

Everett City Council Agenda

6:30 P.M. May 11, 2016

City Council Chambers

Roll Call

Approval of Minutes: May 4, 2016

Pledge of Allegiance

Mayor's Comments

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

Citizen Comments

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

(1) Authorize the Call for Bids for the Police Headquarters Masonry Cleaning and Repair Project.

Documents: [masonry.pdf](#)

(2) Authorize the Call for Bids for the Puget Sound Outfall No. 6 Reroute Project.

Documents: [Puget Sound Outfall.pdf](#)

PROPOSED ACTION ITEMS:

(3) CB 1604-22–2nd Reading –Adopt the Proposed Ordinance relating to Tax Administration, amending Ordinance No. 3385-14 (Chapter 3.19 EMC) as amended. (3rd and final reading on 5-18-16).

Documents: [CB 1604-22.pdf](#)

CONSENT ITEMS:

(4) Adopt Resolution No. ____ authorizing claims against the City of Everett in the amount of \$1,331,489.56 for the period of April 23, 2016 through April 29, 2016.

Documents: [res-86.pdf](#)

(5) Adopt Resolution No. ____ authorizing electronic transfer claims against the City of Everett in the amount of \$6,389,827.30 for the period of March 1, 2016 through March 31, 2016.

Documents: [elec-22.pdf](#)

(6) Accept the Reservoir #6 Roof Replacement Project as complete with Authorize the Mayor to sign the Certificate of Completion with Shearer & Associates releasing

the retainage bond.

Documents: [Reservoir 6-2.pdf](#)

PUBLIC HEARING:

(7) CB 1604-20– 3rd and final Reading – Adopt the Proposed Ordinance adding portion of Waterfront Place Redevelopment area to Multiple Family Property Tax Exemption Program.

Documents: [CB 1604-20.pdf](#)

ACTION ITEMS:

(8) CB 1604-21– 3rd and final Reading – Adopt the Proposed Ordinance related to Disclosing Intimate Images, amending and adding a new section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC) and amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC).

Documents: [CB 1604-21.pdf](#)

(9) Adopt Resolution No. waiving public bidding requirements and approving the sole source purchase of equipment from VirTra Systems Inc. to upgrade the V-300 Firearms Training Simulator.

Documents: [VirTra.pdf](#)

Executive Session

Adjourn

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

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

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

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Call for Bids for the Police
Headquarters Masonry
Cleaning and Repair Project

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

COUNCIL BILL # _____
Originating Department Facilities
Contact Person Scott Pattison
Phone Number 425-257-8846
FOR AGENDA OF May 11, 2016

Initialed by:
Department Head _____
CAA db
Council President _____

Location **Preceding Action** **Attachments** **Department(s) Approval**
3002 Wetmore Avenue Police, Facilities

Amount Budgeted	\$515,000	
Expenditure Required	-0-	Account Number(s): 342-5-20-0000-650
Budget Remaining	-0-	Fund 342, Program 020
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This is a Call for Bids for the Police Headquarters Masonry Cleaning and Repair Project. Plans and Specifications are prepared to the satisfaction of the Facilities Department. The Plans will be available to bidders on May 13, 2016. The bid opening is scheduled for 2:00 p.m. on June 21, 2016.

RECOMMENDATION (Exact action requested of Council):

Authorize a Call for Bids for the Police Headquarters Masonry Cleaning and Repair Project.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Call for Bids for Construction
of Puget Sound Outfall No. 6
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 May 11, 2016

Initialed by:
Department Head _____
CAA db
Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Port of Everett property, west of Hewitt Avenue	Professional Services Agreement from October 13, 2015	Location Map	Public Works, Legal

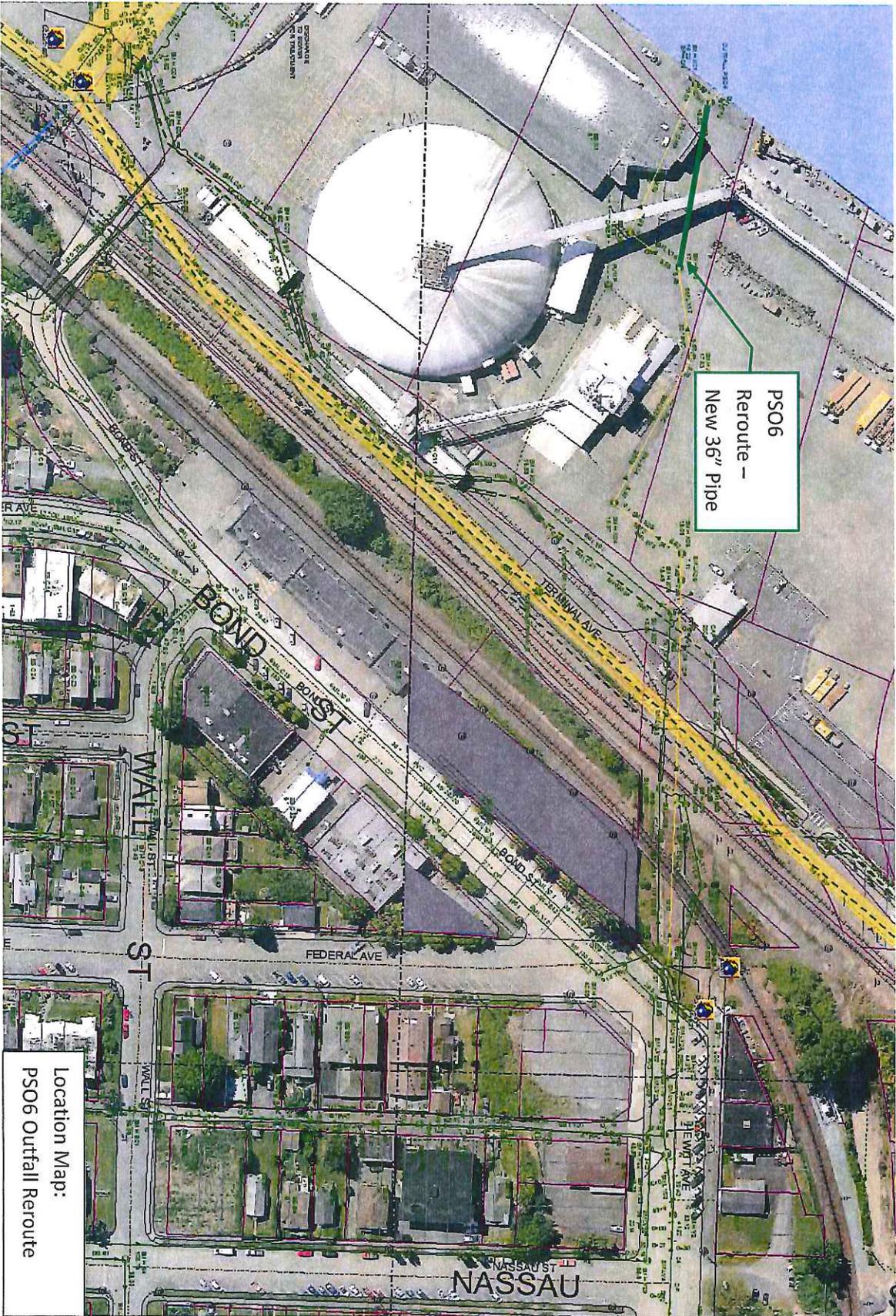
Amount Budgeted	\$900,000	
Expenditure Required	\$622,000	Account Number(s): UP 3583
Budget Remaining	\$82,921	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This is a Call for Bids for the Puget Sound Outfall No. 6 project which will reroute the existing combined sewer outfall. It was found that the outfall has concrete blocking three-quarters of the pipeline. The project is needed to restore capacity to the outfall pipe. The Port of Everett is the landowner and has agreed to equally split the cost of construction with the City of Everett.

RECOMMENDATION (Exact action requested of Council):

Authorize a Call for Bids for the Puget Sound Outfall No. 6 Reroute Project.



PS06
Reroute -
New 36" pipe

Location Map:
PS06 Outfall Reroute

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Ordinance Relating to Tax Administration, amending Ordinance No. 3385-14 (Chapter 3.19 EMC), as amended

5/4/16 Briefing
 _____ Proposed Action
 _____ Consent
 _____ Action
5/4/16 First Reading
5/11/16 Second Reading
5/18/16 Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # CB160422
 Originating Department Finance
 Contact Person Susy Haugen
 Phone Number 425-257-8612
 FOR AGENDA OF May 4, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Budget Committee 4/6/16	Ordinance	Finance, Legal

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

DETAILED SUMMARY STATEMENT:

This Amending Ordinance contains several updates that will clarify certain business processes and implement a new license renewal fee for small businesses domiciled within the city limits of Everett. Proposed changes include:

- removing the business license exemption for businesses under small contracts with the City;
- clarifying that the reduced mid-year license fee only applies to businesses that begin doing business after July 1;
- restating the measurement period for license renewal fees; and
- clarifying the procedures for annual Consumer Price Index (CPI)-based increases in license fees.

RECOMMENDATION:

Adopt Ordinance Relating to Tax Administration, amending Ordinance No. 3385-14 (Chapter 3.19 EMC) as amended.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Ordinance Relating to Tax Administration, amending Ordinance No. 3385-14 (Chapter 3.19 EMC), as amended

<u>5/4/16</u>	Briefing
_____	Proposed Action
_____	Consent
_____	Action
<u>5/4/16</u>	First Reading
<u>5/11/16</u>	Second Reading
<u>5/18/16</u>	Third Reading
_____	Public Hearing
_____	Budget Advisory

COUNCIL BILL #	<u>CB160422</u>
Originating Department	<u>Finance</u>
Contact Person	<u>Susy Haugen</u>
Phone Number	<u>425-257-8612</u>
FOR AGENDA OF	<u>May 4, 2016</u>

Initialed by:
 Department Head _____
 CAA JB
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Budget Committee 4/6/16	Ordinance	Finance, Legal

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

DETAILED SUMMARY STATEMENT:

This Amending Ordinance contains several updates that will clarify certain business processes and implement a new license renewal fee for small businesses domiciled within the city limits of Everett. Proposed changes include:

- removing the business license exemption for businesses under small contracts with the City;
- clarifying that the reduced mid-year license fee only applies to businesses that begin doing business after July 1;
- restating the measurement period for license renewal fees; and
- clarifying the procedures for annual Consumer Price Index (CPI)-based increases in license fees.

RECOMMENDATION:

Adopt Ordinance Relating to Tax Administration, amending Ordinance No. 3385-14 (Chapter 3.19 EMC) as amended.

ORDINANCE NO. _____

**An Ordinance Relating to Tax Administration, amending Ordinance No. 3385-14 (Chapter 3.19 EMC),
as amended.**

WHEREAS, the City's Tax Administration Code, Chapter 3.19 EMC, requires modifications periodically to clarify or update the tax administration process; and

WHEREAS, the Everett City Council wishes to add a new category to the annual business license renewal fee schedule to aid small businesses within the city limits of Everett; and

WHEREAS, there are additional housekeeping issues that will serve to clarify and improve the tax administration process;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 1 of Ordinance No. 3385-14 (EMC 3.19.030), which reads as follows:

3.19.030 Registration/license certificates.

A. Licensing. Except for those persons under contract with the city, which contracts are exempt under Section 3.19.040(D), any person, so engaging in a business activity within the city whether taxable or not, shall apply for and obtain from the city clerk, upon payment of the fee provided in this section, a business license. Such applicant shall complete an application form for such business license upon such forms as provided by the office of the city clerk and shall accompany such application with the required fee. Such business license shall be personal and nontransferable. If a taxpayer transacts business at two or more locations within the city, the taxpayer must obtain additional business licenses for each additional location and pay the required additional location fee annually.

B. License Control. Each business license shall be numbered and shall show the name, place and character of the business of the taxpayer and such other information as the office of the clerk deems necessary and shall be posted in a conspicuous place at the place of business for which it is issued.

C. License Duration. Each business license issued by the office of the clerk will be valid from January 1st to December 31st of a calendar year, so long as the taxpayer pays the tax accrued to the city. If a taxpayer changes its place of business, the taxpayer must return its existing business license to the office of the clerk and the office of the clerk will issue a new business license for the new place of business with the same expiration date as the taxpayer's existing license and without an additional charge.

D. License Restrictions. No person shall engage in any business taxable under this chapter without being registered in compliance with the provisions of this chapter, except that the office

of the clerk, by general regulation, may provide for the issuance of temporary business licenses to a temporary place of business without requiring the payment of any fee. No person to whom a business license has been issued may allow any person for whom a separate business license is required to operate under or to display his/her business license. No person may operate under or display a business license issued by the city to another taxpayer.

E. License Fees.

1. Registration Fee. A registration fee of seventy-five dollars will be due at the time of filing an application for a business license. If the application for a business license is filed between July 1st and December 31st, the registration fee will be thirty-seven and one-half dollars.
2. Additional Location Fee. For each additional location at which a taxpayer transacts business, the taxpayer will pay a fee of twenty dollars per year at the time of registration. If the application for an additional location is filed between July 1st and December 31st, the additional location fee will be ten dollars.
3. Renewal Fee. A renewal fee will be due prior to January 1st of each year. For businesses with a gross income of less than twenty thousand dollars in the preceding year, the annual renewal fee is twenty-five dollars. For businesses with a gross income of twenty thousand dollars or more in the preceding year, the annual renewal fee is seventy-five dollars. The renewal fee for each additional location will be twenty dollars.
4. Fee Adjustment. Prior to mailing renewal notices, but no later than December 31, 2014, and annually thereafter, the office of the clerk shall administratively adjust the fees provided for herein in an amount equal to the annual change in the June to June Consumer Price Index (CPI-U) (1982-84=100) for the Seattle-Tacoma-Bremerton area as published by the United States Department of Labor (CPI). To calculate the adjustment, the current rate will be multiplied by one plus the annual change in the CPI. If the annual change in CPI is negative, no adjustment shall be made for the year. The amount of the fees so calculated will be rounded to the nearest whole dollar.

F. License Renewal. Prior to January 1st of each year, a taxpayer desiring to renew its license must submit a renewal form and the renewal fee to the office of the clerk. The renewal form must indicate any changes to the taxpayer's name, location, or character of business, or affirm that there have not been any changes. Any taxpayer failing to make payment on or prior to January 1st will be subject to penalties in the following amounts:

1. Ten percent of the current renewal fee, as adjusted in subsection (E)(4) of this section, if the payment is not received on or before the last day of the month following the expiration date.
2. Twenty percent of the current renewal fee, as adjusted in subsection (E)(4) of this section, if the payment is not received on or before the last day of the second month following the expiration date.
3. All business licenses issued subsequent to the initial license period will be deemed renewal licenses if there has been no discontinuance of the taxpayer's operations or activities. Nonpayment by the taxpayer of taxes or business license fees when due during the term of any

license will constitute grounds for revocation of, or the refusal to renew, said license. (Ord. 3385-14 § 1, 2014; Ord. 2809-04 § 1 (part), 2004)

is hereby amended to read as follows:

3.19.030 Registration/license certificates.

A. ~~Licensing. Except for those persons under contract with the city, which contracts are exempt under Section 3.19.040(D),~~ Any person, so engaging in a business activity within the city whether taxable or not, shall apply for and obtain from the city clerk, upon payment of the fee provided in this section, a business license. Such applicant shall complete an application form for such business license upon such forms as provided by the office of the city clerk and shall accompany such application with the required fee. Such business license shall be personal and nontransferable. If a taxpayer transacts business at two or more locations within the city, the taxpayer must obtain additional business licenses for each additional location and pay the required additional location fee annually.

B. License Control. Each business license shall be numbered and shall show the name, place and character of the business of the taxpayer and such other information as the office of the clerk deems necessary and shall be posted in a conspicuous place at the place of business for which it is issued.

C. License Duration. Each business license issued by the office of the clerk will be valid from January 1st to December 31st of a calendar year, so long as the taxpayer pays the tax accrued to the city. If a taxpayer changes its place of business, the taxpayer must return its existing business license to the office of the clerk and the office of the clerk will issue a new business license for the new place of business with the same expiration date as the taxpayer's existing license and without an additional charge.

D. License Restrictions. No person shall engage in any business taxable under this chapter without being registered in compliance with the provisions of this chapter, except that the office of the clerk, by general regulation, may provide for the issuance of temporary business licenses to a temporary place of business without requiring the payment of any fee. No person to whom a business license has been issued may allow any person for whom a separate business license is required to operate under or to display his/her business license. No person may operate under or display a business license issued by the city to another taxpayer.

E. License Fees.

1. Registration Fee. A registration fee of seventy-five dollars will be due at the time of filing an application for a business license. If the application for a business license is filed between July 1st and December 31st, and the registrant's first day of business is July 1st or later, the registration fee will be thirty-seven and one-half dollars.

2. Additional Location Fee. For each additional location at which a taxpayer transacts business, the taxpayer will pay a fee of twenty dollars per year at the time of registration. If the application for an additional location is filed between July 1st and December 31st, the additional location fee will be ten dollars.

3. Renewal Fee. A renewal fee will be due prior to January 1st of each year. For businesses located outside the city limits of Everett with total a-world-wide gross income of less than twenty thousand dollars in the first three quarters of the year preceding the license year, plus the fourth quarter of the year prior to the preceding year, the annual renewal fee is twenty-five dollars. For businesses located within the city limits of Everett with total world-wide gross income of less than twenty thousand dollars in the first three quarters of the year preceding the license year, plus the fourth quarter of the year prior to the preceding year, the annual renewal fee is ten dollars. For all businesses with total a world-wide gross income of twenty thousand dollars or more in the first three quarters of the year preceding the license year, plus the fourth quarter of the year prior to the preceding year, the annual renewal fee is seventy-five dollars. The renewal fee for each additional location will be twenty dollars. Measurement period example:

<u>License Year</u>	<u>Gross Earnings Measurement Period</u>
<u>2017</u>	<u>4th Quarter 2015</u> <u>3rd Quarter 2016</u> <u>2nd Quarter 2016</u> <u>1st Quarter 2016</u>

4. Fee Adjustment. ~~The~~ Prior to mailing renewal notices, but no later than December 31, 2014, and annually thereafter, the office of the clerk shall administratively adjust the fees provided for herein annually in an amount equal to the annual change in the June to June Consumer Price Index (CPI-U) (1982-84=100) for the Seattle-Tacoma-Bremerton area as published by the United States Department of Labor (CPI), compounded from the base year of 2015. ~~-To calculate the adjustment, the current rate established in Section 3.19.030 E.3. will be multiplied by one plus the compounded annual change in the CPI between the current year and 2015.~~ If the annual change in CPI is negative, no adjustment shall be made for the year. The amount of the fees so calculated will be rounded to the nearest whole dollar.

F. License Renewal. Prior to January 1st of each year, a taxpayer desiring to renew its license must submit a renewal form and the renewal fee to the office of the clerk. The renewal form must indicate any changes to the taxpayer's name, location, or character of business, or affirm that there have not been any changes. Any taxpayer failing to make payment on or prior to January 1st will be subject to penalties in the following amounts:

1. Ten percent of the current renewal fee, as adjusted in subsection (E)(4) of this section, if the payment is not received on or before the last day of the month following the expiration date.
2. Twenty percent of the current renewal fee, as adjusted in subsection (E)(4) of this section, if the payment is not received on or before the last day of the second month following the expiration date.
3. All business licenses issued subsequent to the initial license period will be deemed renewal licenses if there has been no discontinuance of the taxpayer's operations or activities. Nonpayment by the taxpayer of taxes or business license fees when due during the term of any license will constitute grounds for revocation of, or the refusal to renew, said license. (Ord. 3385-14 § 1, 2014; Ord. 2809-04 § 1 (part), 2004)

Section 2. Section 2 of Ordinance No. 3385-14 (EMC 3.19.040), which reads as follows:

3.19.040 When due and payable—Reporting periods—Monthly, quarterly, and annual returns—Threshold provisions or relief from filing requirements—Computing time periods—Failure to file returns.

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed. Returns not received on or before the due date are subject to penalties and interest in accordance with this chapter.

D. For purposes of the tax imposed by Chapter 3.24, any person whose value of products, gross proceeds of sales or gross income of the business subject to tax after all allowable deductions is equal to or less than twenty thousand dollars in the current calendar year or five thousand dollars in the current quarter shall file a return, declare no tax due on their return, and submit the return to the director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due, except in those specific instances wherein the person claiming exemption under the provisions of this subsection is under contract for personal/professional services with the city which contract is less than five thousand dollars for a quarterly period or twenty thousand dollars if on an annual reporting basis.

E. A taxpayer who commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

F. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter, the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or city or federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or city or federal legal holiday.

G. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this chapter, the director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base his or her estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the city by the taxpayer. The director shall notify the taxpayer by mail of the amount of tax so

determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable. (Ord. 2809-04 § 1 (part), 2004)

is hereby amended to read as follows:

3.19.040 When due and payable—Reporting periods—Monthly, quarterly, and annual returns—Threshold provisions or relief from filing requirements—Computing time periods—Failure to file returns.

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed. Returns not received on or before the due date are subject to penalties and interest in accordance with this chapter.

D. For purposes of the tax imposed by Chapter 3.24, any person whose value of products, gross proceeds of sales or gross income of the business subject to tax after all allowable deductions is equal to or less than twenty thousand dollars in the current calendar year or five thousand dollars in the current quarter shall file a return, declare no tax due on their return, and submit the return to the director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due, ~~except in those specific instances wherein the person claiming exemption under the provisions of this subsection is under contract for personal/professional services with the city which contract is less than five thousand dollars for a quarterly period or twenty thousand dollars if on an annual reporting basis.~~

E. A taxpayer who commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

F. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter, the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or city or federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or city or federal legal holiday.

G. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this chapter, the director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base his or her estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to

the city by the taxpayer. The director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable. (Ord. 2809-04 § 1 (part), 2004)

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:

Sharon Fuller, City Clerk

Passed: _____

Valid: _____

Published: _____

Effective Date: _____



RESOLUTION NO. _____

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

That the claims made by electronic transfer against the City of Everett for the month March 1 through March 31, 2016, having been audited, be and the same are hereby approved, and the proper officers are hereby authorized and directed to charge claims made by electronic transfer against the proper funds in payment thereof, as follows:

<u>Fund</u>	<u>Department</u>	<u>Amount</u>
002	General Fund	\$ 191,968.92
101	Park	48,576.00
110	Library	4,919.18
112	Community Theater	3,428.69
120	Streets	10,938.34
145	ESCROQ	63.85
146	Parking Lot Reserve	2,667.59
148	Municipal Art Fund	2,123.87
149	Senior Center Reserve	1,605.96
151	Animal Reserve	4,636.36
152	Library Reserve	320.90
153	EMS	14,774.93
156	Criminal Justice	13,425.06
210	General Obligation Bond Debt Serv	11,383.20
303	Public Works Improvement Proj	345.96
308	Riverfront Development	150.00
336	Water/Sewer System Imprpv	70.00
354	Parks Capital Construction	200.08
401	Utilities	259,138.66
402	Solid Waste Utility	5,966.75
425	Transit	25,312.01
430	Everpark Garage	4,345.84
440	Golf	90,353.12
501	Transportation Services	98,283.35
503	Self-Insurance Fund	370.65
505	Computer Reserve Fund	66.71
507	Telecom	20,984.18
508	Health Benefits Reserve	1,265,505.17
637	Police Pension	95,670.95
638	Fire Pension	98,861.28
661	Payroll Withholding	4,113,369.74

TOTAL CLAIMS
BY ELECTRONIC TRANSFER \$ 6,389,827.30

Councilmember Introducing Resolution

Passed and approved this _____ day of _____, 2016

Council President

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Certification of Completion for	_____	Briefing	COUNCIL BILL #	_____
the Reservoir #6 Roof	_____	Proposed Action	Originating Department	Public Works
Replacement Project with	_____	Consent	Contact Person	Tom Fuchs
Shearer & Associates	X	Action	Phone Number	425-257-8931
	_____	First Reading	FOR AGENDA OF	May 11, 2016
	_____	Second Reading		
	_____	Third Reading		
	_____	Public Hearing	Initialed by:	_____
	_____	Budget Advisory	Department Head	_____
			CAA	db
			Council President	_____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	12/10/2013 Bid	Final Contract Voucher Certification,	Public Works
	2/12/2014 Award	Certificate of Completion, Final	
	3/16/2015 CO #1	Contract Estimate Voucher, Location	
	5/19/2015 CO #2	Map	
	10/26/2015 CO #3		

Amount Budgeted	\$5,300,000.00	Account Number: WO# UP 3500
Expenditure Required	-0-	
Budget Remaining	\$244,544.48	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This is for the Final Acceptance & Certification of Completion for the Reservoir #6 Roof Replacement Project. The general contractor, Shearer & Associates, completed the Reservoir #6 Roof Replacement Project in accordance with the plans and specifications and to the satisfaction of the Public Works Department.

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

Contract total paid to date exclusive of tax:	\$4,851,684.75
Retainage withheld:	\$242,584.23
Washington State sales tax paid to date:	\$446,355.00
Total	\$5,055,455.52

RECOMMENDATION (Exact action requested of Council):

Accept the Reservoir #6 Roof Replacement Project as complete and Authorize the Mayor to sign the Certificate of Completion with Shearer & Associates releasing the retainage bond.

CITY OF EVERETT
FINAL CONTRACT VOUCHER CERTIFICATION

DATE: March 17, 2016
CONTRACTOR: Shearer & Associates
PROJECT TITLE: Reservoir #6 Roof Replacement
DATE WORK COMPLETE: February 16, 2016

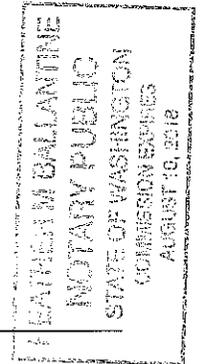
ADDRESS: 19300 NE 112th Ave, Ste 100
CITY/STATE: Battle Ground WA 98604
WORK ORDER NO. UP 3500
FINAL AMOUNT: \$4,851,684.75
Exclusive of State Sales Tax

CONTRACTOR'S CERTIFICATION

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

X [Signature]
CONTRACTOR
Shearer & Associates

X PRESIDENT
TITLE



Subscribed and sworn to before me this 29th day of March, 2016

X [Signature]
Notary Public

in and for the State of Washington, residing at Battle Ground WA

PUBLIC WORKS DEPARTMENT CERTIFICATION

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

X [Signature]
Construction Manager
Tom Fuchs

[Signature]

APPROVED Date: [Signature]
X [Signature]
Public Works Director
Dave Davis

INSTRUCTIONS

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

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

CERTIFICATE OF COMPLETION

Project: Reservoir #6 Roof Replacement

Contractor: Shearer & Associates

Work Order No. UP3500

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

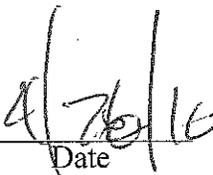
The Contractor physically completed the project, within the time allowed in the contract.

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

Recommended by:



Public Works Director
Dave Davis



Date

Approved by:

Mayor, City of Everett
Ray Stephanson

Date

Attest: _____
City Clerk
Sharon Fuller

APPROVED AS TO FORM

By: _____
Jim Iles, City Attorney

Date

Run Date: 10/29/2015

Time: 3:07 PM

Project: 313

RESERVOIR 6 ROOF REPLACEMENT

W/O 3500 BID: \$4,853,879.95

TOTAL BID: \$4,853,879.95

City of Everett - Public Works Department

Contract Estimate Voucher

For Work Order #3500

Estimate #14

Contractor: SHEARER & ASSOCIATES, INC.

1404 NE 134TH STREET
VANCOUVER, WA 98685

Cutoff Date: 10/23/2015

	Total Amt	Previous Amt	Present Amt
Contract Totals to Date	\$4,851,684.75	\$4,756,841.47	\$94,843.28
Retained Amounts	\$242,584.23	\$237,842.07	\$4,742.16
State Tax Amounts	\$446,355.00	\$437,629.42	\$8,725.58
Amounts Paid	\$5,055,455.52	\$4,956,628.82	
Amount to be Paid This Estimate			\$98,826.70

W

FINAL

Checked By *Tom Fuchs for Dan Snyder*
 Recommended By *Tom Fuchs*
 Public Works Director *W. W. W.*

Date 10/29/15
 Date 10/29/15
 Date _____

RECORD DRAWING CHECKOUT

Inspector _____ Date _____

Contractor _____
Work Order Number: 3500

Run Date: 10/29/2015

Time: 3:07 PM

City of Everett - Public Works Department

Cutoff Date: 10/23/2015

Project: 313

RESERVOIR 6 ROOF REPLACEMENT

W/O 3500 BID: \$4,853,879.95

TOTAL BID: \$4,853,879.95

Contract Estimate Voucher

For Work Order #3500

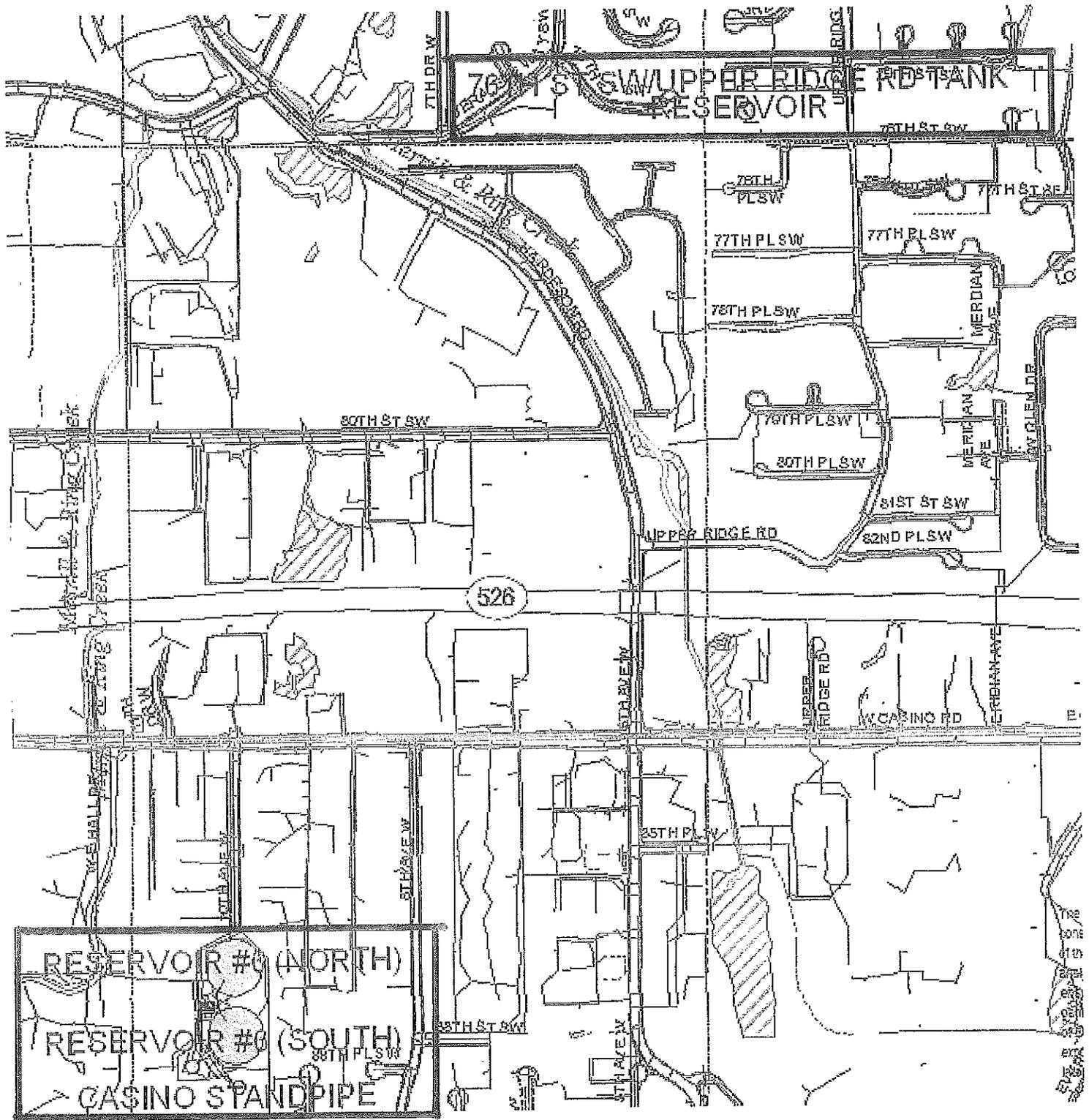
Estimate #14

Contractor: SHEARER & ASSOCIATES, INC

1404 NE 134TH STREET

VANCOUVER, WA 98685

Item #	Description	Units	Unit Price	Plan Quantity	Total Quantity	Previous Quantity	Present Quantity	Total Amount	Previous Amount	Present Amount
0001	Design & Permitting	LS	259,937.00	1.00	1.0000	1.0000	0.0000	259,937.00	259,937.00	0.00
0002	Demo & Site Work (Res 6 Site)	LS	499,039.00	1.00	1.0000	1.0000	0.0000	499,039.00	499,039.00	0.00
0003	Demo & Site Work (Upper Ridge Site)	LS	47,880.00	1.00	1.0000	1.0000	0.0000	47,880.00	47,880.00	0.00
0004	Res 6 Roof System & Ancillary Features	LS	3,388,235.00	1.00	1.0000	1.0000	0.0000	3,388,235.00	3,388,235.00	0.00
0005	Cleaning & Disinfection	LS	15,925.00	1.00	1.0000	1.0000	0.0000	15,925.00	15,925.00	0.00
0006	Crack Repair	LF	31.36	300.00	230.0000	230.0000	0.0000	7,212.80	7,212.80	0.00
0007	Refurbishment of Corroded Items	LS	17,849.00	1.00	1.0000	1.0000	0.0000	17,849.00	17,849.00	0.00
0008	Other Direct & Indirect Costs	LS	331,442.00	1.00	1.0000	1.0000	0.0000	331,442.00	331,442.00	0.00
0009	Materials on Hand	LS	921,400.00	1.00	0.0000	0.0000	0.0000	0.00	0.00	0.00
0010	Special Inspections on Casino Tank	LS	1,612.00	1.00	1.0000	1.0000	0.0000	1,612.00	1,612.00	0.00
0011	Credit for City Supplied Lock Set	LS	-2,036.00	1.00	1.0000	1.0000	0.0000	-2,036.00	-2,036.00	0.00
0012	Install Perimeter Seal North Tank	LS	22,559.30	1.00	1.0000	1.0000	0.0000	22,559.30	22,559.30	0.00
0013	Additional Costs Involved with Casino Tank Demo	LS	118,000.00	1.00	1.0000	1.0000	0.0000	118,000.00	118,000.00	0.00
0014	Additional Extensions on Wash Down System	LS	2,204.36	1.00	1.0000	1.0000	0.0000	2,204.36	2,204.36	0.00
0015	Additional Instruction Switches, 6 ea.	LS	7,481.96	1.00	1.0000	1.0000	0.0000	7,481.96	7,481.96	0.00
0016	Bridal Tank Demo	LS	16,940.75	1.00	1.0000	1.0000	0.0000	16,940.75	16,940.75	0.00
0017	Install Perimeter Seal South Tank	LS	22,559.30	1.00	1.0000	1.0000	0.0000	22,559.30	22,559.30	0.00
0108	Replace Floor Joint Caulking on South Tank	LS	94,843.28	1.00	1.0000	0.0000	1.0000	94,843.28	0.00	94,843.28
Work Order Totals:								4,851,684.75	4,756,841.47	94,843.28



RESERVOIR #6 (NORTH)

RESERVOIR #6 (SOUTH)

CASINO SPANDPIPE

526

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Adding a portion of the Waterfront Place redevelopment area to the Multiple Family Property Tax Exemption program, and Amending Ordinance No. 2347-98, as amended (EMC Chapter 3.78)

_____	Briefing
_____	Proposed Action
_____	Consent
<u>05/11/16</u>	Action
<u>04/27/16</u>	First Reading
<u>05/04/16</u>	Second Reading
<u>05/11/16</u>	Third Reading
<u>05/11/16</u>	Public Hearing

COUNCIL BILL #	<u>CB1604-20</u>
Originating Department	<u>Planning</u>
Contact Person	<u>Allan Giffen</u>
Phone Number	<u>(425) 257-8725</u>
FOR AGENDA OF	<u>April 27, 2016</u>
	<u>May 4, 2016</u>
	<u>May 11, 2016</u>

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Port of Everett Waterfront Place Redevelopment	City Council master plan approval January 21, 2015	Ordinance	Planning, Legal

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

DETAILED SUMMARY STATEMENT:

The City Council approved the master plan for Waterfront Place in January, 2015. The master plan includes areas where residential development is allowed. The Port of Everett has asked the City to establish the Multiple Family Property Tax Exemption area for a portion of the redevelopment plan (two parcels) that will be developed with mixed use retail and housing in the next phase of development. The cost of constructing rental housing on a fill site, combined with the plan to locate the required off-street parking within a parking structure, makes residential development infeasible in the current and foreseeable rental housing market in Everett. The property tax exemption would appear to make development of multiple-family housing economically viable.

The proposed ordinance establishes an “urban center” for the entire Waterfront Place development area, and a “residential targeted area” in a portion of the urban center in which the property tax exemption would apply.

RECOMMENDATION (Exact action requested of Council):

Adopt Ordinance Adding a portion of the Waterfront Place redevelopment area to the Multiple Family Property Tax Exemption program, and Amending Ordinance No. 2347-98, as amended (EMC Chapter 3.78).



ORDINANCE NO. _____

An Ordinance Adding a portion of the Waterfront Place redevelopment area to the Multiple Family Property Tax Exemption program, and Amending Ordinance No. 2347-98, as amended (EMC Chapter 3.78)

WHEREAS, the City Council finds the following:

1. In January, 2015, the Everett city council adopted Planned Development Overlay Zone and master plan for the Waterfront Place redevelopment area on property owned by the Port of Everett.
2. The purpose of the Waterfront Place redevelopment plan is to transform the waterfront property from its former industrial use to a high quality mixed use neighborhood with substantial public open space and public access to the shoreline, commercial, residential and public uses in a master planned new neighborhood.
3. The approved master plan includes areas for the development of up to 660 multiple family dwellings in various locations within the redevelopment area.
4. Housing is an integral component to the overall development, including the economic viability of the non-residential elements of Waterfront Place, such as restaurant and retail uses.
5. The Port of Everett development strategy for the first phase of housing within Waterfront Place is to sell land to a private housing developer for the purpose of building multiple family dwellings within mixed use buildings containing commercial uses on the ground floor and housing on upper floors.
6. The entire 65 acre upland area within Waterfront Place consists of fill that has been placed on former tidelands that has been used for maritime related industrial uses for decades.
7. The Port of Everett has cleaned up soils contaminated by the previous industrial uses of the area and replaced contaminated materials with clean fill.
8. Construction of multiple story buildings on this type of fill requires more costly foundation systems than constructing on native soils.
9. This more costly method of construction creates an economic challenge to the viability of building housing in the Waterfront Place redevelopment area, given the projected rents that can be supported by the Everett rental market for the near to mid-term future.
10. The City established the Multiple Family Property Tax Exemption program in 1998 to encourage residential redevelopment in the downtown urban center, which has resulted in

- the construction of nearly 1,000 housing units in an area that had experienced little housing development in the preceding twenty years prior to the creation of the program.
11. RCW 84.14.010 defines areas eligible for designation as “urban centers” where the Multiple Family Property Tax Exemption is intended to be used to stimulate housing development in targeted areas where a mix of uses and adequate urban infrastructure exists.
 12. As a planned new mixed use neighborhood, the area lacks sufficient desirable residential housing despite the need for additional housing in Everett.
 13. The City has been asked by the Port of Everett to expand the City’s Multiple Family Property Tax Exemption program to the first phase of planned housing development in Waterfront Place in order to make redevelopment of multiple family housing within the corridor more viable financially.
 14. Expanding the eligible area for the Multiple Family Property Tax Exemption program to include the area will create a financial incentive to develop quality housing as intended by EMC Chapter 3.78.
 15. The area proposed to be included in the Multiple Family Property Tax Exemption program is limited to the first phase of housing development within Waterfront Place.
 16. Certain amendments to EMC Chapter 3.78 are necessary to expand the City’s Multiple Family Property Tax Exemption program to this area to encourage the development of housing that will benefit Everett.
 17. RCW 84.14.040 requires the City to adopt a Resolution to establish a hearing date, and to provide public notice of the public hearing a minimum of 7 days and not more than 30 days prior to the date the City Council will consider the Ordinance to establish the North Broadway Urban Center.
 18. Notice of the City Council public hearing was provided in the Daily Herald within the time frame required by RCW 84.14.040.

WHEREAS, the City Council concludes the following:

1. The notice for public hearing has met the requirements of RCW 84.14.040.
2. The proposed amendments to EMC Chapter 3.78 will encourage the development of desirable residential housing in the planned Waterfront Place mixed use urban center.
3. The areas within the designated urban center area lack sufficient available, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the urban center, if such places to live were available.
4. The additional housing opportunity in the targeted area will assist in achieving the stated purposes of RCW 84.14.007, to encourage increased residential opportunities within the targeted area of the city, and stimulate the construction of new multifamily housing that will increase and improve residential opportunities within the urban centers.

5. The proposed amendment is consistent with the policies of the Everett Growth Management Comprehensive Plan and will promote densities called for in this Planned Development Overlay zone.
6. The proposed amendment is consistent with RCW Chapter 84.14.
7. The proposed amendment is in the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 3 of Ordinance No. 2347-98, as amended (EMC Chapter 3.78.030.M, Definition of “Urban center”), which reads as follows:

“Urban center” means (1) the Downtown Area, (2) the compact identifiable sections of the E-1 MUO zones, and (3) the North Broadway Urban Center, as each is described in Section 3.78.150 of this chapter, where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies, transit service, and a mixture of uses and activities that may include housing, recreation, cultural activities, commercial or office uses.

is hereby amended to read as follows:

“Urban center” means (1) the Downtown Area, (2) the compact identifiable sections of the E-1 MUO zones, ~~and~~ (3) the North Broadway Urban Center, ~~and~~ (4) the Waterfront Place Urban Center, as each is described in Section 3.78.150 of this chapter, where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies, transit service, and a mixture of uses and activities that may include housing, recreation, cultural activities, commercial or office uses.

Section 2. Section 7.D of Ordinance No. 2347-98, as amended (EMC 3.78.070.D), which reads as follows:

D. Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:

1. Location. The project must be located within the residential targeted area as designated pursuant to Section 3.78.150.
2. Tenant Displacement—Building Code Deficiency.
 - a. Tenant Displacement. If the property proposed to be rehabilitated is not vacant prior to application, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.
 - b. Building Code Deficiency. Existing dwelling units proposed for rehabilitation must fail to comply with one or more requirements of the State Building Code as adopted by the city or the

International Property Maintenance Code as adopted by the city as each are set forth in EMC Title [16](#).

3. Size. The project must include a minimum of:

a. Eight multifamily housing units in the downtown urban center, twenty multifamily housing units in the E-1 MUO urban centers, and twenty multifamily housing units in the North Broadway urban center; or

b. Eight units of rehabilitated multifamily housing; provided, that conversion of buildings originally constructed as single-family dwellings to multiple-family dwellings shall not be eligible for the property tax exemption provided herein; and further provided, that existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least eight units of rehabilitated multifamily housing.

4. Permanent Residential Housing. At least fifty percent of the space designated for multifamily housing must be provided for permanent residential occupancy, as defined in Section [3.78.030\(J\)](#) and only that portion of the space designated for multifamily housing shall be eligible for the exemption provided for herein.

5. Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application, plus any extension of time granted under Section [3.78.090\(B\)](#).

6. Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, housing and zoning codes, design guidelines, and any other applicable regulations in effect at the time the applicant submits a fully completed application to the director. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building and housing ordinance requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. The project must also comply with any other standards and guidelines adopted by the city for the residential targeted area in which the project will be developed.

7. Off-Street Parking.

a. The project must provide all required parking spaces on site, unless otherwise specifically authorized by the city council as a pilot program or demonstration project, or as may be allowed by a master plan adopted under the Institutional Overlay Zone as provided by Chapter [19.33B](#).

b. The parking requirements for multiple-family dwellings of the Everett zoning code are applicable to multifamily residences provided for in this chapter.

c. The term “parking spaces on site” means that all the parking required under applicable city codes and requirements shall be off-street parking and provided on the property subject to the application for tax exemption hereunder or on any contiguous parcel owned by the applicant and not separated by a street, alley, other public right-of-way, or property not owned by the applicant. The planning director may authorize the parking area for a multifamily residence which is subject to the application for tax exemption hereunder to be located on a contiguous parcel which is separated from the multifamily residence site by an alley, if topographic, environmental or space constraints prevent vehicle parking and maneuvering from being placed on the location otherwise required by this chapter. In approving the on-site parking on any parcel contiguous to the multifamily residence site, including any approved parcel separated by an alley, the planning director shall require the owner to execute and record a covenant running with the land, acceptable to the city attorney, dedicating such parking area to parking use, to terminate only in the event that the owner’s use which created the need for the parking on the owner’s property is abandoned, discontinued or otherwise terminated, or the owner provides parking in a contiguous alternate location which is acceptable to and approved by the city.

8. Building Materials. The planning director shall have the authority to, in consultation with the building official, promulgate minimum standards for the quality of building materials to be used on projects seeking the property tax exemption.

9. Design Requirements within the Downtown Area.

a. A project outside the B-3 zone, and any project in the B-3 zone that does not otherwise use at least two bonus elements provided in Section [19.22.020\(E\)](#) to qualify for floor area ratio or building height bonuses, shall include one bonus element provided in Section [19.22.020\(E\)](#) for each ten dwelling units or portion thereof, up to a maximum of three bonus elements. Any bonus element constituting a use that is not otherwise permitted in the zone in which the property is located may not be used to satisfy this requirement.

b. Projects in the B-3 zone that use at least two of the bonus elements in Section [19.22.020\(E\)](#) to qualify for floor area ratio or building height bonuses shall provide one additional bonus element provided in Section [19.22.020\(E\)](#) for each twenty dwelling units or portion thereof, up to a maximum of three additional bonus elements, unless the director determines that it is infeasible and the building otherwise provides high quality architectural design and building materials.

c. As an alternative to the bonus elements provided in subsection (D)(9)(a) or (D)(9)(b) of this section, the applicant may propose other design elements that enhance the livability of the project and/or the city’s urban center. Such proposals shall be subject to approval by the planning director, and the director shall have the authority to require changes to the proposed alternative to promote design quality and further the goals and objectives of the downtown plan. Such improvements or design measures must be in addition to the requirements of the city’s zoning, building or housing codes, including but not limited to:

- (1) Special treatment or use of specific architectural elements on building facades;
- (2) Special emphasis to accentuate building entrances;
- (3) Special treatment to enhance the streetscape;
- (4) Special treatment of building lobbies or foyers for the comfort, convenience and safety of residents;
- (5) Cleaning, repair, painting, or other functional improvements to existing buildings;
- (6) Removal of nonconforming signs from buildings or lots;
- (7) Preservation and/or restoration of historical elements of existing buildings in accordance with the Secretary of the Interior's standards for historic buildings;
- (8) Special design treatment to promote or enhance compatibility with the function, design or location of improvements on surrounding properties.

10. Design Requirements within the E-1 MUO (Mixed Use Overlay) Zone and the North Broadway Urban Center.

a. A multiple-family housing development within the E-1 MUO (Mixed Use Overlay) zone or the North Broadway urban center with a minimum of twenty dwelling units shall be eligible for the property tax exemption as provided in this chapter, provided it meets all of the standards of this chapter and at least two of the following requirements:

- (1) It provides a minimum of two hundred square feet of on-site common open space per dwelling unit accessible to the residents of the development. A minimum of one-half of this space shall be provided at or near the ground level, and shall be improved as required by the zone in which the property is located. The remainder of this open space area may be provided in one or more roof-top or terrace open space areas having a minimum horizontal dimension of twenty feet measured in any direction.
- (2) It provides a minimum of two hundred square feet of on-site common space per dwelling unit accessible for general use by residents and customers of mixed use commercial and residential development on site, improved as required by the zone in which the property is located.
- (3) It locates all required off-street parking for the residential dwelling units within a parking structure either below or above grade.
- (4) It provides off-site pedestrian-oriented street frontage improvements consistent with the standards of the zone in which the property is located on at least one adjacent site equivalent to

the amount of frontage that the subject property has on Evergreen Way or Broadway, as applicable. This section shall only apply for off-site improvements to properties that do not already meet the standards of the zone in which the property is located.

(5) For properties in the E-1 MUO zone, it provides, with the authorization of other owners of affected properties, a new pedestrian connection through other properties to abutting neighborhoods in a manner that, in the judgment of the planning director and city engineer, substantially improves pedestrian circulation between Evergreen Way and the abutting neighborhood. Such pedestrian connections shall be improved to standards appropriate for the safety of pedestrians and the security of abutting properties, as determined by the city engineer.

(6) It provides a minimum of ten percent of all dwelling units as affordable to households with a household income at or below fifty percent of median family income, adjusted for size, and a minimum of ten percent of all dwelling units as affordable to households with a household income between fifty percent and eighty percent of median family income, adjusted for size. Rental rates in such affordable housing shall not exceed thirty percent of the household's monthly income for rent and utilities, excluding telephone, Internet and television utility services.

b. **Combination of Amenities.** An applicant may propose a combination of amenities using a different standard than those described in subsection (D)(10)(a) of this section, and the planning director may approve a combination of amenities if such a combination results in a benefit to the public and/or the residents of the development at least equivalent to providing only one of the amenities listed in subsection (D)(10)(a) of this section. For example, an applicant may propose one hundred fifty square feet of open space per dwelling unit and seventy-five percent of the required off-street parking within a structure for consideration by the planning director. The director must evaluate the quality of the proposed design of the combination of two or more amenities to determine if they provide benefits to the public or residents that are at least as great as providing just a single amenity listed in subsection (D)(10)(a) of this section.

is hereby amended to read as follows:

D. **Project Eligibility.** A proposed project must meet the following requirements for consideration for a property tax exemption:

1. **Location.** The project must be located within the residential targeted area as designated pursuant to Section [3.78.150](#).

2. **Tenant Displacement—Building Code Deficiency.**

a. **Tenant Displacement.** If the property proposed to be rehabilitated is not vacant prior to application, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.

b. Building Code Deficiency. Existing dwelling units proposed for rehabilitation must fail to comply with one or more requirements of the State Building Code as adopted by the city or the International Property Maintenance Code as adopted by the city as each are set forth in EMC Title 16.

3. Size. The project must include a minimum of:

a. Eight multifamily housing units in the downtown urban center, twenty multifamily housing units in the E-1 MUO urban centers, and twenty multifamily housing units in the North Broadway urban center or the Waterfront Place urban center; or

b. Eight units of rehabilitated multifamily housing; provided, that conversion of buildings originally constructed as single-family dwellings to multiple-family dwellings shall not be eligible for the property tax exemption provided herein; and further provided, that existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least eight units of rehabilitated multifamily housing.

4. Permanent Residential Housing. At least fifty percent of the space designated for multifamily housing must be provided for permanent residential occupancy, as defined in Section 3.78.030(J) and only that portion of the space designated for multifamily housing shall be eligible for the exemption provided for herein.

5. Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application, plus any extension of time granted under Section 3.78.090(B).

6. Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, housing and zoning codes, design guidelines, and any other applicable regulations in effect at the time the applicant submits a fully completed application to the director. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building and housing ordinance requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. The project must also comply with any other standards and guidelines adopted by the city for the residential targeted area in which the project will be developed.

7. Off-Street Parking.

a. The project must provide all required parking spaces on site, unless otherwise specifically authorized by the city council as a pilot program or demonstration project, or as may be allowed by a master plan adopted under the Institutional Overlay Zone as provided by Chapter 19.33B, or as may be allowed by a master plan adopted under the Planned Development Overlay Zone as provided by Chapter 19.29.

b. The parking requirements for multiple-family dwellings of the Everett zoning code are applicable to multifamily residences provided for in this chapter, except as may be allowed by a master plan adopted under the Institutional Overlay Zone as provided by Chapter 19.33B, or as may be allowed by a master plan adopted under the Planned Development Overlay Zone as provided by Chapter 19.29.

c. The term “parking spaces on site” means that all the parking required under applicable city codes and requirements shall be off-street parking and provided on the property subject to the application for tax exemption hereunder or on any contiguous parcel owned by the applicant and not separated by a street, alley, other public right-of-way, or property not owned by the applicant. The planning director may authorize the parking area for a multifamily residence which is subject to the application for tax exemption hereunder to be located on a contiguous parcel which is separated from the multifamily residence site by an alley, if topographic, environmental or space constraints prevent vehicle parking and maneuvering from being placed on the location otherwise required by this chapter. In approving the on-site parking on any parcel contiguous to the multifamily residence site, including any approved parcel separated by an alley, the planning director shall require the owner to execute and record a covenant running with the land, acceptable to the city attorney, dedicating such parking area to parking use, to terminate only in the event that the owner’s use which created the need for the parking on the owner’s property is abandoned, discontinued or otherwise terminated, or the owner provides parking in a contiguous alternate location which is acceptable to and approved by the city.

8. Building Materials. The planning director shall have the authority to, in consultation with the building official, promulgate minimum standards for the quality of building materials to be used on projects seeking the property tax exemption.

9. Design Requirements within the Downtown Area.

a. A project outside the B-3 zone, and any project in the B-3 zone that does not otherwise use at least two bonus elements provided in Section 19.22.020(E) to qualify for floor area ratio or building height bonuses, shall include one bonus element provided in Section 19.22.020(E) for each ten dwelling units or portion thereof, up to a maximum of three bonus elements. Any bonus element constituting a use that is not otherwise permitted in the zone in which the property is located may not be used to satisfy this requirement.

b. Projects in the B-3 zone that use at least two of the bonus elements in Section 19.22.020(E) to qualify for floor area ratio or building height bonuses shall provide one additional bonus element provided in Section 19.22.020(E) for each twenty dwelling units or portion thereof, up to a maximum of three additional bonus elements, unless the director determines that it is infeasible and the building otherwise provides high quality architectural design and building materials.

c. As an alternative to the bonus elements provided in subsection (D)(9)(a) or (D)(9)(b) of this section, the applicant may propose other design elements that enhance the livability of the project and/or the city's urban center. Such proposals shall be subject to approval by the planning director, and the director shall have the authority to require changes to the proposed alternative to promote design quality and further the goals and objectives of the downtown plan. Such improvements or design measures must be in addition to the requirements of the city's zoning, building or housing codes, including but not limited to:

- (1) Special treatment or use of specific architectural elements on building facades;
- (2) Special emphasis to accentuate building entrances;
- (3) Special treatment to enhance the streetscape;
- (4) Special treatment of building lobbies or foyers for the comfort, convenience and safety of residents;
- (5) Cleaning, repair, painting, or other functional improvements to existing buildings;
- (6) Removal of nonconforming signs from buildings or lots;
- (7) Preservation and/or restoration of historical elements of existing buildings in accordance with the Secretary of the Interior's standards for historic buildings;
- (8) Special design treatment to promote or enhance compatibility with the function, design or location of improvements on surrounding properties.

10. Design Requirements within the E-1 MUO (Mixed Use Overlay) Zone and the North Broadway Urban Center.

a. A multiple-family housing development within the E-1 MUO (Mixed Use Overlay) zone or the North Broadway urban center with a minimum of twenty dwelling units shall be eligible for the property tax exemption as provided in this chapter, provided it meets all of the standards of this chapter and at least two of the following requirements:

- (1) It provides a minimum of two hundred square feet of on-site common open space per dwelling unit accessible to the residents of the development. A minimum of one-half of this space shall be provided at or near the ground level, and shall be improved as required by the zone in which the property is located. The remainder of this open space area may be provided in one or more roof-top or terrace open space areas having a minimum horizontal dimension of twenty feet measured in any direction.
- (2) It provides a minimum of two hundred square feet of on-site common space per dwelling unit accessible for general use by residents and customers of mixed use commercial and

residential development on site, improved as required by the zone in which the property is located.

(3) It locates all required off-street parking for the residential dwelling units within a parking structure either below or above grade.

(4) It provides off-site pedestrian-oriented street frontage improvements consistent with the standards of the zone in which the property is located on at least one adjacent site equivalent to the amount of frontage that the subject property has on Evergreen Way or Broadway, as applicable. This section shall only apply for off-site improvements to properties that do not already meet the standards of the zone in which the property is located.

(5) For properties in the E-1 MUO zone, it provides, with the authorization of other owners of affected properties, a new pedestrian connection through other properties to abutting neighborhoods in a manner that, in the judgment of the planning director and city engineer, substantially improves pedestrian circulation between Evergreen Way and the abutting neighborhood. Such pedestrian connections shall be improved to standards appropriate for the safety of pedestrians and the security of abutting properties, as determined by the city engineer.

(6) It provides a minimum of ten percent of all dwelling units as affordable to households with a household income at or below fifty percent of median family income, adjusted for size, and a minimum of ten percent of all dwelling units as affordable to households with a household income between fifty percent and eighty percent of median family income, adjusted for size. Rental rates in such affordable housing shall not exceed thirty percent of the household's monthly income for rent and utilities, excluding telephone, Internet and television utility services.

b. **Combination of Amenities.** An applicant may propose a combination of amenities using a different standard than those described in subsection (D)(10)(a) of this section, and the planning director may approve a combination of amenities if such a combination results in a benefit to the public and/or the residents of the development at least equivalent to providing only one of the amenities listed in subsection (D)(10)(a) of this section. For example, an applicant may propose one hundred fifty square feet of open space per dwelling unit and seventy-five percent of the required off-street parking within a structure for consideration by the planning director. The director must evaluate the quality of the proposed design of the combination of two or more amenities to determine if they provide benefits to the public or residents that are at least as great as providing just a single amenity listed in subsection (D)(10)(a) of this section.

11. Design Requirements in the Waterfront Place Urban Center. A multiple family housing development within the Waterfront Place Urban Center is eligible for the property tax exemption provided in this chapter provided it meets the development standards and design guidelines of the approved master plan adopted under the Planned Development Overlay Zone process of Chapter 19.29.

Section 3. Section 15 of Ordinance No. 2347-98, as amended (EMC 3.78.150) is amended by the addition of the following, which shall be codified as EMC 3.78.150.D. For the purposes of clarity and consistency with prior ordinances, the exhibit attached to this ordinance is marked as Exhibit D.

D. Waterfront Place Urban Center. The area declared the Waterfront Place urban center of the city of Everett is legally described below, and depicted as the Waterfront Place Urban Center on Exhibit D of this ordinance.

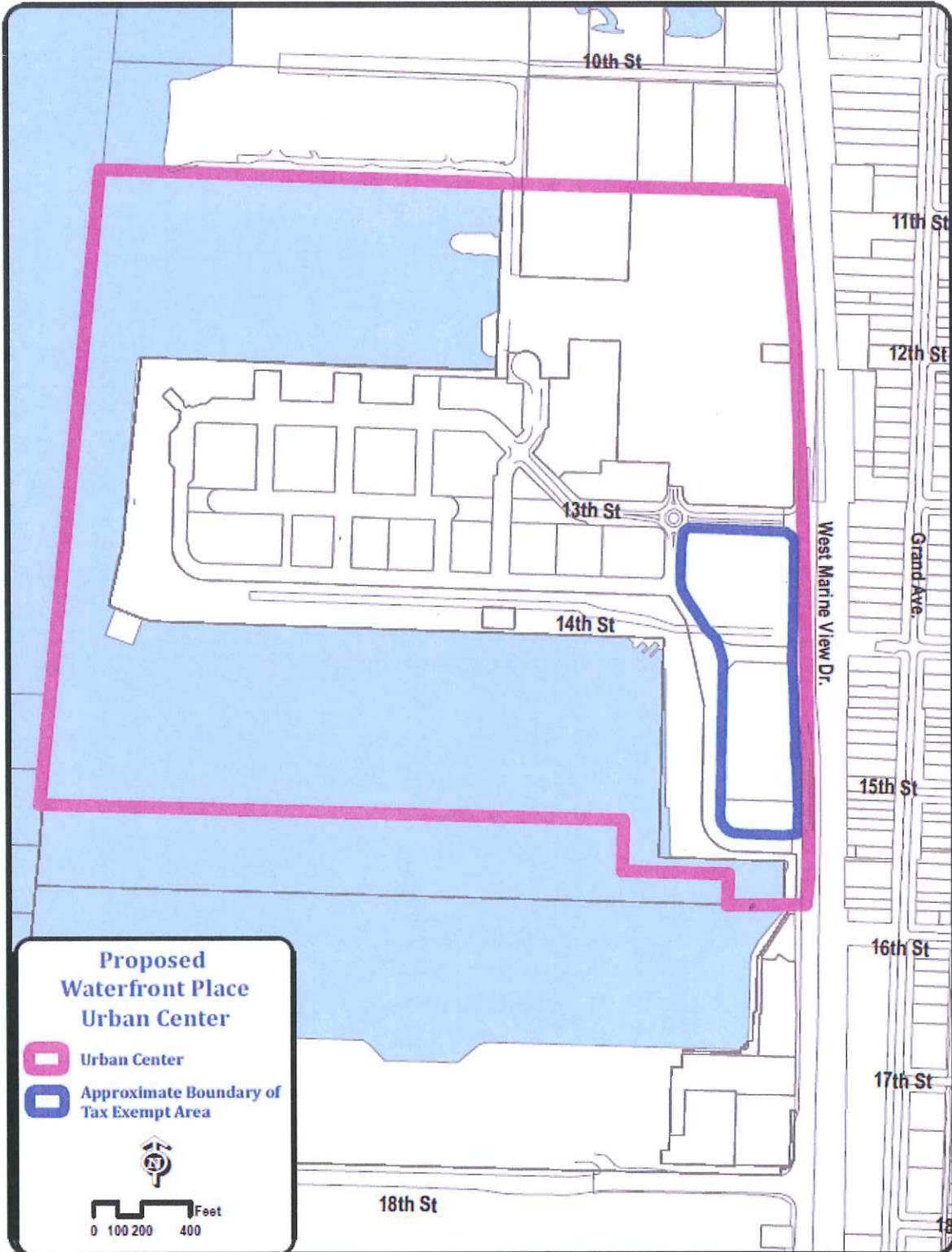
LEGAL DESCRIPTION

That portion of Tide Lands conveyed to The Everett Land Company by the State of Washington in that certain instrument recorded in Volume 30 of Deeds starting at page 162, under Auditor's File No. 24048, records of Snohomish County, Washington, in and fronting Government Lots 2 and 3 of Section 18, Township 29 North, Range 5 East of the Willamette Meridian, described as follows: Commencing at the Standard City Monument at the intersection of 14th Street and Grand Avenue, which monument is shown on Plat of Everett, Division "R", according to the Plat thereof recorded in Volume 6 of Plats, page 33, records of Snohomish County, Washington, and which monument is positioned 14.00 feet North and 22.00 feet East of the intersection of the center lines of said streets, and from said monument the Standard City Monument at the intersection of 14th Street and Rucker Avenue, as shown on said plat, bears South 89°52'00" East a distance of 354.13 feet, and from said monument the Standard City Monument at the intersection of 14th Street and Wetmore Avenue, as shown on said plat, bears South 89°52'00" East a distance of 1396.16 feet; thence North 89°52'00" West, along the monument line of 14th Street projected Westerly, which monument line is 14.00 feet North of the center line of 14th Street, as measured at right angles to said center line, a distance of 369.16 feet to the center line of that certain road known as Marine View Drive; thence continuing North 89°52'00" West a distance of 217.29 feet to the point of intersection of said monument line with the Westerly Margin of the Northern Pacific Railway Company right of way; thence North 1°15'00" West, along said Westerly Margin, a distance of 1481.43 feet to the True Point of Beginning; thence North 89°52'00" West a distance of 2154.56 feet to the point of intersection with the Government Pierhead Line; thence South 3°41'45" West, along said Government Pierhead Line, a distance of 2124.28 feet; thence North 89°41'40" East a distance of 1950.45 feet; thence South 0°18'20" East a distance of 170.62 feet; thence North 89°41'40" East a distance of 354.78 feet; thence South 0°18'20" East a distance of 102.17 feet; thence North 89°41'40" East a distance of 215.66 feet to the point of intersection with the Westerly Margin of said Marine View Drive; thence in a Northerly direction, along said Westerly Margin of Marine View Drive, on the following courses: North 0°26'58" West a distance of 263.60 feet, North 1°44'43" West a distance of 285.96 feet, South 88°15'17" West a distance of 6.00 feet, North 1°44'43" West a distance of 230.62 feet, South 89°50'10" East a distance of 6.00 feet, North 1°44'43" West a distance of 46.00 feet, North 89°52'00" West a distance of 6.00 feet, North 1°44'43" West a distance of 64.00 feet, South 89°52'29" East a distance of 6.00 feet, North 1°44'43" West a distance of 3.00 feet to the point of intersection of said Westerly Margin with said Monument line of 14th Street projected Westerly; thence North 1°44'43" West, along said Westerly Margin, a distance of 26.01 feet to the point of intersection of said Westerly Margin with the North Margin of said 14th Street projected Westerly; thence in a Northerly direction, along said Westerly Margin of Marine View Drive, on the following courses: North 1°44'29" West a distance of 17.10 feet, North 89°52'29" West a distance of 6.00 feet, North 1°44'29" West a distance of 295.04 feet; thence North 1°52'10" East a distance of 95.27 feet; thence North 1°44'29" West, along said Westerly Margin, a distance of 215.66 feet; thence on a curve, to the left, of said Westerly Margin, having a radius of 11314.19 feet, through a central angle of 4°07'25", an arc distance of 814.25 feet; thence North 5°51'54" West, along said Westerly Margin, a distance of 5.13 feet to the North Margin of 11th Street projected Westerly; thence North 89°52'00" West, along said North Margin projected Westerly, a distance of 135.01 feet to said Westerly Margin of the Northern Pacific Railway Company right of way; thence North 1°15'00" West, along said Westerly Margin, a distance of 15.01 feet to the True Point of Beginning. All containing 119.62 acres, more or less.

SUBJECT TO Easements of Record, Also SUBJECT TO City Street Rights of Way. 082003, 231920, CML-LS

Exhibit D

Waterfront Place Urban Center and Proposed Multi-Family Property Tax Exemption Area



Section 4. The residential targeted area in which the property tax exemption shall apply is the area within the Waterfront Place Urban Center depicted on Exhibit D of this ordinance labeled as “Approximate Boundary of Tax Exempt Area,” which is proposed Parcel A9 and Parcel A10 of a tentative Binding Site Plan and which comprises a portion of Section 18 of T.29N, R. 5E, W.M., situated in the city of Everett, Washington. However, the residential targeted area and its property tax exemption shall not become effective until a Binding Site Plan is recorded with the Snohomish County Auditor, and a legal description of the recorded parcels within the residential targeted area is provided to the City Clerk and approved by the Planning Director. Such approval shall not be given if any of parcels so legally described are located outside of the area marked as “Approximate Boundary of Tax Exempt Area” in Exhibit D to this ordinance. Upon such approval, the legal description of the residential targeted area parcels shall be added to the codified version of Exhibit D to this ordinance. Accordingly, Section 15.D of Ordinance No. 2347-98, as amended (EMC 3.78.070.D), which reads as follows:

D. Residential Targeted Area Designated. The areas hereby declared to be the residential targeted area of the city of Everett are the areas depicted on Exhibits A, B and C, which are attached to the ordinances codified in this section, and which are legally described in subsections A, B and C of this section.

is hereby amended to read as follows, and shall be codified as EMC 3.78.150.E:

E. Residential Targeted Area Designated. The areas hereby declared to be the residential targeted area of the city of Everett are:

(1) the areas depicted on Exhibits A, B, and C, which are attached to the ordinances codified in this section, and which are legally described in subsections A, B and C of this section;
and

(2) the area depicted as the Tax Exempt Area in Exhibit D to this ordinance.

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 Relating to Disclosing Intimate Images, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC), and Amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC)

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

COUNCIL BILL #
 Originating Department
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1604-21

 Legal

 Flora Diaz

 425-257-7012

 April 27, 2016

Initialed by:
 Department Head
 CAA
 Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance (final, redlined)	<u>Department(s) Approval</u> Legal
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Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This proposed ordinance adopts into the Everett Municipal Code (EMC) a new gross misdemeanor crime created in the 2015 legislative session (RCW 9A.86.010) regarding the wrongful disclosure of intimate images, colloquially referred to as "revenge pornography."

As a gross misdemeanor, it is punishable by a maximum penalty of 364 days in jail and a \$5,000.00 fine.

This proposed ordinance would also incorporate the new wrongful disclosure of intimate images crime into the City's definition of Harassment (EMC 10.23.050). This means that the municipal court may better protect the public by issuing protection orders restraining a person charged with the crime of wrongful disclosure of intimate images from contacting the victim.

Finally, this proposed ordinance would adopt a new misdemeanor crime pursuant to EMC 10.18.020 for aiding/abetting the commission of the new wrongful disclosure of intimate images crime.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to Disclosing Intimate Images, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC), and Amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC).

ORDINANCE No. _____

AN ORDINANCE Relating to Disclosing Intimate Images, Amending and Adding a New Section to Ordinance No. 1145-85 as amended (Chapter 10.18 EMC), and Amending Ordinance No. 1521-88 as amended (Section 10.23.050 EMC).

Whereas, in the 2015 legislative session, the State of Washington created a new law criminalizing the wrongful disclosure of intimate images, RCW 9A.86.010. Commission of this crime under State law is a gross misdemeanor; and

Whereas, the City of Everett has the power to provide for the punishment of all practices dangerous to public health or safety, and to make necessary for the preservation of public health, peace and good order and to provide for the punishment of all persons charged with violating any city ordinances; and

Whereas, this new criminal law is related to existing criminal laws against Telephone Harassment and Cyberstalking, Chapter 10.18 EMC, and the Everett City Council therefore deems it appropriate to codify this new criminal law within Chapter 10.18 EMC; and

Whereas, the Everett City Council deems it appropriate for the City of Everett criminal laws to incorporate corresponding State law, that the City of Everett may prosecute such crimes;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Ordinance No. 1145-85, as amended by Ordinance No. 3067-08, Section 1 and by Ordinance No. 2449-00, Section 1, is hereby amended by the addition of the following section which will be codified as EMC 10.18.027:

Disclosing intimate images.

A. A person commits the crime of disclosing intimate images when the person knowingly discloses an intimate image of another person and the person disclosing the image:

1. Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private;
2. Knows or should have known that the depicted person has not consented to the disclosure; and
3. Knows or reasonably should know that disclosure would cause harm to the depicted person.

B. This section does not apply to:

1. Images involving voluntary exposure in public or commercial settings; or

2. Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment.

C. This section does not impose liability upon the following entities solely as a result of content provided by another person:

1. An interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2);
2. A provider of public or private mobile service, as defined in section 13-214 of the public utilities act; or
3. A telecommunications network or broadband provider.

D. It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

E. For purposes of this section:

1. "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer;

2. "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

a. Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

b. A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or post-pubescent female nipple.

F. The crime of disclosing intimate images is a gross misdemeanor.

G. Nothing in this section is construed to:

1. Alter or negate any rights, obligations, or immunities of an interactive service provider under 47 U.S.C. Sec. 230; or

2. Limit or preclude a plaintiff from securing or recovering any other available remedy.

Section 2. Section 33 of Ordinance No. 1145-85, as amended by Section 2 of Ordinance No. 3067-08 (EMC 10.18.020), which reads as follows:

Permitting telephone or electronic communications device to be used for telephone harassment or cyberstalking.

Any person who knowingly permits any telephone or electronic communications device under his control to be used for any purpose prohibited by Section 10.18.010 or section 2 of this Ordinance shall be guilty of a misdemeanor.

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

Permitting telephone or electronic communications device to be used for telephone harassment, ~~or cyberstalking,~~ or disclosure of intimate images.

Any person who knowingly permits any telephone or electronic communications device under his control to be used for any purpose prohibited by Section 10.18.010, ~~or section 2 of this Ordinance 10.18.025,~~ or section 1 of this ordinance shall be guilty of a misdemeanor.

Section 3. Section 1 (part) and Section 6 of Ordinance No. 1521-88, as amended by Section 5 of Ordinance No. 3067-08 (EMC 10.23.050), which reads as follows:

Crimes included in harassment.

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- A. Harassment (Chapter 10.23);
- B. Telephone Harassment (Section 10.18.010);
- C. Assault (Section 10.16.040);
- D. Reckless Endangerment (Section 10.16.040);
- E. Coercion (Section 10.16.040);
- F. Criminal Trespass in the First Degree (Section 10.68.030);
- G. Criminal Trespass in the Second Degree (Section 10.68.040);
- H. Criminal Mischief (Section 10.66.040);
- I. Interference with Property (Section 10.66.020);
- J. Stalking (Section 10.16.050);

K. Cyberstalking (Section 3 of this Ordinance).

L. Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW).

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

Crimes included in harassment.

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

A. Harassment (Chapter 10.23);

B. Telephone Harassment (Section 10.18.010);

C. Assault (Section 10.16.040);

D. Reckless Endangerment (Section 10.16.040);

E. Coercion (Section 10.16.040);

F. Criminal Trespass in the First Degree (Section 10.68.030);

G. Criminal Trespass in the Second Degree (Section 10.68.040);

H. Criminal Mischief (Section 10.66.040);

I. Interference with Property (Section 10.66.020);

J. Stalking (Section 10.16.050);

K. Cyberstalking (Section ~~3 of this Ordinance~~ 10.18.025);

L. Disclosing Intimate Images (Section 1 of this Ordinance).

LM. Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW).

Section 4. Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation. The City Council of the City of Everett hereby

declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. General Duty

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

Section 6. Savings

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

Section 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 numbers and any references thereto.

Ray Stephanson, Mayor

ATTEST:

City Clerk

Passed:

Valid:

Published:

Effective Date:

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

A Resolution waiving public bidding requirements and approving the sole source purchase of equipment from VirTra Systems Inc. to upgrade the V-300 Firearms Training Simulator

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

COUNCIL BILL # _____
 Originating Department Finance/Purchasing
 Contact Person Clark Langstraat
 Phone Number 425-257-8901
 FOR AGENDA OF May 11, 2016

Initialed by:
 Department Head _____
 CAA dl
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Police	Sole Source Purchase, January 20, 2010	Resolution	Police, Budget, Information Technology

Amount Budgeted	\$132,118.79	
Expenditure Required	\$132,118.79	Account Number(s): 505 5130000640
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This is a request waiving bidding requirements and approving a sole source purchase of equipment from VirTra Systems, Inc. The Police Department needs to upgrade their VirTra V-300 firearms training simulator. This system was originally purchased in 2010 and the technology has begun to fail. VirTra Systems is the only known manufacturer of a multi-screen system which offers a more immersive and effective training environment.

A new VirTra system would cost approximately \$250,000. VirTra is able to leverage some of the original infrastructure and upgrade the existing system to current technology for less than half the cost of new.

RECOMMENDATION (Exact action requested of Council):

Adopt a resolution waiving public bidding requirements and approving the sole source purchase of equipment from VirTra Systems Inc. to upgrade the V-300 Firearms Training Simulator.

RESOLUTION NO. _____

A RESOLUTION waiving public bidding requirements and approving the sole source purchase of equipment from Virtra Systems Inc. to upgrade the V-300 Firearms Training Simulator.

WHEREAS, the City has the need to upgrade the Firearms Training Simulator due to aging and failing technology; and

WHEREAS, VirTra is the only manufacturer known to provide a multi-screen system necessary to meet the current Police Department training standard; and

WHEREAS, VirTra only sells these systems directly to the end user, without intermediary distributors or dealers;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERETT that because there is clearly and legitimately only one source capable of supplying equipment to upgrade the V-300 Firearms Training Simulator; the City hereby waives competitive bidding requirements and authorizes the purchase of this equipment from VirTra Systems Inc.

Councilperson Introducing Resolution

PASSED and APPROVED this _____ day of _____, 2016.

Council President