) If the conviction or finding of not guilty by reason of
26 insanity was for a felony offense, after five or more consecutive
27 years in the community without being convicted or found not guilty by
28 reason of insanity or currently charged with any felony, gross
29 misdemeanor, or misdemeanor crimes, if the individual has no prior
30 felony convictions that prohibit the possession of a firearm counted
31 as part of the offender score under RCW 9.94A.525; or

32 (B) If the conviction or finding of not guilty by reason of
33 insanity was for a nonfelony offense, after three or more consecutive
34 years in the community without being convicted or found not guilty by
35 reason of insanity or currently charged with any felony, gross
36 misdemeanor, or misdemeanor crimes, if the individual has no prior
37 felony convictions that prohibit the possession of a firearm counted
38 as part of the offender score under RCW 9.94A.525 and the individual
39 has completed all conditions of the sentence.

1 (b) An individual may petition a court of record to have his or
2 her right to possess a firearm restored under (a) of this subsection
3 (~~(4)~~) only at:

4 (i) The court of record that ordered the petitioner's prohibition
5 on possession of a firearm; or

6 (ii) The superior court in the county in which the petitioner
7 resides.

8 (5) In addition to any other penalty provided for by law, if a
9 person under the age of eighteen years is found by a court to have
10 possessed a firearm in a vehicle in violation of subsection (1) or
11 (2) of this section or to have committed an offense while armed with
12 a firearm during which offense a motor vehicle served an integral
13 function, the court shall notify the department of licensing within
14 twenty-four hours and the person's privilege to drive shall be
15 revoked under RCW 46.20.265, unless the offense is the juvenile's
16 first offense in violation of this section and has not committed an
17 offense while armed with a firearm, an unlawful possession of a
18 firearm offense, or an offense in violation of chapter 66.44, 69.52,
19 69.41, or 69.50 RCW.

20 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
21 or interpreted as preventing an offender from being charged and
22 subsequently convicted for the separate felony crimes of theft of a
23 firearm or possession of a stolen firearm, or both, in addition to
24 being charged and subsequently convicted under this section for
25 unlawful possession of a firearm in the first or second degree.
26 Notwithstanding any other law, if the offender is convicted under
27 this section for unlawful possession of a firearm in the first or
28 second degree and for the felony crimes of theft of a firearm or
29 possession of a stolen firearm, or both, then the offender shall
30 serve consecutive sentences for each of the felony crimes of
31 conviction listed in this subsection.

32 (7) Each firearm unlawfully possessed under this section shall be
33 a separate offense.

34 **Sec. 5.** RCW 9.41.340 and 2015 c 130 s 1 are each amended to read
35 as follows:

36 (1) Each law enforcement agency shall develop a notification
37 protocol that allows a family or household member or intimate partner
38 to use an incident or case number to request to be notified when a
39 law enforcement agency returns a privately owned firearm to the

1 individual from whom it was obtained or to an authorized
2 representative of that person.

3 (a) Notification may be made via telephone, email, text message,
4 or another method that allows notification to be provided without
5 unnecessary delay.

6 (b) If a law enforcement agency is in possession of more than one
7 privately owned firearm from a single person, notification relating
8 to the return of one firearm shall be considered notification for all
9 privately owned firearms for that person.

10 (~~(c) "Family or household member" has the same meaning as in RCW~~
11 ~~26.50.010.~~)

12 (2) A law enforcement agency shall not provide notification to
13 any party other than a family or household member or intimate partner
14 who has an incident or case number and who has requested to be
15 notified pursuant to this section or another criminal justice agency.

16 (3) The information provided by a family or household member or
17 intimate partner pursuant to chapter 130, Laws of 2015, including the
18 existence of the request for notification, is not subject to public
19 disclosure pursuant to chapter 42.56 RCW.

20 (4) An appointed or elected official, public employee, or public
21 agency as defined in RCW 4.24.470, or combination of units of local
22 government and its employees, as provided in RCW 36.28A.010, are
23 immune from civil liability for damages for any release of
24 information or the failure to release information related to this
25 section, so long as the release or failure was without gross
26 negligence.

27 (5) An individual who knowingly makes a request for notification
28 under this section based on false information may be held liable
29 under RCW 9A.76.175.

30 **Sec. 6.** RCW 9.41.345 and 2019 c 367 s 5 are each amended to read
31 as follows:

32 (1) Before a law enforcement agency returns a privately owned
33 firearm, the law enforcement agency must:

34 (a) Confirm that the individual to whom the firearm will be
35 returned is the individual from whom the firearm was obtained or an
36 authorized representative of that person;

37 (b) Confirm that the individual to whom the firearm will be
38 returned is eligible to possess a firearm pursuant to RCW 9.41.040;

1 (c) Ensure that the firearm is not otherwise required to be held
2 in custody or otherwise prohibited from being released; and

3 (d) Ensure that twenty-four hours have elapsed from the time the
4 firearm was obtained by law enforcement, unless the firearm was
5 seized in connection with a domestic violence call pursuant to RCW
6 10.99.030, in which case the law enforcement agency must ensure that
7 five business days have elapsed from the time the firearm was
8 obtained.

9 (2)(a) Once the requirements in subsections (1) and (3) of this
10 section have been met, a law enforcement agency must release a
11 firearm to the individual from whom it was obtained or an authorized
12 representative of that person upon request without unnecessary delay.

13 (b)(i) If a firearm cannot be returned because it is required to
14 be held in custody or is otherwise prohibited from being released, a
15 law enforcement agency must provide written notice to the individual
16 from whom it was obtained within five business days of the individual
17 requesting return of his or her firearm and specify the reason the
18 firearm must be held in custody.

19 (ii) Notification may be made via email, text message, mail
20 service, or personal service. For methods other than personal
21 service, service shall be considered complete once the notification
22 is sent.

23 (3) If a family or household member or intimate partner has
24 requested to be notified pursuant to RCW 9.41.340, a law enforcement
25 agency must:

26 (a) Provide notice to the family or household member or intimate
27 partner within one business day of verifying that the requirements in
28 subsection (1) of this section have been met; and

29 (b) Hold the firearm in custody for seventy-two hours from the
30 time notification has been provided.

31 (4)(a) A law enforcement agency may not return a concealed pistol
32 license that has been surrendered to, or impounded by, the law
33 enforcement agency for any reason to the licensee until the law
34 enforcement agency determines the licensee is eligible to possess a
35 firearm under state and federal law and meets the other eligibility
36 requirements for a concealed pistol license under RCW 9.41.070.

37 (b) A law enforcement agency must release a concealed pistol
38 license to the licensee without unnecessary delay, and in no case
39 longer than five business days, after the law enforcement agency
40 determines the requirements of (a) of this subsection have been met.

1 (5) The provisions of chapter 130, Laws of 2015 and subsection
2 (4) of this section shall not apply to circumstances where a law
3 enforcement officer has momentarily obtained a firearm or concealed
4 pistol license from an individual and would otherwise immediately
5 return the firearm or concealed pistol license to the individual
6 during the same interaction.

7 **Sec. 7.** RCW 9A.36.041 and 2017 c 272 s 1 are each amended to
8 read as follows:

9 (1) A person is guilty of assault in the fourth degree if, under
10 circumstances not amounting to assault in the first, second, or third
11 degree, or custodial assault, he or she assaults another.

12 (2) Assault in the fourth degree is a gross misdemeanor, except
13 as provided in subsection (3) of this section.

14 (3)(a) Assault in the fourth degree(~~(, where domestic violence~~
15 ~~was pleaded and proven)) occurring after July 23, 2017, and before
16 the effective date of this section, where domestic violence is
17 pleaded and proven, is a class C felony if the person has two or more
18 prior adult convictions within ten years for any of the following
19 offenses (~~where domestic violence as defined in RCW 9.94A.030 was~~
20 ~~pleaded and proven)) occurring after July 23, 2017, where domestic
21 violence was pleaded and proven:~~~~

22 (~~(a)~~) (i) Repetitive domestic violence offense as defined in
23 RCW 9.94A.030;

24 (~~(b)~~) (ii) Crime of harassment as defined by RCW 9A.46.060;

25 (~~(c)~~) (iii) Assault in the third degree;

26 (~~(d)~~) (iv) Assault in the second degree;

27 (~~(e)~~) (v) Assault in the first degree; or

28 (~~(f) An out-of-state comparable offense.~~

29 ~~(4))~~ (vi) A municipal, tribal, federal, or out-of-state offense
30 comparable to any offense under (a)(i) through (v) of this
31 subsection.

32 For purposes of this subsection (3)(a) ((of this section)),
33 "family or household members" for purposes of the definition of
34 "domestic violence" means spouses, domestic partners, former spouses,
35 former domestic partners, persons who have a child in common
36 regardless of whether they have been married or have lived together
37 at any time, persons sixteen years of age or older who are presently
38 residing together or who have resided together in the past and who
39 have or have had a dating relationship, and persons sixteen years of

1 age or older with whom a person sixteen years of age or older has or
2 has had a dating relationship. "Family or household member" also
3 includes an "intimate partner" as defined in RCW 26.50.010.

4 (b) Assault in the fourth degree occurring on or after the
5 effective date of this section, where domestic violence against an
6 "intimate partner" as defined in RCW 26.50.010 is pleaded and proven,
7 is a class C felony if the person has two or more prior adult
8 convictions within ten years for any of the following offenses
9 occurring after July 23, 2017, where domestic violence against an
10 "intimate partner" as defined in RCW 26.50.010 or domestic violence
11 against a "family or household member" as defined in (a) of this
12 subsection was pleaded and proven:

13 (i) Repetitive domestic violence offense as defined in RCW
14 9.94A.030;

15 (ii) Crime of harassment as defined by RCW 9A.46.060;

16 (iii) Assault in the third degree;

17 (iv) Assault in the second degree;

18 (v) Assault in the first degree; or

19 (vi) A municipal, tribal, federal, or out-of-state offense
20 comparable to any offense under (b)(i) through (v) of this
21 subsection.

22 **Sec. 8.** RCW 10.14.055 and 2002 c 117 s 2 are each amended to
23 read as follows:

24 No fees for filing or service of process may be charged by a
25 public agency to petitioners seeking relief under this chapter from a
26 person who has stalked them as that term is defined in RCW 9A.46.110,
27 or from a person who has engaged in conduct that would constitute a
28 sex offense as defined in RCW (~~9A.44.130~~) 9A.44.128, or from a
29 person who is a family or household member or intimate partner as
30 defined in RCW 26.50.010(~~(+2)~~) who has engaged in conduct that would
31 constitute domestic violence as defined in RCW 26.50.010(~~(+1)~~)).

32 **Sec. 9.** RCW 10.22.010 and 2010 c 8 s 1015 are each amended to
33 read as follows:

34 When a defendant is prosecuted in a criminal action for a
35 misdemeanor, other than a violation of RCW 9A.48.105, for which the
36 person injured by the act constituting the offense has a remedy by a
37 civil action, the offense may be compromised as provided in RCW
38 10.22.020, except when it was committed:

- 1 (1) By or upon an officer while in the execution of the duties of
2 his or her office;
- 3 (2) Riotously;
- 4 (3) With an intent to commit a felony; or
- 5 (4) By one family or household member against another or by one
6 intimate partner against another as defined in RCW (~~10.99.020~~)
7 26.50.010 and was a crime of domestic violence as defined in RCW
8 10.99.020.

9 **Sec. 10.** RCW 10.31.100 and 2019 c 263 s 911, 2019 c 246 s 6,
10 2019 c 46 s 5013, and 2019 c 18 s 1 are each reenacted and amended to
11 read as follows:

12 A police officer having probable cause to believe that a person
13 has committed or is committing a felony shall have the authority to
14 arrest the person without a warrant. A police officer may arrest a
15 person without a warrant for committing a misdemeanor or gross
16 misdemeanor only when the offense is committed in the presence of an
17 officer, except as provided in subsections (1) through (11) of this
18 section.

19 (1) Any police officer having probable cause to believe that a
20 person has committed or is committing a misdemeanor or gross
21 misdemeanor, involving physical harm or threats of harm to any person
22 or property or the unlawful taking of property or involving the use
23 or possession of cannabis, or involving the acquisition, possession,
24 or consumption of alcohol by a person under the age of twenty-one
25 years under RCW 66.44.270, or involving criminal trespass under RCW
26 9A.52.070 or 9A.52.080, shall have the authority to arrest the
27 person.

28 (2) A police officer shall arrest and take into custody, pending
29 release on bail, personal recognizance, or court order, a person
30 without a warrant when the officer has probable cause to believe
31 that:

32 (a) An order has been issued of which the person has knowledge
33 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
34 10.99, 26.09, 26.10, 26.26A, 26.26B, 26.50, or 74.34 RCW restraining
35 the person and the person has violated the terms of the order
36 restraining the person from acts or threats of violence, or
37 restraining the person from going onto the grounds of, or entering, a
38 residence, workplace, school, or day care, or prohibiting the person
39 from knowingly coming within, or knowingly remaining within, a

1 specified distance of a location or, in the case of an order issued
2 under RCW 26.44.063, imposing any other restrictions or conditions
3 upon the person;

4 (b) An extreme risk protection order has been issued against the
5 person under RCW 7.94.040, the person has knowledge of the order, and
6 the person has violated the terms of the order prohibiting the person
7 from having in his or her custody or control, purchasing, possessing,
8 accessing, or receiving a firearm or concealed pistol license;

9 (c) A foreign protection order, as defined in RCW 26.52.010, or a
10 Canadian domestic violence protection order, as defined in RCW
11 26.55.010, has been issued of which the person under restraint has
12 knowledge and the person under restraint has violated a provision of
13 the foreign protection order or the Canadian domestic violence
14 protection order prohibiting the person under restraint from
15 contacting or communicating with another person, or excluding the
16 person under restraint from a residence, workplace, school, or day
17 care, or prohibiting the person from knowingly coming within, or
18 knowingly remaining within, a specified distance of a location, or a
19 violation of any provision for which the foreign protection order or
20 the Canadian domestic violence protection order specifically
21 indicates that a violation will be a crime; or

22 (d) The person is eighteen years or older and within the
23 preceding four hours has assaulted a family or household member or
24 intimate partner as defined in RCW (~~(10.99.020)~~) 26.50.010 and the
25 officer believes: (i) A felonious assault has occurred; (ii) an
26 assault has occurred which has resulted in bodily injury to the
27 victim, whether the injury is observable by the responding officer or
28 not; or (iii) that any physical action has occurred which was
29 intended to cause another person reasonably to fear imminent serious
30 bodily injury or death. Bodily injury means physical pain, illness,
31 or an impairment of physical condition. When the officer has probable
32 cause to believe that family or household members or intimate
33 partners have assaulted each other, the officer is not required to
34 arrest both persons. The officer shall arrest the person whom the
35 officer believes to be the primary physical aggressor. In making this
36 determination, the officer shall make every reasonable effort to
37 consider: (A) The intent to protect victims of domestic violence
38 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
39 or serious threats creating fear of physical injury; and (C) the

1 history of domestic violence of each person involved, including
2 whether the conduct was part of an ongoing pattern of abuse.

3 (3) Any police officer having probable cause to believe that a
4 person has committed or is committing a violation of any of the
5 following traffic laws shall have the authority to arrest the person:

6 (a) RCW 46.52.010, relating to duty on striking an unattended car
7 or other property;

8 (b) RCW 46.52.020, relating to duty in case of injury to, or
9 death of, a person or damage to an attended vehicle;

10 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
11 racing of vehicles;

12 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
13 influence of intoxicating liquor or drugs;

14 (e) RCW 46.61.503 or 46.25.110, relating to persons having
15 alcohol or THC in their system;

16 (f) RCW 46.20.342, relating to driving a motor vehicle while
17 operator's license is suspended or revoked;

18 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
19 negligent manner.

20 (4) A law enforcement officer investigating at the scene of a
21 motor vehicle accident may arrest the driver of a motor vehicle
22 involved in the accident if the officer has probable cause to believe
23 that the driver has committed, in connection with the accident, a
24 violation of any traffic law or regulation.

25 (5)(a) A law enforcement officer investigating at the scene of a
26 motor vessel accident may arrest the operator of a motor vessel
27 involved in the accident if the officer has probable cause to believe
28 that the operator has committed, in connection with the accident, a
29 criminal violation of chapter 79A.60 RCW.

30 (b) A law enforcement officer investigating at the scene of a
31 motor vessel accident may issue a citation for an infraction to the
32 operator of a motor vessel involved in the accident if the officer
33 has probable cause to believe that the operator has committed, in
34 connection with the accident, a violation of any boating safety law
35 of chapter 79A.60 RCW.

36 (6) Any police officer having probable cause to believe that a
37 person has committed or is committing a violation of RCW 79A.60.040
38 shall have the authority to arrest the person.

39 (7) An officer may act upon the request of a law enforcement
40 officer, in whose presence a traffic infraction was committed, to

1 stop, detain, arrest, or issue a notice of traffic infraction to the
2 driver who is believed to have committed the infraction. The request
3 by the witnessing officer shall give an officer the authority to take
4 appropriate action under the laws of the state of Washington.

5 (8) Any police officer having probable cause to believe that a
6 person has committed or is committing any act of indecent exposure,
7 as defined in RCW 9A.88.010, may arrest the person.

8 (9) A police officer may arrest and take into custody, pending
9 release on bail, personal recognizance, or court order, a person
10 without a warrant when the officer has probable cause to believe that
11 an order has been issued of which the person has knowledge under
12 chapter 10.14 RCW and the person has violated the terms of that
13 order.

14 (10) Any police officer having probable cause to believe that a
15 person has, within twenty-four hours of the alleged violation,
16 committed a violation of RCW 9A.50.020 may arrest such person.

17 (11) A police officer having probable cause to believe that a
18 person illegally possesses or illegally has possessed a firearm or
19 other dangerous weapon on private or public elementary or secondary
20 school premises shall have the authority to arrest the person.

21 For purposes of this subsection, the term "firearm" has the
22 meaning defined in RCW 9.41.010 and the term "dangerous weapon" has
23 the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

24 (12) A law enforcement officer having probable cause to believe
25 that a person has committed a violation under RCW 77.15.160(5) may
26 issue a citation for an infraction to the person in connection with
27 the violation.

28 (13) A law enforcement officer having probable cause to believe
29 that a person has committed a criminal violation under RCW 77.15.809
30 or 77.15.811 may arrest the person in connection with the violation.

31 (14) Except as specifically provided in subsections (2), (3),
32 (4), and (7) of this section, nothing in this section extends or
33 otherwise affects the powers of arrest prescribed in Title 46 RCW.

34 (15) No police officer may be held criminally or civilly liable
35 for making an arrest pursuant to subsection (2) or (9) of this
36 section if the police officer acts in good faith and without malice.

37 (16)(a) Except as provided in (b) of this subsection, a police
38 officer shall arrest and keep in custody, until release by a judicial
39 officer on bail, personal recognizance, or court order, a person
40 without a warrant when the officer has probable cause to believe that

1 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
2 local ordinance and the police officer: (i) Has knowledge that the
3 person has a prior offense as defined in RCW 46.61.5055 within ten
4 years; or (ii) has knowledge, based on a review of the information
5 available to the officer at the time of arrest, that the person is
6 charged with or is awaiting arraignment for an offense that would
7 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
8 conviction.

9 (b) A police officer is not required to keep in custody a person
10 under (a) of this subsection if the person requires immediate medical
11 attention and is admitted to a hospital.

12 **Sec. 11.** RCW 10.66.010 and 1989 c 271 s 214 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter:

16 (1) "Applicant" means any person who owns, occupies, or has a
17 substantial interest in property, or who is a neighbor to property
18 which is adversely affected by drug trafficking, including:

19 (a) A "family or household member" or "intimate partner" as
20 defined by RCW (~~(10.99.020(1))~~) 26.50.010, who has a possessory
21 interest in a residence as an owner or tenant, at least as great as a
22 known drug trafficker's interest;

23 (b) An owner or lessor;

24 (c) An owner, tenant, or resident who lives or works in a
25 designated PADT area; or

26 (d) A city or prosecuting attorney for any jurisdiction in this
27 state where drug trafficking is occurring.

28 (2) "Drug" or "drugs" means a controlled substance as defined in
29 chapter 69.50 RCW or an "imitation controlled substance" as defined
30 in RCW 69.52.020.

31 (3) "Known drug trafficker" means any person who has been
32 convicted of a drug offense in this state, another state, or federal
33 court who subsequently has been arrested for a drug offense in this
34 state. For purposes of this definition, "drug offense" means a felony
35 violation of chapter 69.50 or 69.52 RCW or equivalent law in another
36 jurisdiction that involves the manufacture, distribution, or
37 possession with intent to manufacture or distribute(~~(7)~~) of a
38 controlled substance or imitation controlled substance.

1 (4) "Off-limits orders" means an order issued by a superior or
2 district court in the state of Washington that enjoins known drug
3 traffickers from entering or remaining in a designated PADT area.

4 (5) "Protected against drug trafficking area" or "PADT area"
5 means any specifically described area, public or private, contained
6 in an off-limits order. The perimeters of a PADT area shall be
7 defined using street names and numbers and shall include all real
8 property contained therein, where drug sales, possession of drugs,
9 pedestrian or vehicular traffic attendant to drug activity, or other
10 activity associated with drug offenses confirms a pattern associated
11 with drug trafficking. The area may include the full width of
12 streets, alleys and sidewalks on the perimeter, common areas,
13 planting strips, or parks and parking areas within the area described
14 using the streets as boundaries.

15 **Sec. 12.** RCW 10.95.020 and 2003 c 53 s 96 are each amended to
16 read as follows:

17 A person is guilty of aggravated first degree murder, a class A
18 felony, if he or she commits first degree murder as defined by RCW
19 9A.32.030(1)(a), as now or hereafter amended, and one or more of the
20 following aggravating circumstances exist:

21 (1) The victim was a law enforcement officer, corrections
22 officer, or firefighter who was performing his or her official duties
23 at the time of the act resulting in death and the victim was known or
24 reasonably should have been known by the person to be such at the
25 time of the killing;

26 (2) At the time of the act resulting in the death, the person was
27 serving a term of imprisonment, had escaped, or was on authorized or
28 unauthorized leave in or from a state facility or program for the
29 incarceration or treatment of persons adjudicated guilty of crimes;

30 (3) At the time of the act resulting in death, the person was in
31 custody in a county or county-city jail as a consequence of having
32 been adjudicated guilty of a felony;

33 (4) The person committed the murder pursuant to an agreement that
34 he or she would receive money or any other thing of value for
35 committing the murder;

36 (5) The person solicited another person to commit the murder and
37 had paid or had agreed to pay money or any other thing of value for
38 committing the murder;

1 (6) The person committed the murder to obtain or maintain his or
2 her membership or to advance his or her position in the hierarchy of
3 an organization, association, or identifiable group;

4 (7) The murder was committed during the course of or as a result
5 of a shooting where the discharge of the firearm, as defined in RCW
6 9.41.010, is either from a motor vehicle or from the immediate area
7 of a motor vehicle that was used to transport the shooter or the
8 firearm, or both, to the scene of the discharge;

9 (8) The victim was:

10 (a) A judge; juror or former juror; prospective, current, or
11 former witness in an adjudicative proceeding; prosecuting attorney;
12 deputy prosecuting attorney; defense attorney; a member of the
13 indeterminate sentence review board; or a probation or parole
14 officer; and

15 (b) The murder was related to the exercise of official duties
16 performed or to be performed by the victim;

17 (9) The person committed the murder to conceal the commission of
18 a crime or to protect or conceal the identity of any person
19 committing a crime, including, but specifically not limited to, any
20 attempt to avoid prosecution as a persistent offender as defined in
21 RCW 9.94A.030;

22 (10) There was more than one victim and the murders were part of
23 a common scheme or plan or the result of a single act of the person;

24 (11) The murder was committed in the course of, in furtherance
25 of, or in immediate flight from one of the following crimes:

26 (a) Robbery in the first or second degree;

27 (b) Rape in the first or second degree;

28 (c) Burglary in the first or second degree or residential
29 burglary;

30 (d) Kidnapping in the first degree; or

31 (e) Arson in the first degree;

32 (12) The victim was regularly employed or self-employed as a
33 newsreporter and the murder was committed to obstruct or hinder the
34 investigative, research, or reporting activities of the victim;

35 (13) At the time the person committed the murder, there existed a
36 court order, issued in this or any other state, which prohibited the
37 person from either contacting the victim, molesting the victim, or
38 disturbing the peace of the victim, and the person had knowledge of
39 the existence of that order;

1 (14) At the time the person committed the murder, the person and
2 the victim were "family or household members" or "intimate partners"
3 as (~~that term is~~) defined in RCW (~~(10.99.020(1))~~) 26.50.010, and
4 the person had previously engaged in a pattern or practice of three
5 or more of the following crimes committed upon the victim within a
6 five-year period, regardless of whether a conviction resulted:

7 (a) Harassment as defined in RCW 9A.46.020; or

8 (b) Any criminal assault.

9 **Sec. 13.** RCW 26.09.015 and 2008 c 6 s 1044 are each amended to
10 read as follows:

11 (1) In any proceeding under this chapter, the matter may be set
12 for mediation of the contested issues before, or concurrent with, the
13 setting of the matter for hearing. The purpose of the mediation
14 proceeding shall be to reduce acrimony which may exist between the
15 parties and to develop an agreement assuring the child's close and
16 continuing contact with both parents after the marriage or the
17 domestic partnership is dissolved. The mediator shall use his or her
18 best efforts to effect a settlement of the dispute.

19 (2)(a) Each superior court may make available a mediator. The
20 court shall use the most cost-effective mediation services that are
21 readily available unless there is good cause to access alternative
22 providers. The mediator may be a member of the professional staff of
23 a family court or mental health services agency, or may be any other
24 person or agency designated by the court. In order to provide
25 mediation services, the court is not required to institute a family
26 court.

27 (b) In any proceeding involving issues relating to residential
28 time or other matters governed by a parenting plan, the matter may be
29 set for mediation of the contested issues before, or concurrent with,
30 the setting of the matter for hearing. Counties may, and to the
31 extent state funding is provided therefor counties shall, provide
32 both predecree and postdecree mediation at reduced or waived fee to
33 the parties within one year of the filing of the dissolution
34 petition.

35 (3)(a) Mediation proceedings under this chapter shall be governed
36 in all respects by chapter 7.07 RCW, except as follows:

37 (i) Mediation communications in postdecree mediations mandated by
38 a parenting plan are admissible in subsequent proceedings for the
39 limited purpose of proving:

1 (A) Abuse, neglect, abandonment, exploitation, or unlawful
2 harassment, as defined in RCW 9A.46.020(1), of a child;

3 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1),
4 of a family or household member or intimate partner, each as defined
5 in RCW 26.50.010(~~(+2)~~); or

6 (C) That a parent used or frustrated the dispute resolution
7 process without good reason for purposes of RCW 26.09.184(4)(d).

8 (ii) If a postdecree mediation-arbitration proceeding is required
9 pursuant to a parenting plan and the same person acts as both
10 mediator and arbitrator, mediation communications in the mediation
11 phase of such a proceeding may be admitted during the arbitration
12 phase, and shall be admissible in the judicial review of such a
13 proceeding under RCW 26.09.184(4)(e) to the extent necessary for such
14 review to be effective.

15 (b) None of the exceptions under (a)(i) and (ii) of this
16 subsection shall subject a mediator to compulsory process to testify
17 except by court order for good cause shown, taking into consideration
18 the need for the mediator's testimony and the interest in the
19 mediator maintaining an appearance of impartiality. If a mediation
20 communication is not privileged under (a)(i) of this subsection or
21 that portion of (a)(ii) of this subsection pertaining to judicial
22 review, only the portion of the communication necessary for the
23 application of the exception may be admitted, and such admission of
24 evidence shall not render any other mediation communication
25 discoverable or admissible except as may be provided in chapter 7.07
26 RCW.

27 (4) The mediator shall assess the needs and interests of the
28 child or children involved in the controversy and may interview the
29 child or children if the mediator deems such interview appropriate or
30 necessary.

31 (5) Any agreement reached by the parties as a result of mediation
32 shall be reported to the court and to counsel for the parties by the
33 mediator on the day set for mediation or any time thereafter
34 designated by the court.

35 **Sec. 14.** RCW 41.04.655 and 2018 c 39 s 2 are each amended to
36 read as follows:

37 Unless the context clearly requires otherwise, the definitions in
38 this section apply throughout RCW 41.04.650 through 41.04.670,
39 28A.400.380, and section 7, chapter 93, Laws of 1989.

1 (1) "Domestic violence" means any of the following acts committed
2 by one family or household member against another or by one intimate
3 partner against another, as those terms are defined in RCW 26.50.010:

4 (a) Physical harm, bodily injury, assault, or the infliction of
5 fear of imminent physical harm, bodily injury, or assault (~~(, between~~
6 ~~family or household members as defined in RCW 26.50.010));~~

7 (b) (~~(sexual)~~) Sexual assault (~~(of one family or household member~~
8 ~~by another family or household member)); or~~

9 (c) (~~(stalking)~~) Stalking as defined in RCW 9A.46.110 (~~(of one~~
10 ~~family or household member by another family or household member)).~~

11 (2) "Employee" means any employee of the state, including
12 employees of school districts and educational service districts, who
13 are entitled to accrue sick leave or annual leave and for whom
14 accurate leave records are maintained.

15 (3) "Parental leave" means leave to bond and care for a newborn
16 child after birth or to bond and care for a child after placement for
17 adoption or foster care, for a period of up to sixteen weeks after
18 the birth or placement.

19 (4) "Pregnancy disability" means a pregnancy-related medical
20 condition or miscarriage.

21 (5) "Program" means the leave sharing program established in RCW
22 41.04.660.

23 (6) "Service in the uniformed services" means the performance of
24 duty on a voluntary or involuntary basis in a uniformed service under
25 competent authority and includes active duty, active duty for
26 training, initial active duty for training, inactive duty training,
27 full-time national guard duty including state-ordered active duty,
28 and a period for which a person is absent from a position of
29 employment for the purpose of an examination to determine the fitness
30 of the person to perform any such duty.

31 (7) "Sexual assault" has the same meaning as set forth in RCW
32 70.125.030.

33 (8) "Stalking" has the same meaning as set forth in RCW
34 9A.46.110.

35 (9) "State agency" or "agency" means departments, offices,
36 agencies, or institutions of state government, the legislature,
37 institutions of higher education, school districts, and educational
38 service districts.

39 (10) "Uniformed services" means the armed forces, the army
40 national guard, and the air national guard of any state, territory,

1 commonwealth, possession, or district when engaged in active duty for
2 training, inactive duty training, full-time national guard duty, or
3 state active duty, the commissioned corps of the public health
4 service, the coast guard, and any other category of persons
5 designated by the president of the United States in time of war or
6 national emergency.

7 (11) "Victim" means a person against whom domestic violence,
8 sexual assault, or stalking has been committed as defined in this
9 section.

10 **Sec. 15.** RCW 48.18.550 and 1998 c 301 s 1 are each amended to
11 read as follows:

12 (1) No insurer shall deny or refuse to accept an application for
13 insurance, refuse to insure, refuse to renew, cancel, restrict, or
14 otherwise terminate a policy of insurance, or charge a different rate
15 for the same coverage((7)) on the basis that the applicant or insured
16 person is, has been, or may be a victim of domestic abuse.

17 (2) Nothing in this section shall prevent an insurer from taking
18 any of the actions set forth in subsection (1) of this section on the
19 basis of loss history or medical condition or for any other reason
20 not otherwise prohibited by this section, any other law, regulation,
21 or rule.

22 (3) Any form filed or filed after June 11, 1998, subject to RCW
23 48.18.120(1) or subject to a rule adopted under RCW 48.18.120(1) may
24 exclude coverage for losses caused by intentional or fraudulent acts
25 of any insured. Such an exclusion, however, shall not apply to deny
26 an insured's otherwise-covered property loss if the property loss is
27 caused by an act of domestic abuse by another insured under the
28 policy, the insured claiming property loss files a police report and
29 cooperates with any law enforcement investigation relating to the act
30 of domestic abuse, and the insured claiming property loss did not
31 cooperate in, or contribute to, the creation of the property loss.
32 Payment by the insurer to an insured may be limited to the person's
33 insurable interest in the property less payments made to a mortgagee
34 or other party with a legal secured interest in the property. An
35 insurer making payment to an insured under this section has all
36 rights of subrogation to recover against the perpetrator of the act
37 that caused the loss.

38 (4) Nothing in this section prohibits an insurer from
39 investigating a claim and complying with chapter 48.30A RCW.

1 (5) (~~As used in this section, "domestic"~~) For the purposes of
2 this section, the following definitions apply:

3 (a) "Domestic abuse" means: (~~(a)~~) (i) Physical harm, bodily
4 injury, assault, or the infliction of fear of imminent physical harm,
5 bodily injury, or assault between family or household members or
6 intimate partners; (~~(b)~~) (ii) sexual assault of one family or
7 household member by another or of one intimate partner by another;
8 (~~(c)~~) (iii) stalking as defined in RCW 9A.46.110 of one family or
9 household member by another (~~family or household member~~) or of one
10 intimate partner by another; or (~~(d)~~) (iv) intentionally,
11 knowingly, or recklessly causing damage to property so as to
12 intimidate or attempt to control the behavior of another family or
13 household member or of another intimate partner.

14 (b) "Family or household member" has the same meaning as in RCW
15 26.50.010.

16 (c) "Intimate partner" has the same meaning as in RCW 26.50.010.

17 **Sec. 16.** RCW 70.83C.010 and 1993 c 422 s 4 are each amended to
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Alcoholism" means a disease, characterized by a dependency
22 on alcoholic beverages, loss of control over the amount and
23 circumstances of alcohol use, symptoms of tolerance, physiological or
24 psychological withdrawal, or both, if use is reduced or discontinued,
25 and impairment of health or disruption of social or economic
26 functioning.

27 (2) "Approved treatment program" means a discrete program of
28 chemical dependency treatment provided by a treatment program
29 certified by the department of social and health services as meeting
30 standards adopted under this chapter.

31 (3) "Assessment" means an interview with an individual to
32 determine if he or she is chemically dependent and in need of
33 referral to an approved treatment program.

34 (4) "Chemically dependent individual" means someone suffering
35 from alcoholism or drug addiction, or dependence on alcohol or one or
36 more other psychoactive chemicals.

37 (5) "Department" means the department of social and health
38 services.

1 (6) "Domestic violence" is a categorization of offenses, as
2 defined in RCW 10.99.020(~~(7, committed by one family or household~~
3 ~~member against another)~~).

4 (7) "Domestic violence program" means a shelter or other program
5 which provides services to victims of domestic violence.

6 (8) "Drug addiction" means a disease characterized by a
7 dependency on psychoactive chemicals, loss of control over the amount
8 and circumstances of use, symptoms of tolerance, physiological or
9 psychological withdrawal, or both, if use is reduced or discontinued,
10 and impairment of health or disruptions of social or economic
11 functioning.

12 (9) (~~"Family or household members" means a family or household~~
13 ~~member as defined in RCW 10.99.020.~~

14 ~~(10)~~) "Pretreatment" means the period of time prior to an
15 individual's enrollment in alcohol or drug treatment.

16 (~~(11)~~) (10) "Pretreatment services" means activities taking
17 place prior to treatment that include identification of individuals
18 using alcohol or drugs, education, assessment of their use,
19 evaluation of need for treatment, referral to an approved treatment
20 program, and advocacy on a client's behalf with social service
21 agencies or others to ensure and coordinate a client's entry into
22 treatment.

23 (~~(12)~~) (11) "Primary prevention" means providing information
24 about the effects of alcohol or drug use to individuals so they will
25 avoid using these substances.

26 (~~(13)~~) (12) "Secondary prevention" means identifying and
27 obtaining an assessment on individuals using alcohol or other drugs
28 for referral to treatment when indicated.

29 (~~(14)~~) (13) "Secretary" means the secretary of the department
30 of social and health services.

31 (~~(15)~~) (14) "Treatment" means the broad range of emergency
32 detoxification, residential, and outpatient services and care,
33 including diagnostic evaluation, chemical dependency education and
34 counseling, medical, psychiatric, psychological, and social service
35 care, vocational rehabilitation, and career counseling, that may be
36 extended to chemically dependent individuals and their families.

37 (~~(16)~~) (15) "Treatment program" means an organization,
38 institution, or corporation, public or private, engaged in the care,
39 treatment, or rehabilitation of chemically dependent individuals.

1 **Sec. 17.** RCW 74.34.145 and 2007 c 312 s 7 are each amended to
2 read as follows:

3 (1) An order for protection of a vulnerable adult issued under
4 this chapter, which restrains the respondent or another person from
5 committing acts of abuse, prohibits contact with the vulnerable
6 adult, excludes the person from any specified location, or prohibits
7 the person from coming within a specified distance from a location,
8 shall prominently bear on the front page of the order the legend:
9 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
10 OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO
11 ARREST.

12 (2) Whenever an order for protection of a vulnerable adult is
13 issued under this chapter((~~7~~)) and the respondent or person to be
14 restrained knows of the order, a violation of a provision restraining
15 the person from committing acts of abuse, prohibiting contact with
16 the vulnerable adult, excluding the person from any specified
17 location, or prohibiting the person from coming within a specified
18 distance of a location((~~7~~)) shall be punishable under RCW 26.50.110,
19 regardless of whether the person is a family or household member or
20 intimate partner as defined in RCW 26.50.010.

21 **Sec. 18.** RCW 9.96.060 and 2019 c 400 s 1, 2019 c 331 s 4, and
22 2019 c 46 s 5010 are each reenacted and amended to read as follows:

23 (1) When vacating a conviction under this section, the court
24 effectuates the vacation by: (a)(i) Permitting the applicant to
25 withdraw the applicant's plea of guilty and to enter a plea of not
26 guilty; or (ii) if the applicant has been convicted after a plea of
27 not guilty, the court setting aside the verdict of guilty; and (b)
28 the court dismissing the information, indictment, complaint, or
29 citation against the applicant and vacating the judgment and
30 sentence.

31 (2) Every person convicted of a misdemeanor or gross misdemeanor
32 offense may apply to the sentencing court for a vacation of the
33 applicant's record of conviction for the offense. If the court finds
34 the applicant meets the requirements of this subsection, the court
35 may in its discretion vacate the record of conviction. Except as
36 provided in subsections (3), (4), and (5) of this section, an
37 applicant may not have the record of conviction for a misdemeanor or
38 gross misdemeanor offense vacated if any one of the following is
39 present:

1 (a) The applicant has not completed all of the terms of the
2 sentence for the offense;

3 (b) There are any criminal charges against the applicant pending
4 in any court of this state or another state, or in any federal or
5 tribal court, at the time of application;

6 (c) The offense was a violent offense as defined in RCW 9.94A.030
7 or an attempt to commit a violent offense;

8 (d) The offense was a violation of RCW 46.61.502 (driving while
9 under the influence), 46.61.504 (actual physical control while under
10 the influence), 9.91.020 (operating a railroad, etc. while
11 intoxicated), or the offense is considered a "prior offense" under
12 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug
13 violation within ten years of the date of arrest for the prior
14 offense or less than ten years has elapsed since the date of the
15 arrest for the prior offense;

16 (e) The offense was any misdemeanor or gross misdemeanor
17 violation, including attempt, of chapter 9.68 RCW (obscenity and
18 pornography), chapter 9.68A RCW (sexual exploitation of children), or
19 chapter 9A.44 RCW (sex offenses), except for failure to register as a
20 sex offender under RCW 9A.44.132;

21 (f) The applicant was convicted of a misdemeanor or gross
22 misdemeanor offense as defined in RCW 10.99.020, or the court
23 determines after a review of the court file that the offense was
24 committed by one family (~~member~~) or household member against
25 another or by one intimate partner against another, or the court,
26 after considering the damage to person or property that resulted in
27 the conviction, any prior convictions for crimes defined in RCW
28 10.99.020, or for comparable offenses in another state or in federal
29 court, and the totality of the records under review by the court
30 regarding the conviction being considered for vacation, determines
31 that the offense involved domestic violence, and any one of the
32 following factors exist:

33 (i) The applicant has not provided written notification of the
34 vacation petition to the prosecuting attorney's office that
35 prosecuted the offense for which vacation is sought, or has not
36 provided that notification to the court;

37 (ii) The applicant has two or more domestic violence convictions
38 stemming from different incidents. For purposes of this subsection,
39 however, if the current application is for more than one conviction

1 that arose out of a single incident, none of those convictions counts
2 as a previous conviction;

3 (iii) The applicant has signed an affidavit under penalty of
4 perjury affirming that the applicant has not previously had a
5 conviction for a domestic violence offense, and a criminal history
6 check reveals that the applicant has had such a conviction; or

7 (iv) Less than five years have elapsed since the person completed
8 the terms of the original conditions of the sentence, including any
9 financial obligations and successful completion of any treatment
10 ordered as a condition of sentencing;

11 (g) For any offense other than those described in (f) of this
12 subsection, less than three years have passed since the person
13 completed the terms of the sentence, including any financial
14 obligations;

15 (h) The offender has been convicted of a new crime in this state,
16 another state, or federal or tribal court in the three years prior to
17 the vacation application; or

18 (i) The applicant is currently restrained by a domestic violence
19 protection order, a no-contact order, an antiharassment order, or a
20 civil restraining order which restrains one party from contacting the
21 other party or was previously restrained by such an order and was
22 found to have committed one or more violations of the order in the
23 five years prior to the vacation application.

24 (3) Subject to RCW 9.96.070, every person convicted of
25 prostitution under RCW 9A.88.030 who committed the offense as a
26 result of being a victim of trafficking, RCW 9A.40.100, promoting
27 prostitution in the first degree, RCW 9A.88.070, promoting commercial
28 sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons
29 under the trafficking victims protection act of 2000, 22 U.S.C. Sec.
30 7101 et seq. may apply to the sentencing court for vacation of the
31 applicant's record of conviction for the prostitution offense. An
32 applicant may not have the record of conviction for prostitution
33 vacated if any one of the following is present:

34 (a) There are any criminal charges against the applicant pending
35 in any court of this state or another state, or in any federal court,
36 for any crime other than prostitution; or

37 (b) The offender has been convicted of another crime, except
38 prostitution, in this state, another state, or federal court since
39 the date of conviction. The limitation in this subsection (3)(b) does
40 not apply to convictions where the offender proves by a preponderance

1 of the evidence that he or she committed the crime as a result of
2 being a victim of trafficking, RCW 9A.40.100, promoting prostitution
3 in the first degree, RCW 9A.88.070, promoting commercial sexual abuse
4 of a minor, RCW 9.68A.101, or trafficking in persons under the
5 trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et
6 seq., according to the requirements provided in RCW 9.96.070 for each
7 respective conviction.

8 (4) Every person convicted prior to January 1, 1975, of violating
9 any statute or rule regarding the regulation of fishing activities,
10 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,
11 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240
12 who claimed to be exercising a treaty Indian fishing right, may apply
13 to the sentencing court for vacation of the applicant's record of the
14 misdemeanor, gross misdemeanor, or felony conviction for the offense.
15 If the person is deceased, a member of the person's family or an
16 official representative of the tribe of which the person was a member
17 may apply to the court on behalf of the deceased person.
18 Notwithstanding the requirements of RCW 9.94A.640, the court shall
19 vacate the record of conviction if:

20 (a) The applicant is a member of a tribe that may exercise treaty
21 Indian fishing rights at the location where the offense occurred; and

22 (b) The state has been enjoined from taking enforcement action of
23 the statute or rule to the extent that it interferes with a treaty
24 Indian fishing right as determined under *United States v. Washington*,
25 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.
26 899 (D. Oregon 1969), and any posttrial orders of those courts, or
27 any other state supreme court or federal court decision.

28 (5) Every person convicted of a misdemeanor marijuana offense,
29 who was twenty-one years of age or older at the time of the offense,
30 may apply to the sentencing court for a vacation of the applicant's
31 record of conviction for the offense. A misdemeanor marijuana offense
32 includes, but is not limited to: Any offense under RCW 69.50.4014,
33 from July 1, 2004, onward, and its predecessor statutes, including
34 RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW
35 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense
36 under an equivalent municipal ordinance. If an applicant qualifies
37 under this subsection, the court shall vacate the record of
38 conviction.

39 (6)(a) Except as provided in (c) of this subsection, once the
40 court vacates a record of conviction under this section, the person

1 shall be released from all penalties and disabilities resulting from
2 the offense and the fact that the person has been convicted of the
3 offense shall not be included in the person's criminal history for
4 purposes of determining a sentence in any subsequent conviction. For
5 all purposes, including responding to questions on employment or
6 housing applications, a person whose conviction has been vacated
7 under this section may state that he or she has never been convicted
8 of that crime. However, nothing in this section affects the
9 requirements for restoring a right to possess a firearm under RCW
10 9.41.040. Except as provided in (b) of this subsection, nothing in
11 this section affects or prevents the use of an offender's prior
12 conviction in a later criminal prosecution.

13 (b) When a court vacates a record of domestic violence as defined
14 in RCW 10.99.020 under this section, the state may not use the
15 vacated conviction in a later criminal prosecution unless the
16 conviction was for: (i) Violating the provisions of a restraining
17 order, no-contact order, or protection order restraining or enjoining
18 the person or restraining the person from going on to the grounds of
19 or entering a residence, workplace, school, or day care, or
20 prohibiting the person from knowingly coming within, or knowingly
21 remaining within, a specified distance of a location (RCW 10.99.040,
22 10.99.050, 26.09.300, 26.10.220, 26.26B.050, 26.44.063, 26.44.150,
23 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii)
24 stalking (RCW 9A.46.110). A vacated conviction under this section is
25 not considered a conviction of such an offense for the purposes of 27
26 C.F.R. 478.11.

27 (c) A conviction vacated on or after July 28, 2019, qualifies as
28 a prior conviction for the purpose of charging a present recidivist
29 offense as defined in RCW 9.94A.030 occurring on or after July 28,
30 2019.

31 (7) The clerk of the court in which the vacation order is entered
32 shall immediately transmit the order vacating the conviction to the
33 Washington state patrol identification section and to the local
34 police agency, if any, which holds criminal history information for
35 the person who is the subject of the conviction. The Washington state
36 patrol and any such local police agency shall immediately update
37 their records to reflect the vacation of the conviction, and shall
38 transmit the order vacating the conviction to the federal bureau of
39 investigation. A conviction that has been vacated under this section
40 may not be disseminated or disclosed by the state patrol or local law

1 enforcement agency to any person, except other criminal justice
2 enforcement agencies.

3 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of
5 the state government and its existing public institutions, and takes
6 effect immediately.

Passed by the House February 12, 2020.

Passed by the Senate March 3, 2020.

Approved by the Governor March 18, 2020.

Filed in Office of Secretary of State March 18, 2020.

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