

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

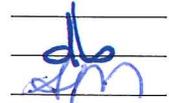
**PROJECT TITLE:**

Agreement for Transit  
Education and Field Trip  
Program between the City of  
Everett and the Imagine  
Children's Museum

\_\_\_\_\_ Briefing  
\_\_\_\_\_ Proposed Action  
\_\_\_\_\_ Consent  
  X   Action  
\_\_\_\_\_ First Reading  
\_\_\_\_\_ Second Reading  
\_\_\_\_\_ Third Reading  
\_\_\_\_\_ Public Hearing  
\_\_\_\_\_ Budget Advisory

COUNCIL BILL # \_\_\_\_\_  
Originating Department Trans. Services  
Contact Person Tom Hingson  
Phone Number 425-257-8939  
FOR AGENDA OF December 7, 2016

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



|                 |                         |                    |                                |
|-----------------|-------------------------|--------------------|--------------------------------|
| <u>Location</u> | <u>Preceding Action</u> | <u>Attachments</u> | <u>Department(s) Approval</u>  |
|                 | Agreement 12/05/11      | Agreement          | Legal, Transportation Services |

|                      |                   |                                    |
|----------------------|-------------------|------------------------------------|
| Amount Budgeted      | \$24,000 annually |                                    |
| Expenditure Required | \$24,000 annually | Account Number(s): ET MKTG ICM 410 |
| Budget Remaining     | -0-               |                                    |
| Additional Required  | -0-               |                                    |

**DETAILED SUMMARY STATEMENT:**

This agreement will continue the contract between the Imagine Children's Museum and Everett Transit to provide educational programs. This 5-year agreement will cost \$24,000 annually, not to exceed a total of \$120,000, and will provide staff and program development that will benefit the Everett community. Imagine Children's Museum will conduct field trip programs, maintain the Transit bus display and enhance the educational opportunities for Everett area school children and their families.

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

Authorize the Mayor to sign the Agreement for Transit Education and Field Trip Program with the Imagine Children's Museum in the amount of \$24,000 annually, not to exceed \$120,000.

## **AGREEMENT FOR TRANSIT EDUCATION FIELD TRIP PROGRAM**

This Agreement is made by and between the City of Everett (the "City" or "Everett Transit"), a municipal corporation of the State of Washington, and the Imagine Children's Museum, (the "Museum"), a Washington non-profit corporation, and is dated as of \_\_\_\_\_.

**WHEREAS**, the City would like to continue its joint educational program with the Museum for transit education for children; and

**WHEREAS**, the Museum and the City presently work together on such a project; and

**WHEREAS**, teaching children about the benefits of public transportation and how to use public transportation benefits them and the community; and

**WHEREAS**, the Museum continues to develop enhanced transit education programs; and

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

### **I. RESPONSIBILITIES**

The Museum will:

1. Promote the Transit Education program to Everett schools
2. Promote Transit awareness and ridership via the Bus Exhibit in Museum
3. Develop and maintain the Transit Education program and adjunct transportation enrichment programs
4. Provide family tours of Everett Station in coordination with Free Access Nights at the Museum
5. Perform daily maintenance and upkeep of the Bus Exhibit
6. Schedule and coordinate with Everett Transit personnel for necessary Bus Exhibit repairs and modifications
7. Submit quarterly program reports and invoices to Everett Transit
8. Participate in meetings as required

The parties anticipate that the Museum will average approximately twenty (20) hours of staff time per month to these activities over the course of a year.

### **II. TERM**

This Agreement shall be deemed effective as of January 1, 2017 and shall continue in full force and effect through December 31, 2021.

### **III. FINANCIAL**

The City shall pay the Museum the sum of Six Thousand Dollars (\$6,000.00) per quarter. The Museum shall invoice the City for the prior quarter's work and the City shall pay within thirty (30) days of receipt. The City shall pay no more than Twenty-Four Thousand Dollars (\$24,000.00) per calendar year.

#### IV. TERMINATION

Either party may terminate this Agreement by thirty (30) days' written notice to the other party.

#### V. INDEMNIFICATION

- A. Each party agrees to defend and indemnify the other party from any and all Claims arising out of, in connection with, or incident to its conduct relating to this Agreement. "Party" includes employees, officials, representatives, and elected officials. A party shall not indemnify the other party for the other party's sole negligence. If a claim is caused by or results from the conduct of both parties, each party shall be responsible to the extent of its fault.
- B. Solely and expressly for the purpose of its duties to indemnify and defend the City, the Museum specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. The Museum recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation.
- C. As used in this paragraph, "Claims" include, but are not limited to, any and all losses, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages.

#### VI. INSURANCE

- A. Museum shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Museum's own cost and expense, the following policies of insurance with companies authorized to do business in the State of Washington, which are rated at least "A" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and
  - 1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Museum shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Museum covers such employees.
  - 2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.
- B. The above liability policies shall contain a provision that the policy shall not be canceled or materially changed without 30 days' prior written notice to the City. The above liability policies shall be primary. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Museum to furnish the required insurance during the term of this Agreement.

- C. Upon written request by the City, the insurer or his/her agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.
- D. Prior to the Museum performing any Work, Museum shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Museum shall provide the City with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees and agents as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Museum's obligations to fulfill the requirements.
- E. Museum certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Museum shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Museum shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any work is commenced.
- F. In case of the breach of any provision of this section, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Museum, such types of insurance in the name of the Museum, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Museum under this Agreement or may demand Museum to promptly reimburse the City such cost.

#### **VII. GOVERNING LAW AND VENUE**

The laws of the State of Washington shall govern this Agreement. Any lawsuit regarding this Agreement must be brought in the Superior Court of Snohomish County, Washington.

#### **VIII. RELATIONSHIP OF PARTIES**

The City and the Museum shall not be construed as joint ventures or general partners, and neither shall have the power to bind or obligate the other party.

#### **IX. NO THIRD PARTY RIGHTS**

The provisions of this Agreement are intended solely for the benefit of, and may only be enforced by, the parties hereto. None of the rights or obligations of the parties herein set forth is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right whatsoever upon or for the benefit of any third party.

#### **X. NOTICES**

Written notices, invoices and other communications by and between the parties hereto shall be in writing, shall be personally delivered, sent by electronic email, or sent US mail and shall be deemed given when so delivered or received.

All notices shall be addressed as follows:

**City**  
City of Everett Transportation Services  
ATTN: Tom Hingson, Director  
3225 Cedar Street  
Everett, WA 98201

**Museum**  
Imagine Children's Museum  
ATTN: Nancy Johnson, Exec. Director  
1502 Wall Street  
Everett, WA 98201

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized officers and representatives as of the day indicated below.

CITY OF EVERETT

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

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

ATTEST:

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

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

Approved as to form only:

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

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

IMAGINE CHILDREN'S MUSEUM

  
\_\_\_\_\_  
Nancy Johnson, Executive Director

Date: 11/29/16

