DEPARTMENT OF ECOLOGY
State of Washington

AGREEMENT NO. WCC-1724

AGREEMENT
BETWEEN

The State of Washington, Department of ECOLOGY
AND
city of Everett Parks and Recreation

THIS AGREEMENT is made and entered into by and between the Department of Ecology, hereinafter referred to as "ECOLOGY", and city of Everett Parks and Recreation hereinafter referred to as the "SPONSOR."

IT IS THE PURPOSE OF THIS AGREEMENT to provide Washington Conservation Corps (WCC) members to complete environmental or disaster services projects, pursuant to Chapter 43.220 of the Revised Code of Washington.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK

Both parties agree to do all things necessary for or incidental to the performance of the work set forth in Appendix "A" attached hereto and incorporated herein.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on 10/2/2017 and be completed on 9/9/2018, unless terminated sooner as provided herein. The WCC Crew and/or WCC Individual Placement corpsmember specified in this agreement will be available to SPONSOR on the dates set forth on the calendar in Appendix "B" attached hereto and incorporated herein.

COMPENSATION

The parties have determined that the cost of accomplishing the work herein will not exceed $48,000. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount. Compensation for service(s) shall be based on the following established rates:

Provided by ECOLOGY	Reimbursed to ECOLOGY by SPONSOR
3 months of WCC crew time (12 weeks x $4000/week)	$48,000
Total SPONSOR COST	$48,000 *Above cost Not to be Exceeded*

The costs reimbursed to ECOLOGY by SPONSOR are a cost-share rate. Estimated value of a WCC crew is $5,334 weekly per WCC Crew consisting of five WCC/AmeriCorps Members and one Supervisor (excludes food and lodging). Indirect costs are included in SPONSOR share at a standard rate of 5% of direct costs.

BILLING PROCEDURE

ECOLOGY shall submit invoices monthly to the SPONSOR's designated contact person listed under "Agreement Management" section. Payment to ECOLOGY for approved and completed work will be made by warrant or account transfer by SPONSOR within 30 days of receipt of the invoice. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

ASSURANCES

Parties to this Agreement agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

CONFORMANCE

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

FUNDING AVAILABILITY

The obligation of the SPONSOR to provide reimbursements is contingent upon appropriation of funds by the SPONSOR's governing body for the specific purpose of funding the project, which is the subject of this Agreement. Upon the failure of such appropriation, the SPONSOR may terminate this Agreement.

ECOLOGY's ability to provide cost-share is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, for convenience or to renegotiate the agreement subject to new funding limitations and conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification restrictions.

GOVERNING LAW AND VENUE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

ORDER OF PRECEDENCE

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and state of Washington statutes, regulations, and rules.
2. Mutually agreed written amendments to this Agreement
3. This Agreement
4. Statement of Work and Budget.
5. Any other provisions of this Agreement, including materials incorporated by reference.

RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of this Agreement and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties subject to state public disclosure laws.

RESPONSIBILITIES OF THE PARTIES

Each party of this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither party will be considered the agent of the other party to this Agreement.

RIGHTS IN DATA

Unless otherwise provided, data, which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be jointly owned by ECOLOGY and SPONSOR. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement upon 30 days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

AGREEMENT MANAGEMENT

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Contract/Program Manager for ECOLOGY is:

Peter Nevin
PO Box 47600
Olympia, WA 98504
(206) 940-3615
peter.nevin@ecy.wa.gov

The Contract/Program Manager for SPONSOR is:

Bob Leonard
802 E Mukilteo Blvd
Everett WA 98203
425.257.8385
bleonard@everettwa.gov

IN WITNESS WHEREOF, the parties have executed this Agreement.

State of Washington
Department of ECOLOGY

L Mott
Signature

10/17/17
Date

Nick Mott, WCC Section Supervisor
Printed Name, Title

SPONSOR
city of Everett Parks and Recreation

Ray Stephanson
Signature

9/20/2017
Date

Ray Stephanson, mayor
Printed Name, Title

APPROVED AS TO FORM
James D. Iles
JAMES D. ILES, City Attorney

ATTEST:
Sharon Tell
City Clerk

STATEMENT OF WORK
Appendix A

Work summary:
Under direction of SPONSOR, crew(s) will perform restoration activities. Specific tasks could include invasive control, native species installation, plant nursery care, scientific monitoring, and fence installation or repair.

Special terms and conditions:

1. WCC members and staff will not be utilized to clear and/or clean up hazardous materials including hypodermic needles. If a significant amount of hazardous or unidentifiable material is discovered on a project site, activity will cease until SPONSOR either mitigates potential hazards or finds an alternate project site. WCC resources (includes members, supervisors, tools and trucks) will not be utilized for clearing active or abandoned homeless encampments.

2. Vehicle is not to be used for heavy hauling. The primary use of the crew vehicle is for transportation of crew, tools, and safety equipment. In the event that WCC vehicles are requested to tow SPONSOR equipment, SPONSOR is solely responsible for accidental damages, unless damages are caused by WCC negligence.

3. WCC is not responsible for normal wear and tear when project requires the use of SPONSOR-provided tools, equipment or safety gear.

4. The assignment of corpsmembers shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of using a corpsmember with available funds. In circumstances where substantial efficiencies or a public purpose may result, participating agencies may use corpsmembers to carry out essential agency work or contractual functions without displacing current employees.

5. All state holidays and shutdown weeks are non-working days for members. Shutdown weeks are to be used by WCC staff/supervisors for planning purposes.

6. The WCC standard 40-hour schedule is Monday through Thursday from 7:00am to 5:30pm. An alternate schedule may be arranged with prior approval from the WCC.

7. Indirect costs are included in SPONSOR share at a standard rate of 5% of direct costs.

ECOLOGY shall:

1. Provide WCC members for the number of weeks specified in this agreement. Full-time crews and Individual Placements are available to SPONSOR for a maximum of 41.5 weeks during the Federal AmeriCorps program service year (October-September).

2. In the event of a disaster response deployment, the WCC Program will make every effort to fulfill sponsor program needs, including sending additional members, whenever possible. Invoices will include all activities during the program year including training, community service events, and other activities required by WCC, excluding Emergency Response, if needed.

3. Provide training and development specified in Appendix "B": eight (8) days of formal WCC member training, a three (3) day Orientation Training, one (1) day dedicated to MLK Community Service, and a debrief meeting near the conclusion of the term. WCC members and supervisors are logging hours on these dates, but are unavailable to sponsor to perform project work.

4. Provide a 4-day Assistant Supervisor training to the designated Assistant Supervisor.

5. For crew (s), ECOLOGY agrees to provide a crew of 5 members, a crew supervisor, vehicle, and basic hand tools.

6. Cost-share rates are not based on actual attendance, however, invoices will be reduced for member or supervisor vacancies lasting 20 days or more.

SPONSOR shall:

1. Guide completion of appropriate projects for the number of weeks specified in this agreement by providing the logistical, technical and safety-related support necessary for project completion. Provide site orientation for WCC members, specific on-the job task training, and any materials beyond basic hand tools to complete tasks assigned under this Agreement. Obtain and ensure adherence to applicable permits as set by local, state, tribal or federal laws and regulations.
2. Help to promote the AmeriCorps and WCC brands, logo, slogans and phrases. The WCC will provide camera-ready logo. AmeriCorps is a registered service mark of the Corporation for National and Community Service.

AmeriCorps Prohibited Activities:

While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or CNCS, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

A. Attempting to influence legislation;

B. Organizing or engaging in protests, petitions, boycotts, or strikes;

C. Assisting, promoting, or deterring union organizing;

D. Impairing existing contracts for services or collective bargaining agreements;

E. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;

F. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;

G. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;

H. Providing a direct benefit to—
   I. A business organized for profit;
   II. A labor union;
   III. A partisan political organization;
   IV. A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 related to engaging in political activities or substantial amount of lobbying except that nothing in these provisions shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
   V. An organization engaged in the religious activities described in paragraph 3.g. above, unless CNCS assistance is not used to support those religious activities;

I. Conducting a voter registration drive or using CNCS funds to conduct a voter registration drive;

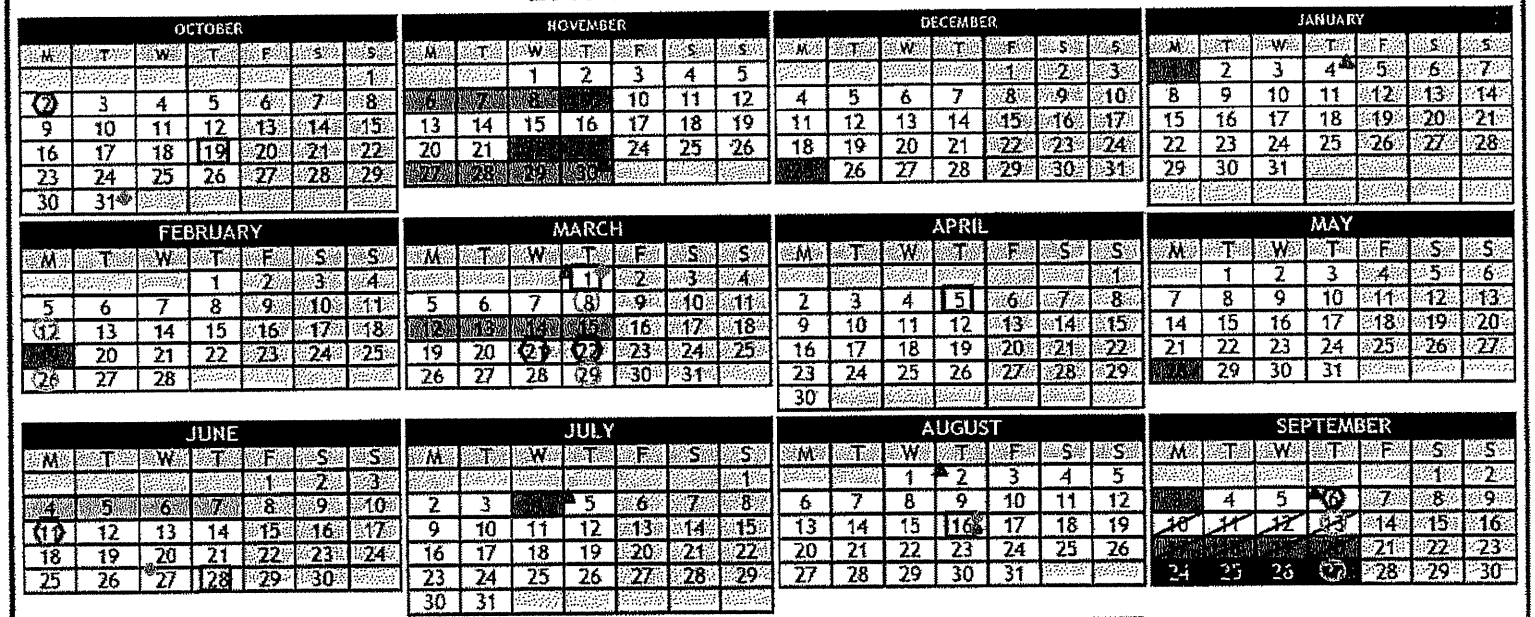
J. Providing abortion services or referrals for receipt of such services; and

K. Such other activities as CNCS may prohibit.

AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-CNCS funds. Individuals should not wear the AmeriCorps logo while doing so.

Appendix B
WCC CALENDAR

2017-2018 WCC Events Calendar



- Start (FT=10/3, HT=3/28, QT=6/20)
- Holiday (observed)-Day Off
- Orientation
- AmeriCorps Kick-off (central Puget Sound crews)-4 hours
- Assistant Supervisor Training
- MLK/Sup. Holiday (Member Service Day)
- Training Conference-Week 1
- 6-month member orientation
- Training Conference-Week 2
- Supervisor: Recruitment Day (Members off)
- TBD Spike (8 days-Costshare members)
- TBD De-brief Presentations (1 day)
- TBD Supervisor Refresher Training
- Member PDPs Due (June=Checkin only)
- Timesheets Due
- Payday
- Production Due
- Supervisors: Crew interviews
- End Date (HT=3/22, FT=9/6)
- MyAmeriCorps enrollment/exit due
  Enrollment due: FT:10/19, HT:4/5, QT:6/28
  Exit due: HT:3/8, all others:8/16

Shutdown Weeks:

- Supervisors: Finalize Crew Interviews/Enrollment
- Supervisors: Cross-Training
- Supervisors: All-staff meeting/prep week

Members' Potential Hours (For general guidance only - hours not guaranteed)

October 180	November 150	December 150	January 180
February 150	March 170	April 170	May 180
June 160	July 170	August 180	September 30
Fullterm Oct 2-Sep 6: 1870	Halfterm Oct 2-Mar 22: 940	Halfterm Mar 21-Sep 6: 950	Quarter Jun 11-Sep 6: 500
FT 1700-hr min, $6815 Ed Award	HT 900-hr min, $2907.50 Ed Award	HT 900-hr min, $2215.24 Ed Award	QT 450-hr min, $1,538.36 Ed Award

* October Half-terms only available to returning members in WCC with less than a full-term remaining in WCC
* Members with excessive absences will not receive ed award; even if minimum hours are met.
* 6-month Paperwork must be received March 22

WCC standard schedule (40 hours/week) is Monday - Sunday

Agreement EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET #14

PROJECT TITLE:
Agreement with the State of Washington Department of Ecology to provide Washington Conservation Corps members to assist with forest restoration tasks for the city of Everett Parks and Community Services Department

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

COUNCIL BILL #	
Originating Department	Parks
Contact Person	Lori Cummings
Phone Number	425-257-8353
FOR AGENDA OF	September 20, 2017

Initialed by:
Department Head _____
CAA db
Council President _____

Location	Preceding Action	Attachments	Department(s) Approval
Forest Park		Agreement	Parks, Legal, Administration

Amount Budgeted	$48,000	
Expenditure Required	$48,000	Account Number(s): 1015211000000410
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The proposed agreement with the State of Washington Department of Ecology (DOE) will make available a Washington Conservation Corps (WCC) crew to the Parks and Community Services Department to perform selective forestry restoration tasks. These include: 1) remove noxious weeds at Forest Park; 2) assist with slope maintenance at Howarth Park and the recently acquired Cemex property; 3) perform stream enhancement along Thornton A. Sullivan Park's Silver Creek; and 4) assist with wetland enhancement throughout South Everett Forest Preserve. The tasks will be performed for a period not to exceed 12 weeks and at a cost not to exceed $48,000.

Council approved similar agreements with DOE in 2013 and 2015.

RECOMMENDATION:

Authorize the Mayor to sign the Agreement with the State of Washington Department of Ecology to provide Washington Conservation Corps members to complete forestry restoration tasks in the City for an amount of $48,000.

Council approved 9-20-17 S.P.