Everett City Council Agenda
6:30 PM March 2, 2016
City Council Chambers

Roll Call

Pledge of Allegiance

Approval of Minutes: February 24, 2016

Mayor's Comments

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

Citizen Comments

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

(1) CB 1602-11– 1st Reading – Adopt the Proposed Ordinance establishing a limit on the number of retail marijuana stores in the City of everett, and amending Ordinance No. 3443-15. (3rd and final reading and public hearing on 3-16-16)

Documents: CB1602-11.pdf

(2) Parks and Recreation Comprehensive Plan Update – Status report.

Documents: Parks-1.pdf

CONSENT ITEMS:

(3) Adopt Resolution No. ____ authorizing claims against the City of Everett in the amount of $982,403.91 for the period of February 13, 2016 through February 19, 2016.

Documents: res-76.pdf

(4) Authorize Call for Bids for the construction of Sewer M Project, Phase 2.

Documents: Sewer M-2.pdf

PUBLIC HEARING:

(5) CB 1602-08 –3rd and final Reading – Adopt the Proposed Ordinance adding "Community Center" as a new Special Property use allowed in all zones, amending Ordinance No. 1671-89, as amended (EMC Title 19)

Documents: CB 1602-08.pdf

(6) CB 1602-09 –3rd and final Reading – Adopt the Proposed Ordinance authorizing adaptive reuse of non-residential buildings in residential zones as a Special Property Use permit, amending Ordinance No. 1671-89, as amended. (EMC Title 19) and Chapter

4 of Ordinance No. 2530-01, as amended (EMC 15.16)

Documents: CB 1602-09.pdf

ACTION ITEMS:

(7) CB 1602-10 –3rd and final Reading – Adopt the Proposed Ordinance creating a Special Improvement Project entitled, "Downtown Streetscape Phase 3," Fund 303, Program 109, to accumulate all costs for the improvement.

Documents: CB 1602-10.pdf

(8) Authorize the Mayor to sign Amendment No. 1 to the Public Services Agreement with Reid Middleton, Inc. for additional engineering services on the Puget Sound 0utfall No. 6 Reroute Project for an additional amount of $19,470.00.

Documents: Reid Middleton-1.pdf

(9) Authorize the Mayor to sign a Professional Services Agreement with Botesch, Nash & Hall Architects, P.S. to provide design and engineering services for the Carl Gipson Senior Center Men's and Women's restroom remodel in the amount of $22,900.00.

Documents: Carl Gipson.pdf

Executive Session

Adjourn

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at 425 257-8703.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
An Ordinance establishing a limit on the number of retail marijuana stores in the City of Everett, and amending Ordinance No. 3443-15

	Briefing	
	Proposed Action	
	Consent	
	Action	
3/2/16	First Reading	
3/9/16	Second Reading	
3/16/16	Third Reading	
3/16/16	Public Hearing	

COUNCIL BILL #	CB1602-11
Originating Department	Planning
Contact Person	Allan Giffen
Phone Number	(425) 257-8725
FOR AGENDA OF	March 2, 2016
	March 9, 2016
	March 16, 2016

Initialed by:
Department Head
CAA
Council President

Location	**Preceding Action**	**Attachments**	**Department(s) Approval**
City-wide	Planning Commission recommendation March 1, 2016	Proposed Ordinance	Planning, Legal

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

DETAILED SUMMARY STATEMENT:

In the 2015 legislative session, the Washington State Legislature adopted legislation to combine the medical marijuana and recreational marijuana laws as they relate to retail establishments. As a result of this change, the State Liquor and Cannabis Board is proposing new regulations for retail marijuana stores and marijuana cooperatives, including the number of retail establishments that will be allowed in each city or county.

Under the previous rule, Everett is allowed to have a maximum of five stores. Under the new regulations, Everett would be allowed to have up to ten stores. There are four stores currently operating in the City; a fifth is in the permit process.

On March 1, 2016, the Planning Commission held a public hearing to consider allowing at least five, but potentially less than a total of ten stores in Everett.

RECOMMENDATION (Exact action requested of Council):

Adopt Ordinance establishing a limit on the number of retail marijuana stores in the City of Everett, and amending Ordinance No. 3443-15.

ORDINANCE NO. ___

An Ordinance establishing a limit on the number of retail marijuana stores in the City of Everett, and amending Ordinance No. 3443-15

Whereas, the City Council finds the following:

1. State Initiative 502 ("I-502"), approved by Washington voters in November 2012, provides a framework for licensing and regulating the production, processing and retail sale of recreational marijuana.

2. In July 2015, the City adopted land use regulations based on available information at the time in order to provide policy and regulatory guidance and facilitate the review of recreational marijuana license applications within City limits.

3. The State Legislature enacted the Cannabis Patient Protection Act in 2015, establishing regulations for the formerly unregulated medical marijuana system and aligning it with the existing recreational system.

4. In response to changes in state law adopted in the last legislative session, the State Liquor and Cannabis Board has amended its rules on the number of retail marijuana stores to be allowed in each municipality and has determined that the maximum number of retail marijuana stores to be allowed in Everett shall increase from five to a total of ten.

5. The City Council has asked the Planning Commission to consider establishing a limit on the number of marijuana retail stores, including whether the number should be limited to five stores, if ten stores should be allowed, or if a number between five and ten stores is an appropriate number of retail marijuana stores in the City of Everett.

6. There are four retail marijuana stores currently in business in Everett and a fifth is approved and will soon in open for business.

7. There are many retail marijuana stores located in the unincorporated area of Snohomish County located south of the Everett city limits.

8. Many cities in Washington, including cities in parts of Snohomish County surrounding Everett, have enacted a total ban on the establishment of recreational marijuana retail stores and production and processing facilities.

9. Washington courts have upheld the rights of municipalities to ban or exclude recreational marijuana land uses within their local land use regulations.

10. The existing marijuana retail stores in Everett will be permitted by the State Liquor and Cannabis Board to provide marijuana to medical marijuana patients.

Whereas, the City Council concludes that:

1. The City Council held a public hearing on the Ordinance on March 16, 2016.

2. Cities have the right to either ban or to establish limits on the number of marijuana stores in their municipal limits.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: FINDINGS OF FACT. The "WHEREAS' provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

Section 2: Section 2.C of Ordinance No. 3443-15, which reads as follows:

C. **Retailers:** Marijuana retailers may operate in the City pursuant to the following restrictions:
   1. Marijuana retailers must comply with all requirements of state law, Washington State Liquor Control Board and the City;
   2. Marijuana retailers may locate only within the B-2, B-3, BMU, C-1, C-1R, C-2, E-1, E-1MUO, and M-2 zones;
   3. Marijuana retailers may not locate in Neighborhood Business (B-1) zones;
   4. Marijuana retailers may not locate in a building in which non-conforming retail uses have been established in residential zones (R-S, R-1, R-1(A), R-2, R-2(A), R-3, R-3(L), R-4, and R-5 zones);
   5. Marijuana retailers may not locate within 1,000 feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;
   6. Marijuana retailers may not locate within 2,500 feet of any other legally established marijuana retailer;
   7. Customer parking for marijuana retailers must be on the public street side of the structure in which the marijuana retailer is located and may not be off of or adjacent to an alley. However, staff parking and business deliveries may occur on the alley side of the structure;
   8. Vehicular access to the parking lot for a marijuana retailer shall be from the public street frontage and may not be from an alley. Any property located on a street from which vehicular access to the site from the street is prohibited by the City Engineer shall not be allowed for use as a marijuana retailer;
   9. Marijuana retailers shall not be allowed on any parcel containing a residential use;

10. Marijuana retailers shall not be allowed on any parcel that is contiguous to a parcel containing residential use, unless the Planning Director, using Review Process II as described in EMC Title 15, finds the following:
    a. There is a physical separation between the two uses, such as another commercial building, or a substantial change in topography;
    b. The retail use is located in a shopping center as one of multiple tenants with adequate parking for all uses and access as stated above;
    c. The building in which the retail use is located faces the commercial street and the residential use faces a residential street in the opposite direction, without a shared alley between the two;
    d. The residential use is located at least 100 feet from the common lot line between the two uses.
11. In reviewing a proposed marijuana retailer under this section, the Planning Director shall have the authority to require improvements including, but not limited to fencing or landscaping to screen the retail use from the residential use.
12. The front façade of retail stores shall consist of storefront window(s), doors, and durable, quality building materials consistent with the design standards of the zone in which the property is located. Transparency requirements for windows shall apply unless in conflict with Washington State Liquor and Cannabis Board regulations. If located in a zone without design standards, at least three of the following shall be provided:
    a. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.
    b. Decorative light fixtures with a diffuse visible light source or unusual fixture.
    c. Decorative building materials, such as decorative masonry, shingle, brick, or stone.
    d. Individualized patterns or continuous wood details, decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, or similar materials.
    e. Use of a landscaping treatment as part of the building's design, such as planters or wall trellises.
    f. Decorative or special railings, grill work, or landscape guards.
    g. Landscaped trellises, canopies, or weather protection.
    h. Sculptural or hand-crafted signs.
    i. Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees that exhibit nonstandard designs.
    j. Other similar features or treatment that satisfies the intent of the guidelines as approved by the City.

Is hereby amended to read as follows:

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

1. Marijuana retailers must comply with all requirements of state law, Washington State Liquor Control Board and the City;
2. Marijuana retailers may locate only within the B-2, B-3, BMU, C-1, C-1R, C-2, E-1, E-1MUO, and M-2 zones;
3. Marijuana retailers may not locate in Neighborhood Business (B-1) zones;
4. Marijuana retailers may not locate in a building in which non-conforming retail uses have been established in residential zones (R-S, R-1, R-1(A), R-2, R-2(A), R-3, R-3(L), R-4, and R-5 zones);
5. Marijuana retailers may not locate within 1,000 feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;
6. Marijuana retailers may not locate within 2,500 feet of any other legally established marijuana retailer;
7. Customer parking for marijuana retailers must be on the public street side of the structure in which the marijuana retailer is located and may not be off of or adjacent to an alley. However, staff parking and business deliveries may occur on the alley side of the structure;
8. Vehicular access to the parking lot for a marijuana retailer shall be from the public street frontage and may not be from an alley. Any property located on a street from which vehicular access to the site from the street is prohibited by the City Engineer shall not be allowed for use as a marijuana retailer;
9. Marijuana retailers shall not be allowed on any parcel containing a residential use;
10. Marijuana retailers shall not be allowed on any parcel that is contiguous to a parcel containing residential use, unless the Planning Director, using Review Process II as described in EMC Title 15, finds the following:
    a. There is a physical separation between the two uses, such as another commercial building, or a substantial change in topography;
    b. The retail use is located in a shopping center as one of multiple tenants with adequate parking for all uses and access as stated above;
    c. The building in which the retail use is located faces the commercial street and the residential use faces a residential street in the opposite direction, without a shared alley between the two;

d. The residential use is located at least 100 feet from the common lot line between the two uses.

11. In reviewing a proposed marijuana retailer under this section, the Planning Director shall have the authority to require improvements including, but not limited to fencing or landscaping to screen the retail use from the residential use.

12. The front façade of retail stores shall consist of storefront window(s), doors, and durable, quality building materials consistent with the design standards of the zone in which the property is located. Transparency requirements for windows shall apply unless in conflict with Washington State Liquor and Cannabis Board regulations. If located in a zone without design standards, at least three of the following shall be provided:

    a. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.
    b. Decorative light fixtures with a diffuse visible light source or unusual fixture.
    c. Decorative building materials, such as decorative masonry, shingle, brick, or stone.
    d. Individualized patterns or continuous wood details, decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, or similar materials.
    e. Use of a landscaping treatment as part of the building's design, such as planters or wall trellises.
    f. Decorative or special railings, grill work, or landscape guards.
    g. Landscaped trellises, canopies, or weather protection.
    h. Sculptural or hand-crafted signs.
    i. Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees that exhibit nonstandard designs.
    j. Other similar features or treatment that satisfies the intent of the guidelines as approved by the City.

13. The maximum number of retail marijuana stores allowed in the City of Everett shall not exceed five. Provided, the City shall review the maximum number of retail marijuana stores allowed before June 1, 2018, to determine whether this maximum number should be changed.

Section 3. SEVERABILITY. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by State or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. CONFLICT. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 5. CORRECTIONS. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 6. GENERAL DUTY. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

RAY STEPHANSON, MAYOR

_____

ATTEST: _____

CITY CLERK

Passed:_____

Valid:_____

Published:_____

Effective Date: _____

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
Parks and Recreation Comprehensive Plan Update – Status Report

3/2/16	Briefing	COUNCIL BILL #	
	Proposed Action	Originating Department	Parks
	Consent	Contact Person	Paul Kaftanski
	Action	Phone Number	425-257-8335
	First Reading	FOR AGENDA OF	March 2, 2016
	Second Reading		
	Third Reading		
	Public Hearing		
	Budget Advisory		

Initialed by:
Department Head
CAA
Council President

Location	**Preceding Action**	**Attachments**	**Department(s) Approval**
N/A	Council Approval of PSA with Beckwith Consulting - February 28,2015		Parks, Administration

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

DETAILED SUMMARY STATEMENT:

Since late February, 2015, and with the assistance of Beckwith Consulting, an update to the existing parks and recreation comprehensive plan has been in development. The updated plan, to be known as the "Parks, Recreation and Open Space Plan", is updated on a six year cycle. (The department's existing comprehensive plan was approved by City Council in May, 2010.) A City Council adopted plan is maintained on file with the Washington State Recreation and Conservation Office (RCO) in order to maintain the City's grant eligibility with RCO.

This briefing is designed to describe the work completed to date, provide a macro-level summary of comments received from people who have participated in a variety of communication forums, highlight a draft list of projects and categories of projects that will be subject to additional city-wide outreach, and conclude with a listing of the plan's remaining milestones.

RECOMMENDATION (Exact action requested of Council):

Briefing only, no action requested.

RESOLUTION NO._____

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

That the claims against the City of Everett for the period February 13, 2016 through February 19, 2016 having been audited and approved, have been paid and the disbursements have been made against the proper funds in payment thereof, as follows:

Fund	Department	Amount
001	City Council	2,766.85
002	General Government	90,643.83
003	Legal	3,418.99
004	Administration	3,783.00
005	Municipal Court	4,596.18
009	Misc Financial Funds	8,013.91
010	Finance	363.72
021	Planning & Community Developmer	115.20
024	Public Works-Engineering	1,682.20
031	Police	581.85
032	Fire	1,759.64
038	Facilities/Maintenance	7,896.48
	TOTAL GENERAL FUND	**125,621.85**

Fund	Department	Amount
101	Parks & Recreation	4,467.53
110	Library	16,538.91
120	Public Works-Streets	3,119.49
145	Real Property Acquisition	51.72
146	Property Management	2,854.90
149	Senior Center Reserve	75.00
152	Cum Reserve-Library	15,108.01
153	Emergency Medical Services	745.85
197	CHIP Loan Program	61,846.19
198	Community Dev Block Grants	2,549.16
303	PW Improvement Projects	48,306.02
336	Water & Sewer Sys Improv Project	233,951.49
401	Public Works-Utilities	254,894.47
425	Public Works-Transit	5,285.86
440	Golf	22,023.18
501	MVD-Transportation Services	25,194.74
503	Self-Insurance	4,445.38
505	Computer Reserve	53,359.69
637	Police Pension	47,916.44
638	Fire Pension	54,048.03
	TOTAL CLAIMS	**982,403.91**

Passed and approved this _____day of _____ , 2016.

_____
Councilperson Introducing Resolution

_____
Council President

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
Call for Bids for the construction of Sewer M Project, Phase 2

_____	Briefing	COUNCIL BILL #	
_____	Proposed Action	Originating Department	Public Works
_____	Consent	Contact Person	David Voigt
_____	Action	Phone Number	425-257-8983
_____	First Reading	FOR AGENDA OF	March 2, 2016
_____	Second Reading		
_____	Third Reading		
_____	Public Hearing		
_____	Budget Advisory	Initialed by:	
		Department Head	
		CAA	db
		Council President	

Location	**Preceding Action**	**Attachments**	**Department(s) Approval**
Northwest Everett	Call for Bids Phase 1, November 12, 2014	Project Area Map	Public Works

Amount Budgeted	$6,000,000	
Expenditure Required	$5,650,000	Account Number(s): UP 3470
Budget Remaining	$350,000	
Additional Required	$0	

DETAILED SUMMARY STATEMENT:
This Phase 2 project will replace numerous old and deteriorated sewers and will further extend the separate storm water system to control combined sewer overflows (CSO) at Puget Sound Outflow (PSO) One, PSO2 and PSO3 sufficiently to comply with regulatory requirements. This project is listed on the Agreed Order with Washington Department of Ecology for completion by the end of 2017.

The overall project is building a new network of separate storm water drainage pipes to partially separate storm water from approximately 112 acres of residential area.

The Grand Avenue Park Bridge is needed to furnish offsite conveyance of separated Stormwater and CSO overflows to Port Gardner.

RECOMMENDATION (Exact action requested of Council):
Authorize a Call for Bids for the construction of Sewer M Project, Phase 2.

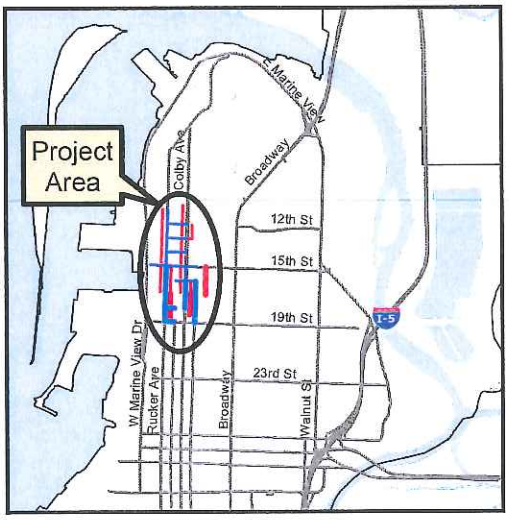
Sewer System Project M Phase Two

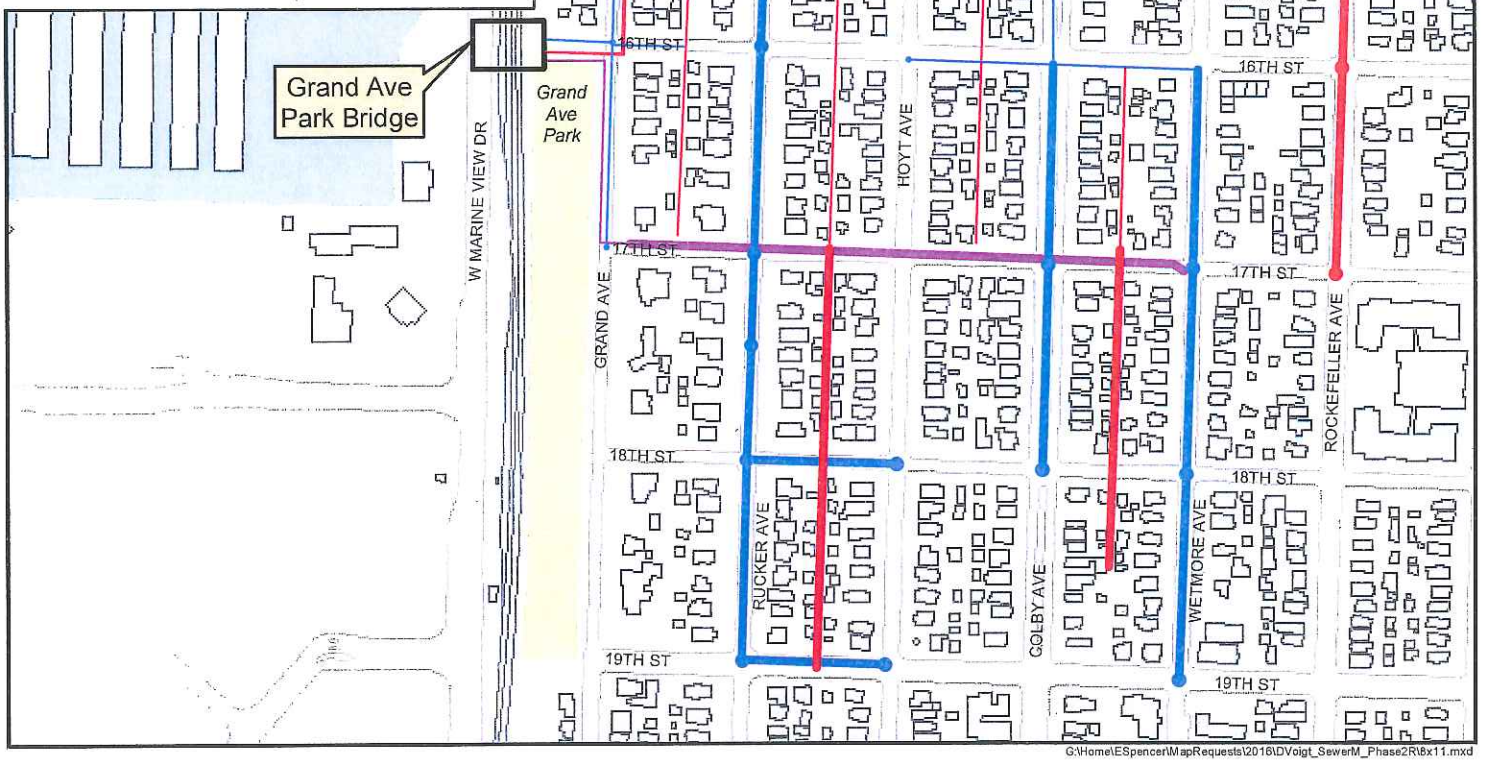
- Phase 2 Sewer Manhole
- Phase 2 Storm Manhole
- Phase 2 Sewer Main
- Phase 2 Stormwater System
- Phase 2 Sewer Force Main
- Phase 1 Stormwater System
- Phase 1 Sewer Main
- Phase 1 Sewer Force Main

0 100 200 400 Feet

EVERETT

Updated Feb. 1, 2016





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EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
An Ordinance adding "community center" as a new special property use allowed in all zones, amending Ordinance No. 1671-89, as amended (EMC Title 19)

	Briefing
	Consent
3/2/16	Action
2/17/16	First Reading
2/24/16	Second Reading
3/2/16	Third Reading
3/2/16	Public Hearing

COUNCIL BILL #	CB1602-08
Originating Dept.	Planning
Contact Person	Allan Giffen
Phone Number	425-257-8725
FOR AGENDA OF	February 17, 2016

Initialed by:
Department Head
CAA
Council President

Location	Preceding Action	Attachments	Department(s) Approval
City-wide	Planning Commission Resolution 16-03	Ordinance	Legal, Planning

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

DETAILED SUMMARY STATEMENT:

The City received a request to amend the zoning code to allow consideration of "community center" as a new use to be permitted through the special property use permit process. The Planning Commission held public workshops on December 1, 2015 and January 5, 2016 to discuss and consider potential amendments to the Zoning Code related to the request. The Planning Commission held a public hearing on January 19, 2016 to consider public testimony and recommends that the City Council approve the attached ordinance.

RECOMMENDATION (Exact action requested of Council):
Adopt an Ordinance adding "community center" as a new special property use allowed in all zones, amending Ordinance No. 1671-89, as amended (EMC Title 19).

ORDINANCE NO. _____

An Ordinance adding "community center" as a new special property use allowed in all zones, amending Ordinance No. 1671-89, as amended (EMC Title 19).

WHEREAS, the City of Everett Zoning Code contains regulations for special property uses to allow in certain cases a use in a zone that is not specifically allowed in that zone; and

WHEREAS, it is necessary from time to time to update zoning regulations to provide clarification or create additional standards related to specific uses; and

WHEREAS, the City received a request to amend the Zoning Code to allow consideration of "community center" as a new use to be permitted through the special property use permit process; and

WHEREAS, the proposed amendment to the Zoning Code will provide for additional opportunities for the community to access recreational, educational, social, and cultural activities; and

WHEREAS, the proposed amendments were submitted for the mandatory 60-day state agency review; and

WHEREAS, the Planning Commission held a public workshop on December 1, 2015 and January 5, 2016 to discuss and consider potential amendments to the Zoning Code related to community center as a new use; and

WHEREAS, the Planning Commission held a public hearing on January 19, 2016 to consider public testimony and make a recommendation concerning zoning regulations for community center as a new use; and

WHERAES, after holding a public hearing, The Planning Commission found that the proposed amendments are consistent with the Compressive Plan Policies; and

WHEREAS, the City Council finds the following:

1. The proposed amendments are consistent with the applicable provisions of the Everett Management Comprehensive Plan; and

2. The proposed amendments bear a substantial relation to the public health, safety and welfare of the Everett community; and

2. The proposed amendments bear a substantial relation to the public health, safety and welfare of the Everett community; and

3. The proposed amendments promote the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

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

(a) **"Community Center"** means a building or other enclosed structure open to the general public that is owned and operated by a public agency or nonprofit corporation, organization or association registered by Washington State, and that is used primarily for cultural, educational, recreational, or social purposes, and may include other minor supporting uses or activities. Not included in the category of community center as a primary use are those businesses and occupations defined by this title as clinics, medical-related activities, personal services, service businesses, government administrative offices or uses such as churches, schools, private clubs or fraternal organizations.

Section 2. Section 5 of Ordinance No. 1671-89, as amended (EMC 19.5, Table 5.2), which reads as follows:

Table 5.2 Nonresidential uses.

ZONE USE	A-1	R-S R-2	R-1	R-1(A) R-2(A)	R-3(L)	R-3	R-4 R-5	B-1	B-2	B-2(B)	B-3 (66)	BMU	E-1	MUO	C-1	C-1R	C-2	C-2ES (60)	W-C	M-S	M-M	M-1	M-2 (70)
SPECIAL PROPERTY USES See Section 41.150.C for general evaluation criteria, and Section 41.150.D for specific use criteria																							
Aircraft landing facilities		III (32)		III (32)																	III	III	III
Church	III (33)	III (33)	III (33)	III (33)	III (33)	III (33)	III (33)	III	I	I	I (66)	I	I	I	I	I	I	I	III (54)	III	I	I	I
Crematorium			III (34)				III (34)		I		I	I	I		I		I	I			I	I	I
Day care, commercial	III	III (30)	III (30)	III (30)	III (30)	III (30)	III (30)	III (30)	I	I	I	I	I	I	I	I	I	I	I		I	I	I

is hereby amended to read:

Table 5.2 Nonresidential uses.

ZONE USE	A-1	R-S R-2	R-1	R-1(A) R-2(A)	R-3(L)	R-3	R-4 R-5	B-1	B-2	B-2(B)	B-3 (66)	BMU	E-1	MUO	C-1	C-1R	C-2	C-2ES (60)	W-C	M-S	M-M	M-1	M-2 (70)
SPECIAL PROPERTY USES See Section 41.150.C for general evaluation criteria, and Section 41.150.D for specific use criteria																							
Aircraft landing facilities		III (32)		III (32)																	III	III	III
Church	III (33)	III (33)	III (33)	III (33)	III (33)	III (33)	III (33)	III	I	I	I (66)	I	I	I	I	I	I	I	III (54)	III	I	I	I
Community Center	III	III (72)	III (72)	III (72)	III (72)	III (72)	III (72)	III (72)	I	III	I	I	I	I	I	I	I	I	I (54)	I	I	I	I
Crematorium			III (34)				III (34)		I		I	I	I		I		I	I			I	I	I
Day care, commercial	III	III (30)	III (30)	III (30)	III (30)	III (30)	III (30)	III (30)	I	I	I	I	I	I	I	I	I	I	I		I	I	I

Section 3. Section 5 of Ordinance No. 1671-89, as amended (EMC 19.5, Table 5.2), is amended by the addition of the following special regulations:

(72) Refer to Section 41.150.D.2.d

Section 4. Section 41 of Ordinance No. 1671-89, as amended (EMC 19.41.150), which reads in part as follows:

41.150.D.2. Community Service Facilities.

a. Public and Private Elementary and Secondary Schools, Colleges, Universities and Public Vocational Education Centers.
   (1) This section does not apply to private training schools such as beauty schools, business colleges or technical training facilities, which shall be treated as commercial uses by this title.
   (2) Elementary and middle schools may be located on local or arterial streets. High schools shall be located adjacent to or within four hundred feet of collector or arterial streets.
   (3) Structures shall be located a minimum of twenty-five feet from adjacent residentially zoned properties. Buildings over twenty-five feet in height shall have an additional setback of one foot for each foot over twenty-five feet in height.
   (4) Temporary classrooms of any size, and accessory structures smaller than one thousand square feet shall be reviewed using Review Process I.
b. Churches.
   (1) New church structures shall be located a minimum of fifteen feet from adjacent residentially zoned properties.
   (2) Church buildings shall comply with the height requirements of the zone in which it is located. Steeples may exceed the maximum building height.
   (3) Where churches are located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street.
c. Hospital.
   (1) Hospitals and directly related hospital functions shall only be located in areas which are designated "Hospital" (2.4) on the Everett general plan.
   (2) Hospital-owned or hospital-operated uses which are the same as uses which are permitted in the underlying zone shall be reviewed using Review Process I.
   (3) Vehicle, pedestrian and ambulance traffic shall be directed toward the nearest collector or arterial street and away from local residential streets.
   (4) Hospitals and hospital-related structures shall be set back a minimum of fifty feet from adjacent residentially zoned lots.
   (5) Hospitals and hospital-related uses shall be screened from adjacent residentially zoned lots by the landscaping requirements of Landscape Category B.

Is hereby amended to read as follows:

41.150.D.2. Community Service Facilities.

a. Public and Private Elementary and Secondary Schools, Colleges, Universities and Public Vocational Education Centers.

(1) This section does not apply to private training schools such as beauty schools, business colleges or technical training facilities, which shall be treated as commercial uses by this title.

(2) Elementary and middle schools may be located on local or arterial streets. High schools shall be located adjacent to or within four hundred feet of collector or arterial streets.

(3) Structures shall be located a minimum of twenty-five feet from adjacent residentially zoned properties. Buildings over twenty-five feet in height shall have an additional setback of one foot for each foot over twenty-five feet in height.

(4) Temporary classrooms of any size, and accessory structures smaller than one thousand square feet shall be reviewed using Review Process I.

b. Churches.

(1) New church structures shall be located a minimum of fifteen feet from adjacent residentially zoned properties.

(2) Church buildings shall comply with the height requirements of the zone in which it is located. Steeples may exceed the maximum building height.

(3) Where churches are located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street.

c. Hospital.

(1) Hospitals and directly related hospital functions shall only be located in areas which are designated "Hospital" (2.4) on the Everett general plan.

(2) Hospital-owned or hospital-operated uses which are the same as uses which are permitted in the underlying zone shall be reviewed using Review Process I.

(3) Vehicle, pedestrian and ambulance traffic shall be directed toward the nearest collector or arterial street and away from local residential streets.

(4) Hospitals and hospital-related structures shall be set back a minimum of fifty feet from adjacent residentially zoned lots.

(5) Hospitals and hospital-related uses shall be screened from adjacent residentially zoned lots by the landscaping requirements of Landscape Category B.

d. Community Center.

(1) A community center shall be located adjacent to or within four hundred feet of collector or arterial streets.

(2) A community center shall be located within ¼ mile of transit routes.

(3) Where a community center is located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street. The Review Authority may allow other means of access through the review process to provide for safe circulation and emergency vehicle access.

(4) Structures shall be located a minimum of twenty-five feet from adjacent residentially zoned properties.

(5) Community center buildings shall comply with the height requirements of the zone in which it is located, however the Review Authority may consider allowing a greater height provided the additional height is necessary to accommodate the functional needs of the facility and that the facility is designed to be the lowest height that will accommodate the functional needs.

(6) All freestanding signs shall be monument signs with a maximum height of eight feet and shall include low plantings around the base of the sign to make it a part of the landscape.

Section 5. Section 34 of Ordinance No. 1671-89, as amended (EMC 19.34, Table 34-1), which reads in part as follows:

TABLE No. 34-1

Off-Street Parking for All Zones Except the B-3 Zone

Use	Parking Requirement
NONRESIDENTIAL USES	
SPECIAL PROPERTY USES	
Aircraft landing faciliti	See Section 34.030
Church	1 per each 5 seats in nave or chapel
Crematorium	See Section 34.030
Day care, commercial	1 per each 10 children or 1 employee, whichever is greater, plus I loading space for each 20 children

Is hereby amended to read as follows:

TABLE No. 34-1

Off-Street Parking for All Zones Except the B-3 Zone

Use	Parking Requirement
NONRESIDENTIAL USES	
SPECIAL PROPERTY USES	
Aircraft landing facil	See Section 34.030
Church	1 per each 5 seats in nave or chapel
Community Center	See Section 34.030
Crematorium	See Section 34.030
Day care, commercial	1 per each 10 children or 1 employee, whichever is greater, plus I loading space for each 20 children

Section 6. Severability. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 8. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 9. General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

_____

Ray Stephanson, Mayor

ATTEST: _____
CITY CLERK

Passed:_____

Valid:_____

Published:_____

Effective Date:_____

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
An Ordinance authorizing adaptive reuse of non-residential buildings in residential zones as a special property use permit, Amending Ordinance No. 1671-89, as amended (EMC Title 19) and Chapter 4 of Ordinance No. 2530-01, as amended (EMC 15.16)

	Briefing	
	Consent	
3/2/16	Action	
2/17/16	First Reading	
2/24/16	Second Reading	
3/2/16	Third Reading	
3/2/16	Public Hearing	

COUNCIL BILL #	CB1602-09
Originating Dept.	Planning
Contact Person	Allan Giffen
Phone Number	425-257-8725
FOR AGENDA OF	February 17, 2016

Initialed by:
Department Head db
CAA
Council President

Location	Preceding Action	Attachments	Department(s) Approval
City-wide	Planning Commission Resolution 16-02	Ordinance	Legal, Planning

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

DETAILED SUMMARY STATEMENT:
The City received a request to amend the special property use regulations to allow consideration of alternative uses for a change of an existing non-residential use in a residential zone, such as a church that would otherwise not be permitted. The Planning Commission held public workshops on December 1, 2015 and January 5, 2016 to discuss and consider potential amendments to the Zoning Code related to adaptive reuse of non-residential buildings in residential zones. The Planning Commission held a public hearing on January 19, 2016 to consider public testimony and recommends that the City Council approve the attached ordinance.

RECOMMENDATION (Exact action requested of Council):
Adopt an Ordinance authorizing adaptive reuse of non-residential buildings in residential zones as a special property use permit, Amending Ordinance No. 1671-89, as amended (EMC Title 19) and Chapter 4 of Ordinance No. 2530-01, as amended (EMC 15.16)

ORDINANCE NO. _____

An Ordinance authorizing adaptive reuse of non-residential buildings in residential zones as a special property use permit, Amending Ordinance No. 1671-89, as amended (EMC Title 19) and Chapter 4 of Ordinance No. 2530-01, as amended (EMC 15.16).

WHEREAS, the City of Everett Zoning Code contains regulations for special property uses to allow in certain cases a use in a zone that is not specifically allowed in that zone; and

WHEREAS, the City of Everett Zoning Code contains regulations for adaptive reuse of properties located within a historic overlay zone; and

WHEREAS, it is necessary from time to time to update zoning regulations to provide clarification or create additional standards related to specific uses; and

WHEREAS, the City received a request to amend the special property use regulations to allow consideration of a change to existing non-residential uses in residential zones, such as a church, that would otherwise not be permitted; and

WHEREAS, the proposed amendment to the Zoning Code will provide for greater economic feasibility and improve neighborhood stabilization; and

WHEREAS, the proposed amendments were submitted for the mandatory 60-day state agency review; and

WHEREAS, the Planning Commission held a public workshop on December 1, 2015 and January 5, 2016 to discuss and consider potential amendments to the Zoning Code related to adaptive reuse of non-residential buildings in residential zones; and

WHEREAS, the Planning Commission held a public hearing on January 19, 2016 to consider public testimony and make a recommendation concerning zoning regulations for adaptive reuse of non-residential buildings in residential zones; and

WHEREAS, after holding a public hearing, The Planning Commission found that the proposed amendments are consistent with the Compressive Plan Policies; and

WHEREAS, the City Council finds the following:

1. The proposed amendments are consistent with the applicable provisions of the Everett Management Comprehensive Plan; and

2. The proposed amendments bear a substantial relation to the public health, safety and welfare of the Everett community; and

3. The proposed amendments promote the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

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

(a) **"Adaptive reuse"** means the process of reusing a building for a purpose or use other than for which it was built or designed.

(b) **"Business incubator"** means an organization designed to facilitate the growth and success of entrepreneurial companies through a variety of business support resources and services that could include physical space, capital, coaching, common services, and networking connections.

(c) **"Redevelopment"** means the process to rebuild, restore or develop an area or property that has previously been developed for a specific use or purpose.

(d) **"Religious facility"** means a place where religious services are conducted as the principal purpose, such as a church, mosque, synagogue or temple, and includes accessory uses in the primary or accessory buildings such as religious education, reading rooms, assembly rooms, and residences for pastoral staff.

Section 2. Section 41 of Ordinance No. 1671-89, as amended (EMC 19.41.150), which reads in part as follows:

41.150.E. Notification. Notification for special property use applications shall be provided according to the required review process, as specified in Title 15, Local Project Review Procedures.

F. Review Authority Decisions.

1. Conditions and Restrictions. If the review authority approves a special property use permit, conditions and restrictions may be applied thereto, which exceed the minimum standards required by this title, when necessary to assure that the proposed use complies with all requirements of this title and is compatible with surrounding land uses.

2. Time Limit on Approval. The effective time period in which the applicant may establish the use proposed by an approved special property use permit shall be five years from the date of the written order granting approval of the permit. The written order may specify a

shorter time period if the review authority determines that it is in the public interest to authorize a shorter period of time in which to establish the use. The planning department may authorize one extension of time for a period of not more than one year if it can be found that circumstances beyond the control of the applicant prevented the establishment of the use.

3. Appeals.

a. Review Process II. The planning director's Review Process II determination may be appealed as provided by Title 15, Local Project Review Procedures.

b. Review Process III. No administrative appeal is provided for Review Process III decisions.

Is hereby amended to read as follows:

41.150.E. Adaptive Reuse of Non-Residential Buildings in Residential Zones.

1. Purpose. The purpose of this section is to allow for adaptive reuse of non-residential buildings in residential zones that are functionally obsolete in order to improve the economic feasibility of a property by considering uses that are not otherwise permitted, but which, if properly designed and managed, would not create unacceptable impacts on surrounding properties or the immediate vicinity in general. This process differs from the unlisted use process listed in EMC Section 19.02.080 in that uses that are not specifically authorized in the underlying residential zone may be considered using the process described herein.

2. Procedures. Any request to allow a use that is not otherwise permitted in the underlying residential zone shall be processed as a special property use. If the property is in or within 500 feet of a single family residential zone, the application shall be reviewed using Review Process III. If the property is more than 500 feet from a single family residential zone but is in or within 150 feet of a multiple family residential zone, the application shall be reviewed using Review Process II. If the property is outside a historic overlay zone but listed on a historic register or as a contributing structure in a historic register district, the historical commission shall review the proposal and make a recommendation to the hearing examiner using Review Process III.

3. Circumstances. The city may allow a use in a residential zone that is not specifically allowed in that zone if it is necessary to encourage adaptive reuse of a building under the following circumstances:

a. It is unlikely that the primary building on the subject property could be preserved if only uses permitted in the underlying zone were allowed.

b. Allowing a different use would enhance the character of the building and immediate vicinity.

c. The use would not have a detrimental effect upon surrounding properties or the immediate vicinity.

4. Uses. The following uses may be considered for adaptive reuse of an existing building in a residential zone:

a. Dwelling units. Density based on underlying zoning plus one additional dwelling unit;

b. Assisted living facilities;

c. Libraries;

d. Museums and art galleries;
e. Social service facilities;
f. Public services;
g. Business incubator;
h. Artist studios;
i. Music venue;
j. Cafes and bistros;
k. Live-work units;
l. Bed & Breakfast
m. Other uses not listed above if determined through the review process to be compatible with surrounding properties and the immediate vicinity.

5. Review Criteria. The following criteria shall be used as the basis for determining compatibility with surrounding uses and approving, denying, or conditionally approving a request to allow the adaptive reuse of a non-residential building in a residential zone:

a. General evaluation criteria of 41.150.C.
b. The adaptive reuse would promote or aid in the preservation or rehabilitation of the primary building.
c. No significant adverse impacts to public safety.
d. Compliance with building and fire codes.
e. Hours of the day of proposed use or activity.
f. Proposed management and operational procedures to minimize and mitigate potential impacts.
g. Expansions to the primary building shall not exceed 10% of the existing footprint or 500 square feet, whichever is greater, and will not detrimentally affect the outside character of the building.
h. Other factors not specified herein that would create adverse impacts to the immediate vicinity.

6. Any proposal that would adversely affect properties in the immediate vicinity shall be denied. The city shall retain the right to revoke a permit issued under this section that fails to comply with any conditions of approval of said permit, or which operates in a manner inconsistent with representations made in the application, pursuant to EMC Title 1 Chapter 1.20.

F. Notification. Notification for special property use applications shall be provided according to the required review process, as specified in Title 15, Local Project Review Procedures.

G. Review Authority Decisions.

1. Conditions and Restrictions. If the review authority approves a special property use permit, conditions and restrictions may be applied thereto, which exceed the minimum standards required by this title, when necessary to assure that the proposed use complies with all requirements of this title and is compatible with surrounding land uses.

2. Time Limit on Approval. The effective time period in which the applicant may establish the use proposed by an approved special property use permit shall be five years from the date of the written order granting approval of the permit. The written order may specify a shorter time period if the review authority determines that it is in the public interest to authorize a shorter period of time in which to establish the use. The planning department

may authorize one extension of time for a period of not more than one year if it can be found that circumstances beyond the control of the applicant prevented the establishment of the use.

3. Appeals.

a. Review Process II. The planning director's Review Process II determination may be appealed as provided by Title 15, Local Project Review Procedures.

b. Review Process III. No administrative appeal is provided for Review Process III decisions.

Section 3. Section 3B of Chapter 4 of Ordinance No. 2530-01, as amended (EMC 15.16.080), which reads as follows:

Decisions included.

A. Review Process II applications include the following administrative decisions:*

1. Alteration of a designated significant feature within an historic overlay zone;

2. Alteration of category II and III streams as provided by Section 19.33D.500(B)(2);

3. Atrium appurtenance approval as provided by Section 19.39.040(B)(2);

4. Buffer width reduction for streams (Sections 19.33D.490(D) and 19.37.170(C)) or wetlands (Sections 19.33D.450(E) and 19.37.110(C)) or alteration of geologically hazardous areas or standard buffer (Section 19.37.080(C)) if proposal is not categorically exempt under SEPA;

5. Change or expansion of a nonconforming use (up to twenty-five percent) as provided by Section 19.38.030(C) and (D);

6. Comprehensive design plan permits as provided by Section 19.36.210;

7. Design guideline approval, when proposal includes modification of development standards and design guidelines and for projects not categorically exempt under SEPA;

8. Determination of proportionality for correctional facilities;

9. Determination of prohibited heavy manufacturing uses with potentially noxious impacts in M-1 and M-M zones as provided by Sections 19.27.020(G)(19) and 19.28.020(D)(18);

10. Development of nonconforming lots which do not meet minimum lot area or building area requirements as provided by Section 19.38.080(C);

11. Development of previously altered ESAs when the proposal is not categorically exempt under SEPA as provided by Sections 19.33D.580(B)(1) and 19.37.250(B)(1);

12. Deviation from historic overlay zone standards and guidelines;

13. Driveway access from public street for multiple-family structures as provided by Section 19.15.080(B);

14. Extension of amateur radio tower or antenna beyond sixty-five feet (Section 19.39.040(A)(3));

15. Exterior finish for buildings in M-1 zone located within three hundred feet of residentially zoned properties (Section 19.27.020(A));

16. Final PDO development plan as provided by Section 19.29.110;

17. Floodplain development permit application when a shoreline permit is not required (Section 19.30.060(B));

18. Land divisions, as follows:
    a. Preliminary binding site plan;

    b. Preliminary binding site plan with site plan approval;

    c. Preliminary residential condominium binding site plan;

    d. Preliminary short subdivision alteration or vacation;

    e. Preliminary short subdivision of nine lots or less;

    f. Preliminary short subdivision with nonconforming structures;

    g. Preliminary subdivision of fifty lots or less;**

    h. Preliminary subdivision alteration or vacation;

    i. Subdivision or short subdivision variance as provided in Section 18.32.010;

19. Land uses in WRM zone consistent with adopted management plan when not categorically exempt under SEPA (Section 19.30A.020);

20. Minor expansion of an existing special property use;

21. Outdoor use, activity, and storage: modification of standards;

22. Parking modification of ten percent or less if supported by parking analysis and modification does not involve residential use parking standards as provided by Section 19.34.070(A);

23. Parking reduction with transportation management plan (Section 19.34.070(D));

24. Phase approval and development approval implementing an institutional overlay zone master plan or approval of minor revisions (cannot change use or character or allow increase in intensity of development) as provided by Section 19.33B.060;
25. Public park development not part of or in conformance with an adopted master plan or which exceeds the city's SEPA thresholds for categorical exemptions as provided by Section 19.33A.030;

26. Conceptual site plan review for projects that do not otherwise require a land use permit and are not categorically exempt under SEPA;

27. Project review for public projects that are not categorically exempt under SEPA;

28. Proposals required to be reviewed by the historic commission in the historic overlay zone per neighborhood conservation guidelines and historic zoning overlay standards (not including those listed under administrative review by staff, which is Review Process I);

29. Reasonable use determinations with modification of zoning standards (under Chapter 19.37);

30. Reestablishment or change in use of nonconforming grocery store as provided by Section 19.38.100(B);

31. Shoreline permits (less than one acre of the project footprint area is within shoreline jurisdiction);

32. Stream and wetland filling, modification, and mitigation as provided for in Chapter 19.37;

33. Transfer of development rights under Section 19.33D.400(D) or 19.37.050(B)(3);

34. Wetland alteration for category I, category II and Silver Lake watershed as provided by Sections 19.33D.460(B)(1), (2), and (5) and 19.37.120(B)(1), (2), and (3);

35. Wetland mitigation banking approval as provided by Sections 19.33D.460(C)(10) and 19.37.120(C)(12);

36. Clinic- and medical-related activities as provided by Section 19.16.040(C);

37. All other review processes listed in the zoning code as Review Process II;

38. All Review Process I and project permit applications that are not categorically exempt under SEPA;

39. Alternative best available science decisions as provided by Section 19.37.050(E);

40. Accessory buildings over two hundred square feet which have metal siding or corrugated roofing as provided by Section 19.07.020(K);

41. Accessory buildings which exceed one thousand square feet in area as provided by Section 19.07.020(M);

42. Accessory buildings which exceed fifteen feet in height as provided by Section 19.07.020(J);

43. Rockeries and retaining walls retaining soil (fill) four feet or greater in height in required building setback areas, as provided by Section 19.39.150(C)(5)(d);

44. Use of basement or other building spaces for uses not specifically listed as permitted use in the B-3 as provided by Section 19.22.030;

45. Buffer management as provided by Section 19.37.060(B)(2);

46. Removal of nonhazardous trees as provided by Section 19.37.060(B)(3)(c).

* SEPA threshold determinations frequently include mitigation requirements as provided for in the SEPA ordinance (Chapter 20.04). Any SEPA condition based on SEPA substantive authority as provided for in the SEPA ordinance (Chapter 20.04) shall be identified in the land use permit decision, as provided in this integrated local project review process.

** An open public hearing may be required under the following circumstances, in which case the application shall be processed under Review Process III: (i) a public hearing is required by Title 18; (ii) any affected person files a written request for a hearing with the planning department within twenty-one days of the notice of application (public comment period); or (iii) either prior to or within the public comment period, the director or the city engineer and/or their designees require an open public hearing.

Is hereby amended to read as follows:

Decisions included.

A. Review Process II applications include the following administrative decisions:*

1. Alteration of a designated significant feature within an historic overlay zone;

2. Alteration of category II and III streams as provided by Section 19.33D.500(B)(2);

3. Atrium appurtenance approval as provided by Section 19.39.040(B)(2);

4. Buffer width reduction for streams (Sections 19.33D.490(D) and 19.37.170(C)) or wetlands (Sections 19.33D.450(E) and 19.37.110(C)) or alteration of geologically hazardous areas or standard buffer (Section 19.37.080(C)) if proposal is not categorically exempt under SEPA;

5. Change or expansion of a nonconforming use (up to twenty-five percent) as provided by Section 19.38.030(C) and (D);

6. Comprehensive design plan permits as provided by Section 19.36.210;

7. Design guideline approval, when proposal includes modification of development standards and design guidelines and for projects not categorically exempt under SEPA;

8. Determination of proportionality for correctional facilities;

9. Determination of prohibited heavy manufacturing uses with potentially noxious impacts in M-1 and M-M zones as provided by Sections 19.27.020(G)(19) and 19.28.020(D)(18);

10. Development of nonconforming lots which do not meet minimum lot area or building area requirements as provided by Section 19.38.080(C);

11. Development of previously altered ESAs when the proposal is not categorically exempt under SEPA as provided by Sections 19.33D.580(B)(1) and 19.37.250(B)(1);

12. Deviation from historic overlay zone standards and guidelines;

13. Driveway access from public street for multiple-family structures as provided by Section 19.15.080(B);

14. Extension of amateur radio tower or antenna beyond sixty-five feet (Section 19.39.040(A)(3));

15. Exterior finish for buildings in M-1 zone located within three hundred feet of residentially zoned properties (Section 19.27.020(A));

16. Final PDO development plan as provided by Section 19.29.110;

17. Floodplain development permit application when a shoreline permit is not required (Section 19.30.060(B));

18. Land divisions, as follows:
    a. Preliminary binding site plan;

    b. Preliminary binding site plan with site plan approval;

    c. Preliminary residential condominium binding site plan;

    d. Preliminary short subdivision alteration or vacation;

    e. Preliminary short subdivision of nine lots or less;

    f. Preliminary short subdivision with nonconforming structures;

    g. Preliminary subdivision of fifty lots or less;**

h. Preliminary subdivision alteration or vacation;

i. Subdivision or short subdivision variance as provided in Section 18.32.010;

19. Land uses in WRM zone consistent with adopted management plan when not categorically exempt under SEPA (Section 19.30A.020);

20. Minor expansion of an existing special property use;

21. Outdoor use, activity, and storage: modification of standards;

22. Parking modification of ten percent or less if supported by parking analysis and modification does not involve residential use parking standards as provided by Section 19.34.070(A);

23. Parking reduction with transportation management plan (Section 19.34.070(D));

24. Phase approval and development approval implementing an institutional overlay zone master plan or approval of minor revisions (cannot change use or character or allow increase in intensity of development) as provided by Section 19.33B.060;

25. Public park development not part of or in conformance with an adopted master plan or which exceeds the city's SEPA thresholds for categorical exemptions as provided by Section 19.33A.030;

26. Conceptual site plan review for projects that do not otherwise require a land use permit and are not categorically exempt under SEPA;

27. Project review for public projects that are not categorically exempt under SEPA;

28. Proposals required to be reviewed by the historic commission in the historic overlay zone per neighborhood conservation guidelines and historic zoning overlay standards (not including those listed under administrative review by staff, which is Review Process I);

29. Reasonable use determinations with modification of zoning standards (under Chapter 19.37);

30. Reestablishment or change in use of nonconforming grocery store as provided by Section 19.38.100(B);

31. Shoreline permits (less than one acre of the project footprint area is within shoreline jurisdiction);

32. Stream and wetland filling, modification, and mitigation as provided for in Chapter 19.37;

33. Transfer of development rights under Section 19.33D.400(D) or 19.37.050(B)(3);

34. Wetland alteration for category I, category II and Silver Lake watershed as provided by Sections 19.33D.460(B)(1), (2), and (5) and 19.37.120(B)(1), (2), and (3);

35. Wetland mitigation banking approval as provided by Sections 19.33D.460(C)(10) and 19.37.120(C)(12);

36. Clinic- and medical-related activities as provided by Section 19.16.040(C);

37. All other review processes listed in the zoning code as Review Process II;

38. All Review Process I and project permit applications that are not categorically exempt under SEPA;

39. Alternative best available science decisions as provided by Section 19.37.050(E);

40. Accessory buildings over two hundred square feet which have metal siding or corrugated roofing as provided by Section 19.07.020(K);

41. Accessory buildings which exceed one thousand square feet in area as provided by Section 19.07.020(M);

42. Accessory buildings which exceed fifteen feet in height as provided by Section 19.07.020(J);

43. Rockeries and retaining walls retaining soil (fill) four feet or greater in height in required building setback areas, as provided by Section 19.39.150(C)(5)(d);

44. Use of basement or other building spaces for uses not specifically listed as permitted use in the B-3 as provided by Section 19.22.030;

45. Buffer management as provided by Section 19.37.060(B)(2);

46. Removal of nonhazardous trees as provided by Section 19.37.060(B)(3)(c).

47. Adaptive reuse of non-residential buildings in residential zones as provided by Section 19.41.150.E.

* SEPA threshold determinations frequently include mitigation requirements as provided for in the SEPA ordinance (Chapter 20.04). Any SEPA condition based on SEPA substantive authority as provided for in the SEPA ordinance (Chapter 20.04) shall be identified in the land use permit decision, as provided in this integrated local project review process.

** An open public hearing may be required under the following circumstances, in which case the application shall be processed under Review Process III: (i) a public hearing is required by Title 18; (ii) any affected person files a written request for a hearing with the planning department within twenty-one days of the notice of application (public comment period); or (iii)

either prior to or within the public comment period, the director or the city engineer and/or their designees require an open public hearing.

Section 4. Section 4B of Chapter 4 of Ordinance No. 2530-01, as amended (EMC 15.16.110), which reads as follows:

Review Process IIIA.

A. Review Process IIIA applies to the following actions for which the examiner issues a final decision on the application after an open public hearing:

1. Appeals of Review Process I and II planning director decisions, including appeals of the application of development standards by the director;

2. Clinic and medical related activities overlay and office overlay as provided by Section 19.16.020(B) and 19.16.040(B);

3. Change in manufacturing activities which do not comply with M-1 zone uses and standards as provided by Section 19.27.040(C);

4. Commercial daycare in all residential zones and A-1 and B-1 zones;

5. Conditional use permits;

6. Detached accessory building which exceeds fifteen feet in height or one thousand square feet in area as provided by Section 19.07.020(K);

7. Expansion of a nonconforming use (greater than twenty-five percent);

8. Jails and correctional facilities siting in the B-3 and C-1 zones as provided by Section 19.39.105;

9. Land divisions, as follows:
   a. Preliminary cluster subdivision or cluster short subdivision;

   b. Preliminary subdivision of more than fifty lots;

   c. Preliminary subdivision of fifty lots or less if an open public hearing is required (see footnote on Review Process II, Section 15.16.080);

   d. Subdivision or short subdivision alteration or vacation if an open public hearing is required (see footnote on Review Process II, Section 15.16.080);

10. Land uses in WRM zone consistent with adopted management plan located in areas subject to a city shoreline substantial development permit as provided by Section 19.30A.020;

11. Parking modification requests for Review Process III projects (Section 19.34.070(A)(1)) and quantity and location of parking for Review Process III projects as provided by Section 19.34.060(F);

12. Public utility and infrastructure exception under Sections 19.33D.400(E) and 19.37.050(C);

13. Shoreline permits (one acre or more of the project footprint is within shoreline jurisdiction);

14. Shoreline permits requiring a shoreline variance or shoreline conditional use permit;

15. Special property use permits listed as Review Process III in city ordinance;

16. Time extension for nonconforming adult use business as provided by Section 19.39.025(B)(3);

17. Variances in accordance with Section 19.30.080, 19.41.130, 19.34.070(A)(2), or 20.08.180;

18. Waivers, exceptions, variances, and appeals from the city's street and sidewalk codes and commute trip reduction ordinance;

19. All other review processes listed in the zoning code as Review Process III;

20. Any other action not explicitly listed herein which the examiner is given jurisdiction over and for which a review process is not identified shall be processed using Review Process III.

Is hereby amended to read as follows:

Review Process IIIA.
A. Review Process IIIA applies to the following actions for which the examiner issues a final decision on the application after an open public hearing:

1. Appeals of Review Process I and II planning director decisions, including appeals of the application of development standards by the director;

2. Clinic and medical related activities overlay and office overlay as provided by Section 19.16.020(B) and 19.16.040(B);

3. Change in manufacturing activities which do not comply with M-1 zone uses and standards as provided by Section 19.27.040(C);

4. Commercial daycare in all residential zones and A-1 and B-1 zones;

5. Conditional use permits;

6. Detached accessory building which exceeds fifteen feet in height or one thousand square feet in area as provided by Section 19.07.020(K);

7. Expansion of a nonconforming use (greater than twenty-five percent);

8. Jails and correctional facilities siting in the B-3 and C-1 zones as provided by Section 19.39.105;

9. Land divisions, as follows:

a. Preliminary cluster subdivision or cluster short subdivision;

b. Preliminary subdivision of more than fifty lots;

c. Preliminary subdivision of fifty lots or less if an open public hearing is required (see footnote on Review Process II, Section 15.16.080);

d. Subdivision or short subdivision alteration or vacation if an open public hearing is required (see footnote on Review Process II, Section 15.16.080);

10. Land uses in WRM zone consistent with adopted management plan located in areas subject to a city shoreline substantial development permit as provided by Section 19.30A.020;

11. Parking modification requests for Review Process III projects (Section 19.34.070(A)(1)) and quantity and location of parking for Review Process III projects as provided by Section 19.34.060(F);

12. Public utility and infrastructure exception under Sections 19.33D.400(E) and 19.37.050(C);

13. Shoreline permits (one acre or more of the project footprint is within shoreline jurisdiction);

14. Shoreline permits requiring a shoreline variance or shoreline conditional use permit;

15. Special property use permits listed as Review Process III in city ordinance;

16. Time extension for nonconforming adult use business as provided by Section 19.39.025(B)(3);

17. Variances in accordance with Section 19.30.080, 19.41.130, 19.34.070(A)(2), or 20.08.180;

18. Adaptive reuse of non-residential buildings in residential zones as provided by Section 19.41.150.E.

19. Waivers, exceptions, variances, and appeals from the city's street and sidewalk codes and commute trip reduction ordinance;

20. All other review processes listed in the zoning code as Review Process III;

21. Any other action not explicitly listed herein which the examiner is given jurisdiction over and for which a review process is not identified shall be processed using Review Process III.

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

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

Section 7. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 8. General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

_____

Ray Stephanson, Mayor

ATTEST: _____
CITY CLERK

Passed:_____

Valid:_____

Published:_____

Effective Date:_____

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
An Ordinance creating a special improvement project entitled, "Downtown Streetscape Phase 3," Fund 303, Program 109, to accumulate all costs for the improvement

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

COUNCIL BILL #	CB1602-10
Originating Department	Public Works
Contact Person	Ryan Sass, PE
Phone Number	425-257-8942
FOR AGENDA OF	February 17, 2016

Initialed by:
Department Head _____
CAA db
Council President _____

Location	**Preceding Action**	**Attachments**	**Department(s) Approval**
Rucker Avenue from Pacific to Everett Avenues		Proposed Ordinance Vicinity map	Public Works

Amount Budgeted	$ 7,629,502	
Expenditure Required	$ 7,629,502	Account Number(s): PW3640
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:
This project will complete Streetscape Improvements on Rucker Avenue from Pacific Avenue to Everett Avenue in accordance with the Downtown Plan and the Downtown Streetscape Plan.

The improvements included in the project are curbs, gutters, sidewalks, pavement, lighting, signs, traffic signals and streetscaping. The project will also include Americans with Disability Act required improvements.

The budget for this project is $7,629,502 and the sources of funds are:

Transportation Improvement Board (TIB) Grant	$ 4,103,982
CIP 4	3,525,520
Total sources of funds	$ 7,629,502

RECOMMENDATION (Exact action requested of Council):
Adopt an Ordinance creating a special improvement project entitled, "Downtown Streetscape Phase 3," Fund 303, Program 109, to accumulate all costs for the improvement.

ORDINANCE NO. _____

AN ORDINANCE creating a special improvement project entitled, "Downtown Streetscape Phase 3," Fund 303, Program 109, to accumulate all costs for the improvement.

WHEREAS, the City of Everett is committed to a planned streetscape improvement program; and

WHEREAS, the City of Everett has identified the need and obtained funds to construct certain streetscape improvements to Rucker Avenue; and

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1:

A special improvement project is hereby established as Fund 303, Program 109, entitled "Downtown Streetscape Phase 3," to accumulate all costs for the improvement.

Section 2:

Authorization is hereby given to accumulate costs and distribute payments from Fund 303, Program 109, for the improvement project.

Section 3:

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

Section 4:

The sum of $7,629,502 is hereby appropriated to Fund 303, Program 109, "Downtown Streetscape Phase 3," as follows:

A. Estimated Project Costs

Design & Construction	$ 7,629,502
Total Estimated Cost	$ 7,629,502

B. Source of Funds

Transportation Improvement Board Grant	$ 4,103,982
CIP 4	3,525,520
Total Estimated Funds	$ 7,629,502

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

Section 5:

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

Section 6: Severability.

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

_____
RAY STEPHANSON, Mayor

ATTEST:

_____
CITY CLERK

Passed:

Valid:

Published:

Effective:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
Amendment No. 1 to the Professional Services Agreement with Reid Middleton, Inc. for additional engineering services on the PSO6 Reroute Project

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

COUNCIL BILL #
Originating Department: Public Works
Contact Person: Amie Roshak, PE
Phone Number: 425-257-7249
FOR AGENDA OF: March 2, 2016

Initialed by:
Department Head
CAA: db
Council President

Location	**Preceding Action**	**Attachments**	**Department(s) Approval**
Port of Everett property west of Bond Street	Professional Services Agreement, signed October 13, 2015	Amendment No. 1	Public Works, Legal

Amount Budgeted	$790,000	
Expenditure Required	$19,470	Account Number(s): UP- 3583
Budget Remaining	$594,921	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

Reid Middleton is providing survey, structural and civil engineering services for the Puget Sound Outfall No. 6 (PSO6) Reroute project. Amendment No. 1 provides for additional services including geotechnical explorations and testing of soil and water samples taken along the new pipeline route. The testing will look for the presence of contaminants in the samples, which will determine how excavated soils can be disposed of during construction.

Previously authorized expenditures for the project include $175,609 for survey, structural and civil engineering services. Total expenditures requested to date, including this request for additional services, are $195,079. This is an additional amount of $19,470.

The Port of Everett is the landowner and has agreed to equally split the cost of construction and consultant fee for this repair. The City's actual share of this additional expenditure will be $9,735.00

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign Amendment No. 1 to the Public Services Agreement with Reid Middleton, Inc. for additional engineering services on the PSO6 Reroute Project for an additional amount of $19,470.

AMENDMENT NO. 1

TO

AGREEMENT FOR ENGINEERING SERVICES

PSO6 Reroute Project

WHEREAS:

Reid Middleton, Inc. entered into an Agreement on October 13, 2015 to perform engineering design and construction services for the PSO6 Reroute Project for the City of Everett ("City");

The City desires to amend this Agreement by adding to the scope of services in order to perform the final engineering design and construction services and Reid Middleton, Inc. is willing to amend the agreement.

NOW, THEREFORE, Reid Middleton, Inc. and the City do hereby agree:

The Agreement and the terms and conditions therein shall remain unchanged other than those conditions and exhibits listed below;

Section 4: Modify Paragraph D, which describes the maximum total compensation, by increasing the total maximum compensation by $19,470. Delete the existing sentence and replacing with the following sentence:

"Total compensation, including all services and expenses, shall not exceed a maximum of One hundred ninety five thousand and seventy nine dollars ($195,079)."

Amend the previous Exhibit A; Scope of Services, and Exhibit B; Project Hours, Expenses and Fee Estimate, by adding the following items:

Exhibit A1; Scope of Services, and
Exhibit B1; Project hours, Expenses and Fee Estimate

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written below:

City of Everett, Washington

By: _____
Ray Stephanson, Mayor

Date: _____

Attest: _____
Sharon Marks, City Clerk

Date: _____

Reid Middleton, Inc.

By: _____
Brian C. Moon

Date: 2/10/16

APPROVED AS TO FORM:

_____
James D. Iles, City Attorney

Date: _____

Exhibit A-1
Scope of Work
PSO6 Reroute Project

Task 1 – Additional Geotechnical Services

Objective

1. Provide sampling and testing of water and soil samples collected on-site.

Reid Middleton Services

1. Manage subconsultant
2. Provide information to subconsultant as requested.

Geotechnical Engineer Services

1. Shannon and Wilson and their subconsultants will provide geotechnical services.
2. Provide testing of soil cuttings from the monitoring well installation.
3. Mark the geoprobe locations and perform a private locate for underground utilities.
4. Three (3) Geoprobe explorations will be performed to a maximum depth of 20 feet or refusal with the use of a direct push truck and a Shannon & Wilson representative will be onsite to log and sample each of the explorations. Proposed geoprobe exploration locations are shown on Figure 1.
5. Cuttings from the geoprobe explorations will be drummed and left on site pending the results of analytical testing.
6. A total of five (5) soil samples and one (1) water sample will be collected and submitted for analytical testing.
7. Once the analytical results are received, review the results and provide a summary to be included as an appendix to the Geotechnical Engineering Report.
8. Retrieve and dispose of drums after testing is complete.

Task 2 – Additional Services

Objective

1. Provide additional as-yet-defined services as requested by the City.

Reid Middleton Services

1. It is difficult to accurately anticipate all the issues that may arise during the development of the project. This task establishes a contingency fund for unidentified and unanticipated work.
2. This task is specifically designed to allow payment to Reid Middleton under this contract for changes in the scope of work which the City determines to be necessary. The funds included in this task cannot be utilized without written approval from the City.

Client Responsibilities

1. When identified, authorize additional services in via email and/or in writing.

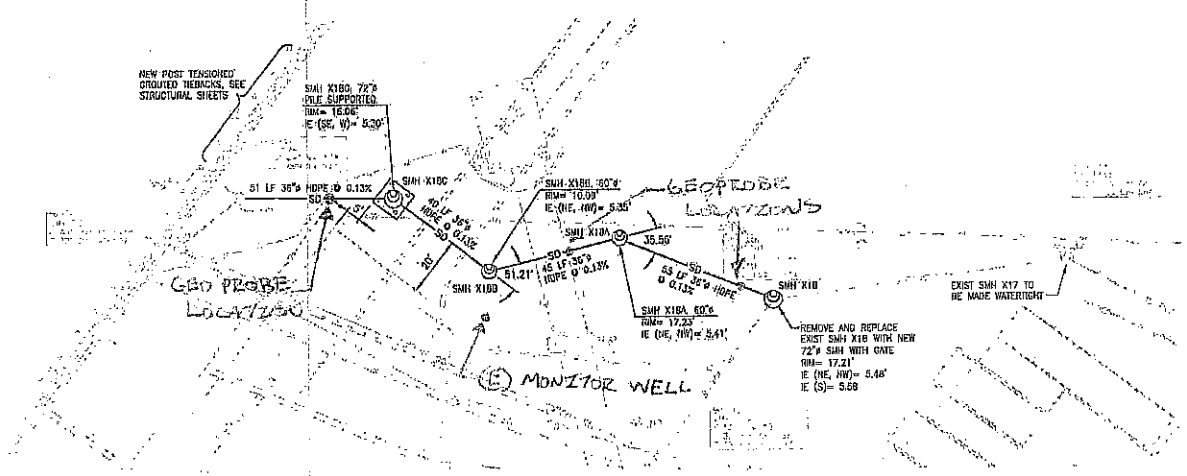
Assumptions

1. Five thousand dollars ($5,000) is established for additional services.

Deliverables

1. To be determined.

FIGURE 1. 2/10/16



NOTE:
TIEBACK ANCHORS NOT SHOWN FOR CLARITY.

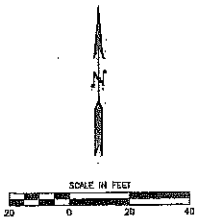
STORM DRAINAGE PLAN
SCALE: 1"=20'

NOTES

1. SMH X18C IS ON A PILE SUPPORTED CONCRETE PLATFORM, SEE STRUCTURAL SHEETS.
2. ALL MANHOLES TO BE 60"ø PRECAST CONCRETE, TYPE 2, WATERTIGHT, DESIGNED BY MANUFACTURER, PER CITY OF EVERETT STANDARD DRAWING 404 UNLESS NOTED OTHERWISE. SOLID COVER PER CITY OF EVERETT STANDARD DRAWING 405B.
3. ALL PIPE TO BE SANITITE HP, DOUBLE GASKET, TRIPLE WALL, OR APPROVED SUBSTITUTE. TRENCH SECTION PER CITY OF EVERETT STANDARD DRAWING 610. BEDDING FOR PIPE TRENCHES PER CITY OF EVERETT STANDARD DRAWING 611.
4. PAVEMENT PATCHING TO BE PER CITY OF EVERETT STANDARD DRAWING 310.
5. COORDINATE ACCESS, LAYDOWN AREA, PARKING, AND EXCAVATION SCHEDULE WITH PORT AND CITY.
6. NO PART OF DRAINAGE SYSTEM SHALL BE COVERED, CONCEALED, OR PUT INTO USE UNTIL IT HAS BEEN INSPECTED, TESTED, AND ACCEPTED BY THE CITY OF EVERETT.
7. ALL WORK AND MATERIAL SHALL CONFORM TO CITY OF EVERETT STANDARDS SPECIFICATIONS OF WSDOT/APWA.
8. APPROXIMATE LOCATIONS OF EXISTING UTILITIES HAVE BEEN OBTAINED FROM AVAILABLE RECORDS AND ARE SHOWN FOR CONVENIENCE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF LOCATIONS AND TO AVOID DAMAGE TO ANY ADDITIONAL UTILITIES SHOWN. IF CONFLICTS WITH EXISTING UTILITIES ARISE DURING CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE PUBLIC WORKS INSPECTOR AND ANY CHANGES REQUIRED SHALL BE APPROVED BY THE CITY ENGINEER PRIOR TO COMMENCEMENT OF RELATED CONSTRUCTION ON THE PROJECT.
9. ALL STORM SYSTEMS WITHIN THE PUBLIC RIGHT-OF-WAY OR IN EASEMENTS MUST BE STAKED BY SURVEY FOR LINE AND GRADE PRIOR TO STARTING CONSTRUCTION.
10. ALL CATCH BASIN GRATES MUST BE STENCILED OR STAMPED "DUMP NO WASTE, DRAINS TO PUGET SOUND".

LEGEND

SMH X18A	STORM MANHOLE
SD	STORM DRAIN LINE, 36"ø HDPE, UNLESS NOTED OTHERWISE
	EXISTING WATER
	EXISTING SANITARY SEWER
	EXISTING STORM MANHOLE



Reid Middleton
728 134th Street SW - Suite 200
Everett, Washington 98204
Ph: 425 741-3900
www.reidmiddleton.com
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NO.	DATE	APRVD	REVISION
	MM-DD-YY	ENG	CHANGED WHAT?

PLANS ISSUED FOR:

BID		CONST			
ACTION:	DATE	APRVD	ACTION: DATE	APRVD	ACTION: DATE APRVD

Designed by: D. McRAE
Checked by: David YE
Drawn by: D. OLSON
M.E. No.: 3583
Plot Date: 12/17/15
Drawing is Only PRELIMINARY

CITY OF EVERETT
PUBLIC WORKS DEPARTMENT

PSO 6 REROUTE
WO# 3583

STORM DRAINAGE PLAN

Drawing No. C2.0
Sheet No. 4 / 9

CITY OF EVERETT - EXHIBIT B-1
PROJECT HOURS, EXPENSES AND FEE ESTIMATE

Date: 11-Feb-16

	Labor Category	Direct Salary Hourly Rates, ($$.CC)	HOURS FOR EACH TASK (Whole Hours Only) Task 1 Additional Geotech	Task 2 Additional Services	Task 3	Task 4	Task 5	Task 6	Total Hours	Cost
1	SE - Principal Engineer	$ 68.30							-	$ -
2	SE - Sr Engineer	$ 52.95	2						2	$ 106
3	SE - Project Engineer	$ 41.25	2						2	$ 83
4	SE - Design Tech	$ 39.60							-	$ -
5	SE - Sr Tech Writer	$ 37.40							-	$ -
6	SE - Project Administrator	$ 31.85	2						2	$ 64
7									-	$ -
8									-	$ -
9									-	$ -
10									-	$ -
11									-	$ -
12									-	$ -
13									-	$ -
14									-	$ -
15									-	$ -
16	Staff								-	$ -
17	Staff								-	$ -
18	Staff								-	$ -
19	Staff								-	$ -
20	Staff								-	$ -
Total Task Hours			6	0	0	0	0	0	6	
	Subtotal Direct Salary Cost (DSC), $		252	0	0	0	0	0		$ 252
	Overhead on DSC (Indirect cost) @, %	213.30%	538	0	0	0	0	0		$ 538
Total Labor Cost, $			790	0	0	0	0	0		$ 790

	Expenses, $	Task 1 Additional Geotech	Task 2 Additional Services	Task 3	Task 4	Task 5	Task 6	Expenses
1	Additional Service Allowance		5,000					$ 5,000
2	Expense							$ -
3	Expense							$ -
4	Expense							$ -
5	Expense							$ -
6	Expense							$ -
7	Expense							$ -
8	Per Labor Hr. Tech. Charge	0	0	0	0	0	0	$ -
Total Expenses, $		0	5,000	0	0	0	0	$ 5,000
TOTAL LABOR AND EXPENSES		790	5,000	0	0	0	0	$ 5,790

	Subconsultant Expenses, $	Task 1 Additional Geotech	Task 2 Additional Services	Task 3	Task 4	Task 5	Task 6	Sub Expenses
1	Shannon and Wilson	12,953						$12,953
2	Subconsultant							$0
3	Subconsultant							$0
4	Subconsultant							$0
5	Subconsultant							$0
6	Subconsultant							$0
7	Subconsultant							$0
8	Subconsultant							$0
TOTAL SUBCONSULTANTS		12,953	0	0	0	0	0	$12,953
	Subconsultant Admin Mark-up, % 5.00%	648	0	0	0	0	0	$648
	Subtotal Cost by Task	14,391	5,000	0	0	0	0	$ 19,391
	Fee/Profit (as % of Total DSC & Overhead) 10.00%	79	0	0	0	0	0	$ 79
	Next Year's Labor Escalation* 0.00%	0	0	0	0	0	0	$ -

TOTAL ESTIMATED COST AND FEE, $	Task 1 Additional Geotech	Task 2 Additional Services	Task 3	Task 4	Task 5	Task 6	Total
	14,470	5,000	0	0	0	0	$ 19,470

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

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

Overall Project Multiplier	3.45
Fee/Profit as a % of DSC Only	31.33%

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Professional Services Agreement with Botesch, Nash & Hall Architects, P.S. to provide design and engineering services for the Carl Gipson Senior Center Men's and Women's restroom remodel

____	Briefing
____	Proposed Action
____	Consent
X	Action
____	First Reading
____	Second Reading
____	Third Reading
____	Public Hearing

COUNCIL BILL #	
Originating Department	Facilities
Contact Person	Ruben Sanchez
Phone Number	425-257-8896
FOR AGENDA OF	March 2, 2016

Initialed by:
Department Head ____
CAA ____
Council President ____

Location	**Preceding Action**	**Attachments**	**Department(s) Approval**
3025 Lombard Avenue	None	Public Services Agreement, Certificate of Liability Insurance	Facilities

Amount Budgeted	$22,900.00	
Expenditure Required	$22,900.00	Account Number(s): See list below
Budget Remaining	$22,900.00	Facilities Fund 146 – Repair & Maintenance
Additional Required	$0.00	

DETAILED SUMMARY STATEMENT:

The Facilities Department has selected Botesch, Nash & Hall Architects, P.S. from the Municipal Research Services Center roster to provide design and engineering services for the Carl Gipson Senior Center men's and women's restroom remodel.

Botesch, Nash & Hall Architects, P.S. and the Facilities Department have developed a scope of work and negotiated a fee of $22,900.00 for the project.

Design & Engineering	$19,400.00
Reimbursable Expenses	$ 500.00
Additional Services	$ 3,000.00
Total Maximum Compensation	$22,900.00

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign a Professional Services Agreement with Botesch, Nash & Hall Architects, P.S. to provide design and engineering services for the Carl Gipson Senior Center Men's and Women's restroom remodel in the amount of $22,900.00.

CITY OF EVERETT
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into on this day of , , by and between the **CITY OF EVERETT**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the "City," and Botesch, Nash & Hall Architects, P.S., whose address is 2727 Oakes Avenue, Suite 100, Everett, WA 98201, hereinafter referred to as the "Service Provider."

WHEREAS, the City desires to engage the Service Provider to Design and Engineering service for the Men's and Women's Restroom Remodel at the Carl Gipson Senior Center for the City of Everett; and

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

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

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

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

3. **Time of Beginning and Completion of Performance**. This Agreement shall commence as of the date of execution of this Agreement and shall be completed by December 31, 2016.

4. **Compensation**.

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

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

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

D. Total compensation, including all services and expenses, shall not exceed a maximum of Twenty Two Thousand Nine Hundred Dollars ($22,900.00).

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

5. **Method of Payment**.

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

B. All requests for payment should be sent to:

City of Everett
Attn.: Ruben Sanchez
3101 Cedar Street
Everett, WA 98201

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

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

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

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

10. **Indemnification**. To the extent of the Service Provider's fault, breach of this Agreement, willful misconduct, or violation of law, the Service Provider hereby agrees, except as otherwise

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

11. **Insurance**.

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

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

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

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

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

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

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

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

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

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

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

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

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

12. **Independent Contractor**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. **Notices**.

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

City of Everett
Attn.: Ruben Sanchez
3101 Cedar Street
Everett, WA 98201

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

Botesch, Nash & Hall
2727 Oakes Ave., Suite 100
98201

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

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

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

CITY OF EVERETT,
WASHINGTON

_____
Ray Stephanson, Mayor

_____
Date

ATTEST:

_____
Sharon Fuller, City Clerk

APPROVED AS TO FORM:

_____
James D. Iles, City Attorney

Date	Date

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

Corporation	BOTESCH, NASH & HALL ARCHITECTS, P.S. [Service Provider's Complete Legal Name] By: [signature] Typed/Printed Name: ANDREW M. HALL Its: PRESIDENT Date: 2-10-16
Partnership (general)	_____ [Service Provider's Complete Legal Name] a Washington general partnership By: _____ Typed/Printed Name: _____ General Partner Date: _____
Partnership (limited)	_____ [Service Provider's Complete Legal Name] a Washington limited partnership By: _____ Typed/Printed Name: _____ General Partner Date: _____
Sole Proprietorship	_____ Typed/Printed Name: _____ Sole Proprietor: Date: _____
Limited Liability Company	_____ [Service Provider's Complete Legal Name] a Washington limited liability company By: _____ Typed/Printed Name: _____ Managing Member Date: _____

EXHIBIT A
SCOPE OF WORK

1. Work to be Performed:

The Scope of Work for Botesch, Nash & Hall Architects, P.S. is to provide architectural and design services, construction administration services, submittal document review, and attend necessary project planning meetings for the remodel of the men's and women's restooms at the City of Everett Carl Gipson Senior Center. Botesch, Nash and Hall and their mechanical and electrical consultants will provide the following:

a. As-built drawings.
b. Design.
c. Meeting with owner to discuss the proposed design.
d. Provide contract and permit drawings.
e. Cover sheet.
f. Demolition floor plan.
g. Floor plan.
h. Reflected ceiling plan.
i. Interior elevations.
j. Details, door schedule, and finish schedule.
k. Meeting with owner to discuss finished and color selections.
l. Specifications.
m. Construction Administration.

2. ADDITIONAL SERVICES:
Additional Services that may be needed based upon any issues that surface during the architectural and design services as approved only in writing and signed by an authorized City representative. The total amount of additional services shall not exceed $3,000.00.

TOTAL MAXIMUM COMPENSATION:

Carl Gipson Senior Center:	$19,400.00
Subtotal:	$19,400.00
Reimbursable Expenses:	$ 500.00
Additional Services:	$ 3,000.00
Total Maximum Compensation :	$22,900.0

EXHIBIT B
COMPENSATION

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

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

Name	Responsibility	Rate
Andy Hall	Pricipal	$125/hr
Chris Raef	Architect	$100/hr
Miles Walker	Drafter	$90/hr

☐ **ALTERNATE B [LUMP SUM]**

The City shall pay Service Provider dollars ($) upon the completion of the Work, subject to the maximum stated in ¶4(D) of this Agreement.

☐ **ALTERNATE C [PROGRESS PAYMENTS]**

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

Task	Amount Paid upon Completion of Task

☐ **ALTERNATE D [BASE REGISTRATION]**

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

EXHIBIT C
REIMBURSABLE EXPENSES

Type of Expense	Maximum Per Item	Cumulative Maximum
Parking		
Meals		
Printing, Courier Services & Postage	N/A	$500

(Form Approved by City Attorney's Office January 7, 2010, updated June 15, 2014)

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

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

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

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

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

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

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

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

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

Service Provider Name: BOTESCH, NASH & HALL ARCHITECTS, P.S.

Signature: [signature] Printed Name: ANDREW M. HALL Title: PRESIDENT

(Retirement Form Approved by City Attorney's Office June 15, 2014)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/18/2016

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

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

PRODUCER	CONTACT NAME: Laura Daniels
Leavitt Group Northwest 6050 Tacoma Mall Blvd, #300 Tacoma WA 98409	PHONE (A/C, No, Ext): (253) 353-7295 FAX (A/C, No): (425) 258-9363 E-MAIL ADDRESS: laura-daniels@leavitt.com
	INSURER(S) AFFORDING COVERAGE / NAIC #
	INSURER A: Ohio Security Insurance Company 24082
INSURED Botesch Nash & Hall Architects 2727 Oakes Avenue Ste 100 Everett WA 98201	INSURER B: Ohio Casualty Insurance Company 024074 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 15/16 Master **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR [X] Business Owners Policy GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [ ] PRO-JECT [ ] LOC OTHER:	X		BZS55705917	9/1/2015	9/1/2016	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 2,000,000 $ 15,000 $ 2,000,000 $ 4,000,000 $ 4,000,000
A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS [X] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS			BAS55705917	9/1/2015	9/1/2016	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	[X] UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 10,000			USO1455705917	9/1/2015	9/1/2016	EACH OCCURRENCE AGGREGATE	$ 1,000,000 $ 1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [ ] N/A If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		BZS55705917	9/1/2015	9/1/2016	PER STATUTE [X] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 2,000,000 $ 2,000,000 $ 2,000,000
A	Professional Liability Claims Made			LH2A08579002	8/17/2015	9/1/2016	Occurence Aggregate	2,000,000 4,000,000

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

Project # JC16021-Carl Gipson Senior Center - Restrooms Upgrades

City of Everett, its officers, employees and agents are Additional Insureds subject to the terms as conditions per attached form BP7996 0713.

CERTIFICATE HOLDER

City of Everett
3101 Cedar Street
Everett, WA 98201

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Dan Olson/LADANI

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESSOWNERS LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SUBJECT	PAGE
AGGREGATE LIMITS OF INSURANCE	3
AMENDMENT OF INSURED CONTRACT DEFINITION	4
BLANKET ADDITIONAL INSURED (OWNERS, CONTRACTORS OR LESSORS)	2
BODILY INJURY	4
BROADENED COVERAGE FOR DAMAGE TO PREMISES RENTED TO YOU	2
DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT	4
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Section II - Liability is amended as follows:

I. **SUPPLEMENTARY PAYMENTS**

Paragraph **f.(1)(b)** of **A Coverages** is replaced by the following:

(b) Up to $3000 for cost of bail bond required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish the bonds.

Paragraph **1.f.(1)(d)** of **A Coverages** is replaced by the following:

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

II. **BROADENED COVERAGE FOR DAMAGE TO PREMISES RENTED TO YOU**

With respect to the coverage provided under this endorsement, **Section II - Liability** is amended as follows:

1. The final paragraph of **B.1.** Exclusions - Applicable To Business Liability Coverage is deleted and replaced by the following:

   With respect to the premises which are rented to you or temporarily occupied by you with the permission of the owner, Exclusions **c., d., e., g., h., k., l., m., n.** and **o.** do not apply to "property damage".

2. Paragraph **D.2.** Liability And Medical Expenses Limits Of Insurance is deleted and replaced by the following:

   The most we will pay under this endorsement for the sum of all damages because of all "property damage" to premises while rented to you or temporarily occupied by you with the permission of the owner is the Limit of Insurance shown in the Declaration.

3. Paragraph **D.3.** Liability And Medical Expenses Limits Of Insurance is deleted.

III. **INCIDENTAL MEDICAL MALPRACTICE**

Exclusion **1.j.(4)** does not apply to Incidental Medical Malpractice Injury coverage.

The following is added to **F. LIABILITY AND MEDICAL EXPENSES DEFINITIONS:**

23. **"Incidental Medical Malpractice Injury"** means bodily injury arising out of the rendering of or failure to render, during the policy period, the following services:

   a. medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or

   b. the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.

   This coverage does not apply to:

   1. expenses incurred by the insured for first- aid to others at the time of an accident and the **Duties in the Event of Occurrence, Claim or Suit** Condition is amended accordingly;

   2. any Insured engaged in the business or occupation of providing any of the services described under **a.** and **b.** above;

   3. injury caused by any Indemnitee if such Indemnitee is engaged in the business or occupation of providing any of the services described under **a.** and **b.** above.

IV. **MOBILE EQUIPMENT**

1. Section **C.** Who is An Insured is amended to include any person driving "mobile equipment" with your permission.

V. **BLANKET ADDITIONAL INSURED (OWNERS, CONTRACTORS OR LESSORS)**

1. Section **C.** Who Is An Insured is amended to include as an insured any person or organization whom you are required to name as an additional insured on this policy under a written contract or written agreement. The written contract or agreement must be:

   a. currently in effect or becoming effective during the term of this policy; and

   b. executed prior to the "bodily injury", "property damage", "personal and advertising injury".

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2. The insurance provided the additional insured is limited as follows:

   a. The person or organization is only an additional insured with respect to liability arising out of

      (1) Real property, as described in a written contract or written agreement, you own, rent, lease, maintain or occupy;

      (2) Caused in whole or in part by your ongoing operations performed for that insured.

   b. The limits of insurance applicable to the additional insured are those specified in the written contract or written agreement or the limits available under this policy, as stated in the Declarations, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

   c. The insurance provided the additional insured does not apply to:

      (1) Liability arising out of the sole negligence of the additional insured;

      (2) "Bodily injury", "property damage", "personal and advertising injury"; or defense coverage under the Supplementary Payments section of the policy arising out of an architect's, engineer's or surveyor's rendering of or failure to render any professional services including:

         (a) The preparing, approving maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and

         (b) Supervisory, inspection, architectural or engineering activities.

      (3) Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Declarations; or

      (4) Structural alterations, new construction or demolition operations performed by or for the person or organization designated in the Declarations.

3. Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a contract specifically requires that this insurance be primary or you request that it apply on a primary basis.

VI. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

The following is added to **C.** Who Is An Insured:

3. Any business entity acquired by you or incorporated or organized by you under the laws of any individual state of the United States of America over which you maintain majority ownership interest exceeding fifty percent. Such acquired or newly formed organization will qualify as a Named Insured if there is no similar insurance available to that entity. However,

   a. Coverage under this provision is afforded only until the 180th day after the entity was acquired or incorporated or organized by you or the end of the policy period, whichever is earlier;

   b. Coverages **A.** Paragraph **1.** Business Liability, does not apply to:

      (1) "Bodily injury" or "property damage" that occurred before the entity was acquired or incorporated or organized by you; and

      (2) "Personal and advertising injury" arising out of an offense committed before the entity was acquired or incorporated or organized by you; and

   c. Records and descriptions of operations must be maintained by the first Named Insured.

   No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

VII. AGGREGATE LIMITS

The following is added to Aggregate Limits Paragraph **4.** of **D.** Liability and Medical Expenses Limits of Insurance:

The Aggregate Limits apply separately to each of "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.

The Aggregate Limits also apply separately to each of your projects away from premises owned by or rented to you.

For the purpose of this endorsement only, "location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

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VIII. DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

1. The requirement in E. Liability And Medical Expenses General Conditions paragraph 2.a. that you must see to it that we are notified of an "occurrence" or offense which may result in a claim applies only when the "occurrence" is known to any insured listed in Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim.
2. The requirements in E. Liability And Medical Expenses General Conditions paragraph 2.b. that you must see to it that we receive notice of a claim or "suit" will not be considered breached unless the breach occurs after such claim or "suit" is known to any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim.

IX. BODILY INJURY

Paragraph 3. of F. Liability And Medical Expenses Definitions is replaced by the following:

3. "Bodily Injury" means:
   a. Bodily injury, sickness, disease, or incidental medical malpractice injury sustained by a person, and includes mental anguish resulting from any of these; and including death resulting from any of these at any time.

X. AMENDMENT OF INSURED CONTRACT DEFINITION

Paragraph 9. of F. Liability And Medical Expenses Definitions is replaced by the following:

9. "Insured contract" means:
   a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
   b. A sidetrack agreement;
   c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
   d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
   e. An elevator maintenance agreement;
   f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

      Paragraph f. does not include that part of any contract or agreement:

      (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

      (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

         (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

         (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

      (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

XI. PERSONAL AND ADVERTISING INJURY

Paragraph 14. b. of F. Liability And Medical Expenses Definitions is replaced by the following:

b. Malicious prosecution or abuse of process.

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